Speech By

Hon. Leeanne Enoch

MEMBER FOR ALGESTER

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NATURE CONSERVATION (SPECIAL WILDLIFE RESERVES) AND OTHER LEGISLATION AMENDMENT BILL

Second Reading

Hon. LM ENOCH (Algester—ALP) (Minister for Environment and the Great Barrier Reef, Minister for Science and Minister for the Arts) (11.15 am): I move—

That the bill be now read a second time.

The Palaszczuk government takes the protection of our environment seriously and is committed to expanding our protected area estate. This bill delivers on our commitment to the people of Queensland at the last state election that we would create a new tenure category called special wildlife reserves that would provide national park level protections for private land with significant ecological value.

Since coming to office in 2015, the Palaszczuk government has increased the protected area estate in Queensland by more than one million hectares. Queensland's protected area estate now covers 8.2 per cent of the state, which is an area that is more than twice the size of Tasmania. I am particularly proud to lead the debate today on a bill that will create a new class of protected area, the special wildlife reserve. Through this bill, the parliament has an opportunity to contribute further to the protection of our state's unique environmental and cultural values and the habitat and ecosystems that are essential for our native species.

I would like to thank the Innovation, Tourism Development and Environment Committee for its consideration of the Nature Conservation (Special Wildlife Reserves) and Other Legislation Amendment Bill 2018, those who made submissions on the bill, and those who appeared as witnesses as part of the committee's inquiry. I would also like to take this opportunity to acknowledge the efforts of the members of the former Agriculture and Environment Committee for their consideration of an earlier version of the bill in 2017.

On 9 April 2018, the committee tabled its report recommending that the bill be passed. The committee's report also contained two further recommendations, including one for amendments to be made to the bill. The government has considered the recommendations made by the committee and I am pleased to advise the House that these recommendations have been accepted. The government's response to the committee's report was tabled in parliament on 9 July 2018.

This bill gives effect to the Palaszczuk government's protected area commitments to conserve Queensland's unique ecological diversity and cultural heritage. This is achieved by providing national park level protections for private land with significant ecological or cultural value. This bill establishes a mechanism to assist in the further expansion of Queensland's protected area network by providing a significant incentive for private investment in that network. This mechanism is a new class of protected area for application on privately owned or managed land.

This bill also allows the regulation of activities beyond the territorial limits of the state but with some connection to the state. In particular, it enables the state to directly regulate activities that are conducted partly within Queensland waters and partly in Commonwealth waters.

Consistent with the Palaszczuk government's Advancing Queensland priorities this amendment creates the capacity to implement important protections for our marine environment, particularly our precious Great Barrier Reef Marine Park by recognising that neither pollutants nor nature respect the arbitrary boundary between Queensland and Commonwealth jurisdictions. The amendments enable consistent and fair regulation of activities undertaken in the Great Barrier Reef region by providing a specific head of power in the Environmental Protection Act 1994 to allow environmentally relevant activities to be regulated extraterritorially. This provides crucial support to the management of activities such as transhipping which may be undertaken wholly in Queensland waters or across Queensland and Commonwealth waters.

I will also be moving amendments to the Mineral Resources Act 1989 and the Mineral Resources Regulation 2013 during consideration in detail to ensure that the higher bauxite royalty rate applies to bauxite mined for consumption outside Queensland and the lower bauxite royalty rate applies to bauxite mined for consumption within Queensland. The amendments, which will operate retrospectively from 1 July 2008, will ensure the royalty rates for bauxite operate as intended and support the longstanding administrative practice. The amendments will provide certainty for royalty payers and government and will protect revenue.

I turn now to the recommendations made by the committee. The first recommendation of the committee is that the bill be passed. The second recommendation of the committee is that I continue to work with traditional owners to ensure their concerns in relation to native title are addressed. First Nations people have been custodians of their lands and waters for thousands of generations. It is important to remember that Queensland's protected areas are a cultural landscape and we must, therefore, work in partnership with traditional owners in our conservation efforts. Conservation agreements for special wildlife reserves will contain terms that will ensure that no obligations or restrictions are placed on native title parties which would interfere with the exercise or enjoyment of native title rights. Furthermore, a conservation agreement does not grant additional rights to a landholder. Section 69 of the Nature Conservation Act 1992 preserves native title interests during the declaration or dedication of a protected area, other than to the extent that the native title interest holder is bound by a conservation agreement in relation to the area.

The intent of a conservation agreement for a special wildlife reserve is to bind, and thereby restrict the rights and interests of, the holder of a freehold estate, Aboriginal or Torres Strait Islander land, a leasehold estate or a licence under the Land Act 1994. If the interests of a native title holder were to be materially affected by a conservation agreement, their specific, written consent would be required. Consent of a native title interest holder could typically take the form of an Indigenous land use agreement.

Following submissions from traditional owner groups and strong advocacy from the member for Cook, I will propose an amendment during consideration in detail to address the relationship between the establishment of a special wildlife reserve and an Indigenous land use agreement in the Cape York Peninsula region. This amendment requires that the minister may only enter into a conservation agreement for a special wildlife reserve in the Cape York Peninsula region if an Indigenous land use agreement allowing for the reserve exists. This provision will apply to areas where native title has not been extinguished. I would like to thank the member for Cook for being a champion for these amendments on behalf of her community and for working with stakeholders on the cape toward amendments that I believe strengthen this bill and recognise the inherent connection traditional owners have to country.

Native title parties will always be notified and consulted on any special wildlife reserve proposal. Assessments undertaken for any proposal must include a cultural heritage values survey undertaken in accordance with best practice guidelines, including involvement of the traditional owners with rights and/or interests in that area. This will typically involve Aboriginal people and Torres Strait Islander people being employed on a fee-for-service basis to undertake, or assist in the undertaking of, the assessment.

The third recommendation of the committee was that I consider reasonable amendments to improve public accountability with respect to management programs for special wildlife reserves. In addressing this recommendation, I have considered the submissions and evidence put forward to the committee in respect of the broad framework for management programs and propose to make amendments during consideration in detail that not only improve public accountability, but also more

clearly link management programs to the conservation agreement for each reserve. The proposed amendments to the bill will ensure that reference to a management program must be included in all conservation agreements for special wildlife reserves. While it has always been the intention to do so, this amendment will ensure that this intention is clear and unambiguous.

The existence of a conservation agreement on a land title will be readily visible to the public through a title search. As a conservation agreement cannot be made without an existing, approved management program, it can be readily determined that a management program exists in relation to a particular title as well. The public viewing of conservation agreements is a matter detailed in regulation. To give effect to the committee recommendation, I commit to including a provision in the proposed regulatory amendments that will follow this bill that will require conservation agreements and management programs are made available to the public on request. This will be achieved in a similar manner to current provisions providing for public access to nature refuge conservation agreements in the Nature Conservation (Protected Areas) Regulation 1994.

I would like to take this opportunity to clarify information provided to the committee in relation to buffer zones associated with special wildlife reserves. The committee's report refers to a 100-metre buffer between the reserve and the next property in relation to restrictions on commercial grazing. There may have been some misinterpretation of the advice provided by the Department of Environment and Science during its briefing to the committee. To clarify, there will be no buffer for commercial grazing or any other agricultural activity associated with a special wildlife reserve, nor has this been proposed at any stage during the development of this bill. The only buffer that is proposed for special wildlife reserves will come through an associated regulatory amendment to include this new class of protected area in the definition of a category A environmentally sensitive area under the Environmental Protection Regulation 2008. This will deliver the intent of national park level protection for special wildlife reserves as it relates to prohibitions on mining activities within and adjacent to declared reserves. The amendment will include special wildlife reserves in the regulatory regime for mining that currently applies to most other classes of protected area.

Additional recommendations were also made by government members of the former Agriculture and Environment Committee for the provision of further information on the bill during the second reading speech. The first of these recommendations relates to the manner by which native title rights and interests are considered and protected in the special wildlife reserve declaration process. Concerns were expressed by the Cape York Land Council Aboriginal Corporation with respect to the potential impacts of the bill on native title rights and interests and the bill's potential violation of section 10 of the Commonwealth Racial Discrimination Act 1975. As I stated earlier, the Queensland government's policy position is not to impact on native title rights and interests. Neither execution of a conservation agreement nor declaration of a private protected area under the Nature Conservation Act can affect native title rights and interests, other than with the express written consent of the interest holder. The Nature Conservation Act already preserves native title interests during the declaration or dedication of a protected area.

I will now address the application of the Racial Discrimination Act to this bill. The government respectfully disagrees with the view that by requiring that the minister only enter into a conservation agreement with the title holder of an area of land the bill violates the Racial Discrimination Act. The distinction made by the provisions of the bill as to the type of interest holder who may enter into a conservation agreement is not one based on race but upon different proprietary interests in land. The provisions distinguish between persons holding an interest in land who fall within the scope of a landholder as defined in the Nature Conservation Act and persons holding other interests in land. In that regard, native title holders are given the same rights as holders of other non-native title interests, namely the right to give or to withhold their consent if the conservation agreement materially affects their interest. The intent of a conservation agreement for a special wildlife reserve is to bind, and thereby restrict the rights and interests of, the holder of a freehold estate, Aboriginal or Torres Strait Islander land, a leasehold estate or a trustee of reserve land under the Land Act. It is not intended for a conservation agreement to bind all interest holders in the land or, specifically, to restrict the native title rights and interests of native title parties. The appropriate mechanism to restrict or extinguish these rights is an Indigenous land use agreement.

The government members of the former Agriculture and Environment Committee also recommended that further information is provided on what compliance and enforcement mechanisms will be implemented to ensure the ongoing protection of special wildlife reserves. A range of statutory and non-statutory options will be available to the state in order to manage compliance issues on special wildlife reserves. A typical compliance program involves an escalating series of actions that can be employed to support, encourage and, if necessary, enforce compliance.

Primarily, compliance will be achieved through the development of a tailored conservation agreement and management program for each reserve, which will clearly spell out the agreed obligations of both parties and the scope of activities that are authorised to be undertaken on the reserve. A statutory five-year review period for the management program will ensure that this document continues to be relevant to current management issues on the reserve. A close association between the landholder and departmental staff will also be instrumental in supporting compliance. In the event of more serious compliance issues that cannot be otherwise resolved, including in the event of third-party breaches of the Nature Conservation Act, a range of compliance tools will be available to departmental staff. The Nature Conservation Act contains an indictable offence for the unauthorised take, use, keeping or interference with the cultural or natural resources of a protected area. This offence has a maximum penalty of 3,000 penalty units, or two years imprisonment. This is a significant deterrent.

A range of regulatory provisions are proposed to provide for penalties for lesser offences. The proposed amendment regulation will 'activate' a range of existing restrictions and offences that apply to state owned protected areas, for application to special wildlife reserves. These will include restrictions and offences for things such as unlawful grazing, unauthorised structures and the bringing of such things as weapons, traps, plants and animals, including dogs, into the reserve. A range of other obligations and offences currently exist in relation to the land under other legislation. Of particular note, and relevance to submissions made to the committee, is that landholders of special wildlife reserves will be subject, as are all landholders, to the requirements of the Biosecurity Act 2004 in the way that pest plants and animals are to be controlled on the property. In addition to these requirements, landholders of special wildlife reserves will typically have obligations for pest management detailed under the conservation agreement for the reserve and motivation to manage pests to fulfil the conservation outcomes for the land. It would be reasonable to assume that the management of pest plants and animals will be more comprehensive on special wildlife reserves than is typical elsewhere.

This bill amends the Environmental Offsets Act 2014 to clarify the agencies responsible for deciding how an environmental offset will be delivered and enforced. Due to a technicality in the current wording of the Environmental Offsets Act, it could be interpreted that only the director-general of the Department of State Development, Manufacturing, Infrastructure and Planning can currently decide offset proposals for matters of state environmental significance under the Planning Act 2016. In particular, it will put beyond doubt the intent of the act to cover all persons authorised to impose and/or enforce an offset condition under the Planning Act. This will reduce state government assessment costs because the decision can be delegated to the relevant technical agency with the expertise to decide an offsets proposal. Additionally, it will also potentially reduce decision-making timeframes for proponents.

Regarding the head of power to prescribe environmentally relevant activities beyond the territorial limits of the state, I also propose two amendments for consideration in detail. Together, these amendments ensure comprehensive coverage of different activities that may impact the Great Barrier Reef and our precious marine environment now and into the future. First, the amendments will clarify that an activity may also be regulated where it is carried out only partly within the Great Barrier Reef Marine Park. An activity will be able to be regulated if it occurs partly in Queensland waters outside the Great Barrier Reef and partly outside Queensland within the Great Barrier Reef Marine Park.

Second, the amendments will adjust the application of the current provision of the bill which allows for an activity to be regulated if it will or may have an adverse effect on the marine environment. This amendment will clarify that the power to prescribe activities on the basis of adverse impact on the marine environment applies to activities conducted across Queensland and Commonwealth waters as well as those conducted wholly within Queensland. The power is not restricted by the territorial context in which the activity is carried out.

In closing, this bill and the amendments I will move during consideration in detail will deliver improved outcomes for the protection of Queensland's unique biodiversity and, further, will do so by acknowledging and encouraging increased private investment in this important endeavour. For the first time, this bill will recognise that areas of exceptional natural and cultural value, with appropriate management regimes in place, are worthy of protection irrespective of the ownership of the land. By providing security in the natural capital of these areas for the owner, pathways to significant investment are opened up in Queensland. Pathways like this do not exist in any other Australian jurisdictions. Additionally, the bill expands the circumstances under which environmentally relevant activities can be prescribed by regulation.

Within the Great Barrier Reef Marine Park these measures will provide greatly enhanced protections for sensitive ecosystems by allowing for the management of activities that may pose an environmental risk across Queensland and Commonwealth waters within the region. One of those

activities is transhipping. The bill will assist the Queensland government to give full effect to its newly announced transhipping policy, which recognises the multiple pressures our Great Barrier Reef is facing by prohibiting transhipping operations within the Great Barrier Reef Marine Park. Whatever the activity, the bill will facilitate strict regulation to minimise harm to our reef and marine environment.

This bill fulfils the Queensland government's election commitment to create a new class of protected area, a special wildlife reserve. This will further strengthen Queensland's protected area network by providing national park level protections for private land with significant ecological value. As a Labor government, we are committed to the protection of Queensland's unique biodiversity and this bill is further proof of that commitment. I commend the bill to the House.