

# **Nature Conservation and Other Legislation Amendment Bill 2012**

**Report No. 15**

**Health and Community Services Committee**

**February 2013**

## Health and Community Services Committee

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## Acknowledgements

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## Chair's foreword

On behalf of the Health and Community Services Committee of the 54<sup>th</sup> Parliament of Queensland, I present this report on the Nature Conservation and Other Legislation Amendment Bill 2012 (the Bill).

The Bill was introduced into the Legislative Assembly by the Minister for National Parks, Recreation, Sport and Racing on 13 November 2012. The committee was required to report to the Legislative Assembly by 7 February 2013.

The committee's task was to consider the policy to be given effect by the legislation, as well as the application of fundamental legislative principles – that is, whether the Bill has sufficient regard to rights and liberties of individuals and to the institution of Parliament.

On behalf of the committee I thank those individuals and organisations who made written submissions on this Bill and gave evidence at its public hearing. Thanks also to the committee's secretariat, officials from the Department of National Parks, Recreation, Sport and Racing, the Department of Agriculture, Fisheries and Forestry and the Department of Environment and Heritage Protection, the Technical Scrutiny of Legislation secretariat and the Parliamentary Library.

I commend the report to the House.

A handwritten signature in black ink, appearing to read 'T. Ruthenberg', is positioned above the printed name.

Trevor Ruthenberg MP  
**Chair**

February 2013

## Abbreviations

the committee	Health and Community Services Committee
the Bill	<i>Nature Conservation and Other Legislation Amendment Bill 2012</i>
NC Act	<i>Nature Conservation Act 1992</i>
Forestry Act	<i>Forestry Act 1959</i>
BFPA	<i>Brisbane Forest Park Act 1977</i>
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
the department	Department of National Parks, Recreation, Sport and Racing
EIA	Environmental Impact Assessment

## Glossary

Nature (s. 8 of the NC Act)	<p>‘(1) Nature includes all aspects of nature.</p> <p>(2) Without limiting subsection (1), nature includes</p> <ul style="list-style-type: none"> <li>(a) ecosystems and their constituent parts; and</li> <li>(b) all natural and physical resources; and</li> <li>(c) natural dynamic processes; and</li> <li>(d) the characteristics of places, however large or small, that contribute to – <ul style="list-style-type: none"> <li>(i) their biological diversity and integrity; or</li> <li>(ii) their intrinsic scientific value’</li> </ul> </li> </ul>
Conservation (s. 9 of the NC Act)	‘Conservation is the protection and maintenance of nature while allowing for its ecologically sustainable use’
Biological diversity (s. 10 of NC Act)	‘Biological diversity is the natural diversity of native wildlife, together with the environmental conditions necessary for their survival’
Ecologically sustainable use (s. 11 of the NC Act)	<p>‘Ecologically sustainable use is –</p> <ul style="list-style-type: none"> <li>(a) in relation to wildlife – the taking or use of the wildlife; or</li> <li>(b) in relation to protected area - the use of the areas; within their capacity to sustain natural processes while –</li> <li>(c) maintaining the life support systems of nature; and</li> <li>(d) ensuring that the benefit of the use to present generations does not diminish the potential to meet the needs and aspirations of future generations’</li> </ul>

Ecotourism facility (cl. 17 of the Bill)	<p><b>'ecotourism facility</b>, for land, means a facility that—</p> <ul style="list-style-type: none"> <li>(a) is designed and managed to facilitate the presentation, appreciation and conservation of the land's natural condition and cultural resources and values (the primary purpose); and</li> <li>(b) is managed in a way that does not allow an activity to be carried out on the land that— <ul style="list-style-type: none"> <li>(i) is inconsistent with the primary purpose; and</li> <li>(ii) would require a significant change to the land's natural condition or would adversely affect the conservation of the land's cultural resources and values.</li> </ul> </li> </ul> <p>Example of an activity for subparagraph (ii)— the construction of a golf course, amusement park or casino on the land.'</p>
Service facility (s.7 of the NC Act)	<p>'Any of the following—</p> <ul style="list-style-type: none"> <li>(a) a communications facility, including for example, a communications tower or cable;</li> <li>(b) a device designed to be used for navigation or the guidance of aircraft or vessels;</li> <li>(c) a transmission grid or supply network under the <i>Electricity Act 1994</i>;</li> <li>(d) a pipeline for oil or gas;</li> <li>(e) a water supply or sewerage facility, including, for example, a pipeline or pumping station'.</li> </ul>
Existing service facility (clauses 35A(4), 42AEA(3) and 42AOA(3) of the Bill)	A service facility in existence on the land immediately before the land was dedicated as the relevant national park tenure under the NC Act.
chief executive	Chief executive officer of the Department of National Parks, Recreation, Sport and Racing
State forest	Land set apart and declared or deemed to be set apart and declared under the Forestry Act as a State forest. The primary purpose of State forests is to be for timber production and watershed protection. The Forestry Act also allows for a number of secondary purposes, including grazing, conservation, recreation, apiary sites, infrastructure and mining.
protected area (cl.28 of the NC Act)	<p><b>Protected areas</b> means-</p> <ul style="list-style-type: none"> <li>(a) a national park (scientific); or</li> <li>(b) a national park; or</li> <li>(c) a national park (recovery); or</li> <li>(d) a conservation park; or</li> <li>(e) a resources reserve.</li> </ul>

## Recommendations

### Recommendation 1

**3**

The committee recommends that the Nature Conservation and Other Legislation Amendment Bill 2012 be passed.

### Recommendation 2

**10**

The committee notes that a number of issues raised in evidence about ecotourism facilities are to be addressed in a policy framework that the Explanatory Notes state will be developed to guide the authorisation and development of those facilities. The committee recommends that the Minister inform the Legislative Assembly during the second reading debate about the following:

- the scope and timing of the consultation that will inform the development of the policy framework,
- whether public comment will be sought on applications for each lease or authority for an ecotourism facility and the arrangements that will apply to trigger public comment on proposals, and
- what arrangements will be put in place, through lease conditions, performance criteria, rehabilitation bonds or other mechanisms, to specify who is responsible for rehabilitation of the site of an ecotourism facility when an operator leaves the facility, and what rehabilitation is required.

### Recommendation 3

**19**

The committee recommends that the Minister inform the Legislative Assembly during the Second Reading debate of the type of assessment criteria he envisages will be used to ensure that the area and time-frame provided under an occupation permit in a State forest is appropriate, including how forest management considerations and potential environmental, economic and social impacts will be taken into account.

### Recommendation 4

**21**

The committee recommends that the Minister inform the Legislative Assembly during the second reading debate whether it would be possible for an occupation permit in a State forest to provide exclusive rights to occupy all or part of a State forest, and if so, the circumstances in which exclusive rights would be granted.



## 1 Introduction

### 1.1 Role of the committee

The Health and Community Services Committee (the committee) was established by resolution of the Legislative Assembly on 18 May 2012, consisting of government and non-government members.

Section 93 of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for considering:

- the policy to be given effect by the Bill, and
- the application of the fundamental legislative principles to the Bill.

### 1.2 Committee process

#### 1.2.1 Referral

The Nature Conservation and Other Legislation Amendment Bill 2012 (the Bill) was referred to the committee on 13 November 2012. The committee was required to report to the Legislative Assembly by 7 February 2012.

#### 1.2.2 Submissions

The committee wrote to stakeholder organisations on 19 November 2012, inviting written submissions about the Bill by 19 December 2012. The committee also advertised its call for submissions on its website and through a media release.

Seventy five submissions were received and analysed. A list of submissions is at Appendix 1 and a summary analysis of issues raised in submissions is at Appendix 2. The Department of National Parks, Recreation, Sport and Racing (the department) was provided with the summary of issues in Appendix 2 of this report and asked to comment on the issues. The department's comments are included in Appendix 2.

#### 1.2.3 Public briefing and public hearing

Officers from the Department of National Parks, Recreation, Sport and Racing briefed the committee on the Bill on 28 November 2012. Officers from the Department of Agriculture, Fisheries and Forestry and the Department of Environment and Heritage Protection also attended. The briefing was broadcast live on the Parliament website. A list of officers present at the briefing is at Appendix 3.

The committee held a public hearing on 16 January 2013. A list of witnesses is at Appendix 4.

Transcripts of the departmental briefing and public hearing, correspondence from the department about comments made during the briefing, and all submissions received and accepted by the committee are published on the committee's webpage at [www.parliament.qld.gov.au/hcsc](http://www.parliament.qld.gov.au/hcsc)

### 1.3 Policy objectives of the Nature Conservation and Other Legislation Amendment Bill 2012

The Bill proposes a number of amendments to the *Nature Conservation Act 1991* (NC Act) and the *Forestry Act 1959* (Forestry Act). Amendments to the NC Act include enabling the authorisation of privately funded ecotourism facilities in certain classes of protected area and providing a simplified process to authorise existing service facilities in these parks.

The primary purpose of the Bill is to make amendments to the NC Act to allow the granting of a lease, agreement, licence, permit or other authority for privately funded ecotourism facilities in certain classes of protected areas. The policy intent of the ecotourism facility amendments is to:

*provide for greater ecotourism access to Queensland's national parks, consistent with commitments under the DestinationQ Partnership Agreement between the Queensland Government and the Queensland Tourism Industry Council, entered into on 26 June 2012, and its associated 12 Month Key Action Plan.*<sup>1</sup>

The Bill also amends the NC Act to simplify the authorisation process for 'service facility' infrastructure (such as telecommunication towers, powerlines and water pipelines) which was already present when the land was dedicated as a park.

The Bill also makes two amendments to the Forestry Act. The first amendment removes the seven year maximum term and 10 hectare maximum area limits on occupation permits in a State forest. The second amendment clarifies that pipeline licence holders may obtain and register easements over State forest lands through an authority issued under the *Petroleum and Gas (Production and Safety) Act 2004*.

The policy intent of both the service facility amendments to the NC Act and the occupation permit amendments to the Forestry Act is to streamline administrative processes and reduce regulatory burdens. For example, the Explanatory Notes state that approval steps which are irrelevant to service facilities which existed on the land prior to the area being declared a national park will be removed by the proposed amendments to the NC Act, and the occupation permit amendments to the Forestry Act will enable "one permit to be issued over the extent of the project through a whole State forest if necessary, and for the life of the project".<sup>2</sup>

The Bill also repeals the *Brisbane Forest Park Act 1977*, which the Explanatory Notes state is no longer required to fulfil the coordinating function for which it was established.<sup>3</sup>

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<sup>1</sup> Explanatory Notes, Nature Conservation and Other Legislation Amendment Bill 2012, p.1

<sup>2</sup> *ibid* p.6

<sup>3</sup> *ibid* p.7

## 2 Examination of the Nature Conservation and Other Legislation Amendment Bill 2012

### 2.1 Should the Bill be passed?

Standing Order 132(1) requires the committee to recommend whether the Bill should be passed. The committee considered the main policy changes which the Bill would implement, as well as the application of fundamental legislative principles. After its examination of the Bill, the committee has decided to recommend that the Bill should be passed.

The committee has also recommended that the Minister inform the Legislative Assembly about a number of issues relevant to the proposed policy framework that is intended to underpin arrangements for ecotourism facilities. This is discussed in sections 4.2, 4.3 and 4.4.

#### **Recommendation 1**

The committee recommends that the Nature Conservation and Other Legislation Amendment Bill 2012 be passed.

### 3 Overview of the Nature Conservation Act 1992

This section of the report summarises parts of the NC Act which are relevant to the amendments proposed by the Bill.

#### 3.1 Object of the Act

The object of the NC Act is ‘the conservation of nature’ (section 4). Section 5 states this will be achieved ‘by an integrated and comprehensive conservation strategy for the whole of the State’ which includes the management of protected areas.

#### 3.2 Management of protected areas

Part 4 of the NC Act provides for the way that protected areas are declared, dedicated and managed. This part:

- specifies the classes of protected area to which the Act applies (section 14)
- prescribes individual management principles for each class of protected area (sections 15 to 26) and the following ‘cardinal principle’ (section 17(1)(a)), which applies to the management of national parks:

*A national park is to be managed to provide, to the greatest possible extent, for the permanent preservation of the area’s natural condition and the protection of the area’s cultural resources and value.*
- prohibits certain activities in specified classes of protected area (section 27)
- specifies who may grant a lease, agreement, license, permit or other authority in the various classes of protected area (other than an indigenous joint management area which is dealt with under section 42AO) (section 34)
- provides that a lease or other authority must be consistent with the management principles for the class of protected area and any management plan that has been approved for the area (other than an indigenous joint management area which is dealt with under section 42AO) (section 34)
- provides for the chief executive to grant a lease or other authority for a ‘service facility’, that is prescribed in a regulation for a permitted use, if the chief executive is satisfied that:
  - in a national park, the cardinal principle will be observed to the greatest possible extent, and in a national park (recovery), the management principle in section 19A will be observed to the greatest possible extent; and
  - the use will be in the public interest; and
  - the use is ecologically sustainable; and
  - there is no reasonably practical alternative to the use (section 35).

#### 3.3 Classes of protected area

The amendments proposed in the Bill would apply to three classes of protected area: national parks; national parks (recovery); and national parks (Cape York Peninsula Aboriginal land) – all referred to in the report as national parks, as well as Indigenous joint management areas.

Land may be declared an Indigenous joint management area if it is in the North Stradbroke Island region and is Aboriginal land. An Indigenous joint management area may include a protected area such as national park and other land under joint management.

### 3.4 Prohibited activities

Section 27 states that an authority cannot be granted for mining, geothermal activities and greenhouse gas storage activities in national parks. This prohibition does not apply to a survey licence or authorised activity for a pipeline licence under the *Petroleum and Gas (Production and Safety) Act 2004*. The Explanatory Notes state that the Act does not currently allow for “privately funded and operated ecotourism infrastructure on national park tenures”.<sup>4</sup> The primary objective of the Bill is to allow for ecotourism facilities in national parks.

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<sup>4</sup> Explanatory Notes, Nature Conservation and Other Legislation Amendment Bill 2012, p.2

## 4 Ecotourism facilities in protected areas

### 4.1 Attracting tourists and generating revenue

#### 4.1.1 Opportunities for growth in ecotourism

In his introductory speech, the Minister for National Parks, Recreation, Sport and Racing stated that the "... bill will deliver a new approach to ecotourism investment that addresses the tourism industry's demands and provides new opportunities to attract both domestic and international visitors to Queensland."<sup>5</sup> The department described its purpose as:

*Promoting ecotourism development on national parks serves to expand Queensland's range of unique tourism attractions, experiences and opportunities and this has broader economic benefits to the State.*<sup>6</sup>

The department also advised the committee that ecotourism is an emerging trend in national park management across Australia and internationally.<sup>7</sup>

The Queensland Tourism Industry Council (the Council) fully supported the Bill, particularly the proposed amendments to the NC Act which enable the authorisation of privately funded ecotourism facilities.<sup>8</sup> The Council's Chief Executive Officer, Mr Daniel Gschwind, stated that "... we are very supportive of the sentiment behind the bill and we are very supportive of the opportunities it offers the state and our industry as well."<sup>9</sup>

The Council indicated that the tourism industry views national parks as a market opportunity. Mr Gschwind referred to Tourism Australia data which indicates that "... more than 50 per cent of all international visitors to Australia list national parks as one of their experiences."<sup>10</sup> He also said that tourists want "... to be inside a park to witness the action, to witness the experience from the inside, not from the outside."<sup>11</sup>

Mr Gschwind described a "symbiotic relationship" between tourism and the environment and said the tourism industry has a fundamental and material interest in protecting the natural environment, which is viewed as a key asset.<sup>12</sup> He argued that the tourism industry and visitors have driven the protection and conservation of national parks and refuted suggestions that private ownership of facilities in a national park results in negative outcomes. Rather, Mr Gschwind argued that partnerships between industry and park management can bring about better management outcomes.<sup>13</sup>

The Council actively supports Ecotourism Australia's accreditation program and champions the achievement of such standards for all ecotourism activities operating in national parks.<sup>14</sup>

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<sup>5</sup> Minister for National Parks, Recreation, Sport and Racing, Explanatory Speech, Hansard, 13 November 2012, p. 2489

<sup>6</sup> Appendix 2, p. A-8

<sup>7</sup> Mr Clive Cook, Public Briefing, 28 November 2012, p.3

<sup>8</sup> Submission 69

<sup>9</sup> Mr Daniel Gschwind, Public Hearing, 16 January 2013, p. 6

<sup>10</sup> Mr Daniel Gschwind, Public Hearing, 16 January 2013, p. 6

<sup>11</sup> Mr Daniel Gschwind, Public Hearing, 16 January 2013, p. 6

<sup>12</sup> Mr Daniel Gschwind, Public Hearing, 16 January 2013, p. 6

<sup>13</sup> Mr Daniel Gschwind, Public Hearing, 16 January 2013, pp. 6-7

<sup>14</sup> Mr Daniel Gschwind, Public Hearing, 16 January 2013, p. 6

Ecotourism Australia also supported the Bill and considered the review of the NC Act and the government's support for the growth in ecotourism as "... extremely timely in both a national and global context".<sup>15</sup> The organisation's Chief Executive Officer, Ms Kym Cheatham, told the committee that international visitors ranked rainforests, forests and national parks as one of the top five most appealing Australian attractions, according to research released by Tourism Australia in October 2012. In addition, predictions by the United Nations World Tourism Organisation in September 2012 indicate that ecotourism will continue to grow at an annual rate of 10 to 15 per cent globally, with growth driven in the Asia Pacific region.<sup>16</sup>

The growing trend in 'voluntourism' was noted by Ms Cheatham as a potential source of growth in tourists who actively contribute to the conservation of the environment. They are tourists who:

*... come with all the best of intentions, wanting to do more good than harm, but they also become wedded to the destination and emotionally connected to the destination and in five years time they come back with their kids to show them and to have a look at the progress of that environment.*<sup>17</sup>

#### 4.1.2 Types of ecotourism facilities

Ecotourism Australia suggested that preference should be given to low impact ecotourism facilities and suggested that all ecotourism operators should be required to maintain independent environmental certification.<sup>18</sup> Mr Jonathan Fisher of the Currumbin Wildlife Sanctuary supported the establishment of 'appropriate' facilities which operate to a high standard and have a proven track record.<sup>19</sup> The Quandamooka Corporation, while describing reservations about high impact facilities, suggested that there may be opportunities for their community to "... develop low volume/high yield operations in more natural areas", provided it did not result in "... high numbers of people or high impact development in a fragile ecology."<sup>20</sup>

#### 4.1.3 Reservations about the potential for growth in tourism and revenue

Some stakeholders' submissions argued that authorising ecotourism facilities would not be effective in attracting significant tourism numbers or revenue. The most detailed argument to this effect was made by Professor Ralf Buckley, who has published widely on ecotourism. A number of other submitters who were familiar with Professor Buckley's academic work endorsed the arguments he has published in journals. In his submission Professor Buckley stated:

*Private tourism development in public parks would not achieve the stated intention to boost Queensland tourism and State revenue, because most parks are too remote from high-volume gateways and have no internationally unique high-volume attractions.*<sup>21</sup>

Professor Buckley argued that a more effective way to boost tourism is to increase public investment in national parks, to maintain trails, lookouts, toilets, signage and camping facilities, and enable private investment in accommodation on adjacent private land. Professor Buckley suggested that parks near major urban gateways, which attract greater tourist numbers and economic spin offs, should be the focus of ecotourism development.<sup>22</sup> A number of journal articles were provided to the

<sup>15</sup> Ms Kym Cheatham, Public Hearing, 16 January 2013, p. 9

<sup>16</sup> Ms Kym Cheatham, Public Hearing, 16 January 2013, p. 9

<sup>17</sup> Ms Kym Cheatham, Public Hearing, 16 January 2013, pp. 10-11

<sup>18</sup> Ms Kym Cheatham, Public Hearing, 16 January 2013, p. 10

<sup>19</sup> Submission 5

<sup>20</sup> Submission 57

<sup>21</sup> Submission 11

<sup>22</sup> Submission 11

committee after the hearing, in support of the view that other approaches were more likely to be successful than the development of ecotourism facilities in national parks. They are published on the committee's website.<sup>23</sup>

The department advised the committee that:

*Experience from other jurisdictions and tourism forecasting indicates that there is demand for quality ecotourism facilities on national parks and these facilities play a role in in tourism development.*<sup>24</sup>

The department also stated that economic viability will form part of the future policy development process and "... will be a consideration for both industry and government in assessing proposed ecotourism facilities".<sup>25</sup>

#### 4.1.4 Ecotourism facilities adjacent to national parks

A number of submissions suggested that ecotourism facilities should be located outside parks, on nearby private land. The majority of these submissions viewed locating facilities near national parks as preferable, given that only five per cent of Queensland is a protected area under the NC Act.<sup>26</sup>

Ms Cheatham from Ecotourism Australia highlighted potential economic returns for communities near national parks, stating that "It is not just about the place where they stay but it is also about where they stop and have breakfast and what other activities they might participate in."<sup>27</sup>

#### 4.1.5 Committee comment

The committee considered the intent of the Bill to increase tourism numbers and revenue from ecotourism in national parks, and the arguments that the Bill will not achieve this because there are not sufficient high-volume attractions close to tourist gateways. The committee notes that the Bill creates the opportunity for private operators to invest in ecotourism facilities in national parks. The committee considers that it is up to ecotourism operators and investors to assess the business viability of the opportunity that the Bill would create.

The committee also notes that limited detail about the type and impact of proposed ecotourism facilities is available in the Bill, and the concerns raised in evidence about potential negative environmental impacts, which are discussed in the following sections.

## 4.2 Ecotourism facility amendments and a proposed policy framework

### 4.2.1 Service facilities

As noted in section 3.2 above, section 35 of the NC Act already provides for the granting of leases or other authorities for a 'service facility'. The Bill would not change the current rules in section 35 about 'service facilities' and for that reason, this report does not discuss those approvals.

### 4.2.2 The ecotourism amendments

The Bill provides for a broad framework which enables the chief executive of the department, together with the indigenous landholder where the park includes Aboriginal land, to authorise ecotourism facilities in national parks. The chief executive may only give such an authorisation if he or she is satisfied:

<sup>23</sup> [www.parliament.qld.gov.au/hcsc](http://www.parliament.qld.gov.au/hcsc)

<sup>24</sup> Appendix 2, p. A-9

<sup>25</sup> Appendix 2, p. A-9

<sup>26</sup> Submissions 1, 2, 3, 11, 12, 14, 15, 22, 24, 25, 28, 31, 32, 33, 34, 35, 37, 43, 44, 45, 46, 47, 72, 73

<sup>27</sup> Ms Kym Cheatham, Public Hearing, 16 January 2013, p. 11



- the use will be in the public interest
- the use is ecologically sustainable, and
- the use will provide, to the greatest possible extent, for the preservation of the land's natural condition and the protection of the land's cultural resources and values.

In addition, authorisation for an ecotourism facility cannot be given unless a specific regulation is made designating the use as permitted for the area.

#### 4.2.3 *Proposed policy framework*

The Explanatory Notes state the legislative provisions will be supported by a “policy framework and associated procedures will be developed to ensure that any proposed ecotourism infrastructure is appropriately assessed and evaluated.”<sup>28</sup> The Explanatory Notes state that the policy framework and associated procedures will be in place before the commencement of the ecotourism amendments. The Minister described the proposed policy framework:

*A comprehensive policy framework and associated procedures will be developed to support the implementation of these legislative provisions. .... This policy framework will also include the development of a robust and transparent process to assess any proposed ecotourism developments.*<sup>29</sup>

#### 4.2.4 *Consultation on the proposed policy framework*

Many of the concerns raised by stakeholders are matters that the Explanatory Notes and the department indicate will be addressed in the proposed policy framework. These issues, which are discussed in detail in later sections of the report, include:

- assessment processes that ensure that a proposal “complies with the definition of an ecotourism facility, and to consider its overall environmental sustainability, its particular impact on the land's natural condition and cultural resources and values, and whether the proposed use is in the public interest.”<sup>30</sup>
- public interest considerations which include “assessment of the need that is to be served by the proposed facility, its impact on the amenity of the area, its effect on general community access and on other recreational and commercial opportunities in the park and adjacent areas, its long-term economic viability and the level of direct commercial return to the State (e.g. lease rental payments).”<sup>31</sup>
- ensuring ecotourism development satisfies “requirements under other relevant legislation, including the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* and State and Commonwealth Native Title legislation.”<sup>32</sup>

Eight submissions stated that the policy framework and associated procedures should be subject to public consultation.<sup>33</sup> Another three submitters suggested that the policy framework should have been developed before drafting of the Bill.<sup>34</sup>

<sup>28</sup> Explanatory Notes, p.5

<sup>29</sup> Minister for National Parks, Recreation, Sport and Racing, ‘Explanatory Speech, *Hansard*, 13 November 2012, p. 2490

<sup>30</sup> Explanatory Notes, p.5

<sup>31</sup> Explanatory Notes, p.5

<sup>32</sup> Explanatory Notes, p.5

<sup>33</sup> Submission 11, 23, 25, 33, 35, 37, 42, 43

<sup>34</sup> Submission 48, 58, 75

The committee considers that consultation with the public and stakeholders on the contents of the proposed policy framework and associated procedures may address concerns that have been raised with the committee. To assure stakeholders, the committee recommends that the Minister inform the Legislative Assembly about the scope and timing of consultation to be undertaken during the development of the proposed policy framework. The committee considers that the policy framework should be readily accessible to the public once it is finalised.

**Recommendation 2**

The committee notes that a number of issues raised in evidence about ecotourism facilities are to be addressed in a policy framework that the Explanatory Notes state will be developed to guide the authorisation and development of those facilities. The committee recommends that the Minister inform the Legislative Assembly during the second reading debate about the following:

- the scope and timing of the consultation that will inform the development of the policy framework,
- whether public comment will be sought on applications for each lease or authority for an ecotourism facility and the arrangements that will apply to trigger public comment on proposals, and
- what arrangements will be put in place, through lease conditions, performance criteria, rehabilitation bonds or other mechanisms, to specify who is responsible for rehabilitation of the site of an ecotourism facility when an operator leaves the facility, and what rehabilitation is required.

**4.3 Environmental impacts and potential measures to manage the impacts on national parks****4.3.1 Potential environmental impacts of ecotourism facilities**

A significant number of submissions detailed the potential direct and indirect environmental impacts of building ecotourism facilities in protected areas. Concerns included the impacts of building, managing and accessing a facility and potential changes in the way parks would be managed.

Professor Buckley argued that the establishment of ecotourism facilities inside a park is detrimental to the environment and identified a number of direct and indirect impacts, including:

- clearing native flora for the build site and access roads
- waste generation at the site, which in turn attracts feral species such as rats
- the introduction and spread of weeds, feral animals and disease into the park
- the increased likelihood that the park will be used for illegal activities (such as drug cropping and adventure activities) due to improved access.<sup>35</sup>

More than thirty submissions endorsed and added to Professor Buckley's argument. Additional concerns included the impact on local water flows, the threat posed to wildlife by increased road traffic,<sup>36</sup> increased pressures from visitor use<sup>37</sup>, higher levels of species loss,<sup>38</sup> changes in fire regimes<sup>39</sup> and barriers to certain wildlife movements.<sup>40</sup>

<sup>35</sup> Submission 11

<sup>36</sup> Submission 2

Environmental fragmentation was also a concern and a number of submissions stated that development would fragment parks and leave them open to more rapid degradation.<sup>41</sup>

*The degradation of parks is materially assisted by having more edges; in the same way that smashed ice will melt more quickly than a block of ice so fragmented National Parks will degrade more quickly than solid intact ones.*<sup>42</sup>

The National Parks Association of Queensland suggested that the damage created by “resort facilities” inside a park could be “substantial and cumulative”.<sup>43</sup>

The department advised that consideration of the matters raised in submissions “.... will form part of the future policy development process, including site planning considerations”.<sup>44</sup>

#### 4.3.2 Assessment criteria - ‘in the public interest’ and ‘ecologically sustainable’

As noted above, the Bill requires the chief executive to be satisfied that a proposed ecotourism facility is in the public interest and the use is ecologically sustainable. Four submissions questioned what criteria would be used to determine whether an ecotourism facility is in the public interest and ecologically sustainable. Another submission stated that more detail about those decision making criteria should be in the Bill.

Professor Buckley argued that, without more precise definition in the Bill, the provisions giving authority to grant an ecotourism facility are “largely meaningless”.<sup>45</sup> Professor Buckley concluded that it “would be very difficult indeed for any private ecotourism development inside a national park to be in the public interest” and argued that a strict interpretation of the requirement that the chief executive is satisfied that the use would preserve the land’s natural condition to the maximum possible extent’ would “make it impossible to approve any development”.<sup>46</sup>

The department advised that the criteria in the Bill need to remain practical and brief and referred to definitions of in the public interest and ecologically sustainable being subject to future policy development. The department also stated that the policy framework will provide “appropriate criteria for assessing the public interest and sustainability aspects of any ecotourism proposal”.<sup>47</sup>

#### 4.3.3 Committee comment

The committee’s view is that public comment should be sought on applications for each lease or authority for an ecotourism facility and recommends that the Minister inform the Legislative Assembly of the arrangements that will apply to trigger public comment on proposals. The committee’s recommendation on this matter is in Recommendation 2.

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<sup>37</sup> Submission 28

<sup>38</sup> Submission 38

<sup>39</sup> Submission 43

<sup>40</sup> Submission 52

<sup>41</sup> Submission 2, 15, 28

<sup>42</sup> Submission 2

<sup>43</sup> Submission 52

<sup>44</sup> Appendix 2, p. A-8

<sup>45</sup> Submission 11

<sup>46</sup> Submission 11

<sup>47</sup> Appendix 2, p. A-4

#### 4.3.4 *Rehabilitation of sites*

Fifteen submissions state that various terms and conditions should be attached to the granting of a lease for an ecotourism facility, to protect the environment and safeguard the government in the event that a facility ceases to operate.<sup>48</sup>

Professor Buckley argued that the Bill should specify that if a lease is not renewed, "... the lessee is responsible for removing all materials and traces of the development, including access, and restoring the land to its condition prior to the development" and states that developers should have to lodge a bond to cover the costs of this work in the event that sites are abandoned. He stated that five per cent of approved tourism developments in Australia were abandoned and rehabilitated, at public expense, and noted that bonds are a common requirement in the mining industry.<sup>49</sup>

The Minister said, in his explanatory speech on the Bill, that ecotourism operators will be offered a lease of up to 30 years, with a renewal option for a further 30 years, "... subject to the lessee meeting relevant performance criteria to ensure a long-term approach to sustainability."<sup>50</sup>

The department also advised that "consideration of these matters will form part of the future policy development process."<sup>51</sup>

#### 4.3.5 *Committee comment*

The committee considers that the rehabilitation of ecotourism facility sites is important and that clear arrangements about responsibility for rehabilitation are needed. It recommends that the Minister inform the Legislative Assembly of the measures that will ensure that sites are made good. The committee's recommendation on this matter is in Recommendation 2.

#### 4.3.6 *Environmental Impact Assessments, public comments and appeals*

Six submissions stated that ecotourism facility proposals should be accompanied by an Environmental Impact Assessment (EIA). Professor Buckley added that the Bill should "... include specific clauses, additional to EIA requirements, that provide for public consultation and public right of third-party appeal".<sup>52</sup>

The department's advice is that the NC Act includes provisions for environmental impact statements, public consultation and third party appeal rights, which include "... the ability to seek a court declaration about the grant or construction of an authority granted under the Act in relation to land in a protected area."<sup>53</sup>

#### 4.3.7 *Committee comment*

The committee notes that there are existing arrangements for appealing decisions made under the NC Act and that the policy framework and assessment process will consider the overall environmental sustainability of ecotourism facility proposals, in particular the impact a facility will have on the land's natural condition and cultural resources and values.<sup>54</sup>

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<sup>48</sup> Submission 2, 11, 15, 25, 28, 33, 35, 37, 40, 41, 42, 43, 51, 61, 75

<sup>49</sup> Submission 11

<sup>50</sup> Minister for National Parks, Recreation, Sport and Racing, 'Explanatory Speech, Hansard, 13 November 2012, p. 2490

<sup>51</sup> Appendix 2, p. A-11

<sup>52</sup> Submission 11

<sup>53</sup> Appendix 2, p. A-5

<sup>54</sup> Explanatory Notes, p.5

#### 4.3.8 Definition of ecotourism facility

Clause 17 inserts a definition of 'ecotourism facility' in the NC Act (see Glossary, p iv). The proposed definition would not allow an ecotourism facility to be used for certain activities, for example a golf course, amusement park or casino.<sup>55</sup>

Stakeholders suggested the definition is too broad, and were concerned it would allow facilities that may be incompatible with a national park. Fourteen submitters stated that the definition should be more precise and raised concerns about the nature and scale of facilities that could be authorised.<sup>56</sup> The Fraser Island Defenders Organisation suggested that the definition would allow for the construction of a light rail service.<sup>57</sup>

Professor Buckley argued that the definition should include "a measure of maximum scale and size, since otherwise a large resort-residential development and convention centre could put itself forward as ecotourism".<sup>58</sup> The Townsville Branch of the Wildlife Preservation Society of Queensland's submission suggested the definition should include "... exactly what type and size of facility qualifies as being eco-tourist, and precisely what is, and is not, allowable in terms of activities, structures, operation and management methods and practices".

The Society also suggested "... internationally agreed definitions and standards are explored and adopted to make clear to the public, and to would-be operators, exactly what standards will be required, what activities will be allowed and what will not".<sup>59</sup> Another submitter argued that matters such as power usage and 'green-ness' should also be included in the definition.<sup>60</sup>

The department advised the committee that the definition of 'ecotourism facility' needed to "provide enough flexibility not to fetter the opportunity for design and innovation".<sup>61</sup> In addition, the department advised that the definition is "based on international definitions, such as that of the International Union for the Conservation of Nature (IUCN)" and "recognises the fundamental intention of ecotourism (i.e. the experience and appreciation by visitors of an area's natural and cultural features with minimal disturbance or change to the natural condition or values of the area)".<sup>62</sup>

The proposed policy framework, discussed in section 4.2.3 and 4.2.4 above, is intended to contain guidelines to ensure that any proposed ecotourism infrastructure is appropriately assessed and evaluated including obligations and requirements where appropriate, such as the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), statutory local government requirements and park management plans or statements.<sup>63</sup>

#### 4.3.9 Definition of ecotourism

Seven submitters were concerned that 'ecotourism' is not defined in the Bill or the NC Act, and two submitters suggested that international definitions of ecotourism should be adopted. The Protect the Bush Alliance suggested that ecotourism be defined in a way that emphasises conservation, education, traveller responsibility and active community participation.<sup>64</sup> Ecotourism Australia said a definition of ecotourism should take into account that activities such as adventure tourism,

<sup>55</sup> Nature Conservation and Other Legislation Amendment Bill 2012, clause 17

<sup>56</sup> Submissions 11, 15, 23, 25, 31, 33, 35, 37, 40, 42, 61, 62, 70, 73.

<sup>57</sup> Submission 18

<sup>58</sup> Submission 11

<sup>59</sup> Submission 25

<sup>60</sup> Submission 40

<sup>61</sup> Mr Clive Cook, Public Briefing, 28 November 2012, p.5

<sup>62</sup> Appendix 2, p. A-4

<sup>63</sup> Appendix 2, p. A-4

<sup>64</sup> Submission 41

indigenous tourism and Geotourism can and should be conducted under the same standards as nature tourism.”<sup>65</sup> Ecotourism Australia defines ecotourism as:

*ecologically sustainable tourism with a primary focus on experiencing natural areas that fosters environmental and cultural understanding, appreciation and conservation.*

Another submission cited the World Conservation Union’s definition of ecotourism:

*Environmentally responsible travel to natural areas, in order to enjoy and appreciate nature (and accompanying cultural features, both past and present) that promote conservation, have a low visitor impact and provide for beneficially active socio-economic involvement of local peoples.*<sup>66</sup>

#### 4.3.10 Committee comment – definition of ecotourism not required in Bill

The committee notes that the term ‘ecotourism’ is not used in the NC Act or the Bill, except as part of ‘ecotourism facility’. The term ‘ecotourism’ is not specifically defined in any legislation relating to national parks in other Australian jurisdictions. Definitions are more commonly contained in policy documents, which generally refer to nature based tourism, of which ecotourism is a component.

While the committee acknowledges the value of expert and internationally recognised definitions of ‘ecotourism’ in the development of policy and guidelines, the committee does not consider that a definition of ‘ecotourism’ is required in the Bill.

#### 4.3.11 The cardinal principle

As noted in section 3.2 above, the cardinal principle (see page 4) does not apply to the ecotourism facility amendments. Instead the Bill specifies a principle that does not include ‘permanent preservation’ of the area’s natural condition. Before granting authority for an ecotourism facility, the chief executive must be satisfied that:

*the use will provide, to the greatest possible extent, for the preservation of the land’s natural condition and the protection of the land’s cultural resources and values*<sup>67</sup>

Nineteen submissions raised concerns about the application of the cardinal principle to ecotourism facilities. Three argued that the Bill is in conflict with the cardinal principle or contradicts the objects of the NC Act.<sup>68</sup> Another three submitters argued that if the cardinal principle was applied, development could not occur in national parks.<sup>69</sup>

Ten submissions said the Bill diminishes the importance the cardinal principle<sup>70</sup> and six stated that the cardinal principle should be applied to ecotourism facilities.<sup>71</sup> The President of the Australian Rainforest Conservation Society, Dr Aila Keto, said the Bill changed the cardinal principle of national park management from the “conservation of nature” to the “service of people”.<sup>72</sup>

The department advised that elements of the cardinal principle are embodied in the ecotourism facility amendments and noted that any infrastructure development in national parks will have some impact on the natural condition of the land.<sup>73</sup>

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<sup>65</sup> Submission 61

<sup>66</sup> Submission 6

<sup>67</sup> Nature Conservation and Other Legislation Amendment Bill 2012, clauses 8(c)(iii), 11(c)(iii) and 13(c)(iii)

<sup>68</sup> Submission 62,64

<sup>69</sup> Submission 15, 27, 65

<sup>70</sup> Submission 13, 23, 24, 33, 39, 43, 46, 59, 72, 73

<sup>71</sup> Submission 17, 23, 24, 31, 46, 47

<sup>72</sup> Dr Aila Keto, Public Hearing, 16 January 2013, p. 12

<sup>73</sup> Appendix 2, p. A-7

#### 4.3.12 Park management and management plans

A number of submissions argued that the environmental impacts associated with the development of facilities inside a park will influence the way in which parks are managed and questioned whether conservation values will be compromised. For example, the National Parks Association of Queensland suggested that fire issues could be exacerbated because of increased access and concluded that:

*fire management then has to concern itself primarily with protecting the resort and its inhabitants. This will inevitably be to the detriment of the surrounding natural landscape, which would have been subjected to an ecological burning regime in the absence of such a facility.*<sup>74</sup>

It was argued, in thirteen submissions, that additional management costs would be incurred in parks where ecotourism facilities are located. Costs were attributed to additional compliance work, damage caused by inappropriate activities, rehabilitation of abandoned sites and compensation claims.<sup>75</sup> Section 4.3.4 discusses the importance of defining arrangements for the rehabilitation of sites.

The department advised that these matters will be considered during the development of a policy framework and assessment processes.<sup>76</sup>

Section 5(c) of the NC Act states that protected areas will be managed in accordance with the management principles, the interim and declared management intent and management plans. The Act requires plans to be prepared as soon as practicable after the dedication of a national park and section 34(3) requires that any authority (e.g. for an ecotourism facility) must be consistent with the management principles and management plan for the area, if there is one.

The Auditor General found in 2010 that management plans were in place for only 98 of the 576 (17 per cent) protected areas.<sup>77</sup> In October 2012 the Auditor General reported that the number of park management plans had not increased since 2010, but the department had 129 park management plans in draft form and management statements for a further 245 protected areas, as an interim measure.<sup>78</sup> The Auditor General noted that management statements have no formal legislative standing under the NC Act.<sup>79</sup>

#### 4.3.13 Committee comment – management plans

The committee notes that the proposed policy framework, discussed in sections 4.2.3 and 4.2.4 above, will refer to other legislative requirements where appropriate, and that this may include park management plans or statements.<sup>80</sup>

### 4.4 Public access

The Explanatory Notes state that a lease for an ecotourism facility “could potentially provide exclusive access rights to an area that may once have been accessible by the general community as public land.” The proposed policy framework will give consideration to ensuring “a balance between maintaining community access, whilst also enabling individual lessees to provide opportunities for

<sup>74</sup> Submission 52

<sup>75</sup> Submission 2, 11, 15, 25, 28, 33, 35, 37, 40, 41, 42, 43, 51

<sup>76</sup> Appendix 2, p. A-10

<sup>77</sup> Auditor General of Queensland, *Report to Parliament No. 9 for 2010, Sustainable management of national parks and protected areas*, p. 2

<sup>78</sup> Auditor General of Queensland, *Follow up of 2010 audit recommendations, Report to Parliament No. 2: 2012-13*, p.3

<sup>79</sup> op. cit, p. 25

<sup>80</sup> Appendix 2, p. A-4

their guests to enjoy a reasonable expectation of quiet enjoyment and privacy”.<sup>81</sup> The Explanatory Notes also state that public access will be one of the things the chief executive considers when determining whether an ecotourism facility is in the public interest.<sup>82</sup>

A large number of submissions raised concerns about public access to national parks. The most common concern, in 30 submissions, was that public access to parks with ecotourism facilities will be restricted.<sup>83</sup> One submission expanded on this concern, noting that parks provide communities with many educational, recreational and social benefits which may no longer be so readily available if access is limited.<sup>84</sup> Four submissions stated that the Bill should identify how public access will be balanced with requirements of the lessee.<sup>85</sup> Professor Buckley suggested one way to achieve a balance is to create new access roads for developments and notes that this may not be viable for a number of reasons.<sup>86</sup>

The department’s response indicated that “... the maintenance of public access, will form part of the Policy Framework and procedures for assessing proposed ecotourism infrastructure”.<sup>87</sup> The department also noted that a range of visitor facilities are already located in national parks and that privately owned ecotourism facilities will add to this range.<sup>88</sup>

#### 4.4.1 *Committee comment*

The committee’s view is that more detail is required about how public access to national parks in which an ecotourism facility is established will be maintained, and refers to Recommendation 2, which requests that the Minister provide more information about the proposed policy framework.

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<sup>81</sup> Explanatory Notes, Nature Conservation and Other Legislation Amendment Bill 2012, p. 11

<sup>82</sup> Explanatory Notes, Nature Conservation and Other Legislation Amendment Bill 2012, p.11

<sup>83</sup> Submission 3, 11, 13, 17, 23, 24, 25, 26, 29, 33, 35, 37, 39, 40, 41, 43, 45, 47, 50, 51, 52, 53, 54, 55, 56, 57, 59, 70, 72, 74

<sup>84</sup> Submission 24

<sup>85</sup> Submission 11, 33, 35, 37

<sup>86</sup> Submission 11

<sup>87</sup> Appendix 2, p. A-12

<sup>88</sup> Appendix 2, p. A-12



## 5 Amendments to *Forestry Act 1959* and the *Brisbane Forest Park Act 1977*

The Bill repeals the *Brisbane Forest Park Act 1977* (BFPA) and makes amendments to the Forestry Act.

The Forestry Act regulates forest product use, such as timber, on all State land. It allows a number of secondary purposes in State forests, such as grazing, conservation, recreation, apiary, infrastructure and mining. The BFPA coordinates recreation and conservation across forested land to Brisbane's west, including Brisbane City Council land, water reserve land, State forest and national park.

### 5.1 Repeal of the *Brisbane Forest Park Act 1977*

Clause 3 of the Bill repeals the BFPA. The Explanatory Notes state that use of the Act has ceased in recent years due to changes in administrative arrangements and land tenure and that the Act 'is no longer required to fulfil the coordinating function for which it was established'.<sup>89</sup>

The Explanatory Notes refer to consultation in 2008-09 with the Brisbane Forest Park Advisory Planning Board and relevant land managers during which "it was agreed that the Brisbane Forest Park arrangements should cease".<sup>90</sup> The Explanatory Notes also state that all relevant arrangements under the BFPA have been "wound up" - subordinate regulations made in 1998 and 1999 have expired, the Planning Board is no longer in place, revenue is no longer collected and all previously collected revenue has been expended.<sup>91</sup>

The National Parks Association of Queensland<sup>92</sup> and Birdlife Southern Queensland and Birds Queensland<sup>93</sup> submissions stated they would be concerned if repealing the BFPA allowed activities, currently excluded under that Act, to occur in national parks, in particular, D'Aguilar National Park. In response, the Department stated that "there has been little net change to recreation opportunities available in D'Aguilar National Park over time".

The committee notes that the majority of the land previously managed under the PFPA is now managed under the Forestry Act and NC Act and understands that Brisbane City Council has indicated a preference to "work cooperatively using less formal, non-statutory arrangements".<sup>94</sup>

### 5.2 Amendments to the *Forestry Act 1959*

Section 26(1A) of the Forestry Act states that land in a State forest can only be dealt with under authority of, or in accordance with, the provisions of the Act. However, under recent amendments made to the *Petroleum and Gas (Production and Safety) Act 2004*, an easement may be created for a pipeline licence holder, despite section 26(1A) of the Forestry Act. To ensure clarity and avoid any uncertainty for industry, the Bill will insert a cross-referencing provision in section 26(1A) of the Forestry Act, noting that the *Petroleum and Gas (Production and Safety) Act 2004* allows for an easement to be created over a State forest for a pipeline licence holder.

Infrastructure developments, for instance, telecommunications, electricity transmissions and mining, on State forests are typically managed through granting of a permit to occupy (occupation permits) under section 35 of the Forestry Act. Clause 6 amends section 35 of the Forestry Act by removing the seven year maximum term and 10 hectare maximum area limits on occupation permits.

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<sup>89</sup> Explanatory Notes, Nature Conservation and Other Legislation Amendment Bill 2012, p. 4

<sup>90</sup> Explanatory Notes, p. 13

<sup>91</sup> Explanatory Notes, p. 7

<sup>92</sup> Submission 54

<sup>93</sup> Submission 52

<sup>94</sup> op. cit, p. 4

The Explanatory Notes state that there has recently been an increase in infrastructure development in State forests – mainly due to the expanding coal seam gas (CSG) industry, but also other sectors, for example telecommunications. Such developments are characterised by their long ‘life’ and often exceed the current 10 hectare limit.<sup>95</sup> The Explanatory Notes give an example where, due to the size of a proposed development, a CSG proponent was issued with 18 separate occupation permits for a linear infrastructure through a State forest.<sup>96</sup> Clause 6 seeks to address inefficiencies arising from granting multiple permits by removing the maximum size limit and providing the chief executive with the discretion to decide the term of the permit.

### 5.3 Benefits of the amendments

Ergon Energy supported the proposed amendments, which they consider would help to reduce the administrative costs associated with applying for occupation permits. Nineteen of the submissions about clause 6 did not support the proposed amendments. One submission stated that allowing companies to extract resources from State forests only benefits private companies, and was not in the public interest.<sup>97</sup> In response, the Department explained that the Forestry Act already recognises and provides for resource extraction from State forests.

#### 5.3.1 Potential adverse impacts

A number of submissions raised concerns about the potential adverse environmental impacts, including on biodiversity, displacement of wildlife and loss of important vegetation<sup>98</sup>, and adverse environment and social impacts, such as increased risk of fire or other hazards<sup>99</sup>, of occupation permits. Other submissions highlighted the importance of protecting areas in State forest which may in the future be designated as national parks.<sup>100</sup> Submitters were concerned that removing the current term and area restrictions on occupation permits would only make matters worse.<sup>101</sup> Of particular concern was the impact of more CSG projects in State forests. The National Parks Association Queensland’s submission gave the example of Hallett State Forest, which it stated has “virtually disappeared under a matrix of CSG well-heads”.<sup>102</sup> Submissions called for Government vigilance, and for assessments of the potential impacts to be carried out before occupation permits are granted.<sup>103</sup>

The Department explained that the removal of permit limits will not change the assessment process for considering whether permits are granted or refused. This process involves assessing and maintaining conservation values of State forests. Environmental conditioning for specific industries will continue under existing legislation, such as the *Petroleum and Gas (Production and Safety) Act 2004*. The *Environmental Protection Act 1994* also regulates industry and their activities on lands such as State forests in order to manage and minimise impacts. The policy objective is to reduce the paperwork associated with the granting of occupation permits, for example, by allowing one permit to be granted instead of many.

#### 5.3.2 Committee comment

The committee considers that adequate measures should be in place to ensure that the environmental, economic and social impacts of occupation permits are considered.

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<sup>95</sup> Explanatory Notes, p. 3

<sup>96</sup> Explanatory Notes, p. 3

<sup>97</sup> Submission 15

<sup>98</sup> Submissions 13, 17, 25, 26, 29, 39, 45, 51, 52, 62, 64 and 73

<sup>99</sup> Submissions 58 and 75

<sup>100</sup> Submissions 25, 26, 29, 39, 51, 52, 64 and 73

<sup>101</sup> Submissions 13, 26 and 46

<sup>102</sup> Submission 52

<sup>103</sup> Submissions 17, 29, 39, 42, 51, 58, 64, 73, 75

Section 35(1) of the Forestry Act provides that the chief executive may grant occupation permits, subject to such provisions, reservations and conditions, as he or she thinks fit. The Department's website sets out the following assessment criteria for granting occupation permits: the possible impacts on natural and cultural resources and values; other uses; management interests; and safety and equity.<sup>104</sup> The Explanatory Notes explain that "Policies which currently guide the assessment and grant of permits will be amended to ensure that the area and time-frame provided under the permit is appropriate to the nature of the project and forest management considerations". These policies will be publicly available and include sufficient detail to ensure sound and consistent decisions.<sup>105</sup>

The "cardinal principle" of State forest management applies to the chief executive's decisions on occupation permits.<sup>106</sup> Section 33(2) of the Forestry Act also provides that in managing the State forest, the chief executive must have regard to the:

- benefits of permitting grazing in the area
- desirability of conservation of soil and the environment and of protection of water quality, and
- possibility of applying the area to recreational purposes.

Finally, section 35(4) of the Forestry Act provides that occupation permits must not prejudice or oppose the objects of the Act as a whole.<sup>107</sup>

The committee considers that adequate measures are in place, or planned, to ensure that the environmental, economic and social impacts are considered when reaching decisions on occupation permits. The committee also notes the Department's commitment to amend the existing policy for assessing occupation permits to reflect the removal of the term and area limits of occupation permits. However, in order to provide greater clarity and assurances to stakeholders, the committee's third recommendation is that the Minister provide further information about the appropriateness of the area and time-frame of occupation permits.

### **Recommendation 3**

The committee recommends that the Minister inform the Legislative Assembly during the Second Reading debate of the type of assessment criteria he envisages will be used to ensure that the area and time-frame provided under an occupation permit in a State forest is appropriate, including how forest management considerations and potential environmental, economic and social impacts will be taken into account.

<sup>104</sup> Department of National Parks, Recreation, Sport and Racing, "Occupation permits for state forests" [http://www.nprsr.qld.gov.au/licences-permits/development/occupation\\_permits\\_for\\_state\\_forests.html](http://www.nprsr.qld.gov.au/licences-permits/development/occupation_permits_for_state_forests.html), retrieved on 31 January 2013

<sup>105</sup> Explanatory Notes, p. 12

<sup>106</sup> *Forestry Act 1959*, section 33, defines the "cardinal principle" as the permanent reservation of such areas for the purposes of protecting timber and associated products in perpetuity and of protecting a watershed therein.

<sup>107</sup> *Forestry Act 1959*, Preamble - the object of the Act is to "provide for forest reservations, the management, silvicultural treatment and protection of State forests, and the sale and disposal of forest products and quarry material, the property of the Crown on State forests, timber reserves and on other lands ..."

## 6 Fundamental legislative principles

### 6.1 Introduction

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 considered the application of fundamental principles to the Bill. It noted that the Explanatory Notes to the Bill state that the Bill is considered to have sufficient regard to the rights and liberties of individuals and the institution of Parliament.

The committee has no comments in relation to clause 3 of the Bill – Repeal of the BFPA. There are, however, potential issues with the amendments to the NC Act, in relation to community access to national parks, and with the amendments to the Forestry Act, in relation to ensuring that administrative power is only delegated in appropriate cases. The committee makes the following comments in relation to these issues.

### 6.2 Amendments to the Nature Conservation Act 1992 – rights and liberties of individuals

Clauses 8, 11, 13 and 17 of the Bill will result in an ecotourism lease granting exclusive access rights to an area of a national park that was previously accessible by the general community as public land. This raises the question of whether these clauses have sufficient regard to the rights and liberties of individuals.

The Explanatory Notes stated that any issues in relation to rights and liberties of individuals will be addressed by developing a policy framework, which “... will ensure a balance between maintaining community access, whilst also enabling individual lessees to provide opportunities for their guests to enjoy a reasonable expectation of quiet enjoyment and privacy”. To assure stakeholders, the committee recommends that the Minister provide further information during the second reading debate about how the policy framework will take into consideration issues relating to public access.

### 6.3 Amendments to the Forest Act 1959 – are administrative powers sufficiently defined?

Occupation permits can be issued for land in any State forest by the chief executive, subject to such provisions, reservations and conditions as the chief executive sees fit. However, currently the maximum term of an occupation permit is seven years and the maximum area it may cover is 10 hectares.<sup>108</sup> Clause 6 of the Bill removes these term and area limitations.

The removal of these limitations broadens the scope for the exercise of administrative power, and makes it possible for permits to be issued over an undefined geographical area and for a term to be set by the chief executive. The Explanatory Notes state that the current policies for the assessment and granting of occupation permits will be amended to ensure that the area and time-frame provided is appropriate to the nature of the project and forest management considerations. The policies will be publicly available and include sufficient detail to ensure sound and consistent decisions.<sup>109</sup> To give greater assurance, the committee recommends that the Minister provide further information about the proposed assessment criteria for granting occupation permits.

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<sup>108</sup> *Forestry Act 1959*, section 35

<sup>109</sup> Explanatory Notes, p. 12

The committee considers that the removal of these limitations may impact on the rights and liberties of individuals. For instance, if an occupation permit included exclusive rights which prevented the occupation or use by others of an area of a State forest. This could mean that another form of permit, for example, a permit to camp, graze stock or for an apiary may not be granted over that area of a State forest.

The committee notes that existing provisions in the Forestry Act require the chief executive to have regard to the “cardinal principle” of State forest management and other matters, and asks the Minister to clarify whether occupation permits could give exclusive occupation in State forests.

**Recommendation 4**

The committee recommends that the Minister inform the Legislative Assembly during the second reading debate whether it would be possible for an occupation permit in a State forest to provide exclusive rights to occupy all or part of a State forest, and if so, the circumstances in which exclusive rights would be granted.

#### **6.4 Explanatory Notes**

The Explanatory Notes generally conform to the requirements of section 23 of the *Legislative Standards Act 1992*.



## Appendices

### Appendix 1 – List of Submissions

Sub #	Name
1	Anthony O'Malley
2	Peter Young
3	Frank Happ
4	Maureen Cooper
5	Jonathan Fisher
6	Lee K Curtis
7	Josh Jensen
8	Mary Monteith
9	Dereka Ogden
10	Lorraine Oats
11	Prof Ralf Buckley
12	Sharne Vogt
13	Friends of Lake Weyba Inc
14	Lisa Wren
15	Fitzroy Basin Association
16	Mike & Alison Jones
17	Wildlife Preservation Society of Queensland
18	Fraser Island Defenders Organisation
19	Philip Squire
20	Sandra Taylor
21	Ergon Energy
22	Peregian Beach Community Association Inc
23	Moreton Island Protection Committee Inc
24	Peta Frampton
25	Townsville Branch of the Wildlife Preservation Society of Queensland
26	Sunshine Coast and Hinterland Wildlife Preservation Society of Queensland
27	Wendy Auton
28	Liz Horler
29	Australian Rainforest Conservation Society Inc
30	Rachel Mebberson
31	Gabriele Kappes
32	Daniel Zeh
33	Nadia O'Carroll
34	Helen Holmes

Sub #	Name
35	Kerry O'Carroll
36	Gondwana Rainforests of Australia
37	Mt Tamborine Natural History Association
38	Lorraine Brischetto
39	Cairns and Far North Environment Centre Inc
40	Selene Conn
41	Protect the Bush Alliance
42	Mackay Conservation Group
43	Wildlife Preservation Society of Queensland
44	Confidential
45	Julia Hazel
46	Dr Jan Aldenhoven
47	Ken Martin
48	Magnetic Island Community Development Association
49	Dr Gayle Johnson
50	Wildlife Tourism Australia
51	Noosa Parks Association Inc
52	National Parks Association of Queensland
53	Dianne Shun Wah
54	Birdlife Southern Queensland/Birds Queensland
55	Martin Taylor
56	David Skyes
57	Quandamooka Yoolooburrabee Aboriginal Corporation
58	Queensland Murray-Darling Committee Inc
59	Gecko
60	Jacki Wolstenholme
61	Ecotourism Australia
62	Capricorn Conservation Council
63	Great Barrier Reef Marine Park Authority
64	North Queensland Conservation Council
65	Ian and Cathy Herbert
66	Kathy Brady
67	SEQ Catchments Limited
68	Capricorn Branch of the Wildlife Preservation Society of Queensland
69	Queensland Tourism Industry Council
70	Peter Ogilvie
71	David Hudson
72	Anna Bridle and John Owens



<b>Sub #</b>	<b>Name</b>
73	Environmental Defenders Office of North Queensland Inc
74	Trish Pontynen
75	The Upper Dawson Wildlife Preservation Society

## Appendix 2 – Summary of Issues in Submissions and Comments by the Department of National Parks, Recreation, Sport and Racing

Policy issue and/or clause	Issues raised in submissions	Department's comments
<b>Clause 10 – Authority to continue</b> a facility existing before declaration.	<ul style="list-style-type: none"> <li>Authority to continue should be subject to assessment, payment of a fee, for a specified term, and incremental improvements are not used circumvent constraint on 'substantial improvements' (Sub. 52)</li> </ul>	<ul style="list-style-type: none"> <li>Authorities granted currently for these type of facilities are time-bound, subject to assessments of impact, payment of relevant fees and confined to the facility footprint and its immediate access. The authorities granted for existing service facilities under the amended process will continue to be administered consistent with this process.</li> <li>The amendments do not apply to expansion or substantial improvements of existing facilities.</li> </ul>
<b>Clause 17- Defines ecotourism facility.</b>	<ul style="list-style-type: none"> <li>'Ecotourism' is not defined, either in the Bill or the NCA. (Sub. 11, 15, 25, 33, 35, 37, 50). International definitions of ecotourism should be adopted (Sub. 6, 41).</li> <li>Definition of 'ecotourism facility' should be more precise, could mean anything. (Sub. 11, 15, 23, 25, 31, 33, 35, 37, 40, 42, 61, 62, 70, 73). Department comments made at the Public Briefing suggest 'a very broad range of facilities and activities would be approved with only 'extreme' proposals rejected'. (Sub. 29)</li> <li>Need for clearer understanding of types of tourism activities that can and will occur under the badge of ecotourism. (Sub. 61)</li> <li>Not clear what is required to meet the 'primary purpose' element of the definition (Sub. 52)</li> <li>Definition could encompass a light rail service. (Sub. 18)</li> </ul>	<ul style="list-style-type: none"> <li>Ecotourism facility is defined in Clause 17. The definition in Clause 17 is based on international definitions, such as that of the International Union for the Conservation of Nature (IUCN).</li> <li>A Policy Framework will be developed to guide ecotourism facility development on national parks. This framework will contain guidelines to ensure that any proposed ecotourism infrastructure is appropriately assessed and evaluated.</li> <li>The definition of 'ecotourism facilities' recognises the fundamental intention of ecotourism (i.e. the experience and appreciation by visitors of an area's natural and cultural features with minimal disturbance or change to the natural condition or values of the area).</li> <li>Assessment of ecotourism facility proposals will be subject to the definition (clause 17) and criteria (eg. clause 8) contained within the Bill. In addition all proposals will be subject to assessment under the relevant policy framework referred to on page 5 of the explanatory notes. The Policy Framework will provide additional guidance for assessment of any proposals including assessing the public interest and sustainability aspects of the proposal.</li> <li>The framework will also refer to other legislative obligations and requirements where appropriate (i.e EPBC; Statutory local government requirements and park management plans or Statements).</li> <li>Policies and procedures will be finalised prior to the legislation commencing by proclamation.</li> </ul>
<b>Decision-making criteria for ecotourism facility.</b>	<ul style="list-style-type: none"> <li>Bill should specify criteria to determine whether an ecotourism facility is in the 'public interest' and 'ecologically sustainable' [terms used in cl. 8]. (Submission no. 11, 52, 58, 61)</li> <li>Ecotourism facility is to be in the 'public interest'; this</li> </ul>	<ul style="list-style-type: none"> <li>The Policy Framework will provide appropriate criteria for assessing the public interest and sustainability aspects of any ecotourism proposal.</li> <li>Definitions of what are considered to be 'in the public interest' and 'ecologically sustainable' will be subject to the future policy development process.</li> </ul>

Policy issue and/or clause	Issues raised in submissions	Department's comments
<b>Decision-making criteria for ecotourism facility (continued)</b>	<p>misinterprets public interest, as an ecotourism facility is primarily in the interests of the business, not the public. (Sub. 51)</p> <ul style="list-style-type: none"> <li>• Bill should require all ecotourism facility proposals be subject to an Environmental Impact Assessment (submission no. 11, 36, 56, 58, 59, 72), public consultation and third-party appeal rights. (Sub. 11, 72)</li> <li>• How will principles such as 'to the greatest possible extent' be observed? (Sub. 41)</li> <li>• The phrase 'no reasonable practical alternative' should be added as a condition attached to an authority or lease for an ecotourism facility. (Sub. 23)</li> <li>• Policy framework and procedures referred to on page 5 of the Explanatory Notes should be subject to public consultation (Sub no. 11, 23, 25, 33, 35, 37, 42, 43).</li> <li>• Term of lease should be specified in Bill (Sub. 52)</li> <li>• Assessment process and framework (e.g. site access criteria) should be developed before legislation (Sub. 48, 68, 75). Could be done in conjunction with Ecotourism Australia (Sub. 61). Could utilise targets and mapping tools included in South East Queensland National Resource Management Plan and Ecosystem Services Framework. (Sub. 67)</li> <li>• Proposals must be weighed against capacity of the national park to maintain integrity should infrastructure be permitted. Full scientific investigation of each proposal needed, and analysis of risks and their management (Sub. 58, 75)</li> <li>• What consultation is proposed if the facility will impact on sites of Aboriginal cultural significance? (Sub. 73)</li> <li>• Ecotourism facilities should have appropriate environmental credentials. (Sub. 61)</li> </ul>	<ul style="list-style-type: none"> <li>• For practical reasons, criteria in the Bill need to remain general and brief, and additional detailed guidance will still be required to assess proposed developments.</li> <li>• Public interest considerations will include assessment of the need that is to be served by the facility; its impact on the amenity of the area; its effect on general community access and on other recreational and commercial opportunities in the park and adjacent areas; long term viability and the level of commercial return to the State.</li> <li>• All proposals will be considered under the relevant Policy Framework referred to on page 5 of the explanatory notes.</li> <li>• Appropriate assessment processes required for various types of ecotourism proposals such as EIAs; business feasibility and public consultation/ notification will be subject to the future policy development process.</li> <li>• The Chief Executive may require an EIS for an ecotourism facility on national park under the current provisions of the NCA.</li> <li>• Public consultation is triggered for any significant proposal through the Government's Regulatory Assessment Statement process.</li> <li>• Third party rights are set out in the Nature Conservation Act, Part 10, Division 2, including the ability to seek a court declaration about the grant or construction of an authority granted under the Act in relation to land in a protected area.</li> <li>• As part of the assessment process consideration will also be given to Commonwealth Environmental Protection and Biodiversity Conservation Act 1999 requirements.</li> <li>• As above, all proposals will be considered under the relevant policy framework referred to on page 5 of the explanatory notes.</li> <li>• The Policy Framework will provide further criteria and processes for assessment in conjunction with the definition and criteria contained within the Bill.</li> <li>• The 'no reasonably practical alternative' provision used in the current drafting of section 35 of the Nature Conservation Act 1992 relates to 'service' infrastructure such as communication towers which represent a use of a national park which does not conform to the purpose for which the land was reserved but which are of such public benefit that they may be permitted in circumstances where these facilities cannot be practically sited anywhere</li> </ul>

Policy issue and/or clause	Issues raised in submissions	Department's comments
<b>Decision-making criteria for ecotourism facility (continued)</b>		<p>else.</p> <ul style="list-style-type: none"> <li>• It is not feasible to apply a 'no reasonably practical alternative' test to an ecotourism facility. There are legislative mechanisms available for service facility infrastructure to be sited on public or private lands with a limit on veto power by the landholder. No such opportunity exists for an ecotourism facility, therefore unless an adjacent private landholder agrees to make land available for an ecotourism facility, reasonable alternatives become extremely limited.</li> <li>• Consideration of this matter will be subject to the future policy development process, for example as part of public interest considerations.</li> <li>• The Policy Framework which addresses criteria and processes will be finalised before the legislative amendments are proclaimed.</li> <li>• Lease terms may vary depending on the scale and nature of ecotourism facilities and the appropriate return horizon.</li> <li>• Consideration of lease terms would be through the future policy development process.</li> <li>• The Policy Framework will provide criteria to consider overall environmental sustainability and impacts on natural and cultural values.</li> <li>• Consideration of these matters will form part of the future policy development process.</li> <li>• The Policy framework and associated procedures will ensure that any proposed ecotourism infrastructure is appropriately assessed and evaluated.</li> <li>• Ecotourism development in national parks will also need to satisfy requirements under other relevant State and Commonwealth legislation.</li> </ul>
<b>Clauses 8, 11 and 13 – Grant of lease etc. for 'ecotourism' facility</b> Provide for chief executive to grant a lease, agreement, licence, permit or other authority	<b><i>Qualified support for ecotourism facilities</i></b> <ul style="list-style-type: none"> <li>• Support 'appropriate' facilities in parks, notes appropriateness is subjective and suggests profit share to benefit parks with facilities e.g. rangers, guides. (Sub. 5)</li> <li>• Private sector should have more access to parks, providing it's done in an environmentally friendly way. This would improve maintenance and ensure a better tourism experience (Sub. 66)</li> </ul>	<ul style="list-style-type: none"> <li>• It is the government's intention to charge operators a lease fee, and consideration of related matters will form part of the future policy development process.</li> <li>• Consideration of these matters will form part of the future policy development process.</li> <li>• Assessment processes will ensure that a proposal complies with the definition of ecotourism facility and consider its overall environmental sustainability, impacts on natural and cultural values and whether the use is in the public</li> </ul>

Policy issue and/or clause	Issues raised in submissions	Department's comments
(decision with indigenous landholder for national park (Cape York Peninsula Aboriginal Land) indigenous joint management area (clause 13).	<ul style="list-style-type: none"> <li>• Opportunities and risks associated with ecotourism: <ul style="list-style-type: none"> <li>• Revenue for park protection activities, economic development for local communities and increased level of education among travellers.</li> <li>• Impact of influx of visitors and money on local communities and indigenous cultures.</li> <li>• Impact of fluctuations in climate, exchange rates, political and social conditions on operators. (Sub. 6)</li> </ul> </li> </ul>	interest, including consideration of economic impacts and economic viability.
<b>Clauses 8, 11 and 13 (continued)</b>	<ul style="list-style-type: none"> <li>• Some provisions of the Bill supported, if the object of the NCA is paramount: <ul style="list-style-type: none"> <li>• Opportunities for privately operated camping grounds and walking tracks; need to open up parks to tour operators also, not just the 'big end of town'.</li> <li>• Opposes using parks for purposes that can be located outside (e.g. golf courses, racetracks, tennis courts) and development of resorts unless they will assist in conservation. (Sub. 18)</li> </ul> </li> <li>• Traditional owners have increasing interest in park management, and in some areas, tourism. For North Stradbroke the Bill may create opportunities for low volume/high yield operations; it must not result in high numbers or high impact developments in a fragile ecology. (Sub. 57)</li> </ul>	<ul style="list-style-type: none"> <li>• Consideration of these matters will form part of the future policy development process.</li> <li>• The opportunity already exists for publicly provided ecotourism facilities such as campgrounds to be privately managed under contract. The amendments in the Bill will allow authorisation of additional ecotourism facilities provided by commercial interests, so long as they are consistent with the specified primary purpose and do not require significant changes to the land's natural condition.</li> <li>• Golf courses, racetracks and tennis courts would be unable to obtain approval because they do not comply with the definition in the Bill of 'ecotourism facility'.</li> <li>• National parks already support over 400 commercial tour companies of varying size and purpose and access for this segment of the tourism market will continue.</li> <li>• Consideration of these matters will form part of the future policy development process.</li> </ul>
<b>Cardinal principle</b> s.17(1)(a) of NCA: <i>to provide, to the greatest possible extent, for the permanent preservation of the area's natural condition and the protection of the areas' cultural resources and values.</i>	<ul style="list-style-type: none"> <li>• Bill diminishes the importance the cardinal principle. (Sub. 13, 23, 24, 33, 39, 43, 46, 59, 72, 73)</li> <li>• The cardinal principle should be applied to ecotourism facilities. (Sub. 17, 23, 24, 31, 46, 47). Applying the principle would mean development could not occur. (Sub. 15, 27, 65)</li> <li>• Bill is in direct conflict with the cardinal principle (Sub. 62, 64) and contradictory to the objects of the NCA. (Sub. 62)</li> <li>• Ecotourism facility that is inconsistent with cardinal principle threatens a park's natural condition and the values that led to gazettal as national park. (Sub. 52)</li> </ul>	<ul style="list-style-type: none"> <li>• The elements of the cardinal principle are embodied in the ecotourism facility provisions. The cardinal principle requires 'permanent preservation' to the greatest possible extent of the area's natural condition and the protection of the area's cultural resources and values. The ecotourism facility provisions require that 'the [ecotourism] use will provide, to the greatest possible extent, for the preservation of the land's natural condition and the protection of the land's cultural resources and values'.</li> <li>• Any infrastructure developments on national parks, including publicly owned campgrounds, day use areas, and walking trails, have some impact on the natural condition of the land and the application of the cardinal principle balances these impacts with the benefits of providing for visitor access and use.</li> </ul>

Policy issue and/or clause	Issues raised in submissions	Department's comments
		<ul style="list-style-type: none"> <li>The cardinal principle applies in the context of management of the park as a whole, and does not exclude site specific projects that potentially enhance protection of the park's natural condition. For example, a particular proposal may provide for improved and better managed visitor use, thereby potentially reducing impacts at other sites.</li> </ul>
<b>Environmental impacts</b>	<p><b><i>Ecotourism facilities not supported – environmental impact</i></b></p> <ul style="list-style-type: none"> <li>Building facilities inside parks threatens biodiversity and fragments parks, leading to rapid degradation, negative impacts on flora and fauna. (Sub. 2, 8, 9, 10, 11, 13, 15, 17, 22, 23, 24, 25, 26, 28, 33, 35, 37, 38, 39, 40, 41, 43, 49, 50, 52, 53, 54, 55, 57, 59, 62, 64, 70, 72, 73)</li> <li>Areas of high conservation value need to be closed to development (Sub. 57, 58)</li> <li>Experience (eg South Africa) is that management priorities become tourism at expense of conservation. (Sub. 52)</li> <li>Development should be outside parks. (Sub. 1, 2, 3, 11, 12, 14, 15, 22, 24, 25, 28, 31, 32, 33, 34, 35, 37, 43, 44, 45, 46, 47, 65, 73)</li> <li>Should not have pipelines or microwave repeaters within a 500m buffer zone (Sub. 58)</li> <li>Eco-resorts will devalue the resource they wish to show. (Sub. 70)</li> <li>Case studies for four national parks in Central Qld which would not support significant increases in visitor numbers or viable eco-tourism facilities due to negative environmental impact (Sub. 62)</li> </ul>	<ul style="list-style-type: none"> <li>Consideration of these matters will form part of the future policy development process, including site planning considerations.</li> <li>Assessment processes will ensure that a proposal complies with the definition of ecotourism facility and consider its overall environmental sustainability, impacts on natural and cultural values and whether the use is in the public interest.</li> <li>Consideration of these matters would be subject to the future policy development process.</li> <li>This Bill specifically provides the ability to authorise ecotourism facilities on national parks. The current ability for investment in ecotourism developments on neighbouring land will not be impacted by the Bill.</li> <li>Promoting ecotourism development on national parks serves to expand Queensland's range of unique tourism attractions, experiences and opportunities and this has broader economic benefits to the State.</li> <li>Consideration of this matter would be subject to the future policy development process, including consideration of the potential location and impact of any particular proposal.</li> <li>Consideration of this matter would be subject to the future policy development process.</li> </ul>
<b>Other commercial activities</b>	<ul style="list-style-type: none"> <li>Parks will be open to other commercial activity, particularly mining. There will be a flow on impact on wild rivers legislation and coastal management plans. (Sub. 4,7)</li> <li>If facilities are established, it may be difficult to constrain further expansion. (Sub. 28) Larger operations will gain approval and private enterprises will seek permission for other associated activities (Sub. 64, 68, 72)</li> </ul>	<ul style="list-style-type: none"> <li>The Bill proposes various amendments to the Nature Conservation Act 1992; however none of these amendments relate to mining activities on national parks and are not associated with wild rivers or coastal management legislation.</li> <li>The Nature Conservation Act prohibits mining in national parks. The amendments in the Bill do not change this situation.</li> <li>Consideration of these matters will form part of the future policy development process.</li> </ul>

Policy issue and/or clause	Issues raised in submissions	Department's comments
<b>Impact on tourism and revenue</b>	<p><b><i>Ecotourism facilities not supported – economic impact</i></b></p> <ul style="list-style-type: none"> <li>• Will not boost tourism or revenue because parks are too remote from high volume gateways and have no internationally unique high-volume attractions. (Sub. 11, 33, 35, 37, 64)</li> <li>• Dispute assumption significant profits can be made from ecotourism. Binna Burra Lodge and Carnarvon Wilderness Lodge barely viable (Sub. 62), shareholders receive no dividend (Sub. 65)</li> <li>• More effective to boost tourism by increasing public investment in maintaining trails, lookouts, toilets, signage and camping facilities; enabling private investment in accommodation on adjacent private land; improving park promotion, linking park visits with off park facilities, providing transport and enhanced visitor experiences. Focus on parks near major urban gateways, which attract greater tourist numbers and economic spin offs (Sub. 11, 17, 24, 25, 26 27, 28, 29, 33, 35, 37, 39, 46, 49, 51, 65, 72).</li> <li>• Individual entry fees are a more reliable revenue source. No park agencies have raised a significant part of the operating budget through tourism leases. (Sub. 11, 29)</li> <li>• Tourism industry did not take up previous offer for 15-30 year leases with removable construction. Suggests industry does not believe it is profitable. (Sub. 2, 11, 23, 28, 33, 35, 37, 48)</li> <li>• Tourism industry is more interested in park permits and fee structures for mobile tours than long-term fixed site facilities. (Sub. 11, 33, 35, 37) Industry hasn't advocated for this level of entry into parks. (Sub. 70)</li> <li>• Tour operators who offer day visit experiences will be disadvantaged as eco-resorts can offer same experience at lower rate. (Sub. 70)</li> <li>• Tourism industry will only be attracted if lease costs are low or facilities large – neither is acceptable (Submission no. 23)</li> <li>• Tourism industry is a victim of global financial downturn;</li> </ul>	<ul style="list-style-type: none"> <li>• Experience from other jurisdictions and tourism forecasting indicates that there is demand for quality ecotourism facilities on national parks and these facilities play a role in tourism development.</li> <li>• Public interest considerations require a reasonable financial return to the State for the use of State land over the life of a facility.</li> <li>• Consideration of these matters, including consideration of economic viability of proposals, will form part of the future policy development process.</li> <li>• Experience from other jurisdictions and tourism forecasting indicates that there is demand for quality ecotourism facilities on national parks and these facilities play a role in tourism development.</li> <li>• This Bill will have no adverse impact on publicly funded investment into visitor infrastructure on national parks.</li> <li>• The previously released ecotourism development opportunities were subject to a number of site and development constraints which reduced the value of the opportunities for industry at those sites. The previous offer was limited to semi-permanent facilities, limited tenure security and a maximum of 15 year terms which reduced the viability of the proposals for potential investors.</li> <li>• An improved policy framework and potentially broader site selection will remove many of these barriers to development. The tourism industry has advocated for increased terms and tenure security to maximise the potential for investment return. Consideration of these matters will form part of the future policy development process.</li> <li>• The government has made significant improvements to permitting arrangements for commercial tours and is seeking to continue to improve the relevant administrative and legislative provisions.</li> <li>• Public interest considerations require a reasonable financial return to the State for the use of State land over the life of a facility.</li> <li>• Economic viability will be a consideration for both industry and government in assessing proposed ecotourism facilities.</li> <li>• Consideration of these matters will form part of the future policy development process.</li> </ul>

Policy issue and/or clause	Issues raised in submissions	Department's comments
<b>Impact on tourism and revenue (continued)</b>	<p>eco-resorts will not help. Current state of resorts in Qld is not economically healthy (Sub. 72)</p> <ul style="list-style-type: none"> <li>No evidence that benefits will result; Bill should not be approved without evidence of tourism benefits (Sub. 51, 56, 57, 62, 73)</li> <li>Biggest component of park management costs is visitor management; private tourism development is not needed to pay for park management. (Sub.55)</li> <li>Returns from lease payments should result in public benefit. (Sub 57)</li> <li>Research visitor experience, types of facilities and tourism market to inform demand for ecotourism facilities within parks. (Sub. 61)</li> <li></li> </ul>	
<b>Ecotourism facilities and businesses near national parks</b>	<ul style="list-style-type: none"> <li>No evidence to show on-park tourism facilities attract more visitors or revenue than facilities on neighbouring land. (Sub. 15, 25, 39, 41, 46).</li> <li>More flexibility for tourism operators who locate their businesses on neighbouring land (Sub. 15); visitor experience could be as meaningful if located outside national park (Sub. 54, 71); nature refuges a good alternative for eco-tourism ventures (Sub. 71)</li> <li>Negative impact / no support for nearby businesses, accommodation providers and property owners. (Sub. 1, 2, 11, 23, 24, 25, 29, 33, 35, 37, 39, 42, 46, 49, 51, 52, 59, 72, 73).</li> <li>Provision should be made to ensure new, potentially exclusive ecotourism facilities don't compete with existing tourism experiences. (Sub 61)</li> <li>Development directly adjacent to national park should be subject to environmental risk analysis (Sub. 56)</li> </ul>	<ul style="list-style-type: none"> <li>As above, opportunities for ecotourism developments on land adjacent to national parks will not be inhibited by this Bill.</li> <li>Consideration of these matters will form part of the future policy development process.</li> <li>Consideration of these matters will form part of the future policy development process.</li> <li>The 'public interest' criteria that will apply will include consideration of the impact of the proposal on other landholders and businesses.</li> <li>All developments adjacent to national park will be subject to all usual and required development approvals.</li> </ul>
<b>Potential costs to State</b>	<ul style="list-style-type: none"> <li>Financial costs to State through compensation claims, additional management and compliance costs, rehabilitation of abandoned sites and damage caused by inappropriate activities. (Sub. 2, 11, 15, 25, 28, 33, 35, 37, 40, 41, 42, 43,</li> </ul>	<ul style="list-style-type: none"> <li>Consideration of these matters will form part of the future policy development process.</li> <li>Public interest considerations require a reasonable financial return to the State for the use of State land over the life of a facility. These financial</li> </ul>



Policy issue and/or clause	Issues raised in submissions	Department's comments
	<p>51, 75).</p> <ul style="list-style-type: none"> <li>• Long term management, monitoring and operational requirements should be developed.(Sub. 61)</li> <li>• Park staff will become workers for eco-tourism resorts through carrying our increased duty of care requirements. (Sub. 70)</li> <li>• Revenue from leases unlikely to outweigh assessment and administration costs (Sub. 51)</li> <li>• Lessees should pay performance and rehabilitation bonds (Sub. 11, 33, 35, 37, 72).</li> <li>• Discontinuation or break of lease requirements should be developed to ensure re-use of infrastructure or rehabilitation of area. (Sub. 61)</li> <li>• Queensland will be unable to access incentive programs, under the Aichi targets, if it reduces the level of protection in existing national parks. (Sub. 11, 33, 35, 37)</li> <li>• No information regarding use of revenue e.g. for increased management costs, or additional parks (Sub. 59, 72)</li> </ul>	<p>arrangements will take account of costs to the State.</p> <ul style="list-style-type: none"> <li>• Consideration of these matters will form part of the future policy development process.</li> <li>• The Aichi targets are diverse and relate to biodiversity conservation measures across all lands and waters, not</li> <li>• just national parks (see <a href="http://www.cbd.int/sp/targets/">http://www.cbd.int/sp/targets/</a>).</li> <li>• The Bill provides that ecotourism facilities in national parks cannot be authorised unless the chief executive, and the indigenous landholder where applicable, are satisfied that the facility will be ecologically sustainable.</li> <li>• Consideration of biodiversity impacts of any ecotourism facility proposals will form part of the future policy development process.</li> <li>• Public interest considerations require a reasonable financial return to the State for the use of State land over the life of a facility. These financial arrangements will take account of costs to the State.</li> </ul>
<b>Ecotourism facilities in national parks – other jurisdictions</b>	<ul style="list-style-type: none"> <li>• Less than 250 national parks worldwide allow fixed-site private accommodation or infrastructure. (Sub. 11, 33, 35, 37)</li> <li>• USA has a 'gateway' policy – accommodation and other facilities are located in communities close to national parks (Sub.51)</li> <li>• Germany has high visitor numbers, accommodated mostly outside national parks (Sub. 54)</li> <li>• Analysis of ecotourism in parks in other jurisdictions should be made public as it's contrary to current research. (Sub. 11, 33, 35, 37)</li> <li>• Most resorts in national parks in other jurisdictions established before the State had a jurisdiction-wide system for park management. (Sub. 70)</li> <li>• Parks in other Australian and international jurisdictions have removed overnight visitor infrastructure and located it offsite because of environmental impacts. (Sub. 15, 52)</li> </ul>	<ul style="list-style-type: none"> <li>• Noted.</li> <li>• As above, opportunities for ecotourism developments on land adjacent to national parks will not be inhibited by this Bill.</li> <li>• There are also multiple examples of successful on park ecotourism developments that continue to be well managed and low impact.</li> <li>• The establishment of ecotourism facilities on national parks is unrelated to the Aichi target or the percentage of land area contained in the current reserve system.</li> </ul>

Policy issue and/or clause	Issues raised in submissions	Department's comments
	<ul style="list-style-type: none"> <li>The Aichi target<sup>110</sup>, under the Biodiversity Strategic Plan 2011-2020, for terrestrial parks is 17% of total land area which Australia has not reached. This is the principal approach to conservation under climate change. (Sub. 11, 33, 35, 37, 49)</li> <li>5% of Qld is national park, which compares poorly to other states. (Sub. 2, 12, 14, 15, 22, 24, 25, 26, 28, 29, 30, 31, 32, 34, 39, 41, 43, 46, 47, 51, 52, 53, 54, 59, 50, 62, 72, 73).</li> </ul>	
<b>Consistency with purpose of national park</b>	<p><b><i>Ecotourism facilities not supported – social impact</i></b></p> <ul style="list-style-type: none"> <li>Allocating public land is ‘a surrender of public rights to private interests’. (Sub. 11, 24, 33, 35, 37)</li> <li>Commercial development is inconsistent with parks’ charter of protection. It is unclear how the public will benefit. (Sub. 2, 24, 26, 39, 45, 47, 51, 53, 56, 59, 72, 74)</li> <li>Future generations deserve an opportunity to enjoy parks as they are. (Sub. 8, 14, 22, 24, 72) Permanent preservation is the key – parks must endure political and societal priorities of a particular time. (Sub. 60)</li> <li>Leases of 30 years plus 30 effectively transfer ownership of park land to the private sector in perpetuity. (Sub. 23)</li> </ul>	<ul style="list-style-type: none"> <li>Public interest considerations will form part of the Policy Framework and procedures for assessing proposed ecotourism infrastructure.</li> <li>The public can potentially benefit from an ecotourism development in a number of ways, for example, through a direct financial return to the State, increased local prosperity and employment; or improved ability to appreciate and enjoy the park.</li> </ul>
<b>Public access to parks</b>	<ul style="list-style-type: none"> <li>Concern that public access to parks will be restricted (Sub. 3, 11, 13, 17, 23, 24, 25, 26, 29, 33, 35, 37, 39, 40, 41, 43, 45, 47, 50, 51, 52, 53, 54, 55, 56, 57, 59, 70, 72).</li> <li>Bill should identify how community access will be balanced with requirements of the lessee. (Sub. 11, 33, 35, 37)</li> <li>Public prefers basic public-access facilities in parks, not higher priced facilities which are likely to be exclusive and restrict access. (Sub. 2, 11, 17, 24, 25, 33, 35, 37)</li> </ul>	<ul style="list-style-type: none"> <li>Public interest considerations, including the maintenance of public access, will form part of the Policy Framework and procedures for assessing proposed ecotourism infrastructure.</li> <li>A range of visitor facilities are provided for in national parks and privately owned ecotourism facilities add to the range of facilities on offer.</li> <li>There are a number of examples of successful privately owned ecotourism facilities on national parks (including in Victoria).</li> <li>The public can potentially benefit from an ecotourism development in a</li> </ul>

<sup>110</sup> The Aichi Targets were adopted at the Nagoya Convention on Biodiversity Summit in 2010. They are included in ten year Strategic Plan to guide international and national efforts to save biodiversity. Australia is a party to the Convention on Biological Diversity.



Policy issue and/or clause	Issues raised in submissions	Department's comments
	<ul style="list-style-type: none"> <li>Appoint specialist team to inform the Bill on assessment of impact of risks (eg fire, erosion, spillage) for each infrastructure type, so that checks and balances can be included. (Sub. 58)</li> </ul>	
<b>Consultation</b>	<ul style="list-style-type: none"> <li>Consultation only with business interests - has not taken account of views of 'gateway' communities' (eg. Magnetic Island community) which are recognised as important by park management in USA and NZ. (Sub. 48)</li> <li>Explanatory Notes state that conservation groups expressed concerns about impacts; misrepresents conservation groups total opposition to commercial development in national parks (Sub. 51)</li> <li>Consultation limited to tourism industry; concerned about rush to implement changes that are not in best interests of parks, tourism, biodiversity or community (Sub. 59)</li> <li>Consultation must be more robust on Bill and on future proposed developments (Sub. 58, 59)</li> </ul>	<ul style="list-style-type: none"> <li>The 'public interest' criteria that will apply to all proposals will include consideration of the impact of the proposal on other landholders, communities and businesses.</li> <li>The opposition by many conservation groups to commercial developments on national parks is acknowledged.</li> <li>Community consultation regarding ecotourism facilities on national parks has involved a range of stakeholders in addition to the tourism industry.</li> <li>Noted.</li> </ul>
<b>Other issues</b>	<ul style="list-style-type: none"> <li>Political patronage for private property developers, which provides public resources at prices far below market value, is a concern. (Sub. 11, 33, 35, 37)</li> </ul>	<ul style="list-style-type: none"> <li>Government policy requires a fair rate of return or other measurable community benefits in exchange for the use of public resources.</li> </ul>
	<ul style="list-style-type: none"> <li>Bill focuses entirely on servicing the tourism sector. Department comments at the Public Briefing suggest the tourism industry is dictating the conditions under which the industry will operate. (Sub. 42).</li> </ul>	<ul style="list-style-type: none"> <li>Tourism industry leaders have provided advice about industry requirements for successful ecotourism development, following a 2009 trial offering opportunities to develop semi-permanent tourism infrastructure on specific park sites.</li> <li>The Government is developing the Policy Framework and associated procedures to ensure that any proposed ecotourism infrastructure is appropriately assessed and evaluated to ensure that cultural and natural values of parks are adequately protected.</li> </ul>
	<ul style="list-style-type: none"> <li>Town planning requirements and location of final decisions is not clear. Will leases be available to foreign interests? What process applies if ecotourism resort fails financially? (Sub. 59, 72)</li> </ul>	<ul style="list-style-type: none"> <li>The existing planning and building approval process for any development on parks will continue to apply.</li> <li>Consideration of these matters will form part of the future policy development process.</li> </ul>
	<ul style="list-style-type: none"> <li>Government should concentrate on its number 1 stated priority for parks i.e. 'The LNP will make National Park management a priority, concentrating on our biodiversity,</li> </ul>	

Policy issue and/or clause	Issues raised in submissions	Department's comments
	<p>weed and pest management' (Sub. 71)</p> <ul style="list-style-type: none"> <li>Relationship with Great Barrier Reef Marine Park Authority as many protected areas to which Bill relates are in or near Great Barrier Reef World Heritage Area. Joint permitting arrangement is currently in place which recognises jurisdictional responsibilities of both Governments (Sub. 63)</li> </ul>	<ul style="list-style-type: none"> <li>Noted - consideration of these matters will form part of the future policy development process.</li> </ul>
<b>Clauses 9, 12 and 14 –</b> Provide for granting of a lease, agreement, licence, permit or other <b>authority for an existing service facility.</b>	<p><b>Supported</b></p> <ul style="list-style-type: none"> <li>Will reduce timeframes for authorities for existing infrastructure. Amendments should go further and remove requirement to amend subordinate legislation for each application for new infrastructure. (Sub. 21).</li> </ul> <p><b>Not supported</b></p> <ul style="list-style-type: none"> <li>Opportunity for rapid expansion of Coal Seam Gas projects, which were in place prior to land being dedicated as a national park. (Sub. 41)</li> <li>Limitations should be placed on authorities e.g. time bound, subject to assessment, confined strictly to the facility and immediate essential environs, outlaw substantial improvements (Sub. 43)</li> </ul>	<p><b>Supported</b></p> <ul style="list-style-type: none"> <li>National parks are not declared over petroleum leases (including leases for coal seam gas extraction) and therefore the amendments in clauses 9, 12 and 14 will not provide for expansion of coal seam gas projects.</li> <li>The simplified approval process for existing service facilities does not apply to substantial improvements or expansion of existing facilities, which will continue to require a full and complete assessment.</li> <li>The authorities granted under the amended process will continue to be time-bound, subject to assessments of impact, and confined strictly to the facility and its immediate access.</li> </ul> <p><b>Not supported</b></p> <ul style="list-style-type: none"> <li>National parks are not declared over petroleum leases (including leases for coal seam gas extraction) and therefore the amendments in clauses 9, 12 and 14 will not provide for expansion of coal seam gas projects.</li> <li>The simplified approval process for existing service facilities does not apply to substantial improvements or expansion of existing facilities, which will continue to require a full and complete assessment.</li> <li>The authorities granted under the amended process will continue to be time-bound, subject to assessments of impact, and confined strictly to the facility and its immediate access.</li> </ul>
<b>Definition of service.</b>	<ul style="list-style-type: none"> <li>'Service' should be defined by a list of particular activities which qualify as a service. (Sub. 11, 33, 35, 37). <i>NB Service facility is defined at s.7 of the NCA.</i></li> </ul>	<ul style="list-style-type: none"> <li>Service facilities are defined in schedule 1 of the Nature Conservation Act. They also have to meet specific criteria for approval.</li> </ul>
	<ul style="list-style-type: none"> <li>The Bill refers to "service" under clause 8(1) without any qualification (Sub. 11)</li> </ul>	<ul style="list-style-type: none"> <li>The clause under 8(1) relates to authorities for new service facilities and is not the subject of consideration in this Bill as it is an existing clause under the NCA.</li> <li>Clauses relating to authorities for existing service facilities are provided under clauses 9, 12 and 14. These clauses include a definition of 'existing service facility'.</li> </ul>

Policy issue and/or clause	Issues raised in submissions	Department's comments
Clause 16 - <b>Chief executive cannot delegate powers</b>		<ul style="list-style-type: none"> <li>This high level approval recognises the significance of approving long-term facilities that may have some impact on the land's natural and cultural resources and values.</li> </ul>
<b>General Support</b>	<ul style="list-style-type: none"> <li>Full support for all amendments, particularly those relating to NCA, as it supports DestinationQ Agreement. (Sub. 69)</li> </ul>	<ul style="list-style-type: none"> <li>Agreed.</li> </ul>

**Appendix 3 – Officials at public briefing – 28 November 2012**

<b>Officials</b>
Mr Clive Cook, Acting Deputy Director-General, Department of National Parks, Recreation, Sport and Racing
Dr Liz Young, Director (Policy), Office of the Director-General, Department of National Parks, Recreation, Sport and Racing
Mr Todd Kelly, Acting Director, Strategy and Policy Services, Department of National Parks, Recreation, Sport and Racing
Mr Nick Weinert, Department of Environment and Heritage Protection
Mr Harold Brown, Department of Agriculture, Fisheries and Forestry
Ms Mrinalini Daly, Department of Agriculture, Fisheries and Forestry

**Appendix 4 – Witnesses at public hearing – 16 January 2013**

<b>Witnesses</b>
Professor Ralf Buckley, Director, International Centre for Ecotourism, Griffith University
Mr Daniel Gschwind, Chief Executive Officer, Queensland Tourism Industry Council
Ms Kym Cheatham, Chief Executive officer, Ecotourism Australia
Dr Aila Keto, President, Australian Rainforest Conservation Society
Ms Suzie Coulston, Chief Executive Officer, Quandamooka Yooloburrabee Aboriginal Corporation (North Stradbroke)
Mr Paul Donatui, Chief Executive Officer, National Parks Association of Queensland

## Dissenting report

Mrs Jo-Ann Miller MP, Member for Bundamba, and Mrs Desley Scott MP, Member for Woodridge, offer the following:

The non-government members of the Health and Community Services Committee dissent from the committee report on the Nature Conservation and Other Legislation Amendment Bill 2012.

The members harbour serious reservations regarding the potential environmental effects of allowing the construction of permanent, private sector-operated developments in Queensland's national park estate. This is exacerbated by the fact the Newman Government has presented legislation without the policy framework necessary to provide a comprehensive understanding of potentially the biggest change in the 105-year history of Queensland's national parks.

The remainder of the many reasons the members do not believe this bill should be passed will be detailed during the parliamentary debate.

(ends)