NORTHERN TERRITORY OF AUSTRALIA

PARKS AND RESERVES (FRAMEWORK FOR THE FUTURE) ACT

As in force at 31 May 2005

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NORTHERN TERRITORY OF AUSTRALIA

This reprint shows the Act as in force at 31 May 2005. Any amendments that commence after that date are not included.

PARKS AND RESERVES (FRAMEWORK FOR THE FUTURE) ACT

An Act to provide a framework for negotiations between the Territory and the traditional Aboriginal owners of certain parks and reserves for the establishment, maintenance and management of a comprehensive system of parks and reserves, and for related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Parks and Reserves (Framework for the Future) Act*.

2 Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3 Purpose

(1) The purpose of this Act is to provide a framework for negotiations between the Territory and the traditional Aboriginal owners of certain parks and reserves for the establishment, maintenance and management of a comprehensive system of parks and reserves.

(2) A comprehensive system of parks and reserves is one that:

(a) is developed in partnership between the Territory and the traditional Aboriginal owners of the parks and reserves;

(b) benefits those traditional Aboriginal owners by recognising, valuing and incorporating indigenous culture, knowledge and decision making processes;

(c) protects biological diversity;

(d) serves the educational and recreational needs of Territorians and visitors to the Territory; and

(e) enjoys widespread community support.

4 Definitions

(1) In this Act, unless the contrary intention appears:

Aboriginal land has the same meaning as in ALRA.

Aboriginal Land Trust means an Aboriginal Land Trust established under ALRA.

ALRA means the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth.

indigenous land use agreement has the same meaning as in the NTA.

infrastructure facility has the same meaning as in the NTA.

joint management agreement, for a park or reserve, means an agreement between the Territory and the traditional Aboriginal owners of the park or reserve about the management of the park or reserve.

Land Council has the same meaning as in ALRA.

mining interest means an exploration licence, exploration retention licence or mining tenement within the meaning of the *Mining Act*.

native title rights and interests has the same meaning as in the NTA.

NTA means the *Native Title Act 1993* of the Commonwealth.

park means:

(a) a park declared, or purportedly declared, under section 12 of the *Territory Parks and Wildlife Conservation Act*; or

(b) an area of land proposed to be declared as a park under section 12 of the *Territory Parks and Wildlife Conservation Act*.

park freehold land means land over which park freehold title is granted.

park freehold title has the meaning in section 9.

Park Land Trust means a Park Land Trust established under section 9(3).

Planning Minister means the Minister for the time being administering the *Planning Act*.

reserve means:

(a) a reserve declared, or purportedly declared, under section 12 of the *Territory Parks and Wildlife Conservation Act*; or

(b) an area of land proposed to be declared as a reserve under section 12 of the *Territory Parks and Wildlife Conservation Act*.

traditional Aboriginal owners has the same meaning as in ALRA.

(2) In this Act, a reference to the traditional Aboriginal owners of a park or reserve includes a reference to the traditional Aboriginal owners of part of the park or reserve.

5 Act binds Crown

This Act binds the Crown in right of the Territory and, to the extent the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

6 Relationship with other laws

(1) This Act applies despite any other law of the Territory.

(2) This Act must be read and construed in a manner consistent with ALRA and the NTA.

7 Responsible Minister

The Chief Minister is responsible for the administration of this Act.

Part 2 Framework

8 Chief Minister authorised to do certain things

Subject to section 10, the Chief Minister is authorised to do the following things:

(a) request the Commonwealth Minister responsible for the administration of ALRA to use his or her best endeavours to effect an amendment of Schedule 1 to ALRA to include in that Schedule the parks and reserves specified in Schedule 1;

(b) grant, under sections 9(1) and 10(1) and (2) of the *Crown Lands Act* as applied by section 9(9) of this Act, park freehold title over the parks and reserves specified in Schedule 2;

(c) execute, on behalf of the Territory, a lease to the Territory of each of the parks and reserves specified in Schedules 1 and 2;

(d) execute, on behalf of the Territory, a joint management agreement for each of the parks and reserves specified in Schedules 1, 2 and 3;

(e) execute, on behalf of the Territory, one or more indigenous land use agreements to enable the things referred to in paragraphs (b), (c) and (d) to be done;

(f) any other thing necessary or convenient to be done to enable the things referred to in paragraphs (a) to (e) (inclusive) to be done.

9 Park freehold title

(1) Park freehold title is an estate in fee simple granted over land that is a park or reserve.

(2) The following applies in relation to the estate in fee simple:

(a) the estate can only be granted to a Park Land Trust in trust for the benefit of Aboriginals entitled by Aboriginal tradition to the use or occupation of the land, whether or not the traditional entitlement is qualified as to place, time, circumstance, purpose or permission;

(b) the estate is granted subject to any native title rights and interests in the land but free of all other estates and interests in that land;

(c) the estate cannot be sold and can only be transferred to another Park Land Trust in trust for the benefit of the Aboriginals referred to in paragraph (a);

(d) the estate cannot be mortgaged or otherwise encumbered;

(e) subject to the joint management agreement for the park or reserve, the estate can be leased or sub-leased and the resulting leasehold or sub-leasehold interest can be mortgaged;

(f) the estate may, with the agreement of the Territory, be surrendered (in whole or in part) to the Territory:

(i) so that the whole or part of the land can be used by the Territory otherwise than as a park or reserve; or

(ii) to facilitate the grant of the whole or part of the land to the traditional Aboriginal owners of the land so it can be used by those traditional Aboriginal owners for a specified purpose;

(g) the estate can only be compulsorily acquired under the *Lands Acquisition Act* for a public purpose that:

(i) will confer a right or interest on the Territory; or

(ii) is an infrastructure facility;

(h) if the estate is compulsorily acquired under the *Lands Acquisition Act*, the compensation payable for the acquisition is to be determined as if the estate is an estate in fee simple free of the restrictions and conditions specified in paragraphs (a) to (g) (inclusive).

(3) The Chief Minister may, by notice in the *Gazette*, establish a body corporate (to be known as a Park Land Trust), subject to the conditions (if any) specified in the notice, for the purpose of holding park freehold title in trust for the benefit of Aboriginals entitled by Aboriginal tradition to the use or occupation of the land over which the park freehold title is granted, whether or not the traditional entitlement is qualified as to place, time, circumstance, purpose or permission.

(4) A Park Land Trust:

(a) is a body corporate with perpetual succession;

(b) must have a common seal; and

(c) is capable, in its corporate name, of suing and being sued.

(5) All courts, judges and persons acting judicially must take judicial notice of the common seal of a Park Land Trust and must presume it was duly affixed.

(6) A Park Land Trust has the following functions:

(a) to hold park freehold title;

(b) to enter into agreements relating to the park freehold title held by the Trust.

(7) A Park Land Trust has the powers that are necessary or convenient for the performance of its functions.

(8) The Regulations may provide for:

(a) the membership of a Park Land Trust;

(b) the procedures of a Park Land Trust; or

(c) any other matter relating to the administration of a Park Land Trust.

(8A) Despite subsections (4), (6) and (7), the Regulations may limit the powers of a Park Land Trust.

(9) Sections 9(1) and 10(1) and (2) of the *Crown Lands Act* apply in relation to the grant of park freehold title as if:

(a) a reference to the Minister were a reference to the Chief Minister;

(b) a reference to an estate in fee simple were a reference to park freehold title; and

(c) a reference to a person who has a right to be granted an estate in fee simple were a reference to a Park Land Trust to which park freehold title is to be granted,

but this subsection does not require compliance with any other provision of the *Crown Lands Act* before park freehold title is granted.

10 Conditions to which exercise of Chief Minister's authority is subject

(1) The Chief Minister is only authorised to do the things specified in section 8 if the following conditions are complied with on or before the date prescribed by section 16(1):

(a) the applicants in the applications referred to in section 50(1)(a) of ALRA relating to the parks and reserves specified in Schedules 2 and 3 have agreed to withdraw their applications;

(b) one or more indigenous land use agreements or other legally enforceable agreements have been executed in respect of the parks and reserves specified in Schedules 1, 2 and 3:

(i) dealing with compensation for the effect of the declaration or purported declaration and use of those parks and reserves on native title rights and interests; and

(ii) facilitating future development in those parks and reserves;

(c) the terms of the leases referred to in section 8(c) have been agreed between the parties and are in accordance with the principles set out in Schedule 4;

(d) subject to subsection (2), the terms of the joint management agreements referred to in section 8(d) have been agreed between the parties;

(e) the terms of the indigenous land use agreements referred to in section 8(e) have been agreed between the parties, are in accordance with the principles set out in Schedule 4, and are consistent with the terms of the relevant joint management agreements referred to in paragraph (d);

(f) each Aboriginal Land Trust holding an area of Aboriginal land specified in Schedule 5, which is land adjoining one or more parks and reserves specified in Schedule 1, have agreed:

(i) to lease that area of Aboriginal land to the Territory for inclusion in the parks and reserves it adjoins on terms that are in accordance with the principles set out in Schedule 4; and

(ii) that, when that area of Aboriginal land is included in those parks and reserves, it will be subject to the relevant joint management agreements referred to in paragraph (d).

(2) Each of the joint management agreements referred to in subsection (1)(d) must specify that Territorians and visitors to the Territory are permitted to enter the park or reserve to which the agreement relates without payment of an entry fee.

(3) This Act does not require any 2 or more of the indigenous land use agreements, leases, joint management agreements or other legally enforceable agreements referred to in subsection (1) to be in the same terms.

11 Exercise of power not impeachable for informality or irregularity

The exercise by the Chief Minister of a power under section 8 is not to be impeached because of an informality or irregularity in the compliance with any of the conditions specified in section 10(1) except on the ground that the exercise of the power was not in good faith.

12 Creation of reservations from occupation

(1) The parks and reserves specified in Schedules 1, 2 and 3 are taken to be reserved from occupation under section 178 of the *Mining Act* as if the requirements of that Act relating to reserving those parks and reserves from occupation had been complied with and that Act applies in relation to those reservations accordingly.

(2) Subsection (1) does not apply to any land within a park or reserve specified in Schedule 1, 2, or 3 that:

(a) immediately before 19 September 2003, was the subject of an application for a mining interest; or

(b) immediately before the day on which this Act commenced, was occupied by a mining interest.

(3) If:

(a) all applications for mining interests relating to an area of land referred to in subsection (2)(a) have been refused; or

(b) an area of land referred to in subsection (2)(b) ceases to be occupied by a mining interest,

the area of land is taken to be reserved from occupation under section 178 of the *Mining Act* as if the requirements of that Act relating to reserving that land from occupation had been complied with and that Act applies in relation to those reservations accordingly.

(4) As soon as practicable after the conditions specified in section 10(1) have been complied with, the Chief Minister must, by notice in the *Gazette*, revoke the reservations from occupation created by this section, which revocation takes effect as if the requirements of the *Mining Act* relating to revoking such reservations had been complied with.

13 Power to amend Schedule 1, 2, 3 or 5 to omit parks, reserves or Aboriginal land

(1) Subject to this section, the Chief Minister may, by notice in the *Gazette*, amend:

(a) Schedule 1, 2 or 3 to omit a park or reserve from that Schedule; or

(b) Schedule 5 to omit an area of Aboriginal land from that Schedule.

(2) The power under subsection (1) must not be exercised unless:

(a) the Land Council for the part of the Territory in which the park, reserve or area of Aboriginal land is located advises the Chief Minister in writing at least 6 weeks before 31 July 2004 that, in the Land Council's opinion, the traditional Aboriginal owners of the park, reserve or area of Aboriginal land (as the case may be) will not comply with the conditions specified in section 10(1); and

(b) the Chief Minister is satisfied that the omission of the park, reserve or area of Aboriginal land will not defeat the purpose of this Act.

(3) The power under subsection (1) may only be exercised on one occasion in respect of a schedule but, on that occasion, one or more parks, reserves or areas of Aboriginal land may be omitted from the schedule.

(4) The power under subsection (1) may only be exercised on or before 31 July 2004.

14 Power to amend Schedule 1, 2 or 3 to excise or include community living areas

(1) The Chief Minister may, by notice in the *Gazette*, amend Schedule 1, 2 or 3 to:

(a) excise from a park or reserve an area of land to be the subject of a grant under section 46(1A) of the *Lands Acquisition Act* for the purposes of an Aboriginal community living area; or

(b) include in a park or reserve an area of land that is the subject of a grant under section 46(1A) of the *Lands Acquisition Act* for the purposes of an Aboriginal community living area.

(2) The power under subsection (1) may only be exercised in respect of a park or reserve with the agreement of the Land Council for the part of the Territory in which the park or reserve is located.

15 Development provisions for park freehold land

(1) The Planning Scheme under the *Planning Act* is taken to include development provisions applying to park freehold land and, subject to this section, the *Planning Act* (except Part 6) applies accordingly.

(2) The Planning Minister is the consent authority for park freehold land.

(3) The development provisions under subsection (1) allow the use and development of park freehold land for any of the following purposes without the consent of the consent authority:

(a) a park or reserve;

(b) commercial activities that are consistent with the use as a park or reserve;

(c) an Aboriginal community living area.

(4) The development provisions under subsection (1) allow any other use or development of park freehold land only with the consent of the consent authority.

(5) Part 5, Division 2 of the *Planning Act* does not apply in relation to a development application in respect of park freehold land unless the Planning Minister determines that, in the circumstances of the particular application, it is appropriate for that Division to apply.

(6) Despite any development provisions in force under the *Planning Act* immediately before the commencement of this section, the use of park freehold land for a purpose specified in subsection (3) is taken to be an existing use of park freehold land under Part 4 of the *Planning Act*.

(7) An amendment of Schedule 2 under section 13 or 14 does not create, or have the effect of creating, a subdivision within the meaning of the *Planning Act*.

(8) The development provisions under subsection (1) prevail over any other development or other provision under the Planning Scheme or a provision of the *Planning Act*, whether the provision was in force before or after the commencement of this section.

16 Sunset provision

(1) The date prescribed for section 10(1) is 2 February 2005.

(4) If the conditions specified in section 10(1) are not complied with on or before the date prescribed by or under subsection (1), on the day after that date, the Chief Minister must publish in the *Gazette* a notice stating that:

(a) the conditions specified in section 10(1) have not been complied with; and

(b) as a consequence:

(i) this Act expires; and

(ii) the reservations from occupation created by section 12 are taken to be revoked as if the requirements of the *Mining Act* relating to revoking such reservations had been complied with.

(5) A notice under subsection (4) has effect according to its tenor.

Part 3 Miscellaneous

17 Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Schedule 1 Parks and reserves to be included in Schedule 1 to ALRA

sections 8, 10, 12, 13 and 14

Arltunga Historical Reserve

Chamber's Pillar Historical Reserve

Corroboree Rock Conservation Reserve

Davenport Range National Park (proposed)

Devils Marbles Conservation Reserve

Emily and Jessie Gaps Nature Park (including the Heavitree Range extension)

Ewaninga Rock Carvings Conservation Reserve

Finke Gorge National Park

Gregory National Park

Gregory's Tree Historical Reserve

N'Dhala Gorge Nature Park

Trephina Gorge Nature Park

West MacDonnell National Park (including Simpson's Gap National Park, Ellery Creek Big Hole Nature Park, Ormiston Gorge and Pound Nature Park, Serpentine Gorge Nature Park, Glen Helen Gorge Nature Park, Redbank Nature Park and the proposed Alice Valley extension)

Schedule 2 Parks and reserves over which park freehold title is to be granted

sections 8, 10, 12, 13 and 14

Dulcie Range National Park

Kuyunba Conservation Reserve

Native Gap Conservation Reserve

Watarrka National Park

Schedule 3 Other parks and reserves for which joint management agreements are to be entered into

sections 8, 10, 12, 13 and 14

Alice Springs Telegraph Station Historical Reserve

Black Jungle / Lambells Lagoon Conservation Reserve

Flora River Nature Park

Fogg Dam Conservation Reserve

Harrison Dam Conservation Reserve

Mac Clark (Acacia Peuce) Conservation Reserve

Mary River National Park (proposed)

Melacca Swamp Conservation Area

Rainbow Valley Conservation Reserve

Ruby Gap Nature Park

Schedule 4 Principles for lease of parks and reserves to Territory

section 10

1. The term of the lease is 99 years.

2. The parties to the lease must negotiate in good faith for the renewal of the lease.

3. The lease must not extinguish native title rights or interests.

4. The lease purposes:

   (a) must include the use of the land the subject of the lease as a park or reserve; and

   (b) may include the use of the land the subject of the lease for commercial activities that are consistent with its use as a park or reserve and conducted in accordance with the joint management agreement for the park or reserve.

5. If the land the subject of the lease is Aboriginal land, the lease must require the lessor to permit Territorians and visitors to the Territory to enter the park or reserve without an entry permit.

6. The lessee must give preference to the participation of the traditional Aboriginal owners of the park or reserve in any commercial activities conducted under the lease.

7. The lease must permit the traditional Aboriginal owners of the park or reserve to use the land the subject of the lease in accordance with the joint management agreement for the park or reserve.

8. The lease must permit the grant under section 46(1A) of the *Lands Acquisition Act* of part of the land the subject of the lease for the purposes of an Aboriginal community living area in accordance with the joint management agreement for the park or reserve.

Schedule 5 Aboriginal land to be included in parks and reserves

sections 10 and 13

Aboriginal land adjoining Davenport Range National Park (proposed) (including an area enclosed by the boundaries of the proposed park and the Epenarra-Murray Downs Road)

Aboriginal land adjoining Gregory National Park (including land linking the 2 separate sections of the park)

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = *Gazette*
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

Parks and Reserves (Framework for the Future) Act 2003 (Act No. 9, 2004)

Assent date	7 January 2004
Commenced	14 April 2004 (*Gaz* G15, 14 April 2004, p 5)

Parks and Reserves (Framework for the Future) (Revival) Act 2005 (Act No. 3, 2005)

Assent date	4 March 2005
Commenced	pt 2, ss 6 and 7: 1 January 2005; s 8: 1 February 2005; rem: 4 March 2005 (s 2)

Territory Parks and Wildlife Conservation Amendment Act 2005 (Act No. 4, 2005)

Assent date	4 March 2005
Commenced	31 May 2005 (*Gaz* S23, 31 May 2005)

3 *GAZETTE* NOTICES

Gaz G30, 28 July 2004, p 2

4 LIST OF AMENDMENTS

s 9	amd No. 4, 2005, s 5
s 10	amd No. 3, 2005, s 6
s 16	amd No. 3, 2005, s 7
sch 1	amd *Gaz* G30
sch 2	amd No. 3, 2005, s 8
sch 3	amd *Gaz* G30
sch 5	amd *Gaz* G30