

# LEGISLATIVE ASSEMBLY

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Read 1° 4 October 1984

*(Brought in by Mr Cathie and Mrs Toner)*

## A BILL

To create new parks, to amend the *National Parks Act 1975*, the *National Parks (Amendment) Act 1984* and the *Forests Act 1958* and for other purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

### Short Title

1. This Act may be cited as the *National Parks (Further Amendment) Act 1984*.

### Commencement.

10 2. (1) Except as provided in sub-section (2) this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.

15 (2) Sections 4 (2), (4) and (5) and 16 shall come into operation on a day or the respective days to be fixed by proclamation of the Governor in Council published in the *Government Gazette*.

**Principal Act.**

3. In this Act the *National Parks Act 1975* is referred to as the Principal Act.

Act No. 8702.  
Reprinted to No.  
9936.  
Subsequently  
amended by No.  
10073.

**Schedules Two and Three.**

4. (1) Schedule Two to the Principal Act shall be amended by part 5  
A of the Schedule.

(2) Schedule Three to the Principal Act shall be amended by item  
(a) of Part B of the Schedule.

(3) Schedule Three to the Principal Act shall be amended by item  
(b) of Part B of the Schedule. 10

(4) Schedule Three to the Principal Act shall be amended by item  
(c) of Part B of the Schedule.

(5) Schedule Three to the Principal Act shall be amended by item  
(d) of Part B of the Schedule.

(6) The lands delineated and coloured yellow in the plan referred 15  
to in item (c) of the Part B shall upon the day upon which Schedule  
Three to the Principal Act is amended by that item cease to be roads or  
part of roads and all rights, easements and privileges existing or claimed  
either by the public or any body whatsoever or whomsoever and  
incidental to any past dedication or supposed dedication or by any past 20  
user or by any fiction of the law shall cease and determine.

(7) The lands delineated by a green border in the plan referred to  
in item (c) of Part B shall upon the day upon which Schedule Three to  
the Principal Act is amended by that item cease to be reserved forest.

(8) Crown Grant Volume 4703 folio 406 shall insofar as it relates 25  
to the land delineated and shown hatched on the plan in Part C of the  
Schedule be revoked.

(9) The Order in Council dated the 4 August 1922 insofar as it  
relates to land delineated and shown hatched on the plan in Part C of  
the Schedule and any other Order in Council or Proclamation to the 30  
extent that it reserves and affects land referred to in Part C of the  
Schedule shall be revoked.

(10) Notwithstanding anything to the contrary in any Act the land  
referred to in Part C of the Schedule shall become and be unalienated  
land of the Crown freed and discharged of all trusts, encumbrances, 35  
reservations, limitations and restrictions whatsoever and from every  
estate and interest therein.

(11) The Registrar of Titles is hereby authorized and directed upon  
production of the duplicate of Crown Grant Volume 4703 folio 406 to  
make such entries in the Register Book kept pursuant to the provisions 40

of the *Transfer of Land Act* 1958 as are necessary for giving effect to the provisions of this section.

(12) No compensation shall be payable by the Crown in respect of any act matter or thing done or arising out of sub-sections (8) to (12).

## 5 Duties of authorized officers.

5. In section 9 (3) of the Principal Act for the expression "29A" there shall be substituted the expression "37A".

## Fees paid to members of Advisory Council.

10 6. (1) In section 13 (4) of the Principal Act for the word "fees" there shall be substituted the words "fees as are fixed from time to time by the Governor in Council".

(2) A regulation prescribing the fees to be paid to members of the National Parks Advisory Council which was in operation immediately before the commencement of this section shall continue in operation  
15 until a determination is made by the Governor in Council pursuant to section 13 (4) of the Principal Act.

## Convenor of Advisory Council and Advisory Committee.

7. (1) In section 13 (5) (6) and (8) of the Principal Act for the word "chairman" (wherever occurring) there shall be substituted the word  
20 "Convenor".

(2) In section 14 (2) (6) and (8) of the Principal Act for the word "Chairman" (wherever occurring) there shall be substituted the word "Convenor".

(3) The person holding the office of Chairman of the National  
25 Parks Advisory Council or a Committee appointed under section 14 of the Principal Act, immediately before the commencement of this section, shall become and be the Convenor of the Council or committee respectively for the unexpired portion of the period for which the person was appointed Chairman of the Council or the Committee (as  
30 the case may be).

(4) Any reference in any Act, proclamation, appointment, Order in Council, rule, regulation or other enactment or in any instrument, document or writing of any kind to the Chairman of the National Parks Advisory Council or a Committee appointed under section 14 of the  
35 Principal Act shall be deemed to be a reference to the Convenor of the Council or Committee as the case may be.

**New section 19AA inserted.**

8. After section 19 of the Act there shall be inserted the following section:

**Management of land prior to its reservation.**

“19AA. (1) Subject to section 19B, where possession of land has 5  
been taken pursuant to the compulsory acquisition of the land or under  
a contract for the purchase of the land under section 5 of the *Crown*  
*Land (Reserves) Act 1978* for the purposes of a park the Minister may  
direct the Director to undertake the management of the land pursuant 10  
to this section until the land is placed under the control and management 10  
of the Director pursuant to section 18 (1) of the *Crown Land (Reserves)*  
*Act 1978*.

(2) Where the Director undertakes the management of land  
pursuant to a direction of the Minister under sub-section (1)—

- (a) the land shall be used and managed as though it were a 15  
park; and
- (b) the Governor in Council may make regulations in respect  
of the land as though the land were a park.”

**Application of Act to land managed under agreement with Victoria  
Conservation Trust.**

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9. After section 19A (2) of the Principal Act there shall be inserted  
the following sub-section:

“(2A) Where an agreement is in force under this section for the  
management of land—

- (a) sections 9 (2) and (3), 20, 21A, 36, 37, 38, 39, 41, 41A, 43, 25  
44, 45, 46, 47, 47A, 47B, 47C and 48; and
- (b) sections 19 (2) and (3), 21, 22, 23, 24, 25A, 26, 26A, 33 and  
40 as the agreement specifically provides—

shall have effect in and in respect of the land as if it were (as the case  
requires in accordance with the agreement) a national park or other 30  
park or part of a national park or other park.”

**Application of Act to land managed under agreement with a public  
authority.**

10. In section 19C (2) (b) of the Principal Act for the expression  
“41, 43, 44, 45, 46, 47” there shall be substituted the expression “41, 35  
41A, 43, 44, 45, 46, 47, 47A, 47B, 47C”.

**New sections 19E and 19F inserted.**

11. After section 19D of the Principal Act there shall be inserted the following sections:

**Leasing and managing of land adjacent to parks.**

5 “19E. (1) The Minister may lease any land adjacent to a park (whether with or without an option for the Crown to purchase the land) which is suitable to be part of the park to which it is adjacent.

(2) The Director shall undertake the management of any land leased under sub-section (1) as though it were part of the park to which it is adjacent and is specified in the lease.

(3) Where any lease under sub-section (1) is in force in respect of land—

(a) the land shall be controlled and managed as if it were part of the park to which it is adjacent;

15 (b) sections 9 (2) and (3), 20, 21A, 36, 37, 38, 39, 41, 41A, 43, 44, 45, 46, 47, 47A, 47B, 47C and 48 and the regulations under this Act applying to the park to which the land is adjacent and specified in the lease shall have effect in and in respect of the land as if it were part of the park specified in the lease; and

20 (c) such of sections 19 (2) and (3), 21, 22, 23, 24, 25, 25A, 26, 26A, 33 and 40 as the lease specifically provides shall have effect in and in respect of the land as if it were part of the park to which the land is adjacent and is specified in the lease.”

**Order that land to be treated as a park for certain purposes.**

30 “19F. (1) The Governor in Council may by Order published in the *Government Gazette* declare that any area of land vested in the Minister pursuant to section 19 (1) or managed by the Director pursuant to section 19A, 19AA, 19B, 19C, 19D, 19E or 32AA shall be an area of land to which all or such provisions of this Act as are specified in the Order are to apply.

(2) An Order made pursuant to sub-section (1) may amend Schedule Four or that Schedule as so amended—

35 (a) by adding to the Schedule an item relating to an area of land and specifying the provisions of this Act and the regulations under this Act that shall apply to the land;

40 (b) by altering any item in the Schedule, whether in respect to the land or the provisions of the Act or the regulations which are to apply to the land;

(c) by revoking any item in the Schedule—

and the Schedule as so amended shall have the same force and effect as if that amendment had been enacted in this Act.

(3) Where any land is included in the Fourth Schedule pursuant to an Order under this section— 5

(a) the provisions of this Act or any regulations made pursuant to the Act shall not apply to the land except as specifically provided in the Fourth Schedule;

(b) those provisions of the Act which are specified in the Fourth Schedule to apply to the land shall apply to the land as though it were a park. 10

(4) A copy of an Order under this section shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament is then sitting and if Parliament is not then sitting then within fourteen days after the next meeting of Parliament. 15

(5) An Order under this section shall be revoked if each House of Parliament passes a resolution revoking the Order within eighteen sitting days after the Order has been laid before both Houses of Parliament.”.

#### **Director to notify Forests Commission.**

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12. In section 21A of the Principal Act—

(a) after paragraph (a) there shall be inserted the following paragraph:

“(aa) The Director is authorized to manage land under section 19AA;” and 25

(b) After paragraph (ba) there shall be inserted the following paragraph:

“(bb) The Minister enters into a lease under section 19E and the Director is authorized to manage the leased land under that section;” 30

13. In section 25B of the Principal Act—

(a) for the expression “part 2,” there shall be substituted the word “part”; and

(b) for the expression “17 or 24” there shall be substituted the expression “17, 21A or 24”. 35

**New sections 27A and 27B inserted.**

14. (1) After section 27 of the Principal Act there shall be inserted the following sections:

**Road Construction works in certain parks.**

5       “27A. (1) Notwithstanding anything in this Act or the regulations,  
the Road Construction Authority may, subject to and in accordance  
with the consent of the Minister and the conditions imposed by the  
Minister, perform its functions and exercise its powers in relation to  
10 the construction, reconstruction or relocation of a road or roads in or  
through a park referred to in Part 31 of Schedule Two or Part 14 of  
Schedule Three.

(2) Where the Minister has consented to roadworks under  
sub-section (1) the Road Construction Authority its servants agents or  
workmen and all persons authorized by it may in accordance with the  
15 consent and conditions imposed by the Minister and so far as is  
necessary for or in relation to the roadworks enter into and upon and  
use the lands in the park.”.

**Amendment of Schedule Two or Three by Order.**

20 “27B. (1) the Governor in Council may by Order or successive  
Orders published in the *Government Gazette* amend Part 31 of Schedule  
Two or Part 14 of Schedule Three by excepting therefrom or adding  
thereto the land described in the order.

(2) Without limiting the generality of sub-section (1), an order under  
sub-section (1) may—

- 25       (a) provide that any road or part of a road referred to in Part  
31 of Schedule Two or Part 14 of Schedule Three shall upon  
a specified day cease to be a road or a part of a road;
- 30       (b) provide that any part of the land referred to in Part 31 of  
Schedule Two or Part 14 of Schedule 3 shall become and be  
a road or a part of a road and be excluded from the land  
referred to in the relevant part of the Schedule; and
- (c) substitute a reference to a new plan.

(3) Schedule Two and Schedule Three shall, as amended by an  
Order under this section, have the same force and effect as if enacted  
35 in this Act.”.

(2) In section 1 (3) of the Principal Act for the expression “ss.  
19-27” there shall be substituted the expression “ss. 19-27B”.

**Consolidated Fund.**

15. In section 33 (3) (g) of the Principal Act after sub-paragraph (ii) there shall be inserted the following sub-paragraph:

“(iia) of any land managed by the Director under section 19AA, 19C or 19E”.

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**Director may authorize use of guns and other weapons in parks.**

16. In section 37 (2) of the Principal Act—

(a) for the words “firearms or class or classes of firearms” there shall be substituted the words “firearms or other weapons or class or classes of firearms or other weapons”;

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(b) for the expression “18 and 19” there shall be substituted the expression “18, 19 and 21A”.

**New section 37A inserted and consequential amendments.**

17. (1) After section 37 of the Principal Act there shall be inserted the following section:

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“37A. (1) The Minister may with the consent of the Road Construction Authority—

(a) cause to be erected or placed upon or across a road—

(i) any structure or sign to indicate an entrance to the park which is adjacent to the road or entered from the road;

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(ii) in the vicinity of any such structure or sign a building or other structure for use as shelter by and office accommodation for persons carrying out functions referred to in sub-sections (2) and (3);

(iii) any notice sign light or other device to notify users of the road that they are approaching an entrance to the park adjacent to the road, or entered from the road;

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(b) carry out minor roadworks, construct entrance stations, install speed humps and erect signs on a road to facilitate the collection of fees for entry to the park which is adjacent to or entered from the road;

(c) after consultation with the Road Traffic Authority, erect on a road traffic control signals at fee collection points.

(2) Any tolls or fees or charges payable—

(a) for entry into the park which is adjacent to or entered from a road;

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(b) for any permit or authority under the Act in relation to the park which is adjacent to or entered from a road—

may be collected by an authorized officer in respect of the park from persons passing any structure or sign erected under sub-section (1).

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(3) Where any fee or charge payable in respect of a permit or authority may be granted by the Director pursuant to section 21 has been paid, an authorized officer may issue the permit or authority to the person to whom the permit or authority is granted and who passes any structure or sign erected under sub-section (1).

(4) Sections 36, 37 and 44 of the Act shall apply to a road as if the road formed part of the park which is adjacent to or entered from the road.

(5) This section shall apply to—

(a) a road that is—

- (i) the Wilson's Promontory Road;
- (ii) the Mount Buffalo Road—

as respectively proclaimed to be a tourist road pursuant to and for the purposes of the *Transport Act 1983*;

(b) a road or part of a road declared under the *Transport Act 1983*—

(i) that—

(A) is bounded by each side by a park and terminates in the park; or

(B) leads into and terminates in a park; and

(ii) has by notice in the *Government Gazette* been declared by the Road Construction Authority to be a road or part of a road to which this section or a provision of this section shall apply; and

(c) a road or part of a road that has not been declared under the *Transport Act 1983* that is bounded on each side by a park or leads into a park.

(6) For the purposes of sub-section (5) a road shall be treated as terminating in a park notwithstanding that the road is set out on a plan in Schedule Two or Three as a road which continues through the park if the road is not open and kept open to the public for public use and public traffic free from obstructions (other than temporary obstructions) so that a vehicle may pass through the park on the road.”.

(2) Section 29A of the Principal Act shall be repealed.

(3) In section 38 (d) of the Principal Act—

- (a) for the expression “(3) or (4) of section 29A” there shall be substituted the expression “(2) or (3) of section 37A”; and
- (b) for the words “adjacent to the road” there shall be substituted the words “which is adjacent to or entered from the road”.

#### 40 Consequential amendment.

18. In section 41 of the Principal Act after the word “Director” (where third occurring) there shall be inserted the expression “under section 19AA or 19E or”.

**Regulations.**

19. In section 48 (1) (o) of the Principal Act for the expression commencing with the words “to shoot” and ending at the end of the paragraph there shall be substituted the following:

“without incurring any liability to shoot or otherwise destroy the animal speedily and without causing it unnecessary suffering or to seize the animal and deliver it to the proper officer of the municipality or other appropriate person or body or persons”.

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**Heading Schedule Four.**

20. After Schedule Three to the Principal Act there shall be inserted the following heading:

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“SCHEDULE FOUR”

**Kooyoora Park.**

21. For item (l) of Part B of the Schedule to the *National Parks (Amendment) Act 1984* there shall be substituted the following item:

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“(1) After Part 24 there shall be inserted the following Part:

**“Part 24A—Kooyoora Park**

All those pieces or parcels of land containing 3593 hectares, more or less, situate in the Township of Kooyoora, and the Parishes of Brenanah, Glenalbyn, Kangeraar and Kingower, County of Gladstone, being the land delineated and bordered red or bordered green or coloured yellow excepting therefrom the roads shown as excluded also excepting therefrom land bordered blue in a plan lodged in the Central Plan Office of the Department of Conservation, Forests and Lands and numbered N.P. 64/1.”.

**Lands managed under sections 19AA and 19E to be protected public lands under *Forests Act 1958*.**

22. In section 62 (1A) (c) of the *Forests Act 1958*—

(a) for the expression “pursuant to section 32AA” there shall be substituted the expression “pursuant to section 19AA, 19E or 32AA”;

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(b) after the words “the land” (where third occurring) there shall be inserted the expression “pursuant to section 19AA, 19E or 32AA (as the case requires)”.

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**SCHEDULE  
PART A**

**Amendments to Schedule Two to the Principal Act.**

For Part 2 there shall be substituted the following Part:

**“Part 2—Brisbane Ranges National Park**

All those pieces or parcels of land containing 7517 hectares, more or less, situate in the Parishes of Anakie, Beremboko, Bungeeltap, Durdidwarrah, Goorockburkghap and Moreep, County of Grant, being the land delineated and bordered red excepting therefrom

the roads shown as excluded also excepting therefrom land bordered blue in a plan lodged in the Central Plan Office of the Department of Conservation, Forests and Lands and numbered N.P. 1/5.”.

## PART B

### Amendments to Schedule Three to the Principal Act.

(a) For Part 1 there shall be substituted the following Part:

#### “Part 1—Cape Schanck Park

All those pieces or parcels of land containing 1095 hectares, more or less, situate in the Township of Flinders and the Parishes of Fingal, Flinders and Nepean, County of Mornington, being the land delineated and bordered red in a plan lodged in the Central Plan Office of the Department of Conservation, Forests and Lands and numbered N.P. 20/5.”.

(b) For Part 23 there shall be substituted the following Part:

#### “Part 23—Steiglitz Park

All those pieces or parcels of land containing 670 hectares, more or less, situate in the Township of Steiglitz and the Parish of Durdidwarrah, County of Grant, being the land delineated and bordered red excepting therefrom the roads shown as excluded also excepting therefrom the land bordered blue in a plan lodged in the Central Plan Office of the Department of Conservation, Forest and Lands and numbered N.P. 52/3.”.

(c) After Part 21 there shall be added the following Part:

#### “Part 21A—Reef Hills Park

All those pieces or parcels of land containing 2040 hectares, more or less, situate in the Parishes of Benalla and Kelfeera, County of Delatite, and being the land delineated and bordered red or bordered green or coloured yellow in a plan lodged in the Central Plan Office of the Department of Conservation, Forests and Lands and numbered N.P. 68.

Notwithstanding the declaration of this land as a park the following activities may be carried on subject to section 25B of the Act and the following conditions:

Provision of poles, fencing materials, firewood and other minor forest products where methods, intensity and locality of use do not conflict with the primary use determined by the Land Conservation Council:

- (i) provide opportunity for open-space education related to the enjoyment and understanding of this environment for large numbers of people;
- (ii) protect and conserve the Lurg and Benalla land systems with particular emphasis on native ground flora and shrubs, the squirrel glider, lace lizard and significant birds.”.

(d) After Part 22 there shall be added the following Part:

#### “Part 22A—Langwarrin Flora and Fauna Reserve

All those pieces or parcels of land containing 214 hectares, more or less, situate in the Parish of Langwarrin, County of Mornington, being the land delineated and bordered red in a plan lodged in the Central Plan Office of the Department of Conservation, Forests and Land and numbered N.P. 69.”.

PART C

