



A Community Legal Centre specialising
in public interest environmental law

25 January 2013

Mr J Irving and Ms K Nicolai
DEWNR
GPO Box 1047
ADELAIDE SA 5001

Via email

Kathryn.nicolai@sa.gov.au

Dear Jason and Kathryn

PROPOSED AMENDMENTS TO THE NATIONAL PARKS AND WILDLIFE ACT 1972 (SA)

The Environmental Defenders Office (SA) Inc. (EDO) is a community legal centre with twenty years experience specialising in public interest environmental and planning law. EDO functions include legal advice and representation, law reform and policy work and community legal education. We appreciate the opportunity to consider the proposed amendments to the *National Parks and Wildlife Act (SA) 1972* (the Act).

Change in status of certain reserves and parts of reserves

The EDO is of the view that the reclassification process is flawed. For example the use of Nature Reserves is confusing as under IUCN categorization such reserves offer a high level of protection which is at odds with the actual level of protection afforded by this classification under the Act. Importantly, the reclassification of certain National Parks and Conservation Parks as Nature Reserves reduces the legal protection for these areas. We suggest the process of reclassification be revisited with a primary focus on the conservation of significant biodiversity and cultural values in these areas.

Part 3 Objects

The EDO supports the inclusion of objects in Part 3. The Act is first and foremost a piece of conservation legislation. However proposed section 28 lists conservation and other objects. We submit that objective (b) covering mining rights should not be included as it is at odds with conservation objectives and is operational in nature. We would also recommend the inclusion of an object which seeks to encourage the involvement of the public in providing information and contributing to processes which improve decision-making.

Management Plans

Management Objectives and Principles

We have concerns regarding the objects in proposed section 30 (1) (e) and (f). The former refers to “protecting life and property from bush fire” whilst the latter refers to mitigating the impacts of mining, pastoralism and hunting. In our view these are inappropriate objectives amongst the other listed conservation objectives. We submit that it is more appropriate to include these matters in proposed section 30(3) as matters to have regard to in the management of a park or reserve.

Public Consultation

We submit that the timeframe for public consultation regarding drafts of management plans for parks and reserves should not be reduced from three months to two months as per proposed section 37 (6). Appropriate public participation is paramount to the transparency of the government consultation process. We recommend that the time frame for consultation remain at three months as there is no evidence that this time frame is unsuitable and no clear indication that two months would be more suitable. A three month time frame is appropriate considering that many of the interested parties who would be involved in the public consultation process are non-government organisations and conservation groups with few resources and therefore three months is an appropriate amount of time to provide comment, particularly if it is sought over the Christmas/ New Year period.

Regional Reserves

Currently section 34A provides that with respect to regional reserves the Minister must prepare a report at least every ten years which amongst other matters looks at “assessing the impact of the utilization of natural resources on the conservation of the wildlife and the natural and historic features of the reserve”. This requirement has been removed in the proposed amendments. We submit that a review mechanism of some type should remain in the Act.

New reserves- single and joint proclamations

We understand that DEWNR and DMITRE have a detailed administrative agreement in place which covers the consultation between the two agencies in relation to park proclamations including consultation in relation to applications for tenements over areas that are flagged for proclamation as a park. If there is an existing mining interest on land that is intended to be proclaimed a park, we understand that the two departments will review those existing interests to determine whether the tenement is still active in the park. In the interests of transparency and accountability we recommend that the current Bill should include further detail on the process for proclamations and importantly opportunities for input by the public.

Decision making

We are concerned that the proposed amendments do not include a requirement for the Minister and others administering the new Division 1 to act consistently with the objects of Division 1. Similar provisions are found in many Acts including section 9 of the *Marine Parks Act 2007*. We note that proposed section 37 (2) provides that a management plan for a park or reserve is to contain measures for the management and improvement of the park with a view to matters such as the proposed objects but this is limited to this function and is a weaker provision. It does not oblige all decision makers to act consistently with the objects of the Act and we recommend that such a specific provision be included.

Please do not hesitate to contact Melissa Ballantyne of this office should you have any queries in relation to this submission.

Environmental Defenders Office (SA) Inc.

Office: *1st Floor, 408 King William St, Adelaide, South Australia*
Postal Address: GPO Box 170, Adelaide, SA 5001
E-mail: *edosa@edo.org.au* ~ Web: *www.edo.org.au*
Ph: (08) 8410 3833 ~ Fax: (08) 8410 3855
Country Freecall: 1800 337 566