

# National Parks and Wildlife (Amendment) Bill

## EXPLANATORY MEMORANDUM

### *Purpose*

The purposes of this Bill are to:

- (i) Provide for a Point Nepean National Park, to be declared as an Australian bicentenary project as a result of co-operation between the Federal and State Governments.
- (ii) Provide for prohibition of keeping and display of whales and other cetacea and improve the law relating to their protection, along lines following recommendations of the Senate Select Committee on Animal Welfare.
- (iii) Provide for major extensions to Little Desert National Park, and declaration of Carlisle State Park, Lerderberg State Park and Terrick Terrick State Park, in accordance with approved recommendations of the Land Conservation Council.
- (iv) Make other necessary but minor changes to the boundaries of three national and state parks and to the National Parks Act.
- (v) Establish a method of temporary closure of particular waters or areas to hunting.

### PART 1—PRELIMINARY

*Clause 1* states the purpose of the Bill.

*Clause 2* provides for the Act to come into operation on a day or days to be proclaimed. Unless circumstances change it would be the Government's intention to proclaim the Bill as follows:

<i>Point Nepean</i> Clauses 4 (1) (4) (5) (13), 6	}	During the 1988 Bicentenary Year
<i>Little Desert</i> Clause 4 (3)		At dates to be fixed having regard to internal arrangements in Conservation, Forests and Lands Department.
<i>Terrick Terrick</i> Clauses 4 (6), 5 (1)	}	Days after date of Royal Assent.
<i>Carlisle</i> Clause 4 (7)		
<i>Lerderberg</i> Clauses 4 (9), 5 (2) (3)		
<i>Other Clauses</i>		

*Clause 3* refers to the *National Parks Act 1975* as the Principal Act.

### PART 2—AMENDMENTS TO NATIONAL PARKS ACT 1975

#### *New and Altered Parks*

*Clause 4 sub-clause (1)* provides for Point Nepean National Park.

*Clause 4 sub-clause (2)* provides for a boundary correction to the Dandenong Ranges National Park to exclude a portion of road included by error.

*Clause 4 sub-clause (3)* provides for extensions to Little Desert National Park.

*Clause 4 sub-clause (4)* provides for deletion of Cape Schanck Coastal Park from Schedule Three, *National Parks Act 1975* by reason of inclusion of the land in Point Nepean National Park.

*Clause 4 sub-clause (5)* provides for revision of the boundary of Nepean State Park by reason of inclusion of part of the park in Point Nepean National Park and for a change of name to Arthurs Seat State Park.

*Clause 4 sub-clause (6)* provides for Terrick Terrick State Park, 2500 ha, being Recommendation A1 of the LCC for the Murray Valley Study Area.

*Clause 4 sub-clause (7)* provides for Carlisle State Park, 6000 ha being Recommendation A5 of the LCC for the Corangamite Study Area.

*Clause 4 sub-clause (8)* provides for a boundary correction to Langwarrin Park, to allow alteration to a dangerous intersection at the corner of McClelland Drive and Robinsons Road.

*Clause 4 sub-clause (9)* provides for Lerderberg State Park, 13 340 ha, being Recommendation A4 of the Land Conservation Council for the Melbourne Study Area, January 1977.

*Clause 4 sub-clause (10)* provides for a boundary correction to Lysterfield Park, being closing and inclusion of a portion of a road.

*Clause 4 sub-clause (11)* is the usual provision for closing unused roads, applying to Lysterfield Park and Carlisle State Park.

*Clause 4 sub-clause (12)* is the usual provision for excision from reserved forest of land to be included in Lerderberg and Terrick Terrick Parks.

*Clause 4 sub-clause (13)* is a provision that Commonwealth land at Point Nepean does not become park before title is held by the State of Victoria.

*Clause 4 sub-clause (14)* provides that land excluded from Langwarrin and Lysterfield parks is unalienated Crown land.

*Clause 5* provides for defined extraction of forest produce in Lerderberg and Terrick Terrick Parks.

*Clause 6* makes special provision for Point Nepean National Park by inserting a new section 30 in the Principal Act. This replaces a redundant clause relating to another park. Sub-section (1) provides for consultation in respect of public safety etc. Sub-section (2) provides for temporary continuation of grazing in certain developed pastures on former freehold land at present in Nepean State Park, pending completion of re-planting.

*Clause 7* tightens up the prohibition in section 43 of the Principal Act on carrying out commercial activities in a national park without a licence under the Act. Provision is included to protect the rights of persons currently holding a licence under another Act.

### **PART 3—AMENDMENTS TO *WILDLIFE ACT 1975***

*Clause 8* substitutes a new section 86 in the *Wildlife Act 1975*, providing for closure notices.

Proposed sub-section (1) provides for a notice in the *Government Gazette* to control the taking of wildlife in a particular area, for a specified period, and for exemptions and penalties.

Proposed sub-section (2) outlines particulars for applying such notices, and constraints as to period. Under sub-section (3) the notice prevails over any provision of the Act or the regulations allowing hunting.

Proposed sub-section (4) makes such a notice a subordinate instrument.

This clause also amends the definition of “This Act” to put beyond doubt that throughout the Act the term “This Act” includes Notices under the new section 86 proposed in this Bill.

### *Protection of Whales*

Clause 9 amends the Principal Act to prohibit the keeping and display of whales, defined in section 75 (1) to mean any member of the sub-order *Mysteceti* (Baleen Whales) or the sub-order *Odontoceti* (Toothed Whales, Dolphins and Porpoises) of the Order Cetacea.

Paragraph (a) excludes whales from being wildlife for the general licensing purposes of the Wildlife Act.

Paragraph (b) excludes whales from wildlife shelter provisions in section 6.

Paragraph (c) removes whales, dolphins and porpoises from the list of zoo animals in section 71 (1).

Paragraph (d) corrects a definition in section 75 (1).

Paragraph (e) bans the keeping and display of whales.

Paragraph (f) replaces paragraph 78 (1) (d) with a new (d) referring to dead whales, a new (e) allowing possession of whales only in the course of rescue or rehabilitation and (f) possession for scientific and educational purposes.

This provides the legal basis for ministerial authorisation for benign studies and for protective measures for compromised individual animals, for example (a) attachment of a benign tag for individual identification and for determination of sex for population studies of local species; (b) assessment and treatment of wounded or otherwise compromised free-swimming individuals; (c) protection from malign influences, such as the use of a protective boom in a harbour for the welfare of whales; (d) inducement of hand-feeding, in the rehabilitation of compromised and/or juvenile animals.

Population studies or other benign research activities that might require temporary control at sea would be subject to an Animal Experimentation Ethics Committee approval and a public comment process.

Paragraph (g) repeals the fee for a display permit.

Paragraph (h) allows summary hearing of indictable offences.

### **The Schedule**

Part A—Item (a) Pt Nepean  
(b) Dandenong Ranges  
(c) Little Desert

Part B—Item (a) Cape Schanck  
(b) Arthurs Seat  
(c) Terrick Terrick  
(d) Carlisle  
(e) Langwarrin  
(f) Lerderderg  
(g) Lysterfield

<i>Park</i>	<i>New Area</i>	<i>Previous Area</i>	<i>Increase</i>
Point Nepean	2 200		
Arthurs Seat	350	Cape Schanck Nepean	1 095 1 159
	<u>2 550</u>		<u>2 254</u>
			296
Little Desert	132 000		96 700
Terrick Terrick	2 500		2 500
Carlisle	5 600		5 600
Lerderberg	<u>13 340</u>		<u>13 340</u>
<b>Total (hectares)</b>	<b>155 990</b>		<b>37 554</b>
			<b>118 436</b>