



# ***Australian Rainforest Conservation Society Inc.***

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## **Submission to Agriculture and Environment Committee**

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

#### **1. Background to Australian Rainforest Conservation Society Inc**

Since its establishment in 1982, Australian Rainforest Conservation Society Inc (ARCS) has focused on achieving protection of areas of high conservation value, mainly through addition to the Protected Area estate. Our work has led to the protection in national parks of many hundreds of hectares of ecologically significant areas.

ARCS prepared the successful World Heritage nominations for Wet Tropics of Queensland, Fraser Island and Gondwana Rainforests of Australia.

Our ongoing 20-year Springbrook Rescue Rainforest Restoration Project has been included as one of 12 international case studies by IUCN WCPA in *Ecological Restoration for Protected Areas — Principles, Guidelines and Best Practices*.

Over the last few years, ARCS has acquired land at Springbrook for the purpose of conservation. Hence, we are very interested in mechanisms for long-term protection.

#### **2. General comment**

ARCS strongly supports the concept of private lands being given equivalent protection to that afforded national parks as an important means of achieving the Convention on Biological Diversity (CBD) Aichi Biodiversity Target 11. It is important, however, that the State is thus not shirking its responsibilities to also expand the public protected area estate to this end.

In accordance with recommendations by IUCN (Stolton *et al.* 2014), to qualify as a protected area, these reserves need to meet IUCN's definition of a protected area, where the conservation of nature in perpetuity is the primary function. Nature *always* refers to biodiversity at genetic, species and ecosystem levels but may also include geodiversity, landform and broader natural values. Any other use or ownership changes cannot undermine this primary purpose. To ensure the primary function of these reserves is met there must also be a statutory requirement for management effectiveness systems that include critical activities such as research, monitoring and reporting.

In order to monitor progress of countries towards meeting their mandatory Aichi Biodiversity Targets, adherence to a globally agreed definition of Privately Protected Areas and to the international reporting requirements of the CBD or the World Database on Protected Areas (WDPA) is essential.

In our case, in order to purchase one of our Springbrook properties, we conducted a public appeal to raise the necessary funds. It was clear that potential donors wanted to be assured that the land and its outstanding biological values would be protected in perpetuity and to know how that would be achieved.

ARCS itself is, of course, also seeking to provide the strongest possible long-term protection for the properties it owns. If we are happy with the final legislation, we will seek to have our three properties declared Special Wildlife Reserves.

ARCS commends the Government on this initiative.

### **3. Specific comments on the Bill**

Whereas ARCS supports the intention of providing management principles for Special Wildlife Reserves essentially equivalent to those applying to national parks, there is a case for some differences.

**Clause 7** inserts section 21B to define management principles. The principles include “present the area’s cultural and natural resources and values”. The term ‘present’ is open to interpretation. Whereas ‘presentation’ is used frequently in the Operation Guidelines to the World Heritage Convention, it is not defined. Nor is it defined in the *Nature Conservation Act 1992*.

In the *Australian Natural Heritage Charter* “presentation” means creating awareness and understanding of the natural significance of a place. In their notes “presentation” also includes interpretation and education activities. Further it is explained:

*“Presentation should interpret to visitors and others the natural significance of the place and should encourage appreciation and respect... and encourage an appropriate level of awareness, understanding and support for the heritage values and conservation objectives of a conservation program...”*

However, in the absence of a definition, the term can be taken to mean that the area be made available to the public. Whereas that is appropriate for public land, it may not be appropriate for private land.

This issue is further compounded by section 43C(1)(a) in Clause 12. This requires that the conservation agreement be consistent with the management principles. That would likely mean that the agreement could not include a provision to exclude presentation.

ARCS suggests that 21B(1)(c) be moved to 21B(2) which would mean that it only applied if included in a conservation agreement. We further suggest that section 21B(2) be reworded to say “Also, a special wildlife reserve *may* be managed ...”.

With regard to section 21B(1), we would like to see some wording that made clear the primary purpose is the protection of nature.

**Clause 7** also inserts section 21B(2) which provides possible additional management actions. These include providing recreational activities and opportunities for ecotourism. Whereas these provisions are consistent with the management principles for national parks, they may not be consistent with the desires of landowners wishing to have their land declared a Special Wildlife Reserve. While that issue can be dealt with in the conservation agreement, there remains the possibility of future amendment of the agreement with the potential issues noted above.

Our expectation would be that management in perpetuity would be consistent with the intentions of the landowner who seeks to have their property declared a Special Wildlife Reserve.

**Section 43E in Clause 12** provides for amendment of the conservation agreement. Amendment may occur if the Minister and the landholder reach agreement and that the amendment does “not adversely affect the conservation of nature in the special wildlife reserve”.

Consider the case where a future owner of the land wishes to establish a commercial ecotourism facility on the property. It could be argued that such an initiative is consistent with the management principles for national parks and the Minister would have difficulty refusing the amendment. It could, however, be entirely inconsistent with the intentions of the original signatory to the agreement.

ARCS suggests that section 43E be altered to allow only amendments that improve conservation of the natural values and do not remove any restrictions on use included in the original agreement unless those restrictions were contrary to the long-term conservation of the area's natural values.

**Clause 16** amends section 62(1)(b) and other subsections to allow a management program for a Special Wildlife Reserve to authorise taking, using, keeping or interfering with a cultural or natural resource. This provision is inconsistent with the object of Special Wildlife Reserves to protect land of "outstanding conservation value", in perpetuity, that is of equivalent conservation merit and protection to that of a national park (Explanatory Notes). As explained below, ARCS is strongly opposed to this provision in a management program and therefore opposes the changes to section 62.

ARCS supports the requirement for a management program as provided in **Clause 25 section 120EA**. We also support the five-yearly review of the program as provided in Clause 28 section 120GA. We note that the term 'presentation' occurs in a number of places in this part. It is also important that the framework for reporting meets the international requirements of the CBD or WMC as proposed by the IUCN.

Whereas we support the provision for a management program, we can not support **Clause 25 section 120EB(2)(b)** which provides for a management program to authorise "taking, using, or keeping of, or interfering with, a cultural or natural resource of the reserve". This would appear to be thoroughly inconsistent with the management principle to "permanently protect the area's exceptional natural and cultural resources". It is contrary to the IUCN requirement for private protected areas. Further, it is inconsistent with the introductory speech by Hon Steven Miles MP, who said "A special wildlife reserve will essentially let private landholders and conservation groups manage their land like a national park with a similar level of protection."

#### **4. Recommendations**

ARCS recommends the following changes to the Bill:

- i. section 21B(1)(c) be moved to 21B(2);
- ii. section 21B(2) be reworded replacing "Also, a special wildlife area is to be managed .." with "Also, a special wildlife reserve may be managed ...";
- iii. define 'present' and 'presentation' in the Act;
- iv. in section 43E, the addition of a provision prohibiting amendments that are inconsistent with the original intent of the agreement and allowing only amendments that improve conservation of the natural values;
- v. delete section 120EB(2)(b) (and subsequent references).

#### **5. References**

Stolton, S, Redford, K.H. and Dudley, N. (2014). The Futures of Privately Protected Areas: Developing capacity for a protected planet. Protected Area Technical Report Series No.1. Gland, Switzerland: IUCN.



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President

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