

## Innovation, Tourism Development and Environment Committee

### Report No. 13, 56<sup>th</sup> Parliament Subordinate legislation tabled between 19 September 2018 and 30 October 2018

#### 1 Aim of this report

This report summarises the committee's findings following its examination of the subordinate legislation within its portfolio areas tabled between 19 September 2018 and 30 October 2018. It reports on any issues identified by the committee relating to the policy to be given effect by the legislation, fundamental legislative principles and lawfulness. It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992*.

#### 2 Subordinate legislation examined:

2018			
SL No	Subordinate Legislation	Tabled Date	Disallowance Date
147	Nature Conservation (Estuarine Crocodile) Conservation Plan 2018	16 October 2018	28 February 2018
148	Nature Conservation (Estuarine Crocodile) Amendment Regulation 2018	16 October 2018	28 February 2018
154	Environmental Protection (Regulated Waste) Amendment Regulation 2018	16 October 2018	28 February 2018
167	Waste Reduction and Recycling (Container Refund Scheme) Amendment Regulation 2018	30 October 2018	28 March 2019

#### Nature Conservation (Estuarine Crocodile) Conservation Plan 2018 (SL 147)

The policy objective of this plan is to replace the *Nature Conservation (Estuarine Crocodile) Conservation Plan 2007* ('the 2007 plan') to ensure continuation of a regulatory framework that conserves viable populations of estuarine crocodiles in the wild.

The 2018 plan is substantially the same as the 2007 plan, apart from the introduction of new arrangements in Part 3 for the commercial harvest of estuarine crocodiles. The explanatory notes advised that Part 3 'creates new arrangements for the ecologically sustainable commercial harvest of estuarine crocodiles under commercial wildlife harvesting licences'.<sup>1</sup> The new section authorises the chief executive to grant commercial wildlife harvesting licences authorising the taking of crocodile eggs.<sup>2</sup>

<sup>1</sup> Explanatory notes, Subordinate legislation 2018, No. 147, p 2.

<sup>2</sup> Explanatory notes, Subordinate legislation 2018, No. 147, p 2.

Targeted consultation was undertaken with key stakeholders, including local governments in North Queensland, crocodile farms, Aboriginal representative bodies, Australia Zoo, World Wildlife Fund, Wildlife Preservation Society of Queensland and the Crocodile Specialist Group of the International Union for the Conservation of Nature. The Commonwealth Department of Environment and Energy was also consulted to obtain approval for a new Wildlife Trade Management Plan for Queensland Crocodile Farming and Crocodile Egg Harvesting.<sup>3</sup>

The explanatory notes advised that the majority of stakeholders support crocodile egg harvesting in Queensland.<sup>4</sup>

Part 3 includes a penalty of up to 120 penalty units (\$15,666) for the holder of a commercial wildlife harvesting licence for crocodile eggs who does not provide the chief executive with the required return of operations for the licence. This level of penalty already existed in the 2007 regulation reflecting the serious nature of offences such as interfering with crocodile traps, and not immediately notifying a conservation officer about the accidental catching or taking an estuarine crocodile.

#### **Nature Conservation (Estuarine Crocodile) Amendment Regulation 2018 (SL 148)**

The policy objective of this amendment regulation is to:

- reflect in various regulations that the Nature Conservation (Estuarine Crocodile) Conservation Plan 2018 ('the 2018 plan') remakes the 2007 Plan
- reflect in various regulations that the 2018 plan allows for the holder of a commercial wildlife harvesting licence for estuarine crocodile eggs to take estuarine crocodile eggs
- correct errors in various regulations.

#### **Environmental Protection (Regulated Waste) Amendment Regulation 2018 (SL 154)**

The policy objective of this amendment regulation is to introduce a new regulated waste classification framework which enables the hazardous properties of waste to be assessed, so that an appropriate risk-based waste classification category and subsequent regulatory controls can be applied. The explanatory notes advised:

*The new framework is expected to ensure an appropriate level of hazard protection is applied when managing regulated waste, particularly for low-risk wastes that will no longer be classified as a regulated waste.*<sup>5</sup>

According to the explanatory notes, the existing method of classifying regulated waste is problematic as it does not allow the potential risk associated with the specific type or concentration of contaminant(s) present in a waste to be considered:

*The introduction of a new regulated waste classification framework enables the hazardous properties of a waste to be assessed, so that an appropriate risk-based waste classification category and subsequent regulatory controls can be applied. The new framework is expected to ensure an appropriate level of hazard protection is applied when managing regulated waste, particularly for low-risk wastes that will no longer be classified as a regulated waste. This is expected to represent a cost saving for managing low-risk wastes.*<sup>6</sup>

The amendment regulation aims to achieve the policy objective by providing:

- improved classification and management of wastes based on up to date scientific values for the protection of the environment and human health
- the ability to test and classify low-risk solid or liquid wastes as not-regulated

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<sup>3</sup> Explanatory notes, Subordinate legislation 2018 No. 147, p 3.

<sup>4</sup> Explanatory notes, Subordinate legislation 2018 No. 147, p 4.

<sup>5</sup> Explanatory notes, Subordinate legislation 2018 No. 154, p 2.

<sup>6</sup> Explanatory notes, Subordinate legislation 2018 No. 154, pp 1-2.

- reduced regulation and associated management costs for low-risk not-regulated wastes
- greater incentive to treat waste to reduce the level of potential risk and therefore the associated regulated waste classification category
- a framework that does not impact on the viability of established industries and encourages capital investment, economic development and employment.<sup>7</sup>

The amendment regulation appears to have been subject to a rigorous consultation process:

- Public consultation and submissions on a Consultation Regulatory Impact Statement (Consultation RIS) were sought to inform the outcomes of the review – the Consultation RIS proposed two policy options –

*Option 1: maintain the status quo*

*Option 2: adopt a new rationalised framework with a list of contemporary environmentally relevant activities (ERAs) and a risk-based regulated waste classification system).<sup>8</sup>*

- A Decision Regulatory Impact Statement describes the outcomes of the consultation process and the changes to the regulated waste classification framework.

In response to the Consultation RIS feedback, the Department of Environment and Science further reviewed and amended the preferred policy option 2 proposal. These amendments have resulted in:

- *reducing the number of regulated waste categories from three to two*
- *further review and updating of the waste categorisation hazard parameter limits and default waste categories to align with the new categories*
- *expanding the regulated waste classification exemptions to include additional items such as used treated timbers, automotive components and treated clinical waste*
- *increasing the number of ERAs from five to seven to allow for scale-based thresholds for waste processing and treatment ERAs to enable improved risk-based regulation of small, medium and large scale activities, and*
- *the inclusion of new ERA thresholds for facilities handling or processing lower-risk inert or non-putrescible general wastes.<sup>9</sup>*

According to the explanatory notes:

*Although alternative options were considered through the Consultation RIS, the amendment regulation approach is based on up-to-date science and is generally supported by key stakeholders who have been thoroughly consulted about this reform.<sup>10</sup>*

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<sup>7</sup> Explanatory notes, Subordinate legislation 2018 No. 154, p 2.

<sup>8</sup> Review of the Regulated Waste Classification and Waste-Related Environmentally Relevant Activity (ERA) frameworks - Decision Regulatory Impact Statement, Queensland Government, July 2018, p 5.

<sup>9</sup> Review of the Regulated Waste Classification and Waste-Related Environmentally Relevant Activity (ERA) frameworks - Decision Regulatory Impact Statement, Queensland Government, July 2018, p 5. The first three of these five relate to the amendment regulation.

<sup>10</sup> Explanatory notes, Subordinate legislation 2018 No. 154, p 3.

### **Waste Reduction and Recycling (Container Refund Scheme) Amendment Regulation 2018 (SL 164)**

The amendment regulation provides for amendments to the Waste Reduction and Recycling Regulation 2011 to give effect to the following objects the container refund scheme, which commenced on 1 November 2018:

- to increase the recovery and recycling of empty beverage containers
- to reduce the number of empty beverage containers that are littered or disposed of to landfill
- to ensure that the manufacturers of beverage products meet their product stewardship responsibility in relation to their beverage products
- to provide opportunities for social enterprise and benefits for community organisations, and
- to complement existing collection and recycling activities for the state.<sup>11</sup>

The amendment regulation will achieve the policy objectives by providing:

- *the refund amount of 10 cents to be given to people returning empty beverage containers to a container refund point*
- *the beverage products and types of containers that are eligible for a refund under the scheme*
- *the definition for a small beverage manufacturer and the frequency of their scheme payments obligations*
- *setting scheme targets, including container recovery targets and container refund point accessibility targets, to be achieved by the Product Responsibility Organisation, and*
- *providing for refund sharing arrangements between Material Recovery Facility operators and local governments in relation to containers collected through the kerbside system.*<sup>12</sup>

### **3 Committee consideration of the subordinate legislation**

The committee was satisfied that the subordinate legislation examined did not raise any significant issues relating to policy, fundamental legislative principles or lawfulness, and that the explanatory notes complied with part 4 of the *Legislative Standards Act 1992*.

### **4 Recommendation**

The committee recommends that the House notes this report.



Duncan Pegg MP

**Chair**

February 2019

#### **Innovation, Tourism Development and Environment Committee**

Chair	Mr Duncan Pegg MP, Member for Stretton
Deputy Chair	Mr Jon Krause MP, Member for Scenic Rim
Members	Ms Sandy Bolton MP, Member for Noosa
	Mr Jason Costigan MP, Member for Whitsunday
	Ms Cynthia Lui MP, Member for Cook
	Mrs Charis Mullen MP, Member for Jordan

<sup>11</sup> Explanatory notes, Subordinate legislation 2018 No. 167, p 1.

<sup>12</sup> Explanatory notes, Subordinate legislation 2018 No. 167, p 2.