

Nature Conservation (Protected Areas) (Cangen-Yangan Indigenous Joint Management Area) Amendment Regulation 2022

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) (Cangen-Yangan Indigenous Joint Management Area) Amendment Regulation 2022* made under the *Nature Conservation Act 1992* (the NC Act).

In my opinion, the *Nature Conservation (Protected Areas) (Cangen-Yangan Indigenous Joint Management Area) Amendment Regulation 2022*, 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) (Cangen-Yangan Indigenous Joint Management Area) Amendment Regulation 2022* (Amendment Regulation) is made under the NC Act.

The authorising law for the Amendment Regulation is:

- Section 33 of the NC Act prescribes that the Governor in Council may, by regulation, change the boundaries of a protected area.
- Section 42AH of the NC Act prescribes that for land in a prescribed protected area on Moreton Island that becomes Aboriginal land and has an Indigenous management agreement about the land, upon it becoming Aboriginal land the Minister must recommend to the Governor in Council the making of a regulation declaring the protected area land as an Indigenous joint management area.
- 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 provide for the joint management of protected areas on Moreton Island (Mulgumpin). The Amendment Regulation amends the *Nature Conservation (Protected Areas) Regulation 1994* and involves consequential amendments of a machinery nature that are consistent with the objectives of NC Act. A separate assessment process considers the NC Act as compatible with the *Human Rights Act 2019* (HR Act).

The amendments include:

- redesigning one national park; and
- declaring one new Indigenous joint management area.

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 Queensland Government recognises the rights and interests of First Nations peoples in the management of Moreton Island's (Mulgumpin) protected areas with respect to traditional lore and is committed to work with traditional owners to protect the areas' natural and cultural values and to continue arrangements for joint management of protected areas in the region.

Joint management is a specific model of protected area management that, in Queensland, provides for management of the land to occur jointly between the Queensland Parks and Wildlife Service within the Department of Environment and Science (DES) and the Indigenous landholder – the trustee for the land under the *Aboriginal Land Act 1991*. Land management decisions made by the two parties occurs consistent with an Indigenous management agreement, which must be entered into between the State of Queensland (State) and the trustee.

On 27 November 2019, the Federal Court of Australia made a native title consent determination recognising the Quandamooka People's native title rights on Moreton Island (Mulgumpin). As part of the consent determination process, the State and the Quandamooka Yoolooburrabee Aboriginal Corporation (QYAC), the representatives of the Quandamooka People, agreed to work towards the joint management of protected areas on Moreton Island.

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).

Amending existing protected areas can have a potential indirect impact, or create limitations, on cultural rights in relation to the land. The Amendment Regulation amends the area of a national park and declares an Indigenous joint management area. The Cultural rights of Aboriginal peoples and Torres Strait Islander peoples are engaged through this amendment. The amendment of the protected area and declaration of an Indigenous joint management area has the potential to broaden long-term cultural practices to be undertaken on the land through conservation and protection of the environment and productive capacity of the land.

As part of the consultation process, a public notice was published on the Department of Environment and Science website on 6 May 2022 (<https://www.des.qld.gov.au/our-department/public-notices/proposed-amendments-to-forestry-and-protected-areas>) regarding consultation on proposed amendments to the protected area estates and seeking views in consideration of the *Human Rights Act 2019*, including Aboriginal peoples' and Torres Strait

Islander peoples' cultural rights. Nil written responses were received in the 28 day consultation period, which ended 4 June 2022, and DES progressed the proposals accordingly.

Conclusion

I consider that the *Nature Conservation (Protected Areas) (Cangen-Yangan Indigenous Joint Management Area) Amendment Regulation 2022* 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

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