

Forestry and Other Legislation Amendment Regulation 2020

Explanatory notes for SL 2020 No. 195

made under the

Forestry Act 1959

Nature Conservation Act 1992

General Outline

Short title

Forestry and Other Legislation Amendment Regulation 2020

Authorising law

Sections 25, 32 and 97 of the *Forestry Act 1959* (Forestry Act)

Sections 29, 30, 32, 33, 43D, 47, 50, 64, 65 and 175 of the *Nature Conservation Act 1992* (NC Act).

Policy objectives and the reasons for them

The policy objectives of the *Forestry and Other Legislation Amendment Regulation 2020* (Amendment Regulation) are to:

- increase the area of the State forest estate to allow for the reservation of the land for producing timber and associated products;
- increase the area of the protected area estate to allow for the conservation of nature while allowing for the involvement of Indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom;
- to allow for the revocation of parts of the forest and protected area estate to allow for essential uses that are inconsistent with protected area and forestry tenure, such as road infrastructure; and
- to redescribe several protected area and forest boundaries due to the completion of new plans using updated spatial technology; and, to also correct an error in the *Forestry (State Forests) Regulation 1987*.

The core aim of declaring additional areas of State forest is to permanently reserve such areas for the purpose of producing timber and associated products in perpetuity. The Amendment Regulation provides for the addition of land to two existing State forests.

The core aim of dedicating new protected areas, amending existing protected areas, upgrading forests to protected areas, or changing the class of an existing protected area to a higher class of protected area, 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. The Amendment Regulation provides for the addition of land to six existing national parks; the change in class of part of one timber reserve and part of one resource reserve to national park; and, the change of class of the entirety of one resources reserve to conservation park.

Section 29 of the NC Act stipulates that land must be 'State land' in order for it to be dedicated as protected area. Other than a few exceptions, such as State forests or timber reserves, the land must be unallocated State land (USL) prior to its addition to the protected area estate.

In the context of the Amendment Regulation, all USL is in the name of the Department of Environment and Science (as registered owner) and is already being managed by the Queensland Parks and Wildlife Service (QPWS). As these areas are now free of encumbrances and interests inconsistent with protected areas, the Amendment Regulation will change the tenure, giving the head of power under the NC Act to QPWS to effectively manage these lands for conservation, as per the original intent.

The upgrade of part of Monkhouse Timber Reserve to add it to the existing Ngalba Bulal National Park is part of the proposed transition of the entire national park to national park (Cape York Peninsula Aboriginal land) tenure, formalising joint management of the area. An Indigenous Land Use Agreement (ILUA) will authorise this proposed future action.

There is occasionally the need to revoke the setting apart and declaration of areas from the forestry or protected area estate to allow for the upgrade or expansion of public infrastructure such as roads and railways or to recognise native title rights and interests and traditional laws and customs of Aboriginal and Torres Strait Islander people.

The Amendment Regulation will revoke:

- part of Monkhouse Timber Reserve to allow for dedication of the area as part of Ngalba Bulal National Park, in recognition of traditional owner connection to land and culture in accordance with the Eastern Kuku Yalanji National Parks Land Transfer ILUA, and subsequently redescribe the Timber Reserve using contemporary survey and mapping technology and standards;
- part of Kondalilla National Park to allow for the upgrade of Flaxton Mill Road to a sealed road and resolve five minor encroachments into the national park, improving road safety for users and reducing the impact of dust upon the adjoining national park;
- part of Duggan Conservation Park to allow for the upgrade of Boundary and Denman's Camp Roads to increase the capacity of the transport corridor to meet future requirements for the city of Hervey Bay, and subsequently redescribe the conservation park using contemporary survey and mapping technology and standards; and

- the declaration for Pullen Pullen Reserve Nature Refuge under section 50 of the NC Act and thereby simultaneously terminate the conservation agreement pursuant to section 47(1)(b) of the NC Act, allowing for the declaration of Pullen Pullen Special Wildlife Reserve under section 43D of the NC Act.

Amendments to incorporate special wildlife reserves are required following the creation of the new class of protected area in 2019 through the *Nature Conservation (Special Wildlife Reserves) and Other Legislation Amendment Act 2019*.

Special wildlife reserves are a new class of voluntary, privately managed protected area that provide a higher level of protection than the existing nature refuge class of protected area, in recognition of exceptional natural and cultural resources and values present on the land. The special wildlife reserves class of protected area provides increased protection from incompatible land uses, similar to that of a national park, and requires the landholder to manage the land to a correspondingly high level, consistent with the management principles outlined in section 21B of the NC Act.

The declaration of Pullen Pullen Special Wildlife Reserve will create the first special wildlife reserve. The land that forms the proposed Pullen Pullen Special Wildlife Reserve is currently declared as a nature refuge under the NC Act. The land contains exceptional natural and cultural values that warrant increased protection from land uses incompatible with the conservation of nature, such as mining and cattle grazing. The primary objective of this proposal is to provide the required level of protection necessary to achieve this.

Completing new Administrative Plans that define the boundaries of timber reserve, State forests or protected areas using contemporary survey and mapping standards, and correcting administrative errors within the regulation, such as miscalculations of the area of a national park, ensures the accuracy and transparency of the forestry and protected area reporting system. The Amendment Regulation provides for corrections of previous administrative error relating to the area description of one State forest, and the redescription of one timber reserve, one national park, two conservation parks and one resources reserve.

Achievement of policy objectives

To achieve its objectives, the Amendment Regulation inserts a new part 2B Special wildlife reserves into the *Nature Conservation (Protected Areas) Regulation 1994* to provide for the declaration and naming of the new protected area class, Special wildlife reserves. Additionally, the Amendment Regulation inserts a new schedule 4B Special wildlife reserves into the *Nature Conservation (Protected Areas) Regulation 1994* to incorporate declarations of the special wildlife reserve class of protected area.

To achieve its remaining objectives, the Amendment Regulation amends:

1. Schedule 1: Timber reserves of the *Forestry Regulation 2015* to:
 - a. redescribe the entirety of Monkhouse Timber Reserve as lots 1 and 165 on AP23568, containing an area of about 1,105.3 hectares, about 50 kilometres south of Cooktown, using contemporary survey and mapping technology and standards; and subsequently revoke the setting apart and declaration of part of the timber reserve, to be described as lot 1 on AP23568 containing an area of about

9.9 hectares, for dedication as part of Ngalba Bulal National Park in recognition of traditional owner connection to land and culture in accordance with the Eastern Kuku Yalanji National Parks Land Transfer IILUA. The new total area of the timber reserve after the revocation will be about 1,095.4 hectares.

2. Schedule: State forests of the *Forestry (State Forests) Regulation 1987* to:
 - a. declare an area of USL described as lot 128 on plan CI1975, containing an area of about 1.6187 hectares, as part of the existing Cathu State Forest, about 53 kilometres north-west of Mackay, and correct the previous erroneous rounding of the State forest area by 0.3 hectares. The new total area of the State forest will be about 11,367.9187 hectares. The parcel added to the State forest was a term lease surrendered to Department of Natural Resources, Mines and Energy (DNRME) and subsequently transferred to the Department of Environment and Science (DES) to consolidate the state forest boundary and facilitate improved management of the area;
 - b. declare an area of USL described as lot 8 on plan WG167, containing an area of about 3.1667 hectares, as part of the existing Paluma State Forest, about 36 kilometres south of Ingham. The new total area of the State forest will be about 8,115.1667 hectares. The parcel added to the State forest was a lease surrendered to DNRME and subsequently transferred to the DES to consolidate the State forest boundary and facilitate improved management of the area.

3. Schedule 2: National parks of the *Nature Conservation (Protected Areas) Regulation 1994* to:
 - a. dedicate an area of USL described as lot 1 on plan USL38600, containing an area of about 145 hectares, as part of the existing Bowling Green Bay National Park, about 44 kilometres south-east of Townsville. This dedication will consolidate the national park boundary and facilitate improved management of the area;
 - b. dedicate an area of USL described as lot 322 on SP137724, containing an area of about 30.57 hectares, as part of the existing Conway National Park, about 22km north-east of Proserpine. This dedication is the outcome of conditions stipulated by the Whitsunday Regional Council on a development proposal;
 - c. dedicate an area of USL described as lots 1 to 3, 68, 72 to 75, 93, 94, 122 to 131, 134, 137, 138 and 140 on D1141, containing an area of about 12.9314 hectares, as part of the existing Dalrymple National Park, about 34 kilometres north-west of Charters Towers. This dedication is the outcome of an USL transfer request to DNRME that will consolidate the national park boundary and facilitate improved management of the area;
 - d. dedicate an area of USL described as lot 6 on SP315884, containing an area of about 56.49 hectares, as part of the existing Girringun National Park, about 153 kilometres north-west of Townsville. This dedication is the outcome of a compensation agreement between Powerlink and DES;
 - e. dedicate an area of USL described as lot 2 on SP317276, containing an area of 30.7862 hectares, as part of the existing Great Sandy National Park, about 122 kilometres north of Brisbane. This parcel was acquired by DES with funds provided by the both Noosa Shire Council, using funding from its Environment Levy, and the Australian Government, using the National Reserve System funding scheme, on the condition that it was dedicated as an addition to Great Sandy National Park;

- f. dedicate an area of USL described as lot 1 on SP316341, containing an area of about 4.16 hectares, as part of the existing Hinchinbrook Island National Park, about 23 kilometres north-east of Cardwell. This dedication is an outcome of the closure of a road at the request of DES to expand the protected area estate and consolidate the national park boundary;
 - g. change the class of part of Homevale Resources Reserve, described as lot 1000 on plan NPW566 (sheet 2), containing an area of about 5,821.64 hectares, by dedicating the area as national park and amalgamating the area with the existing Homevale National Park, about 73 kilometres south-west of Mackay; and redescribe the entirety of Homevale National Park as lot 1 on AP23633, containing an area of about 42,039.396 hectares, using contemporary survey and mapping technology and standards (with a decrease in the area of about 162.794 hectares). The total increase in area after the addition and redescription is about 5,658.846 hectares. The cessation of mining interests over this part of the resources reserve allows the upgrade to national park, providing a higher level of protection;
 - h. revoke part of Kondalilla National Park, to be described as lots 1 to 5 on SP305105, containing an area of 0.1529 hectares, about 10 kilometres north of Maleny, to allow for the sealing of Flaxton Mill Road and resolution of five minor encroachments into the national park, improving road safety for users and the impacts of dust from traffic into the adjacent national park;
 - i. dedicate as part of Ngalba Bulal National Park an area previously part of Monkhouse Timber Reserve, to be described as lot 1 on AP23568 containing an area of about 9.9 hectares, about 50 kilometres south of Cooktown, in recognition of traditional owner connection to land and culture in accordance with the Eastern Kuku Yalanji National Parks Land Transfer ILUA.
4. Schedule 3: Conservation parks of the *Nature Conservation (Protected Areas) Regulation 1994* to:
- a. change the class of Belmah Resources Reserve described as lot 6 on plan DSN808887, containing an area of 2,046.007 hectares, by dedicating the area as the new Belmah Conservation Park, about 9 kilometres east of Emerald. The cessation of mining interests over this part of the resources reserve allows the upgrade of these parcels to conservation park, providing a higher level of protection for this National Reserve System acquisition;
 - b. redescribe the entirety of Duggan Conservation Park as lots 1 and 2 on SP314659 containing an area of about 6.9549 hectares, about 1.5 kilometres south-east of Hervey Bay, using contemporary survey and mapping technology and standards resulting in a decrease in area of 0.0001 hectares; and subsequently revoke lot 1 on SP314659 containing an area of 0.6849 hectares, to allow for road upgrades to Boundary and Denman's Camp Roads to increase the capacity of the transport corridor for the increasing demand of Hervey Bay residents into the future (resulting in a decrease in area of 0.685 hectares);
 - c. redescribe the entirety of Homevale Conservation Park as lot 3 on AP23633, containing an area of about 18.019 hectares, about 73 kilometres south-west of Mackay, using contemporary survey and mapping technology and standards (resulting in a decrease of 1.431 hectares).

5. Schedule 3A Resources reserves of the *Nature Conservation (Protected Areas) Regulation 1994* to:
- a. change the class of the entirety of Belmah Resources Reserve, described as lot 6 on plan DSN808887, containing an area of about 2,046.007 hectares, about 9 kilometres east of Emerald, to allow it to be dedicated as the new Belmah Conservation Park; and
 - b. change the class of part of Homevale Resources Reserve, described as lot 1000 on plan NPW566 (sheet 2), containing an area of about 5,821.64 hectares, by dedicating it as part of the existing Homevale National Park, about 73 kilometres south-west of Mackay; and redescribe the entirety of Homevale Resources Reserve as lot 2 on AP23633 using contemporary survey and mapping technology and standards (resulting in an increase in area of 151.033 hectares.. Therefore, the total decrease in area is about 5,670.607 hectares.
6. Schedule 4B: Special wildlife reserves of the *Nature Conservation (Protected Areas) Regulation 1994* to:
- a. declare an area of about 56,391.61 hectares as Pullen Pullen Special Wildlife Reserve, described as the part of lot 2 on SP277388, containing an area of about 56,391.61 hectares, shown on plan PA10001, about 260 kilometres west of Longreach. An executed conservation agreement is in force for this area of land and it is now required under legislation to be declared as a special wildlife reserve in the *Nature Conservation (Protected Areas) Regulation 1994*. A change to the boundary and decrease of 7.07 hectares in the total area of the originally declared Pullen Pullen Reserve Nature Refuge was required, as part of the revocation and dedication as special wildlife reserve, to remove a quarry area following consultation with Department of Agriculture and Fisheries.
7. Schedule 5 Nature refuges of the *Nature Conservation (Protected Areas) Regulation 1994* to:
- a. revoke Pullen Pullen Reserve Nature Refuge, described as the part of lot 2 on SP277388, containing an area of about 56,398.68 hectares, shown on plan PA1015, to allow most of the area to be declared as the new Pullen Pullen Special Wildlife Reserve, about 260 kilometres west of Longreach. The conservation agreement for Pullen Pullen Reserve Nature Refuge is terminated by this revocation in accordance with section 47(1)(b) of the NC Act and with approval of the Minister for Environment and the Great Barrier Reef, Minister for Science and Minister for the Arts.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the objectives of the Forestry Act and NC Act.

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

State forests and timber reserves provide timber production and associated products which have economic value and positive benefits to society. Adding areas of State land which have been assessed as having considerable timber or quarry production value to State forests and timber reserves, allows for this land to be utilised for timber production and other forest product purposes for use in construction and other industries.

Protected areas provide conservation and ecosystem services which have indirect economic value and positive benefits to society. Protected areas also provide special places for recreation and tourism activities and are often places of important cultural and spiritual significance for Traditional Owners. Adding areas of State land which have been assessed as having a land use most consistent with conservation to protected areas, allows for this land to be preserved in perpetuity for the benefit of the community.

The revocation of part of Monkhouse Timber Reserve and dedication of it as part of Nglaba Bulal National Park will allow for the recognition of the rights and interests of Traditional Owners and contributes towards the involvement of Aboriginal people in the management of protected areas.

The revoked area of Kondalilla National Park is in the public interest and does not have any significant impacts on the conservation values of the protected area estate.

The revoked area of Duggan Conservation Park is in the public interest as it services the increasing demand of road users for the city of Hervey Bay.

The revocation of Pullen Pullen Nature Refuge will allow for the first declaration of Pullen Pullen Special Wildlife Reserve.

Costs relating to DES's administration and ongoing management of associated areas are met through existing annual budget allocations.

Consistency with fundamental legislative principles

The Amendment Regulation has been drafted with regard to, and is consistent with, the fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*.

Consultation

Stakeholders that currently have, or are likely to have, an interest in the proposal area have been consulted such as Winton Shire Council, Queensland Rail Limited, Energy Queensland and Powerlink Queensland. Feedback from stakeholders consulted about the Amendment Regulation was generally positive.

The Monkhouse Timber Reserve, Kondalilla National Park and Duggan Conservation Park amendment proposals were tabled in the Legislative Assembly of Queensland on 18 March 2020 in accordance with sections 30 and 32 of the NC Act. The Legislative Assembly subsequently passed a resolution on 19 May 2020 requesting the Governor in Council revoke

the areas. These proposals were advertised in the Cairns Post, Sunshine Coast Daily, Fraser Coast Chronicle and The Courier-Mail on 25 March 2020 in accordance with section 173Q of the NC Act which requires the proposals to be advertised within 10 days after the notice of motion for the revocations is given in the Legislative Assembly.

In relation to the proposed Monkhouse Timber Reserve amendment, the State of Queensland has negotiated with the Eastern Kuku Yalanji people and their representatives for the revocation of the timber reserve and subsequent upgrade to national park as part of the Eastern Kuku Yalanji National Parks Land Transfer ILUA. The Eastern Kuku Yalanji people are supportive of this proposal.

In relation to special wildlife reserves, this is a voluntary class of protected area, and as such the landholders have been closely involved in the development of the conservation agreement for the proposed Pullen Pullen Special Wildlife Reserve.

Interested parties consulted under section 43A and 43B of the NC Act included a financial institution and parties to an ILUA. Responses and consent have been received from consulted parties where relevant.

In accordance with *The Queensland Government Guide to Better Regulation* (the Guide), the Office of Best Practice Regulation (OBPR) was consulted on the proposal to declare the Pullen Pullen Special Wildlife Reserve. DES submitted a Preliminary Impact Assessment for this proposal. OBPR considered the proposal for Pullen Pullen Special Wildlife Reserve and determined that it is not likely to result in significant adverse impacts and further assessment under the Guide is not required.

OBPR was not consulted in relation to the remaining regulatory proposals. DES applied a self-assessable exclusion from undertaking further regulatory impact analysis (Category a – regulatory proposals that make consequential amendments and Category g – regulatory proposals that are of a machinery nature).