

Health and Environment Committee

Report No. 44, 57th Parliament

Subordinate legislation tabled between 13 September 2023 and 10 October 2023

1 Aim of this report

This report summarises the committee's findings following its examination of the subordinate legislation within its portfolio areas tabled between 13 September 2023 and 10 October 2023. It reports on any issues identified by the committee relating to the policy to be given effect by the legislation, fundamental legislative principles (FLPs),¹ its compatibility with human rights,² and its lawfulness.³ It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992* (LSA),⁴ and the compliance of the human rights certificate with the *Human Rights Act 2019* (HRA).⁵

2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date*
140	Proclamation – Environmental Protection and Other Legislation Amendment Act 2023	10 October 2023	15 February 2024
141	Proclamation – Nature Conservation and Other Legislation Amendment Act 2022	10 October 2023	15 February 2024
142	Wet Tropics (Consequential Amendments) Amendment Management Plan 2023	10 October 2023	15 February 2024

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

3 Committee consideration of the subordinate legislation

No significant issues with the policy, consistency with FLPs, lawfulness or human rights compatibility of the subordinate legislation were identified by the committee.

The committee is satisfied that the explanatory notes tabled with the subordinate legislation comply with part 4 of the LSA, and the accompanying human rights certificates provide a sufficient level of information to facilitate understanding of the subordinate legislation in relation to their compatibility with the HRA.

¹ *Legislative Standards Act 1992*, s 4.

² *Human Rights Act 2019*, s 8.

³ *Legislative Standards Act 1992*, Part 4.

⁴ *Legislative Standards Act 1992*, Part 4.

⁵ *Human Rights Act 2019*, s 41.

4 SL No. 140 – Proclamation – Environmental Protection and Other Legislation Amendment Act 2023

4.1 Objective

The Proclamation made under the *Environmental Protection and Other Legislation Amendment Act 2023* (SL No. 140) fixes 13 October 2023 as the commencement date of ss 140 and 141 of the *Environmental Protection and Other Legislation Amendment Act 2023* (Act).⁶

The explanatory notes state that, once commenced, these sections will:

... better protect the Wet Tropics of Queensland World Heritage Area ... by removing an exemption to the prohibitions under the Act which allowed mining under the *Mineral Resources Act 1989*; and by aligning with National Cabinet Review changes - replacing Ministerial Council.⁷

4.2 Consistency with fundamental legislative principles

No FLP issues were identified by the committee.

4.3 Explanatory notes

The explanatory notes comply with part 4 of the LSA.

4.4 Human rights certificate

No human rights certificate was required to be tabled with the proclamation.⁸

5 SL No. 141 – Proclamation – Nature Conservation and Other Legislation Amendment Act 2022

5.1 Objectives

The Proclamation made under the *Nature Conservation and Other Legislation Amendment Act 2022* (SL No. 141) fixes 13 October 2023 as the commencement date of part 10, division 3 and schedule 1, part 2 of the *Nature Conservation and Other Legislation Amendment Act 2022*.⁹

The explanatory notes state that, once commenced, these sections will:

... reflect National Cabinet changes to intergovernmental arrangements between the State and the Commonwealth following a review of the former Council of Australian Governments' Councils and Ministerial Forums by Mr Peter Conran AM. Changes also remove an outdated version of the Intergovernmental Agreement from the Wet Tropics Act and reference the current version via a definition, and correct errors.¹⁰

5.1 Consistency with fundamental legislative principles

No FLP issues were identified by the committee.

5.2 Explanatory notes

The explanatory notes comply with part 4 of the LSA.

5.3 Human rights certificate

No human rights certificate was required to be tabled with the proclamation.¹¹

⁶ Sections 140 and 141 of the Act are amendments to the *Wet Tropics World Heritage Protection and Management Act 1993*.

⁷ SL No. 140, explanatory notes, p 1.

⁸ See HRA, s 41(4A).

⁹ Part 10, division 3 and schedule 1, part 2 of the *Nature Conservation and Other Legislation Amendment Act 2022* are amendments to the *Wet Tropics World Heritage Protection and Management Act 1993*.

¹⁰ SL No. 141, explanatory notes, p 1.

¹¹ See HRA, s 41(4A).

6 SL No. 142 – Wet Tropics (Consequential Amendments) Amendment Management Plan 2023

6.1 Objective

The Wet Tropics (Consequential Amendments) Amendment Management Plan 2023 amends the Wet Tropics Management Plan 1998¹² to be consistent with amendments to the *Wet Tropics World Heritage Protection and Management Act 1993* (Wet Tropics Act).¹³

SL No. 142:

- omits mining under a licence, permit or other authority under the *Mineral Resources Act 1989* (MRA mining authority) from being an activity allowed in the Wet Tropics of Queensland World Heritage Area (World Heritage Area)
- transfers the responsibilities of the obsolete Ministerial Council to the equivalent arrangement of the State Minister (for Environment) and the Commonwealth Minister (for Environment)
- clarifies when references to ‘agreement’ refer to the Intergovernmental Agreement (that is, the agreement between the Commonwealth and the State dated 15 December 1995, as amended from time to time¹⁴)
- replaces the definition of ‘primary goal’ to reflect that the Intergovernmental Agreement is no longer in a schedule to the Wet Tropics Act (its new location is on the Wet Tropics Management Authority’s website)
- updates numbering and section references to reflect the amended Wet Tropics Act
- replaces the reference to the *Public Service Act 2008* with the *Public Sector Act 2022*.¹⁵

6.2 Consistency with fundamental legislative principles

No FLP issues were identified by the committee.

6.3 Explanatory notes

The explanatory notes comply with part 4 of the LSA.

6.4 Compatibility with human rights

6.4.1 Property rights

SL No. 142 could potentially restrict the right to property by removing the opportunity of a person or company to obtain and act on a MRA mining authority within the World Heritage Area.¹⁶ According to the human rights certificate however, the impact of SL No. 142 on property rights is negligible and will align the Wet Tropics Management Plan 1998 with the change to the Wet Tropics Act, ‘completing the process of removing the exemption under Wet Tropics legislation that enables a MRA mining authority to be enacted in the World Heritage Area’.¹⁷

The human rights certificate concludes that protecting the right of the global community and Rainforest Aboriginal Peoples to maintain an area of extraordinary natural and cultural heritage value

¹² From 13 October 2023: SL No. 142, s 2.

¹³ Such amendments can be approved by the Governor in Council, rather than by a full plan review process: *Wet Tropics World Heritage Protection and Management Act 1993*, s 52(2)(b); SL No. 142, explanatory notes, p 1.

¹⁴ *Wet Tropics World Heritage Protection and Management Act 1993*, schedule 3.

¹⁵ SL No. 142, explanatory notes, pp 1-2.

¹⁶ SL No. 142, human rights certificate, pp 2, 3.

¹⁷ SL No. 142, human rights certificate, p 3.

is considered more reasonable than protecting the potential future right to mine the World Heritage Area.¹⁸

Committee comment

The committee is satisfied that the SL No. 142 is compatible with human rights.

6.5 Human rights certificate

The human rights certificate tabled with SL No. 142 provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with human rights.

7 Recommendation

The committee recommends that the Legislative Assembly notes this report.



Aaron Harper MP

Chair

November 2023

Health and Environment Committee

Chair

Deputy Chair

Members

Mr Aaron Harper MP, Member for Thuringowa

Mr Robert (Rob) Molhoek MP, Member for Southport

Mr Stephen (Steve) Andrew MP, Member for Mirani

Ms Ali King MP, Member for Pumicestone

Mr James Martin MP, Member for Stretton

Mr Andrew Powell MP, Member for Glass House

¹⁸ SL No. 142, human rights certificate, p 4.