

Forestry 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 *Forestry Regulation 2024* made under the *Forestry Act 1959*.

In my opinion, the *Forestry 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 *Forestry Regulation 2024* (the Regulation) operates under the *Forestry Act 1959*, which provides for the protection and use of State Forests and timber reserves. State forests and timber reserves are subject to forest management and timber harvesting operations, and a range of other commercial and recreational uses – including use by the public for activities such as camping, picnicking, scenic driving, motorcycling, mountain biking, horse riding and nature appreciation.

As is the case with the management of most public places, some actions and behaviours need to be regulated in order to protect the environment, provide for public safety and protect the rights of other visitors. The Regulation addresses these issues by including a range of offence provisions as a deterrent to behaviour that could interfere with forest management, cause damage to forest resources or property, cause unacceptable environmental impact, affect other people's reasonable enjoyment of the forest environment and facilities, and threaten people's health and safety. For example, restrictions apply in regard to the driving and parking of vehicles, the control of animals such as dogs, and excessive noise.

The Regulation includes important provisions regarding:

- management of conduct and activities in State forests and timber reserves;
- continued designation of timber reserves, State plantation forests, feature protection areas, scientific areas and State forest parks; and
- statutory fees payable under the *Forestry Act 1959*.

An online survey was prepared as the main consultation tool as part of the regulation review and development process. The majority of respondents across all of the survey questions indicated that the proposed changes would have a benefit to or no impact upon them. In addition to the survey, direct consultation was undertaken with First Nations partners authority holders, peak industry groups and other representative bodies. Consultation also occurred with

HQPlantations Pty Ltd who manage State plantation forests in Queensland consistent with the *Forestry Regulation 2015*.

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

In my opinion, the Regulation engages the following human rights under the *Human Rights Act 2019* (HR Act):

- Recognition and equality before the law (HR Act section 15)
- Right to life (HR Act section 16)
- Freedom of movement (HR Act section 19)
- Freedom of expression (HR Act section 21)
- Property rights (HR Act section 24).
- Privacy and reputation (HR Act section 25)
- Cultural rights – Aboriginal peoples and Torres Strait Islander peoples (HR Act section 28).

Right to life (HR Act s 16)

The right to life (section 16) protects that every person has the right to life and has the right not to be arbitrarily deprived of life. This right includes an obligation for public entities to act to protect the lives of individuals, including through positive measures that seek to address threats to life through adequate safety measures. The Regulation positively engages with the right to life of users of forestry areas by deterring unsafe behaviours to improve safety in forestry areas. Examples of these behaviours include unsafe driving, entry into restricted access areas and areas closed for public health and safety reasons, and misconduct that interferes with the health and safety of persons.

Vehicle use

The stipulated vehicle use requirements in Sections 24 to 27 of the Regulation serve as proactive measures aimed at safeguarding the lives of drivers, passengers, and other users traversing forestry areas. By mandating adherence to road rules or regulatory notices, such as speed limits and traffic signs, the Regulation helps to curtail reckless driving behaviours that pose inherent risks to human life and safety by providing rangers with a framework for issuing fines to offenders. Additionally, requirements for a person operating a vehicle in a forestry area to have a valid driver's licence and for the vehicle to be registered (sections 20 and 21) serves as a critical safeguard that seeks to ensure that only qualified and authorised individuals operate vehicles within these areas. Furthermore, the restrictions on certain vehicle types, such as quad bikes and motorised trikes, reflect existing restrictions under the Queensland Road Rules and serve to further enhance overall road safety within forestry areas. By promoting responsible driving practices, ensuring driver competency, and imposing necessary safety measures, the Regulation contributes significantly to the creation of a safer and more secure environment, where the preservation of human life remains paramount.

Animal interactions

Sections 18 and 19 promote the right to life by regulating unauthorised feeding and disturbance of native animals by people in forestry areas. Prohibiting people from feeding or disturbing wildlife in forestry areas aids in the promotion of the human right to life by ensuring ecological balance and public safety. Interactions with wild animals can lead to changes in natural behaviour, encouraging dependency on human-provided food, and potentially escalating human-animal conflicts. Such conflicts may result in harm to humans or necessitate the culling of animals, which could otherwise be avoided. Enforcing these prohibitions helps maintain the natural order of ecosystems, while protecting both human populations and wildlife, thus safeguarding the fundamental human right to life and well-being.

General misconduct

Section 33 states that a person in a State Forest or timber reserve must not, without a reasonable excuse, be disorderly or create a disturbance or do anything that interferes with the health or safety of the person or someone else. This provision ensures that everyone can enjoy State forests and timber reserves without undue disturbance or harm, which is consistent with maintaining public safety—a core component of the right to life. This alignment promotes an atmosphere where individuals respect each other's dignity and the right to safely use forestry areas. The provision reflects a commitment to the collective well-being, ensuring that the fundamental rights of all visitors are upheld.

Freedom of movement (HR Act s 19)

Section 19 of the HR Act protects freedom of movement, preserving the rights of all persons to move freely within Queensland, enter and leave it, and choose where to live. This section is based on Article 12 of the International Covenant on Civil and Political Rights. The right to move freely within Queensland means that a person cannot be arbitrarily forced to remain in, or move to or from, a particular place. The right includes freedom from physical and procedural barriers.

Part 4 of the Regulation prescribes areas where vehicles, vessels and aircraft can be operated in forestry areas and how they can be used. Sections 20– 23 prescribe the requirements needed in order to use a vehicle in forestry areas, including licence and registration requirements, and approval requirements for conditionally registered vehicles. Sections 28 - 31 restrict the use of vehicles, vessels and aircraft in forestry area unless the use or operation is authorised by a regulatory notice or an authority or agreement that permits the use or operation. The purpose of restricting vehicle, vessel and aircraft access to particular forestry areas ensures that use of the area is limited to certain activities in keeping with the objects of the area and promotes public safety. However, the right to movement is not limited, as these areas can still be accessed without vehicles, vessels or aircraft.

Privacy and reputation (HR Act Section 25)

Section 25 of the HR Act protects the individual from arbitrary interferences with their privacy, family, home and correspondence (written and verbal) and from unlawful attacks on their reputation.

The Regulation provision pertaining to restrictions on drone possession and operation in Section 32 positively engages the right to privacy and reputation. By implementing restrictions on drone activity, the department is helping to prevent unwelcome observation and safeguard individuals' privacy within forestry areas. The provision reduces the circumstances whereby visitors' enjoyment of nature and their recreational activities are impacted by concerns about being photographed or recorded or otherwise monitored without consent. Thus, regulating drones protects individuals' rights to privacy and reputation, fostering a safer and more respectful environment for all.

Cultural rights – Aboriginal peoples and Torres Strait Islander peoples (HR Act s28)

Section 28 of the HR Act recognises cultural rights attributed to individuals and communities of Aboriginal peoples and Torres Strait Islander peoples. The right extends to the enjoyment, maintenance, control, protection, and development of, but not limited to, identity, heritage, practice, custom, teachings, and observances. The right also provides for Aboriginal peoples and Torres Strait Islander peoples to conserve and protect the environment and productive capacity of their land, territories, waters, coastal seas, and other resources.

This section is modelled on Article 27 of the *International Covenant on Civil and Political Rights* and Articles 8, 25, 29 and 31 of the United Nations Declaration on the Rights of Indigenous Peoples.

Regulating the operation of drones for recreational purposes in certain areas, where a regulatory notice for the activity is erected under Section 32, positively engages with cultural rights of Aboriginal peoples and Torres Strait Islander peoples. Drones are sometimes used in ways that could affect the cultural resources and values of an area. The use of drones can disrupt sacred sites or animals, disturb cultural ceremonies, or intrude upon culturally significant landscapes. By regulating their operation in areas where cultural activities and resources are located, the Regulation respects and protects the cultural heritage of Aboriginal peoples and Torres Strait Islander peoples, consistent with the principles outlined in Section 28 of the HR Act.

The department engaged directly with First Nations partners prior to consultation with the broader community. Over 100 First Nations groups, including registered native title body corporates and native title representative bodies, were consulted as part of the review seeking feedback on regulatory proposals. These groups were advised on the purpose of the review, the existing provisions and key changes proposed, the timeframes associated with consultation and how to provide feedback and contact the department for further information, or to request a meeting. First Nations groups were also emailed a link to an online survey used at the commencement of broader public consultation. When requested, DESI held a number of meetings with First Nations groups to discuss the proposed amendments in detail, with no further issues raised.

Human Rights Issues

Consideration of reasonable limitations on human rights (section 13 *Human Rights Act 2019*)

Freedom of expression (HR Act section 21)

(b) The nature of the right

Section 21 of the HR Act protects the right of every person to freedom of expression which includes the freedom to seek, receive and impart information and ideas of all kinds, whether orally, in writing, in print, by way of art, or in another medium chosen by the person.

Helmet requirements

Enforcing the use of helmets when riding or driving in forestry areas under Section 24 may have perceived limitations on the right to freedom of expression.

(c) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

Section 24 requires that a helmet be worn by persons operating or riding on a vehicle including personal mobility devices, bikes, motorbikes, and conditionally registered vehicles. Road safety is inherently consistent within a free and democratic society. It is considered to be in the public interest to reduce injuries associated with vehicle accidents, for example, by encouraging the use of helmets when operating the relevant type of vehicle. Mandating helmets may infringe upon individual freedom of expression by limiting a person's ability to choose whether or not to wear a helmet while riding. It may be perceived as limiting their ability to express their personal values or beliefs, even if those beliefs involve assuming the risk of riding without a helmet.

(d) The relationship between the limitation and its purpose, including whether the limitation helps to achieve its purpose

The government has a strong interest in promoting public safety and well-being. Mandating the use of helmets while riding aligns with this interest by reducing the likelihood of severe head injuries, which can have long-term consequences for individuals and society as a whole. Research consistently demonstrates that wearing helmets significantly reduces the risk of head injuries in the event of a fall or collision while riding. Therefore, the limitation of not wearing helmets directly contributes to the purpose of minimising the severity of injuries sustained in riding accidents. Additionally, the enforcement of helmet use has been a longstanding requirement of the Queensland Road Rules.

(e) Whether there are any less restrictive and reasonably available ways to achieve the purpose

Wearing helmets is the least restrictive and reasonably available means to achieve safety goals in riding due to its proven effectiveness in mitigating the risk of head injuries. Unlike other

potential measures that may rely on voluntary compliance or behavioural change, helmets provide a tangible and immediate form of protection against head-related accidents. Moreover, helmets are readily accessible, with a wide range of options available in various styles, sizes, and price points, making them attainable for riders of all backgrounds and skill levels. By prioritising the protection of riders' well-being without unduly infringing on personal freedoms, helmet requirements represent a pragmatic and effective approach to enhancing safety in riding personal mobility devices in forestry areas.

(f) The balance between the importance of the purpose of the limitation and importance of preserving the human right, taking into account the nature and extent of the limitation

The importance of minimising serious risk to human safety by providing efficient enforcement mechanisms outweighs any limitations on freedom of expression. The provision provides an appropriate balance between allowing personal mobility devices to be used in forestry areas and having these rights limited. Additionally, while it may limit freedom of expression, it positively engages the right to life. As such, it is considered proportionate and justifiable with respect to any potential limitation on other human rights.

Conclusion

I consider that the *Forestry Regulation 2024* is compatible with the *Human Rights Act 2019* because it limits human rights only to the extent that is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

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