

1990

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

NATURE CONSERVATION (AMENDMENT) BILL 1990

EXPLANATORY MEMORANDUM

**Circulated by Authority of the Minister for Finance and Urban
Services**

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NATURE CONSERVATION (AMENDMENT) BILL 1990

The Nature Conservation (Amendment) Bill 1990 amends the Nature Conservation Act 1980 (the Principal Act) to permit archaeological investigations to be carried out in wilderness zones with the consent in writing of the Conservator of Wildlife.

The Principal Act at present prohibits excavations in wilderness zones. The Principal Act also requires the Conservator to manage the areas that are declared wilderness zones in an appropriate manner. The purpose of this amendment is to facilitate the appropriate management of those wilderness zones which contain significant cultural resources by allowing excavations to be carried out where such excavations are of archaeological merit.

The Bill has no financial implications.

Details of the provisions of the Bill are included in the Attachment.

ATTACHMENT

NATURE CONSERVATION (AMENDMENT) BILL 1990

Clause 1 provides that the Bill, once enacted, may be cited as the Nature Conservation (Amendment) Act 1990.

Clause 2 defines the "Principal Act" to be the Nature Conservation Act 1980.

Clause 3 amends section 59 of the Principal Act by removing the absolute prohibition on excavations in wilderness zones and providing that a person may excavate in a wilderness zone if the person has a permit.

Clause 4 inserts a new section 60A into the Principal Act.

Subsection 60A(1) provides that a person who excavates a site in a wilderness zone must restore the site as nearly as possible to its original state.

Subsection 60A(2) provides that if the person fails to restore an excavation site in accordance with subsection 60A(1) then the Conservator may cause the site to be returned to its original state and any cost reasonably incurred in doing so becomes a debt due by the person to the Territory.

Clause 5 amends section 61 of the Principal Act by inserting a new paragraph 61(1)(kc) to provide that an application for a permit to excavate in a wilderness zone must specify the objectives of excavation, the relevant qualifications and experience of the applicant and who is sponsoring the investigation. This information is needed for the Conservator to make her or his decision whether to grant a permit or not.

3.

Clause 6 amends section 62 by deleting the words "subject to this section" in accordance with current drafting practice and to remove any possible ambiguity.

Clause 7 inserts a new section 62A after section 62 of the Principal Act.

Subsection 62A(1) provides that the Conservator may only grant permits to excavate in wilderness zones where the excavation is for the purposes of an archaeological investigation.

Subsection 62A(2) provides that a permit may only be issued for a maximum period of 12 months.

Subsection 62A(3) provides that the Conservator may issue a permit to pick plants in respect of an excavation site in conjunction with the permit to excavate in a wilderness zone.

Clause 8 inserts a new paragraph and subsection into section 65 of the Act.

Paragraph 65(1)(p) is complementary to the amendments to section 61 of the Act and requires the Conservator, in considering an application for a permit to excavate in a wilderness zone, to have regard to the objectives of the excavation, the relevant qualifications and experience of the applicant and the nature of the sponsoring body.

Subsection 65(2) provides that where a person has to apply for a permit to pick a plant in order to clear an excavation site then the Conservator is not required to have regard to the specific matters which she or he would be required to have regard to in issuing a more general permit to pick plants.

However, subsection 65(2) does not remove the safeguard in paragraph 65(1)(a) of the Principal Act which requires the Conservator to have regard to the effect that any activity that requires the consent of the Conservator, including a permit to pick plants on an excavation site, is likely to have on wildlife and the major ecosystems of the Territory.