

# Zoological Parks and Gardens Bill

No.

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# LEGISLATIVE ASSEMBLY

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Read 1° 11 October 1995

*(Brought in by Mr Coleman and Mr Gude)*

## A BILL

to establish the Zoological Parks and Gardens Board and define its functions, to provide for the management and administration of zoological parks and gardens, to repeal the **Zoological Parks and Gardens Act 1967**, to amend the **Borrowing and Investment Powers Act 1987** and the **Conservation, Forests and Lands Act 1987**, to make consequential amendments to other Acts and for other purposes.

## **Zoological Parks and Gardens Act 1995**

**The Parliament of Victoria enacts as follows:**

### **PART 1—PRELIMINARY**

#### **1. *Purposes***

The purposes of this Act are—

- 5           (a) to establish the Zoological Parks and Gardens Board; and

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Section headings appear in bold italics and are not part of the Act.  
(See **Interpretation of Legislation Act 1984**.)

- (b) to provide for the management and administration of zoological parks and gardens.

## 2. *Commencement*

- (1) Section 1 and this section come into operation on the day on which this Act receives the Royal Assent. 5
- (2) Subject to sub-section (3), the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (3) If a provision referred to in sub-section (2) does not come into operation within a period of 6 months beginning on, and including, the day on which this Act receives the Royal Assent, it comes into operation on the first day after the end of that period. 10

## 3. *Definitions*

In this Act— 15

“**acquired land**” means land owned by the Board which is not part of a zoological park and which is not managed land;

“**Board**” means the Zoological Parks and Gardens Board established under Part 2; 20

“**Chief Executive Officer**” means the Chief Executive Officer of the Zoological Parks and Gardens Board appointed under Part 3 and includes a person acting as Chief Executive Officer under section 37; 25

“**director of a zoological park**” means a person who is employed under section 39 as a director of a zoological park;

“**managed land**” means—

- (a) Crown land managed under section 25; or 30
- (b) freehold land managed under section 26; or
- (c) land which the Board has determined under section 28 to be managed land;

“zoological collections” means the collections of wildlife and plants under the control and management of the Board in the zoological parks or on managed land;

5 “zoological parks” means the zoological parks existing on the lands shown on the plans in Schedule 1 and includes any land declared to be a zoological park under section 24.

#### 4. *Objectives*

10 The objectives of this Act are—

(a) to conserve, protect, manage and improve the zoological parks and managed land and the zoological collections;

15 (b) to promote and increase public enjoyment of the zoological collections, zoological parks and managed land;

(c) to increase public knowledge and awareness of the zoological collections and the zoological parks through publications, educational programs and advisory services and other activities;

20 (d) to carry out and promote zoological research, the conservation of wildlife and its natural habitats and the maintenance of biodiversity.

#### 25 5. *Crown to be bound*

This Act binds the Crown, not only in right of the State of Victoria but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

## 30 PART 2—ZOOLOGICAL PARKS AND GARDENS BOARD

### Division 1—The Board

#### 6. *Establishment of Board*

(1) There is established a board to be called the “Zoological Parks and Gardens Board”.

- (2) The Board—
- (a) is a body corporate with perpetual succession; and
  - (b) shall have a common seal; and
  - (c) may sue or be sued in its corporate name; and 5
  - (d) may acquire, hold and dispose of real and personal property; and
  - (e) may do and suffer all acts and things that a body corporate may by law do and suffer.
- (3) The common seal of the Board must be kept as directed by the Board. 10
- (4) All courts must take judicial notice of the imprint of the common seal on a document and, until the contrary is proved, must presume that the document was properly sealed. 15

**7. *Board represents Crown***

In carrying out its functions and powers, the Board acts on behalf of the Crown.

**8. *Board accountable to Minister***

In carrying out its functions and powers, the Board is subject to the general direction and control of the Minister. 20

**9. *Constitution and membership of Board***

- (1) The Board consists of up to 9 members appointed by the Governor in Council on the recommendation of the Minister. 25
- (2) Of the persons appointed to the Board—
- (a) one is to be the nominee of the Secretary of the Department of Conservation and Natural Resources; and 30
  - (b) up to 8 are to be persons who, in the opinion of the Minister, have expertise in one or more of the following areas—



- (i) zoology or veterinary science;
- (ii) business management, financial management or public administration;
- (iii) education, tourism or recreation;
- (iv) nature conservation or animal research;
- (v) architecture or engineering.

- (3) In making a recommendation for appointment of members to the Board, the Minister must have regard to the expertise necessary for the Board to carry out its functions.
- (4) A person cannot be a member of the Board if he or she is the Chief Executive Officer.
- (5) Schedule 2 applies to the membership and procedure of the Board.

#### **10. *Functions of the Board***

The functions of the Board are—

- (a) to conserve, protect, manage and improve the zoological parks and managed land and the zoological collections;
- (b) to promote and increase public enjoyment of the zoological collections and the zoological parks and managed land;
- (c) to increase public knowledge and awareness of the zoological collections and zoological parks through exhibition of the zoological collections, publications, educational programs, advisory services and other activities;
- (d) to carry out and promote zoological research, the conservation of wildlife and its natural habitats and the maintenance of biodiversity;
- (e) to advise the Minister on matters relating to the Board's functions or powers or on any other matter referred to it by the Minister;
- (f) to provide consultancy and advice services to the public on zoological matters;

- (g) to provide for services and facilities for visitors to the zoological parks and managed land;
- (h) to carry out any other functions conferred on it by this or any other Act.

**11. *General powers of the Board*** 5

- (1) The Board may do anything necessary or convenient to enable it to carry out its functions.
- (2) The Board’s other powers under this Act do not limit the general powers conferred by this section.

**12. *Specific powers of the Board*** 10

Subject to this Act, for the purposes of carrying out its functions, the Board has the following powers—

- (a) to give, take and acquire or dispose of zoological and botanical specimens by way of loan, exchange, purchase or sale with scientific or educational institutions or other zoological parks or institutions; 15
  - (b) to enter into contracts, agreements or arrangements and carry them out;
  - (c) to publish information; 20
  - (d) to apply for, obtain and hold (whether alone or jointly with any other person) any intellectual property rights;
  - (e) to assign or grant licences in respect of those intellectual property rights, with or without consideration; 25
  - (f) to enter into agreements or arrangements concerning the commercial exploitation of those intellectual property rights;
  - (g) to provide specialist consultancy or advisory services on zoological matters to any Minister, government department, public statutory authority or other body or person or class of body or persons whatsoever, with or without consideration; 30
- 35

- 5
- (h) to become a member or affiliate of any body, corporate or unincorporate, (whether within or outside Victoria) having similar functions to those of the Board;
- (i) subject to this Act, to acquire, hold or dispose of any interest in real or personal property, with or without consideration;
- 10
- (j) to accept or refuse grants or donations of money or other property (whether by deed, will or otherwise);
- (k) to fix and collect reasonable fees for anything done under this Act, in addition to collecting fees prescribed under the regulations;
- 15
- (l) to erect, maintain, remove, alter or dismantle buildings, enclosures and improvements of all kinds, or to alter the location of those buildings, structures or improvements.

### 13. *Provision of services*

- 20
- (1) The Board may provide or arrange for the provision of—
- (a) restaurant or refreshment services; or
- (b) services of any other kind—
- 25
- at a zoological park (whether or not those services are provided during the times that the zoological park is open to the public), despite anything to the contrary in any Order in Council reserving that land.
- (2) Services provided in accordance with sub-section (1) (b) must be consistent with the functions of the Board.
- 30
- (3) The Board may apply for and hold a licence, permit or extended hours permit under the **Liquor Control Act 1987** in respect of any premises or place within a zoological park where services are provided in accordance with this section.

**14. Crowd control**

- (1) For the safety and well being of the public, and to prevent overcrowding in a zoological park, the Chief Executive Officer, or a director of a zoological park may prohibit or restrict further admission of the public to the zoological park or part of the zoological park in a manner determined by the Chief Executive Officer or the director. 5
- (2) A person who prohibits or restricts the admission of the public to a zoological park must cause a notice setting out the details of the prohibition or restriction to be displayed at each entrance to that park. 10
- (3) The Chief Executive Officer or a director of a zoological park may prohibit or restrict admission of the public under sub-section (1) even if the zoological park is expressed to be open to the public. 15
- (4) The Chief Executive Officer or a director of a zoological park may by instrument delegate to a person or class of persons any of the powers of the Chief Executive Officer or director under this section, except this power of delegation. 20

**15. Board as occupier in certain circumstances**

- (1) The word “occupier” in section 3 of the **Fences Act 1968**, in relation to zoological parks, is deemed to include the Board. 25
- (2) Despite anything to the contrary in the **Fences Act 1968**, the occupier of land adjoining a zoological park is not required to contribute towards the cost of constructing or repairing any dividing fence constructed by the Board. 30
- (3) The Board may impound livestock trespassing in any zoological park in accordance with the **Impounding of Livestock Act 1994** as if the Board were the owner or occupier within the meaning of that Act of that zoological park. 35

**16. *Delegation***

The Board may, by instrument, delegate its functions or powers under this Act, other than this power of delegation, to—

- (a) a member of the Board; or
- (b) the members of a committee of the Board; or
- (c) the Chief Executive Officer; or
- (d) the Chief Finance and Accounting Officer of the Board (however titled); or
- (e) the directors of the zoological parks; or
- (f) any other member of its staff or class of members of staff specified in the instrument of delegation.

**17. *Immunity of Board members***

- (1) A member of the Board is not personally liable for anything done or omitted to be done in good faith—
  - (a) in carrying out a function or power under this Act; or
  - (b) in the reasonable belief that the act or omission was in the carrying out of a function or power under this Act.
- (2) Any liability resulting from an act or omission that would, but for sub-section (1), attach to a member of the Board, attaches instead to the Board.

**Division 2—Corporate Plans and Financial Matters**

**18. *Corporate plan***

- (1) The Board must prepare a corporate plan each year.
- (2) The Board must give a copy of the proposed plan to the Minister on or before 31 May in each year, or such other time as the Minister may specify.

- (3) The proposed corporate plan must be in or to the effect of a form approved by the Minister and must include—
  - (a) a statement of corporate intent in accordance with section 19; 5
  - (b) a business plan containing the information required by the Minister;
  - (c) estimates of the receipts and expenditure of the Board for the financial year or such other period as the Minister may specify. 10
- (4) The Board must consider any comments on the proposed plan that are made to it by the Minister within 2 months after the plan was submitted to the Minister.
- (5) The Board must— 15
  - (a) consult in good faith with the Minister following communication to it of the comments; and
  - (b) make such changes to the plan as are agreed between the Minister and the Board; and
  - (c) deliver the completed plan to the Minister within 2 months after the commencement of the financial year. 20
- (6) The plan, or any part of the plan, must not be published or made available except for the purposes of this Part, without the prior approval of the Board and the Minister. 25
- (7) The plan may be modified at any time by the Board with the agreement of the Minister.
- (8) If the Board, by written notice to the Minister, proposes a modification of the plan, the Board may, within 14 days, make the modification unless the Minister, by written notice to the Board, directs the Board not to make it. 30
- (9) The Minister may from time to time, by written notice to the Board, direct the Board to include any specified matters in or omit any specified matters 35

from a statement of corporate intent, a business plan, or estimates.

5 (10) Before giving the direction under sub-section (8) or (9) the Minister must consult with the Board as to the matters to be referred to in the notice.

(11) The Board must comply with a direction under this section.

10 (12) At any particular time, the statement of corporate intent, the business plan or the estimates for the Board are the statement, plan and estimates last completed, with any modifications or deletions made in accordance with this Division.

**19. *Contents of statement of corporate intent***

15 A statement of corporate intent of the Board must specify, in respect of the financial year to which it relates and each of the 2 following financial years, the following information—

(a) the objectives of the Board;

(b) the main undertakings of the Board;

20 (c) the nature and scope of the activities to be undertaken by the Board;

(d) the accounting policies to be applied in the accounts;

25 (e) the performance targets and other measures by which the performance of the Board may be judged in relation to its stated objectives;

30 (f) the kind of information to be provided to the Minister by the Board during the course of those financial years, including the information to be included in each annual report;

(g) such other matters as may be agreed on by the Minister and the Board from time to time.

**20. Board to notify Minister of significant affecting events etc.**

If the Board is of the opinion that matters have arisen that may prevent or significantly affect the achievement of—

5

(a) the objectives of the Board under the corporate plan; or

(b) financial targets under the plan—

the Board must immediately notify the Minister of its opinion and the reasons for the opinion.

10

**21. General Account**

(1) The Board must keep an account called the General Account.

(2) The Board must ensure that there is paid into the General Account—

15

(a) all money standing to the credit of the Zoological Board of Victoria in the bank accounts established under section 15A of the **Zoological Parks and Gardens Act 1967** immediately before its repeal; and

20

(b) all fees received or recovered under this Act; and

(c) all other money received by it or on its behalf.

(3) The Board may pay money out of the General Account—

25

(a) to meet any expenses incurred in carrying out its functions or powers;

(b) in paying or repaying money borrowed by it under this Act, together with any charges or interest on that money;

30

(c) in paying remuneration, allowances or expenses to which its members, staff or any members of its committees are entitled;

(d) for any other purpose authorised by this Act.



**Division 3—Powers over Land**

**22. *Crown Land (Reserves) Act 1978 does not apply to zoological parks***

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The provisions of the **Crown Land (Reserves) Act 1978** or of any other Act or enactment relating to the management and control of Crown lands or reserves does not apply to zoological parks, but those parks are to be managed as provided in this Act.

**23. *Zoological parks***

10

The Board is responsible for the management of the zoological parks but does not own them.

**24. *Governor in Council may declare land to be zoological park***

15

(1) The Governor in Council, by Order published in the Government Gazette, may declare land which is vested in the Crown and reserved either temporarily or permanently under the **Crown Land (Reserves) Act 1978** —

20

(a) as a site for a zoological park; or

(b) as a State wildlife reserve within the meaning of the **Wildlife Act 1975**—

to be a zoological park to which this Act applies.

25

(2) On and from the making by the Governor in Council of an Order under sub-section (1), the land in respect of which the Order was made is subject to this Act and must be administered by the Board as a zoological park.

30

(3) The Governor in Council, by Order published in the Government Gazette, may revoke or vary an Order made under sub-section (1).

**25. *Managed Crown land***

(1) The Governor in Council on the recommendation of the Minister may, by Order published in the

Government Gazette, place under the Board's management any Crown land specified in the Order that is not part of a zoological park.

- (2) The Minister must not recommend that land is to be placed under the Board's management if to do so would be inconsistent with any Act or reservation relating to the land. 5
- (3) The Order may—
- (a) state which of the Board's functions and powers are exercisable in relation to the managed land; or 10
- (b) impose any other restrictions or conditions on the management of the land that the Governor in Council thinks fit; or
- (c) revoke the appointment of any committee of management to the extent that it applies to the managed land. 15
- (4) On the revocation of an Order under this section, the land to which an Order applied ceases to be under the Board's management and its management reverts to the Crown. 20

## **26. *Managed freehold land***

- (1) The Board may enter into an agreement with the owner or registered proprietor of an estate in fee simple in land other than Crown land under which the land is placed under the Board's management. 25
- (2) The agreement may—
- (a) state which of the Board's functions or powers are exercisable in relation to the managed land; or 30
- (b) impose any other restrictions or conditions on the management of the land; or
- (c) authorise the Board on behalf of the owner to do anything necessary to carry out the agreement; or 35

(d) contain any other provision concerning the management of the land.

(3) The agreement—

(a) may be ended or varied by agreement between the parties; and

(b) unless registered under a provision applied by sub-section (5), ends when there is a change in the ownership of the land.

(4) An agreement must include the written consent of any person having an interest, mortgage, charge or other encumbrance over the land affected by it.

(5) Division 2 of Part 9 of the **Planning and Environment Act 1987** applies to the agreement as if—

(a) it were an agreement under that Division; and

(b) that Division referred to the Board instead of the responsible authority; and

(c) sections 174 to 180 and 184 were omitted.

### **27. Land acquired by gift**

If the Board acquires land by gift (whether by deed, will or otherwise) it may, despite anything to the contrary in this Act, do anything necessary to comply with the terms of the gift.

### **28. When does acquired land become managed land?**

The Board may determine in writing that land acquired by the Board is managed land if—

(a) the Board considers that the land is suitable to be included as a zoological park or to be managed by the Board; and

(b) the Minister so approves.

**29. Notice of managed land**

The Board must publish in the Government Gazette a notice that land (other than Crown land) has become managed land as soon as possible after—

- (a) the land is acquired by the Board and the Board has determined under section 28 that it is to be managed land; or 5
- (b) the Board enters into an agreement to manage the land under this Division.

**30. Notice where land ceases to be managed land** 10

- (1) The Board may surrender to the Crown any land which it owns, whether it is managed land or not.
- (2) As soon as possible after the land owned by the Board ceases to be managed land, the Board must publish notice of the fact in the Government Gazette. 15

**31. Board's powers in relation to acquired land**

The Board may in relation to acquired land —

- (a) maintain its existing state or use; and
- (b) exercise any other management powers that it thinks fit and the Minister approves. 20

**32. Disposal of land**

The Board may dispose of any interest in land which it owns.

**33. Leases licences and permits**

- (1) This section applies despite anything in the **Crown Land (Reserves) Act 1978**. 25
- (2) In relation to zoological parks, managed land or acquired land the Board may, on any consideration, rental, fees or other terms it thinks fit—

(a) with the approval of the Governor in Council, grant leases, each of which is for a term not exceeding 21 years; and

(b) with the approval of the Governor in Council, grant licences, each of which is for a term of more than 12 months but not more than 5 years; and

(c) grant permits, each of which is for a term of 12 months or less.

(3) A lease, licence or permit granted under this section must be for a purpose that is consistent with the Board's functions.

(4) Without limiting the purposes for which a lease, licence or permit may be granted under this section, a lease, licence or permit may be granted to provide access through or within a zoological park, managed land or acquired land.

### **PART 3—CHIEF EXECUTIVE OFFICER AND STAFF**

#### **34. *Appointment of Chief Executive Officer***

After consultation with the Board, the Minister, by instrument, may appoint a Chief Executive Officer of the Zoological Parks and Gardens Board.

#### **35. *Terms of appointment***

(1) The Chief Executive Officer holds office for a period not exceeding 5 years specified in his or her instrument of appointment.

(2) The Chief Executive Officer may be reappointed.

(3) The instrument of appointment of the Chief Executive Officer may specify other terms and conditions of the appointment.

(4) The Chief Executive Officer is entitled to receive the remuneration, expenses and allowances determined by the Minister.

**36 *Resignation and removal from office***

- (1) The Chief Executive Officer may resign his or her office by letter addressed and delivered to the Minister.
- (2) The Minister may at any time remove the Chief Executive Officer from office for misconduct, or if the Chief Executive Officer is incompetent or is for any other reason unfit or unable to perform the duties of that office. 5

**37. *Appointment of acting Chief Executive Officer*** 10

- (1) The Board may, by instrument, appoint a person to act as the Chief Executive Officer during—
  - (a) any period when the Chief Executive Officer is absent from duty or for any other reason unable to perform his or her duties; or 15
  - (b) a vacancy in the office of the Chief Executive Officer.
- (2) An appointment of a person as acting Chief Executive Officer has effect during the absence, inability or vacancy, but the person must not continue to act in the office for more than 6 months. 20
- (3) An appointment as acting Chief Executive Officer is on such other terms and conditions, including conditions as to the payment of remuneration, allowances and expenses as are determined by the Board. 25
- (4) A person appointed as acting Chief Executive Officer, while so acting, has all the powers and may perform all the duties of the Chief Executive Officer.
- (5) The Board may at any time terminate the appointment of a person as acting Chief Executive Officer. 30

**38. *Chief Executive Officer's role***

The Chief Executive Officer—

- (a) is subject to the direction of the Board; and 35

- (b) has the day to day control and management of the zoological parks, managed land and other property for which the Board is responsible.

### **39. *Staff of the Board***

5           The Board may employ directors of the zoological parks and any other persons it considers necessary for the purposes of this Act.

## **PART 4—ENFORCEMENT AND REGULATIONS**

### **40. *Who may take proceedings?***

10           Proceedings under this Act or the regulations may be taken by—

- (a) the Board; or
- (b) the Chief Executive Officer; or
- 15           (c) a person authorised by the Board or the Chief Executive Officer either generally or in a particular case; or
- (d) an authorised officer within the meaning of section 3 (1) of the **Conservation, Forests and Lands Act 1987**.

### **41. *Regulations***

20           (1) The Governor in Council may make regulations for or with respect to—

- (a) the preservation of public order in zoological parks and on managed land;
- 25           (b) public safety in zoological parks and on managed land;
- (c) prohibiting or regulating traffic and entry by persons, animals or vehicles in zoological parks and on managed land;
- 30           (d) the closure to the public of any part or parts of a zoological park that the Board considers necessary for the protection and management of

- the zoological parks or public safety, whether or not the park or part of the park is expressed to be open to the public;
- (e) the care, protection and management of land, property, structures and improvements in zoological parks and on managed land; 5
- (f) the care, protection and management of the zoological collections;
- (g) fees and charges for entry into zoological parks and onto managed land, including concessional charges and the mechanisms for determining concessional charges; 10
- (h) times at which the zoological parks and managed land are to be open or closed to the public; 15
- (i) conditions of entry to the zoological parks and managed land and conditions of use of facilities or services;
- (j) prohibiting or regulating the carrying on of a trade or business in the zoological parks or on managed land; 20
- (k) the protection of flora and fauna in zoological parks and on managed land;
- (l) any other matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act. 25
- (2) The regulations made under this Act may—
- (a) be of general or limited application; and
- (b) differ according to differences in time, place or circumstances; and 30
- (c) confer discretions or powers or impose duties on any specified person or specified class of person; and
- (d) provide in a specified case or class of case for the exemption of persons, vehicles, zoological parks or parts of zoological parks or a class of 35



5 person, vehicles, zoological parks or parts of zoological parks from any of the provisions of the regulations, whether unconditionally or on specified conditions and either wholly or to such an extent as is specified; and

- (e) impose specific, minimum or maximum fees and provide for the waiver or reduction of fees; and
- (f) impose penalties not exceeding 20 penalty units for contravention of the regulations.

10 **42. *Warning notices***

The Board must cause brief particulars of the offences for which penalties may be imposed under the regulations to be displayed in a conspicuous place at or near each entrance to the zoological parks.

15 **PART 5—REPEALS, TRANSITIONAL PROVISIONS AND AMENDMENTS TO OTHER ACTS**

**Division 1—Repeals and Transitional Provisions**

20 **43. *Zoological Parks and Gardens Act 1967 and related Act repealed***

The **Zoological Parks and Gardens Act 1967** and the **Zoological Parks and Gardens (Amendment) Act 1986** are repealed.

**44. *Definitions***

In this Division—

25 “**new Board**” means the Zoological Parks and Gardens Board established under this Act;

“**old Act**” means the **Zoological Parks and Gardens Act 1967**;

30 “**old Board**” means the Zoological Board of Victoria established under the old Act.

**45. Transitional provisions relating to the Board**

On the commencement of this Division—

- (a) the old Board is abolished and its members go out of office; and
- (b) the new Board is the successor in law of the old Board; and 5
- (c) all rights, assets, liabilities and obligations of the old Board existing immediately before the Board's abolition become the rights, assets, liabilities and obligations of the new Board; and 10
- (d) the new Board is substituted for the old Board as a party in any proceeding, contract, agreement, arrangement, lease, licence or permit commenced or made by, against or in relation to the old Board; and 15
- (e) the new Board may continue and complete any other continuing matter or thing commenced by, against or in relation to the old Board.

**46. Superseded references**

On or after the commencement of this Division, unless the context otherwise requires, a reference in— 20

- (a) any Act other than this Act; or
- (b) a subordinate instrument within the meaning of the **Interpretation of Legislation Act 1984**; or 25
- (c) any other document whatever—

to—

- (d) the old Act is deemed to be a reference to the **Zoological Parks and Gardens Act 1995**; and
- (e) the old Board is a reference to the new Board. 30

**47. Chief Executive Officer**

The person holding the position of Chief Executive Officer under section 11 (1) of the old Act immediately before the commencement of this

5 Division is deemed on that commencement to be appointed as the Chief Executive Officer under section 34 of this Act for the remainder of the term of his or her appointment under the old Act on the same terms and conditions and with the same rights and accrued and accruing entitlements as he or she had before that commencement.

48. *Staff*

10 A person who, immediately before the commencement of this Division was employed by the old Board becomes, on that commencement, an employee of the new Board on the same terms and conditions and with the same rights and accrued and accruing entitlements as he or she had before that commencement.

49. *Continued regulations*

20 The Zoological Parks and Gardens (Administration) Regulations 1992 in force immediately before the commencement of this Division have effect, on and from that commencement, as if made under section 41 of this Act and may be amended or revoked accordingly.

**Division 2—Amendments to Other Acts**

25 50. *Amendment of the Borrowing and Investment Powers Act 1987*

In Schedule 1 to the **Borrowing and Investment Powers Act 1987**, after item 36. insert—

“37. Zoological Parks and Gardens Board and 5, 6, 8, 11, 11AA, 12, 14, 15, 20, 20A, and 21.”.

Act No.  
13/1987.  
Reprinted to  
No. 61/1994  
and  
subsequently  
amended by  
Nos 68/1994,  
85/1994,  
103/1994,  
110/1994,  
112/1994,  
116/1994,  
117/1994,  
120/1994,  
121/1994,  
18/1995 and  
31/1995.

Act No.  
41/1987.  
Reprinted to  
No. 82/1990  
and  
subsequently  
amended by  
Nos 36/1992,  
48/1993,  
31/1994 as  
amended by  
N . 43/1995,  
34/1994,  
52/1994,  
87/1994,  
96/1994,  
101/1994,  
8/1995,  
38/1995 and  
57/1995.

**51. Amendment of the Conservation, Forests and Lands Act 1987**

In the Conservation, Forests and Lands Act 1987—

- (a) in section 83 (1), after paragraph (ab) insert— 5  
 “(ab) for the purposes of this Part, a specified member of staff or specified class of members of staff of the Zoological Parks and Gardens Board; or”;
- (b) in section 96 (3), for “or section 50 of the Royal Botanic Gardens Act 1991” substitute “, section 50 of the Royal Botanic Gardens Act 1991 or section 40 of the Zoological Parks and Gardens Act 1995”; 10
- (c) in Schedule 1A, after “Royal Botanic Gardens Act 1991” insert “Zoological Parks and Gardens Act 1995”. 15

**Division 3—Consequential Amendments to Other Acts**

Act No.  
52/1994.

**52. Amendment of the Catchment and Land Protection Act 1994**

In section 75 (7) of the Catchment and Land Protection Act 1994—

- (a) in paragraph (c) (ii), for “Zoological Parks and Gardens Act 1967” substitute “Zoological Parks and Gardens Act 1995”; and 25
- (b) in paragraph (d) (i), for “Zoological Board of Victoria” substitute “Zoological Parks and Gardens Board”.

Act No.  
18/1994.  
Subsequently  
amended by  
Nos 25/1994,  
110/1994 and  
43/1995.

**53. Amendment of the Financial Management Act 1994**

In Schedule 2 of the Financial Management Act 1994, item 31 is repealed. 30

**54. *Amendment of the Museums Act 1983***

In the First Schedule to the **Museums Act 1983**,  
clause 6 is repealed.

Act No. 9903.  
Reprinted to  
No. 31/1994  
and  
subsequently  
amended by  
No. 42/1995.

**55. *Amendment of the Wildlife Act 1975***

In section 71 (3) of the **Wildlife Act 1975**—

(a) in paragraph (a), for “**Zoological Parks and  
Gardens Act 1967**” substitute “**Zoological  
Parks and Gardens Act 1995**”; and

(b) paragraph (b) is repealed.

Act No. 8699.  
Reprinted to  
No. 89/1994.

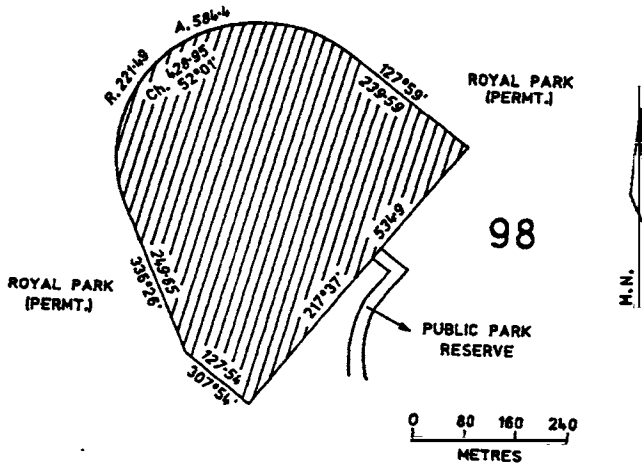
5

SCHEDULES

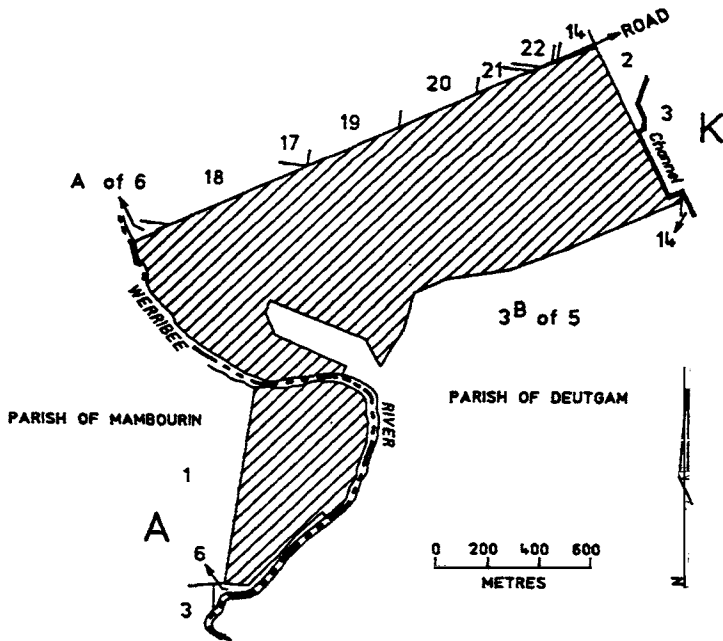
SCHEDULE 1

Zoological Parks

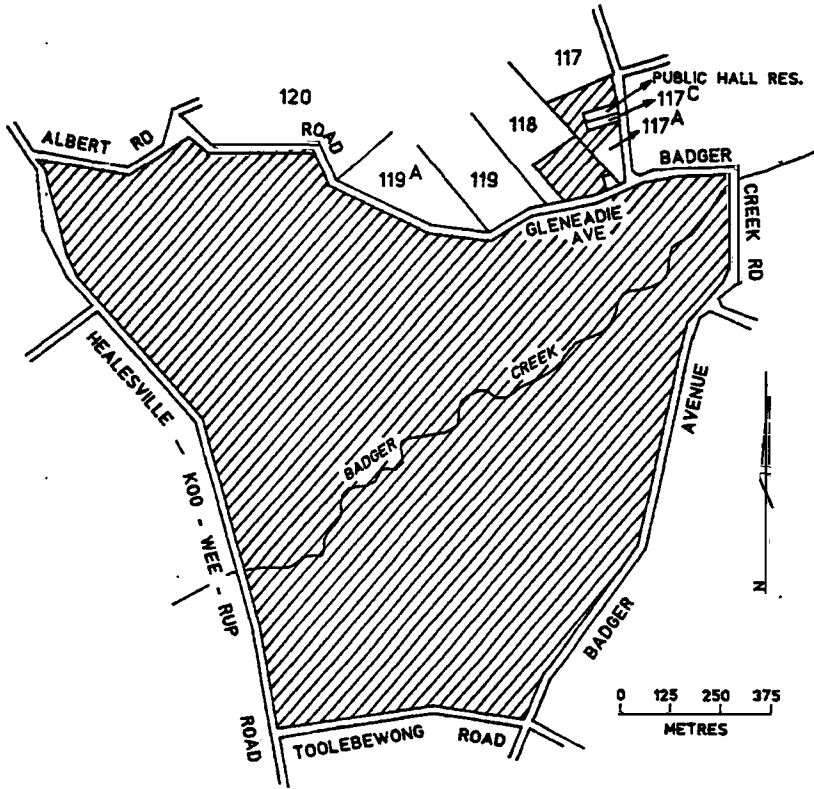
Part 1—Land at Royal Park



Part 2—Land at Werribee



SCHEDULE 1—continued  
Part 3—Land at Healesville



**SCHEDULE 2**

**Membership and Procedure of the Zoological Parks and Gardens Board**

**1. *Terms of appointment***

- (1) A member of the Board holds office for a period, not exceeding 3 years, specified in the instrument of his or her appointment.
- (2) A member of the Board is eligible for re-appointment.
- (3) The instrument of appointment of a member of the Board may specify terms and conditions of appointment.
- (4) The **Public Sector Management Act 1992** (except Part 9 or in accordance with Part 8) does not apply to a member in respect of the office of member.

**2. *Chairperson and deputy chairperson***

- (1) The Minister must appoint—
  - (a) one of the members to be chairperson; and
  - (b) one of the members to be deputy chairperson.
- (2) If the chairperson is absent or unable to perform his or her duties as chairperson, the deputy chairperson must act as chairperson and, while acting as chairperson, has all the powers and duties of the chairperson.

**3. *Terms of appointment of chairperson and deputy chairperson***

- (1) A person appointed as chairperson or deputy chairperson holds that office for a period not exceeding 3 years and is eligible for re-appointment.
- (2) The instrument of appointment of the chairperson or deputy chairperson may specify terms and conditions of appointment.
- (3) A person appointed as chairperson or deputy chairperson ceases to hold that office on ceasing to be a member of the Board.

**4. *Resignation and removal***

- (1) A member of the Board may resign the office of member by writing signed by the member and addressed to the Governor in Council.
- (2) The Governor in Council may at any time remove a member of the Board from office.



SCHEDULE 2—*continued*

**5. Vacancies**

The office of a member of the Board becomes vacant if the member—

- (a) without the chairperson's approval, fails to attend 3 consecutive meetings of the Board; or
- (b) becomes bankrupt; or
- (c) is convicted of an indictable offence or an offence which, if committed in Victoria, would be an indictable offence.

**6. Committees**

For the purposes of this Act, the Board may—

- (a) appoint any committees of its members that it considers necessary and may abolish any such committee; and
- (b) determine the procedure of each committee.

**7. Fees and allowances**

A member of the Board, other than a member who is an officer or employee of the public service, is entitled to receive the fees, travelling and other allowances from time to time fixed by the Minister in respect of that member.

**8. Validity of decisions**

- (1) An act or decision of the Board is not invalid merely because of—
  - (a) a defect or irregularity in, or in connection with, the appointment of a member; or
  - (b) a vacancy in the membership of the Board, including a vacancy arising from the failure to appoint an original member.
- (2) Anything done by or in relation to a person purporting to act as chairperson, deputy chairperson or as a member is not invalid merely because—
  - (a) the occasion for the appointment had not arisen; or
  - (b) there was a defect or irregularity in relation to the appointment; or
  - (c) the appointment had ceased to have effect; or
  - (d) the occasion for the person to act had not arisen or had ceased.

SCHEDULE 2—*continued*

**9. *Who presides?***

The person who is to preside at a meeting of the Board is—

- (a) the chairperson, if he or she is present; or
- (b) the deputy chairperson, if the chairperson is absent; or
- (c) if both the chairperson and the deputy chairperson are absent, a member elected to preside by the members of the Board present at the meeting.

**10. *Proceedings of the Board***

- (1) Subject to sub-section (2), meetings of the Board are to be held at such times and places as the chairperson determines.
- (2) The chairperson may at any time convene a meeting, but must do so when requested by a member.
- (3) A majority of the members for the time being constitutes a quorum of the Board.
- (4) A question arising at a meeting must be determined by a majority of votes of members present and voting on that question and, if the voting is equal, the person presiding has a casting vote as well as a deliberative vote.
- (5) The person presiding must ensure that minutes are kept of each of its meetings.
- (6) Subject to this Schedule, the Board may regulate its own proceedings.

**11. *Disclosure of interest***

- (1) A member of the Board who has a direct or pecuniary interest in a contract or other matter being dealt with by the Board must disclose the nature of that interest at a meeting of the Board as soon as possible after becoming aware of the interest.
- (2) A member of the Board who holds an office or possesses property as a result of which, directly or indirectly, duties or interests may be created in conflict with the member's duties as a member, must disclose that fact at a meeting of the Board as soon as possible after becoming aware of the potential conflict.
- (3) The person presiding at a meeting at which a disclosure under this clause is made must cause that disclosure to be recorded in the minutes of the meeting.

SCHEDULE 2—*continued*

- (4) A person who has made a disclosure under this clause must not take any further part in the discussion of or vote on the contract or other matter to which the disclosure relates.

