

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

## Human Rights Certificate

### Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019*, I, Leanne Linard, Minister for the Environment and the Great Barrier Reef, Minister for Science and Minister for Multicultural Affairs provide this human rights certificate with respect to the *Nature Conservation (Protected Areas) (National Parks—Aboriginal Land) Amendment Regulation 2023* made under the *Nature Conservation Act 1992*.

In my opinion, the *Nature Conservation (Protected Areas) (National Parks—Aboriginal Land) Amendment Regulation 2023*, as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

## Overview of the Subordinate Legislation

The *Nature Conservation (Protected Areas) (National Parks—Aboriginal Land) Amendment Regulation 2023* (Amendment Regulation) is made under the *Nature Conservation Act 1992* (NC Act).

The authorising law for the Amendment Regulation is:

- Section 33 of the NC Act prescribes that the Governor in Council may, by regulation, change the class of a protected area by dedicating the area as another class of protected area and change the boundaries of a protected area.
- Section 40 of the NC Act prescribes that the Governor in Council must, by regulation, dedicate the national park land as national park (Aboriginal land) on approval of the management plan.
- Section 64 of the NC Act prescribes that the Governor in Council may, by regulation, assign a name to, or alter the name of, a protected area or aggregation of protected areas.
- Section 175 of the NC Act specifies that the Governor in Council may make regulations under this Act.

The purpose of the Amendment Regulation is to amend the protected area estate and insert Part 2AA and Schedule 3B to allow for the dedication of national parks (Aboriginal land). The Amendment Regulation amends the *Nature Conservation (Protected Areas) Regulation 1994* (the Regulation) and involves consequential amendments of a machinery nature that are consistent with the objectives of the NC Act.

The amendments include:

- redescription of Boodjamulla (Lawn Hill) National Park;
- insertion of Part 2AA and Schedule 3B to allow for the dedication of national park (Aboriginal land); and
- dedication of parts of Boodjamulla (Lawn Hill) National Park, as the new Boodjamulla National Park (Aboriginal Land).

The dedication of new or amendment of protected areas is machinery in nature. The process of selecting and approving new protected areas often involves the relinquishing of rights or interests of interested parties such as other state departments, resource companies or lease holders. Free, prior, and informed consent is required from the First Nations peoples that hold an interest in the land for the redescription of national parks to national parks (Aboriginal 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 *Aboriginal Land Act 1991* (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.

This proposal to redescribe and dedicate parts of Boodjamulla (Lawn Hill) National Park relates to an Indigenous Land Use Agreement (ILUA) to be authorised by the Native Title Parties, and the State (the parties). Waanyi Native Title Aboriginal Corporation (RNTBC) (Waanyi PBC) will lease the national park (Aboriginal land) to the State in perpetuity, pursuant to section 284 of the ALA, for the purposes of the management of the national park land under the NC Act. The lease becomes effective when the signed lease is given to the Minister before or at the time of delivery of the deed of grant in fee simple.

## Human Rights Issues

### **Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)**

The following right is engaged:

- Cultural rights – Aboriginal peoples and Torres Strait Islander peoples (section 28 of the *Human Rights Act 2019* (HR Act)).
- Property rights (section 24 of the HR Act).

Dedicating new protected areas and amending existing national parks engages section 28 of the HR Act. Cultural rights of Aboriginal people are protected and promoted through this amendment. Dedicating the new protected areas which will be jointly managed, enables a broader range of cultural practices to be undertaken on the land.

All tenure arrangements are by consent and have been agreed to by the Waanyi PBC, including the imminent transfer of land, which actively supports section 24 of the HR Act.

Implementing the Amendment Regulation goes hand in hand with agreeing to a Cooperative Management Agreement, an ILUA and Lease between the parties. Upon commencement of the Cooperative Management Agreement, the Waanyi PBC agrees that Native title for the proposed national park (Aboriginal land) will only be exercisable in accordance with the conditions as set out in the Cooperative Management Agreement. The Waanyi PBC and the State acknowledge and agree that despite anything contained or implied in this Lease, the Waanyi PBC, any person authorised by the Waanyi PBC and all Waanyi People may access the Land at any time, subject to the terms contained in the Cooperative Management Agreement. The ILUA will clearly address Future Acts.

This Amendment Regulation is consistent with the objectives of the NC Act, namely the conservation of nature, while allowing for the involvement of Aboriginal peoples in the management of protected areas in which they have an interest under Aboriginal tradition. The Amendment Regulation to convert the majority of the Boodjamulla (Lawn Hill) National Park to national park (Aboriginal land) under the NC Act protects and promotes First Nations peoples' rights and interests, including Cultural Rights under section 28 of the HR Act.

As part of the consultation process, a public notice was published on the Department of Environment and Science (DES) website on 22 April 2023 (<https://www.des.qld.gov.au/our-department/public-notices/consultation-proposed-amendments-protected-area-estates>) regarding consultation on proposed amendments to the forestry and protected area estates and seeking views in consideration of the HR Act, including Aboriginal peoples' and Torres Strait Islander peoples' cultural rights. Nil written responses were received in the 28-day consultation period, which ended 20 May 2023, and DES progressed the proposals accordingly.

### **Consideration of reasonable limitations on human rights (section 13 *Human Rights Act 2019*)**

The action/decision is being made in support of the Cultural Rights of First Nations peoples from the local area. There are no limitations on human rights.

## **Conclusion**

I consider that the *Nature Conservation (Protected Areas) (National Parks—Aboriginal Land) Amendment Regulation 2023* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

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MINISTER FOR THE ENVIRONMENT AND THE GREAT BARRIER REEF  
MINISTER FOR SCIENCE AND MINISTER FOR MULTICULTURAL AFFAIRS

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