



# ***AGRICULTURE AND ENVIRONMENT COMMITTEE***

**Members present:**

Mr JP Kelly MP (Chair)  
Mr JE Madden MP  
Mr LL Millar MP  
Mr PT Weir MP

**Member in attendance:**

Mr B Gordon MP

**Staff present:**

Mr G Thomson (Acting Inquiry Secretary)  
Ms M Salisbury (Assistant Committee Secretary)  
Ms S Stephan (Assistant Committee Secretary)

## **PUBLIC BRIEFING—INQUIRY INTO THE NATURE CONSERVATION (SPECIAL WILDLIFE RESERVES) AND OTHER LEGISLATION AMENDMENT BILL 2017**

### **TRANSCRIPT OF PROCEEDINGS**

**WEDNESDAY, 12 JULY 2017**

**Brisbane**

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Committee met at 3.44 pm

**CLOUSTON, Dr Beth, Director, Conservation and Biodiversity Policy, Department of Environment and Heritage Protection**

**HODGMAN, Mr Laurie, Director, Environmental Policy and Legislation, Department of Environment and Heritage Protection**

**WEINERT, Mr Nick, Acting Deputy Director-General, Conservation and Sustainability Services, Department of Environment and Heritage Protection**

**CHAIR:** I welcome representatives from the Department of Environment and Heritage Protection. Would you like to make a brief opening statement before we go to questions?

**Dr Clouston:** First of all I would like to thank you very much for the opportunity to come and brief the committee today. I also want to thank all of the stakeholders who have been here today and presented their views and for their efforts in consultation over the past 12 months. I think you have heard from them today that we have consulted with the resources community, community infrastructure, land development, agriculture, forestry, Commonwealth and local government, conservation sectors and native title bodies and legal groups, and we did this both during the development of the policy and with the exposure draft of the bill. At the same time we have had full public consultation on a draft protected area strategy which also included discussion about the special wildlife reserves. As a result of that, we have made many amendments to the policy and to the bill.

Overall, I believe that we have overwhelmingly been well received by stakeholders during the consultation process and the majority of the submissions, the way we reviewed them, support that. In the words of the National Parks Association of Queensland, they say that the bill is recognised as a leading piece of legislation and a genuine effort to counter the challenges of growing and managing the protected estate in Queensland. There have, however, been a number of submissions which have raised continued concerns and I want to briefly address some of those as there seem to be some misunderstandings about the intent of the bill. These include the voluntary nature of the special wildlife reserves and the consent process, the role of state interests, impact on state forests, native title and the impact on neighbours.

The bill is going to establish a new class of voluntary privately managed protected areas that provide a similar level of statutory protection to that afforded by state managed national parks but they are on privately owned or managed land. We recognise the vital role that private land and landholders play in the protection of our natural values. I want to emphasise that they are created in partnership with the landholder. All properties will remain under private ownership. The consent of all parties who are materially affected will be required before we can enter into these and they are entirely voluntary.

There have been concerns raised about the consent process under sections 43A, 43B and 43E. Following a landholder expressing an interest in a special wildlife reserve and we identify these exceptional natural and cultural values, the state will consider its interests and determine the best and highest value use of the land. Only after that will we commence the notification process. Every effort will be made to directly contact all identified interest holders, and the department is confident that we are able to accurately identify them and have the means to notify them all. It is then a matter for the interested parties to assert if they may be materially affected and to put a submission in to that effect.

There has been concern raised by the Law Society about whether properties will be compulsorily acquired without compensation, but we reiterate that there is the extensive notification process and all consent is required prior to the establishment of the reserve. It is not clear from their submission by which process any interest holder could be materially affected without getting their consent. There are no compulsory declaration processes proposed or provided for in the bill.

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Another issue that was raised is about the role of state interests. I want to make it completely clear: the reserves will be based on their exceptional natural and cultural values, not on their state interests. This is despite the chronological order of the bill, which the Queensland Law Society pointed out. The state government interests will include things like future transport corridors and obviously resources and utilities, in a similar way that we do for national parks now and other protected areas. This arrangement has been strengthened by having a memorandum of understanding between the relevant departments, but it was not considered necessary or appropriate to include those administrative arrangements within the piece of legislation.

There were also some issues raised earlier about state forests and fossicking. The special wildlife reserve proposal applies to private land only, so therefore it will not apply to state owned and managed land such as state forests. There will be no impact from the bill on activities being taken in state forests such as fossicking. There have been amendments made to the forestry and fossicking acts, but this just adds special wildlife reserves to the definition of a protected area. That means they are just added to the list of protected areas where certain forestry and fossicking activities cannot occur, so there will be no impact on those general permission areas.

As we have also heard today, a number of stakeholders have raised concerns regarding the impact of the proposal on native title. Conservation agreements—and it is the same for the nature refuge ones—are worded so that they do not impact upon native title rights and interests. This ensures that no obligations or restrictions are placed on native title parties which would interfere with the exercise or enjoyment of native title rights. All native title holders or claimants will be contacted and will be required to provide consent if they consider that they are materially impacted by the special wildlife reserves, as it will be for any other person with an interest in the land who is materially affected. The consent may take the form of an Indigenous land use agreement if that was the preferred means for the native title holder in question.

With respect to the Racial Discrimination Act, the distinction made by the provision of the bill is not one based on race but upon different interests in the land. That is, the bill distinguishes between persons holding an interest in the land within the scope of a landholder, such as the lessee, and persons holding other interests in the land. There is no discrimination based on race, and native title holders who have an interest in the land are treated the same as non-native title holders—namely, the right to give or withhold their consent for the conservation agreement. It also should be noted that the future grant of mining interests by the state is not a landholder's right and nor is it a native title right.

We have also had a number of concerns raised about impact on neighbouring properties. The intent of obligations placed upon landholders of a special wildlife reserve, including the management of pests and weeds, should result in benefits to neighbouring properties. The management plan will have to be prepared and that will be reviewed every five years and, if the bill is successful, we will be bringing in regulations to ensure compliance as well. It is also quite likely that if an area exhibits these natural values they are already quite likely to be managed well in the first place or otherwise they would not exhibit them. As was already pointed out by AgForce, they will still need to comply with their existing obligations under other acts such as the Biosecurity Act.

In summary, the key objective is to establish this new class of privately owned or managed protected areas that allow for the protection of private lands of outstanding conservation values from incompatible land uses. It will be applied on a case-by-case basis in full consideration of all interests, including the state interest of resources and forestry and agriculture. The declaration is voluntary and the conservation agreement cannot impact on the rights and/or interests of other relevant parties without that party's consent.

**CHAIR:** Thank you very much. Do you have anything to add, Mr Weinert?

**Mr Weinert:** I will just make a very small contribution in relation to the amendments to the environmental—

**Mr MILLAR:** We have some questions to ask you.

**CHAIR:** We are mindful of the time, that is all.

**Mr Weinert:** Sure. With respect to the Environmental Offsets Act, as committee members might understand, environmental offset is a condition of a development that compensates for an impact of that development that cannot be avoided or mitigated. In the case where that development is approved nonetheless, it may take the form of a compensatory action to the landholder by the proponent or the payment of a financial payment to deliver such action. It is the responsibility of the proponent to submit the proposal for that offset. Given the recent introduction of the revised planning

legislation, these amendments to the Environmental Offsets Act are consequential to clarify the intent of the environmental offset just to cover all persons who are authorised to impose or enforce an offset under the new Planning Act, which commenced on 3 July. It is required to ensure that the agencies with the relevant technical expertise to decide the adequacy of the offset proposal are able to make that assessment. Our view is that it is in the interests of reducing the administrative cost and time frame, so we see it as a technical administrative amendment.

**CHAIR:** Thank you.

**Mr MILLAR:** Firstly, I want to ask a favour with regard to the Isaac Regional Council and Mayor Anne Baker. I think you have clarified that, so basically the legislation does not cover state owned lands and therefore it will not have an impact on state owned land when it comes to fossicking for gold, which is important to their tourism. I am just hoping that one of you could get in contact with the Isaac Regional Council and inform them of that just to ease their mind, if that is okay.

**Dr Clouston:** Definitely.

**Mr MILLAR:** I would really appreciate that. My second question is an issue which was raised before relating to the special wildlife reserves. What triggers a special wildlife reserve? What is the difference between a special wildlife reserve and a nature refuge?

**Dr Clouston:** We have been talking about them being areas of particularly high conservation value.

**Mr MILLAR:** Is it specific in the legislation at the moment?

**Dr Clouston:** No, and neither for national parks do we give the criteria for how they are decided.

**Mr MILLAR:** Why is that?

**Dr Clouston:** There are a number of reasons. One of them is that our priorities change over time. We are looking for a great diversity of flora and fauna and particularly threatened species. We are looking for properties that will meet our comprehensive, adequate and representative protected areas system. We are looking for properties of particular scale and particular connectivity to other areas, so each of those will be particularly different and sometimes there is a particular species.

**Mr MILLAR:** With all due respect, Beth, isn't that a bit ambiguous? There is no real trigger point to say, 'That's a special wildlife reserve. It meets the criteria.' The final decision can come down to a ministerial directive; is that right?

**Dr Clouston:** I think it is actually the application. People will apply for a nature refuge or a special wildlife reserve.

**Mr MILLAR:** Yes, and the minister can tick and say, 'Yes, I agree. Let's do that,' or say no; is that right?

**Mr Weinert:** The department will provide advice to—

**Mr MILLAR:** Yes, but the minister has the final decision. Am I right in saying that?

**Mr Weinert:** Yes, you are.

**Mr MILLAR:** Yes, so that is my concern. The clarification of what you regard as a special wildlife reserve is a long list but there are no real clear criteria and the final decision can be made by the minister. That is the issue.

**Dr Clouston:** It will be by regulation, so through Governor in Council.

**Mr MILLAR:** Yes, but the minister makes that decision; am I right?

**Dr Clouston:** It goes through Governor in Council.

**Mr MILLAR:** Yes. There is a concern and that is the concern I want to clarify—not a concern that we should not be protecting conservation areas or conservation areas of significance. I believe that too. There has to be protection, but the problem with this legislation is that it is ambiguous, it is not clear and it leaves—

**Mr MADDEN:** That is not a question.

**CHAIR:** Sorry?

**Mr MADDEN:** That is a comment, not a question.

**CHAIR:** I will chair the meeting thanks, Jim.

**Mr MILLAR:** Thanks, Jim.

**CHAIR:** I will get you to come to the question.

**Mr MILLAR:** The question or the concern is that the legislation seems to be very broad.

**Mr MADDEN:** Is that a question?

**CHAIR:** Is that a question or a comment, Lachlan?

**Mr MILLAR:** How do you clarify a special wildlife reserve? What ticks it off?

**Dr Clouston:** That it possesses areas with exceptional natural and cultural values, and that will be through the assessment and it will be voluntary, so a landholder comes voluntarily to us for us to assess that property under those criteria. We will be setting those out further in a policy to support the bill if it is successful.

**Mr MADDEN:** I have many questions, but they are pretty much just yes and no. I will do my best to keep it yes and no. This is opt in?

**Dr Clouston:** Yes.

**Mr MADDEN:** It cannot be imposed. Does it exclude mining once it is declared, once it is accepted?

**Dr Clouston:** Once we have the conservation agreement and it is declared, that is correct.

**Mr MADDEN:** Is it still subject to native title laws as they stand in Queensland?

**Dr Clouston:** Yes.

**Mr MADDEN:** Does it cover leasehold and freehold?

**Dr Clouston:** Yes.

**Mr MADDEN:** Does it cover conservation of important flora as well as important animals?

**Dr Clouston:** Yes. In the conservation act we consider wildlife to be both flora and fauna.

**Mr MADDEN:** Is that in the definition?

**Dr Clouston:** Yes.

**Mr MADDEN:** With land for wildlife there is discount for council rates. Is there any similar discount once this declaration is made with the landholder?

**Dr Clouston:** Not yet, but obviously we will be looking to find what sort of support we can provide for landholders to make it attractive for them.

**Mr MADDEN:** Good. With regard to grazing, it was raised earlier the possibility that part of the property could be declared a reserve and grazing areas not declared. Is that possible?

**Dr Clouston:** Yes. You can just have part of a property declared a special wildlife reserve and there is also the possibility, I think as Tim mentioned before, that we would allow some grazing in terms of managing weed impacts for a certain amount of time or as necessary.

**Mr MADDEN:** You mentioned a management plan maybe every five years. Can you give us a bit of an outline what a management plan is all about? Is it for controlling pests?

**Dr Clouston:** Yes, that is right. It will be controlling pests and how to manage those particular values that we want to look after as well—that is, pests and weeds, looking after waterways and general land management such as maintaining cover, which they will be trying to do by not having livestock on there, and just those general land management activities. Again, they will be specific to each wildlife reserve and the values we are trying to protect.

**Mr MADDEN:** Can it be reversed?

**Dr Clouston:** It can only be revoked.

**Mr MADDEN:** By the minister?

**Dr Clouston:** By the minister, yes, through legislative council.

**Mr MADDEN:** Is there any provision in the legislation as to what criteria there would be for it to be reversed? Is that explained in the bill, or is it simply at the discretion of the minister? Do you want to take it on notice?

**Dr Clouston:** I will take it on notice, yes.

**CHAIR:** Thank you for taking that question on notice.

**Mr MADDEN:** Just to make it absolutely clear, what I am asking is: if it were to be reversed, what would be the issues the minister would have to consider?

**Dr Clouston:** Yes.

**Mr WEIR:** Firstly, do you have any idea of what area might be taken up by this? Is there any limit on the size of each individual SWR? Do you think many nature refuges will be switched over to SWRs, because I see there are 3.8 million hectares of them in Queensland?

**Dr Clouston:** We have not actively been seeking expressions of interest in the special wildlife reserves because the bill is still going through, but we estimate that there might be one or two a year—that would be the limit—and there may be some nature refuges that may be interested in doing that. If they are really high-quality properties already that have been well managed, they may be the ones that would be interested. We think that, really, it will not be so much private landholders but it will be people like Bush Heritage Australia and wildlife conservancies. Rather than individuals, it will be organisations.

**Mr WEIR:** Could it also be resource companies looking for their social licence type of thing or big corporates?

**Dr Clouston:** I cannot comment.

**Mr MILLAR:** It could be anyone.

**Mr WEIR:** It could be anyone and then they could go broke and then we have a parcel of land where a mortgagee comes in and sells it off. The value of that land will be diminished greatly and the person that buys it is not always necessarily very interested in that back end of the block that is not going to return them anything, only expense. Are there penalties for not maintaining?

**Dr Clouston:** We will have to introduce those within the regulation, so if the bill is successful we will be bringing in regulations with compliance and penalties to make sure that people do meet their management obligations.

**Mr MILLAR:** That is not a part of the bill at the moment?

**Dr Clouston:** It is not in the bill at the moment, no.

**Mr WEIR:** You talked about state interests.

**Dr Clouston:** It is in the bill, sorry—section 62.

**Mr WEIR:** If a local area needed to build a dam or something and that was going to back up into one of these SWRs, could that be stopped?

**Dr Clouston:** No. They will probably be a special category of land under the Environmental Protection Act and there will be buffers but that will be all. It will not affect the neighbouring property.

**Mr WEIR:** Okay. If a community built a dam or a weir that was going to back water up into one of these special wildlife reserves, they could not object and stop that project going ahead—stop the building of the dam or building of the weir?

**Dr Clouston:** Not if it was not on their property, no.

**Mr WEIR:** But if the water backed up into their property?

**Dr Clouston:** I cannot answer that, I am sorry. Can I take that on notice?

**CHAIR:** If you can take that on notice, please. I want to thank you very much for coming along today. We have greatly appreciated your input. I assume that the department will be providing written responses to all of the submissions as well; is that correct?

**Dr Clouston:** Surely.

**CHAIR:** Good; thank you. We recognise that we have had a very short turnaround time in terms of accepting submissions and today.

**Mr MILLAR:** I just want to make sure that the department gets on to Anne Baker at Isaac Regional Council just to let her know about that. That would be great.

**Dr Clouston:** Yes.

**CHAIR:** We appreciate that. That brings our public hearing to a close. There have been a number of questions taken on notice. We would like responses to those by close of business next Wednesday. Thank you very much for your time today. It will help us in our examination of this important bill. I declare this meeting closed.

**Committee adjourned at 4.05 pm**