

Nature Conservation (Protected Areas Management–Communications and Water Supply Facilities) Amendment Regulation 2017

Explanatory notes for SL 2017 No. 47

made under the

Nature Conservation Act 1992

General Outline

Short title

Nature Conservation (Protected Areas Management–Communications and Water Supply Facilities) Amendment Regulation 2017

Authorising law

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

Policy objectives and the reasons for them

The *Nature Conservation Act 1992* (the Act) provides instructions on how development applications to install, maintain or use infrastructure on national parks should be dealt with. 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.

Section 35(1) of the Act states that:

- (1) 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 proposed uses have been assessed and meet the requirements under section 35(1)(b) of the Act:

1. Operation and maintenance of an existing service facility (for a communications use) by Ranger Signals Pty Ltd within D'Aguilar National Park;
2. Construction, operation and maintenance of a service facility (water reservoir facility and underground water pipeline) by the Cassowary Coast Regional Council within Hull River National Park at the Council Reservoir site;
3. Operation and maintenance of a service facility (for a communications use) by the Public Safety Business Agency (PSBA) within Macalister Range National Park;
4. Installation, operation and maintenance of a service facility (for a communications use) by the Sunshine Coast Broadcasters within Noosa National Park; and
5. Operation and maintenance of a service facility (for a communications use) by the Seven Network Pty Ltd within Tewantin National Park.

Before the chief executive may grant a section 35 authority for the above activities, the uses in each of the national parks must be prescribed in the *Nature Conservation (Protected Areas Management) Regulation 2006*, Schedule 3.

Achievement of policy objectives

The objective is for the Nature Conservation (Protected Areas Management–Communications and Water Supply Facilities) Amendment Regulation 2017 to amend Schedule 3 of the *Nature Conservation (Protected Areas Management) Regulation 2006* to permit the uses within D'Aguilar National Park, Hull River National Park, Macalister Range National Park, Noosa National Park and Tewantin National Park.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the main objectives of section 35 of the Act.

Inconsistency with policy objectives of other legislation

The amendment regulation is not inconsistent with any other legislation.

Benefits and costs of implementation

The amendment 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 amendment 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.

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

In accordance with the Queensland Government Guide to Better Regulation, the Office of Best Practice Regulation was not consulted in relation to the regulatory proposal. The department applied a self-assessable exclusion from undertaking further regulatory impact analysis (Category g – Regulatory proposals that are of a machinery nature).

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