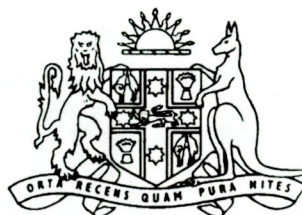


First print



New South Wales

National Parks and Wildlife Amendment (Abercrombie, Jenolan and Wombeyan Karst Conservation Reserves) Bill 1996

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *National Parks and Wildlife Act 1974* (the NPW Act) so as:

- (a) to dedicate certain lands as the Abercrombie, Jenolan and Wombeyan Karst Conservation Reserves, and
 - (b) to establish the Jenolan Caves Trust to have the care, control and management of the lands so dedicated.
-

Explanatory note

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

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

Clause 3 is a formal provision giving effect to the amendments to the *National Parks and Wildlife Act 1974* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendment to the *Public Reserves Management Fund Act 1987* set out in Schedule 2.

Schedule 1 Amendment of National Parks and Wildlife Act 1974

Schedule 1 [1] inserts definitions of the terms *Abercrombie Karst Conservation Reserve*, *Jenolan Caves Trust*, *Jenolan Karst Conservation Reserve*, *member of the Jenolan Caves Trust Board*, *officer of the Jenolan Caves Trust* and *Wombeyan Karst Conservation Reserve* in the NPW Act.

Schedule 1 [2] inserts proposed section 5A, which makes it clear that notes in the text of the NPW Act do not form part of the Act.

Schedule 1 [7] inserts proposed Division 2C (proposed sections 58T–58ZE) in Part 4 of the NPW Act. The new Division does the following:

- it dedicates certain lands as karst conservation reserves, and designates the reserves the Abercrombie Karst Conservation Reserve, the Jenolan Karst Conservation Reserve and the Wombeyan Karst Conservation Reserve (the Reserves),
- it establishes the Jenolan Caves Trust (the Trust),
- it specifies that the principal function of the Trust is the care, control and management of the Reserves,
- it empowers the Trust to employ staff and establish committees to assist it to exercise its functions, and to purchase land and grant leases and licences in relation to lands in the Reserves (although easements over those lands may be granted only by the Minister),
- it requires the Trust to keep certain accounts and records and make certain reports, and provides for the inspection of the affairs of the Trust,

Explanatory note

- it provides for the establishment of the Jenolan Caves Trust Board to manage the affairs of the Trust,
- it provides for the removal of members of that Board and the appointment of an administrator.

Schedule 1 [3]–[6] and [8]–[21] make consequential amendments to the NPW Act.

Schedule 1 [3] empowers the Director-General of National Parks and Wildlife, with the concurrence of the Trust, to promote such educational activities as the Director-General considers necessary for the instruction and training of officers of the Trust.

Schedule 1 [4], [6], [8], [12] and [15] make it clear that certain powers and functions of the Director-General under the NPW Act are, in so far as they relate to the Reserves, to be exercised by the Trust and not by the Director-General.

Schedule 1 [5] requires the Trust to furnish to the National Parks and Wildlife Advisory Council (which, among other things, advises the Minister on matters relating to the care, control and management of karst conservation reserves) such information as that Council may require in relation to the Reserves.

Schedule 1 [9] requires the public exhibition of proposed plans of management for the Reserves and provides for the making of representations concerning them. Schedule 1 [10] makes a consequential amendment.

Schedule 1 [11] provides that section 138 (1), which requires payment into the National Parks and Wildlife Fund of certain money received in connection with (among other things) karst conservation reserves, does not apply in relation to money received by the Trust in connection with the Reserves.

Schedule 1 [13] empowers the Trust to demand and recover charges and fees in connection with certain activities relating to the Reserves.

Schedule 1 [14] provides for the payment of interest on money owing to the Trust.

Schedule 1 [16] and [17] make it clear that Part 12 (Town planning) of the *Local Government Act 1919* and Chapter 7 (What are the regulatory functions of councils?) of the *Local Government Act 1993* both apply to the land constituting the Reserves.

Explanatory note

Schedule 1 [18]–[20] adds officers of the Trust and members of the Trust Board to the list of persons engaged in the administration of the NPW Act in respect of whom it is an offence to impersonate, assault, resist, obstruct or corrupt.

Schedule 1 [21] provides for the manner of recovery of charges, fees or money recoverable by the Trust.

Schedule 1 [22] permits the making of saving and transitional regulations consequent on the enactment of the proposed Act.

Schedule 1 [23] inserts proposed Schedules 4, 5 and 6.

Proposed Schedule 4 specifies the lands that are dedicated as the Reserves by the proposed Act and specifies the names of those Reserves.

Proposed Schedule 5 transfers to the Trust the assets, rights and liabilities of the trustees who, immediately before that dedication, held office under the *Crown Lands Act 1989* in respect of the lands so dedicated.

Proposed Schedule 6 contains provisions relating to the membership and procedure of the Trust Board.

**Schedule 2 Amendment of Public Reserves Management
Fund Act 1987**

Schedule 2 allows payment out of the Public Reserves Management Fund of the capital funding required by the Trust in relation to the Reserves.



New South Wales

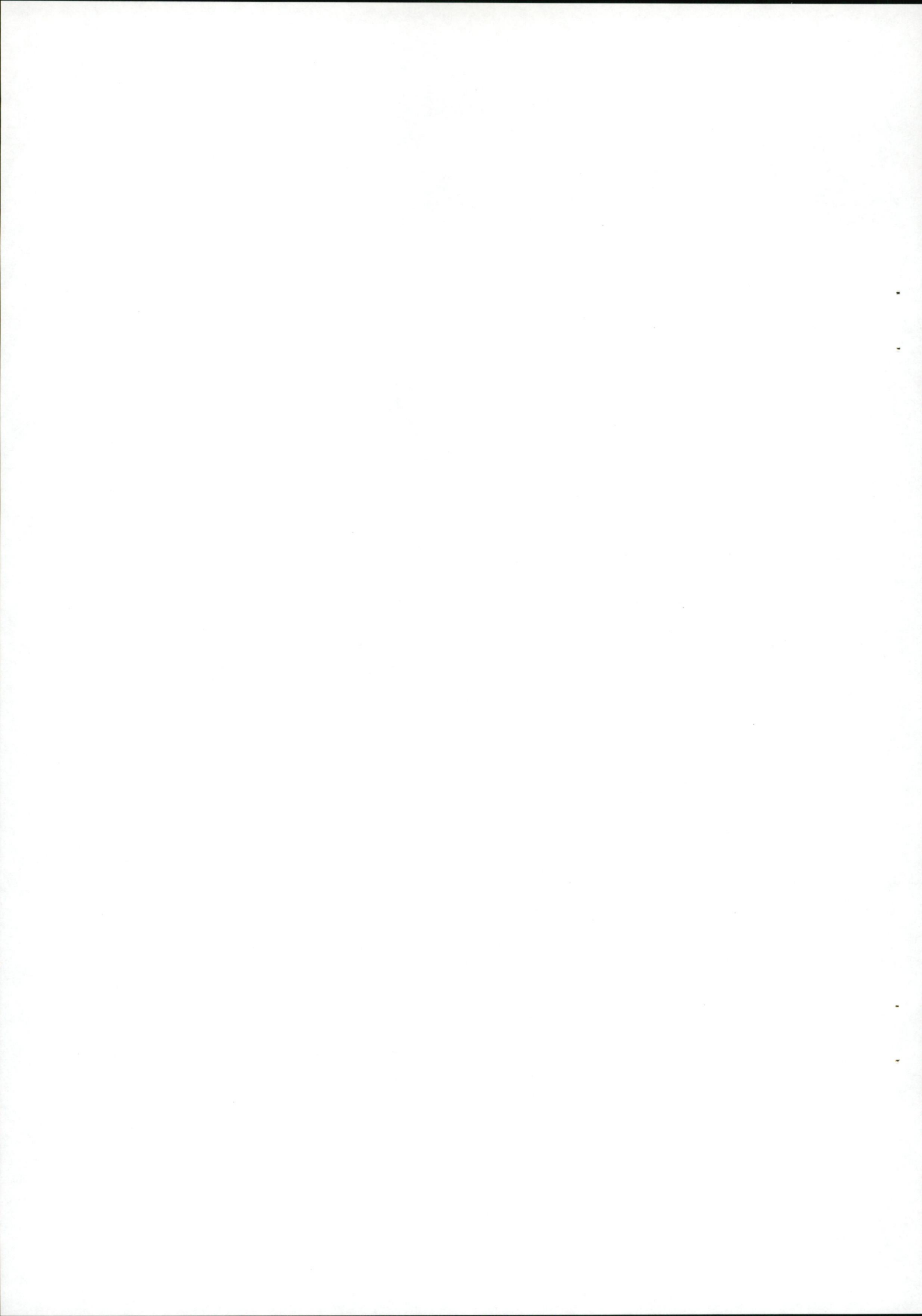
National Parks and Wildlife Amendment (Abercrombie, Jenolan and Wombeyan Karst Conservation Reserves) Bill 1996

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New South Wales

National Parks and Wildlife Amendment (Abercrombie, Jenolan and Wombeyan Karst Conservation Reserves) Bill 1996

No. , 1996

A Bill for

An Act to amend the *National Parks and Wildlife Act 1974* to dedicate certain lands as karst conservation reserves, to be known as the Abercrombie Karst Conservation Reserve, the Jenolan Karst Conservation Reserve and the Wombeyan Karst Conservation Reserve; to establish the Jenolan Caves Trust to manage those Reserves; and for related purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *National Parks and Wildlife Amendment (Abercrombie, Jenolan and Wombeyan Karst Conservation Reserves) Act 1996*.

5

2 Commencement

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

3 Amendment of National Parks and Wildlife Act 1974 No 80

The *National Parks and Wildlife Act 1974* is amended as set out in Schedule 1. 10

4 Amendment of Public Reserves Management Fund Act 1987 No 179

The *Public Reserves Management Fund Act 1987* is amended as set out in Schedule 2. 15

Schedule 1 Amendment of National Parks and Wildlife Act 1974

(Section 3)

[1] Section 5 Definitions

Insert in section 5 (1) in alphabetical order:

5

Abercrombie Karst Conservation Reserve means the lands dedicated as the Abercrombie Karst Conservation Reserve under section 58U.

Jenolan Caves Trust means the Jenolan Caves Trust established by this Act.

10

Jenolan Karst Conservation Reserve means the lands dedicated as the Jenolan Karst Conservation Reserve under section 58U.

member of the Jenolan Caves Trust Board means a person holding office under section 58ZA.

15

officer of the Jenolan Caves Trust means a person referred to in section 58Y.

Wombeyan Karst Conservation Reserve means the lands dedicated as the Wombeyan Karst Conservation Reserve under section 58U.

20

[2] Section 5A

Insert after section 5:

5A Notes in text

Notes in the text of this Act do not form part of this Act.

[3] Section 8 Miscellaneous powers and functions of Director-General

25

Omit "and prospective honorary rangers" from section 8 (8).
Insert instead " , prospective honorary rangers and (with the concurrence of the Jenolan Caves Trust) officers of the Jenolan Caves Trust".

30

Schedule 1 Amendment of National Parks and Wildlife Act 1974

[4] Section 8 (11) and (12)

Insert after section 8 (10):

- (11) Despite subsections (3) and (9), the Director-General's powers and duties under those subsections are, in relation to the Abercrombie Karst Conservation Reserve, the Jenolan Karst Conservation Reserve and the Wombeyan Karst Conservation Reserve, to be exercised and discharged by the Jenolan Caves Trust and not by the Director-General. 5
- (12) Accordingly, a reference to the Director-General in subsection (3) or (9) is, to the extent that the subsection relates to the Abercrombie Karst Conservation Reserve, the Jenolan Karst Conservation Reserve or the Wombeyan Karst Conservation Reserve, taken to be a reference to the Jenolan Caves Trust. 10
15

[5] Section 23 Functions and duties of Council

Insert after section 23 (2):

- (3) Subject to section 58W (2), the Jenolan Caves Trust is to furnish to the Council such information in relation to the care, control and management of the Abercrombie Karst Conservation Reserve, the Jenolan Karst Conservation Reserve and the Wombeyan Karst Conservation Reserve as the Council may require. 20

[6] Section 58S Application of certain provisions to karst conservation reserves 25

Insert at the end of the section:

- (2) However, in the application of section 43 to and in respect of the Abercrombie Karst Conservation Reserve, the Jenolan Karst Conservation Reserve and the Wombeyan Karst Conservation Reserve, the reference to the Director-General in that section is taken to be a reference to the Jenolan Caves Trust. 30

[7] Part 4, Division 2C

Insert after Division 2B:

**Division 2C Abercrombie, Jenolan and Wombeyan Karst
Conservation Reserves**

58T Definitions

5

In this Division:

Trust means the Jenolan Caves Trust.

Trust Board means the Jenolan Caves Trust Board established under section 58ZA.

**58U Dedication of lands as Abercrombie, Jenolan and
Wombeyan Karst Conservation Reserves**

10

- (1) The lands described in Schedule 4:
 - (a) are dedicated as karst conservation reserves, and
 - (b) are assigned the names specified in that Schedule.
- (2) The lands concerned are taken, on the commencement of this section, to have been so dedicated and named by proclamations published under section 58K. 15
- (3) A reference in this Act to the publication of a proclamation under section 58K is, in relation to a dedication under this section, taken to be a reference to the commencement of this section. 20
- (4) Sections 35, 46, 47 and 58K (4) (c) do not apply to or in respect of a karst conservation reserve dedicated under this section.

58V Establishment of Jenolan Caves Trust

25

- (1) There is established by this Act a karst conservation reserve trust constituted as a body corporate with the corporate name "Jenolan Caves Trust".

Schedule 1 Amendment of National Parks and Wildlife Act 1974

- (2) The Trust is appointed as trustee of the Abercrombie Karst Conservation Reserve, the Jenolan Karst Conservation Reserve and the Wombeyan Karst Conservation Reserve, and the care, control and management of the lands constituting those Reserves is vested in the Trust. 5
- (3) However, subject to this Act, the responsibilities, powers, authorities, duties and functions conferred or imposed on the Director-General by or under this or any other Act may be exercised by the Director-General in relation to those Reserves. 10
- (4) Schedule 5 (Transfer of assets, rights and liabilities) has effect.

58W Functions of Trust

- (1) The Trust has the responsibilities, powers, authorities, duties and functions conferred or imposed on it by or under this or any other Act. 15
- (2) The Trust is subject to the control and direction of the Minister.
- (3) The principal function of the Trust is the care, control and management of the Abercrombie Karst Conservation Reserve, the Jenolan Karst Conservation Reserve and the Wombeyan Karst Conservation Reserve. 20

58X Funds of Trust

- (1) The Trust is to open and maintain an account with any one or more banks, building societies or credit unions. 25
- (2) Money received by the Trust in connection with the Abercrombie Karst Conservation Reserve, the Jenolan Karst Conservation Reserve or the Wombeyan Karst Conservation Reserve is to be paid into that account or dealt with in such other manner as the Minister may from time to time approve. 30

58Y Staff of Trust

- (1) The Trust may employ such persons as are necessary to enable it to exercise its responsibilities, powers, authorities, duties and functions.
- (2) Part 2 of the *Public Sector Management Act 1988* does not apply to or in respect of persons employed under this section. 5

58Z Committees

- (1) The Trust may establish committees to assist it in connection with the exercise of any of its responsibilities, powers, authorities, duties and functions. 10
- (2) It does not matter that any or all of the members of a committee are not members of the Trust Board.
- (3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is to be as determined by the Trust or, if the Trust makes no such determination in respect of a particular committee, by the committee concerned. 15

58ZA Jenolan Caves Trust Board

- (1) There is to be established a Jenolan Caves Trust Board. 20
- (2) The Trust Board is to consist of the following 9 members appointed by the Minister:
 - (a) one member selected by the Minister, the person selected being a person who has expertise in karst conservation and management or in nature conservation (or in both), and particular expertise in the conservation of cave dwelling fauna, and 25
 - (b) one member nominated by the Minister for Aboriginal Affairs, the person nominated being a member of the Aboriginal race of Australia who identifies as an Aboriginal and is accepted by the Aboriginal community as an Aboriginal, and 30

Schedule 1 Amendment of National Parks and Wildlife Act 1974

- (c) one member nominated by the Director-General, and
 - (d) one member nominated by the General Manager of Tourism New South Wales, and
 - (e) one member nominated by the Minister for Urban Affairs and Planning, the person nominated being a person who has expertise in environmental planning, and 5
 - (f) one member nominated by the Minister for Local Government, and 10
 - (g) one member nominated by the Australian Speleological Foundation Incorporated, and
 - (h) one member nominated by the National Trust of Australia (New South Wales), and
 - (i) one member nominated by the Nature Conservation Council. 15
- (3) The affairs of the Trust are to be managed by the Trust Board.
- (4) Schedule 6 (Provisions relating to Jenolan Caves Trust Board) has effect with respect to the members and procedure of the Trust Board. 20

58ZB Power to grant leases, licences and easements and to purchase land

- (1) The Trust may, with the written consent of the Minister (and subject to any conditions imposed in giving that consent): 25
- (a) grant leases of any land in the Abercrombie Karst Conservation Reserve, the Jenolan Karst Conservation Reserve or the Wombeyan Karst Conservation Reserve, and 30
 - (b) grant licences to occupy or use any land in any of those Reserves, and
 - (c) purchase or take a lease of any land (whether or not adjoining any of those Reserves) required for use in connection with any of those Reserves. 35

-
- (2) However, the Trust must not grant a lease or licence under this section in respect of land that is within a wilderness area.
- (3) Easements or rights of way through, on or in any land in the Abercrombie Karst Conservation Reserve, the Jenolan Karst Conservation Reserve or the Wombeyan Karst Conservation Reserve may be granted only by the Minister under section 153. 5

58ZC Reports by Trust

- (1) The Trust must: 10
- (a) provide reports to the Minister at such times, concerning such matters, and specifying such information relating to the functions of the Trust, as may be required by the Minister, and
- (b) keep such records as may be required by the Minister. 15
- (2) The Trust must, at the request of the Minister:
- (a) give the Minister such information as the Minister requires in relation to the operations of the Trust, and 20
- (b) send to the Minister such records kept by the Trust as the Minister requires (including accounting records).

58ZD Inspection of Trust

- (1) The Minister may appoint a person to inquire into, or carry out an audit of, any of the affairs of the Trust. 25
- (2) The appointed person may, for the purposes of the inquiry or audit:
- (a) inspect and take copies of or extracts from any records (including accounting records) of the Trust, and 30
- (b) require any person concerned in the management of the Trust to give information and answer questions relating to the affairs of the Trust.

Schedule 1 Amendment of National Parks and Wildlife Act 1974

- (3) The power of the appointed person to inspect the records of the Trust includes the power to inspect the records of a lessee or licensee which the Trust has power to inspect under the lease or licence concerned.
- (4) A person must not: 5
- (a) without reasonable excuse, refuse or fail to allow the appointed person access to records to which the appointed person is entitled, or
 - (b) without reasonable excuse, refuse or fail to give information or answer questions, as required by the appointed person, or 10
 - (c) wilfully obstruct or delay the appointed person in the exercise of a power under this section.

Maximum penalty: 5 penalty units.

58ZE Removal of Trust Board members and appointment of administrator 15

- (1) The Minister may, by notice published in the Gazette:
- (a) remove any or all of the members of the Trust Board from office, or
 - (b) remove all the members of the Trust Board from office and appoint a person as the administrator of the Trust. 20
- (2) If an administrator is appointed:
- (a) the affairs of the Trust are to be managed by the administrator, and 25
 - (b) the administrator has all the responsibilities, powers, authorities, duties and functions of the Trust.
- (3) Subject to this Act, an administrator holds office for such period as may be specified in the administrator's instrument of appointment. 30
- (4) The Minister may remove an administrator from office at any time.

- (5) An administrator is entitled to be paid, out of the funds of the Trust, such remuneration as the Minister may direct. The office of administrator is not, for the purposes of any Act, an office or place of profit under the Crown.

[8] Section 71A 5

Insert before section 72:

71A Application of Part to Abercrombie, Jenolan and Wombeyan Karst Conservation Reserves

This Part applies, in relation to the Abercrombie Karst Conservation Reserve, the Jenolan Karst Conservation Reserve and the Wombeyan Karst Conservation Reserve, as if a reference in the Part to the Director-General were a reference to the Jenolan Caves Trust. 10

[9] Section 75B 15

Insert after section 75A:

75B Exhibition of plans of management for Abercrombie, Jenolan and Wombeyan Karst Conservation Reserves

- (1) When a plan of management has been prepared for the Abercrombie Karst Conservation Reserve, the Jenolan Karst Conservation Reserve or the Wombeyan Karst Conservation Reserve, the Jenolan Caves Trust is to give notice as prescribed that the plan of management has been prepared. 20
- (2) A notice under subsection (1) is to specify:
- (a) the address of the place at which copies of the plan of management may be inspected, and 25
 - (b) the address to which representations in connection with the plan of management may be forwarded.
- (3) Any person may, within one month or such longer period as may be specified in the notice, make representations to the Jenolan Caves Trust in connection with the plan of management. 30

Schedule 1 Amendment of National Parks and Wildlife Act 1974

[10] Section 76 Adoption etc of plan of management for nature reserve, state game reserve or karst conservation reserve

Insert after section 76 (1):

(1A) Subsection (1) does not apply, in relation to the Abercrombie Karst Conservation Reserve, the Jenolan Karst Conservation Reserve or the Wombeyan Karst Conservation Reserve, until after the expiration of the period referred to in section 75B (3). 5

(1B) When referring the plan of management to the Council under subsection (1), the Jenolan Caves Trust is also to refer any representations made to it under section 75B (3). 10

Note. Because of section 71A, a reference in subsection (1) to the Director-General is, in certain circumstances, taken to be a reference to the Jenolan Caves Trust. 15

[11] Section 138 Payments into the Fund

Insert after section 138 (1):

(1A) Subsection (1) does not apply in relation to money received by the Jenolan Caves Trust in connection with the Abercrombie Karst Conservation Reserve, the Jenolan Karst Conservation Reserve or the Wombeyan Karst Conservation Reserve. 20

[12] Section 140 Community service contribution

Insert at the end of the section:

(5) This section applies, in relation to the Abercrombie Karst Conservation Reserve, the Jenolan Karst Conservation Reserve and the Wombeyan Karst Conservation Reserve, as if references in subsections (1), (2) and (4) to the Director-General were references to the Jenolan Caves Trust. 25
30

[13] Section 143 Charges and fees

Insert at the end of the section:

(2) If the Jenolan Caves Trust or any of its officers:

- (a) supplies any service, product or commodity, or
- (b) gives any permission, consent or approval, or
- (c) furnishes any information,

5

in connection with the Abercrombie Karst Conservation Reserve, the Jenolan Karst Conservation Reserve or the Wombeyan Karst Conservation Reserve, the Trust may make, demand, levy and recover such charges and fees as may be prescribed or, if no charge or fee is prescribed, such charges and fees as may be fixed by the Trust, subject to the maximum (if any) prescribed.

10

[14] Section 144A Overdue community service contributions, charges, fees and other money

15

Insert "(or, in the case of money payable to the Jenolan Caves Trust, that Trust)" after "Director-General" in section 144A (3).

[15] Section 146 Acquisition or occupation of lands for certain purposes

Insert at the end of the section:

20

- (4) Subsection (3) applies, in relation to the management, maintenance or improvement of the Abercrombie Karst Conservation Reserve, the Jenolan Karst Conservation Reserve or the Wombeyan Karst Conservation Reserve, as if the reference in the subsection to the Director-General were a reference to the Jenolan Caves Trust.

25

[16] Section 163A Application of Local Government Act 1919

Insert "(other than lands dedicated under section 58U)" after "dedicated".

30

Schedule 1 Amendment of National Parks and Wildlife Act 1974

[17] Section 163B Application of Local Government Act 1993

Insert "(other than lands dedicated under section 58U)" after "dedicated".

[18] Section 169 Impersonating, assaulting, resisting or obstructing an officer etc 5

Omit "or an honorary ranger" from section 169 wherever occurring. Insert instead ", honorary ranger, member of the Jenolan Caves Trust Board or officer of the Jenolan Caves Trust".

[19] Section 170 Corruption

Omit "or an honorary ranger" 10
Insert instead ", honorary ranger, member of the Jenolan Caves Trust Board or officer of the Jenolan Caves Trust".

[20] Section 170

Omit "or ranger" wherever occurring. 15
Insert instead ", ranger or member".

[21] Section 178 Recovery of charges

Omit "or an officer of the Service" from section 178 (1).
Insert instead ", the Jenolan Caves Trust or an officer of the Service".

[22] Schedule 3 Savings, transitional and other provisions 20

Insert at the end of clause 1 (1):

*National Parks and Wildlife Amendment (Abercrombie,
Jenolan and Wombeyan Karst Conservation Reserves)
Act 1996*

[23] Schedules 4, 5 and 6

Insert after Schedule 3:

Schedule 4 Lands dedicated as karst conservation reserves

(Section 58U) 5

Abercrombie Karst Conservation Reserve

All that piece or parcel of land containing approximately 1434 hectares situate at the Abercrombie Caves in the local government area of Evans, Parishes of Bombah and Bucumba and County of Georgiana, being lot 74 in D.P. 729406 and lot 125 in D.P. 729405. 10

Jenolan Karst Conservation Reserve

All that piece or parcel of land containing approximately 2422 hectares situate at the Jenolan Caves in the local government area of Oberon, Parish of Jenolan and County of Westmoreland, being lots 37-51 in D.P. 728898. 15

Wombeyan Karst Conservation Reserve

All that piece or parcel of land containing approximately 416.8 hectares situate at the Wombeyan Caves in the local government areas of Mulwaree and Wingecarribee, Parishes of Bouverie, Guineacor and St Columbia and County of Westmoreland, being lot 150 in D.P. 729404, lots 151, 152, 153 and 154 in D.P. 729408, lots 29 and 30 in D.P. 729425, lot 28 in D.P. 725080, Portions 146 and 147 (Parish Bouverie), Portion 70 (Parish Guineacor) and Crown public road within and east of Portion 147 (Parish Bouverie). 20 25

Schedule 5 Transfer of assets, rights and liabilities

(Section 58V) 30

1 Definitions

In this Schedule:

assets means any legal or equitable estate or interest (whether present or future and whether vested or

Schedule 1 Amendment of National Parks and Wildlife Act 1974

contingent) in real or personal property of any description (including money), and includes securities, choses in action and documents.

conveyance includes transfer, assignment and assurance.

former trustees means the trustees holding office under the *Crown Lands Act 1989* as trustees in respect of any of the lands dedicated under section 58U of this Act immediately before that dedication. 5

instrument means an instrument (other than this Act) that creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in accordance with any law), and includes any judgment, order or process of a court. 10

liabilities means all liabilities, debts or obligations (whether present or future and whether vested or contingent). 15

rights means all rights, powers, privileges and immunities (whether present or future and whether vested or contingent).

the Trust means the Jenolan Caves Trust. 20

2 Transfer of assets, rights and liabilities of former trustees

On the commencement of section 58V, the assets, rights and liabilities of the former trustees are transferred to the Trust and the following provisions have effect: 25

- (a) those assets vest in the Trust by virtue of this clause and without the need for any conveyance,
- (b) those rights and liabilities become the rights and liabilities of the Trust,
- (c) all proceedings relating to those assets, rights and liabilities commenced before the transfer by or against the former trustees and pending immediately before the transfer are taken to be proceedings pending by or against the Trust, 30
- (d) any act, matter or thing relating to those assets, rights and liabilities done or omitted to be done before the transfer by, to or in respect of the 35

- former trustees is (to the extent that the act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the Trust,
- (e) a reference in any instrument of any kind to the former trustees in so far as it relates to those assets, rights and liabilities is to be read as a reference to the Trust. 5

3 Operation of Schedule

- (1) The operation of this Schedule is not to be regarded:
- (a) as a breach of contract or confidence or otherwise as a civil wrong, or 10
- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or 15
- (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability, or 20
- (d) as an event of default under any contract or other agreement.
- (2) Stamp duty is not chargeable in respect of the transfer of assets, rights and liabilities under this Schedule.

Schedule 6 Provisions relating to Jenolan Caves Trust Board 25

(Section 58ZA)

1 Definitions

In this Schedule:

member means a member of the Trust Board. 30

Trust means the Jenolan Caves Trust.

Trust Board means the Jenolan Caves Trust Board established under section 58ZA.

Schedule 1 Amendment of National Parks and Wildlife Act 1974

2 Appointment

The Minister may appoint a member under section 58ZA (2) (c), (d), (g), (h) or (i) without the nomination required by the relevant paragraph if the Minister is satisfied that there has been reasonable opportunity for the nomination to be made. 5

3 Remuneration

A member is entitled to be paid, out of the funds of the Trust, such remuneration (including travel and subsistence allowances) as the Minister may from time to time determine in respect of the member. 10

4 Chairperson and Deputy Chairperson

A Chairperson and a Deputy Chairperson of the Trust Board are to be appointed by the Minister from among the members. 15

5 Deputies

- (1) The Minister may, from time to time, appoint a person to be the deputy of any member and the Minister may revoke any such appointment.
- (2) In the absence of a member, the member's deputy: 20
 - (a) is, if available, to act in the place of the member, and
 - (b) while so acting, has all the functions of the member and is taken to be a member.
- (3) The deputy of the member who is Chairperson does not have the member's function as Chairperson. 25
- (4) For the purposes of this clause, a vacancy in the office of a member is regarded as an absence of the member.

6 Term of office

- (1) Subject to this Schedule, a member holds office for such period not exceeding 5 years as may be specified in the instrument of appointment of the member. 30
- (2) A member is eligible (if otherwise qualified) for re-appointment.

7 Vacancy in office of member

The office of a member becomes vacant if the member:

- (a) dies, or
- (b) completes a term of office and is not re-appointed, or 5
- (c) resigns the office by instrument in writing addressed to the Minister, or
- (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or 10
- (e) becomes a mentally incapacitated person, or
- (f) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or 15
- (g) is removed by the Minister under section 58ZE. 20

8 Filling of vacancy

If the office of a member becomes vacant, a person may, subject to this Act, be appointed to fill the vacancy.

9 Disclosure of pecuniary interests

- (1) If: 25
 - (a) a member has a direct or indirect pecuniary interest in a matter that is being considered or is about to be considered at a meeting of the Trust Board, and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter, 30
- the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Trust Board. 35

Schedule 1 Amendment of National Parks and Wildlife Act 1974

- (2) A disclosure by a member at a meeting of the Trust Board that the member:
- (a) is a member, or is in the employment, of a specified company or other body, or
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or a specified person,
- is a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).
- (3) Particulars of any disclosure made under this clause are to be recorded by the Trust Board in a book kept for the purpose and that book is to be open at all reasonable hours to inspection by any person.
- (4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the Trust Board otherwise determines, be present during any deliberation of the Trust Board, or take part in any decision of the Trust Board, with respect to the matter.
- (5) A contravention of this clause does not invalidate any decision of the Trust Board.

10 Presiding member

- (1) The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson, or in the absence of both the Chairperson and the Deputy Chairperson, another member elected as Chairperson for the meeting by the members present, is to preside at a meeting of the Trust Board.
- (2) The person presiding at any meeting of the Trust Board has a deliberative vote and, in the event of an equality of votes, a second or casting vote.

11 Quorum

The quorum for a meeting of the Trust Board is a majority of the members for the time being.

12 Voting

A decision supported by a majority of the votes cast at a meeting of the Trust Board at which a quorum is present is the decision of the Trust Board. 5

13 Transaction of business outside meeting or by telephone or other means

- (1) The Trust Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Trust Board. 10
- (2) The Trust Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members. 15
20
- (3) For the purposes of:
- (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2),
- the Chairperson and each other member has the same voting rights as they have at an ordinary meeting of the Trust Board. 25
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meeting of the Trust Board. 30
- (5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

Schedule 1 Amendment of National Parks and Wildlife Act 1974

14 Minutes of meetings

The Trust Board is required to keep full and accurate minutes of the proceedings of each of its meetings.

15 General procedure and first meeting of members

- (1) The procedure for the calling of meetings of the Trust Board and for the conduct of business is, subject to any directions by the Minister, to be as determined by the members. 5
- (2) The Minister is to call the first meeting of the members of the Trust Board in such manner as the Minister thinks fit. 10

16 Liability of members and other persons

A matter or thing done or omitted to be done by:

- (a) a member, or
- (b) an administrator while managing the affairs of the Trust, or 15
- (c) a person acting under the direction of the Trust Board, or of an administrator while managing the affairs of the Trust,

does not, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject the member, administrator or person so acting personally to any action, liability, claim or demand. 20

17 Effect of certain other Acts

- (1) Part 2 of the *Public Sector Management Act 1988* does not apply to or in respect of the appointment of a member. 25
- (2) If by or under any Act provision is made:
- (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 30
- (b) prohibiting the person from engaging in employment outside the duties of that office,

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

- (3) The office of a member is for the purposes of any Act not to be taken to be an office or place of profit under the Crown.

5

**Schedule 2 Amendment of Public Reserves
Management Fund Act 1987**

(Section 4)

Section 6 Payments out of Public Reserves Management Fund

Insert after section 6 (1) (f):

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- (f1) the capital funds required by the Jenolan Caves Trust established under the *National Parks and Wildlife Act 1974*, in respect of the lands dedicated under that Act as the Abercrombie Karst Conservation Reserve, the Jenolan Karst Conservation Reserve and the Wombeyan Karst Conservation Reserve, and

10



New South Wales

National Parks and Wildlife Amendment (Abercrombie, Jenolan and Wombeyan Karst Conservation Reserves) Bill 1996

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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

National Parks and Wildlife Amendment (Abercrombie, Jenolan and Wombeyan Karst Conservation Reserves) Bill 1996

Act No , 1996

An Act to amend the *National Parks and Wildlife Act 1974* to dedicate certain lands as karst conservation reserves, to be known as the Abercrombie Karst Conservation Reserve, the Jenolan Karst Conservation Reserve and the Wombeyan Karst Conservation Reserve; to establish the Jenolan Caves Reserve Trust to manage those Reserves; and for related purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *National Parks and Wildlife Amendment (Abercrombie, Jenolan and Wombeyan Karst Conservation Reserves) Act 1996*.

5

2 Commencement

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

3 Amendment of National Parks and Wildlife Act 1974 No 80

The *National Parks and Wildlife Act 1974* is amended as set out in Schedule 1.

10

4 Amendment of Public Reserves Management Fund Act 1987 No 179

The *Public Reserves Management Fund Act 1987* is amended as set out in Schedule 2.

15

Schedule 1 Amendment of National Parks and Wildlife Act 1974

(Section 3)

[1] Section 5 Definitions

Insert in section 5 (1) in alphabetical order: 5

Jenolan Caves Reserve Trust means the Jenolan Caves Reserve Trust established by this Act.

Jenolan Caves Reserve Trust lands means the lands dedicated under section 58U as the Abercrombie Karst Conservation Reserve, the Jenolan Karst Conservation Reserve and the Wombeyan Karst Conservation Reserve, and any other lands dedicated as, or as part of, a karst conservation reserve the care, control and management of which is vested in the Jenolan Caves Reserve Trust. 10

member of the Jenolan Caves Reserve Trust Board means a person holding office under section 58ZA. 15

officer of the Jenolan Caves Reserve Trust means a person referred to in section 58Y.

[2] Section 5A

Insert after section 5: 20

5A Notes in text

Notes in the text of this Act do not form part of this Act.

[3] Section 8 Miscellaneous powers and functions of Director-General

Omit "and prospective honorary rangers" from section 8 (8). 25
Insert instead " , prospective honorary rangers and (with the concurrence of the Jenolan Caves Reserve Trust) officers of the Jenolan Caves Reserve Trust".

[4] Section 8 (11) and (12)

Insert after section 8 (10):

- (11) Despite subsections (3) and (9), the Director-General's powers and duties under those subsections are, in relation to Jenolan Caves Reserve Trust lands, to be exercised and discharged by the Jenolan Caves Reserve Trust and not by the Director-General. 5
- (12) Accordingly, a reference to the Director-General in subsection (3) or (9) is, to the extent that the subsection relates to Jenolan Caves Reserve Trust lands, taken to be a reference to the Jenolan Caves Reserve Trust. 10

[5] Section 23 Functions and duties of Council

Insert after section 23 (2):

- (3) Subject to section 58W (2), the Jenolan Caves Reserve Trust is to furnish to the Council such information in relation to the care, control and management of Jenolan Caves Reserve Trust lands as the Council may require. 15

[6] Section 58S Application of certain provisions to karst conservation reserves

Insert at the end of the section: 20

- (2) However, in the application of section 43 to and in respect of Jenolan Caves Reserve Trust lands, the reference to the Director-General in that section is taken to be a reference to the Jenolan Caves Reserve Trust.

[7] Part 4, Division 2C 25

Insert after Division 2B:

Division 2C Abercrombie, Jenolan and Wombeyan Karst Conservation Reserves

58T Definitions

In this Division: 30

Trust means the Jenolan Caves Reserve Trust.

Trust Board means the Jenolan Caves Reserve Trust Board established under section 58ZA.

58U Dedication of lands as Abercrombie, Jenolan and Wombeyan Karst Conservation Reserves

- (1) The lands described in Schedule 4:
 - (a) are dedicated as karst conservation reserves, and
 - (b) are assigned the names specified in that Schedule. 5
- (2) The lands concerned are taken, on the commencement of this section, to have been so dedicated and named by proclamations published under section 58K.
- (3) A reference in this Act to the publication of a proclamation under section 58K is, in relation to a dedication under this section, taken to be a reference to the commencement of this section. 10
- (4) Sections 35, 46, 47 and 58K (4) (c) do not apply to or in respect of a karst conservation reserve dedicated under this section. 15

58V Establishment of Jenolan Caves Reserve Trust

- (1) There is established by this Act a karst conservation reserve trust constituted as a body corporate with the corporate name "Jenolan Caves Reserve Trust".
- (2) The Trust is appointed as trustee of the Jenolan Caves Reserve Trust lands, and the care, control and management of those lands is vested in the Trust. 20
- (3) However, subject to this Act, the responsibilities, powers, authorities, duties and functions conferred or imposed on the Director-General by or under this or any other Act may be exercised by the Director-General in relation to those lands. 25
- (4) The Minister may delegate to:
 - (a) the Trust, or
 - (b) a member of the Trust Board, or 30
 - (c) an officer of the Trust,any power (other than the power of delegation conferred by this section), authority, duty or function conferred or

Schedule 1 Amendment of National Parks and Wildlife Act 1974

imposed on the Minister by or under this or any other Act, but only to the extent that the power, authority, duty or function concerned relates to Jenolan Caves Reserve Trust lands.

- (5) Any such delegation takes effect as a delegation under section 21. 5
- (6) Schedule 5 (Transfer of assets, rights and liabilities) has effect.

58W Functions of Trust

- (1) The Trust has the responsibilities, powers, authorities, duties and functions conferred or imposed on it by or under this or any other Act. 10
- (2) The Trust is subject to the control and direction of the Minister.
- (3) The principal function of the Trust is the care, control and management of Jenolan Caves Reserve Trust lands. 15
- (4) The Governor may:
 - (a) in a proclamation under section 58K (1) dedicating as a karst conservation reserve the whole or any part of the lands referred to in subsection (5), or 20
 - (b) in a proclamation under section 58K (2) dedicating as part of a karst conservation reserve land in the vicinity of Jenolan Caves Reserve Trust lands, 25specify that the care, control and management of the land so dedicated is to vest in the Trust.
- (5) The lands for the purposes of subsection (4) (a) are the lands situate at the Borenore Caves in the local government area of Cabonne, Parish of Barton and County of Ashburnham, that were, under section 28 of the *Crown Lands Consolidation Act 1913*, added to the 30

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- land in Reserve No 81412 (notified 20 February 1959) by notifications in the following Gazettes:
- (a) Gazette No 49 of 30 March 1984 at page 1833,
 - (b) Gazette No 31 of 1 February 1985 at page 536,
 - (c) Gazette No 121 of 15 December 1989 at page 10956. 5
- (6) If land is dedicated by a proclamation referred to in subsection (4):
- (a) section 46 (if applicable) applies to and in respect of that land as if a reference in that section to the Director-General were a reference to the Trust, and 10
 - (b) section 58K (4) (c) does not apply to or in respect of that land.
- 58X Funds of Trust** 15
- (1) The Trust is to open and maintain an account with any one or more banks, building societies or credit unions.
 - (2) Money received by the Trust in connection with Jenolan Caves Reserve Trust lands is to be paid into that account or dealt with in such other manner as the Minister may from time to time approve. 20
- 58Y Staff of Trust**
- (1) The Trust may employ such persons as are necessary to enable it to exercise its responsibilities, powers, authorities, duties and functions. 25
 - (2) Part 2 of the *Public Sector Management Act 1988* does not apply to or in respect of persons employed under subsection (1).
 - (3) The Trust may arrange for the use of the services of any staff (by secondment or otherwise) or facilities of a government department or a public or local authority. 30
 - (4) Schedule 5A (Provisions relating to staff of Trust) has effect.

58Z Committees

- (1) The Trust may establish committees to assist it in connection with the exercise of any of its responsibilities, powers, authorities, duties and functions.
- (2) It does not matter that any or all of the members of a committee are not members of the Trust Board. 5
- (3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is to be as determined by the Trust or, if the Trust makes no such determination in respect of a particular committee, by the committee concerned. 10

58ZA Jenolan Caves Reserve Trust Board

- (1) There is to be established a Jenolan Caves Reserve Trust Board.
- (2) The Trust Board is to consist of the following 10 members appointed by the Minister: 15
 - (a) one member selected by the Minister, the person selected being a person who has expertise in karst conservation and management or in nature conservation (or in both), and 20
 - (b) 2 members nominated by the Minister for Aboriginal Affairs after consulting the New South Wales Aboriginal Land Council, the persons nominated being Aboriginals and the Minister, in making the nominations, taking into account: 25
 - (i) the views of the New South Wales Aboriginal Land Council, and
 - (ii) the different Aboriginal cultural areas in which the lands under the care, control and management of the Trust are located, and 30
 - (c) one member nominated by the Director-General, and
 - (d) one member nominated by the General Manager of Tourism New South Wales, and

(e)	one member nominated by the Minister for Urban Affairs and Planning, the person nominated being a person who has expertise in environmental planning, and	
(f)	one member nominated by the Minister for Local Government, and	5
(g)	one member nominated by the Australian Speleological Federation Incorporated, and	
(h)	one member nominated by the National Trust of Australia (New South Wales), and	10
(i)	one member nominated by the Nature Conservation Council.	
(3)	The affairs of the Trust are to be managed by the Trust Board.	
(4)	Schedule 6 (Provisions relating to Jenolan Caves Reserve Trust Board) has effect with respect to the members and procedure of the Trust Board.	15
58ZB Power to grant leases, licences and easements and to purchase land		
(1)	The Trust may, with the written consent of the Minister (and subject to any conditions imposed in giving that consent):	20
(a)	grant leases of any Jenolan Caves Reserve Trust lands, and	
(b)	grant licences to occupy or use any land in any of those Reserves, and	25
(c)	purchase or take a lease of any land (whether or not adjoining any of those Reserves) required for use in connection with any of those Reserves.	
(2)	However, the Trust must not grant a lease or licence under this section in respect of land that is within a wilderness area.	30
(3)	Easements or rights of way through, on or in any Jenolan Caves Reserve Trust lands may be granted only by the Minister under section 153.	35

58ZC Reports by Trust

- (1) The Trust must:
 - (a) provide reports to the Minister at such times, concerning such matters, and specifying such information relating to the functions of the Trust, as may be required by the Minister, and 5
 - (b) keep such records as may be required by the Minister.
- (2) The Trust must, at the request of the Minister:
 - (a) give the Minister such information as the Minister requires in relation to the operations of the Trust, and 10
 - (b) send to the Minister such records kept by the Trust as the Minister requires (including accounting records). 15

58ZD Inspection of Trust

- (1) The Minister may appoint a person to inquire into, or carry out an audit of, any of the affairs of the Trust.
- (2) The appointed person may, for the purposes of the inquiry or audit: 20
 - (a) inspect and take copies of or extracts from any records (including accounting records) of the Trust, and
 - (b) require any person concerned in the management of the Trust to give information and answer questions relating to the affairs of the Trust. 25
- (3) The power of the appointed person to inspect the records of the Trust includes the power to inspect the records of a lessee or licensee which the Trust has power to inspect under the lease or licence concerned. 30
- (4) A person must not:
 - (a) without reasonable excuse, refuse or fail to allow the appointed person access to records to which the appointed person is entitled, or

- (b) without reasonable excuse, refuse or fail to give information or answer questions, as required by the appointed person, or
- (c) wilfully obstruct or delay the appointed person in the exercise of a power under this section. 5

Maximum penalty: 5 penalty units.

58ZE Removal of Trust Board members and appointment of administrator

- (1) The Minister may, by notice published in the Gazette:
 - (a) remove any or all of the members of the Trust Board from office, or 10
 - (b) remove all the members of the Trust Board from office and appoint a person as the administrator of the Trust.
- (2) The Minister is to appoint new members to the Trust Board as soon as practicable after removing the members from it under subsection (1) (b). 15
- (3) If an administrator is appointed:
 - (a) the affairs of the Trust are to be managed by the administrator, and 20
 - (b) the administrator has all the responsibilities, powers, authorities, duties and functions of the Trust.
- (4) Subject to this Act, an administrator holds office for such period as may be specified in the administrator's instrument of appointment. 25
- (5) The Minister may remove an administrator from office at any time.
- (6) An administrator is entitled to be paid, out of the funds of the Trust, such remuneration as the Minister may direct. The office of administrator is not, for the purposes of any Act, an office or place of profit under the Crown. 30

[8] Section 75B

Insert after section 75A:

75B Plans of management for Jenolan Caves Reserve Trust lands

- (1) This Part applies, in relation to the Jenolan Caves Reserve Trust lands, as if a reference in the Part to the Director-General were a reference to the Jenolan Caves Reserve Trust. 5
- (2) When a plan of management has been prepared for any Jenolan Caves Reserve Trust lands, the Jenolan Caves Reserve Trust is to give notice as prescribed that the plan of management has been prepared. 10
- (3) A notice under subsection (2) is to specify:
 - (a) the address of the place at which copies of the plan of management may be inspected, and 15
 - (b) the address to which representations in connection with the plan of management may be forwarded.
- (4) Any person may, within one month or such longer period as may be specified in the notice, make representations to the Jenolan Caves Reserve Trust in connection with the plan of management. 20

[9] Section 76 Adoption etc of plan of management for nature reserve, state game reserve or karst conservation reserve

Insert after section 76 (1):

- (1A) Subsection (1) does not apply, in relation to Jenolan Caves Reserve Trust lands, until after the expiration of the period referred to in section 75B (4). 25
- (1B) When referring the plan of management to the Council under subsection (1), the Jenolan Caves Reserve Trust is also to refer any representations made to it under section 75B (4). 30

Note. Because of section 75B (1), a reference in subsection (1) to the Director-General is, in certain circumstances, taken to be a reference to the Jenolan Caves Reserve Trust.

[10] Section 138 Payments into the Fund

Insert after section 138 (1):

- (1A) Subsection (1) does not apply in relation to money received by the Jenolan Caves Reserve Trust in connection with Jenolan Caves Reserve Trust lands.

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[11] Section 140 Community service contribution

Insert at the end of the section:

- (5) This section applies, in relation to Jenolan Caves Reserve Trust lands, as if references in subsections (1), (2) and (4) to the Director-General were references to the Jenolan Caves Reserve Trust.

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[12] Section 143 Charges and fees

Insert at the end of the section:

- (2) If the Jenolan Caves Reserve Trust or any of its officers:
- (a) supplies any service, product or commodity, or
 - (b) gives any permission, consent or approval, or
 - (c) furnishes any information,

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in connection with any Jenolan Caves Reserve Trust lands, the Trust may make, demand, levy and recover such charges and fees as may be prescribed or, if no charge or fee is prescribed, such charges and fees as may be fixed by the Trust, subject to the maximum (if any) prescribed.

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[13] Section 144A Overdue community service contributions, charges, fees and other money

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Insert "(or, in the case of money payable to the Jenolan Caves Reserve Trust, that Trust)" after "Director-General" in section 144A (3).

- [14] Section 146 Acquisition or occupation of lands for certain purposes**
- Insert at the end of the section:
- (4) Subsection (3) applies, in relation to the management, maintenance or improvement of Jenolan Caves Reserve Trust lands, as if the reference in the subsection to the Director-General were a reference to the Jenolan Caves Reserve Trust. 5
- [15] Section 163A Application of Local Government Act 1919**
- Insert “(other than lands dedicated under section 58U)” after “dedicated”. 10
- [16] Section 163B Application of Local Government Act 1993**
- Insert “(other than lands dedicated under section 58U)” after “dedicated”.
- [17] Section 169 Impersonating, assaulting, resisting or obstructing an officer etc** 15
- Omit “or an honorary ranger” from section 169 wherever occurring. Insert instead “, honorary ranger, member of the Jenolan Caves Reserve Trust Board or officer of the Jenolan Caves Reserve Trust”.
- [18] Section 170 Corruption** 20
- Omit “or an honorary ranger”. Insert instead “, honorary ranger, member of the Jenolan Caves Reserve Trust Board or officer of the Jenolan Caves Reserve Trust”.
- [19] Section 170**
- Omit “or ranger” wherever occurring. Insert instead “, ranger or member”. 25

[20] Section 178 Recovery of charges

Omit "or an officer of the Service" from section 178 (1).
Insert instead ", the Jenolan Caves Reserve Trust or an officer of the Service".

[21] Section 178 (1A)

5

Insert after section 178 (1):

(1A) Section 179 (1) does not apply to legal proceedings to recover any charge, fee or money due to the Jenolan Caves Reserve Trust under the provisions of this Act or the regulations. Such proceedings may be taken by that Trust.

10

[22] Schedule 3 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

*National Parks and Wildlife Amendment (Abercrombie,
Jenolan and Wombeyan Karst Conservation Reserves)
Act 1996*

15

[23] Schedule 3, clause 9 (3)

Insert after clause 9 (2):

(3) A plan of management under any Act for any lands dedicated under this Act as Jenolan Caves Reserve Trust lands, being a plan of management in force immediately before that dedication, is taken to be a plan of management under this Act for the land concerned until a new plan of management for that land is adopted under section 76.

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[24] Schedules 4, 5, 5A and 6

Insert after Schedule 3:

Schedule 4 Lands dedicated as karst conservation reserves

(Section 58U) 5

Abercrombie Karst Conservation Reserve

All that piece or parcel of land containing approximately 1434 hectares situate at the Abercrombie Caves in the local government area of Evans, Parishes of Bombah and Bucumba and County of Georgiana, being lot 74 in D.P. 729406 and lot 125 in D.P. 729405. 10

Jenolan Karst Conservation Reserve

All that piece or parcel of land containing approximately 2422 hectares situate at the Jenolan Caves in the local government area of Oberon, Parish of Jenolan and County of Westmoreland, being lots 37-51 in D.P. 728898. 15

Wombeyan Karst Conservation Reserve

All that piece or parcel of land containing approximately 416.8 hectares situate at the Wombeyan Caves in the local government areas of Mulwaree and Wingecarribee, Parishes of Bouverie, Guineacor and St Columbia and County of Westmoreland, being lot 150 in D.P. 729404, lots 151, 152, 153 and 154 in D.P. 729408, lots 29 and 30 in D.P. 729425, lot 28 in D.P. 725080, Portions 146 and 147 (Parish Bouverie), Portion 70 (Parish Guineacor) and Crown public road within and east of Portion 147 (Parish Bouverie). 20 25

Schedule 5 Transfer of assets, rights and liabilities

(Section 58V) 30

1 Definitions

In this Schedule:

assets means any legal or equitable estate or interest (whether present or future and whether vested or

contingent) in real or personal property of any description (including money), and includes securities, choses in action and documents.

conveyance includes transfer, assignment and assurance.

former Trusts means:

- (a) the Jenolan Caves Reserve Trust, and
- (b) the Jenolan Caves Reserve Dedicated Area Trust, constituted under the *Crown Lands Act 1989*.

instrument means an instrument (other than this Act) that creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in accordance with any law), and includes any judgment, order or process of a court.

liabilities means all liabilities, debts or obligations (whether present or future and whether vested or contingent).

rights means all rights, powers, privileges and immunities (whether present or future and whether vested or contingent).

the Trust means the Jenolan Caves Reserve Trust constituted under this Act.

2 Transfer of assets, rights and liabilities of former Trusts

On the commencement of section 58V, the assets, rights and liabilities of the former Trusts are transferred to the Trust and the following provisions have effect:

- (a) those assets vest in the Trust by virtue of this clause and without the need for any conveyance,
- (b) those rights and liabilities become the rights and liabilities of the Trust,
- (c) all proceedings relating to those assets, rights and liabilities commenced before the transfer by or against the former Trusts and pending immediately before the transfer are taken to be proceedings pending by or against the Trust,

Schedule 1 Amendment of National Parks and Wildlife Act 1974

- (d) any act, matter or thing relating to those assets, rights and liabilities done or omitted to be done before the transfer by, to or in respect of the former Trusts is (to the extent that the act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the Trust, 5
- (e) a reference in any instrument of any kind to the former Trusts in so far as it relates to those assets, rights and liabilities is to be read as a reference to the Trust. 10

3 Operation of Schedule

- (1) The operation of this Schedule is not to be regarded:
 - (a) as a breach of contract or confidence or otherwise as a civil wrong, or
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or 15
 - (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability, or 20
 - (d) as an event of default under any contract or other agreement. 25
- (2) Stamp duty is not chargeable in respect of the transfer of assets, rights and liabilities under this Schedule.

Schedule 5A Provisions relating to staff of Trust

(Section 58Y)

Part 1 Staff generally

30

1 Definition

In this Schedule:

Trust means the Jenolan Caves Reserve Trust constituted under this Act.

2 Salaries and conditions

The Trust may fix the salary, wages and conditions of employment of its staff in so far as they are not fixed by or under any other Act or law.

3 Staff of Trust taken to be employees of Crown

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A member of the staff of the Trust:

- (a) is taken to be a public sector employee for the purposes of the *Industrial Relations Act 1996*, and
- (b) is taken to be employed in the service of the Crown for the purposes of any Act.

10

4 Appointment to staff of Trust to be on merit

- (1) Appointments to the staff of the Trust and promotions for members of that staff are to be made on the basis of the merit of the applicants for appointment or promotion.
- (2) The merit of persons eligible for appointment or promotion to a vacant position is to be determined having regard to:
 - (a) the nature and duties of the position, and
 - (b) the abilities, qualifications, experience, standard of work performance and personal qualities of those persons that are relevant to the performance of those duties.

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5 Legal proceedings not to be brought in respect of appointments

- (1) The appointment or failure to appoint a person to a vacant position on the staff of the Trust, or any matter, question or dispute relating to such an appointment or failure, is not an industrial matter for the purposes of the *Industrial Relations Act 1996*.
- (2) Subclause (1) applies whether or not a person has been appointed to the vacant position.

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Schedule 1 Amendment of National Parks and Wildlife Act 1974

- (3) No proceedings, whether for an order in the nature of prohibition, certiorari or mandamus, or for a declaration or injunction or for any other relief, lie in respect of the appointment or failure to appoint a person to a position on the staff of the Trust, the entitlement or non-entitlement of a person to be so appointed or the validity or invalidity of any such appointment. 5
- (4) Subclause (3) does not affect the operation of the *Government and Related Employees Appeal Tribunal Act 1980*. 10

6 Incapable member of staff may be retired

The Trust may cause a member of its staff to be retired if the member of staff:

- (a) is found to be unfit to discharge or incapable of discharging the duties of the member's position, and 15
- (b) the unfitness or incapacity of the member of staff:
- (i) appears likely to be permanent, and
- (ii) has not arisen from actual misconduct on the part of the member of staff, or from causes within his or her control. 20

Part 2 Public servants transferred to staff of Trust

7 Definitions

In this Part:

former Trusts means: 25

- (a) the Jenolan Caves Reserve Trust, and
- (b) the Jenolan Caves Reserve Dedicated Area Trust, constituted under the *Crown Lands Act 1989*.

superannuation scheme means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under an Act. 30

transferred employee means a public servant who is transferred to the staff of the Trust under clause 2.

8 Transfer of seconded public servants to staff of Trust

- (1) The Trust may direct that any public servant who, immediately before the commencement of section 58V, was on secondment to a former Trust be transferred to the staff of the Trust. 5
- (2) Such a direction:
 - (a) must be given in writing, and
 - (b) may be given only with the consent of the Department Head of the Department from which the public servant was seconded. 10
- (3) On the Trust's giving such a direction, the public servant is transferred to the staff of the Trust accordingly.

9 Superannuation

- (1) A transferred employee:
 - (a) may continue to contribute to any superannuation scheme to which he or she was a contributor immediately before becoming a transferred employee, and 15
 - (b) is entitled to receive any payment, pension or gratuity accrued or accruing under the scheme, 20as if he or she had continued to be such a contributor during service with the Trust.
- (2) Service by the transferred employee with the Trust is taken to be service as an officer in his or her previous employment for the purpose of any law under which the officer continues to contribute to the scheme or by which an entitlement under the scheme is conferred. 25
- (3) The transferred employee is to be regarded as an officer or employee, and the Trust is to be regarded as the employer, for the purposes of the scheme. 30

Schedule 1 Amendment of National Parks and Wildlife Act 1974

- (4) This clause ceases to apply to a transferred employee if he or she becomes a contributor to another superannuation scheme, but the transferred employee is not prevented from receiving a resignation benefit from the first superannuation scheme. 5
- 10 Leave**
- A transferred employee retains any rights to annual leave, extended service leave and sick leave accrued or accruing in his or her previous employment.
- 11 No dual benefits** 10
- A transferred employee is not entitled to claim, both under this Act and any other Act, dual benefits of the same kind for the same period of service.
- 12 Transferred employees may apply for positions in the Public Service** 15
- (1) A transferred employee may, within the period of 3 years immediately following his or her being transferred to the staff of the Trust, apply for a position in the Public Service as if he or she were still a public servant.
- (2) A transferred employee who applies for such a position, or who is appointed to or employed in such a position, is, for the purposes of the *Public Sector Management Act 1988* and the *Government and Related Employees Appeal Tribunal Act 1980*, to be taken to be a public servant in relation to the application, appointment or employment. 20 25
- (3) There is no right of appeal under the *Government and Related Employees Appeal Tribunal Act 1980*:
- (a) for a person against the filling of a position in the Public Service by a transferred employee, or 30
- (b) for a transferred employee against the filling of a position in the Public Service by another person.

Schedule 6 Provisions relating to Jenolan Caves Reserve Trust Board

(Section 58ZA)

1 Definitions

In this Schedule:

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member means a member of the Trust Board.

Trust means the Jenolan Caves Reserve Trust.

Trust Board means the Jenolan Caves Reserve Trust Board established under section 58ZA.

2 Appointment

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The Minister may appoint a member under section 58ZA (2) (c), (d), (g), (h) or (i) without the nomination required by the relevant paragraph if the Minister is satisfied that there has been reasonable opportunity for the nomination to be made.

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3 Remuneration

A member is entitled to be paid, out of the funds of the Trust, such remuneration (including travel and subsistence allowances) as the Minister may from time to time determine in respect of the member.

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4 Chairperson and Deputy Chairperson

A Chairperson and a Deputy Chairperson of the Trust Board are to be appointed by the Minister from among the members.

5 Deputies

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- (1) The Minister may, from time to time, appoint a person to be the deputy of any member and the Minister may revoke any such appointment.

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- (2) In the absence of a member, the member's deputy:
 - (a) is, if available, to act in the place of the member, and
 - (b) while so acting, has all the functions of the member and is taken to be a member. 5
- (3) The deputy of the member who is Chairperson does not have the member's function as Chairperson.
- (4) For the purposes of this clause, a vacancy in the office of a member is regarded as an absence of the member.

6 Term of office 10

- (1) Subject to this Schedule, a member holds office for such period not exceeding 5 years as may be specified in the instrument of appointment of the member.
- (2) A member is eligible (if otherwise qualified) for re-appointment. 15

7 Vacancy in office of member

The office of a member becomes vacant if the member:

- (a) dies, or
- (b) completes a term of office and is not re-appointed, or 20
- (c) resigns the office by instrument in writing addressed to the Minister, or
- (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or 25
- (e) becomes a mentally incapacitated person, or
- (f) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or 30
- (g) is removed by the Minister under section 58ZE. 35

8 Filling of vacancy

If the office of a member becomes vacant, a person may, subject to this Act, be appointed to fill the vacancy.

9 Disclosure of pecuniary interests

- (1) If: 5
- (a) a member has a direct or indirect pecuniary interest in a matter that is being considered or is about to be considered at a meeting of the Trust Board, and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter, 10
- the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Trust Board. 15
- (2) A disclosure by a member at a meeting of the Trust Board that the member:
- (a) is a member, or is in the employment, of a specified company or other body, or
 - (b) is a partner, or is in the employment, of a specified person, or 20
 - (c) has some other specified interest relating to a specified company or other body or a specified person,
- is a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1). 25
- (3) Particulars of any disclosure made under this clause are to be recorded by the Trust Board in a book kept for the purpose and that book is to be open at all reasonable hours to inspection by any person. 30

Schedule 1 Amendment of National Parks and Wildlife Act 1974

- (4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the Trust Board otherwise determines, be present during any deliberation of the Trust Board, or take part in any decision of the Trust Board, with respect to the matter. 5
- (5) A contravention of this clause does not invalidate any decision of the Trust Board.

10 Presiding member

- (1) The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson, or in the absence of both the Chairperson and the Deputy Chairperson, another member elected as Chairperson for the meeting by the members present, is to preside at a meeting of the Trust Board. 10
- (2) The person presiding at any meeting of the Trust Board has a deliberative vote and, in the event of an equality of votes, a second or casting vote. 15

11 Quorum

The quorum for a meeting of the Trust Board is a majority of the members for the time being. 20

12 Voting

A decision supported by a majority of the votes cast at a meeting of the Trust Board at which a quorum is present is the decision of the Trust Board.

13 Transaction of business outside meeting or by telephone or other means 25

- (1) The Trust Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Trust Board. 30
- (2) The Trust Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members. 35

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- (3) For the purposes of:
- (a) the approval of a resolution under subclause (1),
or
 - (b) a meeting held in accordance with subclause (2),
the Chairperson and each other member has the same voting rights as they have at an ordinary meeting of the Trust Board. 5
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meeting of the Trust Board. 10
- (5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

14 Minutes of meetings

The Trust Board is required to keep full and accurate minutes of the proceedings of each of its meetings. 15

15 General procedure and first meeting of members

- (1) The procedure for the calling of meetings of the Trust Board and for the conduct of business is, subject to any directions by the Minister, to be as determined by the members. 20
- (2) The Minister is to call the first meeting of the members of the Trust Board in such manner as the Minister thinks fit.

16 Liability of members and other persons

A matter or thing done or omitted to be done by:

- (a) a member, or
- (b) an administrator while managing the affairs of the Trust, or
- (c) a person acting under the direction of the Trust Board, or of an administrator while managing the affairs of the Trust, 30

does not, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject the member, administrator or person so acting personally to any action, liability, claim or demand. 35

17 Effect of certain other Acts

- (1) Part 2 of the *Public Sector Management Act 1988* does not apply to or in respect of the appointment of a member.
- (2) If by or under any Act provision is made: 5
- (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, 10
- the provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member. =
- (3) The office of a member is for the purposes of any Act not to be taken to be an office or place of profit under the Crown. 15

Schedule 2 Amendment of Public Reserves Management Fund Act 1987

(Section 4)

Section 6 Payments out of Public Reserves Management Fund

Insert after section 6 (1) (f):

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- (f1) the capital funds required by the Jenolan Caves Reserve Trust established under the *National Parks and Wildlife Act 1974*, in respect of the lands dedicated under that Act as the Abercrombie Karst Conservation Reserve, the Jenolan Karst Conservation Reserve and the Wombeyan Karst Conservation Reserve, and

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