

**Subordinate legislation tabled between
28 October 2014 – 26 March 2015**

Report No. 3, 55th Parliament
Agriculture and Environment Committee
May 2015

Agriculture and Environment Committee

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1 Introduction

1.1 Role of the Committee

The Agriculture and Environment Committee is a portfolio committee established by the Legislative Assembly on 27 March 2015 under the *Parliament of Queensland Act 2001*.¹ It consists of government and non-government members. The committee's primary areas of responsibility are: agriculture and fisheries; sport and racing; environment and heritage protection; and national parks and the Great Barrier Reef.²

Section 93(1) of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for examining each Bill and item of subordinate legislation in its portfolio area to consider –

- a) the policy to be given effect by the legislation
- b) the application of fundamental legislative principles to the legislation, and
- c) for subordinate legislation – its lawfulness.

1.2 Aim of this report

This report advises of portfolio subordinate legislation tabled between 28 October 2014 and 26 March 2015 (listed in the below table) that the committee has examined and presents any concerns the committee has identified. Other than the issues discussed in section 2 of this report and relating to SL Nos. 240, 263 and 264, no FLP or policy issues for the remaining portfolio subordinate legislation were identified by the committee.

SL No	Subordinate Legislation	Tabled On	New Disallowance Date
240	Recreation Areas Management Amendment Regulation (No.1) 2014	28/10/2014	20/05/2015
252	Nature Conservation and Other Legislation Amendment (Postponement) Regulation 2014	25/11/2014	3/06/2015
263	Nature Conservation Legislation Amendment Regulation (No.3) 2014	25/11/2014	3/06/2015
264	Forestry (State Forests) Amendment Regulation (No.2) 2014	25/11/2014	3/06/2015
267	Fisheries (East Coast Trawl) Amendment Management Plan (No.1) 2014	25/11/2014	3/06/2015
268	Nature Conservation (Protected Areas) Amendment Regulation (No.3) 2014	25/11/2014	3/06/2015
271	Land Amendment Regulation (No.1) 2014	25/11/2014	3/06/2015
272	Plant Protection (Cucumber Green Mottle Mosaic-Pest Declaration) Notice 2014	26/11/2014	4/06/2015
273	Plant Protection (Cucumber Green Mottle Mosaic) Quarantine Notice 2014	26/11/2014	4/06/2015
281	Stock Amendment Regulation (No.2) 2014	26/03/2015	17/07/2015
282	Fisheries Amendment Regulation (No.1) 2014	26/03/2015	17/07/2015
291	Proclamation - Forestry and Another Act Amendment Act 2014	26/03/2015	17/07/2015
292	Recreation Areas Management and Another Regulation Amendment Regulation (No.1) 2014	26/03/2015	17/07/2015
302	Proclamation - Environmental Protection and Other Legislation Amendment Act 2014	26/03/2015	17/07/2015
327	Rural and Regional Adjustment Amendment Regulation (No. 8) 2014	26/03/2015	17/07/2015
328	Fisheries Amendment Regulation (No. 2) 2014	26/03/2015	17/07/2015
4	Land Protection (Pest and Stock Route Management) Amendment Regulation (No.1) 2015	26/03/2015	17/07/2015
5	Plant Protection Amendment Regulation (No.1) 2015	26/03/2015	17/07/2015

¹ Section 88 *Parliament of Queensland Act 2001* and Standing Order 194.

² Schedule 6 of the Standing Rules and Orders of the Legislative Assembly of Queensland.

2 Issues identified in particular subordinate legislation

2.1 SL 240 - Recreation Areas Management Amendment Regulation (No.1) 2014

The objective of the Regulation is to provide the ability to grant a fee exemption for a vehicle access permit for the Cooloola Recreation Area to a person whose principal place of residence is Rainbow Beach (comprising the gazetted localities of Rainbow Beach and Inskip).

Potential issues and comments

Residents of Rainbow Beach made representations to the former Queensland Government that they should be exempt from the vehicle access permit fee for the Cooloola Recreation Area. They submitted that it is quicker for them to travel through the recreation area (mostly along the beach) to access shops and other amenities in the Noosa area, compared to driving to either Gympie or Noosa via the sealed public road network, depending on the prevailing beach and tide conditions and the operation of the Noosa River ferry.

The explanatory notes explain that this exemption will only be granted to residents of Rainbow Beach because:

Rainbow Beach has been identified as the only situation where residents can obtain a reasonable time advantage by travelling to a major shopping and business centre via the recreation area, instead of by an alternative route. For example, other nearby communities, such as Cooloola Cove, Tin Can Bay and Wallu are closer to Gympie than Rainbow Beach, and residents of these communities can reach Gympie faster by using the conventional road network than travelling to Noosa via the recreation area.³

The purpose of the declared recreational areas under the *Recreation Areas Management Act 2006* is (amongst other things) to provide for sustainable recreational use, protect natural values, and enhance public safety within the recreational areas.⁴ The Cooloola Recreation Area is part of the Great Sandy National Park and features the largest remnant of coastal vegetation on the southern Queensland mainland. It also features many public camping areas, walking tracks and wilderness trails.

A '*Strategic Directions for Cooloola*' paper released by the Environmental Protection Agency in July 2008 noted a number of issues which underpin the need for tighter management within the reserve area:

Over the past three years in the peak periods of Christmas–New Year, Easter and some long weekends, camping areas at Inskip Point, Freshwater and along Teewah Beach have been filled beyond capacity, adversely impacting on visitor experience and the natural and built infrastructure, leading to environmental damage and localised social disorder.

The 65km of beach from Noosa to Rainbow Beach, via either the Leisha track or the Freshwater track, is used all year round as a thoroughfare for traffic between those centres, and becomes particularly congested in the peak periods. Combined with the pedestrians also using the beach at those times, a significant public safety risk is created and there have been numerous incidents.⁵

In a letter to the Clerk of the Parliament concerning petitions made to the 53rd Parliament on this matter, the then Minister for Environment and Resource Management, Ms Kate Jones MP advised:

Similar to other iconic recreation areas such as Fraser, Moreton and Bribie island, the declaration of the Cooloola Recreation Area and the introduction of vehicle access permits provides a mechanism to manage safety, vehicle access, visitor numbers and behaviour and activities across

³ Recreation Areas Management Amendment Regulation (No.1) 2014, Explanatory Notes, p. 2.

⁴ *Recreation Areas Management Act 2006*, cl. 4(1).

⁵ EPA, 2008, '[Strategic Directions for Cooloola](#)', p. 3.

*various land tenures including national park, beach, esplanade and other land rights down to the low water mark.*⁶

And

*The introduction of a vehicle access permit system also creates a user pays system whereby users of the area contribute to the management of issues, facilities and activities in the area right down to the high water mark. Revenue raised from permits is re-invested back into the area to improve safety and conservation outcomes and to provide better visitor facilities and services.*⁷

The committee questioned whether a fee exemption which encourages the use of the beach area as a transport corridor for recreational and private purposes was consistent with the intent of the legislation and whether increased traffic in the reserve area may compromise environmental protection and public safety. The committee noted also that there already exists a fee exemption for residents, landholders and workers that need to traverse the recreation area to access their property or place of work.

Further, the Explanatory Notes state that there has not been any public consultation other than with the State Member for Gympie as the proposal reflects the representations made by residents of Rainbow Beach.

Committee's request for advice

The committee sought advice from the Department of National Parks, Sport and Racing (DNPSR) on the appropriateness of the proposed fee exemption which encourages the use of the recreation and beach areas as a main transport corridor when there are alternative public road networks available.

In this regard the committee also requested the department's advice on the following matters:

- a) What the vehicle access permit fee is currently; and how many permits are currently issued to Rainbow Beach residents for the Cooloola Recreation Area;
- b) Has the department assessed current vehicle use/traffic volumes within the Cooloola Recreation Area and estimated any impact/change in vehicle use/traffic volumes following the amendment;
- c) If there are any impacts on environmental protection and public safety arising from increased traffic volumes anticipated; and how these will be monitored and mitigated; and
- d) What public consultation has occurred with residents of Rainbow Beach and other local areas such as Noosa and Gympie; what consultation has been conducted with Gympie, Noosa and Sunshine Coast regional councils; and is the department confident that the representations made by residents of Rainbow Beach reflect a whole of community view.

Department's advice

In response to the general concerns of the Committee regarding the intent and impact of the fee exemption, the Department of National Parks, Sport and Racing advised:

The amendment isn't seeking to encourage use of the beach as a main transport corridor. The purpose of the amendment regulation was in response to complaints by Rainbow Beach residents that they shouldn't have to pay fees to traverse the beach to get to the nearest business centre. Rather than encouraging use, it was recognised that the use was already occurring, the amendment provides for the residents to continue their use without having to pay.

Prior to the establishment of the Cooloola Recreation Area, use of the beach as a thoroughfare between Rainbow Beach and Tewantin was already occurring extensively (without the need for a vehicle access permit). Most of this through travel is carried out by people other than Rainbow Beach residents. For example, the beach is commonly used as a scenic thoroughfare by people travelling en route to Fraser Island. This use of the beach is actively promoted by tourism bodies as part of the "Great Beach Drive" – see http://www.australiasnaturecoast.com/assets/great-beach-drive---teaser_low-res.pdf

⁶ Jones, K., 2011, [Correspondence](#), 18 March.

⁷ Jones, K., 2011, [Correspondence](#), 18 March.

One of the objectives of the original declaration of the Recreation Area was to enable the management of the vehicle use on the beach through, among other things, the use of the conditions in the vehicle access permit. The Recreation Areas Management Amendment Regulation does not affect this ability to regulate use, as vehicles continue to require a vehicle access permit. However, greater scope now exists for Rainbow Beach residents to obtain the permit free-of-charge.

While the permit data currently indicates an increase in the number of vehicle permit exemptions granted for the Cooloola Recreation Area compared to the same period as last year (prior to the introduction of the fee exemption), it is not clear whether this has actually resulted in an increase in traffic using the beach to travel from Rainbow Beach to Tewantin. The state of beach conditions, the timing of tides, managing tyre pressures, paying for barge crossing at the Noosa River and having to wash off vehicles is likely to continue to affect the majority of residents' decisions on whether to use the beach as a thoroughfare to Tewantin more significantly than a free permit. However, there is a high probability that many Rainbow Beach residents are using their fee-exempt permit for the purpose of free access to the Cooloola Recreation Area beach for recreational use (which they previously would have been paying for).

It is also likely that because of the fee exemption, many Rainbow Beach residents have availed themselves of a free permit, even though this may not result in them using the beach to any greater extent than previously (for example, they may have previously only purchased a permit for one of their two vehicles, whereas now the permit is free, they have obtained a permit for both vehicles).⁸

DNPSR also advised the number of and change in vehicle access permits issued for **Rainbow Beach** as follows:⁹

Vehicle Access Permits	2013-2014 Permits (Nov – April before the change)	2014-2015 Permits (Nov – April after the change)
Paid Permits	172	61
Fee Exempt Permits	8	257

In response to the committees query regarding vehicle use in the Cooloola Recreation Area and traffic related impacts on public safety and the environment, DNPSR advised:

The Department hasn't assessed traffic volumes; however, operational staff advise that it is unlikely that the local resident traffic has increased along the beach as a large majority of the local population were already driving on the beach as paying customers for the purpose of recreational use.

Rainbow Beach residents are a very small portion of the total recreation area users – most users are coming from Sunshine Coast, Brisbane and interstate. For example, based on 2011 census data, Rainbow Beach consists of 451 dwellings, with approximately 700 vehicles. Only some of these vehicles are four-wheel-drives suitable for beach use. This is a very small number compared to the 39,000 paid vehicle access permits issued in 2014-15 for the Cooloola Recreation Area.

Comparison of the permit data for a period before and after the fee exemption was in place has shown that the number of paid and fee-exempt permits has increased following the introduction of the fee exemption, while paid permits have decreased. As noted above, regional staff advise that it is likely a number of these permits are being utilised on a second vehicle at the same residence.¹⁰

⁸ DNPSR, 2015, Correspondence, 18 May.

⁹ DNPSR, 18 May.

¹⁰ DNPSR, 18 May.

And

Visitation to Cooloola is increasing, including from holiday makers, interstate travellers and international tourists, and this is subsequently increasing safety risks and additional environmental impacts. The department has proactive beach driving and safety communication messages (which also support Fraser Island) and issue fortnightly condition reports highlighting hazards and reiterating safety messages to visitors.

The Department also works with local councils, the Department of Transport, Queensland Police Service and commercial operators to monitor and manage traffic conditions and restrictions.

Rangers also regularly patrol the beach with support from the Queensland Police to monitor visitor behaviour with the aim of improving safety and minimising environmental damage.¹¹

In relation to public consultation undertaken prior to the commencement of the fee exemption, DNPSR advised:

Numbers of local residents and businesses at Rainbow Beach have previously expressed opposition publicly and to regional NPSR staff about the recreation area declaration, indicating that the introduction of the recreation area impacted on the local community, in particular businesses, to the extent that holiday makers would be deterred by the vehicle access permit fee and not visit the area.

It is understood that based on this view, the former Member for Gympie, Mr David Gibson MP, made a commitment prior to the 2012 State Election that exemptions for beach access from Rainbow Beach to Double Island point would be granted if the LNP were elected. After the election, the regulations were amended to provide that only Rainbow Beach residents were eligible for exemptions.

No formal consultation occurred with Gympie, Noosa and Sunshine Coast Regional Councils or the broader community in relation to the Amendment Regulation, as the matter was considered to be delivering an election commitment made by the LNP government.¹²

Committee comment

The committee has considered the background to the establishment of the Cooloola Recreation Area and the circumstances for requiring vehicle access through the recreation area. The Cooloola Recreation Area was established in direct response to concerns for public safety and environmental damage arising from the unmanaged access and unrestricted vehicle use in the beach and park area.

A vehicle access permit provides an opportunity for continued vehicle access in the recreation area for private and recreational use, whilst ensuring that all users contribute equally to the conservation, management and safety of the area. The committee believes it is reasonable that all users of the recreational area be required to pay equally for a vehicle access permit, however also acknowledge that it is often necessary and advantageous for Rainbow Beach residents to traverse the beach to get to the nearest business centre. The committee therefore supports the granting of fee exemptions to genuine permanent residents of Rainbow Beach.

However the committee notes that this fee exemption may be inconsistent with the objectives of the *Recreation Areas Management Act 2006* and purpose of the permit system, especially if the exemption leads to a significant increase in permits issued and/or increased general recreational vehicle use in the recreational area. Accordingly the committee recommends that the Minister ensure that only genuine residents (i.e. those who live in Rainbow Beach as their *primary* place of residence) may be eligible for a fee exemption. The committee also sees merit in reviewing vehicle access permits issued after twelve and 24 months of operation to ensure fee exemptions are not leading to unsustainable vehicle access or any

¹¹ DNPSR, 2015, Correspondence, 18 May.

¹² DNPSR, 18 May.

public safety and environmental impacts. The committee invites the Minister to report the outcomes of this review to the House.

2.2 SL 263 Nature Conservation Legislation Amendment Regulation (No.3) 2014 and 264 Forestry (State Forests) Amendment Regulation (No. 2) 2014

The objective of the Nature Conservation Legislation Amendment Regulation (No. 3) 2014 is to revoke the entirety of 59 forest reserves to allow 23 forest reserves to be combined with 12 existing national parks.¹³

The objective of the Forestry (State Forests) Amendment Regulation (No.2) 2014 is to set apart, declare, and combine, 36 forest reserves with 32 existing State forests.¹⁴ These 36 forest reserves represent the remaining forest reserves revoked under SL 263 and not combined with national park areas under that regulation.

Potential issues and comments

In November 2013, Parliament passed amendments to the *Nature Conservation Act 1992* (NCA) and other related primary legislation under the *Nature Conservation and Other Legislation Amendment Act (No. 2) 2013* (NCOLAA). These amendments were designed to improve access to national parks and other public lands, and simplify the tenure structure in the NCA by reducing the number of protected area tenure classes through abolishing or amalgamating tenures. Since this time the department has undertaken a review and reclassification process of all existing forest reserves. The intent of the review is to provide for and ensure a direct transfer of existing areas into the new tenure structure with no net change to Queensland's protected area estate.¹⁵

The amendments contained in SL 263 and 264 implement part of the tenure structure simplification, namely the consolidation of forest reserves into existing national park and state forest areas. As it is not immediately clear to the committee how the revocation, transfer and reclassification of reserve areas align with existing tenures, the committee is concerned that the proposed amendments may effect Queensland's national park estate and/or change the level of protection and management principles for these areas.

Committee's request for advice

The committee sought an assurance from the department that the revocation and reclassification proposed by SL 263 and SL 264 will not result in any net change to Queensland's protected area estate.

Department's advice

The Department of National Parks, Sport and Racing advised:

The regulation in question relates to the amalgamation of 36 forest reserves to 32 State forests as approved by Governor in Council on 13 November 2014.

Forest reserves are not protected areas under the Nature Conservation Act 1992 (NC Act) therefore the amalgamation with State forest will not lead to a reduction in the current protected area estate and will in fact result in an increase in this area.

The original intent of the forest reserve tenure was to provide a temporary tenure which allowed for the transition of a State forest into a protected area tenure under the NC Act such as National Park. The tenure provided for the protection of natural values while recognising the need to resolve inconsistent uses before gazettal as protected area.

¹³ Nature Conservation Legislation Amendment Regulation (No. 3) 2014, Explanatory Notes, p. 1.

¹⁴ Forestry (State Forests) Amendment Regulation (No. 2) 2014, Explanatory Notes, p. 1.

¹⁵ Nature Conservation and Other Legislation Amendment Bill (No. 2) 2013, Explanatory Notes, p. 15.

State forest is not a protected area tenure and the 36 parcels transferred to this tenure will once again be available for uses such as timber harvesting, recreation and grazing.¹⁶

Committee comment

The committee notes the Department's advice. The committee recommends that subordinate legislation No. 263 Nature Conservation Legislation Amendment Regulation (No.3) 2014 and No. 264 Forestry (State Forests) Amendment Regulation (No. 2) 2014 be disallowed.

3 Recommendations

SL 240 - Recreation Areas Management Amendment Regulation (No.1) 2014

Recommendation 1

The committee recommends that the Minister for Environment and Heritage Protection and Minister for National Parks and the Great Barrier Reef advise the House of what measures are in place to ensure that only genuine residents whose primary place of residence is Rainbow Beach have been granted fee exemptions.

Recommendation 2

The committee recommends that the Department of Environment and Heritage Protection undertake a review of vehicle access permits issued for the Cooloola Recreational Area, at twelve and 24 months following the commencement of the Recreation Areas Management Amendment Regulation (No.1) 2014, to ensure fee exemptions are not leading to unsustainable vehicle access or any public safety and environmental impacts; and that the Minister for Environment and Heritage Protection and Minister for National Parks and the Great Barrier Reef report the outcomes of these reviews to the House.

SL 263 Nature Conservation Legislation Amendment Regulation (No.3) 2014 and 264 Forestry (State Forests) Amendment Regulation (No. 2) 2014

Recommendation 3

The committee recommends that subordinate legislation No. 263 Nature Conservation Legislation Amendment Regulation (No.3) 2014 and No. 264 Forestry (State Forests) Amendment Regulation (No. 2) 2014 be disallowed.

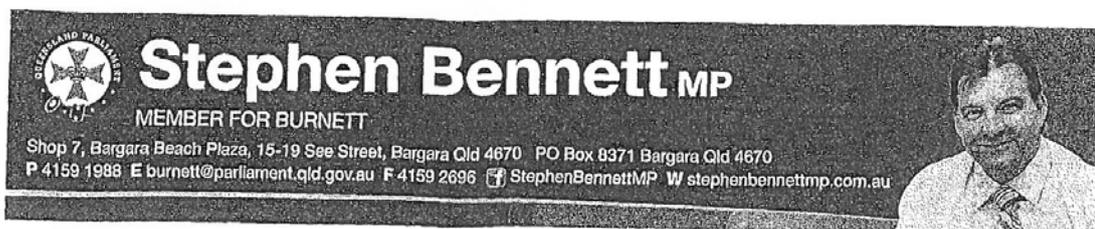
Jennifer Howard MP

Chair

May 2015

¹⁶ DNPSR, 2015, Correspondence, 18 May.

STATEMENTS OF RESERVATION



22/05/2015

Ms Jennifer Howard MP

Chair

Agriculture and Environment Committee

Parliament House

George Street, Brisbane QLD 4000

Dear Ms Howard,

RE: Report No. 3 Subordinate Legislation tabled between 28 October 2014 and 26 March 2015

We the undersigned wish to notify the committee in accordance with SO214 of our reservations about aspects of Report No.3 of the Agriculture and Environment Committee.

The report seeks to recommend the disallowance of Subordinate Legislation No.263 and Subordinate Legislation No.264.

Subordinate Legislation No.263, Nature Conservation Legislation Amendment Regulation (No.3) 2014, The regulation is to revoke the entirety of 59 forest reserves to allow 23 forest reserves to be combined with 12 existing national parks.

Subordinate Legislation No.264, Forestry (State Forests) Amendment Regulation (No.2) 2014, The amendment regulation will amend the schedule of the Forestry (State Forests) Regulation 1987 to redescribe 32 existing State forests to include 36 areas previously described as forest reserves.

The Non-Government Members of the Committee had no time to review the reasons, no public hearings, no evidence for the recommendations and no explanations were provided.

Further reservations with regard to the recommendations and concerns with process will be outlined during the debate on the Disallowance motion.

Yours Sincerely

Stephen Bennett

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Rob Katter MP
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Wednesday 27 May 2015

RE Statement of Reservation on Report No 3. Subordinate Legislation 2015

I write to lodge a Statement of Reservation to the Agriculture and Environment Committee on the Report No. 3 Subordinate Legislation tabled between 28 October 2014 and March 26 2015.

There was a strong lack of consideration with regard to the possibility of free permits for other communities existing in the area as had previously been suggested by the Gympie Regional Council and many residents. The contrasting ideological values are clear with regard to this subordinate legislation, as an individual's right to access public areas without a financial cost is not taken into account. The committee's recommendations have not been scoped towards the original legislative objective.

These points were mainly questioning either the need for this additional consultation and background on the issue and the effects of the fee change to-date.

2.1 SL 240 – Recreation Areas Management Amendment Regulation (No.1) 2014.

The most pertinent objections to the development process of the committee are as follows:

1. Lack of detail on the effects of the current measures in place and the ability of the overall Act to achieve the original objectives of the declaration.
 2. Lack of evidence around how the funds from the fees have been reinvested into the Cooloola and Rainbow beach communities and the costs already incurred to residents in outlying communities.
1. The legislation fails to reach the original objectives of the declaration which was to enable the management of the vehicle use on the Cooloola Coast recreation area through the permit facility. Since the fee-exemptions for Rainbow Beach residents have been introduced, the department hasn't assessed traffic volumes. However it was advised that it is unlikely local resident traffic has increased along the beach. While permit numbers have increased it has not been assessed if there has been an actual increase in traffic on the beach or whether the introduction of permits has controlled the flow of vehicles, which was the original objective of the legislation. While I acknowledge that the conservation of the Cooloola Recreation Area is an objective of the department, no data is to hand on the environmental impacts of specific resident traffic in the area. I would also suggest than an investigation towards cost analysis of permit funds raised versus implementation and staffing costs be considered.

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2. While it is detailed that the funds would be returned to the area for upkeep and maintenance of the facilities detailed in the **EPA, 2008, 'Strategic directions for Cooloola', P. 4**, the distribution of these funds requires significant review and clarification. As the majority of the facilities detailed are for the use of campers and visitors it is clear the only costs recovered to directly come from the use of 4WDs on the recreational areas is safety and monitoring – which is a shared responsibility with the local council, QPS and the department. There has been no exploration into the costs already incurred to residents of the Gympie, Tin Can Bay and Cooloola Cove community through local council rates and other fees. Surely consideration also needs to be made for residents and the percentage of rate revenue which already funds these services, not just those immediately adjacent to the reserve?

I am not convinced that the recommendations put forward by the committee take into account the rights of the local community, its local government bodies and the impact that permit fees and limited fee exemptions have had on the local economy. Nor has an extension of these fee exemptions been taken into account, especially to those who may already fund the some of the facilities under the Gympie Regional Council. Many business owners would argue that they have seen a significant downturn of visitors since the fees were first introduced.

Overall we believe that the subordinate legislation requires more consultation with both regional councils, community groups, local tourism organisations and others that have shared responsibility and interest in the Cooloola Recreation Area.

The second recommendation put forward by the committee with regard to a review of the environmental impacts at 12 and 24 months must be broadened. Without further consultation with members of the community I am inclined to disagree with the recommendations put forward by the committee and call for further investigation into these matters.

Yours sincerely



Rob Katter

Member for Mount Isa

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