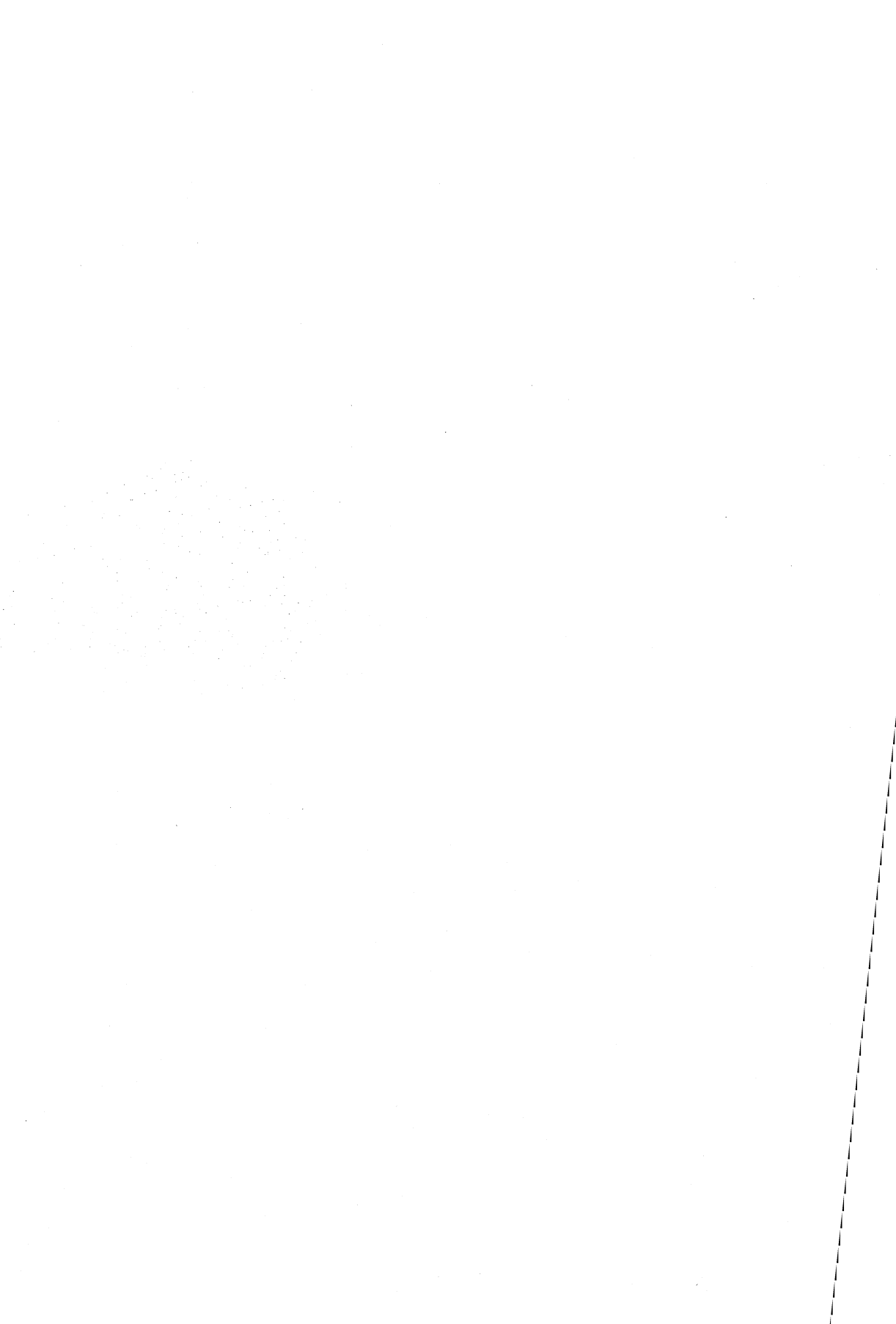

NATIONAL PARKS AND WILDLIFE AMENDMENT ACT 1980

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NATIONAL PARKS AND WILDLIFE AMENDMENT

—
No. 52 of 1980
—

AN ACT to amend the National Parks and Wildlife Act 1970 for the purposes of making special provision for reserved lands that are subject to forest management plans under the Forestry Act 1920 and requiring the Director of the National Parks and Wildlife Service to request representations with respect to certain proposed management plans for reserved lands, and for related purposes.

[Royal Assent 19 December 1980]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *National Parks and Wildlife Amendment Act 1980*. Short title.

2—This Act shall commence on the same date as the *Forestry Amendment Act 1980*. Commencement.

Principal Act. **3**—In this Act, the *National Parks and Wildlife Act 1970** is referred to as the Principal Act.

Amendment of section 3 of Principal Act (Interpretation).

4—Section 3 (1) of the Principal Act is amended as follows:—

(a) by inserting the following definition after the definition of “dog”:

“forest management plan” means a forest management plan prepared under section 22B of the *Forestry Act 1920* and approved by the Governor under section 22E of that Act;

(b) by inserting the following definition after the definition of “State Reserve”:

“statutory power” means—

(a) a power under an enactment, other than an enactment in this Act, for the reservation or dedication of Crown land for any purpose, or for the alienation of, or the grant of private rights in or over, any such land, or for the carrying out of any works or other operations on any such land; or

(b) a power that, under an enactment, other than an enactment in this Act, may be exercised by a public authority in relation to land vested in it.

Amendment of section 19 of Principal Act (Management plans).

5—Section 19 of the Principal Act is amended by inserting the following subsections after subsection (3):—

(4) Where, immediately before the date on which a forest management plan takes effect as provided in section 22F (2) of the *Forestry Act 1920*, a management plan approved under this section is in force in respect of an area of reserved land that comprises the whole or part of the land to which the forest management plan applies, the management plan shall, on and from that date, have no effect in relation to that area during the period for which the forest management plan remains in force.

* No. 47 of 1970. Subsequently amended by No. 77 of 1971, No. 85 of 1974, No. 114 of 1976, No. 62 of 1977, and No. 37 of 1978.

(5) During the period for which a forest management plan remains in force in respect of an area of reserved land, a management plan shall not be approved under this section in respect of that area.

6—(1) Section 20 of the Principal Act is amended by inserting the following subsections after subsection (2):—

Amendment of section 20 of Principal Act (Formulation of management plans).

(2A) Where the Director considers that an Act administered in or by means of a department or State instrumentality or authority will or may be affected by a restriction on the exercise of a statutory power that it is proposed to include in a management plan, being a statutory power the right to exercise which is conferred on—

- (a) the responsible officer of the department, instrumentality, or authority;
- (b) a person employed in the department or employed by or in the instrumentality or authority (not being the responsible officer of the department, instrumentality, or authority);
- (c) the instrumentality or authority, in the case of an Act administered in or by means of a State instrumentality or authority; or
- (d) the Minister responsible for the administration of the department, instrumentality, or authority,

the Director shall, by written notice given to the responsible officer of the department, instrumentality, or authority request him to provide the Director with written representations stating whether or not the officer considers the inclusion of the restriction in the plan to be necessary or desirable and giving his reasons for making the representations.

(2B) For the purposes of subsection (2A), “responsible officer” means—

- (a) in relation to a department, the permanent head of the department for the purposes of the *Public Service Act 1973* or, if there is no permanent head, the principal officer of the department; and
- (b) in relation to a State instrumentality or authority, the president, chairman, or other principal or

presiding member of the instrumentality or authority or, if the instrumentality or authority comprises a single person, that person.

(2c) The Director may, in a notice given by him for the purposes of subsection (2A), specify a time, being not less than 30 days after the date of the receipt of the notice by the person to whom it is given, in which the Director shall be provided with representations for the purposes of that subsection.

(2d) A notice given for the purposes of subsection (2A) may be sent by post, or delivered personally, to the person to whom it is directed.

(2) Section 20 of the Principal Act is amended by omitting subsection (5) and substituting the following subsections:—

(5) Subject to subsections (6) and (7), the Minister shall submit a management plan to the Governor for his approval after the Minister has considered any representations with respect to the plan made to the Minister—

(a) by the Council within 30 days after the Council has been furnished with a copy of the plan or within such further time as the Minister may allow; and

(b) by any other person in response to a notice published in respect of the plan under subsection (3).

(6) A management plan submitted for the Governor's approval under section 19 may be an unaltered plan or a plan containing such alterations as, subject to subsection (7), the Minister thinks desirable, having regard to the representations made to him that are referred to in subsection (5).

(7) The Minister shall not make alterations to a management plan, being alterations that will affect a restriction on the exercise of a statutory power included in the plan, unless those alterations have been the subject of a previous consultation between him and the Minister administering the Act under which that statutory power is exercised.

7—(1) Section 21 (1) of the Principal Act is amended by omitting “specify”, where first and second occurring, and substituting “indicate”.

(2) Section 21 of the Principal Act is amended by inserting the following subsection after subsection (3):—

(3A) Notice of a resolution approving the inclusion in a management plan of provisions referred to in subsection (3) shall be forthwith published in the *Gazette* by the Clerk of the House by which the resolution was passed.

(3) Section 21 of the Principal Act is amended by omitting subsection (7).

8—After section 21 of the Principal Act, the following section is inserted:—

Insertion in
Principal Act
of new
section 21A.

21A—(1) Subject to subsection (2), the Minister shall, forthwith after the Governor has approved a management plan under section 19, cause notice of the approval of the plan to be published in the *Gazette*.

Notification
and taking
effect of
management
plans.

(2) Where provisions giving such authority as is referred to in section 21 (2) are included in a management plan, the notice of the approval of the plan published pursuant to subsection (1)—

(a) shall state whether or not the inclusion of those provisions in the plan has been approved by resolution of each House of Parliament; and

(b) shall, if the inclusion of those provisions has not been so approved, state that—

(i) they are of no effect unless their inclusion is so approved; and

(ii) an inspection of the plan may be made pursuant to subsection (4) for the purpose of obtaining information about those provisions.

(3) Subject to section 21 (3), a management plan takes effect on the seventh day after the date of notice of its approval has been published as required by subsection (1).

(4) When notice of the approval of a management plan has been published under subsection (1), the Director—

(a) shall, on the request of any person and without payment of a fee, permit that person to inspect the plan; and

- (b) if it is practicable, shall, on the request of any person and on payment by him of such charge (if any) as the Minister may fix, furnish that person with a copy of the plan.

Amendment of section 22 of Principal Act (Managing authorities for reserves).

9—(1) Section 22 (1) of the Principal Act is amended by omitting “private reserve.” and substituting “private reserve or land to which a forest management plan applies.”.

(2) Section 22 of the Principal Act is amended by inserting the following subsection after subsection (1):—

(1A) The Forestry Commission is the managing authority for reserved land to which a forest management plan applies.

(3) Section 22 of the Principal Act is amended by inserting after subsection (2) the following subsection:—

(2A) Subsection (2) does not apply to reserved land to which a forest management plan applies.

Amendment of section 23 of Principal Act (Functions of managing authority in relation to reserved land).

10—(1) Section 23 of the Principal Act is amended by omitting subsection (1) and substituting the following subsections:—

(1) Subject to this Act, the managing authority—

(a) for any reserved land that is land to which a forest management plan applies is charged with the management and maintenance of that land in a manner designed to promote the purposes for which it is required to be used, developed, or managed under the plan; or

(b) for any other reserved land is charged with the management and maintenance of that land in a manner designed to promote the purposes for which land may be set aside under this Act.

(1AA) The managing authority for any reserved land may use or arrange for the use of that land as he or it consider appropriate for effecting the appropriate purposes specified in subsection (1).

(2) Section 23 (1A) of the Principal Act is amended—

(a) by inserting “his or ” before “its ”; and

(b) by inserting “he or ” before “it ”.

(3) Section 23 (2) of the Principal Act is amended by inserting “his or ” before “its ”.

11—Section 24 (1) of the Principal Act is amended by omitting “, within the meaning of section twenty-one,”.

Amendment of section 24 of Principal Act (Dealings with reserved lands).

12—Section 26 of the Principal Act is amended by inserting the following subsection after subsection (1):—

Amendment of section 26 of Principal Act (Leases of, and licences to occupy, reserved Crown land).

(1AA) Where any reserved land referred to in subsection (1) is land to which a forest management plan applies, the Minister shall not grant a lease of, or a licence to occupy, that land or a building erected on it unless he has obtained the prior approval of the Forestry Commission.

13—Section 29 of the Principal Act is amended by inserting the following subsection after subsection (8):—

Amendment of section 29 of Principal Act (Regulations with respect to reserved lands).

(9) Where regulations made under this section contain a provision that is inconsistent with a provision in a forest management plan in relation to reserved land, the second-mentioned provision shall prevail and the first-mentioned provision shall, to the extent of the inconsistency, have no effect in relation to that land during the period for which the plan remains in force.

14—(1) Subject to subsection (2), where, immediately before the commencement of this Act, a management plan for any reserved land is in force under the Principal Act, the Minister shall, as soon as practicable after that commencement, cause notice of the approval of the plan under section 19 of that Act to be published in the *Gazette*.

Transitional provisions.

(2) Where provisions giving such authority as is referred to in section 21 (2) of the Principal Act are included in a management plan referred to in subsection (1), the provisions of subsection (2) of section 21A of the Principal Act, as inserted by this Act, apply to the plan in the same way as they apply to a management plan approved under section 19 of the Principal Act after the commencement of this Act.

(3) The provisions of section 21A (3) of the Principal Act, as inserted by this Act, do not apply to a management plan referred to in subsection (1).

(4) When notice of the approval of a management plan referred to in subsection (1) has been published under that subsection, the provisions of section 21A (4) of the Principal Act, as inserted by this Act, apply to the plan in the same way as they apply to a management plan approved under section 19 of the Principal Act after the commencement of this Act.