

Forestry (State Forests) and Other Legislation Amendment Regulation (No. 4) 2022

Explanatory notes for SL 2022 No. 192

made under the

Forestry Act 1959

Nature Conservation Act 1992

General Outline

Short title

Forestry (State Forests) and Other Legislation Amendment Regulation (No. 4) 2022

Authorising law

Sections 26, 32, 32A and 97 of the *Forestry Act 1959* (Forestry Act)

Sections 29, 30, 32, 33 and 175 of the *Nature Conservation Act 1992* (NC Act).

Policy objectives and the reasons for them

The objectives of the *Forestry (State Forests) and Other Legislation Amendment Regulation (No. 4) 2022* (Amendment Regulation) are to:

- revoke the declaration of parts of one State plantation forest;
- revoke parts of three State forests;
- redescribe and subsequently revoke parts of one State forest and dedicate the area as part of an existing national park;
- redescribe parts of one national park;
- redescribe part of and subsequently change the class of part of one national park and dedicate the area as part of an existing resources reserve; and
- revoke parts of two national parks.

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, and there is also the occasional need to revoke parts of protected areas and State forests to allow for essential uses that are inconsistent with these tenures. The Amendment Regulation will revoke parts of one State forest for addition to an existing national park and change the class of part of one national park for the dedication of these areas as additions to an existing resources reserve, to facilitate assessment of geotechnical investigations for a public interest project. Additionally, this Amendment Regulation also proposes to revoke parts of two national parks and revoke parts of three State forests for the purposes of road, rail, and other commercial activities.

A revocation of an area from the protected area or forestry estates does not fetter any assessment processes or guarantee approval of proposed activities following a change in tenure.

Achievement of policy objectives

To achieve its objective, the Amendment Regulation amends:

1. Schedule 2: State plantation forests of the *Forestry Regulation 2015* to:
 - a. revoke the declaration of parts of the State plantation forest designation on Beerburrum East State Forest, described as lots L, U and W on PLP0611.
2. Schedule 2: State forests of the *Forestry (State Forests) Regulation 1987* to:
 - a. revoke the setting apart and declaration of parts of Beerburrum East State Forest described as part of lot 1 on AP23631 (to be described as lots 100 to 104 on SP328637), containing an area of 12.779 hectares, about 55 kilometres north of Brisbane, to allow for the Beerburrum to Nambour Rail Upgrade Project – Stage 1. The revocation consists of about 10.055 hectares for the rail project and about 2.724 hectares for road purposes. The remaining area of the State forest will be about 12,758.3772 hectares;
 - b. revoke the setting apart and declaration of parts of Beerburrum West State Forest described as part of lot 589 on FTY1876 (to be described as lot 100 on SP326158 and lots 101 and 102 on SP329108), containing an area of 21.8686 hectares, about 59 kilometres north of Brisbane, to allow for the Beerburrum to Nambour Rail Upgrade Project – Stage 1. The revocation consists of about 19.5918 hectares for the rail project and about 2.2768 hectares for road purposes. The remaining area of the State forest will be about 9,247.1314 hectares;
 - c. redescribe the entirety of Oakview State Forest as lots 216, 217 and 220 to 223 on AP23760, about 35 kilometres west of Gympie, using contemporary survey and mapping technology and standards; and subsequently, revoke the setting apart and declaration of parts of Oakview State Forest described as lots 216 and 217 on AP23760, containing an area of about 92.13 hectares, for dedication as part of the existing Oakview National Park, to protect the area's significant conservation values. The remaining area of the State forest will be about 1,008.401 hectares; and
 - d. revoke the setting apart and declaration of parts of Watalgan State Forest described as part of lot 898 on plan FTY1919 (to be described as lots 1 to 3 on SP327961), containing an area of 18.2619 hectares, about 36 kilometres north-west of Bundaberg. The remaining area of the State forest will be about 2,096.7381 hectares. Subject to development assessment and approval, this

revocation will allow for the construction of a commercial dam on the adjoining freehold land that will inundate parts of the State forest.

3. Schedule 2: National parks of the *Nature Conservation (Protected Areas) Regulation 1994* to:
 - a. redescribe part of Conondale National Park as lots 2 to 7 on AP23765, using contemporary survey and mapping technology and standards; and subsequently, change the class of (revoke) part of Conondale National Park described as lots 3, 5 and 6 on AP23765, containing an area of about 37.64 hectares, and dedicate these areas as part of the existing Conondale Resources Reserve, to facilitate the assessment of geotechnical investigations on these areas that are associated with the Borumba Pumped Hydro Energy Storage project, about 95 kilometres north-west of Brisbane;
 - b. revoke parts of Mount Etna Caves National Park described as part of lot 117 on NPW821 (to be described as lots 5 to 7 on SP325486), containing an area of 0.1187 hectares, about 25 kilometres north of Rockhampton. This revocation is to rectify small encroachments by Gunder Road into the national park and to establish a minimum 20 metre standard road width for Barmoya Road, to formalise public use and maintenance for the road corridors. The remaining total area of the national park will be about 581.3606 hectares;
 - c. dedicate the revoked parts of Oakview State Forest described as lots 216 and 217 on AP23760, containing an area of about 92.13 hectares, as part of the existing Oakview National Park, about 35 kilometres west of Gympie; and subsequently, redescribe parts of the national park as lots 218 and 219 on AP23760, using contemporary survey and mapping technology and standards. The dedication of the former State forest area is to protect the area's significant conservation values. The new total area of the national park will be about 4,345.75 hectares, a net increase of about 114.0898 hectares; and
 - d. revoke part of Tuchekoi National Park described as part of lot 1 on AP19201 (to be described as lot 3 on SP325683), containing an area of about 1.223 hectares, about 8 kilometres north-west of Cooroy. The revocation will allow for the area to be converted to freehold tenure and retained by the Department of Environment and Science (the department) to enable an appropriate authority to be issued to manage ongoing use of the area by the Men's Shed Pomona Inc.
4. Schedule 3A: Resources reserves of the *Nature Conservation (Protected Areas) Regulation 1994* to:
 - a. dedicate the revoked part of Conondale National Park described as lots 3, 5 and 6 on AP23765, containing an area of about 37.64 hectares, as part of the existing Conondale Resources Reserve, about 95 kilometres north-west of Brisbane. The change of class (revocation) is to facilitate the assessment of geotechnical work to occur relating to the Borumba Pumped Hydro Project.

Consistency with policy objectives of authorising law

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

- the Governor in Council may make regulations under the Forestry Act and the NC Act;

- the revocation of a protected area or State forest can be made by regulation by the Governor in Council, only if a resolution is passed by the Legislative Assembly of Queensland;
- the revocation of a State forest for public road purposes can be made by regulation by the Governor in Council, only if the Minister is satisfied that the action is in the public interest; and
- the Governor in Council may make a regulation that dedicates an area of State land as a protected area.

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

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 First Nations peoples. Revoking and upgrading State forest areas to protected area allows for this land to be preserved in perpetuity for the benefit of the community.

Revocations of protected areas and State forests are necessary to achieve balanced outcomes for the public including achievement of significant transport outcomes and economic and cultural benefits for rural communities.

Implementing the Amendment Regulation is in the public interest, is not considered to constitute significant subordinate legislation and will have negligible costs.

Costs relating to the department'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(5) of the *Legislative Standards Act 1992*.

Consultation

Both statutory and non-statutory consultation has occurred with stakeholders that currently have, or are likely to have, an interest in the proposal areas.

HQPlantations Pty Ltd was consulted concerning its plantation license interests over part of the Beerburrum East State Forest revocation area. HQPlantations Pty Ltd offered no objections to the proposal and collaborated with the Department of Transport and Main Roads and the Department of Agriculture and Fisheries to excise plantation license interests from the revocation area.

In accordance with section 173Q of the NC Act, notices were published on the department's website for the proposals to transfer part of Oakview State Forest to national park tenure, to revoke parts of Mount Etna Caves National Park and Tuckekoi National Park, and to change the class of tenure of part of Conondale National Park. No comments were received for the Oakview State Forest, Mount Etna Caves National Park and Tuckekoi National Park proposals, and one request for more information was received for the Conondale National Park proposal. No objections to the proposed revocations were received.

Public notices (combined with the section 173Q of the NC Act notices) were published on the department's website on 9 September 2022 to seek comments in consideration of the *Human Rights Act 2019*, including Aboriginal peoples' and Torres Strait Islander peoples' cultural rights for the Oakview State Forest, Conondale National Park, Mount Etna Caves National Park and Tuckekoi National Park proposals. Separate public notices relating to *Human Rights Act 2019* considerations were published on 13 October 2022 for the Beerburrum East State Forest, Beerburrum West State Forest and Watalgan State Forest proposals. One objection to the revocation of part of Watalgan State Forest was raised during the consultation period; however, the objection was outside of the scope of the consultation notice. No concerns were raised in consideration of the *Human Rights Act 2019*.

No further external consultation was required on the remaining State forest amendments under the *Forestry Regulation 2015*, *Forestry (State Forests) Regulation 1987* or the national park and resources reserve amendments under the *Nature Conservation (Protected Areas) Regulation 1994*, as the amendments are machinery in nature.

The Office of Best Practice Regulation was not consulted as a self-assessment was undertaken in accordance with *The Queensland Government Guide to Better Regulation* (the Guide) and it was determined that the regulatory amendment is excluded from further regulatory impact assessment as it is of a machinery nature, in accordance with category (g) of the Guide.