**WILDERNESS PROTECTION BILL 1992**

**LEGISLATIVE COUNCIL, 15 APRIL 1992, PAGE 4316**

**Second reading.**

**The Hon. ANNE LEVY (Minister for the Arts and Cul­tural Heritage):** I move:

That this Bill be now read a second time.

As this matter has already been dealt with in the other place, I seek leave to have the second reading explanation inserted in*Hansard* without my reading it.

Leave granted.

**Explanation of Bill**

Wilderness is becoming increasingly rare on our planet. In a very short space of time the seemingly endless tracts of forests, woodlands and deserts have been destroyed or severely modified by the demands of burgeoning human populations and impacts of modern technological society.

Wilderness, as rare as it is, preserves part of what once was. The conservation of our native plants and animals in functioning natural systems should have the best chance of viability in wilderness. Wild and untouched landscapes should have their best expression in wilderness. The presence of humans in wilderness should be in harmony with the preservation of these remote and undisturbed natural places.

Through legislation Governments in this context act to preserve a range of natural environments. South Australia has proclaimed more area as park than any other State. Our legislation also preserves native vegetation and provides for conservation-based management of pastoral areas. Wilderness could of course be identified and managed in national parks legislation. This is the case in many areas of the world.

There is however a widespread view, shared by the Government, and I understand the Opposition, that wilderness is so precious that the identification and protection of wilderness should be enshrined in separate legislation. A stand-alone Wilderness Protection Act thus forms the apex in a suite of conservation legislation that includes native vegetation retention, pastoral management and the management of parks and reserves.

The Minister for Environment and Planning receives more individual representations supporting separate legislative protection for wilderness than any other single issue.

The United States of America passed a separate Wilderness Act in 1964. Australia's first separate legislation was the New South Wales Wilderness Act in 1987. The Prime Minister's 1989 Statement on the Environment included a Commonwealth Government commitment to examine wilderness management options and the development of criteria to examine wilderness values.

The South Australian Bill proposes a process of identifying potential wilderness areas based on well-established criteria. These areas will either be preserved in proclaimed Wilderness Protection Areas or earmarked for future area proclamation as Wilderness Protection Zones as other land use issues such as mining potential are worked through.

The Bill prescribes the management of wilderness areas to be based on a Code of Management. The obligatory components of the code are spelt out in the Bill with a strong emphasis on environmental preservation, rehabilitation of damaged areas and managed public access. The code adoption process also involves public input and consultation.

The Bill proposes a very high degree of protection for wilderness. Proclamation will only be able to be reversed by resolutions of both Houses of Parliament. Damaging practices in wilderness areas will be prohibited in the legislation except for approved works (for example, track relocation) approved in an adopted Plan of Management.

The management of wilderness areas will be subject to an annual report to Parliament.

The Bill envisages a very high degree of public involvement and accountability. This involves:

* the Annual Report to Parliament, as mentioned
* the establishment of a citizens advisory body to investigate potential wilderness and wilderness management issues
* public input into the Code of Management preparation
* public comment on wilderness area proposals before they are considered by the Government
* public comment on Plans of Management before they are prepared and again before they are finalised for adoption
* access to the Courts to ensure the wilderness protection obligations under the Act are enforced.

The issue of mining access to areas of mineral potential or unassessed regions of the State is one of importance to the Government, the mining industry and the community. The Bill proposes that suitable wilderness areas unencumbered by mining tenements be proclaimed Wilderness Protection Areas and thus receive the highest possible level of protection envisaged by the Bill.

Some areas of wilderness area potential will be in the process of being explored for mining potential or will have mining activity within them. The Bill will allow these areas to be proclaimed wilderness protection zones in a way which includes a mechanism to facilitate mining activity. The intention would be to undertake that activity in a way that minimises the impact of mining operations on the zone's wilderness values and when exploration or other activity has ceased the area would be available for proclamation as a Wilderness Protection Area.

Wilderness areas around the world are often a source of inspiration and enjoyment to visitors. Such public use in harmony with the wilderness setting is not only appropriate also but fundamentally is important to a growing number of people. The Wilderness Protection Bill prescribes, as part of the Wilderness Code of Management, the setting out of policies in relation to education of the public about wilderness and provision for the recreational use of wilderness. A common perception of public use of wilderness is that it must be available only to walkers. In South Australia much of our wilderness will be in our great deserts. The only safe way the public can travel to and through these areas is by vehicle. The Bill recognises this practical reality by providing for the maintenance of authorised vehicle access. Such use will be described in Plans of Management released for public comment.

Protection of the features that make an area wilderness is obviously of paramount importance in wilderness protection legislation.

The Bill prescribes strong protection provisions. Damaging activities are prohibited and management must be in accord with the Code and Plans of Management adopted after public input. The Bill provides for a suite of regulatory powers that are aimed to preclude damaging activities and allow for appropriate public use.

The Bill does not set up another bureaucratic structure. The Act will be administered by the Department of Environment and Planning as a complement to the State's park system. The management will be by the Department's National Parks and Wildlife Service staff. It is expected that by far the majority of the potential wilderness areas are in the existing National Parks and Wildlife Act reserve system so additional management workloads are not anticipated.

As previously mentioned, the Bill complements the State's suite of conservation legislation and establishes protected wilderness at the uppermost level of our conserved lands.

The provisions of the Bill are as follows:

Clauses 1 and 2 are formal.

Clause 3 provides definitions of terms. In some cases, terms are defined by reference to the definition of the term in another Act. This is usually done when the definitions in the two Acts are to be identical and the other Act provides for the meaning to be narrowed or widened from time to time by regulation. The definition of 'the Minister' ensures that the one Minister will administer this Act and the National Parks and Wildlife Act 1972. Subclause (2) sets out the wilderness criteria. These criteria are central to the Bill. They reflect the fact that the condition of land has been degraded by modern western technology and the introduction of exotic animals and plants.

Clause 4 provides that the Crown is to be bound by the Bill.

Clause 5 is a power of acquisition vested in the Minister.

Clause 6 provides a power of delegation that is similar to the power of delegation provided by the National Parks and Wildlife Act 1972. The Minister cannot, however, delegate the power to acquire land.

Clause 7 requires the Minister to prepare an annual report which must be laid before Parliament and must be made publicly available.

Clause 8 establishes the Wilderness Advisory Committee.

Clause 9 sets out procedures for meetings of the Committee. Clause 10 provides for allowances and expenses.

Clause 11 sets out the functions of the Committee.

Clause 12 provides for the preparation of a Wilderness Code of Management. The code must set out policies in relation to the matters set out in subclause (2). These policies must be implemented in the management of a wilderness protection area or zone to the extent to which they are relevant to that area or zone. The clause provides for submissions by members of the public.

Clause 13 provides for appointment of wardens. Wardens appointed under the National Parks and Wildlife Act 1972 and police officers will be wardens under this Bill. Authorised persons and officers and inspectors under the Mining Act 1971, the Petroleum Act 1940 and the Petroleum Submerged Lands Act 1982 will be wardens in respect of a wilderness protection zone in respect of which a relevant mining tenement is in force.

Clause 14 provides for assistance to wardens by other persons.

Clause 15 sets out powers of wardens. This clause is similar to section22 ofthe National Parks and Wildlife Act 1972. Subclause (2) makes it an offence for a person to fail to answer a question put by a warden to the best of the person's knowledge, information and belief. However, a person is not required to answer an incriminating question.

Clause 16 enables a warden or the Minister to direct a person who is committing an offence or who is undertaking an activity that is likely to result in the commission of an offence to stop it. The warden's direction can be made verbally on the spot and has a life of five days but cannot be renewed. The direction can be continued by the Minister by notice in writing served on the person concerned under subclause (5). This direction remains in force until it is revoked under subclause (8)(b). The validity of a direction can, of course always be challenged before the courts.

Clause 17 provides for the confiscation of objects associated with the commission of an offence and for their forfeiture in certain circumstances. The corresponding provision in the National Parks and Wildlife Act 1972 is section 23.

Clause 18 is a standard provision relating to the hindering of wardens or persons assisting a warden.

Clause 19 enables a warden to arrest a person who fails to comply with a direction, requirement or order of a warden or the Minister or who hinders a warden in the exercise of powers or functions. Section 25 is the corresponding provision in the National Parks and Wildlife Act 1972.

Clause 20 makes it an offence to falsely represent oneself as a warden.

Clause 21 provides immunity from liability for honest acts or omissions in the exercise or discharge of powers or functions.

Clause 22 gives the Governor the power to constitute land as a wilderness protection are or wilderness protection zone. Land will only be constituted as a wilderness protection zone if mining is to be allowed on the land. The land will usually be Crown land but subclause (1) (a) (ii) enables private land to be constituted as an area or zone. In many cases the land will already be part of the reserve system under the National Parks and Wildlife Act 1972. The Governor can only act under this section on the recommendation of the Minister. Subclause (5) sets out the categories of land that can be the subject of a proclamation under the section. Before a recommendation can be made the public consultation process set out in subclause (6) must be completed.

Clause 23 provides for the constitution of land that is subject to an indenture as a wilderness protection area or zone with the consent of the indenture holder.

Clause 24 provides for the making of small boundary changes without recourse to Parliament. Section 41a is the corresponding provision in the National Parks and Wildlife Act 1972.

Clause 25 prohibits mining in wilderness protection areas but allows mining in wilderness protection zones pursuant to proclamation. Subclause (4) provides for the circumstances in which a proclamation can be made. It must be made pursuant to a resolution of both Houses of Parliament (subsection (4)(b)) or it must be made at the same time as the proclamation constituting the land as a wilderness protection zone is made and be limited so that it only allows an existing owner to continue mining under the original tenement or a subsequent tenement or another person to mine under a tenement transferred to him or her by the original miner (subsection (4) (a)). This provision is designed to preserve the value of the original mining right.

Clause 26 prohibits grazing, other forms of primary production and the construction of roads, tracks, buildings, etc., in both wilderness protection areas and wilderness protection zones. The provision does not apply to mining activities authorised on a wilderness protection zone under clause 25.

Clause 27 makes the unlawful destruction of, or damage to, a wilderness protection area or zone, or the damage or destruction of the native vegetation on such a zone, an offence.

Clause 28 provides for the administration of wilderness protection areas and zones. All leases and licences become void on constitution of the land as an area or zone. It should be noted that Crown Leasehold land cannot be constituted as a wilderness area or zone without the consent of the lessee—see clause 22 (1) (a) (ii). Subclause (3) ensures that a mining tenement remains in force if it is supported by a simultaneous proclamation.

Clauses 29 and 30 provide for the management of areas and zones and the implementation of the code of management in the management of areas and zones.

Clause 31 provides for the preparation of plans of management. A plan of management must implement the policies of the wilderness code of management so far as they are relevant to its wilderness protection area or zone.

Clause 32 provides that the provisions of a plan of management must be carried out in the management of the area or zone to which the plan relates.

Clause 33 provides for the declaration of prohibited areas. The corresponding provision in the National Parks and Wildlife Act 1972 is section 42.

Clause 34 provides for civil enforcement. Action can be taken under this clause by the Director or by any other person. There are similar provisions in the Planning Act 1982, the Native Vegetation Act 1991 and the City of Adelaide Development Control Act 1976.

Clause 35 provides for the commencement of proceedings.

Clause 36 provides for appeals.

Clause 37 is an evidentiary provision.

Clause 38 provides time limits for the prosecution of summary offences under the Bill.

Clause 39 is a financial provision.

Clause 40 provides a general defence.

Clause 41 provides for the marking of regulations.

Schedule 1 makes consequential amendments to the National Parks and Wildlife Act 1972.

The Hon. DIANA LAIDLAW secured the adjournment of the debate.