



New South Wales

Game and Feral Animal Control Amendment Bill 2012

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Game and Feral Animal Control Act 2002* (*the Act*) as follows:

- (a) to enable the Minister responsible for national park estate land (which includes national parks and certain other land reserved under the *National Parks and Wildlife Act 1974*) to make that land available for the hunting of game animals by persons who hold a game hunting licence,
- (b) to specify certain national park estate land that cannot be made available for the hunting of game animals,
- (c) to add several species of non-indigenous birds to the list of game animals that may be hunted under the authority of a game hunting licence,
- (d) to enable the list of game animals to be amended by Ministerial order but to specifically exclude native animals from being added by such an order,
- (e) to make it an offence to interfere with persons lawfully hunting game animals on public hunting land,
- (f) to make a number of other amendments of an administrative, minor or consequential nature.

The Bill also amends certain other legislation:

- (a) to enable a public or local authority to give permission to shoot on land owned or managed by the authority whether or not it is rural land, and
- (b) to require the Game Council to be consulted before any pest control order is made declaring a game animal to be a pest, and
- (c) to make a number of consequential and other minor or miscellaneous amendments.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act 6 months after the date of assent (though a proclamation may provide for a provision of the proposed Act to be commenced sooner).

Schedule 1 Amendment of Game and Feral Animal Control Act 2002 No 64

Declaration of national park estate land as public hunting land

Schedule 1 [4] and [5] amend the definition of *public land* so that it includes, rather than excludes as is currently the case, national park estate land (eg national parks and other land reserved under the *National Parks and Wildlife Act 1974*). The effect of this amendment is that the Minister responsible for national park estate land (namely the Minister for the Environment) will, subject to certain restrictions, be able to declare any such land as public hunting land under section 20 of the Act. Under the Act, the hunting of game animals on public land is only permitted if the land is declared to be available for hunting. **Schedule 1 [3] and [12]** are consequential amendments and **Schedule 1 [2]** inserts a definition of *declared public hunting land* for clarification purposes.

Schedule 1 [18] provides that certain national park estate land cannot be declared as public hunting land by the relevant Minister. The land that cannot be declared includes wilderness areas, world heritage properties and a number of national parks and other reserves and areas that are generally in or adjacent to metropolitan areas. The national park estate land that is effectively “off-limits” is listed in proposed Schedule 3A to the Act (as inserted by **Schedule 1 [30]**).

Game animals that may be hunted

Schedule 1 [6] recasts the provision of the Act that specifies the non-indigenous game animals that may be hunted under the authority conferred by a game hunting licence so that the provision refers instead to a list set out in proposed Schedule 3 to the Act (as inserted by **Schedule 1 [30]**). The list of game animals contains 2 separate parts (eg the game animals currently referred to in section 5 (2) of the Act will now be listed in Part 2 of the new Schedule). The list will be able to be amended by

Ministerial order, but native animals will not be able to be added. As is the case currently under the Act, any animal that is or is part of a threatened species, population or ecological community is not a game animal for the purposes of the Act and cannot be hunted. **Schedule 1 [1], [15] and [16]** make consequential amendments.

Offences

Schedule 1 [24] extends the existing offence of obstructing, hindering or impeding an inspector to include assaulting, threatening or intimidating an inspector.

Schedule 1 [25] creates a new offence of not complying with a direction by an inspector to leave, or not to enter, specified declared public hunting land. Such a direction may be given to a person if the inspector has reason to believe the person is committing an offence under the Act or is about to commit such an offence.

Schedule 1 [26] creates the following new offences:

- (a) proposed section 55A makes it an offence to interfere with a person who is lawfully hunting game animals on public hunting land in accordance with the authority conferred by a game hunting licence,
- (b) proposed section 55B prohibits commercial taxidermists from preserving or preparing the skins of certain game animals unless satisfied the animal concerned has been killed by a person who is the holder of a game hunting licence (or by a person with some other lawful authorisation) and also requires commercial taxidermists to record certain information and to make those records available for inspection.

Miscellaneous amendments relating to administration of the Act and other matters

Schedule 1 [7] provides for exemptions from offences under the *National Parks and Wildlife Act 1974* and the regulations under that Act in so far as those offences would otherwise relate to lawful hunting by the holders of game hunting licences.

Schedule 1 [7] also provides that certain orders and notices under other legislation cannot prevent or interfere with any activity carried out in accordance with the authority conferred by a game hunting licence. **Schedule 1 [14]** makes a consequential amendment.

Schedule 1 [9] provides for a member of the Game Council to be nominated by the Minister administering the *Aboriginal Land Rights Act 1983* rather than by the New South Wales Aboriginal Land Council.

Schedule 1 [10] provides for an additional member of the Game Council, namely a person nominated by the Minister administering the *National Parks and Wildlife Act 1974*. **Schedule 1 [8]** makes a consequential amendment.

Schedule 1 [11] enables the Game Council to delegate any of its functions to the chief executive officer of the Game Council.

Schedule 1 [13] provides that a game hunting licence authorises the licence holder to possess the carcass (or the skin or any other part) of a game animal that the licence holder has killed under the authority conferred by the licence.

Schedule 1 [17] removes a provision that exempts professional game hunters from the licensing requirements under the Act.

Schedule 1 [19] and [20] provide that the Game Council may refuse an application for a game hunting licence, or may suspend or cancel such a licence, if the applicant or licence holder is found guilty of an indictable offence under the *Firearms Act 1996*.

Schedule 1 [21] provides that the power of an inspector to require a vehicle to stop so that it can be searched may be exercised without the inspector being accompanied by a police officer.

Schedule 1 [22] removes the limit on the value of a thing that the Local Court may require to be forfeited in connection with an offence under the Act.

Schedule 1 [23] provides that, in order for a person to be found guilty of an offence of failing to comply with a requirement by an inspector or a police officer under the Act, the person must first be warned that the failure to comply is an offence.

Schedule 1 [27]–[29] make provision for the office of Deputy Chairperson of the Game Council.

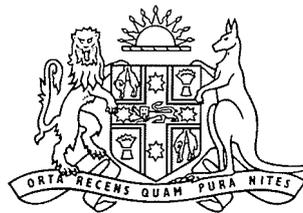
Schedule 1 [31] enables regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.

Schedule 2 Amendment of other legislation

Schedule 2.1 amends the *Firearms Act 1996* to enable a public or local authority to give permission to shoot, in connection with the genuine reason of recreational hunting/vermin control or vertebrate pest animal control, on land that is owned by, or under the control or management of, the authority and that is within a non-metropolitan area.

Schedule 2.2 amends the *Game and Feral Animal Control Regulation 2004* mainly as a consequence of the amendments to the Act made by Schedule 1.

Schedule 2.3 amends the *Rural Lands Protection Act 1998* to make a consequential amendment and to require the Game Council to be consulted before pest control orders are made declaring game animals to be pests.



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New South Wales

Game and Feral Animal Control Amendment Bill 2012

No. , 2012

A Bill for

An Act to amend the *Game and Feral Animal Control Act 2002* to make further provision with respect to the management and regulation of the hunting of game; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Game and Feral Animal Control Amendment Act 2012</i> .	3
2 Commencement	4
(1) This Act commences 6 months after the date of assent to this Act, except as provided by subsection (2).	5 6
(2) A proclamation may provide for the commencement of a provision of this Act on a day (as appointed by the proclamation) occurring during the period of 6 months after the date of assent.	7 8 9

Schedule 1	Amendment of Game and Feral Animal Control Act 2002 No 64	1
		2
[1] Section 3 Objects		3
	Omit “Section 5 identifies” from the note.	4
	Insert instead “Schedule 3 specifies”.	5
[2] Section 4 Definitions		6
	Insert in alphabetical order:	7
	<i>declared public hunting land</i> means public land that is the subject of a declaration in force under section 20.	8
		9
[3] Section 4, definition of “private land”		10
	Omit paragraph (b).	11
[4] Section 4, definition of “public land”		12
	Insert after paragraph (b):	13
	(b1) national park estate land, or	14
[5] Section 4, definition of “public land”		15
	Omit paragraph (e).	16
[6] Section 5		17
	Omit the section. Insert instead:	18
	5 Game animals for the purposes of this Act	19
	(1) For the purposes of this Act, a <i>game animal</i> is any animal specified in Schedule 3 that is living in the wild.	20
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	(2) The Minister may, by order published on the NSW legislation website, amend Schedule 3:	22
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	(a) by adding the name or description of any animal (other than an animal of a species that was native to Australia before European settlement), or	24
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	(b) by omitting or amending any such name or description.	27
	(3) Despite any other provision of this section, a game animal does not include any animal that is or is part of a threatened species, population or ecological community within the meaning of the <i>Threatened Species Conservation Act 1995</i> .	28
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[7] Sections 6A and 6B	1
Insert after section 6:	2
6A Exemptions from certain offences under National Parks and Wildlife legislation	3
(1) The holder of a game hunting licence who hunts a game animal on declared public hunting land in accordance with the authority conferred by the licence does not, in connection with that hunting, commit:	5
(a) any offence under the <i>National Parks and Wildlife Act 1974</i> or the regulations under that Act that involves an activity associated with hunting and that is necessary for the purposes of hunting the game animal, or	9
(b) any offence under that Act that involves possessing or exporting, otherwise than for the purposes of sale, the carcass, or the skin or any other part, of a game animal killed by the licence holder.	13
(2) For the purposes of subsection (1) (a), an <i>activity associated with hunting</i> includes carrying a firearm or other hunting device.	17
(3) This section does not authorise a person to take a dog into any national park estate land or to use a dog to assist in hunting on any such land.	19
6B Orders and notices under other legislation	22
None of the following has any effect to the extent that it would prevent or interfere with any activity carried out in accordance with the authority conferred by a game hunting licence or game management licence:	23
(a) an order under Division 1 (Stop work orders) or Division 2 (Interim protection orders) of Part 6A of the <i>National Parks and Wildlife Act 1974</i> ,	27
(b) an environment protection notice under Chapter 4 of the <i>Protection of the Environment Operations Act 1997</i> .	30
[8] Section 8 Membership and procedure of Game Council	32
Omit “16” from section 8 (1). Insert instead “17”.	33
[9] Section 8 (2) (e)	34
Omit “New South Wales Aboriginal Land Council”.	35
Insert instead “Minister administering the <i>Aboriginal Land Rights Act 1983</i> ”.	36

[10] Section 8 (2) (g1)	1
Insert after section 8 (2) (g):	2
(g1) a person appointed on the nomination of the Minister administering the <i>National Parks and Wildlife Act 1974</i> , and	3 4 5
[11] Section 13A	6
Omit the section. Insert instead:	7
13A Delegation	8
The Game Council may delegate to the chief executive officer of the Game Council the exercise of any of its functions other than this power of delegation.	9 10 11
[12] Section 15 Authority conferred by different classes of game hunting licences	12 13
Omit the note to section 15 (2). Insert instead:	14
Note. In the case of hunting on public land, section 18 provides that a game hunting licence does not authorise hunting unless the land is duly declared under section 20 to be available for hunting. Such a declaration may require hunters to register and obtain written permission to hunt on that land.	15 16 17 18 19
[13] Section 15 (2A)	20
Insert after section 15 (2):	21
(2A) Possession of carcass or skin or other part of game animal	22
A game hunting licence authorises the holder of the licence to possess the carcass, or the skin or any other part, of any game animal that the licence holder has killed under the authority conferred by the licence.	23 24 25 26
[14] Section 15 (4)	27
Omit “A game”.	28
Insert instead “Except as provided by section 6A (1), a game”.	29
[15] Section 17 Exemptions from licensing	30
Omit section 17 (1) (a) (including the note). Insert instead:	31
(a) a person who is hunting an animal listed in Part 2 of Schedule 3 on private land,	32 33

[16] Section 17 (1) (d)	1
Omit “section 5 (2)”. Insert instead “Part 2 of Schedule 3”.	2
[17] Section 17 (1) (e)	3
Omit the paragraph.	4
[18] Section 20A	5
Insert after section 20:	6
20A Restrictions on declaration of national park estate land	7
(1) The following national park estate land cannot be the subject of a declaration under section 20:	8
(a) any national park estate land specified in Schedule 3A,	9
(b) any land declared to be a wilderness area under the <i>Wilderness Act 1987</i> or that is the subject of a wilderness protection agreement under section 10 of that Act but has not been declared to be a wilderness area,	10
(c) any national park estate land that is a declared World Heritage property within the meaning of the <i>Environment Protection and Biodiversity Conservation Act 1999</i> of the Commonwealth.	11
(2) The regulations may amend Schedule 3A:	12
(a) by adding the name of any national park estate land (other than land referred to in subsection (1) (b) or (c)), or	13
(b) by omitting or amending any name specified in Schedule 3A.	14
(3) Any such regulation may only be made on the recommendation of the Minister administering the <i>National Parks and Wildlife Act 1974</i> .	15
[19] Section 21 Grant of licences	16
Insert after section 21 (3):	17
(4) The Game Council may refuse to grant a game hunting licence to a person if, in the previous 10 years, the person has been found guilty of an offence under the <i>Firearms Act 1996</i> that is, in accordance with section 84 of that Act, an offence that may be (or is required to be) prosecuted on indictment.	18
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[20] Section 29 Suspension or cancellation of licences by Game Council	1
Insert after section 29 (4) (b):	2
(b1) if the holder is found guilty of an offence under the <i>Firearms Act 1996</i> that is, in accordance with section 84 of that Act, an offence that may be (or is required to be) prosecuted on indictment, or	3 4 5 6
[21] Section 44 Power to detain and search vehicles or vessels	7
Omit section 44 (3).	8
[22] Section 45 Power of seizure	9
Omit “The Local Court must not order the forfeiture of a thing unless satisfied that the value of the thing does not exceed \$10,000.” from section 45 (4).	10 11
[23] Section 48 Provisions relating to requirements under this Division	12
Insert before section 48 (1):	13
(1A) Warning to be given on each occasion	14
A person is not guilty of an offence of failing to comply with a requirement under this Division to make a statement, to give or furnish information, to answer a question or to produce a document unless the person was warned on that occasion that a failure to comply is an offence.	15 16 17 18 19
[24] Section 50 Offences relating to inspectors	20
Omit “or impede” from section 50 (c).	21
Insert instead “, impede, assault, threaten or intimidate”.	22
[25] Section 50A	23
Insert after section 50:	24
50A Direction to leave or not to enter declared public hunting land	25
(1) An inspector who has reason to believe that a person is committing or about to commit a game hunting offence may direct the person to leave or not to enter any declared public hunting land specified in the direction.	26 27 28 29
(2) A person to whom such a direction is given must comply with the direction.	30 31
Maximum penalty: 50 penalty units.	32

[26] Sections 55A and 55B	1
Insert after section 55:	2
55A Interfering with authorised hunting on declared public hunting land	3 4
(1) A person must not, without reasonable excuse, engage in any conduct on declared public hunting land:	5 6
(a) that interferes with the hunting of game animals on that land by another person under the authority conferred by a game hunting licence, and	7 8 9
(b) with the intention of interfering with that hunting.	10
Maximum penalty: 50 penalty units.	11
(2) A person does not commit an offence under this section if the person has lawful authority to interfere with the hunting carried out by the other person.	12 13 14
(3) An offence under this section cannot be prescribed for the purposes of section 57.	15 16
(4) In this section:	17
<i>hunting</i> game animals includes retrieving a game animal.	18
<i>interfere with</i> includes prevent or hinder.	19
55B Requirements for commercial taxidermists	20
(1) A person who carries on business as a taxidermist must not preserve or prepare the skin of a game animal listed in Part 1 of Schedule 3 unless the taxidermist:	21 22 23
(a) is satisfied that the animal has been killed by the holder of a game hunting licence or game management licence (or by a person with some other lawful authorisation to kill the animal), and	24 25 26 27
(b) records the following information:	28
(i) the name of the person who killed the game animal and the details of the person's licence or other lawful authorisation,	29 30 31
(ii) the date on which the taxidermist received the carcass or other relevant part of the game animal.	32 33
(2) The taxidermist must make any such record available for inspection by an inspector at any reasonable time if requested to do so by the inspector.	34 35 36
Maximum penalty: 50 penalty units.	37

[27] Schedule 1 Provisions relating to members and procedure of Game Council	1 2
Insert in alphabetical order in clause 1:	3
<i>Deputy Chairperson</i> means the Deputy Chairperson of the Game Council.	4 5
[28] Schedule 1, clause 4A	6
Insert after clause 4:	7
4A Deputy Chairperson	8
(1) The members of the Game Council are to elect, by a simple majority, a Deputy Chairperson from among the members.	9 10
(2) The Deputy Chairperson may be elected for the duration of his or her term of office as a member or for a shorter term.	11 12
(3) The Deputy Chairperson vacates office as Deputy Chairperson if he or she:	13 14
(a) is removed from that office by the Minister under this clause, or	15 16
(b) resigns that office by instrument in writing addressed to the Minister, or	17 18
(c) ceases to be a member of the Game Council.	19
(4) The Minister may at any time remove the Deputy Chairperson from office as Deputy Chairperson.	20 21
[29] Schedule 1, clause 14	22
Omit clause 14 (1). Insert instead:	23
(1) The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson, is to preside at a meeting of the Game Council.	24 25 26
(1A) In the absence of both the Chairperson and the Deputy Chairperson, another member elected to chair the meeting by the members present is to preside at a meeting of the Game Council.	27 28 29

[30] Schedules 3 and 3A	1
Insert after Schedule 2:	2
 Schedule 3 Game animals	 3
	(Section 5) 4
 Part 1 Non-indigenous game animals (licence required to hunt on public or private land)	 5 6
 Birds	 7
Bobwhite Quail (<i>Colinus virginianus</i>)	8
California Quail (<i>Lophortyx callipepla californicus</i>)	9
Guinea Fowl (<i>Numida meleagris</i>)	10
Partridge (<i>Alectoris alectoris chukar</i>)	11
Peafowl (<i>Pavo cristatus</i>)	12
Pheasant (<i>Phasianus phasianus colchicus</i>)	13
Spotted Dove (<i>Streptopelia chinensis</i>)	14
Turkey (<i>Meleagris gallopavo</i>)	15
 Other animals	 16
Deer (Family <i>cervidae</i>)	17
 Part 2 Non-indigenous animals (licence required to hunt on public land only)	 18 19
Note. A game hunting licence is not required for hunting the animals listed in this Part on private land, and accordingly is only required if the animals are living in the wild on public land—see section 17.	20 21 22
Cat	23
Dog (other than dingo)	24
Goat	25
Fox	26
Hare	27
Rabbit	28
Pig	29
Common Starling (<i>Sturnus vulgaris</i>)	30
Common or Indian Myna (<i>Acridotheres tristis</i>)	31
Feral Pigeon (<i>Columba livia</i>)	32

Schedule 3A	National park estate land that cannot be declared as public hunting land	1
		2
	(Section 20A)	3
National Parks		4
	Blue Mountains	5
	Bouddi	6
	Brisbane Water	7
	Cattai	8
	Dharawal	9
	Dharug	10
	Garigal	11
	Georges River	12
	Heathcote	13
	Kamay Botany Bay	14
	Ku-ring-gai Chase	15
	Lane Cove	16
	Marramarra	17
	Popran	18
	Royal	19
	Scheyville	20
	Sydney Harbour	21
	Thirlmere Lakes	22
	Wollemi	23
	Yengo	24
Nature Reserves		25
	Agnes Banks	26
	Castlereagh	27
	Dalrymple-Hay	28
	Dharawal	29
	Georges River	30
	Gulguer	31
	Kemps Creek	32
	Mulgoa	33
	Muogamarra	34
	Newington	35
	Pitt Town	36
	Prospect	37
	Towra Point	38
	Wallumatta	39
	Wambina	40
	Wianamatta	41
	Windsor Downs	42

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Schedule 1 Amendment of Game and Feral Animal Control Act 2002 No 64

Regional Parks	1
Berowra Valley	2
Leacock	3
Rouse Hill	4
William Howe	5
Wolli Creek	6
Yellomundee	7
State Conservation Areas	8
Bents Basin	9
Dharawal	10
Garawarra	11
Maroota	12
Parr	13
[31] Schedule 4 Savings, transitional and other provisions	14
Insert at the end of clause 1 (1):	15
<i>Game and Feral Animal Control Amendment Act 2012</i>	16

Schedule 2	Amendment of other legislation	1
2.1	Firearms Act 1996 No 46	2
[1]	Section 4 Definitions	3
	Insert in alphabetical order in section 4 (1):	4
	<i>non-metropolitan area</i> means an area of the State other than the Sydney, Newcastle, Wollongong and Central Coast urban areas. The regulations may describe the area comprising any such urban area.	5 6 7 8
[2]	Section 12 Genuine reasons for having a licence	9
	Insert after paragraph (b) of the matter relating to the genuine reason of recreational hunting/vermin control in the Table to the section:	10 11
	(b1) produce proof of permission given by any public or local authority to shoot on any land that:	12 13
	(i) is owned by, or under the control or management of, that authority, and	14 15
	(ii) is within a non-metropolitan area, or	16
[3]	Section 12, Table	17
	Omit “to give permission to shoot on rural land” from the matter relating to the genuine reason of recreational hunting/vermin control.	18 19
	Insert instead “to give permission to shoot on land as referred to in paragraph (b) or (b1)”.	20 21
[4]	Section 12, Table	22
	Insert “or on any other land that is owned by, or under the control or management of, a public or local authority and that is within a non-metropolitan area” after “rural land” in paragraph (a) of the matter relating to the genuine reason of vertebrate pest animal control.	23 24 25 26
[5]	Section 12, Table	27
	Insert “, or a public or local authority,” after “government agency” in paragraph (b) of the matter relating to the genuine reason of vertebrate pest animal control.	28 29 30
[6]	Section 12, Table	31
	Insert “or local” after “public” in paragraph (c) of the matter relating to the genuine reason of vertebrate pest animal control.	32 33

[7] Section 26 Recognition of interstate licences for certain purposes	1
Omit “rural land” wherever occurring in section 26 (2) (b).	2
Insert instead “non-metropolitan land”.	3
2.2 Game and Feral Animal Control Regulation 2004	4
[1] Clause 3 Definitions	5
Omit “section 5 (1) of” from the definition of <i>commercial hunting</i> in clause 3 (1).	6
Insert instead “Part 1 of Schedule 3 to”.	7
[2] Clause 7 Commercial hunters and hunting guides to be licensed	9
Omit the clause.	10
[3] Clause 11 Commercial hunters licence	11
Omit “section 5 (1) of”. Insert instead “Part 1 of Schedule 3 to”.	12
[4] Clause 20 Notice of proposed declaration of hunting land	13
Omit clause 20 (2).	14
[5] Schedule 1 Conditions of game hunting licences	15
Omit the definition of <i>declared public hunting land</i> from clause 1 (3).	16
[6] Schedule 1, Part 2, heading	17
Omit “section 5 (1)”. Insert instead “certain”.	18
[7] Schedule 1, Part 2	19
Omit the note at the beginning of the Part.	20
[8] Schedule 1, clause 6A	21
Insert before clause 7:	22
6A Game animals to which this Part applies	23
This Part applies to game animals listed in Part 1 of Schedule 3 to the Act.	24
	25
[9] Schedule 1, clauses 7 (1), 8 (1) and 9 (1)	26
Omit “listed in section 5 (1) of the Act” wherever occurring.	27
Insert instead “to which this Part applies”.	28

[10] Schedule 1, clause 10 (2)	1
Omit the subclause. Insert instead:	2
(2) In this clause, <i>game bird</i> means any bird listed in Part 1 of Schedule 3 to the Act.	3 4
2.3 Rural Lands Protection Act 1998 No 143	5
[1] Section 144 When can a pest control order be made?	6
Omit “section 5 (1) of” from section 144 (2) (b).	7
Insert instead “Part 1 of Schedule 3 to”.	8
[2] Section 144 (3)	9
Insert after section 144 (2):	10
(3) Without limiting subsection (2), the Minister must consult with the Game Council of New South Wales before making a pest control order declaring a game animal listed in Part 1 of Schedule 3 to the <i>Game and Feral Animal Control Act 2002</i> to be a pest.	11 12 13 14 15
[3] Section 145 Requests by authorities for making of pest control orders	16
Insert after section 145 (2):	17
(3) An authority must consult with the Game Council of New South Wales before requesting the Minister to make a pest control order declaring a game animal listed in Part 1 of Schedule 3 to the <i>Game and Feral Animal Control Act 2002</i> to be a pest.	18 19 20 21