



New South Wales

# National Parks and Wildlife Amendment Act 1996 No 58

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New South Wales

## **National Parks and Wildlife Amendment Act 1996 No 58**

Act No 58, 1996

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An Act to amend the *National Parks and Wildlife Act 1974* to provide for the reservation of land as regional parks and to make further provision with respect to state recreation areas; to make consequential amendments to other Acts; and for other purposes. [Assented to 1 July 1996]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *National Parks and Wildlife Amendment Act 1996*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation.

**3 Amendment of National Parks and Wildlife Act 1974 No 80**

The *National Parks and Wildlife Act 1974* is amended as set out in Schedule 1.

**4 Amendment of other Acts**

The Acts specified in Schedule 2 are amended as set out in that Schedule.

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## Schedule 1 Amendment of National Parks and Wildlife Act 1974

(Section 3)

### [1] Section 5 Definitions

Insert in section 5 (1) in alphabetical order:

*local council* means the council of a local government area.

*regional park* means land reserved as a regional park under this Act.

*regional park trust* means a regional park trust established under section 47S.

*SRA trust* means an SRA trust established under section 47GA in respect of the Arakoon, Bents Basin or Cape Byron state recreation area.

*trust board* means a trust board established under:

- (a) section 47GB in respect of an SRA trust, or
- (b) section 47T in respect of a regional park trust.

### [2] Section 8 Miscellaneous powers and functions of Director-General

Omit “state recreation area, nature reserve” from section 8 (1).  
Insert instead “state recreation area, regional park, nature reserve”.

### [3] Section 8 (1)

Omit “or state recreation area”.  
Insert instead “, state recreation area or regional park”.

### [4] Section 8 (2) (b2)

Insert after section 8 (2) (b1):

- (b2) the areas to be reserved as regional parks are areas that have been substantially modified since European occupation and that:

- (i) are capable of providing open space and recreational opportunities for major regional population centres, and
- (ii) are unsuitable for reservation or dedication as another category of land under this Act,

**[5] Section 8 (3)**

Insert “state recreation area, regional park,” after “historic site,”.

**[6] Section 8 (5)**

Omit the subsection. Insert instead:

- (5) As soon as practicable after a relic is discovered on any land reserved or dedicated under this Act, the Director-General, after such consultation with the Australian Museum Trust as appears necessary or expedient, is required to assess the scientific importance of the relic.

**[7] Section 12 Powers and functions of Service**

Omit “and state recreation areas” wherever occurring.

Insert instead “, state recreation areas and regional parks”.

**[8] Section 23 Functions and duties of Council**

Insert “state recreation areas, regional parks,” after “sites,” in section 23 (1) (a).

**[9] Section 24 Advisory committees**

Omit section 24 (1). Insert instead:

- (1) An advisory committee may be constituted:
  - (a) for one or more national parks, or
  - (b) for one or more historic sites, or
  - (c) for one or more state recreation areas, or
  - (d) for one or more regional parks, or
  - (e) for one or more nature reserves,or for a combination of any of them.

**[10] Section 25 Dissolution of advisory committees**

Insert “, state recreation area, regional park” after “historic site” wherever occurring.

**[11] Section 25 (a) and (b)**

Insert “, area” after “site” wherever occurring.

**[12] Section 26 Functions of advisory committees**

Insert “, state recreation area, regional park” after “site” wherever occurring.

**[13] Section 47B**

Omit the section. Insert instead:

**47B Reservation of state recreation areas**

- (1) The Minister may, by notice published in the Gazette:
  - (a) reserve, as a state recreation area, any prescribed land described in the notice, or
  - (b) reserve, as part of a state recreation area specified in the notice, any prescribed land described in the notice,for the purpose of public recreation and enjoyment.
- (2) On the publication of a notice under subsection (1):
  - (a) the land described in the notice becomes Crown land to the extent to which it was not Crown land immediately before that publication, and
  - (b) if trustees of all or any of the land so described were holding office under any other Act in respect of the land immediately before that publication, those trustees cease to hold office in respect of that land, and

- (c) the care, control and management of the land so described vests:
  - (i) in the Director-General, or
  - (ii) if an SRA trust is established in respect of the land—in the SRA trust.
- (3) To the extent to which a dedication, reservation (other than a reservation under this Division) or vesting affects land described in a notice published under subsection (1), the publication revokes the dedication, reservation or vesting, and the instruments of title (if any) are to be surrendered for cancellation or notation.
- (4) A notice under subsection (1) may be made in relation to one or more state recreation areas.
- (5) Schedule 9A (Transfer of assets, rights and liabilities) has effect.

**[14] Section 47C Limitation on power to reserve under section 47B**

Omit “(1) or (2)”.

**[15] Section 47D Tabling of notification of reservation, and disallowance**

Omit “notification published under section 47B (1) or (2)” from section 47D (1).

Insert instead “notice published under section 47B”.

**[16] Section 47D (2)**

Omit “notification” wherever occurring. Insert instead “notice”.

**[17] Section 47D (3)**

Omit the subsection. Insert instead:

- (3) If any land ceases to be, or to be part of, a state recreation area by virtue of a disallowance of a reservation under this Division:

- (a) the Director-General, or any SRA trust appointed as trustee of the land, ceases to have the care, control and management of the land, and
- (b) the land may be dealt with as if it had been acquired by the Minister under Part 11.

**[18] Section 47E Term and office of trustees of state recreation area**

Omit the section.

**[19] Section 47F Name of state recreation area**

Omit “notification” wherever occurring. Insert instead “notice”.

**[20] Section 47F (a)**

Omit “(1) or (2)”.

**[21] Sections 47GA–47GG**

Insert after section 47G:

**47GA SRA trusts for certain state recreation areas**

- (1) The Minister may, by notice published in the Gazette, establish and name an SRA trust and appoint it as trustee of any one or more of the following state recreation areas (or as trustee of any one or more parts of one or more of the following state recreation areas):
  - (a) Arakoon state recreation area,
  - (b) Bents Basin state recreation area,
  - (c) Cape Byron state recreation area.
- (2) An SRA trust established under this section is constituted by this Act as a corporation having as its corporate name the name assigned to the trust in the notice of its establishment. The Minister may, by notice published in the Gazette, change the corporate name of an SRA trust.
- (3) An SRA trust:
  - (a) has the care, control and management of any state recreation area (or part of a state recreation area) of which it is appointed trustee, and



- (b) has the powers and functions conferred or imposed on it by or under this or any other Act.
- (4) If the Director-General had the care, control and management of the state recreation area immediately before the establishment of the SRA trust, any thing done or entered into by the Director-General in connection with the state recreation area is taken to have been done or entered into by the SRA trust.
- (5) If an SRA trust is appointed as trustee of more than one state recreation area<sup>1</sup> (or more than one part of a state recreation area), a reference in this Act to the state recreation area (or part of the area) in relation to the SRA trust includes a reference to any one or more of the state recreation areas (or any one or more of the parts of the state recreation area) of which the SRA trust has been appointed as trustee.

**47GB SRA trust boards**

- (1) There is to be a trust board established in respect of each SRA trust.
- (2) A trust board is to consist of at least 3, but not more than 7, members appointed by the Minister.
- (3) The affairs of an SRA trust are to be managed by the trust board.
- (4) A trust board is subject to the control and direction of the Director-General.
- (5) Schedule 10 has effect with respect to the members and procedure of a trust board.

**47GC Power to grant leases and licences and to purchase land**

- (1) An SRA trust may, with the written consent of the Director-General (and subject to any conditions imposed in giving that consent):
  - (a) grant leases of land in the state recreation area, and
  - (b) grant licences to occupy or use land in the state recreation area, and

- (c) purchase or take a lease of any land (whether or not adjoining the state recreation area) required for use in connection with the area.
- (2) If the Director-General has the care, control and management of the state recreation area, the Director-General may grant any such leases or licences.

#### **47GD Reports by SRA trusts**

- (1) An SRA trust must:
  - (a) provide reports to the Director-General at such times, concerning such matters, and specifying such information, as may be required by the Director-General, and
  - (b) keep such records as may be required by the Director-General.
- (2) An SRA trust must, at the request of the Director-General:
  - (a) give the Director-General such information as the Director-General requires in relation to the operations of the trust, and
  - (b) send to the Director-General such records kept by the SRA trust as the Director-General requires (including accounting records).

#### **47GE Inspection of SRA trust**

- (1) The Director-General may appoint a person to inquire into, or carry out an audit of, any of the affairs of an SRA trust.
- (2) The appointed person may, for the purposes of the inquiry or audit:
  - (a) inspect and take copies of or extracts from any records (including accounting records) of the trust, and
  - (b) require any person concerned in the management of the SRA trust to give information and answer questions relating to the affairs of the SRA trust.

- (3) The power of the appointed person to inspect the records of an SRA trust includes the power to inspect the records of a lessee or licensee which the trust has power to inspect under the lease or licence.
- (4) A person must not:
  - (a) without lawful excuse, refuse or fail to allow the appointed person access to records to which the appointed person is entitled, or
  - (b) without lawful excuse, refuse or fail to give information or answer questions, as required by the appointed person, or
  - (c) wilfully obstruct or delay the appointed person in the exercise of a power under this section.

Maximum penalty: 5 penalty units.

**47GF Removal of trust board members and appointment of administrator**

- (1) The Minister may, by notice published in the Gazette:
  - (a) remove any or all of the members of an SRA trust board from office, or
  - (b) remove all the members of an SRA trust board from office and appoint a person as the administrator of the SRA trust concerned.
- (2) If an administrator is appointed:
  - (a) the affairs of the SRA trust are to be managed by the administrator, and
  - (b) the administrator has and may exercise all the functions of the SRA trust.
- (3) Subject to this Act, an administrator holds office for such period as may be specified in the administrator's instrument of appointment.
- (4) The Minister may remove an administrator from office at any time.

- (5) An administrator is entitled to be paid such remuneration as the Minister may direct. The office of administrator is not, for the purposes of any Act, an office or place of profit under the Crown.

**47GG Dissolution of SRA trusts**

- (1) The Minister may, by notice published in the Gazette, dissolve an SRA trust. A notice takes effect on the date of publication or such later date as is specified in the notice.
- (2) Schedule 9A (Transfer of assets, rights and liabilities) has effect.

**[22] Section 47I**

Omit the section. Insert instead:

**47I Restrictions on dealing with land in state recreation areas**

- (1) Despite anything in this or any other Act, land within a state recreation area is not to be dealt with except as provided under this Act.
- (2) Without limiting the generality of subsection (1), land within a state recreation area is not to be dedicated, reserved or otherwise dealt with under Part 5 of the *Crown Lands Act 1989*.

**[23] Section 47L**

Omit the section. Insert instead:

**47L Revocation or compulsory acquisition of state recreation area**

- (1) Despite anything in this or any other Act:
- (a) the reservation of land as, or as part of, a state recreation area is not to be revoked, or
- (b) land within a state recreation area is not to be appropriated or resumed, except by an Act of Parliament.

- (2) Nothing in subsection (1) prevents:
- (a) the compulsory acquisition under this Act of land within a state recreation area if the reservation of the land as, or as part of, the state recreation area is not affected by the compulsory acquisition, or
  - (b) the withdrawal of land from, or the termination of, any lease, licence or occupancy in accordance with its terms and conditions.

**[24] Section 47M Disposal of certain property**

Omit the section.

**[25] Section 47N**

Omit the section. Insert instead:

**47N Special provisions relating to certain state recreation areas**

- (1) This section applies to the following state recreation areas:
- Copeton,
  - Lake Keepit,
  - Burrendong,
  - Lake Glenbawn,
  - Wyangala,
  - Grabine,
  - Killalea,
- Burrinjuck (but only in respect of such part of the Burrinjuck state recreation area as is specified by the Director-General by notice published in the Gazette on or before the commencement of this section).

- (2) On the commencement of this section:
  - (a) the reservation under this Act of land as a state recreation area to which this section applies is, by this section, revoked, and
  - (b) the land comprising each of those former state recreation areas is taken to be land dedicated for the purposes of public recreation under Part 5 of the *Crown Lands Act 1989*, and
  - (c) a reserve trust is taken to be established under Part 5 of the *Crown Lands Act 1989* in respect of the land so dedicated, and
  - (d) the trustees (if any) of each of those former state recreation areas are taken to be appointed as the members of a trust board for the reserve trust.
- (3) This section has effect despite section 47L.
- (4) Schedule 9A (Transfer of assets, rights and liabilities) has effect.

**[26] Part 4, Division 1B**

Insert after Division 1A:

**Division 1B Regional parks**

**470 Reservation of regional parks**

- (1) In this section:

*prescribed land* means:

  - (a) Crown land, or
  - (b) land of the Crown, or
  - (c) any land that is a reserve within the meaning of Part 5 of the *Crown Lands Act 1989*, or
  - (d) any land acquired under section 145, 146 or 148,

but does not include any land that any Act (other than the *Crown Lands Act 1989*) provides is to be used for a purpose referred to in the Act or is not to be used for any purpose other than that referred to in the Act.

- (2) The Minister may, by notice published in the Gazette:
- (a) reserve, as a regional park, any prescribed land described in the notice, or
  - (b) reserve, as part of a regional park specified in the notice, any prescribed land described in the notice,
- for the purpose of public recreation and enjoyment.
- (3) On the publication of a notice under subsection (2):
- (a) the land described in the notice becomes Crown land to the extent to which it was not Crown land immediately before that publication, and
  - (b) if trustees of all or any of the land so described were holding office under any other Act in respect of the land immediately before that publication, those trustees cease to hold office in respect of that land, and
  - (c) the care, control and management of the land so described vests:
    - (i) in the Director-General, or
    - (ii) if a regional park trust is established in respect of the land—in the regional park trust, or
    - (iii) if a local council has, with the concurrence of the council, been nominated by the Minister in the notice—in the council.
- (4) To the extent to which a dedication, reservation (other than a reservation under this Division) or vesting affects land described in a notice published under subsection (2), the publication revokes the dedication, reservation or vesting, and the instruments of title (if any) are to be surrendered for cancellation or notation.

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- (5) A notice under subsection (2) may be made in relation to one or more regional parks.
  - (6) Schedule 9A (Transfer of assets, rights and liabilities) has effect.
  - (7) A local council may not be nominated by the Minister under subsection (3) (c) (iii) in respect of a regional park if the regional park is wholly or partly within the area of another local council, except with the consent of the other council.
  - (8) A local council nominated under subsection (3) (c) (iii) by the Minister:
    - (a) has, subject to this Act, the care, control and management of the regional park concerned, and
    - (b) has the powers and functions conferred or imposed on it by or under this Act, and
    - (c) is, in the exercise of such powers and functions, subject to the control and direction of the Minister.

**47P Name of regional park and limitation on use of term "regional park"**

- (1) The Minister:
  - (a) by a notice published under section 47O (2) or by another notice published in the Gazette, may assign a name to a regional park, and
  - (b) by notice published in the Gazette, may from time to time change the name of a regional park.
- (2) The term *regionalpark* is not to be used either alone or in conjunction with other words as the name of any land used for the purpose of public recreation and enjoyment unless the land is within a regional park reserved under this Division.



**47Q Limitations on power to reserve land as regional park**

Land is not to be reserved under section 47O:

- (a) if the land is land of the Crown—without the concurrence in writing of the Minister or public authority in which the land was vested immediately before the reservation, or
- (b) if the land is Crown land within the meaning of paragraph (b) of the definition of Crown lands in section 5 (1)—without the concurrence in writing of the Minister administering the *Fisheries Management Act 1994*.

**47R Tabling of notice of reservation, and disallowance**

- (1) A copy of a notice published under section 47O (2) must be laid before each House of Parliament within 14 sitting days (whether or not they occur in the same session) after publication of the notice.
- (2) If either House of Parliament passes a resolution of which notice has been given within 15 sitting days after such a copy has been laid before it (whether or not those sitting days occur in the same session) and the resolution disallows the reservation effected by the notice of any land as a particular regional park:
  - (a) the reservation ceases to have effect, and
  - (b) the land ceases to be, or ceases to be part of, a regional park.
- (3) If any land ceases to be, or to be part of, a regional park by virtue of the disallowance of a reservation under section 47O:
  - (a) the Director-General, or any regional park trust appointed as trustee of the land, or any local council nominated by the Minister under section 47O, ceases to have the care, control and management of the land, and
  - (b) the land may be dealt with as if it had been acquired under Part 11.

#### **47S Regional park trusts**

- (1) The Minister may, by notice published in the Gazette, establish and name a regional park trust and appoint it as trustee of any one or more specified regional parks or any one or more parts of a regional park.
- (2) A regional park trust established under this section is constituted by this Act as a corporation having as its corporate name the name assigned to the trust in the notice of its establishment. The Minister may, by notice published in the Gazette, change the corporate name of a regional park trust.
- (3) A regional park trust:
  - (a) has the care, control and management of any regional park (or part of a regional park) of which it is appointed trustee, and
  - (b) has the powers and functions conferred or imposed on it by or under this or any other Act.
- (4) If the Director-General had the care, control and management of the regional park immediately before the establishment of the regional park trust, any thing done or entered into by the Director-General in connection with the regional park is taken to have been done or entered into by the regional park trust.
- (5) If a regional park trust is appointed as trustee of more than one regional park (or more than one part of a regional park), a reference in this Act to the regional park (or part of the park) in relation to the regional park trust includes a reference to any one or more of the regional parks (or any one or more of the parts of the regional park) of which the trust has been appointed as trustee.

#### **47T Regional park trust boards**

- (1) There is to be a trust board established in respect of each regional park trust.
- (2) A regional park trust board is to consist of at least 3, but not more than 7, members appointed by the Minister.

- (3) The affairs of a regional park trust are to be managed by the trust board.
- (4) A trust board is subject to the control and direction of the Director-General.
- (5) Schedule 10 has effect with respect to the members and procedure of a trust board.

**47U Power to grant leases and licences and to purchase land**

- (1) A regional park trust may, with the written consent of the Director-General (and subject to any conditions imposed in giving that consent):
  - (a) grant leases of land in the regional park, and
  - (b) grant licences to occupy or use land in the regional park, and
  - (c) purchase or take a lease of any land (whether or not adjoining the regional park) required for use in connection with the area.
- (2) If the Director-General has the care, control and management of the regional park, the Director-General may grant any such leases or licences.
- (3) If a local council has the care, control and management of a regional park, the council may, with the written consent of the Minister (and subject to any conditions imposed in giving that consent) grant any such leases or licences.

**47V Reports**

- (1) A regional park trust must:
  - (a) provide reports to the Director-General at such times, concerning such matters, and specifying such information, as may be required by the Director-General, and
  - (b) keep such records as may be required by the Director-General.

- (2) A regional park trust must, at the request of the Director-General:
  - (a) give the Director-General such information as the Director-General requires in relation to the operations of the trust, and
  - (b) send to the Director-General such records kept by the regional park trust as the Director-General requires (including accounting records).
- (3) If a local council has the care, control and management of a regional park, the council must:
  - (a) provide reports to the Minister at such times, concerning such matters, and specifying such information, as may be required by the Minister, and
  - (b) keep such records as may be required by the Minister, and
  - (c) at the Minister's request, give the Minister such information as the Minister requires in relation to the care, control and management of the park by the council, and
  - (d) at the Minister's request, send to the Minister such records kept by the council in relation to the care, control and management of the park as the Minister requires.

#### **47W Inspection and audit**

- (1) The Director-General may appoint a person to inquire into, or carry out an audit of, any of the affairs of a regional park trust.
- (2) If a local council has the care, control and management of a regional park, the Minister may appoint a person to inquire into, or carry out an audit of, any of the affairs of the council in relation to the park.
- (3) The appointed person may, for the purposes of the inquiry or audit:

- (a) inspect and take copies of or extracts from any records (including accounting records) of the trust or the local council in respect of the regional park, and
  - (b) require any person concerned in the management of the regional park trust or the local council to give information and answer questions relating to the affairs of the regional park trust or the local council in respect of the regional park.
- (4) The power of the appointed person to inspect the records of a regional park trust or local council includes the power to inspect the records of a lessee or licensee which the trust or council has power to inspect under the lease or licence.
- (5) A person must not:
- (a) without lawful excuse, refuse or fail to allow the appointed person access to records to which the appointed person is entitled, or
  - (b) without lawful excuse, refuse or fail to give information or answer questions, as required by the appointed person, or
  - (c) wilfully obstruct or delay the appointed person in the exercise of a power under this section.

Maximum penalty: 5 penalty units.

**47X Removal of trust board members or local council and appointment of administrator**

- (1) The Minister may, by notice published in the Gazette:
- (a) remove any or all of the members of a regional park trust board from office, or
  - (b) remove all the members of a regional park trust board from office and appoint a person as the administrator of the regional park trust concerned.
- (2) If an administrator is appointed:
- (a) the affairs of the regional park trust are to be managed by the administrator, and

- (b) the administrator has and may exercise all the functions of the regional park trust.
- (3) The Minister may, by notice published in the Gazette, appoint an administrator:
  - (a) to have the care, control and management of a regional park instead of a local council as nominated by the Minister under section 47O (3) (c) (iii), and
  - (b) to exercise any of the functions of the local council in respect of the regional park.
- (4) Subject to this Act, an administrator holds office for such period as may be specified in the administrator's instrument of appointment.
- (5) The Minister may remove an administrator from office at any time.
- (6) An administrator is entitled to be paid such remuneration as the Minister may direct. The office of an administrator is not, for the purposes of any Act, an office or place of profit under the Crown.

**47Y Dissolution of regional park trusts and revocation of nomination of local councils**

- (1) The Minister may, by notice published in the Gazette, dissolve a regional park trust. A notice takes effect on the date of publication or such later date as is specified in the notice.
- (2) On such a notice taking effect, Schedule 9A (Transfer of assets, rights and liabilities) has effect.
- (3) The Minister may, by notice published in the Gazette, revoke the nomination of a local council under section 47O (3) (c) (iii) and transfer the care, control and management of the regional park concerned to the Director-General. Any such notice takes effect on the date of publication or such later date as is specified in the notice.

- (4) On the date that a notice under subsection (3) takes effect, the care, control and management of the regional park concerned is vested in the Director-General and the following provisions have effect:
- (a) any act, matter or thing done or omitted to be done before that date by, to or in respect of the local council in relation to the park is (to the extent that that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the Director-General, and
  - (b) a reference in any instrument of any kind to the local council (in so far as it relates to the care, control and management of the park) is to be read as a reference to the Director-General.

**47Z Restrictions on dealing with land within regional parks**

- (1) Despite anything in this or any other Act, land within a regional park is not to be dealt with except as provided under this Act.
- (2) Without limiting the generality of subsection (1), land within a regional park is not to be dedicated, reserved or otherwise dealt with under Part 5 of the *Crown Lands Act 1989*.

**47ZA Application of certain provisions to regional parks**

The provisions of sections 39,41,42,43 and 44 apply to and in respect of a regional park in the same way as they apply to and in respect of a national park or historic site.

**47ZB Revocation of regional park**

- (1) Despite anything in this or any other Act:
  - (a) the reservation of land as (or as part of) a regional park is not to be revoked, and
  - (b) land within a regional park is not to be appropriated or resumed,except by an Act of Parliament.

- (2) Nothing in subsection (1) prevents:
- (a) the compulsory acquisition under this Act of land within a regional park if the reservation of the land as, or as part of, the regional park is not affected by the compulsory acquisition, or
  - (b) the withdrawal of land from, or the termination of, any lease, licence or occupancy in accordance with its terms and conditions.

**[27] Section 72 Plans of management**

Omit section 72 (1A). Insert instead:

- (1A) The Director-General is to cause a plan of management to be prepared for each state recreation area, and for each regional park (other than a park that is under the care, control and management of a local council), as soon as practicable after the reservation of the land concerned.
- (1B) If a local council is nominated by the Minister to have the care, control and management of a regional park, the council is to cause a plan of management to be prepared for the regional park as soon as practicable after the reservation of the land concerned.

**[28] Section 72 (2)**

Insert “regional park,” after “state recreation area,”.

**[29] Section 72 (4) (e)**

Omit “and state recreation area”.

Insert instead “, state recreation area and regional park”.

**[30] Section 72 (4) (e1)**

Insert after section 72 (4) (e):

- (e1) the preservation of any conservation values in respect of each regional park, and the restoration and regeneration (where appropriate) of the land concerned,



**[31] Section 74 Catchment areas and special areas**

Omit “or historic site” from subsection (1) (a).

Insert instead “, historic site, state recreation area or regional park”.

**[32] Section 74 (2)**

Insert “(or, if a regional park is under the care, control and management of a local council, the council)” after “The Director-General”.

**[33] Section 74 (2)**

Insert “state recreation area, regional park,” after “historic site,”.

**[34] Section 75A Adoption of plan of management for state recreation area or regional park**

Omit section 75A (1)–(4). Insert instead:

- (1) If a plan of management has been prepared for a state recreation area or regional park (including a regional park that is under the care, control and management of a local council), the Director-General, or the local council concerned, must give notice as prescribed by the regulations that the plan of management has been prepared and must, in that notice:
  - (a) specify the address of the place at which copies of the plan of management may be inspected, and
  - (b) specify the address to which representations in connection with the plan of management may be sent.
- (2) Any person interested (including the relevant SRA trust or regional park trust, if any) may, within one month or such longer period as may be specified in the notice, make representations in connection with the plan to the Director-General, or to the local council if the plan relates to a regional park under the council’s care, control and management.

- (3) After the end of the period referred to in subsection (2), the Director-General, or the local council, must refer the plan of management, and any representations sent in accordance with that subsection, to the National Parks and Wildlife Advisory Council for its consideration and advice.
- (3A) The Director-General, or the local council, must then submit the plan of management to the Minister together with any comments or suggestions of the Advisory Council.
- (3B) The Minister is to consider the comments and suggestions of the Advisory Council before adopting the plan of management.
- (4) The Minister may adopt the plan of management without alteration or with such alterations as the Minister thinks fit, or may refer it back to the Director-General, local council or Advisory Council for further consideration.

**[35] Section 75A (7)**

Insert “or regional park” after “state recreation area”.

**[36] Section 80 Lands submerged by water**

Insert “regional park,” after “state recreation area,” in section 80 (1).

**[37] Section 81 Operations under plan of management**

Omit section 81 (3A). Insert instead:

- (3A) If the Minister has adopted a plan of management for a state recreation area or a regional park, it is to be carried out and given effect to:
  - (a) by the Director-General, or

- (b) by the relevant SRA trust or regional park, trust, or
- (c) by the local council (if any) that has the care, control and management of the regional park.

**[38] Section 81A**

Omit the section. Insert instead:

**81A Leases, licences and easements subject to plan of management**

Without limiting the generality of this Part, this Part has effect:

- (a) in respect of any part of a national park, historic site, nature reserve, state game reserve or karst conservation reserve that is the subject of a lease, licence or easement granted under Part 12, and
- (b) in respect of any part of a state recreation area or regional park that is the subject of a lease or licence granted under section 47GC or 47V or an easement granted under Part 12.

**[39] Section 86 Offences relating to relics**

Insert “regional park,” after “state recreation area,” wherever occurring in section 86 (c), (d) and (e).

**[40] Section 88 Australian Museum Trust to have custody of certain relics**

Omit “or state recreation area” wherever occurring.

Insert instead “, state recreation area or regional park”.

**[41] Sections 120, 122, 123, 129**

Insert “state recreation area, regional park,” after “historic site,” wherever occurring in sections 120 (2), 122 (2) (b), 123 (2) and 129 (a).

**[42] Section 138 Payments into the Fund**

Insert “state recreation area, regional park,” after “historic site,” wherever occurring in section 138 (1) (b) (i) and (xi) and (e).

**[43] Section 138 (1) (e1)**

Omit the paragraph.

**[44] Section 138 (4)**

Insert after section 138 (3):

- (4) A reference in subsection (1) (b) (i) or (e) to a regional park does not include a reference to a regional park that is, or is proposed to be, under the care, control and management of a local council.

**[45] Section 139 Payments out of the Fund**

Omit “trustees on any state recreation area” from section 139 (2) (b).

Insert instead “an SRA trust in connection with a state recreation area or by a regional park trust in connection with a regional park”.

**[46] Section 139 (2) (e)**

Insert “state recreation area, regional park,” after “historic site,”.

**[47] Section 140 Community service contribution**

Insert “state recreation area, regional park,” after “historic site,” in section 140 (1).

**[48] Section 140 (1)**

Omit “site or”). Insert instead “site, area or”.

**[49] Section 143 Charges and fees**

Insert “state recreation area, regional park,” after “historic site,”.

**[50] Section 146 Acquisition or occupation of land for certain purposes**

Omit “or historic site” from section 146 (2C) (b).  
Insert instead “, historic site, state recreation area or regional park”.

**[51] Section 148 Power of Minister to accept gifts**

Omit “or historic site” from section 148 (4) (a).  
Insert instead “, historic site, state recreation area or regional park”.

**[52] Section 149 Disposal of property**

Omit “or state recreation area” from section 149 (2) (a).  
Insert instead “, state recreation area or regional park”.

**[53] Section 153 Easements**

Insert “regional park,” after “state recreation area,” in section 153 (1).

**[54] Section 153 (3)**

Omit “or state recreation area”.  
Insert instead “, state recreation area or regional park”.

**[55] Section 155 Regulations relating to parks**

Insert “regional park,” after “state recreation area,” in section 155 (1).

**[56] Section 155 (2) (ee)**

Omit the paragraph.

**[57] Section 155 (2C)**

Omit the subsection. Insert instead:

(2C) Without limiting the generality of subsection (2), the Governor may, in relation to any state recreation area or regional park, make regulations for or with respect to

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any matter for or with respect to which a by-law might be made under the *Crown Lands Act 1989* in relation to a reserve within the meaning of Part 5 of that Act.

**[58] Section 157 Requirement to state name and address**

Insert “regional park,” after “state recreation area,” in section 157 (2).

**[59] Section 160A Removal of unauthorised structures and occupiers**

Omit “or state recreation area” from the definition of *prescribed land* in section 160A (1).  
Insert instead “, state recreation area or regional park”.

**[60] Section 163 Application of Dog Act 1966**

Insert “state recreation area, regional park,” after “historic site,” in section 163 (2).

**[61] Sections 171, 177, 181 and 185**

Insert “regional park,” after “state recreation area,” wherever occurring in sections 171 (1) (a) (i), 177 (1) (a), 181 (1) and 185 (2), (3) and (5).

**[62] Section 177 Compensation**

Omit “or any trustees holding office under this Act” from section 177 (1).  
Insert instead “or any SRA trust or regional park trust, or any local council having the care, control and management of a regional park”.

**[63] Section 186 (3)**

Insert “regional parks,” after “state recreation areas,”.

**[64] Schedule 3 Savings, transitional and other provisions**

Insert after clause 22:

**23 Replacement of former incorporated trustees by SRA trusts**

- (1) In this clause:

*amending Act* means the *National Parks and Wildlife Amendment Act 1996*.

*former incorporated trustees* means the persons holding office as trustees, and constituted as a corporation, in respect of a particular state recreation area and holding office immediately before the commencement of Schedule 1 [65] to the amending Act.

- (2) On the commencement of Schedule 1 [65] to the amending Act, an SRA trust is taken to be constituted and appointed as trustee of the state recreation area in respect of which the former incorporated trustees held office.
- (3) Any such SRA trust is a continuation of, and the same legal entity as, the former incorporated trustees, and the corporate name of the SRA trust is to be the same as the corporate name of the former incorporated trustees. That corporate name can be changed in accordance with this Act.
- (4) Each of the persons who constituted the former incorporated trustees is taken to be appointed as a member of the relevant trust board under section 47GB for the unexpired terms of their original appointment as trustees.

**24 Savings and transitional regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the *National Parks and Wildlife Amendment Act 1996*.

- (2) Any such savings or transitional provision may, if the regulations so provide, take effect on the date of assent to that Act or a later day.
- (3) To the extent to which any such savings or transitional provision takes effect on a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

**[65] Schedules 9A and 10**

Omit Schedule 9A. Insert instead:

**Schedule 9A Transfer of assets, rights and liabilities**

(Sections 47B, 47GG, 47N, 47O, 47Y)

**1 Definitions**

In this Schedule:

*assets* means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes securities, choses in action and documents.

*conveyance* includes transfer, assignment and assurance.

*former trustees* means the trustees holding office under any other Act as trustees in respect of land immediately before the reservation of the land as a state recreation area or regional park.



*instrument* means an instrument (other than this Act) that creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in accordance with any law), and includes any judgment, order or process of a court.

*liabilities* means all liabilities, debts or obligations (whether present or future and whether vested or contingent).

## **2 Transfer of assets when land is reserved as state recreation area or regional park**

- (1) Subject to subclause (2), on the publication in the Gazette of a notice under section 47B or 47O, the assets, rights and liabilities of the former trustees (if any) of the land concerned are transferred to the Director-General and the following provisions have effect:
  - (a) those assets vest in the Director-General by virtue of this clause and without the need for any conveyance,
  - (b) those rights and liabilities become the rights and liabilities of the Director-General,
  - (c) all proceedings relating to those assets, rights and liabilities commenced before the transfer by or against the trustees and pending immediately before the transfer are taken to be proceedings pending by or against the Director-General,
  - (d) any act, matter or thing relating to those assets, rights and liabilities done or omitted to be done before the transfer by, to or in respect of the trustees is (to the extent that that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the Director-General,
  - (e) a reference in any instrument of any kind to the trustees in so far as it relates those assets, rights and liabilities is to be read as a reference to the Director-General.

- (2) If, on the publication in the Gazette of a notice under section 47B or 47O, an SRA trust or regional park trust is constituted in respect of the reserved land:
- (a) the assets, rights and liabilities of the former trustees (if any) of the land concerned are transferred to the relevant SRA trust or regional park trust, and
  - (b) the provisions of subclause (1) (a)–(e) apply as if references in those provisions to the Director-General were references to the SRA trust or regional park trust concerned.

**3 Transfer of assets when SRA trust or regional park trust is dissolved**

- (1) On the date on which a notice under section 47GG or 47Y takes effect to dissolve an SRA trust or regional park trust, the care, control and management of the relevant state recreation area or regional park vests in the Director-General, the assets, rights and liabilities (if any) of the dissolved trust are transferred to the Director-General and the following provisions have effect:
- (a) the assets of the dissolved trust vest in the Director-General by virtue of this clause without the need for any conveyance,
  - (b) the rights and liabilities of the dissolved trust become the rights and liabilities of the Director-General,
  - (c) all proceedings commenced before that day by or against the dissolved trust and pending immediately before that day are taken to be proceedings pending by or against the Director-General,
  - (d) any act, matter or thing done or omitted to be done before that day by, to or in respect of the trust is (to the extent that that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the Director-General,

- (e) a reference in any instrument of any kind to the dissolved trust is to be read as a reference to the Director-General.
- (2) No attornment to the Director-General by a lessee from the dissolved trust is required.

**4 Transfer of assets relating to trustees of certain state recreation areas that are converted to reserve trusts**

On the commencement of section 47N, the assets, rights and liabilities of the trustees (if any) of the state recreation areas to which that section applies are transferred to the respective reserve trust and the following provisions have effect:

- (a) those assets vest in the reserve trust concerned by virtue of this clause and without the need for any conveyance,
- (b) those rights and liabilities become the rights and liabilities of the reserve trust,
- (c) all proceedings relating to those assets, rights and liabilities commenced before the transfer by or against the trustees of the state recreation area and pending immediately before the transfer are taken to be proceedings pending by or against the reserve trust,
- (d) any act, matter or thing relating to those assets, rights and liabilities done or omitted to be done before the transfer by, to or in respect of the trustees is (to the extent that that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the reserve trust,
- (e) a reference in any instrument of any kind to the trustees of the state recreation areas in so far as it relates to those assets, rights and liabilities is to be read as a reference to the reserve trust.

## **5 Operation of Schedule**

- (1) The operation of this Schedule is not to be regarded:
  - (a) as a breach of contract or confidence or otherwise as a civil wrong, or
  - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or
  - (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability, or
  - (d) as an event of default under any contract or other agreement.
- (2) Stamp duty is not chargeable in respect of the transfer of assets, rights and liabilities under this Schedule.

## **Schedule 10 Provisions relating to trust boards**

(Sections 47GB, 47T)

### **1 Definition**

In this Schedule:

*member* means a member of a trust board.

### **2 Acting members**

- (1) The Minister may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, has and may exercise all the functions of the member and is taken to be a member.
- (2) The Minister may remove a person from the office to which the person was appointed under this clause.

- (3) For the purposes of this clause, a vacancy in the office of a member is regarded as an absence from office of the member.

### **3 Term of office**

Subject to this Schedule, a member holds office for such period not exceeding 5 years as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

### **4 Vacancy in office of member**

- (1) The office of a member becomes vacant if the member:
- (a) dies, or
  - (b) completes a term of office and is not re-appointed, or
  - (c) resigns the office by instrument in writing addressed to the Minister, or
  - (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (e) becomes a mentally incapacitated person, or
  - (f) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
  - (g) is removed by the Minister under this clause.
- (2) The Minister may remove a member from office at any time.

### **5 Filling of vacancy**

If the office of a member becomes vacant, a person may, subject to this Act, be appointed to fill the vacancy.

## **6 Disclosure of pecuniary interests**

- (1) If
- (a) a member of a trust board has a direct or indirect pecuniary interest in a matter that is being considered or is about to be considered at a meeting of the board, and
  - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the trust board.

- (2) A disclosure by a member at a meeting of the trust board that the member:
- (a) is a member, or is in the employment, of a specified company or other body, or
  - (b) is a partner, or is in the employment, of a specified person, or
  - (c) has some other specified interest relating to a specified company or other body or a specified person,

is a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

- (3) Particulars of any disclosure made under this clause are to be recorded by the trust board in a book kept for the purpose and that book is to be open at all reasonable hours to inspection by any person.
- (4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the trust board otherwise determines, be present during any deliberation of the trust board, or take part in any decision of the trust board, with respect to the matter.

- (5) A contravention of this clause does not invalidate any decision of the trust board.

### **7 Liability of members and other persons**

A matter or thing done or omitted to be done by:

- (a) an SRA trust or regional park trust, or
  - (b) a member, or
  - (c) an administrator while managing the affairs of an SRA trust or regional park trust, or of a local council in relation to the care, control and management of a regional park, or
  - (d) a person acting under the direction of a trust board, or of an administrator while so managing,
- does not, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject any member, administrator or person so acting personally to any action, liability, claim or demand.

### **8 General procedure and first meeting of members**

- (1) The procedure for the calling of meetings of the members of a trust board and for the conduct of business is, subject to any directions by the Director-General, to be as determined by the members.
- (2) The Director-General is to call the first meeting of the members of a trust board in such manner as the Director-General thinks fit.

### **9 Quorum**

The quorum for a meeting of the members of a trust board is a majority of the members for the time being.

### **10 Voting**

A decision supported by a majority of the votes cast at a meeting of the members of a trust board at which a quorum is present is the decision of the trust board.

### **11 Minutes of meetings**

A trust board is required to keep full and accurate minutes of the proceedings of each of its meetings.

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## Schedule 2 Amendment of other Acts

(Section 4)

### 2.1 Bush Fires Act 1949 No 31

#### [1] Section 22A Reduction of fire hazards

Insert “regional park (other than a park under the care, control and management of a council),” after “state recreation area,” in Column 1 of the Table to the section.

#### [2] Sections 27 and 51

Insert “regional park,” after “state recreation area,” wherever occurring in sections 27 (3) (c) and 51 (1D) (c).

### 2.2 Crown Lands Act 1989 No 6

#### Section 51 Definitions

Omit paragraph (c) of the definition of *prescribed land*.

### 2.3 Environmental Offences and Penalties Act 1989 No 150

#### Section 8F Littering

Insert “regional park,” after “state recreation area,” in section 8F (3) (a) (iv).



## **2.4 Impounding Act 1993 No 31**

### **[1] Section 41 Special power to destroy animals**

Insert “regional park (other than a park under the care, control and management of a council),” after “state recreation area,” in section 41 (3).

### **[2] Dictionary**

Insert “regional park (other than a park under the care, control and management of a council),” after “state recreation area,” in the definition of *area of operations*.

## **2.5 Local Government Act 1993 No 30**

### **[1] Dictionary**

Omit the definition of *National Parks and Wildlife reserve*.  
Insert instead:

*National Parks and Wildlife reserve* means any land reserved or dedicated under the *National Parks and Wildlife Act 1974* other than a regional park under the care, control and management of a council.

### **[2] Dictionary**

Insert at the end of the definition of *public land*:

, or

(e) a regional park under the *National Parks and Wildlife Act 1974*.

## **2.6 Mining Act 1992 No 29**

### **Sections 223 and 252**

Insert “regional park,” after “state recreation area,” wherever occurring in sections 223 (2) and 252 (6).

## **2.7 Roads Act 1993 No 33**

### **Dictionary**

Insert “regional park,” after “state recreation area,” in the definition of *public open space*.

[Minister’s second reading speech made in—  
Legislative Assembly on 7 December 1995  
Legislative Council on 17 April 1996]