

Nature Conservation (Protected Areas Management) (Great Sandy National Park) Amendment Regulation 2020

Explanatory notes for SL 2020 No. 34

made under the

Nature Conservation Act 1992

General Outline

Short title

Nature Conservation (Protected Areas Management) (Great Sandy National Park) 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 use has been assessed and has met the requirements under section 35(1)(b) of the Act:

- installation, operation and maintenance of a service facility (for a communications use) by Optus Mobile Pty Ltd in the Great Sandy National Park at the site described as Lot 100 in Lot 21 on NPW1150 on AP16995.

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.

The *Nature Conservation (Protected Areas Management) (Great Sandy National Park) Amendment Regulation 2020* (Amendment Regulation) will prescribe the proposed use.

Achievement of policy objectives

The 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 Great Sandy National Park at the site described as Lot 100 in Lot 21 on NPW1150 on AP16995.

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 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.

The applicant supports the amendment.

Standard notification or consultation includes addressing native title and other agencies where joint land administration arrangements occur. In this instance, native title is extinguished over the site. DES consulted with the Butchulla Aboriginal Corporation (BAC), as traditional owners, regarding the proposal at a meeting on 3 July 2019. BAC is supportive of the proposal, subject to a BAC Aboriginal Cultural Heritage Advisor being present during the foundation establishment stage.

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).