

Operational policy

Infrastructure and Equipment

Accessing QPWS managed protected areas under an authority

Operational policies provide a framework for consistent application and interpretation of legislation and for the management of non-legislative matters by the Department of Environment, Science and Innovation. Operational policies are not intended to be applied inflexibly in all circumstances. Individual circumstances may require a modified application of policy.

Purpose

This policy outlines when access to Queensland Parks and Wildlife Service (QPWS) managed protected areas can be granted by an authority under section 34, 35, 35A or 36 of the *Nature Conservation Act 1992* (NCA), and other aspects of access by these authority holders.

For the purpose of this policy, QPWS managed protected areas are national parks (scientific), national parks, conservation parks and resources reserves, managed by the Department of Environment, Science and Innovation (the department) under the NCA and Nature Conservation (Protected Area Management) Regulation 2017 (NCPAM Regulation). This policy does not apply to areas managed by trustees or joint managed areas.

Background

QPWS managed protected areas have been dedicated for their natural and cultural values and any activity that occurs in these areas must either be consistent with the NCA management principles of that area (see Appendix 1), or otherwise provided for under the NCA.

Roads within protected areas are either QPWS managed roads or roads under the *Land Act 1994*. QPWS managed roads (including firebreaks, service, and management roads) are part of the underlying tenure and are managed in accordance with the relevant legislation. For example, a QPWS managed road located in a national park is part of the national park and the use of the road needs to be consistent with the provisions of the NCA.

Roads under the *Land Act 1994* are roads that are dedicated, notified or declared to be a road for public use and are not part of QPWS managed protected areas. The Department of Transport and Main Roads or the relevant local government is responsible for the management and public use of these roads.

Policy statement

Access by authority holders to QPWS managed protected areas

Holders of authorities issued under section 34, 35, 35A or 36 of the NCA have a general right to access their authority area within a QPWS managed protected area under the express or implied terms of their authority. For example, the holder of an authority under section 35 of the NCA for a telecommunication tower located on a national park has a general right of access to use the QPWS managed roads within that national park to access their infrastructure.

The exception to this general right of access is where access is restricted under the NCPAM Regulation by regulatory notice (a specific type of legislative sign used for temporary or permanent closure of a QPWS managed road or area due to damage from weather events or for other management reasons) or the

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declaration of a restricted access area (which may be for public safety during or following a fire or natural disaster, or to enable the restoration or rehabilitation of an area).

A regulatory notice for a closure or declaration of a restricted access area makes it an offence for any person to enter the area without first having obtained a restricted access area permit or an authority containing the chief executive's written approval to do so (see *Operational Policy – Restricted access area permits*).

Given holders of authorities issued under section 34, 35, 35A or 36 of the NCA already have a general right of access to their authority area, a separate authority for access under section 34 of the NCA is not required. If access to their authority area is not explicitly provided for in their authority, the authority should be amended to provide for the required access arrangements instead of granting a separate authority for access under section 34 of the NCA.

New authorities issued under section 34, 35, 35A or 36 of the NCA will include access to the relevant authority area, including when access is ongoing, involves the use of heavy vehicles, interferes with public use or requires exclusive access and use of the QPWS managed road.

Construction, maintenance and upgrade works

Existing authority holders under section 34, 35, 35A or 36 of the NCA with an interest in a QPWS managed protected area, may be granted (subject to relevant assessments and where all management principles can be met for the relevant area), an authority under section 34 of the NCA (see *Guideline – Applying for an authority under sections 34, 35 or 35A of the Nature Conservation Act 1992*) to construct, maintain or upgrade and use a QPWS managed road only if it is located within the same QPWS managed protected area. Additional requirements may apply in the Wet Tropics World Heritage Area.

It is an offence to construct, maintain or upgrade a QPWS managed road in a protected area, without authorisation by the chief executive.

Use of QPWS managed protected areas to access adjoining lands

Leases, agreements, licences, permits or other authorities under the NCA or NCPAM Regulation **cannot** be granted to authorise the use of QPWS managed protected areas for the purpose of accessing adjoining lands (e.g., freehold, leasehold or other tenure), as this is not consistent with the management principles of QPWS managed protected areas nor the object of the NCA.

This applies to all owners or users of adjoining land (including parties holding a resource tenure under any of the resources Acts such as the *Mineral Resources Act 1989*, *Petroleum Act 1923* and *Petroleum and Gas (Production and Safety) Act 2004*; and other State government departments and State-owned entities) that may be seeking access through QPWS managed protected areas, either for convenience or because they may be landlocked by a QPWS managed protected area or for some other reason (e.g. where there is no legal access or no practical or constructed access).

Access easements or land access deeds **cannot** be used to authorise access through QPWS managed protected areas as they are not recognised under the NCA.

Owners or users of adjoining land seeking access through QPWS managed protected areas to their property should discuss their requirements with the department (see *Operational policy – Good neighbour policy*), noting that the department **cannot** provide a guarantee of continuous access to roads in QPWS managed protected areas and may, without prior notice, temporarily or permanently close roads due to damage from weather events or for other management reasons.

Existing authorities that have been granted for the purpose of using QPWS managed protected areas to access adjoining lands will be allowed to remain in force until expiry however **cannot** be renewed and future authorities for access in these circumstances **cannot** be granted.

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Future acquisitions to the QPWS managed protected area estate will consider and resolve access issues, like any other encumbrance on the land, prior to dedication to protected area.

Reference materials

Guideline – Applying for an authority under sections 34, 35 or 35A of the Nature Conservation Act 1992

Operational policy – Good neighbour policy

Operational policy – Restricted access area permits

Authorities

Land Act 1994

Nature Conservation Act 1992

Nature Conservation (Protected Areas Management) Regulation 2017

Human Rights Act 2019 compatibility

The department is committed to respecting, protecting and promoting human rights. Under the [Human Rights Act 2019](#), the department has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights. When acting or making a decision under this operational policy, officers must comply with that obligation (refer to [Comply with Human Rights Act](#)).

Disclaimer

While this document has been prepared with care it contains general information and does not profess to offer legal, professional or commercial advice. The Queensland Government accepts no liability for any external decisions or actions taken on the basis of this document. Persons external to the Department of Environment, Science and Innovation should satisfy themselves independently and by consulting their own professional advisors before embarking on any proposed course of action.

Approved By

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Signature

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Date

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Appendix 1 Management principles of each class of QPWS managed protected area**Management principles of national parks (scientific) (NCA s16)**

A national park (scientific) is to be managed to:

- (a) protect the area's exceptional scientific values and, in particular—
 - (i) to ensure that the processes of nature continue unaffected in the area; and
 - (ii) to protect the area's biological diversity to the greatest possible extent; and
- (b) allow controlled scientific study and monitoring of the area's natural resources.

Management principles of national parks (NCA s17)

A national park is to be managed to:

- (a) provide, to the greatest possible extent, for the permanent preservation of the area's natural condition and the protection of the area's cultural resources and values; and
- (b) present the area's cultural and natural resources and their values; and
- (c) ensure that the only use of the area is nature-based and ecologically sustainable; and
- (d) provide opportunities for educational and recreational activities in a way consistent with the area's natural and cultural resources and values; and
- (e) provide opportunities for ecotourism in a way consistent with the area's natural and cultural resources and values.

Management principles of conservation parks (NCA s21)

A conservation park is to be managed to:

- (a) conserve and present the area's cultural and natural resources and their values; and
- (b) provide for the permanent conservation of the area's natural condition to the greatest possible extent; and
- (c) provide opportunities for educational and recreational activities in a way consistent with the area's natural and cultural resources and values; and
- (d) ensure that any commercial use of the area's natural resources, including fishing and grazing, is ecologically sustainable.

Management principles of resources reserves (NCA s21A)

A resources reserve is to be managed to:

- (a) recognise and, if appropriate, protect the area's cultural and natural resources; and
- (b) provide for the controlled use of the area's cultural and natural resources; and
- (c) ensure that the area is maintained predominantly in its natural condition.

The felling of timber for a commercial purpose must not be conducted in a resources reserve.