

FIRST PRINT

**CROWN LANDS (STATE RECREATION AREAS)
AMENDMENT BILL 1992**

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 (State Conservation Parks) Amendment Act 1992.

The object of this Bill is to amend the Crown Lands Act 1989 ("the 1989 Act") to provide for:

- (a) the dedication and administration of a special category of lands ("state recreation areas") to be used for public recreation and enjoyment; and
- (b) the administration of certain lands formerly managed (as state recreation areas) under the National Parks and Wildlife Act 1974 as state recreation areas under the 1989 Act.

This category of lands will be dedicated lands under the 1989 Act and as such will not fall within the definition of Crown lands under that Act. Consequently, the Minister administering the 1989 Act will not have authority to sell or otherwise dispose of those lands. Further, a reserve trust appointed for a state recreation area may not sell land dedicated as a state recreation area.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the 1989 Act.

SCHEDULE 1—AMENDMENTS

Schedule 1 (1) inserts a definition of "state recreation area" as being lands dedicated as a state recreation area under the 1989 Act.

Crown Lands (State Recreation Areas) Amendment 1992

Schedule 1 (2) amends the definition of "prescribed land" to omit a reference to land reserved as, or as part of, a state recreation area under the National Parks and Wildlife Act 1974.

Schedule 1 (3) amends the definition of "reserve" (for the purposes of Division 7 of Part 4) to exclude state recreation areas from lands which the Minister may vest in local councils.

Schedule 1 (4) extends the operation of certain definitions in the 1989 Act to provisions dealing with lands which are taken to be dedicated as state recreation areas under that Act.

Schedule 1 (5) proposes the insertion of a new Division, Division 2A, (containing sections 86A-86N) in Part 5 (Dedication and reservation of land).

Proposed Division 2A makes provision for state recreation areas to be administered in much the same manner as other dedicated lands under the 1989 Act. In addition, existing restrictions on dealing with state recreation areas currently managed under the National Parks and Wildlife Act 1974 (for example, no mining may take place without the consent of the Minister) will apply to state recreation areas administered under the 1989 Act.

The provisions of proposed Division 2A are as follows:

Section 86A—authorising the dedication of land as a state recreation area;

Section 86B—authorising the addition of land to an existing state recreation area;

Section 86C—requiring proposals to dedicate land as a state recreation area to be laid before Parliament;

Section 86D—revoking any existing reservations over land dedicated as a state recreation area;

Section 86E—providing that certain lands (listed in proposed Schedule 9) which are currently reserved as state recreation areas under the National Parks and Wildlife Act 1974 are taken to be dedicated as state recreation areas under Division 2A;

Section 86F—providing for the naming of state recreation areas;

Section 86G—restricting the use of the expression "state recreation area";

Section 86H—providing that prospecting and mining within a state recreation area may only take place with the consent of the Minister;

Section 86I—providing that the Forestry Act 1916 does not apply to land within a state recreation area;

Section 86J—providing that leases under the Fisheries and Oyster Farms Act 1935 in respect of a state recreation area may only be granted with the consent of the Minister;

Section 86K—providing that land within a state recreation area is not claimable Crown land for the purposes of the Aboriginal Land Rights Act 1983;

Section 86L—providing for the revocation of the dedication of a state recreation area (but only if Parliament has not disallowed the proposal to revoke);

Crown Lands (State Recreation Areas) Amendment 1992

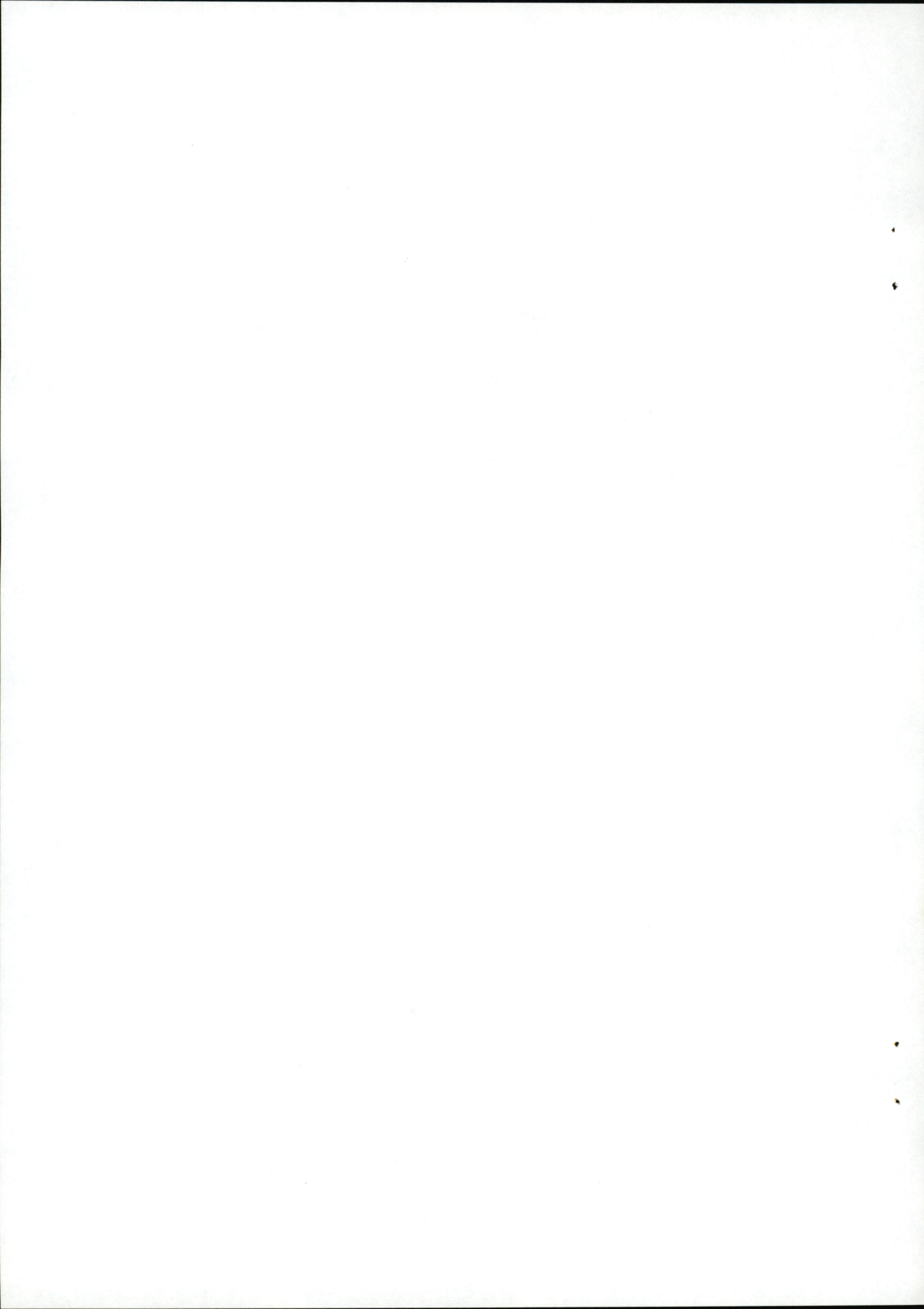
Section 86M—requiring assessment of the land (other than land taken by the proposed Act to be dedicated as a state recreation area) under Part 3 of the 1989 Act before dedication as a state recreation area unless the Minister is satisfied that it is in the public interest to dedicate the land without assessment and the Minister has had regard to the principles of Crown land management;

Section 86N—authorising revocation even though a Crown grant or a certificate of title has issued.

Schedule 1 (6) inserts proposed section 102A which prohibits the sale of land within a state recreation area.

Schedule 1 (7) amends Schedule 8 to the 1989 Act to include consequential savings and transitional provisions.

Schedule 1 (8) inserts Schedule 9 which identifies those lands (currently managed under the National Parks and Wildlife Act 1974) which are taken to be state recreation areas administered under the 1989 Act.



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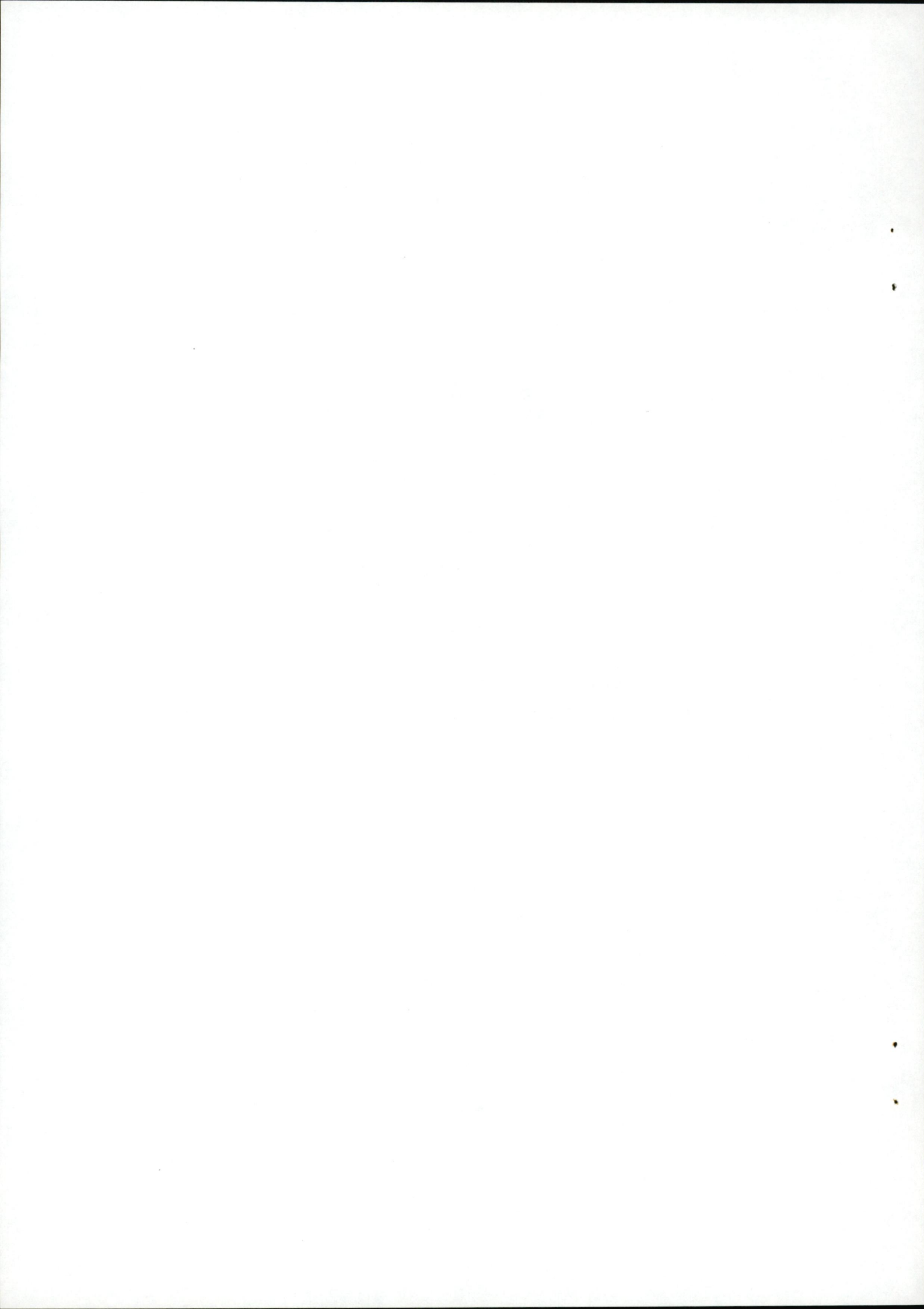
NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Crown Lands Act 1989 No. 6

SCHEDULE 1—AMENDMENTS



**CROWN LANDS (STATE RECREATION AREAS)
AMENDMENT BILL 1992**

NEW SOUTH WALES



No. , 1992

A BILL FOR

An Act to amend the Crown Lands Act 1989 in relation to the dedication and administration of state recreation areas.

Crown Lands (State Recreation Areas) Amendment 1992

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Crown Lands (State Recreation Areas) Amendment Act 1992.

5 Commencement

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

Amendment of Crown Lands Act 1989 No. 6

3. The Crown Lands Act 1989 is amended as set out in Schedule 1.

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SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 3 (**Definitions**):

In section 3 (1), insert in alphabetical order the following definition:

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“**state recreation area**” means land dedicated as a state recreation area under this Act;

(2) Section 51 (**Definitions**):

Omit the definition of “prescribed land”, insert instead:

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“**prescribed land**” means Crown land or land dedicated for a public purpose, being land that is not subject to the provisions of the Real Property Act 1900 (except in the case of land of which the State of New South Wales is the registered proprietor or land comprised in a lease in perpetuity).

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(3) Section 75 (**Definitions**):

In the definition of “reserve”, after “Part 5”, insert “but does not include land dedicated as a state recreation area under that Part”.

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(4) Section 78 (**Definitions**):

Omit “Schedules 3, 4 and 5”, insert instead “Schedules 3, 4, 5 and 8”.

Crown Lands (State Recreation Areas) Amendment 1992

SCHEDULE 1—AMENDMENTS—*continued*

(5) Part 5, Division 2A:

After Division 2, insert:

**Division 2A—Dedication of land for state
recreation areas**

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**Power of Minister to dedicate land as a state recreation
area**

86A. (1) The Minister may, by notification in the Gazette, dedicate Crown land as a state recreation area for the purpose of public recreation and enjoyment.

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(2) The dedication of Crown land as a state recreation area is a dedication of Crown land for a public purpose. Accordingly, land so dedicated ceases to be Crown land for the purposes of this Act.

(3) The dedication takes effect on the publication of the notification.

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Addition of land to a state recreation area

86B. (1) The Minister may, by notification in the Gazette, add Crown land to any land dedicated as a state recreation area under this Act.

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(2) On publication of the notification in the Gazette:

(a) the added land becomes part of the state recreation area; and

(b) the added land becomes subject to the same dedication and trusts as the state recreation area; and

25

(c) any rules, regulations or by-laws applicable to the state recreation area become applicable to the added land; and

(d) a reserve trust that is trustee of the state recreation area becomes trustee of the added land.

30

Tabling of proposed dedication or addition in Parliament

86C. An abstract of a proposed dedication of land as a state recreation area, or proposed addition to land dedicated as a state recreation area, under this Act must be laid before both Houses of Parliament at least 10 sitting days before the dedication or addition is made.

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Crown Lands (State Recreation Areas) Amendment 1992

SCHEDULE 1—AMENDMENTS—*continued*

Effect of dedication as state recreation area on reservations

5 86D. (1) Land may be dedicated as a state recreation area or added to land dedicated as a state recreation area under this Act even if it is already reserved.

10 (2) On publication of a notification of a dedication of land as a state recreation area or an addition to land dedicated as a state recreation area under this Act, any reservation under this Act applying to the land is, to the extent that it applies to the land, revoked.

Lands in Schedule 9 taken to be dedicated as state recreation areas

15 86E. (1) The lands:
(a) that, immediately before the commencement of this Division, were reserved as state recreation areas under the National Parks and Wildlife Act 1974; and

20 (b) that are described in Schedule 9,
are taken to have been dedicated as state recreation areas under this Division.

(2) The state recreation areas referred to in this section have the names that are assigned to them in Column 1 of Schedule 9.

Name of state recreation area

25 86F. (1) The Minister may, by a notification published under section 86A (1) or 86B (1) or by another notification published in the Gazette, assign a name to a state recreation area.

30 (2) The Minister may, by a notification published in the Gazette, from time to time alter the name of a state recreation area.

Limitation on use of expression "state recreation area"

35 86G. The expression "state recreation area" must not be used either alone or in conjunction with other words as the name of any lands used for the purpose of public recreation and enjoyment unless the lands are within a state recreation area dedicated under this Division.

Crown Lands (State Recreation Areas) Amendment 1992

SCHEDULE 1—AMENDMENTS—*continued*

Provisions relating to mining

86H. (1) In this section, “mining interest” means:

- (a) any authority (other than an exploration licence) under the Mining Act 1973; or 5
- (b) any authorisation under the Coal Mining Act 1973 (other than an authorisation under section 20 of that Act) or any coal lease under that Act; or
- (c) any lease under the Petroleum Act 1955.

(2) Subject to this section, the Mining Act 1973, the Coal Mining Act 1973, the Petroleum Act 1955 and the Petroleum (Submerged Lands) Act 1982 apply, at any time, to land within a state recreation area to the extent to which those Acts are in force at that time. 10

(3) A mining interest must not be granted in respect of land within a state recreation area without the written consent of the Minister. 15

(4) A renewal of, or extension of the term of, a mining interest in respect of land within a state recreation area must not be granted under the Mining Act 1973, the Coal Mining Act 1973 or the Petroleum Act 1955 without the written consent of the Minister. 20

(5) A claim must not be registered under Part 4 of the Mining Act 1973 over any land within a state recreation area.

(6) Except as provided in this section, nothing in this Division affects the right, title or interest of any person (other than a person who is or was trustee of the land comprised in a state recreation area) in respect of minerals in any such land. 25

(7) If a provision of the Coal Mining Act 1973 prevents, or has the effect of preventing, a person from exercising in land within a state recreation area any of the rights conferred by that Act or by an instrument under that Act, except with the consent of the Minister for the time being administering that Act, that Minister is not, in the case of any such lands, to give consent under that provision without the approval of: 30

- (a) if the lands are not within an irrigation area as defined in this Act—the Minister; or 35

Crown Lands (State Recreation Areas) Amendment 1992

SCHEDULE 1—AMENDMENTS—*continued*

(b) if the lands are within such an irrigation area—the Minister for the time being administering the Irrigation Act 1912.

5 **Forestry Act 1916 not to apply to state recreation areas**

86I. (1) The Forestry Act 1916 does not apply to or in respect of land within a state recreation area.

10 (2) Despite subsection (1), all licences and permits under the Forestry Act 1916 affecting land within a state recreation area continue in force unless sooner cancelled under that Act or until the expiration of the respective terms for which they were granted, and that Act continues to apply to and in respect of those licences and permits until they respectively expire or are cancelled.

15 **Application of Fisheries and Oyster Farms Act 1935**

20 86J. A lease under the Fisheries and Oyster Farms Act 1935 must not be granted in respect of land within a state recreation area or in respect of any waters beneath which the land is submerged without the written consent of the Minister.

State recreation areas not claimable Crown lands under Aboriginal Land Rights Act 1983

25 86K. Lands dedicated, or taken to be dedicated, as state recreation areas under this Division are not claimable Crown lands within the meaning of section 36 of the Aboriginal Land Rights Act 1983.

Revocation of dedication

30 86L. (1) The Minister may, by notification in the Gazette, revoke a dedication made, or taken to have been made, before or after the commencement of this section, but only if:

- (a) subsection (2) has been complied with; and
- (b) the proposed revocation has not been disallowed under subsection (3).

(2) This subsection is complied with if:

- 35 (a) notice of the proposed revocation is published in the Gazette; and

Crown Lands (State Recreation Areas) Amendment 1992

SCHEDULE 1—AMENDMENTS—*continued*

- (b) a copy of the notice is laid before each House of Parliament within 10 sitting days after its publication.
- (3) Either House of Parliament may pass a resolution disallowing the proposed revocation if notice of the resolution is given within 14 sitting days of the House after the copy of the notice published in the Gazette is laid before it. 5
- (4) On publication of the notification in the Gazette, the land affected vests in the Crown and becomes Crown land within the meaning of this Act. 10
- Requirement for assessment**
- 86M. (1) Land (other than lands described in Schedule 9) must not be dedicated as a state recreation area unless the Minister is satisfied that the land has been assessed under Part 3. 15
- (2) No assessment is required if the Minister:
- (a) is satisfied that it is in the public interest to dedicate the land without assessing the land under Part 3; and
- (b) in dedicating the land, has had due regard to the principles of Crown land management. 20
- Scope of revocation power**
- 86N. A dedication of land as a state recreation area may be revoked even if:
- (a) after dedication, a Crown grant has been issued or a folio of the Register has been or is created; or 25
- (b) before dedication, the land had been alienated by the Crown and subsequently resumed, purchased or otherwise acquired by the Crown.
- (6) Section 102A: 30
- After section 102, insert:
- Sale of state recreation areas prohibited**
- 102A. A reserve trust may not sell the whole or any part of land dedicated as a state recreation area.

Crown Lands (State Recreation Areas) Amendment 1992

SCHEDULE 1—AMENDMENTS—*continued*

(7) Schedule 8 (Savings, transitional and other provisions):

(a) Before clause 1, insert:

PART 1—GENERAL

5 **Regulations**

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

this Act

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Crown Lands (Continued Tenures) Act 1989

Western Lands (Crown Lands) Amendment Act 1989

Miscellaneous Acts (Crown Lands) Amendment Act 1989

15

Crown Lands (State Recreation Areas) Amendment Act 1992

(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.

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(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:

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(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.

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PART 2—SPECIAL PROVISIONS

(b) Renumber clause 1 as clause 1A.

(c) Omit clause 25, insert instead:

Existing interests in certain state recreation areas

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25. (1) In this clause, "existing interest" means any authority, authorisation, permit, lease, licence or occupancy.

Crown Lands (State Recreation Areas) Amendment 1992

SCHEDULE 1—AMENDMENTS—*continued*

(2) Except as provided by this clause, the taking of land described in Schedule 9 to be dedicated as a state recreation area under this Act on the commencement of Division 2A of Part 5 does not affect: 5

(a) the terms and conditions of any existing interest in respect of that land from the Crown or the trustees of the land, current and in force at the time of that commencement; or

(b) the use permitted of that land under the existing interest. 10

(3) Subject to subclause (4), no such existing interest is to be renewed nor is the term of any such interest to be extended except with the written consent of the Minister and subject to such conditions as the Minister determines. 15

(4) The provisions of subclause (3) do not apply to any authority, lease or licence under the Mining Act 1973, the Coal Mining Act 1973, the Fisheries and Oyster Farms Act 1935 or the Petroleum Act 1955, or to any permit or licence under the Petroleum (Submerged Lands) Act 1982. 20

(5) On the termination, surrender, forfeiture or determination of any existing interest (otherwise than for the purpose of renewing it or extending its term), the land the subject of the interest, to the extent to which it would not, but for this clause, be land dedicated as part of the state recreation area within which it is situated, is so dedicated. 25

Replacement of trustees of state recreation areas by reserve trusts

26. (1) On the commencement of Division 2A of Part 5, a reserve trust is taken to have been constituted under Part 5 as trustee of each state recreation area described in Schedule 9 in respect of which trustees (in this clause and clause 27 called "the former trustees") held office under the National Parks and Wildlife Act 1974. 30

(2) If the former trustees of a state recreation area described in Schedule 9 were constituted as a corporation under the National Parks and Wildlife Act 1974, the corporate name of the reserve trust of the state recreation area is to be the same name as the corporate name of the corporation so constituted. 40

*Crown Lands (State Recreation Areas) Amendment 1992***SCHEDULE 1—AMENDMENTS—*continued***

5 (3) In any other case, the corporate name of the reserve trust of a state recreation area described in Schedule 9 is to be the name that the Minister assigns or, if the Minister does not assign a name, the name that the reserve trust determines.

(4) The corporate name of a reserve trust of a state recreation area may be changed in accordance with Part 5.

10 (5) On and from the commencement of Division 2A of Part 5, a reference in any other Act or in any instrument made under any other Act to trustees of land is:

(a) if the land is taken to be a state recreation area under that Division; and

(b) is a reserve under Part 5 of which a reserve trust is trustee,

15 taken to be a reference to that reserve trust.

Membership of trust boards

20 27. (1) Each of the former trustees holding office, immediately before the commencement of Division 2A of Part 5, as a trustee of a state recreation area described in Schedule 9 is appointed as a member of the trust board for the state recreation area.

(2) The appointment of trustees under this clause has effect as if it had been made under Part 5 for the unexpired term of the original appointment.

25 (3) Clause 5 does not apply to membership of a trust board for a state recreation area.

Transfer of property etc.

30 28. (1) Clause 6 applies to a reserve trust constituted, in accordance with clause 26, in respect of a state recreation area described in Schedule 9 except as provided in this clause.

(2) For the purposes of section 125 (3):

35 (a) the trustees of the state recreation area appointed under the National Parks and Wildlife Act 1974 are called the former trustee; and

(b) the reserve trust is called the new trustee.

Crown Lands (State Recreation Areas) Amendment 1992

SCHEDULE 1—AMENDMENTS—*continued*

Plan of management under National Parks and Wildlife Act 1974 taken to be adopted for purposes of this Act

29. A plan of management adopted under Part 5 of the National Parks and Wildlife Act 1974 for a state recreation area referred to in Schedule 9 is taken to be a plan of management adopted under section 114 of this Act. 5

(8) Schedule 9:

After Schedule 8, insert:

**SCHEDULE 9—LANDS TAKEN TO BE
DEDICATED AS STATE RECREATION AREAS** 10
(Sec. 86E)

Column 1 (Name of state recreation area)	Column 2 (Description of state recreation area)	15
1. Arakoon State Recreation Area	The lands comprising Arakoon State Recreation Area pursuant to notifications in the following Gazettes (exclusive of the land the subject of a proposed revocation under the notification in Gazette of 10 April 1992 at pages 2637–2639): Gazette of 12 July 1974 at page 2752; Gazette of 26 October 1979 at page 5389; Gazette of 28 August 1981 at page 4616; Gazette of 28 October 1983 at page 4903; Gazette of 4 October 1985 at page 5238.	20 25 30

Crown Lands (State Recreation Areas) Amendment 1992

SCHEDULE 1—AMENDMENTS—*continued*

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| 5 | 2. Bents Basin
State Recreation
Area | The lands comprising Bents Basin State Recreation Area pursuant to notifications in the following Gazettes (exclusive of the land shown hatched on the diagram in the notification in Gazette of 10 April 1992 at pages 2640 and 2641): |
| 10 | | Gazette of 21 November 1980 at page 5990; |
| | | Gazette of 22 November 1985 at page 6098; |
| 15 | | Gazette of 4 April 1986 at page 1489; |
| | | Gazette of 18 July 1986 at page 3409; |
| | | Gazette of 22 January 1988 at page 348; |
| 20 | | Gazette of 21 October 1988 at page 5499; |
| | | Gazette of 1 September 1989 at page 6398. |
| 25 | 3. Burrendong State
Recreation Area | The lands comprising Burrendong State Recreation Area pursuant to notifications in the following Gazettes: |
| | | Gazette of 12 July 1974 at page 2753; |
| 30 | | Gazette of 17 February 1978 at page 565; |
| | | Gazette of 13 July 1979 at page 3435; |
| | | Gazette of 27 May 1983 at page 2403; |
| 35 | | Gazette of 6 March 1987 at page 1212; |

Crown Lands (State Recreation Areas) Amendment 1992

SCHEDULE 1—AMENDMENTS—*continued*

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|-------------------------------------|--|----|
| | Gazette of 3 November 1989 at page 9045; | |
| | Gazette of 12 January 1990 at page 194. | 5 |
| 4. Burrinjuck State Recreation Area | The lands comprising Burrinjuck State Recreation Area pursuant to notifications in the following Gazettes: | |
| | Gazette of 12 July 1974 at page 2754; | 10 |
| | Gazette of 29 April 1977 at page 1719; | |
| | Gazette of 30 March 1979 at page 1508; | 15 |
| | Gazette of 1 February 1980 at page 526; | |
| | Gazette of 6 May 1983 at page 2048; | |
| | Gazette of 27 May 1983 at page 2403. | 20 |
| 5. Copeton State Recreation Area | The lands comprising Copeton State Recreation Area pursuant to notifications in the following Gazettes: | |
| | Gazette of 12 July 1974 at pages 2752 and 2753; | 25 |
| | Gazette of 14 February 1975 at page 544; | |
| | Gazette of 21 January 1977 at page 214; | 30 |
| | Gazette of 28 October 1977 at page 4737. | |
| 6. Glenbawn State Recreation Area | The lands comprising Glenbawn State Recreation Area pursuant to notifications in the following Gazettes: | 35 |

Crown Lands (State Recreation Areas) Amendment 1992

SCHEDULE 1—AMENDMENTS—*continued*

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|----|-----------------------------------|--|
| | | Gazette of 13 December 1974 at page 4884; |
| 5 | | Gazette of 24 November 1989 at page 9939. |
| | 7. Grabine State Recreation Area | The lands comprising Grabine State Recreation Area pursuant to notifications in the following Gazettes: |
| 10 | | Gazette of 12 March 1976 at page 1138; |
| | | Gazette of 30 July 1976 at page 3316; |
| 15 | | Gazette of 24 December 1976 at page 5768; |
| | | Gazette of 10 March 1978 at page 805; |
| | | Gazette of 13 May 1983 at page 2119. |
| 20 | 8. Keepit State Recreation Area | The lands comprising Keepit State Recreation Area pursuant to notifications in the following Gazettes: |
| 25 | | Gazette of 12 July 1974 at page 2753; |
| | | Gazette of 10 June 1977 at page 2294; |
| | | Gazette of 22 June 1979 at page 3068; |
| 30 | | Gazette of 8 February 1985 at page 631. |
| | 9. Killalea State Recreation Area | The lands comprising Killalea State Recreation Area pursuant to notifications in the following Gazettes: |
| 35 | | Gazette of 5 October 1984 at page 4927; |
| | | Gazette of 12 September 1986 at page 4464. |

Crown Lands (State Recreation Areas) Amendment 1992

SCHEDULE 1—AMENDMENTS—*continued*

10. Wyangala State Recreation Area	The lands comprising Wyangala State Recreation Area pursuant to notifications in the following Gazettes:	5
	Gazette of 12 July 1974 at page 2754;	
	Gazette of 24 April 1975 at page 1616;	
	Gazette of 2 February 1979 at page 548;	10
	Gazette of 9 November 1979 at page 5626;	
	Gazette of 30 November 1979 at page 6041;	15
	Gazette of 5 November 1982 at page 5106;	
	Gazette of 11 February 1983 at page 662;	
	Gazette of 18 March 1983 at page 1323;	20
	Gazette of 14 October 1983 at page 4719;	
	Gazette of 16 December 1983 at page 5760;	25
	Gazette of 19 April 1985 at page 1717;	
	Gazette of 6 March 1987 at page 1212.	
