

Nature Conservation and Other Legislation Amendment Regulation 2023

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, Leanne Linard, Minister for the Environment and the Great Barrier Reef, Minister for Science and Minister for Multicultural Affairs provide this human rights certificate with respect to the *Nature Conservation and Other Legislation Amendment Regulation 2023* made under the *Environmental Offsets Act 2014* and the *Nature Conservation Act 1992*.

In my opinion, the *Nature Conservation and Other Legislation Amendment Regulation 2023*, 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 2023* (the Amendment Regulation) amends the *Nature Conservation (Animals) Regulation 2020* (Animals Regulation), the *Nature Conservation (Plants) Regulation 2020* (Plants Regulation), the *Nature Conservation (Koala) Conservation Plan 2017* (Koala Plan), and the *Environmental Offsets Regulation 2014* (Offsets Regulation) to progress the reclassification of wildlife, make changes to the management of protected fish, remove flying-fox lethal take provisions and allow for an adjustment period, provide greater flexibility and guidance for rehabilitated koala release conditions, and make other minor administrative and clarification amendments.

A key policy objective of the Amendment Regulation is to progress the reclassification of wildlife under the Animals Regulation and 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 to the Animals Regulation and Plants Regulation are also required to update species nomenclature.

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 is updated to reflect changes to wildlife classifications.

The amendments to the Animals Regulation, under the NC Act, will list particular fish species under the 'exempt animal' category to reflect contemporary keeping activities, as well as make clarifications to conditions for the keep and use of fish for non-commercial purposes,

movement conditions of animals kept after death, and circumstances in which a protected animal may be taken from an airport. The proposed amendments are minor in nature and do not seek to change or affect the original intent or impose any additional regulatory burden on business or community.

Amendments are required under the Animals Regulation to deliver the Queensland Government's election commitment to repeal flying-fox lethal take laws for crop protection and return to a modern framework of protection. The proposed amendments will provide transitional provisions that allow commercial operators to continue to use and hold a damage mitigation permit for crop protection purposes over a three-year phase-out period, until which time it will become unlawful to shoot flying-foxes. The phase-out period will assist impacted growers to transition to non-lethal crop protection measures. A number of other administrative, consequential and transitional amendments will be made in relation to supporting these changes.

The proposed amendments to the Koala Plan, under the NC Act, will increase the maximum release distance from 5 kilometres to 20 kilometres for hand-reared koalas and to 10 kilometres for all other rehabilitated koalas, clarify the definition of 'prescribed natural habitat', and make other minor clarification or consequential amendments. This will provide greater flexibility and guidance to rehabilitators when selecting suitable release sites for koalas to improve conservation outcomes associated with koala rehabilitation.

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 amendments to the Animals Regulation relating to the change of management for protected fish engage but do not limit property rights under the HR Act (section 24). The proposed amendments positively engage with property rights because they allow certain protected fish to become available for commercial keep and use where they were not previously and without imposing licencing conditions. The proposed changes intend to encourage keep of native fish species in captive environments (and discourage the recreational and commercial use of invasive species) by allowing people to keep protected fish as 'exempt animals' under the Animals Regulation.

The remaining proposed amendments to the Animals Regulation, Plants Regulation, Koala Plan, and Offsets Regulation do not engage human rights as they relate to the management of wild native animals, 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 is compatible with human rights because the amendments to the Animals Regulation, Plants Regulation, Koala Plan, and Offsets Regulation do not limit human rights.

Conclusion

I consider that the *Nature Conservation and Other Legislation Amendment Regulation 2023* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

LEANNE LINARD MP
MINISTER FOR THE ENVIRONMENT AND THE GREAT BARRIER REEF
MINISTER FOR SCIENCE AND MINISTER FOR MULTICULTURAL AFFAIRS

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