

# Nature Conservation (Protected Areas Management) (Communications Facility) Amendment Regulation 2021

Explanatory notes for SL 2021 No. 21

made under the

*Nature Conservation Act 1992*

## General Outline

### Short title

*Nature Conservation (Protected Areas Management) (Communications Facility) Amendment Regulation 2021*

### 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 Carnarvon National Park at the site identified as Authority Area over part of Lot 236 on NPW490 on QPWSAP000070.

Under the Commonwealth's Mobile Black Spot Program, Optus is seeking to expand mobile coverage in regional and remote areas of Queensland. The facility will consist of a standard six-metre shipping container, which will house communications equipment and a roof mounted satellite dish, antennae and solar panels. As the facility is to be located within an existing powerline corridor, there will be no clearing or earthworks undertaken to install the facility. Ergon Energy has been consulted and has raised no objection to the location within this powerline corridor.

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

The *Nature Conservation (Protected Areas Management) (Communications Facility) Amendment Regulation 2021* (the Amendment Regulation) will amend Schedule 3 of the *Nature Conservation (Protected Areas Management) Regulation 2017* to prescribe the proposed service facility (communications facility) as a permitted use in the relevant national park.

## **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 communications facility in Carnarvon National Park at the site identified as Authority Area over part of Lot 236 on NPW490 on QPWSAP000070.

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 area 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 an authority for the service facility, the authority will be subject to an annual rental fee in line with departmental policy. A non-monetary benefit is derived by the general public from the service facility and this is ensured when assessing the proposal against the principle of 'public interest' as required by the Act. Implementation provides further benefits to protected area management through 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; other affected stakeholders (Ergon Energy); and the traditional owners regarding native title rights and interests and cultural heritage matters (Bidjara People; Brown River People; and Karingbal People #2).

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.