



New South Wales

Wilderness Amendment Bill 2004

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* so as to include as a management principle for wilderness areas the reduction or control of feral animals and noxious weeds, and the amelioration of the effect of such animals and weeds on wilderness areas.

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 that gives effect to the amendments to the *Wilderness Act 1987* set out in Schedule 1.

Schedule 1 Amendments

Schedule 1 [2] gives effect to the object described in the Overview to the Bill.

Schedule 1 [1] inserts definitions of *feral animal* and *noxious weed* into the *Wilderness Act 1987* (*the Principal Act*). A *noxious weed* is defined, in relation to a

wilderness area, as a plant declared to be a noxious weed in respect of the State, or the part of the State in which the wilderness area is located, under the *Noxious Weeds Act 1993*. A **feral animal** is defined as a pig, dog (other than a dingo), cat, goat, rabbit, hare or fox living in the wild.

Schedule 1 [3] provides that the new management principle is in addition to, and does not detract from, any obligations to control noxious weeds under the *Noxious Weeds Act 1993*.

Schedule 1 [4] inserts transitional provisions that deal with existing wilderness protection agreements entered into under the Principal Act, conservation agreements entered into under the *National Parks and Wildlife Act 1974* relating to wilderness areas and plans of management for wilderness areas prepared under either Act.

The provisions require the Minister administering the *Wilderness Act 1987* or the *National Parks and Wildlife Act 1974* to review existing agreements to determine whether they are consistent with the new management principle. If an agreement is not consistent, the Minister is to use his or her best endeavours to reach an agreement with the other party or parties to vary the agreement to make it consistent with the new management principle.

The transitional provisions also require the Director-General of the Department of Environment and Conservation to review plans of management for wilderness areas made under the *Wilderness Act 1987* or the *National Parks and Wildlife Act 1974* to determine if the plans are consistent with the new management principle. If a plan is not consistent, the Director-General is to make recommendations about necessary changes to the relevant Minister. The Minister may amend or alter a plan of management in accordance with the procedures set out in the relevant Act (which include obtaining the consent of the other party to a wilderness protection agreement or the owner of land subject to a conservation agreement).



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New South Wales

Wilderness Amendment Bill 2004

No. , 2004

A Bill for

An Act to amend the *Wilderness Act 1987* with respect to the control and management of feral animals and noxious weeds in wilderness areas; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Wilderness Amendment Act 2004*.

2 Commencement

This Act commences on the date of assent.

3 Amendment of Wilderness Act 1987 No 196

The *Wilderness Act 1987* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 2 Definitions

Insert in alphabetical order in section 2 (1):

feral animal means any of the following animals that is living in the wild:

- (a) pig,
- (b) dog (other than dingo),
- (c) cat,
- (d) goat,
- (e) rabbit,
- (f) hare,
- (g) fox.

noxious weed, in relation to a wilderness area, means a plant declared to be a noxious weed in respect of the State, or the part of the State in which the wilderness area is located, under the *Noxious Weeds Act 1993*.

[2] Section 9 Management principles for wilderness areas

Insert at the end of section 9 (c):

, and

- (d) to protect native plant and animal communities by reducing or controlling the presence of noxious weeds and feral animals in the area and ameliorating the effects of such weeds and animals on the area.

[3] Section 25A

Insert after section 25:

25A Relationship of Act to Noxious Weeds Act 1993

Section 9 (d) of this Act is in addition to, and does not detract from, the operation of the *Noxious Weeds Act 1993*.

[4] Sections 31 and 32

Insert after section 30:

31 Transitional provision—wilderness protection agreements and plans of management under this Act

- (1) In this section, *new management principle* means the principle set out in section 9 (d), as inserted by the *Wilderness Amendment Act 2004*.
- (2) The new management principle does not affect the validity of a wilderness protection agreement that was entered into, or a plan of management that was made under this Act, before the amendment of section 9 by the *Wilderness Amendment Act 2004*.
- (3) The Minister is to review any wilderness protection agreement entered into by the Minister that is in force at the commencement of this section to determine whether the terms of the agreement are consistent with the new management principle.
- (4) The Director is to:
 - (a) review any plan of management made under this Act for land subject to a wilderness protection agreement that is in force at the commencement of this section to determine whether the terms of the plan are consistent with the new management principle, and
 - (b) if the Director determines that a plan of management is not consistent with the new management principle, develop recommendations about the alterations or amendments that are necessary for the plan to become consistent with the new management principle, and
 - (c) submit those recommendations to the Minister.
- (5) The reviews referred to in subsections (3) and (4) are to be undertaken as soon as possible after the commencement of this section.
- (6) If the Minister determines that a wilderness protection agreement is not consistent with the new management principle, the Minister is to use his or her best endeavours to enter into an agreement to vary that agreement, in accordance with this Act, to the extent necessary for that agreement to become consistent with the new management principle.

- (7) If the Director, following a review under subsection (4), recommends alterations or amendments to a plan of management made under this Act in order to make the plan consistent with the new management principle, the Minister may alter or amend the plan in accordance with section 18 (5) and (6).

32 Transitional provision—conservation agreements and plans of management under the National Parks and Wildlife Act 1974

- (1) In this section:

Director-General has the same meaning as in the *National Parks and Wildlife Act 1974*.

Minister means the Minister administering the *National Parks and Wildlife Act 1974*.

new management principle has the same meaning as in section 31.

- (2) The new management principle does not affect the validity of a conservation agreement that was entered into, or a plan of management that was made, under the *National Parks and Wildlife Act 1974* before the amendment of section 9 of this Act by the *Wilderness Amendment Act 2004*.
- (3) The Minister is to review any conservation agreement entered into by the Minister (whether or not the Nature Conservation Trust of New South Wales is a party to the agreement) relating to a wilderness area that is in force at the commencement of this section to determine whether the terms of the agreement are consistent with the new management principle.
- (4) The Director-General is to:
- (a) review any plan of management made under the *National Parks and Wildlife Act 1974* relating to a wilderness area that is in force at the commencement of this section to determine whether the terms of the plan are consistent with the new management principle, and
 - (b) if the Director-General determines that a plan of management is not consistent with the new management principle, develop recommendations about the alterations or amendments that are necessary for the plan to become consistent with the new management principle, and
 - (c) submit those recommendations to the Minister.
- (5) The reviews referred to in subsections (3) and (4) are to be undertaken as soon as possible after the commencement of this section.

- (6) If the Minister determines that a conservation agreement is not consistent with the new management principle, the Minister is to use his or her best endeavours to enter into an agreement to vary that agreement, in accordance with the *National Parks and Wildlife Act 1974*, to the extent necessary for that agreement to become consistent with the new management principle. 1
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- (7) If the Director-General, following a review under subsection (4), recommends alterations or amendments to a plan of management in order to make the plan consistent with the new management principle, the Minister may alter or amend the plan in accordance with section 73B (3)–(6) of the *National Parks and Wildlife Act 1974*. 7
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- (8) Sections 72AA, 73A and 74 of the *National Parks and Wildlife Act 1974* apply to an alteration or amendment of a plan of management under subsection (7) in the same way as they apply to the preparation of a new plan of management under that Act. 13
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- (9) For the purposes of the provisions of the *National Parks and Wildlife Act 1974* referred to in subsections (7) and (8), the Director-General is taken to be the responsible authority. 17
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