

FIRST PRINT

LAKE MACQUARIE STATE RECREATION AREA BILL 1993

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to reserve certain land at Lake Macquarie as a state recreation area and to provide for the establishment of a trust to manage the land.

PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 defines certain terms used in the proposed Act. The clause defines "the map" as meaning the series of maps marked "Lake Macquarie State Recreation Area Act 1993" and presented to the Speaker of the Legislative Assembly (by or on behalf of the Member of the Assembly who introduced the Bill for the Act) when the Bill was read a second time in the Assembly.

PART 2—RESERVATION OF LAKE MACQUARIE STATE RECREATION AREA

Clause 4 reserves Crown land and land of the Crown situated in areas shown on the map by red edging and red cross-hatching as Lake Macquarie State Recreation Area and gives the land the status of Crown land. The reservation takes effect on the publication of a notification under clause 6 more accurately describing the land.

Clause 5 requires the Director-General to cause a more accurate description of the land to be prepared within 3 months of the commencement of the Act.

Clause 6 requires the Minister to publish the description prepared under clause 5 in the Gazette. On publication, that description replaces the map.

Clause 7 revokes any dedication, reservation or vesting of the land concerned.

Clause 8 gives effect to Schedule 1.

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**PART 3—MANAGEMENT OF LAKE MACQUARIE STATE
RECREATION AREA**

Clause 9 requires the Minister to establish a management trust for the Lake Macquarie State Recreation Area comprising 12 trustees having specified qualifications or holding specified positions.

Clause 10 enables the trustees to establish advisory committees and to consult with existing committees and bodies in the exercise of the trustees' functions.

Clause 11 provides that the Lake Macquarie City Council is to be lessee of certain land at Wangi Point (on which is situated a caravan park and camping ground) on terms and conditions negotiated between the trustees and the Council (and, in the absence of agreement, specified by the Director-General of National Parks and Wildlife). In the meantime, the Council may continue to occupy and manage the land on the same terms and conditions on which it currently has the care and control of the land.

PART 4—THE MANAGEMENT PLAN

Clause 12 requires the Minister to cause a plan of management to be prepared for the Lake Macquarie State Recreation Area as soon as practicable after the reservation of the Area. The plan of management is to be made under Part 5 of the National Parks and Wildlife Act 1974.

Clause 13 states that the plan of management is to make provision for the promotion of the Aboriginal cultural and heritage significance of the Lake Macquarie State Recreation Area, and the preservation of areas of major Aboriginal significance, in consultation with relevant Local Aboriginal Land Councils.

Clause 14 states that the plan of management is to indicate that the Director of the Department of Sport, Recreation and Racing has responsibility for the operation of the sport and recreation centre on certain land at Point Wolstoncroft and such other matters relating to the care and control of the land as are specified in the plan, but subject to any limitations specified in the plan. Apart from this provision, the trustees still have the care, control and management of that land as provided by the National Parks and Wildlife Act 1974.

Clause 15 states that the provisions of the Part do not prevent the plan of management making provision with respect to other matters. Part 5 of the National Parks and Wildlife Act 1974 lists other matters for which the plan of management for a state recreation area may make provision.

SCHEDULE 1—ANCILLARY PROVISIONS

Schedule 1 provides for ancillary matters and matters to assist the implementation of the proposed Act.

SCHEDULE 2—PROVISIONS RELATING TO THE TRUSTEES

Schedule 2 contains provisions relating to the trustees of the management trust, including provisions dealing with the term of office of trustees, filling of a vacancy in the office of trustee and the procedure for meetings.

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SCHEDULE 1—ANCILLARY PROVISIONS

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LAKE MACQUARIE STATE RECREATION AREA BILL 1993

NEW SOUTH WALES



No. , 1993

A BILL FOR

An Act to provide for the reservation and management of certain land as a state recreation area; and for other purposes.

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The Legislature of New South Wales enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the Lake Macquarie State Recreation
5 Area Act 1993.

Commencement

2. This Act commences on the date of assent.

Definitions

3. In this Act:
- 10 **“Director-General”** means the Director-General of National Parks
and Wildlife;
- “the map”** means the series of maps marked “Lake Macquarie State
Recreation Area Act 1993” and presented to the Speaker of the
Legislative Assembly (by or on behalf of the Member of the
15 Assembly who introduced the Bill for this Act) when the Bill was
read a second time in the Assembly;
- “the Trust”** means the management trust established under section 9.

**PART 2—RESERVATION OF LAKE MACQUARIE STATE
RECREATION AREA**

20 **Reservation of certain land as Lake Macquarie State Recreation
Area**

4. (1) The parcels of Crown land or land of the Crown situated in the
areas shown by red edging and red cross-hatching on the map are
reserved as a state recreation area with the name Lake Macquarie State
25 Recreation Area.

(2) The reservation of land under this section takes effect on the date of
publication in the Gazette under section 6 of a notification describing the
land.

- (3) On the reservation of land under this Act as Lake Macquarie State
30 Recreation Area, the land becomes Crown land to the extent to which it
was not immediately before that reservation.

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Preparation of description of land to be included in Lake Macquarie State Recreation Area

5. (1) Within 3 months after the commencement of this section, the Director-General is to cause to be prepared, as accurately as is reasonably possible, metes and bounds or other appropriate descriptions of the Crown land or land of the Crown situated in the areas shown by red edging and red cross-hatching on the map. 5

(2) A description of land under this section may include a description of any easement or restriction to which the land is subject.

Publication in Gazette of description of land to be included in Lake Macquarie State Recreation Area 10

6. (1) Within the period of 3 months referred to in section 5, the Minister is to cause to be published in the Gazette a notification containing the descriptions referred to in section 5 together with a certificate of a registered surveyor to the effect that the land in the descriptions substantially accords with the Crown land or land of the Crown situated within the areas identified by the map. 15

(2) On publication of the notification, the descriptions in the notification are taken to replace the map.

Consequential revocation of dedications etc. 20

7. The reservation of land as Lake Macquarie State Recreation Area revokes any dedication, other reservation or vesting of the land and the instruments of title (if any) are to be surrendered for cancellation or notation.

Ancillary provisions 25

8. Schedule 1 has effect.

PART 3—MANAGEMENT OF LAKE MACQUARIE STATE RECREATION AREA

Establishment of management trust

9. (1) The Minister is, before the reservation of land under this Act takes effect, to establish a trust for the Lake Macquarie State Recreation Area comprised of the following trustees appointed by the Minister: 30

- (a) 2 councillors of the Lake Macquarie City Council;
- (b) 1 councillor of the Wyong Council;

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- (c) the Manager of the Point Wolstoncroft Sport and Recreation Centre, Department of Sport, Recreation and Racing;
 - (d) the Chairman of the Lake Macquarie Total Catchment Management Committee;
 - 5 (e) 1 representative from the United Residents' Group for the Environment of Lake Macquarie;
 - (f) 1 representative from the Wangi Peninsula Advisory Committee;
 - (g) 2 representatives from the Koombahtoo Land Council;
 - (h) 2 representatives from the Bahtahbah Land Council;
 - 10 (i) 1 representative from the Regions Aboriginal Traditional Custodians.
- (2) On the reservation of land under this Act as Lake Macquarie State Recreation Area, any trustee of the land or part of the land holding office under the Crown Lands Act 1989 or under the National Parks and Wildlife Act 1974 ceases to hold that office in respect of the land or part of the land.
- (3) Schedule 2 has effect with respect to the trustees.

Committees

- 20 **10.** (1) The trustees may establish committees to assist them in the exercise of their functions and may consult with existing committees or other bodies in the exercise of the trustees' functions.
- (2) Any or all of the members of a committee established by the trustees may be persons who are not trustees.
- 25 (3) The procedure for the calling of meetings of a committee established by the trustees, and for the conduct of business at those meetings, is as determined by the committee.
- (4) The first meeting of a committee is to be called in such manner as the trustees may determine.

Wangi Point caravan park and camping ground

- 30 **11.** (1) As soon as practicable after the reservation under this Act of the land at Wangi Point shown on the map as a caravan park and camping ground, the trustees are to enter into a lease of that land to the Lake Macquarie City Council.

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(2) Until the lease is entered into, the Council is entitled to remain in occupation of, and to manage, the land on the terms and conditions on which the Council occupied and managed the land immediately before the reservation of the land under this Act (subject to any direction of the Director-General). 5

(3) The terms and conditions of the lease are to be as agreed by the trustees and the Council or, in the absence of agreement, are to be as specified by the Director-General.

(4) The terms and conditions of the lease are to include terms and conditions that the subject land is to be used by the Council for a caravan park and camping ground and that the rental is to be not less than 5% of the annual gross income received by the Council for management of the land as a caravan park and camping ground. 10

(5) Any proceeds received by the trustees in respect of the subject land are to be held by the trustees, after payment of costs, expenses and encumbrances, for the general purposes of the trust, and may be invested or applied by them accordingly. However, if the Minister gives any direction as to the application of the proceeds, the proceeds are to be applied in accordance with the direction. 15

PART 4—THE MANAGEMENT PLAN 20

Preparation of plan of management

12. The Minister is, as soon as practicable after the reservation of land under this Act as Lake Macquarie State Recreation Area, to cause a plan of management to be prepared for the Area under Part 5 of the National Parks and Wildlife Act 1974. 25

Aboriginal cultural and heritage significance of the Area

13. The plan of management for the Lake Macquarie State Recreation Area is to make provision for the promotion of the Aboriginal cultural and heritage significance of the Area, and the preservation of areas of major Aboriginal significance, in consultation with relevant Local Aboriginal Land Councils. 30

Point Wolstoncroft Sport and Recreation Centre

14. (1) The plan of management for the Lake Macquarie State Recreation Area is to provide that the Director of the Department of Sport, Recreation and Racing has responsibility for the operation of the 35

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sport and recreation area situated on the following land and such other matters relating to the care and control of the land as are specified in the plan of management, but subject to such limitations as are so specified:

5 Crown Reserve 81301 for National Fitness and Physical Education, notified on 12 December 1958 and being Lot 617, D.P. 821603

(2) Subject to this section and the plan of management, the trustees have the care, control and management of the land as provided by the National Parks and Wildlife Act 1974.

Contents of plan of management

10 **15.** This Part does not prevent the plan of management for the Lake Macquarie State Recreation Area from making provision with respect to other matters.

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SCHEDULE 1—ANCILLARY PROVISIONS

(Sec. 8)

Reservation of land

1. Sections 47G–47M and Part 5 of, and clauses 1 and 3–21 of Schedule 9A to, the National Parks and Wildlife Act 1974 apply to: 5
- (a) land reserved as Lake Macquarie State Recreation Area by this Act in the same way as those provisions apply to a state recreation area reserved by notification under section 47B (1) of that Act; and
 - (b) trustees appointed under section 9 of this Act in the same way as those provisions apply to trustees of a state recreation area appointed under clause 2 of Schedule 9A to that Act. 10

Existing leases under the Forestry Act 1916

2. Section 42 (2) of the National Parks and Wildlife Act 1974 applies to a lease under the Forestry Act 1916, being a lease: 15
- (a) affecting any of the land reserved by this Act; and
 - (b) current and in force immediately before the commencement of this Act,

in the same way as it applies to a licence or permit under the Forestry Act 1916 affecting land within a national park.

Administration of existing interests 20

3. (1) In this clause, “existing interest” means a lease, licence, permit or occupancy affecting land reserved by this Act, and current and in force immediately before the commencement of this Act.

(2) The administration of matters relating to existing interests, to the extent that those interests affect any such land, is (on and from the commencement of this Act) vested in the Minister administering the National Parks and Wildlife Act 1974. 25

(3) For the purposes of subclause (2), the Minister administering the National Parks and Wildlife Act 1974 is to have, in respect of existing interests under the Forestry Act 1916, the powers of the Minister administering that Act. 30

Revocations of dedications etc.

4. (1) Section 7 has effect despite the provisions of the Forestry Act 1916.

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SCHEDULE 1—ANCILLARY PROVISIONS—*continued*

(2) A revocation effected by section 7 in relation to any land does not affect anything done or omitted to be done before the commencement of this Act.

5 **SCHEDULE 2—PROVISIONS RELATING TO THE TRUSTEES**

(Sec. 9)

Definition

1. In this Schedule:

“trustee” means a trustee appointed under section 9.

10 **Term of office of trustees**

2. Subject to this Schedule, a trustee holds office for such period (not exceeding 5 years) as is specified in the trustee’s instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

Remuneration of trustees

15 3. A trustee is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the trustee.

Filling of vacancy in office of trustee

20 4. If the office of any trustee becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

Effect of certain other Acts

5. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of a trustee.

(2) If by or under any Act, provision is made:

- 25 (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
- (b) prohibiting the person from engaging in employment outside the duties of that office,

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SCHEDULE 2—PROVISIONS RELATING TO THE TRUSTEES—
continued

the provision does not operate to disqualify the person from holding that office and also the office of a trustee or from accepting and retaining any remuneration payable to the person under this Act as a trustee. 5

(3) The office of a trustee is, for the purposes of any Act, an office or place of profit under the Crown.

General procedure

6. The procedure for the calling of meetings of the trustees and for the conduct of business at those meetings is, subject to this Act and the National Parks and Wildlife Act 1974, as determined by the trustees. 10

Meetings

7. The Minister may call the first meeting of the Trust in such manner as the Minister thinks fit.
