

National Parks and Wildlife Amendment Act 2001 No 130

[2001-130]



New South Wales

Status Information

Currency of version

Historical version for 1 July 2005 to 3 December 2006 (accessed 26 November 2024 at 10:11)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

Some, but not all, of the provisions displayed in this version of the legislation have commenced.

Notes—

- **See also**
[Statute Law \(Miscellaneous Provisions\) Bill \(No 2\) 2006](#)

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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National Parks and Wildlife Amendment Act 2001 No 130



New South Wales

An Act to amend the *National Parks and Wildlife Act 1974* in relation to the reservation, dedication and management of land under that Act, the National Parks and Wildlife Advisory Council and advisory committees, licences and offences and penalties; to make related amendments to other Acts; and for other purposes.

1 Name of Act

This Act is the *National Parks and Wildlife Amendment Act 2001*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of *National Parks and Wildlife Act 1974 No 80*

The *National Parks and Wildlife Act 1974* is amended as set out in Schedules 1–5.

4 (Repealed)

Schedule 1 Amendment of *National Parks and Wildlife Act 1974* relating to classification and management of land

(Section 3)

Part 1 Principal amendments

[1]–[4] (Repealed)

[5] Section 5 (1)

Insert in alphabetical order:

intertidal zone means the area between mean high water mark and mean low water mark.

[6]-[9] (Repealed)

[10] Section 5 (1)

Omit the definition of *protected archaeological area*.

[11]-[14] (Repealed)

[15] Section 5 (1)

Insert in alphabetical order:

threatening process has the same meaning as in the [Threatened Species Conservation Act 1995](#).

[16]-[18] (Repealed)

[19] Section 5 (1)

Omit the definition of *wildlife management area*.

[20]-[41] (Repealed)

[42] Part 4, Division 5

Omit the Division.

[43], [44] (Repealed)

[45] Section 69 Wildlife management areas

Omit the section.

[46]-[51] (Repealed)

[52] Part 4, Division 8, heading

Omit the heading. Insert instead:

Division 13 **Offences relating to wildlife refuges and conservation areas**

[53]-[64] (Repealed)

Part 2 Consequential amendments

[65]-[74] (Repealed)

[75] Section 8 (6)

Omit “wild and scenic rivers, protected archaeological areas, wildlife districts, wildlife refuges, wildlife management areas”.

Insert instead “wild rivers, wildlife refuges”.

[76]-[138] (Repealed)

[139] Section 70 (1)

Omit “wildlife district, wildlife refuge, wildlife management area,”.

Insert instead “wildlife refuge,”.

[140] Sections 70 (2), (4) and (6) and 71 (1) and (3)

Omit “wildlife management area,” wherever occurring.

[141]-[149] (Repealed)

[150] Sections 72 (5), 73 (3) and 138 (1) (f)

Omit “, wildlife management area” wherever occurring.

[151]-[153] (Repealed)

[154] Section 81 (1)

Omit “, wildlife refuge or wildlife management area”.

Insert instead “or wildlife refuge”.

[155], [156] (Repealed)

[157] Sections 120 and 123

Omit “state recreation area, regional park, nature reserve, state game reserve, karst conservation reserve, wildlife district, wildlife refuge, wildlife management area,” wherever occurring.

Insert instead “state conservation area, regional park, nature reserve, karst conservation reserve, wildlife refuge,”.

[158] (Repealed)

[159] Section 129 (b)

Omit “wildlife district, wildlife refuge, wildlife management area,”.

Insert instead “wildlife refuge,”.

[160] (Repealed)

[161] Section 139 (2) (m)

Omit “, wildlife management area”.

[162]-[167] (Repealed)

[168] Section 171 (1) (a) (i)

Omit the subparagraph. Insert instead:

- (i) animals within a national park, historic site, nature reserve, karst conservation reserve, state conservation area, regional park, Aboriginal area, wildlife refuge or conservation area, or

[169] (Repealed)

[170] Section 181 (1)

Omit “state recreation area, regional park, nature reserve, state game reserve, karst conservation reserve, Aboriginal area, protected archaeological area, wildlife district, wildlife refuge or wildlife management area”.

Insert instead “state conservation area, regional park, nature reserve, karst conservation reserve, Aboriginal area or wildlife refuge”.

[171], [172] (Repealed)

Schedule 2 (Repealed)

Schedule 3 Amendment of [National Parks and Wildlife Act 1974](#) relating to licensing and offences

(Section 3)

[1] Section 5 Definitions

Insert in alphabetical order in section 5 (1):

heritage impact permit means a heritage impact permit issued under section 90.

[2] Section 90 Destruction, defacing or damaging of Aboriginal objects and places

Omit section 90 (1). Insert instead:

- (1) A person must not destroy, deface, damage or desecrate, or cause or permit the destruction, defacement, damage or desecration of, an Aboriginal object or Aboriginal place.

Maximum penalty: 50 penalty units or imprisonment for 6 months, or both (or 200 penalty units in the case of a corporation).

[3] Section 90 (1B) and (1C)

Insert after section 90 (1A):

(1B) Subsection (1) does not apply with respect to an Aboriginal object or Aboriginal place that is dealt with in accordance with a heritage impact permit issued by the Director-General.

(1C) It is a defence to a prosecution for an offence against subsection (1) if the defendant shows that:

(a) he or she took reasonable precautions and exercised due diligence to determine whether the action constituting the alleged offence would, or would be likely to, impact on the Aboriginal object or Aboriginal place concerned, and

(b) the person reasonably believed that the action would not destroy, deface, damage or desecrate the Aboriginal object or Aboriginal place.

[4] Section 90 (2)

Omit “give consent for the purposes of subsection (1)”.

Insert instead “issue a heritage impact permit”.

[5] Section 90 (2A)

Insert after section 90 (2):

(2A) The Director-General may take action under subsection (2) in relation to an Aboriginal object or Aboriginal place listed on the State Heritage Register (within the meaning of the [Heritage Act 1977](#)) only after consulting the Director of the Heritage Office.

[6] Section 90 (3)

Omit “consent” where firstly occurring.

Insert instead “a heritage impact permit”.

[7] Section 90 (3)

Omit “consent” where secondly occurring.

Insert instead “heritage impact permit”.

[8] Section 90 (7)

Omit “consent”. Insert instead “a heritage impact permit”.

[9] Section 90 (8) and (9)

Insert after section 90 (7):

- (8) If a court finds a person guilty of an offence under subsection (1), the court may, in addition to or in substitution for any pecuniary penalty for the offence, direct the person to take any action to mitigate the damage to, or to restore, the Aboriginal object or Aboriginal place concerned or to take such other action in relation to the Aboriginal object or Aboriginal place as the court considers appropriate in the circumstances.
- (9) The court may specify the actions to be taken to mitigate the damage or to restore the Aboriginal object or Aboriginal place under subsection (8) and may order the person to provide security for the performance of any obligation imposed under that subsection.

[10]-[46] (Repealed)

Schedules 4-6 (Repealed)