Legislative Council—No 149
As received from the House of Assembly and read a first time, 24 November 2011

South Australia

Arkaroola Protection Bill 2011

A BILL FOR

An Act to provide for the establishment of the Arkaroola Protection Area; to provide for the proper management of the Arkaroola Protection Area and prohibit mining activities in the Arkaroola Protection Area; to make related amendments to the *Development Act 1993*, the *Natural Resources Management Act 2004* and the *Pastoral Land Management and Conservation Act 1989*; and for other purposes.

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Part 4—Amendment of *Pastoral Land Management and Conservation Act 1989*

5 Amendment of section 22—Conditions of pastoral leases

The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the *Arkaroola Protection Act 2011*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Interpretation

In this Act, unless the contrary intention appears—

Arkaroola Protection Area means the area delineated in the plan deposited in the General Registry Office at Adelaide as GRO plan number 32/2011 (as that plan exists on 19 October 2011);

custodian means a person or body with the care, control and management of land;

leasehold land means land subject to a lease under the *Crown Land Management Act 2009* or a pastoral lease;

mining Act means—

(a) the *Mining Act 1971*; or

(b) the *Opal Mining Act 1995*; or

(c) the *Petroleum and Geothermal Energy Act 2000*;

mining operations means mining operations within the meaning of the *Mining Act 1971* or the *Opal Mining Act 1995*, but does not include operations for the rehabilitation of land or operations that are directly related to operations for the rehabilitation of land;

native title holder has the same meaning as in the *Native Title (South Australia) Act 1994*;

pastoral land means land subject to a pastoral lease;

pastoral lease means a lease under the *Pastoral Land Management and Conservation Act 1989*;

regulated activities has the same meaning as in the *Petroleum and Geothermal Energy Act 2000*;

rehabilitation of land includes the filling in or sealing of an excavation (including an open-cut excavation), the reinstatement, levelling, contouring and revegetation of land, and the erection of signs and fences.

4—Objects

The objects of this Act are—

(a) to provide for the conservation of nature in the Arkaroola Protection Area, including the conservation of—

(i) habitat, ecosystems and ecosystem processes; and

(ii) biological diversity at the community, species and genetic levels; and

(iii) landforms of significance, including geological features and processes; and

(iv) landscapes and natural features of significance; and

(b) to support the conservation of objects, places or features of cultural value to the Adnyamathanha people within the Arkaroola Protection Area; and

(c) to support scientific research and environmental monitoring in the Arkaroola Protection Area (consistently with the preceding objects); and

(d) to foster public appreciation, understanding and enjoyment of nature and objects, places or features of cultural value in the Arkaroola Protection Area (consistently with the preceding objects); and

(e) to ensure that—

(i) development in the Arkaroola Protection Area; and

(ii) the management of pastoral land and other land in the Arkaroola Protection Area,

are consistent with the preceding objects.

5—Administration of Act

The administration of this Act must be committed to the Minister administering the *National Parks and Wildlife Act 1972*.

6—Interaction with other Acts

Except where the contrary intention is expressed in this or any other Act, this Act is in addition to and does not limit or derogate from the provisions of any other Act.

7—Native title

Nothing in this Act affects such native title as may exist over, or in relation to, the Arkaroola Protection Area.

8—Management plan

(1) The Minister must, as soon as practicable after the commencement of this section, develop a management plan for the Arkaroola Protection Area.

(2) The management plan must be consistent with, and seek to further, the objects of this Act.

(3) The Minister must, before commencing to develop or to alter the management plan under this section, undertake consultation with persons or bodies who hold interests in the Arkaroola Protection Area in such manner as the Minister thinks fit.

(4) In addition to the consultation required under subsection (3), the Minister must also undertake consultation with persons or bodies who hold interests in an area that is adjacent to the Arkaroola Protection Area in such manner as the Minister thinks fit.

(5) The Minister must, once a draft of the proposed management plan or a draft of a proposed alteration to the management plan, has been prepared, undertake public consultation (including consultation with persons or bodies referred to in subsections (3) and (4)) in relation to the draft in such manner as the Minister thinks fit.

(6) Following public consultation under subsection (5), the Minister may adopt the proposed management plan or alteration—

(a) without change; or

(b) with such changes as the Minister thinks reasonable in view of any representations made in the course of the public consultation (but if it appears to the Minister that the changes are significant or substantial then the Minister must undertake additional consultation with persons or bodies who hold interests in the Arkaroola Protection Area in such manner as the Minister thinks fit before adopting the proposed plan or alteration).

(7) The management plan developed under this section, and any alteration to the plan, will have effect from the day on which it is published in the Gazette.

(8) The management plan under this section is an expression of policy and does not in itself affect rights or liabilities (whether of a substantive, procedural or other nature).

(9) A person or body involved in the administration of an Act must, in exercising powers and functions in relation to the Arkaroola Protection Area, act consistently with and seek to further the management plan under this section.

(10) For the purposes of this section, a person or body holds an interest in the Arkaroola Protection Area, or in an adjacent area (as the case requires), if the person or body is, in relation to any part of the area—

(a) a native title holder; or

(b) an owner of land; or

(c) a lessee of leasehold land; or

(d) a holder of a tenement in relation to land; or

(e) a custodian of land.

9—Review of Development Plans

(1) The Minister responsible for the administration of the *Development Act 1993* must ensure that any Development Plan under that Act that relates to the Arkaroola Protection Area, or a part of the Arkaroola Protection Area, is reviewed within 6 months after the management plan is first published in the Gazette under section 8(7) for the purpose of determining whether any amendments should be made to the Development Plans to promote consistency with the management plan.

(2) The Minister responsible for the administration of the *Development Act 1993* must consult with, and have regard to, the views of the Minister responsible for the administration of this Act in relation to the reviews conducted under this section.

10—Prohibition of mining operations and regulated activities

(1) After the commencement of this section, rights to undertake mining operations or regulated activities cannot be acquired or exercised pursuant to a mining Act in respect of land within the Arkaroola Protection Area.

(2) Subsection (1) has effect despite the provisions of any other Act.

(3) However, nothing in this Act affects the rights of an adjacent tenement holder in respect of any land comprised in the tenement that is outside the Arkaroola Protection Area.

11—Regulations

(1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.

(2) The regulations may—

(a) prohibit or restrict the undertaking of a specified activity, or an activity of a specified class, within the Arkaroola Protection Area or a specified part of the Arkaroola Protection Area (despite any other Act or law);

(b) provide that a person undertaking a specified activity, or an activity of a specified class, or proposing to undertake a specified activity, or an activity of a specified class, within the Arkaroola Protection Area or a specified part of the Arkaroola Protection Area comply with any prescribed requirement or condition (despite any other Act or law);

(c) prescribe fines (not exceeding $10 000) for offences against the regulations;

(d) provide for facilitation of proof of the commission of offences against the regulations.

(3) The regulations may—

(a) be of general application or vary in their application according to prescribed factors;

(b) provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister or any other person or body.

Schedule 1—Related amendments

Part 1—Preliminary

1—Amendment provisions

In this Schedule, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Development Act 1993*

2—Amendment of section 22—The Planning Strategy

Section 22(3a)—before "and the appropriate Minister" insert:

and

(d) the objects of the *Arkaroola Protection Act 2011*,

3—Amendment of section 24—Council or Minister may amend a Development Plan

(1) Section 24(1)—before paragraph (fc) insert:

(fbc) where the purpose of the amendment is to promote consistency with the management plan under the *Arkaroola Protection Act 2011*—by the Minister; or

(2) Section 24(3)—after the final paragraph insert:

or

(e) relates to any part of the Arkaroola Protection Area, within the meaning of the *Arkaroola Protection Act 2011*—the Minister must consult with and have regard to the views of the Minister responsible for the administration of that Act.

Part 3—Amendment of *Natural Resources Management Act 2004*

4—Amendment of section 75—Regional NRM plans

Section 75(5)—after paragraph (f) insert:

(fa) if the plan relates to any part of the Arkaroola Protection Area under the *Arkaroola Protection Act 2011*—the management plan under that Act; and

Part 4—Amendment of *Pastoral Land Management and Conservation Act 1989*

5—Amendment of section 22—Conditions of pastoral leases

Section 22(1)(b)—after subparagraph (vi) insert:

5 (vii) in the case of a pastoral lease relating to land in the Arkaroola Protection Area under the *Arkaroola Protection Act 2011*—the lessee's obligation to use the land in accordance with the management plan under that Act;