

Nature Conservation (Protected Areas Management) (Tully Gorge National Park) Amendment Regulation 2019

Explanatory notes for SL 2019 No. 206

made under the

Nature Conservation Act 1992

General Outline

Short title

Nature Conservation (Protected Areas Management) (Tully Gorge National Park) Amendment Regulation 2019.

Authorising law

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

Policy objectives and the reasons for them

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

- construction, operation and maintenance of a service facility (for a water supply use) by Cassowary Coast Regional Council in Tully Gorge National Park at the site described as 'Authority Area' in Lot 66 on NPW890 on QPWSAP000096.

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 the *Nature Conservation (Protected Areas Management) Regulation 2017*, Schedule 3.

Achievement of policy objectives

The *Nature Conservation (Protected Areas Management) (Tully Gorge National Park) Amendment Regulation 2019* (Amendment Regulation) will achieve its policy objectives by amending Schedule 3 of the *Nature Conservation (Protected Areas Management) Regulation 2017* to permit the proposed service facility in Tully Gorge National Park at the site described as 'Authority Area' in Lot 66 on NPW890 on QPWSAP000096.

This approach is reasonable and appropriate because:

- an assessment has been carried out at an earlier date that meets the requirements of section 35(1)(b) of the Act; and
- by receiving approval from the Governor in Council, it will meet the requirement of Section 35(1)(d) of the Act.

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

This 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 Environment and Science (DES) consulted with the applicant for the authority (Cassowary Coast Regional Council).

The applicant supports the amendment.

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. DES 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 Amendment Regulation were required as a result of the consultation.