



Australian Government

Department of Sustainability, Environment, Water, Population and Communities

Statement of Reasons for a Decision that the Action is Clearly Unacceptable under the *Environment Protection and Biodiversity Conservation Act 1999*

I, TONY BURKE MP, Minister for Sustainability, Environment, Water, Population and Communities, provide the following statement of reasons for my decision of3/1/12....., under section 74B of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), that the proposed action by the Victorian Department of Sustainability and Environment to undertake an investigation of fuel and bushfire risk management in Victoria's high country using strategic cattle grazing (EPBC 2011/6219), would have clearly unacceptable impacts on a matter protected by a provision of Part 3 of the EPBC Act.

Legislation

Section 68 of the EPBC Act relevantly provides:

- (1) A person proposing to take an action that the person thinks may be or is a controlled action must refer the proposal to the Minister for the Minister's decision whether or not the action is a controlled action.
- (2) A person proposing to take an action that the person thinks is not a controlled action may refer the proposal to the Minister for the Minister's decision whether or not the action is a controlled action.

Section 74B of the EPBC Act relevantly provides:

- (1) This Division applies to the referral of a proposal to take an action if, within 20 business days after the Minister receives the referral:
 - (a) the Minister considers, on the basis of the information in the referral, that it is clear that the action would have unacceptable impacts on a matter protected by a provision of Part 3; and
 - (b) the Minister decides that this Division should apply to the referral.
- (2) If this Division applies to a referral, any other provisions of this Chapter that would, apart from this subsection, have applied to the referral cease to apply to the referral.
- (3) Subsection (2) has effect subject to paragraph 74D(6)(a).

Section 74C of the EPBC Act relevantly provides:

- (1) As soon as practicable after making the decision under paragraph 74B(1)(b) in relation to a referral, the Minister must give written notice of the decision to:
 - (a) the person proposing to take the action that is the subject of the referral; and
 - (b) the person who referred the proposal to the Minister (if that person is not the person proposing to take the action that is the subject of the referral).

- (2) The notice must:
 - (a) state that the Minister considers that the action would have unacceptable impacts on a matter protected by a provision of Part 3; and
 - (b) set out the reasons for the Minister's decision.
- (3) After receiving the notice under subsection (1), the person proposing to take the action may:
 - (a) withdraw the referral and take no further action in relation to the proposed action; or
 - (b) withdraw the referral and refer a new proposal to take a modified action to the Minister in accordance with Division 1; or
 - (c) request the Minister, in writing, to reconsider the referral.

Note 1: Section 170C sets out the procedure for withdrawing a referral.

Note 2: A referral of a proposal to take a modified action will be a new referral for the purposes of this Chapter.

Section 324X of the EPBC Act relevantly provides:

- (1) This section applies to a National Heritage place that is not entirely within one or more Commonwealth areas and is:
 - (a) in a State; or
 - (b) in a self-governing Territory; or
 - (c) on, over or under the seabed vested in a State by the *Coastal Waters (State Title) Act 1980* or in the Northern Territory by the *Coastal Waters (Northern Territory Title) Act 1980*.
- (2) The Commonwealth must use its best endeavours to ensure a plan for managing the place, that is not inconsistent with the National Heritage management principles, is prepared and implemented in co-operation with the State or Territory.
- (3) The Commonwealth, and each Commonwealth agency, must take all reasonable steps to ensure it exercises its powers and performs its functions in relation to the place in a way that is not inconsistent with:
 - (a) the National Heritage management principles; or
 - (b) the plan for managing the place, if one has been prepared under subsection (2).

Background

1. The proposed action was referred under section 68 of the EPBC Act by the Victorian Department of Sustainability and Environment. The referral was received by the Department of Sustainability, Environment, Water, Population & Communities (the department) on 14 December 2011. The referral indicated that, in the view of the Victorian Department of Sustainability and Environment, the proposed action is a controlled action.
2. The proposed action is to undertake a five year research trial to determine whether strategic cattle grazing is an effective tool for fuel and bushfire management in Victoria. Ten sites have been identified for use in the study, all of which sit within Victoria's high

country in the east of Victoria. The Victorian Department of Sustainability and Environment expect that six of the proposed sites will be used for research, with a further =four being contingency sites in the event that one of the former sites becomes unsuitable for use during the study. The total area of all ten sites is 39,738 ha. The ten sites range in altitude from approximately 400 metres to approximately 1800 metres, from sub-alpine environments to tablelands and foothills.

3. The proposed action will involve the placement and grazing of 400 adult equivalent cattle across the sites for a maximum of five months between 1 December and 30 April each year of the trial. The proposed action is expected to commence 1 December 2012 and continue for five years.
4. The Victorian Department of Sustainability and Environment conducted a similar research trial covering approximately 25,600 hectares in January through to April 2011. The research trial was not referred to the Australian Government under the EPBC Act. The trial was subsequently terminated after I formally requested that it be referred, pursuant to section 70(1) of the EPBC Act. The research trial was subject to compliance action by the department due to the high risk of significant impacts on national heritage values.
5. On 31/1/12 I decided that the proposed action would have clearly unacceptable impacts on the National Heritage values of the Australian Alpine National Parks and Reserves, a National Heritage place and that Division 1A of Part 7 of the EPBC Act applies to the referral.

Evidence or other material on which my findings were based

6. The evidence or other material upon which my findings were based is listed below:
 1. A brief from the department, dated 25 January 2012, including information contained in the following attachments:
 - i. A copy of the referral and associated attachments received by the department on 14 December 2011.
 - ii. The department's Environment Reporting Tool (ERT) reports on Matters of National Environmental Significance.
 - iii. DEWHA (2009) *EPBC Act Policy Statement 1.1 – Significant Impact Guidelines: Matters of National Environmental Significance*, Canberra
 - iv. Commonwealth of Australia Gazette Special – Inclusion of a Place in the National Heritage List, No. S237 (Commonwealth of Australia, 2008).
 - v. Wahren, C-H. A., Papst, W.A., Williams, R.J. (1994) *Long-term vegetation change in relation to cattle grazing in subalpine grassland and heathland on the Bogong High Plains: an analysis of vegetation records from 1945 to 1994*. Australian Journal of Botany, 42, 607-639.
 - vi. Groves, R.H (1998) *Grazing in the Victorian High Country: an assessment of the scientific adequacy of grazing studies in the Victorian High Country 1945-1998, with some recommendations for future research*. CSIRO, Canberra.
 - vii. Alpine Grazing Taskforce (2005) *Report of the Investigation into the future of cattle grazing in the Alpine National Park*. Published by the Victorian Government.
 - viii. Advice provided by the department's Heritage and Wildlife Division.

Findings on material questions of fact

7. The referral states that the proposed action will involve the introduction of cattle to parts of the Victorian high country. Nine of the 10 sites selected for the proposed cattle grazing research trial are located partly or entirely within the Australian Alps National Parks and Reserves.
8. The National Heritage values of a National Heritage Place are a matter protected by section 15B and 15C of Part 3 of the EPBC Act.
9. A National Heritage Place is a place that is included in the National Heritage List (subsection 324C(3) of the EPBC Act). The Australian Alps National Parks and Reserves were declared a National Heritage Place on 4 November 2008.
10. The National Heritage values of the National Heritage place are those values of the place included in the National Heritage List for the place (subsection 324D(2) of the EPBC Act).
11. The National Heritage values for the Australian Alps National Parks and Reserves include a number of heritage values relating to the ecology and species diversity of this National Heritage Place:
 - "The Alps are one of eleven sites recognised in Australia by the IUCN as a major world centre of plant diversity ... containing most of the contiguous montane to alpine environments in Australia the AANP supports a rich and unique assemblage of cold-climate specialist species that have evolved unique physiological characteristics, enabling them to survive in an environment subject to extreme climate variation ... the AANP is a vital refuge for alpine and sub-alpine flora and fauna species, with a high level of richness and endemism across a wide range of taxa and therefore has outstanding value to the nation for encompassing a significant and unique component of Australia's biological heritage".
 - "The AANP has outstanding heritage significance to the nation for possessing extremely uncommon aspects of Australia's natural history ... the AANP contains most of the alpine and sub-alpine ecosystems on mainland Australia, supporting flora and fauna species that have evolved to the harsh conditions of the high altitudes. Many of these species are endemic to the Alps and are found nowhere else in Australia. The bog and fen groundwater communities are supported by organic soils and contain exceptional water retention properties".
12. A significant body of scientific and historical literature supports the clear conclusion that cattle grazing has unacceptable impacts on the ecology and species diversity of the Australian Alps National Parks and Reserves. For example:
 - A study of vegetation structure and composition from the period 1945 to 1994 by Wahren *et al* (1994) found: "Our data clearly show that grazing by cattle has substantial impacts on the composition and structure of subalpine vegetation. In grassland, grazing alters species composition by selective grazing of the taller forbs and short, palatable shrubs. Grazing in grassland also results in persistently greater areas of bare ground that are susceptible to soil erosion by such action as frost heave and wind winnowing. The processes involved have been extensively described by other workers for areas across the Australian high country ..."
 - A review of grazing studies in the Victorian High Country by Dr Richard Groves, Senior Principal Research Scientist, CSIRO in 1998 found: "Results of scientific research assessed in this study on the effects of excluding grazing on vegetation composition in the high country of both New South Wales and

Victoria, without exception, reveal the deleterious effect of grazing on native plant biodiversity and, to a lesser extent, on water yield. The constancy of the message from previous research conducted by different research scientists in different regions is unquestionable in my opinion and forms an adequate basis on which to make management decisions ...”

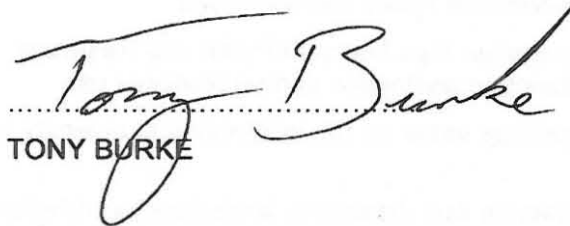
- The Alpine Grazing Taskforce (formed from members of the Victorian Parliament) conducted an investigation into the benefits and impacts of cattle grazing in the Victorian Alpine National Park. The Taskforce's 2005 report found that “grazing modifies and damages vegetation in the park...[and]...cattle grazing is considered a significant threat to at least 25 flora species, 7 fauna species and 4 plant communities found in the park that are listed as rare, vulnerable or threatened with extinction...[and that there are]...significant damaging impacts and no overall benefits for the environment from cattle grazing in the Alpine National Park”.
13. Based on the extensive body of evidence publicly available on this matter, I found that the information is clear and unambiguous in relation to the impacts of the proposed action, being the introduction of cattle grazing, on the ecology and species diversity of the Australian Alps National Parks and Reserves. Accordingly, I found that the proposed cattle grazing research trial will have clearly unacceptable impacts on the heritage values of the Australian Alpine National Parks and Reserves.
14. The National Heritage values for the Australian Alps National Parks and Reserves include a number of heritage values relating to aesthetics and recreational use:
- “The AANP has outstanding heritage value for the longevity and diversity of its recreational use. . . .”
 - “The AANP is a powerful, spectacular and distinctive landscape highly valued by the Australian community. The mountain vistas, including distinctive range upon- range panoramas, snow covered crests, slopes and valleys, alpine streams and rivers, natural and artificial lakes, the snow-clad eucalypts and the high plain grasslands, summer alpine wildflowers, forests and natural sounds evoke strong aesthetic responses. Much of the terrain of the AANP is highly valued for its remoteness, and naturalness, including views to and from the region that capture snow clad ranges and mountain silhouettes against clear skies as well as expansive views of natural landscapes from the high points of the Alps. The upper Snowy River and Snowy Gorge, Mount Buffalo, the Kosciuszko Main Range, Lake Tali Karng, Dandongadale Falls, the peaks and ridges between and including Mt Cobbler, Mt Howitt and the Bluff and other high peaks, ridgelines, granite outcrops and escarpments are examples of dramatic awe-inspiring landscapes. Recreational pursuits in these landscapes are enhanced by aesthetic appreciation of their wild and natural quality”
 - “The Australian Alps have a special association with the Australian community because of their unique landscapes, the possibility of experiencing remoteness and as the only opportunity for broad-scale snow recreation in Australia. . . .”
15. Cattle grazing within the Australian Alps National Parks and Reserves is incompatible with the above heritage values. Visual impacts have an obvious and long-term effect on the aesthetic quality of the area. The presence of cattle would also detract from the natural and remote setting of the landscape across a large portion of the National Heritage Place.
16. The proposed cattle grazing trial will include sections of land within the complex of peaks and ridges between Mt Cobbler, Mt Howitt and the Bluff – which is specifically identified in the gazette notice as an example of a landscape of particular heritage significance.

17. Moreover, cattle grazing will decrease the value of the Australian Alps National Parks and Reserves as a location for recreational use. The presence of cattle will detract from the wild and natural quality of the landscape and reduce the aesthetic appreciation of the area by visitors seeking experiences of remoteness in a natural environment (which are components of the listed values of the National Heritage Place).
18. In light of the above, I found that the information is clear and unambiguous in relation to the impacts of the proposed action, being the introduction of cattle grazing, on the aesthetic and recreational values of the Australian Alps National Parks and Reserves. Accordingly, I found that the cattle grazing will have serious or irreversible impacts on the heritage values of the Australian Alps National Parks and Reserves.

Reasons for decision

19. In light of my findings, I was satisfied that the referred action would have a clearly unacceptable impact on the National Heritage values of the Australian Alps National Parks and Reserves Australian Alps National Parks and Reserves National Heritage Place, a matter protected by section 15B and 15C of Part 3 of the EPBC Act.

Signed


.....
TONY BURKE

31 / 1 / 12
.....
Date