

Forestry Regulation 2024

Explanatory notes for SL 2024 No. 197

made under the

Forestry Act 1959

General Outline

Short title

Forestry Regulation 2024

Authorising law

Section 97 of the *Forestry Act 1959*

Policy objectives and the reasons for them

The Department of Environment, Science and Innovation (DESI) has undertaken a statutory review of the *Forestry Regulation 2015*, the *Nature Conservation (Protected Areas Management) Regulation 2017* and the *Recreation Areas Management Regulation 2017*. The reviews were undertaken at the same time due to the similarity of a number of provisions in each regulation and the benefits in seeking to ensure consistent management across forestry areas, protected areas and recreation areas. As a result, the *Forestry Regulation 2024*, the *Nature Conservation (Protected Areas Management) Regulation 2024* and the *Recreation Areas Management Regulation 2024* (the Replacement Regulations) will be made.

The policy objective of the *Forestry Regulation 2024* (the Regulation) is to replace the *Forestry Regulation 2015* to provide for the ongoing and improved management of Queensland's forestry areas declared under the *Forestry Act 1959*. The Regulation includes important provisions regarding:

- continuation of designated timber reserves, State plantation forests, feature protection areas, scientific areas and State forest parks;
- regulation of conduct and activities in State forests and timber reserves to protect the environment and human health and safety;
- offences and penalties for offences;
- the statutory fees payable for permits, authorities and other uses under the *Forestry Act 1959*; and

- transitional provisions to provide for continuity between the *Forestry Regulation 2015* and the Regulation.

The Regulation will continue to maintain important provisions relating to the protection and management of State forests and timber reserves, including public use, and address a range of issues relating to visitor use, vehicles and aircraft, regulation and compliance.

Achievement of policy objectives

The Regulation replaces the *Forestry Regulation 2015* in order to provide for the ongoing and improved management of State forests and timber reserves.

State forests and timber reserves are subject to forest management and timber harvesting operations, and a range of other commercial and recreational uses – including use by the public for activities such as camping, picnicking, scenic driving, motorcycling, mountain biking, horse riding and nature appreciation. As is the case with the management of most public places, some actions and behaviours need to be regulated in order to protect the environment, provide for public safety and protect the rights of other visitors. The Regulation addresses these issues by including a range of offence provisions as a deterrent to behaviour that could interfere with forest management, cause damage to forest resources or property, cause unacceptable environmental impact, affect other people’s reasonable enjoyment of the forest environment and facilities, and threaten people’s health and safety. For example, restrictions apply in regard to the driving and parking of vehicles, the control of animals such as dogs, and excessive noise.

The offence provisions largely continue the effect of provisions already in operation under the *Forestry Regulation 2015*, to support management of forestry areas in conjunction with non-regulatory measures such as the provision of information and education, and forest management staff working cooperatively with business and community groups.

The provisions in the Regulation generally mirror the requirements that apply to areas such as protected areas and recreation areas. This allows for consistent and effective management of similar issues, and also promotes improved understanding of the relevant rules by commercial and recreational users, who can frequent forests, protected areas and recreation areas when undertaking their activities.

The review identified a range of issues requiring improvements, including relating to visitor use, management of vehicles, regulation and compliance and other administrative matters. Amendments in the Regulation to provide for improved management of forestry areas are outlined below.

Dogs to be under control

A new provision in the Regulation requires a person in control of a dog in a forestry area to immediately pick up and dispose of their dog’s faeces, consistent with existing requirements in protected areas and many local government controlled lands.

Feeding and disturbing native animals

Many native animals may become habituated to human presence due to feeding. Consumption of human food can lead to negative health outcomes for animals, and in some

cases result in animals becoming a nuisance or capable of injuring a person when seeking food in places such as day use areas and campgrounds (e.g. goannas, and some species of birds).

The Regulation includes a new offence for feeding and disturbing any native animals in a forestry area, without approval. This offence is intended to protect both animals and visitors from the potentially negative results of these activities.

Management of vehicles

Vehicle use in forestry areas has the same requirements as on roads – the vehicle is required to be registered, and the driver is required to hold a valid driver's licence.

Covert cameras are used in some locations to detect unlawful vehicle use. Some visitors attempt to avoid camera detection by deliberately removing their number plates, and in other instances, deliberately covering their plates to conceal them. There are also circumstances where the number plates are dirty, damaged or accidentally covered and unable to be read. A new offence included in the Regulation is that a person must not drive or ride a vehicle that is required to be registered if the number plate is not attached or not clearly legible. This offence, which mirrors existing offences for road vehicles in the Queensland Transport legislation, will enable staff such as rangers to respond to actions directed at avoiding unlawful use of vehicles in forestry areas.

Under the *Forestry Regulation 2015* certain sections of the Queensland Road Rules are offences where they occur in forestry areas. To ensure consistency with the Road Rules, amendments have been made to enable forest officers to enforce a range of offences relating to carrying passengers in vehicles and the wearing of helmets on bicycles and personal mobility devices (such as e-scooters).

Management of drones

The Regulation has been amended to include a framework to limit operation and possession of drones in camping areas, and in other areas where specified by regulatory notice. This will assist with protection of visitor privacy and maintaining amenity and other values of an area.

Schedules in the Regulation

Designation of specific areas

The Regulation includes schedules to continue specific areas, as follows:

- timber reserves declared by regulation prior to 30 June 2014 – as provided by section 28 of the *Forestry Act 1959* in Schedule 1;
- State plantation forests, as provided by section 32A of the *Forestry Act 1959* in Schedule 2;
- feature protection areas as provided by section 34A of the *Forestry Act 1959* are listed in Schedule 3;
- scientific areas as provided by section 34A of the *Forestry Act 1959* are listed in Schedule 4; and
- State forest parks as provided by section 34A of the *Forestry Act 1959* are listed in Schedule 5.

The schedules of timber reserves and State plantation forests are largely the same as the current schedules in the *Forestry Regulation 2015*, with some minor amendments to reflect excisions of State plantation forests. There are no changes to the schedules of feature protection areas, scientific areas and State forest parks.

Plantation timber within State plantation forests is managed under commercial licence by HQPlantations Pty Ltd. Having the State plantation forests designated in the schedule in the Regulation is an effective means of specifying the plantation forest areas, and creates a single and reliable point of reference that removes any doubt about the legality, accuracy and currency of the designation.

Listing designated areas in schedules in the Regulation is an effective and efficient means of applying particular provisions of the *Forestry Act 1959* to areas with differing management purposes and requirements. This enables designated areas to be managed to recognise particular commercial, environmental, scientific and recreational values.

Fee Schedule

Schedule 6 in the Regulation specifies the fees payable under the *Forestry Act 1959* for camping permits, commercial activity permits, permits for competitive motor vehicle and equestrian events, organised event permits, and fees for mustering, holding and releasing stock to their owner. The scheduled fees are a continuation of the fees listed in the *Forestry Regulation 2015*. A redundant camping fee has been removed, otherwise there are no changes to fees as a result of the review of the Regulation.

Consistency with policy objectives of authorising law

The Regulation is consistent with the objectives of the authorising laws. The main purpose of the *Forestry Act 1959* is to provide for:

- the reservation, management and protection of State forests and timber reserves; and
- the sale and disposal of forest products and quarry material, the property of the Crown on State forest, timber reserves and on other lands, and for other purposes.

Section 28 of the *Forestry Act 1959* allows for the declaration of timber reserves by a regulation made before 30 June 2014. Schedule 1 of the Regulation lists the timber reserves declared by previous regulations prior to 30 June 2014.

Sections 32A and 34A of the *Forestry Act 1959* allow for the designation by regulation of State plantation forests, feature protection areas, scientific areas and State forest parks.

Section 97 of the *Forestry Act 1959* allows for regulations to be made in respect of State forests and timber reserves, including their management and control, conduct and duties of persons, recreational and commercial activities, fees and charges, permits and other authorities, and penalties in regulations not exceeding 20 penalty units.

Inconsistency with policy objectives of other legislation

The Regulation is not inconsistent with the policy objectives of other legislation. For example, the provisions for the management of conduct and activities in State Forests and timber reserves are consistent with corresponding provisions under other legislation,

including the *Nature Conservation Act 1992*, which applies to protected areas such as national parks. Provisions are also included to manage vehicles in recreation areas consistent with the framework provided under Queensland Transport laws.

Alternative ways of achieving policy objectives

There is no alternative to achieving the policy objectives. It is necessary that the *Forestry Regulation 2024* is made in order to support the continuation of effective management of forestry areas in Queensland.

Potential alternatives to the creation of a new *Forestry Regulation 2015* were considered. One such alternative considered was a ‘no-legislative intervention’ option, i.e. allowing the *Forestry Regulation 2015* to expire without replacement. Alternative options were rejected because of the unacceptable risks and consequences that would arise.

Benefits and costs of implementation

DESI supports commercial, recreational and tourism use of State forests and timber reserves where considered suitable and accepts the responsibility to manage these lands to maintain their commercial, recreational and environmental values, and to take appropriate steps to maintain visitor safety. The provisions in the Regulation represent a well-established and effective framework to achieve these outcomes.

The benefits arising from the regulatory framework greatly outweigh the potential inconvenience to the commercial and recreational users of State forests and timber reserves of complying with the regulations. For example, regulations that enable the management of unsafe vehicle use contribute to a safer and more enjoyable experience for forestry area users and generally impose no greater requirement than what is required of drivers when operating their vehicles on roads outside of forestry areas.

The Regulation provides for penalties for breaches of the requirements. However, the cost of these offence penalties is only borne by a small number of people who commit offences that warrant action stronger than a warning.

The Regulation imposes some continuing costs on government, including administrative and compliance costs. However, these costs are overshadowed by substantial benefits in terms of meeting government responsibilities for the management of State-owned lands, and ongoing cost savings delivered by effective management. No new costs are introduced by the new regulation.

In accordance with *The Queensland Government Better Regulation Policy*, a Summary Impact Analysis Statement was prepared in relation to the regulatory proposal. The proposal will not add to the burden of regulation and unlikely to result in significant adverse impacts on business, the community or government. No further regulatory impact analysis is required.

Consistency with fundamental legislative principles

The Regulation has been examined for compliance with the fundamental legislative principles outlined in section 4 of the *Legislative Standards Act 1992* and is considered to

have sufficient regard to the rights and liberties of individuals and the institution of Parliament. One potential issue was identified during drafting of the Regulation and is discussed below.

Process to apply for and consider applications for written approvals

The *Forestry Act 1959* provides a broad head of power for the grant of permits, such as a camping permit or a commercial activity permit.

Several sections of the Regulation also provide that a particular activity or action cannot be conducted without the ‘written approval’ of the chief executive. However, the Regulation does not specify how a person applies for a written approval or the process for deciding such approvals. This lack of guidance might seem to be out of step with the fundamental legislative principle that rights and liberties, or obligations, should be dependent on administrative power only if the power is sufficiently defined and subject to appropriate review.

The process for applying for written approvals varies according to the circumstances. Written approvals are commonly granted to authorise a supplementary aspect of another activity and are therefore ‘applied for’ in the broader context of seeking authorisation for the other activity. However, in some circumstances a person may need to seek a written approval that is not associated with another authorisation. In these cases, the application and approval process generally would be relatively straightforward.

The written approvals framework is intended to be flexible, and these approvals may in some circumstances be provided within a relatively short timeframe in response to emerging issues. Written approvals are generally required for one-off, short-term situations, rather than the ongoing activities, and therefore there is no need for these to be subject to formal review processes. Written approvals are a common authorising mechanism under the statute book. Examples include agistment approvals under the *Fossicking Regulation 2019*, and approvals of weapons clubs under the *Weapons Regulation 2016*, and a number of written approvals relating to display of animals under the *Nature Conservation (Animals) Regulation 2020*.

Consultation

Consultation methods

The Office of Best Practice Regulation (OBPR) was advised of the proposal to make the *Forestry Regulation 2024*. Informed by advice from OBPR, consultation with the general community on the new Regulation occurred through an online survey hosted on the Queensland Government ‘Get Involved’ consultation platform. The survey comprised 66 questions and sought feedback on the changes the department was proposing to the forestry, protected area and recreation area regulations, in response to proposals outlined in the survey information. The survey also specifically sought feedback on any costs and benefits on the community that may result from the proposed changes. Respondents were also provided an opportunity to submit further comments and to provide details for further follow up consultation.

Engagement with First Nations Partners occurred prior to the commencement of broader public consultation and the release of the survey to advise why the review was being

undertaken, the key changes proposed, the timeframes associated with consultation and how to provide feedback and seek further information.

Additionally, correspondence was sent to authority holders, peak industry groups, local government and other representative bodies regarding the review and seeking their participation in the survey. Consultation also occurred with HQPlantations Pty Ltd who manage State plantation forests in Queensland consistent with the *Forestry Regulation 2015*.

The Civil Aviation Safety Authority (CASA) was consulted on the proposal relating to drone regulation.

Results of consultation

HQPlantations Pty Ltd has no concerns regarding the amendments to the Forestry Regulation which provide for continuation of State plantation forests and other matters to enable management of forest areas.

Following the initial engagement with First Nations groups, the department held several meetings in response to requests for additional information. Further discussion of the proposals was provided through these meetings to clarify and resolve outstanding queries.

CASA supported the approach to drone regulation in order to protect the natural and cultural values of forestry areas.

The survey site received 3,000 visits and a total of 493 survey responses and 14 written submissions were received during the 28-day survey period. The consultation results helped determine potential benefits and impacts of the proposals, and to identify alternative approaches to the proposed amendments. The majority of respondents across all of the survey questions indicated that the proposed changes would have a benefit or no impact to them.

Based on this consultation, DESI believes that there will be negligible costs and impacts associated with making the new Regulation and that the community is supportive of the making of the Regulation which will maintain consistency with regulations that apply to similar areas, including protected areas and recreation areas. Such provisions have been in place for more than 30 years and have strong community acceptance.