



Environmental Defender's Office of NQ Inc.
Level 1, 96-98 Lake Street CAIRNS, QLD 4870
Ph: 07 4031 4766 Fax: 07 4041 4535
edonq@edo.org.au www.edo.org.au/edonq

Environmental Defenders Office (Qld) Inc
30 Hardgrave Rd WEST END, QLD 4101
tel 07 3211 4466 *fax* 07 3211 4655
edoqld@edo.org.au www.edo.org.au/edoqld

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Hon. Kate Jones
Minister for Climate Change and Sustainability
Department of Environment and Resource Management
PO Box 15155
City East QLD 4002
By email: ccs@ministerial.qld.gov.au

Director General
Department of Environment and Resource Management
PO Box 2454, Brisbane Qld 4001
By email: John.bradley@derm.qld.gov.au;

Biodiversity Integration Unit
Department of Environment and Resource Management
GPO Box 2454
Brisbane Qld 4001
By email: biodiversity@derm.qld.au

DRAFT BIODIVERSITY STRATEGY FOR QUEENSLAND

This is the submission of the Environmental Defender's Office-Queensland (“**EDO-Qld**”) and Environmental Defender's Office of Northern Queensland Inc. (“**EDO-NQ**”) on the Draft Biodiversity Strategy for Queensland.

The EDO-Qld and EDO-NQ (“**the EDOs**”) are community legal centres which specialise in public interest environmental law in Queensland. The primary goal of the EDOs is to protect and enhance the environment in the public interest through the use of the law, by and on behalf of the community. The EDOs are active in law reform and we welcome the opportunity to comment on this important draft Strategy. This submission is in addition to the joint submission provided by Queensland Conservation Council on behalf of member groups.

The EDOs commend the Queensland Government for taking positive action to protect and enhance Queensland's beautiful and unique biodiversity. We are pleased to see the Queensland government take a whole-of-state approach to biodiversity by compiling the Draft

Biodiversity Strategy for Queensland (“**the Strategy**”). We look forward to it being incorporated into a robust legislative framework.

Summary

- DERM (and any other relevant entity e.g. DPI) should be funded to undertake in-depth studies of Queensland biodiversity on an *ongoing* basis to ensure there is sufficient knowledge and data. The current State of the Environment reporting is an insufficient method, and more detailed reporting is required. The proposed ongoing studies should:
 - feed into a database maintained by DERM who would collate all data and research (external and internal) and make it accessible to public (reviewed by independent biodiversity scientific expert panel); and
 - similarly to the Healthy Waterways Report Card (e.g. Lower Brisbane catchment received an F rating), these studies should be compiled into reports or report cards and released regularly to the public.
- There needs to be a clear agenda and proposed approach about how best ‘a partnerships approach’ can be achieved.
- The EDOs would strongly encourage putting a dollar value on biodiversity in Queensland which would involve an assessment of the value of biodiversity and ecosystem services to the State in real dollar terms.
- Appropriate resourcing for implementation of the Strategy will be vital to its success.
- The EDOs strongly advocate for stronger laws prohibiting activities such as mining as well as increasing subsidies, financial support and more regular auditing to help protect nature reserves.
- The EDOs commend the Queensland government for taking proactive steps to prevent further reduction and encouraging the recovery of Queensland’s unique fauna. However this needs to be incorporated into the legislative regime to ensure REAL protection.
- The Strategy should make provisions for an identification process for the specific species to be included in each of the categories outlined in the Strategy. The identification process should be transparent and allow for public participation and nomination.
- The Strategy should make it clear that financial contributions made under the biodiversity offset policy (currently in draft form) must not be available as revenue for Ecofund Queensland to deliver the protected area targets outlined in the Strategy.

Using biodiversity offsets to fund the purchase of new protected areas undermines the purpose of the Strategy because there will be ‘no net gain’ which is the very essence of the protected area targets.

- Finite timeframes need to be set for the priority actions proposed under the building knowledge heading. When will the climate change report and baseline marine and terrestrial reports be finalised?
- The Strategy must outline clear performance indicators and benchmarks as this is vital to effective implementation and review. Setting a 12 month timeframe within which final performance indicators are to be set is insufficient.
- As suggested in the WWF and Wildlife Queensland submissions, a whole of government approach is required to truly protect biodiversity in Queensland. This should include the creation of an Office of Biodiversity whose responsibility it is to deliver the targets of the Strategy.
- The EDOs support the inclusion of biodiversity protection in the regional planning processes and planning schemes as a matter of priority. This could be achieved by implementing:
 - State Planning Policy (“**SPP**”) on Biodiversity Protection;
 - Local government Biodiversity Strategies; and
 - Regional plans that reflect local dimensions of the Strategy targets.
- **Whilst we commend the Queensland government for releasing an overarching state-wide-approach to biodiversity protection, for real and lasting protection, the Strategy must be incorporated into a robust legislative framework.**

Introduction

Biodiversity sustains life on earth. Survival of a diverse range of native species is important for all life and is the source of many economic, social and physical benefits for Queensland. Yet biodiversity in Queensland is under increasing pressure, primarily, due to increasing urbanisation and associated non-urban activities like mining, energy generation and infrastructure.

Biodiversity contributes certain benefits to society such as food, medicine, building materials and ecosystem function, including water purification, recycling of nutrients and carbon trapping. The loss of trees and green space in favor of high density suburbs and surrounding urban footprint has meant a considerable loss to wildlife and habitat. The loss of habitat has led to the disappearance of natural spaces and resources that once benefited humans both physically and economically.

One of the major hurdles to protecting Queensland's biodiversity is that there is a lack of understanding and appreciation of the contribution biodiversity and ecosystems make to society and the economy.

Over time the general evolutionary pattern of biodiversity is that it is continually becoming more diverse and complex, this however is no longer the case. The State of the Region Report 2008 (SORR) identified many species in the South East Queensland region are declining in number and health. The State of the Environment Report 2007 ("SoE") portrays a similar picture at a State level.

PART ONE – GENERAL COMMENTS

The EDOs commend the Queensland government for taking a holistic, State wide approach to biodiversity protection in Queensland. Reversing the decline in biodiversity is vital to ensure the maintenance of essential ecosystem services. The strategy also recognises the importance of biodiversity for a thriving economy, which should not be understated.

Foundations for a resilient landscape

Evidence based decision making

Before we can attempt to protect biodiversity we need comprehensive, long term studies of the flora and fauna that make up this unique State. The strategy acknowledges this by stating that “monitoring and reporting on the State of Queensland biodiversity is an important part of mainstreaming consideration of biodiversity throughout the State”. This is also covered in some detail in the Building knowledge and Managing Responsively sections of the Strategy. Whilst the Strategy provides for the compilation of a number of individual reports (e.g. baseline marine and terrestrial bioregional reports and the climate change impacts report) to support the attainment of the Strategy targets, a more ambitious and *ongoing* study is required and the Strategy should reflect that need. The current SoE reporting is an insufficient method, and more detailed reporting is required.

The EDOs would suggest that DERM (and any other relevant entity e.g. DPI, DEEDI) should be funded to undertake these studies on an ongoing basis to ensure there is sufficient knowledge and data to assess the state of biodiversity in Queensland as well as the effectiveness of the Strategy and other biodiversity protection measures. This should be coordinated and reviewed by *independent* biodiversity scientific expert panel. The current knowledge gap that exists prevents us from accurately recording the decline in biodiversity.

These *ongoing* studies should:

1. feed into a database maintained by DERM who would collate all data and research (external and internal) and make it accessible to public (reviewed by independent biodiversity scientific expert panel); and
2. similarly to the Healthy Waterways Report Card (e.g. Lower Brisbane catchment received an F rating), these studies should be compiled into reports or report cards and released regularly to the public.

Combining our efforts: a partnership approach

The EDOs support the inclusion of the public, rural landholders and traditional owners in the protection of biodiversity in Queensland. It is extremely important for members of the community to feel that they can take action and be included in the process. This improves the integrity of the process and effectiveness of the outcome. It also provides an opportunity to recognise the important role landholders and members of the community in Queensland have played and continue to play in the protection of important ecosystems. However, there needs to be a clear agenda and proposed approach about how strong enduring partnerships can be achieved.

Partnership with industry and business can be beneficial and provide good outcomes but there needs to be robust laws that prevent those businesses and industries that do not act in the public interest. The EDOs strongly advocate for the inclusion of the Biodiversity targets outlined in the Strategy into a robust legislative framework.

Conservation and Natural Resource Management Sectors

The Strategy acknowledges the important work conservation groups do for the conservation of biodiversity. The Strategy also encourages stronger partnerships and collaboration from these groups to ensure protection of biodiversity.

However the EDOs encourage increased funding for environmental groups to enhance their ability to advocate for and contribute to the protection of biodiversity. There are many long standing environmental groups in Queensland who have actively fought for stronger protection of biodiversity and education of the importance of biodiversity in Queensland for decades. Grassroots environmental groups are uniquely placed to form strong alliances with local communities and locate specific areas of significance. The Queensland government should recognise this and increase funding for these groups who play a vital role in protecting our biodiversity.

Valuing Biodiversity

The EDOs strongly encourage putting a dollar value on biodiversity in Queensland which would involve an assessment of the value of biodiversity and ecosystem services to the State in real dollar terms. This would encourage industry, government and the public to appreciate and protect our precious biodiversity. It would also increase awareness of the importance of

biodiversity and associated ecosystem services to a thriving economy. Pricing is one technique of accounting for the value of biodiversity and ensuring it is a pivotal consideration in decision making.

Building resilient ecosystems

1.1 Building Protected Areas

The EDOs strongly support the Queensland government's move to increase the amount of area currently protected, though we would like to see the targets set higher than that currently set out in the Strategy. They should, at a minimum, meet national and international targets (e.g. at least 10 per cent of the pre-1788 extent of each bioregion represented in protected areas). They should also include quality targets as well as area targets.

Our major concern is the level of legal protection these areas will be given. These areas must have the same level of protection to National Parks. The EDOs would support the inclusion of a new category of protected area in the *Nature Conservation Act 1992*. However, the level of legal protection for this new category would have to be sufficiently high to ensure that all development, including mining, petroleum and grazing activities are prohibited. Many other forms of 'protected land' are afforded only limited protection from mining activities and the like. If the Queensland government is committed to protecting Queensland's biodiversity and increasing the amount of protected areas, then these areas must be afforded strong legal protection.

Of particular concern to the EDOs are nature refuges. Land protected under conservation agreements, nature refuges and other agreements that private land owners enter into, protect some of the most significant natural habitats in Queensland. Concerned citizens who decide to place their privately owned land as protected areas for the good of the wider community are buckling under the pressure of management costs and increasing threats from development (e.g. Bimble Box Nature Refuge). The EDOs strongly advocate for tougher laws prohibiting activities such as mining as well as increasing subsidies, financial support and more regular auditing to help protect these unique areas.

Also of concern to the EDOs is the insufficient funding and management of the protected areas already under the control of DERM. The Strategy should outline the funding required for the maintenance of the current protected areas under the control of the Queensland

government as well as clearly outlining the funding that will be required to ensure effective management of the target protected areas.

1.2 Conserving species – every species matters

The EDOs commend the Queensland government for taking proactive steps to prevent further reduction and encouraging the recovery of Queensland’s unique fauna. However the Strategy should aim to ensure no species decline in number, not just the species that fall within the priority, iconic and common categories.

Furthermore, the Strategy must clearly define what priority, iconic (insufficient definition) and common species are and provide more detail as to which animals fall within which category. Do these categories correlate with legislatively protected categories? If these categories of ‘protected’ species are not protected by a legislative framework, then their status is meaningless.

In terms of biodiversity protection, iconic species may not be the most effective approach to ensuring ecosystem health. A more appropriate method would be to protect those species that are vital to the structuring and maintenance of specific ecosystems (i.e. “keystone” species) but that are not currently considered threatened or endangered. Predators, burrowers and pollinators are just a few examples of these.

Whilst the EDOs support the forward thinking approach of the Strategy in protecting a wider range of species, we would also discourage the use of the term ‘common species’ as it tends to signify that the species are not under threat and do not require protection. Similarly to the terminology ‘not of concern’ that was previously used for vegetation classification, the phrase is likely to have the opposite affect than that which is intended.

The EDOs actively advocate for more community participation and involvement in the protection of our natural environment, including biodiversity protection. The Strategy should make provisions for an identification process for the specific species to be included in each of the categories outlined in the Strategy. The identification process should be transparent and allow for public participation and nomination.

1.3 Managing extent, condition and connectivity

The Strategy aims to manage biosecurity risks posed to biodiversity in Queensland. It is crucial that the Strategy is reflected in legislation and that existing weed and pest legislative provisions are reviewed, improved and integrated into new legislation which provides for public participation and enforcement.

The Strategy discusses the benefits of using offsets. The EDOs do not support the use of offsets and would prefer that the habitat is sufficiently protected from development. Furthermore, the Strategy should make it clear that financial contributions made under the biodiversity offset policy (currently in draft form) must not be available as revenue for Ecofund Queensland to deliver the targets outlined in the Strategy. Using biodiversity offsets to fund the purchase of new protected areas undermines the purpose of the Strategy because there will be ‘no net gain’ which is the very essence of the protected area targets.

Managing Adaptively

2.1 Building Knowledge

Our previous comments on evidence based decision making and the need for comprehensive ongoing studies to provide baseline data that is publically accessible and published on a regular basis are also relevant here.

The EDOs main criticism of this section is the lack of finite timeframes in which to achieve the targets as well as the general nature of the language used. When will the climate change report and baseline marine and terrestrial reports be finalised? The outcomes need to be clear (preferably measurable) and the timeframes within which the government aims to achieve them binding.

The EDOs commend the Queensland government for incorporating the importance of assessing the potential impact climate change will have on biodiversity in Queensland. This is one of the major threats posed to biodiversity throughout the world and no biodiversity protection strategy would be complete without its consideration. However, we feel the Strategy needs to go further. All targets should be made by having regard to the effect on biodiversity climate change is likely to have.

The Strategy advocates for the improvement of information accessibility, dissemination and knowledge sharing by encouraging cooperation and collaboration with Traditional owners,

research organisations and non-government organisations etc. The EDOs strongly support the inclusion of this in the Strategy as it is an integral component of a biodiversity protection. There is undeniable importance in information sharing between professionals and government as outlined in the Strategy; however the Strategy should outline the steps that the government intend to take to ensure that they work closely with these parties to guarantee that decisions are based on best science available. Furthermore it is also important to ensure that information is also shared with the public and public knowledge is considered and included.

2.2 Managing Responsively

The EDOs advocate for an *independent* scientific expert panel to be established to determine the benchmarks and indicators that will be used to review and monitor conservation programs and Strategy outcomes. The Strategy MUST include clear performance indicators and benchmarks as this is vital to effective implementation and review. It is insufficient to state that the benchmarks and indicators will be finalised in 12 months.

The Strategy outlines the need for a whole of government approach and governance framework which the EDOs support. A whole of government approach is required to truly protect biodiversity in Queensland. The Strategy outlines the numerous threats to Queensland biodiversity including, mining, infrastructure construction, agriculture, fishing etc. which are regulated by varying departments and often different legislative regimes. The EDOs support the acknowledgment for the need for cooperation with local and federal governments and the requirements for all government departments to report on their responsibilities to conserve biodiversity. This is an important and significant first step, but this approach will be insufficient in securing a strong future for biodiversity in Queensland without a uniform robust legislative framework that is *not* riddled with exemptions. As suggested in the WWF and Wildlife Queensland submissions, the creation of an Office of Biodiversity whose responsibility it is to deliver the targets of the Strategy in conjunction with legislative force would be the best method of ensuring a whole of government approach.

The EDOs support the inclusion of biodiversity protection in the regional planning processes and planning schemes outlined in the Strategy. However, the Strategy does not sufficiently outline how this will be achieved. The EDOs propose three possible methods (which may be used in combination) of correcting this deficiency and ensuring biodiversity protection is effectively incorporated into regional planning processes:

- State Planning Policy (“**SPP**”) on Biodiversity Protection – The Queensland Government should compile a SPP on biodiversity protection. This would mandate the protection of biodiversity through local planning instruments which adequately reflect the Strategy targets, objectives and performance indicators.
- Regional plans should reflect regional dimensions of the Strategy targets – This would ensure that regional and local biodiversity values are adequately protected under the planning and development framework. For example the South East Queensland Regional Plan should identify wildlife corridors.
- Local government Biodiversity Strategies – The Strategy should require all local governments to compile their own Biodiversity Strategy that reflects the State’s Strategy at a local level. Local government should then be required to report back to the State government about whether they are achieving the targets under their own Strategy and under the State’s Strategy.

The EDOs advocate for the use of the above suggested methods to incorporate biodiversity protection in the planning and development framework in Queensland. The benefits of these approaches is that it would document and protect values at local and regional levels as well as ensuring the cumulative impacts of project-by-project developments are considered.

PART TWO - SUGGESTIONS

Incorporation of policy into robust legislative framework

In Queensland, a patchwork of legislative schemes is directed towards protecting the ecological services on which our life support systems depend, including biodiversity. These schemes have, in practice, failed to prevent ongoing decline of state-wide biological diversity. Whilst we commend the Queensland government for releasing an overarching state-wide approach to biodiversity protection, for real and lasting protection, the Strategy must be incorporated into a robust legislative framework.

The Strategy mentions the need to incorporate biodiversity considerations into Queensland's planning and development framework and outlines the inclusion of ecological sustainable development (ESD) into the objects of a number of Acts as going some way to achieving regulatory force for biodiversity protection. The EDOs do not believe that this is sufficient. A legal principle of legislative interpretation states that the more specific provision overrides the more general provisions. This has often led to the object of the Acts being mere rhetoric.¹

Community Participation

The EDOs actively advocate for more community participation and involvement in the protection of our unique biodiversity. The Strategy should include positive initiatives to improve the assessment process and outcomes for the community and biodiversity. This is covered in the partnership approach and the building knowledge sections, but unsatisfactorily. A whole additional section is needed on this point headed "Public involvement in biodiversity protection" or similar.

Structure

The overall structure and outlay of the Strategy is good but there are a number of minor changes that would provide a lot of clarity. These suggested changes include:

- Putting all the targets and performance indicators together on a targets page;
- Clarifying the definition and role of primary objectives, supporting objectives, key strategies, key outcomes, strategies and targets; and
- Use uniform terminology for consistency and clarification.

¹ We note that section 4 *Sustainable Planning Act 2009* imposes a **duty** on planners, assessment managers, the Planning and Environment Court and decision makers generally, to advance the purposes of the Act. However, this has also been inadequate in protecting biodiversity in Queensland.

Conclusion

The EDOs appreciate this opportunity to comment on the Strategy. Our recommendations are included throughout this letter and are summarised at the beginning of our submission.

Please do not hesitate to contact EDO Qld if you wish to discuss any aspects of our submission further.

Yours faithfully



Sarah Wilson
Solicitor
Environmental Defenders Office (Qld) Inc



Patrick Vuleta
Solicitor
**Environmental Defenders Office of
Northern Queensland Inc**