

Submission to the
Health and Community Services Committee
Inquiry into the Nature Conservation and Other Legislation
Amendment Bill (No. 2) 2013
from
Magnetic Island Nature Care Association Inc. (MINCA)

Introductory comments:

The foundation that the “four pillars” of Queensland’s economy rest on is our environment. The protected areas are the “jewels in the crown” of the environment and already contribute greatly to our economy. This is particularly true of the tourism “pillar”. The protected areas are our heritage and should not be subject to the whims of any single government. Their survival depends on a consistent and sustained approach to the management and protection of their natural values.

MINCA is a voluntary conservation organisation based on Magnetic Island in the Great Barrier Reef World Heritage Area. Its primary concern is the sustainable management and use of our natural environment. It is also the Trustee for Bolger Bay Conservation Park.

Many of the proposed amendments weaken existing protection and management and are of concern to or are opposed by MINCA. These concerns are detailed below. The changes that are of a particular concern are those that will impact on the tenure and management of protected areas, and on Queensland’s continuing commitments under the national Biodiversity Strategy and the National Reserves System and associated strategy.

It is MINCA’s view that the proposed changes go well beyond what is required to meet the State Government’s commitment for reform to “improve access to national parks and other public lands; reduce red tape; and streamline regulations and legislation”.

These commitments can be delivered in other ways. The lessening of protection of the National Reserve System and of other protected areas is not a reform. This is because it does not continue to ensure the conservation of a minimum system of protected areas representative of the ecosystems of the state. It simply enables a change in land use of areas that most of the Queensland community had believed would be protected largely for the purposes of conserving nature.

We have been asked to comment on far-reaching changes to the Nature Conservation Act before we have seen the state governments policies on Nature Conservation. The policies to assess and regulate new activities in protected areas are not yet public, no policies on biodiversity outside reserves, or on the reserve system itself have been announced, and the “scientific review of all national parks that were created since 2002” has yet to report. Many of the new

parks being investigated have already been opened to grazing, an incompatible use that the proposed amendments could allow to continue indefinitely.

As part of increasing ecotourism opportunities in Queensland the state government should put more emphasis on opening up the grazing lands by facilitating and subsidising more nature tourism on properties. This would ensure that money stayed in the regions, and with more public exposure there would be further incentive for better management of the natural assets of the properties.

The following comments are arranged in the five categories used for the proposed amendments in the Health and Community Services Committee public briefing on 2nd September 2013.

(1) broadening the object of the Nature Conservation Act to provide for recreational and commercial outcomes in managing protected areas;

The major strength of the NCA is the clarity of its object. What this means is that proposals for management or use must be assessed against any natural values that may be impacted. The proposed amendments confuse use with object. None of the uses proposed for inclusion in the Object are currently prevented providing that they are not in conflict with it. The issue is of one of reserve management to ensure that these activities do not degrade the natural environments being used.

Having nature as the primary object requires that the natural values of the park be known before a use that may impact these values will be considered. Having other equal objects will mean that this knowledge is optional, as the objects may be mutually exclusive for the impacted area.

Although the proposed object states that the use must be consistent with the natural, cultural and other values present, it is not always clear what values are at stake. The proposed amendments do nothing to assist in rectifying the paucity of information available to the general public, and to the decision makers. Although parks in Queensland have been selected on a scientifically sound basis for over twenty years, the current state government disputes this and hence to this government those natural values leading to their purchase do not exist. The fact that the most recent areas acquired for conservation in Queensland have been given over to grazing show that the government believes there is no conflict between a commercial activity (ie grazing) and nature conservation values. This is in conflict with longstanding conservation knowledge and practice.

The Governments policies relating to biodiversity in a broader sense are yet to be publically known. There is no biodiversity policy inside or outside parks, and no comment on the national strategies that previous state governments have committed to. Despite this uncertainty a blank cheque is sought through this legislation to access protected areas for private commercial gain.

If proposed uses are incompatible with the conservation of nature in protected areas the act at present ensures that it is not undertaken on the less than 5% of Queensland set apart for the protection of nature. To propose otherwise shows a complete lack of understanding of the minimum requirement of any policy to conserve biodiversity: a representative and well managed park system.

MINCA opposes the proposed changes to the Object of the NCA.

(2) reforming the protected area tenure structure to reduce the number of tenures under the NCA;

The proposed changes in tenure structure do not simplify public perceptions of the purpose of a park and its primary management objectives. While the changes may meet the parts of the policy objective related to use, they will not meet the parts related to the conservation of nature.

In particular the grouping of tenure removes the discrimination that shows which different values and managements apply to different areas. The fact that for example Special Management Areas or Resource Use Areas have to be created as overlays on National Parks and Regional Parks recognises the need for this discrimination and ends up almost replicating the existing classification. When considered with the other proposed changes to the legislation, the restructuring simply enables major changes in land use in protected areas an administrative matter rather than one for Parliament.

Resource Reserves and Conservation Parks

The lumping of areas also contains assumptions about their present values and purposes that are incorrect, and as it stands is likely to lead to significant losses in biodiversity to the state. For example the proposed lumping of Conservation Parks with Resource Reserves into Regional Parks that are then subject to similar decision making processes can be used to indicate this concern.

Conservation Parks encompass a large number of (previously) national parks and environmental parks dedicated to protect what at the time of dedication were often considered to be of state value, but subsequently deemed too small to justify their conservation management by greatly stretched National Park rangers. Most continue to have very high biodiversity and/or scenic values requiring careful management due to their small size, risk to weed and animal pest invasions, and, in many cases, isolation from other bushland. For example a Conservation Park currently managed by MINCA was partly purchased using national funding under the National Reserves System Program, and is part of the National Reserve System. The agreements for this area specifically require that it be managed primarily for habitat conservation. As with most Conservation Parks it is too small to withstand increased use pressures without a corresponding increase in management intensity.

Resource Reserves were often initially proposed as National Park however the presence or likely presence of mineral or gas resources meant that the state

ensured the development option was retained. As a protected area under the NCA the intent was that natural values be protected to the maximum possible extent, with any development subject to rigorous environmental safeguards. Often these resource reserves are within a national park, or as more usual, adjoin a national park. In many cases the features they contain are an outstanding component of the larger protected area, and an important part of its ecological function. For example the Resource Reserves associated with Boodjamulla (Lawn Hill) National Park protect the major off-stream wetlands of the park, wetlands that are unique to this part of Queensland. These wetlands are particularly vulnerable to damage to their immediate catchment, and to changes in groundwater. Differently, but just as significantly, Black Braes RR contains the major river system of the larger protected area (including the adjoining Black Braes NP) and is part of a biogeographically isolated plateau top with endemic species. In this area there are local occurrences of plant and animal species that are greatly isolated from the next suitable patch of environment, mostly hundreds of kilometres east on the wetter coastal ranges. These species, and the river system, are greatly at risk if not explicitly recognised and protected through management.

The Bill proposes that all these areas be lumped into Regional Reserves any of which can then be overlain with a “resource use area” to allow mining. This is clearly contrary to all previous decisions and commitments and is contrary to best practice for nature conservation reserves. It is also over-rides Parliaments intent that these areas be protected primarily for nature conservation purposes.

It is not clear yet how mining in resource reserves will be regulated to ensure the highest standards of environmental protection.

The term “regional park” should be abandoned and the original names retained as accurate indicators of the very different reserve purposes.

Wilderness, World Heritage Management Areas and International Agreement Areas

Wilderness, World Heritage Management Areas and International Agreement Area categories should be retained for future use. Their removal will have no impact on “green tape” but their presence acknowledges the broader context of natural values in Queensland. It took years of struggle to get the ecological values of wilderness recognised, and international agreements established, and while the categories are retained, so is the hope that they might be protected.

Special Management Areas (SMAs)

The Bill proposes that SMA’s may be dedicated by the Executive over part or all of a National Park. Where this is for recognised management purposes (ie a management plan has been prepared) this would be similar to current legislation and a necessary adjustment to counter-balance the “simplification” of the protected area tenures.

However the Bill also enables a SMA to be used to allow the continuation of existing uses on a new national park. This would enable logging or grazing to

continue on land purchased for national park purposes, the argument being that if it was still good enough for a national park after grazing (or logging), why not let it continue. If these uses had no impact on natural values, national parks would not be needed to conserve nature in most of Queensland. The fact is that if representative areas of all landscapes are to be reserved to protect their species and ecosystems for the future, then in grazed and logged landscapes there is no choice but to buy grazed or logged land. The recovery of properties from the impacts of grazing or logging following their purchase as National Parks and subsequent de-stocking is well documented.

As well as overriding Parliaments expressed intent to dedicate an area for nature conservation, a concern that is also expressed by the Office of the Queensland Parliamentary Council (OQPC) and supported by MINCA, the proposed change suits only those who believe land suitable for grazing or logging should not be denied to the grazing or timber industry, or are ignorant of the value and management needs of a representative reserve system. There is insufficient justification to support overriding the Office of the Queensland Parliamentary Council in this regard.

In addition, should existing uses be allowed to continue over land acquired for National Park purposes, why would any more land in the grazing areas be purchased, despite them including the ecosystems least represented in the existing park system. The message this proposed change gives appears clear: there will not be a representative reserve system under this State Government.

Forest Reserves

The proposed treatment of forest reserves is also opposed. Timber Reserves cover some of the least disturbed remnants of Queensland's forest ecosystems and all should be converted to National Park tenure. Similarly Forest Reserves have already been through an assessment process and had been earmarked for permanent protection. Unless the state government is proposing an equally comprehensive re-assessment (at an un-necessary cost to the tax-payer), these areas should all also go to national park tenure.

Again, these areas relate to a comprehensive, adequate and representative reserve system, which the new state government has yet to express an opinion on.

(3) reviewing the management principles associated with protected area tenures to achieve a better balance between conservation and other outcomes;

The proposed amendments will undermine the conservation of nature in the protected areas of Queensland. As discussed above the underlying assumption that all "regional parks" are of lesser biodiversity value and have a greater capacity to withstand other uses is fallacious. The management statements to be prepared for most areas will have insufficient detail to determine values, threats

or management needs, despite the fact that in most cases their small size renders them vulnerable to disturbance.

In the case of National Parks, these changes support the proposed use of SMAs to introduce inappropriate uses in the general absence of management plans.

Generally speaking the amendments to the cardinal principles for National Park management have been confused with uses (educational, recreational and ecotourism) that are to be managed by these principles. If planned uses are incompatible with nature conservation they should be encouraged to take place in areas where they are less likely to affect other uses such as on grazing properties or dedicated recreation areas.

(4) streamlining the protected area management planning process to allow for greater efficiency in planning; and

The commitment to achieve a management instrument over all classes of protected area by 2015 is supported in general. However it is clear the process proposed to achieve this has great short-comings and is a retrograde step for national park management. Of particular concern is the great reduction in public participation in planning, and, as discussed above, changes in management that can be achieved through the administrative declaration of SMAs. Ministerial amendments to approved management plans are also of concern and introduce further uncertainty.

An additional concern is the replacement of a proper planning process for managing protected areas with a “management statement” for most areas.

Management Plans

The bill proposes that a management plan only be prepared when the minister “considers there are specific circumstances which make a more detailed planning process appropriate; for example, significant public interest concerns with regards to these values”. This is a particular concern as it suggests that there is no intent for a systematic approach to the management of even the “iconic” protected areas. The implication is that proper planning will only occur re-actively, invariably resulting in inconsistencies and inefficiencies.

The bill proposes the removal of preliminary public consultation at the start of the planning process for conservation plans including National Parks, Resource Parks, Recreation Areas (under Recreation Areas Management Act 2006) and Marine Parks.

This proposal is opposed as it is more likely to be inefficient and result in less effective plans. The preliminary consultation stage is critical in engaging local communities, determining information availability, and determining the major issues that the public perceive as needing to be addressed. Once a draft plan has been prepared there is less flexibility in accommodating differences of opinion, and no further chance of review should significant changes be required.

Removing the requirement to publish notice of review of a draft plan in local or national newspapers is also opposed. Printed notices have wider circulation locally than periodic postings on the net, which are likely to be un-noticed. MINCA supports the OQPC in opposing this proposal.

MINCA also supports the OQPC in its opposition to the proposal to allow the minister to amend a management plan without public comment. The protected areas of Queensland are its heritage and not the plaything of individual ministers to manage on a whim. There is no good reason that the intent to modify a plan cannot be made public first and submissions called, rather than leave notification until it has happened. It is essential that these changes be as transparent as the planning process.

Management statements

It is proposed that by far the great majority of protected areas will only have a management statement. These will be prepared internally with no public participation, will only be accessible on the web, and need only be “considered” in managing or using an area. There is no requirement for adherence. One must ask: why bother?

Given the flexibility the government is trying to achieve in the management of protected areas it is critical that the public know an area’s threats and values, and how proposed changes in management will address them. Such brief and inconsequential statements will not do this.

In addition much expertise resides outside the public service and in the interests of good management there should be a systematic approach to making sure this information is disseminated and used. Decisions regarding the management of protected areas must be transparent and soundly based and a more comprehensive approach is needed. Sound planning is an initial cost but has future efficiencies..

Permits for uses

A single permit is proposed for use across all protected tenures, including Marine Parks, Protected Areas, Recreation Areas and State Forests. In theory a single permit could be used for an operator to use all these areas in a single tour. While this is an attractive concept in theory, in practice each of these areas has different use considerations, including possible impacts and safety, and it is unlikely a single desk could address them all in other than a tick and flick manner.

(5) reducing the state’s exposure to liability arising out of incidents that occur on Queensland Parks and Wildlife Service managed land given key risks associated with increasing access.

It is inevitable that a policy of unmanaged and inappropriate use of protected areas will increase the risk of personal and environmental injury. MINCA has no

legal expertise but has exposure to personal liability as the Trustees of Bolger Bay Conservation Park.

While we suspect that this proposal will create a Pandora's box for court actions our primary concern is that as an Organisation we remain insured for public liability through the continuing support of the state government for the insurance scheme for voluntary natural resource organisations.

We trust these comments will be of use in your committee's deliberations.

Yours faithfully

A handwritten signature in black ink, appearing to be 'Peter Jones', with a long horizontal flourish extending to the right.

Peter Jones
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13th September 2013

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Sources

PUBLIC BRIEFING—INQUIRY INTO THE NATURE CONSERVATION AND OTHER LEGISLATION AMENDMENT BILL, TRANSCRIPT OF PROCEEDINGS. WEDNESDAY, 28 NOVEMBER 2012 Brisbane

QUEENSLAND PARLIAMENT. HEALTH AND COMMUNITY SERVICES COMMITTEE PUBLIC BRIEFING—NATURE CONSERVATION AND OTHER LEGISLATION AMENDMENT BILL (NO. 2) 2013, TRANSCRIPT OF PROCEEDINGS. Monday, 2 SEPTEMBER 2013 Brisbane

Introductory speech to the NATURE CONSERVATION AND OTHER LEGISLATION AMENDMENT BILL (NO. 2) Hansard

Department of National Parks, Recreation, Sport and Racing website.

Steve Dickson website posting “Nature Conservation and Other Legislation Amendment Bill 2012, 3 May 2013”

Nature Conservation and Other Legislation Amendment Bill (No. 2) 2013 Explanatory Notes

Department of National Parks, Recreation, Sport and Racing Fact Sheet “Nature Conservation Act 1992 proposed amendments Frequently asked questions”

Australia’s Strategy for the National Reserve System 2009–2030

Australia’s Biodiversity Conservation Strategy 2010 –2030