

Environmental and Other Legislation (Reversal of Great Barrier Reef Protection Measures) Amendment Bill 2021

Statement of Compatibility

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

In accordance with section 38 of the *Human Rights Act 2019*, I, Nick Dametto, Member for Hinchinbrook, make this statement of compatibility with respect to the Environmental and Other Legislation (Reversal of Great Barrier Reef Protection Measures) Amendment Bill 2021.

In my opinion, the Environmental and Other Legislation (Reversal of Great Barrier Reef Protection Measures) Amendment Bill 2021 is compatible with the human rights protected by the *Human Rights Act 2019*.

Overview of the Bill

The policy objective of this Bill is to repeal all amendments made to the Environmental Protection Act 1994 and Chemical Usage (Agricultural and Veterinary) Control Act 1988 by the State Government in their Environmental Protection (Great Barrier Reef Protection Measures) and Other Legislation Amendment Act 2019.

In addition to repealing the amendments made to the Environmental Protection Act 1994 by the State Government's Environmental Protection (Great Barrier Reef Protection Measures) and Other Legislation Amendment Act 2019, this Bill will also:

- Establish an independent regulator with an extensive agricultural and scientific background who will advise and assist the Minister when making a new Environmentally Relevant Activity (ERA) standard and oversees the administering of offences when a person makes an offence with respect to fertiliser application (see Section 78 of the Bill). The regulator will not, or will have ever been, an employee of the Department of Environment and Science or another government agency. This is to ensure the regulator will not have a conflict of interest with the government of the day and their agenda.
- Introduce the penalty of an enforceable undertaking, as opposed to a financial penalty, for a person in relation to a first contravention or alleged first contravention by that person of Section 78 of this Bill. This will involve a written undertaking made by a person in relation to their contravention or alleged contravention of Section 78.
- Absolve a person of responsibility if Section 78 is contravened by an employee employed or engaged to carry out the agricultural ERA on the person's behalf in which the employee does not follow the instructions.

- Limits the required period that relevant primary documents for an agricultural ERA record must be kept to 2 years after the last day of the financial year in which the record was made.
- Transfers the power for making an ERA standard from the chief executive to the Minister and the Minister alone. This is to ensure that such a decision is made by an elected official and not by an unelected member of the public service. The Minister will, however, be required to consult with the independent regulator, and representatives from two or more industry bodies that the ERA standard will affect before making a new ERA standard.
- Mandate that the Minister must publish on the Department's website a copy of each new ERA standard made by the Minister and the recommendation made by the independent regulator in relation to that ERA standard. This is to be done in the interests of public transparency, such as in scenarios where the Minister's decision to make an ERA standard may go against the recommendation of the regulator.

Human Rights Issues

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

In my opinion, this Bill does not contravene any human right listed under **Part 2, Division 2 and 3 *Human Rights Act 2019***.

The Bill focuses largely on regulation of agricultural activities. It does not restrict an individual's civil and political rights, such as freedom of movement, freedom of thought, freedom of expression, property rights, privacy and reputation or recognition and equality before the law.

Conclusion

In my opinion, the Environmental and Other Legislation (Reversal of Great Barrier Reef Protection Measures) Amendment Bill 2021 is compatible with human rights under the *Human Rights Act 2019* because it does not limit a human right.

Nick Dametto
Member for Hinchinbrook

