

Nature Conservation (Protected Areas Management) (Communications and Water Supply Uses) 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 Management) (Communications and Water Supply Uses) Amendment Regulation 2022* made under the *Nature Conservation Act 1992*.

In my opinion, the *Nature Conservation (Protected Areas Management) (Communications and Water Supply Uses) 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 Act 1992* (the NC Act) provides instructions on how development applications to install, maintain or use infrastructure on national parks should be dealt with. The NC Act contains strict criteria that must be satisfied before the chief executive can grant an authority for infrastructure.

Section 35(1) of the NC Act states that:

- (1) The chief executive may grant, make, issue or give a lease, agreement, licence, permit or other authority over, or in relation to, land in a national park if-
 - (a) the use under the authority is only for a service facility or an ecotourism facility; and
 - (b) if the use under the authority is for a service facility, the chief executive is satisfied-
 - (i) the cardinal principle for the management of national parks will be observed to the greatest possible extent; and
 - (ii) the use will be in the public interest; and
 - (iii) the use is ecologically sustainable; and
 - (iv) there is no reasonably practicable alternative to the use; and
 - (c) if the use under the authority is for an ecotourism facility, the chief executive is satisfied-
 - (i) the use will be in the public interest; and
 - (ii) the use is ecologically sustainable; and

- (iii) the use will provide, to the greatest possible extent, for the preservation of the land's natural condition and the protection of the land's cultural resources and values; and
- (d) the use under the authority is prescribed under a regulation made for this section to be a permitted use for the area.

The chief executive may not delegate the power under section 35 of the NC Act, in accordance with section 141 of the NC Act.

The following proposed uses have been assessed and meet the requirements under section 35(1)(b) of the NC Act:

- operation and maintenance of an existing service facility (for a communication use) within D'Aguilar National Park over part of Lot 809 on NPW751 on administrative plan QPWSAP00032; and
- operation and maintenance of an existing service facility (for a water use) within Grey Peaks National Park over part of Lot 785 on AP19382 administrative plan QPWSAP000250.

Before the chief executive may grant an authority under section 35 for the above activities, the use and the relevant national park must be prescribed under Schedule 3 of the *Nature Conservation (Protected Areas Management) Regulation 2017* (the Regulation).

The *Nature Conservation (Protected Areas Management) (Communications and Water Supply Uses) Amendment Regulation 2022* will prescribe the proposed uses in Schedule 3 of the Regulation.

The effect of the subordinate legislation is to allow the chief executive, at his discretion, to approve an authority for –

1. Energex Limited to operate and maintain an existing communications facility within D'Aguilar National Park. The existing communications facility in the National Park was established by the Queensland Electricity Transmission Corporation (Powerlink) and authorised under a section 35 primary user authority under the NC Act. Energex has purchased the communications facility from Powerlink, and Powerlink has surrendered its Authority. Energex has now applied for a section 35 primary user authority for the existing communications facility that includes a steel lattice tower and equipment shelter, within a fenced compound. Energex is seeking to install site supervision and control equipment, a security system, and will be re-locating communications racks within the existing equipment shelter, though has no plans to expand the facility. The facility currently provides radio coverage and backhaul link capability to existing infrastructure for the operation of Energex's radio communications network, to facilitate a reliable power supply to customers in Ipswich and surrounding communities. The facility assists in the operation and maintenance of the State's electricity assets and forms part of the supply network as defined under the *Electricity Act 1994*.
2. Cairns Regional Council (CRC) to operate and maintain an existing water facility within Grey Peaks National Park. The Facility was constructed during the late 1960s to mid-1970s and was initially authorised by Term Lease 215979 (Lot A on SP142421) under the *Land Act 1994*, which expired on 30 June 2021. The Facility includes a

cement weir, 1 megalitre water storage reservoir, water pipeline, screens and an access road. The Facility was constructed to provide safe, reliable drinking water to residents, businesses and visitors in Bessie Point and Second Beach. While the Facility is currently decommissioned, it has been identified as an important site for future water supply needs under CRC's Water Security Strategy. Under CRC's Drought Management Plan, the Queensland Government and CRC are committed to taking steps to ensure future sustainable water supply is met. The National Park is in the Wet Tropics World Heritage Area.

All the proponents have provided an application under the NC Act to address how the activity will meet the management principles of a National Park, address public interest and to ensure that no practicable alternatives exist. An Environmental Management Plan is submitted to address the potential impacts of the activity on natural and cultural values of the National Park and outlines management measures proposed to mitigate against these impacts.

Given that the nature of this legislation is administrative, and its effect is limited to two pre-existing service facility sites, it is not anticipated that this legislation will engage human rights.

The applications under the NC Act are detailed below:

1. D'AGUILAR NATIONAL PARK

The Jinibara People are the traditional owners of Indigenous Cultural Heritage in this locality.

The amendment to the subordinate legislation is an administrative process for the authorisation of an existing service facility under the NC Act and there is no engagement with human rights.

2. GREY PEAKS NATIONAL PARK

The Kunggadji Gurrabuna People of Kamoi are the traditional owners of Indigenous Cultural Heritage in the locality.

The amendment to the subordinate legislation is an administrative process to reference the new plan for the existing service facility and there is no engagement with human rights.

Human Rights Issues

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

The action/decision does not engage human rights.

Conclusion

I consider that the *Nature Conservation (Protected Areas Management) (Communications and Water Supply Uses) 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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