

Nature Conservation (Protected Areas Management) (Communications and Water Supply Uses) Amendment Regulation 2022

Explanatory notes for SL 2022 No. 179

made under the

Nature Conservation Act 1992

General Outline

Short title

Nature Conservation (Protected Areas Management) (Communications and Water Supply Uses) Amendment Regulation 2022

Authorising law

Sections 35 and 175 of the *Nature Conservation Act 1992* (the NC Act).

Policy objectives and the reasons for them

The NC Act provides instructions on how development applications to install, maintain or use infrastructure on national parks should be dealt with. The NC 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 NC 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 of the NC Act, in accordance with section 141 of the NC Act.

The following proposed uses have been assessed and have met the requirements under section 35(1)(b) of the NC Act:

1. operation and maintenance of a service facility (for a communications use) by Energex Limited within D'Aguilar National Park over part of Lot 809 on NPW751 on administrative plan QPWSAP00032; and
2. operation and maintenance of a service facility (for a water supply use) by Cairns Regional Council within Grey Peaks National Park over part of Lot 785 on AP19382 administrative plan QPWSAP000250.

Before the chief executive may grant an authority under section 35 of the NC Act for the above activities, the use and the relevant national park must be prescribed under Schedule 3 of the *Nature Conservation (Protected Areas Management) Regulation 2017* (the Regulation).

The objective of the *Nature Conservation (Protected Areas Management) (Communications and Water Supply Uses) Amendment Regulation 2022* (Amendment Regulation) is to amend Schedule 3 of the Regulation to prescribe the proposed inclusion of the proposed service facilities (communications and water supply uses) as permitted uses in the relevant national parks.

Achievement of policy objectives

To achieve its objectives, the Amendment Regulation amends:

1. Schedule 3 of the Regulation to permit the following proposed uses:
 - operation and maintenance of a service facility (for a communications use) by Energex Limited within D'Aguilar National Park over part of Lot 809 on NPW751 on administrative plan QPWSAP00032; and

- operation and maintenance of a service facility (for a water supply use) by Cairns Regional Council within Grey Peaks National Park over part of Lot 785 on AP19382 administrative plan QPWSAP000250.

This approach is reasonable and appropriate because:

- assessments have been carried out at an earlier date that meets the requirements of section 35(1)(b) of the NC Act; and
- receiving approval from the Governor in Council will meet the requirement of section 35(1)(d) of the NC Act.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the objectives of the NC Act.

Inconsistency with policy objectives of other legislation

This 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 NC 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 authorities for the service facilities, the authorities will be subject to annual fees in line with departmental policy. The revenue generated in fees will cover the cost of implementation.

A non-monetary benefit is derived by the general public from each service facility, and this is ensured when assessing each proposal against the principle of 'public interest' as required by the NC Act. Implementation provides further benefits to protected area management through the assessment process and in 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) has consulted with the applicants for the authorities.

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 consultation.

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