

Nature Conservation (Protected Areas Management) (Dularcha and Springbrook National Parks) Amendment Regulation 2022

Explanatory notes for SL 2022 No. 180

made under the

Nature Conservation Act 1992

General Outline

Short title

Nature Conservation (Protected Areas Management) (Dularcha and Springbrook National Parks) Amendment Regulation 2022.

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 NC Act) provides instructions on how development applications to install, maintain or use infrastructure on national parks should be dealt with. The NC 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 NC 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 of the NC Act, in accordance with section 141 of the NC Act.

The following proposed and existing uses have been assessed and have met the requirements under section 35(1)(b) of the NC Act:

- operation and maintenance of a service facility (for a water use) by Unitywater within Dularcha National Park over part of Lot 453 on NP1114 on administrative plan QPWSAP000262; and
- installation, operation and maintenance of a service facility (for a communications use) by Gold Coast Amateur Radio Society within Springbrook National Park over part of Lot 5 on AP19371 on administrative plan QPWSAP000253.

Before the chief executive may grant an authority under section 35 of the NC Act for the above activities, the use and the relevant national park must be prescribed under Schedule 3 of the *Nature Conservation (Protected Areas Management) Regulation 2017* (the Regulation).

The objective of the *Nature Conservation (Protected Areas Management) (Dularcha and Springbrook National Parks) Amendment Regulation 2022* (Amendment Regulation) is to amend Schedule 3 of the Regulation to prescribe the proposed service facilities (communications facilities) and amend an existing service facility (a water facility) as permitted uses in the relevant national parks.

Achievement of policy objectives

The Amendment Regulation will achieve its policy objectives by amending Schedule 3 of Regulation to:

- amend the existing service facility in Dularcha National Park at the site over part of Lot 453 on NP1114 on QPWSAP000262; and
- permit the proposed service facility in Springbrook National Park at the site over part of Lot 5 on AP19371 on QPWSAP000253.

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 NC Act; and
- by receiving approval from the Governor in Council, will meet the requirement of Section 35(1)(d) of the NC Act.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the main objectives of section 35 of the NC 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 NC 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. The revenue generated in fees is considered to cover the cost of implementation.

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), Queensland Parks and Wildlife Service and Partnerships, consulted with the applicants for the authorities and the key stakeholders. Standard notification or consultation includes addressing Native title and other agencies where joint land administration arrangements occur.

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.

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