

Nature Conservation (Protected Areas Management) (Communications Facility) Amendment Regulation 2021

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, Meaghan Scanlon, Minister for the Environment and the Great Barrier Reef, Minister for Science and Youth Affairs, provide this human rights certificate with respect to the *Nature Conservation (Protected Areas Management) (Communications Facility) Amendment Regulation 2021* made under the *Nature Conservation Act 1992*.

In my opinion, the *Nature Conservation (Protected Areas Management) (Communications Facility) Amendment Regulation 2021*, 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 Act 1992* (the Act) provides instructions on how development applications to install, maintain or use infrastructure on national parks should be dealt with. The Act contains strict criteria that must be satisfied before the Chief Executive can grant an authority for infrastructure.

Section 35(1) of the Act states that:

- (1) The Chief Executive may grant, make, issue or give a lease, agreement, licence, permit or other authority over, or in relation to, land in a national park if-
 - (a) the use under the authority is only for a service facility or an ecotourism facility; and
 - (b) if the use under the authority is for a service facility, the Chief Executive is satisfied-
 - (i) the cardinal principle for the management of national parks will be observed to the greatest possible extent; and
 - (ii) the use will be in the public interest; and
 - (iii) the use is ecologically sustainable; and
 - (iv) there is no reasonably practicable alternative to the use; and
 - (c) if the use under the authority is for an ecotourism facility, the Chief Executive is satisfied-
 - (i) the use will be in the public interest; and
 - (ii) the use is ecologically sustainable; and
 - (iii) the use will provide, to the greatest possible extent, for the preservation of the land's natural condition and the protection of the land's cultural resources and values; and

- (d) the use under the authority is prescribed under a regulation made for this section to be a permitted use for the area.

The Chief Executive may not delegate the power under section 35 in accordance with section 141 of the Act.

The following proposed uses have been assessed and meet the requirements under section 35(1)(b) of the Act:

- installation, operation and maintenance of a service facility (for a communications use) by Optus Mobile Pty Ltd in Carnarvon National Park at the site described as Authority Area over part of Lot 236 on NPW490 on QPWSAP000070.

Before the Chief Executive may grant a section 35 authority for the above activity, the use and the location in the relevant national park must be prescribed in Schedule 3 of the *Nature Conservation (Protected Areas Management) Regulation 2017*.

The *Nature Conservation (Protected Areas Management) (Communications Facility) Amendment Regulation 2021* will prescribe the proposed use.

Human Rights Issues

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

Section 28 of the *Human Rights Act 2019* addresses the cultural rights of Aboriginal and Torres Strait Islander peoples. The subordinate legislation has been considered in terms of this right, to determine how the two interact and if the legislation will limit the right.

The effect of the subordinate legislation is to allow the Chief Executive, at his discretion, to approve an authority for –

1. Optus Mobile Pty Ltd to install, operate and maintain a communications facility at a site in Carnarvon National Park. Under the Commonwealth's Mobile Black Spot Program, Optus is seeking to expand mobile coverage in regional and remote areas of Queensland. The facility will consist of a standard six-metre shipping container, which will house communications equipment and a roof mounted satellite dish, antennae and solar panels. As the facility is to be located within an existing powerline corridor, there will be no clearing or earthworks undertaken to install the facility. Ergon Energy has been consulted and has raised no objection to the location within this powerline corridor.

In terms of cultural heritage protection, the proponents have provided an application under the Act to address how the activity will meet the management principles of a National Park, address public interest and to ensure that no practicable alternatives exist. An Environmental Management Plan is submitted to address the potential impacts of the activity on natural and cultural values of the National Park and outlines management measures proposed to mitigate against these impacts.

The applications under the Act address and consider how this human right might be impacted.

The application from Optus Mobile Pty Ltd for the proposed use has also been assessed under the Act and has been determined to be in the public interest, ecologically sustainable and that there is no reasonably practicable alternative.

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

Given that the nature of this legislation is administrative and its effect is limited to an existing cleared electricity corridor and the site is absent of any cultural heritage issues, it is not anticipated that this legislation will affect the scope of the cultural rights of Aboriginal and Torres Strait Islander peoples.

Conclusion

I consider that the *Nature Conservation (Protected Areas Management) (Communications Facility) Amendment Regulation 2021* is compatible with the *Human Rights Act 2019* because it raises a human rights issue but does not limit human rights.

MEAGHAN SCANLON
MINISTER FOR THE ENVIRONMENT AND THE GREAT BARRIER REEF
MINISTER FOR SCIENCE AND YOUTH AFFAIRS

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