



EDO-NQ FACTSHEET SERIES

LEGAL MECHANISMS FOR CONSERVATION ON PRIVATELY OWNED LAND

Private Conservation Mechanisms Factsheet #2: ***Nature Refuges and Coordinated Conservation Areas***

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Legal Mechanisms for Conservation on Privately Held Land

Nature Refuges and Coordinated Conservation Areas

This factsheet is intended as a plain English guide to a particular area of law. It is not legal advice and is not intended as a comprehensive examination of the legislation. Whilst all care has been taken in its preparation, it is not a substitute for legal advice as legal details have been omitted to provide a brief overview of this area of the law. If you require legal advice relating to your particular circumstances you should contact the EDO or your solicitor.

1. Introduction

Nature refuges and coordinated conservation areas are two options for promoting conservation on private land which are offered and supported by the Environmental Protection Agency (“EPA”). They are both provided for by the *Nature Conservation Act 1992* (Qld) (“NCA”). They offer strong environmental protection and come with many benefits, but potential properties have to undergo an application process before they can be declared a nature refuge or coordinated conservation area.

2. What legislation provides for nature refuges and coordinated conservation areas?

The NCA provides a framework for the creation and management of protected areas in Queensland. National Parks are a common example of a protected area under the NCA and exist on land owned by the State of Queensland. Nature refuges and coordinated conservation areas are other forms of protected areas which exist on land owned by private landowners.

3. What is a nature refuge?

A nature refuge may be declared where the EPA and landholder enter into a conservation agreement concerning the land. The nature refuge is declared in the *Nature Conservation (Protected Areas) Regulation 1994* (“NCR”) and protected by provisions in the NCA. It will be managed by an environmental management plan prepared by the landowner and EPA. Environmental management assistance may be provided by the EPA, and the landowner may be eligible for financial assistance to fund environmental management programs.

The property’s status as a nature refuge will continue to exist even after the landowner sells the property to another person, and will only be revoked under very few circumstances. Therefore, nature refuges can provide strong, long term protection of the environment.

4. How can a landowner apply to have their property declared a nature refuge?

To apply to have their property considered for being declared a nature refuge, a landowner should contact the EPA directly. The EPA's contact number is 1800 603 604, and their nature refuge officers can be emailed directly at naturerefuge@epa.qld.gov.au. In addition, their nature assist coordinator, who is responsible for arranging financial assistance to nature refuges, can also be emailed directly at natureassist@epa.qld.gov.au.

When a landowner contacts the EPA, a nature refuge officer will discuss the property's suitability to be a nature refuge with the landowner, with particular focus on the property's environmental values. A property can only become a nature refuge if it meets certain criteria. To be eligible for being declared a nature refuge the land must have significant natural or cultural heritage values. These values may be demonstrated by:

- Areas that are essential habitat to rare and threatened plant or animal species;
- Areas with regional ecosystems that have an endangered, or of concern status;
- Areas with regional ecosystems that are not well represented within the existing protected estates;
- Large tracts of remnant vegetation;
- Areas that are adjacent to, or form vegetation and wildlife movement corridors to existing protected areas;
- Significant wetlands including mound spring communities; and
- Areas that include cultural heritage significance.

Unfortunately, the EPA has also indicated at the time of drafting this factsheet (March 2009) it is not intending to create more nature refuges in the Wet Tropics area of North Queensland at this time. The reason provided for this is that they are seeking a balance of nature refuges throughout all areas of the state, and currently more nature refuges are needed in other areas to ensure this balance.

However, despite this a landowner should still contact the EPA if interested in having their property declared a nature refuge. At the very least, a number of separate individual enquiries by landowners may go some way to persuading the EPA to process applications for nature refuges in the Wet Tropics in the future. Therefore, we would encourage each individual landowner to approach them on their own behalf when considering these conservation options.

5. What happens if the EPA does decide to enter a nature refuge agreement?

If the EPA does decide that a property is suitable to be declared as a nature refuge, the Queensland Minister for the Environment will negotiate with the landowner the environmental management principles for the property, and the terms of the conservation

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agreement that will give effect to these principles.¹ These terms will govern the entirety of how the nature refuge will operate, and will include penalties for breaching those terms.

After the conservation agreement (to establish the nature reserve) is signed by both parties, the Governor in Council will declare the property to be a nature refuge by way of making a regulation under section 46 of the NCA. Once the property is declared a nature refuge, it will be recorded in a register maintained under the NCA.² All agreements recorded in this register are binding on the current landowner, any future landowners, and any person who acquires an interest in the land.³

6. What are the advantages of nature refuges?

Nature refuges offer landowners three strong advantages over other conservation options:

1. Long term protection
2. Environmental management assistance
3. Possible financial assistance

The main advantage a nature refuge has over other conservation mechanisms is that it offers very strong protection that will bind future purchasers of the land and is hard to revoke. The conservation agreement creating the nature refuge will only be revoked if the Queensland Minister with whom the agreement is entered into decides that the nature refuge is no longer needed, or is no longer capable of being used to achieve the declared management intent of the area.⁴ In addition, the Governor in Council must also pass a regulation revoking the declaration of the property as a nature refuge.⁵ This makes the protection given by a nature refuge very robust and dependable, especially in regards to future purchasers of the land.

A nature refuge is also the EPA's favoured conservation mechanism, and so comes with higher support than other options. The EPA offers environmental management advice for all nature refuges. It also offers financial assistance for environmental management on chosen nature refuges through their Nature Assist program. This financial assistance is not available to all nature refuges however and there is an application process involved. More details on this program can be found on the EPA's website at:

http://www.epa.qld.gov.au/nature_conservation/nature_refuges/natureassist/.

¹ s.45(1): NCA

² s.134: NCA

³ s.51: NCA

⁴ s.47(2): NCA

⁵ s.50: NCA

7. What are the disadvantages of nature refuges?

These advantages must then be balanced against the disadvantages of the nature refuge option. There are three main disadvantages:

1. They are difficult to get in the Wet Tropics
2. The application process can be long
3. The long term protection may not be suitable for those who are uncertain about how they will want to use the land in the future

The main disadvantage for North Queensland landowners and nature refuges is the difficulty in having one declared over a property in the Wet Tropics, given EPA's current policy (see page 4 of this factsheet). As such, further nature refuges in the Wet Tropics area may not be a practical option until the EPA reviews their policy.

Even if the EPA does decide to declare a property a nature refuge, the process of doing so can take upwards of a year. Therefore, it may not be suitable for landowners who are looking to sell their land in the near future; a declaration of a nature refuge must be done well in advance.

Finally, while the long term protection is a strong advantage of a nature refuge, it can also make it unsuitable for those landowners who are uncertain about what they want to do on their property in the future. While nature refuges can be revoked if both the land owner and EPA agree, coming to this agreement cannot be guaranteed. Therefore, before entering a nature refuge agreement, a landowner should be very certain that they wish to dedicate the property to conservation for the foreseeable future.

8. What is a coordinated conservation area?

Coordinated conservation areas ("CCAs") are very similar to nature refuges. Both CCAs and nature refuges are forms of protected areas under section 14 of the NCA. As such, they share the exact same declaration process, so the process described in sections four and five of this factsheet for nature refuges is also the process followed for declaring a CCA.

The main difference between nature refuges and CCAs is the number of landowners involved. Section 23 of the NCA refers to multiple landowners being involved in the environmental management of the relevant CCA. CCAs appear to be a mechanism which may be used to manage several adjacent properties that are held by different landowners.

There are only two CCAs in Queensland. These are the Koala Bushland CCA, in Redlands near Moreton Bay; and the Rindoparr CCA, in Cape York. The Koala Bushland CCA includes a national park and a number of adjacent properties, while the Rindoparr CCA is a property held by indigenous owners who entered into a CCA agreement with the EPA.

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The Koala Bushland CCA is a good demonstration of how CCAs function. Each individual property which forms part of that CCA has its own conservation agreement with the EPA. These are then drawn together by an overarching CCA agreement which governs how the properties are to be managed in relation to one another.

9. What are the advantages and disadvantages of a CCA?

Many of the advantages and disadvantages listed for nature refuges will apply to CCAs. As a protected area under the NCA, CCAs will offer strong protection which is difficult to revoke, and may receive EPA assistance for environmental management. However, CCAs are less common than nature refuges (i.e. there are currently only two in Queensland). Therefore, they may not be a readily available option.

The EPA lacks a formal program for the declaration of CCAs and it appears that this is a mechanism to be used in unique situations where multiple landowners approach the EPA with an interest in forming a CCA.

10. Further information

If you have any further questions or concerns about any of these matters, then please contact us on the details below.

While we have limited resources, often we can give you quick advice over the phone or direct you to someone who may help on a free or reduced rate basis.

Stay in contact with your local Environmental Defenders Office. We try to run as many community workshops on as many useful legal issues as we can.

11. Useful Contacts

EDO-NQ Suite 1, Level 1 96-98 Lake Street CAIRNS QLD 4870 Ph : 07 4031 4766; Fax: 07 4041 4535 Email: edong@edo.org.au	EDO (Qld) 30 Hardgrave Road, WEST END QLD 4101 Ph: 07 3211-4466; Fax: 07 3211-4655 Email: edoqld@edo.org.au
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To become a member of the Environmental Defenders' Office of Northern Queensland, or for more information about factsheets and legal advice, please contact us at edong@edo.org.au or on 07 4031 4766. Our web address is www.edo.org.au/edong

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