

Nature Conservation (Protected Areas) (Wuthathi) Amendment Regulation 2016

Explanatory notes for SL 2016 No. 243

made under the

Nature Conservation Act 1992

General Outline

Short title

This regulation may be cited as the Nature Conservation (Protected Areas) (Wuthathi) Amendment Regulation 2016 (the Amendment Regulation).

Authorising law

Section 42AA of the *Nature Conservation Act 1992* provides for the dedication of Cape York Peninsula national park as national park (Cape York Peninsula Aboriginal land). Section 42AC of the *Nature Conservation Act 1992* provides for the dedication of other land as national park (Cape York Peninsula Aboriginal land).

Policy objectives and the reasons for them

On becoming Aboriginal land, the Amendment Regulation will dedicate an area of unallocated State land and two existing national parks, as national park (Cape York Peninsula Aboriginal land) tenure.

The Queensland Government has made a commitment to resolve tenure of identified State lands and existing national parks in the Cape York Peninsula region. As part of this resolution the Government will work with Cape York people to protect Cape York's iconic natural areas and to continue arrangements for joint management of protected areas in the region with Aboriginal Traditional Owners.

Achievement of policy objectives

To achieve this objective, the Amendment Regulation will amend:

1. Schedule 2 of the *Nature Conservation (Protected Areas) Regulation 1994*. to revoke two existing national parks entirely; and

2. Schedule 4 of the *Nature Conservation (Protected Areas) Regulation 1994* to dedicate three new national parks (Cape York Peninsula Aboriginal land).

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with policy objectives of the *Nature Conservation Act 1992*, namely the conservation of nature while allowing for indigenous involvement, community use and appropriate commercial use of protected areas, as it will create new protected areas with indigenous involvement.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is consistent with the policy objectives of other legislation, including the *Aboriginal Land Act 1991*, relating to State land use and allocation.

Benefits and costs of implementation

The benefits of the Amendment Regulation are that areas representative of the biological diversity, natural and cultural features and wilderness of the State will be added to the protected area estate. This ensures that the areas are used appropriately, and provide for Aboriginal Traditional Owners to be involved in the management of the protected areas.

Implementing the Amendment Regulation will result in some additional costs to the Government. The dedication of the national parks (Cape York Peninsula Aboriginal land) will increase protected area management costs. Funding for this purpose has been allocated by the Queensland Government to the Department of National Parks, Sport and Racing.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles. It complies with relevant requirements of section 4(5) of the *Legislative Standards Act 1992*, namely it:

- a) is within the power that, under an Act or subordinate legislation (the authorising law), allows the subordinate legislation to be made;
- b) is consistent with the policy objectives of the authorising law;
- c) contains only matter appropriate to subordinate legislation;
- d) amends statutory instruments only; and
- e) allows the subdelegation of a power delegated by an Act only—
 - (i) in appropriate cases and to appropriate persons; and
 - (ii) if authorised by an Act.

Consultation

The Queensland Government has consulted with the Aboriginal people particularly concerned with the land, the Wuthathi Aboriginal Corporation, the Cape York Land Council Aboriginal Corporation, the Balkanu Cape York Development Corporation and

the Cook Shire Council in relation to creation of the protected areas. The Department of Aboriginal and Torres Strait Islander Partnerships carried out the consultation through correspondence and through meetings in Cairns, Lockhart River and on Cape York Peninsula.

All parties agreed to the proposed actions.

Consultation with the Queensland Productivity Commission was not undertaken on this occasion as a self-assessment was undertaken in accordance with the Queensland Government Guide to Better Regulation. The Amendment Regulation was assessed as falling within Agency-assessed exclusion category (g).

©The State of Queensland 2016