

# National Park Estate (Lower Hunter Region Reservations) Act 2006 No 90

[2006-90]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

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# National Park Estate (Lower Hunter Region Reservations) Act 2006 No 90



New South Wales

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# National Park Estate (Lower Hunter Region Reservations) Act 2006 No 90



New South Wales

An Act to transfer certain State forest and Crown lands to the national park estate; to make provision with respect to special areas under the [Hunter Water Act 1991](#); and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act is the [National Park Estate \(Lower Hunter Region Reservations\) Act 2006](#).

### 2 Commencement

- (1) This Act commences on 1 July 2007, except as otherwise provided by this section.
- (2) Part 1, sections 12, 13, 15 and 16 and Schedules 8 and 9 commence on 1 January 2007.

### 3 Definitions

- (1) In this Act:

**Crown land** has the same meaning as in the [Crown Lands Act 1989](#).

**NPW Minister** means the Minister administering Divisions 1 and 2 of Part 4 of the [National Parks and Wildlife Act 1974](#).

**State forest** means land dedicated under the [Forestry Act 1916](#) (or under the former [Forestry Act 1909](#)) as a State forest, being a dedication that is in force.

- (2) Notes included in this Act do not form part of this Act.

## Part 2 Land transfers

### 4 Revocation of State forests

- (1) The dedication as State forest of the lands described in Schedule 1 or 4 is revoked.

- (2) Any notifications under section 19A of the *Forestry Act 1916* that declare, as national forests, areas of State forests whose dedication is revoked by subsection (1) are also revoked by this Act, but only to the extent to which they relate to national forests or parts of national forests situated within the lands referred to in that subsection.
- (3) Any notices under section 21A of the *Forestry Act 1916* that declare, as special management zones, areas of State forests whose dedication is revoked by subsection (1) are also revoked by this Act, but only to the extent to which they relate to special management zones situated (or partly situated) within the lands referred to in that subsection.
- (4) Any notices under section 25A of the *Forestry Act 1916* that set apart, as flora reserves, areas of State forests whose dedication is revoked by subsection (1) are also revoked by this Act, but only to the extent to which they relate to flora reserves situated (or partly situated) within the lands referred to in that subsection.

#### **5 Reservation of former State forests as national park or state conservation area**

- (1) The lands described in Schedule 1 are reserved under the *National Parks and Wildlife Act 1974* as, or as part of, national parks or state conservation areas (as indicated in that Schedule).
- (2) Subsection (1) does not apply to any land described in Schedule 1 that is also described in Schedule 4.

#### **6 Reservation of Crown lands as national park, nature reserve or state conservation area**

- (1) The lands described in Schedule 2 are reserved under the *National Parks and Wildlife Act 1974* as, or as part of, national parks, nature reserves or state conservation areas (as indicated in that Schedule).
- (2) Any timber reserves (within the meaning of the *Forestry Act 1916*) with respect to any land referred to in subsection (1) are revoked by this Act, but only to the extent to which they relate to timber reserves or parts of timber reserves situated within that land.
- (3) Subsection (1) does not apply to any land described in Schedule 2 that is also described in Schedule 5.

#### **7 Setting apart of areas in State forests as flora reserves**

- (1) The lands described in Schedule 3 that are within State forests are set apart as, or as part of, flora reserves under the *Forestry Act 1916* (as indicated in that Schedule).
- (2) Any notices under section 21A of the *Forestry Act 1916* that declare, as special management zones, areas of State forests that are set apart as, or as part of, flora reserves by subsection (1) are revoked by this Act, but only to the extent to which

they relate to special management zones or parts of special management zones situated within the lands referred to in that subsection.

## **8 Vesting in NPW Minister of certain Crown lands or former State forests**

- (1) The lands described in Schedule 4 or 5 vest in the NPW Minister on behalf of the Crown for the purposes of Part 11 of the *National Parks and Wildlife Act 1974* for an estate in fee simple, freed and discharged from:
  - (a) all trusts, obligations, estates, interests, rights of way or other easements, and
  - (b) any dedication, reservation, Crown grant or vesting to which the lands were subject, and any such dedication, reservation, grant or vesting is revoked.
- (2) Despite subsection (1), the lands described in Schedule 4 or 5 are not freed and discharged from any perpetual lease, special lease or term lease within the meaning of the *Crown Lands (Continued Tenures) Act 1989* (or from rights or interests arising under an incomplete purchase within the meaning of that Act) to which the lands were subject immediately before their vesting under this section.

## **9 Changes within national park estate**

- (1) The reservation under the *National Parks and Wildlife Act 1974* as, or as part of, Myall Lakes National Park or Worimi Nature Reserve of the lands described in clause 1 of Schedule 6 is revoked and the lands are reserved under that Act as, or as part of, Girum-bit National Park.
- (2) The reservation under the *National Parks and Wildlife Act 1974* as, or as part of, Hexham Swamp Nature Reserve or Kooragang Nature Reserve of the lands described in clause 2 of Schedule 6 is revoked and the lands are reserved under that Act as, or as part of, Hunter Estuary National Park.
- (3) The reservation under the *National Parks and Wildlife Act 1974* as, or as part of, Karuah Nature Reserve of the land described in clause 3 of Schedule 6 is revoked and the land is reserved under that Act as, or as part of, Karuah National Park.
- (4) The reservation under the *National Parks and Wildlife Act 1974* as, or as part of, Karuah Nature Reserve or Worimi Nature Reserve of the lands described in clause 4 of Schedule 6 is revoked and the lands are reserved under that Act as, or as part of, Medowie Nature Reserve.
- (5) The reservation under the *National Parks and Wildlife Act 1974* as, or as part of, Karuah State Conservation Area of the land described in clause 5 of Schedule 6 is revoked and the land is reserved under that Act as, or as part of, Medowie State Conservation Area.
- (6) The reservation under the *National Parks and Wildlife Act 1974* as, or as part of, Wallaroo Nature Reserve of the land described in clause 6 of Schedule 6 is revoked

and the land is reserved under that Act as, or as part of, Wallaroo National Park.

#### **10 Adjustment of description of land transferred to national park estate**

- (1) The description of any land in Schedule 1, 2, 3, 4, 5 or 6 (a **relevant Schedule**) may be adjusted in accordance with this section.
- (2) A description of land may be adjusted from time to time:
  - (a) to alter the boundaries of the land for the purposes of the effective management of national park estate land and State forest land, including adjustments to enable boundaries to follow distinctive land features, to provide access to land or to rationalise the boundaries of similar areas of land, or
  - (b) to adjust the boundary of any land adjoining a public road, including adjustments to enable the boundary to follow the formed path of the road or to provide an appropriate set back from the carriageway of the road, or
  - (c) to include, remove or change a description of any easement or restriction to which the land is subject, or
  - (d) to provide a more detailed description of the boundaries of the land.
- (3) An adjustment of the description of land is to be made by the Director-General of the Department of Environment and Conservation by a notice published in the Gazette that amends a relevant Schedule.
- (4) A notice under this section may only be published with the approval of:
  - (a) the NPW Minister, and
  - (b) the Minister administering the *Forestry Act 1916*, and
  - (c) to the extent that the notice applies to a classified road—the Minister administering the provisions of the *Roads Act 1993* relating to classified roads.
- (5) The Director-General of the Department of Environment and Conservation is required to certify in any notice under this section that the adjustments effected by the notice will not result in any significant reduction in the size or value of national park estate land or State forest land.
- (6) An adjustment of the description of land may only be made before:
  - (a) 1 July 2008, except as provided by paragraph (b), or
  - (b) 1 July 2012, in the case of an adjustment of the description of land in Schedule 4 or 5, or of the boundary of land adjoining a public road.
- (7) If any of the land described in a relevant Schedule on the commencement of the

Schedule is not included in the adjusted description of the land, the land that is not so included is taken never to have been subject to or affected by the provisions of this Act applying to land described in the relevant Schedule.

- (8) If land included in the adjusted description of the land includes any land not described in a relevant Schedule on the commencement of the Schedule, the land concerned is taken to have been subject, on and from the commencement of the Schedule, to the provisions of this Act applying to land described in the relevant Schedule.
- (9) The Director-General of the Department of Environment and Conservation may, in a notice published under this section for the purpose of adjusting the boundary of land adjoining a public road, declare that:
- (a) any such land (described in the notice) is part of the public road and, accordingly, is vested in the roads authority for that public road under the [Roads Act 1993](#) or is Crown land, or
  - (b) any such land (described in the notice) ceases to be part of that public road and, accordingly, is divested from the relevant roads authority or the Crown and becomes part of the land subject to the provisions of this Act applying to land described in the relevant Schedule in which the land is included.

A declaration under this subsection has effect according to its tenor, despite anything to the contrary in the [Roads Act 1993](#).

- (10) In this section:

**classified road** and **public road** have the same meanings as in the [Roads Act 1993](#).

**land adjoining a public road** includes land in the vicinity of a public road.

**national park estate land** means:

- (a) land reserved under the [National Parks and Wildlife Act 1974](#), or
- (b) land dedicated or set apart as a flora reserve under the [Forestry Act 1916](#), or
- (c) land declared as a special management zone under the [Forestry Act 1916](#), or
- (d) land vested in the NPW Minister for the purposes of Part 11 of the [National Parks and Wildlife Act 1974](#).

## 11 Land transfers—ancillary and special provisions

Schedule 7 has effect.



## **Part 3 Miscellaneous**

### **12 Act to bind Crown**

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.

### **13 Regulations**

- (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.
- (2) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.
- (3) Any such provision may, if the regulations so provide, take effect from 1 January 2007 or a later date.
- (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.

### **14 Amendment of [Native Title \(New South Wales\) Act 1994 No 45](#)**

The [Native Title \(New South Wales\) Act 1994](#) is amended by inserting “, the [National Park Estate \(Lower Hunter Region Reservations\) Act 2006](#)” after “[National Park Estate \(Reservations\) Act 2003](#)” in section 104A (1) (a).

### **15 Amendment of [National Parks and Wildlife Act 1974](#)**

The [National Parks and Wildlife Act 1974](#) is amended as set out in Schedule 8.

### **16 Amendment of [Hunter Water Act 1991](#)**

The [Hunter Water Act 1991](#) is amended as set out in Schedule 9.

## **Schedule 1 State forests reserved as national park or state**

## **conservation area**

(Sections 4 and 5)

### **1 Columbey National Park**

An area of about 787 hectares, being so much of Uffington State Forest No 178 as comprises the land designated as 1100-01 on the diagram catalogued Misc R 00316 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

### **2 Karuah National Park**

(1) An area of about 414 hectares, being so much of Karuah State Forest No 114 as comprises the land designated as 1101-02 on the diagram catalogued Misc R 00317 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

(2) An area of about 333 hectares, being so much of Wallaroo State Forest No 781 as comprises the land designated as 1101-04 on the diagram catalogued Misc R 00317 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

### **3 Additions to Medowie State Conservation Area**

(1) An area of about 767 hectares, being so much of Medowie State Forest No 780 as comprises the land designated as 658-02 on the diagram catalogued Misc R 00319 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

(2) An area of about 19 hectares, being so much of Wallaroo State Forest No 781 as comprises the land designated as 658-03 on the diagram catalogued Misc R 00319 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

### **4 Sugarloaf State Conservation Area**

(1) An area of about 2,139 hectares, being so much of Awaba State Forest No 982 as comprises the land designated as 1106-01 on the diagram catalogued Misc R 00322 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

(2) An area of about 1,428 hectares, being so much of Heaton State Forest No 122 as comprises the land designated as 1106-02 on the diagrams catalogued Misc R 00321 (Edition 1) and Misc R 00322 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on those diagrams.

## **5 Werakata State Conservation Area**

An area of about 2,257 hectares, being so much of Aberdare State Forest No 981 as comprises the land designated as 1105-01 on the diagram catalogued Misc R00323 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

## **Schedule 2 Crown lands reserved as national park, nature reserve or state conservation area**

(Section 6)

### **1 Gir-um-bit National Park**

An area of about 15 hectares, being the land designated as 1102-03 on the diagram catalogued Misc R 00319 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

### **2 Gir-um-bit State Conservation Area**

An area of about 184 hectares, being the land designated as 1103-01 on the diagram catalogued Misc R 00319 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

### **3 Hunter Estuary National Park**

An area of about 1 hectare, being the land designated as 1104-01 on the diagram catalogued Misc R 00320 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

### **4 Karuah National Park**

An area of about 2 hectares, being the land designated as 1101-01 on the diagram catalogued Misc R 00317 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

### **5 Addition to Karuah Nature Reserve**

An area of about 139 hectares, being the land designated as 744-01 on the diagram catalogued Misc R 00317 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

### **6 Addition to Lake Macquarie State Conservation Area**

An area of about 94 hectares, being the land designated as 629-01 on the diagram catalogued Misc R 00325 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

## **7 Medowie Nature Reserve**

An area of about 11 hectares, being the land designated as 930-01 on the diagram catalogued Misc R 00317 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

## **8 Sugarloaf State Conservation Area**

An area of about 370 hectares, being the land designated as 1106-03 on the diagram catalogued Misc R 00321 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

## **9 Tilligerry National Park**

An area of about 141 hectares, being the land designated as 1107-01 on the diagram catalogued Misc R 00319 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

## **10 Addition to Tilligerry Nature Reserve**

An area of about 5 hectares, being the land designated as 798-01 on the diagram catalogued Misc R 00318 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

## **11 Tilligerry State Conservation Area**

An area of about 4,570 hectares, being the land designated as 1108-01 on the diagram catalogued Misc R 00319 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

## **12 Additions to Tomaree National Park**

- (1) An area of about 8 hectares, being the land designated as 65-03 on the diagram catalogued Misc R 00318 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.
- (2) An area of about 12 hectares, being the land designated as 65-01 on the diagram catalogued Misc R 00318 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.
- (3) An area of about 25 hectares, being the land designated as 65-02 on the diagram catalogued Misc R 00318 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

## **13 Addition to Watagans National Park**

An area of about 47 hectares, being the land designated as 133-01 on the diagrams catalogued Misc R 00322 (Edition 1) and Misc R 00324 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on those

diagrams.

## **Schedule 3 Parts of State forests set apart as flora reserves under Forestry Act 1916**

(Section 7)

### **1 Additions to Bar Flora Reserve No 83 No 1 Extension**

- (1) **Olney State Forest No 124** An area of about 13 hectares, being so much of Olney State Forest No 124 as comprises the land designated as FR-7 on the diagram catalogued Misc R 00324 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.
- (2) **Watagan State Forest No 123** An area of about 0.5 hectare, being so much of Watagan State Forest No 123 as comprises the land designated as FR-9 on the diagram catalogued Misc R 00324 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

### **2 Olney Flora Reserve No 186**

#### **Olney State Forest No 124**

An area of about 802 hectares, being so much of Olney State Forest No 124 as comprises the land designated as FR-5 on the diagram catalogued Misc R 00324 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

### **3 The Hunter Lakes Flora Reserve No 185**

- (1) **Awaba State Forest No 982** An area of about 211 hectares, being so much of Awaba State Forest No 982 as comprises the land designated as FR-2 on the diagram catalogued Misc R 00322 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.
- (2) **Heaton State Forest No 122** An area of about 536 hectares, being so much of Heaton State Forest No 122 as comprises the land designated as FR-4 on the diagram catalogued Misc R 00322 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.
- (3) **Olney State Forest No 124** An area of about 187 hectares, being so much of Olney State Forest No 124 as comprises the land designated as FR-3 on the diagram catalogued Misc R 00322 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

### **4 Addition to Wallaroo Flora Reserve No 48 No 1 Extension**

#### **Wallaroo State Forest No 781**

An area of about 463 hectares, being so much of Wallaroo State Forest No 781 as comprises the land designated as FR-1 on the diagram catalogued Misc R 00317 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

#### **5 Additions to Warrawolong Flora Reserve No 80 No 1 Extension**

- (1) **Olney State Forest No 124** An area of about 52 hectares, being so much of Olney State Forest No 124 as comprises the land designated as FR-8 on the diagram catalogued Misc R 00324 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.
- (2) **Watagan State Forest No 123** An area of about 461 hectares, being so much of Watagan State Forest No 123 as comprises the land designated as FR-6 on the diagram catalogued Misc R 00324 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

### **Schedule 4 State forests vested in NPW Minister**

(Sections 4 and 8)

An area of about 2 hectares, being so much of Awaba State Forest No 982 as comprises the land designated as V-01 on the diagram catalogued Misc R 00322 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

An area of about 7 hectares, being so much of Awaba State Forest No 982 as comprises the land designated as V-02 on the diagram catalogued Misc R 00322 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

### **Schedule 5 Crown lands vested in NPW Minister**

(Section 8)

An area of about 80 hectares, being the land designated as V-03 on the diagram catalogued Misc R 00319 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

### **Schedule 6 Changes within national park estate**

(Section 9)

#### **1 Revocation of National Park and Nature Reserve and reservation as Gir-um-bit National Park**

- (1) **Myall Lakes National Park** An area of about 43 hectares, being so much of Myall Lakes National Park as comprises the land designated as 1102-01 on the diagram catalogued Misc R 00317 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.
- (2) **Worimi Nature Reserve** An area of about 555 hectares, being so much of Worimi Nature

Reserve as comprises the land designated as 1102-02 on the diagrams catalogued Misc R 00317 (Edition 1) and Misc R 00319 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on those diagrams.

## **2 Revocation of Nature Reserve and reservation as Hunter Estuary National Park**

- (1) **Hexham Swamp Nature Reserve** An area of about 905 hectares, being so much of Hexham Swamp Nature Reserve as comprises the land designated as 1104-03 on the diagram catalogued Misc R 00320 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.
- (2) **Kooragang Nature Reserve** An area of about 3,348 hectares, being so much of Kooragang Nature Reserve as comprises the land designated as 1104-02 on the diagram catalogued Misc R 00320 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

## **3 Revocation of Karuah Nature Reserve and reservation as Karuah National Park**

An area of about 2,472 hectares, being so much of Karuah Nature Reserve as comprises the land designated as 1101-03 on the diagram catalogued Misc R 00317 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

## **4 Revocation of Nature Reserve and reservation as Medowie Nature Reserve**

- (1) **Karuah Nature Reserve** An area of about 141 hectares, being so much of Karuah Nature Reserve as comprises the land designated as 930-02 on the diagram catalogued Misc R 00317 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.
- (2) **Worimi Nature Reserve** An area of about 86 hectares, being so much of Worimi Nature Reserve as comprises the land designated as 930-03 on the diagram catalogued Misc R 00317 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

## **5 Revocation of Karuah State Conservation Area and reservation as Medowie State Conservation Area**

An area of about 206 hectares, being so much of Karuah State Conservation Area as comprises the land designated as 658-01 on the diagram catalogued Misc R 00317 (Edition 1) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

## **6 Revocation of Wallaroo Nature Reserve and reservation as Wallaroo National Park**

An area of about 2,780 hectares, being so much of Wallaroo Nature Reserve as comprises the land designated as 1099-01 on the diagram catalogued Misc R 00316 (Edition 1) in

the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

## **Schedule 7 Land transfers—ancillary and special provisions**

(Section 11)

### **1 Exclusion of freehold and certain leasehold interests**

- (1) The following land is not reserved by this Act:
  - (a) land that a person holds for an estate in fee simple,
  - (b) land that a person holds under a perpetual lease, a special lease or a term lease within the meaning of the *Crown Lands (Continued Tenures) Act 1989*,
  - (c) land that is comprised in an incomplete purchase within the meaning of the *Crown Lands (Continued Tenures) Act 1989*.
- (2) This clause has effect despite any other provision of this Act.

### **2 Application of Act**

- (1) This Act has effect despite the provisions of the *Forestry Act 1916* and, in particular, despite any different procedure under that Act for the following:
  - (a) the revocation of State forests, national forests, special management zones, flora reserves or timber reserves,
  - (b) the setting apart of flora reserves.
- (2) This Act has effect despite the provisions of the *National Parks and Wildlife Act 1974* and, in particular, despite any different procedure for reserving or vesting, or revoking the reservation of, land under that Act.

### **3 Reservation of lands as national parks, nature reserves or state conservation areas**

- (1) The lands reserved as, or as parts of, national parks, nature reserves or state conservation areas by this Act are, for the purposes of the *National Parks and Wildlife Act 1974*, taken to have been so reserved by notice published under Division 1 of Part 4 of that Act.
- (2) A reference in the *National Parks and Wildlife Act 1974* to the publication of a notice under Division 1 of Part 4 of that Act is, in relation to a reservation of any of the lands described in Schedule 1 or 2 that is effected by this Act, taken to be a reference to the commencement of the provisions of Part 2 of this Act.
- (3) A name assigned to any national park, nature reserve or state conservation area by this Act is taken to have been assigned to that land by notice published under Division 1 of Part 4 of the *National Parks and Wildlife Act 1974*.



- (4) Section 35 (including section 35 as applied by section 58) and section 47D of the *National Parks and Wildlife Act 1974* do not apply to a reservation of land as, or as part of, a national park, nature reserve or state conservation area that is effected by this Act.

**4 Existing leases under *Forestry Act 1916* affecting lands reserved as national parks or state conservation areas**

Section 42 (2) (including section 42 (2) as applied by section 47K) and section 55 of the *National Parks and Wildlife Act 1974* apply to and in respect of a lease under the *Forestry Act 1916*, being a lease:

- (a) affecting any of the lands described in Schedule 1 that are reserved as, or as parts of, national parks or state conservation areas by this Act, and
- (b) current and in force immediately before 1 July 2007,

in the same way as those sections apply to a licence or permit under the *Forestry Act 1916*.

**5 Access roads within national parks, nature reserves and state conservation areas**

- (1) In this clause:

**access roads** means the roads, tracks, trails and other means of access referred to in subclause (2) (a)–(c).

**private land holding** means land held:

- (a) by an owner within the meaning of the *National Parks and Wildlife Act 1974*, or
- (b) as a holding within the meaning of the *Crown Lands Act 1989*.

- (2) This clause applies to and in respect of the following access roads situated within the lands described in Schedule 1 or 2 immediately before 1 July 2007:

- (a) roads of access within the meaning of section 33A of the *Forestry Act 1916*,
- (b) roads, tracks, trails and other means of access used, immediately before 1 July 2007, for access to private land holdings within those lands,
- (c) roads, tracks, trails and other means of access through those lands to State forests or private land holdings that adjoin or are in the vicinity of the lands.

- (3) The access roads to which this clause applies are not, on the commencement of Part 2 of this Act, reserved as, or as part of, a national park, nature reserve or state conservation area by this Act but vest in the NPW Minister on behalf of the Crown for the purposes of Part 11 of the *National Parks and Wildlife Act 1974* for an estate in fee simple, freed and discharged from:

- (a) all trusts, obligations, estates, interests, rights of way or other easements, and
  - (b) any dedication, reservation, Crown grant or vesting to which the lands were subject, and any such dedication, reservation, grant or vesting is revoked.
- (4) The access roads may continue, subject to this clause, to be used for the purposes for which they were used immediately before 1 July 2007.
- (5) Before 1 July 2008, the NPW Minister must, under section 149 of the *National Parks and Wildlife Act 1974*, grant a right of way over an access road to which this clause applies for the benefit of a private land holding in order to replace any right of way duly granted under section 20A of the *Forestry Act 1916* for the benefit of that land holding and in force immediately before 1 July 2007.
- (6) The NPW Minister may from time to time revoke or vary the grant of a right of way under subclause (5).
- (7) Before 1 July 2012, the NPW Minister must, by one or more orders published in the Gazette, declare which of the access roads to which this clause applies:
- (a) are excluded from reservation as part of a national park, nature reserve or state conservation area, or
  - (b) are not so excluded and are reserved as part of the national park, nature reserve or state conservation area in which they are situated.

An order under this subclause may be published only with the concurrence of the Minister administering the *Forestry Act 1916*.

- (8) On the publication of an order under subclause (7):
- (a) the access roads that are referred to in the order as excluded from reservation as part of a national park, nature reserve or state conservation area remain vested in the NPW Minister for the purposes of Part 11 of the *National Parks and Wildlife Act 1974* and may, subject to this clause, continue to be used for the purposes for which they were used immediately before 1 July 2007, and
  - (b) the access roads that are not so excluded are reserved as part of the national park, nature reserve or state conservation area within which they are situated.
- (9) Nothing in this clause affects the exercise of any power, authority, duty or function by the NPW Minister or any other person under and in accordance with the *National Parks and Wildlife Act 1974* in relation to any access road to which this clause applies.
- (10) While a private land holding is in private ownership, nothing in this clause authorises the NPW Minister to close any access road that comprises the only practical means of access to the land holding.

(11) This clause has effect despite the provisions of the *Forestry Act 1916*.

## 6 Setting apart of flora reserves

The lands set apart as, or as part of, a flora reserve under this Act are, for the purposes of the *Forestry Act 1916*, taken to have been set apart by notice under section 25A of that Act. A name assigned to any such flora reserve by this Act is taken to have been assigned to that flora reserve by a notice under that section.

## 7 Status of land vested in NPW Minister

- (1) Any land that is vested by this Act in the NPW Minister for the purposes of Part 11 of the *National Parks and Wildlife Act 1974* is taken to have been acquired by that Minister under that Part, and may be dealt with by that Minister as if it had been so acquired.
- (2) Any such land is, to the extent that it relates to land subject to a lease preserved by section 8, taken to be Crown land reserved from sale for the purpose of any application by the holder of the lease to purchase the land comprised in the lease.

## 8 Provisions relating to activities carried out on land vested in NPW Minister

- (1) This clause applies to and in respect of land vested in the NPW Minister for the purposes of Part 11 of the *National Parks and Wildlife Act 1974* by this Act.
- (2) For the avoidance of doubt, the purposes for which the NPW Minister's powers under section 149 of the *National Parks and Wildlife Act 1974* may be exercised in respect of land to which this clause applies include enabling an activity to continue to be carried out that was carried out on the land before it was so vested.
- (3) The Director-General of the Department of Environment and Conservation may authorise the use of relevant access roads for the purpose of enabling any lawful activity to be carried out on the land to which this clause applies.
- (4) In this clause, **relevant access roads** means roads, tracks, trails and other means of access through any land reserved under the *National Parks and Wildlife Act 1974* to land to which this clause applies.

## 9 Administration of existing interests affecting land vested in NPW Minister

- (1) The administration of matters relating to existing interests affecting any of the lands described in Schedule 4 or 5, and preserved by section 8, is vested in the NPW Minister.
- (2) For the purposes of subclause (1), the NPW Minister has the powers of the Minister administering the *Crown Lands (Continued Tenures) Act 1989*.
- (3) In this clause, **existing interest** means a perpetual lease, special lease or term lease

within the meaning of the *Crown Lands (Continued Tenures) Act 1989* (or rights or interests arising under an incomplete purchase within the meaning of that Act).

#### **10 Saving in relation to revocations**

A revocation effected by this Act does not affect anything done or omitted to be done before the revocation takes effect.

#### **11 Exclusion of Crown lands subject to pending Aboriginal land rights claims**

Crown land that is the subject of a claim duly made under Division 2 of Part 2 of the *Aboriginal Land Rights Act 1983* before 25 September 2006, being a claim that has not been determined before the commencement of Part 2 of this Act, is not reserved or vested by the operation of this Act.

### **Schedule 8 Amendment of National Parks and Wildlife Act 1974**

(Section 15)

#### **[1] Section 30E National parks**

Insert after section 30E (2) (f):

(fa) provision for the carrying out of development in any part of a special area (within the meaning of the *Hunter Water Act 1991*) in the national park that is permitted under section 185A having regard to the conservation of the national park's natural and cultural values,

#### **[2] Section 30F Historic sites**

Insert after section 30F (2) (d):

(da) provision for the carrying out of development in any part of a special area (within the meaning of the *Hunter Water Act 1991*) in the historic site that is permitted under section 185A having regard to the conservation of the historic site's natural and cultural values,

#### **[3] Section 30G State conservation areas**

Insert after section 30G (2) (c):

(ca) provision for the carrying out of development in any part of a special area (within the meaning of the *Hunter Water Act 1991*) in the state conservation area that is permitted under section 185A having regard to the conservation of the natural and cultural values of the state conservation area,

**[4] Section 30H Regional parks**

Insert after section 30H (2) (f):

- (g) provision for the carrying out of development in any part of a special area (within the meaning of the *Hunter Water Act 1991*) in the regional park that is permitted under section 185A having regard to the conservation of the regional park's natural and cultural values.

**[5] Section 30I Karst conservation reserves**

Insert after section 30I (2) (h):

- (i) provision for the carrying out of development in any part of a special area (within the meaning of the *Hunter Water Act 1991*) in the karst conservation reserve that is permitted under section 185A having regard to the conservation of the karst conservation reserve's natural and cultural values.

**[6] Section 30J Nature reserves**

Insert after section 30J (2) (d):

- (e) provision for the carrying out of development in any part of a special area (within the meaning of the *Hunter Water Act 1991*) in the nature reserve that is permitted under section 185A having regard to the conservation of the nature reserve's natural and cultural values.

**[7] Section 30K Aboriginal areas**

Insert after section 30K (2) (e):

- (f) provision for the carrying out of development in any part of a special area (within the meaning of the *Hunter Water Act 1991*) in the Aboriginal area that is permitted under section 185A having regard to the conservation of the Aboriginal area's natural and cultural values.

**[8] Section 71BO Definitions**

Omit "or 73" from the definition of ***responsible authority***.

Insert instead ", 73 or 75".

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

Insert ", 75" after "74" in section 73B (7).

**[10] Section 74 Catchment areas and special areas—generally**

Insert after section 74 (1):

- (1A) This section does not apply to land referred to in subsection (1) (a) that is wholly or partly within a special area within the meaning of the *Hunter Water Act 1991*.

**[11] Section 75**

Insert after section 74:

**75 Special areas under the *Hunter Water Act 1991*—joint preparation and approval of plans of management**

- (1) This section applies to land that:
- (a) is reserved as a national park, historic site, state conservation area, regional park, nature reserve, karst conservation reserve or Aboriginal area, and
  - (b) is wholly or partly within a special area within the meaning of the *Hunter Water Act 1991*.
- (2) The Director-General and the Chief Executive Officer of the Hunter Water Corporation have joint responsibility for:
- (a) causing any plan of management for land to which this section applies to be prepared under section 72 (1) or (1A), and
  - (b) carrying out and giving effect to any such plan of management under section 81.
- (3) In the case of a plan of management for land to which this section applies that is a regional park under the care, control and management of a local council, the council and the Chief Executive Officer of the Hunter Water Corporation have joint responsibility for:
- (a) causing any plan of management for the land to be prepared under section 72 (1B), and
  - (b) carrying out and giving effect to any such plan of management under section 81.
- (4) The Minister, and the Minister administering Division 8 of Part 5 of the *Hunter Water Act 1991*, are jointly responsible for the adoption, amendment or alteration, cancellation or substitution of any such plan of management. For this purpose, a reference to the Minister in sections 73B and 81 is taken to be a reference to both of those Ministers.

- (5) If the whole or any part of land reserved as a national park, historic site, state conservation area, regional park, nature reserve, karst conservation reserve or Aboriginal area is declared, after it is so reserved, to be a special area under the [Hunter Water Act 1991](#), a plan of management for the land is to be prepared as soon as practicable after the whole or part of the land is declared to be a special area.

**[12] Section 81 Operations under plan of management**

Insert “However, this subsection does not prevail over section 185A.” at the end of section 81 (4).

**[13] Section 185A**

Insert after section 185:

**185A Special areas under the [Hunter Water Act 1991](#)**

- (1) This section applies to land that:
- (a) is reserved as a national park, historic site, state conservation area, regional park, nature reserve, karst conservation reserve or Aboriginal area, and
  - (b) is wholly or partly within a special area within the meaning of the [Hunter Water Act 1991](#).
- (2) Except as provided by this section, nothing in any provision of, or made under, this Act prevents or prohibits, or requires authorisation for, development for the purpose of the extraction, treatment, reticulation or replenishment of groundwater if the development is:
- (a) carried out, by or on behalf of the Hunter Water Corporation, on land to which this section applies, and
  - (b) authorised or permitted under the [Environmental Planning and Assessment Act 1979](#) (whether before, on or after the commencement of this section).
- (3) Subsection (2) extends to:
- (a) development for the purpose of any pumping station, or other infrastructure, that is connected with or incidental to the extraction, treatment, reticulation or replenishment of groundwater, or
  - (b) development for the purpose of the installation, replacement or maintenance of sealed sewerage pipes and of pumps, and the use of those pipes and pumps for conveying sewage (but not any other development for the purpose of sewage discharge or treatment).

- (4) For the avoidance of doubt, a lease, licence to occupy or use, or an easement or right of way through, on or in, land to which this section applies is not required to enable development to be carried out in accordance with this section.
- (5) Development carried out in accordance with this section may be carried out despite any plan of management applying to the land to which this section applies. However, no operations (including any development) are to be carried out on that land, on or after the adoption of any such plan prepared by the Director-General (or a local council) and the Chief Executive Officer of the Hunter Water Corporation as referred to in section 75, unless the operations are in accordance with the plan.
- (6) If an environmental planning instrument provides that development referred to in subsection (2) is permitted on the land to which this section applies if it is authorised under this Act, the development is taken to be authorised under this Act if it is otherwise authorised or permitted under the *Environmental Planning and Assessment Act 1979*.
- (7) Without affecting the generality of section 185, nothing in any provision of, or made under, this Act affects a prohibition or restriction imposed by or under the *Hunter Water Act 1991* or the *Water Management Act 2000* in its application to the land to which this section applies.
- (8) For the avoidance of doubt, this section prevails over section 471.
- (9) In this section:
  - development** has the same meaning as it has in the *Environmental Planning and Assessment Act 1979* and includes an activity within the meaning of Part 5 of that Act.
  - environmental planning instrument** has the same meaning as it has in the *Environmental Planning and Assessment Act 1979*.

## Schedule 9 Amendment of **Hunter Water Act 1991**

(Section 16)

### Section 19 Ownership of works

Insert after section 19 (1):

- (1A) Without limiting subsection (1), the Corporation is the owner of all works on land that is:
  - (a) within a special area, and
  - (b) reserved under the *National Parks and Wildlife Act 1974* or vested in Her



Majesty or the Minister administering Part 11 of that Act.