

Nature Conservation (Protected Areas Management) Amendment Regulation (No. 2) 2013

Explanatory notes for SL 2013 No. 178

made under the

Nature Conservation Act 1992

General Outline

Short title

Nature Conservation (Protected Areas Management) Amendment Regulation (No. 2) 2013

Authorising law

Section 175 of the *Nature Conservation Act 1992*.

Policy objectives and the reasons for them

From time to time, applications are made to install, maintain or use infrastructure on national parks including service facilities. The *Nature Conservation Act 1992* (the Act) contains strict criteria which must be satisfied before the grant of an authority for such infrastructure can be made by the chief executive.

Under section 35(1) of the Act the chief executive may grant, make, issue or give a lease, agreement, license, permit or other authority over, or in relation to, land in a national park or national park (recovery) if:

- a) the use under the authority is only for a service facility; and
- b) the chief executive is satisfied-
 - i) if the land is in a national park, the cardinal principle for the management of national parks will be observed to the greatest possible extent; and

- ii) if the land is in a national park (recovery), the management principle under section 19A(a) will be observed to the greatest possible extent; and
 - iii) the use will be in the public interest; and
 - iv) the use will be ecologically sustainable; and
 - v) there is no reasonably practicable alternative to the use; and
- c) the use under the authority is prescribed under a regulation made for this section to be a permitted use for the area.

Under section 37(1) of the Act the chief executive may renew an existing lease, agreement, permit or other authority in relation to a national park if the existing lease, agreement, permit or other authority was:

- a) granted, made, issued or given under the *National Parks and Wildlife Act 1975* or the *Land Act 1962* over, or in relation to, a national park under the former Act; and
- b) in force immediately before the repeal of the former Act; and
- c) continued in force under this Act.

The chief executive may not delegate the power under section 35 or section 37 in accordance with section 141 of the Act.

The following use has been assessed and meets the requirements under section 35 of the Act:

- construction, operation, maintenance and use of a water reservoir within the Hull River National Park.

The following uses have been assessed and meet the requirements under section 37 of the Act:

- use and maintenance of existing essential infrastructure by Delaware North Pty Ltd on part of the Capricornia Cays National Park; and
- use and maintenance of existing essential infrastructure by Oceans Hotels Pty Ltd on part of the Molle Island National Park.

Before the chief executive may grant a section 35 or section 37 authority for one of the above activities, the use and the relevant national park must be prescribed in the *Nature Conservation (Protected Areas Management) Regulation 2006*, Schedule 3 and Schedule 4 respectively.

This matter is not considered necessary for Cabinet consideration.

Achievement of policy objectives

The objective is to amend Schedule 3 and Schedule 4 of the *Nature Conservation (Protected Areas Management) Regulation 2006* to permit the uses within a part of the Hull River National Park, the Capricornia Cays National Park and the Molle Islands National Park.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the main objectives of section 35 and section 37 of the *Nature Conservation Act 1992*.

Inconsistency with policy objectives of other legislation

The regulation is consistent with the policy objectives of other legislation.

Benefits and costs of implementation

The proposed amendment is an administrative process to provide for the authorisation of infrastructure on the protected areas in compliance with sections 35 and 37 of the *Nature Conservation Act 1992*. There are no associated implementation costs.

Consistency with fundamental legislative principles

This regulation is consistent with the fundamental legislative principles, as defined in the *Legislative Standards Act 1992*.

Consultation

Officers of the Department of National Parks, Recreation, Sport and Racing, Queensland Parks and Wildlife Services consulted with the applicants and the key stakeholders.

The Office of Best Practice Regulation (OBPR) has been consulted regarding obligations for a Regulatory Impact Statement (RIS). OBPR advised that the amendments do not impose significant adverse impacts on the community, business or government. Consequently a RIS is not required.

Standard notification or consultation includes addressing Native title and other agencies where joint land administration arrangements occur.