



New South Wales

National Parks and Wildlife (Adjustment of Areas) Bill 2005

Explanatory note

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

Overview of Bill

The objects of this Bill are to:

- (a) revoke the reservation under the *National Parks and Wildlife Act 1974* of areas of land within Botany Bay National Park, Kosciuszko National Park, Lake Innes Nature Reserve and South East Forest National Park, and
- (b) vest those areas in the Crown as Crown land (in the case of the areas within Botany Bay National Park) or in the Minister administering Part 11 of the *National Parks and Wildlife Act 1974* (in all other cases), and
- (c) amend the *National Park Estate (Southern Region Reservations) Act 2000* to extend deadlines in certain provisions relating to roads within or in the vicinity of land transferred to the national park estate by that Act.

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 on a day or days to be appointed by proclamation.

Clause 3 revokes the reservation under the *National Parks and Wildlife Act 1974* of land described in Schedule 1 or 2 as part of the national parks and nature reserve referred to in those Schedules.

Clause 4 vests land described in Schedule 1 (which is land within Botany Bay National Park) in the Crown as Crown land.

Clause 5 vests land described in Schedule 2 (which is land within Kosciuszko National Park, Lake Innes Nature Reserve and South East Forest National Park) in the Minister administering Part 11 of the *National Parks and Wildlife Act 1974*.

Clause 6 ensures that the proposed Act does not operate to extinguish native title rights and interests existing in relation to the excised land immediately before its vesting under the proposed Act in the Crown as Crown land or in the Minister administering Part 11 of the *National Parks and Wildlife Act 1974*.

Clause 7 provides that the proposed Act binds the Crown.

Clause 8 enables the making of regulations for the purposes of the proposed Act, including regulations of a savings or transitional nature consequent on the enactment of the proposed Act.

Clause 9 is a formal provision that gives effect to the amendments to the *National Park Estate (Southern Region Reservations) Act 2000* set out in Schedule 3.

Schedule 1 Land within Botany Bay National Park vested in the Crown as Crown land

This Schedule sets out the land within Botany Bay National Park whose reservation as national park is revoked and that is vested in the Crown as Crown land.

Schedule 2 Land within national parks or nature reserve vested in Minister administering Part 11 of the National Parks and Wildlife Act 1974

This Schedule sets out the land within national parks and a nature reserve (being land whose reservation is revoked) that is vested in the Minister administering Part 11 of the *National Parks and Wildlife Act 1974* for the purposes of that Part.

Schedule 3 Amendment of National Park Estate (Southern Region Reservations) Act 2000

Section 10 of the *National Park Estate (Southern Region Reservations) Act 2000* enables the description of land transferred to the national park estate by that Act to be adjusted, by notice published in the Gazette, for various purposes. **Schedule 3 [2]** extends the deadline for adjusting the boundary of land adjoining a public road from

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31 December 2005 to 31 December 2007. **Schedule 3 [1]** makes a consequential amendment.

Clause 8 of Schedule 7 vests in the Minister administering the *National Parks and Wildlife Act 1974*, for the purposes of Part 11 of that Act, certain access roads that are within former State forests and Crown land transferred to the national park estate by the *National Park Estate (Southern Region Reservations) Act 2000*. Under the clause, that Minister is required to declare which of the access roads are reserved as part of the national park estate, and which are not, by 31 December 2005. **Schedule 3 [3]** extends this deadline to 31 December 2007.

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National Parks and Wildlife (Adjustment of Areas) Bill 2005

No. , 2005

A Bill for

An Act to revoke the reservation under the *National Parks and Wildlife Act 1974* of certain areas of land as national park or nature reserve; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>National Parks and Wildlife (Adjustment of Areas) Act 2005</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6
3 Revocation of reservation of certain land as national park or nature reserve	7 8
The reservation under the <i>National Parks and Wildlife Act 1974</i> as national park or nature reserve of land described in Schedule 1 or 2 is revoked.	9 10 11
4 Land within Botany Bay National Park to vest in Crown as Crown land	12
On the revocation under this Act of the reservation as national park of land described in Schedule 1, that land:	13 14
(a) is vested in the Crown for an estate in fee simple, freed and discharged from all trusts, obligations, estates, interests and rights of way or other easements, and	15 16 17
(b) is Crown land within the meaning of the <i>Crown Lands Act 1989</i> .	18
5 Land to vest in Minister	19
(1) On the revocation under this Act of the reservation as national park or nature reserve of land described in Schedule 2, that land vests in the Minister administering Part 11 of the <i>National Parks and Wildlife Act 1974</i> on behalf of the Crown for the purposes of that Part for an estate in fee simple, freed and discharged from:	20 21 22 23 24
(a) all trusts, obligations, estates, interests, rights of way or other easements, and	25 26
(b) any dedication, reservation, Crown grant or vesting to which the land was subject, and any such dedication, reservation, grant or vesting is revoked.	27 28 29
(2) The Minister is not to transfer under Part 11 of the <i>National Parks and Wildlife Act 1974</i> :	30 31
(a) the whole or any part of the land described in clauses 1 and 2 of Schedule 2, or	32 33
(b) any interest in that land,	34
unless other land is first transferred into the national park estate as compensation for the excision of that land (being other land the Minister	35 36

	is satisfied is of equal or greater conservation value in terms of natural and cultural heritage).	1 2
(3)	For the purposes of subsection (2), the national park estate comprises land reserved under the <i>National Parks and Wildlife Act 1974</i> or land acquired by the Minister under Part 11 of that Act for the purposes of its reservation under that Act.	3 4 5 6
(4)	Any access roads within the land described in clause 3 of Schedule 2 may continue to be used for the purposes for which they were used immediately before the commencement of this Act.	7 8 9
(5)	Nothing in this section affects the exercise of any power, authority, duty or function by the Minister administering Part 11 of the <i>National Parks and Wildlife Act 1974</i> or any other person under and in accordance with the <i>National Parks and Wildlife Act 1974</i> in relation to any such access road.	10 11 12 13 14
6	Saving of native title rights and interests	15
(1)	This Act does not operate to extinguish any native title rights and interests existing in relation to the land described in Schedule 1 or 2 immediately before its vesting by section 4 or 5.	16 17 18
(2)	This section does not affect any extinguishment of native title rights and interests by the operation of the <i>Native Title Act 1993</i> of the Commonwealth or the <i>Native Title (New South Wales) Act 1994</i> .	19 20 21
(3)	Words and expressions used in this section have the same meanings as they have in the <i>Native Title Act 1993</i> of the Commonwealth.	22 23
7	Act to bind Crown	24
	This Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.	25 26 27
8	Regulations	28
(1)	The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	29 30 31 32
(2)	The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.	33 34
(3)	Any such provision may, if the regulations so provide, take effect from the date of commencement of this Act or a later date.	35 36

- (4) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

9 Amendment of National Park Estate (Southern Region Reservations) Act 2000 No 103

The *National Park Estate (Southern Region Reservations) Act 2000* is amended as set out in Schedule 3.

Schedule 1 Land within Botany Bay National Park 1
vested in the Crown as Crown land 2

(Sections 3 and 4) 3

All those pieces or parcels of land containing about 716 square metres situated in the 4
County of Cumberland, Parish of Botany and local government area of Randwick, 5
being that part of Lot 5209 DP 704508 described as hatched areas “PTC” and “PTD” 6
in miscellaneous plan R00104 held at the office of the Parks and Wildlife Division 7
of the Department of Environment and Conservation. 8

Schedule 2 Land within national parks or nature reserve vested in Minister administering Part 11 of the National Parks and Wildlife Act 1974

Schedule 2 Land within national parks or nature reserve vested in Minister administering Part 11 of the National Parks and Wildlife Act 1974

(Sections 3 and 5)

1 Kosciuszko National Park

All that piece or parcel of land containing 184 hectares, situated in the Counties of Selwyn and Buccleuch, Parishes of Buddong and Boraig and local government area of Tumut, being the area bounded by Lot 5 DP 235380, then by Lot 18 DP 728290, then by the left bank of the Tumut River generally east to the westerly prolongation of the southern boundary of Lot 14 DP 750974, then by that line east for a distance of 45.5 metres, then by a line bearing (grid north) 192 degrees 38 minutes 40 seconds for a distance of 72.74 metres, then by a line bearing 194 degrees 22 minutes 40 seconds for a distance of 67.1 metres, then by a line bearing 187 degrees 50 minutes 40 seconds for a distance of 103.22 metres, then by a line bearing 212 degrees 30 minutes 30 seconds for a distance of 88.95 metres, then by a line bearing 215 degrees 44 minutes for a distance of 119.36 metres, then by a line bearing 211 degrees 41 minutes for a distance of 144.94 metres, then by a line bearing 190 degrees 31 minutes 30 seconds for a distance of 62.17 metres, then by a line bearing 161 degrees 45 minutes for a distance of 139.12 metres, then by a line bearing 171 degrees 25 minutes 20 seconds for a distance of 232.64 metres, then by a line bearing 148 degrees 7 minutes 40 seconds for a distance of 529.92 metres, then by a line bearing 246 degrees 53 minutes 30 seconds for a distance of 65.35 metres, then by a line bearing 207 degrees 4 minutes 20 seconds for a distance of 71.46 metres, then by a line bearing 121 degrees 16 minutes 30 seconds for a distance of 52.65 metres, then by a line bearing 170 degrees 11 minutes 30 seconds for a distance of 46.24 metres, then by a line bearing 183 degrees 50 minutes for a distance of 41.03 metres, then by a line bearing 149 degrees 16 minutes 40 seconds for a distance of 90.14 metres, then by a line bearing 254 degrees 59 minutes 40 seconds for a distance of 147.8 metres, then by a line bearing 182 degrees 37 minutes for a distance of 103.58 metres and by a line to the southern most south eastern corner of Lot 5 DP 235380.

- 2 Lake Innes Nature Reserve** 1
- All that piece or parcel of land containing an area of about 2.89 hectares, situated in the Parish and County of Macquarie and local government area of Hastings, being Lot 1 DP 1072284 and that part of Lake Innes Nature Reserve (notified in the Gazette of 15 November 1985) east of Lot 1 DP 1072284. 2
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- 3 South East Forest National Park** 7
- (1) All that piece or parcel of land containing an area of about 6.8 hectares, situated in the County of Auckland, Parish of Colombo and local government area of Bega Valley Shire, being a strip 20 metres wide embracing the formation of Nitens Road within South East Forest National Park. 8
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- (2) All that piece or parcel of land containing an area of about 6.2 hectares, situated in the County of Wellesley, Parish of Burrumbucco and local government area of Bombala, being a strip 20 metres wide embracing the formation of Coolangubra Forest Way within South East Forest National Park. 13
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- (3) All that piece or parcel of land containing an area of about 22 hectares, situated in the County of Auckland, Parishes of Boyd, Nullica and Imlay and local government area of Bega Valley Shire, being a strip 20 metres wide embracing the formation of Ben Boyd Road (in 2 parts) within South East Forest National Park. 18
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Schedule 3 Amendment of National Park Estate (Southern Region Reservations) Act
2000

Schedule 3	Amendment of National Park Estate (Southern Region Reservations) Act 2000	1 2 3
	(Section 9)	4
[1]	Section 10 Adjustment of description of land transferred to national park estate	5 6
	Insert “or (c)” after “paragraph (b)” in section 10 (6) (a).	7
[2]	Section 10 (6) (b) and (c)	8
	Omit section 10 (6) (b). Insert instead:	9
	(b) in the case of an adjustment of the description of any land in or to be included in Schedule 5—31 December 2005, or	10 11
	(c) in the case of an adjustment of the boundary of land adjoining a public road—31 December 2007.	12 13
[3]	Schedule 7 Land transfers—ancillary and special provisions	14
	Omit “2005” from clause 8 (6). Insert instead “2007”.	15