

National Parks and Wildlife Amendment (Aboriginal Cultural Heritage) Bill 1998

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *National Parks and Wildlife Act 1974* so as:

- (a) to change the nomenclature in the Act for referring to deposits, objects and certain material evidence relating to indigenous and non-European habitation of the area that comprises New South Wales from *relic* to **Aboriginal item**,
- (b) to enable areas of land on or in which Aboriginal items are situated or within 50 metres of Aboriginal items to be declared to be Aboriginal item protection zones and to enable the use of those areas to be regulated if such action is necessary to preserve, protect and maintain the Aboriginal items or to ensure that the land is used in a way that is consistent with Aboriginal traditions, observances, customs or beliefs or with showing due respect for the cultural significance of the items,
- (c) to reconstitute the Aboriginal Cultural Heritage (Interim) Advisory Committee as a council called the Aboriginal Cultural Heritage Advisory Council,
- (d) to require the Australian Museum Trust or any other person who possesses an Aboriginal item that is not the property of the Crown to give the Director-General of National Parks and Wildlife the first option to acquire the object before disposing of or transferring ownership or possession of the item,
- (e) to make it an offence for a person to possess an Aboriginal item that is the property of the Crown unless the person is an Aboriginal who has the item in possession in accordance with Aboriginal tradition or the person is otherwise authorised by or under the Act to possess the item,
- (f) to replace existing offences under section 90 of the Act relating to the destruction, defacement or damage of a relic or Aboriginal place with new offences (with higher maximum penalties) of wilfully, recklessly or negligently doing such things to an Aboriginal item or Aboriginal place,
- (g) to enable a court that convicts a person of certain offences under the Act concerning Aboriginal items, zones or places to order the mitigation of damage to or restoration of, or action to preserve or protect, any item, zone or place affected by such an offence,
- (h) to enable the Director-General and persons authorised by the Director-General to enter and inspect Aboriginal places and to enter and inspect land for the purpose of ascertaining whether land or any thing on land is an Aboriginal item or should be declared to be an Aboriginal place or Aboriginal item protection zone,
- (i) to facilitate the prosecution of directors or persons concerned in the management of corporations for offences relating to contravention of the Act or regulations.

The Bill also:

- (a) amends the *Valuation of Land Act 1916* to make provision with respect to the valuation of land (other than land reserved or dedicated under the *National Parks and Wildlife Act 1974*) comprising an Aboriginal place and makes a related amendment to the latter Act, and
- (b) amends the *Land and Environment Court Act 1979* as a consequence of the amendments described in paragraph (b) above.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *National Parks and Wildlife Act*

1974 set out in Schedule 1.

A detailed explanation of each of the amendments is set out in Schedules 1 and 2 to the proposed Act.

Clause 4 is a formal provision giving effect to the amendments to the *Valuation of Land Act 1916* and the *Land and Environment Court Act 1979* set out in Schedule 2.

Clause 5 provides that the matter appearing under the heading "Explanatory note" in any of the Schedules does not form part of the proposed Act.