

Nature Conservation (Protected Areas) Amendment Regulation 2022

Explanatory notes for SL 2022 No. 126

made under the

Nature Conservation Act 1992

General Outline

Short title

Nature Conservation (Protected Areas) Amendment Regulation 2022

Authorising law

Section 42AA, 42AC, 64 and 175 of the *Nature Conservation Act 1992* (NC Act).

Policy objectives and the reasons for them

The objectives of the *Nature Conservation (Protected Areas) Amendment Regulation 2022* (Amendment Regulation) are to:

- redescribe Jardine River National Park;
- dedicate the majority of Jardine River National Park, as Apudthama National Park (Cape York Peninsula Aboriginal Land);
- dedicate nine parcels of unallocated State land as Apudthama National Park (Cape York Peninsula Aboriginal Land);
- dedicate the entirety of the existing Denham Group National Park, as Yamarrinh Wachangan Islands (Denham Group) National Park (Cape York Peninsula Aboriginal Land); and
- dedicate two unallocated State land islands as Yamarrinh Wachangan Islands (Denham Group) National Park (Cape York Peninsula Aboriginal Land).

Lot 1 on SP161893 and lots 1 to 4 on SP189913 will remain as part of Jardine River National Park and will not be transferred to national park (Cape York Peninsula Aboriginal land) (CYPAL) at this time. The reasons are that Lot 1 lies within the Torres Strait Regional Authority area and will be dealt with in the Possession Island National Park land dealing; and

Lots 1 to 4 is part of a different clan group estate and will be addressed as part of the Thayanaku (Captain Billy Landing) land dealing.

The Queensland Government has made a commitment to resolve tenure of all national parks and identified State lands 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 First Nations peoples.

Achievement of policy objectives

To achieve its objective, the Amendment Regulation amends:

1. Schedule 2: National parks of the Nature Conservation (Protected Areas) Regulation 1994 to:

- a. dedicate the entirety of the existing Denham Group National Park as Yamarrinh Wachangan Islands (Denham Group) National Park (Cape York Peninsula Aboriginal Land).
- b. redescribe Jardine River National Park as lots 1 and 2 on SP161893 and lots 1 to 4 and 26 on SP189913; and subsequently dedicate the majority of the Jardine River National Park as Apudthama National Park (Cape York Peninsula Aboriginal Land) with lot 1 on SP161893 and lots 1 to 4 on SP189913 remaining as Jardine River National Park containing an area of 117.5606 hectares.

2. Schedule 4: National parks (Cape York Peninsula Aboriginal land) of the Nature Conservation (Protected Areas) Regulation 1994 to:

- a. dedicate the majority of the existing Jardine River National Park described as lot 2 on SP161893 and lot 26 on SP189913, containing an area of 234,355.6 hectares, and unallocated State land, described as lot 1 on SP320131 and lots 3, 5, 6 and 9 to 13 on SP269684 containing an area of 84,875.4086 as Apudthama National Park (Cape York Peninsula Aboriginal Land).

In considering the area remaining Jardine River National Park, the area of Apudthama National Park (Cape York Peninsula Aboriginal Land), application of contemporary survey and mapping technology to better define the area of historic 'Deposited Plans' and adding nine parcels of unallocated State land, there is a change in the total protected area estate from about 236,875.749 hectares to 319,231.0086 hectares. This represents a nett increase in area of 82,355.2591 hectares.

- b. dedicate the entirety of the existing Denham Group National Park, described as lots 1 to 7 on SP269702, containing an area of 64.0767 hectares, and unallocated State land described as lot 7 on SP241439 and lot 14 on SP241441, containing an area of 5.82 hectares, as Yamarrinh Wachangan Islands (Denham Group) National Park (Cape York Peninsula Aboriginal Land).

In considering that the entirety of Denham Group National Park is to be dedicated as Yamarrinh Wachangan Islands (Denham Group) National Park (Cape York Peninsula Aboriginal Land), adding two parcels of unallocated State land and the application of contemporary survey and mapping technology to better define the area of historic 'Deposited Plans', there is a change in the total protected area estate from about 90.7 hectares to 69.8967 hectares. This represents a nett decrease in area of 20.8033 hectares.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the objectives of the NC Act, namely:

- the dedication and declaration of areas representative of the biological diversity, natural features and wilderness of the State as protected areas;
- the recognition of the interest of Aboriginal People and Torres Strait Islanders in the protected areas, landscapes, native flora and wildlife;
- to ensure the conservation of nature while allowing for Indigenous involvement, community use and appropriate commercial use of protected areas; and
- the Governor in Council may make regulations under the NC Act.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is not inconsistent with any other legislation.

Benefits and costs of implementation

The benefits of the Amendment Regulation are that the areas will enable joint management of the national parks between the Aboriginal Traditional Owners and Aboriginal people particularly concerned with the land and the Queensland Government. The action facilitates an opportunity for Traditional Owners to explore economic sustainability through expansion of local commercial recreation and ecotourism ventures.

Implementing the Amendment Regulation will result in some additional costs to the Queensland Government. The dedication of the national parks (CYPAL) will increase protected area management costs. Funding for this purpose has been allocated by the Queensland Government to the Department of Environment and Science (DES).

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 sub-delegation 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, in conjunction with Balkanu Cape York Development Corporation and the Cape York Land Council Aboriginal Corporation has discussed the proposal with the First Nations peoples particularly concerned with this land as well as the native title holders. The Traditional Owners understand and support that this amendment action is needed to rename and redescribe the land.

Cook Shire Council, Cape York Land Council Aboriginal Corporation and the National Native Title Tribunal were also consulted.

All parties consulted support the amendments. No further changes to the Amendment Regulation were required as a result of the consultation.

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).

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