

# Forestry (State Forests) and Other Legislation Amendment Regulation (No. 2) 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 *Forestry (State Forests) and Other Legislation Amendment Regulation (No. 2) 2022* made under the *Forestry Act 1959* (Forestry Act) and *Nature Conservation Act 1992* (the NC Act).

In my opinion, the *Forestry (State Forests) and Other Legislation Amendment Regulation (No. 2) 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 *Forestry (State Forests) and Other Legislation Amendment Regulation (No. 2) 2022* (Amendment Regulation) is made under the Forestry Act and NC Act.

The authorising law for the Amendment Regulation is:

- Section 32A of the Forestry Act prescribes that if land that is State plantation forest stops being part of a State forest, the declaration of the land as a State plantation forest is taken to have been revoked.
- 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 for an area of State forest that is to be dedicated as a protected area, the regulation dedicating the area as protected area may revoke the State forest declaration, only if the Legislative Assembly has passed a resolution requesting the Governor in Council to dedicate the area.
- Section 32 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 if the Legislative Assembly has passed a resolution requesting the Governor in Council to make the revocation.
- 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 50 of the NC Act prescribes that the Governor in Council may, by regulation, revoke the declaration of a nature refuge or coordinated conservation area in whole or part.
- 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 to State forests and several classes of protected areas, as well as provide for the creation of a new conservation park. The Amendment Regulation amends the *Forestry Regulation 2015*, 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 Amendment Regulation as compatible with the *Human Rights Act 2019* (HR Act).

The amendments include:

- revoking the declaration of part of one State plantation forest designation;
- redescribing and subsequently revoking parts of two State forests;
- revoking parts of two national parks;
- redescribing three national parks;
- increasing the area of four national parks;
- dedicating one new conservation park;
- redescribing one conservation park;
- increasing the area of one existing conservation park;
- redescribing one existing resources reserve;
- declaring one new nature refuge;
- redescribing two nature refuges; and
- revoking part of one 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 revocation of State forests and redescription or dedication of State forests and 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 the engagement with human rights has been considered 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 forests and 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. This action will change the tenure of the area. The Cultural rights of Aboriginal peoples and Torres Strait Islander peoples are engaged through this amendment. The dedication of a protected 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 8 July 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 forestry and 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 6 August 2022, and the department progressed the proposals accordingly.

## Conclusion

I consider that the *Forestry (State Forests) and Other Legislation Amendment Regulation (No. 2) 2022* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

**MEAGHAN SCANLON MP**  
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