

Forestry and Other Legislation Amendment Regulation (No. 3) 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. 3) 2021* made under the *Forestry Act 1959* (Forestry Act) and *Nature Conservation Act 1992* (the NC Act).

In my opinion, the *Forestry and Other Legislation Amendment Regulation (No. 3) 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. 3) 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 30 of the NC Act prescribes that despite the *Forestry Act 1959* an area of State forest can be dedicated as protected area if the Legislative Assembly has passed a motion in support of the dedication.
- 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 48 of the NC Act prescribes that the State and landholders may enter into another conservation agreement that varies or terminates and replaces the earlier agreement.
- 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 *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 Amendment Regulation as compatible with the *Human Rights Act 2019* (HR Act).

The amendments include:

- revoking parts of one State forest for dedication as protected area;
- redescribing three national parks;
- increasing the area of one national park;
- redescribing one conservation park;
- dedicating one new conservation park;
- declaring eight new nature refuges; and
- redescribing two nature refuges.

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 revocation of State forests and redescription or dedication of 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 following right is engaged:

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

Dedicating new protected areas or amending existing protected areas can have a potential indirect impact, or create limitations, on cultural rights in relation to the land. The Amendment Regulation changes State forest land owned by the Department of Environment and Science to national park and conservation park. This action will change the tenure and subsequently increase the protection of the area. Cultural rights of Aboriginal people are protected and promoted through this amendment as dedicating protected areas enables a broader range of long-term cultural practices to be undertaken on the land through conservation and protection of the environment and productive capacity of the land.

The Amendment Regulation is not considered to limit human rights as it positively impacts the section 28 cultural rights for Aboriginal peoples and Torres Strait Islander Peoples by protecting and promoting these rights.

Conclusion

I consider that the *Forestry and Other Legislation Amendment Regulation (No. 3) 2021* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

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

© The State of Queensland 2021