

Nature Conservation and Other Legislation Amendment Bill 2015

Explanatory Notes

For

**Amendments to be moved during consideration in detail
by the Honourable Steven Miles MP, Minister for
Environment and Heritage Protection and Minister for
National Parks and the Great Barrier Reef**

Title of the Bill

Nature Conservation and Other Legislation Amendment Bill 2015

Objectives of the amendments

The primary objectives of the amendments are to address five recommendations and one point for clarification made by the Agriculture and Environment Committee (the committee) in its report (No. 13) on the Nature Conservation and Other Legislation Amendment Bill 2015 (the Bill), which was tabled on 5 February 2016, and to deal with associated matters.

Another objective is to continue recognising, in the object of the *Nature Conservation Act 1992*, the involvement of indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom. A number of submissions received by the committee raised concerns about removing this reference from the object of the Act. In response, the government has reconsidered the original amendment which proposed to reinstate ‘the conservation of nature’ as the sole object of the Act and decided to retain the reference to ‘the involvement of indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom’ in the object of the Act to recognise the important link between conservation and the historical role of indigenous people as stewards of the natural landscape.

Achievement of the objectives

The government will move amendments during consideration in detail to respond to the committee’s recommendations 2 to 6, and point for clarification 2, outlined below:

- Recommendation 2 – continued recognition of the involvement of indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom;

- Recommendation 3 – that the chief executive seeks the consent of the indigenous landholder of a national park (Cape York Peninsula Aboriginal land) when making a declaration of a special management area (controlled action) over the park;
- Recommendation 4 – that the management principles for a conservation park include an additional principle to reflect that these areas provide opportunities for educational and recreational activities in a way consistent with the area’s natural and cultural resources and values;
- Recommendation 5 – that the reference to national park (scientific) be removed from the definition of prescribed national park in clause 17 of the Bill so that special management areas (controlled action) cannot be declared over national parks (scientific);
- Recommendation 6 – that a legislative requirement be provided for amendments to management plans for national park (Cape York Peninsula Aboriginal land) and indigenous joint management areas to be prepared jointly with the indigenous landholder and be consistent with any indigenous land use agreement and indigenous management agreement for the areas; and
- Point for clarification 2 – to provide that, if there are no trustees for a conservation park or resources reserve, the State will be an affected person for projects on the land that require an environmental impact statement under Chapter 3 of the *Environmental Protection Act 1994*.

Alternative ways of achieving policy objectives

There are no alternative ways to achieve the policy objectives.

Estimated cost for government implementation

There are no anticipated costs to government for implementation.

Consistency with fundamental legislative principles

The amendments are consistent with fundamental legislative principles.

Consultation

The amendments respond to recommendations and observations from the committee, which in turn were informed by submissions from stakeholders. The government’s amendments are made in response to the Committee report. As such, it was not considered necessary to undertake further consultation in relation to the amendments to be moved during consideration in detail.

Consistency with legislation of other jurisdictions

The amendments are specific to the State of Queensland. Legislation of other jurisdictions adopts varying approaches for the establishment and management of protected areas.

Notes on provisions

Amendment 1 amends clause 2 of the Bill to update the provisions that will commence on assent. As further detailed below, amendment 6 will insert a new clause 27A into the Bill that will commence on assent.

Amendment 2 amends clause 4 of the Bill to retain the reference to ‘the involvement of indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom’ in the object of the *Nature Conservation Act 1992* (NCA). The resulting amendments to section 4 of the NCA will reinstate ‘the conservation of nature’ as the primary purpose of the Act while continuing to recognise the involvement of indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom.

Amendment 3 amends clause 9 of the Bill to insert a new management principle into the management principles for a conservation park. This will result in amendments to section 21 of the NCA to clarify that a conservation park, in addition to the other management principles provided in clause 9 of the Bill, is to be managed to ‘provide opportunities for educational and recreational activities in a way consistent with the area’s natural and cultural resources and values’. This replicates an existing management principle for a national park and reflects that both of these areas are available to be used for educational and recreational purposes.

Amendment 4 amends clause 17 of the Bill. This will result in amendments to section 42A of the NCA which will require the chief executive to seek the consent of the landholder of a national park (Cape York Peninsula Aboriginal land) when making a declaration of a special management area (controlled action) over the park. The current legislation allows special management areas (controlled action) to be declared over these jointly managed national parks (Cape York Peninsula Aboriginal land), however; there is no current legislative requirement to seek the consent of the indigenous landholder before doing so.

Amendment 5 amends clause 17 of the Bill to remove national parks (scientific) from the definition of ‘prescribed national park’ in section 42A of the NCA. The effect of this is that no special management areas (controlled action) will be able to be declared over national parks (scientific). Due to the reinstatement of the national park (scientific) class of protected area and its associated management principles, there will be no need to declare special management areas (controlled action) over these areas.

Amendment 6 amends clause 27 of the Bill to insert a new section 120AB into the NCA. This new section provides that amendments to management plans for national park (Cape York Peninsula Aboriginal land) and indigenous joint management areas are to be prepared jointly with the indigenous landholder and will be consistent with any indigenous land use agreement and indigenous management agreement for the areas. While the current legislation requires the preparation of new management plans to be prepared jointly and be consistent with any indigenous land use agreement and indigenous management agreement for the areas, these requirements do not apply when subsequently amending the management plans.

Amendment 7 removes the heading for Part 4 (Amendment of Environmental Protection Act 1994) from the Bill. This is a technical amendment required to support removal of clauses 36 and 37 from the Bill, as outlined in the explanation of Amendment 8 below.

Amendment 8 removes clauses 36 and 37 from the Bill. These clauses sought to amend the *Environmental Protection Act 1994* to defer the expiry of eligibility criteria prescribed for mining activities by 12 months to 31 March 2017. Subsequent to the preparation of the Bill, amendments to the Environmental Protection Regulation 2008 on 31 March 2016 have ensured that the eligibility criteria didn't 'expire' for low risk mining activities, making the Environmental Protection Act amendment proposed in Part 4 of the Bill redundant.

Amendment 9 amends schedule 1 of the Bill. Amendments are being made to section 38(2)(k)(iv) of the *Environmental Protection Act 1994* to reflect the reinstatement of the former conservation park and resources reserve classes of protected area under the *Nature Conservation Act 1992*. Conservation parks and resources reserves are managed by the State unless trustees have been appointed. Consequential amendments to the *Environmental Protection Act 1994* identify the trustees of both of these areas as an affected person for a project if an environmental impact statement is required. The proposed amendment ensures that, if there are no trustees, the State is also identified as an affected person for projects on conservation parks and resources reserves that require an environmental impact statement.