



New South Wales

National Parks and Wildlife Amendment (Leasing and Licensing) Bill 2007

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* (***the NP&W Act***) as follows:

- (a) to provide that licences and franchises to carry on commercial activities may be granted in relation to lands that are state conservation areas, regional parks, karst conservation reserves or Aboriginal areas under the NP&W Act,
- (b) to provide that leases, and licences to occupy or use land, may be granted in relation to Aboriginal lands reserved as state conservation areas or regional parks under Part 4A of the NP&W Act.

Section 81 (4) of the NP&W Act will continue to provide that, despite anything in that or any other Act, or in any instrument made under that or any other Act, if a plan of management has been adopted under Part 5 of the NP&W Act, no operations are to be undertaken in relation to the lands to which the plan relates unless the operations are in accordance with that plan.

This Bill also makes a statute law revision amendment.

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 to the proposed Act.

Clause 3 is a formal provision that gives effect to the amendments to the NP&W Act set out in Schedule 1.

Clause 4 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendments

Amendment relating to leasing and licensing of Aboriginal lands reserved as state conservation areas and regional parks

Under Part 4A of the NP&W Act, certain Aboriginal lands may be vested in one or more Aboriginal Land Councils then simultaneously leased to the Minister administering the NP&W Act (*the Minister*) and reserved under that Act, for example as state conservation areas or regional parks.

Existing provisions (sections 47GC and 47U) of the NP&W Act that provide that a state conservation area trust or a regional park trust may, with the written consent of the Director-General of the Department of Environment and Climate Change (*the Director-General*), grant leases of, or licences to occupy or use, land in its state conservation area or regional park, do not apply to any such Aboriginal land.

Schedule 1 [5] inserts a new section into the NP&W Act to provide that the Director-General may grant such leases and licences in relation to state conservation areas and regional parks reserved under Part 4A of the NP&W Act.

Section 81 (4) of the NP&W Act (which is within Part 5 (Plans of management) of that Act) provides that, despite anything in that or any other Act, or in any instrument made under that Act or any other Act, if a plan of management has been adopted under Part 5, no operations are to be undertaken in relation to the lands to which the plan relates unless the operations are in accordance with that plan.

Schedule 1 [6] amends section 81A of the NP&W Act as a consequential amendment to make it clear that Part 5 of that Act has effect with respect to any part of a state conservation area or regional park that is the subject of a lease or licence granted under the proposed new section.

Schedule 1 [1] and [2] insert notes into other provisions of the NP&W Act relating to leases and licences in state conservation areas and regional parks to point the reader to the proposed new section dealing with Part 4A land.

Amendments relating to licences and franchises for commercial activities in state conservation areas, regional parks, karst conservation reserves and Aboriginal areas

At present, section 152 of the NP&W Act provides that:

- (a) the Director-General may grant licences to carry on trades, businesses or occupations within a national park or historic site, and
- (b) the Minister may grant franchises for the sale of goods and services, the provision of public transportation or the supply of other facilities and amenities within a national park or historic site.

Schedule 1 [7] and [9] amend section 152 to provide that such licences and franchises may also be granted in relation to lands that are reserved as state conservation areas, regional parks, karst conservation reserves and Aboriginal areas. In the case of state conservation areas and regional parks under the care, control and management of a trust, **Schedule 1 [8]** inserts a provision to provide that the trust concerned (rather than the Director-General) may, with the written consent of the Director-General, grant such licences.

Schedule 1 [10] makes a consequential amendment.

Statute law revision amendment

Schedule 1 [3] and [4] amend two sections of the NP&W Act to correct incorrect references to “proclamations” under Division 4 of Part 4A of that Act instead of “notices” under that Division.

Savings and transitional provision

Schedule 1 [11] allows regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.

First print



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No. , 2007

A Bill for

An Act to amend the *National Parks and Wildlife Act 1974* with respect to certain commercial activities in state conservation areas, regional parks, karst conservation reserves and Aboriginal areas; the granting of leases and licences in relation to certain Aboriginal lands reserved as state conservation areas and regional parks; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>National Parks and Wildlife Amendment (Leasing and Licensing) Act 2007</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6
3 Amendment of National Parks and Wildlife Act 1974 No 80	7
The <i>National Parks and Wildlife Act 1974</i> is amended as set out in Schedule 1.	8 9
4 Repeal of Act	10
(1) This Act is repealed on the day following the day on which this Act commences.	11 12
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	13 14

Schedule 1	Amendments	1
	(Section 3)	2
[1]	Section 47GC Power to grant leases and licences and to purchase land	3
	Insert at the end of the section:	4
	Note. In relation to land reserved under Part 4A (Aboriginal land) of the Act, see section 71BGA.	5 6
[2]	Section 47U Power to grant leases and licences and to purchase land	7
	Insert at the end of the section:	8
	Note. In relation to land reserved under Part 4A (Aboriginal land) of the Act, see section 71BGA.	9 10
[3]	Section 71AA Certain other consequences of publication of notice	11
	Omit “proclamation under this Division”.	12
	Insert instead “notice under this Division”.	13
[4]	Section 71AB Applications of certain provisions to ALR Act lands	14
	Omit “proclamation under this Division” from section 71AB (2) (a).	15
	Insert instead “notice under this Division”.	16
[5]	Section 71BGA	17
	Insert after section 71BG:	18
71BGA	Grant of leases and licences in state conservation areas and regional parks	19 20
	The Director-General may, in relation to a state conservation area or regional park reserved under this Part (whether the land is within the care, control and management of the Director-General or a board of management):	21 22 23 24
	(a) grant leases of land in the state conservation area or regional park, and	25 26
	(b) grant licences to occupy or use land in the state conservation area or regional park.	27 28
[6]	Section 81A Leases, licences and easements subject to plan of management	29 30
	Omit “47GC or 47U” from section 81A (b).	31
	Insert instead “47GC, 47U or 71BGA”.	32

[7] Section 152 Trade within certain reserved lands	1
Omit “a national park or historic site” from section 152 (1).	2
Insert instead “a national park, historic site, state conservation area, regional park, karst conservation reserve or Aboriginal area (other than a state conservation area or regional park under the care, control and management of a state conservation area trust or regional park trust)”.	3 4 5 6
[8] Section 152 (1A)	7
Insert after section 152 (1):	8
(1A) A state conservation area trust or regional park trust may, with the written consent of the Director-General (and subject to any conditions imposed in giving that consent), grant licences to carry on trades, businesses or occupations within a state conservation area or regional park under its care, control and management.	9 10 11 12 13 14
[9] Section 152 (2)–(4)	15
Omit “a national park or historic site” wherever occurring.	16
Insert instead “a national park, historic site, state conservation area, regional park, karst conservation reserve or Aboriginal area”.	17 18
[10] Section 152 (2)	19
Insert “, a state conservation area trust or a regional park trust under this section” after “Director-General”.	20 21
[11] Schedule 3 Savings, transitional and other provisions	22
Insert at the end of clause 1 (1):	23
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