



New South Wales

# National Parks and Wildlife Regulation 2019

under the

National Parks and Wildlife Act 1974

[*The following enacting formula will be included if this Regulation is made:*]

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *National Parks and Wildlife Act 1974*.

Minister for Energy and Environment

## Explanatory note

The object of this Regulation is to remake, with minor modifications, the *National Parks and Wildlife Regulation 2009*, which is to be repealed on 1 September 2019 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision for or with respect to the following:

- (a) the regulation of the use of national parks and other areas (Part 2),
- (b) the preservation of public health in Kosciuszko National Park (Part 3),
- (c) the enforcement of obligations of Snowy Hydro Company (Part 4),
- (d) the management of Aboriginal land, objects and places and exemptions for Aboriginal people from prohibitions under the *National Parks and Wildlife Act 1974* (**the Act**) (Part 5),
- (e) advisory committees constituted under the Act (Part 6),
- (f) trustees of state conservation areas and regional parks (Part 7),
- (g) other matters of a minor, consequential or ancillary nature (Parts 1 and 8).

This Regulation is made under the Act, including sections 154 (the general regulation-making power), 155 (the general power to make regulations in relation to parks), 155A (the power to make certain regulations relating to the Kosciuszko National Park), 156 (the general regulation provisions) and sections referred to in this Regulation.

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## National Parks and Wildlife Regulation 2019

under the

National Parks and Wildlife Act 1974

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *National Parks and Wildlife Regulation 2019*.

#### 2 Commencement

This Regulation commences on 1 September 2019 and is required to be published on the NSW legislation website.

**Note.** This Regulation replaces the *National Parks and Wildlife Regulation 2009*, which is repealed on 1 September 2019 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation:

**aircraft** means any airborne craft, including a fixed wing craft, helicopter, gyrocopter, glider, hang glider, hot air balloon, airship or unmanned aircraft.

**assistance animal** means an animal referred to in section 9 (Carer, assistant, assistance animal and disability aid definitions) of the *Disability Discrimination Act 1992* of the Commonwealth.

**determining authority** has the same meaning as in Division 5.1 of Part 5 of the *Environmental Planning and Assessment Act 1979*.

**disability assistance aid** means a vehicle other than a motor car designed for use by a person with a disability and includes a motorised wheelchair.

**drive** includes ride or draw (in relation to a vehicle) and ride or lead (in relation to an animal).

**fossil** means any naturally preserved remains or evidence of past life (whether wholly or partially petrified) including bones, shells, impressions and trails.

**litter**, whether or not it has any value when or after being deposited in or on a place, includes:

- (a) any solid or liquid domestic or commercial refuse, debris or rubbish deposited in or on a place, and includes any glass, metal, cigarette butts, paper, fabric, wood, food, construction or demolition material, garden remnants and clippings, soil, sand or rocks, and
- (b) any other material, substance or thing deposited in or on a place if its size, shape, nature or volume makes the place where it is deposited disorderly or detrimentally affects the proper use of that place.

**moor** a vessel includes attach a vessel to a mooring by any means.

**mooring** means any post, stake, pile, float, pontoon or any other object (other than the anchor of a vessel) secured by any direct or indirect means to the waters' bed or placed on the waters' bed for the purpose of attaching a vessel to the bed.

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***national parks officer*** means a person employed in the Office of Environment and Heritage who is principally involved in the administration of the following Acts:

- (a) the Act,
- (b) *Biodiversity Conservation Act 2016*,
- (c) *Wilderness Act 1987*,
- (d) *Marine Estate Management Act 2014*.

***park***:

- (a) when used as a noun, means a national park, historic site, state conservation area, regional park, nature reserve, karst conservation reserve or Aboriginal area, or any land acquired by the Minister under Part 11 of the Act, and includes all roads and waters within the boundaries of any such park, site, area, reserve or land, and
- (b) when used as a verb, means to park a vehicle or to cause or allow a vehicle to park, stand or wait.

***park authority*** means the following:

- (a) in relation to a state conservation area for which a trust has the care, control and management of the area:
  - (i) when used in connection with the imposition or waiver of fees and charges—the Minister, or
  - (ii) when used in connection with other circumstances—the trust,
- (b) in relation to a regional park for which a trust or local council has the care, control and management of the park:
  - (i) when used in connection with the imposition or waiver of fees and charges—the Minister, or
  - (ii) when used in connection with other circumstances—the trust or local council,
- (c) in relation to a state conservation area or a regional park for which there is no trust or local council with the care, control and management of the park—the Chief Executive,
- (d) in relation to the Jenolan Caves Visitor Use and Services Zone for the relevant period (within the meaning of Part 6 of Schedule 3 to the Act)—the administrator appointed by the Minister under clause 58 of that Schedule,
- (e) in relation to a national park, historic site, nature reserve, karst conservation reserve (other than a karst conservation reserve to which paragraph (c) applies), Aboriginal area or any land acquired by the Minister under Part 11 of the Act—the Chief Executive,
- (f) in relation to each area of land reserved under Part 4A of the Act:
  - (i) until such time as a board of management is established, in accordance with Division 6 of Part 4A, for the area—the Chief Executive, and
  - (ii) on and from the establishment of the board of management—the board of management.

***park user*** means a person in a park or intending to enter a park.

***ski resort area*** has the same meaning as in Part 8A of Schedule 1 to the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*.

***smoke*** means smoke, hold or otherwise have control over, an ignited or heated smoking substance.

***smoking substance*** means any tobacco or other substance that is intended to be smoked.

**tag** includes a label, slip or other object for affixing or attaching to the skins or carcasses of fauna.

**the Act** means the *National Parks and Wildlife Act 1974*.

**trustees**, in relation to a state conservation area or regional park, means:

- (a) the trustees of the area or regional park appointed under the Act, or
- (b) a person appointed as administrator of the area or regional park under the Act, or
- (c) if there are no trustees and no administrator of the area or regional park, the Chief Executive.

**unmanned aircraft** means any unmanned airborne craft, including a drone or other remotely piloted airborne craft.

**vessel** includes a water craft of any description that is used or capable of being used as a means of transportation on water but does not include an aircraft that is capable of landing on water.

**waters** includes a stream, creek, river, estuary, dam, lake or reservoir.

#### 4 Examples of consent to activities on land

- (1) This clause prescribes some circumstances in which consent to the carrying out of activity on land may occur for the purposes of this Regulation.
- (2) A filming approval granted under the *Filming Approval Act 2004* to carry out a filming activity within the meaning of that Act on land reserved or dedicated under the Act is taken to constitute consent to the carrying out of that activity on land by the park authority for the land in accordance with the conditions of the approval.
- (3) Subject to subclause (4), a lease or licence granted under Parts 11 or 12 of the Act that authorises a person to carry out an activity in a park (whether granted by the park authority concerned or some other person) is taken to constitute consent to the carrying out of that activity on the land by the park authority for the park in accordance with the conditions of the lease or licence.
- (4) Subclause (3) does not apply to a lease or licence granted under Part 12 of the Act in relation to the following places:
  - (a) any state conservation area for which a trust is the park authority,
  - (b) any regional park for which a trust or local council is the park authority,
  - (c) the Jenolan Caves Visitor Use and Services Zone for the relevant period within the meaning of Part 6 of Schedule 3 to the Act (being the period during which the administrator appointed by the Minister under clause 58 of that Schedule is the trust authority),
  - (d) any area of land reserved under Part 4A of the Act for which a board of management is established in accordance with Division 6 of Part 4A.
- (5) However, if before the grant of the lease or licence under Part 12 of the Act in relation to the places referred to in subclause (4), the relevant park authority, administrator or board of management has concurred in the grant, the lease or licence is taken to constitute consent to the carrying out of that activity on the land by the park authority for the park in accordance with the conditions of the lease or licence.

#### 5 Exclusion from meaning of “harm” objects and places

An act carried out in accordance with the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* as published by the Department of Environment, Climate Change and Water in the Gazette on 24

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September 2010 is excluded from the definition of *harm* an object or place in section 5 (1) of the Act.



## Part 2 Regulation of use of parks

### Division 1 Regulation by notices or direction

#### 6 Regulation by public or written notices

- (1) A park authority may do any of the following by means of notices displayed in, or at the boundary of, the park or part of the park to which the notices relate or by means of written notices given to park users:
  - (a) designate points of entry to the park,
  - (b) close the park, or any part of the park, to the public,
  - (c) reserve the park, or any part of the park, for a particular use or for the use of particular persons or bodies or a particular sector of the public,
  - (d) impose fees and charges on persons (whether on foot or driving vehicles or animals) entering or using the park, any part of the park or any facilities in the park and on persons driving vehicles or animals who enter or use any public or other road traversing the park,
  - (e) regulate or prohibit the use of any facilities in the park or the carrying out of activities (including driving vehicles or animals or operating or mooring vessels) in the park,
  - (f) grant any consent that is required by this Regulation in relation to the use of the park,
  - (g) impose conditions, including conditions relating to the payment of fees or charges, on persons (whether on foot or driving vehicles or animals) entering or using the park, any part of the park or any facilities in the park,
  - (h) impose conditions relating to the payment of fees or charges by persons driving vehicles or animals who enter or use any public or other road traversing the park,
  - (i) prohibit the collection of deadfalls of timber in the park.
- (2) A person must not:
  - (a) enter any park or part of a park that is closed to the public in accordance with this clause, or
  - (b) remain, or leave a vehicle parked, in any park or part of a park after the time that it is closed to the public in accordance with this clause, or
  - (c) enter any park or part of a park that is reserved for the use of particular persons or bodies or for a particular sector of the public in accordance with this clause unless the person is a person, or belongs to a body or sector of the public, for whose use it is reserved, or
  - (d) use any park or part of a park for a use other than that for which it is reserved, or
  - (e) enter or use any park or part of a park or any public or other road traversing a park without paying any fee or charge that is imposed in that regard in accordance with this clause, or
  - (f) use any facilities in a park or carry out any activity (including driving a vehicle or animal) in a park in contravention of the terms of a notice under this clause, or
  - (g) enter or use any park, any part of a park, any facilities in a park or any public or other road traversing a park otherwise than in accordance with any conditions imposed in accordance with this clause, or

(h) collect deadfalls of timber in the park in contravention of the terms of a notice under this clause.

Maximum penalty: 30 penalty units.

- (3) A person does not commit an offence under this clause for anything done or omitted to be done with the consent of a park authority and in accordance with any conditions to which the consent is subject.
- (4) A park authority may waive payment by any person or class of persons of any fee or charge imposed under this clause.

## **7 Regulation by oral direction**

- (1) A park authority may issue an oral direction to a park user in relation to any of the following:
- (a) points of entry to the park to be used by the park user,
  - (b) the closing of the park, or any part of the park, to the park user,
  - (c) reserving the park, or any part of the park, for a particular use or for the use of particular persons or bodies or a particular sector of the public,
  - (d) the regulation or prohibition of the use of any facilities in the park or the carrying out of activities (including driving vehicles or animals) in the park,
  - (e) the granting of any consent that is required by this Regulation in relation to the use of the park,
  - (f) the imposition of conditions, including conditions relating to the payment of fees or charges, on the park user (whether on foot or driving vehicles or animals) entering or using the park, any part of the park or any facilities in the park,
  - (g) the regulation or prohibition of the collection of deadfalls of timber in the park.
- (2) A park user to whom such a direction is given must comply with the direction.  
Maximum penalty: 30 penalty units.

## **8 Removal of persons by direction**

- (1) A designated officer may direct a person to leave a park or any part of a park if, in the opinion of the designated officer, the person:
- (a) is trespassing, or
  - (b) is causing a nuisance or inconvenience to any other person in the park, or
  - (c) has committed an offence under the Act or this Regulation.
- (2) A person to whom such a direction is given must comply with the direction.  
Maximum penalty: 30 penalty units.
- (3) A designated officer may remove from a park, or any part of a park, any person who fails to comply with a direction under this clause and any vehicle, vessel, animal or other property in the possession of the person.
- (4) A person who has been given a direction under subclause (1), or who has been removed from a park under subclause (3), must not re-enter the park for a period of 24 hours after the direction was given or after the person was removed from the park, whichever is later.  
Maximum penalty: 30 penalty units.
- (5) A person does not commit an offence under subclause (4) for anything done or omitted to be done with the consent of a designated officer and in accordance with any conditions to which that consent is subject.

- (6) In this clause:  
**designated officer**, in relation to a park, means:
- (a) a national parks officer, or
  - (b) a person who is authorised by the park authority to exercise the powers conferred by this clause, or
  - (c) a police officer.

## **Division 2 Regulation of traffic**

### **9 Entry of vehicles to parks**

- (1) A person must not drive a vehicle into a park otherwise than on a road leading into or traversing the park.  
Maximum penalty: 30 penalty units.
- (2) A person does not commit an offence under this clause for anything done or omitted to be done with the consent of a park authority and in accordance with any conditions to which the consent is subject.

### **10 Use of vehicles, animals, vessels and machines in parks**

- (1) A person must not do any of the following in a park:
- (a) operate, drive or use any vehicle (other than a motor car, motor omnibus, motor truck, motor cycle, motor scooter, bicycle or other human powered wheeled vehicle, or disability assistance aid),
  - (b) operate, drive, use or have within the person's possession an oversnow vehicle,
  - (c) if a fee or charge is required to be paid to drive or park a vehicle in the park (or part of the park), drive or park a vehicle in the park (or that part of the park) that does not clearly display a valid receipt, ticket or pass to show that the fee or charge has been paid,
  - (d) drive or park a vehicle that is required by law to be registered if that vehicle:
    - (i) is not registered, or
    - (ii) is required to display a valid registration label but does not display that label, or
    - (iii) has no number-plate or registration plate, or
    - (iv) has its number-plate or registration plate covered or obscured, or
    - (v) has a false or incorrect number-plate or registration plate, or
    - (vi) has a number-plate or registration plate that has been changed or altered,
  - (e) drive a vehicle or animal, or tether an animal, otherwise than on a road, track, trail or way, or in an area, set aside for that purpose,
  - (f) drive a vehicle or animal in a dangerous or reckless manner,
  - (g) park a vehicle otherwise than in an area set aside for parking vehicles,
  - (h) park a vehicle in a parking area set aside for persons with disabilities unless the person's vehicle displays a valid mobility parking scheme authority and the person complies with the conditions of that authority,
  - (i) operate or use a vessel on any waters on which the operation or use of such a vessel is prohibited,
  - (j) operate or use a vessel in such a manner as to endanger the safety of other users of the park,

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Part 2 Regulation of use of parks

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- (k) operate or use a vessel in a commercial operation,
- (l) tie a vessel by any means to any vegetation,
- (m) moor a vessel otherwise than in an area set aside for the mooring of vessels,
- (n) operate or use any heavy or noisy machinery,
- (o) park a vehicle in a way so as to obstruct the use of a road, track or trail by any other vehicle, or endanger the safety of other park users, or damage or destroy any vegetation.

Maximum penalty: 30 penalty units.

- (2) A person must not drive or park a vehicle on a road, track, trail or way or in an area in a park if:
  - (a) a gate, barrier or similar device is positioned, or an obstruction has been created by any means, in such a way as to restrict or obstruct vehicular access to the road, track, trail, way or area, or
  - (b) vehicular access to a road, track, trail, way or area is restricted or obstructed in any other way.

Maximum penalty: 30 penalty units.

- (3) A designated officer may cause a vehicle to be towed or otherwise removed from a park or any part of a park if, in the opinion of the designated officer:
  - (a) the vehicle is parked in a dangerous manner or in a dangerous location, and
  - (b) it is not practicable to locate and issue the owner or driver of the vehicle with an oral direction under clause \*7.

- (4) A person must not drive a vehicle so as to cause damage to any road, track, trail, way or area in a park if vehicular access to the road, track, trail, way or area has been prohibited or restricted by the park authority in any way.

Maximum penalty: 30 penalty units.

- (5) A person must not:
  - (a) open any gate, barrier or similar device in a park, or
  - (b) remove, shift, damage or destroy any gate or barrier or similar device in a park, or any obstruction that has been positioned or created, by any means, so as to restrict or obstruct vehicular access to any road, track, trail, way or area in a park.

Maximum penalty: 30 penalty units.

- (6) A person does not:
  - (a) commit an offence under this clause for anything done or omitted to be done with the consent of a park authority and in accordance with any conditions to which the consent is subject, or
  - (b) commit an offence under subclause (1) (c), if the vehicle concerned displays an exemption card issued by the Chief Executive and produces proof of the person's identity on request by any designated officer, or
  - (c) commit an offence under subclause (1) (g), if no area has been set aside for parking or the area set aside for parking is full, and the person parks a vehicle on a road, track or trail in such a way as not to obstruct the use of the road, track or trail by other vehicles, or endanger the safety of other park users, or damage or destroy any vegetation.

- (7) In this clause:  
*designated officer*, in relation to a park, means:

- (a) a national parks officer, or
- (b) a person who is authorised by the park authority to exercise the powers conferred by this clause, or
- (c) a police officer.

**mobility parking scheme authority** has the same meaning as in the *Road Transport (General) Regulation 2013*.

**number-plate** means a number-plate issued:

- (a) under the *Road Transport Act 2013*, or
- (b) by a competent authority of another jurisdiction.

**registered** means:

- (a) registered in Australia within the meaning of the *Road Transport Act 2013*, or
- (b) registered in New South Wales under the *Interstate Road Transport Act 1985* of the Commonwealth.

**registration plate** means a registration plate issued:

- (a) under the *Recreation Vehicles Act 1983*, or
- (b) by a competent authority of another jurisdiction.

**vessel** includes a boat, surf board, boogie board, wind surfer, wave jumper, sail board, raft, kayak, canoe, dinghy or jet ski.

## Division 3 Regulation of conduct

### 11 Taking and keeping of animals

- (1) A person must not:
  - (a) take into or release an animal in a park or onto any public or other road traversing a park, or
  - (b) place or keep an animal in a park or on any public or other road traversing a park, or
  - (c) have charge, possession or control of an animal in a park or on any public or other road traversing a park, or
  - (d) fail to prevent an animal of which the person has charge, possession or control from entering a park or entering onto any public or other road traversing a park.

Maximum penalty: 30 penalty units.

- (2) A person does not commit an offence under this clause:
  - (a) if the animal is an assistance animal, or
  - (b) if a person takes an animal into a park or onto any public or other road traversing a park, in accordance with and subject to any conditions stated in a plan of management for a park, unless a notice erected in the park or given to the person prohibits the taking of animals into the park or any part of the park to which the plan relates, or
  - (c) for anything done or omitted to be done with the consent of a park authority and in accordance with any conditions to which the consent is subject.
- (3) This clause does not prevent a park authority for a regional park from prohibiting the matters referred to in subclause (1) by means of notices displayed in accordance with this Regulation.
- (4) In this clause:  
**park** does not include a regional park.

## 12 Camping and residing

- (1) A person must not camp in a park except in an area set aside for camping.  
Maximum penalty: 30 penalty units.
- (2) A person must not camp in a park:
  - (a) for a continuous period of more than 21 days, or
  - (b) if a different maximum number of days is set out in a notice erected in the park or given to the person—for more than the maximum number of days set out in the notice, or
  - (c) if a different maximum number of days is set out in a plan of management for the park but not in any notice erected in the park or given to the person—for more than the maximum number of days for camping in the park set out in the plan.Maximum penalty: 30 penalty units.
- (3) A person must not permanently reside in a park.  
Maximum penalty: 30 penalty units.
- (4) A person does not commit an offence under this clause:
  - (a) for anything done or omitted to be done with the consent of a park authority and in accordance with any conditions to which the consent is subject, or
  - (b) where a plan of management for a park makes provision for camping otherwise than by setting aside an area for camping—if the person camps in the park in accordance with the plan, or
  - (c) where there is no plan of management for the park—if the person camps in a non-designated camping area if that area is more than 1 kilometre from any designated camping area, car parking area or picnic area or from a road, track or trail designated for vehicular use by the public.
- (5) Despite subclause (4) (b) and (c), a person must not camp in a park (or a part of a park) if a notice erected in the park or given to the person prohibits camping in the park (or the part of the park).  
Maximum penalty: 30 penalty units.
- (6) In this clause:  
**camp** includes dwell or lodge temporarily (whether or not in a tent, caravan, cabin, vehicle, trailer or other structure) or use any part of a park for the purpose of camping.

## 13 Littering and damage

- (1) A person must not:
  - (a) deposit or leave any litter in a park except in an area or receptacle provided by the park authority for that purpose, or
  - (b) if no area or receptacle for litter is provided by the park authority—fail to remove from the park all litter taken into or created by the person in the park, or
  - (c) deposit or leave any waste in a park, or
  - (d) deposit, discharge or leave in a park any offal, filth, dung or dead animal or any noisome, noxious, offensive or polluting substance, matter or thing, or
  - (e) wilfully break any article of glass, china, pottery or plastic in a park, or
  - (f) write or paint or otherwise mark or affix any bill, notice or advertisement on or to, or deface by painting, carving, scratching or any other means, or damage,

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Part 2 Regulation of use of parks

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destroy, remove or interfere with, any fixture, improvement, rock, tree, equipment, water supply or Aboriginal object in a park, or

- (g) deposit, leave or abandon a vehicle or part of a vehicle in a park, or
- (h) carry or possess, interfere with, dig up, cut up, collect or remove for any purpose any soil, sand, gravel, fossil, clay, rock, ochre, mineral, timber (whether or not consisting of or including dead timber), gum resin, humus or other natural substance or object in a park, whether on land or on or under water, or
- (i) dam, divert or pollute the water in any waters or water tank in a park, or
- (j) carry, possess or use any spray cans of paint, or any boltcutters, oxy-acetylene equipment, angle grinder or other cutting equipment in a park, or
- (k) possess or have custody of any key or other similar device that is capable of opening any lock or other device securing a gate or barricade located in a park, or
- (l) discharge stormwater into a park.

Maximum penalty: 30 penalty units.

- (2) A person does not commit an offence under this clause:
  - (a) for anything done or omitted to be done with the consent of a park authority and in accordance with any conditions to which the consent is subject, or
  - (b) if the act or omission occurred in or in relation to a ski resort area in Kosciuszko National Park and was necessary for the carrying out of:
    - (i) development in accordance with a development consent (within the meaning of the *Environmental Planning and Assessment Act 1979*), or
    - (ii) an activity, whether by or pursuant to an approval of a determining authority, if the determining authority has complied with Part 5 of the *Environmental Planning and Assessment Act 1979*, or
    - (iii) a project approved under Part 3A of the *Environmental Planning and Assessment Act 1979*, or
    - (iv) State significant infrastructure approved under Division 5.2 of Part 5 of the *Environmental Planning and Assessment Act 1979*, or
  - (c) if the act or omission occurred in or in relation to a place in Kosciuszko National Park (other than a ski resort area) and was necessary for the carrying out of development in accordance with a development consent that is taken to have been granted to Snowy Hydro Limited under section 41 (4) of the *Snowy Hydro Corporatisation Act 1997*, or
  - (d) if the act or omission was authorised by or under Part 2 of the *Rural Fires Act 1997*, the *State Emergency and Rescue Management Act 1989* or the *State Emergency Service Act 1989* and was reasonably necessary in order to avoid a threat to life or property.
- (3) A person does not commit an offence under subclause (1) (h) if the substance or object referred to in that paragraph:
  - (a) was obtained by the person from a person authorised to sell such substances or objects or from an area outside a park, or
  - (b) is firewood:
    - (i) that has been provided at established visitor use areas in the park where the burning of fires is permitted, or
    - (ii) that comes from deadfalls of timber, if timber is not provided at established visitor use areas in the park.

- (4) Subclause (3) (b) (ii) does not permit a person to collect deadfalls of timber for firewood in contravention of a notice (as referred to in clause \*6) or an oral direction (as referred to in clause \*7).
- (5) A person does not commit an offence under subclause (1) (j) or (k) merely because the person carries or possesses any object referred to in that subclause on a road traversing a park if the person does not stop in the park.
- (6) For the purposes of subclause (1) (c), **waste** includes the following:
  - (a) rubbish and refuse,
  - (b) marine craft, aircraft and parts of them,
  - (c) household effects, appliances and materials,
  - (d) clothing,
  - (e) containers,
  - (f) agricultural, building, commercial and industrial materials,
  - (g) machinery, plant and equipment and parts of them,
  - (h) chemicals, minerals and metals,
  - (i) vegetable matter,
  - (j) stone, sand, shells, clay, earth and ash,
  - (k) radioactive material.
- (7) In this clause:  
**divert** includes extract water (whether by means of a pump or not) otherwise than pursuant to, and in accordance with the conditions of, a water licence issued under Division 3 of Part 2 of the *Water Act 1912* by a competent authority.

## 14 Protection of animals

- (1) A person must not in a park:
  - (a) carry, lay or set any trap, snare or poison, or drop from an aircraft or otherwise deposit any poison bait or poisonous chemical substance, or
  - (b) hunt, shoot, poison, net, spear, pursue, interfere with, injure, hurt, capture, destroy, trap or snare, or have in the person's possession, an animal, or
  - (c) take any animal's nest or egg, or interfere with any animal's nest or egg or habitation or resting place or any beehive, or
  - (d) feed any animal.Maximum penalty: 30 penalty units.
- (2) A person must not in a park or on any public or other road traversing a park:
  - (a) carry, possess or use a hunting collar (such as a spiked collar), a breast plate or tracking equipment for use on any dog, or
  - (b) have under the person's control any dog on which a hunting collar (such as a spiked collar), a breast plate or tracking equipment is carried.Maximum penalty: 30 penalty units.
- (3) A person does not commit an offence under this clause for anything done or omitted to be done with the consent of a park authority and in accordance with any conditions to which the consent is subject.
- (4) A person does not commit an offence under this clause in relation to trapping if that trapping is authorised under or by the *Fisheries Management Act 1994*.
- (5) In this clause, **interfere with** includes brand, chase, harass, herd, mark or tag.



## 15 Offensive conduct

- (1) A person must not in a park:
  - (a) behave in a disorderly manner, or
  - (b) use insulting or offensive language, or
  - (c) commit an act of indecency, or
  - (d) use, or be affected by, any prohibited drug (within the meaning of the *Drug Misuse and Trafficking Act 1985*), or
  - (e) drive, ride, operate or use any machinery, plant, vehicle, vessel or aircraft (including any model vehicle, vessel or aircraft) in a manner likely to interfere with or cause a nuisance to any person or animal, or
  - (f) operate or use any radio, television, cassette player, compact disc player or other sound-generating device in a manner likely to interfere with or cause a nuisance to any person or animal.

Maximum penalty: 30 penalty units.

- (2) A person must not ride or use a skate board, roller skates, bicycle, scooter or other means of conveyance (other than a disability assistance aid) on a track, trail or way, or in an area, set aside in a park for pedestrian traffic only.

Maximum penalty: 30 penalty units.

- (3) A person does not commit an offence under subclause (1) (e) or (f) or (2) for anything done or omitted to be done with the consent of a park authority and in accordance with any conditions to which the consent is subject.

## 16 Consuming alcohol in alcohol free areas

- (1) A person must not consume alcohol in a park, or in part of a park, in contravention of the terms of a notice erected in the park.

Maximum penalty: 0.2 penalty units.

- (2) A person does not commit an offence under this clause for anything done or omitted to be done with the consent of a park authority and in accordance with any conditions to which the consent is subject.

## 17 Lighting of fires

- (1) A person must not in a park:
  - (a) light, maintain or use a fire:
    - (i) if there are fireplaces designated for that purpose by a park authority—elsewhere than in such a fireplace, or
    - (ii) if there are no fireplaces designated for that purpose—elsewhere than in a temporary fireplace situated at least 4.5 metres from any log or stump and at least 1.5 metres from any other flammable material, or
    - (iii) in any case—in contravention of a notice erected or displayed or given to a park user by a park authority regulating the use of fire in the park, or
    - (iv) when a total fire ban has been imposed under the *Rural Fires Act 1997*, or
  - (b) leave unattended, whether temporarily or otherwise:
    - (i) any fire in a fireplace designated for that purpose by a park authority, or
    - (ii) any fire in any other place, or
  - (c) fail to call for help to control or extinguish a fire that the person has lit, maintained or used and that is beyond the person's power to control or extinguish, or

- (d) handle any flammable substance (such as petrol, matches or cigarettes) in a manner that is likely to cause a fire in the park.

Maximum penalty: 30 penalty units.

- (2) A person does not commit an offence under this clause for anything done or omitted to be done with the consent of a park authority and in accordance with any conditions to which the consent is subject.
- (3) A person does not commit an offence under subclause (1) (a) (iv) by doing anything authorised by or under the *Rural Fires Act 1997*.

## 18 Smoking

- (1) A person must not smoke in a park.  
Maximum penalty: 5 penalty units.
- (2) This clause does not apply to a cave in a park.  
**Note.** Clause \*27 (2) (e) creates an offence of smoking in a cave.
- (3) A person does not commit an offence under this clause:
  - (a) if a person smokes in an accommodation area, where smoking is not otherwise prohibited, or
  - (b) for anything done or omitted to be done with the consent of a park authority and in accordance with any conditions to which the consent is subject.

- (4) In this clause:

**accommodation area** means an area used for residential accommodation or accommodation for visitors and tourists (other than accommodation for visitors and tourists that is managed by, or on behalf of, the National Parks and Wildlife Service) on land the subject of a lease or licence granted under the Act.

## 19 Cultural heritage

- (1) A person must not deposit or leave any bone, shell, charcoal, stone or wood within an Aboriginal area or Aboriginal place.  
Maximum penalty: 30 penalty units.
- (2) A person must not within any Aboriginal area or Aboriginal place have in the person's possession:
  - (a) any chalk, paint or other colouring substance, matter or thing, or
  - (b) any sieve, spade, shovel, pitchfork, mattock, pick, bar, axe, chisel, hammer or similar implement.Maximum penalty: 30 penalty units.
- (3) A person must not in a park:
  - (a) use any metal detector or other apparatus for detecting any metal or metal object, or
  - (b) touch or interfere with or do anything that may cause or assist the mutilation or destruction of any Aboriginal object, or
  - (c) take any rubbing, latex peel or impression by whatever means of any Aboriginal object, or
  - (d) interfere with or remove or assist in the removal of any deposit, object or material evidence relating to the settlement or occupation of New South Wales or a part of New South Wales (not being Aboriginal settlement or occupation) if the deposit, object or material evidence is more than 25 years old at the date of the interference or removal, or

- (e) deposit or leave any Aboriginal object in a park.  
Maximum penalty: 30 penalty units.
- (4) A person does not commit an offence under this clause for anything done or omitted to be done with the consent of a park authority and in accordance with any conditions to which the consent is subject.
- (5) A person does not commit an offence under subclause (3) (d) if the interference or removal occurred in a ski resort area in Kosciuszko National Park and was necessary for the carrying out of:
  - (a) development in accordance with a development consent (within the meaning of the *Environmental Planning and Assessment Act 1979*), or
  - (b) an activity, whether by or pursuant to an approval of a determining authority, if the determining authority has complied with Part 5 of the *Environmental Planning and Assessment Act 1979*.
- (6) A person does not commit an offence under subclause (3) (d) if the interference or removal occurred in a place in Kosciuszko National Park (other than a ski resort area) and was necessary for the carrying out of development in accordance with a development consent that is taken to have been granted to Snowy Hydro Limited under section 41 (4) of the *Snowy Hydro Corporatisation Act 1997*.

## 20 Erection and occupation of structures

- (1) A person must not:
  - (a) erect, alter, extend or occupy any building in a park, or
  - (b) install, use or occupy a moveable dwelling in a park, or
  - (c) construct, operate or use any structure, installation, engineering work, plant, equipment, amusement device, fixture or improvement in a park, or
  - (d) erect a hoarding or notice, or exhibit any commercial or political advertising matter, sign, bill or poster, in a park.Maximum penalty: 30 penalty units.
- (2) A person does not commit an offence under this clause for anything done or omitted to be done:
  - (a) with the consent of a park authority and in accordance with any conditions to which the consent is subject, or
  - (b) if the act or omission occurred in or in relation to a ski resort area in Kosciuszko National Park and was necessary for the carrying out of:
    - (i) development in accordance with a development consent (within the meaning of the *Environmental Planning and Assessment Act 1979*), or
    - (ii) an activity, whether by or pursuant to an approval of a determining authority, if the determining authority has complied with Part 5 of the *Environmental Planning and Assessment Act 1979*, or
    - (iii) a project approved under Part 3A of the *Environmental Planning and Assessment Act 1979*, or
    - (iv) State significant infrastructure approved under Division 5.2 of Part 5 of the *Environmental Planning and Assessment Act 1979*, or
  - (c) if the act or omission occurred in or in relation to a place in Kosciuszko National Park (other than a ski resort area) and was necessary for the carrying out of development in accordance with a development consent that is taken to have been granted to Snowy Hydro Limited under section 41 (4) of the *Snowy Hydro Corporatisation Act 1997*.

- (3) A person does not commit an offence under subclause (1) (b) if the person camps in a manner that is not prohibited by clause \*12.
- (4) In this clause, **moveable dwelling** means any tent or any caravan or other van or other portable device (whether on wheels or not), used for human habitation.

## 21 Protection of vegetation

- (1) A person must not:
  - (a) gather, pluck, pull up, poison, take, dig up, cut, fell, remove, damage or destroy any vegetation in a park, or
  - (b) have any vegetation in the person's possession in a park, whether for removal or otherwise, or
  - (c) introduce any vegetation into a park.Maximum penalty: 30 penalty units.
- (2) A person does not commit an offence under this clause for anything done or omitted to be done:
  - (a) with the consent of a park authority and in accordance with any conditions to which the consent is subject, or
  - (b) if the act or omission occurred in or in relation to a ski resort area in Kosciuszko National Park and was necessary for the carrying out of:
    - (i) development in accordance with a development consent (within the meaning of the *Environmental Planning and Assessment Act 1979*), or
    - (ii) an activity, whether by or pursuant to an approval of a determining authority, if the determining authority has complied with Part 5 of the *Environmental Planning and Assessment Act 1979*, or
    - (iii) a project approved under Part 3A of the *Environmental Planning and Assessment Act 1979*, or
    - (iv) State significant infrastructure approved under Division 5.2 of Part 5 of the *Environmental Planning and Assessment Act 1979*, or
  - (c) if the act or omission occurred in or in relation to a place in Kosciuszko National Park (other than a ski resort area) and was necessary for the carrying out of development in accordance with a development consent that is taken to have been granted to Snowy Hydro Limited under section 41 (4) of the *Snowy Hydro Corporatisation Act 1997*, or
  - (d) if the act or omission was authorised by or under Part 2 of the *Rural Fires Act 1997*, the *State Emergency and Rescue Management Act 1989* or the *State Emergency Service Act 1989* and was reasonably necessary in order to avoid a threat to life or property.
- (3) A person does not commit an offence under subclause (1) (b) if the person has in the person's possession vegetation (including firewood) that was lawfully obtained from outside the park.
- (4) A person does not commit an offence under this clause by using firewood:
  - (a) that has been provided at established visitor use areas in the park where the burning of fires is permitted, or
  - (b) that comes from deadfalls of timber, if timber is not provided at established visitor use areas in the park.
- (5) Subclause (4) (b) does not permit a person to collect or use deadfalls of timber for firewood in contravention of a notice (as referred to in clause \*6) or an oral direction (as referred to in clause \*7).

- (6) In this clause:  
*vegetation* means the whole or part of any tree, shrub, fern, creeper, vine, palm, plant or seed, whether alive or dead.

## 22 Beehives

- (1) A person must not remove any beehive from, or place any beehive in, a park.  
Maximum penalty: 30 penalty units.
- (2) A person does not commit an offence under this clause for anything done or omitted to be done with the consent of a park authority and in accordance with any conditions to which the consent is subject.

## 23 Weapons

- (1) A person must not in a park:
- (a) carry or discharge or have in the person's possession any firearm, or imitation firearm, within the meaning of the *Firearms Act 1996* or prohibited weapon within the meaning of the *Weapons Prohibition Act 1998*, or
  - (b) carry or discharge or have in the person's possession any airgun, speargun or other lethal weapon, or
  - (c) carry or use or have in the person's possession any explosive, flare or firework, or
  - (d) carry or use or have in the person's possession any ammunition, or
  - (e) throw or propel by any means any object likely to cause damage or injury to any person, animal or thing, or
  - (f) without reasonable excuse, carry, use, possess or have custody of a knife.
- Maximum penalty: 30 penalty units.
- (2) A person does not commit an offence under this clause for anything done or omitted to be done with the consent of a park authority and in accordance with any conditions to which the consent is subject.
- (3) For the purposes of subclause (1) (a) and (d), a person does not commit an offence if the person is a police officer acting:
- (a) in the course of the person's duties or in accordance with any guidelines issued by the Commissioner of Police with respect to the possession of service firearms by off-duty police officers, and
  - (b) in accordance with the New South Wales Police Handbook.
- (4) For the purposes of subclause (1) (f), a person has a reasonable excuse to carry, use, possess or have custody of a knife if:
- (a) the possession or custody is reasonably necessary in all the circumstances for any of the following:
    - (i) the preparation or consumption of food or drink,
    - (ii) participation in a lawful entertainment, recreation or sport,
    - (iii) the wearing of an official uniform, or
  - (b) the possession or custody is reasonably necessary in the circumstances during travel to or from or incidental to an activity referred to in paragraph (a).
- (5) For the purposes of subclause (1) (f), it is not a reasonable excuse for a person to carry, use, possess or have custody of a knife solely for the purpose of self defence or the defence of another person.

- (6) A person does not commit an offence under subclause (1) (b) if the person carries or possesses an unloaded speargun in a park, unless a plan of management for a park or a notice erected in the park or given to the person prohibits the carrying or possession of a speargun (whether loaded or unloaded) in a park or any part of the park.
- (7) A person does not commit an offence under subclause (1) (c) if the flare is carried in a boat as a part of the boat's safety equipment as required by or under any other Act or when used as a distress signal.
- (8) In this clause, *unloaded speargun* means:
  - (a) an assembled rubber powered speargun that does not have the shaft engaged in the trigger mechanism and the rubbers stretched and engaged in the shaft, or
  - (b) in the case of a pneumatic, spring or gas powered speargun—one that does not have the spear shaft located within the barrel of the speargun, or
  - (c) a disassembled speargun.

## 24 Commercial activities

- (1) A person must not in a park:
  - (a) sell or hire, attempt to sell or hire, expose for sale or hire or solicit for sale or hire any article, thing or service to any person, or
  - (b) conduct, or assist in the conduct of, any amusement, entertainment, instruction, performance or activity for money or other consideration of any kind, or
  - (c) compete with or hinder the commercial operations of any person, business or corporate body possessing a lease, licence, occupancy or franchise from the Minister or the Chief Executive for a specific purpose or purposes, or
  - (d) take any photograph, video, movie or television film for sale, hire or profit.Maximum penalty: 30 penalty units.
- (2) A person does not commit an offence under this clause for anything done or omitted to be done with the consent of a park authority and in accordance with any conditions to which the consent is subject.

## 25 Sporting, recreational and other activities

- (1) A person must not in a park:
  - (a) conduct or take part in any sporting activity that forms part of an organised competition or tournament, or
  - (b) organise, attend or participate in any concert, public meeting, function, demonstration, group activity or gathering involving more than 40 persons or such other number of persons as is stated in a plan of management for the park, or stated in a notice erected in the park or given to a park user, whichever is the lesser, or
  - (c) organise, attend or engage in any manoeuvre (whether of a military, naval, aerial nature or otherwise), any course of training or any similar activity, or
  - (d) engage in any activity or recreational pursuit that involves risking the safety of the person or the safety of other persons or damaging the environment.Maximum penalty: 30 penalty units.
- (2) Without limiting the generality of subclause (1) (d), the activities and recreational pursuits to which that paragraph applies include abseiling, base jumping, bungee jumping, rock climbing, parachuting, canyoning, white water boating, paragliding, parasailing and hang gliding. However, the activities and recreational pursuits to which subclause (1) (d) applies do not include caving and cave diving.

- (3) A person does not commit an offence under this clause:
  - (a) for anything done or omitted to be done with the consent of a park authority and in accordance with any conditions to which the consent is subject, or
  - (b) if a plan of management for a park makes provision for the undertaking of an activity in the park, the person undertakes the activity in the park in accordance with the plan of management.
- (4) Despite subclause (3) (b), a person must not undertake an activity in a park if a notice erected in the park or given to the person prohibits the undertaking of the activity.  
Maximum penalty: 30 penalty units.

## 26 Research activities

- (1) A person must not carry out any kind of research in a park.  
Maximum penalty: 30 penalty units.
- (2) A person does not commit an offence under this clause for anything done or omitted to be done with the consent of a park authority and in accordance with any conditions to which the consent is subject.

## 27 Caves

- (1) A person must not enter or remain in a karst cave in a park.  
Maximum penalty: 30 penalty units.
- (2) A person must not in a park:
  - (a) exhibit a number or other identifying mark in or near a cave in a manner that suggests that the number or mark has been allocated to identify the cave, or
  - (b) carry out any excavation, or use any explosive, in or in the vicinity of a cave, or
  - (c) use any string or other thing for the purpose of laying a track in a cave, or
  - (d) interfere with in a cave or remove from a cave:
    - (i) any rocks, soil, sand, stone or other similar substances, or
    - (ii) any flora or fauna, or
    - (iii) any equipment (other than equipment carried into the cave by the person), or
    - (iv) any guano, bones or fossil, or
  - (e) smoke in a cave, or
  - (f) light a fire in a cave, or
  - (g) leave any equipment in a cave whether or not the person intends to return to the cave, or
  - (h) leave the person's urine or faeces in a cave, or
  - (i) damage any speleothems in a cave, or
  - (j) vandalise any cave, or
  - (k) interfere with, dig in or disturb a cave or remove from a cave any Aboriginal objects, or
  - (l) obstruct, erect a fence or gate in, fill or alter the entrance or passage of a cave, or
  - (m) have in his or her possession in a cave any sieve, spade, shovel, fork, mattock, pick, bar, axe, chisel, hammer or similar implement, or
  - (n) in a cave, use any fuel stove, combustion engine, flare, carbide lamp, candle or welding equipment.

Maximum penalty: 30 penalty units.

- (3) A person does not commit an offence under this clause:
- (a) for anything done or omitted to be done with the consent of a park authority and in accordance with any conditions to which the consent is subject, or
  - (b) if a plan of management for a park makes provision for the undertaking of an activity in the park, the person undertakes the activity in the park in accordance with the plan of management.
- (4) Despite subclause (3) (b), a person must not undertake an activity in a park if a notice erected in the park or given to the person prohibits the undertaking of the activity.
- (5) A person does not commit an offence under subclause (2) (c) if the person lays a track as a temporary safety or conservation measure and either:
- (a) removes the track when the person leaves the cave, or
  - (b) within 7 days of leaving the cave, orally or in writing notifies the park authority of the laying of the track.
- (6) A park authority notified by a person under subclause (5) (b) of the laying of a track may orally or in writing direct the person to remove the track within a period specified in the direction.
- (7) A person must comply with a direction given under subclause (6) within the period specified in the direction.

Maximum penalty: 30 penalty units.

- (8) In this clause:
- cave** means any naturally occurring void, cavity, recess or system of interconnected passages, that is:
- (a) beneath the surface of the earth or within a cliff or ledge, and
  - (b) large enough to permit a person to enter, whether or not the entrance is naturally formed or human made, and
  - (c) wholly or substantially roofed.

**karst cave** means a cave that has developed in soluble rock (typically limestone dolomite, marble and gypsum) through the processes of solution, abrasion or collapse.

## 28 Interference with park management

A person must not:

- (a) destroy, damage or remove any thing that is being used or intended to be used by the park authority for the suppression or destruction of any animals in a park, or
- (b) interfere with any thing that is being used or intended to be used by the park authority for the suppression or destruction of any animals in a park in a manner that is likely to impair its effectiveness, or
- (c) remove, relocate, damage, destroy or obscure by any means any sign or notice that has been erected or displayed in a park by a park authority or that has been erected or displayed in a park with the consent of the park authority, or
- (d) interfere with or obstruct any action taken by a park authority for the purpose of the care, control and management of the park, or
- (e) attempt to do any of the things referred to in paragraphs (a)–(d).

Maximum penalty: 30 penalty units.



## 29 Use of snow chains in Kosciuszko National Park

- (1) A person travelling by motor vehicle on any designated snow/ice risk road within Kosciuszko National Park at any time on or after 1 June and before 11 October in any year must carry snow chains suitable for use on the tyres of the motor vehicle.  
Maximum penalty: 30 penalty units.
- (2) A person travelling by motor vehicle within Kosciuszko National Park on or after 1 June and before 11 October in any year must use snow chains on the tyres of the motor vehicle when directed to do so by a designated officer or by a notice erected in the park or given to the park user.  
Maximum penalty: 30 penalty units.
- (3) In this clause:  
*designated officer*, in relation to a park, means:
  - (a) a national parks officer, or
  - (b) a person who is authorised by the park authority to exercise the powers conferred by this clause, or
  - (c) a police officer.*designated snow/ice risk road* means a road on which there is a sign, erected by or on behalf of the Chief Executive, requiring snow chains to be carried on the road.  
*motor vehicle* does not include a four-wheel drive vehicle.

## Division 4 Mooring vessels within Ku-ring-gai Chase National Park

### 30 Definitions

In this Division:

*Cowan Water* includes all tributaries of Cowan Water within the boundaries of the Ku-ring-gai Chase National Park.

*licence* means a licence issued by the Minister or Chief Executive to permit occupation for the purpose of placing a mooring.

*public mooring* means a mooring set up by the Chief Executive.

*set up* a mooring includes erect, construct or lay down a mooring.

*vessel* means any boat, yacht, cruiser, houseboat, barge or other floating craft used for the conveyance of persons or things that has been, or is required to be, registered by the relevant authority, but does not include a raft, kayak, canoe, dinghy or other small floatation device.

### 31 Setting up of moorings

- (1) The Chief Executive may grant licences for marinas and moorings in Cowan Water, subject to any terms and conditions that may be imposed by the Chief Executive.
- (2) The Chief Executive may revoke, or vary the terms of, any such licence.
- (3) Except as authorised by a licence, a person must not set up a marina or mooring in Cowan Water.  
Maximum penalty: 30 penalty units.
- (4) The Chief Executive may direct a person who has set up or used an unlicensed marina or mooring to remove the marina or mooring.
- (5) Such a direction may be given to the person to whom it is addressed personally or by leaving it on, or attaching it to, the marina or mooring.
- (6) A person to whom such a direction is given must not fail to comply with the direction.

Maximum penalty: 30 penalty units.

- (7) The Chief Executive may remove from Cowan Water:
  - (a) any unlicensed mooring or marina, or
  - (b) any mooring or marina that has been abandoned or has become submerged, come adrift or fallen into a state of disrepair, or
  - (c) any part of a mooring or marina that has become separated from the mooring or marina or that constitutes, in the opinion of the Chief Executive, a danger, hazard, impediment or menace to the use of Cowan Water.
- (8) The Chief Executive may, in any court of competent jurisdiction, recover the cost and expenses:
  - (a) incurred as a result of a removal authorised by subclause (7) (a)—from the person who set up the unlicensed mooring or marina, or
  - (b) incurred as a result of a removal authorised by subclause (7) (b) or (c)—from the current licensee or (if the licence is no longer in force) the previous licensee.
- (9) This clause does not apply to a public mooring.
- (10) For the purposes of this clause, a marina or mooring is unlicensed if:
  - (a) no licence has been issued in relation to it, or
  - (b) a licence has been issued in relation to it subject to terms and conditions that have not been met.

## **32 Mooring of vessels**

- (1) A person must not moor a vessel on any part of Cowan Water otherwise than:
  - (a) at a public mooring, or
  - (b) at a mooring in respect of which the person:
    - (i) is the licensee, or
    - (ii) is the hirer from the licensee of the mooring to which the licence relates, or
    - (iii) has the consent of the licensee or hirer to use the mooring.

Maximum penalty: 30 penalty units.

- (2) A person must not moor a vessel at a public mooring in Cowan Water for more than 24 hours at any one time.

Maximum penalty: 30 penalty units.

- (3) A person must not moor at any mooring (not being a mooring forming part of a marina) in Cowan Water:
  - (a) more than one vessel (whether or not secured directly to the mooring or to another vessel secured to the mooring), or
  - (b) any vessel in contravention of the terms and conditions of the licence in respect of the mooring.

Maximum penalty: 30 penalty units.

- (4) The holder of a licence in respect of a marina must not moor at a mooring forming part of the marina in Cowan Water:
  - (a) more than one vessel (whether or not secured directly to the mooring or to another vessel secured to the mooring), or
  - (b) any vessel in contravention of the terms and conditions of the licence in respect of the marina.

Maximum penalty: 30 penalty units.

- (5) A designated officer may direct a person to remove a vessel from a mooring if the vessel is moored in contravention of this clause.

- (6) A person must not, without reasonable excuse, fail to comply with a direction given under subclause (5).

Maximum penalty: 30 penalty units.

- (7) In this clause:

*designated officer* means:

- (a) a national parks officer, or
- (b) a person who is authorised by the park authority for Ku-ring-gai Chase National Park to exercise the powers conferred by this clause, or
- (c) a police officer.

### **33 Misrepresentation of authority to moor vessel**

A person must not falsely represent (by the display of numbers or names, the production of documents or otherwise) that the person is authorised to moor a vessel, or to permit other persons to moor vessels, in Cowan Water.

Maximum penalty: 30 penalty units.

## **Division 5 Miscellaneous**

### **34 Consent of park authority**

The consent of a park authority under this Part may be given:

- (a) generally or in a particular case, and
- (b) unconditionally or subject to conditions, and
- (c) by means of a written statement, a notice referred to in clause \*6, or in the form of a permit, licence, approval or other form of authorisation.

### **35 Exercise of park authority's functions**

Any function that is conferred on a park authority by this Part may be exercised by the authority or by any person authorised by the authority to exercise that function.

### **36 Defences**

A person does not commit an offence under this Part for anything done or omitted to be done:

- (a) by a member of staff of a park authority in the exercise of the staff member's employment, or
- (b) under the oral or written direction of a park authority.

### **37 Second and subsequent offences**

- (1) A person who commits (or is, by virtue of section 159 of the Act, guilty of) a second or subsequent offence under this Part is liable to be excluded from a park by the park authority for any period of time determined by the park authority.

- (2) For the purpose of this clause, a person is taken to have committed (or to be guilty of) an offence under this Part if:

- (a) a court convicts the person of the offence, or

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- (b) a court makes an order under section 10 of the *Crimes (Sentencing Procedure) Act 1999* or section 33 (1) (a) of the *Children (Criminal Proceedings) Act 1987* in respect of the person in relation to the offence, or
  - (c) a penalty notice has been issued in respect of an offence and the penalty notice amount has been paid.
- (3) A person who has been excluded from a park under this clause must not re-enter the park before the period of exclusion ends.  
Maximum penalty: 30 penalty units.
- (4) This clause does not apply to an offence under clause \*51.

## Part 3 Public health in Kosciuszko National Park

### 38 Definitions

In this Part:

*premises* means premises in the park.

*the park* means the Kosciuszko National Park.

### 39 Object of Part

- (1) The object of this Part is to confer or impose on the Chief Executive, under section 155A of the Act, certain functions relating to the health of the public in the park.
- (2) The functions concerned are, in accordance with section 155A of the Act, the same (but for being modified by this Part) as certain functions conferred or imposed on a council constituted by the *Local Government Act 1993* in relation to the health of the public in its area.

### 40 Orders requiring the preservation of healthy conditions in the park

- (1) The Chief Executive may, if any premises, vehicle or article in the park used for the manufacture, preparation, storage, sale or transportation of food to the public are not in a clean or sanitary condition, order the occupier of the premises, or the owner or operator of the vehicle or article, to put the premises, vehicle or article into a clean or sanitary condition.
- (2) The Chief Executive may, if premises are not in a safe or healthy condition, order the occupier of the premises to do or refrain from doing all things that are specified in the order to ensure that the premises are placed or kept in a safe or healthy condition.
- (3) The Chief Executive may, if waste (other than waste that is dealt with under the *Waste Avoidance and Resource Recovery Act 2001*) is present or generated on premises and it is not being satisfactorily dealt with, order the occupier of the premises, or the person responsible for the waste or for any receptacle or container in which the waste is contained, to store, treat, process, collect, remove, dispose of or destroy the waste in the manner specified in the order.
- (4) The Chief Executive may, if premises are not connected to any available water supply or sewerage system, order the occupier of the premises to connect the premises to an available water supply and sewerage system by a date specified in the order.
- (5) The Chief Executive may, if in the opinion of the Chief Executive it is necessary for the purpose of protecting the health of the public in the park, order the occupier of premises not to use or permit the use of a human waste storage facility on the premises after a date specified in the order.
- (6) A person to whom an order under this clause is given must not fail to comply with the order.  
Maximum penalty: 30 penalty units.

### 41 Orders requiring the doing of things to or on premises

- (1) The Chief Executive may, if it is necessary or expedient to do so in the interests of public health, order the occupier of premises to repair or make structural alterations to the premises (including the renewal or repair of a roof) or to erect a fence between the land on which the premises are located and an adjoining place that is open to the public.
- (2) A person to whom an order under this clause is given must not fail to comply with the order.

Maximum penalty: 30 penalty units.

#### **42 Orders relating to premises used for shared accommodation**

- (1) The Chief Executive may, if premises used for shared accommodation do not comply with the standards set out in Part 1 of Schedule 2 to the *Local Government (General) Regulation 2005*, order the occupier of the premises to take the action that is necessary to bring the premises into compliance with those standards.
- (2) A person to whom an order under this clause is given must not fail to comply with the order.

Maximum penalty: 30 penalty units.

#### **43 Orders requiring that premises not be used in specified ways**

- (1) The Chief Executive may, if an activity conducted on premises constitutes or is likely to constitute a threat to the health of the public in the park, order the person apparently engaged in promoting, conducting or carrying out the activity not to conduct, or to cease conducting, the activity.
- (2) A person to whom an order under this clause is given must not fail to comply with the order.

Maximum penalty: 30 penalty units.

- (3) If the person fails to comply with the order, the Chief Executive may:
  - (a) order the person to cease the use of the premises or to evacuate the premises, and
  - (b) order any other person or persons to leave the premises or not to enter the premises.

#### **44 Procedures to be observed before giving orders and provisions relating to orders generally**

- (1) Sections 129, 130, 132–137, 139–141, 143–148, 152 and 153 (1) of the *Local Government Act 1993* apply in relation to orders given by the Chief Executive under clauses \*40–43 in the same way as they apply to orders given by a council constituted under that Act.
- (2) Accordingly, references in those sections to a council are, for the purposes of this clause, to be read as references to the Chief Executive.

#### **45 Provision of services relating to the health of the public in the park**

- (1) The Chief Executive may provide public health services and facilities, and carry out activities relating to public health, appropriate to the needs of the public in the park.
- (2) In particular, the Chief Executive may provide for, or enter into arrangements for, the collection, removal and treatment of garbage, rubbish, refuse or other forms of waste from premises in the park.
- (3) The Chief Executive may, in the interests of the health of the public in the park and in whatever manner the Chief Executive thinks fit:
  - (a) maintain and regulate depots in the park for the disposal and destruction of garbage, rubbish, refuse or other forms of waste, and
  - (b) control and regulate the depositing on land in the park of any material likely to give rise to a condition that will endanger public health.
- (4) The Chief Executive may give directions to ensure that any requirement imposed by the Chief Executive in connection with the Chief Executive's functions under this clause is complied with.

## **46 Power of entry and inspection**

- (1) The Chief Executive may, in exercising the Chief Executive's functions under this Part, exercise the same functions as a council may exercise under Part 2 of Chapter 8 of the *Local Government Act 1993* for the purpose of enabling the council to exercise its functions relating to public health under that Act.
- (2) Accordingly, references in that Part to a council are, for the purposes of this clause, to be read as references to the Chief Executive, and the reference in section 199 (2) (f) of that Act to the general manager is to be read as a reference to the Chief Executive.

## **47 Functions relating to Public Health Act 2010**

The Chief Executive may exercise the following functions in relation to the park:

- (a) the functions of a local government authority under Part 9 of the *Public Health Act 2010* to appoint a member of staff of the Office of Environment and Heritage to exercise the functions of an authorised officer under:
  - (i) Divisions 2, 3, 4 and 5 of Part 3 of that Act, and
  - (ii) Part 8 of that Act, and
  - (iii) Parts 2, 3, 4 and 9 and Schedules 1 and 4 to the *Public Health Regulation 2012*, and
- (b) the functions of a local government authority under Part 3 of the *Public Health Act 2010*.

## Part 4 Enforcement of obligations of Snowy Hydro Company

### 48 Definitions

In this Part:

**Snowy Management Plan** means a plan of management under the Act for Kosciuszko National Park that deals with the activities of the Company within that Park in accordance with section 38 of the *Snowy Hydro Corporatisation Act 1997*.

**Snowy park lease** means the Snowy park lease within the meaning of section 37 of the *Snowy Hydro Corporatisation Act 1997* (and includes any Snowy 2.0 lease within the meaning of section 37A of that Act).

**the Company** means:

- (a) subject to paragraph (b), Snowy Hydro Limited (ACN 090 574 431), or
- (b) if the Snowy park lease is transferred to another body—that other body.

### 49 Company to comply with Snowy Management Plan

- (1) The Company is required to comply with the obligations imposed on the Company under the Snowy Management Plan.
- (2) For the purposes of this Part, the obligations of the Company under the Snowy Management Plan include the obligations imposed on the Company by any environment management plan prepared under the Snowy Management Plan and approved by the Chief Executive.

### 50 Notice to comply with Snowy Management Plan

- (1) If the Company fails to comply with any of its obligations under the Snowy Management Plan, the Chief Executive may, by written notice served on the Company, direct the Company to comply with its obligations.
- (2) A notice under this clause must set out the obligations of the Company that have not been complied with, and may also do any of the following:
  - (a) specify a time within which the obligations are to be complied with,
  - (b) require the Company to take the action specified in the notice in order to comply with the obligations,
  - (c) require the Company to cease the action specified in the notice that has resulted in the Company not complying with its obligations,
  - (d) if the failure of the Company to comply with its obligations has caused damage to the Kosciuszko National Park—require the Company to take the actions specified in the notice to remedy the damage.
- (3) The Chief Executive is required to consult the Environment Protection Authority before serving a notice under this clause in respect of a scheduled activity within the meaning of the *Protection of the Environment Operations Act 1997*, unless the Chief Executive is of the opinion that the notice is required to be served as a matter of urgency.
- (4) A notice under this clause may be amended or revoked by a subsequent notice served on the Company.

### 51 Failure to comply with notice

The Company is guilty of an offence if it fails, without reasonable excuse, to comply with a notice under clause \*50.

Maximum penalty: 50 penalty units and 2 penalty units for each day the offence continues.



**52 Chief Executive may carry out works**

- (1) If the Company fails to comply with a requirement of a notice under clause \*50 to carry out works, the Chief Executive may carry out those works.
- (2) The Chief Executive may recover from the Company as a debt in a court of competent jurisdiction the reasonable costs of carrying out those works if the Company failed, without reasonable excuse, to carry out those works in accordance with the notice.

## Part 5 Aboriginal land, objects and places and exemptions for Aboriginal people

### Division 1 Plans of management for Aboriginal land

#### 53 Application of Division

This Division only applies to development by the Aboriginal Land Council, the Local Aboriginal Land Council, the Aboriginal owners or the board of management for the land concerned.

#### 54 Permitted use of Mutawintji land for certain community development purposes

For the purposes of section 72AA (6) (c) of the Act, in respect of Mutawintji Historic Site, Mutawintji National Park and Mutawintji Nature Reserve, development for the purpose of the following facilities that are for the use (but not necessarily the exclusive use) of Aboriginal owners is prescribed:

- (a) residential housing facilities (whether for permanent or temporary accommodation),
- (b) camping facilities,
- (c) meeting facilities,
- (d) administration facilities,
- (e) tourism facilities,
- (f) recreation facilities,
- (g) cultural facilities,
- (h) cemeteries,
- (i) facilities for the following services:
  - (i) utilities (energy, water and waste management),
  - (ii) health services,
  - (iii) telecommunications,
  - (iv) roads, tracks and airstrips,
- (j) ancillary facilities.

#### 55 Permitted use of other land for certain community development purposes

- (1) For the purposes of section 72AA (6) (c) of the Act, in respect of any land reserved under Part 4A of the Act (other than land referred to in clause \*54), development for the purpose of the following activities or facilities is prescribed:
  - (a) recreation activities or facilities,
  - (b) cultural activities or facilities,
  - (c) general park activities or facilities,
  - (d) other activities or facilities that are consistent with any relevant lease under Part 4A of the Act and will improve the capacity of the following persons to participate in the management of the land concerned:
    - (i) the Aboriginal owners of the land,
    - (ii) traditional owners of the land,
    - (iii) members of the Local Aboriginal Land Council for the land.
- (2) In this clause:

**traditional owners**, in relation to land, means those persons who have an association with the cultural area within which the land is situated that derives from the

traditions, observances, customs, beliefs or history of the original Aboriginal inhabitants of the cultural area.

## **Division 2 Aboriginal objects and places**

### **56 Transfer of Aboriginal objects**

For the purposes of section 85A (1) (c) of the Act, the following are prescribed:

- (a) an Aboriginal person,
- (b) an organisation representing Aboriginal people.

### **57 Compliance with codes of practice and other prescribed documents to constitute defence of due diligence to the offence of harming Aboriginal objects**

For the purposes of section 87 (3) of the Act, compliance with any of the following codes of practice and documents (when undertaking an activity to which the code or document applies) is taken for the purposes of section 87 (2) of the Act to constitute due diligence in determining whether the act or omission constituting the alleged offence would harm an Aboriginal object:

- (a) the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* published by the Department of Environment, Climate Change and Water and dated 13 September 2010,
- (b) the *Plantations and Reafforestation Code* (being the Appendix to the *Plantations and Reafforestation (Code) Regulation 2001*),
- (c) private native forestry codes of practice made under Division 2 of Part 5B of the *Local Land Services Act 2013*,
- (d) the *NSW Minerals Industry Due Diligence Code of Practice for the Protection of Aboriginal Objects* published by NSW Minerals Council Ltd and dated 13 September 2010,
- (e) the *Aboriginal Objects Due Diligence Code for Plantation Officers Administering the Plantations and Reafforestation (Code) Regulation 2001* published by the Department of Industry and Investment and dated 13 September 2010,
- (f) the *Operational Guidelines for Aboriginal Cultural Heritage Management* published by Forests NSW and dated 13 September 2010.

### **58 Defence of low impact acts or omissions to the offence of harming Aboriginal objects**

- (1) It is a defence to a prosecution for an offence under section 86 (2) of the Act, if the defendant establishes that the act or omission concerned:
  - (a) was maintenance work of the following kind on land that has been disturbed:
    - (i) maintenance of existing roads, fire and other trails and tracks,
    - (ii) maintenance of existing utilities and other similar services (such as above or below ground electrical infrastructure, water or sewerage pipelines), or
  - (b) was farming and land management work of the following kind on land that has been disturbed:
    - (i) cropping and leaving paddocks fallow,
    - (ii) the construction of water storage works (such as farm dams or water tanks),
    - (iii) the construction of fences,

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- (iv) the construction of irrigation infrastructure, ground water bores or flood mitigation works,
      - (v) the construction of erosion control or soil conservation works (such as contour banks), or
    - (c) was farming and land management work that involved the maintenance of the following existing infrastructure:
      - (i) grain, fibre or fertiliser storage areas,
      - (ii) water storage works (such as farm dams or water tanks),
      - (iii) irrigation infrastructure, ground water bores or flood mitigation works,
      - (iv) fences,
      - (v) erosion control or soil conservation works (such as contour banks), or
    - (d) was the grazing of animals, or
    - (e) was an activity on land that has been disturbed that comprises exempt development or was the subject of a complying development certificate issued under the *Environmental Planning and Assessment Act 1979*, or
    - (f) was mining exploration work of the following kind on land that has been disturbed:
      - (i) costeaning,
      - (ii) bulk sampling,
      - (iii) drilling, or
    - (g) was work of the following kind:
      - (i) geological mapping,
      - (ii) surface geophysical surveys (including gravity surveys, radiometric surveys, magnetic surveys and electrical surveys), but not including seismic surveys,
      - (iii) sub-surface geophysical surveys that involve downhole logging,
      - (iv) sampling and coring using hand-held equipment, except where carried out as part of an archaeological investigation, or
- Note.** Clause \*5 of this Regulation provides that an act carried out in accordance with the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* is excluded from the meaning of **harm** an object or place in the Act.
- (h) was the removal of isolated, dead or dying vegetation, but only if there is minimal disturbance to the surrounding ground surface, or
    - (i) was work of the following kind on land that has been disturbed:
      - (i) seismic surveying,
      - (ii) the construction and maintenance of groundwater monitoring bores, or
    - (j) was environmental rehabilitation work, including temporary silt fencing, tree planting, bush regeneration and weed removal, but not including erosion control or soil conservation works (such as contour banks).
- (2) Subclause (1) does not apply in relation to harm to an Aboriginal culturally modified tree.
  - (3) In this clause, **Aboriginal culturally modified tree** means a tree that, before or concurrent with (or both) the occupation of the area in which the tree is located by a person who is not an Aboriginal person, has been scarred, carved or modified by an Aboriginal person by:
    - (a) the deliberate removal, by traditional methods, of bark or wood from the tree, or
    - (b) the deliberate modification, by traditional methods, of the wood of the tree.

- (4) For the purposes of this clause, land is *disturbed* if it has been the subject of a human activity that has changed the land's surface, being changes that remain clear and observable.

**Note.** Examples of activities that may have disturbed land include the following:

- (a) soil ploughing,
- (b) construction of rural infrastructure (such as dams and fences),
- (c) construction of roads, trails and tracks (including fire trails and tracks and walking tracks),
- (d) clearing of vegetation,
- (e) construction of buildings and the erection of other structures,
- (f) construction or installation of utilities and other similar services (such as above or below ground electrical infrastructure, water or sewerage pipelines, stormwater drainage and other similar infrastructure),
- (g) substantial grazing involving the construction of rural infrastructure,
- (h) construction of earthworks associated with any thing referred to in paragraphs (a)–(g).

## 59 Notification of sites of Aboriginal objects

For the purposes of section 89A of the Act, the prescribed manner of notifying the Chief Executive of the location of an Aboriginal object is by means of a written notice in a form approved by the Chief Executive.

## 60 Aboriginal heritage impact permit—requirement for consultation process

### (1) General obligation to consult

Before making an application for the issue of an Aboriginal heritage impact permit, the proposed applicant must carry out an Aboriginal community consultation process in accordance with this clause.

### (2) Notification of Aboriginal persons—where no relevant determination of native title

The proposed applicant must (except in circumstances referred to in subclause (3)):

- (a) ascertain from the following bodies or persons the names of any Aboriginal persons who may hold knowledge relevant to any relevant Aboriginal objects or Aboriginal places:
  - (i) the Department,
  - (ii) the relevant Local Aboriginal Land Council,
  - (iii) the Registrar appointed under the *Aboriginal Land Rights Act 1983*,
  - (iv) the relevant local council,
  - (v) the National Native Title Tribunal,
  - (vi) NTSCORP Limited (ACN 098 971 209),
  - (vii) Local Land Services, and
- (b) give the Aboriginal persons whose names were ascertained under paragraph (a) notice of the proposed activity that may be the subject of the application, and
- (c) cause notice of the proposed activity to be published in a local newspaper circulating generally in the area of the land on or in which the proposed activity is to be carried out.

### (3) Notification of Aboriginal persons—where relevant native title determined to exist

If an approved determination of native title that native title exists in relation to the land on or in which the proposed activity that may be the subject of such an application is to be carried out, the proposed applicant must give notice of that proposed activity to:

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- (a) the registered native title body corporate for that land, or
- (b) if no such body corporate exists, the native title holders of that land.

(4) **Contents of notice**

A notice referred to in subclause (2) (b) and (c) and (3) must contain the following:

- (a) the name and contact details of the proposed applicant,
- (b) a brief overview of the proposed activity that may be the subject of an application for an Aboriginal heritage impact permit, including the location of the proposed activity,
- (c) an invitation to Aboriginal people who hold knowledge relevant to determining the cultural heritage significance of Aboriginal objects and Aboriginal places in the area in which the proposed activity is to occur to register an interest in a process of community consultation with the proposed applicant regarding the proposed activity,
- (d) a statement that the purpose of community consultation with Aboriginal people is to assist the proposed applicant in the preparation of an application for an Aboriginal heritage impact permit and to assist the Chief Executive in the Chief Executive's consideration and determination of the application,
- (e) a closing date for the registration of such interests (being a date that is at least 14 days after the date the notice was given or published).

(5) **Registering interested Aboriginal parties and providing them with information**

The proposed applicant must, within 28 days after the closing date for the registration of interests:

- (a) make a record of the names of each Aboriginal person who registered such an interest (*registered Aboriginal party*), and
- (b) forward a copy of that record to the Office of Environment and Heritage and the relevant Local Aboriginal Land Council, and
- (c) provide each registered Aboriginal party with detailed information regarding the activity that may be the subject of the proposed application.

(6) **Consultation on proposed methodology of cultural heritage assessment report**

The proposed applicant must:

- (a) provide the registered Aboriginal parties with a proposed methodology to be used in the preparation of the cultural heritage assessment report to be submitted with the application (as referred to in clause \*61), and
- (b) give those parties a reasonable opportunity (being at least 28 days after the date of providing the proposed methodology) to make submissions (whether written or oral) on the proposed methodology.

(7) **Proposed applicant to seek certain information**

The proposed applicant must, during the consultation on the proposed methodology of the cultural heritage assessment report referred to in subclause (6), seek the following information from the registered Aboriginal parties in relation to the area of land to which the proposed application relates:

- (a) whether there are any Aboriginal objects of cultural value to Aboriginal people in the area,
- (b) whether there are any places of cultural value to Aboriginal people in the area (whether they are Aboriginal places declared under section 84 of the Act or not).

(8) **Consultation on draft cultural heritage assessment report**

After giving each registered Aboriginal party the opportunity to make submissions to be used in the preparation of the proposed methodology of the cultural heritage assessment report (as referred to in subclause (6) (b)), the proposed applicant must:

- (a) provide a copy of a draft of the cultural heritage assessment report to the registered Aboriginal parties, and
- (b) give those parties a reasonable opportunity (being at least 28 days after the date of providing the draft report) to make submissions (whether written or oral) on the draft report.

(9) An application for an Aboriginal heritage impact permit is not invalid merely because the applicant for the permit failed to comply with any one or more of the requirements set out in this clause.

**Note.** Under section 90K (1) (g) of the Act, the Chief Executive, in making a decision in relation to an Aboriginal heritage impact permit, must consider whether any consultation by the applicant with Aboriginal people regarding the Aboriginal objects or Aboriginal place that are the subject of the permit substantially complied with any requirements for consultation set out in the regulations.

(10) **Modified or alternative Aboriginal community consultation process**

Despite subclause (1), if an agreement of the following kind specifies or identifies a modified or alternative Aboriginal community consultation process for the purposes of Part 6 of the Act, the proposed applicant is to carry out an Aboriginal community consultation process in accordance with that modified or alternative consultation process:

- (a) a registered Indigenous Land Use Agreement under the *Native Title Act 1993* of the Commonwealth entered into between an Aboriginal community and the State,
- (b) a lease entered into under Part 4A of the Act,
- (c) an agreement entered into by the Chief Executive and a board of management for land reserved under Part 4A of the Act that has the consent of the Aboriginal owner board members for the land concerned,
- (d) an agreement entered into between an Aboriginal community and the Department.

(11) In this clause:

***approved determination of native title*** has the same meaning as in the *Native Title Act 1993* of the Commonwealth.

***native title holder*** has the same meaning as in the *Native Title Act 1993* of the Commonwealth.

***registered native title body corporate*** has the same meaning as in the *Native Title Act 1993* of the Commonwealth.

**61 Aboriginal heritage impact permit—requirement for cultural heritage assessment report**

- (1) For the purposes of section 90A (2) (b) of the Act, an application for the issue of an Aboriginal heritage impact permit must be accompanied by a cultural heritage assessment report.
- (2) A cultural heritage assessment report is to deal with the following matters:
  - (a) the significance of the Aboriginal objects or Aboriginal places that are the subject of the application,
  - (b) the actual or likely harm to those Aboriginal objects or Aboriginal places from the proposed activity that is the subject of the application,

- (c) any practical measures that may be taken to protect and conserve those Aboriginal objects or Aboriginal places,
  - (d) any practical measures that may be taken to avoid or mitigate any actual or likely harm to those Aboriginal objects or Aboriginal places.
- (3) A cultural heritage assessment report must include:
- (a) if any submission has been received from a registered Aboriginal party under clause \*60 (including any submission on the proposed methodology to be used in the preparation of the report and any submission on the draft report), a copy of the submission, and
  - (b) the applicant's response to each such submission.
- (4) An applicant for the issue of an Aboriginal heritage impact permit must, within 14 days of making the application, send a copy of the application (including any cultural heritage assessment report submitted with the application) to the following:
- (a) any registered Aboriginal party (within the meaning of clause \*60) in relation to the application,
  - (b) the relevant Local Aboriginal Land Council.

**62 Variation of an Aboriginal heritage impact permit—requirement for consultation process**

If an application to vary an Aboriginal heritage impact permit is made and the proposed variation will authorise a significant increase in harm to the Aboriginal objects or Aboriginal places concerned, the Chief Executive is to require the applicant to carry out:

- (a) if a modified or alternative consultation process (as referred to in clause \*60 (10)) applies in relation to the Aboriginal objects or Aboriginal places concerned—an Aboriginal community consultation process in accordance with that modified or alternative consultation process, or
- (b) a community consultation process that the Chief Executive considers appropriate in the circumstances.

## **Division 3 Exemptions for Aboriginal people**

**63 Application of Division**

This Division applies to and in respect of any dependants (whether Aboriginal or not) of Aboriginal people in the same way as it applies to and in respect of Aboriginal people.

**64 Aboriginal people exempt from prohibition on harming fauna**

- (1) Aboriginal people are exempted from section 70 (1) of the Act to the extent to which the provision would prohibit Aboriginal people from hunting fauna for their own domestic purposes.
- (2) The exemption does not apply to raptors, parrots or threatened species and ecological communities within the meaning of the *Biodiversity Conservation Act 2016*.

**65 Aboriginal people exempt from prohibition on picking or having native plants**

Aboriginal people are exempted from section 71 (1) of the Act to the extent to which those provisions would prohibit Aboriginal people from gathering or harvesting the fruit, flowers or other parts of a native plant for their own domestic purposes.



## Part 6 Advisory committees

### 66 Meetings to be held

- (1) An advisory committee constituted under section 24 of the Act must:
  - (a) hold its first meeting within 3 months of its constitution, and
  - (b) hold meetings at least once every 3 months, and
  - (c) hold an annual general meeting before the end of June each year.
- (2) A meeting (including an annual general meeting) must be held when and where convened by the chairperson or, in the chairperson's absence, by the deputy chairperson.

### 67 Appointment of officers at annual general meeting

- (1) At each annual general meeting, the members must appoint a chairperson, deputy chairperson and secretary.
- (2) The chairperson and deputy chairperson are to be elected from among the members.
- (3) The secretary may be:
  - (a) elected from among the members, or
  - (b) with the concurrence of the Chief Executive, a person who is not a member appointed by the members.
- (4) Except as otherwise provided by the Act or this Part, a person elected or appointed as a chairperson, deputy chairperson or secretary:
  - (a) holds office until a successor is elected or appointed, and
  - (b) is eligible for re-election or re-appointment at the next annual general meeting.
- (5) An elected chairperson, deputy chairperson, or secretary who is a member, ceases to hold office as such if he or she ceases to be a member.
- (6) A vacancy in any office must be filled at the next meeting after the vacancy occurs.

### 68 Presiding member

- (1) The chairperson, or in the chairperson's absence the deputy chairperson, is to preside at the meetings of an advisory committee, but if both are absent, the members are to elect a person from among the members to preside as chairperson.
- (2) The presiding member has a deliberative vote on any matter before the meeting and, in the case of an equality of votes, a casting vote.

### 69 Administrative matters

- (1) The secretary must circulate to each member an agenda and associated business papers at least 7 days before any meeting of the advisory committee.
- (2) The secretary (or a member on the secretary's behalf) must keep minutes of each meeting and must supply the members with a copy of the minutes of the meeting not later than one calendar month after the date of the meeting.
- (3) The secretary of an advisory committee is responsible for the care of all business papers and correspondence.
- (4) The secretary must forward to the Chief Executive not later than 30 June of each financial year, the particulars of the dates of, and of members attending, each meeting during that year.

## Part 7 Trustees

### 70 Meetings to be held

- (1) The trustees appointed to trust boards for state conservation areas and regional parks under the Act must hold an annual general meeting before the end of May each year.
- (2) The trustees must also meet at least 10 times a year at intervals not exceeding 2 months or such number of times and at such intervals as the Minister determines.
- (3) A meeting must be held when and where convened by the chairperson or, in the chairperson's absence, by the deputy chairperson.

### 71 Special meetings

- (1) Any 2 trustees may, by notice in writing, request the chairperson to call a special meeting for a purpose specified in the notice.
- (2) On receiving such a request, the chairperson must call a special meeting to be held within 28 days after the chairperson receives the request.

### 72 Appointment of officers

- (1) At each annual general meeting, the trustees must appoint a chairperson, deputy chairperson, secretary, treasurer and auditor.
- (2) The chairperson and deputy chairperson are to be elected from among the trustees.
- (3) The secretary, treasurer and auditor may be elected from among the trustees or may be persons who are not trustees appointed by the trustees.
- (4) Except as otherwise provided by the Act or this Part, a person elected or appointed as chairperson, deputy chairperson, secretary, treasurer or auditor:
  - (a) holds office until a successor is elected or appointed, and
  - (b) is eligible for re-election or re-appointment at the next annual general meeting.
- (5) A vacancy in any office must be filled at the next meeting after the vacancy occurs.

### 73 Presiding member

- (1) The chairperson, or in the chairperson's absence the deputy chairperson, is to preside at meetings of the trustees, but if both are absent, the trustees are to elect a person from among their number to preside.
- (2) The person presiding at a meeting of the trustees has a deliberative vote and, in the case of an equality of votes, a casting vote.

### 74 Conduct of meetings

- (1) Meetings of the trustees must be conducted, as far as is practicable, in accordance with the procedures set out in Part 10 of the *Local Government (General) Regulation 2005*.
- (2) A resolution that has been passed by the trustees must not be altered or rescinded except by a motion to that effect of which at least 7 days' written notice has been given to each trustee.

### 75 Committees

- (1) The trustees may appoint one or more committees to carry out any work or perform any duties that the trustees may determine.
- (2) A committee may consist of trustees, of persons who are not trustees or of both trustees and persons who are not trustees.

## **76 Common seal**

The common seal of the trustees:

- (a) may be affixed to an instrument or a document only following a resolution to do so passed at a meeting of the trustees, and
- (b) must be affixed in the presence of a trustee and either the secretary or treasurer, each of whom must attest the fact of the affixing of the common seal by signing the instrument or document.

## **77 Administrative matters**

- (1) The chairperson must circulate to each trustee an agenda and associated business papers at least 10 days before any meeting of the trustees.
- (2) Subclause (1) does not apply to a special meeting if the chairperson believes that the meeting should be held as soon as possible and it is impracticable to circulate an agenda and associated business papers before the start of the meeting, in which case the chairperson may give notice of the meeting and of the agenda for the meeting in the manner that the chairperson considers appropriate.
- (3) The secretary must keep minutes of each meeting and is responsible to the trustees for the keeping of proper financial records in collaboration with the treasurer.
- (4) If no chairperson has been appointed or there is a vacancy in the office of chairperson, the Chief Executive may perform the functions of the chairperson under this Part.

## **78 Financial matters**

- (1) All money received by the trustees must be paid into the National Parks and Wildlife Fund referred to in section 137 of the Act except money allocated to the trustees by the Minister for wages, for associated ancillary costs or for other specific purposes.
- (2) Money allocated to the trustees by the Minister under this clause must be paid into an authorised deposit-taking institution in New South Wales to the credit of an account in the name of the state conservation area or regional park for which the trustees are appointed.
- (3) Interest earned on money standing to the credit of such an account must be expended only for the purposes for which the money was allocated by the Minister under this clause.
- (4) No reallocation of money or variation of staff establishments on which an allocation under this clause is based may be made without the approval of the Minister.
- (5) Each item of expenditure must be authorised, or the payment of such an item of expenditure must be confirmed, at a duly constituted meeting of the trustees through tabling and approval of a treasurer's report relating to that item of expenditure.
- (6) Cheques drawn on a trustees' account kept under this clause must be signed by:
  - (a) two trustees, or
  - (b) one trustee, and the secretary or treasurer to the trustees, or
  - (c) one trustee, and the manager, assistant manager or deputy manager of the state conservation area or regional park for which the trustees are appointed.
- (7) The trustees' financial year ends on 30 June each year.

## Part 8 Miscellaneous

### 79 Ex-officio rangers

For the purposes of section 19 (1) of the Act, an ex-officio ranger (whether a police officer, a fisheries officer within the meaning of the *Fisheries Management Act 1994* or an authorised officer within the meaning of the *Forestry Act 2012*) has the powers, authorities, duties and functions conferred or imposed on officers of the National Parks and Wildlife Service by or under sections 157 (1) and (2) and 158 of the Act.

### 80 Exemption—persons accompanied by assistance dogs in nature reserves

A person who is accompanied by a dog that is an assistance animal is exempted from section 56 (1) (e) of the Act.

### 81 Notice of preparation of plans of management

For the purposes of section 73A of the Act, notice of the preparation of a plan of management is to be given in the form of an advertisement published in the Gazette.

### 82 Terms of interim protection orders

- (1) For the purposes of section 91B (3) of the Act, an interim protection order may contain terms of either or both of the following kinds:
  - (a) terms that prohibit the owner or occupier of land subject to the order from doing any one or more of the things listed in subclause (2) or from causing or permitting them to be done,
  - (b) terms that allow the owner or occupier to do any one or more of those things (or to cause or permit them to be done) only with the consent of the Minister or only subject to other conditions.
- (2) The things that may be prohibited or regulated by an interim protection order are:
  - (a) the total or partial demolition, damaging, defacing, destruction, pulling down or removal of any building, structure or work on the land, and
  - (b) the damaging or despoiling of the land or any part of it, and
  - (c) the carrying on of any activity on the land that would constitute the carrying out of development (within the meaning of Division 12 of Part 4 of the Act) if the land were within a conservation area, whether or not it is within such an area, and
  - (d) the exhibition of any notice or advertisement on the land, and
  - (e) the damaging or destruction of any tree or other vegetation on, or the removal of any tree or other vegetation from, the land, and
  - (f) the carrying on (whether or not within a park) of any activity that may affect the preservation, protection or maintenance of the land or any threatened species, population or ecological community, or its habitat (within the meaning of the *Biodiversity Conservation Act 2016*), or any fauna, plant, Aboriginal object or place on or within the land.

### 83 Applications for permits, licences or registration certificates

- (1) An application for the issue of an Aboriginal heritage impact permit, a licence or a registration certificate under the Act must be made in a form approved by the Chief Executive.
- (2) If an application form requires a fee or charge to accompany it, that fee or charge must be lodged with the application.

- (3) A person must not, in connection with an application for the issue of an Aboriginal heritage impact permit, a licence or a registration certificate under the Act, make any statement or provide any information or other material that the person knows, or ought reasonably to know, is false or misleading.

Maximum penalty: 30 penalty units.

#### **84 Terms of licences or registration certificates**

A licence or registration certificate issued under the Act is in force (unless cancelled):

- (a) until midnight on 31 December following the date of issue, or
- (b) if an expiry date is specified in the licence or certificate—until midnight on that date.

#### **85 Interest on overdue money**

The rate of interest prescribed for the purposes of section 144A (2) (a) of the Act is the rate for the time being prescribed under section 101 of the *Civil Procedure Act 2005* for payment of interest on a judgment debt.

#### **86 Evidence of authority**

- (1) For the purposes of sections 164 and 165 of the Act, the prescribed evidence of a person's authority is:
- (a) a written instrument of authority signed by the Chief Executive that identifies the person so authorised (unless the person has been provided with an identification card as referred to in paragraph (b)), or
  - (b) the identification card provided to the person in respect of the person's appointment as an authorised officer under section 189 of the *Protection of the Environment Operations Act 1997* (as applying under section 156B of the Act).
- (2) For the purposes of section 164 (1) (a) (iii) of the Act, the prescribed form of receipt is a receipt in Form 1 of Schedule \*2 or in any other form that may be approved by the Chief Executive.

#### **87 Disposal of property seized or delivered up**

- (1) For the purposes of section 168 (1) (c) of the Act, the court making the conviction is the prescribed court.
- (2) For the purposes of section 168 (2) of the Act, if the proceedings referred to in section 168 (2) (b):
- (a) have not been commenced within 2 years after the seizure or delivering up of the property—the Local Court is the prescribed court, or
  - (b) have been dismissed—the court dismissing the proceedings is the prescribed court,

#### **88 Savings**

Any act, matter or thing that, immediately before the repeal of the *National Parks and Wildlife Regulation 2009*, had effect under that Regulation, is taken to have effect under this Regulation.

## Schedule 1 Penalty notice offences

For the purposes of section 192 of the Act:

- (a) each offence specified in this Schedule is an offence for which a penalty notice may be issued, and
- (b) the amount payable under any such penalty notice is the amount specified in this Schedule for the offence.

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Penalty for individuals (and corporations where no penalty in Column 3)</b>	<b>Penalty for corporations</b>
<b>Offences under the Act</b>		
Section 45	\$500	
Section 56 (1) (a)	\$500	
Section 56 (1) (b)	\$500	
Section 56 (1) (c)	\$500	
Section 56 (1) (d)	\$500	
Section 56 (1) (e)	\$300	
Section 57 (1)	\$300	
Section 57 (2)	\$500	
Section 58Q (1) (a)	\$500	
Section 58Q (1) (b)	\$500	
Section 58Q (1) (c)	\$500	
Section 58Q (1) (d)	\$500	
Section 58Q (1) (e)	\$200	
Section 58R (1)	\$300	
Section 58R (2)	\$300	
Section 70 (1)	\$500	
Section 70 (2) (a)	\$500	
Section 70 (2) (b)	\$500	
Section 70 (2) (c)	\$300	
Section 71 (1)	\$300	
Section 86 (2)	\$1500	
Section 86 (4)	\$3300	
Section 89A	\$300	
Section 90J	\$1500	
Section 91Q (1) (a)	\$1650	\$3300
Section 157 (3)	\$500	

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National Parks and Wildlife Regulation 2019 [NSW]  
Schedule 1 Penalty notice offences

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Penalty for individuals (and corporations where no penalty in Column 3)</b>	<b>Penalty for corporations</b>
Section 158 (2)	\$500	
<b>Offences under this Regulation</b>		
Clause 6 (2) (a)	\$300	
Clause 6 (2) (b)	\$100	
Clause 6 (2) (c)	\$200	
Clause 6 (2) (d)	\$300	
Clause 6 (2) (e)	\$300	
Clause 6 (2) (f)	\$300	
Clause 6 (2) (g)	\$300	
Clause 6 (2) (h)	\$300	
Clause 7 (2)	\$300	
Clause 8 (2)	\$500	
Clause 8 (4)	\$300	
Clause 9 (1)	\$300	
Clause 10 (1) (a)	\$300	
Clause 10 (1) (b)	\$300	
Clause 10 (1) (c)	\$100	
Clause 10 (1) (d) (i)	\$486	
Clause 10 (1) (d) (ii)	\$81	
Clause 10 (1) (d) (iii)–(vi)	\$300	
Clause 10 (1) (e)	\$300	
Clause 10 (1) (f)	\$400	
Clause 10 (1) (g)	\$80	
Clause 10 (1) (h)	\$405	
Clause 10 (1) (i)	\$300	
Clause 10 (1) (j)	\$200	
Clause 10 (1) (k)	\$300	
Clause 10 (1) (l)	\$300	
Clause 10 (1) (m)	\$300	
Clause 10 (1) (n)	\$300	
Clause 10 (1) (o)	\$152	
Clause 10 (2)	\$300	
Clause 10 (4)	\$300	

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National Parks and Wildlife Regulation 2019 [NSW]  
Schedule 1 Penalty notice offences

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Penalty for individuals (and corporations where no penalty in Column 3)</b>	<b>Penalty for corporations</b>
Clause 10 (5) (a)	\$300	
Clause 10 (5) (b)	\$500	
Clause 11 (1)	\$300	
Clause 12 (1)	\$300	
Clause 12 (2)	\$300	
Clause 12 (3)	\$500	
Clause 12 (5)	\$300	
Clause 13 (1) (a)	\$300	
Clause 13 (1) (b)	\$300	
Clause 13 (1) (c)	\$300	
Clause 13 (1) (d)	\$500	
Clause 13 (1) (e)	\$500	
Clause 13 (1) (f)	\$300	
Clause 13 (1) (g)	\$300	
Clause 13 (1) (h)	\$500	
Clause 13 (1) (i)	\$500	
Clause 13 (1) (j)	\$500	
Clause 13 (1) (k)	\$500	
Clause 13 (1) (l)	\$500	
Clause 14	\$500	
Clause 15 (1) (a) and (c)–(f)	\$300	
Clause 15 (1) (b)	\$100	
Clause 15 (2)	\$300	
Clause 16 (1)	\$22	
Clause 17 (1) (a)	\$300	
Clause 17 (1) (b) (i)	\$100	
Clause 17 (1) (b) (ii)	\$500	
Clause 17 (1) (c)	\$500	
Clause 17 (1) (d)	\$300	
Clause 18 (1)	\$300	
Clause 19 (1)	\$300	
Clause 19 (2)	\$500	
Clause 19 (3) (a)	\$500	



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National Parks and Wildlife Regulation 2019 [NSW]  
Schedule 1 Penalty notice offences

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Penalty for individuals (and corporations where no penalty in Column 3)</b>	<b>Penalty for corporations</b>
Clause 19 (3) (b)	\$500	
Clause 19 (3) (c)	\$300	
Clause 19 (3) (d)	\$500	
Clause 19 (3) (e)	\$300	
Clause 20 (1) (a)	\$500	
Clause 20 (1) (b)	\$500	
Clause 20 (1) (c)	\$500	
Clause 20 (1) (d)	\$300	
Clause 21 (1) (a)	\$300	
Clause 21 (1) (b)	\$300	
Clause 21 (1) (c)	\$300	
Clause 22 (1)	\$300	
Clause 23	\$500	
Clause 24 (1) (a)	\$200	
Clause 24 (1) (b)–(d)	\$500	
Clause 25 (1) (a)	\$300	
Clause 25 (1) (b)	\$300	
Clause 25 (1) (c)	\$300	
Clause 25 (1) (d)	\$500	
Clause 25 (4)	\$300	
Clause 26 (1)	\$300	
Clause 27 (1)	\$300	
Clause 27 (2) (a)	\$300	
Clause 27 (2) (b)	\$500	
Clause 27 (2) (c)	\$200	
Clause 27 (2) (d) (i)	\$500	
Clause 27 (2) (d) (ii)	\$300	
Clause 27 (2) (d) (iii)	\$200	
Clause 27 (2) (d) (iv)	\$500	
Clause 27 (2) (e)	\$200	
Clause 27 (2) (f)	\$300	
Clause 27 (2) (g)	\$300	
Clause 27 (2) (h)	\$500	

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National Parks and Wildlife Regulation 2019 [NSW]  
Schedule 1 Penalty notice offences

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Penalty for individuals (and corporations where no penalty in Column 3)</b>	<b>Penalty for corporations</b>
Clause 27 (2) (i)	\$300	
Clause 27 (2) (j)	\$300	
Clause 27 (2) (k)	\$500	
Clause 27 (2) (l)	\$500	
Clause 27 (2) (m)	\$300	
Clause 27 (2) (n)	\$300	
Clause 27 (7)	\$200	
Clause 28 (a)–(c)	\$500	
Clause 28 (e), to the extent to which it refers to paragraphs (a)–(c), only	\$500	
Clause 29	\$300	
Clause 31 (3)	\$300	
Clause 31 (6)	\$500	
Clause 32	\$300	
Clause 33	\$200	
Clause 37 (3)	\$500	
Clause 40 (6)	\$500	
Clause 41 (2)	\$500	
Clause 42 (2)	\$500	
Clause 43 (2)	\$500	
Clause 51	\$500	

## Schedule 2 Form

(Clause \*86)

### Form 1 Seizure Receipt

(National Parks and Wildlife Act 1974)

No *(receipt number)*

I, *(name of authorised officer)* acknowledge receipt of the following:

*(list numbers and descriptions of items seized)*

seized by me from *(name of owner/person)* of *(address)*

at *(location and time and date items seized)*

under the *National Parks and Wildlife Act 1974*.

*(signature)*

Owner/Person present

*(signature)*

Authorised officer