

Nature Conservation (Protected Areas Management) (Communications and Water Supply Facilities) Amendment Regulation 2020

Explanatory notes for SL 2020 No. 227

made under the

Nature Conservation Act 1992

General Outline

Short title

Nature Conservation (Protected Areas Management) (Communications and Water Supply Facilities) Amendment Regulation 2020

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

- operation, maintenance and upgrade of an existing service facility (for a communications use) by Ergon Energy Corporation Limited in Blackdown Tableland National Park at the site identified as Authority Area in Lot 49 on NPW733 on QPWSAP000108;
- operation and maintenance of an existing service facility (for a communications use) by Ergon Energy Corporation Limited in Mount Mackay National Park at the site identified as Authority Area in Lot 171 on NPW902 on MM1;
- construction, operation and maintenance of a new service facility (for a water supply use) by Cassowary Coast Regional Council in Girringun National Park at the site identified as Authority Areas A and B over parts of Lot 18 and Lot 1 on AP22472 on QPWSAP0000113; and

Before the Chief Executive may grant a section 35 authority for the facilities mentioned above, the uses in each of the national parks must be prescribed in the *Nature Conservation (Protected Areas Management) Regulation 2017*, Schedule 3.

The *Nature Conservation (Protected Areas Management) (Communications and Water Supply Facilities) Amendment Regulation 2020* (the Amendment Regulation) will amend Schedule 3 of the *Nature Conservation (Protected Areas Management) Regulation 2017* to prescribe the proposed service facilities (communications and water supply facilities) as permitted uses in the relevant national parks.

Achievement of policy objectives

The Amendment Regulation will amend Schedule 3 of the *Nature Conservation (Protected Areas Management) Regulation 2017* to permit the following proposed uses:

1. Ergon Energy Corporation Limited Communications Facility in Blackdown Tableland National Park;
2. Ergon Energy Corporation Limited Communications Facility in Mount Mackay National Park; and
3. Cassowary Coast Regional Council Water Supply Facility in Girringun National Park.

This approach is reasonable and appropriate because an assessment has been carried out that meets the requirements of section 35(1)(b) 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

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 third-party infrastructure on the protected areas in compliance with section 35 of the Act. There is no net cost in implementing the Amendment Regulation, as this area of work is already considered in the department's annual budget and workload for managing protected areas.

When the Chief Executive grants authorities for the service facilities, the authorities will each be subject to annual rental fees in line with departmental policy. A non-monetary benefit is derived by the general public from each service facility and this is ensured when assessing each proposal against the principle of 'public interest' as required by the Act. Implementation provides further benefits to protected area management through the assessment process and in the terms and conditions agreed by both parties.

Consistency with fundamental legislative principles

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

Consultation

The Department of Environment and Science (DES) consulted with the applicants and the traditional owners regarding native title rights and interests and cultural heritage matters (Gaangalu Nation Party for Blackdown Tableland National Park; Gulngay People for Mount Mackay National Park; and Girramay #2 People for Girringun National Park)

All parties consulted support the proposal.

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.