



Queensland

Nature Conservation and Other Legislation Amendment Regulation (No. 2) 2014

Subordinate Legislation 2014 No. 223

made under the

Forestry Act 1959

Nature Conservation Act 1992

Recreation Areas Management Act 2006

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[s 1]

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Nature Conservation and Other Legislation Amendment Regulation (No. 2) 2014*.

2 Commencement

Part 3 commences on 1 October 2014.

Part 2 Amendments commencing on notification

Division 1 Amendment of Nature Conservation (Administration) Regulation 2006

3 Regulation amended

This division amends the *Nature Conservation (Administration) Regulation 2006*.

4 Amendment of s 19 (Maximum term for permits for conducting other activities in a protected area)

Section 19(g)—

omit, insert—

- (g) for a commercial activity permit, other than a joint marine park authority permit—3 years;

5 Insertion of new s 24A

Part 2, division 3, subdivision 2—

insert—

24A Definitions for sdiv 2

In this subdivision—

Aboriginal land protected area means—

- (a) a national park (Cape York Peninsula Aboriginal land); or
- (b) an indigenous joint management area.

Cape York Peninsula Region see the *Cape York Peninsula Heritage Act 2007*, section 7.

6 Amendment of s 25 (Considering application)

(1) Section 25(1)(i)—

omit, insert—

- (i) for an application for a relevant authority for an Aboriginal land protected area—the indigenous management agreement for the protected area;
- (ia) for an application for a relevant authority for a protected area, other than an Aboriginal land protected area, in the Cape York Peninsula Region—any indigenous land use agreement for the area;

(2) Section 25(1)(ia) to (k)—

renumber as section 25(1)(j) to (l).

7 Amendment of s 26 (Chief executive's power to require further information or document)

Section 26(4)—

omit, insert—

[s 8]

- (4) A notice given under subsection (3) must—
 - (a) if the notice is given in relation to an application for a joint marine park authority permit—state a reasonable period of at least 15 business days after it is given within which the information or document must be given; or
 - (b) otherwise—
 - (i) be given to the applicant within 20 business days after the chief executive receives the application; and
 - (ii) state a reasonable period of at least 20 business days after it is given within which the information or document must be given.

8 Amendment of s 29 (Deciding application)

Section 29(4)—

omit, insert—

- (4) The chief executive must make the decision—
 - (a) for an application for a joint marine park authority permit—
 - (i) if, under section 26, the chief executive asks for further information or a document—within a reasonable time after receiving the information or document; or
 - (ii) otherwise—within a reasonable time after receiving the application; or
 - (b) for an application for a relevant authority other than a joint marine park authority permit—
 - (i) if, under section 26, the chief executive asks for further information or a

document—within 40 business days after receiving the information or document; or

- (ii) if, under section 28, the chief executive asks the applicant to give public notice of the application—within 40 business days after the end of the period within which interested persons may make submissions in response to the notice; or
- (iii) otherwise—within 40 business days after receiving the application.

9 Replacement of s 31A (Restriction on granting relevant authority for national park (Cape York Peninsula Aboriginal land))

Section 31A—

omit, insert—

31A Restriction on granting relevant authority for Aboriginal land protected area

- (1) The chief executive may grant a relevant authority to a person for an Aboriginal land protected area only if the chief executive complies with the consultation requirements under an indigenous management agreement for the area.
- (2) In this section—
consultation requirement, under an indigenous management agreement for an Aboriginal land protected area, means a requirement under the agreement for the chief executive or department to do any of the following—
 - (a) give the indigenous landholder for the area a notice about an application for a relevant authority;

[s 9]

- (b) allow the landholder to respond to the notice;
- (c) consider the landholder's response, if any;
- (d) seek the landholder's written consent for the grant of the authority;
- (e) obtain the landholder's written consent for the grant of the authority.

31B Restriction on granting relevant authority for particular protected areas to which indigenous land use agreements apply

- (1) This section applies for the grant of a relevant authority for a protected area if—
 - (a) the area is in the Cape York Peninsula Region; and
 - (b) there is an indigenous land use agreement for the area; and
 - (c) there is no indigenous management agreement for the area.
- (2) The chief executive may grant the authority only if the chief executive complies with the consultation requirements, if any, under the indigenous land use agreement.
- (3) In this section—

consultation requirement, under an indigenous land use agreement for a protected area, means a requirement under the agreement for the chief executive or department to do any of the following—

 - (a) give a person a notice about an application for a relevant authority;
 - (b) allow the person to respond to the notice;
 - (c) consider the person's response, if any;

- (d) seek the person's consent for the grant of the authority;
- (e) obtain the person's consent for the grant of the authority.

10 Amendment of s 34 (Form of authority generally)

(1) Section 34—

insert—

- (2A) Also, the chief executive may use a document that has been used for the grant of a marine park permission for the grant of a commercial activity permit under this division.

(2) Section 34(2A) and (3)—

renumber as section 34(3) and (4).

11 Amendment of s 48 (Other amendments other than immediately—grounds)

Section 48—

insert—

- (i) if the authority is a joint marine park authority permit and the chief executive reasonably believes a related permission for the permit has been, or is about to be—
 - (i) amended to an extent that it is no longer consistent with the permit; or
 - (ii) replaced with another permission that is not consistent with the permit.

12 Amendment of s 53 (Suspending relevant authority other than immediately or cancelling relevant authority—grounds)

Section 53—

[s 13]

insert—

- (i) if the authority is a joint marine park authority permit and the chief executive reasonably believes a related permission for the permit has been, or is about to be—
 - (i) amended to an extent that it is no longer consistent with the permit; or
 - (ii) replaced with another permission that is not consistent with the permit; or
 - (iii) suspended or cancelled.

13 Replacement of pt 2, div 7, hdg and ss 61 and 62

Part 2, division 7, heading and sections 61 and 62—

omit, insert—

Division 7 Transfer of relevant authorities

Subdivision 1 Operation of div 7

61 Particular relevant authorities transferable

The following relevant authorities are transferable—

- (a) an apiary permit;
- (b) a joint marine park authority permit.

Subdivision 2 Apiary permits

62 Transfer of apiary permits

- (1) The chief executive may, on the making of an application, transfer an apiary permit.
- (2) The application must be—

- (a) in the approved form; and
 - (b) made by the holder of the permit and the proposed transferee; and
 - (c) accompanied by the prescribed fee for the transfer.
- (3) The provisions of division 3, subdivision 2 apply for the application as if—
- (a) it were an application for the permit; and
 - (b) a reference in the provisions to the applicant were a reference to the proposed transferee.

Subdivision 3 Joint marine park authority permits

62A Application to transfer

- (1) A holder of a joint marine park authority permit and a proposed transferee may apply to the chief executive to transfer the permit.
- (2) The application must be—
 - (a) in the approved form; and
 - (b) signed by the holder and the proposed transferee; and
 - (c) given to the chief executive at least 28 days before the day on which the transfer is intended to take effect; and
 - (d) accompanied by the prescribed fee for the transfer.
- (3) This section—
 - (a) applies to a commercial activity permit continued in force under section 66; and

[s 13]

- (b) does not apply to a commercial activity permit that has been suspended.

62B Considering transfer application

In considering an application to transfer a joint marine park authority permit, the chief executive must have regard to the following—

- (a) whether the proposed transferee is a suitable person to hold the permit;
- (b) whether the holder of the permit, or the proposed transferee, owes any fee or other amount payable under—
 - (i) the Act; or
 - (ii) a marine park Act;
- (c) all matters relevant to ensuring the orderly and proper management of the protected area to which the permit applies.

62C Chief executive's power to require further information

- (1) Before deciding an application to transfer a joint marine park authority permit, the chief executive may, by notice, ask the holder of the permit or the proposed transferee to give the chief executive any further information the chief executive reasonably requires to decide the application.
- (2) The holder and proposed transferee are taken to have withdrawn the application if the request is not complied with within 60 days after the person to whom the notice is given receives the notice.

62D Approval or non-approval of transfer

- (1) The chief executive must decide an application to transfer a joint marine park authority permit within 28 days after the chief executive—
 - (a) receives the application; or
 - (b) if the chief executive has asked for further information under section 62C—receives the information.
- (2) The chief executive may approve the transfer only if the chief executive is satisfied—
 - (a) the proposed transferee is a suitable person to hold the permit; and
 - (b) the holder of the permit, or the proposed transferee, does not owe any fee or other amount payable under—
 - (i) the Act; or
 - (ii) a marine park Act.
- (3) If the chief executive refuses to approve the transfer, the chief executive must give the holder of the permit and the proposed transferee an information notice about the decision.

62E Steps after approval of transfer

- (1) This section applies if the chief executive decides to approve the transfer of a joint marine park authority permit under section 62D.
- (2) The chief executive must cancel the permit and give the proposed transferee a new permit—
 - (a) authorising the same activity as the cancelled permit immediately before it was cancelled under this section; and
 - (b) with a term—

[s 13]

- (i) starting on the later of the following days (the *transfer day*)—
 - (A) the day the application is decided;
 - (B) the day stated in the application for the approval of the transfer as the day on which the transfer is to take effect; and
 - (ii) ending on the day the cancelled permit would have ended if it was not cancelled under this section;
- (c) subject to the same conditions as the cancelled permit immediately before it was cancelled under this section.
- (3) Despite subsection (2)(c), the chief executive may impose a new or different condition on the new permit if—
- (a) the proposed transferee consents to the new or different condition; or
 - (b) it is a condition that provides for an indemnity for the State against any liability for loss or damage that is suffered by any person and is caused, whether directly or indirectly, by the activities conducted under the permit; or
 - (c) it is a condition that provides for the compensation or reimbursement of any loss or expense incurred by the State in relation to activities conducted under the permit.
- (4) The holder of the permit cancelled under subsection (2) must return it to the chief executive before the end of the day after the transfer day.

Division 8 Other provisions about relevant authorities

14 Amendment of s 66 (Particular existing relevant authorities taken to be in force while new application is considered)

Section 66(2)(d), ‘the existing relevant’—

insert—

if the existing relevant authority is a relevant authority
other than a joint marine park authority permit—the

15 Amendment of s 101 (Internal review)

(1) Section 101—

insert—

(1A) The chief executive may, by notice to the
applicant, extend the period for making the
internal review decision if—

- (a) the reviewable decision relates to a joint
marine park authority permit; and
- (b) a decision about a related permission for the
permit is being reviewed under a marine
park Act; and
- (c) the chief executive reasonably considers the
outcome of the review of the decision about
the related permission is reasonably likely to
affect the chief executive’s internal review
decision.

(2) Section 101(1A) to (4)—

renumber as section 101(2) to (5).

16 Amendment of s 103 (Who may apply for external review)

Section 103, ‘section 101(2)’—

[s 17]

omit, insert—

section 101(3)

17 Insertion of new s 104

Part 4, division 3—

insert—

104 Extending time for application

QCAT may extend the time for applying for external review if—

- (a) the internal review decision relates to a joint marine park authority permit; and
- (b) a decision about a related permission for the permit is being reviewed under a marine park Act, or has been reviewed and is the subject of an appeal under a marine park Act; and
- (c) QCAT reasonably considers the outcome of the review or appeal under the marine park Act is likely to affect the applicant's decision about whether or not to pursue, or the chief executive's decision about whether or not to defend, an application for external review under this division.

18 Amendment of s 159 (Refund of fees)

Section 159(1)(b), 'section 53(f), (g) or (h)'—

omit, insert—

section 53(f), (g), (h) or (i)

19 Amendment of sch 3 (Fees)

(1) Schedule 3, part 1, item 10(c)(iv)—

omit, insert—

(iv) for a term of more than 2 years but not more than 3 years. 683.00

(v) for a term of more than 3 years, for each year after the third year. 227.70

(2) Schedule 3, part 1, item 10—

insert—

(ca) transfer fee 150.40

(3) Schedule 3, part 1, item 10(ca) to (e)—

renumber as schedule 3, part 1, item 10(d) to (f).

20 Amendment of sch 7 (Dictionary)

(1) Schedule 7, definition *record*, first mention—

omit.

(2) Schedule 7—

insert—

Aboriginal land protected area, for part 2, division 3, subdivision 2, see section 24A.

apiary permit see section 9(1)(b).

Cape York Peninsula Region, for part 2, division 3, subdivision 2, see section 24A.

joint marine park authority means an instrument that includes more than 1 of the following—

- (a) a commercial activity permit;
- (b) a permission granted under the *Marine Parks Act 2004*;
- (c) a permission granted under the *Great Barrier Reef Marine Park Act 1975 (Cwlth)*.

[s 21]

joint marine park authority permit means a commercial activity permit forming a part of a joint marine park authority.

marine park Act means either of the following—

- (a) the *Marine Parks Act 2004*;
- (b) the *Great Barrier Reef Marine Park Act 1975 (Cwlth)*.

marine park permission means a permission granted under a marine park Act.

related permission, for a joint marine park authority permit, means a marine park permission forming a part of the joint marine park authority that includes the permit.

Division 2 Amendment of Nature Conservation (Protected Areas Management) Regulation 2006

21 Regulation amended

This division amends the *Nature Conservation (Protected Areas Management) Regulation 2006*.

22 Insertion of new ch 5, pt 1A

Chapter 5, before part 1—

insert—

Part 1A Preliminary

69A Definition for ch 5

In this chapter—

Aboriginal land protected area means—

-
- (a) a national park (Cape York Peninsula Aboriginal land); or
 - (b) an indigenous joint management area.

23 Renumbering of ch 5, pts 1A–5

Chapter 5, parts 1A to 5—

renumber as chapter 5, parts 1 to 6.

24 Amendment of s 70 (Requirements for regulatory notices)

(1) Section 70—

insert—

- (2A) However, if section 70A or 70B (each a *notice consultation provision*) applies, the chief executive may act under subsection (2) only if the chief executive complies with the consultation requirements mentioned in the relevant notice consultation provision.

(2) Section 70(2A) to (4)—

renumber as section 70(3) to (5).

25 Insertion of new ss 70A and 70B

Chapter 5, part 1—

insert—

70A Particular regulatory notices for Aboriginal land protected areas

- (1) This section applies if the chief executive proposes to erect or display a regulatory notice that is—
 - (a) for an activity mentioned in section 70(1)(b); and

[s 25]

- (b) at the entrance to an Aboriginal land protected area or a part of an Aboriginal land protected area.
- (2) The chief executive must comply with the consultation requirements under the indigenous management agreement for the area.
- (3) In this section—
consultation requirement, under an indigenous management agreement for an Aboriginal land protected area, means a requirement under the agreement for the chief executive or department to do any of the following—
 - (a) give the indigenous landholder for the area a notice about the proposed erecting or display of a regulatory notice;
 - (b) allow the landholder to respond to the notice;
 - (c) consider the landholder’s response, if any;
 - (d) seek the landholder’s consent for the erecting or display of the notice;
 - (e) obtain the landholder’s consent for the erecting or display of the notice.

70B Particular regulatory notices for particular protected areas to which indigenous land use agreements apply

- (1) This section applies if—
 - (a) the chief executive proposes to erect or display a regulatory notice that is—
 - (i) for an activity mentioned in section 70(1)(b); and
 - (ii) at the entrance to a protected area, or a part of a protected area, other than an

Aboriginal land protected area, in the
Cape York Peninsula Region; and

- (b) there is an indigenous land use agreement for the area; and
 - (c) there is no indigenous management agreement for the area.
- (2) The chief executive must comply with the consultation requirements, if any, under the indigenous land use agreement.
- (3) In this section—
- consultation requirement*, under an indigenous land use agreement for a protected area, means a requirement under the agreement for the chief executive or department to do any of the following—
- (a) give a person a notice about the proposed erecting or display of a regulatory notice;
 - (b) allow the person to respond to the notice;
 - (c) consider the person’s response, if any;
 - (d) seek the person’s consent for the erecting or display of the notice;
 - (e) obtain the person’s consent for the erecting or display of the notice.

26 Amendment of s 73 (Declaration of restricted access area)

Section 73(2)—

insert—

- (c) if section 75A or 75B (each a *declaration consultation provision*) applies—only if the chief executive complies with the consultation requirements mentioned in the relevant declaration consultation provision.

[s 27]

27 Insertion of new ss 75A and 75B

After section 75—

insert—

75A Declarations for Aboriginal land protected areas

- (1) This section applies if the chief executive proposes to declare all or part of an Aboriginal land protected area to be a restricted access area under section 73(1).
- (2) The chief executive must comply with the consultation requirements under the indigenous management agreement for the protected area.
- (3) In this section—
consultation requirement, under an indigenous management agreement for an Aboriginal land protected area, means a requirement under the agreement for the chief executive or department to do any of the following—
 - (a) give the indigenous landholder for the area a notice about a declaration under section 73(1);
 - (b) allow the landholder to respond to the notice;
 - (c) consider the landholder's response, if any;
 - (d) seek the landholder's consent for the declaration;
 - (e) obtain the landholder's consent for the declaration.

75B Declarations for particular protected areas to which indigenous land use agreements apply

- (1) This section applies if—

-
- (a) the chief executive proposes to declare all or part of a protected area, other than an Aboriginal land protected area, to be a restricted access area under section 73(1); and
 - (b) the protected area is in the Cape York Peninsula Region; and
 - (c) there is an indigenous land use agreement for the protected area; and
 - (d) there is no indigenous management agreement for the protected area.
- (2) The chief executive must comply with the consultation requirements, if any, under the indigenous land use agreement.
- (3) In this section—
- consultation requirement*, under an indigenous land use agreement for a protected area, means a requirement under the agreement for the chief executive or department to do any of the following—
- (a) give a person a notice about a proposed declaration under section 73(1);
 - (b) allow the person to respond to the notice;
 - (c) consider the person’s response, if any;
 - (d) seek the person’s consent for the declaration;
 - (e) obtain a person’s consent for the declaration.

28 Amendment of sch 1 (Trustees of regional parks (general))

- (1) Schedule 1, entry for Lake Broadwater Regional Park, column 1—

[s 29]

omit, insert—

Lake Broadwater Regional Park 1

- (2) Schedule 1, entry for Lake Broadwater Regional Park, column 3, paragraph (c)(i), ‘conservation’—

omit, insert—

regional

29 Amendment of sch 2 (Trustees of regional parks (resource use area))

- (1) Schedule 2, part 1, entry for Bouldercombe Gorge Regional Park, column 1—

omit, insert—

Bouldercombe Gorge Regional Park 2

- (2) Schedule 2, part 1, entry for Homevale Regional Park, column 1—

omit, insert—

Homevale Regional Park 2

- (3) Schedule 2, part 1, entries for Iron Range Regional Park and Munburra Regional Park—

omit.

30 Amendment of sch 3 (Permitted uses in relevant areas)

- (1) Schedule 3, part 1, entry for Flinders Group National Park—

omit.

- (2) Schedule 3, part 1, entry for Howick Group National Park, column 1, after ‘Park’—

insert—

(Cape York Peninsula Aboriginal land)

- (3) Schedule 3, part 1, entry for Restoration Island National Park—

omit.

(4) Schedule 3, part 1—

insert—

Ma' alpiku Island National Park (Cape York Peninsula Aboriginal land)—Restoration Rock, shown as lot 42 on SP241424, containing an area of 1.162ha	a marine navigation use
--	-------------------------

31 Amendment of sch 9 (Dictionary)

Schedule 9—

insert—

Aboriginal land protected area, for chapter 5, see section 69A.

Cape York Peninsula Region see the *Cape York Peninsula Heritage Act 2007*, section 7.

regulatory notice see section 70(2).

Part 3 Amendments commencing on 1 October 2014

Division 1 Amendment of Forestry Regulation 1998

32 Regulation amended

This division amends the *Forestry Regulation 1998*.

[s 33]

33 Amendment of sch 6 (Fees)

Schedule 6, item 4(e)—

omit, insert—

- (e) camping fee for each client 5 years or older, of the holder of the permit, taking part in the activity carried out under the permit—for each night camped under the permit—
 - (i) if the activity is an educational tour or a camp of a type approved by the chief executive. 3.20
 - (ii) otherwise. 5.75

Division 2 Amendment of Nature Conservation (Administration) Regulation 2006

34 Regulation amended

This division amends the *Nature Conservation (Administration) Regulation 2006*.

35 Amendment of sch 3 (Fees)

Schedule 3, part 1, item 10(f)—

omit, insert—

- (f) camping fee for each client 5 years or older, of the holder of the permit, taking part in the activity carried out under the permit—for each night camped under the permit—
 - (i) if the activity is an educational tour or a camp of a type approved by the chief executive. 3.20
 - (ii) otherwise. 5.75

Division 3 **Amendment of Recreation Areas
Management Regulation 2007**

36 **Regulation amended**

This division amends the *Recreation Areas Management Regulation 2007*.

37 **Amendment of sch 3 (Fees)**

(1) Schedule 3, item 11(b)—

omit, insert—

(b) camping fee for each person 5 years or older under the permit—for each night camped under the permit—

- | | |
|---|------|
| (i) if the activity conducted under the permit is an educational tour or a camp of a type approved by the chief executive | 3.20 |
| (ii) otherwise..... | 5.75 |

(2) Schedule 3, item 12(e)—

omit, insert—

(e) camping fee for each person 5 years or older under the permit—for each night camped under the permit—

- | | |
|---|------|
| (i) if the activity conducted under the permit is an educational tour or a camp of a type approved by the chief executive | 3.20 |
| (ii) otherwise..... | 5.75 |

(3) Schedule 3, item 13(d)—

[s 37]

omit, insert—

- (d) camping fee for each client 5 years or older, of the holder of the permit, camping under the permit—for each night camped under the permit—
 - (i) if the activity conducted under the permit is an educational tour or a camp of a type approved by the chief executive 3.20
 - (ii) otherwise. 5.75

ENDNOTES

- 1 Made by the Governor in Council on 25 September 2014.
- 2 Notified on the Queensland legislation website on 26 September 2014.
- 3 The administering agency is the Department of National Parks, Recreation, Sport and Racing.

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