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## Nature Conservation (Special Wildlife Reserves) and Other Legislation Amendment Bill 2017

### **Submission to:**

Chair,  
Agriculture and Environment Committee  
Parliament House  
Brisbane Qld 4000  
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### **Submission from:**

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### **Overview**

The Wildlife Preservation Society of Queensland (Wildlife Queensland) is a State-wide organisation devoted to the protection of our native wildlife (plants and animals). We strongly supports the primary intent of this Bill, namely to establish a new class of protected area to be known as a Special Wildlife Reserve under the provisions of the *Nature Conservation Act 1992*.

We provided a detailed submission in response to a consultation draft of the Bill earlier this year. One primary concern in our submission related to the proposed management principles for Special Wildlife Reserves (SWRs). In that draft, the cardinal principle for the management of national parks was also used as a management principle for SWRs. We strongly argued against weakening that principle by applying it to private land where the requirements of the principle could rarely be met. We are pleased to see that our suggested amendments on that matter were generally accepted and incorporated into the final Bill.

One other concern related to the transparency of agreements entered into in relation to SWRs. The Bill requires, in relation to any SWR, the development of (i) a management program followed by (ii) the development of a conservation agreement before any declaration can take place. We believe these documents should be available for public scrutiny.

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The declaration of a SWR immunises the land against any mining or forestry activity that can legally take place on any other private land, whether it be leasehold or freehold. Also, there is provision for the landholder of a SWR to receive public funding to assist in protecting the significant natural resources that occur on the land. That being the case, there needs to be a capacity for the public to (a) know what actions are being undertaken, and (b) know that, over time, the commitments entered into via the management program and conservation agreement are being honoured and maintained. There is no penalty for not adhering to the commitments, other than a requirement to pay back any public money provided. For this reason, it is important that relevant documents are available for public scrutiny. In the absence of that availability, there is a potential capacity to rot the system.

### **Comments on specific provisions**

#### **Clause 12 Sections 43B and 43C**

Section 43B requires the Minister to enter into a conservation agreement for a proposed SWR if a management program has already been approved for the area (s43B(1)(b)).

Section 43C specifies the terms a conservation agreement must and may contain. S.43C(2)(1) states that the conservation agreement may (not must) make reference to the implementation of the management program. There is a clear implication that the management program is the key document in which the landholder commits to management outcomes and management actions to achieve those outcomes (see s.120EC(b)). In other words, it specifies what the landholder will do in order to protect and manage such important natural resources.

This being the case, it would be appropriate for the management program to be given greater recognition, rather than the passing references in s43B(1)(b) and s.43C(2)(1). To achieve that, one or both of the following actions are recommended: (i) insert a new s.43C(1)(c) stating that the approved management program establishes how the landholder will manage the important natural resources, and/or (ii) amend s.43D to insert a reference to the management program as well as the conservation agreement.

### **RECOMMENDATION**

**Amend section 43C(1) to insert a requirement that the conservation agreement must make a reference to the management program.**

**And/or**

**Amend section 43D to read as follows: *A regulation may declare an area of land the subject of a conservation agreement and a management program as a special wildlife reserve.***

#### **Clause 12 Section 43I**

Amalgamation will need to be treated carefully and it is only likely to be an option if the reserves in question are (a) contiguous, (b) have the same management program and (c) are owned/managed by the same landholder.

### **Clause 19 Section 69**

If the conservation agreement for a SWR does not incorporate a reference to the management program (see recommendations above in relation to ss.43C and 43D), it would be appropriate for the proposed s.69(2)(a) to contain a reference to a management program as well as a conservation agreement.

### **RECOMMENDATION**

**Amend s.69(2)(a) to read as follows: *the landholder is bound by a management program, conservation agreement or conservation covenant in relation to the land;***

### **Clause 25 Section 120EA**

The management program must be approved in advance of the area becoming a reserve. Consequently it would be appropriate for section 120EA to refer to the proposed reserve rather than the declared reserve. This clearly establishes that the program must be prepared and approved prior to declaration. Section 120ED establishes that it takes effect when the reserve is declared.

### **RECOMMENDATION**

**Amend section 120EA to read as follows: .... *and give the Minister a management program for the proposed reserve.***

### **Clause 25 New Section**

A new section is required to provide advice where the management program can be viewed by a member of the public. Part 7 of the Act deals with management statements and management plans in relation to protected areas. In both instances, the Act requires the management statements and plans to be made available for public inspection (see section 113A and section 118(2)(a)). Now a reference to management programs is to be inserted, but there is no corresponding section requiring a management program to be made available for public inspection. This is a glaring omission and needs to be rectified.

These reserves will be areas of private land that will receive protection from mining and forestry activities that can legally take place on most other private land. They can also receive public funding to assist the landholder in meeting certain resource protection goals. This is a privilege based on the outstanding conservation value of the land and its natural resources. As a result, it is important that the undertakings in the management program are met and continue to be met. There is no penalty if the landholder doesn't meet his/her obligations (other than a requirement to pay back any public money provided). It is important that the public is able to (a) know what commitments have been made and (b) seek advice as to whether they are being met over time. If the obligations are secret, there is an inherent capacity to rot the system.

### **RECOMMENDATION**

**Insert a new section in Division 6A Management programs that requires management programs to be made available for public inspection.**

### **Clause 30 Section 137**

It would be appropriate to insert a reference to a management program along with the reference to a conservation program in this section. As discussed earlier, the conservation program is not obliged to make any reference to the management program. Also, the management program is likely to contain more details in relation to any licence, permit or other authority that may need to be issued in relation to the area.

### **RECOMMENDATION**

**In the heading for section 137 and in section 137(1)(b), insert a reference to a management program.**

### **Clause 32 Section 154**

It is the management program that is likely to contain matters that need inspection on the ground. This program contains the details relating to managing the important natural resources that justified declaration of a SWR. The proposed new s.154(1)(a)(iii) only refers to a conservation agreement. It should also make reference to a management program.

### **RECOMMENDATION**

**Amend proposed section 154(1)(a)(iii) to read as follows: *investigating or monitoring compliance with a conservation agreement or management program for a protected area;***

### **OTHER MATTERS**

- A. While this is mainly a matter for regulation, there is no apparent head of power for the landholder to be penalised for not complying with the conservation agreement and the management program (other than a reference in s. 43C to requiring the landholder to repay amounts paid under the agreement if the agreement or the program is breached). This needs further consideration.
- B. There is no provision that requires the State to review the conservation value of the special management reserve. They are areas that are being given significant protection from mining that is not afforded to other private landholders. A requirement for the Chief Executive to undertake an on-the-ground conservation audit every five or ten years should be inserted in the Bill. Section 120GA does require a five yearly review of the management program. However, this could be done as a desktop exercise, rather than an on-site audit.
- C. Finally, it is extremely disappointing that this Bill has not been used to meet a stated commitment to undertake two NC Act amendments to remove the damaging amendments of the previous government. There are several matters that were not addressed in the first amendment Bill. Perhaps the most important of these is the need to remove the special management area capacity in the management principles for national parks. As mentioned in comments above, the existence of that provision in

the management principles for national parks means that what should be our highest level of resource protection is, in fact, less protected than the proposed special wildlife reserve. Another area of concern involves the provision that allows the establishment of tourist resorts on national parks to override the cardinal principle. It was an election commitment of the present government to reinstate the cardinal principle for the management of national parks. That hasn't happened and can't happen whilst the cardinal principle is legally subservient to a declared special management area.

Wildlife Queensland is happy to provide further advice on the matters raised in this submission. As State president of Wildlife Queensland, I am available to appear before the Committee if invited.

Yours sincerely

A handwritten signature in cursive script that reads "Peter Ogilvie". The signature is written in dark ink and is positioned above a long, thin horizontal line that extends to the right.

Peter Ogilvie  
President  
Wildlife Preservation Society of Queensland

10 July 2017