



# QUEENSLAND PARLIAMENT **COMMITTEES**

**Report on subordinate legislation tabled on 12 March 2025**

Health, Environment and Innovation Committee



**Report No. 6**

**58th Parliament, May 2025**

## Overview

This report summarises the committee's findings following its examination of the subordinate legislation within its portfolio areas tabled on 12 March 2025. It reports on any issues identified by the committee relating to the policy to be given effect by the legislation, fundamental legislative principles and lawfulness. It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992* (LSA).<sup>1</sup>

The report also notes any issues identified by the committee in its consideration of compliance with the *Human Rights Act 2019* (HRA)<sup>2</sup> and the human rights certificates tabled with the subordinate legislation.<sup>3</sup>

## Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date
7	Forestry (State Forests) and Other Legislation Amendment Regulation 2025	12 March 2025	12 June 2025
8	Nature Conservation (Protected Areas Management) Amendment Regulation (No .2) 2025	12 March 2025	12 June 2025
13	Nature Conservation (Protected Areas Management) Amendment Regulation 2025	12 March 2025	12 June 2025

\* Disallowance dates are based on proposed sitting dates as advised by the Leader of the House. These dates are subject to change.

## Committee consideration of the subordinate legislation

### Committee Comment



Unless noted below, the committee did not identify any significant issues regarding the policy, consistency with fundamental legislative principles, the lawfulness of the subordinate legislation or non-compliance with the HRA.

Similarly, unless noted below, the committee considers that the explanatory notes tabled with the subordinate legislation reviewed in this report comply with the requirements of section 24 of the LSA, which includes advice about consultation, and that the human rights certificates tabled with the subordinate legislation provide a sufficient level of information to facilitate understanding of the subordinate legislation in relation to their compatibility with the HRA.

<sup>1</sup> *Legislative Standards Act 1992*, Part 4. See also, LSA s 4.

<sup>2</sup> Human Rights Act 2019, s 8, 13.

<sup>3</sup> Human Rights Act 2019, s 41.

## 1 SL No. 7 – Forestry (State Forests) and Other Legislation Amendment Regulation 2025

SL No. 7 aims to permanently preserve, to the greatest extent possible, an area's natural condition, to protect the area's cultural resources and values, and provide for ecologically sustainable activities and ecotourism.<sup>4</sup> This is generally achieved through the dedication of new, or amendments to existing, protected areas throughout Queensland.<sup>5</sup>

The explanatory notes provide that the proposal to revoke parts of forest reserves and subsequent dedication of the same as protected areas is 'part of the long-term forest reserve transfer process in Queensland'.<sup>6</sup> The forest-reserve transfer process is governed by section 70E(3) of the *Nature Conservation Act 1992*, which allows for the revocation of forest reserves for the purpose of re-dedication as protected areas.<sup>7</sup>

Further, the reasons for the below amendments are varied, including, 'correcting calculation errors, boundary consolidation following tenure actions and updating plan information (including updating area calculations where necessary) to improve clarity, accuracy and transparency for the protected area and forest estate reporting system'.<sup>8</sup>

The explanatory notes state that 'any amendments made with a view to correcting administrative errors, or amendments to the description of each area, is within the description requirements set out in the *Land Act 1994*.' However, the *Land Act* provides for a number of 'description requirements' which empower the Registrar of Titles, the Governor in Council and/or the Minister to proceed with amendments to descriptions on plan, and the explanatory notes do not provide clarity on which section of the *Land Act* the regulation purports to be empowered by.

SL No. 7 will:

- redescribe:
  - the entirety of Watalgan State Forest (Lots 1 – 5 and 898 on AP23651)
  - the entirety of Danbulla West Forest Reserve (Lots 4 and 10 on AP23903)
  - the entirety of Malbon Thompson Forest Reserve (Lots 1 – 3 on AP23595)
  - the entirety of Malbon Thompson Range National Park (Lots 4 – 20 on AP23595) to include Lot 2 and 3 on AP23595, which forms part of the Wet Tropics World Heritage Area
  - the entirety of Curtain Fig National Park (Lot 176 on AP345994)
  - the entirety of Mount Etna Caves National Park (Lot 117 on AP23594)
  - the entirety of Tuchekoi National Park (Lot 210 on AP23586)
  - the entirety of Roomba Nature Refuge (Lot 5369 on SP262315, Lot 1 on DP52 and part of Lot 2 on DP60)

<sup>4</sup> SL No. 7, Explanatory Notes, p 1-2.

<sup>5</sup> SL No. 7, Explanatory Notes, p 1.

<sup>6</sup> SL No. 7, Explanatory Notes, p 2.

<sup>7</sup> *Nature Conservation Act 1992*, s 70E (3). See also, Explanatory Notes, p 7.

<sup>8</sup> SL No. 7, Explanatory Notes, p 2.

- part of Alcock Forest Reserve (Lot 2 on AP14612), to allow the area to be dedicated as part of the existing Tully Gorge National Park
- part of Japoon Forest Reserve (Lot 2 on AP13766), to allow the area to be dedicated as part of the existing Japoon National Park, which forms part of the Wet Tropics World Heritage Area
- part of Paluma Range National Park (Lot 126 on CWL3516 and Lot 126 on AP23895).<sup>9</sup>
- revoke:
  - part of Danbulla West Forest Reserve (Lot 4 on AP23903), to allow for the area to be dedicated as part of the existing Danbulla National Park
  - part of Malbon Thompson Forest Reserve (Lot 2 and 3 on AP23595), to allow the area to be dedicated as part of the Malbon Thompson Range National Park
  - part of the Mount Fisher Forest Reserve (Lot 2 on AP13774), to allow the area to be dedicated as part of the existing Maalan National Park, which will consolidate the national park boundary.<sup>10</sup>
- amalgamate:
  - Yungaburra National Park (Lot 433 on Plan NR3314) with the existing Curtain Fig National Park.<sup>11</sup>
- dedicate:
  - Lot 5 on plan DS219 and Lots 6 – 11 on plan USL39395 as part of Curtis Island National Park
  - Lot 183 on plan CWL3118 as part of Girramay National Park, which forms part of the Wet Tropics World Heritage Area
  - Lot 4 on SP131219 as part of Girringun National Park
  - Lot 141 on AP20035 as part of Millstream Falls National Park
  - Lot 234 on CWL208 as part of Tully Falls National Park.<sup>12</sup>
- declare:
  - Lot 25 on SP104706 as part of Coolloothin Creek Nature Reserve (PA1174)
  - Lot 3 on BND18 as part of the new Parrattamow Creek Nature Refuge (PA1181)
  - Lot 29 on HLN6 as the new Rosser Rainforest Nature Refuge (PA1167)
  - Lot 31 on SP117262 as the new Samsonvale Koala Nature Refuge (PA1168)
  - Lot 78 on SP315915 as the new Shipwreck Bay Nature Refuge (PA1179), to ensure landscape connectivity within the Wet Tropics World Heritage Area; and

<sup>9</sup> SL No. 7, Explanatory Notes, p 2-5.

<sup>10</sup> SL No. 7, Explanatory Notes, p 2-5.

<sup>11</sup> SL No. 7, Explanatory Notes, p 2-5.

<sup>12</sup> SL No. 7, Explanatory Notes, p 2-5.

- Lot 2 on RP203773 as the new The Douglas Hockly Nature Refuge (PA 1165).<sup>13</sup>

## 2 SL No. 8 – Nature Conservation (Protected Areas Management) Amendment Regulation (No. 2) 2025

SL No. 8 proposes to amend Schedule 3 of the Nature Conservation (Protected Areas Management) Regulation 2024 (Regulation) to:

- permit the proposed ecotourism facility within the Great Sandy National Park over Lots A and B in Lot 1 on AP23771; and
- permit the proposed ecotourism facility within the Whitsunday Islands National Park over Lot 428 on NPW621.<sup>14</sup>

Under the *Nature Conservation Act 1992* (NC Act), the chief executive of the Department of the Environment, Tourism, Science and Innovation (DETSI) cannot grant an authority for an ecotourism facility unless the use is prescribed under regulation.<sup>15</sup> The NC Act provides the criteria that must be satisfied before an authority may be granted,<sup>16</sup> and the chief executive cannot delegate this power.<sup>17</sup> It follows that these proposed amendments are required under section 35(1)(d) of the NC Act to enable the chief executive to make decisions about the issuing of authorities.<sup>18</sup>

The explanatory notes provide that:

- the site in the Great Sandy National Park is an existing ecotourism facility and the application is in its final stages of assessment,<sup>19</sup> and
- the site in the Whitsunday Islands National Park is progressing with negotiations following an expression of interest process run by the Queensland Government, and a preferred supplier has been identified.<sup>20</sup>



### 2.1 Human Rights Act 2019

Assessment of SL No. 8's compatibility with the HRA identified issues with the following:

- the freedom of movement and
- cultural rights.

The committee found that SL No. 8 is compatible with human rights.

<sup>13</sup> SL No. 7, Explanatory Notes, p 2-5.

<sup>14</sup> SL No. 8, Explanatory Notes, p 4.

<sup>15</sup> NC Act, s 35(1)(d). See also NC Act, s 175.

<sup>16</sup> NC Act, s 35(1).

<sup>17</sup> NC Act, s 141.

<sup>18</sup> NC Act, s 35(1)(d). See also SL No. 8, Explanatory Notes, p 2.

<sup>19</sup> SL No. 8, Explanatory Notes, p 2. Note: The site is an existing site under the *Land Act 1994*, which was originally authorised under the now repealed *Land Act 1962* and the *National Parks and Wildlife Act 1975*. The proposed use of the site, to construct 19 new glamping tents and ablution block, is currently under consideration by the department under section 35(1) of the NC Act. The consideration of the proposal will require consultation with traditional owners and ongoing negotiations with the proponents of the ecotourism facilities on the plan.

<sup>20</sup> SL No. 8, Explanatory Notes, p 2.



### 2.1.1 Freedom of movement

SL No. 8 allows the chief executive of the DETSI to approve authorities for the use of facilities.<sup>21</sup> Prior to an authority being issued, assessment is undertaken on the application and compared against the criteria outlined in the NC Act.<sup>22</sup> If an authority is issued, SL No. 8 limits access to part (or all) of the authority area for the public for the length of the authority by allowing the authority to be issued for an ecotourism area within the prescribed areas.<sup>23</sup> This limitation will restrict an individuals' freedom of movement.

The human rights certificate (the certificate) provides:

The size of the proposed authority areas has been considered to ensure that only land necessary to achieve the purpose of the limitation has been included and the right of movement within the broader national park outside of the authority areas is not affected.<sup>24</sup>

The purpose of these amendments is to ensure visitor safety in national parks while prioritising accessibility for a greater diversity of visitors, and that tourism operators are granted commercial security over relevant operations which pertain to that authority.<sup>25</sup>

The certificate provides that the assessment process prior to issuing an authority will identify any alternative methods of permitting the commercial entity to operate while imposing fewer restrictions on people's freedom of movement (for example, shared access arrangements or partial/seasonal exclusivity only).<sup>26</sup> Further, authorities issued by the chief executive will be accompanied by separate human rights assessments under section 58(1) of the HRA.<sup>27</sup>

The human rights certificate concludes that the benefits derived from granting exclusive use over the areas is balanced against the impact on freedom of movement.<sup>28</sup>

### 2.1.2 Cultural rights

Where an authority is issued by the chief executive, SL No. 8 will authorise commercial entities to limit access to all persons, including First Nations peoples, to the area subject to the authority, for the duration of the authority.<sup>29</sup>

It provides:

Where any authority is granted, DETSI will impose conditions that support, rather than impede these cultural rights.<sup>30</sup> [...] The limitation should not

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<sup>21</sup> SL No. 8, Human Rights Certificate, p 2.

<sup>22</sup> SL No. 8, Human Rights Certificate, p 3.

<sup>23</sup> SL No. 8, Human Rights Certificate, p 4.

<sup>24</sup> SL No. 8, Human Rights Certificate, p 4.

<sup>25</sup> SL No. 8, Human Rights Certificate, p 4.

<sup>26</sup> SL No. 8, Human Rights Certificate, p 4.

<sup>27</sup> SL No. 8, Human Rights Certificate, p 4.

<sup>28</sup> SL No. 8, Human Rights Certificate, p 4.

<sup>29</sup> SL No. 8, Human Rights Certificate, p 5.

<sup>30</sup> SL No. 8, Human Rights Certificate, p 5.

disproportionately affect the exercise of cultural rights and will be assessed appropriately prior to the chief executive DETSI issuing an authority.<sup>31</sup>

The certificate provides that subsequent authorities issued under amendment regulations will require assessment to determine if there are less restrictive methods of achieving the purpose, including, where possible, requirements being placed on authority holders to work with Traditional Owners regarding access to the relevant area (in full or in part) for cultural purposes, or, the implementation of joint management arrangements for the duration of the authority.<sup>32</sup>

#### Committee Comment



The committee is satisfied that the potential limitations of sections 19 and 28 of the HRA are appropriately balanced with the benefit and needs of commercial tourism entities in prescribed areas under authority.

Further, the committee is satisfied that proposed amendments include adequate safeguards to ensure that this balance is struck on a case-by-case basis.

## 2.2 Human rights certificate

Section 41 of the HRA requires that the responsible Minister for the subordinate legislation must prepare a human rights certificate for the legislation. In the certificate for SL No. 8, the Minister states:

The Amendment Regulation will allow for prescribed activities to be authorised under section 35 of the NC Act in the prescribed areas, allowing for decisions [by the chief executive of DETSI] that would likely engage section 19 (Freedom of Movement) and section 28 (Cultural Rights – Aboriginal and Torres Strait Islander peoples) of the HR Act.<sup>33</sup>

The certificate contained a sufficient level of information to facilitate understanding of SL No. 8 in relation to its compatibility with human rights.

## 2.3 Explanatory Notes

The explanatory notes comply with part 4 of the LSA.

## 3 SL No 13 – Nature Conservation (Protected Areas Management) Amendment Regulation 2025

SL No. 13 amends schedule 3 of the Nature Conservation (Protected Areas Management) Regulation 2024 to permit service facility use in national parks, including:

- a total of 0.8 hectares to install, operate and maintain a water pipeline service facility within Paluma National Park

<sup>31</sup> SL No. 8, Human Rights Certificate, p 6.

<sup>32</sup> SL No. 8, Human Rights Certificate, p 6.

<sup>33</sup> SL No. 8, Human Rights Certificate, p 3.

- approximately 0.13 km<sup>2</sup> to install, operate and maintain an electricity supply facility, a new transmission line and underground cabling within Magnetic Island National Park
- a total of 1912.0 m<sup>2</sup> to install, operate and maintain an electricity supply facility, a new transmission line and underground cabling within Conway National Park
- a total of 2.22 hectares to install, operate and maintain a water pipeline service facility within Magnetic Island National Park; and
- amendments to the schedule to reflect the correct plan which covers all electricity supply uses within Magnetic Island National Park.<sup>34</sup>

Under section 35(1)(b) of the NC Act, the proposed service facilities have been assessed by the chief executive of DETSI against the criteria set out in the NC Act, including that the cardinal principle for the management of national parks will be observed to the greatest possible extent; that the use of the facilities is in the public interest; that the use is ecologically sustainable; and that there is no reasonably practicable alternative to the proposed use and development of the facility in question.<sup>35</sup>

The explanatory notes also provide that the proposed amendment will comply with the requirements of section 35(1)(d) of the NC Act.<sup>36</sup> Further, applicants have provided evidence of community consultation on their proposal to install the relevant infrastructure.<sup>37</sup> There is no net cost in undertaking the work proposed in the amendments, because it is already contemplated in DETSI's annual budget for the management of protected areas.<sup>38</sup>



### 3.1 Human Rights Act 2019

Assessment of SL No. 8's compatibility with the HRA identified issues with the following:

- the freedom of movement; and
- cultural rights.

The committee found that SL No. 8 is compatible with human rights.

#### 3.1.1 Freedom of movement

SL No. 13 will temporarily limit access to certain authority areas while construction works are undertaken, by enabling the chief executive of DETSI to authorise the installation, operation, maintenance and removal of service facilities within protected areas.<sup>39</sup>

The purpose of the limitation is to ensure public safety in areas where construction works are being undertaken.<sup>40</sup> According to the applications and proposals, it is essential that

<sup>34</sup> SL No. 13, sch 3; SL No. 13, Explanatory Notes, p 2.

<sup>35</sup> NC Act, s 35(1)(b).

<sup>36</sup> SL No. 13 Explanatory Notes, p 3.

<sup>37</sup> SL No. 13, Explanatory Notes, p 2.

<sup>38</sup> SL No. 13, Explanatory Notes, p 3.

<sup>39</sup> SL No. 13, Human Rights Certificate, p 4.

<sup>40</sup> SL No. 13, Human Rights Certificate, p 4.



only applicants and authorised contractors have access to the area for the duration of the works, and that the land is only available for permitted use once works are complete.<sup>41</sup>

The certificate continues:

The temporary limitation on freedom of movement is balanced by the protection of public safety during construction works and that the proposed service facilities have been assessed as being in the public interest.<sup>42</sup>

The certificate concludes that the proposed authority areas are small comparative to the protected areas under the Regulation, and that the proposed authority areas are not near, or adjacent to primary public recreation sites, to minimise restrictions on public use of protected areas.<sup>43</sup>

### 3.1.2 Cultural rights

SL No. 13 will temporarily limit public access, including access by First Nations peoples, to certain authority areas while construction areas are undertaken by enabling the chief executive of DETSI to authorise the installation, operation, maintenance and removal of service facilities within protected areas.<sup>44</sup>

The certificate contemplates the assessment process by DETSI for relevant applications to undertake works on land subject to a native title claim:

[...] undertaking a native title work procedures assessment in accordance with the Queensland Government native title work procedures, and ensuring, where relevant, that Indigenous Land Use Agreements are in place, as well as ensuring that the applicants have an approved cultural heritage management plan prior to construction commencing.<sup>45</sup>

For example, such assessments may include engagement with the native title party to develop a Cultural Heritage Management Agreement; or cultural heritage field assessments under duty of care guidelines from the Department of Women, Aboriginal and Torres Strait Islander Partnerships and Multiculturalism, to evaluate the risk posed to cultural heritage in the relevant area.<sup>46</sup>

The certificate acknowledges that while the cultural rights of First Nations peoples are temporarily limited for the duration of the construction works, cultural connections to the land will continue following the completion of works.<sup>47</sup>

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<sup>41</sup> SL No. 13, Human Rights Certificate, p 4.

<sup>42</sup> SL No. 13, Human Rights Certificate, p 4.

<sup>43</sup> SL No. 13, Human Rights Certificate, p 4.

<sup>44</sup> SL No. 13, Human Rights Certificate, p 5.

<sup>45</sup> SL No. 13, Human Rights Certificate, p 6.

<sup>46</sup> See, for example, SL No. 13, Human Rights Certificate, p 5-6.

<sup>47</sup> SL No. 13, Human Rights Certificate, p 6.

**Committee Comment**

The committee is satisfied that the potential limitations of sections 19 and 28 of the HRA are appropriately balanced with the need to undertake construction works under section 35(1) of the NC Act.

**3.2 Human rights certificate**

Section 41 of the HRA requires that the responsible Minister for the subordinate legislation must prepare a human rights certificate for the legislation. The Minister states:

The temporary closure of the proposed authority areas is required to safely install the proposed service facilities, this will prevent Aboriginal and Torres Strait Islander peoples as well as the general public from having access to the authority area. The proposed authority areas selected have all been previously disturbed and were selected to minimise the risks of limiting Aboriginal and Torres Strait Islander peoples' cultural rights.<sup>48</sup>

The certificate contained a sufficient level of information to facilitate understanding of SL No. 13 in relation to its compatibility with human rights.

**3.3 Explanatory Notes**

The explanatory notes comply with part 4 of the LSA.

**Recommendation 1**

The committee recommends that the Legislative Assembly note this report.

Rob Molhoek MP

**Chair**

Health, Environment and Innovation Committee

**Chair** Mr Rob Molhoek MP, Member for Southport

**Deputy Chair** Mr Joe Kelly MP, Member for Greenslopes

**Members**

- Ms Sandy Bolton MP, Member for Noosa
- Ms Kerri-Anne Dooley MP, Member for Redcliffe
- Dr Barbara O'Shea MP, Member for South Brisbane
- Mr David Lee MP, Member for Hervey Bay

<sup>48</sup> SL No. 13, Human Rights Certificate, p 3.