

Nature Conservation and Other Legislation Amendment Bill 2015

Report No. 13, 55th Parliament
Agriculture and Environment Committee
February 2016

Agriculture and Environment Committee

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Acknowledgements

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¹ On 9 December 2015, Ms Jennifer Howard MP, informed the Leader of the House of her intention, due to her appointment as Assistant Minister for Local Government, to resign from the committee as soon as a replacement member could be appointed. Mr Linus Power MP was subsequently appointed Acting Chair and Ms Joan Pease MP was appointed as a substitute member for Ms Howard on the committee.

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Abbreviations

ACF	Australian Conservation Foundation
ALA	<i>Aboriginal Land Act 1991</i>
APPEA	Australian Petroleum Production & Exploration Association Limited
BMP	Best Management Practice
CYLC	Cape York Land Council
CYPAL	Cape York Peninsula Aboriginal Land
CYPTRP	Cape York Peninsula Tenure Resolution Program
DNPSR	Department of National Parks, Sport and Racing
DNRM	Department of Natural Resources and Mining
EDO Qld	Environmental Defenders Office Queensland
EDO NQ	Environmental Defenders Office (Northern Queensland)
EPA	<i>Environmental Protection Act 1994</i>
FLP	Fundamental legislative principle
GCTA	Gap Creek Trails Alliance
ILUAs	Indigenous Land Use Agreements
IMAs	Indigenous Management Agreements
IUCN	International Union for the Conservation of Nature
LSA	<i>Legislative Standards Act 1992</i>
MINCA	Magnetic Island Nature Care Association
NCA	<i>Nature Conservation Act 1992</i>
NCOLA	Nature Conservation and Other Legislation Amendment Bill
NCOLA No. 2 2013	Nature Conservation and Other Legislation Amendment Act (No. 2) 2013
NPAQ	National Parks Association Queensland
QCCC	Queensland Conference and Camping Centres
QORF	Queensland Outdoor Recreation Federation

QPWS	Queensland Parks and Wildlife Services
QRC	Queensland Resources Council
QuEST	Queensland Eco and Sustainable Tourism
RAM	<i>Recreation Areas Management Act 2006</i>
SMA	Special Management Area
WBBEC	Wide Bay Burnett Environment Council
WPSQ	Wildlife Preservation Society of Queensland
WTMA	Wet Tropics Management Authority

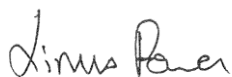
Chair's foreword

This report presents the summary of the Agriculture and Environment Committee's examination of the *Nature Conservation and Other Legislation Amendment Bill 2015* as it was referred to the Committee by Hon Stephen Miles MP, Minister for Environment and Heritage Protection and Minister for National Parks introduced on the 27th of October with the report back to be tabled by the 5th of February 2016.

The Conservation of Nature in the State of Queensland is a goal that the entire committee supports and all are extremely proud of the National Parks Estate. Queensland has an extraordinary and unique natural legacy to protect for future generations.

I wish to thank all the submissions that were made to the committee and thank them for being part of the committee process to review and examine the Bill as presented before the House. I further wish to thank the Departmental Staff who worked hard to ensure the Committee had a thorough understanding of the detail of the Bill. I applaud all members of the committee for their diligence, application and constructive approach to the review of this Bill through the Committee Process. I also wish to thank the former Chair of the Committee, the Member for Ipswich and the staff of the Committee whose advice was invaluable in the preparation of this report.

I commend this Report to the House.



Linus Power MP

Acting Chair

Recommendations

Recommendation 1 **5**

The committee could not agree on whether the Bill should be passed.

Recommendation 2 **13**

The committee recommends that the following wording proposed to be removed from section 4, or wording with similar meaning, be incorporated into section 5 of the *Nature Conservation Act 1992*:

While allowing for the following—

(a) the involvement of indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom.

Recommendation 3

The committee recommends that the Bill be amended to require that the department consults with and seeks the consent of the landowner of a national park (CYPAL) when making a declaration of a Special Management Area (controlled action).

Recommendation 4 **26**

The committee recommends that the clause 9 be amended to incorporate the wording of section 17(1)(d) of the *Nature Conservation Act 1992* into the management principles for a conservation park.

Recommendation 5 **28**

The committee recommends that clause 17 be amended to remove the reference to national park (scientific) from the definition of prescribed national park in clause 17 (section 42A(4)(a)).

Recommendation 6 **31**

The committee recommends that the Minister consider amending clause 27 to incorporate a legislative requirement for amendments to management plans for national park (CYPAL) and indigenous joint management areas to be prepared jointly with the indigenous landowner and to be consistent with any indigenous land use agreement and IMA for the area.

Recommendation 7 **49**

The committee recommends that the Minister consider the rights of agricultural and grazing lease holders in regards to their rights of appeal over lease renewal decisions, and consider if this administrative power is still subject to appropriate review.

Points for clarification

Point for clarification 1 5

The committee invites the Minister to ask his department to consult with the outdoor recreation sector, holders of agricultural and grazing leases in protected areas and Indigenous stakeholders in relation to the proposed amendments in the Bill, and to inform the House of the outcomes of these consultations.

Point for clarification 2 41

The committee invites the Minister to clarify the reasons why regional parks (resource use area), for which there are no trustees, is not included in section 38(2)(k)(iv), and whether clause 48 of the Bill should be amended to rectify this.

Point for clarification 3 42

The committee invites the Minister to clarify for the information of the House: why the proposed amendment to Schedule 2 (definition of protected area) makes no reference to 'national park (Cape York Peninsula Aboriginal land)' in the amendment of the *Mineral Resources Act 1989*; why the reference to national park (Cape York Peninsula Aboriginal land) is omitted from the definition of owner (paragraph 1 (q)); and whether the Bill should be amended to rectify these anomalies.

Point for clarification 4 46

The committee invites the Minister to request his department to consult with affected holders of rolling term leases on the proposed changes in clauses 39 and 43 and to advise the House on this process. It should be noted that agricultural, grazing or pastoral leases will continue to be assessed on a case by case basis and that this will not change.

1. Introduction

1.1 Role of the committee

The Agriculture and Environment Committee is a portfolio committee appointed by a resolution of the Legislative Assembly on 27 March 2015. The committee's primary areas of responsibility are: Agriculture, Fisheries, Sport and Racing; and Environment, Heritage Protection, National Parks and the Great Barrier Reef.²

In its work on Bills referred to it by the Legislative Assembly, the committee is responsible for considering the policy to be given effect and the application of fundamental legislative principles (FLPs).³ In relation to the policy aspects of Bills, the committee considers the policy intent and the effectiveness of consultation with stakeholders. The committee may also examine how departments propose to implement provisions in Bills that are enacted.

FLPs are defined in Section 4 of the [Legislative Standards Act 1992](#) as the 'principles relating to legislation that underlie a parliamentary democracy based on the rule of law'. The principles include that legislation has sufficient regard to the rights and liberties of individuals and the institution of Parliament.

1.2 The referral

On 27 October 2015, Hon Dr Stephen Miles MP, Minister for Environment and Heritage Protection and Minister for National Parks and the Great Barrier Reef, introduced the Nature Conservation and Other Legislation Amendment Bill 2015 (the Bill).

The Bill was referred to the committee by the Legislative Assembly for examination and report by 5 February 2016 in accordance with Standing Orders 131.

1.3 The committee's processes

For its examination of the Bill, the committee:

- notified stakeholders of the committee's examination of the Bill and invited written submissions. The committee accepted 77 written submissions, 3 of which were received late. A list of submissions is at **Appendix A**;
- sought written briefings from the Department of National Parks, Sport and Racing (DNPSR);
- convened a public briefing by DNPSR on Wednesday 11 November 2015. A list of departmental officers who appeared at the briefing is at **Appendix B**. The transcript of the briefing is available from the Parliament of Queensland website; and
- convened a public hearing on 2 December 2015. A list of witnesses who appeared at the hearing is at **Appendix C**. The transcript of the briefing is available from the Parliament of Queensland website.

A summary of issues raised by submitters and advice provided by the department in response is at **Appendix D**.

² Schedule 6 of the [Standing Rules and Orders of the Legislative Assembly of Queensland](#).

³ Section 93 of the [Parliament of Queensland Act 2001](#).

1.4 Policy objectives of the Bill

The Bill makes substantive amendments to the following Acts:

- *Aboriginal Land Act 1991*
- *Environmental Protection Act 1994*
- *Land Act 1994*
- *Marine Parks Act 2004*
- *Nature Conservation Act 1992*
- *Recreation Areas Management Act 2006*.

The Bill also makes minor and consequential amendments to the following Acts:

- *Biodiscovery Act 2004*
- *Forestry Act 1959*
- *Fossicking Act 1994*
- *Geothermal Energy Act 2010*
- *Greenhouse Gas Storage Act 2009*
- *Land Protection (Pest and Stock Route Management) Act 2002*
- *Liquor Act 1992*
- *Mineral and Energy Resources (Common Provisions) Act 2014*
- *Mineral Resources Act 1989*
- *Petroleum Act 1923*
- *Petroleum and Gas (Production and Safety) Act 2004*
- *Vegetation Management Act 1999*.⁴

The primary objective of the Bill is to reverse a number of amendments made by the previous government that do not align with the current government's commitments and priorities for the protected area estate. This includes:

- reinstating 'the conservation of nature' as the sole object of the *Nature Conservation Act 1992* (NCA) so that the preservation of the natural condition of national parks will take precedence over other objectives;
- reinstating the former national park (scientific), conservation park and resources reserve classes of protected area, and their associated management principles to restore the higher level of protection afforded to national parks (scientific) and clarify the management intent and uses that are appropriate for the different areas;
- removing provisions that allow management plans under the NCA, *Marine Parks Act 2004* (Marine Parks Act) and *Recreation Areas Management Act 2006* (RAM Act) to be amended without public consultation if the amendments relate to a change in State government policy, to provide increased transparency and ensure that appropriate consultation can occur;
- removing redundant provisions that allowed the chief executive to grant stock grazing permits for emergency drought relief on six prescribed national parks until 31 December 2013; and
- reverting rolling term leases for agriculture, grazing or pastoral purposes within nature conservation areas and specified national parks back to term leases by excluding them from the rolling term lease provisions under the *Land Act 1994* (the Land Act) to allow inconsistent activities to be phased out upon expiry of the lease and allow these lands to be protected for the purpose that they were intended.⁵

⁴ Nature Conservation and Other Legislation Bill 2015, pp.28-38.

⁵ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, pp.1-2.

The second objective of the Bill is to amend the *Aboriginal Land Act 1991* (ALA) to:

- establish a process to make regional parks on Cape York Peninsula transferable, and
- streamline the process to convert regional parks to jointly managed national park (Cape York Peninsula Aboriginal Land (CYPAL)).⁶

The third objective of the Bill is to amend of the *Environmental Protection Act 1994* (the EPA) to defer the expiry of eligibility criteria and standard environmental conditions made by regulation for certain environmentally relevant activities. Clause 37 of the Bill amends section 707B(3) of the EPA to defer the expiry by one year to 31 March 2017. This is intended to allow time for consultation on new environmentally relevant activity standards before their implementation.

1.5 Consultation

The committee requested from DNPSR a summary of its consultation with stakeholders for the amendments in the Bill. This summary provided by the department is included at **Appendix E**.

According to the summary, the department met in relation to the amendments with representatives of nine stakeholder groups (two by telephone), and wrote to two further groups (Queensland Resources Council (QRC) and the Australian Petroleum Production & Exploration Association Limited (APPEA)). No concerns were raised at these meetings. One group, Queensland South Native Title Services Ltd suggested information to be included in the explanatory notes. The department received no response from QRC or APPEA.

A number of submitters commented on the lack of consultation for the Bill. The Queensland Outdoor Recreation Federation (QORF), the peak body representing a coalition of outdoor recreation groups, expressed their disappointment that representatives from the outdoor recreation sector were not included in the initial consultation despite the range of activities that are undertaken by their members in the protected area estate.⁷ They also stated:

*We would hope that the commitment to consultation with stakeholders would in future extend to all relevant stakeholders, and request the Committee endorses this position.*⁸

QORF representatives raised the lack of consultation further at the committee's public hearing on the Bill:

*...the consultation that was undertaken in relation to the bill was quite broad and significant. It included some of the other speakers here today in its scope, but it did not include any representatives in relation to outdoor recreation or outdoor education. We are quite disappointed that we were not consulted in relation to the bill up-front, even though there is that range of activities that are undertaken and have been undertaken for a long time in the protected area estate.*⁹

The committee notes that QORF membership includes more than 130 leading land and water-based recreation groups, universities, local governments and educational facilities.¹⁰

⁶ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, pp.1-2.

⁷ Queensland Outdoor Recreation Federation Inc., 2015, *Submission no. 29*, p.2.

⁸ Queensland Outdoor Recreation Federation Inc., 2015, *Submission no. 29*, p.2.

⁹ Courtney, D., 2015, *Public hearing transcript*, 2 December, p.13.

¹⁰ Queensland Outdoor Recreation Federation Inc, 2015, [QORF Annual Report 2014](#), p.2.

Further issues about consultation processes for the Bill were raised by the Rinyirru (Lakefield) Aboriginal Corporation:

... there has been no discussion with land trusts and corporations involved in joint management on legislation changes, and no chance for land trusts and corporations to provide feedback to Government on issues that could help joint management operate more effectively, and form government policy.¹¹

The Olkola Aboriginal Corporation noted similar concerns:

If government proposes to change legislation that will affect how a landowner is legally required to manage its protected area, it has a duty of care to ensure landowners are consulted and informed about proposed changes and we stress the need for this to happen in the future. Consultation with regional native title bodies is not sufficient in this regard as it is the individual land trusts and corporations who own and manage protected areas. We draw the attention of the Committee to the unfulfilled commitment under section 132A of the NCA to form a Regional Protected Areas Management Committee for Aboriginal Landowners in Cape York for this specific purpose.¹²

While the commitment under section 132A of the Act is outside the scope of the Bill, DNPSR in its advice to the committee explained that it supported the reconvening of the Regional Protected Areas Management Committee, and that discussions have commenced with landholders regarding the reconvening of a committee that reflects an appropriate geographic spread from Cape York Peninsula and gender balance. The department is awaiting advice on the proposed membership before a committee meeting can be convened.¹³

Further in relation to consultation processes for the Bill, the committee asked the department to explain what consultation has occurred with current rolling term leaseholders who would be affected by the Bill. Amendments to the Land Act contained in clauses 39 and 43 of the Bill will revert rolling term leases for agriculture, grazing or pastoral purposes within nature conservation areas and specified national parks back to term leases.

According to the explanatory notes, while the amendments do not impact on any aspects of the existing leases, reverting to a term lease ‘...does have consequences which may impact on the rights and liberties of individuals.’¹⁴ There are 78 holders (as at 1 January 2016) of rolling term leases who will be affected by this change.

The lack of consultation with affected rolling term lease holders in relation to amendments in the Bill is discussed further in the report in relation to fundamental legislative principles (section three).

The department advised the committee that no specific consultation was undertaken with individual rolling term lease holders who would be affected by the proposed amendments:

As there are no immediate impacts on the lease holder, no specific consultation was undertaken with individual rolling term lease holders about the amendments contained in the Bill.¹⁵

¹¹ Rinyirru (Lakefield) Aboriginal Corporation, 2015, *Submission no. 67*, p.1.

¹² Olkola Aboriginal Corporation, 2015, *Submission no.9*, p.2.

¹³ Department of National Parks Sport and Racing, 2015, Correspondence, 17 December.

¹⁴ Nature Conservation and Other legislation Amendment Bill 2015, Explanatory Notes, p.8.

¹⁵ Department of National Parks Sport and Racing, 2016, Correspondence, 6 January.

Committee comment

The committee notes the department's efforts to consult with stakeholders likely to be affected by proposed amendments in the Bill, though with some notable exceptions - the outdoor recreation sector, holders of agricultural and grazing leases in protected areas and indigenous stakeholders.

Point for clarification 1

The committee invites the Minister to ask his department to consult with the outdoor recreation sector, holders of agricultural and grazing leases in protected areas and Indigenous stakeholders in relation to the proposed amendments in the Bill, and to inform the House of the outcomes of these consultations.

1.6 Estimated cost for government

The explanatory notes outline that costs associated with the proposed amendments will be met within existing departmental allocations.¹⁶ The committee asked the department to provide further details on the costs. The department explained that there will be some costs associated with signage following changes to names from conservation park to regional park. The department anticipates that these costs are not significant and can be met from within the existing budget allocations.¹⁷

1.7 Should the Bill be passed?

Standing Order 132(1) requires the committee to determine whether or not to recommend the Bill be passed.

Committee comment

After examination of the Bill and its policy objectives, and consideration of the information provided by the department, the committee could not reach agreement on whether the Bill should be passed.

Recommendation 1

The committee could not agree on whether the Bill should be passed.

¹⁶ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.6.

¹⁷ Klaassen, B., 2015, *Departmental briefing transcript*, 11 November, p.6.

2. Examination of the Nature Conservation and Other Legislation Bill 2015

The following section discusses key clauses of the Bill that were raised by submitters and in other evidence.

The information presented includes advice provided by DNPSR in correspondence to the committee and from information provided by departmental officers at the committee's public briefing held on 11 November 2015. The report also incorporates comments from submitters and the information provided by witnesses at the committee's public hearing on 2 December 2015.

2.1 Clause 4: Amendment of section 4 (Object of Act)

Clause 4 proposes amendments to section 4 of the *Nature Conservation Act 1992*(NCA).

Until 2013, the conservation of nature was the sole object of the NCA. The *Nature Conservation and Other Legislation Amendment Act (No. 2) 2013* (NCOLA No. 2 2013) expanded the Object of the Act to read¹⁸:

The object of this Act is the conservation of nature while allowing for the following -

- a) the involvement of indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom;*
- b) the use and enjoyment of protected areas by the community;*
- c) the social, cultural and commercial use of protected areas in a way consistent with the natural and cultural and other values of the areas.*

Clause 4 of the Bill aims to remove the additional matters added to section 4 in the NCOLA No. 2 2013, once again making 'the conservation of nature' the sole object of the Act.¹⁹

The majority of submissions to the committee's inquiry into the Bill, many of which followed a similar wording pattern, supported the reinstatement of 'the conservation of nature' as the sole object of the Act.²⁰

Other submitters cautioned that the changes to the object of the Act could unduly restrict future activities that will be permitted in protected areas. The Queensland Conference and Camping Centres (QCCC) believe education and recreation are essential to the long-term viability of national parks. In their evidence they stated that by making 'the conservation of nature' the sole object, other current objectives such as the use and enjoyment of protected areas by the community will be removed and therefore made subservient when preservation takes precedence over all other objectives.²¹ The QCCC explained:

*We are a little concerned about the proposal to make the sole object of the conservation act one of preservation and conservation. We understand the intent is that it should not impact on access, but unfortunately it has not always been our experience. When we are trying to negotiate some of these nuanced programs sometimes the use of conservation becomes a blunt instrument to say no to things that we think are reasonable requests.*²²

The DNPSR advised that the intent behind section 4(b) is accommodated elsewhere in the NCA. The department explained that the management principles for a national park in section 17(1)(d) of the Act provide that a national park is to be managed to provide opportunities for educational and recreational activities in a way consistent with the area's natural and cultural resources and values.

¹⁸ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.2.

¹⁹ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.3.

²⁰ Refer submission nos.1-17,19,21,24-36,39-41,43-46,48,50,53-56,59-63,65-66,68,69,71-73.

²¹ Queensland Conference and Camping Centres, 2015, *Submission no.22*, p.1.

²² Grant, A., 2015, *Public hearing transcript*, 2 December, p.15.

The department also stated that the Bill does not propose any changes to section 17(1)(d) or impact on any application or decision-making processes involving access to protected areas by educational providers.²³

Another submitter raised concerns about reverting back to a pure 'conservation' purpose, and submitted that 'conservation, rehabilitation and restoration' would be a better approach.²⁴

In its advice to the committee, the department explained that the scope of the NCA is not limited to protected areas. The department also stated that it includes the protection and ecologically sustainable use of wildlife outside protected areas. The department stated:

*The suggestion to include rehabilitation and restoration in the object of the Act is therefore considered to be outside the scope of the Bill.*²⁵

The Olkola Aboriginal Corporation, whilst generally supportive of reinstating conservation safeguards into the Act raised strong opposition to the proposed removal of subsection 4(a) of the Act. They cautioned that the reinstatement of conservation safeguards is at the expense of Indigenous rights or involvement of Indigenous people in protected area management (such as proposed changes proposed in section 4 of the NCA).²⁶ Olkola submitted:

*Removing this from the object of the Act is regressive and does not demonstrate a Government committed to protecting (let alone strengthening) the rights of Indigenous people to manage their own country.*²⁷

The Rinyirru (Lakefield) Aboriginal Corporation, the legal owner and manager of the Rinyirru (Lakefield) National Park (CYPAL), supported the Olkola Aboriginal Corporation's submission.²⁸

The Australian Conservation Foundation (ACF) explained that the retention of subsection 4(a) in the Act's objectives would have important symbolic meaning and practical application. They submitted:

*For example, current commitments to expand the protected area estate are more likely to be supported by Traditional Owners while their interests are recognised within the Objects of the NCA. This is particularly important where there are Native Title interests in areas where the State is seeking an expansion in the national park estate.*²⁹

At the public hearing, ACF emphasised that they considered the removal of 4(a) to be a backward step by traditional owners who are currently joint management partners with the state.³⁰ ACF stated:

*The ACF believes that removal of section 4(a) is counterintuitive to a more equitable involvement of traditional owners in the conservation of, or the creation of national parks and the expansion of the protected area estate within Queensland.*³¹

The ACF along with the Wet Tropics Management Authority recommended that subsection 4(a) be retained in the Act and that the object of the Act should read as follows:

The object of this Act is the conservation of nature while allowing for the following:

*a) the involvement of indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom; ...*³²

²³ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

²⁴ Angela Freeman, 2015, *Submission no.76*, p.1.

²⁵ Department of National Parks, Sport and Racing, 2016, *Correspondence*, 27 January.

²⁶ Olkola Aboriginal Corporation, 2015, *Submission no.9*, pp.1-2.

²⁷ Olkola Aboriginal Corporation, 2015, *Submission no.9*, p.2.

²⁸ Rinyirru (Lakefield) Aboriginal Corporation, 2015, *Submission no.67*, p.1.

²⁹ Australian Conservation Foundation, 2015, *Submission no.58*, p.2.

³⁰ Picone, A., 2015, *Public hearing transcript*, 2 December, p.22.

³¹ Picone, A., 2015, *Public hearing transcript*, 2 December, p.22.

³² Australian Conservation Foundation, 2015, *Submission no.58*, p.2. & Wet Tropics Management Authority, 2015, *Submission No.63*, p.2.

The Environmental Defenders Office of Northern Queensland (EDO NQ) raised similar concerns noting:

The High Court decisions in the Mabo and Wik cases made it clear that the sovereignty of Australia's indigenous people had never been extinguished. They'd never ceded it by treaty, or in any other way, nor were they recognized as citizens in the Constitution at Federation.

This means that Aboriginal or Torres Strait Island people may still retain the right to manage and control their country regardless of any subsequent Australian law, and should have the right to decide any management plans for National Parks on their country.³³

The EDO NQ offered an alternative wording to section 4 as follows:

The object of this Act is the conservation of nature and indigenous cultural heritage within protected areas in accordance with traditional indigenous cultural and land management practices for the protected area:

(a) as defined by the Traditional Owners or Native Title holders for a protected area wherever possible, otherwise

(b) in accordance with Aboriginal tradition and aspirations or Island custom and aspirations.³⁴

In advice to the committee, DNPSR acknowledged the concerns raised by Olkola Aboriginal Corporation, Rinyirru (Lakefield) Aboriginal Corporation and the ACF. The department explained that the intent behind section 4(a) is accommodated elsewhere in the NCA:

... removing 4(a) from the object of the Act will not impact on any joint management arrangements the department has in place with indigenous people or the operation of the other provisions of the Act.³⁵

Olkola Aboriginal Corporation disagreed with the department's comments made in the departmental briefing on 11 November 2015 that 'removing the reference to involving Indigenous people in the management of protected areas from the object of act does not detract from these existing provisions'.³⁶ They explained:

Interpreting certain provisions of the NCA will always involve consideration of the Act's objects and purpose to provide context and legal meaning.

Read in context of the proposed new object of the Act, and indeed the stated intent (that 'the preservation of the natural condition of national parks will take precedence over other objectives) preservation of the area's natural condition would be considered as taking precedence over protection of the area's cultural resources and values, and indeed, diminishing the imperative to involve Indigenous people to do this.³⁷

³³ Environmental Defenders Office of Northern Queensland, 2015, *Submission no. 71*, p.2.

³⁴ Environmental Defenders Office of Northern Queensland, 2015, *Submission no. 71*, p.2.

³⁵ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

³⁶ Klaassen, B., 2015, *Departmental briefing transcript*, 11 November, p.2.

³⁷ Olkola Aboriginal Corporation, 2015, *Submission no.9*, p.2.

The Jabalbina Yalanji Aboriginal Corporation submitted that section 4(a) of the Act should be retained and that its removal from the Act would be detrimental to the interests of Indigenous people:

The Object states the intentions of the Act and provides the ideological framework in which the Act is to be pursued. Should the intention of the Act be only to reinstate 'the conservation of nature' as the sole object of the NCA to ensure the preservation of nature prevails over all other interests, then we forgo many future opportunities to invest, benefit and enhance critical and fundamental shifts for the true and effective involvement of Aboriginal and Torres Strait Islander people in national park management.

Jabalbina Yalanji Aboriginal Corporation believe that removal of Part 2, Section 4(a) of the NCA's Objects, would be detrimental to many Indigenous people whom have an interest in national park management under Aboriginal tradition or Island customs.³⁸

In its advice to the committee, the department explained that reinstating the 'conservation of nature' as the sole object of the NCA is a policy decision of the Government. The department also considers that the intent behind section 4(a) is accommodated elsewhere in the Act.³⁹

The Cape York Natural Resource Management Ltd (Cape York NRM) supports the intention to refocus the Act on the conservation of nature generally but are also concerned about the removal of any specific reference to the role of indigenous peoples in pursuing this goal in the objects by the deletion of subsection (a). The Cape York NRM suggested a proposed amendment to section 4 of the Act:

The object of this Act is the conservation of nature and indigenous cultural heritage within protected areas in accordance with traditional indigenous cultural and land management practices for those areas.⁴⁰

In addressing similar concerns, Cape York NRM suggested a change to section 5 of the Act which is proposed to be amended at clause 45 of the Bill. This is discussed in section 2.2 of this report.

One further submitter specifically opposed the changes to the object of the Act. Cedar Hill Flowers and Foliage, support the retention of the current object of the NCA and consider that the expansion of the object of the Act by the previous government appropriately facilitated the needs of all stakeholders while upholding 'the conservation of nature' as its primary objective. Cedar Hill Flowers and Foliage explained that they do not believe the conservation of nature within protected areas and the ecologically sustainable commercial use of these areas should be considered mutually exclusive⁴¹:

Reverting back to 'the conservation of nature' as the sole objective of the NCA will negatively impact industries that depend on access to some of Queensland's protected areas.

The proposed changes have the potential to place long term access to protected areas in question and jeopardise regional employment opportunities. These industries provide financial returns to the relevant government departments. They also provide information about any illegitimate activities which may be encountered to the relevant land managers. If legitimate environmentally and socially responsible businesses are restricted or excluded from Queensland's protected areas then a serious threat of uncontrolled, irresponsible and illegitimate operators will exist. Market demand will still exist and opportunities for unscrupulous operators to fill the gap will have been created.⁴²

³⁸ Jabalbina Yalanji Aboriginal Corporation, 2015, *Submission no.75*, p.1.

³⁹ Department of National Parks, Sport and Racing, 2016, *Correspondence*, 27 January.

⁴⁰ Cape York Natural Resource Management Ltd, 2015, *Submission no.77*, p.2.

⁴¹ Cedar Hill Flowers and Foliage, 2015, *Submission no.47*, p.2.

⁴² Cedar Hill Flowers and Foliage, 2015, *Submission no.47*, p.2.

The committee queried with the department whether commercial activities would be allowed to continue.

In their advice to the committee, DNPSR explained that the amendment to section 4 of the NCA will not adversely impact on current operators. The department advised that commercial interests are supported by other provision in the Act which provide for the granting of leases, agreements, licences, permits and other authorities. The department stated:

*These provisions will continue in and remain unchanged by the Bill.*⁴³

In relation to ecotourism, the department stated:

*Ecotourism remains in the act. That section of the act has not been amended. There is a new ecotourism implementation framework, which was released at DestinationQ in October. That sets out the government's broad approach on ecotourism which is that it is allowed to continue provided it is consistent with the principles of the act and the ecotourism projects are environmentally sustainable and give regard to the actual values of the park.*⁴⁴

Submitters such as the Undara Experience (Undara) supported 'the conservation of nature' as the sole objective but suggested that fundamental changes need to be made to the way the natural landscape is perceived. Undara commented that there is progressive decline of world class features within government-controlled national parks, such as the World Heritage listed Riversleigh fossil sites, because there are insufficient resources available to national parks to station a ranger. Undara proposed the implementation of a 'user-pay' system for access to national parks. They explained:

*A 'user-pay' system would create a significant economic benefit for the parks service whilst also providing the economic benefits to our struggling rural economies through local involvement in visitor management. The tourism dollar has the greatest multiplier effect when it comes to injecting funds into a local economy. This system would increase consolidated revenue for the State Government, but should be predicated on the condition that the funds raised are retained and/or redistributed back into the regions from which they were generated. Funding applications to access further funding could also be submitted for specific projects that improve or achieve the "triple bottom line" objectives of the park.*⁴⁵

The DNPSR advised the committee that the matters raised by Undara have been implemented to some extent. The department provided, as an example, the Queensland Eco and Sustainable Tourism (QuEST) policy. This policy aims to improve access for eco-certified operators, and to provide new opportunities for guided tours in certain national parks. QuEST is being implemented at the following areas:

- Fraser Island Recreation Area
- Moreton Island Recreation Area
- Daintree National Park
- Coolooloa Recreation Area.⁴⁶

⁴³ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

⁴⁴ Klaassen, B., 2015, *Departmental briefing transcript*, 11 November, p.5.

⁴⁵ Undara Experience, 2015, *Submission no.39*, p.2.

⁴⁶ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

The department also explained that the user-pay principle is being partially applied through the application of fees for tour participants, and that they do not consider the reinstatement of conservation of nature as the sole object of the NCA will impact on the current arrangements under the QuEST policy, or prevent the Government from further implementing these matters.⁴⁷

In advice to the committee on issues raised by submitters, the department also acknowledged the concerns raised by submitters about changes to the object of the Act and suggested that the wording that the Bill proposes to remove from section 4 could be inserted into clause 5 of the Act.

This is discussed further in relation to clause 5 of the Bill which seeks to amend section 5 of the Act.

Committee comment

The committee notes the intent of the proposed amendment to the *Nature Conservation Act 1992* to reinstate that ‘the conservation of nature’ is the sole object of the protected area estate, a move widely supported by submitters to the committee’s inquiry into the Bill.

The committee is cognisant of the concerns raised by business, education, recreation, and Indigenous groups that the proposed changes to the object of the Act may restrict or otherwise adversely impact on their activities in protected areas.

The committee further notes the department’s argument that the intent behind sections 4(a) and (b) is accommodated elsewhere in the Nature Conservation Act, including in the management principles for national parks and other types of protected areas (sections 17, 18, 19, 20, 21, 22 & 23).

The committee notes that some submitters felt that this intent could be made clearer by including some or all of the existing clauses in section 4 in the new Act’s section 5.

2.2 Clause 5: Amendment of section 5 (How object is to be achieved)

Clause 5 makes a technical amendment to section 5 of the *Nature Conservation Act 1992* (NCA) to reflect the amendment in clause 4 which reinstates ‘the conservation of nature’ as the sole object of the Act.⁴⁸

Section 5 of the NCA deals with how the object of the Act is to be achieved. Section 5 discusses: the gathering of information and community education; the protection of native wildlife and its habitat; the ecologically sustainable use of protected wildlife and areas; recognition of interests of Aborigines and Torres Strait Islanders and their cooperative involvement in conservation; and the cooperative involvement of landholders.⁴⁹

Clause 5 proposes to remove the words ‘object of this Act’ and replace them with ‘conservation of nature’.⁵⁰

The department emphasised the reinstatement of the original object of the NCA will not have an impact on other activities.⁵¹ The department stated:

Removing these additional matters from the object is not anticipated to have any adverse impacts because they are already provided for in other areas of the act. Section 5 of the Nature Conservation Act outlines how the object of the act is to be achieved -for example, requiring that the use of protected areas is to be ecologically sustainable. This applies generally to all types of uses including any social, cultural and commercial uses and also provides that the use must be consistent with the values of

⁴⁷ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

⁴⁸ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.11.

⁴⁹ *Nature Conservation Act 1992*, pp.16-17.

⁵⁰ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.11.

⁵¹ Klaassen, B., 2015, *Departmental briefing transcript*, 11 November, p.2.

*the class of protected area in which it occurs. This is supported by other provisions in the legislation which provide for the granting of leases, agreements, licences, permits and other authorities for these types of uses within protected areas.*⁵²

Three submitters proposed amendments to the wording of section 5 of the Act. The Wet Tropics Management Authority (WTMA) suggested that the amendment to section 5 in clause 5 to read:

The conservation of nature is to be achieved by:

- (1) allowing for the involvement of indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom; and*
- (2) an integrated and comprehensive conservation strategy for the whole of the State that involves, among other things, the following ...*⁵³

The WTMA highlighted that their suggested amendment would retain the emphasis regarding Indigenous involvement, and elevate the recognition and commitment of the State to involving Indigenous people in protected area management, over and above the references to Indigenous interests nestled under section 5(f) of the Act.⁵⁴

At the public hearing, the National Parks Association of Queensland (NPAQ), while fully supportive of the proposed amendment to the object of the Act, proposed that section 5(f) be broadened to include the involvement of Indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or island custom. They explained:

*Whilst this does not replace the prominence of section 4A as an object of the act, the clause would go some way to ensuring joint management while highlighting the importance of traditional owner consent, engagement and participation in matters affecting themselves and their land.*⁵⁵

The EDO NQ proposed that section 5 be amended to read:

The conservation of nature is to be achieved by an integrated and comprehensive conservation strategy for the whole of the State that involves, among other things, the following -

*(f) adoption of traditional indigenous cultural and land management practices, as defined by the Traditional Owners or Native Title holders for a protected area in accordance with Aboriginal tradition and aspirations or Island custom and aspirations.*⁵⁶

The Cape York NRM offered an alternative form of additional wording for section 5 of the Act to better reflect the interests of Indigenous people in national parks:

The conservation of nature is to be achieved by an integrated and comprehensive conservation strategy for protected areas within the State that involves, among other things, the following -

(f) adoption of traditional indigenous cultural and land management practices, as defined by the Traditional Owners or Native Title holders for a protected area in accordance with Aboriginal tradition and aspirations or Island custom and aspirations.

⁵² Klaassen, B, 2015, *Departmental briefing transcript*, 11 November, p.2.

⁵³ Wet Tropics Management Authority, 2015, *Submission no.63*, p.2.

⁵⁴ Wet Tropics Management Authority, 2015, *Submission no.63*, p.3.

⁵⁵ Prior, M, 2015, *Public hearing transcript*, 2 December, p.11.

⁵⁶ Environmental Defenders Office of Northern Queensland, 2015, *Submission no.71*, p.2.

*(g) the social and cultural use of protected areas in a way consistent with the natural and cultural and other values of the areas.*⁵⁷

As noted in relation to the clause 4 amendments to the object of the Act at section 4, the department has suggested that the text to be removed from section 4(a) could be incorporated into section 5 to clarify how the object of the Act, 'nature conservation' is to be achieved⁵⁸, namely:

While allowing for the following -

(a) the involvement of indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom;

(b) the use and enjoyment of protected areas by the community;

(c) the social, cultural and commercial use of protected areas in a way consistent with the natural and cultural and other values of the areas.

Committee comment

The committee supports the technical amendment to section 5 of the *Nature Conservation Act 1992* proposed at clause 5 of the Bill.

The committee also agrees with submitters that further amendments to section 5 are needed to incorporate wording that is proposed to be removed from section 4 of the Act in the clause 4 amendment in relation to the involvement of Indigenous people in the management of protected areas.

In the committee's view, the retention of this wording in section 5 will serve to acknowledge the key role of Aboriginal and Torres Strait Island groups in the future management of Queensland's protected areas estate.

The incorporation of this wording will also demonstrate that the amended object of the Act does not exclude the community's social and cultural usage and enjoyment of protected areas, nor their commercial usage in ways consistent with their natural, cultural and other values.

Recommendation 2

The committee recommends that the following wording proposed to be removed from section 4, or wording with similar meaning, be incorporated into section 5 of the *Nature Conservation Act 1992*:

While allowing for the following—

(a) the involvement of indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom.

⁵⁷ Cape York Natural Resource Management Ltd, 2015, *Submission no.77*, pp.2-3.

⁵⁸ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

2.3 Clause 6: Amendment of section 14 (Classes of protected areas to which Act applies)

Clause 6 of the Bill proposes to amend section 14 (Classes of protected areas to which Act applies) of the NCA to reinstate classes of protected areas which were removed from the Act by amendments in the NCOLA No. 2 2013 as follows:

- former national parks (scientific) and national parks (recovery) classes were combined with the national parks class of protected area; and
- former conservation parks and resources reserves classes were amalgamated into a new class called regional parks.⁵⁹

The explanatory notes detail that amendments to the Act in 2013 removed the high level of protection that was previously afforded to these areas. As the chief executive has the power to declare and remove a special management area (scientific), the level of protection that is applicable to these areas was effectively downgraded.⁶⁰

According to the explanatory notes, the reinstatement of the national parks (scientific) class of protected area meant that only a resolution of Parliament (sections 32 and 33 of the NCA) can revoke or lessen the level of protection that applies to this class of protected area.⁶¹

The Bill amends section 14 of the NCA to insert the following classes:

- a) national parks (scientific); and
- b) national parks; and
- c) national parks (Aboriginal land); and
- d) national parks (Torres Strait Islander land); and
- e) national parks (Cape York Peninsula Aboriginal land); and
- f) conservation parks; and
- g) resources reserves; and
- h) nature refuges; and
- i) coordinated conservation areas.⁶²

The explanatory notes also explain that the previous amalgamation of conservation parks and resources reserves into a new class called regional parks caused some confusion about the use and management of regional parks as they could be used for different purposes, depending on whether a resource use area has been declared over the park.⁶³

According to the explanatory notes, the Bill proposes to reinstate the former conservation park and resources reserve classes which have different purposes.⁶⁴ The department explained to the committee:

*Reinstating resources reserves and conservation parks and their associated management principles will provide a clear distinction between the two areas. Resources reserves have a lower level of protection than conservation parks because the management principles allow for the controlled use of natural resources. This allows for activities such as mining and the extraction of quarry material on resources reserves which are not consistent with the management principles of a conservation park.*⁶⁵

⁵⁹ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.3.

⁶⁰ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.3.

⁶¹ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.3.

⁶² Nature Conservation and Other Legislation Bill 2015, p.7.

⁶³ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.4.

⁶⁴ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.4.

⁶⁵ Klaassen, B., 2015, *Departmental briefing transcript*, 11 November, p.2.

As a result of reinstating the classes of protected area, the former management principles that were applicable will also be reinstated. The explanatory notes detail that the management principles will provide a clear distinction between the different areas and the different use and management approaches that apply.⁶⁶

The department explained that reinstating resource reserves and conservation parks and their associated management principles will provide a clear distinction between the two types of areas.⁶⁷ The department stated:

*The bill will remove provisions that will become redundant as a consequence of reinstating the three former classes of protected area and their associated management principles. This includes provisions that allow special management area (scientific) to be declared over national parks and provisions that allow resource use areas to be declared over regional parks. All provisions relating to reinstating the three former classes of protected area are proposed to commence on 1 July 2016. This will align with the reporting period for the annual report on the administration of the Nature Conservation Act 1992 and will allow seamless reporting on each class of protected area next financial year.*⁶⁸

The majority of submissions supported the amendments proposed at clause 6.

Submitters⁶⁹ also proposed that other classes of protected area that were previously abolished should also be reinstated, namely:

- Wilderness Area
- World Heritage Management Area
- International Agreement Area, and
- Coordinated Conservation Area.

The Wide Bay Burnett Environment Council (WBBEC) submitted:

*WBBEC believe these categories are vital to ensure proper protection and management of areas having specific designations including those listed under international agreements such as categories established by the International Union for the Conservation of Nature (IUCN) The above mentioned categories and the government's ability to declare special areas for implementation of international agreements is so important for protection of wild places.*⁷⁰

In their advice to the committee on the submissions, DNPSR clarified that the reinstatement of the former national park (scientific), conservation park and resources reserve classes of protected area is a policy decision of the Government. The department advised:

*... the former Wilderness Area, World Heritage Management Area and international agreement area classes were never utilised and no lands were ever dedicated as these classes of protected area.*⁷¹

⁶⁶ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.4.

⁶⁷ Klaassen, B., 2015, *Departmental briefing transcript*, 11 November, p.2.

⁶⁸ Klaassen, B., 2015, *Departmental briefing transcript*, 11 November, p.3.

⁶⁹ Refer submission nos.2 -8,11-17,21,24,25,27,30,32,33,36,42,43,44,45,48,50,53,54,55,56,59,62,65,66,68,69,73.

⁷⁰ Wide Bay Burnett Environment Council, 2015, *Submission no.27*, p.2.

⁷¹ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

The department also stated:

In relation to the Coordinated Conservation Area class of protected area - this class was grandfathered at the same time the above classes were abolished so that no new coordinated conservation areas could be dedicated. This class was rarely used and only two coordinated conservation areas had been dedicated. These continue to exist and are still managed under the Act.

NPSR has no current plans to dedicate any areas that would necessitate the need for further government consideration about the need to reinstate the ability to dedicate any of these areas. The amendments in the Bill do not preclude the government from considering the reinstatement of these if the need arises in future.⁷²

The majority of submissions the committee received stated that these types of protected areas have a role to play in maintaining a variety of protected area types that are in line with the global categories established by the International Union for the Conservation of Nature (IUCN).⁷³

The NPAQ recommended that the classes of Queensland's protected areas should be aligned with the IUCN protected area management global categories.⁷⁴ The global categories established by the IUCN are outlined in the Table 1.⁷⁵

⁷² Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

⁷³ Refer submission nos.2,5,6,8,11-16,21,24,25,27,32,33,36,42,43,44,45,48,50,53,54,56,61,65,66,68,69,77.

⁷⁴ National Parks Association of Queensland, 2015, *Submission no.66*, p.4.

⁷⁵ International Union for Conservation of Nature, 2016, [IUCN Protected Areas Categories System](http://www.iucn.org), www.iucn.org accessed 11 January 2016.

Table 1: IUCN Protected Areas Categories

<p>1a. Strict Nature Reserve</p> <p>Protected areas that are strictly set aside to protect biodiversity and also possibly geological/geomorphological features, where human visitation, use and impacts are strictly controlled and limited to ensure protection of the conservation values. Such protected areas can serve as indispensable reference areas for scientific research and monitoring.</p> <p>1b. Wilderness Area</p> <p>Category 1b protected areas are usually large unmodified or slightly modified areas, retaining their natural character and influence without permanent or significant human habitation, which are protected and managed so as to preserve their natural condition.</p> <p>II National Park</p> <p>Category II protected areas are large natural or near natural areas set aside to protect large-scale ecological processes, along with the complement of species and ecosystems characteristic of the area, which also provide a foundation for environmentally and culturally compatible, spiritual, scientific, educational, recreational, and visitor opportunities.</p> <p>III Natural Monument or Feature</p> <p>Category III protected areas are set aside to protect a specific natural monument, which can be a landform, sea mount, submarine cavern, geological feature such as a cave or even a living feature such as an ancient grove. They are generally quite small protected areas and often have high visitor value.</p> <p>IV Habitat/Species Management Area</p> <p>Category IV protected areas aim to protect particular species or habitats and management reflects this priority. Many Category IV protected areas will need regular, active interventions to address the requirements of particular species or to maintain habitats, but this is not a requirement of the category.</p> <p>V Protected Landscape/ Seascape</p> <p>A protected area where the interaction of people and nature over time has produced an area of distinct character with significant, ecological, biological, cultural and scenic value: and where safeguarding the integrity of this interaction is vital to protecting and sustaining the area and its associated nature conservation and other values.</p> <p>VI Protected area with sustainable use of natural resources</p> <p>Category VI protected areas conserve ecosystems and habitats together with associated cultural values and traditional natural resource management systems. They are generally large, with most of the area in a natural condition, where a proportion is under sustainable natural resource management and where low-level non-industrial use of natural resources compatible with nature conservation is seen as one of the main aims of the area.</p>
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Source: International Union for Conservation of Nature, 2016, *Global Protected Areas Programme, IUCN Protected Areas Categories System* www.iucn.org (accessed 11 January 2016).

In its advice to the committee on issues raised in submissions, DNPSR explained that the amendments proposed in clause 6 will provide for improved alignment with some IUCN categories. However, the department advised that proposals to align all classes of protected areas to the IUCN categories and the resulting amendments would go beyond the scope of the current Bill:

For the government to consider the option of strictly applying the IUCN categories, particularly if they were to be applied retrospectively, a range of policy matters would need to be analysed and evaluated. For example, the reclassification of all protected areas to strictly conform to the objectives for the IUCN categories would have the potential to breach fundamental legislative principles if an activity that is currently allowed in an area is reclassified and becomes incompatible with the objectives of the new IUCN category.⁷⁶

The department also suggested that the alignment of classes with IUCN categories cannot be considered in isolation or without regard to the intent of the legislation as a whole.⁷⁷ The department advised:

Following the amendments proposed in the Bill, the object of the Nature Conservation Act 1992 (NCA) will be the 'conservation of nature'. The Act provides a range of mechanisms that form part of an integrated strategy to achieve this outcome in relation to both protected areas and native wildlife (plants and animals on both public and private lands).

These mechanisms include, for example: providing different classes of protected area that have different management and conservation objectives; management plans and management statements that express the intent for the management and use of particular protected areas; joint management arrangements through negotiated Indigenous Land Use Agreements (ILUAs) and Indigenous Management Agreements (IMAs) with indigenous landholders; and the regulation of activities and uses of protected areas and wildlife through lease, agreement, licence, permit and other authority arrangements.

In this context, the department does not believe that strictly adopting the IUCN categories of protected area will necessarily contribute to enhancing conservation outcomes or achieving the overall object of the Act.

Adopting the IUCN categories retrospectively would require a significant assessment and reclassification process for all protected areas and would have significant implementation, legislative, land management, planning and other consequences for the department, authority holders and joint managers, which are unlikely to be justified from a cost benefit analysis and fundamental legislative principle perspective.⁷⁸

⁷⁶ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

⁷⁷ Department of National Parks, Sport and Racing, 2016, *Correspondence*, 6 January.

⁷⁸ Department of National Parks, Sport and Racing, 2016, *Correspondence*, 6 January.

Undara Experience submitted that access to the sites of greatest conservation value within national parks should not be ‘open-slather’ to the public and, instead, accessed only by operators with the highest accreditation.⁷⁹ They stated:

*If operators choose not to engage in accreditation, their access permits reflect this. Those who strive to achieve the highest standards, get access to the best sites. Without reward for effort accreditation has no value. Without a commercial advantage, operators will not support accreditation. This has been adopted by the Great Barrier Reef Marine Park Authority. They have granted longer permit tenures to operators who achieve Advanced Accreditation under the national ecotourism accreditation scheme. The benefits of accreditation will help the state-operated National Parks service achieve conservation outcomes whilst providing a commercial advantage for tourism operators who gain the necessary accreditation.*⁸⁰

The DNPSR advised that national parks (scientific) are areas that contain highly significant natural values and where general public access is strictly limited. The department explained that allowing access by the general public and accredited tour operators is not compatible with the protection required for wildlife in these areas.⁸¹

Committee comment

The committee supports the amendments proposed in clause 6 of the Bill.

2.4 Clauses 7-9: Insertion of new s16, amendment of s 17 and replacement of s21

Clause 7 inserts a new section 16 in the NCA to reinstate the former management principles of the national parks (scientific) class of protected area that is being reinstated through amendments proposed in clause 6. According to the explanatory notes:

National parks (scientific) are set aside for the protection of highly significant natural values and represent the highest level of protection under the NCA. This class of protected area is intended to protect biodiversity, and is managed to strictly control and limit human access, use and impacts to ensure protection of conservation values, and provide an area indispensable for scientific research and monitoring and, in some cases, to manage populations of threatened wildlife.

The following management principles apply to national parks (scientific):

(1) A national park (scientific) is to be managed to -

(a) protect the area’s exceptional scientific values and, in particular -

(i) to ensure that the processes of nature continue unaffected in the area; and

(ii) to protect the area’s biological diversity to the greatest possible extent; and

(b) allow controlled scientific study and monitoring of the area’s natural resources.

(2) However, if threatened wildlife is a significant natural resource for the area, management of the area may include -

(a) manipulation of the wildlife’s habitat; and

(b) the control of threatening processes relating to the wildlife, including threatening processes caused by other wildlife.

⁷⁹ Undara Experience, 2015, *Submission no.39*, p.3.

⁸⁰ Undara Experience, 2015, *Submission no.39*, p.3.

⁸¹ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

(3) Subject to subsections (1) and (2), a national park (scientific), or a part of a national park (scientific), that is also an indigenous joint management area is to be managed, as far as practicable, in a way that is consistent with any Aboriginal tradition applicable to the area, including any tradition relating to activities in the area.⁸²

The Rural Services of Coast and Country submitted that additional requirements should be included within section 16 to ensure the 'threatening processes' external to the area are managed. They suggested that a new subsection (4) be inserted in section 16 as follows:

(4) If threatened wildlife and flora is a significant natural value for the area, management of the surrounding region of the area may include -

- (a) manipulation of the threatening thing; and*
- (b) the control of threatening processes relating to the wildlife and flora, including threatening processes caused by development, and pests.⁸³*

In their advice to the committee on the issues raised in submissions, DNPSR explained that the current management principles apply to the manager of the protected area estate. The department stated:

The suggested amendment would impose requirements associated with the suggested management principles to any landowner or occupier of land that is adjacent to a national park (scientific).

The resulting amendments would go beyond the objectives of the current Bill and would require a range of policy matters to be analysed and considered by the government in deciding whether to adopt the additional principles in the Act. For example, they have the potential to breach fundamental legislative principles by affecting the rights and liberties of individuals who own or occupy land adjacent to a national park (scientific).⁸⁴

One submitter proposed that management principles (scientific) lacks the capacity to be 'proactive' about solving issues with a particular species that need more than just protection.⁸⁵

In its advice to the committee, the department disagreed and stated that the management principles being reinstated provide for active steps to be taken proactively address issues. The department highlighted that subsection (2) includes:

(2) However, if threatened wildlife is a significant natural resource for the area, management of the area may include -

- (a) manipulation of the wildlife's habitat; and*
- (b) the control of threatening processes relating to the wildlife, including threatening processes caused by other wildlife.⁸⁶*

Clause 8 of the Bill amends section 17 of the NCA to remove the management principles for a national park declared as a special management area (scientific). The explanatory notes outline that this amendment is because the management principles have become redundant with the reinstatement of the national parks (scientific) class of protected area and reinstatement of the associated management principles through clauses 6 and 7 respectively.⁸⁷

⁸² Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.12.

⁸³ Rural Services of Coast and Country, 2015, *Submission no. 70*, p.1.

⁸⁴ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

⁸⁵ Angela Freeman, 2015, *Submission no. 76*, p.2.

⁸⁶ Department of National Parks, Sport and Racing, 2016, *Correspondence*, 27 January.

⁸⁷ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.12.

The current section includes reference to two types of special management area (SMA). This includes special management area (controlled action) and special management area (scientific). As a consequence of removing the special management area (scientific) provisions, the section is being updated to reflect the fact that section 17(1A) will only apply to the remaining special management area (controlled action).⁸⁸

The majority of submissions to the committee raised concerns that special management areas (controlled action) are not being removed in this Bill.⁸⁹ Those submitters considered that the removal of SMA (controlled action) would be in line with the Government's election commitment to reinstate the cardinal principle for the management of national parks.

The Wildlife Preservation Society of Queensland (WPSQ) stated that the amendment in clause 8 does not go far enough, and that SMA (controlled action) should also be omitted and national parks (recovery) reinstated, or all SMAs (controlled action) redesignated as conservation parks.⁹⁰

In their advice on issues raised in submissions, DNPSR advised that a direct consequence of reinstating the former national park (scientific) class of protected area and associated management principles is that the special management area (scientific) provisions become redundant and are, therefore, being removed. The department stated:

*While the operation of the special management area (controlled action) provisions are not impacted by this, consequential amendments are being made to clarify the context of the remaining provisions, and make it clear that the special management area (controlled action) will be the only type of special management area remaining.*⁹¹

The department further advised that special management areas (controlled action) can have two purposes:

They provide for the continuation of pre-existing uses in a national park where they would otherwise be inconsistent with the management principles of the national park.

*They provide for undertaking management actions in a national park that may also be inconsistent with the management principles of the national park.*⁹²

The department stated that the amendments suggested by submitters are beyond the objectives of the Bill.⁹³

Olkola Aboriginal Corporation (with the support from Rinyirru (Lakefield) Aboriginal Corporation) submitted that they did not oppose the reinstatement of national park (scientific) but sought a commitment from the Government to either:

- *make consent of the landowner of NP (CYPAL) a requirement for the declaration of a Special Management Area (controlled action); or*
- *remove NP (CYPAL) from the definition of a prescribed national park over which a Special Management Area (controlled action) can be declared.*⁹⁴

⁸⁸ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.12.

⁸⁹ Refer submission nos.2-6,8, 11-17,21,24,25,27,32,33,36,41,42,45,48,50,53,56,59,61,65,66,68,69,73.

⁹⁰ Wildlife Preservation Society of Queensland, 2015, *Submission no.4*, p.3.

⁹¹ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

⁹² Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

⁹³ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

⁹⁴ Olkola Aboriginal Corporation, 2015, *Submission no.9*, p.3.

The DNPSR acknowledged the concern raised that the chief executive of NPSR technically has the power to declare a special management area (controlled action) over a jointly managed national park (CYPAL) without the consent of the landowner. The department explained that, in practice, this has not occurred and NPSR would consult with the landowner about any proposal to declare a special management area over any jointly managed national park (CYPAL). The department also stated:

As it simply reflects current practice, NPSR has no concerns with giving further consideration to incorporating a legislative requirement to seek consent from the landowner of a national park (CYPAL) if this change is recommended by the Committee and supported by the government. NPSR considers that this would be preferable to excluding national parks (CYPAL) from the special management area provisions because they may allow for certain management actions (e.g. grazing to control buffel grass) that could otherwise be inconsistent with the management principles of the national park, should these actions be deemed necessary or desirable to achieve the conservation of nature.⁹⁵

Committee comment

The committee supports the amendments proposed in clause 8 of the Bill. The committee also recommends that the Bill be further amended to require that the department consults, and seeks the consent of, landowners of National Park (CYPAL) for the declaration of a Special Management Area (controlled action).

Recommendation 3

The committee recommends that the Bill be amended to require that the department consults with and seeks the consent of the landowner of a national park (CYPAL) when making a declaration of a Special Management Area (controlled action).

The ACF raised concerns in their submission that the amendments in this Bill do not address the previous amendments that diminished the rights and interests of Traditional Owners in relation to the protected area estate.⁹⁶ Olkola Aboriginal Corporation also requested that the Government address the changes to the management principles in the Nature Conservation and Other Legislation Amendment Bill (No. 2) 2013 (NCOLA No. 2 2013) that have negatively impacted Indigenous management rights.⁹⁷ They stated:

The NCOLA No. 2 2013 saw the ‘downgrading’ of the legal requirement to manage NP (CYPAL) in accordance with Aboriginal Tradition, in favour of additional considerations of ‘recreation’ and ‘tourism’. We request that this Bill be amended to also reverse these changes, and reinstate the previous hierarchy of management principles for NP(CYPAL) (under section 17 and 20 of the NCA).⁹⁸

In their advice to the committee, DNPSR stated that they have reviewed the changes that were made through the NCOLA No. 2 2013, and do not agree that the amendments downgraded the legal requirement to manage national parks (CYPAL) in accordance with Aboriginal tradition. The department explained that the management principles for a national park (CYPAL) were previously located in section 19AA, and that this section was renumbered through the NCOLA No. 2 2013 to section 20.⁹⁹

⁹⁵ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

⁹⁶ Australian Conservation Foundation, 2015, *Submission no.58*, p.4.

⁹⁷ Olkola Aboriginal Corporation, 2015, *Submission no.9*, p.3.

⁹⁸ Olkola Aboriginal Corporation, 2015, *Submission no.9*, p.4.

⁹⁹ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

The department stated that no other amendments were made to this section and:

Both the former section 19AA and current section 20 provide that:

(1) A national park (Cape York Peninsula Aboriginal land) is to be managed as a national park.

(2) Subject to subsection (1), a national park (Cape York Peninsula Aboriginal land) is to be managed, as far as practicable, in a way that is consistent with any Aboriginal tradition applicable to the area, including any tradition relating to activities in the area.¹⁰⁰

The Rural Services of Coast and Country submitted that existing section 17(1)(e) should be removed because they consider it disingenuously provides for the use of a special management area to support development of private enterprise. They also recommended that existing section 17(4) be removed due to the risks to protected areas through commercial and industrial enterprises.¹⁰¹

The department explained that the amendment to section 17 does not include removal of any existing management principles for national parks. The department stated:

The management principles of a national park have always accommodated commercial enterprises that are nature-based and ecologically sustainable.

The recommendation is inconsistent with the government's policy that supports the establishment of environmentally responsible facilities on national parks as demonstrated through the recently released implementation framework for commercial ecotourism facilities on national parks.¹⁰²

Clause 9 of the Bill replaces section 21 of the *Nature Conservation Act 1992* which contains the management principles for a regional park. These provisions will become redundant through the amendments proposed at clause 6 which seek to reinstate the former conservation parks and resources reserves classes of protected areas and remove the regional park class.¹⁰³

A new section 21A is being inserted to reinstate the former management principles that applied to the resources reserves class of protected area. This section replicates the management principles that were omitted through NCOLA No.2 2013 when the resources reserves class was amalgamated into the new regional parks class with conservation parks.¹⁰⁴

The explanatory notes detail that certain consultation requirements on amendments to management plans will be reinstated. An exemption from undertaking public consultation on amendments to management plans under the NCA, RAM Act and the Marine Parks Act was introduced as part of the NCOLA No. 2 2013.¹⁰⁵ The department advised that this exemption meant that those Acts could be amended without public consultation, although this practice has not been evident, if amendments relate to a change in state government policy. The department explained the importance of public consultation for management plans which outline the future direction for the use and management of an area:

Draft management plans are subject to extensive consultation and generally reviewed after 10 years through a transparent process involving public consultation. The current provisions potentially allow significant amendments to be made to management plans without considering the views of the local community which is not consistent with the

¹⁰⁰ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

¹⁰¹ Rural Services of Coast and Country, 2015, *Submission no.70*, p.2.

¹⁰² Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

¹⁰³ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.13.

¹⁰⁴ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.13.

¹⁰⁵ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.4.

*current government's commitments that focus on consultation and consensus to achieve the best outcomes for Queenslanders.*¹⁰⁶

The Magnetic Island Nature Care Association (MINCA) submitted that there should be no commercial use, particularly grazing, within conservation parks, and requested that section 21(1)(c) be removed from the proposed amendments.¹⁰⁷

In their advice on the points raised, DNPSR explained that the objective of this amendment is to reinstate the previous management principles that applied to conservation parks which previously included ensuring that any commercial use of the area's natural resources, including fishing and grazing, is ecological sustainable. The department further advised that commercial uses such as grazing currently occur within regional parks (general), which are being reinstated as conservation parks through the proposed amendments clause 6 of the Bill.¹⁰⁸

The department also explained that the management principles for regional parks and conservation parks are similar and allow for the controlled use of natural resources and commercial activities in the area. They stated:

*The amendments in this section and the transitional provisions of the Bill will provide for the lawful continuation of those activities when the area changes from being a regional park to a conservation park in order not to breach fundamental legislative principles.*¹⁰⁹

The QORF submitted that the amendment in clause 9 of the Bill has the potential to result in adverse outcomes for educational and recreational activities in conservation parks. QORF emphasised that proposed section 21 does not allow for the provision of opportunities for educational and recreational activities within conservation parks.¹¹⁰ They stated:

*The current form of the bill will result in the situation where educational and recreational activities would be allowed in Queensland's 320 national parks but would not be allowed in the 227 conservation parks that are proposed to be reinstated. This situation is contrary to the International Union for Conservation of Nature's protected area management categories, which are referred to in the explanatory notes for the bill, and it conflicts with the fact that conservation parks are specifically stated to be lower in the hierarchy of protection as per section 14 of the Nature Conservation Act.*¹¹¹

QORF proposed that clause 9 be amended to provide alternative wording for section 21 as follows:

- (1) A conservation park is to be managed to -
- (a) conserve and present the area's cultural and natural resources and their values; and
 - (b) provide for the permanent conservation of the area's natural condition to the greatest possible extent; and
 - (c) provide opportunities for educational and recreational activities in a way consistent with the area's natural and cultural resources and values; and
 - (d) ensure that any commercial use of the area's natural resources, including fishing and grazing, is ecologically sustainable.¹¹²

¹⁰⁶ Klaassen, B., 2015, *Departmental briefing transcript*, 11 November, p.3.

¹⁰⁷ Magnetic Island Nature Care Association, 2015, *Submission no.1*, p.2.

¹⁰⁸ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

¹⁰⁹ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

¹¹⁰ Queensland Outdoor Recreation Federation, 2015, *Submission no.29*, p.3.

¹¹¹ Courtney, D., 2015, *Public hearing transcript*, 2 December, p.14.

¹¹² Queensland Outdoor Recreation Federation, 2015, *Submission no.29*, p.4.

Gap Creek Trails Alliance (GCTA), a member of QORF, endorsed the proposed changes to the legislation, particularly the proposal to reinstate the conservation of nature as the primary purpose of the protected area estate.¹¹³ They explained, however, that members of QORF have noted the absence of the following key clause from principles for conservation parks which is included in the principles for national parks:

*Provide opportunities for educational and recreational activities in a way consistent with the area's natural and cultural resources and values.*¹¹⁴

In their submission, GCTA suggested that, as Queensland Parks and Wildlife staff already manage Conservation Parks in the above way, adding this clause to the management principles would provide them with greater certainty.¹¹⁵

The Australian Climbing Association (Qld) Inc. submitted that the amendment to section 21 has the potential to cause two problems:

- *First, by removing the obligation to provide opportunities for recreational activities, clause 9 unintentionally alters the essence of conservation parks – that they be presented to the public for sustainable recreational use.*
- *At a policy level, it would be anomalous for national parks, with their higher conservation status, to retain the imperative for recreational opportunity, if the lesser “conservation parks” were to lose that imperative. Further, this anomaly would weaken the consistency of purpose of the NCA, and therefore cause confusion in the management of recreational activity on the protected area estate.*¹¹⁶

The Australian Climbing Association (Qld) Inc. suggested that an identical clause be inserted into the proposed management principles for conservation parks, after section 21(1)(c), i.e. current section 17(1)(d) be duplicated. This would have the effect of retaining the essence of a conservation park and the inconsistency of purpose and administrative problems would be avoided.¹¹⁷

Section 17(1) states:

(1) A national park is to be managed to -

(a) provide, to the greatest possible extent, for the permanent preservation of the area's natural condition and the protection of the area's cultural resources and values; and

(b) present the area's cultural and natural resources and their values; and

(c) ensure that the only use of the area is nature-based and ecologically sustainable; and

(d) provide opportunities for educational and recreational activities in a way consistent with the area's natural and cultural resources and values; and

*(e) provide opportunities for ecotourism in a way consistent with the area's natural and cultural resources and values.*¹¹⁸

In their advice to the committee on issues raised in submissions, DNPSR explained that access to conservation parks for education and recreational activities will be unaffected by the amendments in

¹¹³ Gap Creek Trails Alliance, 2015, *Submission no.19*, p.1.

¹¹⁴ Gap Creek Trails Alliance, 2015, *Submission no.19*, p.1.

¹¹⁵ Gap Creek Trails Alliance, 2015, *Submission no.19*, p.1.

¹¹⁶ Australian Climbing Association (Qld) Inc., 2015, *Submission no.38*, pp. 1-2.

¹¹⁷ Australian Climbing Association (Qld) Inc., 2015, *Submission no.38*, p.2.

¹¹⁸ *Nature Conservation Act 1992*, p.23.

the Bill. The department reasoned that these types of activities occurred previously in conservation parks under the same management principles that were in place at that time.

The department also acknowledged that retaining the reference to educational and recreational activities in the management principles for national parks and not in the principles for conservation parks has created a perception that this could impact on the uses that may occur in these areas.¹¹⁹ The department stated:

As the suggestion reflects current practice, NPSR has no concerns with giving further consideration to incorporating the wording that is contained in section 17(1)(d) into the management principles for a conservation park in clause 9 of the Bill if this change is recommended by the Committee and supported by the government.¹²⁰

One submitter suggested that this section could impact on the collection of crocodile eggs for farming purposes to benefit indigenous communities and the community generally.¹²¹

The department explained that this is outside the scope of the Bill but stated that subordinate legislation under the Act currently prohibits the harvesting of crocodile eggs through the operation of section 111 of the Nature Conservation (Wildlife Management) Regulation 2006, the Nature Conservation (Estuarine Crocodile) Conservation Plan 2007 and associated definitions under the Act.¹²²

Committee comment

The committee notes the advice from the department that education and recreational activities within conservation parks will be unaffected by the amendments proposed in clause 9.

The committee also acknowledges the merits of the suggestion by the Australian Climbing Association that the wording of section 17(1)(d) be repeated after section 21(1)(c) for consistency. The committee supports the amendments in Clause 9 with this further amendment.

Recommendation 4

The committee recommends that the clause 9 be amended to incorporate the wording of section 17(1)(d) of the *Nature Conservation Act 1992* into the management principles for a conservation park.

2.5 Clause 10: Amendment of section 27

Clause 10 amends section 27 of the *Nature Conservation Act 1992* to reflect the reinstatement of the national park (scientific) and conservation parks classes of protected area, and the removal of the regional parks class which becomes redundant through the amendments in clause 6.¹²³

The Mackay Conservation Group emphasised that the NCA would not be in compliance with the United Nations Convention on Biological Diversity, which requires the conservation and sustainable use of biodiversity, as long as it contains Section 27 which allows mining in areas of high conservation value except National Parks. They submitted that mining activities are allowed to take priority over the protection of areas of high conservation significance within Resource Reserves and gazetted Nature Refuges.¹²⁴

¹¹⁹ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

¹²⁰ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

¹²¹ Angela Freeman, 2015, *Submission no.76*, p.2.

¹²² Department of National Parks, Sport and Racing, 2016, *Correspondence*, 27 January.

¹²³ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.13.

¹²⁴ Mackay Conservation Group, 2015, *Submission no.26*, pp.1-2.

The Rural Services of Coast and Country in their submission also proposed that section 27(2) should be omitted. They submitted that a protected area is no place for development interests, whether it be resource extraction, transport or other such facilities.¹²⁵

In their advice on the submissions, DNPSR advised that the classes of protected area under the NCA are listed in descending order of the level of protection given to them under section 29(2). The management principles for each class of protected area reflect this hierarchy and allow for different uses.¹²⁶ The department explained:

*The objective of the amendment to this section does not include changing the areas where mining, geothermal and greenhouse gas storage activities are prohibited.*¹²⁷

2.6 Clauses 17: Amendment of section 42A (Declaration of special management area)

Clause 17 amends section 42A of the *Nature Conservation Act 1992* which allows the chief executive to declare special management areas (scientific) and special management areas (controlled action).

The explanatory notes state that the amendments will remove provisions that allow the chief executive to declare a special management area (scientific) because they become redundant due to the reinstatement of the national park (scientific) class of protected area through clause 6. The chief executive would retain the ability to declare special management areas (controlled action) and the section is also being updated in several places so that it only refers to special management areas (controlled action).

The explanatory notes also detail that the definition of prescribed national park in subsection (4) is being amended to reflect the reinstatement of the national park (scientific) through clause 6.¹²⁸

The WPSQ submitted that section 42A should be omitted. They argued that, if the proposed amendment to section 42A proceeds, an error needs to be rectified as they consider that the management principles of national parks do not have that connection with section 17. The WPSQ made the following suggestions:

- *Omit section 42A in concert with action proposed in relation to clauses 6 & 8; or,*
- *Omit the proposed amendment to section 42A(4)(a) i.e. remove the reference to national park (scientific) in the definition of prescribed national park.*¹²⁹

The Rural Services of Coast and Country submission raises concerns that the amendment of section 17 is limited. They submitted that section 42C (Declaration of resource use area) should be omitted as the limited scope of the change enables private enterprise to benefit from state investment and to reduce the public benefit.¹³⁰

In their advice to the committee, DNPSR explained that the amendments made through clause 17 are consequential amendments to remove the special management area (scientific) provisions which have become redundant and reflect the reinstatement of the national park (scientific) class. The department advised that the current provisions of this section provides that a special management area (controlled action) can be declared over a national park, including national parks that are proposed to be reinstated as national parks (scientific), through clause 6 of the Bill.¹³¹

¹²⁵ Rural Services of Coast and Country, 2015, *Submission no.70*, p.2.

¹²⁶ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

¹²⁷ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

¹²⁸ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.14.

¹²⁹ Wildlife Preservation Society of Queensland, 2015, *Submission no.4*, p.4.

¹³⁰ Rural Services of Coast and Country, 2015, *Submission no.70*, p.2.

¹³¹ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

The department further explained that the amendments are not intended to alter where special management areas (controlled action) can presently be declared. The department stated:

However, NPSR acknowledges that the management principles for a national park (scientific) that are being reinstated could provide the same outcome as the declaration of a special management area (controlled action) over a national park (scientific) and has no concerns with giving further consideration to the removal of the reference to national park (scientific) from the definition of prescribed national park if this is recommended by the Committee and supported by the government.¹³²

Committee comment

The committee supports clause 17 with an amendment to remove the reference to national park (scientific) from the definition of prescribed national park.

Recommendation 5

The committee recommends that clause 17 be amended to remove the reference to national park (scientific) from the definition of prescribed national park in clause 17 (section 42A(4)(a)).

2.7 Clauses 18: Amendment of section 42B

Clause 18 amends section 42B of the NCA to reflect the amendments made in clause 17 and to clarify that the section only applies to special management areas (controlled action).¹³³

The WPSQ submitted that section 42B should be omitted along with section 42A. The WPSQ considers the procedure for ending a special management area, SMA (controlled action) to be limited and weak, and that it does not provide for adequate public notification. They also suggested that if SMAs are to be retained, there needs to be more adequate provision for public notification of their declaration and when a declaration ends.¹³⁴

The DNPSR explained that the amendments made through this clause are consequential amendments to reflect the removal of the special management areas (scientific) by clarifying the context of the remaining provisions. They also advised that this amendment will make it clear that the SMA (controlled action) will be the only type of special management area remaining.

In regards to the WPSQ's comment for public notification, the department stated:

... the NCA already provides for:

- *the display of a notice declaring the SMA at the entrance of a national park*
- *a copy of the notice to be published on the department's website*
- *a notice to be published in the gazette about the declaration of the SMA*
- *when a SMA is removed - removing the notice from the department's website and publishing a notice in the gazette about the ending of the declaration.*

NPSR considers that the existing provisions, which are being retained, provide adequate public notification of a declaration and when a declaration ends.¹³⁵

¹³² Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

¹³³ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.14.

¹³⁴ Wildlife Preservation Society of Queensland, 2015, *Submission no.4*, p.5

¹³⁵ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

2.8 Clauses 27: Amendment of section 120A (Procedures for amending management plan)

Clause 27 amends section 120A of the NCA. This section includes a number of exemptions that apply to preparing a draft amendment of a management plan and publishing a notice that invites written submissions to be made about the draft plan. In effect, subsection (2)(a)(iii) allows amendments to be made to management plans without consultation if the amendment is being made to provide consistency with State government policy. Subsection (3) simply requires details of the amendments and reasons for the amendments to be published on the department's website. Subsection (2)(a)(iii) is being removed so that this exemption no longer applies. As a consequence, subsection (3) becomes redundant and is also being removed.¹³⁶

Olkola Aboriginal Corporation requested that the Government look at reversing NCOLA No.2 2013 changes in relation to management plans that have negatively impacted Indigenous landowners of NP (CYPAL).¹³⁷ They stated:

*The current changes are looking to reinstate the requirement for public consultation and we are also calling on the government to look at reinstating the requirement to get that consent of the actual landowner because we feel that is more important, if not as important, as seeking consultation from the public.*¹³⁸

Olkola Aboriginal Corporation noted the following examples of the NCOLA No. 2 2013 changes that have impacted adversely on them:

- *Removed the legislated requirement to prepare management plans for NP (CYPAL) even though the Queensland Government is contractually required to do so under numerous Indigenous Management Agreements (IMAs) in Cape York, including with Olkola over Alwal NP (CYPAL).*
- *Introduced provisions providing the Minister with the unilateral power to decide whether a NP (CYPAL) will have a management plan or not. We request that that this be amended (section 112A) to reflect the nature of joint management, to ensure this decision is made jointly with the landowner and the Minister.*
- *Introduced provisions allowing the Minister to amend a management plan for a NP (CYPAL) without the requirement of consent or even consultation with the landowner, despite the fact it is a requirement that they are prepared jointly.*¹³⁹

At the public hearing, the Olkola Aboriginal Corporation stated:

*A lot of the national park CYPALs that existed in Cape York before 2013 have in the Indigenous management agreement a contractual obligation on both parties to develop the management plan and that management plan is to be developed jointly and any amendments to that plan would say that they have to also be done jointly. One of the changes that the last government did, they said that you could change management plans and if it was for a policy reason, one, you would not need to have the public consultation and, two, you would not need to seek the consent of the Aboriginal landholder.*¹⁴⁰

Olkola request that section 120A be amended to reinstate the requirement for any amendments to a management plan over NP (CYPAL) to be prepared and decided upon jointly with the landowner and the Minister.¹⁴¹

¹³⁶ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.15.

¹³⁷ Olkola Aboriginal Corporation, 2015, *Submission no.9*, p.2.

¹³⁸ Duffey, P, 2015, *Public hearing transcript*, 2 December, pp.18-19.

¹³⁹ Olkola Aboriginal Corporation, 2015, *Submission no.9*, p.3.

¹⁴⁰ Duffey, P, 2015, *Public hearing transcript*, 2 December, p.18.

¹⁴¹ Olkola Aboriginal Corporation, 2015, *Submission no.9*, p.3.

The ACF recommended, for any national park in which the Queensland Government has entered into a joint management arrangement, particularly national park (CYPAL), that any amendments to management plans are jointly considered by State and Traditional Owner parties consistent with the Indigenous Management Agreements that are already in place.¹⁴²

In their advice on this use, DNPSR stated that the previous government introduced a new management instrument called a management statement. The department explained that the legislation provides the option of preparing either a management plan or a management statement for certain classes of protected area. In response to the issues raised by Olkola, the department stated:

*For a national park (CYPAL) the Indigenous Management Agreement (IMA) for the area identifies whether a management plan or management statement is required for the area. The IMA creates a contractual obligation and applies irrespective of the legislation. IMAs can be amended by agreement of all parties if it is decided that one management instrument is favoured over the other. NPSR considers that the flexibility that exists under the IMA for both parties to reach an agreement about the most appropriate type of management instrument for an area should and that it is not necessary to provide any legislative amendments in this regard.*¹⁴³

In addition, the department acknowledged the issue raised that while the NCA states that the preparation of new management plans for national parks (CYPAL) and indigenous joint management areas must be prepared jointly with the indigenous landholder and be consistent with any indigenous land use agreement and IMA for the area - the provisions for amending management plans do not reflect these same requirements.¹⁴⁴ The department stated:

However, in practice, NPSR is also bound by the requirements of any IMA and irrespective of the lack of provisions in the NCA, has a policy of working collaboratively with joint managers if an amendment to a management plan is required.

*As it simply reflects current practice, NPSR has no concerns with giving further consideration to incorporating a legislative requirement for amendments to management plans for national park (CYPAL) and indigenous joint management areas to be prepared jointly with the indigenous landowner and be consistent with any indigenous land use agreement and IMA for the area if this is recommended by the Committee and supported by the government.*¹⁴⁵

Committee comment

The committee notes the department's current practice of working collaboratively with indigenous landholder for the preparation of new management plans for national parks (CYPAL). The committee also acknowledges the concerns raised by the Olkola Aboriginal Corporation that the Bill does not appear to provide assurances that this collaboration will occur, and that it does not reflect current practices.

The committee supports the department's proposal to consider further amendments to clause 27 to incorporate a legislative requirement for amendments to management plans for national park (CYPAL) and indigenous joint management areas to be prepared jointly with the indigenous landowner and to be consistent with any indigenous land use agreement and IMA for the area.

¹⁴² Australian Conservation Foundation, 2015, *Submission no.58*, p.3.

¹⁴³ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

¹⁴⁴ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

¹⁴⁵ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

Recommendation 6

The committee recommends that the Minister consider amending clause 27 to incorporate a legislative requirement for amendments to management plans for national park (CYPAL) and indigenous joint management areas to be prepared jointly with the indigenous landowner and to be consistent with any indigenous land use agreement and IMA for the area.

2.9 Clauses 29: Omission of section 173S

Clause 29 of the Bill omits section 173S of the NCA to remove redundant provisions that allowed hardship stock grazing on six prescribed national parks for the purpose of drought relief until December 2013. The department confirmed for the committee that all 13 permits that were granted under these provisions have now expired,¹⁴⁶ and that no other state has allowed emergency hardship grazing in national parks to occur.¹⁴⁷

Agforce Queensland Industrial Union of Employers (Agforce) submitted that they would prefer that the provision to allow the granting of stock permits for emergency drought relief be retained. They explained that the retention, with appropriate amendment of dates, would provide the opportunity for future use as an emergency measure.¹⁴⁸

Undara Experience submitted that there is no evidence to suggest that a 'blanket ban' on hard-footed animals in national parks will result in better conservation outcomes. They noted:

*In a large number of cases with national parks west of the Great Dividing Range in Queensland, before these areas were declared national parks, they were cattle stations and used for grazing. The conservation values created that ultimately led to the land area being valued highly enough for it to be considered worthy of inclusion in the national park estate originally was created by the way in which it was managed previously. If non-invasive sustainable stocking rates were determined, cattle could be used as a management tool on a rotational basis to help reduce bushfire fuel loads. Surely this would help to achieve many of the desired conservation outcomes in national parks.*¹⁴⁹

In their advice to the committee, DNPSR explained that the removal of the redundant provision in section 173S is a policy decision of the Government. Other mechanisms in the legislation remain available if it is determined that grazing is required for conservation outcomes.¹⁵⁰

Cape York NRM supports the removal of section 173S of the Act, but suggested that the ecological assessment of the property on which the transfer of the land to the national estate was based could be revisited and, where appropriate, consideration could be given to excising portions of the area and their transfer back to grazing leases.¹⁵¹

In its advice to the committee, the department explained that reassessing the basis on which lands were originally recommended for dedication as national parks is outside the scope of the Bill.¹⁵²

Committee comment

The committee supports the amendments proposed in clause 29 of the Bill.

¹⁴⁶ Klaassen, B, 2015, *Departmental briefing transcript*, 11 November, p.3.

¹⁴⁷ Klaassen, B, 2015, *Departmental briefing transcript*, 11 November, p.10.

¹⁴⁸ Agforce Queensland Industrial Union of Employers, 2015, *Submission no.64*, p.1.

¹⁴⁹ Undara Experiences 2015, *Submission no.39*, pp.2-3.

¹⁵⁰ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

¹⁵¹ Cape York Natural Resource Management Ltd, *Submission no.77*, p.3.

¹⁵² Department of National Parks, Sport and Racing, 2016, *Correspondence*, 27 January.

2.10 Amendment to *Aboriginal Land Act 1991 (ALA)*

Clauses 32 – 35 of the Bill amend the *Aboriginal Land Act 1991* to:

- establish a process to make regional parks on Cape York Peninsula transferable; and
- streamline the process to convert regional parks to jointly managed national parks (Cape York Peninsula Aboriginal land (CYPAL)).¹⁵³

The explanatory notes detail that the Queensland Government has made a commitment to the implementation of the Cape York Peninsula Tenure Resolution Program (CYPTRP) which has the dual functions of returning land ownership to Aboriginal Traditional Owners and protecting the outstanding natural and cultural values of the Cape York Peninsula in jointly managed parks.¹⁵⁴

The notes also outline that all national parks in the Cape York Peninsula region are already made ‘transferable’ under amendments to the ALA through the passage of the *Cape York Peninsula Heritage Act 2007*. Amendment to the ALA is required to ensure regional parks in the Cape York Peninsula region are ‘transferable’ by regulation.¹⁵⁵

Clause 33 amends the heading of Part 11, division 2 to update the heading to reflect that the division will apply to prescribed protected areas instead of only national parks, as provided for through the amendments to sections 173 and 174 below.¹⁵⁶

Clause 34 amends section 173, including the heading of the section to refer to ‘prescribed protected areas’; subsections (1), (2) and (3) to reflect that the section will apply to prescribed protected areas rather than just national parks; and inserts an additional subsection (4) to insert a definition of ‘prescribed protected area’ which means a national park or a regional park under the Nature Conservation Act 1992 prescribed by regulation.¹⁵⁷

The WPSQ noted it is unclear why the definition of prescribed protected area refers to a regional park prescribed by regulation. They also considered that when the amendments come into force, there will be no such entity as a regional park. The WPSQ suggested that consideration be given to whether the proposed new section 173(4)(b) should refer to a conservation park and/or resources reserve prescribed by regulation.¹⁵⁸ The WPSQ submission is supported by the Fraser Island Defenders Organisation.¹⁵⁹

In their advice on issues raised in the submissions, DNPSR explained that clause 34 refers to ‘regional park’ because this part of the Bill will commence on assent and regional park will continue to be the correct terminology at that time.¹⁶⁰ The department also advised:

*Clause 2 of the Bill provides that the changes to the classes of protected area will not commence until 1 July 2016. Further amendments will commence at that time, including amendments to the Aboriginal Land Act outlined in Schedule 1 of the Bill, which will update the relevant references to conservation park at that time.*¹⁶¹

Clause 35 amends section 174 which provides for all national parks in the Cape York Peninsula Region to become transferable.¹⁶²

¹⁵³ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.2.

¹⁵⁴ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.2.

¹⁵⁵ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.5.

¹⁵⁶ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.17.

¹⁵⁷ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.17.

¹⁵⁸ Wildlife Preservation Society of Queensland, 2015, *Submission no.4*, p.5.

¹⁵⁹ Fraser Island Defenders Organisation, 2015, *Submission no.55*, p.1.

¹⁶⁰ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

¹⁶¹ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

¹⁶² Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.18.

The department explained that Section 174 of the ALA expedites the conversion of certain protected areas into national parks (CYPAL) by deeming the land through regulation to be transferable land. The department stated:

Currently, section 174 of the Aboriginal Land Act has the effect of making all national parks on Cape York Peninsula transferable land, but the section does not apply to other classes of protected area under the Nature Conservation Act.

The state is currently negotiating with the Aboriginal traditional owners, with the assistance of the Cape York Land Council and Balkanu Cape York Development Corporation, about the conversion of two regional parks to national park (Cape York Peninsula Aboriginal land). Amendments to the Aboriginal Land Act will streamline the process to make this happen by bringing regional parks within the scope of section 174 of the Aboriginal Land Act. These amendments are required to deliver the Cape York Peninsula Tenure Resolution Program, which has the dual functions of returning land ownership to Aboriginal traditional owners and protecting the outstanding natural and cultural values of Cape York Peninsula and jointly managing national parks (Cape York Peninsula Aboriginal land).¹⁶³

Olkola Aboriginal Corporation supports these amendments, noting that they will allow the regional parks on Olkola Country to become national park (CYPAL) (an existing contractual obligation of the State Government) in an easier and less resource-intensive manner.¹⁶⁴

Committee comment

The committee supports the proposed amendments in clauses 32-35.

2.11 Amendment to *Environmental Protection Act 1994 (EPA)*

Clause 37 of the Bill amends section 707B of the *Environmental Protection Act 1994 (EPA)*.¹⁶⁵

The department explained that the EPA was amended in 2013 to implement green-tape-reduction changes. These changes included a provision that prevents mining operators from being able to apply for an environmental authority under the current eligibility criteria and codes of environmental compliance for mining activities from/on 31 March 2016. The department stated that because of that provision, new eligibility criteria and standard conditions (collectively referred to as ERA standards) for these lower-risk mining activities need to be developed before that date.¹⁶⁶

The explanatory notes outline that the expiration of current eligibility criteria and standard conditions for mining activities is proposed to be deferred by one year from 31 March 2016 to 31 March 2017.¹⁶⁷

The department stated:

Should the amendment not proceed and new mining ERA standards are not made by 31 March 2016, the streamlined approval process provided for by ERA standards will not be available for new smaller scale mining projects. This would mean that every new smaller scale mining project applied for after 31 March 2016 will need a detailed site-specific application until the new ERA standards can be developed. As a result, significant and unnecessary delay costs and process requirements will be placed on proponents who are seeking an environmental authority to carry out these mining activities.¹⁶⁸

¹⁶³ Klaassen, B, 2015, *Departmental briefing transcript*, 11 November, p.4.

¹⁶⁴ Olkola Aboriginal Corporation, 2015, *Submission no.9*, p.4.

¹⁶⁵ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.5.

¹⁶⁶ Klaassen, B, 2015, *Departmental briefing transcript*, 11 November, p.4.

¹⁶⁷ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.6.

¹⁶⁸ Klaassen, B, 2015, *Departmental briefing transcript*, 11 November, p.4.

Committee comment

The committee supports the proposed amendments in clause 37.

2.12 Amendment to *Land Act 1994* – Clause 39

Clauses 38 - 43 of the Bill amend the *Land Act 1994* (Land Act). The explanatory notes detail that the amendments will revert rolling term leases for agriculture, grazing or pastoral purposes within nature conservation areas and specified national parks back to term leases. The explanatory notes outline that the amendments also provide that any applications that have been made to extend such leases are taken to be withdrawn if they have not been decided.¹⁶⁹

The committee is of the opinion that the use of term ‘rolling term lease’ in the Land Act in connection with leases in protected areas has caused confusion for many stakeholders. The committee considers that a more accurate description of these leases is ‘agricultural grazing or pastoral leases on protected areas.’

At the departmental briefing, the committee was advised that there were approximately 81 rolling term leases for agriculture, grazing or pastoral purposes within areas defined under the Land Act as nature conservation areas and specified national parks that will revert back to term leases. The department stated:

*The amendments do not affect the vast majority of leases for agriculture, grazing or pastoral purposes which are located on state forests, of which there are approximately 755 leases, and rural leasehold land, of which there are approximately 1,800 leases. So people who have rolling term leases on those tenures will not be affected by this bill. It is just the 81 that are on the protected area estate.*¹⁷⁰

The department further advised that no rolling term leases have been granted in national parks and, as the primary purpose is the conservation of nature, grazing is not consistent with the object and cardinal principle.¹⁷¹

¹⁶⁹ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.8.

¹⁷⁰ Klaassen, B, 2015, *Departmental briefing transcript*, 11 November, p.3.

¹⁷¹ Klaassen, B, 2015, *Departmental briefing transcript*, 11 November, p.10.

The explanatory notes outline that, in relation to term leases, there are a broader range of matters the chief executive must consider when granting extensions, and these are set out at section 159(1)(a)-(m) of the *Land Act 1994*. These matters include:

- the interest of the lessee;
- whether part of the lease land should be set apart and declared as State forest under the *Forestry Act 1959*;
- whether the public interest could be adversely affected, other than for an issue mentioned in paragraph (b), if the lease were renewed;
- whether part of the lease land is needed for environmental or nature conservation purposes;
- the condition of the lease land;
- the extent to which the lease land suffers from, or is at risk of, land degradation;
- whether the lessee has complied with, or to what extent the lessee has complied with, the following:
 - the conditions of the lease;
 - any land management agreement for the lease;
 - any conservation agreement or conservation covenant applying to all or part of the lease land;
 - any approved agreement for an indigenous cultural interest for the lease land;
- whether part of the lease land has a more appropriate use from a land planning perspective;
- whether part of the lease land is on an island or its location, topography, geology, accessibility, heritage importance, aesthetic appeal or like issues make it special;
- whether part of the lease land is needed for a public purpose;
- whether a new lease is the most appropriate form of tenure for the lease land;
- the lessee's record of compliance with this Act; and
- the natural environmental values of the lease land.

The explanatory notes outline that reverting to a term lease would have an impact on the rights and liberties of individuals:

- *For a lease holder that would like to continue with a lease (rather than allowing it to expire at the end of its term), the lease holder will need to make an application for the renewal of the term lease. They will only be able to do this after 80% of the existing term has expired, rather than any time in the last 20 years of the term of the lease as is currently the case for rolling term leases.*
- *A broader range of matters must be considered by the chief executive in deciding whether to grant or refuse the renewal of a term lease when compared to the extension of a rolling term lease. One consideration is whether the land is needed for environmental or nature conservation purposes. A decision to refuse the renewal of a term lease is not appealable unless the decision was based on the applicant not fulfilling the conditions of the lease.¹⁷²*

¹⁷² Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.8.

The department advised that, despite concerns around fundamental legislative principles as a result of reverting rolling term lease, the amendments are justified. The department stated:

*... they (the amendments) will provide a more appropriate framework to allow the government to meet its election commitment to ensure that the protected area estate is managed in accordance with the cardinal principle. Reverting to term leases will not impact on the remaining term of the lease, the conditions of the lease or any uses authorised by the lease.*¹⁷³

The department explained that the rolling leases have varying expiry dates. The department stated:

*There is one that expires later this year. There are six that expire before March next year. Twelve expire in 2016. They progressively go out to 2039, which is when the last two are due to expire. They are a legacy of when lands were a different tenure. They might have been a state forest and they were identified or transferred to a national park and the landholder was given a certain time within a lease. The understanding was that they would be looking to use their lease and then move their cattle to another tenure because it was to be national park rather than long-term grazing land. Those 81 will progressively expire over the next 24 years.*¹⁷⁴

The number of leases has since fallen to 78 with the expiry of three leases.¹⁷⁵

In their advice on the submissions, DNPSR explained that rolling term leases will become term leases and the existing expiry date of the lease will continue to apply. Term lease renewals are subject to a range of considerations, including an assessment of the condition of the lease land before deciding whether to renew the lease.¹⁷⁶

The majority of submissions to the committee supported the amendments.¹⁷⁷ One submission suggested that grazing of cattle on public land in all forms, including state forest, should be stopped entirely.¹⁷⁸ The DNPSR advised that this is outside the scope of the Bill and would have significant impacts that would raise issues with regard to fundamental legislative principles.¹⁷⁹

Agforce noted that for rolling term leases that are returned to term leases there will be no change in the term and/or associated conditions of the leases. However, they requested that DNPSR continue to liaise with individual lessees to ensure that they are informed of any changes and that appropriate transitional arrangements are implemented.¹⁸⁰

In response to the points raised by Agforce, DNPSR advised the committee that they liaise with individual lease holders in the period leading up to the expiry of their lease to inform them of the department's proposed action, the options available to the lease holders and that they will continue to do so.¹⁸¹ The department advised that it will continue to liaise with leaseholders and to canvass options available to them on a case by case basis, and taking into account their individual circumstances.¹⁸²

Grazier, Mr Peter Mayne, expressed his grave concerns that these amendments would adversely affect his family's organic beef operation. The Mayne family leases 60,000 acres of the Carnavon National Park, which is adjacent to their property. Mr Mayne explained in his submission that the natural terrain they have been using for cattle grazing has not been altered in any way, and that they have

¹⁷³ Klaassen, B, 2015, *Departmental briefing transcript*, 11 November, p.4.

¹⁷⁴ Klaassen, B, 2015, *Departmental briefing transcript*, 11 November, p.7.

¹⁷⁵ Department of National Parks, Sport and Racing, 2016, *Correspondence*, 16 January.

¹⁷⁶ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

¹⁷⁷ Refer submission nos. 1,14,24,25,27,28,30,43,44,54,56,58,59,60,62,63,65 & 66.

¹⁷⁸ Drs PM and S Heise-Pavlov 2015, *Submission no. 72*, p.1.

¹⁷⁹ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

¹⁸⁰ Agforce Queensland Industrial Union of Employers, 2015, *Submission no.64*, p.1.

¹⁸¹ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

¹⁸² Department of National Parks, Sport and Racing, 2016, *Correspondence*, 6 January.

endeavoured to maintain the land in its natural state.¹⁸³ Mr Mayne told the committee at the public hearing for the inquiry:

*Due to our organic status, we are particularly careful to maintain the park under strict conditions as required by the Australian Certified Organic, an organisation we are accountable to in the audit process.*¹⁸⁴

Mr Mayne and his family have asked that some discretion be incorporated into the Bill which recognises the variability of different landscapes and ecosystems and the need to have different regimes in different localities.¹⁸⁵ Mr Mayne emphasised:

*If an inspection was done on this land, the evidence would be clear. There is absolutely no environmental impact to the national park as a result of our family using this land. The evidence in fact would state that we have been excellent custodians of the land and that our future practices would keep conserving the land for generations to come.*¹⁸⁶

In his evidence at the hearing Mr Lachlan Miller MP, Member for Gregory, supported Mr Mayne's submission and stated:

*The Maynes maintain certification for organic farming and animal welfare through superior animal husbandry. These require annual audits which impose land management regimes stricter than those set out in the Carnarvon National Park Management Plan. For instance, they can use no poisons. The pay-off for them is a premium rating for their product, which is beef, which brings them privileged market access. The pay-off for Queensland is that that section of the park the Maynes manage is free of bushfire, erosion, exotic weeds and feral pests to the highest possible standards and at no cost to Queensland taxpayers because they live there and there is a constant monitoring of the landscape.*¹⁸⁷

The Member for Gregory told the committee of his concerns that the Bill applies a "one model fits all" approach to the current rolling term leases in conservation areas:

*I do have concerns that the bill is removing any flexibility or ministerial discretion. It will remove neighbouring landholders from any meaningful interaction with national parks—and that is why I am talking out in the western part of Queensland—despite the historic practice of partnership with neighbouring landholders. This may not matter in popular parks close to the coast, but in Central, Southern and Western Queensland where I come from landholders have a real role to play. These landscapes are not only complex but also fragile and exposed to extremes of weather. They are also very sparsely settled. Landholders by the nature of their industry have a major financial and an emotional investment in these landscapes.*¹⁸⁸

In its advice on issues raised by submitters, DNPSR explained that the amendments simply revert rolling term leases granted under the Land Act for agricultural, grazing or pastoral purposes that are on nature conservation areas and specified national parks back to term leases under the same Act. The provisions of the Land Act dealing with the ongoing management of term leases, including matters to be considered in deciding whether or not to renew a term leases, will then apply to these leases.¹⁸⁹

¹⁸³ Peter Mayne, 2015, *Submission no.18*, p.1.

¹⁸⁴ Mayne, P, 2015, *Public hearing transcript*, 2 December, p.27.

¹⁸⁵ Peter Mayne, 2015, *Submission no.18*, p.2.

¹⁸⁶ Mayne, P, 2015, *Public hearing transcript*, 2 December, p.27.

¹⁸⁷ Millar, L. MP, Member for Gregory, 2015, *Public hearing transcript*, 2 December, p.24.

¹⁸⁸ Millar, L. MP, Member for Gregory, 2015, *Public hearing transcript*, 2 December, p.24.

¹⁸⁹ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

This will allow for each lease renewal to be considered on a case by case basis:¹⁹⁰

*Based on contemporary information, the Chief Executive will also consider whether the use under the lease is consistent with the management principles for the particular class of protected area under the NCA.*¹⁹¹

The Wason and Day families also made a submission detailing their concerns over the proposed changes in this Bill. They explained that the total amount of land they hold under Stock Grazing Permits is 6,397 hectares, 1,416 hectares of freehold land and 879 hectares in agistment land. They also stated that a small portion of their freehold land is in the middle of the Gronga National Park and that they have been farming on the land for over 100 years. They explained that their stock grazing permits have been issued with an end date of 2020. This would result in them being able to farm only on 1,416 hectares, with no access to surrounding national park.¹⁹² They submitted that their business would no longer be viable and asked that permits be issued on a case by case basis.¹⁹³

In their advice on issues raised by submitters, DNPSR advised that the issues raised by the Wason and Day families relate to grazing permits, and not rolling term leases, and are therefore outside the scope of the Bill.¹⁹⁴ The department stated:

*Stock grazing permits are a separate authority type granted under the nature conservation regulations. These are not related to the rolling term lease provisions and remain unaffected by the Bill.*¹⁹⁵

Undara Experience also raised concerns about the amendments which exclude the leases for agricultural, grazing and pastoral use. They suggested that special consideration be provided to those leasees who initiate the incorporation of best management practices (BMPs) to improve environmental outcomes on their leases.¹⁹⁶

The DNPSR acknowledged that while BMPs may result in improved land management practices, this is a voluntary measure that has not been widely adopted. The department explained that the current provisions in the Land Act are considered more appropriate as these allow the direct assessment of factors such as the condition of the lease land and the extent to which the lease land suffers from, or is at risk of, land degradation.¹⁹⁷

One submitter considered the deletion of 'rolling term leases' to be a concern as it does not take into account the large capital investments required by cattle producers in terms of infrastructure and stock.¹⁹⁸

In its advice to the committee, the department explained that those leases are not being deleted or cancelled. The department stated:

*In 2014, the Land and Other legislation Amendment Act 2014 varied the process to manage agricultural, grazing and pastoral leases. This resulted in a name change from 'term lease' to 'rolling term lease' under the Land Act 1994.*¹⁹⁹

¹⁹⁰ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

¹⁹¹ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

¹⁹² R and R Wason, and B and T Day, 2015, *Submission no.37*, p.2.

¹⁹³ R and R Wason, and B and T Day, 2015, *Submission no.37*, p.4.

¹⁹⁴ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

¹⁹⁵ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

¹⁹⁶ Undara Experience, 2015, *Submission no.39*, p.3.

¹⁹⁷ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

¹⁹⁸ Angela Freeman, 2015, *Submission no.76*, p.2.

¹⁹⁹ Department of National Parks, Sport and Racing, 2016, *Correspondence*, 27 January.

At the public hearing, EDO Qld agreed to provide additional information on grazing in national parks in other states. EDO Qld subsequently provided the committee with the following information about practices in New South Wales and Victoria:

New South Wales (NSW)

The National Parks and Wildlife Act 1974 (NSW) regulates a suite of protected areas including national parks, historic sites, State conservation areas, Regional Parks and Karst reserves. Under Part 12 of the National Parks and Wildlife Act 1974 (NSW), it is possible to enter into a commercial arrangement with the Office of Environment and Heritage (the responsible agency), for example, in the form of a lease, licence, franchise or agreement. These agreements might relate to kiosks and other recreational centres.

Grazing is permitted in a small number of national parks that were once State forests under the existing use/interest provisions in the National Parks and Wildlife Act 1974 (NSW) (s47H). For example, a grazing permit was issued under the Forestry Act 1916 for what is now South-Western Cypress Reservations and this permit has been extended to the end of 2016. This is the case with all analogous grazing permits.

Grazing is also subject to trials in a few national parks in NSW and further information on this can be found on the NSW Government [webpage](#).

Victoria

There are no leases that permit grazing in Victoria. The National Park Act 1975 (Vic) was amended in 2005 to remove the power to grant licences for grazing. There was an attempt since 2005 to permit grazing in the Alpine National Park by classifying it as a 'scientific trial', but this did not proceed following legal challenge and settlement. Further information on the legal challenge can be found at this [webpage](#), and the subsequent legislation passed to further prohibit cattle grazing in national parks can be found at this [link](#).²⁰⁰

Committee comment

The committee notes that the majority of submissions to the committee's inquiry into the Bill have supported the amendments to revert rolling term leases for agriculture and grazing in nature conservation areas to term leases. The committee also notes the submissions from graziers and others that have argued against the amendments.

Under the changes proposed in clauses 39 and 43, the future of these grazing and agricultural leases in protected areas will be considered by the department on a case-by-case basis, and consistent with the management principles for the particular class of protected area under the *Nature Conservation Act 1992*.

2.13 Clause 43 Insertion of new Chapter 9, Part 1N

Clause 43 of the Bill inserts a new Part 1N into chapter 9 of the *Land Act 1994* to provide transitional provisions for *Nature Conservation and Other Legislation Amendment Act 2015*.

The explanatory notes detail that a new section 521ZP is being inserted to provide definitions for Part 1N. The key definition is 'protected area lease' which means a rolling term lease under the unamended Act, section 164(1)(b), in which the lease land, or part of the lease land, is within a nature conservation area or a specified national park.²⁰¹

The notes also outline that a new section 521ZQ inserts a transitional provision for protected area leases. It provides that on commencement, a protected area lease stops being a rolling term lease and

²⁰⁰ EDO Qld, 2015, *Correspondence*, 14 December.

²⁰¹ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.19.

that the rolling term lease provisions in chapter 4, part 3, division 2, subdivision 3 of the Land Act do not apply to a protected area lease. The consequence is that protected area leases revert back to term leases.²⁰²

A new section 521ZR inserts a transitional provision that provides that any applications to extend a protected area lease are taken to be withdrawn if they have not been decided on commencement. This provision is required because extension applications for rolling term leases can be made any time in the last 20 years of the term of the lease which does not allow decisions to be made based on contemporary information.²⁰³

The Magnetic Island Nature Care Association (MINCA) submitted that with regard to term leases under Section 521ZQ, provision should be made for their termination if they are shown to be contrary to the object of the Act.²⁰⁴ The DNPSR considers that this would raise significant issues regard to fundamental legislative principles, and is outside the scope of the Bill.²⁰⁵

In their submission, MINCA also suggested that with regard to section 521ZR, there should be a moratorium on accepting applications to extend leases between now and the passage of the revised Act.²⁰⁶ The department explained that they do not consider this to be necessary as the provisions of the Land Act provide that an extension of the lease can only be granted with the agreement of the chief executive of the NCA.

The department advised that a moratorium would prevent applications being made for legitimate purposes until the Bill becomes law.²⁰⁷

2.14 Amendment to *Marine Parks Act 2004* – Clauses 44 and 45

Clause 44 of the Bill provides that part 6 amends the *Marine Parks Act 2004* (Marine Parks Act). The explanatory notes detail that **clause 45** amends section 36 of the Marine Parks Act to remove subsections 5(c) and (7). This section currently requires a notice about a draft amendment to a management plan to be published on the department's website. The section also outlines the matters to be included in the notice, including for example, an invitation for members of the public to make written submissions about the draft amendment. However, subsection (5)(c) provides an exemption so that these consultation requirements do not apply if the amendment is to make a change to ensure the plan is consistent with State government policy. Instead, subsection (7) requires details of the amendments and reasons for the amendments to be published on the department's website. The section is being amended to remove subsection (5)(c) and (7) so that the exemption from the consultation requirements do not apply if an amendment to a management plan is being made due to a change in State government policy.²⁰⁸

2.15 Amendment to *Recreation Areas Management Act 2006* – Clauses 46 and 47

Clause 46 of the Bill provides that part 7 amends the *Recreation Areas Management Act 2006* (RAM Act).²⁰⁹

The explanatory notes detail that **clause 47** amends section 27 of the RAM Act. This section outlines a number of exemptions that apply to preparing a draft amendment of a management plan and publishing a notice about the draft on the department's website. In effect, subsection (1)(c) currently allows amendments to be made to management plans without consultation if the amendment is being made to provide consistency with State government policy. Instead, subsection (3) simply

²⁰² Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.19.

²⁰³ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.19.

²⁰⁴ Magnetic Island Nature Care Association, *Submission no.1*, p.2.

²⁰⁵ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

²⁰⁶ Magnetic Island Nature Care Association, *Submission no.1*, p.2.

²⁰⁷ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

²⁰⁸ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.19.

²⁰⁹ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.20.

requires details of the amendments and reasons for the amendments to be published on the department's website.²¹⁰

Subsection (1)(c) is being removed so that this exemption no longer applies. As a consequence, subsection (3) becomes redundant and is also being removed.²¹¹

2.16 Minor and consequential amendments – Clause 48

Clause 48 makes minor and consequential amendments to the following Acts:

1. *Aboriginal Land Act 1991*
2. *Biodiscovery Act 2004*
3. *Environmental Protection Act 1994*
4. *Forestry Act 1959*
5. *Fossicking Act 1994*
6. *Geothermal Energy Act 2010*
7. *Greenhouse Gas Storage Act 2009*
8. *Land Act 1994*
9. *Land Protection (Pest and Stock Route Management) Act 2002*
10. *Liquor Act 1992*
11. *Mineral and Energy Resources (Common Provisions) Act 2014*
12. *Mineral Resources Act 1989*
13. *Petroleum Act 1923*
14. *Petroleum and Gas (Production and Safety) Act 2004*
15. *Vegetation Management Act 1999*.²¹²

The WPSQ submitted that the amendment to section 38(2)(k)(iv) of the *Environmental Protection Act 1994* (EPA) does not appear to cover a resources reserve where there is a trustee. They suggested that a provision be made in section 38(2)(k)(iv) for resources reserves that don't have trustees, and that a reference to national parks (Cape York Peninsula Aboriginal land) be inserted into section 579(6)(e)(iii).²¹³

In their advice on issues raised by submitters, DNPSR noted that WPSQ has raised a valid point and that the reason why regional parks (resource use area), for which there are no trustees, is not included in section 38(2)(k)(iv) of the EPA is not clear. The department advised that further consideration will need to be given to this in consultation with the Department of Environment and Heritage Protection.²¹⁴

Point for clarification 2

The committee invites the Minister to clarify the reasons why regional parks (resource use area), for which there are no trustees, is not included in section 38(2)(k)(iv), and whether clause 48 of the Bill should be amended to rectify this.

²¹⁰ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.20.

²¹¹ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.20.

²¹² Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.20.

²¹³ Wildlife Preservation Society of Queensland, 2015, *Submission no.4*, p.5.

²¹⁴ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

The WPSQ also queried why the proposed amendment of the definition of national park in Schedule 6 of the Land Act exclude a reference to national park (Aboriginal land), national park (Torres Strait Island land) and national park (Cape York Peninsula Aboriginal land).²¹⁵

In their advice to the committee, DNPSR explained that there is a separate definition of 'specified national parks' in the Land Act that includes reference to the national park (Aboriginal land), national park (Torres Strait Islander land) and national park (Cape York Peninsula Aboriginal land) classes of national park.²¹⁶

The WPSQ questioned why, in the proposed amendment to Schedule 2 (definition of protected area), no reference is made to national park (Cape York Peninsula Aboriginal land) in the amendment of the *Mineral Resources Act 1989*.²¹⁷

The department explained that the intent of the amendment was simply to reflect the change from regional park to conservation park and resources reserve. However, the department notes that WPSQ have raised a valid point and explained that historically, the *Petroleum Act 1923* did not include a reference to national park (CYPAL) in this section. The department stated that the reason for this is unclear and that further consideration will need to be given to this matter in consultation with the Department of Natural Resources and Mines.²¹⁸

The WPSQ also suggested that national park (Cape York Peninsula land) should be added to the list in the definition of protected area in regards to amendment to the *Petroleum Act 1923*.²¹⁹ The department advised that the underlying land tenure of the national park (CYPAL) is Aboriginal land and that the trustee of the Aboriginal land will be notified as the land owner (section 2, paragraph I(k)).²²⁰

In regards to the amendment of *Petroleum and Gas (Production and Safety) Act 2004*, the WPSQ queried why the proposed amendment to Schedule 2, definition of owner (paragraph 1 (q)), reference to national park (Cape York Peninsula Aboriginal land) is omitted.²²¹

The department advised:

*Historically, the Petroleum and Gas (Production and Safety) Act 2004 did not include a reference to national park (CYPAL) in this section. The reason remains unclear and further consideration will need to be given to this matter in consultation with the Department of Natural Resources and Mines.*²²²

Point for clarification 3

The committee invites the Minister to clarify for the information of the House: why the proposed amendment to Schedule 2 (definition of protected area) makes no reference to 'national park (Cape York Peninsula Aboriginal land)' in the amendment of the *Mineral Resources Act 1989*; why the reference to national park (Cape York Peninsula Aboriginal land) is omitted from the definition of owner (paragraph 1 (q)); and whether the Bill should be amended to rectify these anomalies.

²¹⁵ Wildlife Preservation Society of Queensland, 2015, *Submission no.4*, p.6.

²¹⁶ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

²¹⁷ Wildlife Preservation Society of Queensland, 2015, *Submission no.4*, p.6.

²¹⁸ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

²¹⁹ Wildlife Preservation Society of Queensland, 2015, *Submission no.4*, p.6.

²²⁰ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

²²¹ Wildlife Preservation Society of Queensland, 2015, *Submission no.4*, p.6.

²²² Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

2.17 Retention of the term 'ecotourism facility'

Over half of the submissions received by the committee expressed concerns that the Bill is not proposing to remove the term 'ecotourism facility' from section 35(1)(a) of the NCA. This definition was inserted in 2013. The WPSQ submitted:

*This provision has the capacity to allow the development of tourist resorts inside national parks, and it overrides the cardinal principle. Such development would overturn more than a century of park management on Queensland mainland parks where tourist resorts have been encouraged on private land adjacent to national parks but not inside parks.*²²³

The committee asked the WPSQ to provide examples of tourist resorts which have worked in conjunction with national parks. The WPSQ advised:

*Resorts can be symbiotic and live in harmony with the park. Binna Burra Mountain Lodge, O'Reilly's Rainforest Retreat and Carnarvon Lodge are good examples of tourist resorts that work with the park. They are on their own land. They manage their own business on their own land but they tie in. The park service runs walking tracks from those resorts and does those sorts of things. I have no problem with facilitating the capacity for those resorts to be established on the edge of the parks. But to allow them inside the park is inviting a whole lot of issues that are going to affect the protection of the wildlife and also affect how the park is managed, because the whole fire regime you have for your park then is geared to the tourist resort.*²²⁴

The EDO Qld also considered that the term 'ecotourism' should be removed and that no avenue for tourist resorts to be established within national parks is provided.²²⁵ The committee asked EDO Qld to clarify whether they had objections to low-impact ecotourism ventures. The EDO Qld stated:

*Our main submission in relation to this is that even if the current government is not proposing a tourist resort within their current policy, it is important that the Nature Conservation Act does not allow for such a facility. On the current drafting it is open to such use, so regardless of the policy of the current government we think it is extremely important to amend the legislation so that that cannot be used to create tourist resorts within national parks in the future. Following on, we are not against the use of national parks for ecotourism.*²²⁶

Cape York NRM submitted that ecotourism facilities should be located on some form of alternative tenure excised from the national park to avoid compromising the management principles of the park. Cape York NRM stated:

*Where this is not possible we believe that there should be a clear set of guidelines, a robust site specific assessment processes and the facility should be included in the Park's management plan.*²²⁷

The department advised that the matter is considered to be outside the scope of the Bill. The department also explained that the recommendation for the removal of the term 'ecotourism facility' from section 35(1)(a) of the NCA, as many submitters have raised, is inconsistent with the Government's policy that supports the establishment of environmentally responsible facilities on national parks, demonstrated through the recently released implementation framework for commercial ecotourism facilities on national parks.²²⁸

²²³ Wildlife Preservation Society of Queensland, 2015, *Submission no. 4*, p.6.

²²⁴ Ogilvie, P, 2015, *Public hearing transcript*, 2 December, p.5.

²²⁵ Environmental Defenders Office Queensland, 2015, *Submission no.61*, p.2.

²²⁶ Mahoney, C, 2015, *Public hearing transcript*, 2 December, p.2.

²²⁷ Cape York Natural Resource Management Ltd, 2015, *Submission no.77*, p.3.

²²⁸ Department of National Parks, Sport and Racing, 2015, *Correspondence*, 17 December.

3. Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* states that fundamental legislative principles are the principles relating to legislation that underlie a parliamentary democracy based on the rule of law. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of Parliament.

The committee sought advice from DNPSR in relation to a number of possible fundamental legislative principles issues. The following sections discuss the issues raised by the committee and the advice provided by the department.²²⁹

3.1 Rights and liberties of individuals

Section 4(2)(a) *Legislative Standards Act 1992*

Does the Bill have sufficient regard to the rights and liberties of individuals?

Clause 39 amends section 164 (What is a rolling term lease) of the *Land Act 1994* by omitting sections 164(1)(b)&(c) and inserting new sections (1)(b)(i), (1)(b)(ii) and (1)(b)(iii). These new sections provide that leases for agriculture, grazing and pastoral purposes within a nature conservation area or specified national park are no longer rolling term leases and are now term leases. The new clauses are set out below:

- (1)(b)(i) applies to leases on rural leasehold land which is 100ha or more in area;
- (1)(b)(ii) applies to leases on rural leasehold land which is less than 100ha in area and the Minister has approved the lease as a rolling term lease; and
- (1)(b)(iii) applies to leases on land that are not within a nature conservation area or specified national park.

Clause 43 of the Bill also provides for changes to rolling term lease provisions by inserting new Part 1N into chapter 9 of the *Land Act 1994*.

New section 521ZP provides a definition of ‘protected area lease’ whereby a rolling term lease under the unamended Act, section 164(1)(b), is one in which the leased land, or part of the leased land, is within a nature conservation area or a specified national park.

Pursuant to new section 521ZQ(a), on commencement, a protected area lease stops being a rolling term lease and the rolling term lease provisions in chapter 4, part 3, division 2, sub-division 3 of the *Land Act* do not apply to a protected area lease. This will result in protected area leases reverting back from rolling term leases to term leases. New section 521ZR provides that any applications to extend a protected area lease are taken to be withdrawn if they have not been decided on commencement.

Rolling term leases

Currently, section 164 of the *Land Act 1994* provides that a rolling term lease applies in circumstances where:

- it is a lease for tourism purposes for land on a declared island in the state leasehold land portfolio;
- it is a lease for agricultural, grazing or pastoral purposes, including leases on state forests, protected areas and timber reserves.

Section 164C(5)(a) provides that a landholder may apply to extend a rolling term lease at any time during the last 20 years of the term of the lease, unless there are special circumstances.

²²⁹ Department of National Parks, Sport and Racing, 2016, *Correspondence*, 6 January.

Term leases

Section 155(1) provides that a term lease must not be issued for more than 50 years however pursuant to section 155(2)(a)-(c) a term lease may be issued for up to 100 years if it is for a:

- a significant development or the operation and maintenance of a significant development;
- a timber plantation; or
- a development that involves existing improvements that in the opinion of the Minister have required a high level of investment.

Section 155AA(f) provides that a landholder can apply to renew their lease once 80 per cent of the term of the lease has elapsed.

1. Potential FLP issues

In reverting from a rolling term lease to a term lease by way of clauses 39 and 43 there is the potential to adversely affect the rights and liberties of individuals pursuant to section 4(1) of the *Legislative Standards Act 1992* (the LSA). In particular it may affect leaseholders of agricultural, grazing and pastoral land within a nature conservation area or a specified national park.

The explanatory notes acknowledge the potential impact of the proposed amendments in relation to the renewal of a lease:

For a lease holder that would like to continue with a lease (rather than allowing it to expire at the end of its term), the lease holder will need to make an application for the renewal of the term lease. They will only be able to do this after 80% of the existing term has expired, rather than any time in the last 20 years of the term of the lease as is currently the case for rolling term leases; and

A broader range of matters must be considered by the chief executive in deciding whether to grant or refuse the renewal of a term lease when compared to the extension of a rolling term lease. One consideration is whether the land is needed for environmental or nature conservation purposes. A decision to refuse the renewal of a term lease is not appealable unless the decision was based on the applicant not fulfilling the conditions of the lease.²³⁰

The committee notes that consultation has taken place in relation to the Bill's amendments as discussed in the explanatory notes (pages 8 & 9). However, it was unclear whether the department undertook any consultation with respect to the proposed amendments with current rolling term leaseholders other than through groups such as Agforce.

The committee asked the department to advise whether consultation was undertaken with current rolling term leaseholders (other than Agforce) and the feedback received from those stakeholders.

The department advised that no specific consultation was undertaken with individual rolling term lease holders about the amendments contained in the Bill. The department stated:

The amendments in the Bill do not adversely affect lease holders' rights in relation to any aspect of the lease. The amendments will automatically transition rolling term leases under the Land Act 1994 for agricultural, grazing or pastoral purposes within nature conservation areas and specified national parks back to term leases. However, the amendments will not impact the remaining term of the lease, the conditions of the lease and any uses authorised under the lease.

Under current provisions, an application can be made to extend a rolling term lease and the chief executive can make a decision about whether to renew the lease or not. Under the changes proposed in the Bill, an application can be made to renew a term

²³⁰ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.8.

*lease and the chief executive may still make a decision about whether to renew the term lease or not. Under both processes the chief executive's decision is informed by whether the use under the lease is consistent with the management principles of the class of protected area in which the lease is located.*²³¹

The committee asked the department to clarify its processes for liaising with graziers whose leases are due to expire. The department advised that they will negotiate with the respective grazier to identify the issues and negotiate accordingly:

They (graziers) can ask for a stock-mustering permit to give them additional time to remove cattle and infrastructure. There are cases of that already, where the cattle may have gone but we have issued a permit for them to remove their infrastructure because it is obviously important for them to be able to do that.

*It is certainly not a case of 'The lease expires in 30 days. Get out.' We will negotiate and be appropriate and recognise that, in many cases, these arrangements have been in place for a long period of time and they need a transition period.*²³²

The committee received a submission and heard evidence from an affected lease holder, Mr Peter Mayne, whose family runs cattle during winter in parts of the Carnarvon National Park adjacent to their property 'Goathlands'. Mr Mayne explained in his submission that the changes in the Bill would impact on the viability of his organic beef operation.²³³

Committee comment

The committee is concerned that there is considerable confusion amongst holders of legacy agricultural and grazing leases on national park, regional park and forest reserve land that had been deemed rolling term leases under changes to the Land Act in 2014. The committee notes that this confusion may have led leaseholders to believe that under the current Act, they hold a lease of a similar nature to other state land deemed to be rolling leases under the Land Act when there is clearly no statutory intent for automatic extension to occur for these lands.

If for no other reason than to avoid future confusion, these leaseholders should have been informed of the proposed amendments in the Bill and provided the opportunity to contribute their comments on changes. While the terms and conditions of current leases will not be affected by the proposed amendments, the rights of leaseholders and the processes that will apply for seeking lease extensions are altered.

Point for clarification 4

The committee invites the Minister to request his department to consult with affected holders of rolling term leases on the proposed changes in clauses 39 and 43 and to advise the House on this process. It should be noted that agricultural, grazing or pastoral leases will continue to be assessed on a case by case basis and that this will not change.

²³¹ Department of National Parks, Sport and Racing, 2016, *Correspondence*, 6 January.

²³² Klaassen, B, 2015, *Departmental briefing transcript*, 11 November, p.7.

²³³ Mayne, P., 2015, *Submission No. 18*, p.2.

3.2 Administrative power

Section 4(3)(a) *Legislative Standards Act 1992*

Are rights, obligations and liberties of individuals dependent on administrative power only if the power is sufficiently defined and subject to appropriate review?

The amendments provided for by **Clauses 39** and **43**, in reverting from rolling term leases to term leases, will also see the appeal rights of lease holders diminished.

The Minister stated in his introductory speech:

*A decision by the chief executive to refuse an application for extension is appealable, which could undermine the ability of park managers to manage national parks in line with the cardinal principle.*²³⁴

The explanatory notes confirm that the decision by the chief executive not to renew a term lease will not be appealable:

It is intended that all existing rolling term leases within these protected areas for agriculture, grazing or pastoral purposes will revert back to term leases and that no new rolling term leases will be created over these areas for these purposes.

As was previously the case before rolling term leases were introduced, a decision not to renew a lease for the above reasons will not be an appealable decision. This will enable incompatible leases to be phased out upon expiry, and enable the government to allow these lands to be protected for the purpose they were intended.

*The intent is not to impact on any other existing rights under the lease (e.g. the term, conditions, authorised use) by virtue of reverting the rolling term lease to a term lease.*²³⁵

At present, section 164C(7) of the *Land Act 1994* provides that if the Minister refuses to extend a rolling term lease for which an extension application is made, the lessee may appeal against the Minister's decision.

However, in relation to term leases, section 160(3) provides that an applicant can appeal against the chief executive's decision to refuse the renewal application only where the reason for the refusal was that the applicant had not fulfilled the conditions of the lease.

2. Potential FLP issues

At present, rolling term leaseholders have the ability to appeal a decision by the Minister not to extend a lease. This option will be removed pursuant to the proposed amendments as rolling term lease holders will be required to revert to a term lease and there is no capacity to appeal a decision not to renew a term lease. The reduced appeal rights for current rolling term lease holders is potentially a breach of section 4(3)(a) of the *Legislative Standards Act 1992* which provides that an administrative power should be subject to appropriate review.

Legislation should make rights and liberties, or obligations, dependent on administrative power only if subject to appropriate review. The OQPC Notebook states, "*Depending on the seriousness of a decision and its consequences, it is generally inappropriate to provide for administrative decision-making in legislation without providing for a review process. If individual rights and liberties are in jeopardy, a merits-based review is the most appropriate type of review*".²³⁶

²³⁴ Miles, S, MP, Minister for Environment and Heritage Protection and Minister for National Parks and the Great Barrier Reef, 2015, Hansard 27 October 2015, p.2374.

²³⁵ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.5.

²³⁶ Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: *The OQPC Notebook*, p.18.

The former Scrutiny of Legislation Committee (SLC) was also opposed to clauses removing the right of review, and took particular care to ensure the principle that there should be a review or appeal against the exercise of administrative power. Where ordinary rights of review were removed, thereby preventing individuals from having access to the courts or a comparable tribunal, the SLC took particular care in assessing whether sufficient regard had been afforded to individual rights, noting that such a removal of rights may be justified by the overriding significance of the objectives of the legislation.²³⁷

The explanatory notes provide the following justification for the change to appeal rights:

*The term lease provisions will also remove the misconception that some lease holders may have that these leases are perpetual. Appeals will not be available in relation to a decision to refuse the renewal of a term lease unless the decision was based on the applicant not fulfilling the conditions of the lease. Returning to this framework is more appropriate for leases for agriculture, grazing and pastoral purposes within nature conservation areas and specified national parks due to the need to manage their natural values properly.*²³⁸

The committee sought from the department clarification as to how many leaseholders are potentially affected by the inability to appeal a renewal decision of a term lease and whether they have been advised and consulted with in relation to this proposed change to the appeal process.

The department advised that as at 1 January 2016, there are 78 rolling term leases for agriculture, grazing or pastoral purposes within nature conservation areas and prescribed national parks that are potentially affected by the amendments. The department stated:

However, the department is not aware of any current applications for extensions of these leases. As such, there are no lease holders in circumstances where a decision on an application is pending or where a decision has been made to refuse an application which is eligible for appeal.

*As there are no immediate impacts on any lease holders, no specific consultation was undertaken with individual rolling term lease holders about the changes to the appeal provisions.*²³⁹

The department also explained that, based on their current experience, it is anticipated that the majority of the remaining 78 rolling term leases will simply expire without the lease holder applying for the renewal of their lease.²⁴⁰

²³⁷ Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: *The OQPC Notebook*, p.19.

²³⁸ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.8.

²³⁹ Department of National Parks, Sport and Racing, 2016, *Correspondence*, 6 January.

²⁴⁰ Department of National Parks, Sport and Racing, 2016, *Correspondence*, 6 January.

Committee comment

The committee is concerned that agricultural and grazing lease holders on land in National Parks may have considered the status of their leases to be the same as rolling term leases not under the authority of the current Act, when in fact extensions to these leases were to be considered on a case by case basis. The changes in the Bill create some limits to appeal rights where decisions were not made on the lease holder failing to fulfil the conditions of the lease, adversely affected leaseholders will continue to have the right to request a statement of reasons explaining the decision or apply to the Supreme Court for a review of a decision.

Under the current Act, leaseholders can apply for an extension any time during the last 20 years of their lease, while under the Bill they will be limited to a time after which 80 per cent of their existing lease has expired. There is no automatic right of extension of leases under either the current Act or proposed Bill and the right to seek an extension of a lease is retained. Applications will continue to be assessed on a case by case basis.

Recommendation 7

The committee recommends that the Minister consider the rights of agricultural and grazing lease holders in regards to their rights of appeal over lease renewal decisions, and consider if this administrative power is still subject to appropriate review.

3.3 Aboriginal tradition and Island custom**Section 4(3)(j) *Legislative Standards Act 1992*****Does the Bill have sufficient regard to Aboriginal tradition and Island custom?**

Clause 4 amends section 4 of the *Nature Conservation Act 1992* (the NCA) to make the ‘conservation of nature’ the sole object of the NCA.

At present, section 4(a)-(c) provides that the object of the Act *is the conservation of nature while allowing for the following:*

- *the involvement of indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom;*
- *the use and enjoyment of protected areas by the community;*
- *the social, cultural and commercial use of protected areas in a way consistent with the natural and cultural and other values of the areas.*

3. Potential FLP issues

Clause 4 specifically removes section 4(a) as an object of the NCA and thereby potentially limits the involvement of indigenous persons in the management of protected areas in circumstances where they have an interest under Aboriginal tradition or Island custom.

The amendment is potentially a breach of section 4(3)(j) of the *Legislative Standards Act 1992* which provides that legislation should have sufficient regard to Aboriginal tradition and Island custom.²⁴¹ The former Scrutiny of Legislation Committee considered that this FLP encompassed two considerations – (i) legislation should be drafted to recognise Aboriginal and Islander customary law and to avoid unintended legislative impacts on traditional practices; and (ii) ‘limited concession’ to Aboriginal traditional and Island custom was based on ‘a recognition of the unique status of Aborigines and Torres Strait Islanders as Australia’s indigenous peoples.’²⁴²

²⁴¹ *Legislative Standards Act 1992*, section 4(3)(j).

²⁴² Office of the Queensland Parliamentary Counsel, *Fundamental Legislative Principles: The OQPC Notebook*, p.79.

The committee asked the department to provide further information as to the practical effect of removing section 4(a) as an object of the NCA in relation to the involvement of indigenous persons in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom.

The department advised that there will be no practical effects of removing section 4(a) from the object of the Act. The department explained that joint management arrangements between the department and indigenous persons are generally outlined through Indigenous Land Use Agreements (ILUAs) or Indigenous Management Agreements (IMAs).²⁴³ The department stated:

The IMA provides the legal framework for joint management of each national park (CYPAL) by the Queensland Parks and Wildlife Service (QPWS) and the Aboriginal landholders and remains unaffected by the amendments in the Bill. The IMA sets out how QPWS and the Aboriginal landholders consult each other, make decisions jointly and work together to manage the park and provide for public use of the park.

*The NCA also provides that if a management plan is prepared for a national park (Cape York Peninsula Aboriginal land) or an indigenous joint management area, that the plan must be prepared and implemented jointly by the indigenous landholder and the chief executive. These provisions remain unaffected by the Bill.*²⁴⁴

The committee also asked the department to advise on the practical options for the involvement of indigenous persons (with respect to protected areas in which they have an interest under Aboriginal tradition or Island custom) should the Bill be passed and section 4(a) removed.

The department explained that there are a range of practical options for the involvement of indigenous persons with respect to protected areas in which they have an interest under Aboriginal tradition or Island custom. The department advised that they currently have a range of programs in place with the joint managers of national park (Cape York Peninsula Aboriginal land) and these will continue unaffected by the amendments in the Bill. The department provided an example of one of these programs as follows:

Rinyirru (Lakefield) Aboriginal Corporation/Land Trust for work on Rinyirru (Lakefield) National Park (CYPAL)

Rinyirru (Lakefield) national park (CYPAL) was handed back into Aboriginal ownership in 2011, through the Rinyirru (Lakefield) Land Trust. There are eight traditional partners represented on the park's joint management team: the Lama Lama people, Kuku Thaypan people, Bagaarmugu clan, Mbarimakarranma clan, Muunydyiwarra clan, Magarrmagarrwarra clan, Balnggarrwarra clan, and Gunduurwarra clan.

Since the park was handed back in 2011 the relationship between QPWS and the Rinyirru (Lakefield) Aboriginal Corporation (the Corporation) has been increasingly positive, as a result of the productive relationship which has formed between QPWS (through the Ranger in Charge) and the Corporation. 'Indigenous Service Agreement' (ISA) funding provided from the State and revenue funds (which is funding received from royalties from the removal of gravel extraction and camping permit revenue) provides annual funding which allows for the employment of four local indigenous rangers. In addition to this, federal government funding also provides for four more indigenous 'Land and Sea Rangers,' resulting in an additional eight indigenous rangers who work in partnership with QPWS rangers.

Over the last five years this program has trained over 40 indigenous rangers, some of whom have gained full time employment with QPWS on Rinyirru (Lakefield) national park (CYPAL), and elsewhere. The rangers have been trained in four wheel driving,

²⁴³ Department of National Parks, Sport and Racing, 2016, *Correspondence*, 6 January, p.6.

²⁴⁴ Department of National Parks, Sport and Racing, 2016, *Correspondence*, 6 January.

chainsaw use, fire level 1, chemical handling and fencing. Corporation rangers have worked with QPWS rangers to complete almost 300km of boundary fencing. The skills of the Corporation rangers are now considered to be of such a high standard that they have been contracted to complete other fencing works on national parks outside of the northern region.

The Corporation is now looking at extending its works with the potential of setting up viable tourism ventures which will enable it to become self-sufficient in funding and continue to employ and support indigenous employment and subsequent career development.²⁴⁵

Earlier in the report the committee recommended that the sections that clause 4 propose to remove from section 4(a) of the NCA be incorporated into section 5 of the Act.

Committee comment

The committee is satisfied that the proposed amendments at clause 4 to remove section 4(a) from the *Nature Conservation Act 1992* will have no practical effects on the involvement of Aboriginal and Torres Strait Islander groups in the management of conservation areas of the State.

3.4 Scrutiny of the Legislative Assembly

Section 4(4)(b) *Legislative Standards Act 1992*

Does the Bill sufficiently subject the exercise of a proposed delegated legislative power (instrument) to the scrutiny of the Legislative Assembly?

Clause 35 inserts new section 174(1) which provides that a prescribed protected area in the Cape York Peninsula Region is transferable land. Pursuant to section 174(2) a prescribed protected area is set out at new sections 173(4)(a)&(b) pursuant to clause 34, and includes:

- a national park;
- a regional park under the *Nature Conservation Act 1992* prescribed by regulation.

The explanatory notes provide further background on the new section:

*The amendment to section 174 is being made to provide that in addition to national parks which are already transferable, regional parks (as defined under the *Nature Conservation Act 1992*) in the Cape York Peninsula Region can also be declared by regulation to be transferable land. This will prevent the need to revoke the protected area status prior to converting the protected area to jointly managed national park (Cape York Peninsula Aboriginal land).²⁴⁶*

4. Potential FLP issues

Appropriate delegation of legislation

The committee notes that clause 35 will allow for regional parks to be declared transferable land by regulation and not by the provisions of the Bill itself. This is potentially a breach of section 4(4)(b) of the *Legislative Standards Act 1992* which provides that a Bill should sufficiently subject the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly. Further, section 4(5)(c) of the *Legislative Standards Act 1992* provides that subordinate legislation should contain only matters appropriate to that level of legislation.

²⁴⁵ Department of National Parks, Sport and Racing, 2016, *Correspondence*, 6 January.

²⁴⁶ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.18.

The OQPC Notebook states “For Parliament to confer on someone other than Parliament the power to legislate as the delegate of Parliament, without a mechanism being in place to monitor the use of the power, raises obvious issues about the safe and satisfactory nature of the delegation”.²⁴⁷ The matter involves consideration of whether the delegate may only make rules that are subordinate legislation, and thus subject to disallowance.

The explanatory notes address the issue and provide the following justification for the clause:

*The (amendment) is justified on the basis that the process of converting protected areas on Cape York Peninsula to jointly managed national park (CYPAL) involves a long period of consultation and negotiation with key stakeholder groups on Cape York Peninsula including the conservation sector, Aboriginal traditional owners and native title holders. To achieve comprehensive consultation with all relevant parties, the Cape York Peninsula tenure resolution program works through formalised contractual arrangements with the Balkanu Cape York Development Corporation and Cape York Land Council Aboriginal Corporation to engage and negotiate with Aboriginal traditional owners. Once agreement with all the relevant parties is reached in relation to the conversion of these properties to national park (CYPAL), there is a long period of public notification regarding the conversion, which provides for any objections to be received and considered by the Minister responsible for the administration of the Aboriginal Land Act, prior to making the decision to convert the properties. Agreements reached between the parties about the management of the national park (CYPAL) are reflected in an Indigenous Land Use Agreement and Indigenous Management Agreements between the State and the native title parties and the Aboriginal traditional owners.*²⁴⁸

The committee notes that significant consultation has occurred with key stakeholder groups on the Cape York Peninsula including the conservation sector, Aboriginal traditional owners and native title holders. This has led to land and management agreements between the State, native title parties and the traditional land owners.

Committee comment

In light of the consultation and the agreements reached, and given subordinate legislation may be disallowed by the Legislative Assembly, the committee considers that clause 35 has sufficient regard to the institution of Parliament.

²⁴⁷ Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: *The OQPC Notebook*, p.154.

²⁴⁸ Nature Conservation and Other Legislation Bill 2015, Explanatory Notes, p.7.

Appendix A: List of submitters

1. Magnetic Island Nature Care Association
2. Joan Burton-Jones
3. Brian Peter Vernon
4. Wildlife Preservation Society of Queensland
5. Peter Storer
6. Wildlife Preservation Society of Qld (Brisbane Branch)
7. Tamborine Mountain Natural History Association Inc.
8. Don Secomb
9. Olkola Aboriginal Corporation
10. Michael Downes
11. Ray and Angela Lane
12. Wildlife Preservation Society of Qld Sunshine Coast & Hinterland
13. Jacquie Sheils
14. Wildlife Queensland Cassowary Coast – Hinchinbrook Branch
15. Elmer Ten-Haken
16. Magnetic Island Community Development Association
17. Alliance to Save Hinchinbrook Inc.
18. Peter Mayne
19. Gap Creek Trails Alliance
20. Lachlan Millar MP, Member for Gregory
21. Bat Conservation and Rescue Qld Inc
22. Queensland Conference and Camping Centres
23. Ruth Hamdorf
24. Alison Warner
25. Wildlife Qld Fraser Coast
26. Mackay Conservation Group
27. Wide Bay Burnett Environment Council
28. Dale Watson
29. Queensland Outdoor Recreation Federation Inc
30. Conondale Range Conservation Association

31. National Board of Christian Venues Association
32. Nadia O'Carroll
33. Kerry O'Carroll
34. Birdlife Capricornia
35. Tamborine Mountain Progress Association
36. Centenary and District Environment Action
37. Russell & Rhonda Wason and Ben & Teresa Day
38. Australian Climbing Association (Qld) Inc.
39. Undarra Experience
40. Protect the Bush Alliance
41. Wildlife Preservation Society of Qld (Townsville)
42. J. D and L. E Markwell
43. Carole Green
44. Richard William Green
45. Jill Thorsborne
46. Friends of the Deception Bay Conservation Park Inc.
47. Cedar Hill Flowers and Foliage
48. Colleen Bertschinger
49. Liz Gould
50. Gecko – Gold Coast and Hinterland Environment Council Assn Inc.
51. Bushwalking Queensland Inc.
52. Queensland Beekeepers' Association Inc.
53. Wildlife Preservation Society Queensland (Bayside Branch)
54. Pam and Peter Smith
55. Fraser Island Defenders Organisation
56. Birds Queensland (Queensland Ornithological Society Inc.)
57. Manduka Community Settlement Cooperative
58. Australian Conservation Foundation
59. Jan Aldenhoven
60. Glen Carruthers
61. Environmental Defenders Office Qld

- 62. Carol Muller
- 63. Wet Tropics Management Authority
- 64. AgForce Queensland Industrial Union of Employers
- 65. Johanna Bridle
- 66. National Parks Association Queensland
- 67. Rinyirru (Lakefield) Aboriginal Corporation
- 68. Sue Laird
- 69. Wildlife Queensland
- 70. Rural Services of Coast and Country
- 71. Environmental Defenders Office of Northern Queensland
- 72. Peter M Heise-Pavlov and Sigrid Heise-Pavlov
- 73. Catharina van Vuuren
- 74. Donald I Marshall
- 75. Jabalbina Yalanji Aboriginal Corporation
- 76. Angela Freeman
- 77. Cape York Natural Resource Management Ltd

Appendix B: Departmental briefing officers

Public briefing 11 November 2015

Mr Justine Carpenter, Manager Resource Sector Regulation, Department of Environment and Heritage Protection

Mr Alan Feely, Deputy Director-General, Economic Participation, Department of Aboriginal and Torres Strait Islander Partnerships

Mr Ben Klaassen, Deputy Director-General, Queensland Parks and Wildlife Service, Department of National Parks, Sport and Racing

Mr David Trstenjak, Principal Policy Officer, Queensland Parks and Wildlife Service, Department of National Parks, Sport and Racing

Appendix C: Public hearing witnesses

Public hearing 2 December 2015 (listed in order of appearance)

Ms Cara Mahoney, Solicitor, Environmental Defenders Office

Mr Peter Ogilvie, President, Wildlife Preservation Society of Queensland

Ms Sheena Gillman, Project Coordinator, Protect the Bush Alliance

Mr Dom Courtney, Executive Officer, Queensland Outdoor Recreation Federation

Mr Andrew Grant, Director, Queensland Conference and Camping Centres

Ms Michelle Prior, President, National Parks Association of Queensland

Mr Phil Duffey, Olkola Aboriginal Corporation (via phone)

Mrs Teresa Day and Mr Ben Day, Mudloo Pastoral (via phone)

Mr Andrew Picone, Northern Australia Program Officer, Australian Conservation Foundation (via phone)

Mr Lachlan Millar MP, Member for Gregory

Mr Peter Mayne, Goathlands (via phone)

Appendix D: Summary of submissions and departmental responses

Cl.	Submissions	Issues	Department Response
<i>Amendments to the Nature Conservation Act 1992</i>			
4	9. Olkola Aboriginal Corporation. 67. Rinyirru (Lakefield) Aboriginal Corporation. 58. Australian Conservation Foundation.	Three submissions oppose the removal of 4(a) from the object of the <i>Nature Conservation Act 1992</i> (NCA) and request the retention of 'the involvement of indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom'.	Reinstating the conservation of nature as the sole object of the NCA is a policy decision of the government. While acknowledging the concerns raised by submitters, the Department of National Parks, Sport and Racing (NPSR) believes that the intent behind 4(a) is accommodated elsewhere in the legislation and that removing 4(a) from the object of the Act will not impact on any joint management arrangements the department has in place with indigenous people or the operation of the other provisions of the Act. Further details about where this is accommodated in the Act can be found in the transcript of the department's public briefing to the Committee on 27 October 2015.
4	22. Queensland Conference and Camping Centres.	Has concerns about reinstating the conservation of nature as the sole object of the NCA. Concerned that the removal of 4(b) – 'the use and enjoyment of protected areas by the community' - might erode access to educational providers and frustrate future applications for access. Suggests that the object of the Act should read: "The conservation of nature, with access for educational purposes seen as integral to the process of conservation, is the sole object of the NCA. The preservation of the national parks and access to them by future generations through educational expeditions will take precedence over other objectives".	Reinstating the conservation of nature as the sole object of the NCA is a policy decision of the government. Similar to the previous response, NPSR believes that the intent behind 4(b) is accommodated elsewhere in the legislation. For example, the management principles for a national park in section 17(1)(d) of the Act provide that a national park is to be managed to provide opportunities for educational and recreational activities in a way consistent with the area's natural and cultural resources and values. The Bill does not propose any changes with regard to section 17(1)(d) or impact on any application or decision making processes involving access to protected areas by educational providers.
4	39. Undara Experience.	While strongly supporting the conservation of nature as the sole objective, this submitter believes that fundamental changes need to be made to the way we perceive and engage with the natural landscape first. Matters raised include:	Reinstating the conservation of nature as the sole object of the NCA is a policy decision of the government. For the benefit of the Committee, NPSR would like to advise that the matters raised in the submission have already been implemented to

Cl.	Submissions	Issues	Department Response
		<ul style="list-style-type: none"> - That the visitor management to areas of environmental significance within national parks should be the responsibility of the locally based, accredited tourism operators. - The need to implement a user-pays system for access to national parks. - That the generation of revenue from and for national parks could be best achieved in partnership with accredited local tourism operators. 	<p>some extent. For example, the Queensland Eco and Sustainable Tourism (QuEST) policy aims to improve access and provide new opportunities for guided tours in certain national parks for eco-certified operators.</p> <p>QuEST is being implemented in stages at the following locations:</p> <ul style="list-style-type: none"> • Fraser Island Recreation Area • Moreton Island Recreation Area • Daintree National Park • Coolooloa Recreation Area <p>User pays principles are partially applied through the application of fees for each individual on the tour and one of the benefits is that eco-certified operators become eligible for a longer term authority of up to 15 years. Further information about QuEST can be found on the department's website if required.</p> <p>NPSR does not believe that reinstating the conservation of nature as the sole object of the Act would impact on any current arrangements under the QuEST policy or prevent the government from further implementing these matters.</p>
4	46. Friends of Deception Bay Conservation Park. 51. Bushwalking Queensland Inc.	These two submissions raised concerns regarding the removal of 4(b) - "the use and enjoyment of protected areas by the community" - from the object of the Act. However, the submitters would be satisfied if this concept is included in the definition of "conservation", especially in "ecological sustainable use", or mentioned elsewhere in the Act.	<p>Reinstating the conservation of nature as the sole object of the NCA is a policy decision of the government.</p> <p>As mentioned in the response to a similar concern raised by submission number 22 above, NPSR believes that the intent behind 4(b) is accommodated elsewhere in the legislation and that this won't change as a result the amendments in the Bill.</p>
4	47. Cedar Hill Flowers and Foliage.	Opposes the reinstatement of the conservation of nature as the sole object of the Act. This submitter believes that reverting back to the conservation of nature as the sole objective of the NCA will negatively impact industries that depend on long term access to some of Queensland's protected areas.	<p>Reinstating the conservation of nature as the sole object of the NCA is a policy decision of the government.</p> <p>NPSR does not believe that this particular amendment in the Bill will have an adverse impact on current operators because commercial interests are supported by other provisions in the Act that provide for the granting of leases, agreements, licences, permits and other</p>

Cl.	Submissions	Issues	Department Response
			<p>authorities. These provisions will continue in and remain unchanged by the Bill.</p> <p>While other provisions in the Bill will amend the <i>Land Act 1994</i> to revert certain rolling term leases back to term leases, these are unrelated to other types of authorities, including those held by this submitter, which will remain unaffected by the amendments in the Bill.</p>
4, 5	63. Wet Tropics Management Authority.	<p>The submitter generally supports the amendments but is of the view that section 5 does not provide for the same level of recognition of indigenous interests as currently provided in section 4(a).</p> <p>The submitter recommends that section 5 be amended to read as follows:</p> <p>The conservation of nature is to be achieved by:</p> <p>(1) allowing for the involvement of indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or island custom; and</p> <p>(2) an integrated and comprehensive conservation strategy for the whole of the State that involves, among other things, the following –“</p>	<p>Reinstating the conservation of nature as the sole object of the NCA is a policy decision of the government.</p> <p>NPSR believes that the intent behind 4(a) is accommodated elsewhere in the legislation, however, has no concerns with giving further consideration to incorporating the wording that is being removed from 4(a) into section 5 if this change is recommended by the Committee and supported by the government.</p>
4,5	66. National Parks Association Queensland.	<p>Supports the amendments to the object of the Act in clause 4, but suggests that other sections of the Act do not appear to replace the full intention of section 4(a) and therefore recommends that section 5(f) of the Act be broadened to include the text that is being removed from section 4, i.e. “the involvement of indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom”.</p>	<p>Reinstating the conservation of nature as the sole object of the NCA is a policy decision of the government.</p> <p>Similar to the previous response, NPSR believes that the intent behind 4(a) is accommodated elsewhere in the legislation, however, has no concerns with giving further consideration to incorporating the wording that is being removed from 4(a) into section 5 if this change is recommended by the Committee and supported by the government.</p>
4, 5	71. Environmental Defenders Office of Northern Queensland Inc.	<p>Generally supports the intention to refocus the Act on the conservation of nature and has no objection to subsections (b) and (c) being removed. However, has</p>	<p>Reinstating the conservation of nature as the sole object of the NCA is a policy decision of the government.</p>

Cl.	Submissions	Issues	Department Response
		<p>a concern about removing the reference to the role of indigenous peoples in 4(a). Has suggested two options for reinforcing the indigenous role in managing national parks – as follows:</p> <p>Section 4 - Object of Act The object of this Act is the conservation of nature and indigenous cultural heritage within protected areas in accordance with traditional indigenous cultural and land management practices for the protected area:</p> <p>(a) as defined by the Traditional Owners or Native Title holders for a protected area wherever possible, otherwise</p> <p>(b) in accordance with Aboriginal tradition and aspirations or Island custom and aspirations.</p> <p>OR:</p> <p>Section 5 - How object is to be achieved The conservation of nature is to be achieved by an integrated and comprehensive conservation strategy for the whole of the State that involves, among other things, the following—</p> <p>(f) adoption of traditional indigenous cultural and land management practices, as defined by the Traditional Owners or Native Title holders for a protected area in accordance with Aboriginal tradition and aspirations or Island custom and aspirations.</p>	<p>Similar to the previous response, NPSR believes that the intent behind 4(a) is accommodated elsewhere in the legislation, however, has no concerns with giving further consideration to incorporating the wording that is being removed from 4(a) into section 5 if this change is recommended by the Committee and supported by the government.</p>
6	<p>2. Joan Burton-Jones 3. Brian Peter Vernon 4. Wildlife Preservation Society of Qld 5. Peter Storer 6. Wildlife Preservation Society of Queensland-Brisbane 7. Tamborine Mtn Nat Hist Assn Inc 8. Don Secomb</p>	<p>All suggest reinstating the Wilderness Area, World Heritage Management Area, International Agreement Area, and Coordinated Conservation Area classes of protected area.</p> <p>Some submissions also indicate that the national park (recovery) class of protected area should either be reinstated, or the areas that were previously part of that class should be redesigned as conservation parks.</p>	<p>Reinstating the former national park (scientific), conservation park and resources reserve classes of protected area is a policy decision of the government. This does not include reinstating the other classes of protected areas raised in the submissions.</p> <p>For the benefit of the Committee, the former wilderness area, World Heritage management area and international agreement area classes of protected area were never utilised and no lands were ever dedicated as these classes of protected area.</p>

Cl.	Submissions	Issues	Department Response
	11. Ray and Angela Lane 12. Wildlife Pres Soc of Qld 13. Jacquie Sheils 14. Wildlife Qld Cassowary Coast-Hinchinbrook 15. Elmer Ten-Haken 16. Magnetic Is Com Dev Assoc 17. Alliance to save Hinchinbrook Inc 21. Bat Conserv and Rescue Qld Inc 24. Alison Warner 25. Wildlife Qld Fraser Coast 27. Wide Bay Burnett Environment Council 30. Conondale Range Conserv Assn Inc 32. Nadia O'Carroll 33. Kerry O'Carroll 36. Centenary and District Env't Action 40. Protect the Bush Alliance 41. Wildlife Preserv Soc Qld-Tsv 42. JD and LE Markwell 43. Carole Green 44. Richard Green 45. Jill Thorsborne 48. Colleen Bertschinger 49. Liz Gould 50. Gecko-Gold Cst and Hinterland Env Council Assoc 53. Wildlife Preservation Branch Queensland Bayside Branch 54. Pam and Peter Smith 55. Fraser Is Defenders Org		<p>In relation to the coordinated conservation area class of protected area – this class was grandfathered at the same time the above classes were abolished so that no new coordinated conservation areas could be dedicated. This class was rarely used and only two coordinated conservation areas had been dedicated. These continue to exist and are still managed under the Act.</p> <p>NPSR has no current plans to dedicate any areas that would necessitate the need for further government consideration about the need to reinstate the ability to dedicate any of these areas. The amendments in the Bill do not preclude the government from considering the reinstatement of these if the need arises in future.</p>

Cl.	Submissions	Issues	Department Response
	56. Birds Qld (Qld Ornithl Soc Inc) 59. Jan Aldenhoven 62. Carol Muller 65. Johanna Bridle 66. Nat Prks Assn Qld 68. Sue Laird 69. Wildlife Qld 73. Catharina van Vuuren		
6	61. Environmental Defenders Office Queensland 71. Environ Defenders Office of Nthn Qld 74. Donald I Marshall	Recommends the alignment of all classes of protected areas to the International Union for the Conservation of Nature (IUCN) categories of protected area.	<p>Reinstating the former national park (scientific), conservation park and resources reserve classes of protected area is a policy decision of the government.</p> <p>The amendments in clause 6 will provide for improved alignment with certain IUCN categories; however, the recommendations to align all classes of protected areas to the IUCN categories and the resulting amendments would go beyond the objectives of the current Bill.</p> <p>For the government to consider the option of strictly applying the IUCN categories, particularly if they were to be applied retrospectively, a range of policy matters would need to be analysed and evaluated. For example, the reclassification of all protected areas to strictly conform to the objectives for the IUCN categories would have the potential to breach fundamental legislative principles if an activity that is currently allowed in an area is reclassified and becomes incompatible with the objectives of the new IUCN category.</p>
6	39. Undara Experience	Considers that the former national park associated management principles did not deliver world's best practice outcomes so going back is a step in the wrong direction. Suggests that access to sites of greatest conservation value should not be open slather to the public, instead accessed only by operators with the highest accreditation.	<p>Reinstating the former national park (scientific) and associated management principles is a policy decision of the government.</p> <p>National parks (scientific) are areas that contain highly significant natural values and where general public access is strictly limited. The management principles are designed to protect the area's exceptional scientific values by allowing the processes of nature to continue unaffected from interference. Allowing general public access and access by accredited tour operators is not compatible with the protection required for wildlife in these areas.</p>

Cl.	Submissions	Issues	Department Response
7	70. Rural Services of Coast and Country	<p>Considers that the following additional requirements should be included within s16 - Management Principles of National Parks (scientific) – to ensure the 'threatening processes' external to the area are managed:</p> <p>4) If threatened wildlife and flora is a significant natural value for the area, management of the surrounding region of the area may include – (a) manipulation of the threatening thing; and (b) the control of threatening processes relating to the wildlife and flora, including threatening processes caused by development, and pests.</p>	<p>Reinstating the former national park (scientific) and associated management principles is a policy decision of the government.</p> <p>The current management principles apply to the manager of the protected area estate. The suggested amendment would impose requirements associated with the suggested management principles to any landowner or occupier of land that is adjacent to a national park (scientific).</p> <p>The resulting amendments would go beyond the objectives of the current Bill and would require a range of policy matters to be analysed and considered by the government in deciding whether to adopt the additional principles in the Act. For example, they have the potential to breach fundamental legislative principles by affecting the rights and liberties of individuals who own or occupy land adjacent to a national park (scientific).</p>
8	2. Joan Burton-Jones 3. Brian Peter Vernon 4. Wildlife Preservation Society of Qld 5. Peter Storer 6. Wildlife Preservation Society of Queensland-Brisbane 8. Don Secomb 11. Ray and Angela Lane 12. Wildlife Pres Soc of Qld 13. Jacquie Sheils 14. Wildlife Qld Cassowary Coast-Hinchinbrook 15. Elmer Ten-Haken 16. Magnetic Is Com Dev Assoc 17. Alliance to save Hinchinbrook Inc 21. Bat Conserv and Rescue Qld Inc	<p>Concerns have been raised that special management areas (controlled action) are not being removed.</p> <p>Some submissions indicate that this should be addressed by either reinstating the national parks (recovery) class of protected area or by the redesignation of all SMAs (controlled action) as conservation parks.</p>	<p>Reinstating the former national park (scientific) class of protected area and associated management principles is a policy decision of the government. A direct consequence of implementing this policy is that the special management area (scientific) provisions become redundant and are being removed.</p> <p>While the operation of the special management area (controlled action) provisions are not impacted by this, consequential amendments are being made to clarify the context of the remaining provisions, and make it clear that the special management area (controlled action) will be the only type of special management area remaining.</p> <p>Special management areas (controlled action) can provide for two purposes. They provide for the continuation of pre-existing uses in a national park where they would otherwise be inconsistent with the management principles of the national park. They also provide for undertaking management actions in a national park that may also be inconsistent with the management principles of the national park.</p>

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	24. Alison Warner 25. Wildlife Qld Fraser Coast 27. Wide Bay Burnett Environment Council 32. Nadia O'Carroll 33. Kerry O'Carroll 36. Centenary and District Env't Action 41. Wildlife Preserv Soc Qld-Tsv 42. JD and LE Markwell 45. Jill Thorsborne 48. Colleen Bertschinger 49. Liz Gould 50. Gecko-Gold Cst and Hinterland Env Council Assoc 53. Wildlife Preservation Branch Queensland Bayside Branch 55. Fraser Is Defenders Org 56. Birds Qld (Qld Ornithl Soc Inc) 59. Jan Aldenhoven 61. Environmental Defenders Office Queensland 65. Johanna Bridle 66. Nat Prks Assn Qld 68. Sue Laird 69. Wildlife Qld 73. Catharina van Vuuren		<p>The suggested amendments therefore go beyond the objectives of the Bill and would require a range of policy matters to be analysed and considered by the government if this mechanism was no longer available for the specified purposes.</p>
8, 17	9. Olkola Aboriginal Corp 67. Rinyirru (Lakefield) Aboriginal Corp	<p>These submissions seek a commitment from the government to make consent of the landowner of a national park (Cape York Peninsula Aboriginal land) a requirement of a declaration of a special management area (controlled action); or Remove national park (CYPAL) from the definition of prescribed national park over which a SMA (controlled action) can be declared.</p>	<p>NPSR acknowledges the concern raised that the chief executive of NPSR technically has the power to declare a special management area (controlled action) over a jointly managed national park (CYPAL) without the consent of the landowner. However, in practice this has not occurred and NPSR would consult with the landowner about any proposal to declare a special management area over any jointly managed national park (CYPAL).</p>

Cl.	Submissions	Issues	Department Response
			<p>As it simply reflects current practice, NPSR has no concerns with giving further consideration to incorporating a legislative requirement to seek consent from the landowner of a national park (CYPAL) if this change is recommended by the Committee and supported by the government. NPSR considers that this would be preferable to excluding national parks (CYPAL) from the special management area provisions because they may allow for certain management actions (e.g. grazing to control buffel grass) that could otherwise be inconsistent with the management principles of the national park, should these actions be deemed necessary or desirable to achieve the conservation of nature.</p>
7, 8, 9	9. Olkola Aboriginal Corp 67. Rinyirru (Lakefield) Aboriginal Corp	<p>The submitters do not object to the reinstatement of the management principles for the national park (scientific), resources reserve and conservation park classes of protected area. However, they consider that the previous amendments (through the Nature Conservation and Other Legislation Amendment Act (No. 2) 2013) downgraded the legal requirement to manage national park (CYPAL) in accordance with Aboriginal tradition in favour of additional matters such as recreation and tourism and have requested that the Bill reinstate the previous hierarchy of management principles for national parks (CYPAL) under sections 17 and 20.</p>	<p>NPSR has reviewed the changes that were made through the NCOLA Act (No. 2) 2013 and does not agree that the amendments referred to in the submissions downgraded the legal requirement to manage national park (CYPAL) in accordance with Aboriginal tradition.</p> <p>The management principles for a national park (CYPAL) were previously located in section 19AA. While this section was renumbered through the NCOLA Act (No. 2) 2013 to section 20, no other amendments were made to this section.</p> <p>Both the former section 19AA and current section 20 provide that:</p> <ol style="list-style-type: none"> (1) <i>A national park (Cape York Peninsula Aboriginal land) is to be managed as a national park.</i> (2) <i>Subject to subsection (1), a national park (Cape York Peninsula Aboriginal land) is to be managed, as far as practicable, in a way that is consistent with any Aboriginal tradition applicable to the area, including any tradition relating to activities in the area.</i> <p>The concern seems to be about the additional management principles that were added to the management principles for a national park in section 17. These included:</p>

Cl.	Submissions	Issues	Department Response
			<p><i>(d) provide opportunities for educational and recreational activities in a way consistent with the area's natural and cultural resources and values; and</i></p> <p><i>(e) provide opportunities for ecotourism in a way consistent with the area's natural and cultural resources and values.</i></p> <p>While additional matters were added, they simply reflect the types of uses that were already occurring in national parks and also reflect that these uses must be consistent with the area's cultural resources and values. Apart from the cardinal principle, NPSR does not consider that this list forms a hierarchy and no single management principle has a higher or lower weighting than another.</p> <p>With regard to educational and recreational activities, these are generally subject to existing permitting requirements under the Act. As such, the indigenous management agreements in place for national parks (CYPAL) identify whether comment or consent is required from the indigenous landholder before a permit is granted. These arrangements continued unaffected by the previous amendments and will continue unaffected by the current amendments in the Bill. With specific reference to ecotourism, section 42AE of the Act was previously amended to provide that an authority for an ecotourism facility cannot be granted unless both the Chief Executive and the indigenous landholder for a national park (CYPAL) are satisfied that it is appropriate.</p> <p>Removing the two management principles that were added for national parks is considered to be outside the scope of the Bill and does not form part of the policy decision of the government to reinstate the management principles associated with the former national park (scientific), conservation park and resources reserve classes of protected area.</p>
8	70. Rural Services of Coast and Country	Recommends removing the existing management principle contained in section 17(1)(e) from the Act because of a concern that this may provide for the use	Amendments being made through this clause are simply consequential amendments to remove the special management area (scientific) provisions because they have become redundant through earlier

Cl.	Submissions	Issues	Department Response
		<p>of a special management area to support development of private enterprise.</p> <p>Recommends removing existing section 17(4) due to risks to protected areas through commercial and industrial enterprises.</p>	<p>amendments that reinstate the former national park (scientific) class of protected area and its associated management principles.</p> <p>The objective of the amendment to section 17 does not include removing any existing management principles for national parks. The management principles of a national park have always accommodated commercial enterprises that are nature-based and ecologically sustainable.</p> <p>The recommendation is inconsistent with the government’s policy that supports the establishment of environmentally responsible facilities on national parks as demonstrated through the recently released implementation framework for commercial ecotourism facilities on national parks.</p>
9	1. Magnetic Is Nat Care Assn	Requests that section 21(1)(c) be removed from the proposed amendments. Considers there should be no commercial use, particularly grazing, in conservation parks.	<p>The classes of protected area under the NCA are listed in descending order of the level of protection given to them under the Act (s.29(2)). The management principles for each class of protected area reflect this hierarchy and allow for different uses.</p> <p>The objective of this amendment is to reinstate the previous management principles that applied to conservation parks. The management principles previously included ‘ensure that any commercial use of the area’s natural resources, including fishing and grazing, is ecological sustainable.</p> <p>Commercial uses such as grazing are currently occurring within regional parks (general), which are being reinstated as conservation parks through clause 6 of the Bill. Regional parks have similar management principles to those of a conservation park and allow for the controlled use of natural resources and commercial activities in the area.</p> <p>The amendments in this section and the transitional provisions of the Bill will provide for the lawful continuation of those activities when the</p>

Cl.	Submissions	Issues	Department Response
			area changes from being a regional park to a conservation park in order not to breach fundamental legislative principles.
9	19. Gap Creek Trails Alliance 29. Qld Outdoor Recr Fed Inc 31. National Board of Christian Venues Assn 38. Australian Climbing Assn Qld Inc	Concern has been raised that the management principles for a conservation park do not include reference to providing opportunities for educational and recreational activities. Suggestions have been made to address this by adopting the same wording that is currently used in the management principles for a national park – specifically to “provide opportunities for educational and recreational activities in a way consistent with the area’s natural and cultural resources and values.”	<p>NPSR acknowledges the concern raised that as a consequence of reinstating the former management principles of a conservation park, a reference to educational and recreational activities will not appear in the management principles of a conservation park, but will be retained in the management principles of a national park.</p> <p>NPSR is of the view that access to conservation parks for educational and recreational activities will be unaffected by the amendments in the Bill because these types of activities occurred previously in conservation parks under the same management principles that were in place at that time. However, NPSR also acknowledges that retaining the reference to educational and recreational activities in the management principles for national parks and not conservation parks has created a perception that this could impact on the uses that may occur in these areas.</p> <p>As the suggestion reflects current practice, NPSR has no concerns with giving further consideration to incorporating the wording that is contained in section 17(1)(d) into the management principles for a conservation park in clause 9 of the Bill if this change is recommended by the Committee and supported by the government.</p>
10	26. Mackay Conservation Group 40. Protect the Bush Alliance	Concerns are raised about section 27 of the NCA which does not prohibit mining within resources reserves and nature refuges – which allows mining activities to take priority over the conservation of nature in these areas.	<p>As mentioned in an earlier response, the classes of protected area under the NCA are listed in descending order of the level of protection given to them under the NCA (s.29(2)). The management principles for each class of protected area reflect this hierarchy and allow for different uses.</p> <p>Amendments being made through this clause are consequential amendments to update the reference to the classes of protected area – to reflect amendments being made through clause 6 of the Bill.</p>

Cl.	Submissions	Issues	Department Response
			<p>The objective of the amendment to this section does not include changing the areas where mining, geothermal and greenhouse gas storage activities are prohibited.</p>
10	70. Rural Services of Coast and Country	<p>Recommends removing existing section 27(2) due to risks to protected areas through commercial and industrial enterprises.</p>	<p>As mentioned above, the classes of protected area under the NCA are listed in descending order of the level of protection given to them under the NCA (s.29(2)). The management principles for each class of protected area reflect this hierarchy and allow for different uses.</p> <p>Amendments being made through this clause are consequential amendments to update the reference to the classes of protected area – to reflect amendments being made through clause 6 of the Bill. The objective of the amendment to this section does not include changing the areas where mining, geothermal and greenhouse gas storage activities are prohibited.</p>
17	<p>3. Brian Peter Vernon 4. Wildlife Preserv Soc of Qld 55. Fraser Is Defenders Org 73. Catharina van Vuuren</p>	<p>Recommend that section 42A should be omitted in concert with either (a) the reinstatement of national parks (recovery) or (b) the redesignation of all SMAs (controlled action) as conservation parks.</p> <p>If section 42A remains, the submissions consider that there is an error needs to be rectified. They identify the error as the amendment to section 42A that adds ‘national park (scientific)’ to the definition of a prescribed national park. They suggest that the management principles of national parks (scientific) do not have that connection with section 17.</p> <p>They recommend that the proposed amendment to section 42A(4)(a) removes the reference to national park (scientific) in the definition of prescribed national park.</p>	<p>Reinstating the former national park (scientific), conservation park and resources reserve classes of protected area is a policy decision of the government. This currently does not include reinstating the national park (recovery) class of protected area or the redesignation of SMAs (controlled action) as conservation parks.</p> <p>Amendments being made through this clause are simply consequential amendments to remove the special management area (scientific) provisions because they have become redundant and reflect the reinstatement of the national park (scientific) class.</p> <p>Under the current provisions of this section, a special management area (controlled action) can be declared over a national park, including national parks that are proposed to be reinstated as national parks (scientific) through clause 6 of the Bill. It was not intended that the amendments would change the areas where special management areas (controlled action) can currently be declared. However, NPSR acknowledges that the management principles for a national park (scientific) that are being reinstated could provide the same outcome as the declaration of a special management area</p>

Cl.	Submissions	Issues	Department Response
			(controlled action) over a national park (scientific) and has no concerns with giving further consideration to the removal of the reference to national park (scientific) from the definition of prescribed national park if this is recommended by the Committee and supported by the government.
18	3. Brian Peter Vernon 4. Wildlife Preserv Soc of Qld 55. Fraser Is Defenders Org 73. Catharina van Vuuren	Section 42B should be omitted along with section 42A as the procedure for ending a SMA (controlled action) is considered to be limited and weak and not providing adequate public notification. If SMAs are retained, the submissions recommend that there needs to be more adequate provision for public notification of their declaration and when a declaration ends.	<p>Amendments being made through this clause are simply consequential amendments to reflect the removal of special management areas (scientific) by clarifying the context of the remaining provisions, and make it clear that the special management area (controlled action) will be the only type of special management area remaining.</p> <p>In terms of public notification, the NCA already provides for:</p> <ul style="list-style-type: none"> • the display of a notice declaring the SMA at the entrance of a national park • a copy of the notice to be published on the department's website • a notice to be published in the gazette about the declaration of the SMA • when a SMA is removed - removing the notice from the department's website and publishing a notice in the gazette about the ending of the declaration. <p>NPSR considers that the existing provisions, which are being retained, provide adequate public notification of a declaration and when a declaration ends.</p>
27	9. Olkola Aboriginal Corp 67. Rinyirru (Lakefield) Aboriginal Corp	Request that Government also look at reversing NCOLA No.2 2013 changes in relation to management plans that have negatively impacted Indigenous landowners of NP (CYPAL). Examples provided include: <ul style="list-style-type: none"> - Removing requirement to prepare management plans for national park (CYPAL) - Allowing the Minister (under section 112A) to decide whether a national park (CYPAL) will have a management plan or not – and requests that the decision is made jointly with the landowner 	<p>For the benefit of the Committee, the previous government introduced a new management instrument called a management statement. The legislation provides the option of preparing either a management plan or a management statement for certain classes of protected area.</p> <p>In relation to the first two issues identified in the submissions: For a national park (CYPAL) the Indigenous Management Agreement (IMA) for the area identifies whether a management plan or management statement is required for the area. The IMA creates a</p>

Cl.	Submissions	Issues	Department Response
		<ul style="list-style-type: none"> - Allowing the minister to amend a management plan without consent of the landowner (under section 120A) - requests that any amendments to a management plan for a national park (CYPAL) are prepared jointly. 	<p>contractual obligation and applies irrespective of the legislation. IMAs can be amended by agreement of all parties if it is decided that one management instrument is favoured over the other. NPSR considers that the flexibility that exists under the IMA for both parties to reach an agreement about the most appropriate type of management instrument for an area should remain and that it is not necessary to provide any legislative amendments in this regard.</p> <p>Further: NPSR acknowledges the issue raised i.e. that while the NCA states that the preparation of new management plans for national parks (CYPAL) and indigenous joint management areas must be prepared jointly with the indigenous landholder and be consistent with any indigenous land use agreement and IMA for the area – the provisions for amending management plans do not reflect these same requirements. However, in practice, NPSR is also bound by the requirements of any IMA and irrespective of the lack of provisions in the NCA, has a policy of working collaboratively with joint managers if an amendment to a management plan is required.</p> <p>As it simply reflects current practice, NPSR has no concerns with giving further consideration to incorporating a legislative requirement for amendments to management plans for national park (CYPAL) and indigenous joint management areas to be prepared jointly with the indigenous landowner and be consistent with any indigenous land use agreement and IMA for the area if this is recommended by the Committee and supported by the government.</p>
27	58. Australian Conservation Foundation	For any national park in which the Queensland Government has entered into a joint management arrangement, particularly national park (Cape York Peninsula Aboriginal Land (CYPAL)), ensure that any amendments to management plans are jointly considered by the State and Traditional Owner parties consistent with the Indigenous Management Agreements that are already in place.	This issue has been addressed in the above response (see above, immediately preceding).

Cl.	Submissions	Issues	Department Response
29	39. Undara Experience	The submitter considers that if non-invasive sustainable stocking rates were determined, cattle could be used as a management tool on a rotational basis to help reduce bushfire fuel loads. Considers that this would help to achieve many of the desired conservation outcomes in national parks.	Removing the redundant provisions in section 173S that allowed stock grazing permits to be granted over six prescribed national parks until 31 December 2013 is a policy decision of the government. Other mechanisms in the legislation remain available to NPSR if it is determined that grazing is required for conservation outcomes.
29	64. AgForce Qld Industrial Union of Employers	Would prefer that this measure (allowing the granting of stock permits for emergency drought relief until December 2013) was retained, with appropriate amendment of dates, to provide the opportunity for future use as an emergency measure.	Removing the redundant provisions that allowed stock grazing permits to be granted over six prescribed national parks until 31 December 2013 is a policy decision of the government.
30	1. Magnetic Island Nature Care Assn	Section 213, subsection (4) should not permit a continuation of activities that are inconsistent with the management principles for that area.	This section is a transitional provision that preserves existing interests and rights that may otherwise be affected through the changes to the classes of protected area in other clauses of the Bill. The transitional provision is provided to avoid breaching fundamental legislative principles.
30	1. Magnetic Island Nature Care Assn	Section 214 should include a moratorium on accepting and assessing new applications for leases and other authorities inconsistent with the management principles for the area until the Act has been amended.	NPSR does not consider that this is necessary because the management principles associated with the current classes of protected area are similar to those that are being reinstated. Therefore, the uses that can currently occur on a particular class would generally be compatible with the new class. As such, any applications can continue through the assessment process unaffected by the Bill. A moratorium would prevent applications being made for legitimate purposes until the Bill becomes law.
30	70. Rural Services of Coast and Country	Recommends that amendments be made to the transitional provisions to allow the transition of many regional parks (resource use areas) to national parks.	As mentioned earlier, the classes of protected area under the NCA are listed in descending order of the level of protection given to them under the NCA (s.29(2)). The management principles for each class of protected area reflect this hierarchy and allow for different uses.

Cl.	Submissions	Issues	Department Response
			<p>The Bill will reinstate regional parks (resource use areas) as resources reserves which are dedicated specifically to allow for the controlled use of the area’s natural resources.</p> <p>Transitional provisions are provided specifically to avoid breaching fundamental legislative principles and preserve existing interests and rights that may otherwise be affected through the changes to the classes of protected area in other clauses of the Bill.</p>
None	<p>2. Joan Burton-Jones 3. Brian Peter Vernon 4. Wildlife Preservation Society of Qld 5. Peter Storer 6. Wildlife Preservation Society of Queensland-Brisbane 8. Don Secomb 10. Michael Downes 11. Ray and Angela Lane 12. Wildlife Pres Soc of Qld 13. Jacquie Sheils 14. Wildlife Qld Cassowary Coast-Hinchinbrook 15. Elmer Ten-Haken 16. Magnetic Is Com Dev Assoc 17. Alliance to save Hinchinbrook Inc 21. Bat Conserv and Rescue Qld Inc 24. Alison Warner 25. Wildlife Qld Fraser Coast 30. Conondale Range Conserv Assn Inc 32. Nadia O’Carroll 33. Kerry O’Carroll</p>	<p>Concerns have been raised that the term “ecotourism facility” in section 35(1)(a) of the NCA is not being removed from the legislation.</p>	<p>This matter is considered to be outside the scope of the Bill.</p> <p>The recommendations are inconsistent with the government’s policy that supports the establishment of environmentally responsible facilities on national parks, which is demonstrated through the recently released implementation framework for commercial ecotourism facilities on national parks.</p>

Cl.	Submissions	Issues	Department Response
	34. BirdLife Capricornia 36. Centenary and District Env't Action 40. Protect the Bush Alliance 41. Wildlife Preserv Soc Qld-Tsv 42. JD and LE Markwell 43. Carole Green 44. Richard Green 45. Jill Thorsborne 48. Colleen Bertschinger 49. Liz Gould 50. Gecko-Gold Cst and Hinterland Env Council Assoc 53. Wildlife Preservation Branch Queensland Bayside Branch 56. Birds Qld (Qld Ornithl Soc Inc) 59. Jan Aldenhoven 61. Environmental Defenders Office Queensland. 62. Carol Muller 65. Johanna Bridle 66. Nat Prks Assn Qld 68. Sue Laird 69. Wildlife Qld 71. Environ Defenders Office of Nthn Qld 73. Catharina van Vuuren		
None	34. BirdLife Capricornia	Suggests that s115A of the NCA should be amended so that the Minister is required to publish the proposed changes by gazette notice, as well as on the department's website.	<p>The matter raised is considered to be outside the scope of the Bill. The objective of the management plan amendments is achieved through the amendments in clause 27 of the Bill.</p> <p>NPSR does not consider that the suggestion to include an additional requirement in the legislation that requires the publishing of details of the proposed amendments to a management plan in the government gazette would substantially benefit the consultation process.</p>

Cl.	Submissions	Issues	Department Response
None	9. Olkola Aboriginal Corp 67. Rinyirru (Lakefield) Aboriginal Corp	Calls for the establishment of the Regional Protected Areas Management Committee as provided for under section 132A of the NCA to provide a forum for affected landholders to be consulted on changes to policy and legislation.	The matter raised is outside the scope of the Bill; however, NPSR supports the reconvening of the Regional Protected Areas Management Committee. Discussions have commenced with landholders regarding the reconvening of a committee that reflects an appropriate geographic spread from Cape York Peninsula and gender balance and is awaiting advice on the proposed membership before a committee meeting can be convened.
None	37. R and R Wason and B and T Day	Concern has been raised about how the changes in the Bill will impact on their family. They suggest that grazing has conservation outcomes and that the national park over which they have stock grazing permits could be called something other than national park to allow grazing to continue. Also suggest that permits should be issued on a case by case basis.	The issues raised by this submitter are outside the scope of the Bill because the matters raised relate to stock grazing permits – not rolling term leases. Stock grazing permits are a separate authority type granted under the nature conservation regulations. These are not related to the rolling term lease provisions and remain unaffected by the Bill.
None	49. Liz Gould 61. Environmental Defenders Office Queensland 71. Environ Defenders Office of Nthn Qld	These submissions encourage the inclusion of the principles of ecologically sustainable development, as enshrined in the Commonwealth Government’s National Strategy for Ecologically Sustainable Development (1992), in section 11 of the NCA.	The matter raised is considered to be outside the scope of the Bill.
None	52. Queensland Beekeepers Association	The submission specifically references section 184 which contains provisions to allow beekeeping in particular areas until 31 December 2024. The submitter considers that the prohibition on beekeeping in national parks may have been written into NCA out of fear they have a detrimental effect on other nectar and pollen eating animals.	The matter raised is considered to be outside the scope of the Bill. The provisions referred to allow permits to be granted for beekeeping in certain national parks until 31 December 2024. These provisions are not related to rolling term leases and remain unaffected by the Bill.
None	61. Environmental Defenders Office Queensland	Suggests that further amendments are required to provide opportunities for public participation in decision making under the NCA.	The matters raised are considered to be outside the scope of the Bill. Management statements:

Cl.	Submissions	Issues	Department Response
		<ul style="list-style-type: none"> - Management statements should be subject to public review and submissions - Management plans should be subject to public submissions even if the Minister considers there has already been adequate other consultation about the matters - If ecotourism facility provisions are retained they should go through an impact assessable public consultation process 	<p>The NCA provides the option of preparing either a detailed management plan or a simpler management statement for protected areas and each has a separate process involved that recognises this difference. The amendments in the Bill are a policy decision of the government and only relate to amendments to management plans that relate to a change in State government policy. The proposed amendments do not involve the provisions that apply to management statements in any way.</p> <p>Management plans: The intent regarding consultation on amendments to management plans is to ensure that adequate and relevant consultation occurs. NPSR does not support the issue raised because it could result in unnecessarily duplicating consultation on an issue that may have already occurred through another process.</p> <p>Ecotourism: The government's current position regarding public consultation in relation to ecotourism facilities is outlined in the recently released implementation framework for commercial ecotourism facilities on national parks. However, this does not preclude the Chief Executive from, under existing section 39B of the Act, requiring the person seeking approval of an ecotourism facility authority under section 35 to provide an environmental impact statement for consideration before granting the authority.</p>
None	64. AgForce Qld Industrial Union of Employers	Urges the government to adequately resource the management of protected areas to ensure that these do not present ongoing risks to production on neighbouring properties from weeds, pests and fire.	The matter raised is considered to be outside the scope of the Bill.
None	65. Johanna Bridle	States that the Bill should also be amended to remove the term "service facility" incorporated by the previous government into the Act in April 2013.	<p>The matter raised is considered to be outside the scope of the Bill.</p> <p>The term service facility was inserted into the Act in 2003, not 2013.</p>
None	65. Johanna Bridle	Strict guidelines should be introduced regarding any developments that want to set up adjacent to national	<p>The matter raised is considered to be outside the scope of the Bill.</p> <p>The proposal goes beyond the objectives of the current Bill and would require a range of policy matters to be analysed and considered by the</p>

Cl.	Submissions	Issues	Department Response
		parks and conservation areas to ensure that their values are not eroded.	government. This has the potential to breach fundamental legislative principles by affecting the rights and liberties of individuals who own or occupy land adjacent to protected areas.
None	72. Drs PM and S Heise-Pavlov	Requests consideration of providing ecotourism facilities of national parks outside the boundary of the preserved area.	This matter is considered to be outside the scope of the Bill. The request is not consistent with the government’s policy that supports the establishment of environmentally responsible facilities on national parks, which is demonstrated through the recently released implementation framework for commercial ecotourism facilities on national parks.
None	72. Drs PM and S Heise-Pavlov	Requests consideration of protecting existing remnant and regrowth vegetation on private land.	The matter raised is considered to be outside the scope of the Bill.
None	72. Drs PM and S Heise-Pavlov	Requests consideration of developing regulations on the clearing of vegetation on steep slopes.	The matter raised is considered to be outside the scope of the Bill.
<i>Amendments to the Aboriginal Land Act 1981</i>			
34	4. Wildlife Preservation Society of Qld 55. Fraser Is Defenders Org 73. Catharina van Vuuren	In relation to the amendment to section 173 of the <i>Aboriginal Land Act 1991</i> , it is unclear why the definition of prescribed protected area refers to a regional park prescribed by regulation. It is noted that when the amendments come into force, there will be no such entity as a regional park. Recommendation – consider whether the proposed new section 173 (4)(b) should refer to a conservation park and/or resources reserve prescribed by regulation.	The amendments to the definition of prescribed protected area in the <i>Aboriginal Land Act 1991</i> are correct as drafted in the Bill. Clause 34 refers to regional park because this part of the Bill will commence on assent and that will continue to be the correct terminology at that time. Clause 2 of the Bill provides that the changes to the classes of protected area will not commence until 1 July 2016. Further amendments will commence at that time, including amendments to the <i>Aboriginal Land Act</i> outlined in Schedule 1 of the Bill, which will update the relevant references to conservation park at that time.
<i>Amendments to the Land Act 1994</i>			
39	1. Magnetic Island Nature Care Assn	Has concerns that the proposed amendment to revert rolling term leases to term leases falls within the <i>Land Act</i> and the views of the NCA chief executive need only be “taken into account”. Suggests that the operation of leases on protected areas should be governed under the <i>Nature Conservation Act</i> .	This matter is outside the scope of the Bill. The objectives of the Bill do not include providing an alternative administrative regime for rolling term leases on nature conservation areas or prescribed national parks. The objective is achieved by reverting rolling term leases back to term leases under the <i>Land Act 1994</i> .

Cl.	Submissions	Issues	Department Response
			A relatively small number of leases are impacted by the change. Subject to the amendments in the Bill passing, NPSR considers that the existing provisions dealing with term leases under the Land Act will allow these leases to be managed appropriately without the need to create any new provisions in the NCA.
39	18. Peter Mayne 20. Lachlan Millar MP	Concerns have been raised that the Bill's approach to rolling leases removes any discretion from the department or the Minister to allow leases for grazing to continue in national parks.	<p>The amendments in this clause of the Bill simply revert any rolling term leases under the Land Act for agricultural, grazing or pastoral purposes that are on nature conservation areas and specified national parks back to term leases under the Land Act.</p> <p>The provisions of the Land Act dealing with the ongoing management of term leases, including matters to be considered in deciding whether or not to renew a term leases, will apply to these leases. These provisions allow each renewal to be considered on a case by case basis.</p> <p>Based on contemporary information, the Chief Executive will also consider whether the use under the lease is consistent with the management principles for the particular class of protected area under the NCA.</p>
39	39. Undara Experience	Objection is raised in relation to excluding rolling term leases for agricultural, grazing and pastoral purposes. Suggests that special consideration should be given to leases that incorporate best management practice plans (BMP) to improve environmental outcomes on their leases	<p>Reverting certain rolling term leases on nature conservation areas and specified national parks back to term leases is a policy decision of the government.</p> <p>NPSR acknowledges that while BMPs may result in improved land management practices, this is a voluntary measure that has not been widely adopted. The current provisions in the Land Act are considered more appropriate as these allow the direct assessment of such things as the condition of the lease land and the extent to which the lease land suffers from, or is at risk of, land degradation.</p>
39	49. Liz Gould	Amend the Land Act to ensure existing grazing leases on protected areas are not rolling term leases, but are time limited and renewed only following an assessment of impacts on protected areas.	The amendments proposed to the Land Act do provide the outcome suggested in this submission. Rolling term leases will become term leases and the existing expiry date of the lease will continue to apply. Term lease renewals are subject to a range of considerations, including

Cl.	Submissions	Issues	Department Response
			an assessment of the condition of the lease land before deciding whether to renew the lease.
39	64. AgForce Qld Industrial Union of Employers	Requests that NPSR continues to liaise with individual lessees to ensure that they are informed of the impact of these changes and that appropriate transitional arrangements are implemented.	NPSR currently liaises with individual lease holders in the period leading up to the expiry of their lease to inform them of the department's proposed action and the options available to them and will continue to do so.
39	70. Rural Services of Coast and Country	Supports amendments and recommends ongoing maintenance and investment in the Queensland Stock Route Network to offset the changes through these provisions.	NPSR acknowledges the support for the amendments; however, the recommendation about ongoing maintenance and investment in the Queensland Stock Route Network is beyond the scope of the Bill.
39	72. Drs PM and S Heise-Pavlov	Requests consideration of completely stopping the grazing of cattle on public land in all forms including State forest.	Reverting certain rolling term leases on nature conservation areas and specified national parks back to term leases is a policy decision of the government and is addressed through the Bill. The request to stop grazing on all public land, including State forests, is outside the scope of the Bill and would have significant impacts that would raise issues with regard to fundamental legislative principles.
43	1. Magnetic Island Nature Care Assn	Section 521ZQ - provision should be made for the termination of term leases if they are shown to be contrary to the object of the Act.	NPSR considers that this would raise significant issues with regard to fundamental legislative principles, and is outside the scope of the Bill.
43	1. Magnetic Is Nature Care Assn	Section 521ZR - there should be a moratorium on accepting applications to extend leases between now and the passage of the revised Act.	NPSR does not consider that this is necessary because the provisions of the Land Act provide that an extension of the lease can only be granted with the agreement of the chief executive of the NCA. A moratorium would prevent applications being made for legitimate purposes until the Bill becomes law.
<i>Amendments to the Marine Parks Act 2004</i>			
None	4. Wildlife Preservation Society of Qld	Recommends that in section 70(3)(a), <i>Marine Parks Act 1982</i> is replaced with <i>Marine Parks Act 2006</i> .	The matter raised is outside the scope of the Bill and the submission also includes an incorrect reference to the year (2006) in the title of the current <i>Marine Parks Act 2004</i> . However, subject to consultation with the Office of the Queensland Parliamentary Counsel, NPSR has no concerns with updating the reference to the current <i>Marine Parks Act 2004</i> .
<i>Part 8 Minor and consequential amendments</i>			

Cl.	Submissions	Issues	Department Response
48	3. Brian Peter Vernon 4. Wildlife Preservation Society of Qld 55. Fraser Is Defenders Org 73. Catharina van Vuuren	<p>Amendment of the <i>Environmental Protection Act 1994</i></p> <p>The amendment to section 38(2)(k)(iv) does not appear to cover a resources reserve that does not have a trustee.</p> <p>The amendment to section 579(6)(e)(iii) does not appear to take into account ownership in relation to a national park (Cape York Peninsula Aboriginal land).</p> <p>Recommends:</p> <ul style="list-style-type: none"> (a) make provision for resources reserves that don't have trustees in s.38(2)(k)(iv) (b) insert a reference to national parks (Cape York Peninsula Aboriginal land) in s.579(6)(e)(iii) 	<p>In relation to the comment about section 38(2)(k)(iv) of the <i>Environmental Protection Act 1994</i> – The reason why regional parks (resource use area), for which there are no trustees, is not included in this section is not clear. It does not appear to be picked up under another description of an affected person. While the intent around this amendment was simply to reflect the change from regional park (general) to conservation park, the submitter raises a valid point. Historically, the <i>Environmental Protection Act 1994</i> did not include a reference to conservation park in this section. The reason remains unclear and further consideration will need to be given to this matter in consultation with the Department of Environment and Heritage Protection.</p> <p>In relation to the comment about section 579(6)(e)(iii) of the <i>Environmental Protection Act 1994</i> – The reason why national park (CYPAL) is not included in this section is not clear. It does not appear to be picked up under another description of an affected person. While the intent around this amendment was simply to reflect the change from regional park to conservation park and resources reserve, the submitter raises a valid point. Historically, the <i>Environmental Protection Act 1994</i> did not include a reference to national park (CYPAL) in this section. The reason remains unclear and further consideration will need to be given to this matter in consultation with the Department of Environment and Heritage Protection.</p>
		<p>Amendment of the <i>Land Act 1991</i></p> <p>Why does the amendment of the definition of national park in Schedule 6 of the Land Act exclude a reference to national park (Aboriginal land), national park (Torres Strait Islander land) and national park (Cape York Peninsula Aboriginal land)?</p>	<p>There is a separate definition of 'specified national parks' in the Land Act that includes reference to the national park (Aboriginal land), national park (Torres Strait Islander land) and national park (Cape York Peninsula Aboriginal land) classes of national park.</p>
		<p>Amendment of the <i>Petroleum Act 1923</i></p>	<p>While the intent around this amendment was simply to reflect the change from regional park to conservation park and resources reserve, the submitter raises a valid point. Historically, the <i>Petroleum Act 1923</i></p>

Cl.	Submissions	Issues	Department Response
		<p>In the proposed amendment to Section 2, definition of owner (paragraph 1(q)), there is no reference to national park (Cape York Peninsula Aboriginal land).</p> <p>Recommendation: Unless there is a reason to the contrary, national park (Cape York Peninsula Aboriginal land) should be added to the list of protected areas in paragraph 1(q) in the definition of owner.</p> <p>Amendment of the <i>Petroleum and Gas (Production and Safety) Act 2004</i></p> <p>In the proposed amendment to Schedule 2, definition of owner (paragraph 1(q)), there is no reference to national park (Cape York Peninsula Aboriginal land).</p> <p>Recommendation: Unless there is a reason to the contrary, national park (Cape York Peninsula Aboriginal land) should be added to the list of protected areas in paragraph 1(q) in the definition of owner.</p>	<p>did not include a reference to national park (CYPAL) in this section. The reason remains unclear and further consideration will need to be given to this matter in consultation with the Department of Natural Resources and Mines.</p> <p>It should be noted that the underlying land tenure of the national park (CYPAL) is Aboriginal land. The trustee of the Aboriginal land will be notified as the land owner (section 2, paragraph 1(k)).</p> <p>While the intent around this amendment was simply to reflect the change from regional park to conservation park and resources reserve, the submitter raises a valid point. Historically, the <i>Petroleum and Gas (Production and Safety) Act 2004</i> did not include a reference to national park (CYPAL) in this section. The reason remains unclear and further consideration will need to be given to this matter in consultation with the Department of Natural Resources and Mines.</p> <p>It should be noted that the underlying land tenure of the national park (CYPAL) is Aboriginal land. The trustee of the Aboriginal land will be notified as the land owner (section 2, paragraph 1(k)).</p>
48	<p>3. Brian Peter Vernon 4. Wildlife Preservation Society of Qld 9. Olkola Aboriginal Corp 55. Fraser Is Defenders Org 58. Australian Conservation Foundation 67. Rinyirru (Lakefield) Aboriginal Corp 71. Environ Defenders Office of Nthn Qld 73. Catharina van Vuuren</p>	<p>Amendment of the <i>Mineral Resources Act 1989</i></p> <p>Suggest that the definition of ‘protected area’ in the Mineral Resources Act 1989 should also include reference to national park (Cape York Peninsula Aboriginal land).</p> <p>Submission 9 has suggested that not including NP (CYPAL) under the current definition of a ‘protected area’ in the MRA arguably allows mineral resource extraction provisions to apply, which is inconsistent with section 27 of the NCA prohibiting mining on NP (CYPAL).</p>	<p>The reason why national park (CYPAL) is not included in the definition of protected area is not clear.</p> <p>While the intent around this amendment was simply to reflect the reinstatement of national park (scientific) and the change from regional park to conservation park, the submitter raises a valid point. Historically, the <i>Mineral Resources Act 1989</i> did not include a reference to national park (CYPAL) in this section. The reason remains unclear and further consideration will need to be given to this matter in consultation with the Department of Natural Resources and Mines. It should however be noted that mineral resource extraction under the <i>Mineral Resources Act 1989</i> is not allowed in national park (CYPAL) due to section 27 of the <i>Nature Conservation Act 1994</i>.</p>

Cl.	Submissions	Issues	Department Response
48	61. Environmental Defenders Office Queensland	Amendment of the <i>Land Act 1994</i> Recommends keeping the definition of 'national park' in the Land Act the same as the NC Act, for consistency between legislation. National parks (scientific) could be inserted within the provisions of the Land Act itself or the definition could be renamed to retain consistency in definitions between the legislation.	A separate definition for national park (scientific) is not necessary under the Land Act. The inclusion of the reference to national park (scientific) in the definition of national park was a decision of the Office of the Queensland Parliamentary Counsel.

Appendix E: Consultation undertaken during the development of the Bill

Amendments relating to the *Aboriginal Land Act 1991*

The Cape York Peninsula Tenure Resolution Program (CYPTRP) works closely with the Cape York Land Council (CYLC) in the delivery of this program on a day-to-day basis. Two full-time legal officers are seconded from the CYLC to Balkanu for the purpose of providing independent legal advice to Traditional Owners regarding the details of the transfer process, interpretation of agreements and other documentation, and other matters.

Planning for the CYPTRP is undertaken in monthly Running Sheet meetings; all staff involved in the delivery of the program attend this meeting including officers from Balkanu and the two CYLC legal officers. The matter of the need to amend the *Aboriginal Land Act 1991* (ALA) to make certain Regional Parks transferrable was discussed at several Running Sheet meetings during 2015.

Balkanu and CYLC support the amendment to the ALA.

Amendments relating to the *Environmental Protection Act 1994*

Given the minor nature of the amendment to the *Environmental Protection Act 1994* (EP Act), and that the amendment will provide additional time to ensure industry is appropriately consulted on the development of the new mining ERA standards, it was not deemed necessary to consult with industry on the proposed amendments. The Queensland Productivity Commission has supported this determination.

The amendment to the EP Act also does not change the current streamline approval process for standard and variation environmental authority applications for mining activities. The current application process will continue during the deferment period.

Amendments relating to the *Land Act 1994*, the *Marine Parks Act 2004*, the *Nature Conservation Act 1992*, and the *Recreation Areas Management Act 2006*

Stakeholder	Form of consultation and date it occurred	Main concerns raised about the content of the Bill and whether they have been resolved
Wildlife Preservation Society of Queensland	Meeting – 30 September 2015	No concerns were raised about the amendment proposals contained in the Bill.
Queensland Tourism Industry Council	Meeting – 1 October 2015	No concerns were raised about the amendment proposals contained in the Bill.
Tourism and Events Queensland	Meeting – 1 October 2015	No concerns were raised about the amendment proposals contained in the Bill.
Agforce	Meeting – 8 October 2015	No concerns were raised about the amendment proposals contained in the Bill.
National Parks Association of Queensland	Meeting – 8 October 2015	No concerns were raised about the amendment proposals contained in the Bill.
Queensland South Native Title Services Ltd	Meeting – 9 October 2015	A request was made for the explanatory material to the Bill to indicate that the amendments to the object of the Act

Stakeholder	Form of consultation and date it occurred	Main concerns raised about the content of the Bill and whether they have been resolved
		<p>were not intended to restrict or prevent the exercise of native title rights.</p> <p>The Department of National Parks, Sport and Racing (NPSR) has included this information in the explanatory notes.</p>
Cape York Land Council Aboriginal Corporation	Teleconference – 12 October 2015	No concerns were raised about the amendment proposals contained in the Bill.
Carpentaria Land Council Aboriginal Corporation	Teleconference – 13 October 2015	No concerns were raised about the amendment proposals contained in the Bill.
Australian Petroleum Production & Exploration Association Limited (APPEA)	Letter – 9 October 2015	APPEA did not contact NPSR with any concerns.
Queensland Resources Council (QRC)	Letter – 9 October 2015	QRC did not contact NPSR with any concerns.

Statements of Reservation

Mr Stephen Bennett MP, Member for Burnett

Mr Robbie Katter MP, Member for Mount Isa



Stephen Bennett MP

MEMBER FOR BURNETT

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5 February 2016

Mr Linus Power MP
Acting Chair
Agriculture and Environment Committee
Parliament House
George Street
Brisbane QLD 4000

Dear Mr Power,

RE: Report No. 13, Nature Conservation and Other Legislation Amendment Bill 2015

I wish to notify the committee in accordance with SO214 of our reservations about aspects of Report No.13 of the Agriculture and Environment Committee.

At present, rolling term leaseholders have the ability to appeal a decision by the Minister not to extend a lease. In reverting from a rolling term lease to a term lease by way of clauses 39 and 43, there is the potential to adversely affect the rights and liberties of individuals pursuant to section 4 (1) of the *Legislative Standards Act 1992* (the LSA). In particular it may effect leaseholders of agricultural, grazing and pastoral land within a nature conservation area or a specified national park. The amendments provided by clauses 39 and 43 in relation to the change from rolling term leases to term leases certainly flagged the Committee's attention.

The amendments provided for by clauses 39 and 43, in reverting from rolling term leases to term leases, will also see the appeal rights of leaseholders diminished. The Explanatory Notes confirm that the decision by the Chief Executive not to renew a term lease will not be appealable:

Legislation should make rights and liberties, or obligations, dependent on administrative power only if subject to appropriate review. The OQPC Notebook states, "*Depending on the seriousness of a decision and its consequences, it is generally inappropriate to provide for administrative decision-making in legislation without providing for a review process. If individual rights and liberties are in jeopardy, a merits-based review is the most appropriate type of review*".

The former Scrutiny of Legislation Committee (SLC) was also opposed to clauses removing the right of review, and took particular care to ensure the principle that there should be a review or appeal against the exercise of administrative power. Where ordinary rights of review were

removed, thereby preventing individuals from having access to the courts or a comparable tribunal, the SLC took particular care in assessing whether sufficient regard had been afforded to individual rights, noting that such a removal of rights may be justified by the overriding significance of the objectives of the legislation.

The Committee noted that significant consultation was reported to have taken place in relation to the Bill's amendments as discussed in the Explanatory Notes (pages 8 & 9). However, it is now clear that no consultation with respect to the proposed amendments has been undertaken with current rolling term leaseholders, or outdoor recreation or education providers, other than through groups such as Agforce. The Committee also noted the significant correspondence from interest groups supporting the proposed changes in the Bill were compiled in a cut and paste format all supporting a consistent and predictable theme.

The committee received significant correspondence in relation to Part 2, Clause 4 Section 4, with strong objections to this clause from indigenous groups and stakeholders referencing this change. There was compelling evidence to the committee inquiry that the retention of the existing object, namely: *"The involvement of indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island Custom"* be retained, removal of this from the object of the Act is seen as regressive. The High Court decisions in the Mabo and Wik cases made it clear that the sovereignty of Australia's indigenous people had never been extinguished. This should mean to us all that Aboriginal and Torres Strait Island people should have the right to manage these areas and decide any management plans for protected estates in Queensland.

When asked during the committee's deliberations as to the practical effect of removing section 4(a) as an object of the NCA in relation to the involvement of indigenous persons in the management of protected areas in which they have an interest under Aboriginal tradition or Island Custom, the response and justification was there will be no practical effect of removing section 4 (a) from the object of the Act. With no practical effect, the committee was perplexed as to why this was included – why remove the reference to Indigenous Queenslanders?

Further evidence to the committee raised concerns Clause 4 section 4 object of the ACT, changes being proposed could affect users and many unintended consequences such as:

- Eroding access granted to educational providers
- Frustrate upcoming applications for improved numbers and access to under-utilised protected estates for educational purposes.
- Allowing complete breakdown of eco-tourism operations and confidence.

There were significant concerns regarding the proposals in the Bill to reinstate the "conservation of nature" as the sole objective of the Nature Conservation Act and removing all other references, including community use and enjoyment of protected areas, consistent with the natural values of the area. There was serious concerns from tourism operators and tourism stakeholders in Queensland. When the committee heard the explanations from the minister of management principles, cardinal principles and conservation of nature as the sole objective, it was clear that there is increasing questions about what will happen to, for example, commercial tour operations and tourism.

In the response from the department to the committee in relation to this very issue, the response stated:

“Uses undertaken commercially (for example a commercial tour operation) may require a lease, agreement, license, permit or other authority, which is considered on a case by case basis. In addition to the management principles, further criteria are prescribed for consideration when deciding such applications. The legislation may also include limitations or restrictions that apply to granting permits for certain uses. The nature of the proposal and assessment process may result in certain uses being authorised in some locations, but not others.”

Therefore, unfortunately, we will see the already proposed management principles will require additional requirements, further criteria and more bureaucratic influence and interpretation that will be applied to these already over-regulated operations.

Further uncertainty for Queensland’s tourism sector was disclosed during committee deliberations, when the Department also clarified the intent of the Bill, when asked the response stated:

“The legislation also includes a number of specific requirements that affect whether a particular use can occur on a particular class of protected area, like,”

“Restricted access areas can be declared over some locations, effectively precluding activities that would otherwise be allowed in these areas” so again more negative consequences to those currently operating commercial or educational activities, will have no security under this proposed Bill.

Further to the number of problems and anomalies identified with the proposed Bill, of particular concern was the lack of consultation with the stakeholders involved in outdoor recreation, camping and education providers providing outdoor education. The intention to reinstate the “conservation of nature” as the sole objective of the Nature Conservation Act raised several areas of concern. By removing objectives such as “the use and enjoyment of protected areas by the community”, it allows the Government to make all other current or future activities subservient. It was strongly argued that the Bill should allow for access to our protected estates for outdoor education programs for our youth currently operating successfully within our schools.

The fact that the committee raised concerns and flagged possible amendments on every recommendation, casts enough doubt that the proposed Bill should not be passed.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Stephen Bennett', with a stylized flourish at the end.

Stephen Bennett MP
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Rob Katter MP
Member for Mount Isa



Friday 5 February 2016

RE Statement of Reservation on Report No 13. Nature Conservation and Other Legislation 2015

I write to lodge a Statement of Reservation to the Agriculture and Environment Committee on the Report No. 13 on the Nature Conservation and Other Legislation Amendment Bill which was tabled on the 27 of October 2015.

It is accepted that the intention of this bill is to reinstate conservation of nature as the sole object of the act. I however believe these changes and further changes detailed within the bill have the potential to deeply inhibit the community's involvement and educational understanding of our ecosystem and diminish the collective value of the reserves to our society.

As such, I do not believe the committee's recommendations have appropriately taken into consideration the following issues raised by many submissions to this bill.

The most pertinent objections to the recommendations put forwards by the committee and the bill are as follows:

1. The removal of the following from the object of this bill.

(a) the involvement of indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom;

(b) the use and enjoyment of protected areas by the community;

(c) the social, cultural and commercial use of protected areas in a way consistent with the natural and cultural and other values of the areas.

2. Changes to 'Rolling Term Leases'.

3. The lack of consideration of the benefits lease holders provide in regards to weed, fire and pest management.

I have strong objections to Clause 4 section 4 of this bill, particularly the removal of Subparagraph (A) from the Objects of the Act. This action could be considered a significantly regressive step for the government. While the involvement of the indigenous owners is covered by later amendments in the bill on further recommendations of the committee, they appear to hold less significance. Indigenous involvement in the management of this land should be retained first and foremost as a significant and guiding principal for the act.

It is also a concern that the removal of Subparagraph (B) and (C) may have many unintended consequences as it does not allow for the provision of opportunities for educational and recreational activities within conservation parks. This could take place through the erosion of access granted to educational providers and those accessing protected estates for educational purposes. This would essentially allow for the complete breakdown of eco-tourism operations within these protected areas. Education is an essential part of conservation, if this Government hopes to place emphasis on conservation measures in the long term, it must ensure the population has the opportunity to understand the importance of our environment by experiencing the reserves first hand.

The *Nature Conservation and Other legislation Amendment Bill 2015* essentially objects to private enterprise operating on state-owned estates, particularly in the form of 'Rolling Term Leases'. It is my opinion that the Minister should be granted the ability to use their discretion to approve the renewal of 'Rolling Term Leases', where it can be demonstrated that the user has managed the area to an adequate standard. Removal of any leases, some of which have existed for decades and in some cases almost a century, will have major consequences for Lessees who have based long-term investments on their grazing rights.

I believe above all the alteration of 'Rolling Term Leases' to 'Term Leases' as detailed in this bill, will lead to significant degradation of many national and conservation parks, due to the eventual removal of current lessees. This is particularly unfortunate as many lessees have not only improved the usability of the national park areas but have also mitigated the spread of pests and weeds within the area. These changes also undermine the commercial fabric of the state, shifting the balance to a potential net loss, as a result of the need to manage both fire, weed and feral animal loads already well-established in the Queensland environment.

There is little detail on the environmental effects of current lessees in the reserves, and the Government's ability to achieve the objectives of the act once these proxy caretakers are removed. During the course of the committee investigation there has been little to address who will manage the huge natural estates following the removal of local graziers. Especially as it is unlikely the Government would be able to invest the same amount of resources. Further consideration must also be made in regards to the future of lessees on previous state forest estates, now forest reserves in which biodiversity values are already low.

I am not at all convinced that the recommendations put forward by the committee take into account the rights activities and opportunities provided by the local and indigenous communities, lessees, nor the wider community.

Overall the legislation must have a broader approach to the use of reserves and state owned resources. Without further consideration of the consequences of this bill and investigation into the benefits of the involvement of both community, education providers and private enterprise, I am inclined to reject the bill in its entirety as ill prepared and flawed.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rob Katter', with a long horizontal line extending to the right.

Rob Katter

Member for Mount Isa