

LEGISLATIVE ASSEMBLY

Read 1° 3 July 1985

(Brought in by Mr Cathie and Mr Fordham)

A BILL

To make provision for an Alpine National Park, to amend the *National Parks Act 1975*, the *National Parks (Amendment) Act 1981*, and for other purposes.

5 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 (Alpine National Park) Act 1985*.

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.

(2) Section 4 shall come into operation on 1 December 1985.

Principal Act.

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

No. 8702.
Reprinted to
No. 9936.
Subsequently
amended by Nos.
10073 and
10166.

Amendment of Schedules Two and Three.

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

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

(3) Notwithstanding the Principal Act as amended by sub-section (1), the land shown hatched on the plan in Part C of the Schedule shall be deemed to be excluded from the land described in Part 35 of Schedule Two to the Principal Act until the title to that land is surrendered to Her Majesty. 10

(4) Notwithstanding anything in the Principal Act, the *Land Act* 1958 or the *Crown Land Reserves Act* 1978, the lease made the 24th day of March 1976, whereby a portion of the land shown hatched in Part C of the Schedule was leased by the State Electricity Commission of Victoria to the Commonwealth of Australia, shall, from the time at which the title to that land is surrendered to Her Majesty, continue, on the terms and conditions set out in the said lease, except that the Minister shall be the lessor and any reference in the lease to the lessor or its representatives shall be deemed to be a reference to the Minister. 15

(5) The lands delineated by a green border in the plan referred to in item (a) of Part A of the Schedule shall cease to be reserved forest. 20

Table of Parts and Divisions.

5. In section 1 (3) of the Principal Act for the expression "ss.19-27C" there shall be substituted the expression "ss.18AA-27C".

New section 18AA. inserted. 25

6. Immediately after the heading following section 18 of the Principal Act there shall be inserted the following section:

Order in Council adding further parts of the Alpine National Park to Schedule Two.

"18AA. (1) The Governor in Council may by Order published in the *Government Gazette* amend Part 35 of Schedule Two by adding part of the land described in Schedule Five. 30

(2) Where land is added to Part 35 of Schedule Two under this section—

(a) the lands (if any) delineated and coloured yellow on the plan described in the Order or in the Table to this section, being the plan of land to be inserted into Schedule Two shall, upon the day on which the land is added or deemed to be added to Schedule Two by this section, cease to be roads or parts of roads and all rights, easements and privileges existing or claimed either by the public or any 35
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body whatsoever or whomsoever and incidental to any dedication or supposed dedication or by any past user or by any fiction of the law shall cease and determine; and

5 (b) the lands (if any) bordered green in the plan described in the Order or in the Table to this section, being the plan of the land to be inserted into Schedule Two shall, upon the day on which the land is added or deemed to be added to Part 35 of Schedule Two by this section cease to be reserved forest.

10 (3) If the title to the land shown hatched on the Plan in Part D of the Schedule to the *National Parks (Alpine National Park) Act 1985* is not surrendered to Her Majesty before it is added or deemed to be added to Part 35 of Schedule Two by this section that land shall be deemed to be excluded from the land described in Part 35 of Schedule
15 Two until the title to that land is surrendered to Her Majesty.

(4) If the title to the land shown hatched on the Plan in Part D of the Schedule to the *National Parks (Alpine National Park) Act 1985* is surrendered to Her Majesty before it is added to Part 35 of Schedule
20 Two by this section that land shall be deemed to be temporarily reserved under section 4 (1) (d) (t) and (w) of the *Crown Lands (Reserves) Act 1978* until the land is added to Part 35 of Schedule Two.

(5) The land described in Column 1 of the Table to this section shall be deemed to be added to Part 35 of Schedule Two by the date specified in Column 2 of that Table unless it is added to Part 35 of
25 Schedule Two by an Order in Council under sub-section (1) before that date.

(6) Any land described in item (b) or (d) of the Table to this section that at 1 July 1988 is the subject of a lease or registration of a claim or
30 and application for a lease or registration of a claim under the *Mines Act 1958* arising from—

(a) exploration licences numbered 1233, 1234, 1236, 1237, 1240 and 1241 granted to Western Mining Corporation;

(b) exploration licence numbered 1303 granted to Plagolmin Pty. Ltd.; or

35 (c) exploration licence numbered 1203 granted to Preussag Aust. Pty. Ltd.—

shall be deemed to be excluded from the land described in Part 35 of Schedule Two until the date of publication of a notice by the Minister and the Minister administering the *Mines Act 1958* in the *Government
40 Gazette* that the leases and registrations of claims or leases and registrations of claims granted pursuant to the application have been cancelled, suspended, revoked, avoided, forfeited or expired and not renewed (as the case requires).

(7) Any land described in item (c) or (f) of the Table to this section
45 that at 31 December 1989 is the subject of a lease or registration of a

claim or an application for a lease or registration of a claim under the *Mines Act 1958* arising from—

(a) exploration licences numbered 1238 and 1239 granted to Western Mining Corporation; or

(b) exploration licences numbered 1223 and 1462 granted to Pan Australian Mining Pty. Ltd.—

shall be deemed to be excluded from the land described in Part 35 of Schedule Two until the date of publication of a notice by the Minister and the Minister administering the *Mines Act 1958* that the leases and registrations of claims or leases and registrations of claims granted pursuant to the application have been cancelled, suspended, revoked, avoided, forfeited or expired and not renewed (as the case requires).

(8) In the Table to this section *Plan N.P.70* means the plan lodged in the Central Plan Office of the Department of Property and Services and numbered N.P.70.

TABLE S.18AA

<i>Land to be added to Part 35 of Schedule Two from Schedule Five</i>	<i>Date to be included in Part 35 of Schedule Two</i>
a. The land shown by vertical hatching on Plan N.P.70	1 July 1988
b. The land shown by horizontal hatching on Plan N.P.70	1 July 1988
c. The land shown by diagonal hatching on Plan N.P.70	31 December 1989
d. The land shown by open circle pattern on Plan N.P.70	1 July 1991
e. The land shown by cross hatching on Plan N.P.70.	1 July 1993
f. The land shown by herringbone pattern on Plan N.P.70	1 July 1996

Extraction of forest produce from Alpine National Park.

7. In section 25B (1) of the Principal Act—

(a) for the expression “Part 29, 30, 31, 32 or 33” there shall be substituted the expression “Part 31 or 35”;

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

(c) for the expression “Part 32 or 33” there shall be substituted the expression “Part 35”.

New section 30 substituted.

8. For section 30 of the Principal Act there shall be substituted the following sections:

S.E.C. operations in the Alpine National Park.

“30. (1) The State Electricity Commission of Victoria for the purposes of its hydro-electric undertaking at Kiewa may—

(a) occupy and utilize works required for the operation and maintenance of the said undertaking;

5 (b) perform its functions and exercise its powers under the *State Electricity Commission Act 1958* and the regulations under that Act which relate to the said undertaking and to the protection of the quality, quantity and availability of water produced for the Commission's requirements for the said undertaking; and

10 (c) plan fire protection works (including construction of vehicular tracks) to protect works required for the said undertaking in consultation with the Forests Commission, the Director, and the Soil Conservation Authority—

on or over the lands referred to in Part 35 of Schedule Two.

15 (2) Sub-section (1) (c) shall only apply to those parts of Part 35 of Schedule Two which are marked A2 and shown by dark shading and those parts marked A16 and A18 and shown by light shading and by that part marked A17 and shown by triangle pattern on the plan lodged in the Central Plan Office of the Department of Property and Services and numbered N.P.70.

Protection of access rights of freeholders in Alpine National Park.

20 30A. The Minister may grant to a person who holds in fee simple land abutting or surrounded by land described in Part 35 of Schedule Two such reasonable rights of access to the person's land over other land described in that part as in the Minister's opinion will allow the person to continue to use the land as it is being used on the first day of
25 January 1986 and may for that purpose from time to time grant exemptions from any regulation affecting that land or those rights of access.

Protection of life occupancies in Alpine National Park.

30 30B. (1) The Minister shall grant to a person, who immediately before 1 January 1986 was occupying a portion of the land to be added to Part 35 of Schedule Two where the occupancy was subject to an agreement with the Minister of Lands granting the person an occupancy of the land for the lifetime of the person, a permit authorizing the person to continue to occupy that portion of the land.

(2) A permit granted by the Minister under sub-section (1) shall—

35 (a) be granted on or before the date the land to which it relates is added or deemed to be added to Part 35 of Schedule Two; and

40 (b) be for the lifetime of the person to whom it is granted and subject to the same terms and conditions including the payment of fees (if any) as are contained in the agreement with the Minister of Lands.”

Director may grant consent to carriage and use of guns and deerstalking in Alpine National Park.

9. Section 37 of the Principal Act shall be amended as follows:

(a) In sub-section (2) before the expression "parts 16" there shall be inserted the expression "the specified parts of Part 35 of Schedule Two or"; 5

(b) In sub-section (3) for the expression "Part 33" there shall be substituted the expression "the specified parts of Part 35";

(c) In sub-section (6) for the expression "part 33 of Schedule Two and in parts 16, 17, 18 and 19" there shall be substituted the expression "the specified parts of Part 35 of Schedule Two and in Parts 16, 17, 18, 19 and 21A"; and 10

(d) After sub-section (6) there shall be inserted the following sub-sections: 15

"(7) In sub-section (2) **specified parts** means those parts of Part 35 of Schedule Two marked A1 and shown by dark shading or marked A6 or A8 and shown by light shading on the plan lodged in the Central Plan Office of the Department of Property and Services and numbered N.P.70. 20

(8) In sub-sections (3) and (6) **specified parts** means those parts of Part 35 of Schedule Two marked A1 and shown by dark shading, marked A6 and shown by light shading or horizontal hatching, marked A7 and shown by light shading or vertical hatching, marked A8, A9, A10, A11, A12 or A19 and shown by light shading or marked A13 and shown by light shading or cross hatching, marked A14 and shown by light shading or open circle pattern, marked A20 and shown by light shading, herring bone pattern, diagonal hatching or open circle pattern or A21 and shown by light shading or open circle pattern on the plan lodged in the Central Plan Office of the Department of Property and Services and numbered N.P.70 but excluding any areas which are proclaimed to be reference areas under the *Reference Areas Act 1978*." 25 30 35

Insertion of Schedule Five.

10. After Schedule Four to the Principal Act there shall be inserted the following Heading and Schedule:

"SCHEDULE FIVE

LAND TO BE ADDED TO ALPINE NATIONAL PARK BY SECTION 18AA

All these pieces or parcels of land containing 1,100 square kilometres, more or less, situate in the Counties of Benambra, Bogong, Croajingolong, Dargo, Delatite, Tambo, Tanjil and Wonnangatta being the land delineated and bordered red or bordered green which is indicated by diagonal hatching, cross hatching, vertical hatching, horizontal hatching or herringbone pattern, open circle pattern or triangle pattern excepting therefrom the roads shown as excluded also excepting therefrom the land bordered blue in the plan

lodged in the Central Plan Office of the Department of Property and Services and numbered N.P.70.”.

Surrender of S.E.C. land to Crown.

- 5 11. Upon registration in the Office of Titles of a transfer and surrender to Her Majesty by the State Electricity Commission of Victoria of the land described in Parts C and D of the Schedule the land shall be deemed to be unalienated land of the Crown freed and discharged, subject to section 4 (4), from all trusts, encumbrances, limitations and restrictions whatsoever and from every estate or interest therein.

Consequential amendment.

- 10 12. The *National Parks (Amendment) Act 1981* shall be amended as follows:

No. 9570.

- 15 (a) Section 3 (4) and (5) shall be repealed;
(b) In section 3 (12) the expression “(j), (k)” shall be repealed;
(c) In section 3 (13) the expression “(k),” (where first occurring) shall be repealed; and
(d) Items (j) and (k) of Part A of the Schedule shall be repealed.
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SCHEDULE

Part A

Amendments to Schedule Two to the Principal Act.

(a) After Part 34 there shall be inserted the following Part:

“PART 35—ALPINE NATIONAL PARK”

All those pieces or parcels of land containing 5,800 square kilometres, more or less, situate in the Counties of Benambra, Bogong, Croajingolong, Dargo, Delatite, Tambo, Tanjil and Wonnangatta being the land delineated by light and dark shading which is bordered purple or red or green or coloured yellow excepting therefrom the roads shown as excluded also excepting therefrom land coloured blue also excepting therefrom land shown by horizontal hatching in a plan lodged in the Central Plan Office of the Department of Property and Services and numbered N.P.70.

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:

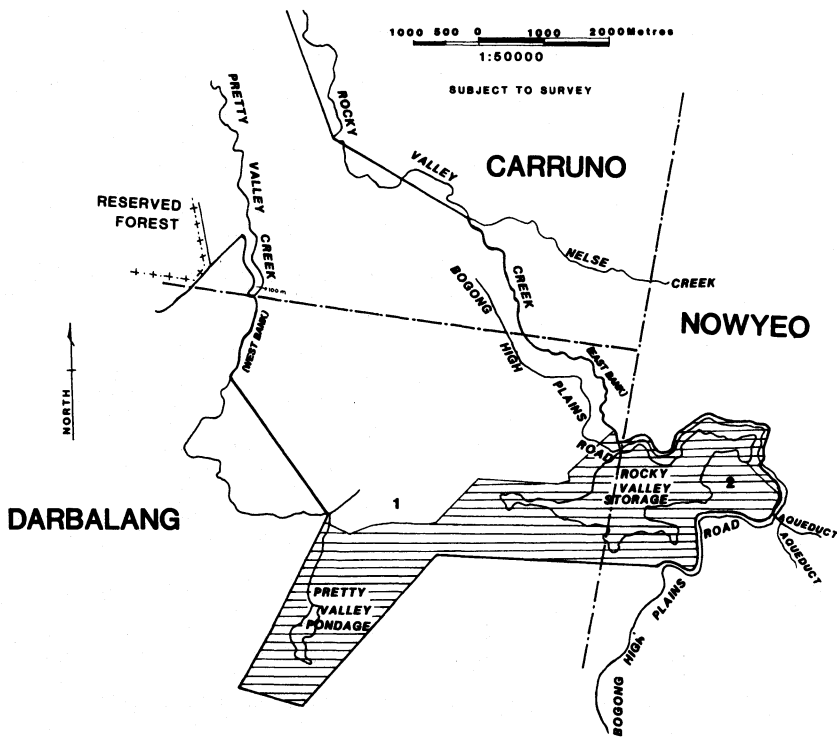
- (a) In the land designated as park in Map No. N.P.31/1 lodged in the Central Plan Office of the Department of Property and Services, during the period ending 31 December 1988, once-only logging in the areas indicated on the Map A accompanying the Final Recommendations of the Land Conservation Council for the Alpine area, June 1979 in accordance with the principles and subject to the requirements provided for in the Final Recommendations of the Council.
 - (b) During the period ending 31 December 1988, once-only logging in areas indicated on Maps A and D accompanying the Final Recommendations of the Land Conservation Council for the Alpine area, June 1979 and in areas indicated on Map No. N.P.58A lodged in the Central Plan Office of the Department of Property and Services during the period ending 31 December 1994, once-only logging in the Little Arthur Creek area, being part of the areas indicated on the last-mentioned Map in accordance with the principles and subject to the requirement provided for in the Final Recommendations of the Council.
 - (c) During the period ending 31 December 1988, once-only logging in areas indicated on Maps A and D accompanying Final Recommendations of the Land Conservation Council for the Alpine Area, June 1979, and in the areas indicated on Map No. N.P.59B lodged in the Central Plan Office of the Department of Property and Services in accordance with the principles and subject to the requirements provided for in the Final Recommendations of the Council.
 - (d) In the land designated as park in Map No. N.P.54/1 lodged in the Central Plan Office of the Department of Property and Services—
 1. During the period ending 31 October 1988, low-intensity timber production to continue within the zone shown hatched in respect of State Park A.2 Wabonga Plateau in Map No.1 accompanying Final Recommendations of the Land Conservation Council for the North-Eastern Study Area Districts 3, 4 and 5, April 1977;
 2. During the period ending 31 October 1988, removal of the experimental area of pine plantations;
 3. During the period ending 31 December 1988, once-only logging in areas indicated in the Final Recommendations for the Alpine Area, published by the Land Conservation Council in June 1979.
- (h) Parts 29, 30, 32 and 33 shall be deleted.

Part B

Part 24 of Schedule Three to the Principal Act shall be repealed.

Part C

PLAN OF LAND TO BE SURRENDERED TO HER MAJESTY



Part D

PLAN OF AREA TO BE SURRENDERED
TO HER MAJESTY

