



New South Wales

Snowy Hydro Corporatisation Amendment (Snowy 2.0) Bill 2018

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 *Snowy Hydro Corporatisation Act 1997* (the **principal Act**) to enable leases and other interests in land to be granted under the *National Parks and Wildlife Act 1974* to facilitate the Snowy 2.0 project.

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.

Schedule 1 Amendment of Snowy Hydro Corporatisation Act 1997 No 99

Schedule 1 [1] inserts a definition of **Snowy 2.0 project** into the principal Act. The **Snowy 2.0 project** is defined as development described in clause 9 of Schedule 5 to *State Environmental Planning Policy (State and Regional Development) 2011*, as in force on 1 September 2018, (referred to in that clause as the Snowy 2.0 and Transmission Project) that is approved to be carried out under the *Environmental Planning and Assessment Act 1979*.

Schedule 1 [2] inserts proposed section 37A into the principal Act to enable leases, licences, easements or rights of way under Part 12 of the *National Parks and Wildlife Act 1974* (the **NPW Act**) over the Kosciuszko National Park or any other land reserved or dedicated under the NPW Act to be granted for the purposes of, or in connection with, the Snowy 2.0 project (to be called a

Snowy 2.0 lease). The proposed section also provides that the Snowy Hydro Company is entitled to the grant of a Snowy 2.0 lease and contains other provisions regarding the grant of Snowy 2.0 leases.

Schedule 1 [3] provides that the regulations under the principal Act may modify the application of provisions of the NPW Act that specify steps precedent to the making of a plan of management under that Act in connection with the preparation, adoption or amendment of a plan of management in connection with the Snowy 2.0 project. The Minister administering the principal Act (currently the Minister for Energy and Utilities) is to consult with the Minister administering the NPW Act before recommending the making of such a regulation.

Schedule 1 [4] inserts proposed section 39A into the principal Act to provide that a lease, licence, easement or right of way under Part 12 of the NPW Act over the Kosciuszko National Park or any other land reserved or dedicated under the NPW Act may be granted for the purpose of enabling TransGrid (or the holder of a transmission operator's licence under the *Electricity Supply Act 1995*) to operate an electricity transmission system from the electricity generating works associated with the Snowy 2.0 project. The proposed section provides that TransGrid (or the holder of a transmission operator's licence) is entitled to such a grant and contains other provisions regarding such grants.

Schedule 1 [4] also inserts proposed section 39B into the principal Act to enable regulations to be made to provide that, if compensation is payable by the State for the impact on native title rights and interests of the enactment of the proposed Act or certain other conduct under the proposed Act, then the Snowy Hydro Company, TransGrid or the relevant holder of a transmission operator's licence must contribute to, or indemnify the State against, that compensation.

Schedule 1 [5] and [6] insert provisions into the principal Act of a savings and transitional nature and provisions that provide that a Snowy 2.0 lease for land that is part only of an existing lot is not to be taken to be a subdivision of land for the purposes of the *Conveyancing Act 1919* or the *Environmental Planning and Assessment Act 1979*.

Schedule 2 Amendment of National Parks and Wildlife Regulation 2009

Schedule 2 makes a consequential amendment to the *National Parks and Wildlife Regulation 2009*.



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New South Wales

Snowy Hydro Corporatisation Amendment (Snowy 2.0) Bill 2018

No. , 2018

A Bill for

An Act to amend the *Snowy Hydro Corporatisation Act 1997* to enable leases and other interests in land to be granted to facilitate the Snowy 2.0 project; and for related purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Snowy Hydro Corporatisation Amendment (Snowy 2.0) Act 2018</i> .	3
2 Commencement	4
This Act commences on the date of assent to this Act.	5

Schedule 1 Amendment of Snowy Hydro Corporatisation Act 1997 No 99

[1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

Snowy 2.0 project means development described in clause 9 of Schedule 5 to *State Environmental Planning Policy (State and Regional Development) 2011*, as in force on 1 September 2018, (referred to in that clause as the Snowy 2.0 and Transmission Project) that is approved to be carried out under the *Environmental Planning and Assessment Act 1979*.

[2] Section 37A

Insert after section 37:

37A Lease, licence etc under NPW Act for Snowy 2.0 project

- (1) The power to grant one or more leases, licences, easements or rights of way under Part 12 of the NPW Act over the Kosciuszko National Park or any other land reserved or dedicated under the NPW Act may be exercised for the purposes of, or in connection with, the Snowy 2.0 project.
- (2) Despite any of the provisions of the NPW Act, the Snowy Hydro Company is entitled to such a grant by the Minister administering the NPW Act for the purposes of, and in connection with, the Snowy 2.0 project (called a **Snowy 2.0 lease**).
- (3) Without limiting subsections (1) and (2), such a grant may be made despite:
 - (a) the objects of the NPW Act, and
 - (b) the management principles for national parks set out in section 30E of the NPW Act, and
 - (c) the purpose of the grant not being a purpose listed in section 151A of the NPW Act, and
 - (d) the Minister administering the NPW Act not being satisfied of the matters set out in section 151B of the NPW Act.
- (4) However, the Minister administering the NPW Act is to have regard to the matters set out in subsection (3) when determining the conditions (if any) that should be attached to any such grant.
- (5) A Snowy 2.0 lease is to expire on 31 May 2077 (being the date of expiry of the Snowy park lease).
- (6) A Snowy 2.0 lease may contain provisions for its variation or revocation.
- (7) A Snowy 2.0 lease is to make provision for public access to those stored waters of the Snowy Mountains Hydro-electric Scheme that have been previously available for public recreation.

[3] Section 38 Management plan for Snowy hydro undertaking

Insert after section 38 (3):

- (4) The regulations under this Act may modify the application of provisions of the NPW Act that specify steps precedent to the making of a plan of management relating to the Snowy 2.0 project.
- (5) Regulations under subsection (4) must not be made unless the Minister certifies to the Governor that the Minister has:

- (a) consulted with the Minister administering the NPW Act in connection with those regulations, and
- (b) given that Minister at least 28 days to make submissions regarding those regulations.

[4] Sections 39A and 39B

Insert after section 39:

39A Lease, licence etc under NPW Act for Snowy 2.0 electricity transmission

- (1) The power to grant a lease, licence, easement or right of way under Part 12 of the NPW Act over the Kosciuszko National Park or any other land reserved or dedicated under the NPW Act may be exercised for the purposes of enabling TransGrid (or the holder of a transmission operator's licence under the *Electricity Supply Act 1995*) to operate an electricity transmission system from the electricity generating works associated with the Snowy 2.0 project.
- (2) TransGrid (or the holder of a transmission operator's licence) is entitled to such a grant by the Minister administering the NPW Act for the purposes of, and in connection with, the Snowy 2.0 electricity transmission system.
- (3) The term of such a grant may be the same as the term of a Snowy 2.0 lease.
- (4) Such a grant may contain provisions for its variation or revocation.
- (5) The regulations may modify the application of provisions of Part 12 of the NPW Act that specify steps precedent to such a grant.
- (6) Regulations under subsection (5) must not be made unless the Minister certifies to the Governor that the Minister has:
 - (a) consulted with the Minister administering the NPW Act in connection with those regulations, and
 - (b) given that Minister at least 28 days to make submissions regarding those regulations.

39B Contributions and indemnification for compensation for impact on native title

- (1) The regulations may provide that, if compensation is payable by the State for the impact of any of the following conduct on native title rights and interests within the meaning of the *Native Title Act 1993* of the Commonwealth (**relevant conduct**), the Snowy Hydro Company, TransGrid or the holder of a transmission operator's licence must contribute to, or indemnify the State against, that compensation:
 - (a) the enactment of the *Snowy Hydro Corporatisation Amendment (Snowy 2.0) Act 2018*,
 - (b) the grant of a lease, licence, easement or right of way referred to in section 37A or 39A,
 - (c) the grant of development consent or approval under the *Environmental Planning and Assessment Act 1979* in connection with any part of the Snowy 2.0 project,
 - (d) the preparation, adoption or amendment of a plan of management under the NPW Act in connection with the Snowy 2.0 project.
- (2) Any amount payable to the State under this section is recoverable by the State as a debt in a court of competent jurisdiction.

(3)	The regulations may make provision for or with respect to:	1
(a)	contributions to, or indemnification against, compensation payable by the State for the impact of any relevant conduct on native title rights and interests, and	2 3 4
(b)	conferring jurisdiction on the Land and Environment Court to resolve disputes between the State and the Snowy Hydro Company, TransGrid or the holder of a transmission operator's licence concerning the allocation of responsibility for the payment of compensation for the impact of the relevant conduct on native title rights and interests.	5 6 7 8 9
[5]	Schedule 4 Savings, transitional and other provisions	10
	Insert after clause 1 (3):	11
(4)	Without limiting subclauses (1) and (2), regulations made for the purposes of this clause may amend this Schedule to provide for additional or different savings and transitional provisions instead of including the provisions in the regulations.	12 13 14 15
[6]	Schedule 4	16
	Insert at the end of the Schedule:	17
Part 5	Provisions consequent on enactment of Snowy Hydro Corporatisation Amendment (Snowy 2.0) Act 2018	18 19 20
7	Management plans for Snowy 2.0 project	21
(1)	During the period of 3 years beginning on first approval being granted under the <i>Environmental Planning and Assessment Act 1979</i> for any part of the Snowy 2.0 project, section 81 (4) of the <i>National Parks and Wildlife Act 1974</i> does not operate to prohibit operations being undertaken in relation to the Snowy 2.0 project that are not in accordance with <i>Kosciuszko National Park Plan of Management 2006</i> .	22 23 24 25 26 27
(2)	During the period beginning on the commencement of this clause and ending on 1 January 2024, section 81 (4) of the <i>National Parks and Wildlife Act 1974</i> does not operate to prohibit operations being undertaken in relation to the Snowy 2.0 project that are not in accordance with the <i>Snowy Management Plan</i> set out in Schedule 2 to the <i>Snowy Management Plan Procedures Agreement</i> dated 3 June 2002 as incorporated by clause 5 of the <i>Kosciuszko National Park Plan of Management 2006</i> .	28 29 30 31 32 33 34
8	Snowy 2.0 leases not subdivisions under other legislation	35
(1)	Despite section 23F of the <i>Conveyancing Act 1919</i> , the Registrar-General must not refuse to register a Snowy 2.0 lease (as referred to in section 37A) merely because:	36 37 38
(a)	it is a lease of part of an existing lot that is not shown on a current plan (within the meaning of that Act), and	39 40
(b)	the boundaries of each part into which the land concerned is divided as a result of the lease do not follow the boundaries of an existing lot.	41 42
(2)	The grant of a Snowy 2.0 lease (as referred to in section 37A) is taken not to be a subdivision of land for the purposes of the <i>Environmental Planning and Assessment Act 1979</i> .	43 44 45

Schedule 2	Amendment of National Parks and Wildlife	1
	Regulation 2009	2
Clause 45	Definitions	3
	Insert “(and includes any Snowy 2.0 lease within the meaning of section 37A of that Act)”	4
	after “ <i>Snowy Hydro Corporatisation Act 1997</i> ” in the definition of <i>Snowy park lease</i> .	5