

Statement of Compatibility

FOR

Amendments to be moved during consideration in detail by the Honourable David Janetzki MP, Treasurer, Minister for Energy and Minister for Home Ownership

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 38 of the *Human Rights Act 2019*, I, David Janetzki, Treasurer, Minister for Energy and Minister for Home Ownership make this statement of compatibility with respect to the amendments moved during consideration in detail (ACiDs).

In my opinion, the ACiDs are compatible with the human rights protected by the *Human Rights Act 2019* (Act). I base my opinion on the reasons outlined in this statement.

Overview of the Bill

The ACiDs provide for the repeal of the *Forest Wind Farm Development Act 2020* (FWFD Act), consequential amendments to the *Forestry Act 1959* (Forestry Act) and the *Land Act 1994* (Land Act), and amendments to the *State Development and Public Works Orders Act 1971* (SDPWO Act).

Following an initial proposal progressed under the then Market-led Proposal guidelines in June 2016, the project proponent, Forest Wind Holdings Pty Ltd (FWH) submitted a Detailed Proposal in January 2020 under the Exclusive Transactions framework to develop a large-scale wind farm within the Tuan, Toolara and Neerdie State Forests, areas which are subject to a plantation licence held by HQ Plantations Pty Ltd (HQP).

In September 2020, the FWFD Act was introduced to create a tenure pathway for the Forest Wind Farm project (project) to be developed and operate in parallel with the plantation licence. The FWFD Act provided a pathway for the proponent (FWH) to obtain tenure to access, occupy, develop and manage the land for the purpose of developing and operating the project.

Following the withdrawal of the project's joint venture partner in August 2024, and the plantation licence holder, HQ Plantations (HQP), advising the State in September 2024 that it has ceased project negotiations with FWH, the project was re-evaluated under the State's exclusive transaction process. After this re-evaluation, facilitation of the project under the exclusive transaction framework came to an end. In July 2025, FWH was advised of the outcome of the State's re-evaluation. As a result of the decision to end the exclusive transactions process and with no realistic project pathway, the FWFD Act is no longer required and is to be repealed.

To provide the necessary legislative framework for the project to coexist with the plantation licence and to otherwise be undertaken in the State forests, the FWFD Act facilitated the grant of tenure and exempted the project from, or modified the application of, certain provisions of the Forestry Act and the Land Act. In this context, the ACiDs propose consequential amendments to the Forestry Act and the Land Act to remove references to the project.

Further, the ACiDs propose amendments to the SDPWO Act to provide for the continuation of the function of section 57 of the FWFD Act following repeal. Section 57 of the FWFD Act provides that no compensation is payable by or on behalf of the State to a person in relation to the enactment or operation of the FWFD Act irrespective of anything contrary in another Act or law, or a plantation license or sublicense.

The ACiDs propose to amend the SDPWO Act to retain the function of section 57 of the FWFD Act to expressly exclude the State from any liability to pay compensation in relation to the project following the repeal of the FWFD Act.

Lastly, the ACiDs propose to further amend the SDPWO Act to provide for regulation making powers relevant to the FWF project and the FWFD Act following the repeal of the FWFD Act. The SDPWO Act already provides for regulations to be made in certain circumstances, and, given this, the ACiDs provide for the extension of these powers to matters relevant to the project and the FWFD Act following repeal.

Human Rights Issues

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

In my opinion, no human rights recognised in the Act are relevant to the ACiDs for the following reasons:

Part 2 section 11 of the Act establishes that human rights are afforded exclusively to individuals, not corporations. As such, corporations, including FWH, are not recognised as bearers of human rights under the Act and cannot claim protections or assert obligations arising from it.

Given this framework, any potential implications of the repeal of the FWFD Act, including any consequential amendments made via its repeal, as they pertain to FWH, fall outside the scope of human rights considerations. While the repeal may result in broader economic or operational impacts on FWH, such impacts do not engage the human rights protections provided under the Act where corporations are concerned.

Despite this, case law in Queensland has established that the scope of each right under the Act is to be ‘construed in the broadest possible way’ by reference to the right’s ‘purpose and underlying values’ (*Owen-D’Arcy v Chief Executive, Queensland Corrective Services* [2021] QSC 273, 130). Accordingly, legal scholarship suggests that the rights are likely to be much broader in scope and application than one might expect from a cursory reading of the text of each provision.

The broad scope of the rights outlined in Part 2 of the Act means that human rights considerations are relevant to almost all forms of government decision-making in Queensland, including decisions involving corporations.

This reflects the principle that decisions affecting corporations often have direct or indirect impacts on individuals. In this context, broader consideration can be given to how the repeal of the FWFD Act may have human rights consequences for individuals.

Environmental Impacts and the Right to Life (Section 16)

The repeal of the FWFD Act is likely to impede and likely prevent the development of the project, which could have broader environmental consequences due to the project's proposed forest clearing as well as potential disruptions to the local community, infrastructure, and amenity. However, the environmental impact of repealing the FWFD Act and halting the tenure pathway for the project remains speculative, as the project had not progressed beyond the early planning stages. Furthermore, there is no evidence of a direct causal link between the repeal and any measurable harm to individuals; therefore, no immediate human rights concerns arise.

Property Rights (Section 24)

The repeal could also affect individuals who own or lease land that was earmarked for use through the project's development. While the project's early stage means no licences or agreements were established, repeal may create uncertainty for landholders who were negotiating agreements or planning for potential changes to their property use.

The repeal of the FWFD Act does not interfere with any existing property rights, as no licences or agreements had been established, and no land acquisitions or agreements had been finalised. Any potential impacts on property rights were contingent on future decisions that had not yet occurred. Therefore, the repeal does not amount to a material interference with property rights.

Consistency with established guidelines

Furthermore, the repeal of the FWFD Act aligns with the responsibilities and expectations clearly outlined for project proponents in the government's market-led proposals guidance material – the conditions under which FWH entered an exclusive transaction with the Queensland Government. These responsibilities include the understanding that proponents bear all risks and costs associated with their projects during the assessment stages.

The guidance material explicitly states that proponents are responsible for managing their own risks and costs during the assessment process. This includes the possibility that legislative changes may occur, as is the case with the repeal of the FWFD Act. FWH, as proponents of the project, were aware of these conditions and proceeded with the full understanding there was no guarantee of approval.

The State retains the right to amend or repeal legislation in response to changing circumstances, and proponents are expected to account for this possibility in risk management strategies. As such, the repeal does not deprive the proponents of any legal rights or entitlements and the proponents remain free to pursue their project through other legal and regulatory pathways, should they choose.

Promotion of human rights

As defined in section 8 of the Act, a statutory provision will be compatible with human rights if:

- it does not limit a human right; or
- it limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the Act.

Importantly, however, common practice has established that assessments of the impact on a human right need not focus exclusively on negative or significant impacts. Indeed, a human right might be engaged if it is limited by a proposal, or alternatively, if it is protected or promoted by a statutory provision.

In this regard, the repeal of the FWFD Act may have positive implications for certain human rights, particularly recognition and equality before the law, freedom of movement, and cultural rights – Aboriginal peoples and Torres Strait Islander peoples. By removing the legislative framework that facilitated the development of the Forest Wind Farm project, the repeal could address potential limitations of the rights of individuals through the project's implementation.

Firstly, the repeal may promote recognition and equality before the law, as protected under section 15 of the Act. The FWFD Act provided a specific legislative framework for the Forest Wind Farm project, which some stakeholders may have perceived as granting preferential treatment to a private corporation. Repealing the FWFD Act may reinforce the principle that all individuals and entities are subject to the same legal standards and processes, thereby promoting greater equality and fairness in decision-making.

Secondly, the repeal may enhance the right to freedom of movement, as outlined in section 19 of the Act. Infrastructure projects of the scale authorised under the FWFD Act can result in restricted access to public or private lands, including forests, roads, and recreational areas. Such restrictions can limit individuals' ability to move freely within their communities or access areas of personal or cultural significance. By repealing the FWFD Act, the potential for such restrictions may be reduced, thereby preserving individuals' freedom of movement and access.

Lastly, the repeal may positively affect cultural rights – Aboriginal peoples and Torres Strait Islander peoples, as protected under section 28 of the Act. These rights include the ability to maintain and strengthen cultural practices, connections to land and waters, and the protection of cultural heritage. The repeal of the FWFD Act may, therefore, have positive impacts on cultural rights by preventing potential disruptions to culturally significant areas.

In my opinion, the ACiDs are compatible with human rights under the *Human Rights Act 2019* because these amendments do not engage or otherwise impact human rights as outlined in the Act.

THE HONOURABLE DAVID JANETZKI MP
TREASURER
MINISTER FOR ENERGY AND MINISTER FOR HOME OWNERSHIP