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QELA, a not for profit organisation, consults with and educates interested professionals and government representatives about planning, development and environmental laws which apply, or are proposed to apply in Queensland. QELA provides a collegiate forum for multi-disciplinary interaction and collaboration.

Research Director
Agriculture and Environment Committee
Parliament House
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Submission about the Nature Conservation (Special Wildlife Reserves) and Other Legislation Amendment Bill 2017

Dear Director

Thank you for the opportunity for the Queensland Environmental Law Association (QELA) to make a submission about the above **Nature Conservation (Special Wildlife Reserves) and Other Legislation Amendment Bill 2017 (Bill)**.

QELA is a non-profit, multi-disciplinary association. Its members include lawyers, town planners, and a broad range of consultants who represent and advise a miscellany of participants in the development industry.

QELA supports the objective of protecting lands of outstanding conservation value from incompatible land uses.

The annexure to this letter provides the details of QELA's submission.

We thank you for the opportunity to make a submission about the Bill. We would be glad to assist the Committee and the Department of Environment and Heritage Protection further, if required.

Yours sincerely

A handwritten signature in black ink that reads 'Leisa Sinclair'.

Leisa Sinclair

President

Queensland Environmental Law Association



Annexure

QELA offers the following commentary to assist the Department with achieving the objective for the Bill and to address potential issues.

Areas of outstanding conservation value

The Explanatory Notes refers to special wildlife reserves as "areas of outstanding conservation value" (page 1). However, this description is not reflected as a requirement for declaring a special wildlife reserve under the Bill.

Under the Bill, the Minister must prepare a proposal to declare an area as a special wildlife reserve if, after considering the State interest in relation to the area of land, it is satisfied that the area should be declared as a special wildlife reserve (new sections 43A(1) and (2)).

QELA acknowledges that section 43A(4)(b) requires a description in the Minister's proposal of "the proposed reserve area's exceptional natural and cultural resources and values". However, this section does not have any direct relationship with the criteria to be used in the Minister's decision to prepare a proposal. Rather, the criteria are set out in the broad definition of "State interest" in section 43A(8) to mean an interest the Minister considers to be an economic, environmental or community interest of the State.

The effect of the above is that there is no proper criteria on which the Minister bases his or her decision to prepare a proposal to declare an area as a special wildlife reserve. QELA recommends that the criteria should match the stated purpose for which special wildlife reserves are to be created.

Notices to persons with an interest

The consequences of land being declared a special wildlife reserve are that the only use of the area is nature-based and ecologically sustainable (see new section 21B(1)(d)). In addition, the effect caused by the declaration of a special wildlife reserve is not compensable by the State.

In those circumstances, a person who has an interest in land in the proposed reserve area must receive notice so that that person has the opportunity to make a submission to the Minister about the proposal (new section 43A(5)). It is not sufficient for the Minister to give notice about the proposal to a person who has an interest in land in the proposed reserve area by, for example, advertising in newspapers and other publications or publishing a notice on the Department's website.

The operation of the discretion in new section 43H(2) has the potential to materially affect a person who, immediately before the declaration as a special wildlife reserve, was carrying out a previous use. That person will only receive notice under new section 43A(5) if it meets the criteria in that subsection, which relate only to an interest in land or a resources tenure. A person carrying out a previous use often will

not be doing so under a resources tenure and may not have an interest in the land. Accordingly, the person will not:

- be given notice of the proposal and cannot make submissions about the proposal; or
- be required to give their consent to a conservation agreement or an amendment to a conservation agreement.

QELA recommends that provision be made to ensure any person who was carrying out a previous use is provided with notice and given a right to make submissions as well as their consent being required to a conservation agreement or amendment to a conservation agreement.

In addition, QELA recommends that a minimum timeframe be included for submissions by those with an interest in an area subject to a proposed declaration of an area as a special wildlife reserve.

Other matters

Under new section 120EA a landholder must prepare the proposed management program. This could well be a costly and extensive exercise for a landholder. It would be important for there to be protections either in the Bill or in an underlying regulation or policy for a landholder to recover such costs in the event that a declaration does not proceed.

