

Forestry and Other Legislation 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 *Forestry and Other Legislation Amendment Regulation (No. 2) 2021* made under the *Forestry Act 1959* (Forestry Act) and the *Nature Conservation Act 1992* (NC Act).

In my opinion, the *Forestry and Other Legislation 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 *Forestry and Other Legislation Amendment Regulation (No. 2) 2021* (Amendment Regulation) is made under the Forestry Act and NC Act.

The authorising law for the Amendment Regulation is:

- Section 97 of the Forestry Act prescribes that the Governor in Council may from time to time make regulations, not inconsistent with this Act, prescribing all matters and things which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- Section 29 of the NC Act prescribes that a regulation may dedicate a specified area of State land as a national park, conservation park or resources reserve.
- Section 46 of the NC Act prescribes that a regulation may declare a specified area of State land, or the area the subject of a conservation agreement, as a nature refuge.
- 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 forestry and protected area estates and make amendments and additions to State forests and several classes of protected areas. The Amendment Regulation amends the *Forestry (State Forests) Regulation 1987* and the *Nature Conservation (Protected Areas) Regulation 1994* and involves consequential amendments of a machinery nature that are consistent with the objectives of the Forestry Act and NC Act. A separate assessment process considers the Forestry Act and NC Act and the Forestry Regulation and NC Regulation as compatible with the *Human Rights Act 2019* (HR Act).

The amendments include:

- redesccribing one State forest;
- increasing the area of seven national parks;
- correcting one previously erroneous national park area description;
- increasing the area of two conservation parks;
- correcting one previously erroneous conservation park area description; and
- declaring one new nature refuge.

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.

The redescription of State forests and 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 adds acquired freehold and unallocated State land already owned by the Department of Environment and Science. This action will change the tenure and subsequently increase the protection of the area.

The Amendment Regulation is considered to engage but not to limit the right to freedom of movement under section 19 of the HR Act. Some land additions were previously freehold and the change of tenure will be less restrictive and therefore is not considered to impact upon the right to freedom of movement. The change of tenure from unallocated State land to protected area still allows access to the land and therefore is not considered to impact upon the right to freedom of movement.

The Amendment Regulation is not considered to limit rights under section 28 of the HR Act. The change of tenure to protected area will help to conserve and protect the environment for the cultural rights of Aboriginal peoples and Torres Strait Islander peoples. Furthermore, addition of land via 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.

Conclusion

I consider that the *Forestry and Other Legislation 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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