

South Australia

Crown Land Management (Life Lease Sites) Amendment Bill 2012

A BILL FOR

An Act to amend the *Crown Land Management Act 2009*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Crown Land Management (Life Lease Sites) Amendment Act 2012*.

5 2—Commencement

This Act will come into operation 2 months after the date of assent.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Crown Land Management Act 2009***4—Insertion of section 44A**

After section 44 insert:

44A—Special provisions relating to life lease sites

- 5 (1) A person who, immediately before the commencement of this section, is the lessee of a life lease site (the *original lessee*) may apply to the Minister to have the lease dealt with in accordance with this section.
- 10 (2) Subject to subsection (6), if an application is made by an original lessee under subsection (1), the Minister must cancel the lease and, with the consent of the relevant council, grant a new lease of the life lease site to the relevant council.
- (3) A lease granted to the relevant council—
- 15 (a) must be for a term of not less than 99 years; and
- (b) must not require the payment by the council of any rent or other fee in respect of the grant of the lease (and this will not affect the validity or enforceability of the lease); and
- (c) may contain such other terms and conditions as are necessary to give effect to this section.
- 20 (4) The relevant council, on being granted a lease of a life lease site under this section, must grant a sublease of the site to the original lessee.
- (5) A sublease granted to the original lessee must—
- 25 (a) be for a term of not less than 5 years; and
- (b) be renewable (on terms and conditions specified in the sublease); and
- (c) be capable of being transferred with the consent of the relevant council; and
- 30 (d) contain conditions relating to the following—
- (i) access to the site;
- (ii) infrastructure;
- (iii) management of environmental issues;
- (iv) effluent disposal;
- (v) the built form of structures on the site;
- 35 (vi) safety and security; and
- (e) contain such other terms and conditions as the relevant council thinks fit.

- (6) The Minister must not cancel a lease under subsection (2) unless the Minister is satisfied that—
- (a) the relevant council and the original lessee have agreed the terms of the sublease to be granted to the original lessee; and
 - (b) the relevant council has agreed to grant the sublease forthwith on the Minister taking action under that subsection.
- (7) The original lessee is, despite the cancellation of the lease by the Minister under subsection (2), entitled to remain in occupation of the life lease site pending the grant of the sublease.
- (8) Despite any other provision of this section, if a relevant council is to be granted leases in respect of 5 or more adjacent prescribed shack sites, the following provisions apply:
- (a) the Minister must, before granting a lease to the relevant council in accordance with subsection (3), consider whether it would be appropriate to reconfigure the sites (including by reducing the area of the sites) to include common areas and to ensure that persons using the sites, and members of the public, are able to have reasonable access to the water for boat launching and other recreational activities;
 - (b) if the Minister is of the opinion that it would be appropriate to so reconfigure the sites—
 - (i) the Minister must amalgamate the land in the adjacent sites and grant the council a single lease in respect of those sites; and
 - (ii) the subleases granted by the council to the original lessees in accordance with subsection (5) must include such common areas and must provide for such access to the water.
- (9) The Governor may make regulations for the purposes of this section.
- (10) Without limiting subsection (9), the regulations may—
- (a) empower a relevant council, to carry out specified works, or works of a specified class, on land not belonging to the council to provide adequate infrastructure to, or improve the safety, security or environmental impacts of, any life lease sites or otherwise for the purposes of such sites;
 - (b) require the preparation by a relevant council of a management plan or management plans relating to life lease sites;
 - (c) make further provision in relation to subleases granted in accordance with subsection (8);
 - (d) make any other provision for the protection or enhancement of life lease sites.

- (11) The regulations may not, however, impose any requirements on an original lessee.
- (12) If no application is made under this section in relation to a life lease site within 2 years after the commencement of this section, the lease of that site is taken to be cancelled and no compensation is payable by the Crown in respect of the cancellation.
- (13) In this section—

life lease site means land that is subject to a lease under this Act where—

- (a) the land is within the area of a municipal or district council constituted under the *Local Government Act 1999*; and
- (b) the lessee is a natural person; and
- (c) the interest of the lessee is extinguished upon his or her death;

prescribed shack site means a life lease site that was, immediately before the commencement of this Act, subject to a lease granted under section 78B of the *Crown Lands Act 1929*;

relevant council means the municipal or district council constituted under the *Local Government Act 1999* in whose council area the life lease site is located.

5—Amendment of section 59—Waterfront land cannot be leased or disposed of without public consultation

Section 59(3)—after paragraph (a) insert:

- (ab) the lease is made under section 44A; or