

Forestry (State Forests) and Other Legislation Amendment Regulation (No. 2) 2023

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, Leanne Linard, Minister for the Environment and the Great Barrier Reef, Minister for Science and Minister for Multicultural Affairs provide this human rights certificate with respect to the *Forestry (State Forests) and Other Legislation Amendment Regulation (No. 2) 2023* made under the *Forestry Act 1959* and the *Nature Conservation Act 1992*.

In my opinion, the *Forestry (State Forests) and Other Legislation Amendment Regulation (No. 2) 2023*, 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) 2023* (Amendment Regulation) is made under the *Forestry Act 1959* (Forestry Act) and the *Nature Conservation Act 1992* (NC Act).

The authorising law for the Amendment Regulation is:

- Section 32 of the Forestry Act prescribes that a regulation may revoke, in whole or in part, the setting apart and declaration of land as State forest or timber reserve if the Minister is satisfied that the land will be made available for tourist purposes or use as a road.
- 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 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 in part.
- Section 64 of the NC Act prescribes that the Governor in Council may, by regulation, assign a name to, or alter the name of, a protected area or aggregation of protected areas.
- Section 70E of the NC Act prescribes that the Governor in Council may, under a regulation, revoke the dedication of a forest reserve or a part of a forest reserve.

- 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 a State forest, a forest reserve and several classes of protected areas. The Amendment Regulation amends the *Forestry (State Forests) Regulation 1987*, the *Nature Conservation (Forest Reserves) Regulation 2000*, 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 the 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:

- revocation of parts of one state forest;
- revocation of one forest reserve for dedication as conservation park;
- increasing the area of nine national parks;
- redescription of one national park;
- increasing the area of one nature refuge;
- decreasing the area of four nature refuges;
- revocation of parts of two nature refuges;
- revocation of one nature refuge;
- redescription of six nature refuges; and
- declaring four new nature refuges.

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 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 rights are engaged:

- Freedom of movement (section 19 of the HR Act); and
- Cultural rights – Aboriginal peoples and Torres Strait Islander peoples (section 28 of the HR Act).

The proposals to change the tenure of areas of unallocated State land to protected area designation promotes the freedom of movement within Queensland by allowing public access to additional areas where previously, it was unavailable.

Dedicating new protected areas or amending existing protected areas can have a potential indirect impact, or create limitations, on cultural rights in relation to the land. The Amendment Regulation changes land owned by the Department of Environment and Science (DES) 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.

In accordance with section 70K of the NC Act, public notification of the proposed transfer of Beerwah Forest Reserve to conservation park was notified on DES's website, with one query received and no objections to the proposal within the 35-day consultation period ending 14 July 2023.

As part of the consultation process, a public notice was published on DES's website on 16 June 2023 (<https://www.des.qld.gov.au/our-department/public-notices/consultation-proposed-amendments-to-the-forestry-and-protected-area-estates>) regarding consultation on proposed amendments to the forestry and protected area estates and seeking views in consideration of the HR Act, including Aboriginal peoples' and Torres Strait Islander peoples' cultural rights. Nil written responses were received in the 28-day consultation period, which ended 15 July 2023, and DES progressed the proposals accordingly.

Conclusion

I consider that the *Forestry (State Forests) and Other Legislation Amendment Regulation (No. 2) 2023* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

LEANNE LINARD MP
MINISTER FOR THE ENVIRONMENT AND THE GREAT BARRIER REEF
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