

Nature Conservation and Other Legislation Amendment Regulation (No. 2) 2022

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 *Nature Conservation and Other Legislation Amendment Regulation (No. 2) 2022* made under the *Environmental Offsets Act 2014* and the *Nature Conservation Act 1992*.

In my opinion, the *Nature Conservation and Other Legislation Amendment Regulation (No. 2) 2022*, 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 *Nature Conservation and Other Legislation Amendment Regulation (No. 2) 2022* (the Amendment Regulation) amends the *Nature Conservation (Animals) Regulation 2020* (Animals Regulation), the *Nature Conservation (Plants) Regulation 2020* (Plants Regulation), the *Nature Conservation (Protected Areas Management) Regulation 2017* (PAM Regulation), and the *Environmental Offsets Regulation 2014* (Offsets Regulation) to progress the reclassification of wildlife and make other minor administrative and clarification amendments.

The main policy objective of the Amendment Regulation is to progress the reclassification of wildlife under the Animals Regulation and the Plants Regulation. Species reclassification is a routine, ongoing process undertaken to meet the requirements of the *Nature Conservation Act 1992* (NC Act), including the protection and conservation of Queensland's native wildlife. It ensures that listings under the NC Act are kept up to date with current scientific knowledge. The Species Technical Committee (STC), an expert panel of government and non-government scientists, is responsible for overseeing the wildlife classification process. The STC provides an independent, unbiased, scientific assessment of nominations for changes to species listings, based on the most recent scientific data, and makes recommendations for changes to species classifications. Administrative amendments are also required to the Animals Regulation and the Plants Regulation to provide nomenclature updates.

The Amendment Regulation will amend the Offsets Regulation to refer to the newest version of the Environmental Offsets Policy, under the *Environmental Offsets Act 2014*, which has been updated to reflect changes to wildlife classifications.

The amendments to the Animals Regulation, under the NC Act, will provide clarification on the circumstances under which a dependent animal may be moved, either with or without its mother. Other amendments to the Animals Regulation will also clearly define 'works of art' to distinguish it from commercial activities to allow applications for collection authorities to be

assessed and granted appropriately. The proposed amendments are minor in nature and do not seek to change or affect the intent.

The amendments to the Plants Regulation, under the NC Act, will clearly define provisions relating to restrictions on grant of a protected plant harvesting licence, particularly the non-requirement of a sustainable harvest plan for the contingent salvage of a restricted plant. The proposed amendment is minor in nature and does not seek to change or affect the intent.

Minor amendments are also required under the Animals Regulation, the Plants Regulation and the PAM Regulation to clarify provisions relating to the accumulation of demerit points. The proposed amendments will specify when a person will accumulate demerit points and the circumstances in which demerit points are allocated to enhance compliance capabilities and ensure regulatory consistency.

Demerit points are issued after a person is issued a penalty infringement notice (PIN) and the person pays the fine or is convicted of an offence. However, if the person fails to pay the fine or refer the matter to court within the period, a person can contest a PIN and the outstanding fine is referred to the State Penalties Enforcement Registry (SPER) for further action with indefinite timeframes. The accumulation of demerit points may affect whether a person is considered a suitable person to hold relevant authority under the NC Act and the relevant authority may be suspended or cancelled if a certain number of demerit points have been accumulated.

However, the current drafting of provisions for the accumulation of demerit points is ambiguous and has resulted in situations where, if an unpaid fine is referred to SPER, an offender does not accumulate demerit points until a payment has been made. This is inconsistent with the intent, which considers a person unsuitable to hold a relevant authority if, due to the accumulation of demerit points, the chief executive is not satisfied the person would be able to carry out activities under the authority in a competent and ethical way. The proposed amendments intend to clarify relevant provisions to ensure a person committing an offence accumulates demerit points in a timely manner to achieve consistency with the intent of regulations under the NC Act. This is also consistent with other Queensland legislation that uses demerit point systems and clarifies when demerit points are to be accumulated.

Human Rights Issues

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

Consideration has been given as to whether the Amendment Regulation engages human rights under the *Human Rights Act 2019*. The amendments to the Animals Regulation, the Plants Regulation, the PAM Regulation and the Offsets Regulation do not engage human rights as they update scientific nomenclature, clarify provisions to reflect the policy intent, and ensure listings under the NC Act are kept up to date with current scientific knowledge.

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

Consideration has been given as to whether the Amendment Regulation limits human rights under the *Human Rights Act 2019*. The Amendment Regulation does not limit human rights as the amendments to the Animals Regulation, the Plants Regulation, the PAM Regulation and the Offsets Regulation do not engage any human rights.

Conclusion

I consider that the *Nature Conservation and Other Legislation Amendment Regulation (No. 2) 2022* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

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

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