

House of Assembly—No 167

As laid on the table and read a first time, 19 October 2016

South Australia

**National Parks and Wildlife (Co-managed Parks)
Amendment Bill 2016**

A BILL FOR

An Act to amend the *National Parks and Wildlife Act 1972*; and to make related amendments to the *Wilderness Protection Act 1992*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

- 5 This Act may be cited as the *National Parks and Wildlife (Co-managed Parks) Amendment Act 2016*.

2—Amendment provisions

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

Part 2—Amendment of *National Parks and Wildlife Act 1972*

10 3—Amendment of section 5—Interpretation

Section 5—after the definition of *co-managed park* insert:

co-management advisory committee means a co-management advisory committee under section 43F(2a)(b)(ii);

4—Amendment of section 38—Management plans

(1) Section 38(2a)(c)—delete paragraph (c) and substitute:

(c) in the case of a co-managed park—

- (i) if there is a co-management board for the park—in collaboration with the board; and
- (ii) if there is a co-management advisory committee for the park—after consultation with the co-management advisory committee; and
- (iii) in any case—after consultation with the other party to the co-management agreement for the park.

(2) Section 38(9a)(b)—delete "other party to the co-management agreement" and substitute:

co-management advisory committee

5—Amendment of section 42—Prohibited areas

Section 42(1a)(b)—delete "other party to the co-management agreement" and substitute:

co-management advisory committee

6—Insertion of section 43AC

After section 43AB insert:

43AC—Ikara-Flinders Ranges National Park

- (1) The acquisition or exercise of relevant mining rights, or purported acquisition or exercise of such rights, in respect of the land constituting the Ikara-Flinders Ranges National Park before the relevant day are declared, for the purposes of this Act and for the purposes of any other dealings with or in relation to those rights (including, for example, the imposition of a bond under the *Mining Act 1971*), to have been validly acquired or exercised and any such rights in existence immediately before the relevant day (including a right of renewal of relevant mining rights) may, despite section 43, continue to be exercised in respect of the prescribed land on and after that day.
- (2) Despite section 43, rights of entry, prospecting, exploration or mining may, with the approval of the Minister and the Mining Minister, be acquired pursuant to the *Mining Act 1971* in respect of the prescribed land (including, for example, by the renewal of relevant mining rights) and may be exercised in respect of that land.
- (3) A person in whom rights are vested under the *Mining Act 1971* in respect of the prescribed land must not carry out work in the exercise of those rights that has not previously been authorised unless the Minister and the Mining Minister have approved that work, and such an approval may be subject to such conditions as the Ministers may agree.

5 (4) If the Minister and the Mining Minister cannot agree as to whether to give an approval under subsection (2) or (3), or impose conditions under subsection (3), the Governor may, with the advice and consent of the Executive Council, give an approval or impose conditions in writing under the relevant subsection.

10 (5) Nothing in this section authorises or otherwise permits the acquisition or exercise of rights of entry, prospecting, exploration or mining in the Ikara-Flinders Ranges National Park after the commencement of this section other than those rights referred to in subsections (1) and (2).

(6) In this section—

Mining Minister means the Minister responsible for the administration of the *Mining Act 1971*;

15 *prescribed land* means the land that is, at the relevant day, subject to relevant mining rights;

relevant day means the day of commencement of this section;

20 *relevant mining rights* means the rights of entry, prospecting, exploration or mining provided for in Mining Lease 3413 and Mining Lease 3414 under the *Mining Act 1971* and any mining tenement granted in connection with those leases.

7—Amendment of section 43F—Co-management agreement

(1) Section 43F(1)—after subsection (1) insert:

(1a) A co-management agreement may relate to more than 1 national park or conservation park.

25 (2) Section 43F—after subsection (2) insert:

(2a) A co-management agreement for a national park or conservation park must set out governance arrangements for the park as follows:

30 (a) an agreement for a national park or conservation park constituted of, or to be constituted of, Aboriginal-owned land must provide for a co-management board for the park;

(b) an agreement for a national park or conservation park constituted of Crown land must provide for—

(i) a co-management board for the park; or

35 (ii) a committee (a *co-management advisory committee*) to advise the Minister and Director in relation to the park under this Act and as set out in the agreement (and such a committee may, for example, be a co-management board or co-management advisory committee having responsibility in relation to 1 or more other parks).

40 (3) Section 43F(3)—after "A co-management agreement" insert:

in relation to a co-managed park

- (4) Section 43F(3)(b)—delete "if a co-management board is not to be established" and substitute:

if there is not to be a co-management board

- (5) Section 43F(3)—after paragraph (b) insert:

5 (ba) if there is to be a co-management advisory committee for the co-managed park—the constitution of the committee; and

- (6) Section 43F(5)—delete subsection (5) and substitute:

10 (5) The following provisions apply to the termination of a co-management agreement or, in the case of a co-management agreement that applies to more than 1 co-managed park, the termination of the agreement insofar as it applies to a particular co-managed park:

- 15 (a) if the co-management agreement applies to a co-managed park constituted of Aboriginal-owned land that was Aboriginal-owned land before the park was constituted—
- (i) the agreement, insofar as it applies to that park, may be terminated unilaterally; and
- (ii) the agreement may specify a minimum period that must elapse before the agreement, insofar as it applies to that park, may be terminated;
- 20 (b) if the co-management agreement applies to a co-managed park constituted of Aboriginal-owned land that was Crown land before the co-management agreement was made—
- (i) the agreement, insofar as it applies to that park, may only be terminated by agreement between the Minister and registered proprietor of the Aboriginal-owned land; and
- (ii) the agreement may specify a minimum period that must elapse before the agreement, insofar as it applies to that park, may be terminated;
- 25 (c) if the co-management agreement applies to a co-managed park constituted of Crown land—the agreement, insofar as it applies to that park, may only be terminated by the Minister by notice in writing to the other party to the agreement.
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35 **8—Amendment of section 43G—Establishment of co-management boards by regulation**

- (1) Section 43G(1)—delete "a co-managed park" and substitute:

1 or more co-managed parks

- (2) Section 43G(2)(a)—delete "the co-managed park" and substitute:

40 each co-managed park to be under the control and management of the board

(3) Section 43G(4)—delete subsection (4) and substitute:

(4) If a co-management board has been established but appointments of members to the board, at any time, are not sufficient for the board to constitute a quorum at a meeting of the Board, the Director has the functions and powers of the board, subject to the regulations, until the relevant appointments are made.

(5) If a regulation establishing a co-management board for a co-managed park is disallowed by either House of Parliament—

(a) the Director will have the functions and powers of the board until a new board is established for the park; and

(b) the assets and liabilities of the board will be dealt with in accordance with the directions of the Minister.

9—Amendment of section 43I—Dissolution or suspension of co-management boards

(1) Section 43I(2)—delete subsection (2) and substitute:

(2) A co-management board must not be dissolved under this section unless—

(a) each co-managed park under the control and management of the board is abolished; or

(b) the co-management agreement for each co-managed park under the control and management of the board is terminated.

(2) Section 43I(3)—delete "The co-management board for a co-managed park" and substitute:

A co-management board

10—Amendment of section 80—Regulations

Section 80(2)(z)—after "against" insert:

this Act or

Schedule 1—Related amendments and transitional provisions

Part 1—Amendment of *Wilderness Protection Act 1992*

1—Amendment of section 33A—Co-management of wilderness protection areas or zones

(1) Section 33A(6)(a)(i)—after "zone" insert:

, if

(2) Section 33A(6)(a)(i)(A)—delete "if"

(3) Section 33A(6)(h)—delete "an advisory committee (the *co-management committee* for the area or zone)" and substitute:

the co-management advisory committee

- (4) Section 33A(6)—delete "co-management committee" wherever occurring and substitute in each case:

co-management advisory committee

Part 2—Transitional provisions

2—Advisory committees—National parks and conservation parks

- 5 (1) A committee established before the commencement of section 7(2) to provide advice to the Director in relation to the management of a co-managed park constituted of Crown land under a co-management agreement is taken, after the commencement of section 7(2), to be a co-management advisory committee within the meaning of the
10 *National Parks and Wildlife Act 1972*.

- (2) In this clause—

co-managed park has the same meaning as in the *National Parks and Wildlife Act 1972*;

15 *co-management agreement* has the same meaning as in the *National Parks and Wildlife Act 1972*;

Director has the same meaning as in the *National Parks and Wildlife Act 1972*.

3—Advisory committees—Wilderness protection areas and wilderness protection zones

- 20 A co-management committee within the meaning of section 33A of the *Wilderness Protection Act 1992* immediately before the commencement of section 7(2) of this Act is taken, after that commencement, to be a co-management advisory committee for the purposes of Part 3 Division 4 of the *Wilderness Protection Act 1992*.