



13<sup>th</sup> September, 2013

**The Chairman  
Health and Community Services Parliamentary Committee  
Queensland Parliament  
BRISBANE.**

Dear Sir/Madam,

Please find attached our submission addressing the proposed Amendments to the Nature Conservation Act 1992 (Nature Conservation and Other Legislation Amendment Bill (No.2) 2013.

Yours sincerely,

Theo deBoer  
Vice-President  
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Wildlife Queensland

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## **Re: Amendments to the Nature Conservation Act 1992**

### **Nature Conservation and Other Legislation Amendment Bill (No. 2) 2013-09-13**

The Gold Coast and Hinterland Branch of Wildlife Queensland (Wildlife Preservation Society of Queensland) strongly objects to the proposed amendments to Nature Conservation Act 1992, on the following grounds:

The proposed amendment to the 'Object of the Act' in Section 4 completely changes the purpose of the Act. No longer will it be primarily concerned with the conservation nature, as is presently the case, but it will now have social, of cultural and commercial use of protected areas as an object. Although this may look harmless at face value, the Object of the Act is the first port of call by a court of law when interpreting any provision of an Act.

WE do not agree as some proponents of the amendment have argued, that the amendments leave the cardinal principle for national park management untouched. By changing the Object, the cardinal principle has lost much of its legal strength. It has been the foundation for the protection, to the greatest possible extent, of the natural and cultural resources on national parks. It relied on the Object for its mandate.

We strongly propose that the amendment to the Object of the Act should be removed. It is clearly an attack on National Parks because the three proposed additions only refer to protected areas, when the existing Act also contains provisions relating to the conservation of wildlife outside protected areas. The proposed changes have no place in the Object. The additions are all presently encompassed by the management principles for each class of protected area, where certain users are qualified in terms of the extent to which they can apply. By placing them in the Object in such broad and unqualified manner changes the whole basis of the Act.

The proposed abolition of eight classes of protected area is a step too far with minimal gain and some potentially substantial losses. It is fair comment that no areas had been declared as wilderness areas, World Heritage management areas and international agreement areas. Therefore, nothing changes by abolishing them. However, nothing is gained either. WHMAs and IGAs could have a place in the future and, in fact, were considered for declaration in the past. Why remove that flexibility when its presence has absolutely no effect financially or in terms of so called "green tape" on the management of protected areas?

Conservation parks and resource reserves have been abolished and rolled into a new class of protected areas known as regional parks. The name should be objected to as it carries on implication of resource protection. When you combine two classes of protected area in a hierarchy, the resulting management principles tend to shift towards the lowest common denominator. This has happened with regional parks.

The loss of national park (scientific) and national park (recovery) needs to be reconsidered. The loss of these two classes of protected area achieves virtually nothing other than saving a few lines in the legislation. Rolling them both up and stuffing them into the national park

class is a travesty and substantially undermines the level of protection that is afforded to national parks.

National parks (scientific) satisfied the IUCN category of protected area generally known as a nature reserve (the term used in NSW). These areas involve strict protection and management for a particular conservation purpose. Public access is strongly controlled. This class of national park is used for parks that protect, *inter alia*, bridled nailtail wallabies (Taunton) and northern hairy-nosed wombats (Epping Forest). They sometimes require strong manipulation of the environment (including other native species) in order to ensure the survival of an endangered species. To simply absorb them into national parks and provide for a special management area (scientific) is unacceptable and unnecessary.

Similarly, national park (recovery) which was designed to allow for restoration of land that was destined to become a national park has been absorbed into national parks. This also makes a mockery of national parks status as the restoration requirements could take many years to achieve. Once again, there is little to be gained and much to be lost by abolishing this class of protected area. A special management area (controlled action) has been created to cater for a national park on which this work is being carried out. National park (recovery) should be retained.

National parks lose a lot by being obliged to absorb these two other protected area categories. In fact, the biggest loser is the cardinal principle of national park management. Many activities that were legitimately carried out on national parks (scientific) and national parks (recovery) would be in breach of the cardinal principle. Consequently, the proposed action makes an absolute mockery of the cardinal principle and of national park status.

Forest reserve has been abolished as a tenure. It was established to act as a holding tenure in the SEQ Forest Agreement process. Many State forests that were being transferred to national park status contained a number of encumbrances (e.g. grazing, occupation licenses, etc.) that had to be determined and negotiated before the land could be dedicated as a national park. It has been an extremely useful holding tenure and there would appear to be no strong reason why it should no longer be available. Why wipe out that flexibility when it has served a very useful purpose in the past? The demise of forest reserve status would seem to reflect the government's desire not to transfer any State forests to protected area. In fact, there is a move to return many forest reserves to State forest status. It is appropriate to argue that forest reserve tenure should be retained. As with other abolitions, there is nothing to be gained by its loss but future opportunities will be lost if it no longer exists.

Revocation of a forest reserve can also take place under the Forestry Act if the forest reserve is to become a State forest. The strong requirements making it difficult to revoke a forest reserve under the Nature Conservation Act are effectively side-stepped in another Act. A resolution of Parliament would no longer be involved. Smoothing the process of preventing forest reserves becoming protected areas has been facilitated by using another Act.

The slow rate of production of management plans for protected areas as identified in an Audit of the Nature Conservation Act some three years ago as a major departmental failing. Action has been taken in the amendments to abolish the requirement for each park or aggregation of parks to have a management plan. That has been replaced with a requirement to prepare a management statement. The capacity to prepare a management plan is still available though there is no compulsion and probably very little incentive.

The Gold Coast and Hinterland Branch of Wildlife Queensland would argue that any park that was subject to activities that are contrary to the cardinal principle (such as tourist resort development and grazing) should have a management plan developed before such an activity could be authorised. That would ensure that the key values of the park had been clearly assessed and expressed.

Management plans are required to go through a public consultation process. Previously that process had two consultation steps but this has now been reduced to one. Management statements involve no consultation with the public prior to coming into force. It is important that some public feedback be facilitated. If that does not happen, it is difficult to know what value the management statement actually has.

**From:** [Sally Spain](#)  
**To:** [Health and Community Services Committee](#)  
**Subject:** Submission to the Nature Conservation & Other Legislation Amendment Bill from Wildlife Queensland, Gold Coast & Hinterland Branch September 13 2013  
**Date:** Friday, 13 September 2013 11:41:30 PM

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To The Chairman  
 Health & Community Services  
 Parliament House  
 Queensland

From Wildlife Queensland  
 Gold Coast & Hinterland Branch  
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September 13 2013

per Sally Spain  
 President WQ, GC&H

### 5 Theses

1 This document is to place on open public record, for current and future witness, the grave condemnation by this Organization, established half a century ago, in what is now the sixth largest and most biodiverse City in Australia, of the content and direction of the legislative proposals in the sphere of Nature Conservation, which are submitted by this State Government for public comment.

It is shocking to us, a Group founded by such iconic and internationally respected Queenslanders as Judith Wright and the Fleays, to be re addressing the exploitative, unsustainable simple mindedness which first ignited our Statewide Organization into advocacy 50 years ago, with proposals for oil drilling on the Great Barrier Reef.

2 We would direct any future Inquiry or investigative interests or Commissions to note that among the list of Consultative Groups invited to participate, by this Government, re proposed amendments to the Nature Conservation Act, were included the Urban Development Institute Australia, AgForce, Property Council of Australia, Timber Queensland, Origin Energy, Bundaberg Fruit & Vegetable Growers, Australian Petroleum Products & Exploration Association (non attendee), four Tourism Interest Groups, Q'ld Resources Council, HQ Plantations Pty. Ltd., Cement & Concrete Aggregates Australia and Q'ld Gas Company.

The fact that

a) the Proposed Bill specifically would "broaden the objectives of the Nature Conservation Act to provide for recreational and commercial uses in **protected** areas, while continuing to retain a **focus** on nature conservation'(emphasis added)

and that b) the briefings were given confidentially to Groups "on amendments **relevant to their interest'** (emphasis added) and the nature of the composition of the Consultative agencies renders the claim "**no significant issues were raised by the stake holder groups** on the majority of amendments" disingenuous, at best, and worthy of urgent scrutiny and reversal. It also, self evidently, reveals a garvelly flawed process and agenda.

3 Actual on the record reservations,- as those whose attention has been arrested by this extraordinary process or, rather, this charade of the procedures of governance, will undoubtedly note, came from volunteer Conservation Associations, who had no potential financial vested interest and a constitutional imperative to protect natural areas.

"Conservation Groups raised concerns around the broadening of the object of the Nature Conservation Act and its potential to impact on the cardinal principle of National Park management. "

The extraordinary refutation of this very justifiable concern must be cited here, for future generations, as evidence of the absence of the custodial care of heritage and the obligation of sustainability which is the duty of legitimate Government. To be clear, the guardianship of irreplaceable public assets does not involve opening a one stop shop with "streamlined" access and abrogating covenants on the scientific watch and monitoring of our non replicable systems.

Below is the "remarkable" refutation of these attested concerns, on behalf of the State Government, the same State Government which brought grazing into National Parks (and fencing to suit)

"Therefore the inclusion of **themes** (emphasis mine) associated with commercial and recreational use of **protected** (emphasis mine) areas, as an outcome of the Nature Conservation Act as a whole, is considered appropriate"

The astonishing conclusion after this remarkable statement is that "the cardinal principle of National Park management will not be amended under this Bill." No evidence is provided as to how this impossible dualistic feat may occur, wherein one set of priorities potentially contradicts the existence of the other.

Pre- legislative evidential justification, we are now on public record as testifying, has been abandoned to a mere amateurish statement of intent, contradictory at best and culpable in reality.

4 Current concerned commentators and critics of this short sighted attempt at legislative proposals and those appalled at this morally impoverished guardianship and governance-- and future generations-- will note that "the majority of stake holders" (many consulted who had, possibly, potential profit to be gained) "supported proposed amendments for **streamlining and resource efficiencies**" (emphasis mine).

It is stated that "Recommendations from Conservation and National Park Groups consulted suggested the need to take a Bioregional approach to management planning. While it is asserted this feedback has been considered (?), the general public, who pay the salaries of our legislators, are supplied with the following facile response. "This approach represents a significant deviation from the current management framework for **protected** areas and has not been considered appropriate at this time."

Urgently note, **at this time**, the fact is, that, of Queensland's 1375 terrestrial regional ecosystems, 561 are classified as "of concern" and 222 as endangered. Instead of abrogating the duty to immediately set aside recreational Central parks in less botanically valuable natural areas while they still exist (70% of our natural habitat in the eastern and south eastern parts of Queensland has been lost because of clearing.).

Instead of allowing invasive activity and profit orientated activity in the in publicly funded assets that are our National Parks, which are the plant and fauna preservation Arks of the future, this Government should be acquiring more National park and Conservation estate, while the natural resource still exists

This seems a much more important Governance agenda than "streamlining" in

more pressures on our already stretched and stressed natural systems, in a Nation that has the highest mammalian extinction rate in the World

This seems more important than doing away with the "red tape," which is often the thin red line of expert surveillance, which saves from neglect, careless usage, inadequate protection, hasty and irreparable loss or wholesale destruction. This kind of Governance which sheds duty of care and the principles of intergenerational equity is easily replaceable with no governance at all.

It seems the "current management framework" is to have the Minister, (who is, somewhat oddly, dividing his time not with the environment portfolio but with other more unusual portfolios not generally considered, in modern governance to particularly related to his sphere of influence), announce on a website, a "fait accompli" statement of his "management," conclusions, hatched without public consultation or knowledge. Justification for this unique arrangement, a sleight of hand avoidance of the community right of input or information, seems to hinge vaguely on the truism that we live in a technological era.

Deviation from this "banana republic" set up, at a time when the natural systems of the planet are, as universally, scientifically attested, undergoing a crisis of extinction, might allow for a "bioregional approach" suggested by those supposedly consulted.

Victoria, which early suffered and open slather of wholesale clearing and now has little or nothing left, according to its National Parks Association, that has the status to be acquired into its approximately 17 % of protected estate.

Queensland has, at this moment in its history, as cited above, much that urgently needs acquisition and it is this "management framework" that the Government should be using its taxpayer funded public servants and resources to address this.

5 Queenslanders and, indeed, Australians (as Commonwealth money substantially helps fund National Park acquisitions) note that "these **reforms** are in response to the State Government's commitment to extend access to National Parks" **(already accessible to those who move through their rare peaceful precincts without disturbing their precious cargo on a continent that has lost 90% of its tree cover in two hundred years).**

It is to be noted that in the last twenty years (with the exception of the Borbidge Government, it has been the successive Labor Governments which, finally, grew the Queensland National Park and Conservation estate from the shameful less than one percent of National Park set aside in the protracted backwoods backwater of the Bjelke Petersen era to the five percent which is still the lowest in Australia.

This public asset, which the LNP had almost nothing to do with gaining, is now proposed to be "streamlined" to commercially exploited, substituted recreational Central parks.

Real recreational Central parks should be established but not with the downgrading of the status of the conservation estate. Separate Regional area parks should be purchased as they originally were under the SSEQ 2001 plan, especially in areas such as South east Queensland with its large incoming population with higher impact recreational needs than walking/ hiking the designated tracks of our National Parks.

Queensland has 72% of Australia's bird species and 85% of Australia's

mammals. This legislative concentration on proposals to allow recreational usage, which should be placed in areas acquired outside the National Park storehouses for vulnerable and irreplaceable systems, is culpable. Culpable also is this legislative concentration on the proposed "open doors" for commercial intrusion and exclusive rights.

This State has been belated and remiss in National Park enshrinement. It still has the lowest amount of protected estate. It has over 100 plants and nearly 300 animals classified as endangered, vulnerable or near threatened. It must have a proactive and vigorous National Park increase and enshrinement of status and this should be the focus of our legislators and the enabling duty to which the directs our executive..

#### Postscript

Recently a Grade 7 student, whose class I was supervising for a day, showed me his draft letter to a future student in 2063. He said life in 2013 was terrible to him, with animals going extinct and trees getting cut down and houses getting built on forests. He said he was saddened but it there was nothing that could be done and he felt powerless to help. His reason was that no-one could challenge the Government and win.

His perception of his Government was not an institution that guarded his heritage or ameliorated the destruction of the vanishing natural world. It was an instrument that made no effort to prevent and rather enabled the tide of ongoing loss.

It had not occurred to him that this was an indictment.

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