



New South Wales

National Parks and Wildlife Amendment Act 2001 No 130

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New South Wales

National Parks and Wildlife Amendment Act 2001 No 130

Act No 130, 2001

An Act to amend the *National Parks and Wildlife Act 1974* in relation to the reservation, dedication and management of land under that Act, the National Parks and Wildlife Advisory Council and advisory committees, licences and offences and penalties; to make related amendments to other Acts; and for other purposes. [Assented to 19 December 2001]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *National Parks and Wildlife Amendment Act 2001*.

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 Schedules 1–5.

4 Amendment of other Acts

Each Act specified in Schedule 6 is amended as set out in that Schedule.

Schedule 1 Amendment of National Parks and Wildlife Act 1974 relating to classification and management of land

(Section 3)

Part 1 Principal amendments

[1] Section 5 Definitions

Insert in alphabetical order in section 5 (1):

Aboriginal object means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

[2] Section 5 (1)

Insert in alphabetical order:

adaptive reuse of a building or structure on land means the modification of the building or structure and its curtilage to suit an existing or proposed use, and that use of the building or structure, but only if:

- (a) the modification and use is carried out in a sustainable manner, and
- (b) the modification and use are not inconsistent with the conservation of the natural and cultural values of the land, and
- (c) in the case of a building or structure of cultural significance, the modification is compatible with the retention of the cultural significance of the building or structure.

[3] Section 5 (1)

Omit paragraph (a) of the definition of *Crown lands*. Insert instead:

- (d) Crown land within the meaning of the *Crown Lands Act 1989*, and

[4] Section 5 (1)

Insert “(as in force immediately before its repeal)” after “1913” in paragraph (b) of the definition of *Crown lands*.

[5] Section 5 (1)

Insert in alphabetical order:

intertidal zone means the area between mean high water mark and mean low water mark.

[6] Section 5 (1)

Omit the definition of *karst region*. Insert instead:

karst environment means an area of land, including subterranean land, that has developed in soluble rock through the processes of solution, abrasion or collapse, together with its associated bedrock, soil, water, gases and biodiversity.

[7] Section 5 (1)

Insert in alphabetical order:

management principles, in relation to land reserved under this Act, means the management principles set out in Division 2 of Part 4 for the land.

[8] Section 5 (1)

Insert in alphabetical order:

modified natural area means an area of land where the native vegetation cover has been substantially modified or removed by human activity (other than activity relating to bush fire management or wild fire) and that is identified in a plan of management as not being appropriate for or capable of restoration.

[9] Section 5 (1)

Insert in alphabetical order:

National Parks and Wildlife Reserve Trust means the National Parks and Wildlife Reserve Trust established under section 9 of the *Forestry and National Park Estate Act 1998*.

[10] Section 5 (1)

Omit the definition of *protected archaeological area*.

[11] Section 5 (1)

Omit the definition of *relic*.

[12] Section 5 (1)

Insert in alphabetical order:

state conservation area means land reserved as a state conservation area under this Act.

[13] Section 5 (1)

Omit the definition of *state game reserve*.

[14] Section 5 (1)

Omit the definition of *state recreation area*.

[15] Section 5 (1)

Insert in alphabetical order:

threatening process has the same meaning as in the *Threatened Species Conservation Act 1995*.

[16] Section 5 (1)

Omit the definition of *wild and scenic river*. Insert instead:

wild river means a river declared to be a wild river under this Act.

[17] Section 5 (1)

Omit the definition of *wilderness area*. Insert instead:

wilderness area means land (including subterranean land) that is reserved under this Act and is declared to be a wilderness area under the *Wilderness Act 1987*.

[18] Section 5 (1)

Omit the definition of *wildlife district*.

[19] Section 5 (1)

Omit the definition of *wildlife management area*.

[20] Section 5 (1)

Insert in alphabetical order:

world heritage property means property of outstanding universal value that is inscribed on the World Heritage List under Article 11 of the Convention for the Protection of the World Cultural and Natural Heritage done at Paris on 23 November 1972, as in force in Australia.

world heritage values means natural, heritage and cultural values contained in a world heritage property that are of outstanding universal value as described by the Convention for the Protection of the World Cultural and Natural Heritage done at Paris on 23 November 1972, as in force in Australia.

[21] Section 5 (5)

Insert after section 5 (4):

- (5) In this Act, a reference to sustainable visitor use and enjoyment includes a reference to appropriate public recreation.

[22] Section 7

Insert after section 6:

7 Functions of Director-General relating to reservation of land

- (1) The Director-General is to consider, and may investigate, proposals for the addition of areas to any land reserved under Part 4 or for the reservation of any new areas under Part 4.
- (2) When considering or investigating any such proposal, the Director-General is to have regard to the following:
 - (a) the desirability of protecting the full range of natural heritage and the maintenance of natural processes,
 - (b) whether the proposal is consistent with the establishment of a comprehensive, adequate and representative reserve system,
 - (c) the desirability of protecting cultural heritage,
 - (d) providing opportunities for appropriate public appreciation and understanding, and sustainable visitor use and enjoyment, of land reserved under this Act,
 - (e) the opportunities for promoting the integration of the management of natural and cultural values,
 - (f) the desirability of protecting wilderness values,
 - (g) the objects of this Act,
 - (h) the desirability of protecting world heritage properties and world heritage values.

[23] Section 8 Miscellaneous functions of Director-General

Omit section 8 (1) and (2).

[24] Section 9

Insert after section 8:

9 Audit and compliance

- (1) The Minister is to establish an Audit and Compliance Committee to oversee the compliance of the Director-General with his or her obligations under this or any other Act.

- (2) The Minister may also request the Audit and Compliance Committee to oversee the investigation of any matter relating to the Director-General's obligations under this or any other Act.
- (3) The Audit and Compliance Committee may request the Director-General to provide any document or information in the Director-General's possession to assist the Committee in the exercise of its functions. The Director-General must, unless the Minister directs otherwise, provide such documents or information to the Committee.
- (4) The members of the Committee are to comprise the Director-General (or the Director-General's delegate) and the following members appointed by the Minister:
 - (a) 1 member of the Council,
 - (b) an officer of the New South Wales Audit Office,
 - (c) 1 member with expertise in the protection of natural or cultural heritage who is not a member of the Public Service,
 - (d) 1 member with scientific qualifications and expertise in nature conservation, not being an officer of the Service,
 - (e) 1 member with legal or financial experience and expertise, not being a member of the Public Service,
 - (f) 2 officers of the Service.
- (5) The members of the Committee referred to in subsection (2) (a), (c), (d) and (e) are entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.
- (6) An appointed member of the Committee holds office for such period, and on such terms, as are specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.
- (7) The Audit and Compliance Committee is to report to the Minister at least every 2 years from the commencement of this section.

[25] Section 12

Omit the section. Insert instead:

12 Powers and functions of Service

The Service is to carry out such works and activities as the Minister may direct, either generally or in a particular case, in relation to the following:

- (a) the conservation and protection of land reserved under this Act or acquired for reservation under this Act and of land for which the National Parks and Wildlife Reserve Trust is the trustee,
- (b) the conservation and protection of wildlife (including threatened species, populations and ecological communities, and their habitats),
- (c) the conservation and protection of wilderness areas and wild rivers,
- (d) the identification, conservation and protection of, and prevention of damage to, Aboriginal objects and Aboriginal places,
- (e) conservation agreements and conservation areas,
- (f) the provision of facilities and opportunities for sustainable visitor use and enjoyment on land reserved under this Act,
- (g) the identification and protection of buildings, places and objects of non-Aboriginal cultural values on land reserved under this Act,
- (h) the conduct of research into and the monitoring of any of the matters referred to in paragraphs (a)–(e),
- (i) the undertaking of public education in relation to any of the matters referred to in paragraphs (a)–(e).

[26] Part 4

Omit the heading to the Part. Insert instead:

Part 4 Reservation of land

Division 1 Reservation of land

30A Governor may reserve certain land

- (1) The Governor may, by notice published in the Gazette, reserve land as any of the following or as part of any of the following:
 - (a) a national park,
 - (b) a historic site,
 - (c) a state conservation area,
 - (d) a regional park,
 - (e) a karst conservation reserve,
 - (f) a nature reserve,
 - (g) an Aboriginal area.
- (2) The Governor may in a notice reserving land under this Division, or another notice published in the Gazette, assign a name to the reserved land or alter its name.

30B Land that may be reserved under this Division

Land may only be reserved under this Division if it is:

- (a) Crown lands, or
- (b) lands of the Crown, or
- (c) land acquired under section 145, 146 or 148, or
- (d) land in respect of which the National Parks and Wildlife Reserve Trust is appointed trustee under section 9 of the *Forestry and National Park Estate Act 1998* or under section 8 of the *National Park Estate (Southern Region Reservations) Act 2000*, or
- (e) crown lands reserved under the Crown Lands Acts (within the meaning of the *Crown Lands Act 1989*).

30C Limitations on reservation of land as national park, historic site regional park, karst conservation reserve, nature reserve or Aboriginal area

Despite section 30B, land must not be reserved as a national park, historic site, regional park, karst conservation reserve, nature reserve or Aboriginal area:

- (a) in the case of lands of the Crown, without the concurrence in writing of the Minister or public authority in whom or which they are vested, and
- (b) in the case of Crown lands referred to in paragraph (b) of the definition of *Crown lands*, without the concurrence in writing of the Minister administering the *Fisheries Management Act 1994*, and
- (c) in the case of Crown-timber lands within the meaning of the *Forestry Act 1916*, without the concurrence in writing of the Minister administering that Act.

30D Limitation on reservation of land as state conservation area

Despite section 30B, land must not be reserved as a state conservation area:

- (a) in the case of lands of the Crown, without the concurrence in writing of the Minister or public authority in whom they are vested, and
- (b) in the case of Crown lands referred to in paragraph (b) of the definition of *Crown lands*, without the concurrence in writing of the Minister administering the *Fisheries Management Act 1994*, and
- (c) in the case of Crown-timber lands within the meaning of the *Forestry Act 1916*, without the concurrence in writing of the Minister administering that Act, and
- (d) without the concurrence in writing of the Minister administering the *Mining Act 1992* or the Minister administering the *Offshore Minerals Act 1999*, as the case requires.

Division 2 Management principles

30E National parks

- (1) The purpose of reserving land as a national park is to identify, protect and conserve areas containing outstanding or representative ecosystems, natural or cultural features or landscapes or phenomena that provide opportunities for public appreciation and inspiration and sustainable visitor use and enjoyment so as to enable those areas to be managed in accordance with subsection (2).
- (2) A national park is to be managed in accordance with the following principles:
 - (a) the conservation of biodiversity, the maintenance of ecosystem function, the protection of geological and geomorphological features and natural phenomena and the maintenance of natural landscapes,
 - (b) the conservation of places, objects, features and landscapes of cultural value,
 - (c) the protection of the ecological integrity of one or more ecosystems for present and future generations,
 - (d) the promotion of public appreciation and understanding of the national park's natural and cultural values,
 - (e) provision for sustainable visitor use and enjoyment that is compatible with the conservation of the national park's natural and cultural values,
 - (f) provision for the sustainable use (including adaptive reuse) of any buildings or structures or modified natural areas having regard to the conservation of the national park's natural and cultural values,
 - (g) provision for appropriate research and monitoring.

30F Historic sites

- (1) The purpose of reserving land as a historic site is to identify, protect and conserve areas associated with a person, event or historical theme, or containing a building, place, feature or landscape of cultural significance so as to enable those areas to be managed in accordance with subsection (2).

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- (2) A historic site is to be managed in accordance with the following principles:
- (a) the conservation of places, objects, features and landscapes of cultural value,
 - (b) the conservation of natural values,
 - (c) provision for sustainable visitor use and enjoyment that is compatible with the conservation of the historic site's natural and cultural values,
 - (d) provision for the sustainable use (including adaptive reuse) of any buildings or structures or modified natural areas having regard to the conservation of the historic site's natural and cultural values,
 - (e) the promotion of public appreciation and understanding of the historic site's natural and cultural values,
 - (f) provision for appropriate research and monitoring.

30G State conservation areas

- (1) The purpose of reserving land as a state conservation area is to identify, protect and conserve areas:
- (a) that contain significant or representative ecosystems, landforms or natural phenomena or places of cultural significance, and
 - (b) that are capable of providing opportunities for sustainable visitor use and enjoyment, the sustainable use of buildings and structures or research, and
 - (c) that are capable of providing opportunities for uses permitted under other provisions of this Act in such areas, including uses permitted under section 47J,
- so as to enable those areas to be managed in accordance with subsection (2).
- (2) A state conservation area is to be managed in accordance with the following principles:
- (a) the conservation of biodiversity, the maintenance of ecosystem function, the protection of natural phenomena and the maintenance of natural landscapes,

- (b) the conservation of places, objects and features of cultural value,
- (c) provision for the undertaking of uses permitted under other provisions of this Act in such areas (including uses permitted under section 47J) having regard to the conservation of the natural and cultural values of the state conservation area,
- (d) provision for sustainable visitor use and enjoyment that is compatible with the conservation of the state conservation area's natural and cultural values and with uses permitted under other provisions of this Act in such areas,
- (e) provision for the sustainable use (including adaptive reuse) of any buildings or structures or modified natural areas having regard to the conservation of the state conservation area's natural and cultural values and with uses permitted under other provisions of this Act in such areas,
- (f) provision for appropriate research and monitoring.

30H Regional parks

- (1) The purpose of reserving land as a regional park is to identify, protect and conserve areas in a natural or modified landscape that are suitable for public recreation and enjoyment so as to enable those areas to be managed in accordance with subsection (2).
- (2) A regional park is to be managed in accordance with the following principles:
 - (a) the provision of opportunities, in an outdoor setting, for recreation and enjoyment in natural or modified landscapes,
 - (b) the identification, interpretation, management and conservation of the park so as to maintain and enhance significant landscape values,
 - (c) the conservation of natural and cultural values,
 - (d) the promotion of public appreciation and understanding of the regional park's natural and cultural values,

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- (e) provision for sustainable visitor use and enjoyment that is compatible with the conservation of the regional park's natural and cultural values,
 - (f) provision for the sustainable use (including adaptive reuse) of any buildings or structures or modified natural areas having regard to the conservation of the regional park's natural and cultural values.

30I Karst conservation reserves

- (1) The purpose of reserving land as a karst conservation reserve is to identify, protect and conserve areas, including subterranean land, containing outstanding or representative examples of karst landforms and natural phenomena so as to enable those areas to be managed in accordance with subsection (2).
- (2) A karst conservation reserve is to be managed in accordance with the following principles:
 - (a) the conservation of the karst environment, including the protection of catchment values, such as hydrological processes and water quality,
 - (b) the conservation of cultural values,
 - (c) the protection of natural water movement and air movement regimes and processes within the karst environment,
 - (d) the conservation of biodiversity, the maintenance of ecosystem function, the protection of the geological and geomorphological features and natural phenomena and the maintenance of natural landscapes, cave formations and fossil deposits,
 - (e) provision for research and monitoring,
 - (f) the promotion of public appreciation and understanding of the karst conservation reserve's natural and cultural values,
 - (g) provision for sustainable visitor use and enjoyment that is compatible with the karst conservation reserve's natural and cultural values,

- (h) provision for sustainable use (including adaptive reuse) of any buildings or structures or modified natural areas having regard to the conservation of the karst conservation reserve's natural and cultural values.

30J Nature reserves

- (1) The purpose of reserving land as a nature reserve is to identify, protect and conserve areas containing outstanding, unique or representative ecosystems, species, communities or natural phenomena so as to enable those areas to be managed in accordance with subsection (2).
- (2) A nature reserve is to be managed in accordance with the following principles:
 - (a) the conservation of biodiversity, the maintenance of ecosystem function, the protection of geological and geomorphological features and natural phenomena,
 - (b) the conservation of places, objects, features and landscapes of cultural value,
 - (c) the promotion of public appreciation, enjoyment and understanding of the nature reserve's natural and cultural values,
 - (d) provision for appropriate research and monitoring.

30K Aboriginal areas

- (1) The purpose of reserving land as an Aboriginal area is to identify, protect and conserve areas associated with a person, event or historical theme, or containing a building, place, object, feature or landscape:
 - (a) of natural or cultural significance to Aboriginal people, or
 - (b) of importance in improving public understanding of Aboriginal culture and its development and transitions,so as to enable those areas to be managed in accordance with subsection (2).

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- (2) An Aboriginal area is to be managed in accordance with the following principles:
- (a) the conservation of natural values, buildings, places, objects, features and landscapes of cultural value to Aboriginal people in accordance with the cultural values of the Aboriginal people to whose heritage the buildings, places, objects, features or landscapes belong,
 - (b) the conservation of natural or other cultural values,
 - (c) allowing the use of the Aboriginal area by Aboriginal people for cultural purposes,
 - (d) the promotion of public understanding and appreciation of the Aboriginal area's natural and cultural values and significance where appropriate,
 - (e) provision for appropriate research and monitoring, in accordance with the cultural values of the Aboriginal people.

[27] Part 4, Division 1, heading

Omit the heading. Insert instead:

Division 3 National parks and historic sites

[28] Part 4, Division 1A, heading

Omit the heading. Insert instead:

Division 4 State conservation areas

[29] Section 47L Revocation or compulsory acquisition of state conservation areas

Insert at the end of section 47L (2) (b):

- , or
- (c) the revocation of the reservation of land as a state conservation area in accordance with section 47MA.

[30] Sections 47M and 47MA

Insert after section 47L:

47M Review of classification as state conservation area

- (1) The Minister is to review, every 5 years after the commencement of this section, the status of land within state conservation areas.
- (2) The review is to give reasons as to why each area of land within a state conservation area should or should not be reserved as a national park or natural reserve under section 47MA.
- (3) The results of the review are to be made available for public inspection free of charge, during ordinary office hours, at the head office of the Service and are to be published on the Internet by means of the website of the Service.
- (4) The review is to be undertaken in consultation with the Minister administering the *Mining Act 1992*.

47MA Reservation of land in state conservation area as national park or nature reserve

- (1) The Governor may, by notice published in the Gazette, revoke the reservation of any land as a state conservation area or part of a state conservation area and reserve the land as a national park or nature reserve or as part of a national park or nature reserve.
- (2) The Governor may take action under subsection (1) only with the concurrence in writing of the Minister administering the *Mining Act 1992*.
- (3) Land that is the subject of an authority, lease, licence or permit under the *Mining Act 1992*, the *Petroleum (Onshore) Act 1991*, the *Offshore Minerals Act 1999* or the *Petroleum (Submerged Lands) Act 1982* must not be reserved under this section as a national park or nature reserve, or as a part of a national park or nature reserve, during the term of that authority, lease, licence or permit (including any renewal).

[31] Part 4, Division 1B, heading

Omit the heading. Insert instead:

Division 5 Regional parks

[32] Part 4, Division 2, heading

Omit the heading. Insert instead:

Division 6 Nature reserves

[33] Part 4, Division 2A

Omit the Division.

[34] Part 4, Division 2B, heading

Omit the heading. Insert instead:

Division 7 Karst conservation reserves

[35] Part 4, Division 2C, heading

Omit the heading. Insert instead:

**Division 8 Abercrombie, Jenolan and Wombeyan Karst
Conservation Reserves**

[36] Part 4, Division 3, heading

Omit the heading. Insert instead:

Division 9 Wild rivers

[37] Section 59 Declaration of wilderness areas

Omit the section.

[38] Section 60 Effect of declaration of wilderness area

Omit the section.

[39] Section 61 Declaration of wild rivers

Omit “or dedicated under this Act) to be a wild and scenic river” from section 61 (1).

Insert instead “under this Act) to be a wild river”.

[40] Section 61 (3)–(5)

Insert after section 61 (2):

(3) The Director-General may make a declaration under subsection (1):

- (a) only with the concurrence of the Minister administering the *Water Management Act 2000*, if the declaration will have an impact on functions carried out under that Act, and
- (b) in respect of a river or part of a river in a state conservation area, only with the concurrence of the Minister administering the *Mining Act 1992*, if the declaration will have an impact on functions carried out under that Act.

(4) The purpose of declaring a river or part of a river as a wild river is to identify, protect and conserve any water course or water course network, or any connected network of water bodies, or any part of those, of natural origin, exhibiting substantially natural flow (whether perennial, intermittent or episodic) and containing remaining examples, in a condition substantially undisturbed since European occupation of New South Wales, of:

- (a) the biological, hydrological and geomorphological processes associated with river flow, and
- (b) the biological, hydrological and geomorphological processes in those parts of the catchment with which the river is intrinsically linked,

so as to enable that river or part to be managed in accordance with subsection (5).

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- (5) A wild river is to be managed in accordance with the following principles:
- (a) the restoration (wherever possible) and maintenance of the natural biological, hydrological and geomorphological processes associated with wild rivers and their catchments, including natural flow variability,
 - (b) the identification, conservation and appropriate management of Aboriginal objects and Aboriginal places.

[41] Part 4, Division 4, heading

Omit the heading. Insert instead:

Division 10 Aboriginal areas

[42] Part 4, Division 5

Omit the Division.

[43] Part 4, Division 6, heading

Omit the heading. Insert instead:

Division 11 Wildlife refuges

[44] Section 67 Wildlife districts

Omit the section.

[45] Section 69 Wildlife management areas

Omit the section.

[46] Part 4, Division 7, heading

Omit the heading. Insert instead:

Division 12 Conservation agreements

[47] Section 69A Definitions

Insert after section 69A (3):

- (4) If a conservation agreement is entered into under section 69B (1C) by a public authority that is not the owner of the conservation area concerned:
 - (a) the agreement is taken to have been entered into on behalf of the owner of the conservation area, and
 - (b) a reference in this Act to the owner of the conservation area (however expressed) includes, while a public authority has the control and management of the conservation area, a reference to the public authority that has that control and management.

[48] Section 69B Conservation agreements

Insert before section 69B (2):

- (1C) The Minister may enter into a conservation agreement relating to land that is Crown lands or lands of the Crown with:
 - (a) a public authority (not being a Government Department) that owns or has the control and management of the land, or
 - (b) if the land is under the control and management of a Government Department, the responsible Minister.
- (1D) The Minister must not enter into a conservation agreement relating to Crown-timber lands within the meaning of the *Forestry Act 1916* except with the consent of the Minister administering that Act.

[49] Section 69D Duration and variation of conservation agreements

Insert after section 69D (5):

- (5A) The Minister is not to vary or terminate an agreement under subsection (4) unless:
 - (a) written notice of the Minister's intention to vary or terminate the agreement has been given to the owner of the conservation area stating that the owner may make

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- submissions to the Minister within the period specified in the notice (being a period of not less than 28 days), and
- (b) the Minister has considered any submissions made by the owner of the conservation area, being submissions made within that specified period.

[50] Section 69I Proposals by statutory authorities affecting conservation areas

Insert after section 69I (4):

- (4A) The Minister is not to vary or terminate an agreement under subsection (3) unless:
- (a) written notice of the Minister's intention to vary or terminate the agreement has been given to the owner of the conservation area stating that the owner may make submissions to the Minister within the period specified in the notice (being a period of not less than 28 days), and
- (b) the Minister has considered any submissions made by the owner of the conservation area, being submissions made within that specified period.

[51] Section 69K

Insert after section 69J:

69K Exhibition of proposed agreements

- (1) When a draft conservation agreement between the Minister and a statutory authority or another Minister, or which applies to Crown lands or lands of the Crown, has been prepared, the Minister must, before entering into the agreement:
- (a) give public notice, in a form and manner determined by the Director-General, of the places at which, the dates on which, and the times during which, the draft agreement may be inspected by the public, and
- (b) publicly exhibit the draft agreement at the places, on the dates and during the times set out in the notice, and

- (c) specify, in the notice, the period during which submissions concerning the draft agreement may be made to the Minister.
- (2) The Minister must cause a copy of the draft conservation agreement to be forwarded to the Council.
- (3) Any person may, during the period referred to in subsection (1) (c), make written submissions to the Minister about the draft agreement.
- (4) The Minister must, before entering into the agreement, consider any submissions made under subsection (3) or by the Council.
- (5) This section does not apply to land leased by a person (other than a statutory authority or a Minister) if the lease is made under the *Crown Lands Act 1989*, the *Crown Lands (Continued Tenures) Act 1989* or the *Western Lands Act 1901*.
- (6) This section applies to a draft amendment to a conservation agreement in the same way as it applies to a draft conservation agreement.

[52] Part 4, Division 8, heading

Omit the heading. Insert instead:

**Division 13 Offences relating to wildlife refuges and
conservation areas**

[53] Section 71BO

Insert before section 72:

71BO Definitions

In this Part:

appropriate regional advisory committee means, in relation to land reserved under this Act, the regional advisory committee constituted for the administrative region in which the reserved land is situated.

responsible authority, in relation to a plan of management, means the person or body who or which has responsibility under sections 72, 72A, 73 or 75B for preparing, or causing to be prepared, the plan of management.

[54] Section 72 Preparation of plans of management

Insert after section 72 (1B):

(1BA) The responsible authority is to seek the advice of the appropriate regional advisory committee in the preparation of a plan of management, other than a plan of management prepared for lands reserved under Part 4A.

[55] Section 72 Preparation of plans of management

Omit section 72 (1G)–(4).

[56] Section 72AA

Insert after section 72:

72AA Objectives and content of plans of management

- (1) The following matters are to be taken into consideration in the preparation of a plan of management for land reserved under this Act:
- (a) the relevant management principles,
 - (b) the conservation of biodiversity, including the maintenance of habitat, ecosystems and populations of threatened species,
 - (c) the protection and appreciation of objects, places and structures of cultural significance, and tracts of land,
 - (d) the protection of landscape values and scenic features,
 - (e) the protection of geological and geomorphological features,
 - (f) the protection of wilderness values and the management of wilderness areas,
 - (g) the maintenance of natural processes,

- (h) the rehabilitation of landscapes and the reinstatement of natural processes,
- (i) fire management,
- (j) in the case of a plan of management for a national park, nature reserve or karst conservation reserve, the prohibition of the execution of any works adversely affecting the natural condition or special features of the park or reserve,
- (k) the potential for the reserved land to be used by Aboriginal people for cultural purposes,
- (l) the provision of opportunities for public understanding, enjoyment and appreciation of natural and cultural heritage values, including opportunities for sustainable visitor use,
- (m) the adaptive reuse of buildings and structures,
- (n) the appropriate (including culturally appropriate) and ecologically sustainable use of the reserved land, including use by lessees, licensees and occupiers of the land,
- (o) the preservation of catchment values,
- (p) the encouragement of appropriate research into natural and cultural features and processes, including threatening processes,
- (q) the identification and mitigation of threatening processes,
- (r) the statutory natural resource management, land use management plans and land management practices of land surrounding or within a region of the reserved land,
- (s) the regional, national and international context of the reserved land, the maintenance of any national and international significance of the reserved land and compliance with relevant national and international agreements, including the protection of world heritage values and the management of world heritage properties,
- (t) benefits to local communities,

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- (u) the social and economic context of the reserve so as to ensure, for example, that the provision of visitor facilities is appropriate to the surrounding area or that pest species management programs are co-ordinated across different tenures,
 - (v) the protection and management of wild rivers,
 - (w) the impact of the management and the use of land acquired under Part 11 on the reserved land's management.
- (2) A plan of management must include the means by which the responsible authority proposes to achieve the plan's objectives and performance measures.
 - (3) The matters referred to in subsection (1) (b)–(s) are to be taken into account, where appropriate, in the preparation of a plan of management for a wildlife refuge, wildlife management area or conservation area.
 - (4) A plan of management is to contain a written scheme of operations which it is proposed to undertake in relation to the land that is the subject of the plan of management.
 - (5) The written scheme of operations for a plan of management must:
 - (a) if the plan is for land within a conservation area, relate to the carrying out of operations for the purpose and objects of the conservation agreement, and
 - (b) if the plan is for land within a State forest, be consistent with the purpose and objects of this Act and the *Forestry Act 1916*.
 - (6) Without limiting subsection (1), a plan of management may do any one or more of the following:
 - (a) in relation to land within a national park, historic site, regional park, state conservation area or karst conservation reserve:
 - (i) identify any part of the land, and any building or structure on the land, and any modified natural area on the land, that may be the subject of a lease or licence as referred to in section 151B (5), and

- (ii) specify the purposes for which such leases and licences may be granted,
 - (b) in relation to land within a state conservation area, specify any activity proposed to be permitted in any part of the area and the nature of any development proposed to be carried out to encourage the use of that part for the activity so specified,
 - (c) in relation to land reserved under Part 4A, provide for the use of the land for any community development purpose prescribed by the regulations.
- (7) A plan of management for a national park, historic site, nature reserve or karst conservation reserve may relate to land acquired or occupied, or proposed to be acquired or occupied, under Part 11.

[57] Section 73 State forests

Omit section 73 (2).

[58] Sections 73A–73C

Insert after section 73:

73A Public exhibition of and consultation on plans of management

- (1) When a plan of management is prepared, the responsible authority is to give notice of the preparation of the plan in accordance with the regulations.
- (2) The notice is to include:
 - (a) the address of the place at which copies of the plan of management may be inspected, and
 - (b) the address to which representations may be forwarded, and
 - (c) the period within which such representations may be made, being a period of not less than 90 days from the date on which the notice is made public.

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- (3) The responsible authority for a plan of management for a national park, historic site, state conservation area, regional park, nature reserve, karst conservation reserve or Aboriginal area must forward the plan of management and any representations received within the time for making representations specified in the notice to the appropriate regional advisory committee and the Council.
 - (4) The appropriate regional advisory committee must consider the plan of management and representations and provide the Council with such advice as the committee considers appropriate.
 - (5) The Council must consider the plan of management, the representations and any advice received from the appropriate regional advisory committee and provide the Minister with such advice as it considers appropriate.
 - (6) The Council must send a copy of any advice it provides to the Minister to the appropriate regional advisory committee and the appropriate regional advisory committee may provide comments to the Minister within 30 days of receiving the copy of the advice.
 - (7) Subsection (3) does not apply to a plan of management for land reserved under Part 4A. However, the responsible authority for such a plan of management is to forward any representations received within the time for making representations specified in the notice to the Council for consideration and advice.

73B Adoption, amendment and cancellation of plans of management

- (1) After considering the representations made under section 73A and any advice from the Council, the Minister may adopt a plan of management without alteration or with such alterations as the Minister may think fit or may refer it back to the responsible authority and the Council for further consideration.
- (2) The Minister is to refer the plan of management back to the responsible authority for consideration if the Minister has not adopted the plan within 12 months after receiving it for consideration.

- (3) The Minister may, on the recommendation of the responsible authority:
 - (a) amend or alter a plan of management from time to time, or
 - (b) cancel a plan of management, or
 - (c) cancel a plan of management and substitute a new plan of management.
- (4) If the Minister proposes to amend or alter a plan of management, or to cancel a plan of management and substitute a new plan of management, the Minister is to instruct the responsible authority to cause the amendment, alteration or new plan of management to be prepared.
- (5) The responsible authority is to cause the amendment, alteration or new plan of management to be prepared as soon as possible.
- (6) The Minister may take action under subsection (1) or (3):
 - (a) in relation to a plan of management for a wildlife refuge—only with the consent in writing of the owner or holder, and the occupier, of the land to which the plan of management relates, or
 - (b) in relation to a plan of management for a conservation area or proposed conservation area—only with the consent in writing of the owner of the land to which the plan of management relates, or
 - (c) in relation to a plan of management for a State forest—only with the concurrence in writing of the Forestry Commission.
- (7) Section 72AA, 73A, 74 and subsections (1)–(6) apply to and in respect of an amendment, alteration or substitution of a plan of management in the same way as they apply to the preparation of a new plan of management.
- (8) Despite the other provisions of this section, the Minister is to cancel a plan of management for a State forest at the request in writing of the Forestry Commission.

Note. Sections 74 and 80 include other provisions relating to the adoption, amendment and cancellation of plans of management for certain land.

[59] Section 80 Lands submerged by water

Insert “(other than Crown lands to which paragraph (b) of this subsection applies)” after “section 5 (1)” in section 80 (2) (a).

[60] Section 80 (2) (b)

Omit “relates to”. Insert instead “directly relates to the intertidal zone or”.

[61] Sections 151B–151D

Insert after section 151A:

151B Leases and licences of reserved land in accordance with plan of management

(1) In this section:

existing building or structure means:

- (a) in relation to land within a reserve before the commencement of this section, a building or structure in existence on the land at that commencement, or
- (b) in relation to land that becomes a reserve or part of a reserve on or after the commencement of this section, a building or structure in existence on the land at the time at which it becomes a reserve (or part of a reserve).

reserve means a national park, historic site, state conservation area, regional park or karst conservation reserve, but does not include land reserved under Part 4A.

- (2) The Minister may, on such terms and conditions as the Minister thinks fit, grant a lease of land within a reserve to enable the adaptive reuse of an existing building or structure on the land for any purpose specified in subsection (12) (whether or not it is a purpose for which the land is reserved).
- (3) The Minister may, on such terms and conditions as the Minister thinks fit, grant a licence under this section to occupy and use land within a reserve, and any existing building or structure on the land, for any purpose (whether or not it is a purpose for which the land is reserved), but may do so only if:

- (a) the land is a modified natural area, and
 - (b) the licence is granted for a term not exceeding 3 consecutive days.
- (4) A lease or licence granted under this section may authorise the exclusive use of the land, buildings and structures concerned.
- (5) The Minister must not grant a lease or licence under this section unless:
- (a) the purposes for which the lease or licence is to be granted are identified in the plan of management for the reserve in which the land is situated as being permissible purposes for which the land, and any relevant identified building or structure on the land, or any modified natural area on the land, may be used, and
 - (b) the location of any such building or structure is identified in that plan of management, and
 - (c) in the case of a lease of land, the Minister has followed the procedures in subsections (7)–(10).
- (6) In considering whether or not to grant a lease or licence under this section, the Minister is to have regard to the conservation values of the reserve within which the land is situated and, in a case where the lease or licence authorises the use of a building or structure, the cultural significance of the building or structure.
- (7) The Minister is to refer a proposal to lease land under this section to the Council for advice and is to cause notice of the proposal to be published in a newspaper circulating throughout New South Wales and in a newspaper circulating in the area in which the land is located.
- (8) The notice must contain the following:
- (a) sufficient information to identify the land concerned,
 - (b) the purposes for which the land and any building or structure on the land is proposed to be used,
 - (c) the term of the proposed lease (taking into account any option to renew),
 - (d) the name of the person to whom the lease is proposed to be granted,

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- (e) the closing date for making submissions on the proposal (being a date not earlier than 28 days after the date on which the notice was first published),
 - (f) the address to which submissions are to be sent,
 - (g) any other information that the Minister considers relevant to the consideration of the proposal, for example, identification of the provisions of any relevant plan of management that authorises the proposed purposes for which the land, building and structures concerned are to be used.
- (9) The Minister may hold a public hearing into any proposed lease under this section if the Minister thinks it appropriate to do so.
- (10) Before determining whether or not to grant a lease under this section, the Minister must take into account:
- (a) any submissions received before the notified closing date for submissions under subsection (8), and
 - (b) if relevant, any report from, or submissions received at, a public inquiry, and
 - (c) any advice received from the Council.
- (11) It is a condition of every lease of or licence over land granted under this section that the lessee or licensee must ensure that the provisions of this Act, the regulations and the plan of management for the reserve in which the land is situated are complied with in relation to the land.
- (12) A lease may be granted under this section for one or more of the following only:
- (a) the provision of educational facilities for natural heritage, cultural heritage, park management or fire management,
 - (b) the provision of research facilities for natural heritage (including natural phenomena) and cultural heritage,
 - (c) the provision of retail outlets commensurate with the needs of the area in which that outlet is located,
 - (d) the provision of restaurants, cafes, kiosks and other food outlets,

- (e) the provision of cultural institutions, including museums and galleries,
 - (f) the provision of visitor and tourist accommodation,
 - (g) the provision of facilities for conferences and functions,
 - (h) the provision of sporting facilities,
 - (i) the provision of facilities and amenities for tourists and visitors, including information centres and booking outlets,
 - (j) the provision of facilities in relation to Aboriginal culture and Aboriginal cultural activities,
 - (k) any other purpose specified in section 151 (1) (c), but subject to section 151C,
 - (l) any other purpose prescribed by the regulations for the purpose of this subsection.
- (13) A regulation must not be made for the purposes of subsection (12) (not being a principal statutory rule for which a regulatory impact statement is required to be prepared under the *Subordinate Legislation Act 1989*) unless the Minister has:
- (a) caused notice of the draft regulation to be published in a newspaper circulating throughout New South Wales, and
 - (b) invited the public and the Council to comment on the draft regulation with the closing date for the making of submissions being not earlier than 45 days after the date of publication of the notice, and
 - (c) taken into account any submissions from the Council or the public received before the notified closing date for submissions.
- (14) The validity of a regulation made for the purposes of subsection (12) is not affected by a failure of the Minister to comply with subsection (13) (c).

151C Restrictions on grant of lease for residential accommodation

- (1) The Minister must not grant a lease under section 151, 151A or 151B for the purpose of permanent residential occupation unless the lease:
 - (a) provides accommodation to an officer of the Service in the vicinity of the officer's place of employment, or
 - (b) facilitates:
 - (i) the maintenance and security of the reserve, and buildings and facilities on or in the reserve, or facilities passing through the reserve such as a road, transmission lines and pipelines, or
 - (ii) the provision of services to tourists and visitors to the reserve,
 - (iii) the provision of educational and research facilities in the reserve, or
 - (c) is for the occupation of buildings in an historic site or land reserved under Part 4A, or
 - (d) is of a class prescribed for the purposes of this section.
- (2) A regulation must not be made for the purposes of subsection (1) (d) (not being a principal statutory rule within the meaning of the *Subordinate Legislation Act 1989*) unless the Minister has:
 - (a) caused notice of the draft regulation to be published in a newspaper circulating throughout New South Wales, and
 - (b) invited the public and the Council to comment on the draft regulation with the closing date for the making of submissions being not earlier than 45 days after the date of publication of the notice, and
 - (c) taken into account any submissions from the Council or the public received before the notified closing date for submissions.
- (3) The validity of a regulation made for the purposes of subsection (1) (d) is not affected by a failure of the Minister to comply with subsection (2) (c).

151D Register of certain interests to be publicly available

- (1) Information on leases granted under this Act and every easement or right of way granted under this Act:
 - (a) is to be recorded in a register that is to be kept in the head office of the Service and made available to the public, free of charge, during ordinary office hours, and
 - (b) is to be placed on the Service's website.
- (2) Information to be included on the register and website is to include the following:
 - (a) the name of the person to whom the lease, easement or right of way has been granted,
 - (b) the term of years of the lease, easement or right of way (including any option to renew),
 - (c) the location of the land to which the lease, easement or right of way relates,
 - (d) the purpose for which the lease, easement or right of way has been granted,
 - (e) information as to the terms and conditions of the lease, easement or right of way, except information that the Director-General would be prevented from disclosing by the *Freedom of Information Act 1989* or the *Privacy and Personal Information Protection Act 1998*.

[62] Section 153A Leases etc relating to wilderness areas

Insert "or 151B" after "section 151 (1)".

[63] Section 153B

Insert after section 153A:

153B Easements, rights of way and licences for landlocked areas

- (1) The Minister may, on such terms and conditions as the Minister thinks fit, grant an easement, right of way or licence through or over land reserved under this Act for the purposes of enabling access to other land if:

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- (a) the other land is completely or partially surrounded by land reserved under this Act, and
 - (b) the Minister:
 - (i) is satisfied that it is not practical for the owner of the other land to obtain an alternative means of access (whether by land or water) because it is not legally or physically available, or
 - (ii) while satisfied that it is practical for the owner of the other land to obtain an alternative means of access, considers that the proposed means of access will have a lesser environmental impact than that alternative means of access to the land concerned, or
 - (iii) while satisfied that it is practical for the owner of the other land to obtain an alternative means of access, considers that the proposed means of access will assist in more efficient management of the reserved land and will have no greater environmental impact than that alternative means of access to the land concerned.
- (2) The Minister must not grant an easement, right of way or licence under subsection (1) unless the Minister is satisfied that:
- (a) the access proposed to be granted under the easement, right of way or licence will not have a significant impact on the environment of the area adjacent to the proposed access, and
 - (b) the access proposed to be granted under the easement, right of way or licence is consistent with the relevant plan of management.
- (3) The Minister must not grant an easement, right of way or licence under subsection (1) unless the Minister has considered:
- (a) the extent of, and legality of, any access that the owner had to the land before that access became unavailable, and
 - (b) any guidelines (as referred to in subsection (4)) in relation to access to land.

- (4) The Director-General must prepare and adopt, after consulting with the Council, guidelines relating to the provision of access to land under this section, and may, from time to time, vary those guidelines after further consultation with the Council.

[64] Sections 187 and 188

Insert after section 186:

187 Administration of existing interests in reserved land

- (1) In this section, *existing interest* means a lease, licence, permit, authority, authorisation or occupancy under the *Forestry Act 1916*, the *Crown Lands Act 1989*, the *Crown Lands (Continued Tenures) Act 1989* or the *Western Lands Act 1901*:
- (a) in relation to land reserved under this Act immediately before the commencement of this section—in force on that commencement, or
- (b) in relation to land reserved under this Act on or after the commencement of this section—in force at the date on which the land was so reserved.
- (2) The administration of matters relating to existing interests, to the extent that those interests affect any land reserved under this Act, is vested in the Minister.
- (3) For the purposes of subsection (2), the Minister has:
- (a) in respect of existing interests under the *Forestry Act 1916*, the powers of the Minister administering that Act and of the Forestry Commission, and
- (b) in respect of existing interests under the *Crown Lands Act 1989*, the powers of the Minister administering that Act, and
- (c) in respect of existing interests under the *Crown Lands (Continued Tenures) Act 1989*, the powers of the Minister administering that Act, and
- (d) in respect of existing interests under the *Western Lands Act 1901*, the powers of the Minister administering that Act and of the Western Lands Commissioner.

188 Administration of existing telecommunications interests

(1) In this section:

broadcasting or telecommunications facility means a facility used for the purpose of providing broadcasting services within the meaning of the *Broadcasting Services Act 1992* of the Commonwealth, or a facility within the meaning of the *Telecommunications Act 1997* of the Commonwealth:

- (a) the use of which is authorised under the *Forestry Act 1916*, the *Crown Lands Act 1989*, the *Crown Lands (Continued Tenures) Act 1989* or the *Western Lands Act 1901*, or
- (b) that was lawfully constructed under Commonwealth legislation and exempted at the time of construction under that legislation from the requirement for authorisation under State legislation.

existing facility means a broadcasting or telecommunications facility situated on land reserved under this Act and in existence on the relevant date.

relevant date means, in relation to a broadcasting or telecommunications facility:

- (a) if the land on which the facility is situated was reserved under this Act immediately before the commencement of this section—the date of that commencement, or
 - (b) if the land on which the facility is situated is reserved under this Act on or after the commencement of this section—the date on which the land was so reserved.
- (2) At the request of a person who is the owner of an existing facility, the Minister may grant the person a lease or licence under this section for the purposes of enabling the facility to be used and maintained.
- (3) The Minister may grant a lease or licence under this section in respect of an existing facility to which paragraph (b) of the definition of *broadcasting or telecommunications facility* in subsection (1) applies only if the facility is no longer exempt from the requirement to be authorised under State legislation at the date of the grant of the lease or licence.

Schedule 1	Amendment of National Parks and Wildlife Act 1974 relating to classification and management of land
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- (4) On the grant of a lease or licence under this section in respect of an existing facility, any authorisation referred to in paragraph (a) of the definition of *broadcasting or telecommunications facility* in subsection (1) in respect of the facility is revoked.
- (5) Any lease or licence granted under this section is subject to such terms and conditions as the Minister may determine.
- (6) This section does not limit section 187.

Part 2 Consequential amendments

[65] The long title

Omit “relics”. Insert instead “objects”.

[66] The whole Act (except the long title and section 5)

Omit “relics” wherever occurring. Insert instead “Aboriginal objects”.

[67] The whole Act (except Schedule 3)

Omit “a relic” and “A relic” wherever occurring.
Insert instead “an Aboriginal object” and “An Aboriginal object”, respectively.

[68] The whole Act (except Schedule 3)

Omit “any relic” and “Any relic” wherever occurring.
Insert instead “any Aboriginal object” and “Any Aboriginal object”, respectively.

[69] The whole Act (except Schedule 3)

Omit “the relic” wherever occurring. Insert instead “the Aboriginal object”.

[70] Section 5 (1)

Omit the definition of *Relics Committee*.

[71] Section 5 (1)

Omit the definition of *SRA trust*. Insert instead:

state conservation area trust means a state conservation area trust established under section 47GA in respect of Cape Byron State Conservation Area.

[72] Sections 5 (1), definition of “trust board”, 47B (2) (c), 47D (3) (a), 47GA–47GG, 81 (3A) (b) and 177

Omit “SRA” wherever occurring. Insert instead “state conservation area”.

[73] Sections 8 (3), 11, 47D, 47G, 47GC, 47H, 47I, 47J, 47K, 47L, 72, 74 (2), 80 (1), 81 (3A), 81A (b), 86, 88, 129, 138 (1) (b) (ix) and (e), 139, 140, 143 (1), 153, 155, 157 (2), 160A (1), 163, 177 and 185

Omit “state recreation area” wherever occurring.
Insert instead “state conservation area”.

[74] Sections 8 (5), 61A (1), 71B, 71C (2) (c), 71D, 71I (c), 71P (4), 71R (1), 71U, 71W, 71X, 71Z (2), 71AN (1), 71AS (1), 71AX, 71AZ, 71BB (2) (b), 71BA, 71BC (2) (d) and (5), 71BD, 74 (1) (b), 79A (1), 81 (5) (a) and (6) and 85 (2) (a)

Omit “or dedicated” wherever occurring.

[75] Section 8 (6)

Omit “wild and scenic rivers, protected archaeological areas, wildlife districts, wildlife refuges, wildlife management areas”.
Insert instead “wild rivers, wildlife refuges”.

[76] Sections 23 (1), 47B (4) and 47GA (1)

Omit “recreation” wherever occurring. Insert instead “conservation”.

[77] Sections 23 (1) (a), 141 (2) and 186 (3)

Omit “, state game reserves” wherever occurring.

[78] Section 33 (1)–(3)

Omit the subsections.

[79] Section 33 (4)

Omit “Upon the publication of a proclamation under subsection (2) or (3)”.
Insert instead “On the publication in the Gazette of a notice under
Division 1 reserving land as a national park or historic site”.

[80] Sections 33 (4) (b) and 71Z

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

[81] Section 33 (5)

Omit “Upon the publication of a proclamation under subsection (2)”.
Insert instead “On the publication of a notice under Division 1”.

[82] Section 33 (5)

Omit “proclamation” where secondly occurring. Insert instead “notice”.

[83] Section 33 (6)

Omit “Upon the publication of a proclamation under subsection (3)”.
Insert instead “On the publication of a notice under Division 1”.

[84] Section 33 (6)

Omit “proclamation” where secondly occurring. Insert instead “notice”.

[85] Section 33 (8)

Omit “proclamation published under subsection (2) or (3)”.
Insert instead “notice under Division 1”.

[86] Section 33 (9)

Omit “proclamation under subsection (2) or (3) may be made in relation to”.
Insert instead “notice under Division 1 may relate to”.

[87] Section 34

Omit the section.

[88] Section 35 (2)

Omit “proclamation published under section 33 (2) or (3)”.
Insert instead “notice published under Division 1 reserving land as a
national park or historic site”.

[89] Section 35 (3)

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

[90] Section 36

Omit the section.

[91] Section 46 (1)

Omit “proclamation under section 33”.
Insert instead “notice under Division 1”.

[92] Section 46 (1)

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

[93] Section 46 (2)

Omit “proclamation under section 33”.
Insert instead “notice under Division 1”.

[94] Section 46 (2)

Omit “that proclamation”. Insert instead “that notice”.

[95] Section 47A

Omit the definition of *prescribed lands*.

[96] Section 47B (1)

Omit the subsection.

[97] Section 47B (2)

Omit “under subsection (1)”.

Insert instead “under Division 1 reserving land as a state conservation area”.

[98] Section 47B (3)

Omit “this Division) or vesting affects land described in a notice published under subsection (1)”.

Insert instead “Division 1 of land as a state conservation area) or vesting affects land described in a notice published under Division 1 reserving land as a state conservation area”.

[99] Section 47B (4)

Omit “subsection (1)”. Insert instead “Division 1”.

[100] Section 47C

Omit sections 47BA and 47C. Insert instead:

47C Care, control and management of state conservation areas reserved under Part 4A

- (1) Despite section 47B, on the publication of a notice under Part 4A reserving land as a state conservation area, the Director-General has the care, control and management of the state conservation area until such time as a board of management is established for the state conservation area.
- (2) On the establishment of a board of management for the state conservation area, the board of management has the care, control and management of the state conservation area.

[101] Section 47D (1)

Omit “section 47B”.

Insert instead “Division 1 reserving land as a state conservation area”.

[102] Section 47F

Omit the section.

[103] Section 47O (1) and (2)

Omit the subsections.

[104] Section 47O (3), (4) and (5)

Omit “subsection (2)” wherever occurring.

Insert instead “Division 1 reserving land as a regional park”.

[105] Section 47O (4)

Omit “this Division”.

Insert instead “Division 1 reserving land as a regional park”.

[106] Section 47OA (1)

Omit “Despite section 47O, on the publication of a proclamation”.

Insert instead “Despite section 47O, on the publication of a notice”.

[107] Section 47P (1)

Omit the subsection.

[108] Section 47Q

Omit the section.

[109] Section 47R (1)

Omit “section 47O (2)”.

Insert instead “Division 1 reserving land as a regional park”.

[110] Section 47R (3)

Omit “section 47O”. Insert instead “Division 1”.

[111] Sections 48 (2), 49 (3), 58K (4A), 58U (1) and (4) and 62 (4)

Omit “dedicated” wherever occurring. Insert instead “reserved”.

[112] Section 49 (1), (2) and (3)

Omit the subsections.

[113] Section 49 (4)

Omit “Upon the publication of a proclamation under subsection (1) or (2)”.
Insert instead “On the publication of a notice under Division 1 reserving
land as a nature reserve”.

[114] Section 49 (4) (a) and (6)

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

[115] Section 49 (5)

Omit “(other than a dedication under this Division)”.

[116] Section 49 (5)

Insert “(other than a reservation of land as a nature reserve under
Division 1)” after “reservation” where firstly occurring.

[117] Section 49 (5)

Omit “proclamation published under subsection (1) or (2)”.
Insert instead “notice published under Division 1 reserving land as a nature
reserve”.

[118] Section 50

Omit the section.

[119] Section 51

Omit the section.

[120] Section 58

Omit the section. Insert instead:

58 Application of certain provisions to nature reserves

The provisions of sections 33 (5) and (6), 35, 39, 43, 44 and 46
apply to and in respect of a nature reserve in the same way as
they apply to and in respect of a national park or historic site
and so apply as if a reference in those provisions to:

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- (a) a notice under Division 1 reserving land as a national park or historic site were a reference to a notice under Division 1 reserving land as a nature reserve, and
 - (b) a reservation of land under Division 1 as a national park or historic site were a reference to a reservation of land under that Division as a nature reserve.

[121] Section 58K (1)–(3)

Omit the subsections.

[122] Section 58K (4) and (5)

Omit “proclamation under subsection (1) or (2)” wherever occurring.

Insert instead “notice under Division 1 reserving land as a karst conservation reserve”.

[123] Section 58K (4) (a)

Omit “proclamation”. Insert instead “notice”.

[124] Section 58K (6)

Omit the subsection. Insert instead:

- (6) To the extent to which a reservation (other than a reservation of land under Division 1 as a karst conservation reserve) or vesting affects land described in a notice published under Division 1 reserving land as a karst conservation area, the publication (unless the notice otherwise provides) revokes the reservation or vesting and the instruments of title (if any) must be surrendered for cancellation or notation, as the case requires.

[125] Section 58L

Omit the section.

[126] Section 58M

Omit “dedication” wherever occurring. Insert instead “reservation”.

[127] Sections 58Q (3) (a), 70 (3) (a), 98 (3) and 129 (b)

Omit “, a game licence under section 122” wherever occurring.

[128] Section 58S (1) (f) and (g)

Omit the paragraphs. Insert instead:

- (f) a notice under Division 1 reserving land as a national park or historic site were a reference to a notice under that Division reserving land as a karst conservation reserve, and
- (g) a reservation under Division 1 of land as a national park or historic site were a reference to a reservation of land under that Division as a karst conservation reserve.

[129] Section 58U (2)

Omit “so dedicated and named by proclamations published under section 58K”.

Insert instead “so reserved and named by notices published in the Gazette under Division 1”.

[130] Section 58U (3)

Omit the subsection. Insert instead:

- (3) A reference in this Act to the publication of a notice under Division 1 reserving land as a karst conservation reserve is, in relation to a reservation under this section, taken to be a reference to the commencement of this section.

[131] Section 58V (1)

Omit “karst conservation”.

[132] Section 58W (4) (a)

Omit “proclamation under section 58K (1) dedicating”.

Insert instead “notice under Division 1 reserving”.

[133] Section 58W (4) (b)

Omit “proclamation under section 58K (2) dedicating”.
Insert instead “notice under Division 1 reserving”.

[134] Section 58W (4)

Omit “so dedicated”. Insert instead “so reserved”.

[135] Section 58W (6)

Omit “dedicated by a proclamation”. Insert instead “reserved by a notice”.

[136] Section 61A (2)

Omit “and scenic”.

[137] Section 62 (1)–(3)

Omit the subsections.

[138] Section 69C (1) (e1)

Omit “regions”. Insert instead “environments”.

[139] Section 70 (1)

Omit “wildlife district, wildlife refuge, wildlife management area,”.
Insert instead “wildlife refuge,”.

[140] Sections 70 (2), (4) and (6) and 71 (1) and (3)

Omit “wildlife management area,” wherever occurring.

[141] Section 70 (5)

Omit the subsection.

**[142] Sections 71C, 71F, 71P (1), 71U (6), 71W (1), 71X (2), 71AZ (1), 71BB (2),
145 and 185 (3) (a)**

Omit “or dedication” wherever occurring.

[143] Part 4A, Division 3, heading

Omit “or dedication”.

[144] Section 71O (2) (a)

Omit “or the dedication”.

[145] Sections 71R and 71S

Omit sections 71R, 71S and 71T. Insert instead:

71R Certain provisions not to apply to lands reserved under this Division

- (1) The provisions of Division 2 of Part 3, Division 1 of Part 4 and sections 33, 35, 46, 47B–47D, 49, 58, 58K (4)–(6), 58S and 62 do not apply to or in respect of lands reserved under this Division.
- (2) Sections 47GA–47GG, 47O and 47R–47Y do not apply to or in respect of a state conservation area or a regional park reserved under this Part.
- (3) Subsection (1) does not limit section 71Q.

71S Application of certain provisions to lands reserved under this Division

The following provisions apply to and in respect of lands reserved under this Division in the same way as they apply to and in respect of lands reserved under Part 4:

Sections 37–44, 47G, 47H, 47I, 47J, 47K, 47L, 47P (2), 47Z, 47ZA, 47ZB, 49 (3), 52–55, 58K (3), 58M, 58N, 58O, 58P and 64.

[146] Section 71Y

Omit the section. Insert instead:

71Y Reservation of ALR Act lands

The Governor may, on the grant under the *Aboriginal Land Rights Act 1983* of ALR Act lands that are referred to in section 71X (2), by notice published in the Gazette, reserve the lands under this Act and in accordance with this Part as a national park, historic site, state conservation area, regional park, nature reserve, karst conservation reserve or Aboriginal area.

[147] Section 71BC (4)

Omit “dedication or” wherever occurring.

[148] Section 71BC (4)

Omit “dedication,”.

[149] Sections 72 (1) (c), 74 (2), 80 (1), 81 (1), 81A (a), 86, 88, 129, 138 (1) (b) (xi) and (e), 139, 140, 143 (1), 146 (2C), 151 (1), 153, 155 (1), 157 (2), 160A (1), 163, 171 (1) (b) and (c), 177 and 185

Omit “, state game reserve” wherever occurring.

[150] Sections 72 (5), 73 (3) and 138 (1) (f)

Omit “, wildlife management area” wherever occurring.

[151] Section 74 (1) (a)

Omit “state recreation area or regional park or dedicated as a nature reserve, state game reserve”.

Insert instead “state conservation area, regional park, nature reserve”.

[152] Sections 75, 75A and 76–79

Omit the sections.

[153] Section 75B (2)–(4)

Omit the subsections.

[154] Section 81 (1)

Omit “, wildlife refuge or wildlife management area”.
Insert instead “or wildlife refuge”.

[155] Part 6, heading

Omit “**Relics**”. Insert instead “**Aboriginal objects**”.

[156] Sections 88 (3) and 91

Omit “that relic” wherever occurring. Insert instead “that Aboriginal object”.

[157] Sections 120 and 123

Omit “state recreation area, regional park, nature reserve, state game reserve, karst conservation reserve, wildlife district, wildlife refuge, wildlife management area,” wherever occurring.

Insert instead “state conservation area, regional park, nature reserve, karst conservation reserve, wildlife refuge.”.

[158] Section 122 Game licences

Omit the section.

[159] Section 129 (b)

Omit “wildlife district, wildlife refuge, wildlife management area,”.
Insert instead “wildlife refuge,”.

[160] Section 139 (2) (b)

Omit “an SRA trust”. Insert instead “a state conservation area trust”.

[161] Section 139 (2) (m)

Omit “, wildlife management area”.

[162] Section 146 (2C) (b)

Omit the paragraph. Insert instead:

- (b) operate to revoke any reservation as national park, historic site, state conservation area, regional park, nature reserve or karst conservation reserve of the land referred to in the acquisition notice.

[163] Section 148 (4)

Omit the subsection. Insert instead:

- (4) Notwithstanding anything in Part 4 or Part 4A, lands acquired under this section must not be reserved as, or as part of, a national park, historic site, state conservation area, regional park, nature reserve or karst conservation reserve in contravention of any such condition to which the Minister has agreed.

[164] Section 149 (2)

Omit the subsection. Insert instead:

- (2) Nothing in this section applies to or in respect of lands while reserved as, or as part of, a national park, historic site, state conservation area, regional park, nature reserve or karst conservation reserve.

[165] Section 151 (1) (d)

Omit “section 49, 58A or 58K”.

Insert instead “the relevant management principles”.

[166] Section 154

Omit “Relics Committee” wherever occurring.

Insert instead “Aboriginal Cultural Heritage Advisory Committee”.

[167] Sections 164 (1) (a) and 165

Omit “relic” wherever occurring. Insert instead “Aboriginal object”.

National Parks and Wildlife Amendment Act 2001 No 130

Schedule 1 Amendment of National Parks and Wildlife Act 1974 relating to
classification and management of land

[168] Section 171 (1) (a) (i)

Omit the subparagraph. Insert instead:

- (i) animals within a national park, historic site, nature reserve, karst conservation reserve, state conservation area, regional park, Aboriginal area, wildlife refuge or conservation area, or

[169] Section 171 (1) (a) (ii) and (5)

Omit “, district” wherever occurring.

[170] Section 181 (1)

Omit “state recreation area, regional park, nature reserve, state game reserve, karst conservation reserve, Aboriginal area, protected archaeological area, wildlife district, wildlife refuge or wildlife management area”.

Insert instead “state conservation area, regional park, nature reserve, karst conservation reserve, Aboriginal area or wildlife refuge”.

[171] Section 186 (2) (a)

Omit “, 58E (2)”.

[172] Section 186 (3)

Omit “state recreation areas”. Insert instead “state conservation areas”.

Schedule 2 Amendment of National Parks and Wildlife Act 1974 relating to Advisory Council and advisory committees

(Section 3)

[1] Section 5 Definitions

Insert in alphabetical order in section 5 (1):

regional advisory committee means an advisory committee constituted under section 24 (2).

registered native title claimant has the same meaning as it has in the *Native Title Act 1993* of the Commonwealth.

[2] Section 23 Functions and duties of Council

Omit section 23 (1). Insert instead:

- (1) The Council has the following functions:
 - (a) to provide advice to the Minister and the Director-General on:
 - (i) strategies for attaining the objects of this Act, and
 - (ii) the development, implementation and review of the policies and plans of the Service directed towards achieving those objects, and
 - (iii) strategies for promoting, consistent with this Act, the conservation of natural and cultural heritage outside the reserve system, and
 - (iv) the care, control and management of areas reserved under this Act and the development, implementation, review, amendment and alteration of plans of management for those areas, and
 - (v) the preservation and protection of wildlife, and
 - (vi) conservation agreements and conservation areas, and
 - (vii) wilderness areas and wild rivers, and

- (viii) any matter referred to the Council for advice under this Act or by the Minister or the Director-General or that the Council considers necessary for the administration of this Act.
- (b) to consult with the Director-General on the Service's operations and on the administration of this Act,
- (c) such other functions as are conferred on it by or under this or any other Act.

[3] Part 3, Division 2

Omit the Division. Insert instead:

Division 2 Advisory committees

24 Constitution of advisory committees

- (1) The Director-General is to divide the State into administrative regions and may at any time alter or abolish those administrative regions.
- (2) A regional advisory committee is to be constituted for each administrative region.
- (3) Additional advisory committees may be constituted for particular purposes determined by the Minister.
- (4) Schedule 8 has effect.

25 Functions of advisory committees

- (1) A regional advisory committee has the following functions:
 - (a) to provide advice to the Director-General and the Council on policies and plans for the administrative region for which it was constituted,
 - (b) to provide advice to the Director-General and the Council on activities carried out or proposed to be carried out within the administrative region for which it was constituted,

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- (c) to provide advice to responsible authorities within the meaning of section 71BO on draft plans of management relating to the administrative region for which it was constituted and to the Council on the implementation of such plans of management,
 - (d) to provide advice to the Director-General on the implementation of plans of management relating to the administrative region for which it was constituted.
- (2) An advisory committee referred to in section 24 (3) has such advisory functions as are conferred or imposed on it by the Minister.

26 Dissolution of advisory committees

- (1) If an administrative region for which a regional advisory committee is constituted is abolished, the advisory committee is dissolved.
- (2) A person who was a member of the advisory committee immediately before its dissolution is eligible for appointment to another advisory committee constituted for an administrative region that encompasses all or any part of the former administrative region for which the dissolved committee was constituted.

[4] Part 3, Division 3

Omit the Division. Insert instead:

**Division 3 Aboriginal Cultural Heritage Advisory
Committee**

27 Aboriginal Cultural Heritage Advisory Committee

- (1) There is to be an Aboriginal Cultural Heritage Advisory Committee.
- (2) Schedule 9 has effect.

28 Functions of Committee

The Aboriginal Cultural Heritage Advisory Committee is to advise the Minister and the Director-General on any matter relating to the identification, assessment and management of Aboriginal cultural heritage, including providing strategic advice on the plan of management and the heritage impact permit process, whether or not the matter has been referred to the Committee by the Minister or the Director-General.

[5] Schedule 7 The Council

Omit clause 1. Insert instead:

1 Composition

- (1) The Council is to consist of 19 members appointed by the Minister (referred to in this Schedule as *members*).
- (2) The members are to comprise the following:
 - (a) 4 members of advisory committees representing the geographic spread of the reserve system,
 - (b) 2 persons with expertise in non-government organisations concerned with the conservation of nature, one of whom is to be selected from a panel of 3 nominees of the National Parks Association of NSW Inc and one of whom is to be selected from a panel of 3 nominees of the Nature Conservation Council of NSW,
 - (c) 1 person with expertise and experience in Aboriginal cultural heritage conservation,
 - (d) 2 persons with scientific qualifications in areas associated with the conservation of nature,
 - (e) 1 person with qualifications in cultural heritage research,
 - (f) 1 person with expertise and experience in ecotourism or the sustainable visitor use, enjoyment and appreciation of reserves,
 - (g) 1 person representing peak recreational bodies, selected from a panel of 3 nominees of bodies that, in the opinion of the Minister, are peak recreational bodies,

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- (h) 1 person with expertise and experience in environmental education and community involvement in environmental education,
 - (i) 1 person with expertise and experience in rural and regional development and planning issues,
 - (j) 1 person with expertise and experience in agriculture and rural issues, being a person nominated by the New South Wales Farmers' Association,
 - (k) 1 person with expertise and experience in bush fire management,
 - (l) 2 persons with experience in planning and local government, to be selected from a panel of 4 persons nominated by the Local Government and Shires Association,
 - (m) 2 persons who are members of the Aboriginal Cultural Heritage Advisory Committee and have been nominated by that Committee.
- (3) In appointing and re-appointing persons under this Schedule, the Minister is to ensure, as far as is reasonably practicable, that members of the Council are appointed from a range of organisations that have dealings with the Service.
- (4) The Director-General, or a delegate of the Director-General, is to attend meetings of the Council and may participate in discussions of the Council, but is not entitled to vote at any such meeting.
- (5) If a nomination for the purposes of subclause (2), or a panel of nominees from which a member is to be chosen for appointment, is not provided within the time and in the manner directed by the Minister, the Minister may appoint a person to be a member instead of the person required to be appointed on that nomination, or to be chosen for appointment from a panel so nominated, as the case may be.
- (6) A person so appointed is taken to have been duly nominated.

[6] Schedule 7, clauses 2 (1), 6

Omit "An appointed" wherever occurring. Insert instead "A".

[7] Schedule 7, clauses 2 (2), 7 and 8

Omit “an appointed” wherever occurring. Insert instead “a”.

[8] Schedule 7, clause 5

Omit “appointed”.

[9] Schedule 7, clauses 9 and 10

Omit clauses 9, 10 and 11. Insert instead:

9 Chairperson and Deputy Chairperson

- (1) The Minister is to appoint a Chairperson and Deputy Chairperson of the Council.
- (2) The Chairperson is to be appointed from a panel of 3 members nominated by the Council.
- (3) The Deputy Chairperson is to be appointed from a panel of 3 members nominated by the Council.
- (4) The panels referred to in subclauses (2) and (3) may comprise the same members.
- (5) A meeting of the Council at which a panel is determined for the purposes of subclause (2) or (3) is to be chaired by a member elected by the members present at the meeting.
- (6) A person appointed as Chairperson or Deputy Chairperson holds office for a period of not more than 2 years specified in the person’s instrument of appointment.
- (7) A person is not to hold office (whether for 2 consecutive terms or otherwise) for more than 4 years as Chairperson.
- (8) A person is not to hold office (whether for 2 consecutive terms or otherwise) for more than 4 years as Deputy Chairperson.

10 Presiding member

- (1) The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson or, in the absence of both of them, another member elected to chair the meeting by the members present is to preside at a meeting of the Council.

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- (2) The person presiding at a meeting of the Council has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

[10] Schedule 7, clause 14

Omit “other than the chairperson”.

[11] Schedule 8 Advisory committees

Omit clause 1. Insert instead:

1 Composition

- (1) A regional advisory committee is to consist of at least 12 members, but not more than 17 members, appointed by the Minister.
- (2) The members are to include at least 2 Aboriginal persons, a person jointly nominated by the Nature Conservation Council of New South Wales and the National Parks Association of New South Wales, and such other persons who, in the opinion of the Minister, have one or more of the following qualifications:
- (a) expertise and experience in local government,
 - (b) expertise and experience in community involvement in conservation,
 - (c) expertise in Aboriginal Cultural Heritage,
 - (d) scientific qualifications in the area of conservation biology, wildlife management or related disciplines,
 - (e) expertise and experience in rural or regional issues,
 - (f) expertise and experience in agriculture and rural issues, being a person nominated by the New South Wales Farmers’ Association.
 - (g) expertise and experience in ecotourism or ecologically sustainable visitor use, enjoyment and appreciation of reserves,
 - (h) expertise and experience in environmental education and community involvement in environmental education,

- (i) expertise in non-Aboriginal cultural heritage conservation.
- (3) The Minister is to ensure, as far as is possible, that the composition of the advisory committee reflects the expertise and experience referred to in subclause (2).
- (4) The Director-General is to arrange for a senior officer of the Service to attend meetings of each advisory committee and for secretarial support to be available to each advisory committee.

[12] Schedule 8, clause 5

Omit “5 years”. Insert instead “4 years”.

[13] Schedule 9

Omit “(Interim)” wherever occurring (except clause 1).

[14] Schedule 9, clause 1

Omit the clause. Insert instead:

1 Composition

- (1) The Aboriginal Cultural Heritage Advisory Committee is to consist of 11 members appointed by the Minister in accordance with this clause.
- (2) The members of the Committee are to consist of one member nominated by the New South Wales Aboriginal Land Council and 10 other members appointed from the following:
 - (a) nominees of Aboriginal elders groups,
 - (b) registered native title claimants,
 - (c) Aboriginal owners listed on the register under the *Aboriginal Land Rights Act 1983*.
- (3) The members of the Committee are to be persons who:
 - (a) are involved in cultural heritage matters in their local communities, and
 - (b) have an understanding of cultural heritage management issues.

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- (4) The Minister is to ensure that:
- (a) there are at least 5 male and 5 female members on the Committee, and
 - (b) as far as is reasonably practicable, the members of the Committee come from a range of cultural areas across New South Wales.
- (5) The Minister is to cause an advertisement inviting written nominations of persons for appointment to the Committee to be published in a newspaper circulating throughout New South Wales and in a newspaper widely read in Aboriginal communities in New South Wales.
- (6) The advertisement must specify the following:
- (a) the number of members to be appointed to the Committee pursuant to nomination,
 - (b) the particular capacity or capacities (being a capacity specified in subclause (2) or (3)) that a member will be required to have,
 - (c) the closing date for nominations (being a date not earlier than 28 days after the date of the advertisement),
 - (d) the address to which nominations are to be sent.
- (7) The advertisement must also state that a nomination will not be accepted unless the nominee's written consent to the nomination is forwarded with the nomination.
- (8) The Minister is not to appoint a person as a member of the Committee unless:
- (a) the person was duly nominated under this clause, and
 - (b) nominations have closed, and
 - (c) the Minister has considered all nominations duly received.

[15] Schedule 9, clauses 5 and 6 (1)

Omit "clause 1 (2)" wherever occurring. Insert instead "clause 1".

National Parks and Wildlife Amendment Act 2001 No 130

Schedule 2 Amendment of National Parks and Wildlife Act 1974 relating to Advisory Council and advisory committees

[16] Schedule 9, clause 6A

Insert after clause 6:

6A Presiding member

At a meeting of the Aboriginal Cultural Heritage Advisory Committee, a member elected by the members present at the meeting to chair the meeting is to preside at the meeting.

[17] Schedule 9, clause 7 (1)

Omit “Five”. Insert instead “Six”.

[18] Schedule 9, clause 10

Omit the clause.

Schedule 3 Amendment of National Parks and Wildlife Act 1974 relating to licensing and offences

(Section 3)

[1] Section 5 Definitions

Insert in alphabetical order in section 5 (1):

heritage impact permit means a heritage impact permit issued under section 90.

[2] Section 90 Destruction, defacing or damaging of Aboriginal objects and places

Omit section 90 (1). Insert instead:

- (1) A person must not destroy, deface, damage or desecrate, or cause or permit the destruction, defacement, damage or desecration of, an Aboriginal object or Aboriginal place.

Maximum penalty: 50 penalty units or imprisonment for 6 months, or both (or 200 penalty units in the case of a corporation).

[3] Section 90 (1B) and (1C)

Insert after section 90 (1A):

- (1B) Subsection (1) does not apply with respect to an Aboriginal object or Aboriginal place that is dealt with in accordance with a heritage impact permit issued by the Director-General.

- (1C) It is a defence to a prosecution for an offence against subsection (1) if the defendant shows that:

- (a) he or she took reasonable precautions and exercised due diligence to determine whether the action constituting the alleged offence would, or would be likely to, impact on the Aboriginal object or Aboriginal place concerned, and
- (b) the person reasonably believed that the action would not destroy, deface, damage or desecrate the Aboriginal object or Aboriginal place.

[4] Section 90 (2)

Omit “give consent for the purposes of subsection (1)”.
Insert instead “issue a heritage impact permit”.

[5] Section 90 (2A)

Insert after section 90 (2):

(2A) The Director-General may take action under subsection (2) in relation to an Aboriginal object or Aboriginal place listed on the State Heritage Register (within the meaning of the *Heritage Act 1977*) only after consulting the Director of the Heritage Office.

[6] Section 90 (3)

Omit “consent” where firstly occurring.
Insert instead “a heritage impact permit”.

[7] Section 90 (3)

Omit “consent” where secondly occurring.
Insert instead “heritage impact permit”.

[8] Section 90 (7)

Omit “consent”. Insert instead “a heritage impact permit”.

[9] Section 90 (8) and (9)

Insert after section 90 (7):

(8) If a court finds a person guilty of an offence under subsection (1), the court may, in addition to or in substitution for any pecuniary penalty for the offence, direct the person to take any action to mitigate the damage to, or to restore, the Aboriginal object or Aboriginal place concerned or to take such other action in relation to the Aboriginal object or Aboriginal place as the court considers appropriate in the circumstances.

- (9) The court may specify the actions to be taken to mitigate the damage or to restore the Aboriginal object or Aboriginal place under subsection (8) and may order the person to provide security for the performance of any obligation imposed under that subsection.

[10] Section 91AA Director-General may make stop work order

Omit section 91AA (1). Insert instead:

- (1) If the Director-General is of the opinion that any action is being, or is about to be, carried out that is likely to significantly affect:
- (a) protected fauna or native plants or their environment, or
 - (b) an Aboriginal object or Aboriginal place, or
 - (c) any other item of cultural heritage situated on land reserved under this Act,

the Director-General may order that the action is to cease and that no action, other than such action as may be specified in the order, is to be carried out with respect to that environment or in the vicinity of those items within a period of 40 days after the date of the order.

[11] Section 91AA (6)

Insert after section 91AA (5):

- (6) A person must not contravene or fail to comply with an order under this section.

Maximum penalty (subsection (6)):

- (a) in the case of a corporation—10,000 penalty units and, in the case of a continuing offence, a further penalty of 1,000 penalty units for each day the offence continues, or
- (b) in the case of an individual—1,000 penalty units and, in the case of a continuing offence, a further penalty of 100 penalty units for each day the offence continues.

[12] Section 91G

Omit the section. Insert instead:

91G Failure to comply with interim protection order

A person who is given notice of an interim protection order under section 91F must not contravene or fail to comply with its terms.

Maximum penalty:

- (a) in the case of a corporation—10,000 penalty units and, in the case of a continuing offence, a further penalty of 1,000 penalty units for each day the offence continues, or
- (b) in the case of an individual—1,000 penalty units and, in the case of a continuing offence, a further penalty of 100 penalty units for each day the offence continues.

[13] Section 98 Harming protected fauna, other than threatened species, populations or ecological communities

Omit “Maximum penalty: 30 penalty units or imprisonment for 6 months or both.” from section 98 (2).

Insert instead:

Maximum penalty:

- (a) 100 penalty units and, in a case where protected fauna is harmed, an additional 10 penalty units in respect of each animal that is harmed, or
- (b) imprisonment for 6 months, or both.

[14] Section 99 Harming threatened interstate fauna

Omit “Penalty: 1,000 penalty units or imprisonment for 1 year or both.”
from section 99 (1).

Insert instead:

Maximum penalty:

- (a) 1000 penalty units and, in a case where threatened interstate fauna is harmed, an additional 100 penalty units in respect of each animal that is harmed, or
- (b) imprisonment for 1 year,
or both.

[15] Section 99A

Insert after section 99:

99A Directions relating to protected fauna

- (1) An officer of the Service may give a direction to a person to stop feeding protected fauna.
- (2) An officer of the Service may give a direction to a person to stop any activity that is causing, or is likely to cause, distress to protected fauna.
- (3) A person must not fail to comply with a direction given to the person under this section.
Maximum penalty: 25 penalty units.
- (4) A direction under this section has effect only for a period of 24 hours after the time at which it was given.
- (5) However, nothing in subsection (4) prevents a further direction being given under this section.
- (6) A direction may not be issued under this section:
 - (a) in relation to anything done in accordance with a licence or certificate issued under this Act or under the *Threatened Species Conservation Act 1995*, or

- (b) in relation to anything essential for the carrying out of development in accordance with a development consent within the meaning of the *Environmental Planning and Assessment Act 1979*, or
- (c) in relation to anything essential for the carrying out of an activity, whether by a determining authority or pursuant to an approval of a determining authority, within the meaning of Part 5 of the *Environmental Planning and Assessment Act 1979*, or
- (d) in relation to anything done for the purposes of the *Rural Fires Act 1997*, or
- (e) in such circumstances as are prescribed by the regulations.

[16] Section 108 Possessing 20 or more birds

Omit the section.

[17] Section 115 Amendment of Schedule 13 (protected native plants)

Insert at the end of section 115 (1) (b):

- , or
- (c) by inserting a new part or group, or removing a part or group, or combining any parts or groups.

[18] Section 115A

Insert after section 115:

115A Management plans for protected native plants

- (1) The Director-General may cause a flora plan of management to be prepared for any commercial activity relating to a species or group of species of protected native plant if the Director-General is of the opinion that the activity has the potential to affect adversely the conservation of the species or group.
- (2) The Director-General may require consultation with the Scientific Committee established under Part 8 of the *Threatened Species Conservation Act 1995* in the preparation of a flora plan of management.

-
- (3) In the preparation of a flora plan of management for a species of protected native plant the following matters are to be considered:
- (a) the ecology of the species,
 - (b) the sustainability of the proposed management regime,
 - (c) Aboriginal cultural practices,
 - (d) standards to be adhered to in the picking or growing of plants,
 - (e) whether limits need to be imposed on the number of licences that may be issued for a commercial activity if a licence is required to carry out the activity,
 - (f) protocols for the extraction of plant material from the wild,
 - (g) consistency with any threat abatement plan, or recovery plan, within the meaning of the *Threatened Species Conservation Act 1995*,
 - (h) monitoring of the activity,
 - (i) any other matters that the Director-General considers relevant.
- (4) Before a flora plan of management is adopted by the Director-General, the Director-General is to ensure that a draft of the plan is publicly exhibited and that a period of at least 30 days is given for the making of representations on the draft plan.
- (5) The Director-General is to consider any representations made within that period before adopting the flora plan of management.
- (6) The Director-General may amend or revoke a flora plan of management.
- (7) Subsections (2)–(5) apply to an amendment of a flora plan of management in the same way as they apply to the preparation and adoption of a flora plan of management.

- (8) The regulations may make provision for or with respect to treating flora plans of management (however described) prepared for the purposes of other legislation, including legislation of the Commonwealth, as flora plans of management for the purposes of this Act.

[19] Section 116 Restriction as to licences under Forestry Act 1916

Omit section 116 (2). Insert instead:

- (2) The Forestry Commission may, in accordance with the *Forestry Act 1916*, authorise the removal of any protected native plant from a State forest, timber reserve or Crown land if:
- (a) the authorisation is subject to a condition that the removal is to be undertaken in accordance with any relevant flora plan of management in force under section 115A of this Act, or
 - (b) the Forestry Commission is of the opinion that the plant would be damaged or destroyed in the taking of timber, products or forest materials under, or in the carrying out of any activity authorised by, the *Forestry Act 1916*.

[20] Section 117 Restriction on picking or possession of native plant

Insert at the end of section 117 (1):

Maximum penalty:

- (a) 100 penalty units and an additional 10 penalty units in respect of each whole plant that was affected by or concerned in the action that constituted the offence, or
 - (b) imprisonment for 6 months,
- or both.

[21] Section 117 (3)

Insert at the end of section 117 (3) (b):

- , or
- (c) the protected native plant was in the person's possession in accordance with a licence issued under section 132A, or
- (d) the protected native plant that was picked or in the person's possession was cultivated by the person as a hobby and not for commercial purposes or was cultivated by another person as a hobby and not for commercial purposes, or
- (e) the protected native plant was obtained from a person who was authorised to grow and sell it by a licence issued under section 132.

[22] Section 118 Restriction on selling of native plant

Insert at the end of section 118 (1):

Maximum penalty:

- (a) 100 penalty units and an additional 10 penalty units in respect of each whole plant that was affected by or concerned in the action that constituted the offence, or
 - (b) imprisonment for 6 months,
- or both.

[23] Section 118 (2) (a)

Omit the paragraph. Insert instead:

- (a) any protected native plant that is of a class exempted from the operation of this section by the regulations, or

[24] Section 118 (2)

Insert at the end of section 118 (2) (c):

, or

- (d) the sale of any protected native plant in accordance with a licence under section 132A.

[25] Section 118A Harming or picking threatened species, populations or ecological communities

Insert “and, in a case where an animal of any endangered species, population or ecological community is harmed, an additional 100 penalty units in respect of each animal that is harmed,” after “2 years or both,” in section 118A (1).

[26] Section 118A (1)

Insert “, and, in a case where an animal of any vulnerable species is harmed, an additional 50 penalty units in respect of each animal that is harmed,” after “1 year or both” in section 118A (1).

[27] Section 118A (2)

Insert “and an additional 100 penalty units in respect of each whole plant that was affected by or concerned in the action that constituted the offence,” after “2 years or both,”.

[28] Section 118A (2)

Insert “, and an additional 50 penalty units in respect of each whole plant that was affected by or concerned in the action that constituted the offence,” after “1 year or both”.

[29] Section 118A (3) (a)

Insert “, a licence under section 131, 132 or 132A” after “section 120”.

[30] Section 118A (3) (d) and (e)

Insert at the end of section 118A (3) (c):

- , or
- (d) was not done for commercial purposes and was done in relation to a plant that was cultivated by the person as a hobby or was cultivated by another person as a hobby, or
 - (e) was done in relation to a plant that was obtained from a person who was authorised to grow and sell it by a licence issued under section 132.

[31] Section 118B Buying, selling or possessing threatened species or endangered population

Insert “, or a licence under section 131, 132 or 132A” after “section 120” in section 118B (4).

[32] Section 118B (5) (c)

Omit “and that propagation took place not later than 6 months previously”.

[33] Section 118B (5) (d) and (e)

Insert at the end of section 118B (5) (c):

- , or
- (d) the act constituting the alleged offence was not done for commercial purposes and was done in relation to a plant that was cultivated by the person as a hobby or was cultivated by another person as a hobby, or
 - (e) the act constituting the alleged offence was done in relation to a plant that was obtained from a person who was authorised to grow and sell it by a licence issued under section 132.

[34] Section 131 Licence to pick protected native plants

Insert at the end of section 131:

- (2) Despite subsection (1), a licence must not be issued under this section that authorises the picking of a plant of a threatened species unless the plant has been grown in accordance with a licence issued in under section 132.

[35] Section 132 Licence to grow native plants for sale

Omit “or plants of a threatened species”.

[36] Sections 132A and 132B

Insert after section 132:

132A Import and export licences for protected native plants

- (1) An authorised officer may issue a licence authorising a person to import protected native plants into New South Wales.
- (2) An authorised officer may issue a licence authorising a person to export protected native plants from New South Wales.
- (3) If an application for a licence under this section has been made in accordance with the regulations, the application must not be refused except on one or more of such grounds (if any) as are prescribed for the purposes of this subsection.

132B Classes of licences

- (1) The regulations may provide for different classes of licences to be issued under section 131, 132 or 132A.
- (2) Without limiting subsection (1), the regulations may provide for different classes of licences under section 131, 132 or 132A to be issued in respect of different groupings of protected native plants within Schedule 13.

[37] Section 133 Conditions and restrictions attaching to licences and certificates and variation of licences and certificates

Insert after section 133 (1):

- (1A) It is a condition of a licence issued under section 131 authorising the picking of a protected native plant in the wild that the picking be carried out in accordance with any relevant flora plan of management for the protected native plant adopted under section 115A.

[38] Section 156 General provisions

Omit “30” from section 156 (1) (a). Insert instead “50”.

[39] Section 156 (1) (b)

Omit “one penalty unit”. Insert instead “2 penalty units”.

[40] Section 156A

Insert before section 157:

156A Offence of damaging reserved land

- (1) A person must not, on or in land reserved under this Act or acquired under Part 11:
- (a) remove any water other than for purposes authorised by or under any Act or for the purposes of personal use on the land, or
 - (b) damage or remove any vegetation, rock, soil, sand, stone or similar substance, or
 - (c) damage any object or place of cultural value.

Maximum penalty:

- (a) in the case of a corporation—10,000 penalty units, or
- (b) in the case of an individual—1,000 penalty units or 6 months imprisonment, or both.

- (2) It is a defence to a prosecution for an offence under subsection (1) if the accused proves that the act constituting the alleged offence:
- (a) was done in accordance with the consent of the Director-General or of a person or body that has the care, control and management of the land concerned under this Act, or
 - (b) was authorised to be done, and was done in accordance with, a licence under this Act or a licence granted under the *Threatened Species Conservation Act 1995*, or
 - (c) was essential for the carrying out of:
 - (i) development in accordance with a development consent within the meaning of the *Environmental Planning and Assessment Act 1979*, or
 - (ii) an activity, whether by a determining authority or pursuant to an approval of a determining authority within the meaning of Part 5 of that Act if the determining authority has complied with that Part, or
 - (d) was authorised to be done by or under Part 2 of the *Rural Fires Act 1997*, the *State Emergency and Rescue Management Act 1989* or the *State Emergency Service Act 1989* and was reasonably necessary in order to avoid a threat to life or property.
- (3) It is a defence to a prosecution for an offence under subsection (1) if the act constituting the alleged offence is referred to in subsection (1) (c) and the accused proves that he or she did not know, and could not reasonably have known, that the object or place concerned had cultural value.
- (4) If a court finds a person guilty of an offence under subsection (1), the court may, in addition to or in substitution for any pecuniary penalty for the offence, direct the person to take any action to mitigate the damage to, or to restore, the land or object concerned or to take such other action in relation to the land or object as the court considers appropriate in the circumstances.

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- (5) The court may specify the actions to be taken to mitigate the damage to or to restore the land or object under subsection (4) and may order the person to provide security for the performance of any obligation imposed under that subsection.

[41] Section 169 Impersonating, assaulting, resisting or obstructing an officer etc

Omit “40 penalty units” from section 169 (2).

Insert instead “200 penalty units or 3 months imprisonment, or both”.

[42] Section 175 General offence and penalties

Omit “40 penalty units” from section 175 (2).

Insert instead “100 penalty units, in the case of an individual, or 200 penalty units in the case of a corporation”.

[43] Section 175B

Omit the section. Insert instead:

175B Offences by corporations

- (1) If a corporation contravenes, whether by act or omission, any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation is taken to have contravened the same provision, unless the person satisfies the court that:
- (a) the corporation contravened the provision without the knowledge (actual, imputed or constructive) of the person, or
 - (b) the person was not in a position to influence the conduct of the corporation in relation to its contravention of the provision, or
 - (c) the person, if in such a position, used all due diligence to prevent the contravention by the corporation.

- (2) A person may be proceeded against and convicted under a provision pursuant to this section whether or not the corporation has been proceeded against or been convicted under that provision.
- (3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.
- (4) Without limiting any other law or practice regarding the admissibility of evidence, evidence that an officer, employee or agent of a corporation (while acting in his or her capacity as such) had, at any particular time, a particular intention, is evidence that the corporation had that intention.

[44] Section 176 Proceedings for offences

Omit section 176 (1) and (1AA). Insert instead:

- (1) Proceedings for an offence under this Act or the regulations may be dealt with:
 - (a) summarily before a Local Court constituted by a Magistrate sitting alone, or
 - (b) summarily before the Land and Environment Court.

[45] Section 176 (1A)

Omit “100 penalty units (including any daily penalty”.

Insert instead “200 penalty units (including any daily penalty, any additional penalty as provided by section 98, 99, 118 or 118A”.

[46] Schedule 13

Omit the Schedule. Insert instead:

Schedule 13 Protected native plants

(Sections 5 (1), 115)

Part 1 Plant parts used in the cut-flower industry

Scientific Name	Common Name(s)
Group 1	
<i>Acacia baileyana</i>	Cootamundra Wattle
<i>Acacia binervia</i>	Coast Myall
<i>Acacia covenii</i>	Blue Bush
<i>Acacia cultiformis</i>	Knife-leaved Wattle
<i>Acacia decora</i>	Western Silver Wattle
<i>Acacia podalyriifolia</i>	Mount Morgan Wattle, Qld Silver Wattle
<i>Acacia pravissima</i>	Wedge-leaved Wattle, Ovens Wattle
<i>Alloxylon pinnatum</i>	Dorrigo Waratah, Tree Waratah
<i>Angophora hispida</i>	Dwarf Apple
<i>Banksia ericifolia</i>	Heath Banksia
<i>Banksia marginata</i>	Silver Banksia
<i>Banksia oblongifolia</i>	Fern-leaf Banksia
<i>Banksia robur</i>	Swamp Banksia
<i>Bracteantha bracteata</i>	Golden everlasting daisy
<i>Calochlaena dubia</i>	Soft Bracken, Rainbow Fern

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<i>Callistemon</i> spp. native to NSW	bottle-brushes
<i>Ceratopetalum gummiferum</i>	Christmas Bush
<i>Cordyline</i> spp. native to NSW	palm lilies
<i>Correa alba</i>	White Correa
<i>Cryptandra scortechnii</i>	Cotton Bush
<i>Dianella caerulea</i>	Paroo Lily
<i>Doryanthes</i> spp.—foliage only	giant lilies
<i>Eucalyptus burgessiana</i>	Falconbridge Mallee Ash
<i>Eucalyptus caesia</i>	Silver Mallee
<i>Eucalyptus cinerea</i>	Argyle Apple
<i>Eucalyptus gilli</i>	Curly Mallee, Broken Hill Mallee
<i>Eucalyptus gummifera</i>	Red Bloodwood
<i>Eucalyptus leptophylla</i>	Slender Mallee, Narrow-leafed Red Mallee
<i>Eucalyptus perriniana</i>	Spinning Gum
<i>Eucalyptus polyanthemos</i>	Red Box
<i>Eucalyptus pulverulenta</i>	Silver-leafed Mountain Gum
<i>Eucalyptus robusta</i>	Swamp Mahogany
<i>Eucalyptus yummannii</i>	Youman's Stringybark
<i>Gleichenia dicarpa</i>	Pouched Coral Fern
<i>Grevillea asplenifolia</i>	Fern-leafed Grevillea
<i>Hakea dactyloides</i>	Finger Hakea
<i>Melaleuca ericifolia</i>	Swamp Paperbark
<i>Micromyrtus ciliata</i>	Fringed Heath-myrtle

<i>Ozothamnus diosmifolius</i>	White Dogwood, Rice Flower
<i>Pteridium esculentum</i>	Bracken, Common Bracken Fern
<i>Philothea myoporoides</i> (except <i>P. myoporoides</i> spp. <i>epilosus</i>)	wax flowers
<i>Rhodanthe floridbunda</i>	White Everlasting Daisy
Group 2	
<i>Adiantum</i> spp.	maidenhair ferns
<i>Archontophoenix cunninghamiana</i>	Bangalow Palm
<i>Baekea crenatifolia</i>	Fern-leaf Baekea
<i>Baekea linifolia</i>	Weeping Baekea
<i>Baekea virgata</i>	Twiggy Heath-myrtle, Tall Baekea
<i>Banksia spinulosa</i>	Hairpin Banksia
<i>Cassinia aureonitens</i>	Yellow Cassinia
<i>Caustis</i> spp.	curly sedges, old mans whiskers
<i>Cordyline stricta</i>	Narrow-leaved Palm Lily
<i>Crowea exalata</i>	a crowea
<i>Crowea saligna</i>	a crowea
<i>Davallia pyxidata</i>	Hare's Foot Fern
<i>Dodonea lobulata</i>	Lobed-leaved Hop Bush
<i>Gahnia sieberiana</i>	Red-fruited Saw Sedge
<i>Isopogon</i> spp. native to NSW	drumsticks, cone-bushes
<i>Kunzea ambigua</i>	Tick Bush
<i>Kunzea capitata</i>	Pink Kunzea
<i>Leptospermum lanigerum</i>	Woolly Tea-tree

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<i>Leptospermum rotundifolium</i>	Round-leaf Tee-tree
<i>Livistona australis</i>	Cabbage Tree Palm, Fan Palm
<i>Lomatia silaifolia</i>	Crinkle Bush
<i>Lycopodium cernuum</i>	Bushy Clubmoss
<i>Lycopodium deuterodensum</i>	Mountain Moss
<i>Persoonia</i> spp. native to NSW (except <i>P. acerosa</i> , <i>P. bargoensis</i> , <i>P. brevifolia</i> , <i>P. caspidifera</i> , <i>P. daphnoides</i> , <i>P. deanei</i> , <i>P. glaucescens</i> , <i>P. hirsuta</i> , <i>P. laxa</i> , <i>P. marginata</i> , <i>P. mollis</i> , <i>P. nutans</i> , <i>P. oxycoccoides</i> , <i>P. procumbens</i> , <i>P. recendens</i> , <i>P. rufa</i> , <i>P. terminalis</i> , <i>P. umbellata</i> and <i>P. volcanica</i>)	geebungs
<i>Petrophile</i> spp. native to NSW	conesticks
<i>Phebalium squamulosum</i>	Scaly Phebalium
<i>Philotheca</i> spp. native to NSW (except <i>P. ericifolius</i> , <i>P. myoporoides</i> and <i>P. obovalis</i>)	philothecas
<i>Ptilotus exaltatus</i>	Tall Mulla Mulla
<i>Ptilotus obovatus</i>	Smoke Bush, Cotton Bush
<i>Pycnosorus</i> spp. (except <i>P. alba</i> and <i>P. leucantha</i>)	billy-buttons
<i>Restio tetraphyllus</i>	Tassel-rush
<i>Sprengelia incarnata</i>	Pink Swamp Heath
<i>Sticherus flabellatus</i>	Shiny Fan-fern, Umbrella Fern
<i>Swainsona formosa</i>	Sturt's Desert Pea
<i>Tmesipteris</i> spp.	ferns
<i>Xanthorrhoea</i> spp.—foliage only	grass trees

<i>Xylomelum</i> spp.	woody pear
Zamiaceae family—foliage only (except <i>Macrozamia johnsonii</i> and <i>Macrozamia pauli-guilielmi</i> spp. <i>flexuosa</i>)	cycads
Group 3	
<i>Boronia</i> spp. all native species (except <i>B. chartaceae</i> , <i>B. deanei</i> , <i>B.</i> <i>fraseri</i> , <i>B. granitica</i> , <i>B. repanda</i> , <i>B.</i> <i>rubiginosa</i> , <i>B. serrulata</i> , <i>B. subulifolia</i> , <i>B. umbellata</i>)	boronias
<i>Doryanthes</i> spp.—flowers only	giant lilies
<i>Eriostemon</i> spp. all native species (except <i>E. australasius</i> , <i>E. ericofolius</i> and <i>E. myoporoides</i> spp. <i>epilosus</i>)	wax-flowers
<i>Persoonia pinifolia</i>	Pine-leaved Geebung
<i>Xanthorrhoea</i> spp.—flower spikes only	grass trees
Group 4	
<i>Actinotus helianthi</i>	Flannel Flower
<i>Blandfordia cunninghamii</i>	christmas bells
<i>Blandfordia grandiflora</i>	christmas bells
<i>Blandfordia nobilis</i>	christmas bells
<i>Boronia chartaceae</i>	a boronia
<i>Boronia deanei</i>	Dean's Boronia
<i>Boronia fraseri</i>	Fraser's Boronia
<i>Boronia rubiginosa</i>	a boronia
<i>Boronia serrulata</i>	Native Rose
<i>Boronia subulifolia</i>	

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<i>Boronia umbellata</i>	a boronia
<i>Dicranopteris linearis</i>	
<i>Eriostemon myoporoides</i> spp. <i>epilosus</i>	native daphne, long-leaf wax-flower
<i>Grevillea longifolia</i>	Fern-leaf Grevillea
<i>Leptospermum spectabile</i>	—
<i>Macrozamia pauli-guilielmi</i> spp. <i>flexuosa</i>	a cycad
<i>Persoonia brevifolia</i>	a geebung
<i>Persoonia cuspidifera</i>	a geebung
<i>Persoonia daphnoides</i>	a geebung
<i>Persoonia oxycoccoides</i>	a geebung
<i>Persoonia procumbens</i>	a geebung
<i>Persoonia recedens</i>	a geebung
<i>Persoonia rufa</i>	a geebung
<i>Persoonia teminalis</i>	a geebung
<i>Persoonia volcanica</i>	a geebung
<i>Pycnosorus alba</i>	billy-buttons
<i>Pycnosorus leucantha</i>	billy-buttons
<i>Telopea aspera</i>	Gibraltar Range Waratah
<i>Telopea mongaensis</i>	Monga Waratah, Braidwood Waratah
<i>Telopea oreades</i>	Gippsland waratah
<i>Telopea speciosissima</i>	waratah

Part 2 Whole plants

Scientific Name	Common Name(s)
Group 1	
<i>Ceratopetalum gummiferum</i>	Christmas Bush
<i>Isopogon</i> spp.	drumsticks
<i>Swainsona formosa</i>	Sturt's Desert Pea
Group 2	
<i>Telopea aspera</i>	Gibraltar Range Waratah
<i>Telopea mongaensis</i>	Monga Waratah, Braidwood Waratah
<i>Telopea oreades</i>	Gippsland Waratah
<i>Telopea speciosissima</i>	Waratah
<i>Wollemia nobilis</i>	Wollemi Pine
Group 3	
<i>Areaceae</i> spp. all native species	palms
<i>Asplenium australasicum</i>	Bird's-nest Fern
<i>Asplenium falcatum</i>	fern
<i>Cyanthea</i> spp.	tree ferns
<i>Dicksonia</i> spp.	tree ferns
Orchidaceae, all native species	orchids
<i>Platycerium</i> , all native species	Elk Horn and Stag Horn
<i>Sphagnum</i> spp.	Sphagnum mosses
<i>Todea barbara</i>	King Fern
<i>Xanthorrhoea</i> spp.	grass trees

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and offences

Group 4

Casuarina cunninghamiana River Oak

Pandanus spp.—all native species Pandanus

Schedule 4 Miscellaneous amendments to National Parks and Wildlife Act 1974

(Section 3)

[1] Section 2A

Insert after section 2:

2A Objects of Act

- (1) The objects of this Act are as follows:
 - (a) the conservation of nature, including, but not limited to, the conservation of:
 - (i) habitat, ecosystems and ecosystem processes, and
 - (ii) biological diversity at the community, species and genetic levels, and
 - (iii) landforms of significance, including geological features and processes, and
 - (iv) landscapes and natural features of significance including wilderness and wild rivers,
 - (b) the conservation of objects, places or features (including biological diversity) of cultural value within the landscape, including, but not limited to:
 - (i) places, objects and features of significance to Aboriginal people, and
 - (ii) places of social value to the people of New South Wales, and
 - (iii) places of historic, architectural or scientific significance,
 - (c) fostering public appreciation, understanding and enjoyment of nature and cultural heritage and their conservation,
 - (d) providing for the management of land reserved under this Act in accordance with the management principles applicable for each type of reservation.
- (2) The objects of this Act are to be achieved by applying the principles of ecologically sustainable development.

- (3) In carrying out functions under this Act, the Minister, the Director-General and the Service are to give effect to the following:
- (a) the objects of this Act,
 - (b) the public interest in the protection of the values for which land is reserved under this Act and the appropriate management of those lands.

[2] Section 5 Definitions

Insert in alphabetical order in section 5 (1):

principles of ecologically sustainable development means the principles of ecologically sustainable development described in section 6 (2) of the *Protection of the Environment Administration Act 1991*.

[3] Section 138 Payments into Fund

Insert after section 138 (1) (a):

- (a1) all money provided by Parliament for the management of any land for which the National Parks and Wildlife Reserve Trust is trustee,

[4] Section 138 (1) (b) (i)

Omit “state recreation area, regional park, nature reserve, state game reserve, karst conservation reserve or Aboriginal area”.

Insert instead “state conservation area, regional park, nature reserve, karst conservation reserve, Aboriginal area or land for which the National Parks and Wildlife Reserve Trust is trustee”.

[5] Section 138 (1) (b) (iiia)

Insert after section 138 (1) (b) (iii):

- (iiia) despite the provisions of any other Act, royalties, fees and charges in respect of land for which the National Parks and Wildlife Reserve Trust is trustee,

[6] Section 138 (1) (b) (vii)

Insert “, or (despite the provisions of any other Act) under another Act in respect of land for which the National Parks and Wildlife Reserve Trust is trustee” after “the regulations”.

[7] Section 139 Payments out of Fund

Insert after section 139 (2) (b):

- (b1) all charges, costs and expenses incurred by the National Parks and Wildlife Reserve Trust in exercising its functions in relation to land for which it is trustee,

[8] Section 161

Insert after section 160F:

161 Restriction on release of certain information

- (1) The Director-General may, by notice in writing, advise the Minister that the Director-General is of the opinion that specified documents in the possession of the Service relating to:
 - (a) the location of threatened species, populations or ecological communities or Aboriginal objects, or
 - (b) the cultural values of an Aboriginal place or Aboriginal object,should be withheld in the public interest.
- (2) The Director-General may declare in the notice that the documents concerned are exempt documents within the meaning of the *Freedom of Information Act 1989*.
- (3) The Director-General must not give a notice under this subsection unless the Director-General has consulted with the Aboriginal people who the Director-General is aware have an interest in the documents concerned.

[9] Schedule 3 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

National Parks and Wildlife Amendment Act 2001

[10] Schedule 3, Part 3

Insert after Part 2:

Part 3 Provisions consequent on enactment of National Parks and Wildlife Amendment Act 2001

28 Definitions

In this Part:

amending Act means the *National Parks and Wildlife Amendment Act 2001*.

relevant instrument means this Act, any other Act, any instrument made under an Act or any other instrument.

29 References to dedicated, reserved or declared land

- (1) On and from the commencement of Schedule 1 [26] to the amending Act, a reference in a relevant instrument (whether the instrument was made before or after that commencement), other than a reference in this Schedule:
 - (a) to land reserved as a national park, historic site or regional park includes a reference to land reserved as a national park, historic site or regional park, respectively, under this Act immediately before that commencement, and
 - (b) to land reserved as a state conservation area includes a reference to land reserved as a state recreation area under this Act immediately before that commencement, and
 - (c) to land reserved as a nature reserve, karst conservation reserve or Aboriginal area includes a reference to land dedicated as a nature reserve, karst conservation reserve or Aboriginal area, respectively, under this Act immediately before that commencement, and

-
- (d) to land dedicated under this Act as a nature reserve, karst conservation reserve or Aboriginal area includes a reference to land reserved under this Act as a nature reserve, karst conservation reserve or Aboriginal area, respectively, and
 - (e) to land reserved as a state recreation area under this Act includes a reference to land reserved as a state conservation area under this Act, and
 - (f) to land reserved under Part 4A in a particular classification includes a reference to land reserved as or dedicated to the same classification under that Part immediately before that commencement, and
 - (g) to a wild and scenic river declared under this Act includes a reference to any river or part of a river declared as a wild river under this Act, and
 - (h) to a wild river declared under this Act includes a reference to any river or part of a river declared as a wild and scenic river immediately before that commencement, and
 - (i) to land declared to be a wilderness area under this Act is a reference to land reserved or dedicated under this Act and declared to be a wilderness area under the *Wilderness Act 1987*.
- (2) On and from the commencement of Schedule 1 [26], a reference in any relevant instrument (other than this Act), being a reference in existence before that commencement:
- (a) to land dedicated under this Act is a reference to land within a nature reserve, karst conservation reserve or Aboriginal area, and
 - (b) to land reserved under this Act is a reference to land within a national park, historic site, state recreation area, state conservation area or regional park.

30 Existing reservations and dedications not affected

- (1) No amendment made by the amending Act affects any act, done before the commencement of that amendment, that effected a reservation, dedication or declaration under this Act in relation to an area.

- (2) No amendment made by the amending Act alters the purposes for which any land was reserved or dedicated under this Act immediately before that amendment.

31 Removal of certain reservations, dedications and declarations

- (1) On and from the commencement of Schedule 1 [33] to the amending Act, land dedicated as a state game reserve under this Act immediately before that commencement is no longer so dedicated.
- (2) On and from the commencement of Schedule 1 [42] to the amending Act, land dedicated as a protected archaeological area under this Act immediately before that commencement is no longer so dedicated.
- (3) On and from the commencement of Schedule 1 [37] to the amending Act, land declared as a wilderness area under this Act immediately before that commencement is no longer so declared.
- (4) On and from the commencement of Schedule 1 [44] to the amending Act, land declared as a wildlife district under this Act immediately before that commencement is no longer so declared.
- (5) On and from the commencement of Schedule 1 [45] to the amending Act, land declared as a wildlife management area under this Act immediately before that commencement is no longer so declared.

32 Change of name of state recreation areas

On and from the commencement of Schedule 1 [26] to the amending Act, the name of any land reserved as a state recreation area is changed to omit the word "Recreation" and insert instead the word "Conservation".

33 References to state game reserves, wildlife districts and wildlife management areas

- (1) On and from the commencement of Schedule 1 [33] to the amending Act, a reference to a state game reserve in any provision of this Act (other than this Schedule) and in any provision of any other Act or instrument made under an Act is taken to have been omitted.

- (2) On and from the commencement of Schedule 1 [42] to the amending Act, a reference to a protected archaeological area in any provision of this Act (other than this Schedule) and in any provision of any other Act or instrument made under an Act is taken to have been omitted.
- (3) On and from the commencement of Schedule 1 [44] to the amending Act, a reference to a wildlife district in any provision of this Act (other than this Schedule) and in any provision of any other Act or instrument made under an Act is taken to have been omitted.
- (4) On and from the commencement of Schedule 1 [45] to the amending Act, a reference to a wildlife management area in any provision of this Act (other than this Schedule) and in any provision of any other Act or instrument made under an Act is taken to have been omitted.

34 National Parks and Wildlife Advisory Council

Despite clause 1 of Schedule 7, a person who was a member of the Council immediately before the commencement of this clause is taken to be a member of the Council for the remainder of the term which the person was serving at that commencement.

35 Advisory Committees

- (1) On the substitution of section 24 by the amending Act, an advisory committee constituted under that section and in existence at that substitution is dissolved.
- (2) The first regional advisory committee constituted for an administrative region under section 24 after its substitution by the amending Act has as members each person who, immediately before that substitution, held office as a member of an advisory committee constituted under that section in respect of an area that was the same as, or formed part of, that administrative region.
- (3) A person referred to in subclause (2) holds office only until the end of the term of office which the person was serving immediately before section 24 was substituted.
- (4) The Aboriginal Cultural Heritage (Interim) Advisory Committee is dissolved.

- (5) Despite clause 1 of Schedule 9, a person who was a member of the Aboriginal Cultural Heritage (Interim) Advisory Committee immediately before its dissolution by subclause (4) is taken to be a member of the Aboriginal Cultural Heritage Advisory Committee for the remainder of the term which the person was serving at that dissolution.

36 Plans of management

- (1) A plan of management adopted under Part 5, before its amendment by the amending Act, for land the subject of a reservation, dedication or declaration under this Act continues to apply to the land as a plan of management for the purposes of this Act as so amended.
- (2) A plan of management referred to in subclause (1) may be amended or revoked in accordance with Part 5 as amended by the amending Act.
- (3) A plan of management prepared under Part 5 before its amendment by the amending Act and notice of which has been given in accordance with that Part for the purpose of enabling public submissions on the plan:
- (a) may be adopted in accordance with Part 5 as if that Part had not been so amended, and
 - (b) if adopted, is taken to have been adopted under Part 5 as so amended.

37 References to relics

In any other Act or instrument, a reference to a relic within the meaning of this Act is taken to be a reference to an Aboriginal object.

38 Existing leases, licences, easements and rights of way

No amendment made by the amending Act affects the validity of any lease, licence, easement or right of way in existence at the commencement of the amendment.

39 Heritage consents

A consent granted under section 90 (2) and in force immediately before the amendment of that subsection by the amending Act is taken to be a heritage impact permit granted under that subsection and is subject to the same terms and conditions on which it was granted.

40 Regulations

The operation of this Part is subject to the regulations.

Schedule 5 Amendment to National Parks and Wildlife Act 1974 by way of statute law revision

(Section 3)

[1] Whole Act (except Schedule 15)

Omit “Kosciusko” wherever occurring. Insert instead “Kosciuszko”.

[2] Section 74 Catchment areas and special areas

Omit “Department of Water Resources” wherever occurring in section 74 (2) (b) and (3).

Insert instead “Department of Land and Water Conservation”.

[3] Section 74 (4), definition of “water authority”

Omit the definition. Insert instead:

water authority means the Sydney Water Corporation, the Sydney Catchment Authority, the Hunter Water Corporation or a water supply authority within the meaning of the *Water Management Act 2000*.

[4] Section 182 Morton National Park

Omit the definition of *Board* in section 182 (1). Insert instead:

Authority means the Sydney Catchment Authority.

[5] Section 182 (2)

Omit “Board” wherever occurring. Insert instead “Authority”.

[6] Section 185 Catchment areas and special areas

Omit section 185 (1). Insert instead:

- (1) In this section, *the Acts* means the *Sydney Water Act 1994*, the *Sydney Water Catchment Management Act 1998*, the *Hunter Water Act 1991* and the *Water Management Act 2000*.

[7] Section 185 (2), (3) and (5)

Omit “either of the Acts” wherever occurring.
Insert instead “any of the Acts”.

[8] Section 185 (4) (a) and (b)

Omit the paragraphs. Insert instead:

- (a) the *Sydney Water Act 1994*, except with the concurrence of the Sydney Water Corporation, or
- (b) the *Sydney Water Catchment Management Act 1998*, except with the concurrence of the Sydney Catchment Authority, or
- (c) the *Hunter Water Act 1991*, except with the concurrence of the Hunter Water Corporation and the Director-General of the Department of Land and Water Conservation.

[9] Section 185 (5)

Omit “neither Sydney Water Corporation nor the Hunter Water Corporation nor the Director of the Department of Water Resources”.

Insert instead “neither the Sydney Water Corporation nor the Sydney Catchment Authority nor the Hunter Water Corporation nor the Director-General of the Department of Land and Water Conservation”.

Schedule 6 Amendment of other Acts

(Section 4)

6.1 Forestry and National Park Estate Act 1998 No 163

[1] Schedule 7 Land transfers—ancillary and special provisions

Insert “and of the Forestry Commission” after “that Act” in clause 6 (3) (a).

[2] Schedule 7, clause 6

Insert at the end of clause 6 (3) (b):

- , and
- (c) in respect of existing interests under the *Crown Lands (Continued Tenures) Act 1989*—the powers of the Minister administering that Act.

[3] Schedule 7, clause 6 (4)

Insert after clause 6 (3):

- (4) The amendments made to subclause (3) by the *National Parks and Wildlife Amendment Act 2001* are taken to have had effect on and from the commencement of that subclause and anything done on or after that commencement under that subclause that could have been validly done under that subclause as so amended is taken to have been validly done.

6.2 Freedom of Information Act 1989 No 5

Schedule 1 Exempt documents

Insert after clause 22:

23 Documents containing information relating to threatened species, Aboriginal objects and Aboriginal places

A document is an exempt document if it is the subject of a declaration referred to in section 161 of the *National Parks and Wildlife Act 1974*.

6.3 National Park Estate (Southern Region Reservations) Act 2000 No 103

[1] Schedule 7 Land transfers—ancillary and special provisions

Insert “and of the Forestry Commission” after “that Act” in clause 7 (3) (a).

[2] Schedule 7, clause 7

Insert at the end of clause 7 (3) (b):

- , and
- (c) in respect of existing interests under the *Crown Lands (Continued Tenures) Act 1989*—the powers of the Minister administering that Act.

[3] Schedule 7, clause 7 (4)

Insert after clause 7 (3):

- (4) The amendments made to subclause (3) by the *National Parks and Wildlife Amendment Act 2001* are taken to have had effect on and from the commencement of that subclause and anything done on or after that commencement under that subclause that could have been validly done under that subclause as so amended is taken to have been validly done.

[Minister's second reading speech made in—
Legislative Assembly on 16 November 2001
Legislative Council on 6 December 2001]