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**Nature Conservation and Other Legislation Amendment Bill 2012**  
Submissions (to [hcsc@parliament.qld.gov.au](mailto:hcsc@parliament.qld.gov.au))

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Sub # 35



**Submission**

The primary purpose of National Parks is the conservation of nature. Allowing ecotourism facilities on National Park land erodes the **cardinal principle**<sup>1</sup> which seeks to 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 (the State Government defines natural condition as protection from human interference - allowing natural processes to proceed).

**Summary**

The Bill as drafted is not consistent with the intentions expressed in the Explanatory Notes. In particular, "ecotourism" and "service" are not specifically defined, allowing potential abuse; and the Bill fails to qualify "service" as "existing service" only.

There is no convincing case that private tourism development in public parks would achieve the stated intention to boost Queensland tourism and State revenue., because most parks are too remote from high-volume gateways and have no internationally unique high-volume attractions.

Some Queensland parks do indeed have both good access, and international recognition as World Heritage Areas, but the World Heritage Convention generally does not permit new development with ecological or cultural impacts.

To boost park-based tourism, the best approach is public investment in maintaining trails, lookouts, toilets and signage in national parks, and private investment in accommodation on adjacent private land.

Approaches used to promote and manage tourism in parks are not fully transferable between countries, but international examples do not support the Bill's approach.

Any system to allow for greater development in national parks should: require that proposals be subject to formal Environmental Impact Assessment; provide for third-

<sup>1</sup> Introduced in the *Forestry Act 1959* during a period of coalition government, for over 50 years National Parks in Queensland have been managed according to the cardinal principle.

party rights of appeal; and require performance and rehabilitation bonds for proponents.

## **Context**

The primary function and purpose of protected areas worldwide, both legally and in terms of their economic contributions to human society, is conservation of biodiversity and ecosystem services, such as the provision of water.

This is the main reason why countries worldwide, including Australia, have adopted the Aichi targets for expansion of the protected area estate. These targets require nations to expand their terrestrial national parks and similar land tenures to 17% of total land area. This is the principal approach to conservation under climate change. Expansions are also aimed to increase connectivity where possible, as recognised in the current *National Corridors Strategy*.

Some countries already have well above 17% of their terrestrial area under conservation status, but most have much less. Australia, including Queensland, has a much smaller proportion. As Australia aims to meet its obligations under the Aichi Targets, Queensland will be unable to gain access to national and international incentive programs if it: fails to expand the current protected area estate; removes protection for any currently protected areas; or reduces the level of protection for the existing national parks estate. Less than 5% of the Queensland is National Park, an appalling statistic considering the progress made in virtually every other State towards expanding protected areas; they are the jewels in our conservation crown, and preserve some of the very best landscapes and natural attractions in Australia. Indeed, the Queensland Government should be taking every opportunity to *expand the National Park estate*, if only to support **appropriate** regional tourism and public recreation.

## **Policy**

The intent of the Bill is specified in the Explanatory Notes. Its purported aim is to use the national park estate to boost tourism.

The Notes state explicitly that the Bill is driven by tourism industry interests. In Queensland as elsewhere, the urban tourism property development sector has engaged in long-term lobbying to gain preferential access to national parks for commercial development.

The former *Queensland Ecotourism Plan*, the Tourism In Protected Areas branded consultation process (TIPA), and the industry association Ecotourism Australia are all part of this strategy, which is an explicit goal of all three. However the recent consultative forums did not propose long-term fixed-site facilities such as those contemplated under the Bill. Their interests were in permits and fee structures for mobile tours. In any event, the approval of permanent private facilities inside national parks would not achieve the Bill's stated intention of boosting tourism in Queensland,

for several reasons. *Less than 1% of the 20,000 National Parks worldwide have any significant tourism infrastructure (Park Watch September 2012, produced by Victorian NPA)*; many of the larger US Parks are removing heavy tourism infrastructure because it directly reduces and detracts from the experience of being in a natural place.<sup>30</sup> year ecotourism leases confuse public access to public land with the exclusive use associated with private ecotourism facilities - indeed, this move would appear to directly contradict the State Government's policy of making National Parks more accessible to the public.

Even if ecotourism facilities were built inside many parks, the total scale would be smaller than a single city hotel. For comparison, the entire Australian farm tourism industry has a smaller capacity than a single city hotel (*Tourism Recreation Research 36: 127-140, 2011*). The number of additional tourists would necessarily be small.

In addition, building new accommodation capacity inside national parks would compete with existing tourism accommodation immediately outside those parks, especially the small-scale B&B and farm tourism sector in regional areas. This would reduce their customer volumes and prices. It would not be popular in those electorates.

Analyses of Australian rural tourism (*Tourism Recreation Research 36: 127-140, 2011*) have demonstrated that very few rural tourism enterprises are profitable unless they are within 2 hours by road from a major city or other tourism gateway. People visit more remote parks, but rarely in sufficient volumes and at sufficient prices to support commercial accommodation. There are exceptions, but they are few.

The most effective way to use parks to boost tourism to Qld is to improve the facilities for the principal activities for which tourists visit parks: namely, recreational activities such as hiking and enjoyment of scenery and wildlife.

Such improvements bring proportionally more tourists if they are carried out in parks near major urban gateways with more tourists. Their effect is then to increase the number of days which tourists stay in gateway accommodation, and their use of associated tourism services such as catering, retail outlets and rental transport.

Building accommodation inside national parks, particular in remote areas, would have none of these economic spin-offs for the Queensland tourism industry.

Many of Queensland's parks have tens or hundreds of kilometres of abandoned hiking tracks which are overgrown and no longer used, or even known, except by a few dedicated bushwalkers. Lamington National Park provides an excellent example. This does not need to involve new tracks, as in the so-called Great Walks, but repair and upgrade of abandoned tracks no longer even shown on parks maps.

Note also that the Lamington-Numinbah-Springbrook section of the southeast Great Walk failed to yield increased volume for local businesses because: (a) Binna Burra and O'Reilly's are already much better known than the Great Walk; (b) the Numinbah section is along a road and not attractive to hikers; and (c) Springbrook attracts bus tours from the Gold Coast. All these effects were predicted, but ignored.

Queensland's national parks do indeed attract tourists, but using them to boost tourism further, requires an understanding of tourist behaviour in relation to the entire tourism landscape, including infrastructure and motivations. This is common sense, not complicated; but cannot be ignored.

## **Economics**

The Explanatory Notes indicate that one aim of the Bill is to raise funds. They refer to "the level of direct commercial return to the State (e.g. lease rental payments)."

This is very unlikely to happen through leases to private tourism property developers and entrepreneurs. Individual entry fees provide a far more reliable mechanism. Local expectations of cheap public access can be preserved through annual passes for residents, as elsewhere (*Journal of Sustainable Tourism* 11: 56-73, 2003).

Many parks agencies worldwide raise a significant component of their operating revenue by charging entry and activity fees to individual visitors. For most developed nations the figure is 0-10%. For some developing nations the figure is up to 84%, but this is because government funding is severely inadequate (*PLoS ONE* 7(9): e44134, 2012).

No parks agencies, anywhere worldwide, have succeeded in raising a significant component of their operating budget through commercial arrangements with private tourism developers. The maximum proportion of gross revenue provided through such arrangements is <6%, and then only under very unusual circumstances, such as control of foreshore access (*PLoS Biol* 7(6): e1000143, 2009).

The Explanatory Notes mention that the tourism industry did not take up previous offers for 15-30 year leases with removable construction, even though those are longer leases and the same standard construction requirements as for the successful African wildlife watching ecolodge sector.

This indicates that the Queensland tourism industry does not see the same potential level of commercial profitability as in nations known for their large, diurnal, watchable wildlife, notably those in sub-Saharan Africa. This is not surprising.

Granting leases to private enterprises on public lands brings additional risks, sometimes very substantial.

Parks agencies granting concessions for fixed site developments face risks of large-scale financial losses associated with claims for compensation, either commercial (e.g., Seal Rocks case, \$56 million) or accident-related (e.g., Thredbo case). They also incur additional management costs (e.g., Kruger case).

## **Legal**

The Explanatory Notes refer only to "existing service", but the actual Bill refers to "service" without any qualifications. Clause 8(1) of the Bill, amending S35(1) of the current Act, should therefore be modified to include the word "existing" before

“service facilities”. Otherwise, this Bill could be abused to allow the Director QPWS to approve any new “service” facilities.

“Service” should be defined, for this specific legislation, by a list of particular activities which qualify as service. Otherwise, this provision could be abused to approve almost anything.

“Ecotourism” should also be defined a great deal more precisely. The definition should include a measure of maximum scale and size, since otherwise a large resort-residential development and convention centre could put itself forward as “ecotourism”.

The Bill also needs to specify that if a Lease is not renewed, the lessee is responsible for removing all materials and all traces of the development, including access, and restoring the land to its condition prior to the development.

It needs to provide that developers must lodge a bond or security to cover the costs of this work. Note that such requirements apply for many mining operations, even outside national parks. They are thus of particular concern inside national parks.

There are numerous examples worldwide where tourism developers have abandoned leases, including built facilities, in unuseable and dangerous condition (eg African and Argentina cases). In Australia, about 5% of all tourism development proposals which have been approved and have commenced construction, have then been abandoned, requiring rehabilitation at public expense.

Clause (8) (1) (c) (i) – (iii) specify that ecotourism developments can only be approved if they are: in the public interest; ecologically sustainable; and will provide, to the greatest possible extent, for the preservation of the land’s natural condition and the protection of the land’s cultural resources and values.

Clauses (8) (1) (c) (i) – (ii) are largely meaningless unless these terms are defined clearly. The economic, social and environmental considerations outlined in this Submission mean that strictly, it would be very difficult indeed for any private ecotourism development inside a national park to be in the public interest, as required under Clause (8) (1) (c) (i).

Therefore, the Bill needs to spell out explicitly, what criteria are to be used in defining the public interest with particular reference to tourism in national parks.

Similarly, ecological sustainability, as required under Clause (8) (1) (c) (ii), is a meaningless criterion unless defined. The tourism sector as a whole is far from sustainable (*Annals of Tourism Research* 39: 528-546, 2012). There are exceptions, but they are few (*Conservation Tourism*, CABI, Oxford, 2010). The Bill needs to define this term explicitly with particular reference to tourism in national parks.

A strict interpretation of Clause (8) (1) (c) (iii) would make it impossible to approve any development. To preserve the land’s natural condition to the maximum possible extent means no change at all. Therefore, this Clause needs to specify whether it applies only to design and operations, not approval; or if to approval, what criteria are to be used (*Annals of Tourism Research* 26: 705-708, 1999).

The Bill should specify explicitly that all proposals must be subject to Queensland EIA before being considered by the Director QPWS. This would be required outside a protected area, so it is especially important inside national parks.

The Bill does note, correctly, that proposals which fall within the ambit of federal constitutional powers, such as those in or near World Heritage Areas, are also subject to the Commonwealth EPBC Act, and ultimately to the World Heritage Convention.

The Bill should include specific clauses, additional to EIA requirements, that provide for public consultation and public right of third-party appeal. Experience in environmental legislation elsewhere in Australia has shown that such requirements help to prevent abuse of legislation, and do not lead to frivolous or vexatious litigation (*Environmental Planning Law Journal* 13: 239-245, 1996).

It may be worth noting that the requirement for Qld EIA could well save the Qld Government a considerable degree of embarrassment in future. The "Naturelink" proposal for a cableway in a national park and WHA near the Gold Coast, for example, was technically halted by the Qld Government, allowing it to retain authority and to save face – because otherwise, it would have been halted by the Australian Government, overriding the State Government.

## **Social**

As stated in the Explanatory Notes: "Currently, the general community has existing rights and liberties in relation to the enjoyment of national parks as public land. Any ecotourism lease granted could potentially provide exclusive access rights to an area that may once have been accessible by the general community as public land."

The Notes propose that policy would be developed to "ensure a balance between maintaining community access, whilst also enabling individual lessees to provide opportunities for their guests to enjoy a reasonable expectation of quiet enjoyment and privacy." No indication is given of how this might be achieved. This is a critical aspect and should be included within the Bill itself.

The only likely prospect would be to provide new access into remote areas of parks, specifically for new developments. This was the approach adopted in Kruger National Park in South Africa. Unlike Kruger, however, where access is only in vehicles, all areas of most of Queensland's parks are already used by backcountry bushwalkers.

Evidence from other States in Australia is that the Australian public prefers basic public-access facilities in parks, NOT higher-priced restricted-access facilities (eg Tidal River case).

In addition, political support for conservation is derived from a far wider constituency than that associated with recreational use, and that broader constituency is against fixed-site private or public development within parks.

The Explanatory Notes state that tourism developers have demanded an interest in the land concerned sufficient to raise finance, a so-called bankable interest. This is a common industry concern worldwide, but it indicates a surrender of public rights to

private interests.

Political patronage for private property developers, by providing public resources at prices far below market value, is widespread worldwide. There are historical examples from many countries in North and South America, Africa and Asia.

There are current concerns over this issue in New Zealand (eg Fiordland cases) and elsewhere in Australia.

### **Ecological**

New tourism development opportunities in remote sections of national parks, as well as service facilities, require access.

In addition to the direct environmental impacts of the developments or facilities themselves, such access generates a wide range of severe secondary environmental impacts. Access roads act as corridors for weeds, feral animals, and plant and animal disease, as well as a variety of illegal park uses.

In addition to the ecological impacts, all of these increase management costs, which are borne by the parks agency. Financial returns from private facilities do not cover these increased costs, especially when costs of enforcement and increased liability are included.

Examples from the USA and NSW, for example, show that new access roads may be used to establish drug crops and illegal adventure activities.

Fixed-site facilities in remote areas generate pollution and act as havens for rats, which eat the eggs of native bird species (M. Oost, PhD Thesis). There are very few cases worldwide where rats have been eradicated once introduced; and all of them are on islands and require costly ongoing control measures (eg North Island case).

### **International Comparisons**

The Notes refer to an analysis of outcomes in other jurisdictions, but this is not provided. This analysis should be made public. The view expressed in the Notes is directly contrary to the results of research in this field.

Most parks worldwide allow individual private recreation. Many allow small-scale mobile commercial tours. Very few allow fixed-site private accommodation or infrastructure.

There are <250 individual examples of private tourism accommodation or infrastructure in public protected areas, in the entire world. Most of these are:

- established prior to declaration of the park;
- on enclaves of private land;
- legacies of park establishment (common in USA and Canada);
- for historic heritage buildings requiring expensive maintenance;

- for viewing infrastructure such as canopy towers and underwater observatories;
- associated with land tenure changes, eg transfer of private land (eg Undara)
- associated with Indigenous land rights claims and leasebacks; or
- associated with political patronage and nepotism.

The main recent examples of new private tourism leases inside a public protected area are in South Africa (Kruger case). These have generated objections from the public, and have not raised significant funds for the parks agency.

There are numerous (>600) concessions in national parks in the USA, some longstanding. Most of these, however, are for small-scale mobile tours and seasonal self-drive roadside campsites. Very few are for fixed-site accommodation, and most of those are unavoidable historical legacies.

In some US parks there are whole-of-parks hospitality concessions, apparently adopted in an attempt to cut salary costs. These, however, operate under commercial price controls specified by the parks agency; and they apparently do not yield any significant return to government.

Approaches used to promote and manage tourism in parks are not transferable between countries. The North American concessions systems are legacies of westward colonial expansion, and have not worked elsewhere. The South African Kruger concession experiment has generated mixed results.

Successful concession systems in countries such as Botswana and Namibia depend on: high densities of globally desirable watchable wildlife; a high proportion of the country's total land area under conservation tenure; and large income disparities between tourists and residents. None of these apply in Queensland.

## **Conclusions**

We recognise the economic significance of Queensland's national parks as attractions for the tourism industry. We suggest, however, that granting rights to private entrepreneurs to build facilities inside public parks would not achieve this goal, and would generate a wide range of negative social, ecological and political consequences. We also suggest that current drafting of the Bill does not reflect its stated intentions as per the Explanatory Notes, particularly as regards "service" facilities; and that as currently drafted, the Bill could potentially be subject to abuse.