

Re: National Parks and Wildlife (Amendment) Bill 2009

This is a proposal for an additional minor amendment to be included in the part of this Bill that deals with Aboriginal Land – Part 4A.

Additions to Part 4A lands

Proposal

Where an area has been reserved under Part 4A (Aboriginal ownership) of the National Parks and Wildlife Act 1974, additions that will have a different classification to the area may be made and be dealt with in the same way as is already provided for in Division 8 of Part 4A of the Act for additions that will have the same classification.

Background

- Mutawintji Board of Management has set aside a portion of the rent each year in a fund to implement their 'Acquisition Strategy'. The Board aims to expand Mutawintji National Park to make it more comprehensive, adequate and representative of ecological values; to include more places with high cultural values; improve the shape and ease of management of the Park; and achieve their vision of *a great National Park run by Wiimpatja*.
- This fund now contains enough money to purchase any neighbouring property.
- The Board has also requested Commonwealth funding for acquisition under the National Reserves System component of Caring for our Country.
- The Board proposes to assist the NSW Minister for Climate Change and the Environment acquire land under Part 11 of the Act and have that land added to the Aboriginal-owned National Park as provided for in Division 8 of Part 4A of the Act.
- The Board aims to add more land in future years.
- Mutawintji National Park, Mutawintji Nature Reserve and Mutawintji Historic Site all come under Part 4A. Together they are referred to as the 'Mutawintji lands' or simply as 'Mutawintji National Park'. All three are managed together and a new Plan of Management will soon cover all three.
- Current wording of section 71BC in Division 8 of Part 4A allows the smooth processing of an addition to any of these three areas as long as the addition is of the same classification (eg National Park added to National Park, Nature Reserve added to Nature Reserve).
- It is highly likely that some or all of the potential additions to the Mutawintji lands will need to be classified as State Conservation Area because the region is rich in potential mineral resources. This classification will be imposed from outside the Board.
- Current wording of Part 4A, including sections 71AY and 71AZ, does not seem to allow such an addition, placing an unforeseen technical obstacle in the way of implementing the Mutawintji National Park Acquisition Strategy.
- It is unreasonable and should be unnecessary to pursue the course provided for in sections 71BA and 71BB and in Division 7 of Part 4A, requiring: separate reservation; then separate new addition to Schedule 14; then separate new negotiations for Aboriginal ownership; then a separate lease, simply to add a State Conservation Area to the Mutawintji lands.

- The preferred course is to change section 71BC to allow addition of acquired lands where the classification will be different to the area already reserved.
- Division 4 of Part 4 of the Act clearly reveals that a State Conservation Area is regarded as a classification that is a temporary (section 47M) form of reserve to allow mineral exploitation that should eventually become a National Park or Nature Reserve (section 47MA).
- Similar possible acquisition scenarios for other Part 4A lands might include addition of a National Park to Mt Grenfell Historic Site or addition of a Nature Reserve to Biamanga National Park.
- It is better to have a single small change that applies to all likely situations rather than a change to meet the specific need to add a SCA at Mutawintji, then need further changes in future.
- It appears that the omission of the ability to add lands of a different classification was an oversight in 1996.
- Division 8 of Part 4A clearly reflects Parliament's intention to allow lands to be added to Part 4A lands. In her second reading speech on 20/11/1996, the Minister (Pam Allen) spoke only in general terms about this aspect of the Bill. However, she did make a clear reference to the right of Aboriginal land councils "... to negotiate ... the addition of new lands to come under the provisions of the bill."

Cost Implications

- This proposal is cost neutral.

Resource Implications

- This proposal is not intended to add obstructions to mineral exploitation. It is neutral in this regard. In fact it will remove a potential source of conflict within government regarding proposed additions to Mutawintji National Park.

Suggested Wording of Amendment Required to section 71BC:

Add subsection 71BC(1A) Lands may be reserved under this section as part of an area even if they will have a different classification to the area, provided these additional lands will be managed in conjunction with the area.

(or words to this effect)

Recommendations

- All stakeholders notify the Department of Environment and Climate Change and the Minister that they support this small amendment being included in the National Parks and Wildlife (Amendment) Bill 2009.
- The Department of Environment and Climate Change confirm the need for this amendment and then support it to ensure the smooth operation of Part 4A and in particular to support the vision of the Mutawintji Board of Management to contribute to a comprehensive, adequate and representative reserve system.

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