

Introduced by the Hon M I Jones, MLC

First print



New South Wales

Wilderness Amendment (Procedure) Bill 2002

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 *Wilderness Act 1987* with respect to the procedure to be followed in identifying areas as wilderness, the activities that may be enjoyed in wilderness areas, and other matters.

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 the date of assent.

Clause 3 is a formal provision giving effect to the amendments to the *Wilderness Act 1987* set out in Schedule 1.

Schedule 1 Amendments

Activities that may be carried out in wilderness areas

Currently a wilderness area is seen as a place to which persons may resort for “solitude and appropriate self-reliant recreation” (section 6 of the *Wilderness Act 1987* (the *Principal Act*)). **Schedule 1 [2]** amends section 6 of the Principal Act to provide that land may be identified by the Director-General of National Parks and Wildlife as suitable to be designated as a wilderness area if it is capable of providing opportunities for “appropriate recreation”, and **Schedule 1 [1]** amends section 2 of the Principal Act to insert a definition of that expression. **Schedule 1 [6]** makes a consequential amendment.

Criteria for identifying land as wilderness

Section 6 of the Principal Act sets out the criteria for identifying land as wilderness. **Schedule 1 [4]** amends the section so as to specify certain matters or circumstances that are to be taken as precluding the identification of an area as wilderness. **Schedule 1 [3]** repeals so much of section 6 as currently contemplates the possibility of restoring land to a “wilderness condition” after it has ceased to be wilderness. **Schedule 1 [5]** makes a consequential amendment.

Plans of management for wilderness areas

Section 11 of the Principal Act provides for public exhibition, in a form and manner determined by the Director-General, of draft wilderness protection agreements. **Schedule 1 [7]–[9]** amend the section so as to provide that a plan of management prepared for the area must be exhibited together with the draft agreement. **Schedule 1 [10]** amends the section further so as to specify the manner and duration of the required public exhibition. **Schedule 1 [11]** makes a consequential amendment to section 17 of the Principal Act, and **Schedule**

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1 [12]–[15] amend sections 17 and 18 of the Principal Act so as to provide that any subsequent plan of management drawn up for the area must be exhibited in the same way. **Schedule 1 [16]** amends section 19 of the Principal Act so as to make the same provision in relation to plans of management drawn up under the *National Parks and Wildlife Act 1974*.



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New South Wales

Wilderness Amendment (Procedure) Bill 2002

No. , 2002

A Bill for

An Act to amend the *Wilderness Act 1987* with respect to the procedure to be followed in identifying areas as wilderness and the activities that may be enjoyed in wilderness areas; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Wilderness Amendment (Procedure) Act 2002</i> .	3
2 Commencement	4
This Act commences on the date of assent.	5
3 Amendment of Wilderness Act 1987 No 196	6
The <i>Wilderness Act 1987</i> is amended as set out in Schedule 1.	7

Schedule 1 Amendments	1
(Section 3)	2
[1] Section 2 Definitions	3
Insert in alphabetical order in section 2 (1):	4
<i>appropriate recreation</i> , in relation to a wilderness area, means any recreational activity of a kind determined by the Director-General of National Parks and Wildlife as being suitable to be enjoyed in the area, and may include (but is not limited to) any of the following:	5 6 7 8 9
(a) fishing,	10
(b) horse riding,	11
(c) canoeing,	12
(d) bushwalking,	13
(e) cycling,	14
(f) camping,	15
(g) vehicle-facilitated camping.	16
[2] Section 6 Identification of wilderness	17
Omit “solitude and appropriate self-reliant” from section 6 (1) (c).	18
Insert instead “appropriate”.	19
[3] Section 6 (2) (a) and (b)	20
Omit the paragraphs.	21
[4] Section 6 (3)	22
Insert after section 6 (2):	23
(3) An area of land cannot be identified as wilderness by the Director-General of National Parks and Wildlife if:	24
(a) it has been cleared or otherwise altered for farming or grazing purposes, or	25 26 27
(b) it lies within 40 metres of any track or trail used for the maintenance or management of any land, or	28 29

(c)	it is the subject of an approved determination of native title under the <i>Native Title Act 1993</i> of the Commonwealth, to the effect that native title exists, or is the subject of proceedings to obtain such a determination, or	1 2 3 4 5
(d)	it has, within the previous 50 years, been assessed by the Director-General and not identified as wilderness, or	6 7
(e)	its area (or, if it were to be added to contiguous land that is already identified as wilderness, the sum of its area and the contiguous area) is less than 25,000 hectares, or	8 9 10
(f)	it has been used, after 26 January 1788, for the extraction of minerals or timber for commercial purposes or has, after that date, been substantially modified from any other cause, or	11 12 13 14
(g)	it consists of any land or water that has been used, at any time after 1 September 1939, for military, naval or air force purposes, or	15 16 17
(h)	it has been commonly used by any persons, for a period of not less than 10 years, for recreation, or	18 19
(i)	the owner of the land has not consented in writing to the land being so identified.	20 21
[5]	Section 9 Management principles for wilderness areas	22
	Omit “to restore (if applicable) and” from section 9 (a).	23
[6]	Section 9 (c)	24
	Omit “solitude and appropriate self-reliant”. Insert instead “appropriate”.	25
[7]	Section 11 Exhibition of proposed agreements	26
	Omit “, in a form and manner determined by the Director,” from section 11 (1) (a).	27 28
[8]	Section 11 (1) (a)	29
	Insert “(together with a plan of management prepared under section 17 (1) (a))” after “agreement”.	30 31

[9] Section 11 (1) (b), (2) and (3)	1
Insert “and plan of management” after “agreement” wherever occurring.	2
[10] Section 11 (5)–(7)	3
Insert after section 11 (4):	4
(5) The draft agreement is to be available for inspection by the public for a period of not less than 6 months.	5 6
(6) While the draft agreement is available for public inspection:	7
(a) a public notice referred to in subsection (1) (a) is to be given, at two-monthly intervals, in a newspaper circulating in the area to which the draft agreement relates, and in a newspaper circulating generally in New South Wales, and	8 9 10 11 12
(b) a copy of the notice is to be continuously displayed in all offices of the National Parks and Wildlife Service.	13 14
(7) Notice of the draft agreement is to be given by the Minister in the prescribed manner to such other persons or bodies as the regulations may require.	15 16 17
[11] Section 17 Plans of management for land subject to wilderness protection agreements	18 19
Omit section 17 (1). Insert instead:	20
(1) The Director-General of National Parks and Wildlife:	21
(a) must, when an area of land is proposed to be made subject to a wilderness protection agreement, cause a plan of management to be prepared for the area, and	22 23 24
(b) may from time to time cause such a plan to be prepared in relation to an area that has been made subject to such an agreement.	25 26 27
[12] Section 17 (3)	28
Insert “, but the provisions of sections 11 and 18 apply to any plan so prepared” after “that land”.	29 30

[13] Section 18 Adoption of plan of management for land subject to wilderness protection agreement	1 2
Omit section 18 (1). Insert instead:	3
(1) The provisions of section 11, in so far as they apply to a plan of management prepared for any land for which a wilderness protection agreement has been drafted, apply in the same way to any subsequent plan of management prepared for the land after the agreement takes effect.	4 5 6 7 8
[14] Section 18 (2)	9
Omit “The Director”.	10
Insert instead “After a wilderness protection agreement takes effect in respect of any land, the Director-General of National Parks and Wildlife”.	11 12
[15] Section 18 (2)	13
Omit “the plan of management”.	14
Insert instead “any plan of management prepared for the land”.	15
[16] Section 19 Plans prepared under the National Parks and Wildlife Act 1974	16 17
Insert at the end of section 19:	18
(2) The provisions of sections 11 and 18 apply to any such plan.	19