

Act No. 197

**MISCELLANEOUS ACTS (WILDERNESS) AMENDMENT
BILL 1987**

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Wilderness Bill 1987.

The objects of this Bill are—

- (a) to amend the National Parks and Wildlife Act 1974 so as to provide for the recognition and protection of wild and scenic rivers and to enable interim protection orders to be imposed in relation to areas of natural, scientific and cultural significance and for other purposes; and
- (b) to amend the National Parks and Wildlife Act 1974 and certain other Acts as a result of the proposed enactment of the Wilderness Act 1987.

Clause 1 specifies the short title of the proposed Act.

Clause 2 gives effect to the Schedule of amendments to the National Parks and Wildlife Act 1974.

Clause 3 gives effect to the Schedule of amendments to certain other Acts.

**SCHEDULE 1—AMENDMENTS TO THE NATIONAL PARKS AND WILDLIFE
ACT 1974**

Schedule 1 (1) inserts definitions of “interim protection order”, “wild and scenic river” and “wilderness protection agreement” into the Principal Act.

Schedule 1 (2) confers functions relating to wild and scenic rivers and interim protection orders on the Director of National Parks and Wildlife.

Schedule 1 (3) and (4) enable officers to be employed by the Director for the purposes of the proposed Wilderness Act 1987.

Schedule 1 (5) confers functions on the National Parks and Wildlife Advisory Council relating to wilderness protection agreements and wilderness areas.

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Schedule 1 (6) amends the heading to Division 3 of Part IV of the Principal Act so that it will refer to wild and scenic rivers.

Schedule 1 (7) extends the lands which may be declared to be wilderness areas under the Principal Act. A declaration of a wilderness area will only be made in relation to an area identified as wilderness in accordance with the proposed Wilderness Act 1987 and will not be able to be revoked except by an Act of Parliament.

Schedule 1 (8) requires land declared to be a wilderness area to be managed in accordance with the objects and principles set out in the proposed Wilderness Act 1987.

Schedule 1 (9) substitutes section 61 of, and inserts proposed section 61A into, the Principal Act. The proposed sections enable rivers or parts of rivers within lands reserved or dedicated under the Principal Act to be declared to be wild and scenic rivers and requires any such declaration to be made in accordance with any plan of management relating to the land. The Minister must be consulted by a statutory authority before it carries out development in relation to a wild and scenic river.

Schedule 1 (10) amends the Principal Act so that provisions relating to development by statutory authorities in conservation areas will not apply to such development within wilderness areas under the proposed Wilderness Act 1987.

Schedule 1 (11) extends offences prohibiting the killing etc. of fauna to wilderness areas and areas subject to wilderness protection agreements entered into under the proposed Wilderness Act 1987 (subject to the terms of the agreement concerned).

Schedule 1 (12) extends offences prohibiting the picking or possession of native plants to wilderness areas and areas subject to wilderness protection agreements (subject to the terms of the agreement concerned).

Schedule 1 (13) requires certain water supply authorities to be consulted before a plan of management is adopted for any wilderness area under the proposed Wilderness Act 1987 that is within a catchment area of the relevant authority.

Schedule 1 (14) inserts proposed Part VIA into the Principal Act which contains the following sections:

Section 91A which empowers the Director to recommend to the Minister that an interim protection order be made in respect of land having natural, scientific or cultural significance or in respect of land which may be used for the purpose of carrying out any of the Director's powers, authorities, duties or functions under the Principal Act relating to fauna and native plants.

Section 91B which provides for the making of, and the terms to be contained in, interim protection orders.

Section 91C which states that the Minister need not notify any person who will be affected by an interim protection order before making the order.

Section 91D which provides that an interim protection order will (unless sooner revoked) have effect for a period specified in the order, being not longer than 12 months.

Section 91E which sets out the procedure for the revocation of interim protection orders.

Section 91F which requires notice of an interim protection order or its revocation to be given to the owner or occupier of land affected, the National Parks and Wildlife Advisory Council and the local council as soon as practicable after it is published in the Gazette.

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Section 91G which makes it an offence for an owner or occupier of land subject to an interim protection order to fail to comply with the requirements of the order.

Section 91H which enables an owner or occupier of the whole or any part of land subject to an interim protection order to appeal to the Land and Environment Court against the imposition of an order or its terms.

Section 91I which requires the Director to keep a register of copies of interim protection orders and to make it available for inspection by the public.

Schedule 1 (15), (16) and (17) amend provisions of the Principal Act relating to licences for the taking, killing, trapping etc. of fauna so as to extend restrictions on persons holding such licences to areas subject to wilderness protection agreements.

Schedule 1 (18) empowers the Minister to accept gifts made by trusts or in wills, being gifts made for the purposes of the proposed Wilderness Act 1987.

Schedule 1 (19) inserts proposed section 153A into the Principal Act. The proposed section prohibits the Minister or Director from granting certain leases or licences in respect of land that is in a wilderness area.

Schedule 1 (20) extends the operation of offences under the Principal Act committed in relation to the Director and other officers while they are acting under the Principal Act to things done while acting under the proposed Wilderness Act 1987.

Schedule 1 (21) inserts proposed section 176A into the Principal Act. The proposed section gives persons power to seek to remedy or restrain a breach of the Principal Act, by taking proceedings in the Land and Environment Court, even though they would otherwise have no standing to do so.

SCHEDULE 2—AMENDMENTS TO OTHER ACTS

Schedule 2 amends—

- (a) the Environmental Planning and Assessment Act 1979 so as—
 - (i) to require consent authorities to consider the effect of proposed development the subject of a development application on any wilderness area (within the meaning of the proposed Wilderness Act 1987);
 - (ii) to require determining authorities to consider the effect of a proposed activity on any such area; and
 - (iii) to prohibit the making of a development application to a consent authority or the granting of an approval by a determining authority in respect of a wilderness area unless any consent required under the proposed Wilderness Act 1987 has previously been obtained; and
 - (b) the Land and Environment Court Act 1979, so as to confer on the Court jurisdiction relating to interim protection orders and to the enforcement by third parties of provisions of the National Parks and Wildlife Act 1974 and the proposed Wilderness Act 1987.
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