



EDO Qld.

Environmental Defenders Office

Environmental Defender's Office of NQ Inc.
Level 1, 96-98 Lake Street CAIRNS, QLD 4870
Ph: 07 4031 4766 Fax: 07 4041 4535
edonq@edo.org.au www.edo.org.au/edonq

Environmental Defenders Office (Qld) Inc
30 Hardgrave Rd WEST END, QLD 4101
tel 07 3211 4466 fax 07 3211 4655
edoqld@edo.org.au www.edo.org.au/edoqld

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VIA EMAIL (hcsc@parliament.qld.gov.au)
Health and Community Services Committee
Queensland Parliament
Parliament House
Brisbane QLD 4000

Dear Sir/Madam,

RE Nature Conservation and Other Legislation Amendment Bill 2012

About EDO

The Environmental Defenders Office of Queensland (**EDO Qld**) and the Environmental Defenders Office of Northern Queensland (**EDO-NQ**), (collectively, **Queensland EDOs**), are separate, not-for-profit, non-government, community legal centres specialising in public interest environmental law. Like other EDOs located in each of Australia's states and territories, each of the Queensland EDOs provides specialised legal representation, advice and information to individuals and communities, in both urban and rural areas, regarding environmental law matters of public interest. The offices also take an active role in environmental law reform and policy formulation, and offer community legal education programs designed to facilitate public participation in environmental decision making. EDO-NQ, based in Cairns, serves communities from Sarina north; EDO Qld, based in Brisbane, provides services south of Sarina. The Queensland EDOs have helped thousands of Queenslanders understand and access their legal rights over the last 20 years.

Summary

The Bill will erode the cardinal principle of protection of national parks. This will have severe long term negative impacts on the ecological integrity of our national parks. Further we need to protect the biodiversity within timber reserves and State forests, not open it up to the resources sector by granting larger areas for longer term occupation permits.

In consequence, the EDOs do not support the Bill. See more detailed submission overleaf.

Yours faithfully,

Jo-Anne Bragg
Principal Solicitor
Environmental Defenders Office (Qld) Inc.

Patrick Pearlman
Principal Solicitor
**Environmental Defenders Office of
Northern Queensland Inc.**

1. Amendment to *Nature Conservation Act 1992 (Qld)*

By proposing to allow the development of “ecotourism facilities” in national parks the State Government will be dramatically increasing the scope of development and use activities that can occur within these protected areas. As a starting point it is important to remember that the cardinal principle for the management of national parks is set out in the *Nature Conservation Act 1992 (Qld)* as follows:

- “(1) A national park is to be managed to—
- (a) provide, to the greatest possible extent, for the permanent preservation of the area’s natural condition and the protection of the area’s cultural resources and values; and
 - (b) present the area’s cultural and natural resources and their values; and
 - (c) ensure that the only use of the area is nature-based and ecologically sustainable”¹

The proposed bill alters the respect accorded this principle in numerous respects.

For one thing, by allowing ecotourism facilities within the boundaries of national parks the proposed amendments conflict directly with the cardinal principle of national park management. These facilities however innovative in design and management will inevitably impact on these protected areas natural conditions and remove the ability for current uses to continue.

Likewise, the proposed Section 35 in the *Nature Conservation and Other Legislation Amendment Bill 2012* (Clause 8) removes the requirement for “permanent preservation” and simply states that “preservation” of the land’s natural condition must be pursued to the “greatest possible extent”. No clear indication is provided in these proposed changes as to how the impacts of these facilities will be assessed and what the chief executive will consider in making a determination about whether to grant a permit. It is also unclear how these facilities will be monitored when operational to ensure their compliance with their “primary purpose”.

The Explanatory Notes (p 2) proposes to enable the Chief Executive, together with the indigenous landholders where the park includes Aboriginal land, to authorise ecotourism facilities in certain types of national park. What consultation is proposed if the facility will impact on sites of Aboriginal cultural significance outside such land?

2. Need for development in national parks

There is a lack of evidence indicating how and why the move to increase tourism industry access to national parks is necessary. There will inevitably be costs for the State associated with the assessment and monitoring of each “ecotourism facility” and there has been no evidence provided which indicates the benefits flowing from such developments will be outweigh the costs. There is a need for rigorous and reviewable analysis to be provided demonstrating the benefits of this legislative change. It is likely that these developments within protected areas will be parasitic on adjacent tourism facilities and this should be reflected in any analysis undertaken.

¹ *Nature Conservation Act 1992 (Qld)* s17.

The Explanatory Notes claim that the costs of assessment processes and administration will be outweighed by the revenue from leases. This is doubtful. Professor Buckley's research led to the conclusion that partnerships with tourism developers have incurred high costs, brought few visitors and minimal revenue (<6%), earned no net revenue for conservation, and reduced benefits for private recreational visitors (Buckley, R. 2009).²

The Explanatory Notes for this Bill indicate that "The tourism industry has identified demand for privately funded, purpose built, 'low impact' infrastructure ecotourism projects, on and adjacent to national parks, to provide new and unique opportunities to attract both domestic and international visitors to Queensland." If this is so it should be easy for this information to be made publically available. Why not keep ecotourism outside but near to national parks??

3. Limited national park area within the State

Queensland has a low percentage of land in national parks: 4.77% and total protected areas 6.8% compared to other States.³ Studies have shown that national parks are effective in helping species recover compared to other strategies to protect biodiversity.⁴

As of August 2011, 1372 species were listed as 'near threatened', 'vulnerable', 'endangered' or 'extinct in the wild' in Queensland under the Nature Conservation (Wildlife) Regulation 2006 (i.e. threatened species).⁵ So it is very important to apply the cardinal principle and protect national parks and the vulnerable species within them.

4. The Term "Ecotourism Facilities" is dangerously overbroad

The Explanatory Notes observe (p 4) that the proposed legislation defines "ecotourism facilities" as:

"[A] facility with its primary purpose being to facilitate the presentation, appreciation and conservation of the land's natural condition and cultural resources and values. The definition also provides that the facility cannot allow for an activity that is inconsistent with this primary purpose and that would require significant change to the land's natural condition or would adversely affect the conservation of the land's cultural resources and values. Examples of such inconsistent use are the construction of a golf course, amusement park or casino".

This definition is dangerously broad and vague. What constitutes a "significant" change to land's natural condition or "adversely affects the conservation of cultural resources and values"? Biodiversity is not protected

The EDOs disagree with ecotourism facilities in national parks due to the impacts. The broad and vague definition of ecotourism would, if passed into law would allow grave impacts on national parks and development with ancillary purposes that damage nature.

² Buckley, R. (2009). Parks and Tourism. PLoS Biol 7 (6): e1000143. doi:10.1371/journal.pbio.1000143

³ National Parks Association of Qld, *Annual Report* 2011/12 page 3

⁴ Statements by Dr Hugh Possingham, see <http://www.australiangeographic.com.au/journal/national-parks-are-saving-species-study-says.htm>

⁵ Department of Environment and Heritage Protection, *State of the Environment Queensland 2011* page viii

5. Occupation Permits and need to protect the biodiversity of forested areas

According to the Explanatory Notes (pp 2-3), the proposed legislation would amend the *Forestry Act 1959* to remove the 7-year maximum term and 10-hectare maximum area limits on the grant of a permit to occupy (occupation permit). The Explanatory Notes explain that:

“In recent years there has been an increase in infrastructure development on State forests. This is mainly a result of the expanding coal seam gas (CSG) industry, however other sectors such telecommunications, electricity transmission and initiatives such as the national broadband network also currently occupy State forest lands, or are expected to in the future. This infrastructure is characterised by having a long ‘life’, and often exceeds 10 hectares in area, particularly linear infrastructure such as pipelines and powerlines”.

The EDOs believe there is a difference between infrastructure for public service, such as telecommunications and power facilities, and for-profit infrastructure, such as CSG pipelines, that needs to be considered in the final legislation. Unlike public service infrastructure, which clearly acquires a large degree of permanence, once the for-profit activity is completed or is no longer economical, infrastructure is often removed and put in service elsewhere. The EDOs recommend that the 7-year/10 Ha limits be retained for private infrastructure.

Further, before any type of permits are given out, the biodiversity values of the forested areas must be considered and protected. We are aware in 2004 the Australian Rainforest Conservation Society, as part of the State-wide Forests Process, produced a 340-page report on the conservation values of state forests and timber reserves in the Western Hardwoods Area (principally the Brigalow Belt Bioregion). The areas, totalling 1.25 million hectares, identified as appropriate for national parks need to be transferred to national parks, not damaged by infrastructure.