

National Parks Amendment (Point Nepean) Bill 2009

Introduction Print

EXPLANATORY MEMORANDUM

Clause Notes

In the following explanations, a reference to a section, Schedule, or clause or Part of a Schedule is to the **National Parks Act 1975**.

- Clause 1 sets out the purposes of the National Parks Amendment (Point Nepean) Act 2009 ("the 2009 Act").
- The 2009 Act will amend the **National Parks Act 1975** to extend Point Nepean National Park by adding land at the Quarantine Station and the adjoining intertidal zone to the existing park. It will also provide for the granting of leases and licences in relation to land at the Quarantine Station.
- Clause 2 provides for the commencement of the 2009 Act. Sections 1 and 2 of the 2009 Act come into operation on the day after the day on which that Act receives the Royal Assent. The remaining provisions of the 2009 Act come into operation on a day to be proclaimed. If a provision is not proclaimed by 30 June 2010, it comes into operation on that day.
- Clause 3 defines the Principal Act for the purposes of the 2009 Act as the **National Parks Act 1975**.
- Clause 4 amends section 30. The amendments recognise that the Commonwealth will no longer own land at Point Nepean after it transfers the land at the Quarantine Station to the State.
- Clause 4(1) amends section 30(1) to remove the requirement to consult with a Commonwealth minister if that minister expresses an interest in public safety, fire protection works and the fire control operations in Point Nepean National Park.
- Clause 4(2) repeals section 30(3), which granted an easement over part of Defence Road to the Commonwealth.

Clause 5 inserts sections 30AAA, 30AAB and 30AAC.

Proposed section 30AAA provides that the Minister may, after consultation with the National Parks Advisory Council, lease any area of the Quarantine Station land shown hatched on the plan of the park to any person for a term of not more than 21 years. A lease may be granted for a term of not more than 50 years if the Minister is satisfied that the proposed use, development, improvements or works that are specified in the lease are of a substantial nature and of a value which justifies a longer term, and the granting of a longer term lease is in the public interest.

The purpose or purposes of a lease granted under this section must be for a purpose or purposes which the Minister considers are not detrimental to the protection of the park, including its historic, indigenous, cultural, natural and landscape features. Subject to the protection of the park, the purpose of a lease may be for the occupation of buildings or the construction and occupation of buildings, including buildings providing accommodation, but not for the purpose of industrial or residential use. The lease is subject to any rent and other charges and terms and conditions determined by the Minister.

Proposed section 30AAB provides that, where land is leased to a person under section 30AAA, the Minister may grant a licence to that person to use any land, building, improvements or works in the specified area of the park. The licence must be for the same or a related purpose to the purpose for which the land is leased, must not be for a term of more than 21 years, and is subject to any fees and other charges and terms and conditions determined by the Minister.

Proposed section 30AAC provides that the Minister may grant a licence to a person to occupy or use any land in the specified area of the park if the Minister considers that the purpose of the licence is consistent with the objects of the **National Parks Act 1975**. The licence must not be for a term of more than 7 years and is subject to any fees and other charges and terms and conditions determined by the Minister.

Clause 6 inserts clause 5 in Schedule One A (Native Title not affected). Proposed clause 5 includes the standard statement that the amendments made to the **National Parks Act 1975** by the 2009 Act are not intended to affect native title rights and interests other than where they are affected or are authorized to be affected by or under the Native Title Act 1993 of the Commonwealth.

- Clause 7 amends the description of Point Nepean National Park in Part 44 of Schedule Two to reflect the addition to the park of land at the Quarantine Station and the adjoining intertidal zone, in total an area of approximately 105 hectares.
- Clause 8 provides that the 2009 Act is repealed on 30 June 2011. The repeal of the 2009 Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).