

# Operational policy

## Natural Resource Management

### Revocation of QPWS managed areas

*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 and Science. Operational policies are not intended to be applied inflexibly in all circumstances. Individual circumstances may require a modified application of policy.*

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## **Policy subject**

When is it appropriate for QPWS&P to approve to revoke part of a QPWS managed area, and what compensation is payable.

## **Purpose**

This document outlines when QPWS&P management make a decision about the revocation of an area of national park, regional park, forest reserve, State forest and timber reserve (collectively referred to as QPWS managed areas<sup>1</sup>) may be considered, and the compensation payable for revocation actions.

## **Application of policy**

This policy applies from the date of endorsement. It does not apply retrospectively to any applications, compensation agreements or decisions made, or in place, prior to the date of endorsement or where another approach is specifically provided for.

## **Background**

Queensland Parks and Wildlife Service and Partnerships (QPWS&P) is responsible for managing approximately 12 million hectares of land on behalf of the State of Queensland. These lands include national parks, regional parks and forest reserves established under the *Nature Conservation Act 1992* (NCA), and State forests and timber reserves set aside under the *Forestry Act 1959* (FA).

The Department of Environment and Science (DES) has administrative responsibility to deliver tenure services associated with the NCA, as well as agreed responsibility to deliver tenure services associated with the FA and other general land tenure dealings on behalf of DES. DES is concurrently delivering the government's protected area estate acquisition election commitment and other ongoing tenure services, including revocations associated with the protected area estate.

National parks, regional parks and forest reserves are set aside in recognition of their high environmental and conservation values, and are managed in accordance with management principles that guide the types of activities that can occur within their boundaries.

State forests and timber reserves are set aside for the production of log timber and forest products, which include quarry material, protection of watersheds and soil as well as inherent natural and environmental attributes, and may allow for ongoing grazing, recreation and tourism.

All QPWS managed areas are preserved and managed in the public interest and, in addition to their inherent natural, environmental, cultural and social values, provide for a range of public benefits, including open space, tourism, recreation and cultural pursuits.

From time to time, requests to revoke all or part of a QPWS managed area are made.

Revocation actions may be initiated by an individual, State agency or other entity for purposes including the opening of a public road, other State government purposes (for example the creation of a rail corridor), and commercial / private purposes.

Revocation actions may also be initiated by QPWS&P to allow conversion from one QPWS tenure to another (for example from State forest to regional park), or to rectify errors in how land has been described, gazetted or used (including boundary adjustments).

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<sup>1</sup> Refer to 'Glossary of Terms' for definition of QPWS managed areas.

## **Legislation**

### *Nature Conservation Act 1992*

Section 32 and 70E of the NCA establish that the Governor in Council may, by regulation, revoke the dedication of a protected area or forest reserve, in whole or in part. The regulation may be made only if the Legislative Assembly has, on a motion of which at least 28 days' notice has been given, passed a resolution requesting the Governor in Council to make the revocation.

### *Forestry Act 1959*

The FA establishes that the Governor in Council may, by regulation, revoke the declaration of land as a State forest in whole or part. The legislative requirements for completing the revocation vary dependent on the purpose of the revocation:

1. If the future intent of the revoked area is for tourist purposes or for use as a public road, section 32 of the FA provides that the Governor in Council may, by regulation, revoke wholly or in part the setting apart and declaration of land as a State forest; or
2. If the future purpose of the revoked area is for a reason other than that described in (1) above, section 26 of the FA provides that a regulation may be made only if the Legislative Assembly has, on a motion of which at least 14 days' notice has been given, passed a resolution requesting the Governor in Council to make the revocation.

Section 28 of the FA establishes that the Governor in Council may, by regulation, revoke wholly or in part the setting apart and declaration of land as a timber reserve.

## **Scope of policy**

The policy does not apply to revocations of marine park or fish habitat areas. It does not apply to national parks and regional parks that are also Indigenous Joint Management Areas; national park (Cape York Peninsular Aboriginal Land); or State plantation forest under plantation licence.

## **Policy statement**

### **Revocation actions**

The revocation of a QPWS managed area will only be considered when it is: in the interests of the specific tenure or where there is a net conservation or forest production benefit to the QPWS managed area as a result.

The revocation of a QPWS managed area may be initiated by QPWS&P, as the owner, or a person or another entity (the applicant) submitting an application.

An application to revoke a QPWS managed area (or part thereof) should only be made as a 'last resort' option, where no appropriate alternatives exist.

Applications to revoke a QPWS managed area may be considered by QPWS&P where there is a need to revoke small areas for legitimate purposes such as:

- rectifying historic errors in how land has been described, gazetted or used, including boundary adjustments;
- providing for more effective management (e.g. connectivity and access) of the QPWS managed area;
- risk mitigation and cost savings for QPWS&P due to incompatible infrastructure, such as a rubbish dump, that generally pre-dates the dedication or declaration of the current tenure;
- to enable land exchanges that provide for better conservation outcomes;
- where there is a mutual benefit to the State and applicant;

- to enable essential public infrastructure works to be undertaken; and
- to support delivery of a specific government commitment.

Revocations for commercial purposes will only be considered where there is no other suitable alternative site and there is a clear net conservation or net forest production benefit to QPWS and / or the Queensland Department of Agriculture and Fisheries (DAF).

Generally, requests for the revocation of QPWS managed areas for private purposes will not be considered (e.g. a request by a neighbouring property owner to realign a drive way through the area for private access or conversion of a grazing lease to freehold).

Revocation of a QPWS managed area is not appropriate simply to facilitate development, activities or impacts that would otherwise be refused on the QPWS managed area or to avoid attracting an environmental offset.

### **Compensation**

The revocation of a QPWS managed area (in whole or in part) may result in the loss or reduction of the inherent natural, environmental, social or cultural values associated with the area being revoked, as well as the loss of an asset to the State and commercial attributes<sup>2</sup> of the area.

Consequently, the applicant will be required to provide compensation for the loss of land, and its inherent values, resulting from an approved revocation. This is the 'land component' of compensation for a revocation, and, unless otherwise mentioned, a reference to compensation in this document, is a reference to compensation for the 'land component'.

While this policy establishes the general position and methodology for determining compensation, the requirement for compensation, is ultimately at the discretion of the chief executive responsible for managing that specific tenure type of the QPWS managed areas on behalf of the State.

The type and amount of compensation must be agreed to by the applicant, in writing, for the revocation to proceed. Further detail on compensation types and amounts is provided in the following paragraphs.

In addition to compensation for the 'land component', the applicant will also be required to pay compensation for additional assets and third party interests that will be lost or affected as a result of the revocation. For the purposes of this policy, these are referred to as 'other compensation components' and include compensation for the loss of any QPWS&P assets on the land, such as roads or built infrastructure; to third parties with an interest in the land, such as licensees and lessees; and as may be required by DAF for commercial timber, quarry material and other forest products associated with the area of land to be revoked.

### **Methodology for calculating compensation – land component**

#### **Multipliers**

When calculating compensation, a multiplier ratio is applied to the land value or area (depending on the type of compensation) of the proposed revocation<sup>3</sup>. This accounts for the inherent and special attributes of QPWS managed areas, and the investments the State has made over time in acquiring and managing these areas.

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<sup>2</sup> For example, for QPWS managed areas under the Forestry Act, commercial attributes may include timber and quarry materials.

<sup>3</sup> The multiplier ratios are consistent with those currently endorsed and applied to resource use activities and also established in the 'Queensland Environmental Offsets Policy' (QEOP).

Multipliers are as follows:

**Table A: Protected areas under the NCA:**

Tenure type	Ratio
National park	10:1
Regional park	5:1
Regional park (resource use area)	5:1

**Table B: Other areas under the NCA and FA:**

Tenure type	Ratio
Forest reserve	5:1
State forest	5:1
Timber reserve	5:1

## Compensation options

Compensation may be provided as:

- (1) cash payment (preferred);
- (2) land-exchange; or
- (3) combination of (1) and (2).

A cash payment is the preferred means for providing compensation for a revocation. However, other types of compensation may be considered where they are in the interests of QPWS&P and provide a benefit to the State or gain in inherent attributes.

### (1) CASH PAYMENT

A cash payment is a monetary payment made to QPWS&P (the entity (land owner) responsible for managing these tenures) to compensate for the loss of QPWS managed areas and the inherent attributes of the land.

Cash payments are calculated by multiplying the land value of the area to be revoked by the applicable multiplier from Table A or B.

(For example, the ratio "10:1" indicates the compensation amount to be calculated at 10 times the land value. Likewise a compensation ratio "5:1" is calculated at 5 times the land value.)

#### Land value

Land value (the "1" in the ratio) is to be calculated using "market value" or "highest and best value" and must be determined by a qualified valuer<sup>4</sup>.

The calculated land value should not be less than DES's departmental 'Assets Register', (the "floor price") as this identifies the asset value, of the area, to the State in its current restricted value where applicable.

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<sup>4</sup> The multipliers are consistent with those established in the 'Queensland Environmental Offsets Policy' (QEOP) for protected areas. However, the land value for revocation of a QPWS managed area differs from that under the QEOP, which, for reasons particular to environmental offsets, uses the "average unimproved land value for that local government area". The land valuation methodology applied to resource activities currently varies depending on the scale and potential impact of the activity.

## **(2) LAND EXCHANGE**

A land exchange is a swap of land between the applicant or another party and the department managing these tenures.

A land exchange is only appropriate where it will result in a benefit to the State or gain in QPWS managed area attributes for that tenure type.

The land offered as compensation (the compensation land) does not necessarily need to have the same land value (per hectare dollar value) as the area of land subject to the revocation, provided the aforementioned benefit is achieved.

The compensation land must:

- achieve the ratio for the land type to be revoked (i.e. 10ha of national park to be revoked will be replaced by 100ha of equivalent quality land);
- provide attributes for that tenure type equivalent to or greater than those of the area being revoked;
- provide for similar or equivalent social attributes that may be lost through the revocation (i.e. recreational, cultural and public benefits);
- be considered complementary to the QPWS managed area being affected by the revocation;
- be owned by the applicant, unencumbered and free of any third party interests, including but not necessarily limited to mining, petroleum and gas tenements and native title interests and able to be immediately progressed to a suitable QPWS managed area tenure; and
- be supported by QPWS&P prior to accepting the land as compensation.

Financial compensation or management / maintenance arrangements for an agreed term that addresses land condition and future land management issues—such as fencing, firebreaks or pest control—thus ensuring QPWS doesn't receive a financial or resource burden<sup>5</sup>, may also be required before land can be accepted as compensation.

In addition, the applicant will be required to pay all survey, administrative and revocation costs, including any administrative fees or charges incurred by DES or other Government departments as part of the revocation process.

Any land provided in excess of the area required for the land exchange will not be considered as a credit against any other proposals to revoke.

### **Multiplier**

The ratio "10:1" indicates the compensation area to be calculated at 10 times the area of land proposed for revocation. Likewise a compensation ratio "5:1" is calculated at 5 times the area of land proposed to be revoked.

## **(3) COMBINATION OF CASH PAYMENT (1) AND LAND EXCHANGE (2)**

Where to the benefit of QPWS managed areas and agreed to by QPWS&P, compensation may be provided as a combination of land exchange and cash payment.

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<sup>5</sup> QPWS&P may also stipulate other conditions, such as pest control, rehabilitation or fencing, prior to the land being accepted as compensation.

### **Reduced compensation requirements**

Generally, waiving of compensation requirements would not be appropriate, as in addition to the loss of inherent attributes, revocation results in the complete excision of land from QPWS managed areas and, subsequently, the total loss of the potential conservation and / or commercial benefits of the land, along with the associated public interest, cultural and social attributes.

However, a reduction in compensation requirements could be appropriate in the following circumstances:

- (i) A reduced multiplier ratio may be negotiated where, as a result of previously authorised activities or infrastructure, inherent attributes usually associated with the particular tenure of the QPWS managed area have been greatly reduced or are non-existent in the location proposed for revocation and:
  - (a) the revocation is being proposed for a community benefit with a mutual benefit to QPWS; or
  - (b) the revocation will result in a significant conservation benefit and / or a significant strategic and management advantage for QPWS&P;
- (ii) A land exchange of 1:1 may be negotiated where the land offered provides significant conservation gains and / or strategic and management advantage for QPWS&P that far exceed those of the land being revoked.

Reductions in relation to (i) would not generally apply to unauthorised activities or infrastructure, and should be applied with caution to authorised activities. There is a risk of creating a perverse incentive to impact land or establish incompatible infrastructure, deliberately reducing the attributes of the land with the view to seeking a revocation in the future.

A complete waiving of compensation requirements would only be considered where revocation of an area is necessary to rectify errors (agreed to by QPWS&P) in the way land has been described, gazetted or used. For example, a boundary is misaligned.

### **Calculating compensation – other components**

Compensation for other components is calculated on a case by case basis.

The value of State owned timber and quarry assets are determined by DAF.

The value of QPWS assets and infrastructure will be determined by QPWS&P.

The value of assets owned by a third party (such as licensees and lessees) will be determined by negotiation between the applicant with any third party.

### **Glossary of terms**

**Applicant** is the person or entity (including another Government department/s, but excluding QPWS&P) who makes a formal application for revocation.

**Assets Register** is the list of the fixed assets owned by DES. The land value on this register is calculated using the current tenure status, i.e. with all restrictions / encumbrances for activities and development in place. The Assets Register value must be used as the “floor price” for compensation and is available on the SAP system or from Corporate Finance.

**Benefit to the State** means the action provides a net conservation benefit or net forest production benefit (as is applicable to the particular tenure of the land subject to the revocation proposal).

**Compensation** means the compensation amount (either cash or land) to be paid by the applicant. This does not include any statutory or additional costs that may be incurred for the revocation process to proceed.

**Department** means the Queensland Government department, current or former, with responsibility for the QPWS managed area.

**Development** means land supporting or for the purpose of supporting infrastructure, including road and rail.

**Floor price** is the lowest land value price that will be accepted for compensation. This is determined by the Assets Register.

**Land value** is the value of the land using a specific type of methodology.

**Market value** this is the highest and best land value methodology and is a reflection of what the land will become without any encumbrances and restrictions.

**Multiplier** means the ratio component that is multiplied to the value figure (as determined by using one of the methodologies above) to provide a QPWS value for that area. For example, ten times the land value (10:1) as is the case for national park tenure. If the value of the land is calculated at \$50 per hectare, when incorporating the multiplier of 10:1 the QPWS intrinsic value becomes \$500 per hectare. If the land area to be revoked is 3 hectares at a value of \$500/ha the compensation amount payable to QPWS&P is \$1500.

**QPWS managed area** includes:

- protected area tenure, including forest reserves, under the *Nature Conservation Act 1992*; and
- State forests and timber reserves under the *Forestry Act 1959*.

**Protected area tenure** (for the purpose of this policy) is further defined as any of the following classes of protected area defined under the *Nature Conservation Act 1992*:

- national park;
- regional park; and
- regional park (resource use area).

**Revoke** means repealing the dedication of all or part of the land tenure under the *Nature Conservation Act 1992* and / or repealing the declaration of all or part of the land tenure under the *Forestry Act 1959*.

## **Abbreviations**

**DAF** is the Department of Agriculture and Fisheries

**DES** is the Department of Environment and Science

**FA** is the *Forestry Act 1959*

**LGA** is a Local Government Area

**NCA** is the *Nature Conservation Act 1992*

**DES** is the Department of Environment and Science.

**QEOP** is the Queensland Environmental Offset Policy

**QPWS&P** is the Queensland Parks and Wildlife Service and Partnerships, a division of DES

## **Relevant legislation**

*Forestry Act 1959*

*Nature Conservation Act 1992*

**Human Rights Act 2019 compatibility**

The Department of Environment and Science (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 policy, officers must comply with that obligation (refer to [Comply with Human Rights Act](#) or visit <https://www.forgov.qld.gov.au/humanrights>).

**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 and Science should satisfy themselves independently and by consulting their own professional advisors before embarking on any proposed course of action.

**Approved by**

Ben Klaassen

Signature

3 October 2014

Date

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