

Nature Conservation (Protected Areas Management) Amendment Regulation (No. 4) 2015

Explanatory notes for SL 2015 No. 167

made under the

Nature Conservation Act 1992

General Outline

Short title

Nature Conservation (Protected Areas Management) Amendment Regulation (No. 4) 2015

Authorising law

Sections 35 and 175 of the *Nature Conservation Act 1992* (the Act).

Policy objectives and the reasons for them

From time to time, applications are made to install, maintain or use infrastructure on national parks. The Act contains strict criteria which must be satisfied before the chief executive can grant an authority for such infrastructure.

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

- a) the use under the authority is only for a service facility or an ecotourism facility; and
- b) if the use under the authority is for a service facility, the chief executive is satisfied-
 - i) the cardinal principle for the management of national parks will be observed to the greatest possible extent; and
 - ii) the use will be in the public interest; and
 - iii) the use is ecologically sustainable; and
 - iv) there is no reasonably practicable alternative to the use; and

- c) if the use under the authority is for an ecotourism facility, the chief executive is satisfied-
- i) the use will be in the public interest; and
 - ii) the use is ecologically sustainable; and
 - iii) the use will provide, to the greatest possible extent, for the preservation of the land's natural condition and the protection of the land's cultural resources and values; and
- d) the use under the authority is prescribed under a regulation made for this section to be a permitted use for the area.

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

The following use has been assessed and meets the requirements under section 35(1)(b) of the Act:

- Installation, use and maintenance of a communications facility within Deer Reserve National Park at the Mt Brisbane site.

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

In addition, an existing use authorised under section 35(1)(b) of the Act has been incorrectly described in the *Nature Conservation (Protected Areas Management) Regulation 2006*, Schedule 3. This amendment will correct the description of the relevant area of the existing authority for the communications facility at the Mt Watalgan site in Littabella National Park.

Achievement of policy objectives

The objective is to amend the *Nature Conservation (Protected Areas Management) Regulation 2006* to permit the uses within parts of Deer Reserve National Park and Littabella National Park.

Consistency with policy objectives of authorising law

The Regulation is consistent with the main objectives of the Act.

Inconsistency with policy objectives of other legislation

This Regulation is not inconsistent with any other legislation.

Benefits and costs of implementation

The Regulation is an administrative process to provide for the authorisation of infrastructure on the protected areas in compliance with section 35 of the Act.

Consistency with fundamental legislative principles

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

Consultation

Through departmental correspondence, on-site visitations and via telephone conversations, officers of the Department of National Parks, Sport and Racing 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 are machinery in nature. Consequently a RIS is not required.

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

No changes to the Regulation were required as a result of the consultation.