

Nature Conservation (Protected Areas Management) (Lamington National Park) Amendment Regulation 2018

Explanatory notes for SL 2018 No. 222

made under the

Nature Conservation Act 1992

General Outline

Short title

Nature Conservation (Protected Areas Management) (Lamington National Park) Amendment Regulation 2018

Authorising law

Sections 175 of the *Nature Conservation Act 1992*

Policy objectives and the reasons for them

The primary legislation for the *Nature Conservation (Protected Area Management) Regulation 2017* (NC (PAM) Regulation), the *Nature Conservation Act 1992* (the Act), was established to conserve nature by, among other things, managing protected areas.

The objective of the *Nature Conservation (Protected Areas Management) (Lamington National Park) Amendment Regulation 2018* (amendment regulation) is to give effect to a new permitted use in a national park.

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 have met the requirements under section 35(1)(c) of the Act:

1. construction, refurbishment, maintenance and use of a campground and buildings or other structures associated with the campground by National Park Pty Ltd (trading as O'Reilly's Rainforest Retreat) within Lamington National Park at the site identified as Lot X, containing an area of 4.201 hectares within Lot 496 on AP22466 on SP305395; and
2. maintenance and use of caretaker premises associated with the campground by National Park Pty Ltd (trading as O'Reilly's Rainforest Retreat) within Lamington National Park at the site identified as Lot Y, containing an area of 1,111m² within Lot 496 on AP22466 on SP305395.

Before the chief executive may grant a Section 35 authority for the above activities, the uses and the relevant national park must be prescribed in Schedule 3 of the *Nature Conservation (Protected Areas Management) Regulation 2017*. The amendment regulation amends Schedule 3 to include these uses.

Achievement of policy objectives

To achieve the objective, schedule 3, part 2 of the NC (PAM) Regulation will be amended to provide for a new permitted use in a national park.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the objectives of the Act. It ensures the conservation of nature while allowing for the social, cultural and commercial use of protected areas in a way that is consistent with the natural, cultural and other values of the areas.

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 an ecotourism facility within Lamington National Park and is 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

Consultation has been carried out with a variety of stakeholders regarding the proposed ecotourism development within Green Mountains Campground (and the adjacent caretaker's residence).

A number of Queensland Government media statements have been released throughout the project lifecycle, including the call for expressions of interest from parties interested in revitalising and taking over the management of the Green Mountains Campground.

In 2016, a public announcement was made to advise that National Park Pty Ltd (trading as O'Reilly's Rainforest Retreat) was selected as the preferred proponent to proceed with detailed plans; and to announce the government's approval of the proposal.

The proponent has consulted with the Gondwana World Heritage Scientific and Community Advisory Committee; the National Parks Association of Queensland; and Traditional Owners representing the Wangerriburra People. The proponent has also sought approval under the Local Government Planning regulation from the Scenic Rim Regional Council; and Commonwealth approval under the Environment Protection and Biodiversity Conservation Act 1999.

In September 2017, a public information day was hosted by the former Department of National Parks, Sport and Racing at the Green Mountains Campground, providing details of the proposal to the general visiting public and accepting feedback.

In accordance with The Queensland Government Guide to Better Regulation (the Guidelines), the Office of Best Practice Regulation (OBPR) was consulted in relation to the proposed amendment. OBPR has confirmed that the proposal would not benefit from further analysis under the Guidelines as the amendment will not increase the regulatory burden and there are no potential adverse impacts.