

# Nature Conservation (Protected Areas) Amendment Regulation (No. 2) 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 and Minister for Science and Youth Affairs provide this human rights certificate with respect to the *Nature Conservation (Protected Areas) Amendment Regulation (No. 2) 2021* made under the *Nature Conservation Act 1992* (the NC Act).

In my opinion, the *Nature Conservation (Protected Areas) Amendment Regulation (No. 2) 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 (Protected Areas) Amendment Regulation (No. 2) 2021* (Amendment Regulation) is made under the NC Act.

The authorising law for the Amendment Regulation is:

- Section 32 of the NC Act prescribes that the Governor in Council may, by regulation revoke the dedication of a protected area in whole or part.
- Section 64 of the NC Act prescribes that the Governor in Council may, by regulation, assign a name to, or alter the name of, a protected area or aggregation of protected areas.
- Section 175 of the NC Act prescribes that the Governor in Council may make regulations under this Act.

The purpose of the Amendment Regulation is to amend the protected area estate by revoking an area and changing a protected area name. The Amendment Regulation amends the *Nature Conservation (Protected Areas) Regulation 1994* (the Regulation) and involves consequential amendments of a machinery nature that are consistent with the objectives of the NC Act. A separate assessment process considers the NC Act and Regulation as compatible with the *Human Rights Act 2019* (HR Act).

The amendments include:

- changing the name of one national park; and
- revoking part of, and redescribing, one conservation park.

The renaming of the Gheebulum Coonungai (Moreton Island) National Park is a request from the First Nations representatives via the Quandamooka Yoolooburrabee Aboriginal Corporation.

The revocation of part, and redescription, of the Warrina Conservation Park is to allow for the area to be converted to road reserve to facilitate upgrades to the Warrina Innisfail residential aged care facility and rectify the historical boundary alignment of the park.

The dedication of new or amended protected areas is machinery in nature. The process of selecting and approving protected areas involves the relinquishing of relevant rights or interests of interested parties such as other state departments, resource companies or lease holders. This has been completed for all proposed amendments and human rights issues have been taken into account during this process.

## Human Rights Issues

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

The rights under the *Human Rights Act 2019* (the HR Act) which are relevant to the Amendment Regulation include:

- Freedom of movement (section 19 of the HR Act); and
- Cultural rights – Aboriginal peoples and Torres Strait Islander peoples (section 28 of the HR Act).

As there are land use restrictions associated with different tenures, the amendments to the protected area estate that result in the revocation of land may be relevant to the right to freedom of movement (section 19 of the HR Act) and the Cultural Rights under Section 28 of the HR Act as a result of the land changing tenure.

The Amendment Regulation will allow for the renaming of a national park with a name chosen by First Nations partners in the management of the land. The renaming of a national park has no effect on the underlying tenure of the land.

The Amendment Regulation also seeks to revoke part of a conservation park to allow for dedication of the area as road reserve. Part of the proposed road area contains an existing physically constructed road that is currently used for access to the adjacent aged care facility. The other area of proposed road is currently used as a car park and the change in tenure is to support future use of the area as a car park to support expansion of the facility. Additionally, the proposed road areas were cleared pre-dating dedication of the area as conservation park.

The Amendment Regulation is considered to engage but not to limit the right to freedom of movement under section 19 of the HR Act. The proposed road reserve tenures over the revocation areas will be less restrictive than the current conservation park tenure and therefore is not considered to impact upon the right to freedom of movement. The renaming of a national park will not impact upon existing movement within the area.

The Amendment Regulation is not considered to limit rights under section 28 of the HR Act. Additionally, the renaming of a national park with a chosen name by the First Nations custodians and partners in the management of the land will have a positive impact on section 28 Cultural Rights for Aboriginal peoples and Torres Strait Islander peoples, in that it will protect and promote these rights.

For the proposed road reserve, a public notification was placed in a local and state circulating newspaper and no objections were received. The revocation proposal was also tabled and debated by the Legislative Assembly of Queensland, where a Parliamentary Resolution was passed. It should be noted that the Department of Environment and Science is only responsible for the minor revocation of land currently in Conservation Park tenure, and is not the action-taker or decision-maker in the future tenure of the land

## **Conclusion**

I consider that the *Nature Conservation (Protected Areas) Amendment Regulation (No. 2) 2021* is compatible with the *Human Rights Act 2019* because it does not limit, restrict or interfere with human rights.

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

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