

Western Australia

**Approvals and Related Reforms (No. 3) (Crown
Land) Act 2010**

As at 03 Jun 2010

No. 8 of 2010

Extract from www.slp.wa.gov.au, see that website for further information

Approvals and Related Reforms (No. 3) (Crown Land) Act 2010

CONTENTS

Part 1 — Preliminary matters		
1.	Short title	2
2.	Commencement	2
Part 2 — <i>Aboriginal Affairs Planning Authority Act 1972</i> amended		
3.	Act amended	3
4.	Section 21A amended	3
5.	Section 30 amended	3
Part 3 — <i>Aboriginal Heritage Act 1972</i> amended		
6.	Act amended	4
7.	Section 66 inserted	4
	66. Authority to perform certain functions in relation to Crown land for purposes of this Act	4
8.	Section 67 amended	5
Part 4 — <i>Environmental Protection Act 1986</i> amended		
9.	Act amended	6
10.	Section 121A inserted	6
	121A. Authority to perform certain functions in relation to Crown land for purposes of this Act	6

11.	Section 121 amended	7
Part 5 — <i>Land Administration Act 1997</i> amended		
12.	Act amended	8
13.	Section 91 amended	8
14.	Section 259 amended	8
15.	Section 275A inserted	8
	275A. Disclosure of information about Crown land interest holders	8
Part 6 — <i>Mining Act 1978</i> amended		
16.	Act amended	11
17.	Section 8 amended	11
18.	Section 25 amended	11
19.	Section 160AA inserted	11
	160AA. Authority to perform certain functions of LAA Minister under this Act	11
20.	Section 160A amended	12
Part 7 — <i>Petroleum Pipelines Act 1969</i> amended		
21.	Act amended	13
22.	Section 4 amended	13
23.	Section 16 amended	13
Part 8 — <i>Planning and Development Act 2005</i> amended		
24.	Act amended	14
25.	Section 267A inserted	14
	267A. Authority to perform certain functions in relation to Crown land for purposes of this Act	14
26.	Section 267 amended	15
Part 9 — <i>Transfer of Land Act 1893</i> amended		
27.	Act amended	16
28.	Section 4 amended	16
29.	Section 17 inserted	16

17.	Authority to perform certain functions of Minister for Lands under this Act	16
30.	Section 81D amended	17
31.	Section 153A amended	17
32.	Section 198 amended	17

**Part 10 — *War Service Land
Settlement Scheme Act 1954*
amended**

33.	Act amended	18
34.	Section 6 amended	18
35.	Sections 11 and 12 inserted	18
11.	Delegation	18
12.	Protection from liability for wrongdoing	19

Western Australia

**Approvals and Related Reforms (No. 3)
(Crown Land) Act 2010**

No. 8 of 2010

An Act to amend various Acts in relation to Crown land and for related purposes.

[Assented to 3 June 2010]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary matters

1. Short title

This is the *Approvals and Related Reforms (No. 3) (Crown Land) Act 2010*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

Part 2 — *Aboriginal Affairs Planning Authority Act 1972* amended

3. Act amended

This Part amends the *Aboriginal Affairs Planning Authority Act 1972*.

4. Section 21A amended

- (1) Delete section 21A(2) and (3).
- (2) Delete section 21A(8).

5. Section 30 amended

In section 30 delete “*Mining Act 1904*” and insert:

Mining Act 1978

Part 3 — *Aboriginal Heritage Act 1972* amended

6. Act amended

This Part amends the *Aboriginal Heritage Act 1972*.

7. Section 66 inserted

At the beginning of Part VIII insert:

66. Authority to perform certain functions in relation to Crown land for purposes of this Act

- (1) If, under section 18(2) or 24, the owner of Crown land or freehold land in the name of the State may give, or is required to give, notice that notice may be given by —
 - (a) the Minister as defined in the *Land Administration Act 1997* section 3(1) (the ***Minister for Lands***); or
 - (b) a person who is authorised in writing by the Minister for Lands to do so.
- (2) Nothing in this section limits the ability of the Minister for Lands to otherwise perform a function through an officer or agent.
- (3) Nothing in this section affects —
 - (a) a right that any other person has under section 18(2) or (5) in relation to land mentioned in subsection (1) if the person is an owner of that land because of section 18(1) or (1a); or
 - (b) how that right may be exercised.

8. Section 67 amended

- (1) In section 67 delete “A person” and insert:
 - (1) A person

- (2) At the end of section 67 insert:
 - (2) An action in tort does not lie against a person acting under an authority mentioned in section 66(1) for anything that the person has done, in good faith, in the performance or purported performance of a function to which the authority applies.
 - (3) The protection given by this section applies even though the thing done as described in subsection (1) or (2) may have been capable of being done whether or not this Act had been enacted.
 - (4) Despite subsections (1) and (2), the State is not relieved of any liability that it might have for another person having done anything as described in those subsections.
 - (5) In this section, a reference to the doing of anything includes a reference to an omission to do anything.

Part 4 — *Environmental Protection Act 1986* amended

9. Act amended

This Part amends the *Environmental Protection Act 1986*.

10. Section 121A inserted

After section 120 insert:

121A. Authority to perform certain functions in relation to Crown land for purposes of this Act

- (1) If, under a provision of this Act, the owner or occupier of Crown land or freehold land in the name of the State may give, or is required to give, notice or may make an application or representation, give comments or authority, show cause, provide information or do any other thing, that thing may be done by —
 - (a) the Minister as defined in the *Land Administration Act 1997* section 3(1) (the ***Minister for Lands***); or
 - (b) a public service officer of the Department, as defined in the *Land Administration Act 1997* section 3(1), who is authorised in writing by the Minister for Lands to do so.
- (2) Nothing in this section limits the ability of the Minister for Lands to otherwise perform a function through an officer or agent.
- (3) Nothing in this section affects —
 - (a) a right or obligation that any other person has under Part V Division 2 in relation to land mentioned in subsection (1) if the person is an ***owner*** or ***occupier*** of that land because of the meaning of those terms in that Division; or

- (b) a right or obligation that any other person has under any other provision of this Act in relation to land mentioned in subsection (1) if the person is an *occupier* of that land because of the meaning of occupier in section 3(1); or
- (c) how that right may be exercised or that obligation may be satisfied.

11. Section 121 amended

In section 121(1) delete “against a person for anything that the person has done, in good faith, in the performance or purported performance of a function under this Act.” and insert:

against —

- (a) a person for anything that the person has done, in good faith, in the performance or purported performance of a function under this Act; or
- (b) a person acting under an authority mentioned in section 121A(1) for anything that the person has done, in good faith, in the performance or purported performance of a function to which the authority applies.

Part 5 — *Land Administration Act 1997* amended

12. Act amended

This Part amends the *Land Administration Act 1997*.

13. Section 91 amended

In section 91(5):

- (a) delete “there is in effect an agreement between the Minister and”;
- (b) delete “Governor enabling that area to be” and insert:

Governor, or a public service officer of the department that is principally assisting in the administration of the relevant Act, who is authorised in writing by that Minister to do so, approves of that area being

14. Section 259 amended

In section 259(2) delete “who is the Minister, a delegate of the Minister, an authorised land officer or a public service officer of the Department”.

15. Section 275A inserted

After section 274 insert:

275A. Disclosure of information about Crown land interest holders

- (1) In this section —

contact details includes postal address, telephone number, facsimile number and email address;

Crown land interest holder means the holder of —

- (a) a pastoral lease or other lease; or

- (b) a licence; or
- (c) an interest in relation to Crown land;

public authority means —

- (a) a department of the Public Service; or
 - (b) a State instrumentality; or
 - (c) a local government; or
 - (d) a body that provides to members of the public water, drainage, gas, electricity or ambulance or other emergency services; or
 - (e) a prescribed agency of the Commonwealth.
- (2) The chief executive officer of the Department may disclose the name and contact details of a Crown land interest holder to —
- (a) an officer or employee of a public authority for use in the performance of the public authority's functions; or
 - (b) the Director General of Mines, as defined in the *Mining Act 1978* section 8(1), for providing the information to applicants for, or holders of, mining tenements, as defined in that section, or to any other person who is required, under that Act, to give notice to a Crown land interest holder; or
 - (c) a prescribed person, in the circumstances and on such conditions as may be prescribed.
- (3) For the purposes of this section, the Pastoral Lands Board may disclose the name and contact details of a pastoral lessee to the chief executive officer of the Department from the most recent return submitted by the pastoral lessee under section 113.

s. 15

- (4) Information may be disclosed under subsection (2) or (3), or provided under subsection (2)(b), despite any written law relating to confidentiality or secrecy.
- (5) If information is disclosed, in good faith, under subsection (2) or (3), or provided under subsection (2)(b) (the *disclosure*) —
 - (a) no civil or criminal liability, or liability to be punished for a contempt of court, is incurred in respect of the disclosure; and
 - (b) the disclosure is not to be regarded as a breach of any duty of confidentiality or secrecy imposed by law; and
 - (c) the disclosure is not to be regarded as a breach of professional ethics or standards or as unprofessional conduct.

Part 6 — *Mining Act 1978* amended

16. Act amended

This Part amends the *Mining Act 1978*.

17. Section 8 amended

In section 8(1) insert in alphabetical order:

LAA Minister means the Minister to whom the administration of the *Land Administration Act 1997* is for the time being committed by the Governor;

18. Section 25 amended

- (1) In section 25(2)(b) delete “Minister to whom the administration of the *Land Administration Act 1997* is for the time being committed by the Governor” and insert:

LAA Minister

- (2) In section 25(3)(b) delete “Minister to whom the administration of the *Land Administration Act 1997* is for the time being committed by the Governor” and insert:

LAA Minister

19. Section 160AA inserted

After section 160 insert:

160AA. Authority to perform certain functions of LAA Minister under this Act

- (1) A function that the LAA Minister has under a provision of this Act listed in the Table may be performed by a

s. 20

public service officer of the Department, as defined in the *Land Administration Act 1997* section 3(1), who is authorised in writing by the LAA Minister to do so.

- (2) Nothing in this section limits the ability of the LAA Minister to otherwise perform a function through an officer or agent.

Table

s. 24(3)(b), (5)(b), as the <i>responsible Minister</i> under s. 24(8)	s. 25(2)(b), (3)(b)
s. 26(2)(a)	s. 55(1), (3), (4)
s. 69C(1), (3), (4)	s. 94J

20. Section 160A amended

In section 160A delete “Mines” and insert:

Mines, or the LAA Minister

Part 7 — *Petroleum Pipelines Act 1969* amended

21. Act amended

This Part amends the *Petroleum Pipelines Act 1969*.

22. Section 4 amended

In section 4(1) in the definition of *the Minister for Lands* delete “of the Crown to whom the Governor has for the time being committed the administration of the *Land Administration Act 1997*,” and insert:

as defined in the *Land Administration Act 1997*
section 3(1);

23. Section 16 amended

In section 16:

- (a) delete “unalienated Crown land, the Governor, on the recommendation of the Minister for Lands,” and insert:

Crown land, the Minister for Lands, or a public service officer of the Department, as defined in the *Land Administration Act 1997* section 3(1), who is authorised in writing by the Minister for Lands to do so in that Minister’s name,

- (b) delete “Governor thinks” and insert:

grantor thinks

Part 8 — *Planning and Development Act 2005* amended

24. Act amended

This Part amends the *Planning and Development Act 2005*.

25. Section 267A inserted

After section 266 insert:

267A. Authority to perform certain functions in relation to Crown land for purposes of this Act

- (1) If the approval or signature of the owner of Crown land or freehold land in the name of the State is required for the purposes of this Act, the approval or signature may be given by —
 - (a) the Minister as defined in the *Land Administration Act 1997* section 3(1) (the *Minister for Lands*); or
 - (b) a person who is authorised in writing by the Minister for Lands to do so.
- (2) Nothing in this section limits the ability of the Minister for Lands to otherwise perform a function through an officer or agent.
- (3) Nothing in this section affects —
 - (a) a right or obligation that any other person, as an owner of land mentioned in subsection (1), has under this Act in relation to that land; or
 - (b) how that right may be exercised or that obligation may be satisfied.

26. Section 267 amended

(1) Delete section 267(1) and (2) and insert:

(1) An action in tort does not lie against —

- (a) a person for anything that the person has done, in good faith, in the performance or purported performance of a function under this Act; or
- (b) a person acting under an authority mentioned in section 152(5)(c) or 267A(1) for anything that the person has done, in good faith, in the performance or purported performance of a function to which the authority applies.

(2) In section 267(3) delete “subsection (2)” and insert:

subsection (1)

(3) In section 267(4):

(a) delete “subsection (2)” and insert:

subsection (1)

(b) delete “Commission nor the State” and insert:

Commission, the State nor a local government

Part 9 — Transfer of Land Act 1893 amended

27. Act amended

This Part amends the *Transfer of Land Act 1893*.

28. Section 4 amended

In section 4(1) in the definition of *Minister for Lands* delete “to whom the administration of the *Land Administration Act 1997* is committed;” and insert:

as defined in the *Land Administration Act 1997* section 3(1);

29. Section 17 inserted

At the end of Part 1 insert:

17. Authority to perform certain functions of Minister for Lands under this Act

- (1) A function that the Minister for Lands has under a provision listed in the Table may be performed by a public service officer of the Department, as defined in the *Land Administration Act 1997* section 3(1), who is authorised in writing by the Minister for Lands to do so.
- (2) Nothing in this section limits the ability of the Minister for Lands to otherwise perform a function through an officer or agent.

Table

s. 70A(1), (2)(b), (3)	s. 81D(1)(a)
s. 81E	s. 81F(1), (2), (3), (4)

s. 81L	s. 81V(1)
s. 81ZA(3)	s. 104(2)
s. 129BA(2)	s. 129BB(1), (2), (3)
s. 136J(1), (2), (3)	s. 145(2)
s. 153A	s. 166A(1), (3)
s. 166B(1), (3)	

30. Section 81D amended

In section 81D(1)(a) delete “Lands, or an officer authorised by that Minister to do so,” and insert:

Lands

31. Section 153A amended

In section 153A after “Minister” insert:

for Lands

32. Section 198 amended

In section 198 after “them” insert:

or of the Minister for Lands

**Part 10 — War Service Land Settlement Scheme
Act 1954 amended**

33. Act amended

This Part amends the *War Service Land Settlement Scheme Act 1954*.

34. Section 6 amended

Delete section 6(4a).

35. Sections 11 and 12 inserted

After section 10 insert:

11. Delegation

- (1) The Minister may delegate to a public service officer of the Department, as defined in the *Land Administration Act 1997* section 3(1), any power or duty of the Minister under another provision of this Act.
- (2) The delegation must be in writing signed by the Minister.
- (3) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.
- (4) A person exercising or performing a power or duty that has been delegated to the person under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Nothing in this section limits the ability of the Minister to perform a function through an officer or agent.

12. Protection from liability for wrongdoing

- (1) An action in tort does not lie against a person for anything that the person has done, in good faith, in the performance or purported performance of a function under this Act.
- (2) The protection given by this section applies even though the thing done as described in subsection (1) may have been capable of being done whether or not this Act had been enacted.
- (3) Despite subsection (1), neither the Minister nor the State is relieved of any liability that it might have for another person having done anything as described in that subsection.
- (4) In this section, a reference to the doing of anything includes a reference to an omission to do anything.

