



ENVIRONMENTAL DEFENDERS OFFICE (QLD) INC.

SUBMISSION ON REVIEW OF THE RECREATION AREAS MANAGEMENT ACT, REGULATION AND BY-LAW

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Introduction and background

This submission is made in response to the release of a Discussion Paper in January 2002 by the Queensland Government as part of its review of the Recreation Areas Management Act 1988, Recreation Areas Management Regulation 1989 and Recreation Areas Management By-law 1991 (RAM Act, Regulation and By-law). Submissions were due by 15 March 2002. The extension granted by the Department is gratefully acknowledged.

As described in the discussion paper, these three pieces of legislation provide for the declaration and management of recreation areas, and the co-ordination and management of visitor use in these areas, including the collection of fees and the provision of facilities. There are four such areas - Fraser Island, Green Island, Moreton Island and Inskip Peninsula. They play an important part in the management of these areas in the public interest.

The RAM Act creates a general licensing regime to regulate access to these areas and has provision for the preparation of management plans for recreation areas. Management plans for recreation areas are to consist of a 'comprehensive statement of specific objectives for the planning, development and management for that Recreation Area'. These plans are also to take into account the objectives of the proprietors and also the values of that Recreation Area in respect of recreation, education, conservation, commerce and production. The Recreation Areas Management Authority is obliged to seek public comment 'before' the preparation of a management plan and to 'have regard' to such comments in the preparation of the preliminary and final management plan.

The Discussion Paper provides that the primary objective of the amendments is to provide for effective and co-ordinated management of recreation in designated areas, in order that:

" Visitor use does not create serious or unsustainable environmental impacts;

" The quality of visitor experiences is maintained or enhanced; and
" Visitor safety issues are addressed.

Various changes to the legislation are proposed to bring it up to date including:

1. improving procedures for developing and implementing management plans;
2. new appointment procedures for authorised officers;
3. making the RAM Act more consistent with existing legislation (such as the Nature Conservation Act 1992,
4. improving law enforcement; eg infringement notices are proposed to operate under the State Penalties Enforcement Act;
5. refining the structure for fee collection, permit issuing and visitor conduct in recreational areas; and
6. removing most permit and visitor conduct provisions to the Regulation.

The review has been prompted by 'sunset provisions' in the Statutory Instruments Act which stipulate that subordinate legislation expires 10 years after it is created. An extension until 1 September 2002 has been granted on the basis that the RAM Act is also reviewed. Alternatives considered by the government included a 'do-nothing' course where management of these areas would revert to the existing legal regimes and extending the coverage of other statutes such as the Nature Conservation Act 1992.

General comments

Given the ambitious aims of the review, it is disappointing that the government has not taken this opportunity to do more than mildly refine an existing piece of legislation. It is suggested that the RAM Act is inappropriate legislation for use in national park areas and particularly world heritage areas. It gives rise to conflict and confusion over the objectives for these areas and the priority of objectives in the various pieces of legislation with application to these areas.

The emphasis in the RAM Act is on managing and coordinating human use of areas for recreational purposes. It is conceded that there is a role for such legislation. However, it is suggested that such legislation would best apply in areas of lesser conservation value. There is no reason why the legislation can not already be applied to such areas, rather the government has decided that it should only be applied to four areas only, of which three are of unquestionably high conservation value. The discussion paper gives the example of dams as one such area the legislation could be applied to.

The key point is that any recreation on national parks or world heritage areas should be undertaken in the context of conservation objectives and not merely from the point of view of managing human recreation.

The RAM Act aims to facilitate recreation management on lands of mixed tenure not owned by the RAM Board. It is suggested, certainly in respect of Fraser and Moreton Islands, perhaps also Green Island, that they are such special places of importance to the common heritage of mankind, that private ownership of land should be limited and placed under tight controls in order to preserve and enhance the conservation values of the islands. Accordingly, recreation management should not occur in these places under

the aegis of a general piece of legislation applying to the issue, but rather under special legislation applicable to these areas. In this regard, reference should be made to the paper published by Robert Stevenson 'Time for a New Regime for Fraser Island?' (2000) 17 Environmental and Planning Law Journal 159. That paper recommends the creation of an authority with 'stand alone' legislation to manage Fraser Island. These comments can also be applied to areas of similar value.

The objectives of the RAM Act place insufficient importance on the necessity of preserving and enhancing the conservation values of the islands. Conservation is only one factor to be taken into account in providing, coordinating, integrating and improving recreational planning, facilities and management on recreation areas. Whilst the policy objectives of the amendments include the objective that visitor use does not create serious or unsustainable environmental impacts this is not reflected in any proposals for change to the objects of the legislation.

The discussion paper recognises that the primary purposes of recreation areas and coordinated conservation areas under the Nature Conservation Act 1992 are different in that the first applies to recreation management and the second applies to conservation management. It is recognised that the proposals contained in the attached paper are significant. However, it is suggested that it is only with a 'stand alone' authority that the problems associated with over use on these three islands will be overcome. It is suggested that a specific authority to manage these special areas is a much more preferable option than any of the options raised in the discussion paper.

Specific comments

Inappropriate nature of current authority and board arrangements

It is inappropriate to enshrine in legislation an authority constituted by one Minister and a Board constituted by the heads of two departments. This type of arrangement deserves to be consigned to the place in history it deserves. Such arrangements are not accountable or transparent in their processes. Indeed, it is difficult to see if any processes actually occur. An example is the failure for any management plans to be implemented formally under the legislation for at least Fraser Island.

Public notification, submission and appeal rights for significant matters

It is suggested that where applicants seek approval for conducting significant group activities, such as the Toyota Fishing Expo on Fraser Island, there should be public notification of such applications with the opportunity for public submissions to be made and taken into account by the decision maker, in a similar manner to that which exists for impact assessable development applications under planning law. There should also be

provision for appeal by parties dissatisfied with a decision to the Planning and Environment Court or an equivalent tribunal. It is suggested that the Magistrates Court is an inappropriate appeal body for these matters.

Prioritisation of matters to be taken into account by decision makers

Further, there should be a prioritisation of the matters the decision maker must consider in making a decision whether to grant a permit or not. It should be made clear that if other relevant matters are to be considered, they should be matters which are relevant to the matters already listed to be taken into account.

Public role in management of recreation areas

A full and appropriate role for the public in the management of recreational areas should be incorporated into the objectives of the RAM Act and into any management plans which are implemented under the legislation. It is suggested that the system of advisory committees which has existed to date has been singularly unsuccessful in facilitating public input into the management of these areas.

Summary

It is suggested that the government should take this opportunity to undertake a more broad ranging review of the legislation and legal regime for management of areas of high conservation importance which are currently subject to the provisions of the RAM Act. In its current form, the RAM Act is inappropriate for the management of public access to areas of high conservation. Whilst the RAM Act may be suitable for managing public recreation in areas of lesser conservation value, it is suggested that the 'stand alone' model of legislation and an authority for the management of areas of high conservation value is a more appropriate model. In terms of the current proposals, several suggestions are made for modification of the legislation including public notification, submission and appeal rights for significant matters, a greater role for the public in the management of these areas and the prioritisation of matters to be taken into account by decision makers.