National Parks under the Boot

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The assault on nature conservation in Queensland

Why has the Newman Government chosen to comprehensively neutralise nature conservation and its associated legislation in Queensland, particularly in relation to national parks?

There doesn't appear to be any political imperative, as is the case in NSW where a party with the balance of power in the Upper House is demanding hunting access to national parks. The Liberal National Party (LNP) government in Queensland has had complete and unassailable control of the uni-cameral parliament since it reduced the Labor opposition to seven members following the March 2012 election. Neither can it be explained purely as a matter of ideology. Coalition governments in Queensland and elsewhere in Australia have been responsible for some significant advances in nature conservation. After all, the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) was enacted by a Coalition government in Canberra, as was the latest strongly protective zoning plan for the Great Barrier Reef Marine Park. There has been the suggestion that the government is undoing what was created by former Goss, Beattie and Bligh Labor governments. However, several matters that have been neutralised are actually products of earlier Coalition governments. Which leaves one other possible explanation, perverse though it may be, that they are doing it simply because they can.

Nevertheless, what they have done needs to be clearly documented so this government can be held to account, perhaps sadly not in its lifetime, but by future generations that will want to know where the blame lies.

The Banishment of National Parks

Like other States and the Commonwealth, Queensland has a ministerial portfolio for the environment, and an associated department to administer environmental legislation. The very first of these entities was established in 1987 by a Coalition government. In this context, the term 'environment' has come to incorporate green and brown issues. Brown issues involve all aspects of pollution of land, water and air, including noise pollution. Green issues concentrate on the conservation and sustainable use of native plants, animals and landscapes. A major component of that protective regime is the establishment of national parks and other protected areas. These are the very foundation on which nature conservation programs are constructed throughout Australia and the world.

In 1975, the Bjelke-Petersen government established the Queensland National Parks and Wildlife Service (QNPWS). This was in keeping with the creation of equivalent organisations in NSW, Tasmania, South Australia, Northern Territory and the Commonwealth over a ten year period. These organisations, as their names implied, had the job of administering legislation directed at most of the 'green' issues. Ever since an environment portfolio and department have existed in Queensland, the dominant component of the department has been the QNPWS and later the renamed Queensland Parks and Wildlife Service (QPWS).

In the inevitable rearrangement of the public service by the Newman government, the QPWS was removed from the environment portfolio and placed in a separate portfolio where it was married with recreation, sport and racing. This sent a very clear message that national parks and other protected areas were not seen to have any conservation function, but existed primarily for recreational purposes.

The carve-up between the new Department of Environment and Heritage Protection (DEHP) and the new Department of National Parks, Recreation, Sport and Racing (DNPRSR) defied any apparent logic. In fact, it appeared to be counter-productive, though that may actually have been the intention. For example, most protected areas went to DNPRSR, but nature refuges moved to DEHP. The selection, acquisition and gazettal of new national parks were separated from the administration and management of parks. The administration of World Heritage Areas (of which there are five that are wholly or partly located in Queensland) went to DEHP, despite the fact that the vast majority of land in World Heritage properties is actually national park or some other class of protected area administered by DNPRSR.

Having isolated protected areas from environmental matters, the next move by the minister responsible for national parks (Hon. Steven Dickson) was to amend the *Nature Conservation Act 1992* (NC Act) to downgrade the nature conservation aspects and ensure that recreation effectively became an overriding function.

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What is a National Park?
Before exploring the impact of the changes to legislation, there is value in reiterating the primary purpose of national parks, a matter that has been conveniently forgotten (or never understood) by the government.

The world-wide arbiter for protected area categories is the International Union for the Conservation of Nature (IUCN) which defines Category II protected areas (national parks) as follows:

> Category II protected areas are large natural or near natural areas set aside to protect large-scale ecological processes, along with the complement of species and ecosystems characteristic of the area, which also provide a foundation for environmentally and culturally compatible spiritual, scientific, educational, recreational and visitor opportunities.

It goes on to state that the primary objective of a national park is 'To protect natural biodiversity along with its underlying ecological structure and supporting environmental processes, and to promote education and recreation'.

This internationally accepted framework for national park management was embodied in the management principles for national parks expressed in section 17 of the NC Act. Those principles recognised the scientific, educational and nature-based recreational uses, but made them subordinate to what was called the cardinal principle which states that '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 values'.

The government has created a Trojan horse it can roll into any national park to facilitate a range of uses that would previously have been prevented.

The cardinal principle was first enshrined in legislation in 1959 (*Forestry Act 1959*) by a Coalition government and incorporated into subsequent legislation (*National Parks and Wildlife Act 1975*) by the Bjelke-Petersen government and later incorporated into the *Nature Conservation Act 1992* by the Labor government. The legal and ethical strength of the cardinal principle is the foundation on which national park management has been built since it was introduced in 1959.

The principle clearly establishes that the primary purpose of national parks is nature conservation, with other uses being subordinate to that purpose. It has been the foundation for the exclusion of activities involving introduced species (for example, cattle grazing and horse riding) and the establishment of facilities, such as tourist resorts, which are not consistent with protection of an area's natural resources, a term that is defined to include all plants, animals and all non-living components of the landscape.

The First Suite of Amendments
The first move by the new government was to make national parks available for the establishment of tourist resorts and associated facilities. This flies in the face of national park policy since the inception of parks in Queensland. Since the legal framework for the establishment of national parks in Queensland was passed by Parliament in 1906, and the first park was dedicated under that legislation in 1908, tourist resorts have not been permitted inside mainland national parks. The rationale has always been that commercial facilities should not damage the natural resources and should, if the tourism potential was high, be established on private land adjacent to, or contiguous with, the national park. There are many excellent examples of this approach—for example, Binna Burra Lodge and O'Reilly's Rainforest Retreat adjacent to Lamington National Park, and Carnarvon Lodge adjacent to Carnarvon National Park.

In justifying the amendments, which were assented to by Parliament on 29 April 2013, reference was made to the fact that resorts are located inside some national parks in other jurisdictions. Leaving aside the obvious fallacy in any argument that simply states that because someone else does it, it must be right, it also ignores the history of resort establishment in those jurisdictions. By way of example, the resorts in some NSW national parks were established long before the State had a jurisdiction-wide system of park management. Boards of Trustees for individual and unconnected parks were required to find much of their own income for management. Those boards persisted up until 1967.

Unlike NSW (and, in fact, all other Australian States), Queensland had jurisdiction-wide legislation from the very outset (*The State Forests and National Parks Act 1906*). That Act may well be the very first piece of legislation in the world to provide for the establishment and control of national parks across a whole jurisdiction. No evidence has yet emerged to contradict that statement. Even in the United States, which boasts the first national park in the world (Yellowstone National Park in 1872), a separate Act was required for each park.

There are multiple environmental reasons why resorts should be kept outside national parks. These relate to such matters as environmental damage to the resort site and environs; damage associated with access; waste generation and associated pollution; water requirements; enhanced incidence of fire, and associated protective fire management; and the redirection of park staff duties to manage matters relating to resort operations. There are also commercial reasons why it shouldn't happen. It effectively creates an exclusive-use monopoly inside a public area.

Nevertheless, ignorant of historical circumstances, blind to the potential damage, and mindless of monopoly status, the government proceeded to amend the legislation in such a way that a tourist resort could be authorised, regardless of the cardinal principle. It then proceeded to formerly call for expressions of interest in establishing such facilities in national parks throughout the State. It's interesting that the tourist industry hasn't actually been advocating this level of entry into national parks. Neither is the resort component of the industry healthy enough at the moment to actually make use of what is being offered. Nevertheless, operators can't afford not to throw their hats in the ring, and will no doubt sit on any anything they are given until the financial climate is more favourable, or they can on-sell their windfall.

The Second Round of Amendments
The second round of amendments, assented to by Parliament on 7 November 2013, were designed, quite blatantly on the government's part, to convert that part of the NC Act dealing with protected areas from

a competent conservation statute that authorised appropriate recreation, into a recreation/tourism statute with a passing reference to conservation.

Object of the Act

The first step in this process was to change the Object of the Act, the opening section of an Act that articulates the primary purpose for its existence. Until November 2012, section 4 stated quite succinctly and unambiguously that 'The object of this Act is the conservation of nature'. The key terms, 'conservation' and 'nature', are clearly defined. This tells any court of law needing to interpret the legislation that the overriding objective is nature conservation. The Object has now been expanded to include a reference to the 'social, cultural and commercial use of protected areas'. At face value, it appears reasonably benign, whereas in legal terms it is a major dilution of the previous Object.

Prior to amendment, the legislation was built on a natural, logical and sensible progression from the Object to the different classes of protected area (national park, conservation park and so on) to the management principles for each of those areas. The principles then determined what forms of use and development were compatible with the conservation objectives of the area. The cardinal principle for national parks made it abundantly clear that protection of the natural and cultural resources was paramount for that class of protected area. However, by diluting the Object, the cardinal principle has been seriously compromised. This move has also provided the impetus, along with changes to the management principles, for potentially damaging forms of recreation to now be permitted and encouraged on national parks.

Protected area classes

The legislation contained a hierarchy of protected area classes based on the IUCN categories referred to earlier. The amendments abolished eight classes of protected area, two of which were absorbed into the national park class and two into a new class to be known as regional parks. These moves effectively downgraded the classes to which they were moved. For example, the management principles for the two abolished classes that were absorbed into national parks allowed a range of uses that would not be permitted under the cardinal principle for national parks. One of the abolished classes, national park (scientific), allows substantial manipulation of the area in order to protect a critically endangered species (like the bridled nail-tail wallaby and northern hairy-nosed wombat). That manipulation may involve removal of other native species if they are affecting the survival of the endangered species, or the introduction of cattle grazing if it can assist in manipulating ground plants in a way that is of advantage to the endangered species.

None of these activities would normally be permitted on a national park. To ensure that these types of management can continue, the legislation has been amended to allow a special management area (SMA) to be declared over part or all of a national park. The SMA has its own management principles and they are able to override the cardinal principle. The explanatory notes provided with the Bill state that

> Subsection (1A) is being inserted to provide clarification about the relationship between particular management principles. Namely, to the extent of the inconsistency, the management principles for a SMA prevail over the management principles for a national park.

This is bizarre, in that the SMA is actually national park, though it is being spoken of as something separate from itself.

And how are these special management areas created? Simply by an officer on behalf of the department's chief executive hammering a sign in the ground near the entrance to the park. Nobody needs to be notified, and no scrutiny by parliament is required.

In an audacious and frightening move, the government has created a Trojan horse it can roll into any national park to facilitate a range of uses that would previously have been prevented by the cardinal principle. While the fallacious argument was advanced that this was done to reduce complexity, it actually greatly increases complexity and there can be little doubt that the main objective was to minimise the conservation values of national parks and make them available for previously forbidden and damaging uses.

Now all or part of a regional park can be declared to be a resource use area.

A similar Trojan horse has been created by combining conservation parks and resources reserves into a new entity entitled regional parks. The new title clearly removes any perception that it may have a connection with nature conservation. Conservation parks, by law, are unable to be mined; resources reserves can be mined. The latter were established to be a holding location for areas of high conservation value that governments were not prepared to dedicate as national parks until mineral exploration had been completed and an assessment then made on that basis. In other words, some were mined, but many were not and were subsequently upgraded to national park status. Now all or part of a regional park can be declared to be a resource use area, creating a circumstance where some conservation parks that could not be mined may be exposed to mining when they are rededicated as regional parks.

Management plans and management statements

Substantial modifications were made to the mandatory requirement that a management plan be prepared for every national park or group of national parks. Management plans were made optional, but if they weren't to be

prepared, then a management statement has to be produced. That move had some merit, depending on the scope and strength of the statement. However, additional amendments proceeded to dramatically downgrade the public consultation requirements for management plans. The word 'public' was removed from 'public consultation' and a two stage process was reduced to one step, with notice (which previously had to be widely publicised) merely being placed somewhere on the departmental website. In addition, the amendments included a wide range of very vague circumstances when consultation doesn't even need to be invited in relation to a draft management plan. None of the reasons listed has any relevance to the broad scope of the plan, only to some specific component. The ultimate insult was to give the Minister the power to deny a consultation process if 'The Minister considers there has already been adequate public consultation about the matters the subject of the plan'. Why would the government want to do this when a plan is no longer a mandatory requirement, and plans will happen only when the government considers there is a good reason to have one?

Similarly, new reasons for not providing any consultation on an amendment to an existing management plan are equally inappropriate, and include a provision whereby no consultation is required if the amendment is 'to make a change to ensure the plan is consistent with State government policy about the management of the area to which the plan applies'. In other words, if the government thinks of something it wants to do on a national park, it can simply amend the plan without seeking any public feedback.

As mentioned earlier, management statements can now replace management plans. They are mandatory in the absence of a plan. However, their extent and scope are open to conjecture. And, more to the point, they are not subject to any public scrutiny prior to them coming into effect. This is totally inappropriate, particularly as the statement is likely to be the only document with any legal status relating to the management of that particular national park.

Stock grazing

While the legislation still prevents stock grazing on national parks, the government passed another amendment in the first half of 2013 which, despite the cardinal principle, allowed stock grazing to take place on several national parks 'for emergency drought relief'. This was to cease on 31 December 2013, though the permits issued allowed owners several months to remove the cattle. Similarly, the government permitted grazing on considerable areas of land that had been purchased for national park dedication, but for which the dedication process has been put on hold for reasons that are explained below.

While nobody likes to see cattle starving, what was lost in the move to make parks available for stock grazing is the fact that native species are also affected by drought. Some endangered and threatened species occur on the parks in question. Permitting an invasion of large herbivores would inevitably have an impact on those and other native species. Unfortunately, there are no visuals of starving native species to reinforce their plight.

Land purchased for national park status

Some 400,000 hectares of land were purchased during the previous Labor government, primarily in central and western Queensland, for national park dedication. These acquisitions involved State and Commonwealth funds under the National Reserve Program using scientifically determined criteria, based on biogeographic regions and regional ecosystems.

The new government has decided not to dedicate these areas and has included them in a quite extraordinary review of all national parks set aside since 2002, to determine whether they are worthy of national parks status. The review involves some 1.2 million hectares of existing national park land. This is a purely internal review, based on criteria that are not available to the public. There is a strong expectation that some existing national parks will be revoked or downgraded as a result. If that wasn't the outcome, why would such an exercise be undertaken at all? Certainly there is a high probability that much of the land that is awaiting dedication will not proceed to national park status. Under the circumstances, it will be interesting to see whether the Commonwealth, which is effectively part owner of much of the land, will demand its money back if the land is used for another purpose. It is worth noting that less than five per cent of Queensland is protected as national park, a percentage that is exceeded by all other Australian States.

Additional Assaults on Nature Conservation

In addition to the assault on national parks and other protected areas, the government has targeted measures established to protect biodiversity on other lands. These include amendments to vegetation clearing legislation (*Vegetation Management Act 1999*) and wild rivers (*Wild Rivers Act 2005*) designed to substantially weaken their capacity to control widespread clearing of vegetation, and protect streambeds, banks and adjoining land along watercourses where all or most of their natural values are still intact.

The government has also dramatically weakened the protection afforded to flying foxes and contributed to a campaign to demonise these native animals that play such an important role in the health of native forests as seed dispersers and pollinators of rainforest and native hardwood forests.

The green zones in Moreton Bay Marine Park are also being challenged by government, contrary to scientific advice and evidence, with a strong likelihood that some or all of the highly protected components of the marine park will not survive the assault.

Conclusion

The question still remains as to why such a destructive assault on nature conservation, and national parks in particular, needed to be mounted by the Queensland government. The usual cry of 'cutting green tape and reducing complexity' are irrelevant distractions in an onslaught that has no parallel in the history of protected areas in Queensland. Removing national parks from the environment portfolio and marrying them with the recreation and sport portfolio is akin to removing hospitals from the health portfolio so the excess beds can be used by the tourist industry.

Unfortunately, the overwhelming majority the government holds in the Queensland parliament means it can, and does, ignore community outrage at its assault on nature conservation. However, historians in this field of endeavour must record what is happening in order to shame the perpetrators. In particular, the Minister for National Parks, Recreation, Sport and Racing, the Hon. Steven Dickson, will feature prominently in that history. To date, he has steadfastly refused to meet with representatives of conservation organisations. Why?