

**THE REPUBLIC OF PALAU**  
**MINISTRY OF RESOURCES AND DEVELOPMENT**  
**PROTECTED AREAS NETWORK REGULATIONS**

In accordance with the Administrative Procedure Act, 6 PNC §§ 101-161, the Ministry of Resources and Development hereby promulgates the following regulations:

**Section 1. Title:** These regulations may be cited as the “Protected Areas Network Regulations.”

**Section 2. Authority:** The following rules and regulations are promulgated pursuant to the Protected Areas Network Act, RPPL No. 6-39 and amendments thereto, codified at Title 24 PNC Chapter 34 and shall have the full force and effect of law.

**Section 3. Purpose and Scope.**

3.1 Purpose: The purpose of these regulations is to implement provisions of the Protected Areas Network Act and to thereby establish a fair and efficient system governing the designation, application, and effective operation of the Protected Areas Network system.

3.2 Definitions: In these regulations, the following definitions shall apply:

- (a) “Steering Committee” means the Protected Areas Network Steering Committee composed of representatives from relevant government agencies, NGO’s, and each of Palau’s sixteen states.
- (b) “Applicant” means the national government, state, states, or combination thereof that submits an Application for nomination of an area to be included in the Protected Areas Network.
- (c) “Application” means the Protected Areas Network Nomination Form.
- (d) “Coordinator” means a person appointed by the Minister of Resources and Development who will assist in coordinating and formulating policies necessary to implement the Protected Areas Network.
- (e) “Management Plan” means a course of action formulated and formally adopted for the supervision and guidance of a specific area deemed a protected area by the national or state government and formally approved, based on the recommendations of the Technical Committee, by Steering Committee and the Minister of Resources and Development and included in the Protected Areas Network.

- (f) “Minister” means the Minister of Resources and Development.
- (g) “MRD” means the Ministry of Resources and Development.
- (h) “PAN” means Protected Areas Network.
- (i) “PANC” A non profit Corporation that is the financial mechanism of the PAN.
- (j) “Protected Areas Network” means the network of protected areas, reserves, and refuges that have been designated by the MRD.
- (k) “Protected” means maintained, intact, preserved, conserved, or otherwise managed in a sustainable manner.
- (l) “PAN Protected Area” means an area designated through a state or national process to be protected, and recognized by the National Government through the MRD as part of the PAN.
- (m) “NGO” means non-governmental organization.
- (n) “State Government Official” means any designee of a State Government that has the explicit authority to make decisions for or to carry out State Government directives for an area nominated or designated for inclusion in the PAN.
- (o) “Technical Committee” means the Protected Areas Network Technical Committee composed of at least five (5) qualified technical specialists in the areas of social/cultural sciences, marine science, terrestrial science, and environmental science.

**Section 4. Organization and Administration.** The PAN shall be administered by the Ministry of Resources and Development in consultation with State Government Officials and the Steering Committee.

- 4.1. Minister of Resources and Development (“Minister”). The Minister shall be responsible for granting or denying an Application based on the evaluation and recommendations made by the Technical Committee. The Minister shall have the power to establish “ad hoc committees” to support the PAN in any temporary action or activity. The Minister is deemed the head official in the PAN and his or her authority will be as such.
- 4.2. Protected Areas Network Coordinator (“Coordinator”). The Protected Areas Network Coordinator (“Coordinator”) shall assist in coordinating and formulating policies and regulations necessary to implement the PAN. The Minister shall appoint the Coordinator. During the selection process and in the absence of a Coordinator, the Minister may select an interim Coordinator. The coordinator should work closely with the Steering Committee.
- 4.3. Protected Areas Network Technical Committee (“Technical Committee”). The Technical Committee shall provide technical recommendations to the Minister on Applications and

other issues related to the PAN. The Technical Committee shall make the initial evaluation of all completed Applications using the criteria set forth in Section 5.5 and submit its technical evaluations and recommendations to the Minister. The Technical Committee shall consist of at least five (5) qualified representatives of certain institutions, appointed by the Minister, but must include at least one social/cultural institution, one marine science institution, one terrestrial science institution, and one environmental NGO. The representatives shall serve three-years terms which are renewable. The rules governing the operation of the Technical Committee shall be contained in the Technical Committee's Operational Procedure Guidelines.

- 4.4. Protected Areas Network Steering Committee ("Steering Committee"). The Steering Committee shall provide additional advice to the Minister on Applications and other issues related to the PAN. The Minister shall provide the Steering Committee with a copy of the Technical Committee's evaluation. The Steering Committee shall review the Technical Committee's evaluation of an Application and thereafter submit its own evaluation of an Application directly to the Minister. The Steering Committee shall consist of representatives from relevant government agencies, each of Palau's sixteen states, and NGOs. The participating agencies and NGO's shall be selected by the Minister and shall serve two-years terms which are renewable. The rules governing the operation of the Steering Committee shall be contained in the Steering Committee's Operational Procedure Guidelines.

## **Section 5. Nomination, Assessment, and Designation Process.**

- 5.1. Actions Covered. This Section applies to the nomination, assessment, and designation of areas for inclusion in the Protected Areas Network.
- 5.2. Authority to Nominate. The National Government and States have the authority to nominate areas on their own behalf or on behalf of Applicants for inclusion in the PAN as set forth in RPPL No. 6-39.
  - (a) An Applicant may nominate, through the National Government and/or States, public land or marine areas within its borders that have been classified as refuges, protected areas, or preserves, under national, state or traditional law for inclusion in the PAN.
  - (b) An Applicant may nominate, through the National Government and/or States, private land or marine areas within its borders for inclusion in the PAN with the written consent of a private landowner(s) or titleholder(s).
- 5.3. Notwithstanding this Section, upon certification by the Minister that a site meet the criteria for protected areas as set forth in Chapter 34 of Title 24 and these regulations, a state's terrestrial or marine protected / conservation site already established before 1<sup>st</sup> December 2006 by state resolution and / or law; or established through traditional law or practices. Sites recognized by state government, and having a management plan as described in Section 6.3 and 6.4, can automatically acquire PAN site status upon the request of the

Governor, upon certification, the Minister of Resources and Development shall notify the state seeking automatic that such status has been granted.

5.4. Nomination Process. An Applicant who wishes to nominate an area for inclusion through the National Government and/or States shall first complete the Application entitled, "Protected Areas Network Nomination Form" The Nomination Form shall be available at the MRD and the PAN Office.

(a) The format of the Nomination Form may change from time to time. At a minimum, the form shall require the Applicant to provide the following information:

- I. The Applicant(s) name, address, phone number, fax (if available) and email (if available), together with the name of the person who has authority to act on behalf of the Applicant with regard to the Application; and
- ii. The Applicant shall identify whether the Application is for the national government, the national government in partnership with a state(s), an individual state, or a partnership of states; and
- iii. A description of the area, including the name(s), cadastral lot number(s), legal description, and location of the area, including a map, that is being nominated for inclusion in the PAN and whether there are any outstanding land or use disputes on the nominated area; and
- iv. If the nominated area includes public land, the Applicant shall provide proof in the form of a copy of the Certificate to Title or other documentation, acceptable to the MRD, evidencing title to the land; and
- v. If the nominated area is private land, the Applicant shall provide written consent from the private landowner or title holder and a copy of the Certificate of Title or other documentation, acceptable to the MRD, evidencing title to the land. Written consent forms shall be available at the MRD; and
- vi. The current management plan (if available) or informal management practices of the site; and
- vii. A brief statement as to why the site should be included in the PAN, including supporting documentation that the site is a recognized protected area by state, national, or traditional law; and
- viii. A brief description of any financial or technical assistance sought by Applicant; and

- ix. A brief description of how the Applicant has involved the local community(ies) in nominating the proposed site; and
  - x. The Application shall contain a sworn statement attesting that the information contained therein is true and correct to the best of the knowledge of the person signing the Application, under penalty of perjury; and
- (b) The completed Application shall be submitted to the Coordinator in the following manner:
- 1. Personal delivery to the Coordinator at the MRD; or
  - 2. Certified or registered mail, properly addressed to the Coordinator at the MRD.

The Coordinator shall date stamp the Application when it is received.

- (c) An incomplete Application shall be returned to Applicant within thirty (30) days of its receipt by the Coordinator and shall include a written letter, mailed to the Applicant by certified or registered mail identifying the reason(s) that the Application was determined incomplete. An Applicant may seek the assistance of the MRD to finalize an incomplete Application by contacting the Coordinator.
  - (d) If the Application is not returned to the Applicant within thirty (30) days of its receipt, it shall be deemed complete and will be forwarded to the Technical Committee for initial review under Section 5.4.
  - (e) An Applicant may resubmit an Application that was deemed to be incomplete until the Application is accepted as complete. However, an Application that is evaluated and denied inclusion by an Order from the Minister may not be resubmitted under this provision.
- 5.5. Technical Review of Application. A completed Application shall be sent to the Technical Committee who shall complete a thorough technical review of the Application on the basis of a set of established criteria set forth in Section 5.6 and submit such evaluation and recommendations to the Minister with a copy to the Steering Committee.
- 5.6. Selection Criteria. An Application shall be evaluated by the Technical Committee and recommendations shall be based on a comprehensive set of criteria guidelines including, but not limited to, the following general criteria categories:
- (1) Ecological criteria, such as biodiversity, critical habitats, integrity/intactness, buffering; and

- (2) Resilience criteria, resistant communities, bleaching resistant communities, representative habitats, viability, water quality, functional group representation; and
- (3) Economic criteria, such as extractive, non-extractive, eco-system services value; and
- (4) Social criteria, such as subsistence resource usage, cultural, historical, recreation, aesthetics, research, education; and
- (5) Threats, such as invasive species, existing human impacts, potential development impacts, pathogens; and
- (6) Feasibility, such as whether the area is an established protected area, has local support, has management capacity, funding, monitoring, enforcement, and partnership; and
- (7) Biogeographic significance, such as local, national, regional, and global significance.

5.6. Further Review of Application. After an Application is evaluated by the Technical Committee, it shall be reviewed by the Steering Committee. The Steering Committee shall make additional written findings and submit its further evaluation, along with the Technical Committee's evaluation, to the Minister.

5.7. Final Review and Designation. The Minister shall be responsible for granting or denying an Application based on the evaluations and recommendations of the Technical Committee and the Steering Committee. Designation shall be governed by the following rules:

- (a) Time. An Order as to whether an Application is granted or denied shall be made no later than 120 days after the submission of a completed Application. The time frame of the review process shall occur as follows:
  - (1) The Technical Committee shall submit its written recommendation to the Minister within 30 days of the submission of a completed Application.
  - (2) The Steering Committee shall thereafter issue its written recommendation to the Minister within 30 days of the Technical Committee's evaluation.
  - (3) The Minister shall make all reasonable efforts to issue an Order granting or denying an Application within 30 days of receiving a recommendation from the Steering Committee. The order shall be delivered to the Applicant by personal delivery or registered or certified mail.
- (b) Request for Additional Time. Upon a showing of good cause, the Technical Committee and/or the Steering Committee may each request a one-time 30-day

extension to complete its evaluation by submitting a written request for an extension of time to the Minister. The extension shall be automatically granted. Any extension of time requested under this section also extends the number of days in which an Order must be issued by the Minister under Section 5.7(a)(3).

- (c) Delivery of Written Notice. The Order granting or denying an Application shall be delivered personally with acknowledgment of receipt to be obtained by the signature and date of the Applicant.
- (d) Content of the Order. The Order shall include findings of facts which support the reason(s) for granting or denying the Application.
- (e) If the order is not delivered within the time frame set above, section 5.7 (a) and (b), the application shall be deemed to be granted.
- (f) Right to Contest Denial of Application. If an Applicant seeks to contest an Order of denial, the Applicant must submit written notice to the Minister, within 30 days of receipt of the Order of denial, by delivering the notice to reconsider the Application to the Minister of Resources and Development at his regular place of business. The notice shall set forth the grounds upon which the Order is contested and specify which finding of facts, if any, the Applicant disputes. The Minister shall have 15 days to reconsider the Application and give a new written Order to the Applicant by personal service or certified mail to the Applicant. An Applicant cannot seek mediation under 5.7(f) until it has received a new written Order from the Minister.
- (g) Mediation. Any dispute arising from an application to, participation in, or withdrawal from, PAN shall be handled according to the provisions set forth in Section 11.

**Section 6. Management of Designated Areas.** Each state, in consultation with the MRD, shall be responsible for the management of the areas within its borders that are designated as part of the PAN. If approved by the MRD, states may, by agreement, manage such PAN Protected Areas jointly with other states or the National Government or a combination thereof.

#### 6.1 Identification of Management Purposes and Uses.

The Management Purposes and Uses categories are to be used for classifying protected areas in the PAN. These categories have been developed to facilitate communication and information sharing, within Palau, as well as regionally and internationally. These categories should in no way be considered a driving mechanism for determining the management purposes and uses of the nominated sites. PAN Protected Areas should be established to meet objectives consistent with national and/or local goals and needs.

The Applicant and the PAN office shall work together, when finalizing the Management Plan, to identify which management purpose and use category is most appropriate for the nominated site.

- 6.1.1 Use Categories. This set of categories reflects the traditional, local, and/or national uses of a protected area.
- A. Restricted non extractive uses
    - Permission or permit required
    - Recreation and extractive uses not allowed
    - Education, monitoring and/or research with permission
  - B. Non-extractive uses
    - Permission or permit may be required
    - Recreation, education, monitoring and/or research use allowed
    - Extractive uses not allowed
  - C. Sustainable uses
    - Permission or permit may be required
    - Recreation, education, monitoring and/or research use allowed
    - Sustainable and/or subsistence extractive uses may be allowed
  - D. Others

- 6.1.2 Management Categories. This set of categories reflects IUCN's guidelines for protected area management. This set of categories is based on a single international classification system for protected areas and provides information that is comparable across countries and regions as recognized in the Convention of Biological Diversity (Decision VII/28).

**Ia. Protected area managed mainly for science**

Area of land and/or sea possessing some outstanding or representative ecosystems, geological or physiological features and/or species, available primarily for scientific research and/or environmental monitoring.

**Ib. Protected area managed mainly for wilderness protection**

Large area of unmodified or slightly modified land, and/or sea, retaining its natural character and influence, without permanent or significant habitation, which is protected and managed so as to preserve its natural condition.

**II. Protected area managed mainly for ecosystem protection and recreation**

Natural area of land and/or sea, designated to (a) protect the ecological integrity of one or more ecosystems for present and future generations, (b) exclude exploitation or occupation inimical to the purposes of designation of the area and (c) provide a foundation for spiritual, scientific, educational, recreational and visitor opportunities, all of which must be environmentally and culturally compatible.

**III. Protected area managed mainly for conservation of specific natural features**

Area containing one, or more, specific natural or natural/cultural feature which is of outstanding or unique value because of its inherent rarity, representative or aesthetic qualities or cultural significance.

**IV. Protected area managed mainly for conservation through management intervention**

Area of land and/or sea subject to active intervention for management purposes so as to ensure the maintenance of habitats and/or to meet the requirements of specific species.

**V. Protected area managed mainly for landscape/seascape conservation and recreation**

Area of land, with coast and sea as appropriate, where the interaction of people and nature over time has produced an area of distinct character with significant aesthetic, ecological and/or cultural value, and often with high biological diversity. Safeguarding the integrity of this traditional interaction is vital to the protection, maintenance and evolution of such an area.

**VI Protected area managed mainly for the sustainable use of natural ecosystem**

Area containing predominantly unmodified natural systems, managed to ensure long term protection and maintenance of biological diversity, while providing at the same time a sustainable flow of natural products and services to meet community needs.

6.1.3. The classification system is represented visually in the following Management Matrix chart:

<b>MANAGEMENT MATRIX</b>	<b>A. Restricted non extractive uses</b>	<b>B. Non- extractive uses</b>	<b>C. Sustainable uses</b>	<b>D. Others</b>
Ia Protected area managed mainly for science	Ia-A	n.a.	n.a.	Ia-D
Ib Protected area managed mainly for wilderness protection	Ib-A	Ib-B	n.a.	Ib-D
II Protected area managed mainly for ecosystem protection and recreation	II-A	II-B	II-C	II-D
III Protected area managed mainly for conservation of specific natural features	III-A	III-B	III-C	III-D
IV Protected area managed mainly for conservation through management intervention	IV-A	IV-B	IV-C	IV-D
V Protected area managed mainly for landscape/seascape conservation and recreation	V-A	V-B	V-C	V-D
VI Protected area managed mainly for the sustainable use of natural ecosystems	VI-A	VI-B	VI-C	VI-D

6.2 Standardized Environmental Monitoring Protocols. The Minister shall develop standard environmental monitoring guidelines and protocols which shall be available at the MRD.

6.3 Management Plans. Applicants shall develop management plans for areas designated as part of the PAN, in conjunction with MRD, within twelve (12) months after designation. Conservation Areas formally established before Dec 1, 2006 with an existing management plan can submit a nomination for incorporation into PAN directly to the Minister. Within 30 days of submission of nomination the Minister shall review and seek the advice from the Technical and Steering Committee to ensure the management plan compliance with the Chapter 34 or title 24 of the PNC. If the management plan is not in compliance, the

Minister shall work with the state government(s) to ensure the management plan is in compliance.

6.4 At a minimum, Management Plan shall include the following information:

- (1) General information about the designated protected area, including biological, ecological, socio-economic, cultural, and historical information;
- (2) Goals and objectives of the area including restricted and allowable uses;
- (3) Key factors to measure ( Targets, threats, human population, livelihood, governance, strategies and practitioners)
- (4) Management policies
- (5) Surveillance Monitoring
- (6) Awareness, Education and Interpretation
- (7) Enforcement
- (8) Maintenance and Administration
- (9) Procedures for reviewing and updating the plan
- (10) Conflict resolution
- (11) Relationship between different stakeholder (if any) in the agreement
- (12) A time bound strategic plan;
- (13) Day to day operational procedures;
- (14) Standardized environmental monitoring protocols to be used; and
- (15) The role of the protected area within the network.

#### **Section 7. Ongoing Inclusion in the PAN.**

7.1 Inclusion. Upon acceptance all PAN Protected Areas shall remain and be perpetually included in the membership of the PAN for its duration, except as provided in Section 8.

#### **Section 8. Withdrawal from the PAN.**

- 8.1 Minister and PAN Request Withdrawal. Upon a showing of good cause, the Minister, after consultation with the Technical Committee and the Steering Committee, may propose that a PAN Protected Area be removed from the PAN or impose reasonable conditions for such area's continued inclusion in the PAN. Good cause shall include, among other things, that the area no longer satisfies the criteria, is not being managed in accordance with any applicable Management Plan, or that it's continued inclusion is for other stated reasons not in the best interests of the PAN. The Minister shall give written notice to all Applicants who nominated the protected area subject to removal.
- 8.2 Member Requests Withdrawal. Upon the provision of 30 days written notice, a site may withdraw an area within its borders from the PAN. Prior to withdrawal, unexpended funds from the PAN to the state must be reimbursed to the PAN and identified equipment and property funded by the PAN returned to the PAN, if so requested in writing , by the PAN.
- 8.3 Mediation. Any dispute arising from an application to, participation in, or withdrawal from, PAN shall be handled according to the provisions set forth in Section 11.

**Section 9. Monitoring and Reporting Requirements.** The MRD shall collect information and establish record keeping, monitoring and reporting requirements as to the PAN.

- 9.1 Recordkeeping: An Applicant shall be responsible for all record keeping related to their designated PAN Protected Area(s) and shall provide a copy of such records to the MRD each year. The MRD shall be responsible for all record keeping related to the PAN and shall compile a report that shall be distributed every year to each member of the PAN, the President of the Republic of Palau, and the Olbiil Era Kelulau.
- 9.2 Monitoring. The Minister or his or her designee shall keep records of and monitor the finances of the PAN. The Minister or his or her designee shall audit the finances of the PAN yearly and shall ensure that an audit report is submitted to the Office of the President, OEK, and the PAN Steering Committee within 30 days of the completion of the annual audits.
- 9.3 Reporting Requirements. Any failure to adequately compile specified reports may result in the loss of funding and finally result in the withdrawal from the PAN (section 8.1 of these regulations).

**Section 10. Technical Assistance, Funding, Disbursements.**

- 10.1. Technical Assistance and Funding. The MRD shall provide technical assistance for the management of protected areas including, but not limited to, assistance in surveying, developing site preservation plans, identifying and establishing sustainable use practices, conducting scientific investigations, and educating the public about preservation and PAN Protected Areas. An Applicant who wishes to receive technical assistance shall complete a Technical Assistance Request Form from the PAN Office and submit the

completed form to the PAN Coordinator. An Applicant who wishes to receive financial support shall complete a Financial Support Request Form and submit the completed form to the PAN Coordinator.

**Section 11. Dispute Resolution.** All grievances or claims or appeals (hereinafter “disputes”) shall be brought and heard solely according to the provisions in this Section. Failure to follow the provisions of this Section shall result in the waiver of any dispute.

Mediation.

- (a) Any party to a dispute shall first attempt to resolve the dispute by good faith negotiation.
- (b) All disputes that shall not be resolved by good faith negotiation shall be submitted to mediation.
- (c) Any request for mediation shall be submitted in writing to the Minister and served on all interested parties within 30 days of receiving a final Order or within 30 days of receiving notice regarding a decision, event, or act, giving rise to the dispute to be mediated. The request for mediation shall set forth the nature of the dispute and remedy sought.
- (d) Within 15 days of receiving a request for mediation, the Minister shall instruct the parties to the mediation to select a mediator. If the parties are unable to agree on a mediator within 7 calendar days, then the parties shall each nominate a person and the nominees will agree on a mediator within 7 calendar days. The Minister shall immediately be informed of the person(s) nominated and the mediator selected. In the event that this process does not result in the selection of a mediator within 45 days of the Minister’s receipt of a request for mediation, then the Minister shall ask the Chief Justice to appoint a mediator who shall be a member of the Palau Bar.
- (e) The mediator shall set a date for mediation to take place within 30 days of the mediator being selected or appointed.
- (f) A party may choose to be represented by legal or other counsel.
- (g) The mediator shall control the time and management of the mediation, and shall keep a tape or electronic recording of the proceedings.
- (h) Within 10 days of the conclusion of the mediation, the mediator shall prepare a summary of the dispute and proceedings, and shall serve the summary on the Minister and all parties to the dispute. The mediator shall also include recommendations for settling the dispute in the written summary.
- (I) The parties shall evenly share the mediator's fees and expenses.

