

# NATIONAL PARKS



National Parks – a Matter of  
National Environmental  
Significance



National Parks Australia Council

**NATURE  
FOR LIFE**



# NATIONAL PARKS

## A Matter of National Significance

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### Research papers of the National Parks Australia Council

The National Parks Australia Council presents a series of five research papers to influence public debate and government decision making concerning the enhancement and management of Australia's terrestrial and marine estate.

- Maintaining the Values of Australia's National Reserve System of Protected Areas
- Completing Australia's National Reserve System of Protected Areas
- Enhancing Landscape Connectivity
- National Parks - a Matter of National Environmental Significance
- Australia's Marine Protected Areas

The National Parks Australia Council has a mission to protect, promote and extend national parks systems within Australia. NPAC was formed in 1975. We are a national body that coordinates and represents the views of a range of State and Territory non-government organisations concerned with protecting the natural environment and furthering national parks. NPAC provides a forum for regular communication between state and territory national parks associations and related organisations to act as a united voice supporting conservation of the National Reserve System across Australia.

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# NATURE FOR LIFE



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# Executive summary

**T**he major objective behind Australia's protected area estate is for the conservation of the natural environment and protection of biodiversity. In line with this, most Australians assume and expect that once an area is declared a national park, or other highly protected area, such as a Wilderness Area, it is a haven for wildlife forever. However, this is not the case: protected areas are increasingly subject to significant pressures that threaten to compromise Australia's natural heritage.

Under existing laws, the Australian Government can only intervene to protect national parks and other protected areas reserved primarily for the conservation of nature if there is a risk to Matters of National Environment Significance (MNES), including nationally listed threatened species, and endangered and critically endangered ecological communities. However, the concept of Matters of National Environment Significance is a political construction and doesn't reflect all nationally significant issues, including the protection of Australia's outstanding network of protected areas, collectively referred to as the National Reserve System (NRS).

Consequently, when state or territory governments wish to approve plans to introduce potentially destructive activities such as logging, grazing or developments associated with tourism into their national parks and other protected areas, there is little that can be done to stop them: Australia's protected area network has not been afforded the level of protection required to prevent actions that may destroy, damage or degrade the natural heritage values that prompted inclusion of these areas within the National Reserve System in the first place.

There is a strong need for greater Australian Government involvement in the protection of the National Reserve System. This can be achieved by introducing an amendment or regulation to the Environment Protection and Biodiversity

Conservation Act 1999 (EPBC Act) that would help secure the National Reserve System by including protected areas as Matters of National Environment Significance. Such an amendment would extend protection to all national parks and high value conservation reserves across Australia. At a minimum Matters of National Environment Significance should include protected areas that are designated IUCN categories Ia (Strict Nature Reserve), Ib (Wilderness Area) and II (National Park). Protected areas on private lands should also be included. These are areas that have been funded by the Australian Government and should have national oversight consistent with other areas within the National Reserve System. This trigger would require Australian Government approval of activities that could have significant detrimental impacts on the natural heritage values within the National Reserve System and would subject commercial proposals and other proposed activities in these protected areas to stronger national and consistent oversight.

The inclusion of protected areas (particularly areas protected for their relatively high biodiversity values) as a Matter of National Environment Significance would improve the Australian Government's ability to fulfil its national (e.g. s.3 (1)(c) of the EPBC Act) and international obligations to conserve biodiversity (e.g. as Party to the Convention on Biological Diversity) and is appropriate given the National Reserve System is the Australian Government's – and indeed all states and territories – primary means of fulfilling these obligations.





An Alpine Tree Frog in cattle-damaged wetland, Alpine National Park. Below, a cow tramples through the Alpine National Park as part of Victoria's 'scientific' grazing trial.





# National Parks are a Matter of National Environmental Significance

## Recommendation

Include protected areas that comprise the National Reserve System on the list of Matters of National Environmental Significance under the Environment Protection and Biodiversity Conservation Act 1999. At a minimum, this trigger should apply to all National Reserve System protected areas that are designated IUCN categories Ia (Strict Nature Reserve), Ib (Wilderness Area) and II (National Park).

## Background

Australia has a long history of recognising the values of natural and wilderness areas through the creation of protected areas, such as national parks.<sup>1</sup> Over time these values have shifted from human-centred values, such as scenic and recreational values, to recognising and acting on the need to protect land and ecosystems for their natural (e.g. biodiversity) and cultural heritage values.<sup>2</sup>

This has resulted in an ideological clash between the utility of the natural environment and its preservation and has caused tensions within Australian society. Today there is mounting pressure from recreational and commercial lobby groups on state and territory governments to allow activities within protected areas that are inconsistent with the primary objectives of these areas, i.e. the conservation of biodiversity and other natural values, which Australia has committed to under various national and international agreements.

## Australia's International Obligations

International conventions put a framework in place for member states to commit to protecting sites of natural and cultural significance, including obligations to take positive steps to protect significant species and their habitats.

As Party to the World Heritage Convention (WHC) and the Convention on Biological Diversity (CBD), Australia has committed to designating world heritage sites and establishing a terrestrial and marine protected area network that is comprehensive, adequate and representative, and fulfils the Aichi Targets.

The Australian Government, states and territories are working cooperatively to achieve these obligations through specific programs, the development and implementation of national strategies and implementation of national environment legislation: the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

## The Environment Protection and Biodiversity Conservation Act 1999

In 1997, the Council of Australian Governments (COAG) agreed to delineate areas of environmental responsibility, with the focus for the Australian Government being the protection of matters of national environmental significance (MNES) that include its international treaty obligations, such as those agreed to in the Convention on Biological Diversity.<sup>3</sup>

These were subsequently embedded in national environmental legislation, i.e. the EPBC Act (discussed further below External Affairs).





| Incredible natural amphitheatre, Bungle Bungle Ranges, Purnululu National Park, WA. Photo: Thomas Jundt | Flickr CC BY-NC 2.0.



| Mountain rocket *Bellendena Montana*),  
Tasmanian Wilderness World Heritage  
Area. Photo: John Sampson



The objects of the EPBC Act are clear that the protection of Matters of National Environmental Significance is the principal object of the Act (see Appendix 1). Subsection (2) provides further detail on how the objects are to be achieved (see Appendix 1), and section 3(2)(a) recognises that an appropriate role for the Australian Government in relation to the environment is to focus on Matters of National Environmental Significance, Commonwealth actions and Commonwealth areas.

The EPBC Act principally serves to ensure that future development doesn't cause further damage to nationally significant environmental assets. However, the list of Matters of National Environmental Significance in the EPBC Act is incomplete and doesn't reflect all nationally significant areas. This is recognised in the EPBC Act as it allows for additional matters to be identified and added to the list (see below).

## **Matters of National Environmental Significance**

Under the EPBC Act if a proposed action 'has, will have, or is likely to have, a significant impact on a Matter of National Environmental Significance', it may require assessment and approval by the Australian Government before it can proceed or not. It is illegal to undertake such an action without approval from the Commonwealth.

Currently, Matter of National Environmental Significance include nine defined areas:

1. Listed threatened species and communities.
2. Listed migratory species.
3. RAMSAR wetlands of international importance.
4. Commonwealth marine environment.
5. World heritage properties.
6. National heritage places.
7. The Great Barrier Reef Marine Park.

8. Nuclear actions.

9. A water resource, in relation to coal seam gas development and large coal mining development.<sup>4</sup>

Guidelines have been developed to help proponents decide if their proposed action is one that needs to be referred to the federal minister for assessment and approval.

## **Adding to the List of Matters of National Environmental Significance**

Section 25 of the EPBC Act allows the EPBC Regulations to prescribe additional Matters of National Environmental Significance, including controlling actions whose regulation is appropriate and adapted to give effect to Australia's obligations under the CBD.

The list of Matters of National Environmental Significance must be reviewed every five years to see whether further matters should be included. As required by s.28 (a), for each new Matter of National Environmental Significance, there needs to be an examination of the following factors: - The adequacy of existing legislation and administrative measures of the Commonwealth, the states, and the territories to prevent significant impacts on those matters.

- The principles of ecologically sustainable development.
- Australia's international obligations.
- The objects of the Act.<sup>5</sup>

## **The National Reserve System<sup>6</sup>**

Australia's National Reserve System (NRS) is the nationwide terrestrial network of protected areas. It includes federal, state and territory reserves, Indigenous lands and protected areas managed by non-profit conservation organisations and private landholders. The National Reserve System



is critical to protecting and maintaining Australia's terrestrial biodiversity and contributes significantly to meeting Australia's international obligations with respect to biodiversity conservation under the Convention on Biological Diversity.

All Australian governments have agreed to minimum standards that protected areas must meet to be included in the National Reserve System, the land must satisfy IUCN definitions and be assigned an appropriate management category (I-VI), and contribute to the comprehensiveness, representativeness and adequacy of the National Reserve System.

Today, the National Reserve System is a network of more than 10,000 federal, state and territory protected areas that cover more than 17 per cent (> 137 million hectares) of Australia's landscape, and all the biodiversity and natural features that reside within. The Australian Government manages six national parks. The remainder are the responsibility of the relevant states and territories, and indigenous and private landholders.<sup>7</sup>

# The issues

## 1. The Reach of the Australian Government

The Australian Government has heavily subsidised the creation of a National Reserve System that aims to be comprehensive, adequate and representative. However, beyond substantial financial contributions, and with the exception of protected areas on Commonwealth land, the Australian Government has no further role in the National Reserve System: responsibility for management of the system lies with the states and territories, and to a lesser extent private landholders.

### 1.1 Adequacy of Existing Legislation with Regard to the Protection of the National Reserve System

The role of the Australian Government in managing the environment is bounded by the related factors of the Australian Constitution (the Constitution) and the historical nature of federal, state relations.

When the colonies joined to form the Australian Federation in 1901 and the Constitution was declared, the basis was established for the state-run national parks system that continues today. One of the issues with this arrangement is the

coordination of the activities of nine different governments, meaning that uniform environmental protection is not easily achieved. Each state and territory has its own legislative frameworks for protected areas, has control of how these areas are managed and determines what can or can't occur within protected areas.<sup>8,9</sup> The core management objectives to protect the natural features within these areas, and in accordance with the IUCN management guidelines, can be undermined by state and territory governments, who are bending to external pressure and self-interest.

An example that illustrates the flexibility of protection offered in protected areas by the states and territories is shown by the submission of a commercial development – a tourist resort (that included a lodge, accommodation, roadwork and a jetty) in Cockle Creek (Southwest National Park, Tasmania). The Management Plan recognised that development in the South West National Park was inconsistent with the protection of the natural values of the area. Instead of refusing the application, the Tasmanian Government approved an amendment of the Management Plan so that the development could take place.<sup>2</sup> Clearly, a management plan cannot provide adequate protection if the response to a development that is inconsistent with the plan is to alter the plan, rather than refuse the development.

**A tension exists between protecting areas for their scenic, ecological or heritage values, and facilitating general public enjoyment of those values.** The latter pressure has caused an increase in recent years of development applications for tourist and commercial developments within parks and reserves. A good example is in relation to the demand for ski lodges and tourist facilities in the Australian snowfields, much of which is within the Alpine National Park. An inherent issue is the inconsistency between conservation objectives contained in legislation and management plans, and proposed developments.<sup>2</sup>





Mt Feathertop in the Alpine National Park draws bushwalkers keen for an alpine experience. People love the remoteness of the Tasmanian Wilderness World Heritage Area. Photos: John Sampson



Including national parks and other high natural conservation value protected areas as a trigger under the EPBC Act will ensure consistent protection of these areas. Otherwise, it will depend on the presence of existing Matters of National Environmental Significance, such as nationally listed threatened species, with the result that the outstanding natural heritage values of an area may be destroyed or degraded by an activity.

A recent example of this is when the Australian Government used its powers to prevent the former Victorian Government from allowing cattle grazing in Alpine National Park. The Commonwealth could act to prevent the significant damage to the environment this activity would cause because this area is listed as a National Heritage area and the federal environment minister at that time was provided with evidence of cattle grazing impacting on the habitat of the threatened Alpine Tree-frog. National Heritage areas and nationally listed threatened species are Matters of National Environmental Significance. The outcome depended on the presence of Matters of National Environmental Significance – without these, grazing would have been allowed and the integrity of the natural values of this historic park would have been destroyed.

In response to the former Victorian Government's proposal to allow grazing within the Alpine National Park, then federal environment minister Tony Burke committed to providing greater protection to Australia's national parks by including them as a Matters of National Environmental Significance under the EPBC Act.

## 1.2. External Affairs

The Australian Government is responsible for areas within its jurisdiction and with powers of approval for proposed activities that may impact significantly on Matters of National Environmental Significance, which relates directly to s.51 [xxix] of the Constitution with regard to external affairs.

The Franklin River Dam case (1983) (aka the Tasmanian Dam case) sowed the seeds of greater influence in state environmental issues by the Australian Government: the dam was prevented by the decision that the Commonwealth had power under s.51 [xxix] of the Constitution to stop the dam based on Australia's international obligations under the World Heritage Convention. This subsequently led to an Intergovernmental Agreement on the Environment (1992) between the Australian Government, the states and territories, which provides for the allocation of powers regarding environmental and natural resource matters to the Commonwealth and the states and territories, including World Heritage and National Heritage matters. This was followed by an implementation agreement in 1997, entitled Heads of Agreement on Commonwealth and State Roles and Responsibilities for the Environment, and was the basis for the enactment of the EPBC Act.<sup>10</sup>

Although not legally binding the agreement is a politically significant document. It recognises that certain matters, particularly those related to Australia's international obligations, fall under the jurisdiction of the Commonwealth government, but that land use and resources are largely matters for state and territory governments, and emphasises the Australian Government's responsibilities with respect to Matters of National Environmental Significance. Thus, a significant limitation to powers that normally fall under state and territory jurisdiction is where the Australian Government has taken on an international responsibility, generally related to treaty obligations, including the protection of natural heritage, i.e. the Commonwealth has significant powers that could potentially be used to enact laws to protect areas that comprise the National Reserve System, which is the Australian Government's primary means of fulfilling its obligations under the Convention on Biological Diversity.

It is now firmly established that under s.51 [xxix]



of the Constitution the Australian Government has the power to enact legislation that is reasonably capable of being considered appropriate and adapted to fulfill Australia's international legal obligations. Once the Australian Government uses the external affairs power to enact legislation, s.109 of the Constitution provides that Commonwealth legislation prevails and any inconsistent state legislation is ineffective.

### 1.2.1. The National Reserve System – A Matter of National Environmental Significance

The nine matters of Matters of National Environmental Significance currently defined under the Act are considered to be of national significance largely because of the existence of international obligations, including those within the Convention on Biological Diversity.<sup>11</sup> The National Reserve System is no exception, and has a central role in implementing Australia's international obligations under the Convention on Biological Diversity, in particular Australia's obligations under Article 8 of the convention with respect to in situ conservation, and makes the most significant contribution to the Australian Government's obligation under the EPBC Act to conserve biological diversity and ecosystem integrity (s.3A (d)).

The Australian public also expects national parks and other protected areas to be comprehensively protected and managed appropriately and consistently across the country. Without doubt, protected areas within the National Reserve System, particularly those offering the highest biodiversity conservation value, should be considered nationally significant and added as a trigger under the EPBC Act.

#### Key points

- Australia's current disparate regimes and

arrangements for protected areas do not provide systematic protection of the nation's biodiversity.

- In recent years we've seen numerous examples of a cavalier and reckless approach to protected areas.
  - **Proposals for activities that may significantly impact on our natural heritage, such as cattle grazing and logging, should be subject to rigorous environmental assessment.**
- A National Reserve System trigger under the EPBC Act would be a more effective method of ensuring that the potential impact on the integrity of the National Reserve System is considered, i.e. all the natural values within a protected area – the values the area was protected for in the first place – are considered and treated as a whole with respect to a proposed activity, as opposed to the current piecemeal approach and 'luck'-based outcome (e.g. if Matters of National Environmental Significance are known to exist in that area).
- The failure to include the National Reserve System and national parks as Matters of National Environmental Significance under the EPBC Act indicates that Australia's national biodiversity conservation legislation is not stringent enough to fully satisfy its objects, including implementation of its obligations under the Convention on Biological Diversity. In particular, the following under object (1):
  - (a) **to provide for the protection of the environment, especially those aspects of the environment that are matters of national environmental significance;**
  - (c) **to promote the conservation of biodiversity;** and
  - (e) **to assist in the co-operative implementation of Australia's international environmental responsibilities.**
- The Australian Government has the means (via regulation) and the rationale (to fulfill its obligations under the Convention on Biological

Diversity, in particular, obligations under Article 8 with respect to in situ conservation)<sup>12</sup> to include protected areas within the National Reserve System as Matters of National Environmental Significance.

- The Australian Government can make legislation relating to external affairs (Australian Constitution, s.51 [xxix]), which allows it to implement Australia's obligations under international nature conservation conventions, including the Convention on Biological Diversity.
  - A new trigger for protected areas can be added to the current list of Matters of National Environmental Significance via EPBC Act regulation. Section 25 of the EPBC Act allows the EPBC Regulations to prescribe additional Matters of National Environmental Significance, including controlling actions whose regulation is appropriate and adapted to give effect to Australia's obligations under the Convention on Biological Diversity.
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## 2. Assigning Secure IUCN Categories

Australia uses the IUCN's definitions in National Reserve System discussed by requiring that the management objectives of National Reserve System protected area estate are consistent with the IUCN definitions of protected areas. All protected areas, irrespective of tenure, across each state and territory have been assigned to one of the IUCN protected area categories.<sup>13</sup>

### 2.1 Public Land

IUCN categories are assigned to protected areas by the jurisdiction (primarily the state/territory governments) that manages them. However, there are a multitude of different land tenures and legislative requirements across Australia that makes this process complicated and inconsistent. To date the allocation of IUCN management categories across Australia has lacked rigour,

national standards and agreement. Consequently, jurisdictions may apply IUCN categories to protected areas inconsistently.

### 2.2 Private Land

It is also important to clarify how private protected areas are considered under this regulation. At a minimum, those that are assigned IUCN categories I-II should be included within the new regulation. However, once again the application of IUCN categories to private protected areas has been ad hoc, inconsistent and not necessary appropriate.

14 For example, South Australia classifies conservation covenants (Heritage Agreements) as Category III (Natural Monument), Queensland as category VI (Managed Resource Protected Area) and Tasmania a mix of categories Ia (Strict Nature Reserve) and VI (Managed Resource Protected Area).

Furthermore, although early advice from the Australian Government's environment department to non-government organisations purchasing private conservation lands was to assign private reserves as category IV, a review of private conservation lands in Victoria concluded that private protected areas meet the IUCN criteria for I–II categories.<sup>14, 15</sup>

Including suitable private protected areas under the scope of the regulation would ensure that the significant investment from the Commonwealth under the National Reserve System program could be protected. It is logical that the same protection and regulation apply to protected areas under both private and public ownership.

#### Key points

- The current application of IUCN protected area management categories to protected areas, across all tenures, in Australia, is in need of review.
- The process for determining IUCN categories needs to



be specific and agreed to, to ensure protected areas are given the appropriate levels of protection, including as a trigger under the EPBC Act.

- Private conservation-covenanted lands that meet the IUCN criteria for management categories I-II (above) should also be included (if public money has been spent, public oversight is justified).
-

# Role of the Australian Government

**T**he majority of the nation's protected areas are controlled by state or territory governments, not all of which are protecting these reserves adequately and are making decisions that compromise the very values these areas have been gazetted for in the first place.

Increasing legislative protection at the national level by enacting a new trigger to require Commonwealth approval of activities that may have significant impacts on the National Reserve System, particularly those assigned an IUCN category Ia (Strict Nature Reserve), Ib (Wilderness Area) and II (National Park), and irrespective of tenure, will enhance the credibility and effectiveness of the National Reserve System and demonstrate Australia's commitment to protect its unique and valuable natural heritage estate and obligations under international conventions such as the Convention on Biological Diversity.

The effect of the regulation would be that proponents would be required to refer proposed actions within the prescribed classes for assessment of the impacts of those activities on biodiversity within the protected area. Consistent with the requirements of the EPBC Act, the likely impacts of the proposed actions would be assessed and the minister would decide whether or not to approve the activities with or without conditions. This decision would involve consideration of economic and social issues.

## 1. List the National Reserve System (or subset thereof) as a Matter of National Environmental Significance

- Add the National Reserve System to the list of Matters of National Environmental Significance. This will provide consistent national oversight and protection from activities that are potentially

harmful to the values these areas contain.

- The proposed regulation would prescribe, as a Matter of National Environmental Significance, native biodiversity in public, terrestrial, national parks and other protected areas included in the National Reserve System and which have been designated for management in the category of Ia (strict nature reserve); Ib (wilderness area) or II (national park) set by the International Union for Conservation of Nature.
- The regulation would not include protected areas assigned for management under categories Ia (strict nature reserves) or Ib (wilderness areas) where the minister is satisfied that there is adequate protection for the area(s) at the state or territory level. The minister may be satisfied that such a law provided adequate protection where it could be demonstrated that:
  - The law prohibits the activities to which the regulation applies; or
  - That a full and transparent public environmental impact assessment process for assessing the action would be undertaken; and
  - That the laws under which this process was undertaken would not allow the approval of an action that would have a significant impact on the biodiversity of the relevant protected area.
- In addition the regulation would also not apply (or cease to apply) to a protected area where the minister is satisfied that a current IUCN classification of IUCN category of Ia, Ib, or II is no longer appropriate.
- A list, similar to other lists currently established under the EPBC Act, such as the National Heritage List, the World Heritage List and the Threatened Species and Ecological Communities List, could be established to formally identify individual protected areas.
  - There may also be merit in making the list or schedule of areas subject to the amendment publicly available.



## 1.1 IUCN Management Categories

- Review and rationalise how protected areas, across tenures, are assigned IUCN management categories, and how the National Reserve System is managed as a whole.

## 2. Determine Guidelines for Referral

Strengthen the trigger and expediency of the referral process by including a schedule of designated developments and/or actions likely to have a significant impact on protected areas, i.e. their core values and primary objective to conserve biodiversity, which will automatically require referral to the Australian Government.

- Such actions include those that may occur within (and as applicable outside) protected areas that qualify as a Matter of National Environmental Significance.
- Actions/activities should include (but are not limited to) those that:
  - Result in the disruption of lifecycles of native species, or hinder a species ability to survive in any way (e.g. breeding, feeding, migration or resting behaviour), focusing on species that are listed as threatened, or are

listed under international conventions (e.g. RAMSAR).

- Result in the modification or destruction of ecosystems, critical habitat and refugia (including by fragmenting and altering fire regimes, nutrient cycles and/or hydrological cycles).
  - May benefit invasive species.
  - Result in pollution of groundwater and waterways, and other biophysical components of the area.
- Implement a systematic National Reserve System natural values assessment, or 'national ecosystem assessment' (such as the UK has done<sup>16</sup>):
    - This would give the public and policymakers specific information about the status and character of our natural assets, and reinforce the many reasons to protect them.
-

# Endnotes

- 1 'National park' is a generic term used by the Australian public to refer to protected areas that are under the control of the states, territories and/or the Commonwealth. In this report, National Park refers to protected areas designated IUCN category II – National Park.
- 2 Australian Network of Environmental Defender's Offices (2006). Inquiry into Australia's National Parks, Conservation Reserves and Marine Protected Areas. Submission to Standing Committee on Environment, Communications, Information Technology and the Arts. Canberra, Australia; Wescott, GC (1991). Australia's Distinctive National Parks System. *Environmental Conservation* 18(4): 331.
- 3 Wentworth Group of Concerned Scientists (2012). Statement on Changes to Commonwealth Powers to Protect Australia's Environment.
- 4 Added to the list in 2013.
- 5 Australian Network of Environmental Defender's Offices (2005). Possible new matters of National Environmental Significance under the EPBC Act 1999. Viewed online 31 July, 2016.
- 6 The Marine Protected Area network is found in Commonwealth waters, which is a MNES.
- 7 Department of Environment. Accessed March 2016: [www.environment.gov.au/land/nrs/about-nrs/ownership](http://www.environment.gov.au/land/nrs/about-nrs/ownership).
- 8 Standing Committee on Environment, Communications, Information Technology and the Arts (2007). *Conserving Australia: Australia's National Parks, Conservation Reserves and Marine Protected Areas*. Commonwealth of Australia (2007).
- 9 Wescott, GC (1991). Australia's Distinctive National Parks System. *Environmental Conservation* 18(4): 331-340.
- 10 The case was a landmark decision in Australian constitutional law, and was a significant moment in the history of conservation in Australia.
- 11 Hawke, A (2009). The Australian Environment Act: Report of the independent review of the Environment Protection and Biodiversity Conservation Act 1999 (Hawke review). Department of Environment, Heritage, Water and the Arts, October 2009, p.98.
- 12 Convention on Biological Diversity, Article 8(a).
- 13 Natural Resource Management Ministerial Council (2005). *Directions for the National Reserve System: A Partnership Approach*, p. 14. Commonwealth of Australia.
- 14 Fitzsimons JA (2015). Private protected areas in Australia: current status and future directions. *Nature Conservation* 10: 1-23.
- 15 Fitzsimons JA (2006). Private Protected Areas? Assessing the suitability for incorporating conservation agreements over private land into the National Reserve System: A case study of Victoria. *Environmental and Planning Law Journal* 23: 365-385.
- 16 UK National Ecosystem Assessment, <http://uknea.unep-wcmc.org/>. (Note, the Hawke Review recommended 'ecosystems of national significance' should a new MNES (recommendation 8).



# References

Australian Network of Environmental Defender's Offices (2005). *Possible new matters of National Environmental Significance under the EPBC Act 1999*. Viewed online 31 July, 2016: [http://d3n8a8pro7vhmx.cloudfront.net/edonsw/pages/326/attachments/original/1380677924/EDO\\_NSW\\_Submissions.pdf?1380677924](http://d3n8a8pro7vhmx.cloudfront.net/edonsw/pages/326/attachments/original/1380677924/EDO_NSW_Submissions.pdf?1380677924)

Australian Network of Environmental Defender's Offices (2006). *Inquiry into Australia's National Parks, Conservation Reserves and Marine Protected Areas. Submission to Standing Committee on Environment, Communications, Information Technology and the Arts*. Canberra, Australia; Wescott, GC (1991). *Australia's Distinctive National Parks System*. *Environmental Conservation* 18(4): 331.

Fitzsimons JA (2006). *Private Protected Areas? Assessing the suitability for incorporating conservation agreements over private land into the National Reserve System: A case study of Victoria*. *Environmental and Planning Law Journal* 23: 365-385.

Fitzsimons JA (2015). *Private protected areas in Australia: current status and future directions*. *Nature Conservation* 10: 1-23.

Hawke, A (2009). *The Australian Environment Act: Report of the independent review of the Environment Protection and Biodiversity Conservation Act 1999 (Hawke review)*. Department of Environment, Heritage, Water and the Arts, October 2009, p.98.

Natural Resource Management Ministerial Council (2005). *Directions for the National Reserve System: A Partnership Approach*, p. 14. Commonwealth of Australia.

Standing Committee on Environment, Communications, Information Technology and the Arts (2007). *Conserving Australia: Australia's National Parks, Conservation Reserves and Marine Protected Areas*. Commonwealth of Australia (2007).

Wentworth Group of Concerned Scientists (2012). *Statement on Changes to Commonwealth Powers to Protect Australia's Environment*. Available online: <http://wentworthgroup.org/2012/09/statement-on-changes-to-commonwealth-powers-to-protect-australias-environment/2012/>

Wescott, GC (1991). *Australia's Distinctive National Parks System*. *Environmental Conservation* 18(4): 331-340.

# Appendix 1

## Objects of the Environment Protection and Biodiversity Conservation Act 1999

### (1) The objects of the EPBC Act are:

- (a) to provide for the protection of the environment, especially those aspects of the environment that are matters of national environmental significance; and
- (b) to promote ecologically sustainable development through the conservation and ecologically sustainable use of natural resources; and
- (c) to promote the conservation of biodiversity; and
- (ca) to provide for the protection and conservation of heritage; and
- (d) to promote a cooperative approach to the protection and management of the environment involving governments, the community, landholders and indigenous peoples; and
- (e) to assist in the cooperative implementation of Australia's international environmental responsibilities; and
- (f) to recognise the role of indigenous people in the conservation and ecologically sustainable use of Australia's biodiversity; and
- (g) to promote the use of indigenous peoples' knowledge of biodiversity with the involvement of, and in cooperation with, the owners of the knowledge.

### (2) In order to achieve its objects, the Act:

- (a) recognises an appropriate role for the Commonwealth in relation to the environment by focusing Commonwealth involvement on matters of national environmental significance and on Commonwealth actions and Commonwealth areas; and
- (b) strengthens intergovernmental co-operation, and minimises duplication, through bilateral agreements; and
- (c) provides for the intergovernmental accreditation of environmental assessment and approval processes; and
- (d) adopts an efficient and timely Commonwealth environmental assessment and approval process that will ensure activities that are likely to have significant impacts on the environment are properly assessed; and
- (e) enhances Australia's capacity to ensure the conservation of its biodiversity by including provisions to:
  - (i) protect native species (and in particular prevent the extinction, and promote the recovery, of threatened species) and ensure the conservation of migratory species; and
  - (ii) establish an Australian Whale Sanctuary to ensure the conservation of whales and other cetaceans; and
  - (iii) protect ecosystems by means that include the establishment and management of reserves, the recognition and protection of ecological communities and the promotion of off-reserve conservation measures; and

- (iv) identify processes that threaten all levels of biodiversity and implement plans to address these processes; and
- (f) includes provisions to enhance the protection, conservation and presentation of world heritage properties and the conservation and (fa) includes provisions to identify places for inclusion in the National Heritage List and Commonwealth Heritage List and to enhance the protection, conservation and presentation of those places; and
- (g) promotes a partnership approach to environmental protection and biodiversity conservation through:
  - (i) bilateral agreements with States and Territories; and
  - (ii) conservation agreements with land-holders; and
  - (iii) recognising and promoting indigenous peoples' role in, and knowledge of, the conservation and ecologically sustainable use of biodiversity; and
  - (iv) the involvement of the community in management planning.





# National Parks Australia Council

The National Parks Australia Council (NPAC) is a national body that represents state and territory organisations concerned with protecting the natural environment and furthering national parks. It has six member organisations, representing all states and territories except Western Australia and the Northern Territory.

## Victorian National Parks Association

The Victorian National Parks Association (VNPA) shares a vision of Victoria as a place with a diverse, secure and healthy natural environment cared for and appreciated by all.

Website: [www.vnpa.org.au](http://www.vnpa.org.au)

Email: [vnpa@vnpa.org.au](mailto:vnpa@vnpa.org.au) | Phone: (03) 9347 518



## National Parks Association of NSW

The mission of the National Parks Association of NSW (NPA NSW) is to protect, connect and restore the integrity and diversity of natural systems in NSW and beyond, through national parks, marine sanctuaries and other means.

Website: [www.npansw.org.au](http://www.npansw.org.au)

Email: [npansw@npansw.org.au](mailto:npansw@npansw.org.au) | Phone: (02) 9299 0000



## National Parks Association of Queensland

The National Parks Association of Queensland (NPAQ) is dedicated to promoting the preservation, expansion, good management and presentation of National Parks in Queensland.

Website: [www.npaq.org.au](http://www.npaq.org.au)

Email: [npaq@npaq.org.au](mailto:npaq@npaq.org.au) | Phone: (07) 3367 0878



## National Parks Association of the ACT

The National Parks Association of the ACT (NPA ACT) was established in 1960. The Association works to promote national parks and the protection of fauna and flora, scenery, natural features and cultural heritage.

Website: [www.npaact.org.au](http://www.npaact.org.au)

Email: [admin@npaact.org.au](mailto:admin@npaact.org.au) | Phone: (02) 6229 3201





| Royal National Park, Australia's first national park. Photo: M Eckert | Flickr | CC BY-NC-ND 2.0

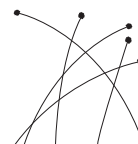
## Tasmanian National Parks Association

The mission of the Tasmanian National Parks Association (TNPA) is to preserve the integrity of, and expand, the Tasmanian national park system, and to ensure appropriate management of their natural and cultural values.

Website: [www.tnpa.org.au](http://www.tnpa.org.au)

Email: [info@tnpa.org.au](mailto:info@tnpa.org.au) | Phone: 0427 854 684

**Tasmanian**  
**National Parks**  
Association



## Nature Conservation Society of SA

The primary objective of the Nature Conservation Society of South Australia (NCSSA) is to foster the conservation of the State's wildlife and natural habitats.

Website: [www.ncssa.asn.au](http://www.ncssa.asn.au)

Email: [ncssa@ncssa.asn.au](mailto:ncssa@ncssa.asn.au) | Phone: (08) 7127 4630





National Parks Australia Council



## CONTACT US

**Victoria:** [www.vnpa.org.au](http://www.vnpa.org.au)

**New South Wales:** [www.npansw.org.au](http://www.npansw.org.au)

**Queensland:** [www.npaq.org.au](http://www.npaq.org.au)

**South Australia:** [www.ncssa.asn.au](http://www.ncssa.asn.au)

**Tasmania:** [www.tnpa.org.au](http://www.tnpa.org.au)

**Australian Capital Territory:** [www.npaact.org.au](http://www.npaact.org.au)