

Recreation Areas Management Regulation 2024

Explanatory notes for SL 2024 No. 199

made under the

Recreation Areas Management Act 2006

General Outline

Short title

Recreation Areas Management Regulation 2024

Authorising law

Section 232 of the *Recreation Areas Management Act 2006*

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 *Recreation Areas Management Regulation 2024* (the Regulation) is to replace the *Recreation Areas Management Regulation 2017* to provide for the ongoing and improved management of recreation areas declared under the *Recreation Areas Management Act 2006*. The Regulation includes important provisions regarding:

- continuation of declared recreation areas;
- regulation of conduct in recreation areas, with particular regard to conserving natural and cultural resources and values, and protecting human health and safety;
- regulation of activities to ensure the protection of the environment, such as vehicle use, the disposal of waste, and bringing domestic animals or plants into the area;
- record keeping requirements to apply to particular permit holders such as commercial operators and organisers of events;
- offences and the penalties for those offences;

- fees payable for permits and authorities under the *Recreation Areas Management Act 2006*; and
- transitional provisions to provide for continuity between the *Recreation Areas Management Regulation 2017* and the Regulation.

There are seven recreation areas declared in Queensland:

- Bribie Island;
- Cooloola;
- Fraser Island (on K'gari);
- Green Island;
- Inskip Peninsula;
- Minjerribah (on Minjerribah (North Stradbroke Island)); and
- Moreton Island.

Part of Green Island and Minjerribah, and most of Moreton Island, Bribie Island, Fraser Island and Cooloola recreation areas are also protected areas (national parks), managed under the *Nature Conservation Act 1992* by DESI. Given the overlap of protected area lands and declared recreation area, the legislation used to manage protected areas and recreation areas have a number of complementary provisions. This is to ensure there are consistent laws and approaches to management applied to these lands which reduces confusion for the community when using these areas for recreational and commercial purposes.

Achievement of policy objectives

The Regulation replaces the *Recreation Areas Management Regulation 2017* in order to provide for the ongoing and improved management of recreation areas.

Recreation areas are subject to a range of commercial and recreational uses – including use by the public for activities such as camping, picnicking, scenic driving 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 some offence provisions as a deterrent to behaviour that could interfere with recreation area management, cause damage to property, cause unacceptable environmental impact, affect other people's reasonable enjoyment of the environment and facilities, and threaten people's health and safety. For example, restrictions apply in regard to the driving of vehicles and the disposal of waste.

The offence provisions largely continue the effect of provisions already in operation under the *Recreation Areas Management Regulation 2017*, and operate in conjunction with non-regulatory measures such as the provision of information and education, and staff from DESI 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 forestry 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.

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

Management of vehicles

Vehicle use in recreation 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.

Unregistered vehicles, in particular motorbikes, are sometimes brought into recreation areas, and used off-road, which can damage the area. Under the *Recreation Areas Management Regulation 2017*, compliance action can only be taken in recreation areas if the person is observed driving or riding the vehicle. A new offence has been included, consistent with the *Forestry Regulation 2015*, for bringing an unregistered vehicle into the area. This will allow compliance officers to intercept people unloading unregistered vehicles such as trail bikes.

DESI uses automatic number plate recognition systems to enforce compliance with the requirement to hold a vehicle access permit in Bribie Island, Cooloola and Fraser Island recreation areas. Covert cameras are also 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 number 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 has been included in the regulation 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 take a targeted compliance action in response to behaviour directed at avoiding automatic number plate recognition cameras and the need to hold a vehicle access permit in recreation areas.

Recreation areas are very popular with visitors, and regulating vehicle use is important to help ensure visitor safety and to protect the natural and cultural values of these areas. While there can be a large network of roads and routes in recreation areas, in some circumstances public vehicle access is prevented for safety, environmental, cultural or management purposes (such as fire breaks). It is an offence to drive in a place in a recreation area that is not a road (noting that many recreation area beaches are roads) or in other places locations that do not have a regulatory notice allowing vehicles. The new Regulation clarifies that it is an offence to drive, ride or move a vehicle into a place if a barrier or fence has been put in place to prevent vehicle entry, which is consistent with the legislation for forestry areas. Amendments have also been made to require parked vehicles to conform with ground markings for parking (where present), including where parking spaces are put aside for people with disabilities, and to not park in a way that obstructs or prevents free passage of another vehicle.

To reflect technological advancements and new compliance approaches in recreation areas, requirements to display a vehicle tag on a vehicle as evidence of a person’s vehicle having a valid vehicle access permit are being removed in recreation areas where automatic number plate recognition systems are installed. Vehicle number plate data will be the primary mechanism to check that a vehicle access permit is held, however, drivers will still be required to produce a digital or hard copy of the vehicle access permit upon request of an authorised officer. These new arrangements will apply for the Bribie Island, Cooloola and

Fraser Island Recreation Areas which have automatic number plate recognition systems installed. Remaining recreation areas will continue to have requirements relating to displaying a vehicle tag apply.

Under the *Recreation Areas Management Regulation 2017* certain sections of the Queensland Road Rules are offences where they occur in recreation areas. To ensure consistency with the Road Rules, amendments have been made to enable authorised 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).

Conditionally registered vehicles

Conditional registration is provided by the Department of Transport and Main Roads to enable the limited use of the road network by a non-standard vehicle in particular circumstances. Under the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2021*, vehicles with conditional registration must comply with the Conditional Registration Guideline which contains conditions of use associated with that type of vehicle, including in most cases the permission of the road owner or manager. To meet this requirement, and consistent with protected areas and forestry areas, the new Regulation includes the requirement for written approval prior to driving or riding a conditionally registered vehicle in a recreation area.

Management of recreational craft

A range of recreational craft are used in the community for sport and enjoyment. With the ongoing popularity of recreation areas with visitors and their motor vehicles, it is important to have a consistent permitting and regulatory framework for management purposes, particularly to manage the potential interactions between motor vehicles and the use of recreational craft. In recreation areas, hot-air balloons, hang-gliders, hovercraft, parachutes, paragliders and ultralight aircraft are already defined as recreational craft. However, for protected areas under the *Nature Conservation Act 1992* the definition of recreational craft also includes kite buggies and land windsurfing boards, which are wheeled devices typically used on beaches. For consistency with existing protected area arrangements, kite buggies and land windsurfing boards have been prescribed to be recreational craft under the Regulation, with land yachts also being added.

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.

Changes to litter provisions

Amendments to the Regulation provide for an authorised officer to give a direction to a person to remove litter from a recreation area, consistent with the *Nature Conservation (Protected Areas Management) Regulation 2017*. The definition of litter has been amended to clarify that litter includes discarded food and cold ash.

Changes to contemporise provisions

Administrative changes have been made to the Regulation to contemporise provisions. These amendments include removal of outdated hardcopy recordkeeping requirements and updated payment provisions for commercial operators and event organisers to reflect adoption of online permitting and payment systems, and changes to contemporise camping tag

requirements. Other minor changes have also been made to provide clarity or contemporise the legislation.

Schedules in the Regulation

The Regulation includes schedules to meet requirements under the *Recreation Areas Management Act 2006* and support the operation of provisions in the Regulation, as follows:

- recreation areas are listed in schedule 1, as provided for by sections 7 and 235 of the *Recreation Areas Management Act 2006* and sections 5 and 6 of the Regulation;
- schedule 2 prescribes the areas that do not require a vehicle access permit to take a motor vehicle into the area under section 109(2)(b) of the RAM Act;
- fees payable under the *Recreation Areas Management Act 2006* are listed in schedule 3, as provided for by section 50 of the Regulation, and subject to other provisions in part 9 of the Regulation. Apart from the removal of a redundant camping fee, there are no changes or increases to this schedule resulting from this review;
- a map of the Inskip and Rainbow Beach areas is shown in schedule 4, to clarify the application of a fee exemption as provided for in section 60 of the Regulation; and
- schedule 5 provides a dictionary of terms used in the Regulation, some of which have been improved for clarity.

Consistency with policy objectives of authorising law

The Regulation is consistent with the objectives of the authorising law. The main purpose of the *Recreation Areas Management Act 2006* is:

- the establishment, maintenance and use of recreation areas; and
- to provide, coordinate, integrate and improve recreational planning, recreational facilities and recreational management for recreation areas, having regard to the conservation, cultural, educational, production and recreational values of the areas, and the interests of area land-holders.

The *Recreation Areas Management Act 2006* provides that the purpose of the Act is to be achieved by a range of measures, including ensuring that the management of recreation areas and activities permitted in recreation areas in a way that is not inconsistent with the tenure of the land in the recreation area. For example, the management of a recreation area that overlays protected area tenure must be consistent with the protected area tenure.

Section 232 of the *Recreation Areas Management Act 2006* allows the Governor in Council to make regulations under the Act. Recreation areas may be declared by regulation (as outlined in section 6 of the Act) and regulations may be made about recreation area matters such as entry to, use of, and conduct in the areas, the records and information required to be kept, fees and charges that apply, and prescribing offences with a maximum penalty of a fine of up to 20 penalty units.

The Regulation allows for the effective management of recreation areas to achieve the object of the *Recreation Areas Management Act 2006* and is consistent with the regulation-making powers under the Act.

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 recreation areas are consistent with corresponding provisions under related legislation, including the *Forestry Act 1959* which applies to State forests and timber reserves, and the *Nature Conservation Act 1992* which applies to protected areas. 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 essential that the *Recreation Areas Management Regulation 2024* is made in order to support the continuation of effective management of recreation areas in Queensland.

Potential alternatives to the creation of a new *Recreation Areas Management Regulation 2024*, were considered. One such alternative considered was a ‘no-legislative intervention’ option, i.e. allowing the *Recreation Areas Management Regulation 2017* 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 recreation areas and manages these lands to maintain their commercial, recreational, and environmental values, and takes 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 recreation areas of complying with the regulations. For example, regulations for the use of vehicles in recreation areas contribute to a safer and more enjoyable experience for recreation area users and generally impose no greater requirement than what is required of drivers when operating their vehicles on roads outside of recreation 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 management responsibilities, and ongoing cost savings delivered by effective management. No new costs are introduced by the 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 is unlikely to result in significant adverse impacts. 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 interaction was identified during drafting of the Regulation and is discussed below.

Process to apply for and consider applications for written approvals

The *Recreation Areas Management Act 2006* provides for the grant of particular permits, such as a camping permit or a commercial activity permit, and generally indicates the considerations that apply when deciding whether to grant such a 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 was advised of the proposal to make the *Recreation Areas Management Regulation 2024*.

Informed by advice from the Office of Best Practice Regulation, 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 in relation on the changes the department was proposing to the recreation area, protected area and forestry regulations, in response to the issues 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 any future 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.

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

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.

Results of consultation

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 recreation 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 State forests. Such provisions have been in place for more than 30 years and have strong community acceptance.