



Queensland

Nature Conservation (Protected Areas Management) Regulation 2006

Explanatory Notes for SL 2006 No. 204¹

made under the

Nature Conservation Act 1992

Policy objectives of the legislation

The primary objective of making the proposed nature conservation regulations is to provide for effective management of protected areas, in order to achieve the object of the Act—the conservation of nature.

Reasons for the subordinate legislation

Under the *Statutory Instruments Act 1992* the *Nature Conservation Regulation 1994* (NCR) and *Nature Conservation (Wildlife) Regulation 1994* were scheduled to expire on 1 September 2005. The date of expiry for these regulations has been extended to 1 September 2006. However it is necessary that the proposed nature conservation regulations commence prior to this date to ensure the ongoing management of protected areas in Queensland.

Alternatives to regulation

Potential alternatives to the creation of a new regulation have been considered, including a ‘no legislative intervention’ option (i.e. allow the regulations to expire without replacement). The ‘no legislative

¹ For the accompanying regulatory impact statement, see 2006 SL No. 203

intervention' option and other potential alternatives to the proposed regulations are unsatisfactory because they have a range of serious, highly undesirable environmental, economic and social consequences, including—

- protected areas and wildlife would not be conserved (due to lack of regulatory controls and loss of management revenue from fees)
- wildlife-based businesses would be constrained or could not lawfully operate (due to lack of regulatory means to allow activities otherwise restricted by the Act)
- obligations under the Act would not be fulfilled
- Queensland would be perceived as out of step with internationally and nationally recognised practices and standards.

Administrative costs

The *Nature Conservation (Protected Areas Management) Regulation 2006* (the regulation) will not impose further costs on either the EPA or other Government departments. Implementation costs will be met from existing EPA allocations. The regulation promotes a coordinated and integrated approach with other conservation legislation, thus encouraging the formulation of arrangements to maximise efficiencies in management.

Fundamental Legislative Principles

Penalty levels

The inclusion of penalties of up to 165 penalty units is not in keeping with the preferred position of the Scrutiny of Legislation Committee that penalties imposed in subordinate legislation should not exceed 20 penalty units.

Much of the detail of protected area management relies upon the subordinate legislation, and for many serious protected area offences 20 penalty units is too low. For example, the provision that a person must not feed dangerous animals (such as dingoes) on a protected area is in the regulation and carries a penalty of 40 penalty units. A range of other

offences on taking natural resources, unauthorised fires and unauthorised works carry maximum penalties of 165 penalty units.

Regulatory signage

The regulation allows for the use of signs, which may regulate some actions in specified areas or even prohibit entry in some cases, in order to protect the environment and provide for public safety and the rights of other visitors. These provisions might be considered to breach fundamental legislative principles relating to delegation of power only in appropriate cases and to appropriate persons.

The relevant regulatory signage provisions, relating to various matters, are—clauses 47, 70, 71, 72, 81, 82, 102, 103, 120, 121, 122, 123, 124, 127, 133, 135, 138 and 146.

The power to use signs for the purposes specified in the regulation to manage activities is considered to be appropriate and necessary because—

- it allows a timely, relevant and flexible management response to unpredictable or changing circumstances affecting protected areas, involving natural factors such as drought, wildfire or cyclone, as well as directing visitor behaviour
- it is consistent with contemporary practice and public expectations in areas such as national parks
- it ensures that information on management controls and offences at specific sites is conveyed fully and directly to the public
- its directness and convenience ensures greater efficiency in the use of limited management resources.

The use of regulatory signs will be managed through operational policies and signage manuals to ensure consistency, adequate consultation and balance.

Powers of authorised officers to give directions

Clauses 86, 87, 106, 108, 119, 126, 136, 143, and 144 of the regulation provide authorised officers with powers to give a direction about certain matters, including vehicles, fires, dogs etc.

Fundamental legislative principles allow the delegation of administrative power only in appropriate cases and to appropriate persons. These

provisions in the regulation are reasonable and necessary to provide for public safety, protection of the rights of other visitors and for the protection of the environment.

Each provision specifies the circumstances in which these powers can be exercised, for example, a person may be directed to leave an area if circumstances exist that are a danger to people or property (such as a bushfire), or if the person's presence may interfere with an emergency or rescue activity, or if the person is found committing an offence.

Declarations that may affect existing authority holders

Clause 73 makes provision for the chief executive to declare a restricted access area, this power is limited however to the circumstances outlined in clause 74. Clause 75 outlines the requirement for the chief executive to consult with the holder of a group activity permit, commercial activity permit or commercial activity agreement who would be significantly affected by the making of a declaration.

The situations in which consultation would not be required are limited to circumstances in which there is a threat to the safety of a person or a person's property, because of a fire or other natural disaster; or to conserve or protect the cultural or natural resources of a protected area or native wildlife. It is not considered appropriate to delay the declaration of a restricted access area in such serious circumstances for the purpose of conducting consultation.

Clause 78 provides the chief executive with the power to declare an activity to be a special activity for all or part of a protected area. An activity may only be declared a special activity area in the limited circumstances as outlined in clause 79. The chief executive is required to consult with the holder of a group activity permit, commercial activity permit or commercial activity agreement if the nature or extent of activities being conducted, or to be conducted, under the permit would be significantly affected by the making of a declaration.

The circumstances in which the opportunity for review would be unavailable are limited to when the activity to be declared a special activity area for the protection of wildlife or individuals from potential danger; and it is not practicable for the chief executive to delay the declaration for the reason of consulting.

Clause 81 provides the chief executive with the power to declare an area closed to the public, when it is considered necessary or desirable for public

health and safety. The regulation does not provide the holder of a relevant authority or agreement with the opportunity for a review or appeal of a decision to declare an area closed to the public. Such provisions are considered unwarranted as an area closed to the public will only be declared when there is a risk to the health and safety of individuals. In this circumstance it is not considered appropriate to provide a show cause period of 20 days during which access to the area would continue or to provide an information notice, which would allow the holder of an authority or agreement to apply for a stay of the decision.

Although the chief executive has the power to make declarations, which could affect existing authority holders, potentially making the rights of an individual dependant on administrative power without appropriate review, the circumstances in which this can occur are specifically limited and consultation with authority holders will be conducted where practical.

Seizure of things on protected areas

The *Nature Conservation Act 1992* provides for the making of a regulation dealing with the seizure of vehicles, boats, aircraft or property found in a protected area in contravention of a regulation, or found abandoned in a protected area. Clauses 145 and 148 to 152 of the Regulation continue provisions from the previous *Nature Conservation Regulation 1994* (NCR) in relation to seizure in the absence of a warrant.

Clause 148 deals with the seizure of a vehicle, boat, recreational craft, aircraft or appliance for the protection of cultural or natural resources. Under this clause if it is reasonably believed that a vehicle, boat, recreational craft, aircraft or appliance is in a protected area for the purpose of unauthorised taking, using or interfering with a cultural or natural resource of the area or it is necessary to remove the object for the protection of a cultural or natural resource of the area the object may be seized. Examples of things that might be seized under this clause include guns and traps being used for taking animals, and bulldozers or trucks taking soil or timber from the protected area. In these situations it may be necessary to seize the object immediately in order to protect the cultural or natural resources of the protected area. It is not considered appropriate to delay the seizure of these things while a warrant is obtained, as due to the remoteness of many protected areas there are significant delays involved in obtaining a warrant.

In many situations in relation to seizure covered by the regulation the owner or person in control of the seized thing is unknown, thus making it

impossible to serve the owner or person in control of the thing with a warrant prior to seizure. There are, however, restrictions placed on the chief executive when the owner or person in control of the object to be seized is or should reasonably be known.

Clause 145 deals with the seizure of stock on a protected area as part of a general muster. Prior to the conduct of a muster the chief executive is required to give each adjoining landholder for the area a written notice stating the intention to conduct the muster. Stock will only be seized if the owner is unknown or the owner does not remove the stock from the protected area.

Clauses 150 and 151 deal with the seizure of unauthorised structures or works, vehicles, boats, recreational craft or aircraft in each case if the conservation officer knows, or ought reasonably to know, the name of the person in charge or control of the object to be seized they may only seize the object if they have given this person a written direction to remove the object and they have failed to remove the object.

Clauses 152 and 149 deal with abandoned structure, work, vehicle, boat, recreational craft or aircraft may be seized and stray stock may be seized. In the case of abandoned things and stray animals the owner or person in control generally can not be determined and thus a warrant can not be served on the owner.

While the regulation provides the chief executive or conservation officers with the power to seize things in the absence of a warrant, these things will only be seized if they are not authorised to be in the area under the Act or it is necessary to seize the thing to protect the cultural or natural resources of the area. In cases where the owner of a thing to be seized is known they will be provided with a notice that the seizure will take place (in the case of a general muster) or will be provided with a direction to remove the thing prior to seizure.

The above provisions represent a reasonable and limited departure from the legislative principles that legislation should confer power to seize property only with a warrant.

Consultation

A Regulatory Impact Statement (RIS), which detailed the proposed review and remake of the nature conservation regulations was released on 2 December 2004. Public submissions on the RIS were accepted over a period of 10 weeks.

Submissions from all stakeholders expressed general support for the remaking of the nature conservation regulations and the majority of the proposed amendments.

Additional consultation with Queensland Government departments has occurred in preparing the regulation.

Notes on Provisions

Chapter 1 Preliminary

Part 1 General

Part 1 establishes the short title of the regulation, that is, the *Nature Conservation (Protected Areas Management) Regulation 2006* and states that the Regulation commences on 21 August 2006. The part also describes the relationship that the Regulation has with the *Nature Conservation (Administration) Regulation 2006* (the Administration Regulation) and provides an overview of that regulation.

Part 2 Application

Part 2 restates provisions from the previous NCR that specify how this regulation applies to a national park (Aboriginal land) or national park (Torres Strait Islander land), State forest or timber reserve, private land, and particular activities in resources reserves.

- National park (Aboriginal land) or national park (Torres Strait Islander land)—provisions of the regulation apply a national park (Aboriginal land) or national park (Torres Strait Islander land) or a part of the national park, unless the provision states that it does not apply to these areas.
- State forest or timber reserves—a provision of the regulation only applies to a State forest or timber reserve under the *Forestry*

Act 1959 in a prescribed protected area to the extent that it is stated in the provision.

- Private land—a provision of the regulation only applies to private land (land other than State land) if and to the extent stated in the provision.
- Particular activities in resources reserves—outlines the activities to which the regulation does not apply on a resources reserve, including activities conducted under a mineral or petroleum authority on land covered by the authority and camping or fossicking under the *Fossicking Act 1989*.

Part 3 Interpretation

Part 3 specifies the definitions for this regulation are in schedule 9 and the links with the definitions in the Administration Regulation.

Chapter 2 General provisions about protected areas

Part 1 Trustees of conservation parks or resources reserves

Part 1 restates provisions from the previous NCR that enable trustees to have the powers of the chief executive in specified conservation parks or resources reserves and specifies the application of fees charged by trustees. However the power to enter into commercial activity agreements is not delegated to the trustees of a conservation park or resources reserve.

Part 2 Permitted uses in national parks

Part 2 continues provisions from the previous NCR that specify the national parks or national park (recovery) areas where certain uses are permitted. The parks and permitted uses are specified in schedule 3 and 4 and are unchanged.

Chapter 3 Taking, using, keeping or interfering with cultural or natural resources

Part 1 Considering applications for permits or authorities

Part 1 provides additional matters for consideration in deciding an application to take, use, keep or interfere with a cultural or natural resource in a protected area. When deciding an application to take, use, keep or interfere with a cultural or natural resource further matters to be considered in addition to this section are contained in section 137 of the Act and in section 25 of the Administration Regulation.

Note under the previous NCR a 'resources permit' was called a permit to take, use, keep or interfere.

Part 2 Permits for taking, using, keeping or interfering with cultural or natural resources

Division 1 Restrictions on grant for all permits for taking, using, keeping or interfering with cultural or natural resources

Division 1 restates provisions from the previous NCR on granting a resources permit or apiary permit only if a person has adequate insurance cover.

Division 2 Resources permits

Division 2 updates provisions from the previous NCR on restrictions on the chief executive in granting resource permits for educational or scientific purposes. In addition division 2 specifies—

- A permit for removal of quarry material can only be issued for a resources reserve.
- Also specified are the circumstances when a royalty per cubic metre is payable and when the chief executive may waive all or part of the payment.
- The restrictions that apply for issuing a permit for plant parts, for example, permits can only be granted for particular plant parts (i.e. seed or other propagative material, foliage, flower or inflorescence of least concern plants) on areas of national park (recovery), conservation park or resources reserve.
- The holder of a resources permit may take, use, keep or interfere with cultural or natural resources, except in those areas closed to the public. The holder must also comply with any declared restricted access areas unless the resources permit specifically authorises entry to these areas.

These provisions are necessary to support the management of permitted activities in resources reserves resulting from the transfer of forestry areas to the protected area estate.

Division 3 Apiary permits

Division 3 restates provisions from the previous NCR on restrictions that apply in granting apiary permits, for example, the protected areas where permits are permitted. Schedule 5 lists the number of apiary sites permitted in specified parks. Division 3 also contains a restriction on the number of beehives that may be permitted at an apiary site.

Also this division includes a provision that specifies that the holder of an apiary permit may take, use, keep or interfere with particular resources stated on the permit, for operating an apiary. However the permit holder must adhere to any restricted access area closures, unless the permit specifically authorises entry to the area and must not enter any areas closed to the public.

Part 3 Aboriginal tradition or Island custom authorities for taking, using, keeping or interfering with cultural or natural resources

Division 1 General restrictions on grant for Aboriginal tradition or Island custom authorities

Division 1 restates provisions from the previous NCR by specifying circumstances when an Aboriginal tradition or Island custom authority can not be granted.

Division 2 Aboriginal tradition authorities

Division 2 restates provisions from the previous NCR on matters to be considered in the granting of an authority, restrictions that apply in granting Aboriginal tradition authorities and provisions on the way cultural or natural resources may be taken under the authority. The division includes provisions that—

- Provide the holder of an Aboriginal tradition authority may take, use, keep or interfere with particular resources stated on the permit, except in restricted access areas or areas closed to the public, unless the authority specifically permits the entry to those areas.
- Require the holder of the Aboriginal tradition authority to take all reasonable steps to notify each person acting under the authority of their obligations under the authority.

Division 3 Island custom authorities

Division 3 restates provisions from the previous NCR on matters to be considered in the granting of an authority, restrictions on who may be granted Island custom authorities, restrictions that apply in granting Island custom authorities and provisions on the way cultural or natural resources may be taken under the authority. This division also includes a provisions that—

- Provide the holder of an Island custom authority may take, use, keep or interfere with particular resources stated on the permit, except in restricted access areas or area closed to the public, unless the authority specifically permits entry to these areas.
- Require the holder of the Island custom authority to take all reasonable steps to notify each person acting under the authority of their obligations under the authority.

Part 4 Other taking, using, keeping or interfering with cultural or natural resources

Part 4 restates provisions from the previous NCR on conduct of controlling activities such as eradicating or controlling wildlife other than native wildlife by another person and the taking of fish, invertebrate animals or mud crabs in particular protected areas.

Part 4 also specifies the areas where beekeeping may be permitted under section 184 of the Act, which allows bee keeping in particular protected areas until 2025. The relevant forest reserves, which will be converted into protected areas are listed in schedule 5 of this regulation.

Chapter 4 Provisions about permits for access to, use of and conduct within protected areas

Division 1 Considering applications for activity permits

Division 1 provides additional matters for considering an application for an activity permit. Further matters that must be considered when deciding an application for an activity permit are contained in section 25 of the Administration Regulation. A definition of activity permit is contained in schedule 9 of the regulation.

Division 2 Restrictions on grant

Division 2 provides that a permit must be consistent with the management principles and management intent or management plan for a protected area. The division also provides that a person should hold adequate insurance

cover prior to the grant of an activity permit other than a camping permit or a permit to solicit donations or information.

Division 3 Activity authorised by most permits or not authorised by any permit

Division 3 provides that a prescribed activity permit that specifically states that entry into a restricted access area is authorised, permits the holder to enter the restricted access area. The division also lists the permits classified as prescribed activity permits for the purpose of the section. This division clarifies that access to an area closed to the public is not authorised by an activity permit.

Part 2 Camping permits

Part 2 restates provisions from the previous NCR by detailing what is authorised under a camping permit, that is, to camp in the protected area with the number of persons stated on the permit, and how these authorisations apply to e-camping permits and self registration camping permits.

Part 3 Restricted access area permits

Part 3 provides that the holder and each relevant person for the holder of a restricted access area permit may enter the restricted access area stated on the permit for the purpose stated on the permit.

Part 4 Stock grazing permits

Part 4 restates a provision from the previous NCR, which restricts the grant of stock grazing permits to conservation parks or resources reserves. Part 4 also provides access to the area prescribed on the stock-grazing permit for

the purpose of grazing stock. A definition of stock is provided in schedule 9 of this regulation.

Part 5 Stock mustering permits

Part 5 provides access to the area prescribed on the stock mustering permit for the purpose of stock mustering. Part 5 also restates a provision from the previous NCR for stating the holder of the permit may use particular animals and vehicles to muster stock. A definition of stock is provided in schedule 9 of this regulation.

Part 6 Travelling stock permits

Part 6 continues a restriction from the previous NCR that prevents the chief executive from issuing a travelling stock permit for a national park (scientific). The part also states that a travelling stock permit authorises the holder of the permit to move stock in the protected area or part of the protected area stated on the permit. A definition of stock is provided in schedule 9 of this regulation.

Part 7 Permits to enter national park (scientific)

Part 7 provides that the holder of a permit to enter a national park (scientific) and each relevant person for the holder is authorised to enter the national park (scientific) or part of the national park (scientific) stated on the permit.

Part 8 Commercial activity permits

Part 8 provides that the holder of a commercial activity permit or a relevant person for the holder is authorised to conduct the commercial activity stated on the permit in the protected area or part of the protected area stated on the permit.

Part 8 also restates offence provisions from the previous NCR requiring the holder of a commercial activity permit to keep records and to provide a return of operations to the chief executive. A definition of commercial activity is contained in schedule 7 of the Administration Regulation.

Part 9 Permits to solicit donations or information

Part 9 provides that the holder of a permit to solicit donations or information and each relevant person for the holder may solicit donations or information in the protected area or part of the protected area stated on the permit.

Part 10 Group activity permits

Part 10 provides that the holder of a group activity permit or a relevant person for the holder are authorised to conduct the group activity stated on the permit in the protected area or part of the protected area stated on the permit. A definition of group activity is provided in schedule 9 of this regulation.

Part 11 Permits to use recreational craft

Part 11 provides that the holder of a permit to use a recreational craft or a relevant person for the holder is authorised to use the recreational craft

stated on the permit in the protected area or part of the protected area stated on the permit. Recreational craft are defined in schedule 9 of this regulation.

Part 12 Special activity permits

Part 12 provides that the holder of a special activity permit or a relevant person for the holder is authorised to conduct the special activity stated on the permit in the protected area or the part of the protected area stated on the permit. Special activity is defined in schedule 9 of the regulation.

Chapter 5 Regulatory notices and declarations

Part 1 Regulatory notices

Part 1 restates provisions from the previous NCR that apply to regulatory notices in this regulation. These include—

- Where an activity relates to a public health and safety act or is an activity that under this regulation may be authorised, regulated or prohibited under a regulatory notice, this part allows the chief executive to erect or display a regulatory notice.
- The requirements of a regulatory notice including that a notice must be easily visible to passers-by and specify the limits of the area to which the notice applies.
- The requirements for a regulatory information notice, for example, stating that a contravention of the regulatory notice is an offence against the Act.
- Evidence a regulatory notice or regulatory information notice was erected or displayed can be used as evidence the notice was erected or displayed by the chief executive.

Part 2 Declaration of restricted access area

Part 2 restates provisions from the previous NCR for restricted access areas including—

- The chief executive may declare an area to be a restricted access area by erecting or displaying a regulatory notice at the entrance to the restricted access area.
- The purposes for which the chief executive may declare a restricted access area, including for the restoration or rehabilitation of an area, and to protect a breeding area for native wildlife.
- Requirements the chief executive must meet before declaring particular restricted access areas, for example, if the holder of a commercial activity permit, group activity or commercial activity agreement could be significantly affected by the restricted access area declaration then the chief executive must give the permit or agreement holder written notice of the proposal and consider any submissions received in response to that notice.

Part 3 Declaration of prescribed commercial activity

Part 3 provides the power for the chief executive to declare, by written notice, an activity to be a prescribed commercial activity. This part also specifies what must be stated in the written notice, how the notice must be published, and what the chief executive must consider in making a declaration, for example, consistency with the management principles for the protected area.

Declaring an activity to be a prescribed commercial activity has the effect of allowing the prescribed commercial activity to only be conducted in the area under a commercial activity agreement (or for the remaining term of a pre-existing commercial activity permit).

This allows specified commercial activities at favoured sites with high visitor demand to occur only under agreements, which would be negotiated

to provide better management outcomes and to also provide benefits to the other parties to the agreements, such as longer-term authorisation of activities.

Part 4 Declaration of special activity

Part 4 provides the power for the chief executive to declare an activity to be a special activity for an area by erecting or displaying a regulatory notice. Special activities include, an activity that may have significant impact on the cultural or natural resources of a protected area, an activity requiring special training and an activity that is reasonably likely to involve risk to the public. This part also specifies the requirements for consulting with the holder of a commercial activity permit, commercial activity agreement or a group activity permit who would be significantly affected by the declaration of the special activity.

Part 5 Declaration of area closed to the public

Part 5 provides that the chief executive may, by way of a regulatory notice declare a protected area or part of a protected area to be closed to the public for a period of time. The chief executive may only declare an area closed to the public if the chief executive reasonably believes the closure is necessary or desirable for public health or safety.

Chapter 6 Offences about access to, using and conduct in protected areas

Part 1 Access to, using and conduct in protected area generally

Division 1 Camping in protected area

Division 1 restates offence provisions from the previous NCR relating to camping, for—

- unlawful camping
- compliance with the conditions of a camping permit
- requirements about the number of persons who may camp under a permit
- display of camping tags
- complying with direction to leave a campsite to secure the safety of a person or person's property

Additional offence provisions have been included to ensure compliance with a direction to leave a camping site for the protection of cultural or natural resources in the protected area, to minimise disturbance, or for a person camping at the same site for long periods. These offence provisions, among other things, seek to minimise the impact on cultural or natural resources and impacts on the camping site.

Division 2 Conducting other activities in protected area

Division 2 updates offence provisions from the previous NCR relating to—

- unlawfully entering a restricted access area
- unlawfully grazing stock

- unlawfully grazing other animals
- unlawfully mustering stock
- unlawfully travelling stock
- unlawfully travelling other animals
- allowing stock to stray onto a protected area
- unlawfully entering a national park (scientific)
- unlawfully conducting a prescribed commercial activity or conducting other commercial activities
- compliance with conservation conditions
- unlawfully soliciting donations or information
- unlawfully conducting a group activity
- unlawfully conducting a special activity
- unlawfully entering an area closed to the public
- failing to comply with a regulatory notice about a health and safety act.

For unlawfully entering a restricted access area, circumstances where entry may be permitted, for example under a restricted access area permit or under a prescribed authority that specifically authorises entry to the area, have been included.

Part 2 Fires

Part 2 restates offence provisions from the previous NCR for unlawfully lighting fires, leaving fires unattended, and unauthorised things relating to fires, for example, depositing a lit match, in a protected area. The part also continues an offence provision for failure to comply with a conservation officer's direction in relation to a fire.

An additional offence has been included which states that a person must not deposit a non-combustible material in a fire in a protected area. This offence has been included as these materials remain in the ashes creating health and safety issues.

Part 3 Unauthorised structures or works

Part 3 restates offence provisions from the previous NCR relating to unauthorised structures and works in a protected area and for complying with a direction to remove unauthorised structures or works.

Part 4 Using recreational craft, aircraft, vehicle or boat

Part 4 continues offence provisions from the previous NCR relating to the use of recreational craft, aircraft, vehicles and boats.

Section 109 continues an offence from the previous NCR, which states that a person may only operate a recreational craft in a protected area or part of a protected area if the operation is authorised under a permit to use recreational craft held by the person. A definition of recreational craft is provided in schedule 9.

Sections 110 and 111 continue offence provisions from the previous NCR relating to the unauthorised flying of aircraft or recreational craft and unauthorised landing of aircraft or recreational craft. Minimum flying heights over certain national parks are specified in schedule 7. A definition of the term 'designated landing area' has been included which requires details of designated landing areas to be published on the department's website.

Section 112 continues an offence provision from the previous NCR relating to traffic control for vehicles, boats and recreational craft.

Section 113 and 114 continues offences from the previous NCR relating to licensing and registration requirements for vehicles and boats.

Section 115 makes provision for vehicles that are conditionally registered under the *Transport Operations (Road Use Management) Act 1995* to be used in appropriate circumstances on protected areas. The circumstances in which conditionally registered vehicles will be permitted on protected areas are restricted to the circumstances stated in the section.

Section 116 requires compliance with some provisions of the *Transport Operations (Road Use Management—Road Rules) Regulation 1999* and *Transport Operations (Road Use Management) Act 1995*. The provisions of the transport legislation referenced create offences relating to—

- wearing of seatbelts by drivers
- wearing of seatbelts by passengers
- wearing motor bike helmet
- riding on motorbikes, including the number of passengers that may be carried.

A person may only be charged with an offence under this section if they have not been charged with an offence against the relevant provision of the *Transport Operations (Road Use Management—Road Use Rules) Regulation 1999* or *Transport Operations (Road Use Management) Act 1995*.

Section 117 continues offence provisions from the previous NCR relating to the safe use of vehicles. An additional offence has been included which requires a person riding a bicycle, motorised quad, motorised trike to wear a helmet. A definition of motorised trike and quad is also included.

Sections 118, 119 and 120 continue offence provisions from the previous NCR relating to—

- the safe use of boats and recreational craft
- compliance with a direction about the use of a vehicle, boat, aircraft or recreational craft
- other requirements about using a vehicle, boat or recreational craft.

Part 5 Animals and plants

Part 5 restates offence provisions from the previous NCR relating to—

- unauthorised feeding of animals
- failing to ensure food is kept away from animals
- disturbing animals in a protected area

- bringing unauthorised animals into a protected area
- unlawfully bringing plants into a protected area.

The following changes have been included in part 5 to help manage access of dogs and horses in a protected area—

- Dog walking would be permitted in conservation park or resources reserve provided a regulatory notice states dog walking is permitted (refer clause 124).
- Dogs may be taken into and kept in a protected area provided they are under control, provision is also made for the collecting and correct disposal of dog faeces in a protected area (refer clause 125). Note this clause is to be read in conjunction with clause 124 i.e. it is still an offence to take a dog into a protected area other than under clause 124(2)(g), it is an additional offence to not have the animal under control.
- Horse riding would be permitted in a prescribed national park (recovery), if the horse is kept in a part of the park identified on a regulatory notice as being a horse trail (refer clause 124).
- An exemption to feed animals in a protected area provided the animal is under control and authorised to be in the protected area (refer clause 122).
- An additional offence has been included relating to non-compliance with a direction to remove an animal from a protected area (refer clause 126).
- Plants may now be brought into a protected area if the plants are to be used for food for an animal lawfully in the protected area or if the plant is securely stored in a vehicle or boat while in the protected area.

Part 6 Pollution and waste

Part 6 restates offence provisions from the previous NCR relating to—

- polluting dams, lakes or watercourses
- misusing water, including taking water from a water body other than for personal use within the area or to water an animal

lawfully brought into the area; damming or diverting a water course; tampering with or damaging a facility used to supply or store water or allowing water from a tap to run to waste

- unlawfully using offensive and harmful substances
- unlawfully disposing of offensive and harmful substances
- dumping or abandoning a vehicle, boat or recreational craft
- dumping or abandoning waste materials, for example building materials and disposal of human waste
- depositing litter brought into a protected area and depositing other litter
- non compliance with direction to remove litter.

Part 7 Other conduct in protected area

Part 7 restates offence provisions from the previous NCR relating to—

- unlawfully possessing or using appliances
- unauthorised use of generators, compressors or motors
- causing unreasonable disturbance by a radio, tape recorder or sound system
- general misconduct, including disorderly conduct and creating a disturbance and unlawfully asserting exclusive right to use an area or facility, for example, asserting exclusive use of a barbecue area
- tampering with camping tags
- tampering with structures and other things in a protected area
- not complying with a direction to leave for unlawful activities
- not complying with a direction to leave for dangerous circumstances or emergency or rescue activity.

The following additional requirements have been included in part 7—

- providing that a person may bring into a protected area an unloaded spear gun for use in adjoining waters where its use is not prohibited (Refer clause 137)
- providing that a person may bring a rigged fishing rod onto a national park listed in schedule 6, or another protected area in which fishing is permitted under the Act (refer clause 137).

Chapter 7 Authorised activities in protected areas

Chapter 7 restates provisions from the previous NCR relating to the conduct of a general muster.

In addition a provision has been included that allows the chief executive to erect or place a regulatory notice stating that dog-walking is permitted in a conservation park or resources reserve. This may apply in areas only where dog walking was a well established activity prior to the area being dedicated a conservation park or resources reserve. Dog walking can not be permitted in a conservation park or resource reserve if the activity would result in any damage to a cultural resource or significant adverse effect on a natural resource of the area.

A provision also states that the prescribed forest reserves for the temporary continuation of horse riding (for section 184A of the Act), are listed in schedule 8.

Chapter 8 Seizure of things in protected area

Part 8 restates provisions from the previous NCR relating to—

- the seizure of particular things (including a vehicle or appliance) for the protection of cultural or natural resources

- seizure of stray stock
- seizure of unauthorised structure or works
- seizure of unauthorised vehicles, boats, recreational craft or aircraft
- seizure of abandoned structures, works, vehicles, boats, recreational craft or aircraft.

Any seized items under part 8 must be managed under the provisions dealing with seized property in the Administration Regulation, part 5.

Schedule 1 Trustees of conservation parks

Regarding clause 12, schedule 1 continues sections of a previous NCR schedule by specifying the powers of trustees in the listed conservation parks. Additionally the schedule includes matters previously contained in schedule 3A of the *Nature Conservation (Protected Areas) Regulation 1994*, which lists the trustees for conservation parks.

Schedule 2 Trustees of resource reserves

Regarding clause 13, schedule 2 continues sections of a previous NCR schedule by specifying the powers of trustees in the listed resource reserves. Additionally the schedule includes matters previously contained in schedule 4 of the *Nature Conservation (Protected Areas) Regulation 1994*, which lists the trustees for resource reserves.

Schedule 3 Permitted uses in prescribed national parks

Regarding clause 15, schedule 3 continues a previous NCR schedule by specifying the prescribed national parks (a national park or a national park (recovery)) where certain uses are permitted. The permitted uses for each park are listed in this schedule.

Schedule 4 Permitted uses in national parks

Regarding clause 16 of this regulation and section 37 of the Act, schedule 4 continues a previous NCR schedule by specifying the national park, or part of a national park, where certain uses are permitted. The permitted uses for each park are listed in this schedule.

Schedule 5 Prescribed forest reserves for temporary continuation of beekeeping

Part 1 Forest reserves to become, and former forest reserves that have become, national park

Regarding clause 29, part 1 specifies the permitted number of apiary sites allowed in the listed forest reserves that are proposed to become national park.

Part 2 Forest reserves to become, and former forest reserves that have become, national park (recovery)

Regarding clause 48, part 2 specifies the permitted number of apiary sites allowed in the listed forest reserve that is proposed to become national park (recovery).

Schedule 6 National parks in which fish, invertebrate animals and mud crabs may be taken

Regarding clause 47 and 137, schedule 6 continues a previous NCR schedule by specifying the prescribed parks, or part of park, where fish, invertebrate animals and mud crabs may be taken. Specific lagoons in Bribie Island National Park have been added to the list of areas.

Schedule 7 Minimum flying height over protected areas

Regarding clause 110, schedule 7 continues a previous NCR schedule by specifying the minimum flying height permitted (500 foot above sea level) over specific islands in the Capricornia Cays National Park (scientific) and Capricornia Cays National Park. The schedule also specifies a minimum flying height permitted (1500 foot above ground level) for two areas within the Carnarvon National Park and for Currawinya National Park and Hinchinbrook Island National Park.

Schedule 8 Prescribed forest reserves for temporary continuation of horse riding

Schedule 8 provides a list of forest reserves that may be subject to horse riding upon conversion to national park (recovery).

Schedule 9 Dictionary

Schedule 9 provides the dictionary for this regulation. The definitions in this schedule are generally consistent with previous NCR definitions with some terms amended and additional terms included to aid in the interpretation of this regulation.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Environmental Protection Agency.