Innovative measures for establishing protected areas on private lands in South Australia

Greg Leaman and Clare Nicolson

South Australia's system of terrestrial protected areas covers over 28 million hectares, or around 29% of the State, and comprises public, private and Aboriginal-owned lands. In building this protected area estate, South Australia has endeavoured to be innovative and has pioneered new ways of achieving conservation on both public and private lands. This commitment to looking for new ways and partnerships is ongoing as further additions are required to ensure a fully comprehensive, adequate and representative protected area system that contributes to the goals of the National Reserve System.

Acknowledging the significant contribution that private protected areas can make to conservation efforts, South Australia is exploring a range of innovative measures to facilitate and encourage the further establishment of protected areas on private land. These measures aim to ensure that private protected areas meet agreed National Reserve System (NRS) criteria, including protection in perpetuity.

This chapter provides a brief overview of South Australia's protected area system and two strategic frameworks that will help shape its growth. It goes on to discuss current work underway in South Australia to develop an innovative legislative framework for establishing protected areas on private land that will put the state at the forefront of private protected area management in Australia.

The South Australian terrestrial protected area system

The majority of South Australia's protected areas (by area) occur on public land (**Figure 1**). The public protected area system comprises 403[1] areas protected under the *National Parks and Wildlife Act 1972*, *Wilderness Protection Act 1992*, *Crown Land Management Act 2009* and *Forestry Act 1950*, and continues to grow through strategic acquisitions.

Ten of the state's National Parks and Conservation Parks are co-managed with Aboriginal Traditional Owners. These cover approximately 3.9 million hectares or around 14% of the protected area system.

The state's public protected areas are complemented by an extensive system of private protected areas, encompassing 800,000 hectares or around 0.8% of the state.

1 As at 1 May 2012

Eastern side of Wilpena Pound, Flinders Ranges. ©Photo: DEWNR

Private protected areas are held by private landholders and non-government organisations with an interest in conservation. They are afforded protection through formal Heritage Agreements under the state's *Native Vegetation Act 1991* or as Sanctuaries under the *National Parks and Wildlife Act 1972*.

The South Australian Government has provided considerable financial assistance to non-government conservation organisations to purchase land for private protected areas and continues to work with those organisations with regard to their management.

The third component of the protected area system is protected areas over Aboriginal-owned lands. In 2004, innovative amendments were made to the *National Parks and Wildlife Act 1972* to enable formal reserves to be established over Aboriginal lands. The Mamungari Conservation Park (2.1 million hectares) in the Maralinga Tjarutja lands in the west of the state was the first to be established under these provisions. Eight Indigenous Protected Areas, covering around 6.1 million hectares, have also been established over other lands by agreement between the Aboriginal owners and the Australian Government.

Despite the extensive protected area system already in place, only 11 of the 17 IBRA bioregions that occur in South Australia have more than 10% of their area protected. At an IBRA sub-regional level, half of the 56 subregions have less than 10% protection (DENR 2012). South Australia's protected areas have been established largely opportunistically over the last 120 years and while some regions are well represented, others have more limited coverage. Development of the IBRA framework has allowed a more strategic approach over the last two decades. However, further work is required to establish a fully comprehensive, adequate and representative system.

Strategic frameworks: NatureLinks and the protected areas strategy

In 2002, the South Australian Government became the first in Australia to formally adopt a landscape-scale approach to conservation and incorporate the concept, termed *NatureLinks*, into policy and planning frameworks (DENR 2011a). The Government made a commitment to "develop a system of interconnected core protected areas, each surrounded and linked by lands managed under conservation objectives" (Australian Labor Party 2002). Five broad 'biodiversity corridors' were identified and incorporated into the South Australian *NatureLinks* strategy (Figure 2).

NatureLinks provides the overarching framework for Government agencies, conservation organisations, landholders and local communities to work together to restore and manage landscapes and seascapes within the five biodiversity corridors.

In 2009, South Australia partnered with the Northern Territory to develop the Trans-Australia Eco-Link (see chapter by Bridges in this publication). This aims to establish Australia's largest trans-continental biodiversity corridor extending from Spencer Gulf in South Australia to the Arafura Sea and Arnhem Land in the Northern Territory – a distance of approximately 3,500 kilometres (DENR 2011b) (Figure 2).

South Australia's protected area strategy *Conserving Nature 2012-2020: A strategy for establishing a system of protected areas in South Australia* (DENR 2012) recognises that it will require efforts beyond, but supported by, government to establish a fully comprehensive, adequate and representative protected area system. The strategy articulates a strategic framework for establishing protected areas on public, private and Aboriginal lands, including a priority to establish protected areas that will increase habitat connectivity across the landscape in accordance with *NatureLinks* principles.

A new framework for protected areas on private lands

In 2010, South Australia commenced development of a framework to provide a range of mechanisms for establishing and managing protected areas on private lands. The main objective is to make it easier for private landholders and conservation organisations to achieve their own conservation goals while also making an effective contribution to the formal, long-term protection of the state's biodiversity.

This work culminated in the release of a discussion paper in 2011 setting out options for supporting land owners to establish core areas for conserving nature (DENR 2011c). The options consist of two existing mechanisms (Sanctuaries and Heritage Agreements) and two proposed new mechanisms.

Sanctuaries

There are currently 81 Sanctuaries in South Australia covering over 170,000 hectares. Sanctuaries are established under the *National Parks and Wildlife Act 1972* as non-binding agreements that recognise the intent of the land owner to manage the land for

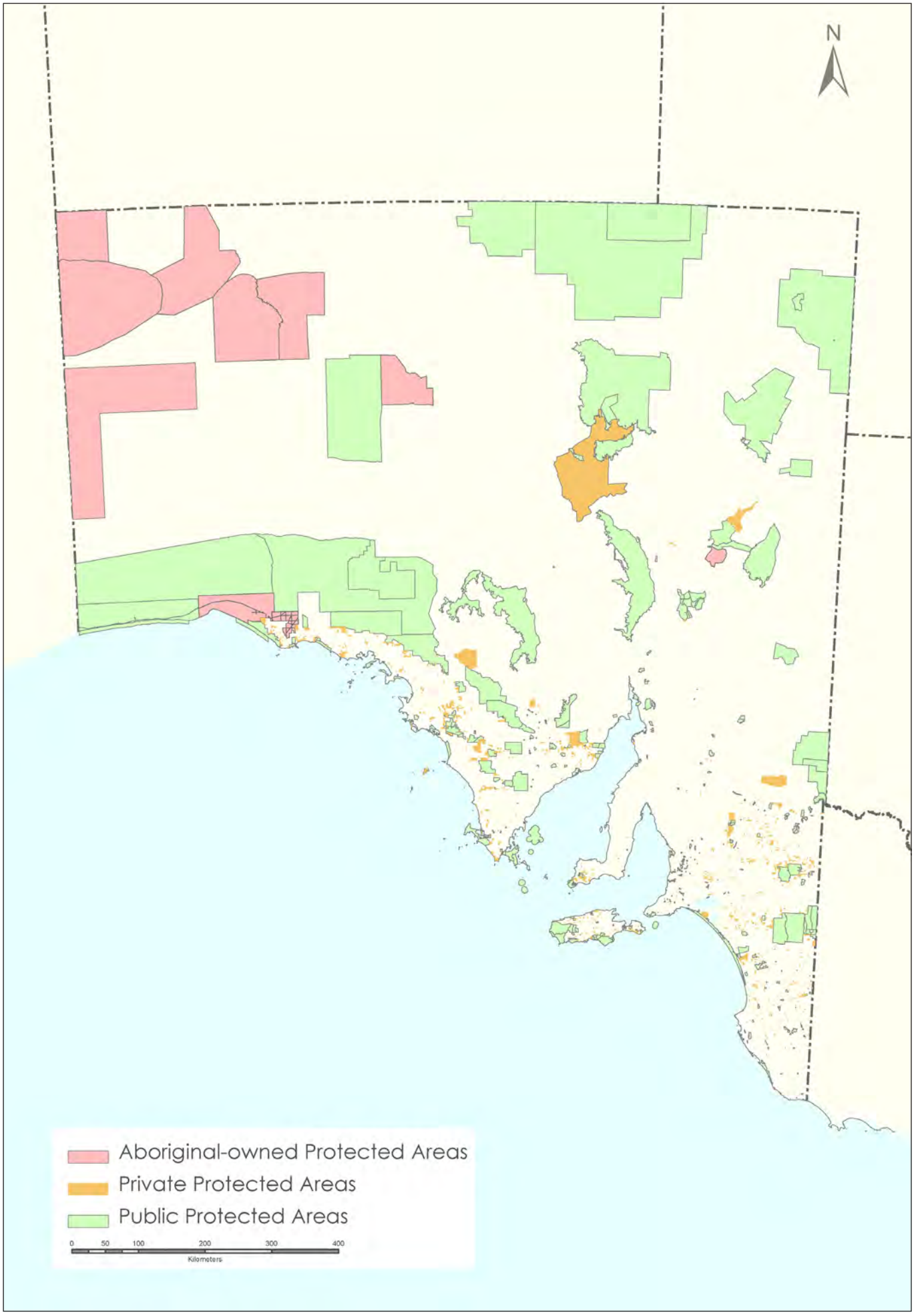

Figure 1. South Australia's protected area system at 1 May 2012.

conservation outcomes. They are not established in perpetuity and management activity is undertaken on a voluntary basis.

Sanctuaries provide a simple, obligation-free mechanism for land owners to manage their land for conservation outcomes, and many Sanctuary owners progress to entering into Heritage Agreements. Feedback through the consultation process associated with the release of the discussion paper indicated strong support for retaining this mechanism as it provides a valuable, entry-level point into conservation on private land.

Heritage Agreements

South Australia was one of the first jurisdictions in Australia to establish a statutory conservation covenanting mechanism to enable private land owners to enter into Heritage Agreements with the government to conserve and restore native vegetation on their land.

There are nearly 1,500 Heritage Agreements in South Australia established under the *Native Vegetation Act 1991*. These cover around 630,000 hectares of private freehold and leasehold land.

Heritage Agreements are registered on the land title and remain in place when ownership is transferred. They have a focus on the conservation of native vegetation, rather than the broader protection and management of conservation values. Although not the original intent, Heritage Agreements fulfil National Reserve System establishment criteria and make a valuable contribution to the National Reserve System in South Australia. As private protected areas they are reported to the Australian Government as Category VI protected areas under the IUCN's protected area management categories (due to their accessibility for exploration and mining).

The consultation process on the discussion paper indicated strong support for retaining Heritage Agreements as a valuable mechanism for ensuring long-term protection of native vegetation on private land.

'Updated' Heritage Agreements

One of the proposed new mechanisms was to create a new, updated form of Heritage Agreement. These would extend the existing focus on native vegetation to include broader conservation of natural and cultural values.

The new agreements would require that land owners manage consistently with, and report according to, contemporary National Reserve System standards and requirements as articulated in *Australia's Strategy for the National Reserve System 2009–2030* (NRMMC 2009). Both the existing, and 'updated' Heritage Agreements would be counted as part of the National Reserve System.

Feedback through the consultation process indicated support for updated Heritage Agreements. Stakeholders considered they would be a useful addition to the suite of mechanisms available for private land protection, particularly for land owners wanting to take a broader approach to conservation.

Private reserves

The second, more controversial mechanism that was presented in the discussion paper was to amend the *National Parks and Wildlife Act 1972* to allow the establishment of National Parks and Conservation Parks on private freehold and leasehold lands.

The 2004 amendments to the Act to enable the establishment of National Parks and Conservation Parks over Aboriginal freehold lands (at the request of the Aboriginal owners) created the precedent for such a proposal. Governance and management arrangements already exist within the Act, and it would be a relatively straightforward process to adapt these to privately owned or leased lands.

To establish a park under the Act on private freehold land, the land owner would enter into an agreement with the Minister, the park would be declared and a notation would be included on the land title. Leased land, such as a pastoral lease where the landholder does not hold underlying title, would require an agreement with the Minister responsible for the *National Parks and Wildlife Act 1972* and then the establishment of a new form of conservation lease over the land.

Under the model that was proposed, National Parks and Conservation Parks on private land would remain under the control and management of the landholder in accordance with a management plan prepared by the owner and approved by the Minister.

While there was strong support for the underlying concept during the public consultation phase, the idea of privately-owned and managed 'National Parks' and 'Conservation Parks' was a step too far for some.

There were concerns by some non-government organisations involved in protected area management that the terminology may create confusion between their efforts and those of government, and that this may affect their support and funding bases. Other

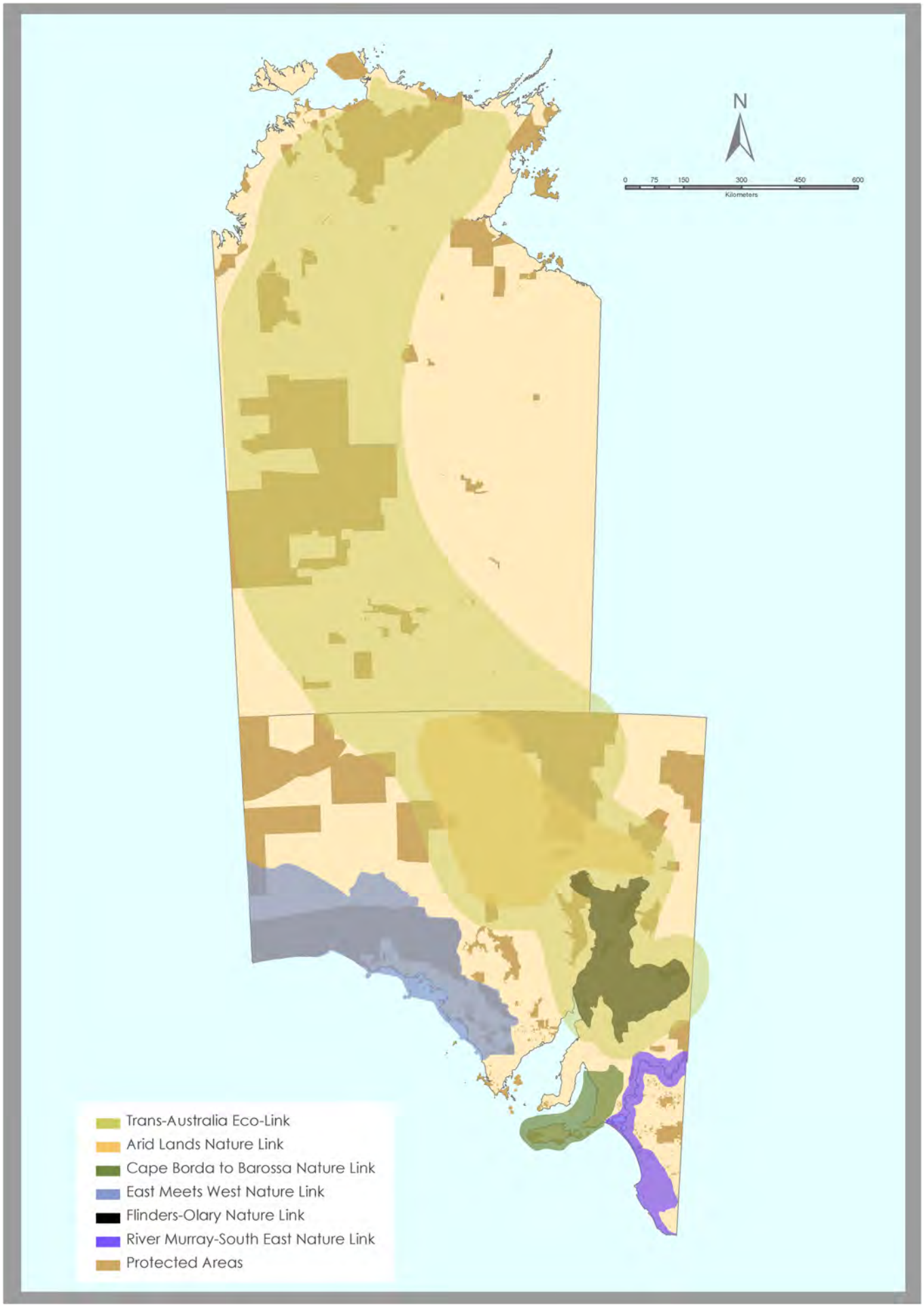

Figure 2. NatureLinks and the Trans-Australia Eco-Link.

stakeholders considered that 'National Parks' and 'Conservation Parks' should be community assets and therefore only managed by government.

As a result of the feedback, current thinking is to amend the proposal to maintain the underlying concept but move away from the terms 'National Park' and 'Conservation Park'. The term 'Private Reserve' seems to have broader acceptance and is being considered as an alternative.

Issues

While there were a number of issues raised during the consultation process, including the nomenclature of private reserves, two others in particular are worth highlighting.

The first related to public access. There were concerns, particularly in relation to the proposed private 'National Parks' and 'Conservation Parks', that there would be public expectations of visitor access and recreation opportunities. It was recognised that while some landholders may wish to offer such opportunities and benefit from them, others would prefer to avoid public access for a number of reasons including privacy, management control, and potential liability. To this end, all of the mechanisms outlined in the discussion paper placed management decisions, such as whether to allow visitor access, solely at the discretion of the landholder and manager.

Access for mineral and petroleum exploration and extraction was the other key issue. Controlled mining access is permitted in parts of the public reserve system and this decision to allow access is taken at the time a reserve is proclaimed. Private freehold and leasehold land is however generally available for mining access. It was proposed that a similar process would be followed for private 'National Parks' and 'Conservation Parks', where the decision on whether to continue mining access would be determined at the time that the reserve was proclaimed following consultation with the land owner and stakeholders. It was proposed that regulatory process would also be developed in consultation with the land owner and stakeholders to ensure that any exploration and mining on private protected areas is managed sustainably and does not compromise conservation values and objectives.

Both of these issues will require further consideration in developing the concept of a 'Private Reserve'.

Conclusion

South Australia has an extensive public protected area system and has made considerable progress in facilitating and encouraging the establishment and management of protected areas outside the public system. In doing so, South Australia has shown a willingness to both embrace and develop new forms of governance.

Arrangements are already in place for covenanting private conservation areas and co-managing Aboriginal-owned parks. The State Government has also provided considerable support to private landholders to purchase land for private protected areas and continues to support management of those areas.

Further work is underway to develop a framework for establishing protected areas on private lands that will strengthen conservation outcomes and provide more opportunities for private landholders to pursue conservation objectives. The extensive consultation undertaken to date, particularly through a discussion paper and input from organisations either involved or interested in establishing protected areas on private lands, has significantly benefited the process.

The South Australian Government believes there is considerable value in facilitating and encouraging private protected areas to continue building the protected area system. This will not only improve conservation outcomes but will also maximise the many other benefits that protected areas provide across the broader landscape. It is anticipated that the framework will be finalised in 2012, with a view to introducing the required legislative amendments in 2013.

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