

# National Park Estate (Reservations) Act 2005 No 84

[2005-84]



New South Wales

## Status Information

### Currency of version

Historical version for 20 March 2009 to 16 July 2009 (accessed 12 July 2024 at 5:24)

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

### Provisions in force

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

### Notes—

- **Does not include amendments by**  
[Statute Law \(Miscellaneous Provisions\) Act 2009 No 56](#) (not commenced — to commence on 17.7.2009)

### 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 Park Estate (Reservations) Act 2005 No 84



New South Wales

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# National Park Estate (Reservations) Act 2005 No 84



New South Wales

An Act to transfer certain State forest lands to the national park estate; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act is the *National Park Estate (Reservations) Act 2005*.

### 2 Commencement

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

### 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

The dedication as State forest of the following lands is revoked:

- (a) lands described in Schedule 1,
- (b) lands described in Schedule 3,
- (c) lands described in Schedule 4.

## **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 3.

## **6 Reservation of Crown land as part of Tallaganda State Conservation Area**

- (1) The land described in Schedule 2 is reserved under the *National Parks and Wildlife Act 1974* as part of Tallaganda State Conservation Area.
- (2) Any timber reserves (within the meaning of the *Forestry Act 1916*) with respect to 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.

## **7 Vesting in NPW Minister of certain former State forests**

- (1) The lands described in Schedule 3 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 Part 1 of Schedule 3 are not freed and discharged from any perpetual lease within the meaning of the *Crown Lands (Continued Tenures) Act 1989* to which the lands were subject immediately before their vesting under this section.

## **8 Former State forests to be subject to Crown Lands Act 1989**

The lands described in Schedule 4 are vested in the Crown as Crown land and are subject to the *Crown Lands Act 1989*.

## **9 Areas in State forests declared as special management zones**

The lands described in Schedule 5 that are within State forests are declared to be special management zones under section 21A of the *Forestry Act 1916*.

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

- (1) The description of any land in Schedule 1, 2, 3, 4 or 5 (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 any Crown land described in Schedule 4—the Minister administering the *Crown Lands Act 1989*, and
  - (d) 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) 31 March 2006, except as provided by paragraph (b), or
  - (b) 31 December 2009, in the case of an adjustment of the description of land in Schedule 3 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 this Act 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 this Act, the land concerned is taken to have been subject, on and from the commencement of this Act, 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 6 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 the commencement of this Act 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 [National Park Estate \(Reservations\) Act 2002 No 137](#)

The [National Park Estate \(Reservations\) Act 2002](#) is amended by omitting “Part 1 of” from section 4 (1) (b).

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

The [Native Title \(New South Wales\) Act 1994](#) is amended by omitting from section 104A (1) (a) the words “or the [National Park Estate \(Reservations\) Act 2003](#)” and by inserting instead the words “, the [National Park Estate \(Reservations\) Act 2003](#) or the [National Park Estate \(Reservations\) Act 2005](#)”.

## Schedule 1 State forests reserved as national park or state conservation area

(Sections 4 and 5)

### 1 Additions to Deua National Park

- (1) **Part Dampier State Forest No 926** An area of about 3947 hectares, comprising part of Dampier State Forest No 926, dedicated 20 July 1951 and part of No 4 Extension to that State forest dedicated 15 February 1980, in the Parishes of Bumbo West, Coondella, Gulph, Jillaga and Wamban, County of Dampier, and being the land designated as 47-01 on the diagram catalogued Misc R 00275 (3<sup>rd</sup> Edition) in the Department of Environment and Conservation, subject to any variations or exceptions



noted on that diagram.

- (2) **Part Moruya State Forest No 139** An area of about 2 hectares, comprising part of Moruya State Forest No 139, No 5 Extension dedicated 31 August 1979, in the Parish of Bergalia, County of Dampier, and being the land designated as 47-02 on the diagram catalogued Misc R 00276 (3<sup>rd</sup> Edition) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

**2 Addition to Illawarra Escarpment State Conservation Area: Kembla State Forest No 943**

An area of about 172 hectares, comprising Kembla State Forest No 943, dedicated 3 December 1954, in the Parish of Kembla, County of Camden, and being the land designated as 620-01 on the diagram catalogued Misc R 00265 (3<sup>rd</sup> Edition) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

**3 Addition to Monga National Park: Parts Monga State Forest No 144**

An area of about 1321 hectares, comprising part of Monga State Forest No 144 dedicated 4 November 1914, and the whole or part of the extensions to that State forest listed below (with their dedication dates shown in brackets), in the Parish of Monga, County of St Vincent, and being the land designated as 169-01 on the diagrams catalogued Misc R 00270 (3<sup>rd</sup> Edition) and Misc R 00271 (3<sup>rd</sup> Edition) in the Department of Environment and Conservation, subject to any variations or exceptions noted on those diagrams.

The Extensions are:

No 1 (31 August 1923)

No 3 (29 August 1952)

No 4 (29 August 1952)

No 7 (20 September 1974)

**4 Monga State Conservation Area: Parts Monga State Forest No 144**

An area of about 1005 hectares, comprising the whole or part of the extensions to Monga State Forest No 144 listed below (with their dedication dates shown in brackets), in the Parishes of Budawang and Coghill, County of St Vincent, and being the lands designated as 1026-01 on the diagram catalogued Misc R 00270 (3<sup>rd</sup> Edition) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

The Extensions are:

No 5 (24 August 1973)

No 6 (22 March 1974)

## **5 Addition to Murramarang National Park: Part South Brooman State Forest No 830**

An area of about 292 hectares, comprising part of South Brooman State Forest No 830, dedicated 19 December 1930, in the Parish of Termeil, County of St Vincent, and being the land designated as 25-01 on the diagram catalogued Misc R 00273 (3<sup>rd</sup> Edition) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

## **6 Addition to Tallaganda National Park: Part Tallaganda State Forest No 577**

An area of about 1 hectare, comprising part of Tallaganda State Forest No 577, No 16 Extension dedicated 23 August 1974, in the Parish of Ballallaba, County of Murray, and being the land designated as 170-01 on the diagram catalogued Misc R 00269 (3<sup>rd</sup> Edition) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram. However, that area does not include Lots 20 and 21, DP 1126553.

## **Schedule 2 Crown land reserved as part of Tallaganda State Conservation Area**

(Section 6)

An area of about 4 hectares, comprising parts of the bed of Mulloon Creek, in the Parishes of Mulloon and Palerang, County of Murray, and being the lands designated as 262-01 on the diagram catalogued Misc R 00268 (3<sup>rd</sup> Edition) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

## **Schedule 3 State forests vested in NPW Minister**

(Sections 4 and 7)

### **Part 1 Land subject to existing leases**

#### **1 Parts Badja State Forest No 567**

An area of about 542 hectares, comprising the whole or part of the extensions to Badja State Forest No 567 listed below (with their dedication dates shown in brackets), in the Parishes of Big Badja and Hill, County of Beresford, and being the lands designated as V-05 on the diagram catalogued Misc R 00274 (3<sup>rd</sup> Edition) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

The Extensions are:

No 8 (4 August 1972)

No 13 (30 March 1990)

## **2 Parts Monga State Forest No 144**

An area of about 698 hectares, comprising the whole or part of the extensions to Monga State Forest No 144 listed below (with their dedication dates shown in brackets), in the Parishes of Budawang and Monga, County of St Vincent, and being the lands designated as V-03 on the diagram catalogued Misc R 00270 (3<sup>rd</sup> Edition) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

The Extensions are:

No 3 (29 August 1952)

No 8 (27 June 1975)

## **3 Parts Tallaganda State Forest No 577**

An area of about 636 hectares, comprising the whole or part of the extensions to Tallaganda State Forest No 577 listed below (with their dedication dates shown in brackets), in the Parishes of Jinglemoney and Mulloon, County of Murray, and being the lands designated as V-01 on the diagram catalogued Misc R 00268 (3<sup>rd</sup> Edition) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

The Extensions are:

No 18 (12 March 1976)

No 28 (27 May 1988)

## **Part 2 Other**

### **4 Part Currumbene State Forest No 148**

An area of about 253 hectares, comprising part of Currumbene State Forest No 148 dedicated 4 November 1914, in the Parishes of Currumbene and Numbaa, County of St Vincent, and being the land designated as V-08 on the diagram catalogued Misc R 00266 (3<sup>rd</sup> Edition) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

### **5 Part Dampier State Forest No 926**

An area of about 2 hectares, comprising part of Dampier State Forest No 926, dedicated 20 July 1951 in the Parish of Bumbo West, County of Dampier, and being the land designated as V-06 on the diagram catalogued Misc R 00275 (3<sup>rd</sup> Edition) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

## **6 Part Monga State Forest No 144**

- (1) An area of 1 hectare, comprising part of Monga State Forest No 144, No 3 Extension dedicated 29 August 1952, in the Parish of Monga, County of St Vincent, and being the land designated as V-04 on the diagram catalogued Misc R 00270 (3<sup>rd</sup> Edition) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.
- (2) An area of about 2 hectares, comprising part of Monga State Forest No 144, No 3 Extension dedicated 29 August 1952, in the Parish of Monga, County of St Vincent, and being the land designated as V-07 on the diagram catalogued Misc R 00270 (3<sup>rd</sup> Edition) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

## **7 Part Nowra State Forest No 423**

An area of about 129 hectares, comprising part of Nowra State Forest No 423 dedicated 20 April 1917, in the Parish of Currumbene, County of St Vincent, and being the land designated as V-09 on the diagram catalogued Misc R 00266 (3<sup>rd</sup> Edition) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

## **8 Parts Tallaganda State Forest No 577**

An area of about 1 hectare, comprising parts of Tallaganda State Forest No 577, No 12 Extension dedicated 30 July 1971, in the Parish of Jinglemoney, County of Murray, and being the lands designated as V-02 on the diagram catalogued Misc R 00268 (3<sup>rd</sup> Edition) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

## **Schedule 4 State forests made subject to the [Crown Lands Act 1989](#)**

(Sections 4 and 8)

### **1 Part Currumbene State Forest No 148**

An area of about 142 hectares, comprising part of Currumbene State Forest No 148 dedicated 4 November 1914, in the Parishes of Currumbene and Numbaa, County of St Vincent, and being the land designated as CR-03 on the diagram catalogued Misc R 00266 (3<sup>rd</sup> Edition) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

### **2 Parts Flat Rock State Forest No 834**

An area of about 76 hectares, comprising parts of Flat Rock State Forest No 834, No 1 Extension dedicated 8 April 1971, in the Parish of Boyne, County of St Vincent, and being the lands designated as CR-07 on the diagram catalogued Misc R 00272 (3<sup>rd</sup> Edition) in the Department of Environment and Conservation, subject to any variations or exceptions

noted on that diagram.

### **3 Part Moruya State Forest No 139**

An area of about 440 hectares, comprising part of Moruya State Forest No 139, No 5 Extension dedicated 31 August 1979, in the Parish of Bergalia, County of Dampier, and being the land designated as CR-09 on the diagram catalogued Misc R 00276 (3<sup>rd</sup> Edition) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

### **4 Parts Nowra State Forest No 423**

An area of about 281 hectares, comprising part of Nowra State Forest No 423 dedicated 20 April 1917, and the whole or part of the extensions to that State forest listed below (with their dedication dates shown in brackets), in the Parishes of Currumbene and Nowra, County of St Vincent, and being the lands designated as CR-02 on the diagram catalogued Misc R 00266 (3<sup>rd</sup> Edition) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

The Extensions are:

No 1 (2 December 1949)

No 2 (14 August 1953)

### **5 Part Shoalhaven State Forest No 916**

An area of about 41 hectares, comprising part of Shoalhaven State Forest No 916 dedicated 7 July 1950, in the Parish of Nowra, County of St Vincent, and being the land designated as CR-01 on the diagram catalogued Misc R 00266 (3<sup>rd</sup> Edition) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

### **6 Part Tallaganda State Forest No 577**

An area of about 314 hectares, comprising the whole or part of the extensions to Tallaganda State Forest No 577 listed below (with their dedication dates shown in brackets), in the Parish of Ballallaba, County of Murray, and being the land designated as CR-05 on the diagram catalogued Misc R 00269 (3<sup>rd</sup> Edition) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

The Extensions are:

No 16 (23 August 1974)

No 23 (11 May 1984)

## **7 Part Yerriyong State Forest No 920**

An area of about 75 hectares, comprising part of Yerriyong State Forest No 920 dedicated 16 March 1951, and No 7 Extension to that State forest dedicated 12 June 1981, in the Parish of Jerrawangala, County of St Vincent, and being the land designated as CR-04 on the diagram catalogued Misc R 00267 (3<sup>rd</sup> Edition) in the Department of Environment and Conservation, subject to any variations or exceptions noted on that diagram.

## **Schedule 5 Areas in State forests declared as special management zones under [Forestry Act 1916](#)**

(Section 9)

### **1 Eden Region**

The parts of the State forests designated as special management zones and shown by red tint on the diagram catalogued Misc F1405 in the Forestry Commission.

### **2 South Coast Subregion of Southern Region**

The parts of the State forests designated as special management zones and shown by red tint on the diagram catalogued Misc F1404 in the Forestry Commission.

### **3 Tumut Subregion of Southern Region**

The parts of the State forests designated as special management zones and shown by red tint on the diagram catalogued Misc F1403 in the Forestry Commission.

## **Schedule 6 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) Land that a person holds for an estate in fee simple is not vested in the Crown as Crown land, and made subject to the [Crown Lands Act 1989](#), by this Act.

(3) 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 or timber reserves,
  - (b) the declaration of special management zones.
- (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 for vesting, land under that Act.

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

- (1) The lands reserved as, or as parts of, national parks 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 that is effected by this Act, taken to be a reference to the enactment of this Act.
- (3) A name assigned to any national park 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) Sections 35 and 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 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) of the *National Parks and Wildlife Act 1974* applies 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 the commencement of this Act,
- in the same way as it applies to a licence or permit under the *Forestry Act 1916*.

## **5 Access roads within national parks 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 immediately before the commencement of this Act:
  - (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 the commencement of this Act, 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 this Act, reserved as, or as part of, a national park 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 the commencement of this Act.
- (5) Before 31 March 2006, 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 the commencement of this Act.
- (6) The NPW Minister may from time to time revoke or vary the grant of a right of way under subclause (5).
- (7) Before 31 December 2009, 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 or state conservation area, or



- (b) are not so excluded and are reserved as part of the national park 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 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 the commencement of this Act, and
  - (b) the access roads that are not so excluded are reserved as part of the national park 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 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 7, 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.

## **7 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.

## **8 Administration of perpetual leases affecting land vested in NPW Minister**

- (1) The administration of matters relating to perpetual leases (within the meaning of the *Crown Lands (Continued Tenures) Act 1989*) affecting any of the lands described in Schedule 3 and preserved by section 7, 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*.

## **9 Existing interests affecting land subject to Crown Lands Act 1989**

- (1) In this clause, **existing interest** means a lease, licence, permit, occupancy, authority or authorisation under the *Forestry Act 1916*:
  - (a) affecting any of the land described in Schedule 4 that is vested in the Crown as Crown land and subject to the *Crown Lands Act 1989* by the operation of this Act, and
  - (b) current and in force immediately before the commencement of this Act.
- (2) An existing interest continues in force under the *Forestry Act 1916* until the existing interest is cancelled, surrendered or expires (whichever occurs first) and the *Forestry Act 1916* continues to apply in respect of the existing interest until it is cancelled, surrendered or expires.
- (3) The administration of existing interests is vested in the Minister administering the *Crown Lands Act 1989*.
- (4) For the purposes of subclause (3), the Minister administering the *Crown Lands Act 1989* has the powers of the Minister administering the *Forestry Act 1916* and the Forestry Commission.
- (5) Subclauses (3) and (4) do not affect any functions, powers or duties that may be exercised in relation to Crown land under the *Forestry Act 1916* by the Minister administering that Act or the Forestry Commission.

### **Note—**

The *Forestry Act 1916* provides for certain authorities to be granted, and subsequently dealt with, in relation to Crown land, including Crown-timber lands that are not State forests.

## **10 Access roads within land vested in the Crown as Crown land**

- (1) The following provisions apply to access roads referred to in clause 5 (2) (a)-(c) within the lands referred to in Schedule 4 immediately before the commencement of this Act:
  - (a) the access roads may continue, subject to this clause and the *Crown Lands Act 1989*, to be used for the purposes for which they were used immediately before the commencement of this Act,
  - (b) any such access road must not be closed while it comprises the only practical means of access to a private land holding (within the meaning of clause 5) that is within private ownership,
  - (c) a right over, or interest in, the land may be granted, in accordance with the *Crown Lands Act 1989*, for the purpose of its continued use as an access road.
- (2) Before 31 March 2006, the Minister administering the *Crown Lands Act 1989* must, under section 34 of the *Crown Lands Act 1989*, 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 the commencement of this Act.
- (3) The Minister administering the *Crown Lands Act 1989* may from time to time revoke or vary the grant of a right of way under subclause (2).

## **11 Declaration of special management zones**

- (1) The lands declared as special management zones by this Act are, for the purposes of the *Forestry Act 1916*, taken to have been declared by notice under section 21A of that Act.
- (2) A reference in the *Forestry Act 1916* to the publication of a notice under section 21A of that Act is, in relation to a declaration effected by this Act, taken to be a reference to the enactment of this Act.

## **12 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.