

# Nature Conservation (Protected Areas Management) (Dularcha and Springbrook National Parks) 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)(Dularcha and Springbrook National Parks) Amendment Regulation 2022* made under the *Nature Conservation Act 1992*.

In my opinion, the *Nature Conservation (Protected Areas Management) (Dularcha and Springbrook National Parks) 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 water use) within Dularcha National Park over part of Lot 453 on NP1114 on administrative plan QPWSAP000262; and
- operation and maintenance of an existing service facility (for a communication use) within Springbrook National Park over part of Lot 5 on AP19371 on administrative plan QPWSAP000253.

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) (Dularcha and Springbrook National Parks) 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. Gold Coast Amateur Radio Society (GCARS) to operate and maintain an existing communication facility within Springbrook National Park. The tower was formally owned by Simoco which, at the time, held a lease over the underlying freehold land. In 2007, the State Government purchased the freehold parcel through the Springbrook Restoration Buy-Back Program. Simoco has no requirement for the site and has recently transferred the ownership of the existing tower to the Queensland Parks and Wildlife Service and Partnerships (QPWS&P). GCARS has been requested by the Council of the City of Gold Coast to supply and install a Citizen Band repeater at the existing tower site in the National Park, to provide residents of Springbrook a means of emergency communications during disaster events.
2. Unitywater to operate and maintain an existing water facility within Dularcha National Park. The use is already prescribed under the regulation, but the previous plan cannot be located, therefore the Department has created a new plan. The regulation is required to be amended to refer to the new plan QPWSAP000262.

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. SPRINGBROOK NATIONAL PARK

The dealing area is covered by the Gold Coast Native Title Group determination QCD2013/008, which the Federal Court determined does not exist, pursuant to section 225 of the *Native Title Act 1993* (Cth). The Gold Coast Native Title Group have been identified as representing traditional owners with an interest in the Indigenous Cultural Heritage area 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. DULARCHA NATIONAL PARK

The dealing area is covered by the Kabi Kabi First Nation Traditional Owners Native Title Group (QC2018/007) native title claim, which has yet to be determined. The Kabi Kabi Peoples have been identified as traditional owners with an interest in the Indigenous Cultural Heritage area in this 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) (Dularcha and Springbrook National Parks) 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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