

Jenolan Privatisation – an analysis by Chris Norton

My understanding of the issue (which I do not claim to be completely accurate):

What the Government is doing is seeking expressions of interest from private operators to lease Caves House, and operate cave tours under licence. This is not, strictly speaking "privatisation" nor is it "selling off" the caves, as the caves will remain in public ownership. Jenolan cannot be fully privatised (sold) unless its dedication as a Karst Conservation Reserve is revoked. However I can understand people's perceptions in this regard and the semantics are not really important.

This is a repeat of a process carried out a few years ago by the previous Labor government. That process concluded with no acceptable expressions of interest being received. In that previous process, proposals could be submitted for just leasing the hotel, or leasing the hotel and operating cave tours. The former Government made clear that they would not accept proposals just to licence the cave tours. Somewhat ironically, the then-Opposition was critical of the proposal at that time, but now in government seems to be proposing much the same thing.

It is not 100% clear from the Minister's press release but it would appear that what is now sought is expressions of interest in a lease over Caves House and a licence to operate the cave tours. It would be hoped that no lease would be granted over the caves themselves, which would grant a right of exclusive possession.

In the meantime, a draft Plan of Management for the Jenolan Reserve, which was drafted and was the subject of a public exhibition and comment phase in 2006, remains unmade. The draft plan contains provisions permitting the leasing and licensing of certain areas of the Reserve. (It should be noted that the area of the Reserve proposed for lease/licence is relatively small by area, but contains the "tourist precinct" and paths through the show caves.)

Cavers have had concerns for some time about the proposals to put cave tour operations into private hands. For one thing, the history of leasing of Caves House does not speak well, with the former private lessee company going into receivership leaving behind a building which it had not maintained properly, requiring the Government to spend millions of dollars of public money to bring the building back up to standard.

However, a principal concern is that the cave tours are likely to be used to cross-subsidise the hotel operations. Cavers were advised in the early 2000s that a study commissioned by the Government had concluded that it was uneconomic to operate Caves House in its present form. Economic operation would either require a scaling down of the hotel to operate as a small, expensive, boutique operation; or upsizing the hotel to operate as budget family/school friendly accommodation. I understand Caves House is currently managed under contract on behalf of the Government, but the Government does not wish to continue to manage Caves House.

Whilst in recent years Caves House has operated at a loss, cave tour operations have been reasonably profitable and have provided sufficient income to allow for general ongoing maintenance and care work to be carried out, particularly in the highly visited tourist caves. A comment in the Minister's press release is that "previous attempts to resuscitate the ailing precinct had shown that to be viable, the operator of Caves House also needed the right to manage cave tours", which seems to acknowledge that what is proposed is cross-subsidisation of Caves House out of tour profits.

The scenario that cavers fear is this:

- * Private operator takes over cave tour operations and Caves House
- * Profits from Cave Tour operations need to be shared between the rental/licence fee paid to National Parks; subsidy to Caves House; and delivering a profit to the commercial operator. Unless tour prices rise significantly, this means funds will be spread more thinly due to the commercial operator taking a share.

* The need to deliver a profit to the commercial operator means there is a very real risk that the amount of funds available to National Parks for looking after the Reserve as a whole will be lower.

In its submission on the Draft Plan made in 2006, ASF stated:

"ASF also has substantial reservations about the proposed commercial licensing of cave tour operations at Jenolan, and the proposed significant reduction in presence of the park authority. ASF considers that this proposal could significantly impact upon the sustainability of operations at Jenolan, in both environmental and financial terms, and erode the quality of the visitor experience. Difficulties with the former Caves House lessee highlight the potential problems that may arise, and any future lease or licence must be subject to extremely strict and rigorous conditions. The Draft Plan has also not paid sufficient regard to the appropriate purposes for leases and licences, with leases and licences to be considered for virtually any purpose in any area of the Reserve."

I expect that one reason the Draft Plan remains unmade over 6 years after the initial public exhibition process is that the Government does not want to make a plan of management that may limit the options for future commercial operators, and will make the Plan only once it has a preferred operator in mind and can include provisions in the Plan to facilitate the operator's proposals.

I am a member of the Karst Management Advisory Committee (KMAC) which was established under the NPW Act at the time that management of most of the Jenolan Reserve was handed over to National Parks. Regrettably, at that time the existing advisory committees for Jenolan were abolished, and there has been significant resistance within National Parks to re-establishing them. KMAC has recommended that these committees be re-established under the new Plan of Management. KMAC has also asked to be kept apprised of developments regarding the Plan of Management, and any proposed commercial involvement in operations at Jenolan. However, KMAC has no role in vetting proposed leases/licences.

Chris Norton.

FYI Chris Norton is a representative from the Australian Speleological Federation on the Karst Management Advisory Committee.

Mr Norton is a barrister specialising in environmental, planning and development law who was admitted to the NSW Bar in February 2002. He has a keen interest in speleology and is a past member of the Jenolan Caves Reserve Trust's Speleological Committee. Co-author of the biodiversity and conservation chapter of the loose-leaf service Local Government Planning and Environment, Mr Norton has an excellent understanding of contemporary karst management issues, particularly as they relate to speleological activities.