

Nature Conservation Legislation Amendment Regulation (No. 2) 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 *Nature Conservation Legislation Amendment Regulation (No. 2) 2024* made under the *Nature Conservation Act 1992*.

In my opinion, the *Nature Conservation Legislation Amendment Regulation (No. 2) 2024*, 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 Legislation Amendment Regulation (No. 2) 2024* (Amendment Regulation) is made under the *Nature Conservation Act 1992* (NC Act).

The authorising law for the Amendment Regulation is:

- Section 29 of the NC Act prescribes that a regulation may dedicate a specified area of State land as a national park (scientific), 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 Act prescribes that a regulation may vary or replace a conservation agreement.
- Sections 62(4)(a), (b) and (c) of the NC Act provide that, subject to the conditions prescribed under a regulation, a person may take fish, mud crabs and other invertebrate animals for use as bait in a prescribed place. Section 62(7) defines a prescribed place to mean a national park, or part of a national park, prescribed under a regulation for subsection (4)(a), (b) or (c).
- 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 protected area estates and make amendments to one forest reserve, twenty national parks, two conservation parks and three nature refuges. The Amendment Regulation amends 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 NC Act.

The amendments include:

- revocation of part of one forest reserve;
- increase in the area of seventeen national parks;
- dedication of two new national parks;
- renaming of one national park;
- increase in the area of two conservation parks;
- increase in area of two nature refuges;
- redescription of two nature refuges; and
- declaration of one new nature refuge.

New tidal areas are being added to Eurimbula National Park by the Amendment Regulation. Schedule 6 of the *Nature Conservation (Protected Areas Management) Regulation 2017* will be amended to accommodate recreational fishing and mud crabbing in all tidal areas of the national park (rather than only the estuary of Eurimbula Creek as currently prescribed).

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 or forest reserves 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, Science and Innovation (DESI) to national park and conservation park. This action will change the

tenure of the area in a way that positively engages with the Cultural rights of Aboriginal peoples and Torres Strait Islander peoples. The dedication of a protected area has the potential to broaden long-term cultural practices to be undertaken on the land where members of the community can enjoy, maintain, control, protect and develop cultural heritage, knowledge and beliefs through the conservation and protection of the environment and productive capacity of the land.

No human rights have been identified as being significantly engaged by the amendment that will support the continuation of existing recreational fishing and mud crabbing activities in tidal areas of Eurimbula National Park.

In accordance with section 70K of the NC Act, public notification of the proposed transfer of one forest reserve to national park was notified on DESI's website (<https://www.des.qld.gov.au/our-department/public-notices/proposed-amend-protect-area-estate-parts-kuranda-west-forest-reserve>), with no queries received and no objections to the proposals within the 35-day consultation period ending 7 May 2024.

As part of the consultation process, a public notice was published on DESI's website on 22 April 2024 ([Consultation on proposed Amendments to the protected area estates | Department of Environment, Science and Innovation, Queensland \(desi.qld.gov.au\)](#)) regarding consultation on proposed amendments to the protected area estates and seeking views in consideration of the HR Act, including Aboriginal peoples' and Torres Strait Islander peoples' cultural rights. This included the continuation of recreational fishing and crabbing activities that have historically occurred within the tidal creeks and waterways of Eurimbula National Park. Nil written responses were received in relation to Human Rights Act matters within the 28-day consultation period, which ended on 20 May 2024.

Consultation also occurred with the First Nations Bailai, Gurang, Gooreng Gooreng, Taribelang Bunda People Aboriginal Corporation Registered Native Title Body Corporate, who hold non-exclusive native title rights over the existing national park and part of the area being added to the national park, and no human rights issues were raised.

Conclusion

I consider that the *Nature Conservation Legislation Amendment Regulation (No. 2) 2024* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

LEANNE LINARD
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