

Passed by both Houses



New South Wales

National Parks and Heritage Legislation Amendment Bill 2024

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2024



New South Wales

National Parks and Heritage Legislation Amendment Bill 2024

Act No _____, 2024

An Act to amend the *National Parks and Wildlife Act 1974* to change the reservation status of certain land, to establish the National Parks and Wildlife Conservation Operating Fund and for other purposes; and to amend the *Heritage Act 1977* in relation to the Heritage Conservation Fund.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *National Parks and Heritage Legislation Amendment Act 2024*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of National Parks and Wildlife Act 1974 No 80

[1] **Section 5 Definitions**

Omit section 5(1), definitions of *emu*, *emu breeder*, *emu products*, *marine mammal*, *skin dealer*, *species presumed extinct* and *vulnerable species*.

[2] **Section 5(1)**

Insert in alphabetical order—

National Parks and Wildlife Conservation Trust means the National Parks and Wildlife Conservation Trust established under section 93.

[3] **Section 72AA, heading**

Omit the heading. Insert instead—

72AA Matters to consider in preparing plans of management

[4] **Section 72AA(2)–(7)**

Omit the subsections.

[5] **Section 72AB**

Insert after section 72AA—

72AB Content of plans of management

- (1) A plan of management for land reserved under this Act must include—
 - (a) the objectives of the plan of management, and
 - (b) the operations proposed to be carried out on the land.
- (2) The objectives and operations must be consistent with the following—
 - (a) the relevant management principles for the reservation under Part 4, Division 2,
 - (b) the purpose and objects of this Act,
 - (c) if the reserved land is within a State forest—the purpose and objects of the *Forestry Act 2012*.
- (3) A plan of management for a karst conservation reserve must, for the purposes of section 151D(1), also include environmental performance standards and indicators that ensure the environmental values of the reserve are conserved or restored.
- (4) A plan of management for a state conservation area may specify—
 - (a) the activities proposed to be permitted for the area, or a part of the area, and
 - (b) the nature of development proposed to be carried out to enable the use of the area, or the part of the area, for the activities.
- (5) A plan of management for land reserved under Part 4A may provide for the use of the land for a community development purpose prescribed by the regulations.
- (6) A plan of management for a national park, historic site, nature reserve or karst conservation reserve may relate to—
 - (a) land acquired or occupied under Part 11, or

(b) land proposed to be acquired or occupied under Part 11.

[6] Section 73B Adoption, amendment and cancellation of plans of management

Omit “Section 72AA, 73A, 74, 75” from section 73B(7). Insert instead “Sections 72AA, 72AB, 73A, 74 and 75”.

[7] Section 74 Catchment areas and special areas—generally

Omit section 74(2)(b).

[8] Section 80, heading

Omit the heading. Insert instead—

80 Plans of management affecting fisheries and marine estates

[9] Section 80(1)–(1B)

Omit section 80(1). Insert instead—

- (1) This section applies to a plan of management for one or more of the following—
- (a) a national park,
 - (b) a historic site,
 - (c) a state conservation area,
 - (d) a regional park,
 - (e) a nature reserve,
 - (f) a karst conservation reserve,
 - (g) an Aboriginal area.
- (1A) Before the plan of management is made or adopted by the Minister, the Secretary must refer the plan of management to—
- (a) the Minister administering the *Fisheries Management Act 1994* if the Secretary considers that the plan of management may adversely affect—
 - (i) fishing activities, or access to waterways for fishing activities, or
 - (ii) threatened species, populations or ecological communities within the meaning of the *Fisheries Management Act 1994*, or their habitats, and
 - (b) the Minister administering the *Marine Estate Management Act 2014* if—
 - (i) the plan of management applies to a marine park or aquatic reserve, or
 - (ii) the land to which the plan of management applies adjoins a marine park or aquatic reserve.
- (1B) A referral to the Minister administering this Act under subsection (1A)(b) is not required if the Minister administers a part of the *Marine Estate Management Act 2014*.

[10] Section 80(2)

Omit “referred to in subsection (1)”. Insert instead “referred under subsection (1A)”.

[11] Section 80(2)(a) and (b)

Insert “or the Minister administering the *Marine Estate Management Act 2014*” after “the *Fisheries Management Act 1994*” wherever occurring.

[12] Section 80(3)

Insert after section 80(2)—

(3) In this section—

aquatic reserve has the same meaning as in the *Marine Estate Management Act 2014*.

fishing activity has the same meaning as in the *Fisheries Management Act 1994*.

marine park has the same meaning as in the *Marine Estate Management Act 2014*.

waterway includes a stream, creek, river, estuary, intertidal area, lake, reservoir and dam.

[13] Section 92 Definitions

Insert in alphabetical order—

ITAA 1997 means the *Income Tax Assessment Act 1997* of the Commonwealth.

Operating Fund means the National Parks and Wildlife Conservation Operating Fund established under section 108(1).

[14] Sections 94(2), 97(e), 97(f) and 98(2)(d)

Insert “and the Operating Fund” after “Public Fund” wherever occurring.

[15] Section 96 Object of Trust

Insert “, and money held by the Operating Fund,” after “Public Fund” in section 96(1).

[16] Section 97 Functions of Trust

Insert after section 97(a)—

(a1) to administer the Operating Fund, including to make payments into and out of the Operating Fund in accordance with Division 4,

[17] Section 97(d)

Omit the paragraph. Insert instead—

(d) to use the following to support and promote the actions specified in section 96(1)(a)–(e) to the extent the actions promote the protection and enhancement of the natural environment—

(i) gifts, devises, bequests or contributions received by the Public Fund,

(ii) money held in the Operating Fund,

[18] Section 103 Definitions

Omit the definition of *ITAA 1997*.

[19] Part 7, Division 4

Insert after Division 3—

Division 4 National Parks and Wildlife Conservation Operating Fund

108 National Parks and Wildlife Conservation Operating Fund

- (1) There is to be established in the Special Deposits Account a fund called the National Parks and Wildlife Conservation Operating Fund.
- (2) The Operating Fund must be administered by the Trust.
- (3) The purpose of the Operating Fund is to hold money for the exercise of the Trust's functions.

Note— The Operating Fund may hold money the Public Fund cannot hold because of the requirements of the ITAA 1997.

109 Payments into Operating Fund

The following must be paid into the Operating Fund—

- (a) money appropriated by Parliament for the purposes of the Operating Fund,
- (b) money, including money from grants and contributions, that cannot otherwise be held by the Public Fund,
- (c) the proceeds of the investment of money in the Operating Fund,
- (d) money authorised by the Treasurer to be paid into the Operating Fund,
- (e) money directed or authorised to be paid into the Operating Fund by or under this Act or another Act or law.

110 Payments out of Operating Fund

The following are payable from the Operating Fund—

- (a) money required to support and promote the actions specified in section 96(1)(a)–(e) to the extent the actions promote the protection and enhancement of the natural environment,
- (b) money required to meet expenses in relation to the administration of the Operating Fund,
- (c) money required to meet expenses in relation to the exercise of the Trust's functions.

[20] Section 149 Disposal of property

Insert “or another provision of this Act” after “under this Part” in section 149(1)(a).

[21] Section 151F Public consultation regarding grant of leases and licences

Omit “72AA (6) (c)” from section 151F(6)(b). Insert instead “72AB(5)”.

[22] Section 156C

Omit the section. Insert instead—

156C Personal liability of statutory officers and other officials

- (1) A protected person is not personally subject to liability for anything done—
 - (a) in good faith, and
 - (b) for the purpose of exercising a function under the national parks legislation.
- (2) The liability instead attaches to the Crown.

- (3) The Crown may recover from the National Parks and Wildlife Conservation Trust the costs of a liability that attaches to the Crown in relation to—
- (a) a member of the Board of the National Parks and Wildlife Conservation Trust, or
 - (b) an employee of the National Parks and Wildlife Conservation Trust.
- (4) In this section—
- done** includes omitted to be done.
- liability** means civil liability and includes an action, claim and demand.
- protected person** means the following—
- (a) the Minister,
 - (b) the Secretary,
 - (c) an officer of the Service,
 - (d) an ex-officio ranger,
 - (e) an honorary ranger,
 - (f) a member of the Council,
 - (g) an advisory committee,
 - (h) a member of an advisory committee,
 - (i) a member of the Board of the National Parks and Wildlife Conservation Trust,
 - (j) an employee of the National Parks and Wildlife Conservation Trust,
 - (k) a person acting under the direction of a protected person referred to in paragraph (b), (f), (g) or (h),
 - (l) a person acting under the direction of the Council.

[23] Section 169

Omit the section. Insert instead—

169 Offences for impersonating, assaulting or obstructing officers

- (1) A person must not impersonate an officer.
Maximum penalty—200 penalty units or imprisonment for 3 months, or both.
- (2) A person must not assault or obstruct an officer in the exercise of the officer's functions under this Act or another law.
Maximum penalty—200 penalty units or imprisonment for 3 months, or both.
- (3) A person must not incite or encourage another person to assault or obstruct an officer in the exercise of the officer's functions under this Act or another law.
Maximum penalty—200 penalty units or imprisonment for 3 months, or both.
- (4) Without limiting subsection (2), a person must not—
- (a) refuse to give information or assistance requested by an officer in the exercise of the officer's functions under this Act or another law, or
 - (b) knowingly give information that is false or misleading to an officer in the exercise of the officer's functions under this Act or another law.
- Maximum penalty—200 penalty units or imprisonment for 3 months, or both.
- (5) A person must not incite or encourage another person to contravene subsection (4).
Maximum penalty—200 penalty units or imprisonment for 3 months, or both.

- (6) In this section—
assault or obstruct, in relation to an officer, includes delay, hinder, resist, threaten, and use abusive language.
officer means—
- (a) the Secretary, or
 - (b) an officer of the Service, or
 - (c) an ex-officio ranger, or
 - (d) an honorary ranger.

[24] Schedule 1 Recategorisation of reserved land

Insert after Part 5—

Part 6 Recategorisation of land by National Parks and Heritage Legislation Amendment Act 2024

14 Serpentine Nature Reserve recategorisation

- (1) This clause applies to an area of about 723ha dedicated by notice published in Government Gazette No 145 of 26 October 1979 at page 5350 as Serpentine Nature Reserve.
- (2) The dedication under this Act of the land as a nature reserve is revoked and the land is reserved as an Aboriginal area to be known as Serpentine Aboriginal Area.

[25] Schedule 2 Revocation of reservation or dedication of certain land

Insert after Part 11—

Part 12 Revocations under National Parks and Heritage Legislation Amendment Act 2024

56 Revocation of part of Gardens of Stone State Conservation Area

- (1) This clause applies to land identified as “land to be acquired for Commonwealth defence purposes” in the document *MISC R 00361*, dated 26 February 2024 and held in the Department, being land with an area of about 119.47ha in the Gardens of Stone State Conservation Area.
- (2) The reservation under this Act of the land as a state conservation area is revoked.

57 Revocation of part of Lake Macquarie State Conservation Area

- (1) This clause applies to the following land in the Lake Macquarie State Conservation Area—
 - (a) land identified as “land to be revoked” in the document *MISC R 00360*, dated 29 February 2024 and held in the Department, being land with an area of about 2.1ha,
 - (b) land identified as “land to be revoked” in the document *LMSCA2*, dated 8 March 2024 and held in the Department, being land with an area of about 13.16ha.
- (2) The reservation under this Act of the land as a state conservation area is revoked.

58 Revocation of part of Lake Innes Nature Reserve

- (1) This clause applies to the following land in the Lake Innes Nature Reserve—
 - (a) land identified as “land to be revoked” in the document *PMHC_NPWS_REVO_002*, dated 22 March 2024 and held in the Department, being land with an area of about 1.26ha,
 - (b) land identified as “land to be revoked” in the document *PMHC_NPWS_REVO_003*, dated 7 February 2024 and held in the Department, being land with an area of about 0.36ha,
 - (c) land identified as “land to be revoked” in the document *PMHC_NPWS_REVO_004*, dated 8 February 2024 and held in the Department, being land with an area of about 4.59ha.
- (2) The reservation under this Act of the land as a nature reserve is revoked.

59 Revocation of part of Jervis Bay National Park

- (1) This clause applies to land identified as “land to be revoked” in the document *MISC R 00363*, dated 16 January 2024 and held in the Department, being land with an area of about 0.05ha in the Jervis Bay National Park.
- (2) The reservation under this Act of the land as a national park is revoked.

60 Revocation of part of Marramarra National Park

- (1) This clause applies to land identified as “land to be revoked” in the document *MISC R 00362*, dated 16 January 2024 and held in the Department, being land with an area of about 0.1ha in the Marramarra National Park.
- (2) The reservation under this Act of the land as a national park is revoked.

61 Revocation of part of Royal National Park

- (1) This clause applies to land identified as “land to be revoked” in the document *SKETCH 2024-1*, dated 22 February 2024 and held in the Department, being land with an area of about 2.8ha in the Royal National Park.
- (2) The reservation under this Act of the land as a national park is revoked.

62 Revocation of part of Sea Acres National Park

- (1) This clause applies to land identified as “land to be revoked” in the document *PMHC_NPWS_REVO_001*, dated 11 April 2024 and held in the Department, being land with an area of about 0.11ha in the Sea Acres National Park.
- (2) The reservation under this Act of the land as a national park is revoked.

63 Land vested in Minister

- (1) This clause applies to the land to which clauses 56–62 apply.
- (2) The land is acquired by and vested in the Minister under and for the purposes of this Act, Part 11 for an estate in fee simple, freed and discharged from all trusts, obligations, estates and interests, other than rights of way or easements.

64 Compensation for transfer of certain lands

- (1) This clause applies to the land to which clauses 58 and 60–62 apply.
- (2) The Minister must not transfer the land under Part 11 unless the Minister is satisfied appropriate compensation for the land has been provided.

[26] Schedule 3 Savings, transitional and other provisions

Insert at the end of the schedule, with appropriate part and clause numbering—

Part Provisions consequent on enactment of National Parks and Heritage Legislation Amendment Act 2024

Land previously vested for Part 11

- (1) This clause applies to land vested in the Minister, or in the Minister on behalf of the Crown, for the purposes of this Act, Part 11 by or under this Act or another Act.
- (2) The land is taken to be vested in and acquired by the Minister for the purposes of, and under, this Act, Part 11.
- (3) If the land has been dealt with before the commencement of the *National Parks and Heritage Legislation Amendment Act 2024*, the land is taken to have been dealt with in accordance with section 149.
- (4) In this clause—
deal, in relation to land, includes sell, lease and dispose of the land.
land includes property and an interest in land.

Schedule 2 Amendment of Heritage Act 1977 No 136

[1] Section 103 Heritage Conservation Fund

Insert at the end of the section—

- (2) The Fund is administered by the Minister.

[2] Section 103A

Insert after section 103—

103A Purposes of Fund

The purposes of the Fund are as follows—

- (a) to provide funding to promote public awareness of the State's heritage,
- (b) to provide funding to encourage and facilitate conservation of the State's heritage,
- (c) to provide funding to promote education and research in relation to the State's heritage,
- (d) to provide funding for the adaptive reuse of items of State heritage significance,
- (e) to provide funding for matters that promote the objects of this Act,
- (f) to provide funding for the administration of this Act,
- (g) other purposes prescribed by the regulations.

[3] Section 104 Payments into the Fund

Omit "There shall be paid into the Fund" from section 104(1).

Insert instead "The following are to be paid into the Fund".

[4] Section 104(1)

Insert after section 104(1)(c)—

- (c1) the proceeds of the investment of money in the Fund,
- (c2) money authorised by the Treasurer to be paid into the Fund,
- (c3) money directed or authorised to be paid into the Fund by or under this Act or another Act or law,

[5] Section 104(1)(e)

Omit "and".

[6] Section 105 Payments out of the Fund

Omit "There may be paid out of the Fund" from section 105(1).

Insert instead "The following may be paid out of the Fund".

[7] Section 105(1)(a1)

Insert after section 105(1)(a)—

- (a1) all charges, costs and expenses incurred by the Heritage Council in exercising functions under this Act,

[8] Section 105(1)(f1)–(f6)

Insert after section 105(1)(f)—

- (f1) money, including for grants or loans, required to promote public awareness of the State's heritage,
- (f2) money, including for grants or loans, required to encourage and facilitate conservation of the State's heritage,
- (f3) money, including for grants or loans, required to promote education and research in relation to the State's heritage,
- (f4) money, including for grants or loans, required to facilitate the adaptive reuse of items of State heritage significance,
- (f5) money, including for grants or loans, required for matters that promote the objects of this Act,
- (f6) money required to meet the expenses related to the administration of the Fund and this Act,

[9] Section 105(1)(h)

Omit "and".