

National Parks (Yarra Ranges and Other Amendments) Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

Clause 1 sets out the main purposes of the Bill.

Clause 2 provides for the Act to come into operation, mostly on a day or days to be proclaimed. Provisions not proclaimed within 12 months of the Bill receiving Royal Assent will automatically come into operation on the day after that period. Within the 12 month period, the provisions relating to the creation of Yarra Ranges National Park and Kinglake National Park (and the rescinding of Yea River Park) shall not come into effect until a day or days on or after a management agreement between the Director of National Parks and Melbourne Water Corporation has come into force. The provision excising certain roads from the Alpine National Park is taken to have come into operation on the day when that park was proclaimed.

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

PART 2—DESIGNATED WATER SUPPLY CATCHMENT AREAS

Clause 4 amends section 3 of the Principal Act to define “designated water supply catchment area” and to substitute Melbourne Parks and Waterways and Melbourne Water Corporation for the Melbourne and Metropolitan Board of Works in the list of bodies considered to be public authorities for the purposes of that Act.

Clause 5 inserts into section 4 of the Principal Act an additional object for national parks in respect of designated water supply catchment areas.

Clause 6 amends section 17 (2) of the Principal Act to establish additional duties of the Director relating to the protection of the designated water supply catchment areas and their water resources.

Clause 7 amends section 19c (2) of the Principal Act to enable certain of the new sections of the Principal Act relating to designated water supply catchment areas to be applied through an agreement made under section 19c.

Clause 8 inserts two new sections into the Principal Act.

Section 32AG enables the Director, subject to any agreement made between the Director and Melbourne Water Corporation under section 32i, to enter into an agreement with Melbourne Parks and Waterways for the management of specified picnic areas within the Yarra Ranges National Park. The section also specifies certain matters relating to such an agreement.

Section 32AH allows the Minister to grant to a land owner reasonable right of access to his or her freehold land where it is abutting or surrounded by Yarra Ranges National Park. If the area is surrounded by or abutting a designated water supply catchment area, the Minister must first consult with the Minister administering the **Melbourne Water Corporation Act 1992**.

Clause 9 inserts several new sections into the Principal Act relating to the protection and management of designated water supply catchment areas.

Section 32H requires the Director, and any other person or body, in the course of carrying out duties or performing functions or exercising powers in relation to a designated water supply catchment area, to regard the protection of the designated catchment areas and their water resources, including the maintenance of the water quality of those water resources, as the paramount consideration. Section 32H also requires the Director to ensure that each designated water supply catchment area is controlled and managed so that such protection is given. It also empowers the Director to do anything considered necessary to achieve that protection.

Section 32I enables the Director to enter into an agreement with Melbourne Water Corporation for the management of a designated water supply catchment area and specifies certain matters relating to such an agreement.

Section 32J requires the Minister to grant reasonable right of access to property in the designated water supply catchment areas which Melbourne Water Corporation owns, controls or manages which will allow it to carry out its powers and functions with respect to that property.

Section 32K enables Melbourne Water Corporation to manage and control structures and installations other than those built or installed by the Director. (This establishes a clear basis for the application of accounting standards relating to non-current physical assets so that Melbourne Water Corporation can account for those assets.)

Section 32L enables Melbourne Water Corporation to extract, sell or otherwise dispose of forest produce in designated areas of Kinglake National Park and Yarra Ranges National Park. (This provision will apply to certain areas of non-native species within the designated water supply catchment areas.)

Section 32M enables either the Director and Melbourne Water Corporation, in the absence of an agreement under section 32I, to refer a dispute between the parties about the management of a designated water supply catchment area to the specified Ministers for determination. It makes a decision of the Ministers binding on the two parties.

Section 32N allows the Minister, through a notice published in the Government Gazette and after consultation with the Minister administering the **Melbourne Water Corporation Act 1992**, to prohibit, regulate or control access to part of a designated water supply catchment area where the Minister believes that to prevent access is necessary to protect the area or its water resources. The section makes it an offence not to comply with a notice issued under this section.

Clause 10 amends section 33 of the Principal Act to enable Melbourne Water Corporation to retain money derived from the taking, selling or disposing of forest produce under section 32L.

Clause 11 amends section 38 of the Principal Act to empower an authorised officer to give directions to a person in relation to damage or pollution being caused, or which may be caused, to a designated water supply catchment area.

Clause 12 inserts a new section into the Principal Act to create an offence for the owner of a motor vehicle not to identify, or help to identify, the driver of that vehicle if it is found within a designated water supply catchment area in contravention of the regulations.

Clause 13 amends section 45 of the Principal Act to create an offence to fail to abide by a direction given by an authorised officer to stop causing damage or pollution to a designated water supply catchment area or to rectify any damage that has been caused.

Clause 14 amends section 46 (1) of the Principal Act to enable an authorised officer to bring proceedings for an offence against the Act or regulations.

Clause 15 amends section 48 (1) of the Principal Act to create a regulation-making head of power to specify areas within a park where entry may be prohibited or restricted.

Clause 16 amends Schedule Two to the Principal Act by varying the boundaries of Kinglake National Park.

Clause 17 inserts into Schedule Two to the Principal Act a description of Yarra Ranges National Park.

Clause 18 amends Schedule Three to the Principal Act by repealing the description of Yea River Park (which is being included in Kinglake National Park).

Clause 19 divests from Melbourne Water Corporation land within the Maroondah and Wallaby Creek catchments.

Clause 20 enables several agreements and licences relating to the Wallaby Creek and Maroondah catchment areas to continue and, in the case of the licences, be renewed subject to certain conditions.

Clause 21 divests the O'Shannassy catchment area from Melbourne Water Corporation.

Clause 22 allows the existing lease over O'Shannassy Lodge to continue but substitutes the Minister as the lessor.

Clause 23 inserts a new section into the Principal Act to enable the Minister to grant a new tenancy over O'Shannassy Lodge when the existing lease expires, and specifies certain matters relating to a new tenancy.

Clause 24 cancels two agreements giving Melbourne Water Corporation control and management of parts of the Upper Yarra catchment for water supply purposes, and also removes any control and management which it may have had over any land in Yarra Ranges National Park.

Clause 25 excises land from reserved forest which is to be included in Yarra Ranges and Kinglake National Parks. It also provides for Mount Donna Buang Alpine Resort, which is to be included in Yarra Ranges National Park, to cease to be an alpine resort, and for the excision of areas from the Lake Mountain Alpine Resort. The clause also closes several road reserves to be included in Yarra Ranges National Park.

Clause 26 requires the Registrar-General and the Registrar of Titles to make necessary amendments to their records.

Clause 27 provides that the Crown will not pay compensation in respect of anything done or arising out of Part 2 of the Bill.

Clause 28 prevents the Supreme Court from awarding compensation in respect of anything done or arising out of Part 2 of the Bill.

PART 3—NEW AND ALTERED PARKS

Clause 29 amends several Schedules to the Principal Act by inserting descriptions of Enfield State Park and Mount Granya State Park to Schedule Two B, and by altering the descriptions of 10 National Parks, 8 State Parks and 5 Other Parks (as specified in Schedule 3 of the Bill.)

Clause 30 closes road reserves within Lind and Alpine National Parks, Mount Arapiles–Tooan and Paddys Ranges State Parks, and Lysterfield Park. It also excises areas from reserved forest to be included in Mount Granya and Enfield State Parks and Chiltern Park.

Clause 31 provides for two areas of land to be added to Angahook–Lorne and Melba Gully State Parks only after the relevant titles have been surrendered to the Crown.

PART 4—MISCELLANEOUS AMENDMENTS OF THE PRINCIPAL ACT

Clause 32 changes the name of the Director in the Principal Act from “Director of National Parks and Wildlife” to “Director of National Parks”, and includes a savings provision.

Clause 33 amends section 32^{AE} of the Principal Act by substituting the Victorian Association of Four Wheel Drive Clubs Inc. for the National 4 Wheel Drive Council as a body who nominates persons for membership of the Alpine Advisory Committee.

Clause 34 amends the headings to two Divisions of the Act.

Clause 35 corrects the reference to Arthurs Seat State Park in section 32c (1) of the Principal Act.

Clause 36 amends section 32^D (1) of the Principal Act to provide for fossicking to occur in Enfield State Park and to correct the reference to Paddys Ranges State Park in that section.

Clause 37 corrects the name of Barmah State Park in section 32^E of the Principal Act.

Clause 38 inserts a new section into the Principal Act to enable the Minister to issue a licence to graze cattle within part of the area being added to Lysterfield Park.

Clause 39 corrects the reference to Barmah State Park in section 32^G of the Principal Act.

Clause 40 amends section 37 of the Principal Act to enable the Director to authorise other weapons to be used in the hunting of deer by stalking in parks where that activity is permitted. (This provision will apply particularly to bows.) The clause also amends section 37 of the Principal Act to provide for deer hunting by stalking to occur in a specified part of Baw Baw National Park.

Clause 41 inserts a section into the Principal Act to enable the Director to authorise a person to carry in a park, or to have in one's possession in a park, weapons other than firearms. (This provision is to allow spear-guns to be taken through a park to adjacent coastal waters.)

Clause 42 amends the Principal Act by increasing the number of penalty units for offences against the Principal Act and the regulations.

Clause 43 amends section 44 (1) of the Principal Act to make it an offence to carry or have in one's possession a firearm or weapon other than in accordance with sections 36, 37 or 37AA (inserted by clause 41).

Clause 44 corrects an error in Part 1 of Schedule Four to the Principal Act.

Clause 45 deems that the provision excising five main roads from the Alpine National Park is to be considered to have always been enacted.

PART 5—AMENDMENT OF OTHER ACTS AND MISCELLANEOUS PROVISIONS

Clause 46 alters the definition of “fire protected area” in section 3 (1) of the **Forests Act 1958**.

Clause 47 removes Mount Donna Buang Alpine Resort from the Schedule of alpine resorts in the **Alpine Resorts Act 1983**.

Clause 48 revokes the proclamation establishing a Sanctuary for Native Game in the Central Highlands.

SCHEDULES

Schedule 1

Part A shows the land within the Maroondah catchment described in Part 1 of the Third Schedule to the **Melbourne and Metropolitan Board of Works Act 1915** which is to remain vested in Melbourne Water Corporation.

Part B shows the land within the Wallaby Creek catchment described in Part 3 of the Third Schedule to the **Melbourne and Metropolitan Board of Works Act 1915** which is to remain vested in Melbourne Water Corporation.

Part C sets out the details of an Order in Council relating to O'Shannassy catchment which is to be revoked.

Part D shows the land which is being excised from the Lake Mountain Alpine Resort.

Schedule 2

This schedule adds Mount Granya State Park and Enfield State Park to Schedule Two B (State Parks) of the Principal Act.

Schedule 3

Part A amends Schedule Two (National Parks) of the Principal Act, Part B amends Schedule Two B (State Parks) and Part C amends Schedule Three (Other Parks), as summarised in the following table.

Schedule 3—Summary of park amendments

<i>Part in Schedule of Bill</i>	<i>Part in Schedule of Principal Act</i>	<i>Park</i>	<i>Present area +/-</i>	<i>Change in area</i>	<i>New area +/-</i>
<i>Part A</i>					
<i>National Parks (Schedule Two)</i>					
(a)	2	Brisbane Ranges	7517 ha	201 ha (transfer from Steiglitz)	7718 ha
(b)	4	Mornington Peninsula (Point Nepean)	2680 ha	6 ha	2686 ha
(c)	5	Churchill	193 ha	78 ha	271 ha
(d)	12	Lind	1365 ha	5 ha	1370 ha
(e)	14	Lower Glenelg	273 km ²	15.5 ha	273 km ²
(f)	17	Mount Buffalo	310 km ²	2 ha	310 km ²
(g)	29	Snowy River	987 km ²	26 ha	987 km ²
(h)	31	Otway	127.5 km ²	126.5 ha	129 km ²
(i)	34	Grampians	1670 km ²	214 ha, minor excision	1672 km ²
(j)	37	Alpine	642 080 ha	122 ha	6422 km ²
<i>Part B</i>					
<i>State Parks (Schedule Two B)</i>					
(a)	1	Angahook-Lorne	21 000 ha	340 ha	21 340 ha
(b)	12	Holey Plains	10 576 ha	40 ha	10 616 ha
(c)	17	Lerderderg	141 km ²	150 ha	142.5 km ²
(d)	18	Melba Gully	65 ha	8 ha	73 ha
(e)	20	Mount Arapiles-Tooan	5060 ha	1 ha	5061 ha
(f)	26	Paddys Ranges	1670 ha	5 ha	1675 ha
(g)	30	Warby Range	6880 ha	722 ha	7600 ha
(h)	32	Werribee Gorge	375 ha	200 ha	575 ha
<i>Part C</i>					
<i>Other Parks (Schedule Three)</i>					
(a)	2	Chiltern	4300 ha	20 ha	4320 ha
(b)	4	Woodlands (Gellibrand Hill)	658 ha	46 ha, minor excision	704 ha
(c)	9	Langwarrin	214 ha	minor excision	214 ha
(d)	10	Lysterfield	1151 ha	125 ha	1276 ha
(e)	13	Steiglitz	670 ha	-201 ha, (transfer to Brisbane Ranges)	469 ha

Schedule 4

Sets out details of a proclamation relating to Central Highlands Sanctuary which is to be revoked.