

Mining lease objections review
Queensland Law Reform Commission
Via online submission
Cc: qlrc-miningobjections@justice.qld.gov.au

20 September 2024

Dear Commission,

RE: Submission to the Mining lease objections review

The Australian Land Conservation Alliance (ALCA) welcomes the opportunity to provide a submission to the Queensland Law Reform Commission's Mining lease objections review.

The Australian Land Conservation Alliance (ALCA) is the peak national body representing organisations that work to conserve, manage, and restore nature on privately managed land. We represent our members and supporters to grow the impact, capacity, and influence of private land conservation to achieve a healthy and resilient Australia.

The land conservation efforts of ALCA's seventeen member organisations have influenced over 3 million square kilometres with more than 4,000 landholders. We have over 70,000 supporters and our combined annual turnover exceeds \$325 million. Together ALCA and its members address some of the most pressing conservation issues across the country, including restoring endangered ecosystems, building the protected area estate, tackling invasive species, expanding private conservation finance, and funding, and using nature-based solutions to tackle climate change.

Please note that ALCA is happy for this submission to be published in full.

Context

Queensland, Australia, and the world face twin interrelated nature and climate change crises. Both crises have deep, substantial, and increasing costs for the social and economic wellbeing of all Australians. The crises create an acute intergenerational burden that unfairly backloads the current generation's own costs and failings upon future generations – upon our children, our grandchildren, and beyond.

We face the harsh but unbending reality that nature is not an infinite asset that can be continually drawn upon without profound social, economic and environment cost. We must avoid as much further destruction as possible and invest heavily in its renewal.

Our unique nature is not only core to our social and cultural values as a nation; it is also a cornerstone of our prosperity – with half of Australia's GDP being moderately to highly dependent on nature¹, on par with the global average² – and it is in accelerating decline. As per the Federal Government's 2021 State of the Environment Report:

¹ Australian Conservation Foundation; <https://www.acf.org.au/the-nature-based-economy-how-australias-prosperity-depends-on-nature>

² World Economic Forum; <https://www.weforum.org/publications/nature-risk-rising-why-the-crisis-engulfing-nature-matters-for-business-and-the-economy/>

“Overall, the state and trend of the environment of Australia are poor and deteriorating as a result of increasing pressures from climate change, habitat loss, invasive species, pollution and resource extraction... Multiple pressures create cumulative impacts that amplify threats to our environment, and abrupt changes in ecological systems have been recorded in the past 5 years...”

Our inability to adequately manage pressures will continue to result in species extinctions and deteriorating ecosystem condition, which are reducing the environmental capital on which current and future economies depend. Social, environmental and economic impacts are already apparent.”³

Several of ALCA’s member not-for-profit organisations privately acquire, own and/or manage land for conservation in Queensland, often known as ‘land conservancies’, contributing to jobs, regional communities and economies. – The core role of ALCA’s members is to deliver on-ground conservation in pursuit of the public good.

Land conservancies ordinarily place each of their owned properties under a conservation covenant (known as a ‘nature refuge’ in Queensland). This is a restrictive covenant that inhibits activities that are incompatible with conservation and provides long-term protection for nature under Australia’s National Reserve System⁴.

Placing land under a conservation covenant contributes to Queensland conservation protection target (currently set at 17% of Queensland’s land⁵), to Australia’s international commitments under the United Nations Convention for Biological Diversity (most recently, the Kunming-Montreal Global Biodiversity Framework⁶), and the collective Commonwealth, State and Territory commitment to deliver the ‘30 by 30’ target from that Framework in Australia – namely, protecting 30% of Australia’s lands, inland waters, and seas, by 2030. The 30% threshold reflects the international scientific consensus that 30% is a reasonable benchmark for most ecosystems as the minimum proportion required to have a chance at halting and reversing the decline in biodiversity. Conservation covenants are subject to significant State government regulation, as it appropriate for such a public-purpose mechanism⁷.

Australian land conservancies leverage significant domestic and international philanthropic funding to acquire – and then protect, manage and restore – land for conservation. For example, the recent acquisition of Vergemont Station for \$21 million, a property of more than 300,000 hectares of Channel Country in western Queensland, was brokered by ALCA member organisation, The Nature Conservancy (Australia)⁸. In this example, the acquisition was contributed to Queensland’s public protected area estate, but property purchases can also be managed privately as part of Queensland’s private protected area estate.

However, despite the substantial resourcing requirements to acquire, protect, manage and restore land for conservation – and the public interest purpose of these efforts – the long-term

³ <https://soe.dcceew.gov.au/overview/key-findings>

⁴ See: <https://www.dcceew.gov.au/environment/land/nrs>

⁵ “In 2015, the Queensland Government adopted a long-term target of increasing protected areas to 17% of the state’s land mass”; Queensland’s Protected Area Strategy – Protecting our world-class natural and cultural values 2020–2030; https://parks.des.qld.gov.au/data/assets/pdf_file/0016/212524/qld-protected-area-strategy-2020-30.pdf

⁶ See: <https://www.cbd.int/article/cop15-final-text-kunming-montreal-gbf-221222>

⁷ For example: <https://www.legislation.qld.gov.au/view/pdf/asmade/sl-2024-0198>

⁸ See: <https://www.abc.net.au/news/2024-04-17/vergemont-station-to-expand-queensland-national-park/103634794>; also: <https://www.natureaustralia.org.au/newsroom/vergemont-station/>

protection from activities incompatible with conservation available under a nature refuge does not include protection from mining.

As a result, land being managed for conservation regularly faces threats from mining activities, requiring considerable resourcing from Australian land conservancies to monitor and respond to those threats. Australian land conservancies are perhaps unique when they are involved in mining lease objections relating to land under their ownership or management, in that they engage based on both private (i.e. independent organisational and landholder) interests, and public (not-for-profit organisational purpose) interests.

ALCA is concerned that the removal of the objections hearing could lead to a more time-intensive and costly process. This can especially be the case for applications that are unlikely to be successful when the long-standing context of the public purpose of private protected areas is considered.

ALCA opposes the removal of rights for objecting entities and individuals to appoint their own expert witnesses, especially (although not only) where they are the landholder. Such a proposal is a significant infringement on the basic rights of conservation landholders to protect the natural and cultural values that they have invested in for the public good. Further, the proposal appears to be skewed heavily in favour of mining and development interests and discounts the value of our natural environment to our economic prosperity.

ALCA is aware of cases where, had conservation landholders not had their own expert witnesses to draw upon, critical ecological knowledge that was deeply material to the outcome of an objection would not have been discovered. It is therefore critical that organisations (or individuals) be able to call on expert witnesses, as independent panels simply cannot contain the sheer breadth and depth of the highly specific expertise that is relevant to the ecology of each specific location under legal contemplation.

Recommendations

ALCA recommends the following to the Commission:

Recommendation 1: That, insofar as it is possible, evidently imprudent and vexatious mining applications be addressed and corrected early in the process to reduce the burden and need for landholders to engage in a costly and/or time-consuming objection (and/or 'participation') process. [**Question 1**]

Recommendation 2: That landowners with nature refuges and Special Wildlife Reserves⁹ that are within 5km, or within 20km downstream, of a mining application be automatically notified as 'interested persons'. [**Question 10**]

Recommendation 3: That the Commission continue to allow objectors to provide expert witnesses to the proceedings. An Independent Expert Advisory Panel simply cannot provide the depth and breadth of ecological or cultural expertise that is required to be highly specific to each location and matter and is deeply material to the outcome of an objection process. This is an issue of salient importance to the on-ground conservation sector. [**Question 12**]

⁹ See: <https://www.legislation.qld.gov.au/view/pdf/asmade/act-2019-008>

Recommendation 4: Without detracting from Recommendation 3 above, that the proposed Independent Expert Advisory Committee should include at least one independent ecologist (with relevant expertise, insofar as that is actually possible given the sheer breadth of ecological matters under consideration); and Aboriginal and/or Torres Strait Islander representation. [**Question 13**]

Noting that the protected area estate (for conservation) is constituted by public protected areas and private protected areas – both regulated under State-based legislation – as well as Indigenous Protected Areas regulated under Commonwealth legislation:

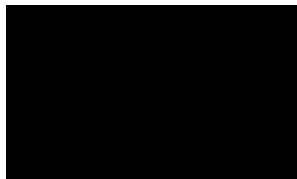
Recommendation 5: That the proposed clarification of the interpretation of ‘public interest’ (whether by legislation, regulation, or administrative policy/guidance) and its consideration by the decision-maker, explicitly includes impacts upon land within the protected area estate that are contrary to its intended conservation purpose. [**Question 16a**]

Recommendation 6: That the proposed clarification of the interpretation of ‘adverse environment impact’ (whether by legislation, regulation, or administrative policy/guidance) and its consideration by the decision-maker, explicitly gives higher regard to impacts upon land within the protected area estate that are contrary to its intended conservation purpose. [**Question 16b**]

Recommendation 7: Noting the distinct public purpose and character of the protected area estate, that impacts upon land within the protected area estate be appropriately added within the statutory criteria of the *Mineral Resources Act 1989* and the *Environmental Protection Act 1994*, including a presumption that the public right and interest will be prejudiced by significant adverse impacts upon the protected area estate. [**Question 17**]

Thank you again for the opportunity to provide a submission to the Commission’s Mining lease objections review. If you have questions regarding the submission, please do not hesitate to contact ALCA via [REDACTED] ([REDACTED], Policy Lead).

Yours sincerely,



Chief Executive Officer
Australian Land Conservation Alliance

About the Australian Land Conservation Alliance

The Australian Land Conservation Alliance is the peak national body representing organisations that work to conserve, manage, and restore nature on privately managed land. We represent our members and supporters to grow the impact, capacity, and influence of private land conservation to achieve a healthy and resilient Australia.

Our nineteen members are:

- Arid Recovery
- Australian Wildlife Conservancy
- Biodiversity Conservation Trust NSW
- Bush Heritage Australia
- EcoGipps
- GreenCollar
- Greening Australia
- Landcare Australia
- Nari Nari Tribal Council
- Nature Foundation
- North Australian Indigenous Land and Sea Management Alliance
- NRM Regions Australia
- Odonata
- Queensland Trust for Nature
- South Endeavour Trust
- Tasmanian Land Conservancy
- The Nature Conservancy Australia
- Trust for Nature (Victoria)
- World Wildlife Fund - Australia

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Through their active land management, ALCA member organisations are deeply embedded in rural communities and economies, providing jobs, securing significant regional investment, and safeguarding remaining native habitat, with its many positive spill-over effects for community, wellbeing, and food security. We seek to demonstrate the role and value of private land conservation as a cornerstone of the Australian economy.

Some ALCA members are statutory entities; the views expressed in this submission do not necessarily represent the views of the Government administering those statutory entities.