Queensland Ecotourism Investment Opportunities

Implementation Framework

Expression of Interest

Ecotourism Facilities on National Parks

Great state. Great opportunity.
Introduction

Experiencing nature is a primary motivator for both domestic and international visitors in Australia. Queensland has a natural competitive advantage in providing visitors with high quality ecotourism experiences because of our world class national parks and marine parks, including five World Heritage areas, and a huge diversity of appealing landscapes and iconic wildlife.

Queensland’s national parks play a substantial role for ecotourism. Our tour operators have a long history of accessing national parks and providing visitors with a wide array of ecotourism experiences. Most ecotourism operations are heavily reliant on visitor facilities developed and maintained by the Queensland Government and there has been little opportunity for private sector investment in national parks.

In order to further leverage our competitive advantage the Queensland Government has decided to allow privately owned, environmentally responsible facilities to be established on national parks so that new and innovative ecotourism experiences can be provided. The aim of this initiative is to deliver contemporary and world leading ecotourism developments that both showcase and preserve Queensland’s unique natural landscapes and wildlife.

Ecotourism means that the environmental values of national parks are protected and preserved while being enjoyed. This document provides a framework to guide the consideration of proposals for ecotourism facilities that will both protect national parks and offer new ecotourism experiences.

Purpose and scope

Background

The Queensland Department of National Parks, Recreation, Sport and Racing (the department) has developed a range of policy and legislative measures to improve opportunities for sustainable ecotourism activities and visitor use in Queensland’s protected area system. One key initiative is the Queensland Ecotourism Plan 2013-2020 which seeks to provide tourism operators, government and other stakeholders with clear direction on how Queensland will leverage its competitive advantage to become an innovative world leader in ecotourism by outlining strategic priorities and the actions required to achieve them.

Another key initiative is the amendment to the Nature Conservation Act 1992 (NC Act) to allow for development of privately owned, low impact, purpose built ecotourism infrastructure on national parks. The NC Act amendment will ensure that all approved ecotourism facilities are in the public interest, environmentally sustainable and, to the greatest possible extent, preserve the land’s natural condition and protect its cultural resources and natural values. Each approved facility will be designed and managed sensitively to ensure its compatibility with the nature and character of the site and the national park where it is located.

The nature and scale of ecotourism facilities may vary from relatively small simple structures—such as safari tents, walker’s huts or zip lines—to larger campgrounds or eco-lodges. Acknowledging the differences of scale and location between proposals, the department will apply a common assessment and approval process consistent with the legislative requirements.

The process for attracting investment in ecotourism facilities will also vary—the government will initiate opportunities through competitive tendering; an initial general expression of interest will be called by the government for investor response; and investors with independent proposals will make direct approaches.
Purpose and scope

This implementation framework (the framework) provides a robust and transparent model for the assessment and approval of proposals for ecotourism facilities on national parks. It recognises that any proposed ecotourism facilities will have environmental, social and financial benefits and costs that need to be considered when assessing each proposal, and that assessment needs to occur in the context of the governing legislative provisions.

The framework informs potential investors and the broader community on how the department will assess ecotourism facility proposals, the matters that will be considered, and the approval and leasing arrangements for successful proposals.

The provisions of the framework apply specifically to the authorisation under section 35 of the NC Act of ecotourism facilities on land in a national park or national park (recovery).

The framework will also generally apply to:

- section 42AE of the NC Act, which allows for joint authorisation of ecotourism facilities on national park (Cape York Peninsula Aboriginal land); and
- section 42AO of the NC Act, which allows for joint authorisation of ecotourism facilities on indigenous joint management areas in national park and national park (recovery) areas.

On these lands, joint management arrangements between the State and the indigenous landholders are formalised through Indigenous Management Agreements (IMA) which provide for the involvement of the indigenous landholders in national park planning and management functions. The process of identifying opportunities and assessing and authorising ecotourism facility proposals will be consistent with the provisions of the IMAs.

In this respect, the framework is primarily intended to guide the department and may be varied to accommodate the requirements of the indigenous landholders.

The framework will also be adapted to apply to ecotourism facilities on land in conservation parks and resources reserves managed under the NC Act.
Guiding principles

Six overarching principles guide the consideration of ecotourism facilities in national parks. They are:

**Principle 1**

*Ecotourism facilities on national parks are located, designed and managed sensitively to ensure compatibility with the natural and cultural values of the national park*

National parks represent the highest level of conservation protection of Queensland’s landscapes and biodiversity. Therefore, ecotourism facilities in national parks must be ecologically sustainable, accredited and be located and designed to protect the natural and cultural values of the park.

**Principle 2**

*Ecotourism facilities on national parks should offer unique or innovative visitor experiences*

New ecotourism facilities on national parks will demonstrate best practice systems and services, and offer unique or innovative experiences that add to the existing tourism opportunities available in the region.

Alternatively, new facilities could provide infrastructure necessary to support an existing ecotourism activity or enhance the experience or operation of an existing ecotourism activity.

**Principle 3**

*Diverse experiences and settings are promoted*

The diverse landscapes and settings in national parks offer a wide range of visitor experiences. The type of ecotourism facilities developed and the scope of the associated activities should be sensitive to and compatible with the current or desired future settings and visitor experiences in the national park.

**Principle 4**

*Facilities will provide for the public interest*

Privately owned ecotourism facilities on national parks should be clearly determined as the best use of the proposed site in relation to public interest. That is, they should provide the greatest net public benefit considering the environmental, social and economic outcomes of the use.

**Principle 5**

*The authorisation of ecotourism facilities will be consistent and transparent while protecting the intellectual property of the proponent*

The process of assessing and authorising proposals for ecotourism facilities will consider all principles and be fair, open and impartial.

The level of assessment will be appropriate to the nature, scale and location of the proposed facility. The approval process will not compromise the intellectual property of the proponent.

**Principle 6**

*The type and duration of authorities granted will recognise the level of investment and rate of return on investment*

A lease, agreement, licence, permit or authority may be granted to authorise ecotourism facilities. The type and duration of authority granted will consider the nature of the facility, level of capital investment, rate of return on investment and the financial return to the state.
Legislative requirements

The NC Act has several specific provisions for considering proposals for ecotourism facilities on national parks.

The chief executive of the department may grant a lease, agreement, licence, permit or other authority for an ecotourism facility but must be satisfied that use of the land for this purpose:

- will be in the public interest
- is ecologically sustainable; and
- 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.

For the purposes of the NC Act, the term ‘ecotourism facility’ specifically means a facility that:

- 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
- is managed in a way that does not allow an activity to be carried out on the land that:
  - is inconsistent with the primary purpose; and
  - 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.

These legislative considerations and requirements are explored in further detail below.

Definition of ‘ecotourism facility’

Ecotourism encompasses a broad spectrum of responsible, nature-based activities that increase visitor appreciation and understanding of natural and cultural heritage, and are managed to be ecologically sustainable. Ecotourism facilities should focus on presenting and appreciating an area’s natural and cultural values, and not involve modification of the natural environment for activities contrary to this purpose.

In deciding whether a proposed ecotourism facility meets the definition, the department will consider:

- how, and to what degree, the facility will contribute to presenting, appreciating and conserving the land’s natural condition and cultural resources and values (the primary purpose)—the facility should make a material and significant contribution
- whether or not the facility involves activities that are consistent with presenting, appreciating and conserving the land’s natural condition and cultural resources and values; and
- if some of the activities are inconsistent, whether or not they would have significant impacts on the land’s natural condition or adversely affect the land’s cultural resources and values.

Each proposal for an ecotourism facility will be assessed on a case-by-case basis to ensure the requirements of the definition are met.

Public interest

National parks are lands in public ownership, set aside and managed by the Queensland Government to protect and conserve their special natural and cultural values, and to provide a place for people to visit and connect with nature. In this way, national parks provide important environmental, social and economic benefits to the public.

Privately owned ecotourism facilities on national parks should represent the greatest net public benefit for the land, considering the environmental, social and economic outcomes of that use.

In determining the net public benefit of a proposed ecotourism facility, the relative balance between public and private interest, and between competing public interests, will be considered. This assessment may include public consultation to canvass views about the proposal.
In determining public interest the factors considered include:

- **environmental outcomes:**
  - ecological sustainability and the impact on natural and cultural values (see section Ecologically sustainable use)
  - environmental management plans
  - partnerships or contributions to national park management activities or conservation programs.

- **social outcomes:**
  - enhancements of community access to existing public facilities, iconic places, waterways, beaches and foreshores within the national park or accessed through the national park
  - interactions with existing recreational and commercial uses of the national park and future opportunities for other recreational and commercial uses
  - general suitability of the proposed location for the purpose
  - advice received through public consultation.

- **economic outcomes:**
  - the financial and managerial capability of the proponent to establish the facility, and sustain its long term viability
  - local job creation and support for existing jobs
  - economic benefits to the local community
  - flow-on benefits to local businesses, including existing tourism businesses
  - direct and indirect costs and benefits to the government
  - financial return to the government for commercial use of public land.

### Ecologically sustainable use

The term ‘ecologically sustainable use’ refers to allowing the use of an area in a way that sustains natural processes and ensures that potential for future benefits from these natural processes are not diminished.

A sustainable approach to establishing facilities on land with high ecological and cultural values, such as national parks, requires structures and associated activities to be fully integrated and in harmony with the ecosystem and its environmental features and constraints.

When determining whether a proposed ecotourism facility is ecologically sustainable the following sustainability principles will be considered:

- preserving ecosystems, natural landscapes and special species
- minimising habitat loss and weed and pest invasions
- site designs, layouts and construction materials that incorporate natural landscape features, minimise environmental impacts and suit the landscape
- efficient and sustainable use of water and energy
- waste minimisation and recycling strategies
- minimising impacts from noise and lighting sources, and on air quality.

### Minimising environmental and cultural impacts

Ecotourism facilities must, to the greatest possible extent, preserve the land’s natural condition and protect its cultural resources and values.

When determining whether a proposed ecotourism facility preserves and protects natural and cultural resources and values, the government will consider the:

- natural condition of the land and extent of any existing disturbance to the natural condition
- conservation significance of the land and its natural and landscape components
- cultural resources and values of the land, including natural, historic and indigenous places
- extent and degree that the proposed use will impact on the above, and whether strategies that minimise, adequately manage, or offset these impacts can be implemented.
The required scope of impact assessment will vary with the nature, scale and location of each proposed ecotourism facility. Moderate or large scale proposals—or those in environmentally or culturally significant locations—will generally require an environmental impact statement (EIS) to be developed. Small-scale proposals will be more appropriately dealt with by a simpler environmental risk assessment (ERA) with terms of reference suitable for lower risk facilities.

Similarly, subsequent environmental management plans and auditing obligations will vary depending on the nature and scale of ecotourism facilities.

**Requirement to prescribe an ecotourism facility as a permitted use under a regulation**

Under the provisions of the NC Act, before an approved ecotourism facility can be authorised through the granting of a lease or other authority, the use must be prescribed by regulation as a permitted use for the land. The department will arrange the required form of regulatory impact assessment and drafting of regulations for this authorisation to occur.

**Associated activities and authorities under the NC Act**

The operation of an ecotourism facility on a national park will usually involve activities in the park conducted outside of the facility area, such as guided interpretive walks or vehicle tours to nearby attractions. These activities require a separate commercial activity permit or agreement to be granted. These permits or agreements offer shorter term, flexible access to national park sites for a wide range of activities and may be easily varied to suit changing operational needs.

For the majority of visitor sites these permits and agreements are readily available from the department through an established process. For a small number of popular sites, recreational and commercial tour activities may already be at full capacity and present potential limitations for an ecotourism facility operator. In these circumstances potential options include modifying the scale or timing of the proposed activities, using alternative sites, or negotiating with an existing operator to share or acquire capacity.

In order to streamline administrative processes, the use of national park sites outside of a proposed ecotourism facility will be dealt with when the proposal is being considered, and assessments and authorisations will be developed in one coordinated process. If a requested national park site is already used at full capacity for a proposed activity, options will be negotiated with the proponent.

**Other approvals**

Apart from approval under the NC Act, and depending on the location and scale of the proposal, ecotourism facilities may also require additional third-party approvals under local authority, State and Commonwealth laws. These could include development approval under State and local planning laws, approvals under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999, and consent from native title parties under State and Commonwealth native title legislation.

An ecotourism facility proponent will usually be responsible for identifying and obtaining the other approvals necessary for a proposed facility and for the costs involved with these approvals. The department may assist the proponent with these processes, for example, by providing information to the proponent that is relevant to a required approval. The extent of this assistance will be determined on a case-by-case basis. For government-initiated ecotourism investment opportunities, the government may undertake and bear the costs of some of the additional approval processes (see ‘Assessment and Approval Process’ below).

If other approvals are required, in addition to the NC Act, the department will, as far as practicable within its jurisdiction, streamline the approval process and avoid duplication. For example, the department may refer to, or draw upon, any suitable documents already prepared by the proponent for other approvals, rather than requiring the development of new documents containing the same or similar information.
Assessment and approval

The department has adopted a dual approach for attracting investment for ecotourism facility opportunities in the form of:

- a government-led tender process:
  - government identifies, assesses and prepares high quality sites with significant ecotourism potential in national parks
  - government undertakes due diligence and preliminary assessments of environmental, heritage, infrastructure development, provision of utilities and planning issues to remove uncertainty and to release sites that are investor ready
  - sites released through a competitive expressions of interest (EOI) process aimed at attracting high quality innovative investors with the capability to realise the potential of the opportunity

- an investor-led process:
  - investor responds to a government invitation for ‘general’ expressions of interest for ecotourism facilities in national parks; or
  - investor identifies a site and a concept for an ecotourism facility and makes a submission to government for the proposal
  - the investor undertakes all due diligence and is responsible for all assessments and gaining all required approvals.

Although the different approaches to proposals for ecotourism facilities will require some differences in documentation, responsibility and timing for various parts of the assessment and approval process, all ecotourism facility proposals will be assessed and approved using the same broad criteria and model.

Assessment criteria

All ecotourism facilities will be evaluated against a set of statutory and merit assessment criteria. The statutory criteria are the requirements provided in the NC Act while the merit criteria focus on commercial aspects of proposals and their suitability as tourism products at the location. The merit criteria may overlap with the statutory criteria in some cases, for example, regarding public interest.

The elements of the assessment criteria are:

- the legislative requirements under the NC Act—a proposed facility must:
  - meet the prescribed definition of ecotourism facility
  - be in the public interest
  - be ecologically sustainable
  - to the greatest possible extent, preserve the land’s natural condition and protect the land’s cultural resources and values.

(The Legislative Requirements section provides details for these criteria and the Best Practice Ecotourism Development Guidelines provide relevant sustainability considerations.)

- the destination fit of the proposal—a proposed facility should:
  - align with the tourism destination focus and brand developed through the government’s destination management framework
  - provide new or innovative experiences for the destination
  - demonstrate a need to be located on a particular national park within the destination.

- the commercial viability of the proposal—a proponent must demonstrate:
  - the long-term commercial viability of the proposed facility, including target markets
  - the financial capacity to fulfil the obligations, responsibilities and liabilities of establishing and operating the proposed facility
  - successful track record in delivering tourism infrastructure projects.

Assessment process

Ecotourism facility proposals will be considered on a case-by-case basis with proposals lodged through a government-initiated expression of interest process, having the additional element of competitive selection. The nature, scale and location of proposals will influence the level of information that a proponent is required to provide to enable a properly informed assessment to be made. The department may request additional information from a proponent if it is necessary for an adequate assessment.

Assessment of proposals will move through two stages as an iterative process between the department and proponent, with finer levels of detail being developed as the proposal proceeds. During this two-stage process, the level of information required will be generally similar to that required in other business planning and development approval circumstances.
Stage 1 Preliminary concept assessment

This stage requires the proponent to develop a concept proposal including:

- a description of the concept explaining the type, site location, size and capacity of intended facilities and due diligence of regulatory requirements
- the proposed services and activities to be provided
- a preliminary assessment of environmental or cultural values and an indication of likely impacts and mitigation measures
- a preliminary assessment of benefits to and impacts on the local community
- consideration of the best practice criteria outlined in the Best Practice Ecotourism Development Guidelines for Stage 1
- a description of the innovative or unique aspects of the proposal and how it fits the destination and fills an existing market gap
- identification of the target market and segment, market demand, and market competition
- an assessment of site suitability detailing why national park land is required for the proposal
- demonstration of the financial and managerial capacity of the proponent to successfully establish and operate the proposed facility.

For competitive tender processes the initial expression of interest stage represents the preliminary concept assessment.

The proponent’s requirements for Stage 1 will be reduced in the case of government-led investment opportunities. Prior to a competitive tender process, the department will conduct site assessments, environmental and cultural risk assessments, and due diligence for the site and present this information to prospective proponents.

If a concept proposal satisfies the criteria in Stage 1, the proponent will be invited to develop a full proposal for further consideration. If a concept proposal does not satisfy the criteria it may be rejected or the proponent may be advised to significantly modify the concept and seek re-evaluation.

Stage 2 Full proposal assessment

This stage requires the proponent to develop a detailed proposal. The content for this stage will be determined on a case-by-case basis, informed by the assessment in Stage 1. The required information will include:

- a site master plan detailing layout, design and function
- an appropriate form of environmental impact assessment and a proposed environmental management plan (EMP) for the facility:
  - for some proposals a full environmental impact statement (EIS) will be required
  - proposals with a lower level of risk may require a simpler environmental risk assessment (ERA) rather than a full EIS—the department will advise suitable terms of reference for an ERA
  - all proposals will require an EMP to be maintained for the life of the facility—EMPs for most projects will be comprehensive while those for minor facilities with low risk may be minimal
- an appropriate form of cultural heritage impact assessment and, if required, a cultural heritage management plan—this assessment will usually involve consultation with the relevant Traditional Owners
- details of how the proposal meets environmental, economic and social sustainability outcomes in the Best Practice Ecotourism Development Guidelines for Stage 2
- a full business case with financial projections including evidence of the long term commercial viability of the proposal
- information to allow for due diligence assessment of proponents.

The assessment process in Stage 2 is a more iterative process and will require discussion between the department and the proponent regarding key requirements and processes. The department may request additional information from the proponent at certain points if necessary for adequate assessment.

For competitive tender processes the second request for proposal stage represents the full proposal assessment.

Public consultation

Public consultation and/or notification on proposals for ecotourism facilities will be required at one or more points in the assessment process. This will usually occur during Stage 2 assessment.

Public consultation may also be needed to gain other required statutory approvals, such as environmental impact statements or local government development approvals. The department will, as far as practicable within its jurisdiction, avoid duplication of public consultation actions and, if feasible, consider the results of other public consultation processes in assessments.

Approval in principle

Following an assessment of an ecotourism facility proposal and prior to an authority being granted, a proponent may be given in principle approval for the facility in order for the proponent to proceed with confidence in applying for any additional environmental, planning or development approvals.

In principle approval will be given if a proposal has been assessed as compliant with the requirements for ecotourism facilities under the Nature Conservation Act 1992 and prior to being prescribed by regulation as a permitted use and the granting of a lease or authority.
Dealing with native title

Native title rights and interests exist over many national parks and must be considered as part of any ecotourism facility proposal. Under State and Commonwealth native title legislation, consent may be required from native title parties for the establishment and operation of an ecotourism facility, including the granting of a lease or other authority. This consent will usually need to take the form of an indigenous land use agreement (ILUA).

Ecotourism facility proponents will usually be required to establish the native title status of a site or an area proposed for an ecotourism facility, and to undertake negotiations if an ILUA is required. In general, all or most of the costs associated with obtaining native title consent for a proposed ecotourism facility will be borne by the proponent.

In some cases the department may assist with these processes. The extent of assistance will be determined on a case-by-case basis, taking account of the likely complexities and issues involved.

In some instances, native title parties may seek to address broader national park management issues in the ILUA negotiation process (i.e. issues beyond the scope of the ecotourism facility proposal). There may also be instances where an existing ILUA may require renegotiation to allow for the proposed ecotourism facility. If such broader issues arise, the department will consult with the ecotourism facility proponent about relative roles in the negotiating process and relative apportionment of the costs of negotiations.

When a government-led investment opportunity is released through a competitive tender process, the initial engagement with the native title holders will be undertaken by the State.

A permit or agreement may be granted for some types of ecotourism facilities. These will usually be for small scale, low impact infrastructure (e.g. canoe storage sheds) that supports commercial tour activities on a national park. Permits or agreements will be granted for a period consistent with the tour operator’s commercial activity permit or commercial activity agreement.

Determining rental arrangements

A flexible approach to setting rental returns to the State will be adopted and rental arrangements will be negotiated on a case-by-case basis. This approach recognises the likely variation in the nature and scale of different facilities and the individual level of capital investment, risk profile and rate of return on investment for each proponent.

High start-up costs may be recognised and concessions in the form of early lower rental rates or graduated rate increases may be granted. Significant contributions to national park management activities or benefits to Traditional Owners or local communities may also be considered in determining rental rates.

Rental options that can be adopted include:
- a scale of designated fees (e.g. for small, simple facilities)
- revenue sharing based on a proportion of the profit or turnover of the facility
- fee based on an independent valuation of the land to be used
- a combination of the above two options
- a negotiated fee (for any proposals that do not readily fit the other rental options)
- the highest acceptable bid received for a competitive tender process (for a specific high value opportunity).

Authority type, term and conditions

Type and term of authorities

The type and term (duration) of authorisations will be appropriate to the nature and scale of the proposed ecotourism facility and the individual level of capital investment, risk profile and rate of return on investment for each proponent.

The NC Act provides for a variety of authority types that can be granted for ecotourism facilities, including a lease, agreement, licence, permit or other authority.

Most ecotourism facilities will be authorised through leases which provide a long-term interest in the land and provide investment security. Leases may be granted for a term of up to 30 years with the ability to renew for a further 30 years. Appropriate lease terms will be negotiated on a case-by-case basis and in exceptional circumstances a lease may be granted for a term longer than 30 years.
Conditions and auditing of leases, permits and agreements

Leases, permits or agreements (authorities) granted for ecotourism facilities will be performance-based with conditions that hold the lessee accountable for delivering the agreed environmental, social and economic outcomes.

Authorities will be supported by appropriate environmental management plans, cultural heritage plans and/or facility operational plans. The authority will also include conditions that relate to operational compliance with these provisions such as enforcement actions and/or remedial actions for breaches of conditions.

All ecotourism facilities will undergo auditing of compliance with authority conditions at regular periods. Non-compliance with conditions will be subject to remediation processes or enforcement action.

Authority conditions will clearly identify the obligations for site rehabilitation, should an ecotourism facility cease to operate. In these circumstances, and where a facility is not taken over by another operator, the authority holder will be required to remove all traces of development and rehabilitate the site. These conditions may be supported by a requirement for the authority holder to lodge a rehabilitation bond or hold a bank guarantee at a level appropriate to the scale of the facility and required rehabilitation works.

Accreditation

Ecotourism accreditation provides an assurance that a certified product is backed by a commitment to best-practice ecological sustainability and the provision of quality ecotourism experiences.

In order to achieve best-practice ecotourism standards, ecotourism facilities and associated activities will be required to be accredited under a suitable accreditation scheme and this requirement will be included in authority conditions.