

# Aboriginal Land (Endeavour River Resources Reserve) Amendment Regulation 2024

## 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 and Minister for Science and Innovation provide this human rights certificate with respect to the *Aboriginal Land (Endeavour River Resources Reserve) Amendment Regulation 2024* made under the *Aboriginal Land Act 1991*.

In my opinion, the *Aboriginal Land (Endeavour River Resources Reserve) Amendment Regulation 2024*, 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 purpose of the *Aboriginal Land (Endeavour River Resources Reserve) Amendment Regulation 2024* (the Amendment Regulation) is to amend the register of prescribed protected areas. The Amendment Regulation which amends the *Aboriginal Land Regulation 2011* (the Regulation), is of a machinery nature and is consistent with the objectives of the *Aboriginal Land Act 1991* (the AL Act). A separate assessment process considers the AL Act and the Regulation as compatible with the *Human Rights Act 2019* (the Act).

The amendment includes:

- Omission of Olkola (Kurrumbila) Resources Reserve 1 from the Regulation.
- Insertion of part of Endeavour River Resources Reserve to the Regulation.

In May 2018 an amendment was made to the Regulation by the *Aboriginal Land (Olkola) Amendment Regulation 2018* to include Olkola (Kurrumbila) Resources Reserve 1, described as Lot 20 on SP241432, containing an area of 103,600 hectares as a prescribed protected area. Following the relinquishment or exclusion of mining interests over this land and in accordance with the Olkola Indigenous Land Use Agreement commitments, in June 2018 this land was dedicated as part of Olkola National Park (Cape York Peninsula Aboriginal Land) in the *Nature Conservation (Protected Areas) Regulation 1994*. As land recognised as a prescribed protected area is transitional in nature, it is no longer appropriate that Olkola (Kurrumbila) Resources Reserve 1 remains in the Regulation and the public record should be amended.

The Department of Environment, Science and Innovation (DESI) has been negotiating with Waymbuurr-warra, Gamaay people and Nguymbaarr-Nguymbaarr people (the Native Title parties) about the grant of land in the Cooktown area. This includes the Endeavour River Resources Reserve (the Resources Reserve) described as part of Lot 2 on CP867124 shown

as Lot 2 on SP344601 and Lot 3 on CP867124, containing an area of 37.689 hectares. The Native Title parties have agreed part of the Resources Reserve to be converted to national park (Cape York Peninsula Aboriginal land) under the *Nature Conservation Act 1992*.

Prior to this tenure action, that part of the Resources Reserve proposed to become national park (Cape York Peninsula Aboriginal land) is to be dedicated as a prescribed protected area under the AL Act. This action will then enable DESI to propose to the Minister responsible for the AL Act to recognise this land as transferable.

The Native Title parties have received independent legal advice and facilitation support in their decision making. Future tenure actions to agree the conversion of part of the Resources Reserve to national park (Cape York Peninsula Aboriginal land) will be committed in an Indigenous Land Use Agreement.

Omitting Olkola (Kurrumbila) Resources Reserve 1 from the Regulation and inserting part of the Resources Reserve as a prescribed protected area requires the decision of the Governor in Council. In this respect, the Amendment Regulation applies to:

- Section 173 of the AL Act as this enables the grant of park land in the Cape York Peninsula Region as national park (Cape York Peninsula Aboriginal land), if the land is recognised as a prescribed protected area and is transferable land; and that a prescribed protected area is a national park or resources reserve prescribed by regulation.
- Section 294 of the AL Act as this enables the Governor in Council to make regulations under this act; this Amendment Regulation seeks Governor in Council to omit and insert lands in Schedule 1 of the Regulation.

## Human Rights Issues

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

**Section 28 of the *Human Rights Act 2019* – Cultural rights: Aboriginal peoples and Torres Strait Islander peoples**

The Amendment Regulation positively engages section 28 of the Act. Specifically, the future transfer of land to Aboriginal peoples will contribute to section 28(2):

- (Part d) to maintain and strengthen their distinctive spiritual, material and economic relationship with the land, territories, waters, coastal seas and other resources with which they have a connection under Aboriginal tradition or Island custom; and
- (Part e) to conserve and protect the environment and productive capacity of their land, territories, waters, coastal seas and other resources. Once the land becomes national park (Cape York Peninsula Aboriginal land) the Native Title parties will be decision makers about the land and jointly manage the land.

A public notice was published on the DESI website on 22 December 2023 regarding consultation on the proposed amendment to the protected area estate. It sought views in consideration of the Act, including Aboriginal peoples' and Torres Strait Islander peoples' cultural rights. One written response was received in the consultation period which was

extended to 47 days due to public holidays, which ended 6 February 2024. The submission did not address human rights or the object of the proposal and was not valid. The department progressed the proposal accordingly.

## **Conclusion**

I consider that the *Aboriginal Land (Endeavour River Resources Reserve) Amendment Regulation 2024* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

**LEANNE LINARD**  
MINISTER FOR THE ENVIRONMENT AND THE GREAT BARRIER REEF  
MINISTER FOR SCIENCE AND INNOVATION

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