

# **National Parks (Yarra Ranges and Other Amendments) Bill**

No.

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# LEGISLATIVE ASSEMBLY

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Read 1° 27 April 1995

*(Brought in by Mr Coleman and Mr McGrath (Wimmera))*

## A BILL

to amend the **National Parks Act 1975**, the **Forests Act 1958** and the **Alpine Resorts Act 1983** and for other purposes.

### **National Parks (Yarra Ranges and Other Amendments) Act 1995**

The Parliament of Victoria enacts as follows:

#### **PART 1—PRELIMINARY**

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

The main purposes of this Act are—

- 5           (a) to amend the **National Parks Act 1975** so as  
to—
- (i) establish Yarra Ranges National Park and  
          other new parks, vary the boundaries of  
          existing parks and rescind Yea River Park;
- 10           (ii) provide for the inclusion of certain water  
          supply catchment areas in Kinglake

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

*National Parks (Yarra Ranges and Other Amendments)*

- National Park and Yarra Ranges National Park;
- (iii) provide for the protection of those catchment areas;
- (iv) provide for the maintenance of the water quality and otherwise for the protection of the water resources in those areas; 5
- (v) provide for the restriction of human activity in those areas for the purposes of sub-paragraphs (iv) and (v); 10
- (vi) enable Melbourne Water Corporation to exercise its appropriate functions and powers as a water supply authority in those catchment areas;
- (vii) change the name of the Director of National Parks and Wildlife; 15
- (viii) make various amendments to the special provisions relating to particular parks;
- (ix) make various provisions relating to the carriage or use of weapons; 20
- (x) increase certain penalties;
- (xi) make other minor amendments;
- (b) to amend the **Forests Act 1958** so as to include within the definition of “fire protected area” certain areas managed by Melbourne Water Corporation; 25
- (c) to amend the Schedule to the **Alpine Resorts Act 1983** so as to remove Mount Donna Buang as an alpine resort and to excise areas from the Lake Mountain Alpine Resort; 30
- (d) to revoke the proclamation of the Central Highlands Sanctuary.

**2. Commencement**

- (1) Section 1 and this section come into operation on the day on which this Act receives the Royal Assent. 35

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- 15
- (2) Section 45 is deemed to have come into operation on 2 December 1989.
  - (3) Section 18 comes into operation at the same time as the coming into operation of section 16.
  - (4) Subject to sub-section (5), the remaining provisions of this Act come into operation on a day or days to be proclaimed being, in the case of sections 16 and 17, a day or days on or after the coming into force of an agreement made under section 32I (1) of the **National Parks Act 1975** as inserted by section 9 of this Act.
  - (5) If a provision referred to in sub-section (4) does not come into operation within the period of 12 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.

### 3. *Principal Act*

In this Act, the **National Parks Act 1975** is called the Principal Act.

N . 8702.  
Reprinted to  
No. 61/1993.  
Subsequ ntly  
am nd d by  
Nos  
130/1993,  
31/1994,  
53/1994 and  
89/1994.

## PART 2—DESIGNATED WATER SUPPLY CATCHMENT AREAS

### 4. *Definition*

- 20
- 25
- (1) In section 3 (1) of the Principal Act after the definition of “Council” insert—

“designated water supply catchment area” means either of the following areas of land—

- 30
- (a) the area of land shown hatched or cross-hatched on the plan in part 10 of Schedule Two;
  - (b) the area of land shown hatched or cross-hatched on the plan in part 39 of Schedule Two.’

- (2) In section 3 (2) of the Principal Act, for “the Melbourne and Metropolitan Board of Works” **substitute** “, Melbourne Parks and Waterways, Melbourne Water Corporation,”.

**5. Objects of Principal Act**

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In section 4 of the Principal Act, after paragraph (a) **insert—**

“(aa) to make further provision in respect of designated water supply catchment areas in national parks—

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(i) for the protection of those areas; and

(ii) for the maintenance of the water quality and otherwise for the protection of the water resources in those areas; and

(iii) for the restriction of human activity in those areas for the purposes of sub-paragraphs (i) and (ii).”.

15

**6. Duty of Director**

(1) In section 17 (2) of the Principal Act, after paragraph (b) **insert—**

20

“(ba) ensure that appropriate and sufficient measures are taken (including seeking the making of an appropriate agreement under section 32i (1))—

(i) to protect designated water supply catchment areas; and

25

(ii) to maintain the water quality of and otherwise protect the water resources in those areas; and

(iii) to restrict human activity in those areas for the purposes of sub-paragraphs (i) and (ii).”.

30

(2) After section 17 (2) of the Principal Act insert—

“(3) The Director, before exercising any power or performing any function or duty under this Act in a designated water supply catchment area,



must, in so far as is reasonably necessary,  
consult with Melbourne Water Corporation.

- 5 (4) It is sufficient compliance with sub-section (3) for the  
Director to have entered into a management  
agreement with Melbourne Water Corporation under  
section 32I.”

### **7. Management agreements**

In section 19C (2) of the Principal Act, after  
paragraph (c) **insert**—

10 “; and

- 15 (d) in the case of an agreement with respect to land  
which abuts a park in which there is a  
designated water supply catchment area, such of  
sections 32H, 32L and 38A as are specified in the  
agreement shall have effect with respect to the  
land as if it were part of the designated water  
supply catchment area specified in the  
agreement.”

### **8. New sections 32AG and 32AH inserted in Principal Act**

20 After section 32AF of the Principal Act **insert**—

#### **“32AG. Management of picnic areas in Yarra Ranges National Park**

- 25 (1) Subject to any agreement between the  
Director and Melbourne Water  
Corporation under section 32I, the  
Director may enter into an agreement  
with Melbourne Parks and Waterways  
for the management by Melbourne Parks  
and Waterways for recreational purposes  
of specified picnic areas within the park  
described in part 39 of Schedule Two.

- 30 (2) An agreement under sub-section (1)—  
(a) must be in writing;

- (b) must describe the areas to which the agreement relates;
- (c) may be amended from time to time or terminated by a further written agreement between the parties; 5
- (d) must be consistent with the objects of this Act and with the duties imposed on the Director by sections 17 (2) (ba) and 32H;
- (e) must contain provisions with respect to— 10
  - (i) the protection of conservation values within the area;
  - (ii) fire protection and fire management within that area; 15
  - (iii) prohibiting or regulating the activities of people in that area and access to that area by people;
  - (iv) the procedures to be followed to prevent or settle disputes concerning the management of that area that arise between the parties during the currency of the agreement including the submission of any unresolved dispute to the Minister and the Minister administering Part 4 of the **Water Industry Act 1994** for a decision that is to be binding on the parties. 20  
25  
30

**32AH. Protection of access rights of freeholders in Yarra Ranges National Park**

- (1) If a person holds a fee simple in land abutting or surrounded by land described in part 39 of Schedule Two— 35

- 5 (a) if the land is not abutting or surrounded by a designated water supply catchment area, the Minister may grant to that person that reasonable right of access to his or her land which will in the Minister's opinion allow that person to use his or her land; or
- 10 (b) if the land is abutting or surrounded by a designated water supply catchment area, the Minister, after consulting the Minister administering the **Melbourne Water Corporation Act 1992**, may
- 15 grant to that person that reasonable right of access to his or her land which will, in the Minister's opinion, allow that person to use his or her land.
- 20 (2) For the purpose of allowing a person to have access to his or her land the Minister may exempt that person from any regulation affecting the land described in part 39 of Schedule Two or
- 25 that right of access.”.

**9. New sections 32H to 32N inserted**

After section 32G of the Principal Act insert—

**“32H. Protection of catchment area and its water resources—Kinglake National Park and Yarra Ranges National Park**

- 30 (1) The Director, in carrying out the duties or performing the functions of his or her office or exercising powers in relation to a designated water supply catchment area, and any other person or body, in
- 35 carrying out duties or performing functions or exercising powers in

relation to such an area, must regard the paramount consideration as being the need to—

(a) protect that area; and

(b) maintain the water quality of and otherwise protect the water resources of that area.

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(2) The Director must ensure that each designated water supply catchment area is controlled and managed in accordance with the objects of this Act in a manner that will—

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(a) protect that area; and

(b) maintain the water quality of and otherwise protect the water resources of that area.

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(3) Without limiting section 20, the Director has power to do anything in relation to a designated water supply catchment area that he or she considers necessary to—

20

(a) protect that area; and

(b) maintain the water quality of and otherwise protect the water resources of that area.

**32I. Management agreement with MWC—Kinglake National Park and Yarra Ranges National Park**

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(1) The Director may enter into an agreement with Melbourne Water Corporation for the management by Melbourne Water Corporation of a designated water supply catchment area.

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(2) An agreement under sub-section (1)—

(a) must be in writing;

(b) must be consistent with the objects of this Act and with the duties

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imposed on the Director by sections 17 (2) (ba), 17 (3) and 32H;

(c) may be amended from time to time or terminated by a further written agreement between the parties.

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(3) An agreement under sub-section (1)—

10

(a) must specify those duties, functions and powers imposed on the Director by or under this Act which may be carried out by Melbourne Water Corporation in relation to a designated water supply catchment area;

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(b) must specify those functions or powers of Melbourne Water Corporation under the **Melbourne and Metropolitan Board of Works Act 1958** or as a licensee under the **Water Industry Act 1994** which may be performed by Melbourne Water Corporation in relation to a designated water supply catchment area;

20

(c) may provide for the management and control by Melbourne Water Corporation of any property within the designated water supply catchment area;

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(d) must contain provisions with respect to—

30

(i) the protection of conservation values within the designated water supply catchment area;

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(ii) fire protection and fire management within that area;

(iii) prohibiting or regulating the activities of people in that area and access to that area by people;

- (iv) once-only harvesting of forest produce from those areas shown cross-hatched on the plans referred to in Parts 10 and 39 of Schedule Two and the rehabilitation of those areas; 5
- (v) the procedures to be followed to prevent or settle disputes concerning the management of that area that arise between the parties during the currency of the agreement including the submission of any unresolved dispute to the Minister, the Minister administering the **Melbourne Water Corporation Act 1992** and the Minister administering section 17 of the **State Owned Enterprises Act 1992** for a decision that is to be binding on the parties. 10  
15  
20
- (4) It is deemed to be a term of any agreement under sub-section (1) that, notwithstanding any other provision of this Act, it is the function of Melbourne Water Corporation to determine the policy necessary in a designated water supply catchment area— 25  
30
  - (a) to protect those areas for the purposes of water supply; and
  - (b) to maintain the water quality of and otherwise protect the water resources in those areas; and 35
  - (c) to restrict human activity for the purposes of giving effect to paragraphs (a) and (b).

**32J. Access to property—Kinglake National Park and Yarra Ranges National Park**

5 The Minister must grant to Melbourne Water Corporation that reasonable right of access to property within Kinglake National Park and Yarra Ranges National Park which is owned, controlled or managed by Melbourne Water Corporation, which, in the  
10 Minister’s opinion, will allow Melbourne Water Corporation to exercise its powers and functions with respect to that property.

**32K Control and management of structures and installations—Kinglake National Park and Yarra Ranges National Park**

- 15
- 20 (1) Melbourne Water Corporation may manage and control any structures and installations (other than those built or installed by the Director) in a designated water supply catchment area.
- 25 (2) For the purposes of giving effect to sub-section (1), Melbourne Water Corporation may operate, repair, replace, maintain, remove, connect, disconnect or do any other thing necessary to manage or control any structure or installation.
- 30 (3) In this section “**structures and installations**” includes, but is not limited to, dam walls, reservoirs, weirs, tunnels, roads, tracks, buildings, towers and fences.

**32L. Extraction of forest produce from Kinglake National Park and Yarra Ranges National Park**

- 35 (1) The Melbourne Water Corporation may take sell or otherwise dispose of forest

produce in the land shown cross-hatched on the plans referred to in parts 10 and 39 of Schedule Two in accordance with any management agreement entered into under section 32i, or, if there is no agreement, in accordance with terms and conditions agreed to by the Director and Melbourne Water Corporation.

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- (2) For the purpose of this section, “**forest produce**” has the same meaning as in the **Forests Act 1958**.

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**32M. Determination of disputes—Kinglake National Park and Yarra Ranges National Park**

- (1) If the Director and Melbourne Water Corporation have not entered into an agreement under section 32i and if there is a dispute between the Director and Melbourne Water Corporation about the management of a designated water supply catchment area, either the Director or Melbourne Water Corporation may refer the dispute to the Minister, the Minister administering the **Melbourne Water Corporation Act 1992** and the Minister administering section 17 of the **State Owned Enterprises Act 1992** for determination.

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- (2) A decision of the Ministers under sub-section (1) is binding on the Director and Melbourne Water Corporation.

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**32N. Restricted areas—Kinglake National Park and Yarra Ranges National Park**

- (1) The Minister, after consultation with the Minister administering the **Melbourne Water Corporation Act 1992**, may, by notice published in the Government

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Gazette, prohibit, regulate or control access of persons to that part of a designated water supply catchment area specified in the notice, if the Minister is of the opinion that to prevent access of persons to that part of the catchment area is necessary for the purposes of—

(a) protecting that area for the purposes of water supply; or

(b) maintaining the water quality of and otherwise protecting the water resources of that area.

(2) A notice under sub-section (1)—

(a) may be general or of limited application; and

(b) takes effect from the date of publication in the Government Gazette or from any later date specified in the notice; and

(c) in the absence of a date specified in the notice continues to have effect until 90 days after publication in the Government Gazette of the notice; and

(d) may not provide that it continues to have effect for any period exceeding 12 months.

(3) As soon as possible after publication of the notice in the Government Gazette, the Minister must publish a notice in a newspaper circulating generally in the area likely to be affected by the notice stating that he or she has published the notice.

(4) Part 5 of the **Subordinate Legislation Act 1994** applies to a notice under this section as if that notice were a statutory rule within the meaning of that Act that

had been laid before Parliament on the day on which the notice was published in the Government Gazette.

- (5) A person must comply with a notice under this section.

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Penalty: 20 penalty units.”.

### **10. *Money received from timber harvesting***

In section 33 of the Principal Act, after sub-section (2) **insert**—

- “(2A) Sub-section (2) does not apply to money received by the Melbourne Water Corporation from the taking, sale or disposal of forest produce under section 32L.”.

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### **11. *Power of authorised officer to give directions***

In section 38 of the Principal Act, after paragraph (d) **insert**—

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“; and

- (e) where he believes on reasonable grounds that a person in a park is acting in a manner which has damaged or polluted or poses a threat of damaging or polluting a designated water supply catchment area, direct that person to stop so acting and to rectify any damage he or she has caused.”.

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### **12. *New section 38A inserted***

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After section 38 of the Principal Act **insert**—

#### **“38A. *Powers of authorised officers within catchment areas***

- (1) An authorised officer may require the owner of a motor vehicle found on any occasion within a designated water

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supply catchment area in contravention of the regulations—

5 (a) to give any information which it is within the power of the owner to give and which may lead to the identification of any person who was the driver of the motor vehicle on that occasion; or

10 (b) to make all reasonable enquiries in order to obtain that information.

(2) An owner of a motor vehicle must not fail to comply with a requirement made under sub-section (1).

Penalty: 20 penalty units.

15 (3) For the purposes of sub-sections (1) and (2)—

(a) “**motor vehicle**” has the same meaning as in the **Road Safety Act 1986**;

20 (b) “**owner**” means the owner or the person in whose name the motor vehicle was registered at the time when the requirement is made under sub-section (1) or any person who had possession or control of the vehicle at that time.”.

25  
30 **13. Offence to fail to comply with directions**

In section 45 of the Principal Act, after sub-section (5) **insert—**

“(6) A person to whom a direction of an authorised officer is given under section 38 (e) must comply with that direction.

Penalty: 20 penalty units.”.

**14. Proceedings**

In section 46 (1) of the Principal Act after “such proceedings” **insert** “or an authorised officer”.

**15. Regulations**

In section 48 (1) of the Principal Act, after paragraph (h) **insert**—

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“(ha) prohibiting or restricting the entry of persons into any specified part of a park;”.

**16. Kinglake National Park**

In Schedule Two to the Principal Act, for part 10 **substitute**—

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**“PART 10—KINGLAKE NATIONAL PARK**

All those pieces or parcels of land containing 21 600 hectares, more or less, situate in the Parishes of Billian, Burgoyne, Clonbinane, Derril, Flowerdale, Kinglake, Linton, Queenstown, Tarrawarra North, Wallan Wallan and Woodbourne, Counties of Anglesey, Bourke, Dalhousie and Evelyn, being the land delineated and bordered red or bordered green excepting therefrom the roads shown as excluded also excepting therefrom land bordered blue in plans lodged in the Central Plan Office of the Department of Finance and numbered N.P. 8/6, N.P. 8A/2 and N.P. 8B.”

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**17. Yarra Ranges National Park**

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In Schedule Two to the Principal Act, after part 38 **insert**—

**“PART 39—YARRA RANGES NATIONAL PARK**

All those pieces or parcels of land containing 760 square kilometres, more or less, situate in the Parishes of Brimbonga, Bullung, Buxton, Coornburt,

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5 Glenwatts, Gracedale, Granton, Manango, Monda,  
Narbethong, Noojee, St. Clair, Steavenson, Taponga,  
Toorong, Torbreck, Youarrabuck and Yuonga,  
10 Counties of Anglesey, Buln Buln, Evelyn, Tanjil and  
Wonnangatta being the land delineated and bordered  
red or green or coloured yellow excepting therefrom  
the roads shown as excluded also excepting  
therefrom land bordered blue also excepting  
therefrom the Crown Allotments listed in the plans  
lodged in the Central Plan Office of the Department  
of Finance and numbered N.P. 102A and N.P.  
102B.”.

**18. *Abolition of Yea River Park***

15 Part 15 of Schedule Three to the Principal Act is  
repealed.

**19. *Divesting of land from MWC—Maroondah and Wallaby  
Creek***

20 Despite anything to the contrary in any Act, the land  
vested in Melbourne Water Corporation and  
described in Parts 1 and 3 of the Third Schedule to  
the **Melbourne and Metropolitan Board of Works  
Act 1915**, other than the land delineated and shown  
hatched on the plans in Parts A and B of Schedule 1,  
25 is surrendered to the Crown and is deemed to be  
unalienated land of the Crown freed and discharged  
from all trusts, encumbrances, limitations and  
restrictions and from every estate or interest therein.

**20. *Agreements and licences—Wallaby Creek and  
Maroondah***

30 (1) Nothing in section 19 affects—

- (a) the agreement made in March 1971 between the  
Country Roads Board and Melbourne and  
Metropolitan Board of Works with respect to  
Black Spur Road; or

- (b) the agreement made in June 1984 between the Country Roads Board and the Melbourne and Metropolitan Board of Works with respect to the Marysville–Woods Point Road; or
  - (c) the licence granted to Australian Telecommunications Corporation by Melbourne and Metropolitan Board of Works by an agreement made on 16 March 1992 with respect to the tower on Mount St Leonard; or 5
  - (d) the licences granted to the Minister for Police and Emergency Services by Melbourne Water Corporation by agreements made on 24 May 1993 and 2 September 1993 with respect to land at Wallaby Creek. 10
- (2) The agreements and licences referred to in sub-section (1)— 15
- (a) continue in force according to their tenor and despite anything to the contrary in the Principal Act or any other Act; and
  - (b) the Minister is, by force of this sub-section, substituted as a party in place of the Melbourne Water Corporation in the agreements and licences. 20
- (3) On the expiration of a licence referred to in sub-section (1) (c) or (d), the Minister may grant a licence for the same purpose with respect to the same land to the former licensee on such terms and conditions as are determined by the Minister and as are consistent with— 25
- (a) protecting the relevant designated water supply catchment area; and 30
  - (b) maintaining the water quality of and otherwise protecting the water resources of the relevant designated water supply catchment area.
- 21. Divesting of land from the MWC—O’Shannassy 35**
- (1) Crown grant Volume 3507 Folio 701293 is **revoked**.

- 5
- (2) The proclamation made by the Governor in Council on 28 January 1910 and published in the Government Gazette dated 9 February 1910 at page 1100 is **revoked**.
- (3) The Order in Council referred to in Part C of Schedule 1 is **revoked**.
- (4) The **Manango (O'Shannassy River Watershed) Lands Act 1969** is **repealed**.
- 10
- (5) Despite anything to the contrary in any Act, the land, in respect of which the Crown Grant has been revoked, is deemed to be unalienated land of the Crown freed and discharged from all trusts, encumbrances, limitations and restrictions and from every estate or interest therein.

15

**22. O'Shannassy Lodge lease**

- (1) Nothing in section 21 affects the continuity of—
- 20
- (a) the lease between the Melbourne and Metropolitan Board of Works and Victorian Snow Resorts Pty Ltd dated 15 November 1988 over land coloured red on the plan attached to the lease; or
- 25
- (b) any assignment of that lease made before the commencement of this sub-section or any guarantee entered into before that commencement in relation to that lease or any such assignment.
- (2) The lease referred to in sub-section (1) (a) and any assignment or guarantee to which sub-section (1) (b) relates—
- 30
- (a) continue in force despite anything to the contrary in the Principal Act or any other Act; and
- 35
- (b) the Minister is, by force of this sub-section, substituted as a party in place of the Melbourne Water Corporation in that lease and in any such assignment or guarantee.

**23. Insertion of new section 31AB**

After section 31AA of the Principal Act insert—

**“31AB. Lease of O’Shannassy Lodge—Yarra Ranges National Park**

- (1) Upon the expiration of the lease dated 15 November 1988 between the Melbourne and Metropolitan Board of Works and Victorian Snow Resorts Pty Ltd the Minister is empowered to grant a tenancy of the land coloured red on the plan attached to that lease for such period, at such rent and subject to such terms and conditions as the Minister determines. 5 10
- (2) A tenancy under sub-section (1)— 15
- (a) must be granted in writing;
- (b) must not be for a term or terms within the tenancy totalling more than 21 years;
- (c) is subject to any terms and conditions determined by the Minister.”. 20

**24. Divesting of management from MWC—Yarra Ranges National Park**

- (1) The agreement made on 4 October 1928 between the Minister for the time being administering the Forests Acts and Melbourne and Metropolitan Board of Works (as in force immediately before the commencement of this sub-section) and the agreement made on that same day between the Forests Commission and Melbourne and Metropolitan Board of Works (as in force immediately before the commencement of this sub-section) as they relate to the land shown on the plans referred to in Part 39 of Schedule Two are 25 30 35



cancelled on the date on which the land becomes part of the Yarra Ranges National Park.

- 5
- (2) To the extent that the Melbourne Water Corporation has control and management of any land shown on the plans referred to in Part 39 of Schedule Two, Melbourne Water Corporation ceases to have control and management of that land.

**25. Rights, etc. to cease**

- 10
- (1) Any land that is part of the lands delineated by a green border in the plan referred to in parts 10 and 39 of Schedule Two to the Principal Act as amended by this Act ceases to be reserved forest on the date on which that land becomes part of Kinglake National Park or Yarra Ranges National Park (as the case requires).
- 15

- (2) The alpine resort known as Mount Donna Buang and being the Crown lands declared by the Governor in Council to be an alpine resort under section 19 (1) of the **Alpine Resorts Act 1983** by Order made on 19 February 1985 and published in the Government Gazette on 27 February 1985 ceases to be an alpine resort on the date on which those lands become part of Yarra Ranges National Park.
- 20

- (3) The land delineated and shown hatched on the plan in Part D of Schedule 1 (being part of the alpine resort known as Lake Mountain and being part of the Crown lands declared by the Governor in Council to be an alpine resort under section 19 (1) of the **Alpine Resorts Act 1983** by Order made on 24 March 1987 and published in the Government Gazette on 25 March 1987) ceases to be part of Lake Mountain Alpine Resort on the date on which that land becomes part of Yarra Ranges National Park.
- 25
- 30

- (4) The lands delineated and coloured yellow on the plans referred to in part 39 of Schedule Two to the Principal Act as amended by this Act cease to be roads or parts of roads and all rights, easements and
- 35

privileges existing or claimed either by the public or any other body and incidental to any past dedication by any past user or by any fiction of law cease and determine.

**26. Registrar-General and Registrar of Titles to make necessary amendments to records** 5

(1) The Registrar-General must make all entries on the records of enrolment of any Crown grant and on any memorial relating to land that are necessary because of the operation of any provision of this Part. 10

(2) The Registrar of Titles, on being requested to do so and on submission of any relevant certificate of title or other document, must make any amendments in the Register under the provisions of the **Transfer of Land Act 1958** that are necessary because of the operation of any provision of this Part. 15

**27. No compensation payable by Crown**

No compensation is payable by the Crown in respect of anything done under or arising out of this Part.

**28. Supreme Court—limitation of jurisdiction** 20

It is the intention of this section to alter or vary section 85 of the **Constitution Act 1975** to the extent necessary to prevent the Supreme Court awarding compensation in respect of anything done under or arising out of this Part. 25

**PART 3—NEW AND ALTERED PARKS**

**29. New and altered Parks**

- (1) Schedule Two B to the Principal Act is amended as specified in Schedule 2.
- (2) Schedule Two to the Principal Act is amended as specified in Part A of Schedule 3. 30

- (3) Schedule Two B to the Principal Act is amended as specified in Part B of Schedule 3.
- (4) Schedule Three to the Principal Act is amended as specified in Part C of Schedule 3.

5      **30. *Cessation of rights***

- (1) On the day on which—
  - (a) Schedule Two to the Principal Act is amended by item (d) and item (j) of Part A of Schedule 3; and
  - 10      (b) Schedule Two B to the Principal Act is amended by item (e) and item (f) of Part B of Schedule 3; and
  - 15      (c) Schedule Three to the Principal Act is amended by item (d) of Part C of Schedule 3—

the lands delineated and coloured yellow in the plans substituted by those items cease to be roads or parts of roads and all rights, easements and privileges existing or claimed either by the public or any other body and incidental to any past dedication or supposed dedication or by any past user or by any fiction of law cease and determine.

- (2) On the day on which Schedule Two B to the Principal Act is amended by Schedule 2, the lands delineated by a green border on the plans referred to in Parts 35 and 36 of Schedule Two B to the Principal Act as amended by this Act cease to be reserved forest, and on the day on which Schedule Three to the Principal Act is amended by item (a) of Part C of Schedule 3, the lands delineated by a green border on the plan referred to in that item cease to be reserved forest.

**31. *Land to become part of park on surrender to Crown***

If the land shown hatched on the plan substituted by—

- (a) item (a) of Part B of Schedule 3 is not surrendered to the Crown before the

commencement of section 29 (3), that land is to be taken to be excluded from the park described in Part 1 of Schedule Two B to the Principal Act until the title to that land is surrendered to the Crown; and

5

- (b) item (d) of Part B of Schedule 3 is not surrendered to the Crown before the commencement of section 29 (3), that land is to be taken to be excluded from the park described in Part 18 of Schedule Two B to the Principal Act until the title to that land is surrendered to the Crown.

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#### **PART 4—MISCELLANEOUS AMENDMENTS OF THE PRINCIPAL ACT**

##### **32. *Change in name of Director***

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- (1) In section 3 (1) of the Principal Act, in the definition of “Director” omit “and Wildlife”.
- (2) In section 5 (1) of the Principal Act, omit “and Wildlife”.
- (3) The change in name of an office made by this section—
  - (a) does not affect the identity of the office; and
  - (b) does not affect any functions, powers, property rights, liabilities or obligations attaching to the office; and
  - (c) does not affect any legal or other proceedings instituted or to be instituted by or against the holder of the office, and any legal or other proceeding that might have been continued or completed by or against the holder of the office under its former name may be continued or completed by or against the holder of the office under its new name; and
  - (d) does not affect the continued tenure of office of the person who held the office under its former name immediately before the change; and

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(e) does not affect any appointment made or held by virtue of a person being the holder of an office to which sub-section (1) applies, or the continuance of the appointment.

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(4) Subject to this section, in—

(a) an Act other than this Act; or

(b) a subordinate instrument made under an Act other than this Act; or

(c) any other document-

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a reference to the Director of National Parks and Wildlife is, from the date of commencement of this section, to be treated as a reference to the Director of National Parks.

15

(5) Section 116 of the **Conservation, Forests and Lands Act 1987** is **repealed**.

### **33. *Alpine Advisory Committee membership***

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In section 32AE (3) (b) (viii) of the Principal Act, for “National 4 Wheel Drive Council” **substitute** “Victorian Association of Four Wheel Drive Clubs Inc.”.

### **34. *Amendments to Division Headings***

In Part III—

(a) in the heading to Division 4, for “National Parks” **substitute** “Parks”; and

25

(b) the heading to Division 5 is **repealed**.

### **35. *Arthurs Seat***

In section 32C (1), for “Part 7 of Schedule 3” **substitute** “Part 2 of Schedule Two B”.

### **36. *Fossicking***

30

In section 32D (1) (a) of the Principal Act—

- (a) for “Parts 13, 31 and 33” **substitute** “Parts 13, 26, 31, 33 and 36”; and
- (b) for “Parts 1, 13 and 26” **substitute** “Parts 1 and 13”.

**37. Grazing—Barmah State Park**

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In section 32E of the Principal Act—

- (a) in sub-section (1), for “Barmah Park” **substitute** “Barmah State Park”; and
- (b) in sub-section (2) (c), for “Barmah Park” **substitute** “Barmah State Park”.

10

**38. Insertion of new section 32FA**

After section 32F of the Principal Act insert—

**“32FA. Grazing in Lysterfield Park**

- (1) The Minister may grant a licence to graze cattle in the Lysterfield Park to any person.
- (2) A grazing licence under sub-section (1)—
  - (a) is granted for a period of 1 year and may be renewed; and
  - (b) is subject to any fees and conditions determined by the Minister; and
  - (c) allows a holder of the licence to graze cattle in that part of the Lysterfield Park specified in the licence which must be within the area shown hatched on the plan referred to in Part 10 of Schedule Three.”.

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**39. *Hunting—Barmah State Park***

In section 32G of the Principal Act, for “Part 26B of Schedule Three” **substitute** “Part 3 of Schedule Two B”.

5 **40. *Consent to carriage or use of weapons***

In section 37 of the Principal Act—

(a) in sub-section (3) of the Principal Act—

(i) after “any firearms” **insert** “or other weapons”; and

10 (ii) after “of firearms” **insert** “or other weapons”; and

(iii) after “specified areas of” **insert** “part 27 or”; and

15 (b) in sub-section (6), for “part 37” **substitute** “parts 27 and 37”;

(c) after sub-section (7) **insert**—

20 “(7A) In sub-sections (3) and (6), “**specified areas**”, in relation to the park described in part 27 of Schedule Two, means that part of the park described in part 27 of Schedule Two east of the Thomson Valley Road.”;

(d) in sub-section (8), after “**specified areas**” **insert** “, in relation to the park described in part 37 of Schedule Two,”;

25 (e) in sub-section (9), for “four” **substitute** “20”.

**41. *Insertion of new section 37AA***

After section 37 of the Principal Act **insert**—

**“37AA. *Director may consent to weapons other than guns being carried through parks***

30 (1) Notwithstanding anything in section 37, the Director may, by notice published in the Government Gazette, authorise that any weapon or class of weapons, other

than firearms, may be carried by or be in the possession of any person in the park specified in the notice.

(2) An authorisation under sub-section (1) is—

(a) for the period; and

(b) subject to the conditions and restrictions (if any)—

specified in the notice.”.

5

#### **42. Increase in penalties**

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(1) In sections 42, 44 (1) and 45 (2) and (3) of the Principal Act, for “Penalty: 5 penalty units” **substitute** “Penalty: 20 penalty units”.

(2) In sections 43 and 44 (2) of the Principal Act, for “Penalty: 10 penalty units” **substitute** “Penalty: 20 penalty units”.

15

(3) In section 45 (1) of the Principal Act, for “Penalty: 10 penalty units or imprisonment for six months” **substitute** “Penalty: 20 penalty units or imprisonment for 6 months”.

20

(4) In section 47B of the Principal Act, for “2 penalty units” **substitute** “20 penalty units”.

(5) In sections 48 (1) (r) of the Principal Act, for “5 penalty units” **substitute** “20 penalty units”.

#### **43. Carrying of guns**

25

In section 44 (1) of the Principal Act, for “and 37” **substitute** “, 37 and 37AA”.

#### **44. Wilsons Promontory Marine Reserve**

In Part 1 of Schedule Four to the Principal Act, for “35 to 390” **substitute** “35 to 39”.

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45. *Operation of amendments to Part 37 of Schedule Two*

Part 37 of Schedule Two to the Principal Act is to be deemed to have always been enacted as amended by item (j) (iii) of Part A of Schedule 3.

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**PART 5—AMENDMENT OF OTHER ACTS AND MISCELLANEOUS PROVISIONS**

46. *Definition of “fire protected area” in Forests Act*

In the definition of “fire protected area” in section 3 (1) of the **Forests Act 1958**, omit “(not being land vested in or under the control of the Melbourne and Metropolitan Board of Works)”.

No. 6254.  
R printed to  
No. 57/1989.  
Subsequently  
amended by  
Nos 81/1989,  
90/1989,  
13/1990,  
82/1990,  
92/1990,  
86/1993,  
31/1994,  
52/1994 and  
89/1994.

10

47. *Abolition of Mount Donna Buang Alpine Resort*

In Part A of the Schedule to the **Alpine Resorts Act 1983** omit “Mount Donna Buang”.

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48. *Revocation of Central Highlands Sanctuary*

The Proclamation specified in Schedule 4 is **revoked**.

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SCHEDULES

SCHEDULE 1

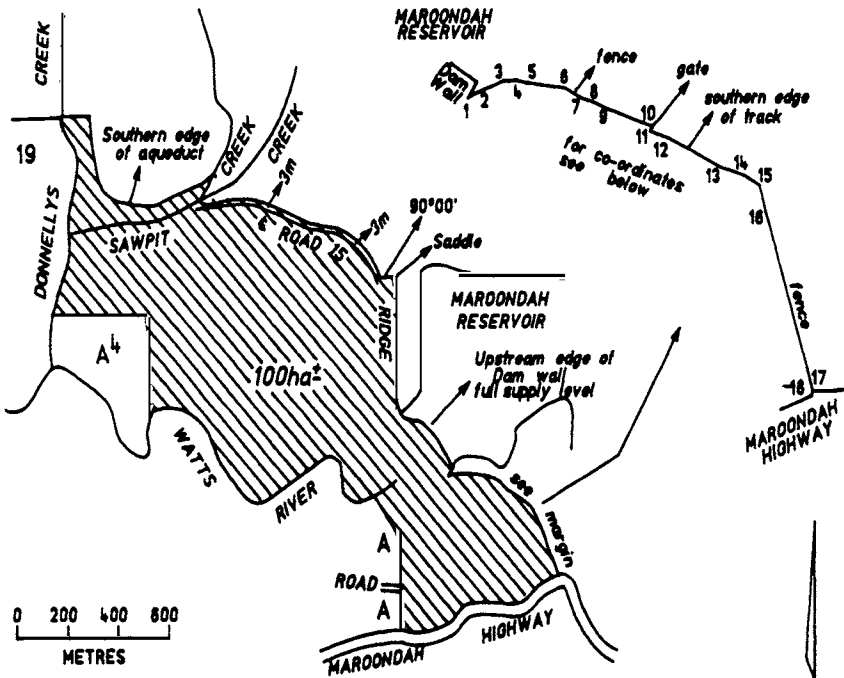
PART A

(Maroondah)

Land not divested

OFFICE OF THE SURVEYOR GENERAL

PARISH OF MONDA



A.M.G. CO-ORDINATES

POINT	E	N	POINT	E	N	POINT	E	N
1	372177	5832613	7	372315	5832611	13	372463	5832541
2	372187	5832616	8	372325	5832606	14	372510	5832532
3	372216	5832626	9	372347	5832599	15	372527	5832523
4	372234	5832630	10	372387	5832583	16	372533	5832504
5	372246	5832627	11	372384	5832576	17	372581	5832321
6	372283	5832621	12	372411	5832572	18	372591	5832316

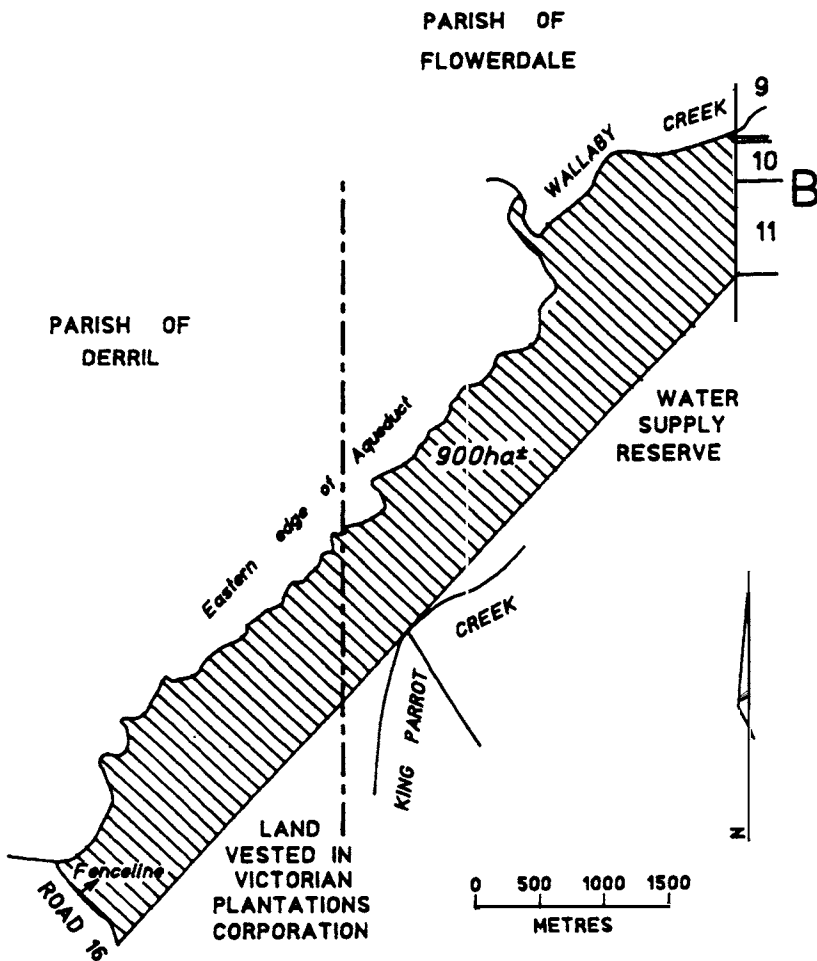
SCHEDULE 1—continued

PART B

(Wallaby Creek)

Land not divested

OFFICE OF THE SURVEYOR GENERAL



**PART C****O'Shannassy Catchment**

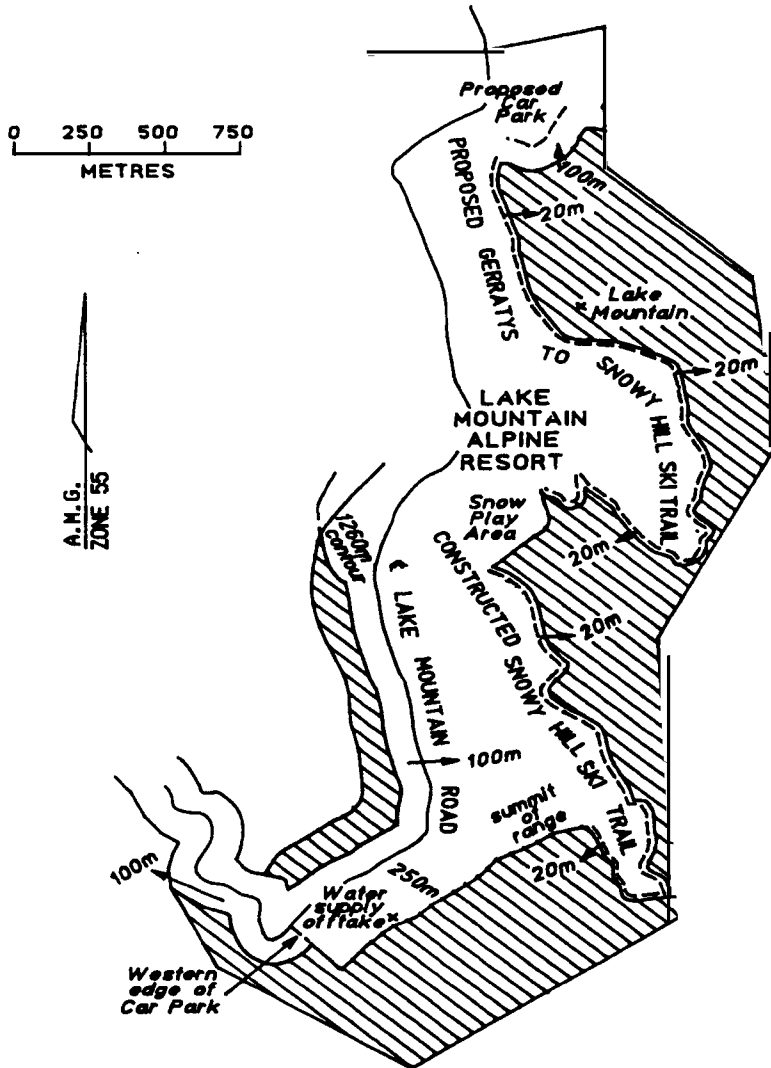
<i>Situation and area of land</i>	<i>Instrument and date of reservation</i>	<i>Description of land by reference to Government Gazette</i>	<i>Purpose of reservation</i>	<i>Extent of revocation</i>
County of Evelyn-O'Shannassy River Watershed Area 32 650 acres (13 213 hectares more or less)	Order in Council dated 13 January 1911	in Government Gazette dated 18 January 1911, page 186	Site for the purposes of supplying water to the inhabitants of the metropolis	The entire reserve

SCHEDULE 1—continued

PART D

Land excised from Lake Mountain Alpine Resort

OFFICE OF THE SURVEYOR GENERAL



Total area of hatched portions 205ha±

**SCHEDULE 2**

**New Parks**

***Amendment to Schedule Two B to the Principal Act***

In Schedule Two to the Principal Act, after Part 34 insert—

**“PART 35—MOUNT GRANYA STATE PARK**

All those pieces or parcels of land containing 6140 hectares, more or less, situate in the Parishes of Bungil, Bullioh and Talgarno, County of Benambra, being the land delineated and bordered red or bordered green in a plan lodged in the Central Plan Office of the Department of Finance and numbered N.P. 100.

**PART 36—ENFIELD STATE PARK**

All those pieces or parcels of land containing 4400 hectares, more or less, situate in the Parishes of Lynchfield, Enfield and Dereel, County of Grenville, being the land delineated and bordered red or bordered green excepting therefrom the roads shown as excluded and also excepting therefrom the Colac/Ballarat Road in a plan lodged in the Central Plan Office of the Department of Finance and numbered N.P. 98.”

**SCHEDULE 3**

**Altered Parks**

**PART A**

*Amendments to Schedule Two to the Principal Act*

In Schedule Two to the Principal Act—

- (a) in Part 2—
  - (i) for “7517 hectares” **substitute** “7718 hectares”; and
  - (ii) for “N.P. 1/5” **substitute** “N.P. 1/6”; and
- (b) in Part 4—
  - (i) for “**POINT NEPEAN NATIONAL PARK**” **substitute** “**MORNINGTON PENINSULA NATIONAL PARK**”; and
  - (ii) for “2680 hectares” **substitute** “2686 hectares”; and
  - (iii) **omit** “or coloured yellow”; and
  - (iv) for “N.P. 20A/8 and N.P. 20B/9” **substitute** “N.P. 20A/9 and N.P. 20B/10”; and
  - (iv) at the end of the Part **insert** “and including the South Channel Fort being that land described in Title Volume 6665 Folio 1332905 and an area of Crown land and waters of Port Phillip Bay extending 100 metres seaward from mean high watermark”; and
- (c) in Part 5—
  - (i) for “193 hectares” **substitute** “271 hectares”; and
  - (ii) for “N.P. 3” **substitute** “N.P. 3/1”; and
- (d) in Part 12—
  - (i) for “1365 ha” **substitute** “1370 ha”; and
  - (ii) for “or green” **substitute** “or coloured yellow”; and
  - (iii) for “N.P. 91” **substitute** “N.P. 91/1”; and
- (e) in Part 14, for “N.P. 10/2” **substitute** “N.P. 10/3”; and
- (f) in Part 17—
  - (i) **omit** “or bordered green”; and
  - (ii) for “N.P. 28” **substitute** “N.P. 28/1”; and
- (g) in Part 29—
  - (i) for “and Wat Wat” **substitute** “, Wat Wat and Woongulmerang East”; and
  - (ii) **omit** “or green,”; and
  - (iii) for “N.P. 31/3” **substitute** “N.P. 31/4”; and
- (h) in Part 31—
  - (i) for “127.5 square kilometres” **substitute** “129 square kilometres”; and
  - (ii) **omit** “or bordered green or coloured yellow”; and

SCHEDULE 3—*continued*

- (iii) for “N.P. 57A1” **substitute** “N.P. 57A2”; and
- (iv) **omit** the words beginning with “Notwithstanding the declaration of this land as a park” and ending with “September 1978”; and
- (i) in Part 34—
  - (i) for “1670 square kilometres” **substitute** “1672 square kilometres”; and
  - (ii) for “N.P. 61/1” **substitute** “N.P. 61/2”; and
- (j) in Part 37—
  - (i) for “5500 hectares more or less and 8900 hectares more or less and 980 hectares more or less and 6267 square kilometres” **substitute** “6422 square kilometres”; and
  - (ii) after “coloured red” **insert** “or yellow”; and
  - (iii) after “land coloured blue” **insert** “also excepting the Benambra-Black Mountain Road, the Alpine Road, the Dargo Road, the Omeo Highway and the Benambra-Corryong Road”; and
  - (iv) for N.P. 70/1a **substitute** “N.P. 70/2a”; and
  - (v) for “N.P. 70/1e” **substitute** “N.P. 70/2e” and
  - (iv) for “N.P. 70/1f” **substitute** “N.P. 70/2f”.

**PART B***Amendments to Schedule Two B to the Principal Act*

In Schedule Two B to the Principal Act—

- (a) in Part 1—
  - (i) for “21 000 hectares” **substitute** “21 340 hectares”; and
  - (ii) **omit** “or bordered green”; and
  - (iii) for “N.P. 79” **substitute** “N.P. 79/1”; and
- (b) in Part 12—
  - (i) for “10 576 hectares” **substitute** “10 616 hectares”; and
  - (ii) for “N.P. 33/1” **substitute** “N.P. 33/2”; and
- (c) in Part 17—
  - (i) for “141 km<sup>2</sup>” **substitute** “142.5 km<sup>2</sup>”; and
  - (ii) **omit** “or bordered green excepting therefrom the roads shown as excluded also excepting therefrom the land bordered in blue”; and
  - (iii) for “N.P. 89/1” **substitute** “N.P. 89/2”; and
- (d) in Part 18—
  - (i) for “65 hectares” **substitute** “73 hectares”; and
  - (ii) for “N.P. 34/1” **substitute** “N.P. 34/2”; and
- (e) in Part 20—
  - (i) for “5060 hectares” **substitute** “5061 hectares”; and



SCHEDULE 3—*continued*

- (ii) after “bordered red” **insert** “or coloured yellow”; and
- (iii) for “N.P. 81/1” **substitute** “and N.P. 81/2”; and
- (f) in Part 26—
  - (i) for “1670 hectares” **substitute** “1675 hectares”; and
  - (ii) for “bordered green” **substitute** “coloured yellow”; and
  - (iii) for “N.P. 96/1” **substitute** “N.P. 96/2”; and
- (g) in Part 30—
  - (i) for “6880 hectares” **substitute** “7600 hectares”; and
  - (ii) for “N.P. 26/4” **substitute** “N.P. 26/5”; and
- (h) in Part 32—
  - (i) for “375 hectares” **substitute** “575 hectares”; and
  - (ii) **omit** “or coloured yellow”; and
  - (iii) for “N.P. 37” **substitute** “N.P. 37/1”.

PART C

*Amendments to Schedule Three to the Principal Act*

In Schedule Three to the Principal Act—

- (a) in Part 2—
  - (i) for “4300 hectares” **substitute** “4320 hectares”; and
  - (ii) after “bordered red” **insert** “or green”; and
  - (iii) **omit** “or coloured yellow”; and
  - (iv) for “N.P. 42/2” **substitute** “N.P. 42/3”; and
- (b) in Part 4—
  - (i) for “GELLIBRAND HILL PARK” **substitute** “WOODLANDS HISTORIC PARK”; and
  - (ii) for “658 hectares” **substitute** “704 hectares”; and
  - (iii) for “and Will-will-rook” **substitute** “, Will-will-rook and Yuroke”; and
  - (iv) for “N.P. 75” **substitute** “N.P. 75/1”; and
- (c) in Part 9, for “N.P. 69/1” **substitute** “N.P. 69/2”; and
- (d) in Part 10—
  - (i) for “1151 hectares” **substitute** “1276 hectares”; and
  - (ii) for “N.P. 60/2” **substitute** “N.P. 60/3”; and
- (e) in Part 13—
  - (i) for “670 hectares” **substitute** “469 hectares”; and
  - (ii) for “N.P. 52/3” **substitute** “N.P. 52/4”.

**SCHEDULE 4****Revocation of Central Highlands Sanctuary**

<i>Situation and area of land</i>	<i>Instrument and date of reservation</i>	<i>Description of land by reference to Government Gazette</i>	<i>Purpose of proclamation</i>	<i>Extent of revocation</i>
Counties of Anglesea, Buln Buln and Evelyn 223 000 hectares more or less	Proclamation dated 21 March 1978	Government Gazette dated 22 March 1978, pages 668-89	Sanctuary for native game in the Central Highlands	The entire sanctuary