

Act No. 196

WILDERNESS BILL 1987

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Miscellaneous Acts (Wilderness) Amendment Bill 1987 is cognate with this Bill.

The object of this Bill is to provide for the identification, protection and management of wilderness in the State.

PART 1—PRELIMINARY

Clause 1 (Short title) sets out the short title of the proposed Act.

Clause 2 (Definitions) defines certain expressions for the purposes of the proposed Act.

Clause 3 (Objects of Act) sets out the objects of the proposed Act which are to provide for the permanent protection of wilderness areas and their proper management and to promote the education of the public in the appreciation, protection and management of wilderness.

Clause 4 (Act binds Crown) provides that the Act binds the Crown.

PART 2—FUNCTIONS OF DIRECTOR ETC. RELATING TO WILDERNESS

Clause 5 (Functions of Director and Service) sets out the functions of the Director of National Parks and Wildlife and of the National Parks and Wildlife Service under the proposed Act. The Director's functions will include the investigation and identification of wilderness and the consideration of proposals relating to possible wilderness areas, as well as other functions relating to wilderness areas.

Clause 6 (Identification of wilderness) provides that only land having certain characteristics, in the Director's opinion, may be identified as wilderness for the purposes of the proposed Act. Land is suitable to be so identified if it is, together with its plant and animal communities, in a state that has not been substantially modified by humans and their works or is capable of being restored to such a state, is of a sufficient size to make its maintenance in such a state feasible and is capable of providing opportunities for solitude and appropriate self-reliant recreation.

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Clause 7 (Wilderness proposals) provides for the submission to the Director of proposals that areas of land be identified as wilderness, declared to be wilderness areas or added to existing wilderness areas and requires the Director to consider and advise the Minister in relation to any such proposal after receiving it.

PART 3—WILDERNESS AREAS

Division 1—General provisions

Clause 8 (Declaration of wilderness areas) requires areas of land subject to wilderness protection agreements under the proposed Act or subject to conservation agreements, being land that has been identified as wilderness, to be declared by the Minister, by notification published in the Gazette, to be wilderness areas. A declaration relating to land subject to a wilderness protection agreement may be revoked only by an Act of Parliament.

Clause 9 (Management principles for wilderness areas) sets out the principles according to which wilderness areas are to be managed.

Division 2—Wilderness protection agreements and conservation agreements

Clause 10 (Wilderness protection agreements) enables the Minister to enter into wilderness protection agreements relating to land identified as wilderness by the Director with a statutory authority that owns or controls such land or the Minister responsible for such an authority. The consent to any such agreement, or to the variation of any such agreement, of any lessee, mortgagee or chargee of the land, and of any person having the benefit of any positive covenant affecting the land, will be required.

Clause 11 (Exhibition of proposed agreements) requires draft wilderness protection agreements to be exhibited for public comment and referred to the National Parks and Wildlife Advisory Council. The Minister must consider any submissions made as a result of public exhibition or reference to the Council before entering into the agreement.

Clause 12 (Purpose and content of agreements) sets out the purposes for which wilderness protection agreements may be entered into and the kinds of terms which such agreements may contain. Such terms must not be inconsistent with the principles set out in clause 9.

Clause 13 (Duration and variation of agreements) provides for the variation and termination of wilderness protection agreements.

Clause 14 (Register of agreements) requires the Director to keep a register of copies of wilderness protection agreements and to make it available for inspection by the public.

Clause 15 (Proposals by statutory authorities affecting certain wilderness areas) prohibits the carrying out of development by statutory authorities in areas subject to wilderness protection agreements or to conservation agreements that have been identified as wilderness, except with the consent of the Minister.

Clause 16 (Additional provisions relating to conservation agreements) enables conservation agreements to be entered into under the National Parks and Wildlife Act 1974 in relation to wilderness. The terms of such agreements must not be inconsistent with the principles set out in clause 9.

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Division 3—Plans of management for wilderness areas

Clause 17 (Plans of management for land subject to wilderness protection agreements) empowers the Director to prepare a plan of management for land which is or will be subject to a wilderness protection agreement. Such a plan must not be inconsistent with the principles set out in clause 9.

Clause 18 (Adoption etc. of plan of management for land subject to wilderness protection agreement) provides for the adoption, amendment, alteration, substitution and cancellation of plans of management for land subject to wilderness protection agreements.

Clause 19 (Plans of management for other wilderness areas) requires plans of management made under the National Parks and Wildlife Act 1974 for wilderness areas not to be inconsistent with the principles set out in clause 9.

PART 4—MISCELLANEOUS

Clause 20 (Provisions relating to Crown land leases) prohibits consents to changes in use, or the conversion, sale or disposal, of land leased under Crown lands legislation that has been identified as wilderness unless the Minister is consulted.

Clause 21 (Resolution of certain disputes) provides for the resolution by the Premier of disputes (between the Minister administering the proposed Act and a statutory authority or another Minister) arising under the proposed Act.

Clause 22 (Delegation) enables the Minister and the Director to delegate functions under the proposed Act.

Clause 23 (Wilderness Fund) establishes the Wilderness Fund in the Special Deposits Account in the Treasury. The Fund will be used to meet expenditure incurred in the execution of the proposed Act.

Clause 24 (Wilderness matters to be included in report) requires the Director to report on areas identified as wilderness and other wilderness matters in the annual report of the National Parks and Wildlife Service.

Clause 25 (Relationship of Act to National Parks and Wildlife Act 1974) provides that the proposed Act will not affect the operation of the National Parks and Wildlife Act 1974, except where expressly provided.

Clause 26 (Effect of Crown lands legislation) provides that Crown lands legislation will not affect clause 20 or the terms of any wilderness protection agreement relating to land held under that legislation.

Clause 27 (Restraint etc. of breaches of this Act) gives persons power to seek to remedy or restrain a breach of the proposed Act, by taking proceedings in the Land and Environment Court, even though they would otherwise have no standing to do so.

Clause 28 (Evidence of agreements) provides for the giving of evidence of wilderness protection agreements in legal proceedings.

Clause 29 (Regulations) contains a regulation-making power.

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Clause 30 (Proceedings for offences) provides for proceedings for offences under regulations under the proposed Act to be dealt with in a Local Court constituted by a Magistrate sitting alone.
