

Nature Conservation and Other Legislation Amendment Regulation (No. 2) 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 *Nature Conservation and Other Legislation Amendment Regulation (No. 2) 2021* made under the *Environmental Offsets Act 2014*, the *Nature Conservation Act 1992*, the *State Penalties Enforcement Act 1999* and the *Statutory Instruments Act 1992*.

In my opinion, the *Nature Conservation and Other Legislation Amendment Regulation (No. 2) 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 main policy objective of the *Nature Conservation and Other Legislation Amendment Regulation (No. 2) 2021* (the Amendment Regulation) is to progress the reclassification of wildlife. 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.

The Amendment Regulation amends the *Nature Conservation (Animals) Regulation 2020*, the *Nature Conservation (Koala) Conservation Plan 2017*, the *Nature Conservation (Plants) Regulation 2020*, and the *Nature Conservation (Protected Areas Management) Regulation 2017* (collectively known as the Wildlife Regulations) to complete the routine update of listings and nomenclature of wildlife listed under the NC Act and make minor administrative amendments. The Amendment Regulation also amends the *Environmental Offsets Regulation 2014* to refer to the newest version of the Offsets Policy, under the *Environmental Offsets Act 2014*, which is updated in response to changes to wildlife classification and nomenclature.

The Amendment Regulation seeks to streamline the process by removing the macropod harvest period notice (HPN) subordinate legislation requirements under the *Statutory Instruments Regulation 2012*, under the *Statutory Instruments Act 1992*, and instead, requiring the chief executive to make a HPN to be published on the Department of Environment and Science's website. The ecologically sustainable and humane take, keep and use of macropods is administered by the *Nature Conservation (Macropod) Conservation Plan 2017* (the Macropod

Plan) under the NC Act. This is achieved by restricted conditions on the grant of licences for macropods, limiting what holders may do under the licence, state requirements about records and return of operations for the licence, and regulating the carrying out of activities in relation to harvesting macropods. A HPN defines the annual harvest conditions and is currently published as subordinate legislation. The current provisions are a complicated way of achieving a straightforward and appropriate sub-delegation to the chief executive. The proposed amendment to the Macropod Plan is consequential, arising from the removal of reference to the HPN in the *Statutory Instruments Regulation 2012*. The changes made to the Macropod Plan facilitate consequential amendments to the *State Penalties Enforcement Regulation 2014*, under the *State Penalties Enforcement Act 1999*, to update references to section numbering in Schedule 1.

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 might engage human rights under the *Human Rights Act 2019* (HR Act). The minor amendments to the Wildlife Regulations, the *Environmental Offsets Regulation 2014*, the *State Penalties Enforcement Regulation 2014*, the *Statutory Instruments Regulation 2012* and the *Nature Conservation (Macropod) Conservation Plan 2017* do not engage any human rights. The proposed amendments to the *Nature Conservation (Animals) Regulation 2020* have been assessed against human rights under the HR Act but do not engage human rights.

1. The amendments to the Nature Conservation (Animals) Regulation: Consideration of reasonable limitations on human rights (section 13 *Human Rights Act 2019*)

- **Property rights (section 24 of the HR Act)**

Section 24 of the Act protects the right of all persons to own property and provides that people have a right to not be arbitrarily deprived of their property. The Amendment Regulation may be perceived to engage property rights as particular animals may have been lawfully kept prior to their listing as ‘protected’ or ‘international’ under the NC Act.

However, following consideration of the Amendment Regulation, it has been concluded that whilst the amendments may be perceived to engage property rights under section 24 of the HR Act, these rights are not limited due to the wildlife classifications not resulting in any ‘newly protected’ species under the NC Act, and that existing permitting arrangements allow these animals to remain property of the person.

The remaining rights under the HR Act are not engaged as all other amendments to the *Nature Conservation (Animals) Regulation 2020* correct typographical errors, update scientific nomenclature, clarify policy intent and ensure listings under the NC Act are kept up to date with current scientific knowledge, and that appropriate management and conservation measures are afforded to species most at risk of extinction.

The Amendment Regulation does not result in impacts on human rights because they are:

- consequential and/or of a machinery nature;
- required to fix drafting errors; or
- required to further clarify original policy intent.

Conclusion

I consider that the *Nature Conservation and Other Legislation Amendment Regulation (No. 2) 2021* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

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

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