

First print



New South Wales

National Parks and Wildlife Amendment Bill 1995

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):

- to create a new category of land reserved under that Act (referred to as regional parks), the primary purpose of which will be the provision of open space and recreation opportunities, and
 - to extend the regulatory and administrative provisions of the NPW Act to regional parks, and
 - to provide for the management of regional parks by the Director-General of National Parks and Wildlife or by regional park trusts in certain cases, and
 - to modify and improve the provisions of the NPW Act relating to the reservation of land as state recreation areas, and to bring the provisions relating to the management of those areas by trustees into line with the proposed provisions relating to regional parks.
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Outline of provisions

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

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

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

Clause 4 is a formal provision giving effect to the Schedule of amendments to other Acts.

Schedule 1 Amendment of National Parks and Wildlife Act 1974

Schedule 1 [1] provides definitions for the purposes of the Bill. The term *regional park* refers to land reserved as a regional park under the Bill. The definitions also include *SRA trust* (ie a corporation constituted as trustee of a state recreation area) and *regional park trust* (ie a corporation constituted as trustee of a regional park).

Schedule 1 [2]–[12] and [26]–[59] insert appropriate references to regional parks in existing provisions of the NPW Act dealing with such matters as the powers and functions of the Director-General, the National Parks and Wildlife Service and the National Parks and Wildlife Advisory Council, the preparation, content and adoption of plans of management and operations under those plans, the protection of relics, the financial operations of the National Parks and Wildlife Service, regulations relating to the use of parks and compensation with respect to offences. As a result of these amendments, most of the regulatory and administrative provisions of the NPW Act will apply to or in respect of regional parks.

A number of these amendments also apply to state recreation areas so as to bring the administration and regulation of SRAs into line with regional parks and other land dedicated or reserved under the NPW Act.

Schedule 1 [13]–[23] modify the existing provisions of the NPW Act relating to the reservation of land as state recreation areas. These amendments generally provide for the reservation of state recreation areas to be along similar lines to how other land is reserved or dedicated under the NPW Act (including the manner in which regional parks are to be reserved). The status of state recreation areas under the NPW Act is not affected, only the manner in which such areas are reserved and managed.

Consistent with the proposed provisions relating to regional parks, the care, control and management of SRAs will vest in the Director-General or in an SRA trust constituted as trustee. The affairs of such a trust will be managed by a trust board, and the trust will be required to report to the Director-General.

Schedule 1 [24] provides for certain state recreation areas (currently under the administration of the Minister for Land and Water Conservation) to become reserves under the *Crown Lands Act 1989* when proposed section 47N commences.

Schedule 1 [25] inserts proposed Division 1B of Part 4 of the NPW Act. The new Division provides for the reservation of certain land (eg Crown land and reserves under the *Crown Lands Act 1989*) as regional parks, the naming of regional parks, the disallowance of the reservation of land as regional parks, and for the constitution of regional park trusts. If constituted in respect of a regional park, a trust will have the care, control and management of the park, and its affairs will be managed by a trust board appointed by the Minister. Generally, the provisions relating to regional parks are consistent with the existing provisions of the NPW Act relating to other categories of land that are reserved or dedicated under the Act.

Schedule 1 [60] contains transitional provisions that continue the former trustees of a state recreation area as the relevant SRA trust, and a regulation making power enabling regulations to be made containing provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 1 [61] replaces Schedule 9A of the NPW Act (which currently deals with the management of state recreation areas by trustees) with a Schedule providing for the transfer of assets, rights and liabilities in circumstances when land is reserved as a state recreation area or regional park, or when a SRA trust or regional park trust is dissolved, or when those state recreation areas currently under the administration of the Minister for Land and Water Conservation are converted to reserves under the *Crown Lands Act 1989* pursuant to proposed section 47N.

Proposed Schedule 10 contains provisions relating to the membership and procedure of SRA and regional park trust boards.

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Schedule 2 Amendment of other Acts

Schedule 2 contains amendments to various Acts that are consequential on the creation of the new category of reserved land under the NPW Act (namely regional parks).

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New South Wales

National Parks and Wildlife Amendment Bill 1995

No. , 1995

A Bill for

An Act to amend the *National Parks and Wildlife Act 1974* to provide for the reservation of land as regional parks and to make further provision with respect to state recreation areas; to make consequential amendments to other Acts; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *National Parks and Wildlife Amendment Act 1995*.

2 Commencement

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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.

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4 Amendment of other Acts

The Acts specified in Schedule 2 are amended as set out in that Schedule.

Schedule 1 Amendment of National Parks and Wildlife Act 1974

(Section 3)

[1] Section 5 Definitions

Insert in section 5 (1) in alphabetical order:

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regional park means land reserved as a regional park under this Act.

regional park trust means a regional park trust established under section 47S.

SRA trust means an SRA trust established under section 47GA. 10

trust board means a trust board established under:

- (a) section 47GB in respect of an SRA trust, or
- (b) section 47T in respect of a regional park trust.

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

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Omit "state recreation area, nature reserve" from section 8 (1).
Insert instead "state recreation area, regional park, nature reserve".

[3] Section 8 (1)

Omit "or state recreation area".

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Insert instead ", state recreation area or regional park".

[4] Section 8 (2) (b2)

Insert after section 8 (2) (b1):

- (b2) the areas to be reserved as regional parks are areas capable of providing regional open space and recreational opportunities, 25

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Schedule 1 Amendment of National Parks and Wildlife Act 1974

[5] Section 8 (3)

Insert "state recreation area, regional park," after "historic site,".

[6] Section 8 (5)

Omit the subsection. Insert instead:

- (5) As soon as practicable after a relic is discovered on any land reserved or dedicated under this Act, the Director-General, after such consultation with the Australian Museum Trust as appears necessary or expedient, is required to assess the scientific importance of the relic. 5
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[7] Section 12 Powers and functions of Service

Omit "and state recreation areas" wherever occurring.
Insert instead ", state recreation areas and regional parks".

[8] Section 23 Functions and duties of Council

Insert "state recreation areas, regional parks," after "sites," in section 23 (1) (a). 15

[9] Section 24 Advisory committees

Omit section 24 (1). Insert instead:

- (1) An advisory committee may be constituted:
(a) for one or more national parks, or 20
(b) for one or more historic sites, or
(c) for one or more state recreation areas, or
(d) for one or more regional parks, or
(e) for one or more nature reserves,
or for a combination of any of them. 25

[10] Section 25 Dissolution of advisory committees

Insert “, state recreation area, regional park” after “historic site” wherever occurring.

[11] Section 25 (a) and (b)

Insert “, area” after “site” wherever occurring.

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[12] Section 26 Functions of advisory committees

Insert “, state recreation area, regional park” after “site” wherever occurring.

[13] Section 47B

Omit the section. Insert instead:

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47B Reservation of state recreation areas

(1) The Minister may, by notice published in the Gazette:

(a) reserve, as a state recreation area, any prescribed land described in the notice, or

(b) reserve, as part of a state recreation area specified in the notice, any prescribed land described in the notice,

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for the purpose of public recreation and enjoyment.

(2) On the publication of a notice under subsection (1):

(a) the land described in the notice becomes Crown land to the extent to which it was not Crown land immediately before that publication, and

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(b) if trustees of all or any of the land so described were holding office under any other Act in respect of the land immediately before that publication, those trustees cease to hold office in respect of that land, and

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- (c) the care, control and management of the land so described vests:
 - (i) in the Director-General, or
 - (ii) if an SRA trust is established in respect of the land—in the SRA trust. 5
 - (3) To the extent to which a dedication, reservation (other than a reservation under this Division) or vesting affects land described in a notice published under subsection (1), the publication revokes the dedication, reservation or vesting, and the instruments of title (if any) are to be surrendered for cancellation or notation. 10
 - (4) A notice under subsection (1) may be made in relation to one or more state recreation areas.
 - (5) Schedule 9A (Transfer of assets, rights and liabilities) has effect. 15
- [14] Section 47C Limitation on power to reserve under section 47B**
Omit “(1) or (2)”.
- [15] Section 47D Tabling of notification of reservation, and disallowance**
Omit “notification published under section 47B (1) or (2)” from 20
section 47D (1).
Insert instead “notice published under section 47B”.
- [16] Section 47D (2)**
Omit “notification” wherever occurring. Insert instead “notice”.
- [17] Section 47D (3)** 25
Omit the subsection. Insert instead:
 - (3) If any land ceases to be, or to be part of, a state recreation area by virtue of a disallowance of a reservation under this Division:

- (a) the Director-General, or any SRA trust appointed as trustee of the land, ceases to have the care, control and management of the land, and
- (b) the land may be dealt with as if it had been acquired by the Minister under Part 11.

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[18] Section 47E Term and office of trustees of state recreation area

Omit the section.

[19] Section 47F Name of state recreation area

Omit "notification" wherever occurring. Insert instead "notice".

[20] Section 47F (a)

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Omit "(1) or (2)".

[21] Sections 47GA–47GG

Insert after section 47G:

47GA SRA trusts

- (1) The Minister may, by notice published in the Gazette, establish and name an SRA trust and appoint it as trustee of any one or more specified state recreation areas or any one or more parts of a state recreation area. 15
- (2) An SRA trust established under this section is constituted by this Act as a corporation having as its corporate name the name assigned to the trust in the notice of its establishment. The Minister may, by notice published in the Gazette, change the corporate name of an SRA trust. 20
- (3) An SRA trust:
 - (a) has the care, control and management of any state recreation area (or part of a state recreation area) of which it is appointed trustee, and 25
 - (b) has the powers and functions conferred or imposed on it by or under this or any other Act.

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- (4) If the Director-General had the care, control and management of the state recreation area immediately before the establishment of the SRA trust, any thing done or entered into by the Director-General in connection with the state recreation area is taken to have been done or entered into by the SRA trust. 5
- (5) If an SRA trust is appointed as trustee of more than one state recreation area (or more than one part of a state recreation area), a reference in this Act to the state recreation area (or part of the area) in relation to the SRA trust includes a reference to any one or more of the state recreation areas (or any one or more of the parts of the state recreation area) of which the SRA trust has been appointed as trustee. 10

47GB SRA trust boards 15

- (1) There is to be a trust board established in respect of each SRA trust.
- (2) A trust board is to consist of at least 3, but not more than 7, members appointed by the Minister.
- (3) The affairs of an SRA trust are to be managed by the trust board. 20
- (4) A trust board is subject to the control and direction of the Director-General.
- (5) Schedule 10 has effect with respect to the members and procedure of a trust board. 25

47GC Power to grant leases and licences and to purchase land

- (1) An SRA trust may, with the written consent of the Director-General (and subject to any conditions imposed in giving that consent): 30
- (a) grant leases of land in the state recreation area, and
- (b) grant licences to occupy or use land in the state recreation area, and
- (c) purchase or take a lease of any land (whether or not adjoining the state recreation area) required for use in connection with the area. 35

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- (2) If the Director-General has the care, control and management of the state recreation area, the Director-General may grant any such leases or licences.

47GD Reports by SRA trusts

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

47GE Inspection of SRA trust

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- (1) The Director-General may appoint a person to inquire into, or carry out an audit of, any of the affairs of an SRA trust.
- (2) The appointed person may, for the purposes of the inquiry or audit: 25
- (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 SRA trust to give information and answer questions relating to the affairs of the SRA trust. 30
- (3) The power of the appointed person to inspect the records of an SRA 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. 35

- (4) A person must not:
- (a) without lawful excuse, refuse or fail to allow the appointed person access to records to which the appointed person is entitled, or
 - (b) without lawful excuse, refuse or fail to give information or answer questions, as required by the appointed person, or 5
 - (c) wilfully obstruct or delay the appointed person in the exercise of a power under this section.
- Maximum penalty: 5 penalty units. 10

47GF 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 an SRA trust board from office, or 15
 - (b) remove all the members of an SRA trust board from office and appoint a person as the administrator of the SRA trust concerned.
- (2) If an administrator is appointed:
- (a) the affairs of the SRA trust are to be managed by the administrator, and 20
 - (b) the administrator has and may exercise all the functions of the SRA trust.
- (3) Subject to this Act, an administrator holds office for such period as may be specified in the administrator's instrument of appointment. 25
- (4) The Minister may remove an administrator from office at any time.
- (5) An administrator is entitled to be paid 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

47GG Dissolution of SRA trusts

- (1) The Minister may, by notice published in the Gazette, dissolve an SRA trust. A notice takes effect on the date of publication or such later date as is specified in the notice. 35

- (2) Schedule 9A (Transfer of assets, rights and liabilities) has effect.

[22] Section 47I

Omit the section. Insert instead:

47I Restrictions on dealing with land in state recreation areas 5

- (1) Despite anything in this or any other Act, land within a state recreation area is not to be dealt with except as provided under this Act.
- (2) Without limiting the generality of subsection (1), land within a state recreation area is not to be dedicated, reserved or otherwise dealt with under Part 5 of the *Crown Lands Act 1989*. 10

[23] Section 47M Disposal of certain property

Omit the section. 15

[24] Section 47N

Omit the section. Insert instead:

47N Special provisions relating to certain state recreation areas

- (1) This section applies to the following state recreation areas: 20
- Copeton,
Lake Keepit,
Burrendong,
Lake Glenbawn, 25
Wyangala,
Grabine,
Killalea,
- Burrinjuck (but only in respect of such part of the Burrinjuck state recreation area as is specified by the Director-General by notice published in the Gazette on or before the commencement of this section). 30

- (2) On the commencement of this section:
- (a) the reservation under this Act of land as a state recreation area to which this section applies is, by this section, revoked, and
 - (b) the land comprising each of those former state recreation areas is taken to be land dedicated for the purposes of public recreation under Part 5 of the *Crown Lands Act 1989*, and 5
 - (c) a reserve trust is taken to be established under Part 5 of the *Crown Lands Act 1989* in respect of the land so dedicated, and 10
 - (d) the trustees (if any) of each of those former state recreation areas are taken to be appointed as the members of a trust board for the reserve trust.
- (3) This section has effect despite section 47L. 15
- (4) Schedule 9A (Transfer of assets, rights and liabilities) has effect.

[25] Part 4, Division 1B

Insert after Division 1A:

Division 1B Regional parks 20

47O Reservation of regional parks

- (1) In this section:
- prescribed land* means:
- (a) Crown land, or
 - (b) land of the Crown, or 25
 - (c) any land that is a reserve within the meaning of Part 5 of the *Crown Lands Act 1989*, or

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- (d) any land acquired under section 145, 146 or 148, but does not include any land that any Act (other than the *Crown Lands Act 1989*) provides is to be used for a purpose referred to in the Act or is not to be used for any purpose other than that referred to in the Act. 5
- (2) The Minister may, by notice published in the Gazette:
- (a) reserve, as a regional park, any prescribed land described in the notice, or
- (b) reserve, as part of a regional park specified in the notice, any prescribed land described in the notice, 10
- for the purpose of public recreation and enjoyment.
- (3) On the publication of a notice under subsection (2):
- (a) the land described in the notice becomes Crown land to the extent to which it was not Crown land immediately before that publication, and 15
- (b) if trustees of all or any of the land so described were holding office under any other Act in respect of the land immediately before that publication, those trustees cease to hold office in respect of that land, and 20
- (c) the care, control and management of the land so described vests:
- (i) in the Director-General, or
- (ii) if a regional park trust is established in respect of the land—in the regional park trust. 25
- (4) To the extent to which a dedication, reservation (other than a reservation under this Division) or vesting affects land described in a notice published under subsection (2), the publication revokes the dedication, reservation or vesting, and the instruments of title (if any) are to be surrendered for cancellation or notation. 30

- (5) A notice under subsection (2) may be made in relation to one or more regional parks.
- (6) Schedule 9A (Transfer of assets, rights and liabilities) has effect.

47P Name of regional park and limitation on use of term "regional park" 5

- (1) The Minister:
 - (a) by a notice published under section 47O (2) or by another notice published in the Gazette, may assign a name to a regional park, and 10
 - (b) by notice published in the Gazette, may from time to time change the name of a regional park.
- (2) The term *regional park* is not to be used either alone or in conjunction with other words as the name of any land used for the purpose of public recreation and enjoyment unless the land is within a regional park reserved under this Division. 15

47Q Limitations on power to reserve land as regional park

Land is not to be reserved under section 47O:

- (a) if the land is land of the Crown—without the concurrence in writing of the Minister or public authority in which the land was vested immediately before the reservation, or 20
- (b) if the land is Crown land within the meaning of paragraph (b) of the definition of *Crown lands* in section 5 (1)—without the concurrence in writing of the Minister administering the *Fisheries Management Act 1994*. 25

47R Tabling of notice of reservation, and disallowance

- (1) A copy of a notice published under section 47O (2) must be laid before each House of Parliament within 14 sitting days (whether or not they occur in the same session) after publication of the notice. 30

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- (2) If either House of Parliament passes a resolution of which notice has been given within 15 sitting days after such a copy has been laid before it (whether or not those sitting days occur in the same session) and the resolution disallows the reservation effected by the notice of any land as a particular regional park: 5
- (a) the reservation ceases to have effect, and
 - (b) the land ceases to be, or ceases to be part of, a regional park.
- (3) If any land ceases to be, or to be part of, a regional park by virtue of the disallowance of a reservation under section 47O: 10
- (a) the Director-General, or any regional park trust appointed as trustee of the land, ceases to have the care, control and management of the land, and 15
 - (b) the land may be dealt with as if it had been acquired under Part 11.

47S Regional park trusts

- (1) The Minister may, by notice published in the Gazette, establish and name a regional park trust and appoint it as trustee of any one or more specified regional parks or any one or more parts of a regional park. 20
- (2) A regional park trust established under this section is constituted by this Act as a corporation having as its corporate name the name assigned to the trust in the notice of its establishment. The Minister may, by notice published in the Gazette, change the corporate name of a regional park trust. 25
- (3) A regional park trust:
- (a) has the care, control and management of any regional park (or part of a regional park) of which it is appointed trustee, and 30
 - (b) has the powers and functions conferred or imposed on it by or under this or any other Act.

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- (4) If the Director-General had the care, control and management of the regional park immediately before the establishment of the regional park trust, any thing done or entered into by the Director-General in connection with the regional park is taken to have been done or entered into by the regional park trust. 5

- (5) If a regional park trust is appointed as trustee of more than one regional park (or more than one part of a regional park), a reference in this Act to the regional park (or part of the park) in relation to the regional park trust includes a reference to any one or more of the regional parks (or any one or more of the parts of the regional park) of which the trust has been appointed as trustee. 10

47T Regional park trust boards 15

- (1) There is to be a trust board established in respect of each regional park trust.
- (2) A regional park trust board is to consist of at least 3, but not more than 7, members appointed by the Minister.
- (3) The affairs of a regional park trust are to be managed by the trust board. 20
- (4) A trust board is subject to the control and direction of the Director-General.
- (5) Schedule 10 has effect with respect to the members and procedure of a trust board. 25

47U Power to grant leases and licences and to purchase land

- (1) A regional park trust may, with the written consent of the Director-General (and subject to any conditions imposed in giving that consent): 30
- (a) grant leases of land in the regional park, and
- (b) grant licences to occupy or use land in the regional park, and

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- (c) purchase or take a lease of any land (whether or not adjoining the regional park) required for use in connection with the area.
 - (2) If the Director-General has the care, control and management of the regional park, the Director-General may grant any such leases or licences. 5

47V Reports by regional park trusts

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

47W Inspection of regional park trust

- (1) The Director-General may appoint a person to inquire into, or carry out an audit of, any of the affairs of a regional park 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 regional park trust to give information and answer questions relating to the affairs of the regional park trust. 35

- (3) The power of the appointed person to inspect the records of a regional park 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.
- (4) A person must not:
 - (a) without lawful excuse, refuse or fail to allow the appointed person access to records to which the appointed person is entitled, or
 - (b) without lawful 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.

Maximum penalty: 5 penalty units.

47X 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 a regional park trust board from office, or
 - (b) remove all the members of a regional park trust board from office and appoint a person as the administrator of the regional park trust concerned.
- (2) If an administrator is appointed:
 - (a) the affairs of the regional park trust are to be managed by the administrator, and
 - (b) the administrator has and may exercise all the functions of the regional park trust.
- (3) Subject to this Act, an administrator holds office for such period as may be specified in the administrator's instrument of appointment.
- (4) The Minister may remove an administrator from office at any time.

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

47Y Dissolution of regional park trusts

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- (1) The Minister may, by notice published in the Gazette, dissolve a regional park trust. A notice takes effect on the date of publication or such later date as is specified in the notice.
- (2) On such a notice taking effect, Schedule 9A (Transfer of assets, rights and liabilities) has effect.

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47Z Restrictions on dealing with land within regional parks

- (1) Despite anything in this or any other Act, land within a regional park is not to be dealt with except as provided under this Act.
- (2) Without limiting the generality of subsection (1), land within a regional park is not to be dedicated, reserved or otherwise dealt with under Part 5 of the *Crown Lands Act 1989*.

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47ZA Application of certain provisions to regional parks

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The provisions of sections 39, 41, 42, 43 and 44 apply to and in respect of a regional park in the same way as they apply to and in respect of a national park or historic site.

47ZB Revocation of regional park

- (1) Despite anything in this or any other Act:
- (a) the reservation of land as (or as part of) a regional park is not to be revoked, and
- (b) land within a regional park is not to be appropriated or resumed,
- except in accordance with this section.

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- (2) If the Minister is of the opinion that the reservation of land as (or as part of) a regional park should be revoked as to the whole or any part of that land, the Minister may cause a notice to be published in the Gazette, setting out the manner in which it is proposed to deal with the land. 5
- (3) If in any Act provisions are contained enabling the appropriation or resumption of Crown land and a Minister of the Crown is of the opinion that it is in the public interest to appropriate or resume any land within a regional park under those provisions, that Minister may cause a notice to be published in the Gazette, setting out the manner in which it is proposed to deal with the land and drawing attention to the fact that the land is within a regional park. 10
- (4) If a notice is published under subsection (2) or (3), a copy of the notice must be laid before each House of Parliament within 14 sitting days (whether or not occurring in the same session) after publication of the notice. 15
- (5) If either House of Parliament passes a resolution of which notice has been given within 15 sitting days after a copy of the notice so published has been laid before it under subsection (4) (whether or not those sitting days occur in the same session) and the resolution disallows the proposal set out in the notice, no further action is to be taken in the matter. 20 25
- (6) If no such resolution is passed, it is lawful for the proposal so set out to be carried out:
- (a) in the case of a proposal that the reservation of land as (or as part of) a regional park be revoked as to the whole or any part of that land—by the Minister, by notice published in the Gazette, revoking the reservation in accordance with the proposal, or 30
- (b) in the case of a proposal for the appropriation or resumption of any land within a regional park—by the appropriation or resumption of the land, as specified in the proposal, being effected in accordance with and subject to the provisions of the Act enabling the appropriation or resumption. 35 40

- (7) On the publication of a notice under subsection (6) (a) revoking the reservation of land as (or as part of) a regional park as to the whole or any part of the land, the whole of the land or that part, ceases to be, or to be part of, a regional park.

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[26] Section 72 Plans of management

Omit section 72 (1A). Insert instead:

- (1A) The Director-General is to cause a plan of management to be prepared for each state recreation area, and for each regional park, as soon as practicable after the reservation of the land concerned.

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[27] Section 72 (2)

Insert "regional park," after "state recreation area,".

[28] Section 72 (4) (e)

Omit "and state recreation area".

Insert instead ", state recreation area and regional park".

15

[29] Section 74 Catchment areas and special areas

Omit "or historic site" from subsection (1) (a).

Insert instead ", historic site, state recreation area or regional park".

[30] Section 74 (2)

20

Insert "state recreation area, regional park," after "historic site,".

[31] Section 75A Adoption of plan of management for state recreation area or regional park

Insert "or regional park" after "a state recreation area" in section 75A (1).

25

[32] Section 75A (1) (a)

Omit the paragraph. Insert instead:

- (a) is to refer a copy of the plan to the relevant SRA trust or regional park trust (if any), and

[33] Section 75A (7)

5

Insert "or regional park" after "state recreation area".

[34] Section 80 Lands submerged by water

Insert "regional park," after "state recreation area," in section 80 (1).

[35] Section 81 Operations under plan of management

10

Omit section 81 (3A). Insert instead:

- (3A) If the Minister has adopted a plan of management for a state recreation area or a regional park, it is to be carried out and given effect to:

- (a) by the Director-General, or
- (b) by the relevant SRA trust or regional park trust.

15

[36] Section 81A

Omit the section. Insert instead:

81A Leases, licences and easements subject to plan of management

20

Without limiting the generality of this Part, this Part has effect:

- (a) in respect of any part of a national park, historic site, nature reserve, state game reserve or karst conservation reserve that is the subject of a lease, licence or easement granted under Part 12, and
- (b) in respect of any part of a state recreation area or regional park that is the subject of a lease or licence granted under section 47GC or 47V or an easement granted under Part 12.

25

30

[37] Section 86 Offences relating to relics

Insert "regional park," after "state recreation area," wherever occurring in section 86 (c), (d) and (e).

[38] Section 88 Australian Museum Trust to have custody of certain relics

5

Omit "or state recreation area" wherever occurring.
Insert instead ", state recreation area or regional park".

[39] Sections 120, 122, 123, 129

Insert "state recreation area, regional park," after "historic site," wherever occurring in sections 120 (2), 122 (2) (b), 123 (2) and 129 (a).

10

[40] Section 138 Payments into the Fund

Insert "state recreation area, regional park," after "historic site," wherever occurring in section 138 (1) (b) (i) and (xi) and (e).

[41] Section 138 (1) (e1)

15

Omit the paragraph.

[42] Section 139 Payments out of the Fund

Omit "trustees on any state recreation area" from section 139 (2) (b).

Insert instead "an SRA trust in connection with a state recreation area or by a regional park trust in connection with a regional park".

20

[43] Section 139 (2) (e)

Insert "state recreation area, regional park," after "historic site,".

[44] Section 140 Community service contribution

Insert "state recreation area, regional park," after "historic site," in section 140 (1).

25

National Parks and Wildlife Amendment Bill 1995

Schedule 1 Amendment of National Parks and Wildlife Act 1974

[45] Section 140 (1)

Omit "site or". Insert instead "site, area or".

[46] Section 143 Charges and fees

Insert "state recreation area, regional park," after "historic site,".

[47] Section 146 Acquisition or occupation of land for certain purposes 5

Omit "or historic site" from section 146 (2C) (b).

Insert instead ", historic site, state recreation area or regional park".

[48] Section 148 Power of Minister to accept gifts

Omit "or historic site" from section 148 (4) (a).

10

Insert instead ", historic site, state recreation area or regional park".

[49] Section 149 Disposal of property

Omit "or state recreation area" from section 149 (2) (a).

Insert instead ", state recreation area or regional park".

[50] Section 153 Easements 15

Insert "regional park," after "state recreation area," in section 153 (1).

[51] Section 153 (3)

Omit "or state recreation area".

Insert instead ", state recreation area or regional park".

20

[52] Section 155 Regulations relating to parks

Insert "regional park," after "state recreation area," in section 155 (1).

[53] Section 155 (2) (ee)

Omit the paragraph.

5

[54] Section 155 (2C)

Omit the subsection. Insert instead:

(2C) Without limiting the generality of subsection (2), the Governor may, in relation to any state recreation area or regional park, make regulations for or with respect to any matter for or with respect to which a by-law might be made under the *Crown Lands Act 1989* in relation to a reserve within the meaning of Part 5 of that Act.

10

[55] Section 157 Requirement to state name and address

Insert "regional park," after "state recreation area," in section 157 (2).

15

[56] Section 160A Removal of unauthorised structures and occupiers

Omit "or state recreation area" from the definition of *prescribed land* in section 160A (1).

Insert instead ", state recreation area or regional park".

20

[57] Section 163 Application of Dog Act 1966

Insert "state recreation area, regional park," after "historic site," in section 163 (2).

National Parks and Wildlife Amendment Bill 1995

Schedule 1 Amendment of National Parks and Wildlife Act 1974

[58] Sections 171, 177, 181 and 185

Insert "regional park," after "state recreation area," wherever occurring in sections 171 (1) (a) (i), 177 (1) (a), 181 (1) and 185 (2), (3) and (5).

[59] Section 186 (3)

5

Insert "regional parks," after "state recreation areas,".

[60] Schedule 3 Savings, transitional and other provisions

Insert after clause 22:

23 Replacement of former incorporated trustees by SRA trusts

10

(1) In this clause:

amending Act means the *National Parks and Wildlife Amendment Act 1995*.

former incorporated trustees means the persons holding office as trustees, and constituted as a corporation, in respect of a particular state recreation area and holding office immediately before the commencement of Schedule 1 [61] to the amending Act.

15

(2) On the commencement of Schedule 1 [61] to the amending Act, an SRA trust is taken to be constituted and appointed as trustee of the state recreation area in respect of which the former incorporated trustees held office.

20

(3) Any such SRA trust is a continuation of, and the same legal entity as, the former incorporated trustees, and the corporate name of the SRA trust is to be the same as the corporate name of the former incorporated trustees. That corporate name can be changed in accordance with this Act.

25

(4) Each of the persons who constituted the former incorporated trustees is taken to be appointed as a member of the relevant trust board under section 47GB for the unexpired terms of their original appointment as trustees.

30

24 Savings and transitional regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the *National Parks and Wildlife Amendment Act 1995*.
- (2) Any such savings or transitional provision may, if the regulations so provide, take effect on the date of assent to that Act or a later day. 5
- (3) To the extent to which any such savings or transitional provision takes effect on a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as: 10
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or 15
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

[61] Schedules 9A and 10 20

Omit Schedule 9A. Insert instead:

Schedule 9A Transfer of assets, rights and liabilities

(Sections 47B, 47GG, 47N, 47O, 47Y)

1 Definitions

In this Schedule: 25

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. 30

conveyance includes transfer, assignment and assurance.

former trustees means the trustees holding office under any other Act as trustees in respect of land immediately before the reservation of the land as a state recreation area or regional park.

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).

2 Transfer of assets when land is reserved as state recreation area or regional park

15

(1) Subject to subclause (2), on the publication in the Gazette of a notice under section 47B or 47O, the assets, rights and liabilities of the former trustees (if any) of the land concerned are transferred to the Director-General and the following provisions have effect:

20

(a) those assets vest in the Director-General by virtue of this clause and without the need for any conveyance,

(b) those rights and liabilities become the rights and liabilities of the Director-General,

25

(c) all proceedings relating to those assets, rights and liabilities commenced before the transfer by or against the trustees and pending immediately before the transfer are taken to be proceedings pending by or against the Director-General,

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 trustees is (to the extent that that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the Director-General,

35

- (e) a reference in any instrument of any kind to the trustees in so far as it relates those assets, rights and liabilities is to be read as a reference to the Director-General.

- (2) If, on the publication in the Gazette of a notice under section 47B or 47O, an SRA trust or regional park trust is constituted in respect of the reserved land: 5

- (a) the assets, rights and liabilities of the former trustees (if any) of the land concerned are transferred to the relevant SRA trust or regional park trust, and 10
- (b) the provisions of subclause (1) (a)–(e) apply as if references in those provisions to the Director-General were references to the SRA trust or regional park trust concerned. 15

3 Transfer of assets when SRA trust or regional park trust is dissolved

- (1) On the date on which a notice under section 47GG or 47Y takes effect to dissolve an SRA trust or regional park trust, the assets, rights and liabilities (if any) of the dissolved trust are transferred to the Director-General and the following provisions have effect: 20
- (a) the assets of the dissolved trust vest in the Director-General by virtue of this clause without the need for any conveyance, 25
- (b) the rights and liabilities of the dissolved trust become the rights and liabilities of the Director-General,
- (c) all proceedings commenced before that day by or against the dissolved trust and pending immediately before that day are taken to be proceedings pending by or against the Director-General, 30
- (d) any act, matter or thing done or omitted to be done before that day by, to or in respect of the trust is (to the extent that that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the Director-General, 35

- (e) a reference in any instrument of any kind to the dissolved trust is to be read as a reference to the Director-General.
- (2) No attornment to the Director-General by a lessee from the dissolved trust is required. 5

4 Transfer of assets relating to trustees of certain state recreation areas that are converted to reserve trusts

On the commencement of section 47N, the assets, rights and liabilities of the trustees (if any) of the state recreation areas to which that section applies are transferred to the respective reserve trust and the following provisions have effect: 10

- (a) those assets vest in the reserve trust concerned by virtue of this clause and without the need for any conveyance, 15
- (b) those rights and liabilities become the rights and liabilities of the reserve trust,
- (c) all proceedings relating to those assets, rights and liabilities commenced before the transfer by or against the trustees of the state recreation area and pending immediately before the transfer are taken to be proceedings pending by or against the reserve trust, 20
- (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 trustees is (to the extent that that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the reserve trust, 25 30
- (e) a reference in any instrument of any kind to the trustees of the state recreation areas in so far as it relates to those assets, rights and liabilities is to be read as a reference to the reserve trust.

5 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 5
 - (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 10
 - (d) as an event of default under any contract or other agreement. 15
- (2) Stamp duty is not chargeable in respect of the transfer of assets, rights and liabilities under this Schedule.

Schedule 10 Provisions relating to trust boards

(Sections 47GB, 47T)

1 Definition 20

In this Schedule:

member means a member of a trust board.

2 Acting members

- (1) The Minister may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, has and may exercise all the functions of the member and is taken to be a member. 25
- (2) The Minister may remove a person from the office to which the person was appointed under this clause. 30

- (3) For the purposes of this clause, a vacancy in the office of a member is regarded as an absence from office of the member.

3 Term of office

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, but is eligible (if otherwise qualified) for re-appointment. 5

4 Vacancy in office of member

- (1) The office of a member becomes vacant if the member: 10
- (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or 15
 - (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 20
 - (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 25
 - (g) is removed by the Minister under this clause.
- (2) The Minister may remove a member from office at any time. 30

5 Filling of vacancy

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

6 Disclosure of pecuniary interests

- (1) If:
- (a) a member of a trust board 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 board, and 5
 - (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,
- 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. 10
- (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 15
 - (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, 20
- 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
- (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. 35

- (5) A contravention of this clause does not invalidate any decision of the trust board.

7 Liability of members and other persons

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

- (a) an SRA trust or regional park trust, or 5
- (b) a member, or
- (c) an administrator while managing the affairs of an SRA trust or regional park trust, or
- (d) a person acting under the direction of a trust board, or of an administrator while so managing, 10

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

8 General procedure and first meeting of members 15

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

9 Quorum

The quorum for a meeting of the members of a trust board is a majority of the members for the time being. 25

10 Voting

A decision supported by a majority of the votes cast at a meeting of the members of a trust board at which a quorum is present is the decision of the trust board.

11 Minutes of meetings 30

A trust board is required to keep full and accurate minutes of the proceedings of each of its meetings.

Schedule 2 Amendment of other Acts

(Section 4)

2.1 Bush Fires Act 1949 No 31

[1] Section 22A Reduction of fire hazards

Insert "regional park," after "state recreation area," in Column 1 of the Table to the section. 5

[2] Sections 27 and 51

Insert "regional park," after "state recreation area," wherever occurring in sections 27 (3) (c) and 51 (1D) (c).

2.2 Crown Lands Act 1989 No 6

10

Section 51 Definitions

Omit paragraph (c) of the definition of *prescribed land*.

2.3 Environmental Offences and Penalties Act 1989 No 150

Section 8F Littering

Insert "regional park," after "state recreation area," in section 8F (3) (a) (iv). 15

National Parks and Wildlife Amendment Bill 1995

Schedule 2 Amendment of other Acts

2.4 Impounding Act 1993 No 31

[1] Section 41 Special power to destroy animals

Insert "regional park," after "state recreation area," in section 41 (3).

[2] Dictionary

5

Insert "regional park," after "state recreation area," in the definition of *area of operations*.

2.5 Local Government Act 1993 No 30

Dictionary

Insert "regional park," after "state recreation area," in the definition of *National Parks and Wildlife reserve*. 10

2.6 Mining Act 1992 No 29

Sections 223 and 252

Insert "regional park," after "state recreation area," wherever occurring in sections 223 (2) and 252 (6). 15

2.7 Roads Act 1993 No 33

Dictionary

Insert “regional park,” after “state recreation area,” in the definition of *public open space*.

