

SECOND PRINT

**NATIONAL PARKS AND WILDLIFE (KARST
CONSERVATION) AMENDMENT BILL 1991 (No. 2)**

NEW SOUTH WALES



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ACT 1987

This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Clerk of the Legislative Assembly.

Legislative Assembly

NEW SOUTH WALES



Act No. , 1991

An Act to amend the National Parks and Wildlife Act 1974 to make provision for karst conservation within reserved or dedicated lands, including karst conservation reserves, or lands subject to a conservation agreement or wilderness declaration; and to make consequential amendments to the Wilderness Act 1987.

National Parks and Wildlife (Karst Conservation) Amendment 1991 (No. 2)

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the National Parks and Wildlife (Karst Conservation) 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 Schedule 1.

Consequential amendment of Wilderness Act 1987 No. 196

4. The Wilderness Act 1987 is amended as set out in Schedule 2.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 5 (Definitions):

(a) In section 5 (1), insert, in alphabetical order, the following definitions:

“**karst conservation reserve**” means lands dedicated as a karst conservation reserve under this Act;

“**karst region**” means a region comprised substantially of soluble rocks such as limestone or dolomite and characterised by landforms produced by solution, abrasion or collapse or by underground drainage (or both). For this purpose, “**landforms**” includes surface features, caves and the decorative contents of caves whether or not deposited from solution;

(b) In the definition of “wilderness area” in section 5 (1), after “lands”, insert “(including subterranean lands)”.

(2) Section 8 (Miscellaneous powers and functions of Director):

(a) In section 8 (1), after “state game reserve” wherever occurring, insert “, karst conservation reserve”.

National Parks and Wildlife (Karst Conservation) Amendment 1991 (No. 2)

SCHEDULE 1—AMENDMENTS—*continued*

- (b) After section 8 (2) (c1), insert:
 - (c2) the areas to be dedicated as karst conservation reserves are areas of scientific, recreational, aesthetic or historical value within karst regions; and
- (c) In section 8 (3), after “nature reserve”, insert “, karst conservation reserve”.
- (d) In section 8 (5), after “state game reserve”, insert “, karst conservation reserve”.
- (3) Section 12 (**Powers and functions of Service**):
 - (a) After “state game reserves” where firstly occurring, insert “, karst conservation reserves”.
 - (b) Before “relics” where firstly occurring, insert “karst regions,”.
- (4) Section 23 (**Functions and duties of Council**):
 - (a) From section 23 (1) (a), omit “reserves and”, insert instead “reserves,”.
 - (b) In section 23 (1) (a), after “state game reserves”, insert “and karst conservation reserves”.
- (5) Part 4, Division 2B:

After Division 2A, insert:

Division 2B—Karst conservation reserves

Dedication of karst conservation reserves

58K. (1) Subject to this Act, the Governor may, by proclamation published in the Gazette, dedicate, as a karst conservation reserve:

- (a) any Crown lands; or
- (b) lands acquired under section 145, 147 or 148, which are described in the proclamation.

(2) Subject to this Act, the Governor may, by proclamation published in the Gazette, dedicate, as part of a karst conservation reserve specified in the proclamation:

- (a) any Crown lands; or
- (b) lands acquired under section 145, 147 or 148, which are described in the proclamation.

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SCHEDULE 1—AMENDMENTS—*continued*

(3) Lands within a karst conservation reserve are taken to be dedicated for the purposes of:

- (a) the care, preservation and conservation of natural environments and natural phenomena; and
- (b) the study of natural environments and natural phenomena; and
- (c) the promotion of the appreciation and enjoyment of natural environments and natural phenomena; and
- (d) the care, propagation, preservation and conservation of wildlife.

(4) On the publication of a proclamation under subsection (1) or (2):

- (a) the lands described in the proclamation become Crown lands to the extent to which they were not Crown lands immediately before that publication; and
- (b) if a trustee of all or any part of the lands so described was holding office under any other Act immediately before that publication, the trustee ceases to hold that office in respect of those lands or that part, as the case may be; and
- (c) the care, control and management of the lands so described vests in the Director for the purposes of this Act.

(5) A proclamation under subsection (1) or (2) may, but need not be, restricted to lands that are wholly or predominantly subterranean lands.

(6) To the extent to which a dedication (other than a dedication under this Division), reservation or vesting affects lands described in a proclamation published under subsection (1) or (2), the publication (unless the proclamation otherwise provides) revokes the dedication, reservation or vesting, and the instruments of title (if any) must be surrendered for cancellation or notation, as the case may require.

Name of karst conservation reserve

58L. The Governor:

- (a) by proclamation published under section 58K (1) or (2) or by another proclamation published in the Gazette, may assign a name to a karst conservation reserve; and

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SCHEDULE 1—AMENDMENTS—*continued*

- (b) by proclamation published in the Gazette, may, from time to time, alter the name of a karst conservation reserve.

Revocation, resumption or appropriation of karst conservation reserve

58M. (1) Notwithstanding anything in any Act:

- (a) the dedication of lands as, or as part of, a karst conservation reserve shall not be revoked; or
(b) lands within a karst conservation reserve shall not be appropriated or resumed,

except by an Act of Parliament.

(2) Nothing in subsection (1) prevents the withdrawal of land from or the termination of any lease, licence or occupancy in accordance with the terms and conditions thereof.

Restriction on disposal of or dealing with lands within karst conservation reserves

58N. Notwithstanding anything in the Crown Lands Act 1989 or any other Act, no lands within a karst conservation reserve shall be sold, leased or otherwise dealt with except as provided in this Act or in the Snowy Mountains Hydro-electric Agreements Act 1958.

Mining

58O. The provisions of section 41 apply to and in respect of a karst conservation reserve in the same way as they apply to and in respect of a national park or historic site.

Application of Forestry Act 1916

58P. (1) The Forestry Act 1916 does not apply to or in respect of lands within a karst conservation reserve.

(2) Notwithstanding anything in subsection (1), all licences and permits under the Forestry Act 1916 affecting lands within a karst conservation reserve shall, unless sooner cancelled under that Act, continue in force until the expiration of the respective terms for which they were granted, and that Act shall continue to apply to and in respect of those licences and permits until they respectively expire or are cancelled.

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SCHEDULE 1—AMENDMENTS—*continued*

Provisions respecting animals in karst conservation reserves

58Q. (1) A person shall not:

- (a) take or kill any animal that is within a karst conservation reserve; or
- (b) use any animal, firearm, explosive, net, trap, hunting device or instrument or means whatever for the purpose of taking or killing any animal that is within a karst conservation reserve; or
- (c) carry, discharge or be in possession of any prohibited weapon in a karst conservation reserve; or
- (d) carry or be in possession of any explosive, net, trap or hunting device in a karst conservation reserve; or
- (e) be accompanied by a dog in a karst conservation reserve.

(2) A person who commits an offence arising under subsection (1) is liable to the penalty prescribed by section 175 for an offence against this Act or to imprisonment for a term not exceeding 6 months, or both.

(3) A person shall not be convicted of an offence arising under subsection (1) if the person proves that the act constituting the offence was done, or that the state of affairs constituting the offence existed:

- (a) under and in accordance with or by virtue of the authority conferred by a general licence under section 120, an occupier's licence under section 121, a game licence under section 122 or a trapper's licence under section 123; or
- (b) in pursuance of a duty imposed by or under any Act.

(4) A person shall not be convicted of an offence arising under subsection (1) in respect of the carrying or being in possession of a net if the person proves that the net was carried or was in the person's possession for the purpose only of taking, or attempting to take, fish from any waters.

National Parks and Wildlife (Karst Conservation) Amendment 1991 (No. 2)

SCHEDULE 1—AMENDMENTS—*continued*

(5) A person, being a lessee or occupier of any lands within a karst conservation reserve, or a person authorised by such a lessee or occupier in that behalf, shall not be convicted of an offence arising under subsection (1) in respect of the taking or killing of an animal that is within those lands, other than fauna.

(6) The regulations may make provision for or with respect to exempting, subject to the prescribed conditions and restrictions (if any), any person or class or description of persons from the provisions of subsection (1).

Restrictions as to timber, vegetation, plants etc. in karst conservation reserves

58R. (1) Subject to section 58P (2), a person shall not fell, cut, destroy, injure, pick, remove or set fire to any tree, timber, plant, flower or vegetation in a karst conservation reserve.

(2) A person shall not be in possession of any native plant within a karst conservation reserve.

(3) A person who commits an offence arising under subsection (1) or (2) is liable to the penalty prescribed by section 175 for an offence against this Act or to imprisonment for a term not exceeding 6 months, or both.

(4) A person shall not be convicted of an offence arising under subsection (1) or (2) if the person proves that the act constituting the offence was done, or that the state of affairs constituting the offence existed:

(a) under and in accordance with or by virtue of the authority conferred by a licence issued under Division 3 of Part 9; or

(b) in pursuance of a duty imposed by or under any Act.

(5) A person, being a lessee or occupier of any lands within a karst conservation reserve, or a person authorised by such a lessee or occupier in that behalf, shall not be convicted of an offence arising under subsection (1) or (2) in respect of the felling, cutting, destroying, injuring, picking or removing of or setting fire to any tree, timber, plant, flower or vegetation, or the possession of a native plant, that is or was growing within those lands.

National Parks and Wildlife (Karst Conservation) Amendment 1991 (No. 2)

SCHEDULE 1—AMENDMENTS—*continued*

(6) The regulations may make provision for or with respect to exempting, subject to the prescribed conditions and restrictions (if any), any person or class or description of persons from the provisions of subsection (1) or (2), or both.

Application of certain provisions to karst conservation reserves

58S. The provisions of:

- (a) section 33 (5) and (6);
- (b) section 35;
- (c) section 39;
- (d) sections 43 and 44; and
- (e) sections 46 and 47,

apply to and in respect of a karst conservation reserve in the same way as they apply to and in respect of a national park or historic site, and so apply as if a reference in those provisions to:

- (f) a proclamation under section 33 (2) or (3) were a reference to a proclamation under section 58K (1) or (2); and
- (g) a reservation under Division 1 were a reference to a dedication under this Division.

(6) **Section 59 (Declaration of wilderness areas):**

In section 59 (1), after “lands”, insert “(including subterranean lands)”.

(7) **Section 69C (Purpose and content of agreements):**

- (a) From section 69C (1) (e), omit “or” where lastly occurring.
- (b) After section 69C (1) (e), insert:
 - (e1) for the purpose of the study, preservation, protection or care of karst regions; or

(8) **Section 72 (Plans of management):**

- (a) From section 72 (1) (c), omit “or state game reserve”, insert instead “, state game reserve or karst conservation reserve”.
- (b) In section 72 (2), after “state game reserve,”, insert “karst conservation reserve,”.

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SCHEDULE 1—AMENDMENTS—*continued*

- (c) From section 72 (3), omit “or state game reserve”, insert instead “, state game reserve or karst conservation reserve”.
- (d) In section 72 (4) (b) and (d), after “state game reserve,” wherever occurring, insert “karst conservation reserve,”.
- (e) From section 72 (4) (c), (g) and (h), omit “or state game reserve” wherever occurring, insert instead “, state game reserve or karst conservation reserve”.
- (f) In section 72 (4) (f) and (i), after “state game reserve” wherever occurring, insert “, karst conservation reserve”.
- (g) From section 72 (4) (j), omit “and”.
- (h) After section 72 (4) (j), insert:
 - (j1) the setting apart of the whole or part of a karst conservation reserve as a wilderness area; and
- (9) Section 74 (**Catchment areas**):
 - (a) After “state game reserve” where firstly occurring, insert “, karst conservation reserve”.
 - (b) In section 74 (a), after “state game reserve,”, insert “karst conservation reserve,”.
- (10) Section 76 (**Adoption etc. of plan of management for nature reserve, state game reserve or karst conservation reserve**):

Omit “or state game reserve” wherever occurring, insert instead “, state game reserve or karst conservation reserve”.
- (11) Section 80 (**Lands submerged by water**):

In section 80 (1), after “state game reserve”, insert “, karst conservation reserve”.
- (12) Section 81 (**Operations under plan of management**):

In section 81 (1), after “state game reserve,”, insert “karst conservation reserve,”.
- (13) Section 81A (**Leases etc. subject to plan of management**):

Omit “or state game reserve”, insert instead “, state game reserve or karst conservation reserve”.

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SCHEDULE 1—AMENDMENTS—*continued*

- (14) Section 86 (**Offences relating to relics**):
In section 86 (c), (d) and (e), after “state game reserve” wherever occurring, insert “, karst conservation reserve”.
- (15) Section 88 (**The Australian Museum Trust to have custody of certain relics**):
In section 88, after “state game reserve,” wherever occurring, insert “karst conservation reserve,”.
- (16) Section 120 (**General licence**):
In section 120 (2), after “state game reserve,” insert “karst conservation reserve,”.
- (17) Section 122 (**Game licence**):
In section 122 (2) (b), after “nature reserve”, insert “, karst conservation reserve”.
- (18) Section 123 (**Trapper’s licence**):
In section 123 (2), after “state game reserve,”, insert “karst conservation reserve,”.
- (19) Section 129 (**Certain licences authorising shooting etc. in national parks etc.**):
- (a) From section 129 (a), omit “reserve or”, insert instead “reserve,”.
 - (b) In section 129 (a), after “state game reserve”, insert “or karst conservation reserve”.
- (20) Section 138 (**Payments into the Fund**):
After “state game reserve” wherever occurring, insert “, karst conservation reserve”.
- (21) Section 139 (**Payments out of the Fund**):
In section 139 (2) (e), after “state game reserve,”, insert “karst conservation reserve,”.
- (22) Section 140 (**Community service contribution**):
From section 140 (1), omit “or state game reserve”, insert instead “, state game reserve or karst conservation reserve”.

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SCHEDULE 1—AMENDMENTS—*continued*

- (23) Section 141 (**Payment of rates to rural lands protection boards in Western Division**):
- (a) Omit section 141 (1), insert instead:
 - (1) In this section, “**board**” means a rural lands protection board for a rural lands protection district within the meaning of the Rural Lands Protection Act 1989.
 - (b) From section 141 (2), omit “Part 3 of the Pastures Protection Act 1934”, insert instead “Part 4 of the Rural Lands Protection Act 1989”.
 - (c) From section 141 (2), omit “or state game reserves”, insert instead “, state game reserves or karst conservation reserves”.
- (24) Section 143 (**Charges and fees**):
- After “state game reserve”, insert “, karst conservation reserve”.
- (25) Section 144 (**Exemption from rates**):
- Omit “or state game reserve”, insert instead “, state game reserve or karst conservation reserve”.
- (26) Section 148 (**Power of Minister to accept gifts etc.**):
- From section 148 (4) (b), omit “or state game reserve”, insert instead “, state game reserve or karst conservation reserve”.
- (27) Section 149 (**Disposal of lands, gifts etc.**):
- From section 149 (2) (b), omit “or state game reserve”, insert instead “, state game reserve or karst conservation reserve”.
- (28) Section 151 (**Leases of and licences over lands in a national park, historic site, nature reserve, state game reserve or karst conservation reserve**):
- (a) From section 151 (1) (d), omit “or state game reserve”, insert instead “, state game reserve or karst conservation reserve”.

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SCHEDULE 1—AMENDMENTS—*continued*

- (b) From section 151 (1) (d), omit “or 58A”, insert instead “, 58A or 58K”.
- (c) From section 151 (1) (e) and (f), omit “or state game reserve” wherever occurring, insert instead “, state game reserve or karst conservation reserve”.
- (29) Section 153 (**Easements**):
Omit “or state game reserve” wherever occurring, insert instead “, state game reserve or karst conservation reserve”.
- (30) Section 155 (**Regulations relating to parks**):
In section 155 (1), after “state game reserve”, insert “, karst conservation reserve”.
- (31) Section 160A (**Removal of unauthorised structures and occupiers**):
In section 160A (1) (a), after “State game reserve,”, insert “karst conservation reserve,”.
- (32) Section 161 (**Removal of vehicles obstructing traffic**):
In paragraph (a) of the definition of “prescribed land” in section 161 (1) (a), after “state game reserve,”, insert “karst conservation reserve”.
- (33) Section 162 (**Impounding**):
After “state game reserve” wherever occurring, insert “, karst conservation reserve”.
- (34) Section 163 (**Application of Dog Act 1966**):
In section 163 (2), after “state game reserve”, insert “, karst conservation reserve”.
- (35) Section 171 (**Authority to take or kill etc.**):
 - (a) In section 171 (1) (a) (i), after “state game reserve,”, insert “karst conservation reserve,”.
 - (b) From section 171 (1) (b) and (c), omit “or state game reserve” wherever occurring, insert instead “, state game reserve or karst conservation reserve”.

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SCHEDULE 1—AMENDMENTS—*continued*

(36) Section 177 (**Compensation**):

In section 177 (1) (a), after “state game reserve”, insert “, karst conservation reserve”.

(37) Section 181 (**Evidentiary provisions etc.**):

In section 181 (1), after “state game reserve,”, insert “karst conservation reserve,”.

(38) Section 185 (**Catchment areas**):

After “state game reserve” wherever occurring, insert “, karst conservation reserve”.

(39) Section 186 (**Requirement for examination**):

In section 186 (3), after “state game reserves”, insert “, karst conservation reserves”.

SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF
WILDERNESS ACT 1987

(Sec. 4)

Wilderness Act 1987 No. 196

(1) Section 2 (**Definitions**):

In the definition of “wilderness area” in section 2 (1), after “lands”, insert “(including subterranean lands)”.

(2) Section 8 (**Declaration of wilderness areas**):

In section 8 (1), after “land”, insert “(which may, but need not, be restricted to land that is wholly or predominantly subterranean land)”.

SECOND READING

IT IS WITH GREAT PLEASURE THAT I INTRODUCE THE NATIONAL PARKS AND WILDLIFE (KARST CONSERVATION) AMENDMENT BILL AND THE WILDERNESS (KARST CONSERVATION) AMENDMENT BILL. KARST CONSERVATION - THE PRESERVATION OF LIMESTONE AREAS, THEIR FORMATIONS, THEIR UNDERGROUND RIVERWAYS, THE ENVIRONMENT AND UNDERGROUND ECOSYSTEMS THAT ARE CONTAINED WITHIN THEM - IS AN AREA OF CONSERVATION LITTLE KNOWN TO THE PUBLIC.

PROBABLY IF THE ORDINARY CITIZENS OF NEW SOUTH WALES WERE ASKED TO DISCUSS CAVE CONSERVATION, MUCH COMMENT WOULD BE DIRECTED AT ENJOYING A TOURIST ORIENTED VISIT TO THE JENOLAN CAVES RESERVE, WOMBEYAN CAVES, THE ABERCROMBIE CAVES SYSTEM OTHER PUBLIC TOURIST CAVES SUCH AS YARRANGOBILLY CAVES IN THE KOSCIUSKO NATIONAL PARK. BUT FEW PEOPLE KNOW THAT, FOR EXAMPLE, AT JENOLAN THERE ARE ABOUT 25 KILOMETRES OF CAVES AND KARST AREAS OF SIGNIFICANCE, OF WHICH LESS THAN EIGHT KILOMETRES ARE OPEN TO THE PUBLIC, OR THAT AT PLACES LIKE YARRANGOBILLY ABOUT FOUR CAVES ARE OPEN TO THE PUBLIC, YET IN THAT REGION THERE ARE MORE THAN 200 WILD CAVE SYSTEMS OF ENOURMOUS SCIENTIFIC AND HISTORICAL IMPORTANCE. ONE OF THE MAJOR PROBLEMS IN MANAGING AND PROTECTING KARST AREAS IS THAT AT PRESENT IT IS

IMPOSSIBLE TO ACQUIRE TITLE TO A CAVE WITHOUT ACQUIRING TITLE TO THE SURFACE LANDS ABOVE IT. UNDER THE COMMON LAW IN NEW SOUTH WALES, WITH THE EXCEPTION OF CERTAIN CROWN MINERALS, ACQUISITION OF THE SURFACE THEORETICALLY IS ACQUISITION OF THE SUBORDINATE LAND THROUGH TO THE VERY CENTRE OF THE EARTH.

THE PROPOSED LEGISLATION - AND IT IS OF SOME LEGAL NOVELTY - IS AN ENDEAVOUR TO SAY THAT WE SHOULD TREAT CAVES AS IF THEY WERE A UNIT IN A HIERARCHY IN A BUILDING, FOR EXAMPLE A FLAT IN A MULTI-STOREY BLOCK OF FLATS. IF ONE IMAGINES THAT THE FLAT ON THE TOP FLOOR IS THE SURFACED MANAGED AREA OF THE LAND, THE MIDDLE FLAT IS THE CAVE, AND THE BOTTOM FLAT IS THE EARTH AND MATERIAL UNDERNEATH, THERE IS NO REASON WHY TITLE TO THE TOP FLAT NEEDS TO BE OBTAINED TO MANAGE, ENJOY OR CONTROL ACCESS TO THAT WHICH IS UNDERNEATH IT. THE PURPOSE OF THE LEGISLATION IS TO STRATA TITLE CAVE SYSTEMS SO THAT IF, AS IS THE CASE IN SOME AREAS AROUND WEE JASPER ON THE SOUTH WEST SLOPES, BENIGN GRAZING OF THE SURFACE AREAS HAS LITTLE OR NO IMPACT ON THE SUBTERRANEAN SYSTEMS UNDERNEATH, WE CAN OWN AND MANAGE THE CAVES MERELY BY OWNING AN AREA AROUND THE ENTRANCE TO THEM, WHICH GIVES CONTROL OVER ACCESS. OWNERSHIP OF THE VOLUME WITHIN WHICH THE CAVES ARE LOCATED, AND ENTERING INTO A CONSERVATION AGREEMENT WITH THE SURFACE LANDHOLDER TO ENSURE THAT POLLUTION ENTERING THE CATCHMENT OF STREAMWAYS THAT DRAIN THROUGH SINK HOLES AND OTHER FORMATIONS INTO THE CAVE IS MANAGED IN AN

ENVIRONMENTALLY APPROPRIATE MANNER, WILL ENABLE THE PUBLIC TO USE AND ENJOY A CAVE SYSTEM WITHOUT ALTERING SURFACE LAND TENURE OR MANAGEMENT. WE CAN OWN AND MANAGE THE CAVE, YET THE TENURE OF A FARMER OR FORESTER OR THE PERSON DWELLING ON OR USING THE SUPERJACENT SURFACE AREA IS NOT INTERFERED WITH. ANOTHER CONCEPT IMPORTED BY THE BILL WHICH HAS NOT BEEN WIDELY DISCUSSED IN NEW SOUTH WALES BUT HAS NOT BEEN LEGISLATED IN AUSTRALIA IS UNDERGROUND WILDERNESS AREAS. SOME OF THE MOST MAGNIFICENT AND SCIENTIFICALLY SIGNIFICANT CAVES SYSTEMS ARE LOCATED IN AUSTRALIA. UNDER THE NULLARBOR PLAIN THERE ARE ENORMOUS UNDERGROUND SYSTEMS.

THE NULLARBOR CAVE SYSTEMS, WHICH MAY HAVE WORLD HERITAGE VALUE QUITE SEPARATE FROM THAT OF THE LAND AREA ABOVE THEM, ARE AN EXAMPLE OF HOW THE PROPOSED LEGISLATION COULD BE APPLIED. I HAVE WRITTEN TO BOTH THE SOUTH AUSTRALIAN AND WESTERN AUSTRALIAN MINISTERS, WHO WORK CO-OPERATIVELY ON THESE MATTERS, TO INFORM THEM OF THE NATURE OF THE LEGISLATION. I HAD THE PRIVILEGE, WITH SCIENTISTS FROM THE NEW SOUTH WALES NATIONAL PARKS AND WILDLIFE SERVICE AND THE TASMANIAN FORESTRY COMMISSION, TO MAKE A SERIES OF VISITS TO SOME OF TASMANIA'S MAJOR KARST AREAS OF MARRACOOPA IN NORTHERN TASMANIA AND TO MAKE A VISIT THROUGH THE KUBLA KHAN CAVE SYSTEM, WHICH AT ABOUT 2.6 KILOMETRES IN LENGTH IS ONE OF THE MOST SIGNIFICANT IN TASMANIA. AT BOTH JENOLAN AND YARRANGOBILLY AND PROBABLY IN OTHER

SIGNIFICANT KARST AREAS IN NEW SOUTH WALES, THERE ARE CAVE SYSTEMS WORTHY OF DESIGNATION AS WILDERNESS AREAS. INDEED, ONE MOST RESPECTABLE SCIENTIFIC ARGUMENT SUGGESTS THAT THE SUB-SURFACE AREA OF JENOLAN AS A SEPARATE MANAGEMENT UNIT, IS WORTHY OF WORLD HERITAGE LISTING FOR ITS KARST ENVIRONMENTAL VALUES.

IN THE JENOLAN CAVES AREA THERE ARE FOSSILISED REMAINS OF THE GIANT MACROPODS THAT INHABITED NEW SOUTH WALES IN MILLENNIA PAST. THERE ARE EXAMPLES UNIQUE IN THE WORLD OF MULTIPLE LAYING OF THE KARST FORMATION SYSTEM, WHERE CAVES HAD BEEN CUT, CLOSED BY THE DEPOSITION OF SILTED MATERIAL FROM THE RIVER SYSTEM BROUGHT IN FROM THE SURFACE, CUT AGAIN, RE-OPENED, CUT AGAIN AND RE-OPENED. IN SOME PLACES IN JENOLAN THERE ARE UP TO 10 SUCH DEPOSITIONS. YET AT PRESENT WE UNDERSTAND COMPARATIVELY LITTLE OF THE GEOMORPHOLOGICAL TREASURES THAT EXIST AT JENOLAN. THE PROPOSED LEGISLATION IS DESIGNED TO PROVIDE A MECHANISM OF PRESERVING THOSE AREAS CO-OPERATIVELY THROUGH CONSERVATION AGREEMENTS FOR SUBTERRANIANLY STRATA TITLED AREAS, BY ACQUIRING THE SUBTERRANEAN VOLUME OF THE CAVE SYSTEM WITHIN WHICH THE KARST IS LOCATED, AND TO VEST ITS TITLE IN THE NATIONAL PARKS AND WILDLIFE SERVICE. BY THAT MEANS WE CAN CREATE A SUBTERRANEAN NATURE RESERVE OR NATIONAL PARK OR, IN VERY SPECIAL CASES, A SUBTERRANEAN WILDERNESS SYSTEM.

THE PROPOSED LEGISLATION IS THE FIRST IN AUSTRALIA OF ITS NATURE. IT IS ALSO, AS BEST I AM ABLE TO UNDERSTAND, THE FIRST TIME THAT THIS SYSTEM HAS BEEN TRIED ANYWHERE IN THE WORLD FOR THE DEDICATION OF CAVE AREAS.

CAVES ARE AN IMPORTANT PART OF OUR ENVIRONMENT. THEY ARE AREAS OF GREAT BEAUTY AND GREAT FRAGILITY AND, FOR THOSE OF US WHO ENJOY GOING THROUGH THEM, WHO ENJOY UNDERGROUND ABSEILING OR CLIMBING THROUGH THE RIVERS AND THE PASSAGEWAYS OF THE CAVES, THEY ARE PLACES OF GREAT PLEASURE. I COMMEND THIS LEGISLATION TO THE HOUSE, AS WE CAN MAKE A CONTRIBUTION TO THE CAVES.

FIRST PRINT

**NATIONAL PARKS AND WILDLIFE (KARST
CONSERVATION) AMENDMENT BILL 1991 (No. 2)**

NEW SOUTH WALES



EXPLANATORY NOTE

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

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

- (a) within the existing system of reserved and dedicated lands under the 1974 Act;
or
- (b) within a new classification of reserve to be called a karst conservation reserve;
or
- (c) by means of conservation agreements.

A karst region is a limestone region with underground drainage or with caves and decorative features such as stalagmites and stalactites.

Wilderness declarations under the 1974 Act, including wilderness declarations in relation to subterranean lands, may also be employed to protect karst regions.

Appropriate consequential amendments to the 1974 Act are proposed.

Consequential amendments proposed by the Bill to the Wilderness Act 1987 make it clear that a wilderness area may include or consist of subterranean lands and that such lands may be the subject of a wilderness declaration under the Wilderness Act 1987.

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 Schedule of amendments to the 1974 Act.

Clause 4 is a formal provision that gives effect to the Schedule of amendments to the Wilderness Act 1987.

National Parks and Wildlife (Karst Conservation) Amendment 1991 (No. 2)

SCHEDULE 1—AMENDMENTS

Schedule 1 (1) provides definitions for the purposes of the Bill.

Schedule 1 (2)–(4) and (7)–(39) insert appropriate references to karst regions or to proposed karst conservation reserves in provisions dealing with such matters as the powers and functions of the Director of National Parks and Wildlife, the National Parks and Wildlife Service and the National Parks and Wildlife Advisory Council, the purposes and content of conservation agreements, the preparation, content and adoption of and operations under plans of management, the protection of relics, the issue of licences, the financial operations of the National Parks and Wildlife Service, the acquisition and disposal of property, easements, regulations, the removal of certain structures, persons, vehicles and animals from parks, authorities of Service officers with respect to fauna, compensation in respect of offences, catchment areas and the grant of approvals, concurrences, leases and other interests in parks.

Schedule 1 (5) proposes that a new Division, Division 2B, (containing sections 58K–58S) be inserted in Part 4 (Reserved, Dedicated and Declared Lands). Proposed Division 2B makes provision for karst conservation reserves, the proposed sections within the Division dealing, in a manner which is similar to the manner in which other reserved or dedicated lands under the Act are treated, with the following matters:

Section 58K—dedication of reserves (that may, but need not be, restricted to subterranean lands);

Section 58L—naming of reserves;

Section 58M—revocation, resumption or appropriation of reserves (which may occur only by authority of an Act of Parliament);

Section 58N—restriction on disposal of or dealing with land within reserves;

Section 58O—mining, by applying section 41 of the Act (which prohibits prospecting or mining within national parks or historic sites except as authorised by an Act of Parliament) to reserves;

Section 58P—application of the Forestry Act 1916 to reserves;

Section 58Q—provisions respecting animals in reserves;

Section 58R—restrictions relating to timber, vegetation, plants and like resources within reserves; and

Section 58S—application of various provisions, which apply to other reserved and dedicated lands under the Act and which relate to such matters as the tabling of proclamations, existing interests and the application of the Soil Conservation Act 1938 and Fisheries and Oyster Farms Act 1935, to karst conservation reserves.

Schedule 1 (6) makes it clear that a wilderness declaration in respect of lands reserved or dedicated under the Act may relate to subterranean lands.

National Parks and Wildlife (Karst Conservation) Amendment 1991 (No. 2)

**SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF WILDERNESS
ACT 1987**

Schedule 2 (1) proposes amendment of the definition of “wilderness area” to make it clear that subterranean lands may be the subject of a wilderness declaration under the Act or under the 1974 Act.

Schedule 2 (2) proposes amendment of section 8 (1) of the Wilderness Act 1987 to provide that the Minister may make a wilderness declaration in respect of land which may, but need not be, restricted to land that is totally or predominantly subterranean land.

FIRST PRINT

**NATIONAL PARKS AND WILDLIFE (KARST
CONSERVATION) AMENDMENT BILL 1991 (No. 2)**

NEW SOUTH WALES



TABLE OF PROVISIONS

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3. Amendment of National Parks and Wildlife Act 1974 No. 80
4. Consequential amendment of Wilderness Act 1987 No. 196

SCHEDULE 1—AMENDMENTS

SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF WILDERNESS
ACT 1987

**NATIONAL PARKS AND WILDLIFE (KARST
CONSERVATION) AMENDMENT BILL 1991 (No. 2)**

NEW SOUTH WALES



No. , 1991

A BILL FOR

An Act to amend the National Parks and Wildlife Act 1974 to make provision for karst conservation within reserved or dedicated lands, including karst conservation reserves, or lands subject to a conservation agreement or wilderness declaration; and to make consequential amendments to the Wilderness Act 1987.

National Parks and Wildlife (Karst Conservation) Amendment 1991 (No. 2)

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the National Parks and Wildlife (Karst Conservation) 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 Schedule 1.

Consequential amendment of Wilderness Act 1987 No. 196

4. The Wilderness Act 1987 is amended as set out in Schedule 2.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 5 (**Definitions**):

(a) In section 5 (1), insert, in alphabetical order, the following definitions:

“**karst conservation reserve**” means lands dedicated as a karst conservation reserve under this Act;

“**karst region**” means a limestone region with underground drainage or with caves and decorative features, being features formed by the solution action of percolating water;

(b) In the definition of “wilderness area” in section 5 (1), after “lands”, insert “(including subterranean lands)”.

(2) Section 8 (**Miscellaneous powers and functions of Director**):

(a) In section 8 (1), after “state game reserve” wherever occurring, insert “, karst conservation reserve”.

(b) After section 8 (2) (c1), insert:

(c2) the areas to be dedicated as karst conservation reserves are areas of scientific, recreational, aesthetic or historical value within karst regions; and

National Parks and Wildlife (Karst Conservation) Amendment 1991 (No. 2)

SCHEDULE 1—AMENDMENTS—*continued*

- (c) In section 8 (3), after “nature reserve”, insert “, karst conservation reserve”.
- (d) In section 8 (5), after “state game reserve”, insert “, karst conservation reserve”.
- (3) Section 12 (**Powers and functions of Service**):
 - (a) After “state game reserves” where firstly occurring, insert “, karst conservation reserves”.
 - (b) Before “relics” where firstly occurring, insert “karst regions,”.
- (4) Section 23 (**Functions and duties of Council**):
 - (a) From section 23 (1) (a), omit “reserves and”, insert instead “reserves,”.
 - (b) In section 23 (1) (a), after “state game reserves”, insert “and karst conservation reserves”.
- (5) Part 4, Division 2B:
After Division 2A, insert:

Division 2B—Karst conservation reserves

Dedication of karst conservation reserves

58K. (1) Subject to this Act, the Governor may, by proclamation published in the Gazette, dedicate, as a karst conservation reserve:

- (a) any Crown lands; or
 - (b) lands acquired under section 145, 147 or 148,
- which are described in the proclamation.

(2) Subject to this Act, the Governor may, by proclamation published in the Gazette, dedicate, as part of a karst conservation reserve specified in the proclamation:

- (a) any Crown lands; or
 - (b) lands acquired under section 145, 147 or 148,
- which are described in the proclamation.

(3) Lands within a karst conservation reserve are taken to be dedicated for the purposes of:

- (a) the care, preservation and conservation of natural environments and natural phenomena; and

National Parks and Wildlife (Karst Conservation) Amendment 1991 (No. 2)

SCHEDULE 1—AMENDMENTS—*continued*

- (b) the study of natural environments and natural phenomena; and
 - (c) the promotion of the appreciation and enjoyment of natural environments and natural phenomena; and
 - (d) the care, propagation, preservation and conservation of wildlife.
- (4) On the publication of a proclamation under subsection (1) or (2):
- (a) the lands described in the proclamation become Crown lands to the extent to which they were not Crown lands immediately before that publication; and
 - (b) if a trustee of all or any part of the lands so described was holding office under any other Act immediately before that publication, the trustee ceases to hold that office in respect of those lands or that part, as the case may be; and
 - (c) the care, control and management of the lands so described vests in the Director for the purposes of this Act.
- (5) A proclamation under subsection (1) or (2) may, but need not be, restricted to lands that are wholly or predominantly subterranean lands.
- (6) To the extent to which a dedication (other than a dedication under this Division), reservation or vesting affects lands described in a proclamation published under subsection (1) or (2), the publication (unless the proclamation otherwise provides) revokes the dedication, reservation or vesting, and the instruments of title (if any) must be surrendered for cancellation or notation, as the case may require.

Name of karst conservation reserve

58L. The Governor:

- (a) by proclamation published under section 58K (1) or (2) or by another proclamation published in the Gazette, may assign a name to a karst conservation reserve; and
- (b) by proclamation published in the Gazette, may, from time to time, alter the name of a karst conservation reserve.

SCHEDULE 1—AMENDMENTS—*continued*

Revocation, resumption or appropriation of karst conservation reserve

58M. (1) Notwithstanding anything in any Act:

- (a) the dedication of lands as, or as part of, a karst conservation reserve shall not be revoked; or
- (b) lands within a karst conservation reserve shall not be appropriated or resumed,

except by an Act of Parliament.

(2) Nothing in subsection (1) prevents the withdrawal of land from or the termination of any lease, licence or occupancy in accordance with the terms and conditions thereof.

Restriction on disposal of or dealing with lands within karst conservation reserves

58N. Notwithstanding anything in the Crown Lands Act 1989 or any other Act, no lands within a karst conservation reserve shall be sold, leased or otherwise dealt with except as provided in this Act or in the Snowy Mountains Hydro-electric Agreements Act 1958.

Mining

58O. The provisions of section 41 apply to and in respect of a karst conservation reserve in the same way as they apply to and in respect of a national park or historic site.

Application of Forestry Act 1916

58P. (1) The Forestry Act 1916 does not apply to or in respect of lands within a karst conservation reserve.

(2) Notwithstanding anything in subsection (1), all licences and permits under the Forestry Act 1916 affecting lands within a karst conservation reserve shall, unless sooner cancelled under that Act, continue in force until the expiration of the respective terms for which they were granted, and that Act shall continue to apply to and in respect of those licences and permits until they respectively expire or are cancelled.

SCHEDULE 1—AMENDMENTS—*continued*

Provisions respecting animals in karst conservation reserves

58Q. (1) A person shall not:

- (a) take or kill any animal that is within a karst conservation reserve; or
- (b) use any animal, firearm, explosive, net, trap, hunting device or instrument or means whatever for the purpose of taking or killing any animal that is within a karst conservation reserve; or
- (c) carry, discharge or be in possession of any prohibited weapon in a karst conservation reserve; or
- (d) carry or be in possession of any explosive, net, trap or hunting device in a karst conservation reserve; or
- (e) be accompanied by a dog in a karst conservation reserve.

(2) A person who commits an offence arising under subsection (1) is liable to the penalty prescribed by section 175 for an offence against this Act or to imprisonment for a term not exceeding 6 months, or both.

(3) A person shall not be convicted of an offence arising under subsection (1) if the person proves that the act constituting the offence was done, or that the state of affairs constituting the offence existed:

- (a) under and in accordance with or by virtue of the authority conferred by a general licence under section 120, an occupier's licence under section 121, a game licence under section 122 or a trapper's licence under section 123; or
- (b) in pursuance of a duty imposed by or under any Act.

(4) A person shall not be convicted of an offence arising under subsection (1) in respect of the carrying or being in possession of a net if the person proves that the net was carried or was in the person's possession for the purpose only of taking, or attempting to take, fish from any waters.

(5) A person, being a lessee or occupier of any lands within a karst conservation reserve, or a person authorised by such a lessee or occupier in that behalf, shall not be

SCHEDULE 1—AMENDMENTS—*continued*

convicted of an offence arising under subsection (1) in respect of the taking or killing of an animal that is within those lands, other than fauna.

(6) The regulations may make provision for or with respect to exempting, subject to the prescribed conditions and restrictions (if any), any person or class or description of persons from the provisions of subsection (1).

Restrictions as to timber, vegetation, plants etc. in karst conservation reserves

58R. (1) Subject to section 58P (2), a person shall not fell, cut, destroy, injure, pick, remove or set fire to any tree, timber, plant, flower or vegetation in a karst conservation reserve.

(2) A person shall not be in possession of any native plant within a karst conservation reserve.

(3) A person who commits an offence arising under subsection (1) or (2) is liable to the penalty prescribed by section 175 for an offence against this Act or to imprisonment for a term not exceeding 6 months, or both.

(4) A person shall not be convicted of an offence arising under subsection (1) or (2) if the person proves that the act constituting the offence was done, or that the state of affairs constituting the offence existed:

(a) under and in accordance with or by virtue of the authority conferred by a licence issued under Division 3 of Part 9; or

(b) in pursuance of a duty imposed by or under any Act.

(5) A person, being a lessee or occupier of any lands within a karst conservation reserve, or a person authorised by such a lessee or occupier in that behalf, shall not be convicted of an offence arising under subsection (1) or (2) in respect of the felling, cutting, destroying, injuring, picking or removing of or setting fire to any tree, timber, plant, flower or vegetation, or the possession of a native plant, that is or was growing within those lands.

(6) The regulations may make provision for or with respect to exempting, subject to the prescribed conditions and

National Parks and Wildlife (Karst Conservation) Amendment 1991 (No. 2)

SCHEDULE 1—AMENDMENTS—*continued*

restrictions (if any), any person or class or description of persons from the provisions of subsection (1) or (2), or both.

Application of certain provisions to karst conservation reserves

58S. The provisions of:

- (a) section 33 (5) and (6);
- (b) section 35;
- (c) section 39;
- (d) sections 43 and 44; and
- (e) sections 46 and 47,

apply to and in respect of a karst conservation reserve in the same way as they apply to and in respect of a national park or historic site, and so apply as if a reference in those provisions to:

- (f) a proclamation under section 33 (2) or (3) were a reference to a proclamation under section 58K (1) or (2); and
- (g) a reservation under Division 1 were a reference to a dedication under this Division.

(6) Section 59 (**Declaration of wilderness areas**):

In section 59 (1), after “lands”, insert “(including subterranean lands)”.

(7) Section 69C (**Purpose and content of agreements**):

- (a) From section 69C (1) (e), omit “or” where lastly occurring.
- (b) After section 69C (1) (e), insert:
 - (e1) for the purpose of the study, preservation, protection or care of karst regions; or

(8) Section 72 (**Plans of management**):

- (a) From section 72 (1) (c), omit “or state game reserve”, insert instead “, state game reserve or karst conservation reserve”.
- (b) In section 72 (2), after “state game reserve,”, insert “karst conservation reserve,”.
- (c) From section 72 (3), omit “or state game reserve”, insert instead “, state game reserve or karst conservation reserve”.

National Parks and Wildlife (Karst Conservation) Amendment 1991 (No. 2)

SCHEDULE 1—AMENDMENTS—*continued*

- (d) In section 72 (4) (b) and (d), after “state game reserve,” wherever occurring, insert “karst conservation reserve,”.
- (e) From section 72 (4) (c), (g) and (h), omit “or state game reserve” wherever occurring, insert instead “, state game reserve or karst conservation reserve”.
- (f) In section 72 (4) (f) and (i), after “state game reserve” wherever occurring, insert “, karst conservation reserve”.
- (g) From section 72 (4) (j), omit “and”.
- (h) After section 72 (4) (j), insert:
 - (j1) the setting apart of the whole or part of a karst conservation reserve as a wilderness area; and
- (9) Section 74 (**Catchment areas**):
 - (a) After “state game reserve” where firstly occurring, insert “, karst conservation reserve”.
 - (b) In section 74 (a), after “state game reserve,”, insert “karst conservation reserve,”.
- (10) Section 76 (**Adoption etc. of plan of management for nature reserve, state game reserve or karst conservation reserve**):
 - Omit “or state game reserve” wherever occurring, insert instead “, state game reserve or karst conservation reserve”.
- (11) Section 80 (**Lands submerged by water**):
 - In section 80 (1), after “state game reserve”, insert “, karst conservation reserve”.
- (12) Section 81 (**Operations under plan of management**):
 - In section 81 (1), after “state game reserve,”, insert “karst conservation reserve,”.
- (13) Section 81A (**Leases etc. subject to plan of management**):
 - Omit “or state game reserve”, insert instead “, state game reserve or karst conservation reserve”.
- (14) Section 86 (**Offences relating to relics**):
 - In section 86 (c), (d) and (e), after “state game reserve” wherever occurring, insert “, karst conservation reserve”.

National Parks and Wildlife (Karst Conservation) Amendment 1991 (No. 2)

SCHEDULE 1—AMENDMENTS—*continued*

- (15) Section 88 (**The Australian Museum Trust to have custody of certain relics**):

In section 88, after “state game reserve,” wherever occurring, insert “karst conservation reserve,”.

- (16) Section 120 (**General licence**):

In section 120 (2), after “state game reserve,” insert “karst conservation reserve,”.

- (17) Section 122 (**Game licence**):

In section 122 (2) (b), after “nature reserve”, insert “, karst conservation reserve”.

- (18) Section 123 (**Trapper’s licence**):

In section 123 (2), after “state game reserve,”, insert “karst conservation reserve,”.

- (19) Section 129 (**Certain licences authorising shooting etc. in national parks etc.**):

(a) From section 129 (a), omit “reserve or”, insert instead “reserve,”.

(b) In section 129 (a), after “state game reserve”, insert “or karst conservation reserve”.

- (20) Section 138 (**Payments into the Fund**):

After “state game reserve” wherever occurring, insert “, karst conservation reserve”.

- (21) Section 139 (**Payments out of the Fund**):

In section 139 (2) (e), after “state game reserve,”, insert “karst conservation reserve,”.

- (22) Section 140 (**Community service contribution**):

From section 140 (1), omit “or state game reserve”, insert instead “, state game reserve or karst conservation reserve”.

*National Parks and Wildlife (Karst Conservation) Amendment 1991 (No. 2)***SCHEDULE 1—AMENDMENTS—*continued*****(23) Section 141 (Payment of rates to rural lands protection boards in Western Division):****(a) Omit section 141 (1), insert instead:**

(1) In this section, “**board**” means a rural lands protection board for a rural lands protection district within the meaning of the Rural Lands Protection Act 1989.

(b) From section 141 (2), omit “Part 3 of the Pastures Protection Act 1934”, insert instead “Part 4 of the Rural Lands Protection Act 1989”.**(c) From section 141 (2), omit “or state game reserves”, insert instead “, state game reserves or karst conservation reserves”.****(24) Section 143 (Charges and fees):**

After “state game reserve”, insert “, karst conservation reserve”.

(25) Section 144 (Exemption from rates):

Omit “or state game reserve”, insert instead “, state game reserve or karst conservation reserve”.

(26) Section 148 (Power of Minister to accept gifts etc.):

From section 148 (4) (b), omit “or state game reserve”, insert instead “, state game reserve or karst conservation reserve”.

(27) Section 149 (Disposal of lands, gifts etc.):

From section 149 (2) (b), omit “or state game reserve”, insert instead “, state game reserve or karst conservation reserve”.

(28) Section 151 (Leases of and licences over lands in a national park, historic site, nature reserve, state game reserve or karst conservation reserve):**(a) From section 151 (1) (d), omit “or state game reserve”, insert instead “, state game reserve or karst conservation reserve”.****(b) From section 151 (1) (d), omit “or 58A”, insert instead “, 58A or 58K”.**

National Parks and Wildlife (Karst Conservation) Amendment 1991 (No. 2)

SCHEDULE 1—AMENDMENTS—*continued*

- (c) From section 151 (1) (e) and (f), omit “or state game reserve” wherever occurring, insert instead “, state game reserve or karst conservation reserve”.
- (29) Section 153 (**Easements**):
Omit “or state game reserve” wherever occurring, insert instead “, state game reserve or karst conservation reserve”.
- (30) Section 155 (**Regulations relating to parks**):
In section 155 (1), after “state game reserve”, insert “, karst conservation reserve”.
- (31) Section 160A (**Removal of unauthorised structures and occupiers**):
In section 160A (1) (a), after “state game reserve,”, insert “karst conservation reserve,”.
- (32) Section 161 (**Removal of vehicles obstructing traffic**):
In paragraph (a) of the definition of “prescribed land” in section 161 (1) (a), after “state game reserve,”, insert “karst conservation reserve”.
- (33) Section 162 (**Impounding**):
After “state game reserve” wherever occurring, insert “, karst conservation reserve”.
- (34) Section 163 (**Application of Dog Act 1966**):
In section 163 (2), after “state game reserve”, insert “, karst conservation reserve”.
- (35) Section 171 (**Authority to take or kill etc.**):
 - (a) In section 171 (1) (a) (i), after “state game reserve,”, insert “karst conservation reserve,”.
 - (b) From section 171 (1) (b) and (c), omit “or state game reserve” wherever occurring, insert instead “, state game reserve or karst conservation reserve”.
- (36) Section 177 (**Compensation**):
In section 177 (1) (a), after “state game reserve”, insert “, karst conservation reserve”.

National Parks and Wildlife (Karst Conservation) Amendment 1991 (No. 2)

SCHEDULE 1—AMENDMENTS—*continued*

(37) Section 181 (**Evidentiary provisions etc.**):

In section 181 (1), after “state game reserve,”, insert “karst conservation reserve,”.

(38) Section 185 (**Catchment areas**):

After “state game reserve” wherever occurring, insert “, karst conservation reserve”.

(39) Section 186 (**Requirement for examination**):

In section 186 (3), after “state game reserves”, insert “, karst conservation reserves”.

SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF
WILDERNESS ACT 1987

(Sec. 4)

Wilderness Act 1987 No. 196

(1) Section 2 (**Definitions**):

In the definition of “wilderness area” in section 2 (1), after “lands”, insert “(including subterranean lands)”.

(2) Section 8 (**Declaration of wilderness areas**):

In section 8 (1), after “land”, insert “(which may, but need not, be restricted to land that is wholly or predominantly subterranean land)”.

**NATIONAL PARKS AND WILDLIFE (KARST
CONSERVATION) AMENDMENT ACT 1991 No. 55**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of National Parks and Wildlife Act 1974 No. 80
4. Consequential amendment of Wilderness Act 1987 No. 196

SCHEDULE 1—AMENDMENTS

SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF WILDERNESS
ACT 1987

**NATIONAL PARKS AND WILDLIFE (KARST
CONSERVATION) AMENDMENT ACT 1991 No. 55**

NEW SOUTH WALES



Act No. 55, 1991

An Act to amend the National Parks and Wildlife Act 1974 to make provision for karst conservation within reserved or dedicated lands, including karst conservation reserves, or lands subject to a conservation agreement or wilderness declaration; and to make consequential amendments to the Wilderness Act 1987. [Assented to 11 December 1991]

National Parks and Wildlife (Karst Conservation) Amendment 1991

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the National Parks and Wildlife (Karst Conservation) 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 Schedule 1.

Consequential amendment of Wilderness Act 1987 No. 196

4. The Wilderness Act 1987 is amended as set out in Schedule 2.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 5 (Definitions):

- (a) In section 5 (1), insert, in alphabetical order, the following definitions:

“**karst conservation reserve**” means lands dedicated as a karst conservation reserve under this Act;

“**karst region**” means a region comprised substantially of soluble rocks such as limestone or dolomite and characterised by landforms produced by solution, abrasion or collapse or by underground drainage (or both). For this purpose, “**landforms**” includes surface features, caves and the decorative contents of caves whether or not deposited from solution;

- (b) In the definition of “wilderness area” in section 5 (1), after “lands”, insert “(including subterranean lands)”.

(2) Section 8 (Miscellaneous powers and functions of Director):

- (a) In section 8 (1), after “state game reserve” wherever occurring, insert “, karst conservation reserve”.

National Parks and Wildlife (Karst Conservation) Amendment 1991

SCHEDULE 1—AMENDMENTS—*continued*

- (b) After section 8 (2) (c1), insert:
 - (c2) the areas to be dedicated as karst conservation reserves are areas of scientific, recreational, aesthetic or historical value within karst regions; and
- (c) In section 8 (3), after “nature reserve”, insert “, karst conservation reserve”.
- (d) In section 8 (5), after “state game reserve”, insert “, karst conservation reserve”.
- (3) Section 12 (**Powers and functions of Service**):
 - (a) After “state game reserves” where firstly occurring, insert “, karst conservation reserves”.
 - (b) Before “relics” where firstly occurring, insert “karst regions,”.
- (4) Section 23 (**Functions and duties of Council**):
 - (a) From section 23 (1) (a), omit “reserves and”, insert instead “reserves,”.
 - (b) In section 23 (1) (a), after “state game reserves”, insert “and karst conservation reserves”.
- (5) Part 4, Division 2B:

After Division 2A, insert:

Division 2B—Karst conservation reserves

Dedication of karst conservation reserves

58K. (1) Subject to this Act, the Governor may, by proclamation published in the Gazette, dedicate, as a karst conservation reserve:

- (a) any Crown lands; or
- (b) lands acquired under section 145, 147 or 148, which are described in the proclamation.

(2) Subject to this Act, the Governor may, by proclamation published in the Gazette, dedicate, as part of a karst conservation reserve specified in the proclamation:

- (a) any Crown lands; or
- (b) lands acquired under section 145, 147 or 148, which are described in the proclamation.

National Parks and Wildlife (Karst Conservation) Amendment 1991

SCHEDULE 1—AMENDMENTS—*continued*

(3) Lands within a karst conservation reserve are taken to be dedicated for the purposes of:

- (a) the care, preservation and conservation of natural environments and natural phenomena; and
- (b) the study of natural environments and natural phenomena; and
- (c) the promotion of the appreciation and enjoyment of natural environments and natural phenomena; and
- (d) the care, propagation, preservation and conservation of wildlife.

(4) On the publication of a proclamation under subsection (1) or (2):

- (a) the lands described in the proclamation become Crown lands to the extent to which they were not Crown lands immediately before that publication; and
- (b) if a trustee of all or any part of the lands so described was holding office under any other Act immediately before that publication, the trustee ceases to hold that office in respect of those lands or that part, as the case may be; and
- (c) the care, control and management of the lands so described vests in the Director for the purposes of this Act.

(5) A proclamation under subsection (1) or (2) may, but need not be, restricted to lands that are wholly or predominantly subterranean lands.

(6) To the extent to which a dedication (other than a dedication under this Division), reservation or vesting affects lands described in a proclamation published under subsection (1) or (2), the publication (unless the proclamation otherwise provides) revokes the dedication, reservation or vesting, and the instruments of title (if any) must be surrendered for cancellation or notation, as the case may require.

Name of karst conservation reserve

58L. The Governor:

- (a) by proclamation published under section 58K (1) or (2) or by another proclamation published in the Gazette, may assign a name to a karst conservation reserve; and

National Parks and Wildlife (Karst Conservation) Amendment 1991

SCHEDULE 1—AMENDMENTS—*continued*

- (b) by proclamation published in the Gazette, may, from time to time, alter the name of a karst conservation reserve.

Revocation, resumption or appropriation of karst conservation reserve

58M. (1) Notwithstanding anything in any Act:

- (a) the dedication of lands as, or as part of, a karst conservation reserve shall not be revoked; or
(b) lands within a karst conservation reserve shall not be appropriated or resumed,

except by an Act of Parliament.

(2) Nothing in subsection (1) prevents the withdrawal of land from or the termination of any lease, licence or occupancy in accordance with the terms and conditions thereof.

Restriction on disposal of or dealing with lands within karst conservation reserves

58N. Notwithstanding anything in the Crown Lands Act 1989 or any other Act, no lands within a karst conservation reserve shall be sold, leased or otherwise dealt with except as provided in this Act or in the Snowy Mountains Hydro-electric Agreements Act 1958.

Mining

58O. The provisions of section 41 apply to and in respect of a karst conservation reserve in the same way as they apply to and in respect of a national park or historic site.

Application of Forestry Act 1916

58P. (1) The Forestry Act 1916 does not apply to or in respect of lands within a karst conservation reserve.

(2) Notwithstanding anything in subsection (1), all licences and permits under the Forestry Act 1916 affecting lands within a karst conservation reserve shall, unless sooner cancelled under that Act, continue in force until the expiration of the respective terms for which they were granted, and that Act shall continue to apply to and in respect of those licences and permits until they respectively expire or are cancelled.

SCHEDULE 1—AMENDMENTS—*continued***Provisions respecting animals in karst conservation reserves**

58Q. (1) A person shall not:

- (a) take or kill any animal that is within a karst conservation reserve; or
- (b) use any animal, firearm, explosive, net, trap, hunting device or instrument or means whatever for the purpose of taking or killing any animal that is within a karst conservation reserve; or
- (c) carry, discharge or be in possession of any prohibited weapon in a karst conservation reserve; or
- (d) carry or be in possession of any explosive, net, trap or hunting device in a karst conservation reserve; or
- (e) be accompanied by a dog in a karst conservation reserve.

(2) A person who commits an offence arising under subsection (1) is liable to the penalty prescribed by section 175 for an offence against this Act or to imprisonment for a term not exceeding 6 months, or both.

(3) A person shall not be convicted of an offence arising under subsection (1) if the person proves that the act constituting the offence was done, or that the state of affairs constituting the offence existed:

- (a) under and in accordance with or by virtue of the authority conferred by a general licence under section 120, an occupier's licence under section 121, a game licence under section 122 or a trapper's licence under section 123; or
- (b) in pursuance of a duty imposed by or under any Act.

(4) A person shall not be convicted of an offence arising under subsection (1) in respect of the carrying or being in possession of a net if the person proves that the net was carried or was in the person's possession for the purpose only of taking, or attempting to take, fish from any waters.

SCHEDULE 1—AMENDMENTS—*continued*

(5) A person, being a lessee or occupier of any lands within a karst conservation reserve, or a person authorised by such a lessee or occupier in that behalf, shall not be convicted of an offence arising under subsection (1) in respect of the taking or killing of an animal that is within those lands, other than fauna.

(6) The regulations may make provision for or with respect to exempting, subject to the prescribed conditions and restrictions (if any), any person or class or description of persons from the provisions of subsection (1).

Restrictions as to timber, vegetation, plants etc. in karst conservation reserves

58R. (1) Subject to section 58P (2), a person shall not fell, cut, destroy, injure, pick, remove or set fire to any tree, timber, plant, flower or vegetation in a karst conservation reserve.

(2) A person shall not be in possession of any native plant within a karst conservation reserve.

(3) A person who commits an offence arising under subsection (1) or (2) is liable to the penalty prescribed by section 175 for an offence against this Act or to imprisonment for a term not exceeding 6 months, or both.

(4) A person shall not be convicted of an offence arising under subsection (1) or (2) if the person proves that the act constituting the offence was done, or that the state of affairs constituting the offence existed:

(a) under and in accordance with or by virtue of the authority conferred by a licence issued under Division 3 of Part 9; or

(b) in pursuance of a duty imposed by or under any Act.

(5) A person, being a lessee or occupier of any lands within a karst conservation reserve, or a person authorised by such a lessee or occupier in that behalf, shall not be convicted of an offence arising under subsection (1) or (2) in respect of the felling, cutting, destroying, injuring, picking or removing of or setting fire to any tree, timber, plant, flower or vegetation, or the possession of a native plant, that is or was growing within those lands.

SCHEDULE 1—AMENDMENTS—*continued*

(6) The regulations may make provision for or with respect to exempting, subject to the prescribed conditions and restrictions (if any), any person or class or description of persons from the provisions of subsection (1) or (2), or both.

Application of certain provisions to karst conservation reserves

58S. The provisions of:

- (a) section 33 (5) and (6);
- (b) section 35;
- (c) section 39;
- (d) sections 43 and 44; and
- (e) sections 46 and 47,

apply to and in respect of a karst conservation reserve in the same way as they apply to and in respect of a national park or historic site, and so apply as if a reference in those provisions to:

- (f) a proclamation under section 33 (2) or (3) were a reference to a proclamation under section 58K (1) or (2); and
- (g) a reservation under Division 1 were a reference to a dedication under this Division.

(6) Section 59 (Declaration of wilderness areas):

In section 59 (1), after “lands”, insert “(including subterranean lands)”.

(7) Section 69C (Purpose and content of agreements):

- (a) From section 69C (1) (e), omit “or” where lastly occurring.
- (b) After section 69C (1) (e), insert:
 - (e1) for the purpose of the study, preservation, protection or care of karst regions; or

(8) Section 72 (Plans of management):

- (a) From section 72 (1) (c), omit “or state game reserve”, insert instead “, state game reserve or karst conservation reserve”.
- (b) In section 72 (2), after “state game reserve,”, insert “karst conservation reserve,”.

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SCHEDULE 1—AMENDMENTS—*continued*

- (c) From section 72 (3), omit “or state game reserve”, insert instead “, state game reserve or karst conservation reserve”.
- (d) In section 72 (4) (b) and (d), after “state game reserve,” wherever occurring, insert “karst conservation reserve,”.
- (e) From section 72 (4) (c), (g) and (h), omit “or state game reserve” wherever occurring, insert instead “, state game reserve or karst conservation reserve”.
- (f) In section 72 (4) (f) and (i), after “state game reserve” wherever occurring, insert “, karst conservation reserve”.
- (g) From section 72 (4) (j), omit “and”.
- (h) After section 72 (4) (j), insert:
 - (j1) the setting apart of the whole or part of a karst conservation reserve as a wilderness area; and
- (9) Section 74 (**Catchment areas**):
 - (a) After “state game reserve” where firstly occurring, insert “, karst conservation reserve”.
 - (b) In section 74 (a), after “state game reserve,”, insert “karst conservation reserve,”.
- (10) Section 76 (**Adoption etc. of plan of management for nature reserve, state game reserve or karst conservation reserve**):
 - Omit “or state game reserve” wherever occurring, insert instead “, state game reserve or karst conservation reserve”.
- (11) Section 80 (**Lands submerged by water**):
 - In section 80 (1), after “state game reserve”, insert “, karst conservation reserve”.
- (12) Section 81 (**Operations under plan of management**):
 - In section 81 (1), after “state game reserve,”, insert “karst conservation reserve,”.
- (13) Section 81A (**Leases etc. subject to plan of management**):
 - Omit “or state game reserve”, insert instead “, state game reserve or karst conservation reserve”.

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SCHEDULE 1—AMENDMENTS—*continued*

(14) Section 86 (**Offences relating to relics**):

In section 86 (c), (d) and (e), after “state game reserve” wherever occurring, insert “, karst conservation reserve”.

(15) Section 88 (**The Australian Museum Trust to have custody of certain relics**):

In section 88, after “state game reserve,” wherever occurring, insert “karst conservation reserve,”.

(16) Section 120 (**General licence**):

In section 120 (2), after “state game reserve,” insert “karst conservation reserve,”.

(17) Section 122 (**Game licence**):

In section 122 (2) (b), after “nature reserve”, insert “, karst conservation reserve”.

(18) Section 123 (**Trapper’s licence**):

In section 123 (2), after “state game reserve,”, insert “karst conservation reserve,”.

(19) Section 129 (**Certain licences authorising shooting etc. in national parks etc.**):

(a) From section 129 (a), omit “reserve or”, insert instead “reserve,”.

(b) In section 129 (a), after “state game reserve”, insert “or karst conservation reserve”.

(20) Section 138 (**Payments into the Fund**):

After “state game reserve” wherever occurring, insert “, karst conservation reserve”.

(21) Section 139 (**Payments out of the Fund**):

In section 139 (2) (e), after “state game reserve,”, insert “karst conservation reserve,”.

(22) Section 140 (**Community service contribution**):

From section 140 (1), omit “or state game reserve”, insert instead “, state game reserve or karst conservation reserve”.

SCHEDULE 1—AMENDMENTS—*continued*

- (23) Section 141 (**Payment of rates to rural lands protection boards in Western Division**):
- (a) Omit section 141 (1), insert instead:

(1) In this section, “**board**” means a rural lands protection board for a rural lands protection district within the meaning of the Rural Lands Protection Act 1989.
 - (b) From section 141 (2), omit “Part 3 of the Pastures Protection Act 1934”, insert instead “Part 4 of the Rural Lands Protection Act 1989”.
 - (c) From section 141 (2), omit “or state game reserves”, insert instead “, state game reserves or karst conservation reserves”.
- (24) Section 143 (**Charges and fees**):
- After “state game reserve”, insert “, karst conservation reserve”.
- (25) Section 144 (**Exemption from rates**):
- Omit “or state game reserve”, insert instead “, state game reserve or karst conservation reserve”.
- (26) Section 148 (**Power of Minister to accept gifts etc.**):
- From section 148 (4) (b), omit “or state game reserve”, insert instead “, state game reserve or karst conservation reserve”.
- (27) Section 149 (**Disposal of lands, gifts etc.**):
- From section 149 (2) (b), omit “or state game reserve”, insert instead “, state game reserve or karst conservation reserve”.
- (28) Section 151 (**Leases of and licences over lands in a national park, historic site, nature reserve, state game reserve or karst conservation reserve**):
- (a) From section 151 (1) (d), omit “or state game reserve”, insert instead “, state game reserve or karst conservation reserve”.

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SCHEDULE 1—AMENDMENTS—*continued*

- (b) From section 151 (1) (d), omit “or 58A”, insert instead “, 58A or 58K”.
- (c) From section 151 (1) (e) and (f), omit “or state game reserve” wherever occurring, insert instead “, state game reserve or karst conservation reserve”.
- (29) Section 153 (**Easements**):
Omit “or state game reserve” wherever occurring, insert instead “, state game reserve or karst conservation reserve”.
- (30) Section 155 (**Regulations relating to parks**):
In section 155 (1), after “state game reserve”, insert “, karst conservation reserve”.
- (31) Section 160A (**Removal of unauthorised structures and occupiers**):
In section 160A (1) (a), after “State game reserve,”, insert “karst conservation reserve,”.
- (32) Section 161 (**Removal of vehicles obstructing traffic**):
In paragraph (a) of the definition of “prescribed land” in section 161 (1) (a), after “state game reserve,”, insert “karst conservation reserve”.
- (33) Section 162 (**Impounding**):
After “state game reserve” wherever occurring, insert “, karst conservation reserve”.
- (34) Section 163 (**Application of Dog Act 1966**):
In section 163 (2), after “state game reserve”, insert “, karst conservation reserve”.
- (35) Section 171 (**Authority to take or kill etc.**):
 - (a) In section 171 (1) (a) (i), after “state game reserve,”, insert “karst conservation reserve,”.
 - (b) From section 171 (1) (b) and (c), omit “or state game reserve” wherever occurring, insert instead “, state game reserve or karst conservation reserve”.

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**SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF
WILDERNESS ACT 1987—*continued***

(36) Section 177 (**Compensation**):

In section 177 (1) (a), after “state game reserve”, insert
“, karst conservation reserve”.

(37) Section 181 (**Evidentiary provisions etc.**):

In section 181 (1), after “state game reserve,”, insert “karst
conservation reserve,”.

(38) Section 185 (**Catchment areas**):

After “state game reserve” wherever occurring, insert
“, karst conservation reserve”.

(39) Section 186 (**Requirement for examination**):

In section 186 (3), after “state game reserves”, insert “, karst
conservation reserves”.

**SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF
WILDERNESS ACT 1987**

(Sec. 4)

Wilderness Act 1987 No. 196

(1) Section 2 (**Definitions**):

In the definition of “wilderness area” in section 2 (1), after
“lands”, insert “(including subterranean lands)”.

(2) Section 8 (**Declaration of wilderness areas**):

In section 8 (1), after “land”, insert “(which may, but need
not, be restricted to land that is wholly or predominantly
subterranean land)”.

*[Minister's second reading speech made in—
Legislative Assembly on 2 July 1991
Legislative Council on 4 December 1991]*

