

Nature Conservation (Protected Areas) (National Parks—Aboriginal Land) Amendment Regulation 2023

Explanatory notes for SL 2023 No. 76

made under the

Nature Conservation Act 1992

General Outline

Short title

Nature Conservation (Protected Areas) (National Parks—Aboriginal Land) Amendment Regulation 2023

Authorising law

Sections 33, 40, 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) (National Parks—Aboriginal Land) Amendment Regulation 2023* (Amendment Regulation) are to:

- redescribe Boodjamulla (Lawn Hill) National Park; and
- dedicate parts of Boodjamulla (Lawn Hill) National Park, as the new Boodjamulla National Park (Aboriginal Land).

The core aim of dedicating new or amending existing protected areas is to permanently preserve, to the greatest extent possible, the area's natural condition, to protect the area's cultural resources and values and provide for ecologically sustainable activities and ecotourism.

Under the Commonwealth *Native Title Act 1993*, on 9 December 2010, a determination was made that native title exists over an area including Boodjamulla (Lawn Hill) National Park. The Queensland Government made a commitment to resolve the Waanyi people's claim under the *Aboriginal Land Act 1991* (ALA) over the land. This Amendment Regulation is part of Tranche One of the associated Boodjamulla land dealing proposing that two parcels of

national park land become both Aboriginal freehold land under the ALA upon delivery of the deed of grant on 23 June 2023 and dedicated as national park (Aboriginal land) under the NC Act on 30 June 2023. The balance of Boodjamulla (Lawn Hill) National Park is proposed to be dedicated as Boodjamulla National Park (Aboriginal Land) by September 2025. This proposal will enable the Waanyi people's co-stewardship of protected areas. The actions also support land justice outcomes and align with the Queensland Government's commitment to Reframing Relationships and Treaty Readiness.

Achievement of policy objectives

To achieve its objectives, the Amendment Regulation amends:

1. The *Nature Conservation (Protected Areas) Regulation 1994* to:
 - a. insert a new Part 2AA National parks (Aboriginal land) to provide for the dedication and naming of the new protected area class, national parks (Aboriginal land), and enable the dedication of the first national park (Aboriginal Land) under section 40 of the NC Act.
2. Schedule 2: National parks of the *Nature Conservation (Protected Areas) Regulation 1994* to:
 - a. redescribe Boodjamulla (Lawn Hill) National Park as lot 17 on NPW627, other than lot 18 on SP326431 and lot 17 on SP326433, containing a total area of about 202,293 hectares, about 246 kilometres north-west of Mount Isa.
3. To amend the *Nature Conservation (Protected Areas) Regulation 1994* to:
 - a. insert a new Schedule 3B National parks (Aboriginal land) to provide for the naming of national parks (Aboriginal land).
4. To amend the new Schedule 3B National parks (Aboriginal land) to:
 - a. dedicate parts of Boodjamulla (Lawn Hill) National Park, described as lot 18 on SP326431 and lot 17 on SP326433, as the new Boodjamulla National Park (Aboriginal Land), containing a total area of 79,707 hectares, about 246 kilometres north-west of Mount Isa.

Note that the ALA section 284 is relevant to the management plan that will apply to the national park (Aboriginal land) after the dedication of the land and sets out steps required if transferred land or granted land is, or includes part of, a national park.

Consistency with policy objectives of authorising law

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

- the Governor in Council may make regulations under the NC Act for 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.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The benefits of the Amendment Regulation are that the areas will enable cooperative management of the national park 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 park (Aboriginal land) 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 Waanyi Native Title Aboriginal Corporation, has discussed the proposal with the First Nations peoples (the Waanyi people) 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 redescribe and dedicate the land.

A public notice was published on DES's website on 22 April 2023 regarding consultation on proposed amendments to the protected area estates and seeking views in consideration of the *Human Rights Act 2019*, including Aboriginal peoples' and Torres Strait Islander peoples' cultural rights. Nil written responses were received in the 28-day consultation period ending 20 May 2023, and the department progressed the proposals accordingly.

The National Native Title Tribunal, Carpentaria Land Council, Burke Shire Council, Mount Isa City Council, Energy Queensland and Powerlink 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).

©The State of Queensland 2023