

Government Owned Corporations (Pumped Hydro Energy Storage Restructure) 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* (HR Act), I, Cameron Dick MP, Treasurer and Minister for Trade and Investment, provide this human rights certificate with respect to the *Government Owned Corporations (Pumped Hydro Energy Storage Restructure) Regulation 2022* made under the *Government Owned Corporations Act 1993*.

In my opinion, the *Government Owned Corporations (Pumped Hydro Energy Storage Restructure) 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 Regulation is made in accordance with sections 161 and 167 of the *Government Owned Corporations Act 1993*.

A key enabler to achieving the Government's emissions and renewable energy targets involves establishing large-scale pumped hydro energy storage (PHES) assets to provide firming capacity, in conjunction with variable renewable energy generation such as solar and wind.

Queensland Electricity Transmission Corporation Limited (trading as Powerlink Queensland) (Powerlink) has been coordinating a detailed feasibility and costing study for the Borumba Dam PHES, which is expected to be submitted to Government in early 2023.

The delivery, ownership and operation of the Borumba Dam PHES assets fall outside of Powerlink's core business operations as the State's transmission network provider, and the Government has determined that the Borumba Dam PHES assets and any future State-owned large scale, long duration PHES assets should be planned, delivered, owned and operated by a State-owned entity. The pumped hydro entity (defined as 239 George Pty Ltd ACN 661 444 515) was registered as a wholly owned subsidiary of Powerlink on 3 August 2022.

The purpose of this Regulation is to effect the transfer of assets, liabilities, instruments and employees relating to the Borumba Dam PHES from Powerlink to the pumped hydro entity.

Human Rights Issues

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

I have considered each of the rights protected by part 2 of the HR Act. In my opinion, no human rights are engaged by the Regulation.

Particular consideration was given to section 24 of the HR Act, which protects the right of all persons to own property alone or in association with others and provides that a person must not be arbitrarily deprived of their property. The concept of arbitrariness in this context carries the meaning of capriciousness, unpredictability, injustice and unreasonableness, in the sense of not proportionate to the legitimate aim sought.

The Regulation makes provision for the transfer of assets, liabilities, instruments and employees relating to the Borumba Dam PHES from Powerlink to the pumped hydro entity. While the Regulation will transfer assets, liabilities, instruments and employees from Powerlink to the pumped hydro entity, no third-party rights will be extinguished in this process, even if third-party arrangements will become effective against the pumped hydro entity instead of Powerlink because of the operation of the Regulation.

Relevant provisions deal with successor-in-law and liabilities arising on or after transfer (section 8), proceedings which have not been concluded at transfer (section 9), the transfer and exclusion of liabilities (section 7), the operation of transferred instruments (section 5), and the employment arrangements of transferred employees (section 6).

Consideration was also given to section 25 of the HR Act, which protects a person's right not to have the person's privacy, family, home or correspondence unlawfully or arbitrarily interfered with; and not to have the person's reputation unlawfully attacked. To specify which employees and contractors of Powerlink are to be transferred to the pumped hydro entity, it will be necessary to disclose personal information in the commercial-in-confidence transfer schedules. To the extent that this may constitute an interference with any person's privacy, it is neither unlawful nor arbitrary. The information will be contained within commercial-in-confidence schedules, and the inclusion is a reasonable and proportionate way to effect the desired transfer.

Conclusion

I consider that the *Government Owned Corporations (Pumped Hydro Energy Storage Restructure) Regulation 2022* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

CAMERON DICK MP
TREASURER
MINISTER FOR TRADE AND INVESTMENT