

FIRST PRINT

**ABORIGINAL LAND RIGHTS (ABORIGINAL OWNERSHIP  
OF PARKS) AMENDMENT BILL 1991 (No. 2)**

NEW SOUTH WALES



**EXPLANATORY NOTE**

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the National Parks and Wildlife (Aboriginal Ownership) Amendment Bill 1991.

The object of this Bill is to amend the Aboriginal Land Rights Act 1983 to enable:

- (a) the New South Wales Aboriginal Land Council to enter into negotiations with the Minister administering the National Parks and Wildlife Act 1974 (the 1974 Act) to secure the vesting in that Council or a Local Aboriginal Land Council of land which is reserved or dedicated under the 1974 Act and which is of special cultural significance to Aboriginal persons; and
- (b) the Aboriginal Land Council in which the land is vested to lease the land to the Minister administering the 1974 Act; and
- (c) the leased land to be the subject of reservation or dedication under the 1974 Act; and
- (d) the Aboriginal Land Council in which the land is vested to participate, in accordance with the lease, in the management of the land.

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Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a proclaimed day or proclaimed days.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the Aboriginal Land Rights Act 1983.

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*Aboriginal Land Rights (Aboriginal Ownership of Parks) Amendment 1991 (No. 2)*

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**SCHEDULE 1—AMENDMENTS**

Schedule 1 (1) proposes amendment of section 12 of the Act, relating to the functions of Local Aboriginal Land Councils, to enable such Councils to request the New South Wales Aboriginal Land Council to negotiate the acquisition and lease of specified land reserved or dedicated under the 1974 Act on their behalf and to subsequently participate, in accordance with the lease, in the management of that land.

Schedule 1 (2) proposes amendment of section 23 of the Act, relating to the functions of the New South Wales Aboriginal Land Council, to enable that Council to negotiate the acquisition and lease of specified land reserved or dedicated under the 1974 Act and to subsequently participate, in accordance with the lease, in its management.

Schedule 1 (3) proposes that section 40B of the Act be amended to formally grant power to enable leases to be executed and land to be reserved or dedicated as required by the 1974 Act.

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**ABORIGINAL LAND RIGHTS (ABORIGINAL OWNERSHIP  
OF PARKS) AMENDMENT BILL 1991 (No. 2)**

NEW SOUTH WALES



**TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Amendment of Aboriginal Land Rights Act 1983 No. 42

**SCHEDULE 1—AMENDMENTS**

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**ABORIGINAL LAND RIGHTS (ABORIGINAL OWNERSHIP  
OF PARKS) AMENDMENT BILL 1991 (No. 2)**

NEW SOUTH WALES



No. , 1991

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**A BILL FOR**

An Act to amend the Aboriginal Land Rights Act 1983 relating to the lease of certain land vested in Aboriginal Land Councils under the National Parks and Wildlife Act 1974 to the Minister administering that Act; and for other purposes.

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*Aboriginal Land Rights (Aboriginal Ownership of Parks) Amendment 1991 (No. 2)*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Aboriginal Land Rights (Aboriginal Ownership of Parks) Amendment Act 1991.

**Commencement**

2. This Act commences on a day or days to be appointed by proclamation.

**Amendment of Aboriginal Land Rights Act 1983 No. 42**

3. The Aboriginal Land Rights Act 1983 is amended as set out in Schedule 1.

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**SCHEDULE 1—AMENDMENTS**

(Sec. 3)

(1) Section 12 (**Functions of a Local Aboriginal Land Council**):

(a) After section 12 (b), insert:

(b1) to make applications in writing to the New South Wales Aboriginal Land Council to negotiate on its behalf the acquisition and lease of lands comprising the national park, historic sites or nature reserve listed in Schedule 4 to the National Parks and Wildlife Act 1974 which are to be vested directly in the Local Aboriginal Land Council and leased by it to the Minister administering that Act in accordance with Part 4A of that Act; and

(b) After section 12 (h), insert:

(h1) to participate, in accordance with the terms of a lease in force under Part 4A of the National Parks and Wildlife Act 1974, in the management of lands vested in the Local Aboriginal Land Council under that Part; and

(2) Section 23 (**Functions of the Council**):

(a) After section 23 (c), insert:

(c1) to negotiate on its own behalf the acquisition and lease of lands comprising the national park, historic sites or nature reserve listed in Schedule 4 to the National

SCHEDULE 1—AMENDMENTS—*continued*

Parks and Wildlife Act 1974 which are to be vested in and leased by it to the Minister administering that Act in accordance with Part 4A of that Act;

(c2) to negotiate on behalf of a Local Aboriginal Land Council the acquisition and lease of lands comprising the national park, historic sites or nature reserve listed in Schedule 4 to the National Parks and Wildlife Act 1974 which are to be vested directly in the Local Aboriginal Land Council and leased by it to the Minister administering that Act in accordance with Part 4A of that Act;

(b) After section 23 (h), insert:

(h1) to participate, in accordance with the terms of a lease in force under Part 4A of the National Parks and Wildlife Act 1974, in the management of lands vested in it under that Part;

(3) Section 40B (**Lease, use etc. of land**):

(a) After section 40B (1), insert:

(1A) Without limiting subsection (1), the New South Wales Aboriginal Land Council is authorised to lease lands which have been vested in it pursuant to Part 4A of the National Parks and Wildlife Act 1974 to the Minister administering that Act as required by that Part.

(b) After section 40B (4), insert:

(5) A Local Aboriginal Land Council is authorised, subject to the requirements of this section, to lease lands which have been vested in the Council pursuant to Part 4A of the National Parks and Wildlife Act 1974 to the Minister administering that Act as required by that Part.

(6) Nothing in this Act prevents lands which are the subject of a lease under subsection (1A) or (5) being reserved as a national park or historic site or dedicated as a nature reserve as required by Part 4A of the National Parks and Wildlife Act 1974.

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FIRST PRINT

NATIONAL PARKS AND WILDLIFE (ABORIGINAL OWNERSHIP) AMENDMENT BILL 1991 (No. 2)

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Aboriginal Land Rights (Aboriginal Ownership of Parks) Amendment Bill 1991 is cognate with this Bill.

The object of this Bill is to amend the National Parks and Wildlife Act 1974 (the 1974 Act) to make provision for:

- (a) the recognition by Parliament that certain specified lands reserved or dedicated under the 1974 Act are of special cultural significance to Aboriginal persons; and
- (b) following negotiations to be conducted between the Minister for the Environment and the New South Wales Aboriginal Land Council, the revocation of the reservation as a national park or historic site or of the dedication as a nature reserve under the 1974 Act of those lands to enable them to be vested in an Aboriginal Land Council; and
- (c) the leasing of those lands to the Minister by the Aboriginal Land Council; and
- (d) the reservation or dedication of those lands as a national park, historic site or nature reserve; and
- (e) the participation of the Aboriginal Land Council on an advisory management committee in respect of the park, site or reserve in accordance with the lease.

Consequential amendments to the 1974 Act and savings and transitional provisions are also proposed.

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Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act commences on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the Schedules of amendments to the 1974 Act.

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## SCHEDULE 1—PRINCIPAL AMENDMENTS

Schedule 1 (1) proposes the insertion of a new Part, Part 4A—Aboriginal Land, containing sections 71A–71W.

The proposed Part provides that the terms “Aboriginal”, “Aboriginal Land Council”, “Local Aboriginal Land Council” and “New South Wales Aboriginal Land Council” have the same meanings as in the Aboriginal Land Rights Act 1983.

The proposed Part contains a statement recognising the special cultural significance to Aboriginal persons of certain lands reserved or dedicated under the Act and for the revocation of the reservation or dedication of those lands to enable them:

- (a) to be vested in the New South Wales Aboriginal Land Council or a Local Aboriginal Land Council whose members have a close association with the lands; and
- (b) to be leased by that Aboriginal Land Council to the Minister; and
- (c) to be then reserved or dedicated in accordance with the proposed Part.

Provision is made for the recognition by Parliament that certain reserved or dedicated lands are of special cultural significance to Aboriginal persons. Land is stated to be of cultural significance to Aboriginal persons if the land is significant in terms of the traditions, observances, customs, beliefs or history of Aboriginal persons. This is the same concept as is employed in the Aboriginal Land Rights Act 1983. The reserved or dedicated lands identified as being of special cultural significance to Aboriginal persons are listed in proposed Schedule 4. These lands are:

Mungo National Park  
 Mootwingee Historic Site  
 Mount Grenfell Historic Site  
 Mount Yarrowyck Nature Reserve

The proposed Part enables the Minister to enter into negotiations with the New South Wales Aboriginal Land Council on its own behalf or that of a Local Aboriginal Land Council with a view to ascertaining whether an Aboriginal Land Council wishes to have a park, site or reserve listed in proposed Schedule 4, freed from its existing reservation or dedication under the Act, vested in the Aboriginal Land Council in return for a lease of the lands by the Aboriginal Land Council to the Minister and subsequent reservation or dedication of the lands under the Act as a park, site or reserve.

If the Minister receives an indication that an Aboriginal Land Council does wish to proceed on this basis, the Minister is authorised to negotiate the terms of a proposed lease with the New South Wales Aboriginal Land Council.

A lease under the proposed Part must contain certain terms that are specified in the proposed Part. These terms include requirements that the lease must cover the whole of the lands vested in the Aboriginal Land Council and must be for a term of 99 years with successive renewal options of 99 years. Provision is made to enable the re-negotiation of the lease at the end of each 99 years. A nominal rental of \$1.00 a year, if demanded, is payable by the Minister to the Aboriginal Land Council. An advisory management committee is to be set up in respect of the lands on which a majority of the members are to be members, or nominees, of the Aboriginal Land Council.

The lease must also entitle the Director of National Parks and Wildlife to exercise his or her functions on and with respect to the lands (for example, regarding care, control

*National Parks and Wildlife (Aboriginal Ownership) Amendment 1991 (No. 2)*

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and day to day management, staffing, administration and enforcement of regulations). Interests granted under the 1974 Act or other Acts and existing at the date of the lease are to be protected.

The lease must contain a term guaranteeing the public access to the lands subject to the Act and regulations.

The Aboriginal Land Council is precluded from dealing with the lands in specified ways and other dealings that are permitted require the Minister's consent.

Other lease terms to be covered include provision for the Minister to consult with the Aboriginal Land Council in which the land is vested concerning plans of management and regulations. Procedures for consultation and dispute resolution and compliance with any special requirements which may apply if the lands are listed as, or as part of, a World Heritage property are also covered.

The Minister and the Aboriginal Land Council may agree on insertion of such other lease terms, not inconsistent with the Act and regulations, as they consider appropriate.

A procedure is provided for the resolution of disputes that may arise between the Minister and the New South Wales Aboriginal Land Council concerning terms of a proposed lease.

The proposed Part provides that, on completion of the lease negotiations, the Minister must cause specified documents to be laid before each House of Parliament within a specified time. The documents to be laid before each House are the lease prepared as the result of the negotiations and a notification that:

- revokes the existing reservation or dedication under the Act of the lands that are the subject of the lease; and
- vests the lands in the Aboriginal Land Council that is leasing the land to the Minister; and
- reserves or dedicates the lands.

The proposed Part provides that if either House of Parliament passes a resolution disallowing the notification, no further action is to be taken at that time with respect to the matter. An option to enable the matter, with or without amendments, to be re-submitted at a later date is provided.

If no resolution disallowing the proposal embodied in the documents is passed, provision is made that the proposal may lawfully be carried into effect. The Minister is required, within a specified time, to cause the notification to be published in the Gazette. On publication of the notification, the current reservation or dedication of the lands is revoked, the lands vest in the Aboriginal Land Council which is named as lessor in the lease laid before the Houses of Parliament, but subject to any existing registered interest in the lands, the lease takes effect and its term commences to run, and the lands are reserved as a national park or historic site or dedicated as a nature reserve, as the case requires.

Proposed Part 4A also contains provisions dealing with the various matters that are of general application to all lands held under the Act. These matters include the management of the lands by the Director of National Parks and Wildlife and the staff of the National Parks and Wildlife Service, the protection of existing interests and new interests and licences relating to the lands and the application of existing regulations to the lands.

The proposed Part also provides that certain provisions of the 1974 Act that are inapplicable to lands reserved or dedicated under proposed Part 4A do not apply. These

*National Parks and Wildlife (Aboriginal Ownership) Amendment 1991 (No. 2)*

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provisions cover such matters as advisory committees, reservation and dedication procedures, the naming of parks, sites and reserves and the transfer of property and staff where trustees are involved.

Provision is made in proposed Part 4A for the naming of parks, sites or reserves reserved or dedicated under the Part and for the amendment of the names of parks, sites or reserves listed in proposed Schedule 4 in appropriate circumstances.

No form of assurance, other than publication of the notification, is necessary to vest title to the lands in the Aboriginal Land Council. No consideration or stamp duty is payable by the Aboriginal Land Council to the Crown in relation to the vesting. Provision is made for the entry by the Registrar-General of particulars of the vesting and the lease on the title documents to the lands.

The opportunity exists to re-negotiate certain lease provisions towards the end of each 99 years. A procedure to resolve disputes arising during such re-negotiation is provided.

The terms of a lease may be varied only by agreement of the parties or an Act of Parliament. Leases made under the Part cannot be terminated by the parties or a court but only by an Act of Parliament. A lease does not expire at the end of its term. The Minister holds over under the lease until such time as the lease is renewed or replaced or is brought to an end by an Act of Parliament.

Proposed Schedule 4, in which the lands of special cultural significance to Aboriginal persons are listed, may be amended only by an Act of Parliament.

Schedule 1 (2) inserts proposed Schedule 4 (Lands of special cultural significance to Aboriginal persons). The content of the proposed Schedule has been described above.

#### SCHEDULE 2—CONSEQUENTIAL AMENDMENTS

Consequential amendments are made to the Act to reflect and complement the changes envisaged by proposed Part 4A. Provision is made for the National Parks and Wildlife Advisory Council to advise the Minister as to the terms of a draft lease negotiated with an Aboriginal Land Council and for the Minister to enter into leases under Part 4A as corporation sole.

Appropriate savings and transitional provisions are also included.

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FIRST PRINT

**NATIONAL PARKS AND WILDLIFE (ABORIGINAL  
OWNERSHIP) AMENDMENT BILL 1991 (No. 2)**

NEW SOUTH WALES



**TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Amendment of National Parks and Wildlife Act 1974 No. 80

SCHEDULE 1—PRINCIPAL AMENDMENTS

SCHEDULE 2—CONSEQUENTIAL AMENDMENTS

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**NATIONAL PARKS AND WILDLIFE (ABORIGINAL  
OWNERSHIP) AMENDMENT BILL 1991 (No. 2)**

NEW SOUTH WALES



No. , 1991

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**A BILL FOR**

An Act to amend the National Parks and Wildlife Act 1974 to enable the revocation of the reservation or dedication under that Act of certain land of Aboriginal cultural significance and the vesting of that land in an Aboriginal Land Council subject to a lease in favour of the Minister and subsequent reservation or dedication of the leased land; and for other purposes.

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*National Parks and Wildlife (Aboriginal Ownership) Amendment 1991 (No. 2)*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the National Parks and Wildlife (Aboriginal Ownership) Amendment Act 1991.

**Commencement**

2. This Act commences on a day or days to be appointed by proclamation.

**Amendment of National Parks and Wildlife Act 1974 No. 80**

3. The National Parks and Wildlife Act 1974 is amended as set out in Schedules 1 and 2.

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**SCHEDULE 1—PRINCIPAL AMENDMENTS**

(Sec. 3)

(1) Part 4A:

After Part 4, insert:

**PART 4A—ABORIGINAL LAND**

**Definitions**

71A. In this Part, "Aboriginal", "Aboriginal Land Council", "Local Aboriginal Land Council" and "New South Wales Aboriginal Land Council" have the same meanings as they have in the Aboriginal Land Rights Act 1983.

**Purpose of Part**

71B. The purpose of this Part is to provide for the recognition of the special cultural significance to Aboriginal persons of certain lands reserved or dedicated under this Act and for the revocation of the reservation or dedication of those lands to enable those lands:

- (a) to be vested in the New South Wales Aboriginal Land Council or in a Local Aboriginal Land Council whose members have a close association with the lands; and
- (b) to be leased by the Aboriginal Land Council to the Minister; and



SCHEDULE 1—PRINCIPAL AMENDMENTS—*continued*

(c) to be then reserved or dedicated in accordance with this Part.

**Recognition of cultural significance of certain lands to Aboriginal persons**

71C. (1) Parliament recognises that certain lands reserved or dedicated under this Act are of special cultural significance to Aboriginal persons. Land is of cultural significance to Aboriginal persons if the land is significant in terms of the traditions, observances, customs, beliefs or history of Aboriginal persons.

(2) The lands comprising the national park, historic sites and nature reserve listed in Schedule 4 are identified as of special cultural significance to Aboriginal persons.

**Negotiations by Minister with New South Wales Aboriginal Land Council**

71D. (1) The Minister may enter into negotiations with:

- (a) the New South Wales Aboriginal Land Council on its own behalf; or
- (b) the New South Wales Aboriginal Land Council on behalf of a Local Aboriginal Land Council whose members have a close association with any of the lands comprising the national park, historic sites and nature reserve listed in Schedule 4.

(2) The negotiations are to be conducted with a view to ascertaining whether the New South Wales Aboriginal Land Council or the Local Aboriginal Land Council wishes to have a park, site or reserve listed in Schedule 4 freed from its present reservation or dedication under this Act and vested in the Aboriginal Land Council in return for:

- (a) a lease of the lands formerly comprising the park, site or reserve to the Minister by the Aboriginal Land Council; and
- (b) the subsequent reservation or dedication of the lands as a park, site or reserve, as the case requires, under this Part.

(3) If the New South Wales Aboriginal Land Council on its own behalf or on behalf of the Local Aboriginal Land Council indicates to the Minister that either of those

SCHEDULE 1—PRINCIPAL AMENDMENTS—*continued*

Aboriginal Land Councils does wish the lands to be vested in it subject to the conditions referred to in subsection (2) (a) and (b), the Minister may negotiate the terms of the proposed lease with the New South Wales Aboriginal Land Council.

**Terms of lease between Aboriginal Land Council and Minister**

71E. (1) A lease of lands under this Part must make provision for the following:

- (a) the lease of the whole of the lands vested in the Aboriginal Land Council to the Minister;
- (b) a term of 99 years;
- (c) options to renew the lease for further terms of 99 years with no limitation on the number of such options that may be exercised by the Minister;
- (d) a term permitting the replacement of the lease, in accordance with this Part, with a new lease;
- (e) the manner of exercising an option to renew the lease;
- (f) a nominal rental of \$1 a year, if demanded;
- (g) a term acknowledging that the Director is to continue to have the care, control and management of the lands and is entitled to exercise on and with respect to those lands any power, authority, duty or function conferred or imposed on him or her by this Act, the regulations or any other instrument under this Act;
- (h) a term acknowledging that the Service and the officers, employees and contractors of the Minister, the Director and the Service are entitled to exercise on and with respect to the lands any power, authority, duty or function conferred or imposed on any of them by this Act, the regulations or any other instrument under this Act;
- (i) the setting up of an advisory management committee for the lands, the majority of the members of which are members, or nominees, of the Aboriginal Land Council which is the lessor of the lands;
- (j) the functions of the advisory management committee;

SCHEDULE 1—PRINCIPAL AMENDMENTS—*continued*

- (k) a term acknowledging that the Aboriginal Land Council in which the lands are vested and its employees, contractors and agents must comply with all provisions of this Act and the regulations which apply to the lands, including provisions concerning the protection of animals, trees, timber, plants, flowers and vegetation;
  - (l) a term acknowledging that the lease is subject to any existing interest within the meaning of section 39 and any licence issued under Part 9 and any lease, licence, franchise or easement granted under Part 12 which affects the lands, or any part of the lands, and which is current at the date of the vesting of the lands in the Aboriginal Land Council;
  - (m) the grant, extension or extinguishment of any interest, licence, lease, franchise or easement of a kind referred to in paragraph (l) subject to the requirements of this Act and, in the case of an extension or extinguishment, to any document under which the interest, licence, lease, franchise or easement was granted;
  - (n) a term acknowledging that the public generally has a right of access to the lands in accordance with this Act and the regulations;
  - (o) a term acknowledging that the lands, or any part of the lands, may not be the subject of any sale, exchange, disposal or mortgage and providing that, to the extent to which the lands may be dealt with, any such dealing must only be with the prior written consent of the Minister.
- (2) A lease under this Part must also make provision for the following:
- (a) a term requiring the Minister to consult with the Aboriginal Land Council in which the lands are vested prior to the making, amending or repealing any regulations in respect of the lands;
  - (b) a term requiring the Minister to consult with the Aboriginal Land Council in which the lands are vested prior to adopting, amending, altering or cancelling a plan of management in respect of the lands;

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SCHEDULE 1—PRINCIPAL AMENDMENTS—*continued*

- (c) a term requiring that consultations concerning the operation of the lease are to involve the Director and the Chairperson of the Aboriginal Land Council in which the lands are vested;
  - (d) a term requiring that the Minister is to arbitrate on any dispute which occurs between the Director and the Chairperson of the Aboriginal Land Council concerning the operation of the lease;
  - (e) compliance by the parties with any requirements which arise in consequence of the lands, or any part of the lands, being situated in an area which is listed as an item of cultural heritage or natural heritage of outstanding universal value in accordance with:
    - (i) the World Heritage Properties Conservation Act 1983 of the Commonwealth; and
    - (ii) The Convention for the Protection of the World Cultural and Natural Heritage that has been adopted by the General Conference of the United Nations Education, Scientific and Cultural Organization, being the convention a copy of the English text of which is set out in the Schedule to the Commonwealth Act referred to in subparagraph (i);
  - (f) a term providing for the management of the lands in a manner which is appropriate to the status of those lands as lands of special cultural significance to Aboriginal persons.
- (3) The lease may make provision for such other matters, not inconsistent with this Act and the regulations, as the Minister and the Aboriginal Land Council consider appropriate.

**Resolution of disputes concerning lease terms**

71F. (1) If a dispute arises between the Minister and the New South Wales Aboriginal Land Council in relation to a proposed term or proposed terms of a lease being negotiated under this Part, the Minister or that Aboriginal Land Council may submit that dispute to the Premier for settlement.

(2) On submission of a dispute to the Premier, the Premier may:

SCHEDULE 1—PRINCIPAL AMENDMENTS—*continued*

- (a) appoint a Commissioner of Inquiry to hold an inquiry and make a report to the Premier; or
- (b) hold an inquiry into the dispute.

(3) After the completion of the inquiry, and after considering any report, the Premier may make such order with respect to the dispute, having regard to the public interest and to the circumstances of the case, as the Premier thinks fit.

(4) An order made by the Premier may direct the payment of any costs or expenses of or incidental to the holding of an inquiry.

(5) The Minister or the Aboriginal Land Council must comply with an order made under this section and, despite the provisions of any Act, is empowered to comply with any such order.

**Tabling of notification and lease**

71G. (1) On completion of the negotiations and preparation of a draft lease which is acceptable to the Minister, the New South Wales Aboriginal Land Council and, if applicable, a Local Aboriginal Land Council, the Minister must cause to be laid before each House of Parliament the documents specified in subsection (3).

(2) The documents are to be laid before each House of Parliament within 14 sitting days of that House after the date on which the New South Wales Aboriginal Land Council and, if applicable, the Local Aboriginal Land Council provide the Minister with a written certification that the draft lease is acceptable to them.

(3) The documents that are to be laid before each House of Parliament in accordance with this section are:

- (a) the lease prepared as the result of the negotiations that has been executed in escrow by the Minister and the New South Wales Aboriginal Land Council or a Local Aboriginal Land Council, as the case requires, and, in the latter event, on which the approval of the New South Wales Aboriginal Land Council is shown by its execution in escrow of a consent to the lease; and

SCHEDULE 1—PRINCIPAL AMENDMENTS—*continued*

(b) a notification:

- (i) revoking the reservation as a national park or historic site or the dedication as a nature reserve, as the case requires, of the lands that are the subject of the lease referred to in paragraph (a); and
- (ii) vesting those lands in the New South Wales Aboriginal Land Council or the Local Aboriginal Land Council which is to lease the lands to the Minister, subject to any interest in the lands that has been granted under Part 12 and registered by the Registrar-General; and
- (iii) reserving or dedicating those lands as a national park, historic site or nature reserve, as the case requires, subject to any interest referred to in subparagraph (ii).

**Disallowance of proposal by Parliament**

71H. (1) If either House of Parliament passes a resolution of which notice has been given within 15 sitting days of that House after the lease and notification referred to in section 71G have been laid before it under that section and the resolution disallows the notification, no further action is to be taken in the matter.

(2) Nothing in subsection (1) prevents the Minister, at some later time, causing to be laid before each House of Parliament in accordance with this Part a lease and a notification that has previously been tabled, either with or without amendments.

**Revocation, vesting etc. if proposal not disallowed**

71I. (1) If no resolution of a kind referred to in section 71H is or can be passed, it is lawful for the proposal embodied in the documents referred to in section 71G (3) to be carried out in accordance with this section.

(2) The Minister must, within 28 days after the last date on which the notification referred to in section 71G (3) (b) might have been disallowed, cause the notification to be published in the Gazette.

SCHEDULE 1—PRINCIPAL AMENDMENTS—*continued*

(3) On publication of the notification:

- (a) the existing reservation as a national park or historic site; or
- (b) the existing dedication as a nature reserve,

of the lands described in the notification is revoked. This subsection has effect despite anything else in this Act.

(4) On publication of the notification, the lands described in the notification vest, by virtue of the notification and the operation of this section, in the Aboriginal Land Council named as lessor in the lease laid before Parliament under section 71G for an estate of freehold in possession without the necessity for any further assurance, but subject to any interest in the lands that has been granted under Part 12 and registered by the Registrar-General.

(5) On publication of the notification, the lease laid before Parliament under section 71G takes effect and the lease is taken to have been executed on, and its term commences to run from, the date of such publication.

(6) On publication of the notification, the lands described in the notification are, despite the fact that the lands are vested in the Aboriginal Land Council:

- (a) reserved as a national park or historic site; or
- (b) dedicated as a nature reserve,

as the case may require, in accordance with this Part, subject to any interest referred to in subsection (4).

**Consequences of revocation, vesting etc.**

71J. On publication under section 71I of the notification referred to in section 71G (3) (b):

- (a) the lands described in the notification are reserved as a national park or historic site or dedicated as a nature reserve, as the case may be, for the purposes of this and any other Act; and
- (b) the Director continues to have the care, control and management of the lands and may exercise on and with respect to those lands any power, authority, duty or function conferred or imposed on him or her by this Act, the regulations or any other instrument under this Act; and

SCHEDULE 1—PRINCIPAL AMENDMENTS—*continued*

- (c) the Service and the officers, employees and contractors of the Minister, the Director and the Service may exercise on and with respect to those lands any power, authority, duty or function conferred or imposed on any of them by this Act, the regulations or any other instrument under this Act; and
- (d) any regulations that, immediately before that publication, applied to the lands continue to apply and may be amended and revoked accordingly; and
- (e) any plan of management that, immediately before that publication, applied to the lands continues to apply and may be amended, altered or cancelled accordingly; and
- (f) any existing interest within the meaning of section 39 and any licence granted under Part 9 and any lease, licence, franchise or easement granted under Part 12 that affects the lands, or any part of the lands, and that is current at the date of the notification continues to have effect and may be terminated or otherwise dealt with in accordance with this Act or the document under which it was granted; and
- (g) any fee, rent or other sum that is payable under or with respect to any existing interest, licence, lease, franchise or easement referred to in paragraph (f) continues to be payable in the same manner, and to the same payee, as was required prior to publication of the notification; and
- (h) any declaration made under Division 3 of Part 4 or under the Wilderness Act 1987 with respect to the lands, or any part of the lands, continues in force and may be varied or revoked accordingly.

**Certain provisions not to apply to lands reserved or dedicated under this Part**

71K. (1) Division 2 of Part 3 (Advisory committees) and sections 31, 33–36, 46, 47, 48, 49 (1), (2) and (4)–(6), 51 and 58 do not apply to lands reserved as a national park or historic site or dedicated as a nature reserve under this Part.

(2) Subsection (1) does not limit section 71J.



SCHEDULE 1—PRINCIPAL AMENDMENTS—*continued***Application of certain provisions to lands reserved under this Part**

71L. Sections 37–39 and 41–45 apply to and in respect of lands reserved as a national park or historic site under this Part in the same way as they apply to and in respect of lands reserved as a national park or historic site under Part 4.

**Application of certain provisions to lands dedicated under this Part**

71M. (1) Sections 43 and 44 apply to and in respect of lands dedicated as a nature reserve under this Part in the same way as they apply to and in respect of lands reserved as a national park or historic site under Part 4.

(2) Sections 52–57 apply to lands dedicated as a nature reserve under this Part in the same way as they apply to lands dedicated as a nature reserve under Part 4.

**Name of park, site or reserve**

71N. (1) The notification referred to in section 71G (3) (b) must assign a name to a national park, historic site or nature reserve reserved or dedicated under this Part.

(2) The name assigned under subsection (1) may be the same name as, or a different name from, that of the park, site or reserve as listed in Schedule 4.

(3) The Governor may, by proclamation published in the Gazette:

- (a) alter the name of a park, site or reserve reserved or dedicated under this Part; and
- (b) amend Schedule 4 by omitting the former name of the park, site or reserve and by inserting instead the new name of the park, site or reserve.

(4) Before the notification under subsection (1) or a proclamation under subsection (3) is published, the Minister must consult with the Aboriginal Land Council in which the lands are, or are proposed to be, vested concerning the selection of a name for the park, site or reserve.

(5) If, before the reservation or dedication under this Part of a park, site or reserve listed in Schedule 4, the name of the park, site or reserve is altered pursuant to the publication of a proclamation under section 36 or 51, that proclamation or

SCHEDULE 1—PRINCIPAL AMENDMENTS—*continued*

another proclamation published in the Gazette must amend Schedule 4 by omitting the former name of the park, site or reserve and by inserting instead the new name of the park, site or reserve.

**No consideration payable by Aboriginal Land Council on vesting of lands**

71O. (1) No consideration is payable to the Crown by an Aboriginal Land Council in relation to the vesting in it of lands pursuant to the publication of a notification under section 71I.

(2) No stamp duty under the Stamp Duties Act 1920 is payable by an Aboriginal Land Council in relation to any such vesting.

**Dating etc. of lease**

71P. On publication of a notification under section 71I, the Minister must cause the date of publication of the notification to be inserted in the lease as:

- (a) the date of execution of the lease; and
- (b) the date of the commencement of the term of the lease.

**Registrar-General to enter particulars of vesting in register**

71Q. (1) On publication of a notification under section 71I, there must be lodged at the Land Titles Office:

- (a) all title documents held by the Director in relation to the lands referred to in the notification; and
- (b) the lease completed in accordance with section 71P.

(2) On lodgment of those documents at the Land Titles Office, the Registrar-General must enter in the appropriate register particulars of the vesting of the lands in the Aboriginal Land Council and the lease of those lands to the Minister.

(3) Following registration of the particulars referred to in subsection (2), the Registrar-General must return the title documents to the Director who must keep the title documents in safe custody on behalf of the Aboriginal Land Council and the Minister.

SCHEDULE 1—PRINCIPAL AMENDMENTS—*continued*

**Re-negotiation of certain lease terms at 99 year intervals**

71R. (1) At least 5 years before the expiry of each 99 year term of a lease under this Part, the Director, on behalf of the Minister, and the Aboriginal Land Council in which the lands are vested must consider whether or not any one or more of the terms of the lease should be amended to enable the lease to operate more effectively.

(2) If it is agreed that any such term or terms do require amendment, the Director, the Aboriginal Land Council and, if that Aboriginal Land Council is not the New South Wales Aboriginal Land Council, the New South Wales Aboriginal Land Council must negotiate on and prepare the required amendments at least 2 years before the expiry of the then current term of the lease.

(3) Any amendments prepared in accordance with subsection (2) and agreed to by the Aboriginal Land Council and, if appropriate, the New South Wales Aboriginal Land Council must be presented to the Minister for approval at least 18 months before the expiry of the then current term of the lease.

(4) If the amendments are approved by the Minister, a new lease must be prepared incorporating the amended terms.

(5) At least 6 months before the expiry of the then current term of the lease, the new lease should, if at all possible, be executed in escrow by the Minister and the Aboriginal Land Council in which the lands are vested and, if that Aboriginal Land Council is not the New South Wales Aboriginal Land Council, consented to by the New South Wales Aboriginal Land Council by its execution in escrow of a consent to the lease.

(6) A lease executed under subsection (5) takes effect, in substitution for the previous lease between the Minister and the Aboriginal Land Council, on the day after the day on which the then current term of the previous lease expires.

(7) If it is agreed by the Director, the Aboriginal Land Council and, if appropriate, the New South Wales Aboriginal

SCHEDULE 1—PRINCIPAL AMENDMENTS—*continued*

Land Council that no term or terms of the lease require amendment, the current lease between the parties continues to operate in accordance with its terms and the requirements of this Part.

(8) The times specified by this section for the consideration of the terms of the lease, the negotiation and preparation of amendments, the presentation of the amendments to the Minister and the execution of the lease may be varied by the agreement of the parties or in accordance with section 71T but only to the extent provided for in that section.

**Dating and registration of new lease**

71S. (1) The Minister must cause the date on which a new lease takes effect under section 71R (6) to be inserted in the new lease as:

- (a) the date of execution of the new lease; and
- (b) the date of the commencement of the term of the new lease.

(2) The Minister must cause the new lease and all title documents held by the Director in relation to the lands referred to in the new lease to be lodged at the Land Titles Office to enable the Registrar-General to enter in the appropriate register particulars of the new lease.

(3) Following registration of the particulars referred to in subsection (2), the Registrar-General must return the title documents to the Director for safe custody in accordance with section 71Q.

**Settlement of disputes concerning re-negotiation of certain lease terms**

71T. (1) If a dispute arises between the Director or the Minister and an Aboriginal Land Council in relation to:

- (a) whether or not any one or more of the terms of a lease should be amended; or
- (b) the form that an amendment of any such term should take; or
- (c) the acceptability of an amendment of any such term to the Minister; or

SCHEDULE 1—PRINCIPAL AMENDMENTS—*continued*

- (d) whether or not any of the times referred to in section 71R should be varied (but not so as to prevent the exercise of an option to renew the lease by the Minister or the expiry of the current lease),

the Minister or the Aboriginal Land Council may submit that dispute to the Premier for settlement.

(2) On the submission of a dispute to the Premier, the Premier may:

- (a) appoint a Commissioner of Inquiry to hold an inquiry and make a report to the Premier; or  
 (b) hold an inquiry into the dispute.

(3) After the completion of the inquiry, and after considering any report, the Premier may make such order with respect to the dispute, having regard to the public interest and to the circumstances of the case, as the Premier thinks fit.

(4) An order made by the Premier may direct the payment of any costs or expenses of or incidental to the holding of an inquiry.

(5) The Minister or the Aboriginal Land Council must comply with an order made under this section and, despite the provisions of any Act, is empowered to comply with any such order.

**Variation or termination of lease**

71U. (1) A lease under this Part may be varied only by the agreement of the parties, not inconsistent with this Act, or by an Act of Parliament.

(2) A lease under this Part cannot be forfeited, terminated or extinguished by any means by a party or by a court but may be brought to an end only by an Act of Parliament.

**Holding over under lease**

71V. (1) A lease under this Part does not expire by effluxion of time.

(2) On the expiry of the then current term of a lease under this Part, the Minister holds over under the lease until such time as the lease is renewed or replaced or is brought to an end by an Act of Parliament.

*National Parks and Wildlife (Aboriginal Ownership) Amendment 1991 (No. 2)***SCHEDULE 1—PRINCIPAL AMENDMENTS—*continued*****Amendment of Schedule 4 (Lands of special cultural significance to Aboriginal persons)**

71W. Lands comprising a national park, historic site or nature reserve may be omitted from or inserted in Schedule 4 only by an Act of Parliament.

## (2) Schedule 4:

After Schedule 3, insert:

**SCHEDULE 4—LANDS OF SPECIAL CULTURAL SIGNIFICANCE TO ABORIGINAL PERSONS**

(Secs. 71C (2), 71W)

Mungo National Park  
Mootwingee Historic Site  
Mount Grenfell Historic Site  
Mount Yarrowyck Nature Reserve

**SCHEDULE 2—CONSEQUENTIAL AMENDMENTS**

(Sec. 3)

(1) Section 23 (**Functions and duties of Council**):

- (a) From section 23 (1) (a), omit “areas, and to”, insert instead “areas, to”.
- (b) In section 23 (1) (a), after “wilderness areas”, insert “and to the terms of proposed leases under Part 4A”.

(2) Section 150 (**Minister to be corporation sole for certain purposes**):

In section 150 (1), after “functions under”, insert “Part 4A and”.

(3) Schedule 3 (**Savings, transitional and other provisions**):

- (a) Before clause 1, insert:

**PART 1—GENERAL****Regulations**

1. (1) The Governor may make regulations containing provisions of a saving or transitional nature consequent on the enactment of the following Acts:

*National Parks and Wildlife (Aboriginal Ownership) Amendment 1991 (No. 2)*

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SCHEDULE 2—CONSEQUENTIAL AMENDMENTS—*continued*

National Parks and Wildlife (Aboriginal Ownership)  
Amendment Act 1991

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

**PART 2—SPECIAL PROVISIONS**

(b) Re-number clause 1 as clause 1A.

(c) After clause 21, insert:

**Termination of appointment of members of certain advisory committees**

22. (1) A member of an advisory committee constituted for any lands comprising the national park, historic sites or nature reserve listed in Schedule 4 and holding office immediately before the publication of a notification under section 71I ceases to hold office on the date on which a lease of those lands takes effect by the operation of that section.

(2) No compensation is payable to any such member for or in respect of the termination of the member's appointment under this clause.

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