

Operational policy

Natural Resource Management

Special management areas (controlled action) over national parks

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.

Policy subject

The use of a special management area (controlled action) (SMA) declaration over a national park.

Purpose

To outline the circumstances under which Queensland Parks and Wildlife Service will declare and manage a SMA over a national park to authorise a controlled action under the *Nature Conservation Act 1992* (NCA).

Background

The Department of Environment and Science (DES), through QPWS, ensures activities conducted on national parks adhere to management principles outlined in section 17(1) of the NCA. However, in some situations, for example after the gazettal of a new national park, it may be necessary to allow certain controlled actions via a SMA. A controlled action is defined in the NCA s17 (1A) as:

- a) the manipulation of the area's natural and cultural resources to protect or restore the area's natural or cultural values;
- b) the continuation of an existing use of the area consistent with maintaining¹ the area's natural and cultural values.

The SMA is a management layer developed to be used only where necessary and no other alternatives exist.

This policy should be read in conjunction with the *QPWS&P Procedural Guide: Declaring a special management area (controlled action) over a national park*.

Policy statement

In order to avoid the need to authorise controlled actions (as set out above), Departmental staff should be proactive in determining current land uses prior to acquiring new national park areas. This can avoid the need to use a SMA.

A SMA should only be declared in exceptional circumstances, where it is necessary to allow one or more of the following activities – **stock grazing, foliage harvesting or beekeeping**.

¹ Note: *maintaining* an area's natural and cultural values is taken to mean not allowing these values to diminish (decline).

QPWS will only declare a SMA to:

- a) allow an activity that would normally be inconsistent with the management principles of national parks but is required to **protect or restore key values**; or
- b) allow an **existing use** or activity that is consistent with maintaining the area's natural and cultural values, and where continuation of this use is required to allow for natural justice when phasing out the activity.

A SMA will only be declared to allow an activity authorised under one of the following permits under the Nature Conservation (Protected Areas Management) Regulation 2017 (NC PAM Reg):

- Stock Grazing Permit (SGP);
- Resources Permit (foliage harvesting); and
- Apiary Permit.

No other permits, leases, agreements, licences or authorities will be granted under an SMA declaration.

A SMA will not be used to allow the early gazettal of an area as national park, i.e. before existing uses have been addressed or removed.

A SMA declaration is **not** required for an activity that is:

- consistent with the management principles of the national park, for example, activities authorised under a Commercial Activity Permit (e.g. guided tours) or a Special Activity Permit (e.g. rock climbing) under the NC PAM Reg;
- inconsistent with the management principles for a protected area but can be approved under s35 or s36 of the NCA; or
- undertaken on behalf of the Chief Executive under section 173P of the NCA, for example, planned burns or pest management activities.

A SMA can only be declared over a national park, national park (Aboriginal Land), national park (Torres Strait Islander land), national park (Cape York Peninsula Aboriginal Land) or a national park that is an Indigenous joint management area, provided QPWS consults with and receives consent from the Indigenous landholder/s.

A SMA cannot be declared over a national park (scientific), conservation park, resources reserve, nature refuge, State forest, timber reserve or forest reserve.

Special management area to protect or restore key values

In situations where there is no other practical alternative, a SMA (protect or restore) can be declared to allow the manipulation of the area's natural and cultural resources to protect or restore those values. For example, as a last resort for short term grazing to reduce dangerous levels of exotic grass biomass (which has caused an unacceptable fire risk to an ecosystem).

Special management area for an existing use or activity

A SMA (existing use) can be declared to allow the phase out of an existing use, though limited to foliage harvesting and beekeeping. Authorities can be granted for an existing use, provided it was lawfully occurring immediately before the declaration of the area as a SMA.

The use must be consistent with maintaining the area's natural and cultural values. The intensity or frequency of the use cannot increase to a level greater than that of the existing lawful use (i.e. the limits set in the original authority) as this would not be consistent with maintaining the area's natural and cultural values.

A SMA (existing use) cannot allow an activity that diminishes the natural or cultural values of a national park.

Declaring a special management area (controlled action)

Only the Chief Executive of DES, has the authority, by notice to declare a SMA over a whole, or part, of a national park under section 42A of the NCA. This authority is not delegated. The declaration of a SMA commences when:

1. QPWS installs easily visible signage at entrances of the national park where the SMA will occur, stating the authorised activity and identifying the boundaries of the area; and
2. Notifications of the SMA declaration are published on the DES website and in the Government Gazette.

Signs are to be installed at the most frequently accessed public thoroughfares for the national park. The SMA declaration including sign installation and publishing in the Government Gazette must occur before activities can be authorised under the SMA.

Once the SMA is in place, an applicant can apply for the relevant permit, i.e. a SGP, resources permit (foliage harvesting) or an apiary permit. The permit application can then be assessed via the normal procedures.

Assessments and Approvals (A&A) in Permissions Management, QPWS will administer permits for foliage harvesting and beekeeping, while stock grazing is administered by the QPWS&P regions and can be authorised by the relevant Regional Director where appropriate.

QPWS will review the need to continue the SMA upon the renewal date of the activity permit.

Baseline condition – key values

SMA's are only to be used to protect, restore or maintain natural and cultural values. Therefore, a baseline condition of these natural and cultural values must be obtained at the declaration of the SMA. The condition can then be monitored to ensure the values are being protected, restored or maintained.

Stock grazing activity

QPWS will not declare a SMA (existing use) in order to allow commercial grazing under any circumstance, including expiring grazing term leases under the *Land Act 1994*.

However where there is no alternative and, with the prior approval of the Chief Executive, a SMA (protect or restore values) may be declared to allow for grazing within a national park in the following instances:

- as a biological control to protect or restore natural and cultural values impacted by buffel grass infestations in fire sensitive ecosystems; or
- to protect or restore an area from a threatening process as appropriate, provided there is an empirical scientific basis.

Upon SMA declaration, stock grazing can only be authorised via a SGP under section 12(3)(i) of the NC PAM Reg delegated to a category 3 (Regional Director) level. A SMA will not be declared unless it can be determined that grazing will protect or restore natural and cultural values of the area. The terms and conditions of the SGP will be determined through regional staff adhering to the evidence based advice provided in QPWS procedural guides or by the Ecological Assessment Unit, QPWS (for example, *Assessing the impact of QPWS&P actions on natural and cultural values, Ecological Assessment Unit, QPWS&P*). The aim will be to ensure that the activity will protect or restore the areas natural and cultural values.

Foliage harvesting activity

A SMA (existing use) may only be declared to allow for foliage harvesting on a national park until 31 December 2024, in line with the policy to cease this activity on national park. Foliage harvesting will only be authorised through a resources permit under section 12(2) of the NC PAM Reg administered by A&A.

Where the foliage harvesting was previously authorised through a sales permit under section 56 of the *Forestry Act 1959* (on a State forest, timber reserve or forest reserve) the SMA declaration must occur upon dedication of the national park. If this does not occur, the activity becomes unlawful from the day the national park is gazetted and therefore cannot be authorised by a section 36 Authority under the NCA or other means.

However, a Protected Plant Harvesting Licence may continue, under a section 36 Authority, even if the SMA declaration is not in place. Regardless of this, QPWS prefers that the SMA declaration is ready where necessary upon a new national park dedication.

Foliage harvesting operations under a SMA (existing use) are not permitted to expand or intensify (including no increase in annual volume or species harvested) as it is not consistent with maintaining the areas natural and cultural values.

Beekeeping activity

Beekeeping should only be authorised via the use of a SMA (existing use) until 31 December 2024 to be consistent with the policy to cease beekeeping on national park apiary areas. An SMA (existing use) will only be declared to allow for existing beekeeping activity within a national park that was not previously a forest reserve, and where the use cannot be authorised through other beekeeping provisions under the NCA. For tenures other than forest reserve, beekeeping can be authorised under section 36 of the NCA until a SMA (existing use) is in place.

Once a SMA (existing use) is in place, beekeeping may be authorised under an apiary permit (section 12(1)(b) of the NC PAM Reg). Operations authorised via a SMA (existing use) are not permitted to expand nor increase the number of occupied apiary sites. Similarly unoccupied apiary sites at the time of SMA declaration are not permitted to be re-established unless they are a relocation of an existing occupied site within the SMA's boundaries.

Removal of a special management area

Under section 42B of the NCA, QPWS may revoke a SMA declaration by:

1. removing the SMA declaration notice from the department's website;
2. publishing a new notice in the Government Gazette detailing the end date of the SMA declaration; and
3. removing SMA signage from the national park.

Native Title considerations

Native title rights and interests should be assumed to exist regardless of the native title claim or determination status of the area. The Queensland Government, through DNRME, has developed the *Native Title Work Procedures* (NTWP) which apply a set of modules to ensure government dealings over land, water and natural resources may proceed validly with respect to native title rights and interests under the *Native Title Act 1993* (NT Act).

The NTWP contains various guides including the *native title assessment pathway* and a decision tool for each native title module. The decision tools step through a series of questions to indicate whether or not a particular module may apply to validate a proposed dealing or activity.

DES, through QPWS, use the NTWP to assess proposed dealings over QPWS managed areas. The native title assessment is then recorded and completed using the NTWP Native Title Assessment Form (Annexure 7.1). The NTWP and the Assessment Form are available online. Please refer to the DNRME website for further information at www.dnrme.qld.gov.au.

Definitions

Existing use is defined as a lawful use made of the area or part immediately before the declaration of the area or part as a SMA – if a national park is declared and no SMA is in place then previous uses will become unlawful and cannot be later authorised by the creation of a SMA (existing use) – unless the use is authorised under s36 NCA in the interim.

Key values are the natural or cultural values being protected, restored or maintained by a SMA.

National park is an area dedicated as a prescribed national park administered under the NCA.

Protect or restore value is the process of protecting natural or cultural values or assisting the recovery of an ecosystem or habitat to its normal or original condition.

Reference materials

Legislation

Forestry Act 1959

Land Act 1994

Nature Conservation Act 1992

Nature Conservation (Protected Areas Management) Regulation 2017

Further Information

Procedural Guide: Declaring a special management area (controlled action) over a national park

Procedural Guide: Assessing the impact of QPWS&P actions on natural and cultural values

Melzer, RI, 'When is stock grazing an appropriate 'tool' for reducing Cenchrus ciliaris (buffel grass) on conservation reserves?' QPWS&P, Ecological Assessment Unit, Proc Royal Soc 120, 2015.

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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 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

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Date

Deputy Director-General
Queensland Parks and Wildlife Service and
Partnerships

Enquiries:

Major Projects and Estate Management Unit
Ph. 3199 7611
Email: QPWS.Estate@des.qld.gov.au