

Nature Conservation (Protected Areas Management) (Toohey Forest Conservation Park) Amendment Regulation 2022

Explanatory notes for SL 2022 No. 106

made under the

Nature Conservation Act 1992

General Outline

Short title

Nature Conservation (Protected Areas Management) (Toohey Forest Conservation Park) Amendment Regulation 2022

Authorising law

Sections 31 and 175 of the *Nature Conservation Act 1992* (NCA).

Policy objectives and the reasons for them

The Toohey Forest Conservation Park consists of three small parcels of land adjacent (or nearby) a large area of bushland managed by the Brisbane City Council (BCC).

BCC and the Queensland Parks and Wildlife Service (QPWS), within the Department of Environment and Science (DES), have been in negotiations over the trusteeship of Toohey Forest Conservation Park since 2016.

Under section 31 of the NCA, the Governor in Council may place a conservation park under the management of a trustee by amending the *Nature Conservation (Protected Areas Management) Regulation 2017* (NC (PAM) Regulation). The *Nature Conservation (Protected Areas Management) (Toohey Forest Conservation Park) Amendment Regulation 2022* (Amendment Regulation) provides for this amendment.

DES supports the appointment of BCC as trustee of Toohey Forest Conservation Park as it will achieve park management efficiencies and acknowledge BCC's already existing adjoining land management responsibilities. DES considers BCC to be a suitable body to

undertake trusteeship, as BCC is an elected body responsible for the good rule and local government for Brisbane and has responsibilities under the *Local Government Act 2009*.

Conservation parks must be managed in accordance with the management principles set out in sections 15, 21, 31(3), 34 and 120 of the NCA, any approved management plan or interim management intent and sections 12 and 14 of the NC (PAM) Regulation, whilst specific management arrangements for a conservation park are set out in a management agreement between DES and the trustee.

A management agreement for Toohey Forest Conservation Park has been developed and was signed by BCC on 16 December 2021 and DES on 9 February 2022.

Achievement of policy objectives

To achieve its objectives, the Amendment Regulation will amend Schedule 1 of the NC (PAM) Regulation to establish BCC as trustee of Toohey Forest Conservation Park. The powers to be granted to BCC are outlined in the co-signed management agreement as well as those powers prescribed in Schedule 1 of the NC (PAM) Regulation. The conditions under 15, 21, 31(3), 34 and 120 of the NCA will also apply.

The Amendment Regulation will achieve its objective by requiring BCC to manage Toohey Forest Conservation Park as per the conditions detailed in the management agreement, the NCA and the NC (PAM) Regulation. The management agreement will come into effect following approval of the Amendment Regulation.

BCC will submit an annual report to QPWS on the implementation of the key responsibilities and management activities undertaken by BCC on Toohey Forest Conservation Park. QPWS will undertake auditing to review the performance of the management arrangements.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the main objectives of the NCA. It ensures the conservation of nature while allowing for the social, cultural and commercial use of protected areas in a way that is consistent with the natural and cultural and other values of the areas.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is not inconsistent with any other legislation.

Alternative ways of achieving policy objectives

The alternative option was to enter into a non-regulatory arrangement with BCC, such as a management agreement only and not appoint the BCC as trustee. QPWS rejected a non-regulatory policy option, as BCC has sought a more formal agreement with QPWS.

This arrangement would provide BCC with clear powers and conditions relating to the management of Toohey Forest Conservation Park and appointing BCC as trustees will have a positive impact on the community.

Benefits and costs of implementation

The State government will not incur additional costs in the implementation and support of appointing BCC as trustees. The trustee will be responsible for all prescribed activities and costs associated with the management of the Toohey Forest Conservation Park. The parties may agree to share costs of infrastructure and signage for specifically agreed projects. QPWS would no longer be involved in managing the park on a day-to-day basis, which would save both staffing and financial resources.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with the fundamental legislative principles, as defined in the *Legislative Standards Act 1992*.

Consultation

In the development of the management agreement, QPWS sought comment from BCC. Consultation resulted in the management agreement for Toohey Forest Conservation Park being agreed upon by both BCC and QPWS.

The traditional owners for the area were not consulted as Native Title has been determined not to exist over the Conservation Park by the Federal Court (Yugara/Yugarapul People and Turrbal People QUD6196/1998, QUD586/2011).

In accordance with *The Queensland Government Guide to Better Regulation*, the Office of Best Practice Regulation (OBPR) 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.