

# Biodiscovery Regulation 2021

## 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, Meaghan Scanlon, Minister for the Environment and the Great Barrier Reef and Minister for Science and Youth Affairs provide this human rights certificate with respect to the Biodiscovery Regulation 2021 made under the *Biodiscovery Act 2004*.

In my opinion, the Biodiscovery Regulation 2021, 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 purpose of the Biodiscovery Regulation 2021 is to approve the Traditional Knowledge Code of Practice (the Code of Practice), in accordance with section 9C of the *Biodiscovery Act 2004* (the Act), to assist a person to meet the traditional knowledge obligation under section 9B of the Act.

Section 9B of the Act requires a person to take all reasonable and practical measures to ensure the person does not use traditional knowledge for biodiscovery other than under an agreement with the custodians of the knowledge. Under the Act the custodians of traditional knowledge are the Aboriginal people or Torres Strait Islanders to whom the traditional knowledge relates.

Custodians may nominate an entity (the nominated entity) to enter into an agreement with a biodiscovery entity under section 9B of the Act on the custodians' behalf. Where custodians nominate a third party, these rights only extend to the rights given to the third party and controlled by the custodians. The Code of Practice states that nominated entities may include, but are not limited to, organisations such as registered native title body corporates (RNTBCs) and registered Aboriginal or Torres Strait Islander cultural heritage bodies.

The Code of Practice aims to:

- improve alignment with international standards such as the *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity*. The Nagoya Protocol provides a framework for the fair and equitable sharing of benefits arising from the utilisation of genetic resources and including the use of traditional knowledge associated with genetic resources. Access and benefit sharing in accordance with the Nagoya Protocol acknowledges and involves the contributions of Indigenous peoples and local communities;
- ensure Queensland continues to be a leader in scientific discovery in Australia and internationally, doing so in a way that supports First Nations peoples' cultural rights and self-determination, including support for section 28 of the *Human Rights Act 2019*; and

- support biodiscovery entities to collaborate internationally and access markets, creating job opportunities and supporting First Nations peoples to benefit in the process.

The authorising law for the Biodiscovery Regulation 2021 is sections 9C and 123 of the Act.

## **Human Rights Issues**

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

The potential impact of the Biodiscovery Regulation 2021 on human rights in sections 15 to 37 of the *Human Rights Act 2019* was considered. No negative engagement with human rights was identified. The Traditional Knowledge Code of Practice approved by the Biodiscovery Regulation 2021 contributes positively to the protection and promotion of human rights relating to the cultural rights of Aboriginal peoples and Torres Strait Islander peoples under section 28 of the *Human Rights Act 2019*.

## **Conclusion**

I consider that the Biodiscovery Regulation 2021 is compatible with the *Human Rights Act 2019* because it does not raise a human rights issue.

**MEAGHAN SCANLON MP**  
MINISTER FOR THE ENVIRONMENT AND THE GREAT BARRIER REEF  
MINISTER FOR SCIENCE AND YOUTH AFFAIRS

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