

Impact Analysis Statement

Summary IAS

Details

Lead department	Department of Environment, Science and Innovation
Name of the proposal	Nature Conservation and Other Legislation Amendment Regulation 2024
Submission type	Summary IAS
Title of related legislative or regulatory instrument	Environmental Offsets Regulation 2014 Nature Conservation (Animals) Regulation 2020 Nature Conservation (Plants) Regulation 2020 Nature Conservation (Protected Areas Management) Regulation 2017 Fisheries Declaration 2019 Fisheries (General) Regulation 2019
Date of issue	August 2024

Proposal type	Details
Minor and machinery in nature	The purpose of this regulatory proposal is to update the conservation status of protected wildlife, management of protected species and provide other minor consequential and clarification amendments. This proposal is minor and machinery in nature and has zero/negligible regulatory costs and does not involve substantive change to regulatory policy or result in impacts to business, government, or the community. The proposed regulatory amendments consist of: Conservation status of protected wildlife - The reclassification of native wildlife is a routine process based on the outcomes of assessments that rely on existing criteria and updated information. - The reclassification of protected wildlife listed under the Nature Conservation (Animals) Regulation 2020 and the Nature Conservation (Plants) Regulation 2020, which is a routine process to ensure species classifications are kept up to date with current scientific knowledge, including population size, trends, and risk of extinction. - Taxonomic updates to protected wildlife listed under the Nature Conservation (Animals) Regulation 2020 and the Nature Conservation (Plants) Regulation 2020, to achieve consistency with scientific nomenclature. Management of protected fish species - Minor amendments to the Nature Conservation (Animals) Regulation 2020 to clarify existing provisions relating to using particular fish for non-commercial purposes, and create new provisions to enable relevant fish species to be protected under the <i>Nature Conservation Act 1992</i> whilst maintaining existing management arrangements under the <i>Fisheries Act 1992</i>. The proposed amendments are technical

	corrections and minor updates, consistent with legislative intent (sections 72 and 73, <i>Nature Conservation Act 1992</i>). - Section 66 is amended to include buying and selling for non-commercial purposes as activities that may be carried out in relation to fish of a relevant species. In addition, two new species of fish are being listed as 'relevant species'. Allowing these species to be bought and sold for non-commercial purposes is in line with original policy intent and captures recreational keepers wanting to recuperate costs whilst restricting large scale dealings with the fish. - Section 66A is inserted to allow relevant protected fish species to continue to be recognised as 'fish' under the <i>Fisheries Act 1994</i>. This ensures that these species can continue to be managed under the <i>Fisheries Act 1994</i> (minimising impacts to business and community) and removes regulatory duplication by not requiring an authority under the <i>Nature Conservation Act 1992</i>. - Consequential amendments to the Fisheries Declaration 2019 and Fisheries (General) Regulation 2019 to remove the listing of a newly protected fish species to avoid regulatory duplication and to prescribe relevant fish and invertebrate species not to be 'fish' under the <i>Fisheries Act 1992</i>. These amendments are required to achieve legislative consistency with amendments to sections 66 and 66A under the Nature Conservation (Animals) Regulation 2020. - Other minor amendments under the Fisheries (General) Regulation 2019 also include clarifying existing provisions in relation to fees for resource allocation authorities, updating scientific nomenclature, and cultural language changes. These amendments are minor in nature and clarify existing provisions in line with original policy intent. Other miscellaneous amendments <i>Conservation and management of native animals</i> - Minor amendments to the Nature Conservation (Animals) Regulation 2020 to clarify existing provisions relating to using processed products and remotely piloted aircraft/drones, and make technical corrections. - Schedule 3 is amended to correct a typographical error. - Schedule 5 is amended to consider protected animals taken, kept and used by a State museum, and registered through the museum's formal process, as processed products. The Queensland Museum has an extensive collection of animal specimens that are treated and labelled as part of its registration process. By making the specimens processed products, they will no longer be considered protected animals, allowing the museum to continue its operations involving movement (such as loans). - Schedule 7 is amended to change the term "remotely piloted aircraft" to the term 'drone'. The definition is also amended to clarify the intent that all forms of unmanned, easily manoeuvrable aircraft that could be considered, or function like, 'drones' are captured. - Minor administrative amendments to the Nature Conservation (Protected Areas Management) Regulation 2017 to ensure the management of dangerous animal interactions, including crocodiles, is consistently applied across all protected area tenures. <i>Culturally appropriate language</i> - Consequential amendments to multiple sections of the Nature Conservation (Animals) Regulation 2020 and Nature Conservation (Plants) Regulation 2020 to update cultural language, in alignment with the amendments made under the <i>Agriculture and Fisheries and Other Legislation Amendment Act 2024</i>.	
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	Environmental offsets - Minor amendments to the Environmental Offsets Regulation 2014 (Offsets Regulation) and the Environmental Offsets Policy (Offsets Policy) are required to clarify and simplify requirements, increase readability, and improve consistency with other legislation. The proposed amendments are either minor and machinery in nature or do not require Regulatory Impact Analysis under the Policy as they have nil or negligible regulatory costs or regulatory burden on business, government or the community. - Amendments to the Offsets Regulation include a consequential amendment necessary to reflect restrictions on the use of forest consent areas under the <i>Forestry Act 1959</i> and to give effect to updates to the Offsets Policy.
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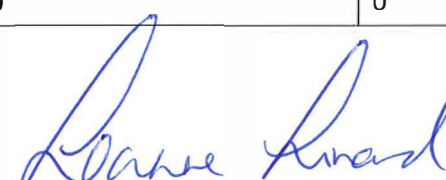
Impact assessment

All proposals – complete:

	First full year	First 10 years
Direct costs – <i>Compliance costs</i>	0	0
Direct costs – <i>Government costs</i>	0	0


Jamie Merrick
 Director-General
 Department of Environment, Science
 and Innovation

Date: 16/08/2024


Leanne Linard MP
 Minister for the Environment and the Great Barrier Reef
 Minister for Science and Innovation

Date: 19/08/24

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Date of issue	August 2024

For all other proposals

Dangerous interactions with crocodiles

What is the nature, size and scope of the problem? What are the objectives of government action?
Crocodiles may be present in or near almost any water body north from near Gladstone, all the way to the Northern Territory border, including along beaches and offshore islands in the Great Barrier Reef and Torres Strait. With the continuing growth of the human population in North Queensland, there is an ever-increasing likelihood of negative contact between people and crocodiles. Crocodiles can learn habits and behaviours that put them in closer proximity to humans and these learned behaviours are likely to be repeated, and therefore the crocodile presents a much higher threat to human safety, as well the animal's ongoing presence in the wild. Therefore, Queensland's crocodile management framework supports a holistic and strategic approach that ensures the ongoing protection and conservation of the species, manages crocodile populations to reduce human conflicts, supports community awareness and regulates serious public safety risks. It consists of a number of key components, including a regulatory framework, an operational management framework for dealing with problem crocodiles, a community education and awareness program, and a scientific research program. Estuarine crocodiles are protected animals under the <i>Nature Conservation Act 1992</i> (NC Act) and listed as a threatened (vulnerable) due to the species risk of extinction. It is an offence to take, keep or use a protected animal, unless authorised under the NC Act. Penalties vary depending on the severity of the offence, ranging from 225 – 3000 penalty units (PU) maximum penalty or up to two years imprisonment. Additional restrictions exist in relation to feeding or disturbing crocodiles in the wild (40 PU maximum penalty, 3 PU infringement notice fine), driving boats or vehicles within a certain distance of crocodiles (100 PU maximum penalty, 5 PU infringement notice fine) and interfering with crocodile traps (120 PU maximum penalty, 4 PU infringement notice fine). In March 2023, a submission was made to the Department of Environment, Science and Innovation (the department) expressing concerns that current laws do not prevent people behaving recklessly in crocodile habitat. This places public safety at risk, impacts First Nations communities and reduces conservation outcomes for crocodiles.

Those not directly harmed by reckless behaviour place others at risk through the habituation of crocodiles to such activities. In the case of significantly altered behaviour or a threatening response resulting from a person's reckless actions, the responsible crocodile is removed, severing cultural connections, and disrupting the local social dynamics of the species. This accountability placed on crocodiles for the recklessness of people was a particular point of concern.

The objectives of government action are to improve public safety in crocodile habitat, preserve cultural connections and ensure positive conservation outcomes while reducing burden to those involved.

What options were considered?

Option 1 – Status quo

The option is to do nothing: maintain existing regulatory framework for managing the likely increase in human-crocodile interactions associated with population growths. This option would not seek to improve upon existing regulations to mitigate risks to public safety or animal welfare.

Option 2 (Preferred) – Introduce new and improve existing offences and non-regulatory management actions to reduce human-animal conflict

The option is to introduce new and amend existing offences relating to human-crocodile interactions, to reduce the likelihood of conflict through greater deterrence of careless behaviour and inappropriate and unacceptable acts.

This would include:

- Increased penalties
 - Separate estuarine crocodiles from other dangerous animals covered by feeding and disturbing offences under the Nature Conservation (Animals) Regulation 2020 (Animals Regulation) and Nature Conservation (Protected Areas Management) Regulation 2017 (PAM Regulation), and impose increased maximum penalties (165 PU) and infringement notice fines (16 PU), consistent with the existing approach applied to dingoes on K'gari.
 - Increase the maximum penalty (165 PU) and infringement notice fine (16 PU) for the interfering with a crocodile trap offence under the Nature Conservation (Estuarine Crocodile) Conservation Plan 2018 (Crocodile Plan).
- Proximity to animal
 - Establish an offence under the Crocodile Plan for remaining within a certain distance from an estuarine crocodile on or partly on land, with a maximum penalty of 100 PU and infringement notice fine of 5 PU.
 - Empower conservation officers to direct a person (if they lack a reasonable excuse) to move away from an estuarine crocodile, if reasonably necessary to protect or deal with the crocodile, with a maximum penalty of 100 PU and infringement notice fine of 5 PU for not complying.
- Unintentional feeding
 - Introduce an offence under the Crocodile Plan regulating the disposal of food in a way that may attract an estuarine crocodile to a high-use public area, with a maximum penalty of 40 PU and infringement notice fine of 3 PU.

Additionally, the department's focus will be to continue implementation of operational changes to improve the Queensland Crocodile Management Plan and 'Be Crocwise' education and awareness program, and on investment in infrastructure and new technologies.

What are the impacts?

Option 1 – Status quo

There will be no impact. Regulation of people in crocodile habitat will continue under the existing legislative framework. Status quo will not improve the current management arrangements for dealing with the likely increase in human-crocodile interactions.

Option 2 (Preferred) – Introduce new and improve existing offences and non-regulatory management actions to reduce human-animal conflict

Increasing the penalties of existing offences relating to crocodiles is unlikely to incur additional costs to any group other than persons charged with the offences. Over the 2019-2023 period, 9 fines were issued for feeding of crocodiles, 1 fine was issued for disturbing crocodiles and 1 court imposed fine issued for

interfering with crocodile traps. Currently, the approximate yearly cost to community from infringement notice fines is \$966. The proposed increase in infringement notice fines will equate to around an extra \$4194 per year. The likely overall impact to the community resulting from these changes is considered insignificant. In addition, if a person believes they have been wrongfully charged with an offence they may contest the matter through a court process.

The introduction of a new, land-based proximity to crocodile offence will not have any impact on business. The offence may impact the community with potential limitations to human rights under the *Human Rights Act 2019*, namely the right to freedom of movement, which is accounted for and justified through completion of a Human Rights Certificate. The offence is specific to crocodiles on or partly on land and only applies to persons remaining in the proximity of an animal, without a reasonable excuse. This removes any ambiguity and limits the impact on community by only applying to intentional acts, with conservation officers undergoing training employing informed discretion to ensure appropriate application of the restriction. Conservation officers are also granted the power to direct persons to move away from an estuarine crocodile if reasonably necessary to protect or deal with the crocodile. Persons being directed may not comply with a direction if they have a reasonable excuse. Infringement notice fines for the proposed new offence will cost the community approximately \$1612 per year, based on reported incidences.

Introducing an unintentional feeding offence for crocodiles will not have impacts on business or limit any human rights. The way people use public spaces may be affected, with new receptacles and signage potentially required in target locations to facilitate the changes. However, it is not too great a requirement for persons to maintain possession of their waste if no receptacle is available, given the existence of littering laws and that if a person had the wherewithal to bring waste producing items to a location, they have the same ability to take it away. Based on reported incidences, infringement notice fines for the proposed new offence will cost the community approximately \$4830 per year.

Overall, there is unlikely to be impacts to business or government as no new authorisations or reporting requirements are being introduced, and compliance and enforcement actions will be absorbed by the department's current program. Also, the proposed changes incur negligible costs on community in the form of increased and new penalties for unlawful activity. The limitation on the right to freedom of movement imposed by one of the new offences has been addressed and justified through completion of a Human Rights Certificate. The increased penalties and new offences seek to benefit the community by reducing the likelihood of behavioural changes in crocodiles, which can lead to increased public safety risk, and also by preserving cultural connections to totemic animals through reducing the likelihood of problem animals being removed from the wild.

Who was consulted?

Targeted consultation occurred for a period of four weeks from 2 – 31 May 2024. Key stakeholders included relevant local government authorities, First Nations representatives (Indigenous Corporations and Indigenous Land and Sea Rangers) and tourism industry.

Of the 51 crocodile stakeholders, 3 dingo on K'gari stakeholders and 2 general (dangerous animal) stakeholders targeted for consultation, 6 submissions were received. Five submissions were from crocodile stakeholders with one submission coming from a general (dangerous animal) stakeholder.

No significant concerns were raised by key stakeholders in relation to the preferred options provided for consultation. Of the stakeholders that provided a submission, the preferred options were supported with additional recommendations made relating to operational matters.

What is the recommended option and why?

Option 2 – Improve existing offences and non-regulatory management actions to reduce human-animal conflict

Increasing the penalties of offences relating to crocodiles would distinguish them from other dangerous animals under the Animals Regulation. It would also be an approach consistent with that applied to dingoes on K'gari. This would work to strengthen current regulation, deterring unwanted acts without the introduction of new restrictions which are more likely to face resistance, such as those pertaining to reckless behaviour.

Establishing a proximity offence applying to crocodiles on, or partly on land would address those who are aware of, and actively approaching crocodiles within a certain distance, but are not 'disturbing' the animals. Application of such an offence could include those taking or attempting to take photos or videos with or of crocodiles.

Introducing a power for conservation officers to direct persons to move away from estuarine crocodiles further enhances compliance and enforcement capabilities relating to human behaviour around crocodiles.

Regulating the unintentional feeding of crocodiles would address a major reason for problem crocodile removal, being habituation to artificial food sources. Targeting fish scraps/carcasses and high-use public spaces such as boat ramps would allow for focused compliance efforts in areas with the highest likelihood for human-crocodile interaction.

Dangerous interactions with dingoes on K'gari

What is the nature, size and scope of the problem? What are the objectives of government action?

Deliberately disturbing or feeding dingoes can result in behavioural changes which pose an increased risk to public safety and threatens the persistence of the animal in the wild. In 2023, there was a significant increase in negative human-dingo interactions and high-risk incidents on K'gari. This resulted in the issuance of several fines to members of the public and the euthanasia of three high-risk animals.

The Fraser Island Dingo Conservation Risk Management Strategy is still considered fit-for-purpose according to a review conducted in 2021, which aims to ensure the conservation of a sustainable wild dingo population whilst minimising the risks to human safety and dingo welfare and ensuring that the wildlife experience of visitors is maintained. Dingoes on K'gari are considered native wildlife under the Animals Regulation and a natural resource under the PAM Regulation. Specific offences for feeding or disturbing K'gari dingoes are applied separately to those for other dangerous native animals. The K'gari dingo offences have increased maximum penalties (80 PU) and infringement notice fines (16 PU). The restrictions target actions most likely to lead to negative human-dingo interactions.

Despite this, an increased number of visitors to K'gari have not been compliant with safety messaging and restrictions, leading to calls for action by the department.

Additionally, securing food on K'gari is an important 'whole-of-island' management strategy to reduce human-dingo interactions which can jeopardise community safety and animal welfare. Under the NC Act (Nature Conservation (Protected Areas Management) Regulation 2017 (PAM Regulation) and *Recreation Areas Management Act 2006*, a person in a protected area and recreation area respectively, must ensure that food in their possession or under their control is kept in a way that prevents an animal that is dangerous or capable of injuring a person, from gaining access to the food – 40 PU maximum penalty with 3 PU infringement notice fine. A recent successfully contested penalty infringement notice offence raised a compliance matter in relation to the ability of conservation officers to clearly demonstrate that a person is committing an offence within a protected area or recreation area, particularly close to or within tidal zones.

The objectives of government action are to improve public safety on K'gari, preserve cultural connections and ensure positive conservation outcomes while reducing burden to those involved. Given the serious nature and ongoing occurrence of human-animal conflicts, this proposal seeks to highlight to the community the seriousness of disturbing or feeding dingoes by providing stronger deterrence measures for anyone considering such actions. The proposal also seeks to ensure conservation officers can regulate and enforce the law within all natural areas of K'gari regardless of legislative boundaries.

What options were considered?

Option 1 – Status quo

The option is to do nothing: maintain existing regulatory framework for managing human-dingo interactions. This option would not seek to improve upon existing regulations to mitigate risks to public safety or animal welfare.

Option 2 (Preferred) – Increase penalties and improve compliance capabilities

The option is to increase penalties for, and expand food related offences to support the whole-of-island management strategy, to reduce the likelihood of conflict through greater deterrence of careless behaviour and unwanted acts.

This includes:

- Increased penalties:
 - Increase maximum penalties for K'gari dingo feeding and disturbing offences under the Animals Regulation and PAM Regulation.
- Unintentional feeding:
 - Duplicate food to be kept from dangerous (dingoes on K'gari) animals offence to apply outside of protected areas.

What are the impacts?**Option 1 – Status quo**

There will be no impact. Regulation of people on K'gari will continue under the existing legislative framework. Status quo will not improve the current management arrangements for dealing with human-dingo interactions on K'gari possibly leading to an increase in adverse incidents as visitor numbers grow.

Option 2 (Preferred) – Increase penalties and improve compliance capabilities

Increasing the maximum penalty of existing offences relating to K'gari dingoes is unlikely to incur additional costs to community other than persons charged with the offences. The likely overall impact to the community resulting from the changes is considered insignificant as infringement notice offence penalties are not being altered. The relevant offences are only ever taken to court in extreme cases or when an infringement notice is disputed. Only then is the maximum penalty available, the application of which is up to the judge's discretion.

The proposal seeks to amend provisions under the NC Act to ensure conservation officers can regulate and enforce the law within all natural areas of K'gari regardless of legislative boundaries. This change will not impose any additional costs to community and aligns with existing impacts of the current management strategy for K'gari.

There are unlikely to be impacts to business or government as no new authorisations or reporting requirements are being introduced. Compliance and enforcement actions will be absorbed by the department's current program.

Overall, the increased penalties and new offences seek to benefit the community by reducing the likelihood of behavioural changes in dingoes on K'gari, which can lead to increased public safety risk, while also reducing the likelihood of problem animals being removed from the wild.

Who was consulted?

Targeted consultation occurred for a period of four weeks from 2 – 31 May 2024. Key stakeholders included relevant local government authorities, First Nations representatives (Indigenous Corporations and Indigenous Land and Sea Rangers) and tourism industry.

Of the 51 crocodile stakeholders, 3 dingo on K'gari stakeholders and 2 general (dangerous animal) stakeholders targeted for consultation, 6 submissions were received. Five submissions were from crocodile stakeholders with one submission coming from a general (dangerous animal) stakeholder.

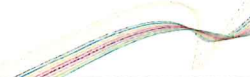
No significant concerns were raised by key stakeholders in relation to the preferred options provided for consultation. Of the stakeholders that provided a submission, the preferred options were supported with additional recommendations made relating to operational matters.

What is the recommended option and why?**Option 2 – Increase penalties and improve compliance capabilities**

Increasing the maximum penalty for feeding or disturbing K'gari dingoes is desirable as it would better deter those unwanted acts without imposing additional restrictions.

Duplicating the food to be kept from animals offence under the PAM Regulation in the Animals Regulation will allow its application outside of protected areas. This would mean unintentional feeding of K'gari dingoes outside the boundary of a protected or recreation area is still an offence.

The introduction of a requirement to keep food from dingoes outside of protected areas on K'gari will not have impacts on business or government and does limit any human rights. Impacts to community will also be minimal as an equivalent offence already apply to protected areas and recreation areas which cover the vast majority of K'gari. The new offence will ensure the whole-of-island management strategy around keeping food from dingoes is still enforceable in situations where an offence may have occurred outside of protected/recreation area boundaries (e.g. at the edge of the water during a very low tide).



Enforcement related offences under the *Environmental Offsets Act 2014*

What is the nature, size and scope of the problem? What are the objectives of government action?

The *Environmental Offsets Act 2014* (Offsets Act) outlines the framework for environmental offsets. It supports assessment legislation by coordinating the delivery of environmental offsets across jurisdictions and placing limits on when an offset condition may be imposed. It also provides for the subsequent assessment, delivery, and compliance with offset conditions once imposed.

Section 37 of the Offsets Act provides an enforcement tool that can be used in relation to environmental offset agreements (Part 7). An environmental offset agreement is the agreement made between the agency and the parties mentioned in the Act (proponent, land holder, or entity who is providing the offset for the State) for the declaration of an environmental offset protection area or delivery of an offset by the State using financial settlement offset payments. Under the Offsets Act, a compliance notice may be given by the Chief Executive or local government where a person fails to comply with a requirement of an environmental offset agreement. Enforcement officers appointed under the Offsets Act may enforce compliance with a compliance notice using powers provided under the Act.

Agencies administering the Offsets Framework have identified the need to establish penalty infringement notices (PIN) for offences relating to compliance notices to provide a swift and inexpensive means of addressing breaches. The establishment of PINs under Schedule 1 of the State Penalties Enforcement Regulation 2014 is also proposed for a minor administrative offence under the Offset Act relating to enforcement officers not returning their identity card. These changes are required to contemporise and provide greater consistency with PINs for comparable offences under the *Environmental Protection Act 1994*.

The objective of government action is to provide an additional cost-effective method of enforcement, improve administrative efficiency and the avoidance of costly court proceedings.

What options were considered?

Option 1 – Status quo

The option is to do nothing: maintain existing regulatory framework for enforcing offences under the Offsets Act. This option would not seek to improve administrative efficiency and the avoidance of costly court proceedings.

Option 2 (Preferred) – Introduce PINs under the Offsets Act

This option establishes three PINs for the following offences under the Offsets Act:

- Not complying with a compliance notice in relation to an environmental offset agreement:
 - If the contravention is of a term for achieving a conservation outcomes; or
 - otherwise.
- General provisions about enforcement officers:
 - Enforcement officers not returning their identity card to the relevant appointing authority within 21 days.

This option will allow the regulator to act on non-compliance and use the full range of enforcement measures at their disposal. PINs will provide authorised officers with a swift and inexpensive means of addressing breaches that would otherwise be subject to costly court proceedings. However, if a person wishes to contest the alleged offence or plead guilty and have a penalty imposed by a judicial officer, they can elect to have the matter dealt with in court.

What are the impacts?

Option 1 – Status quo

There will be no impact. Enforcement for offences under the Offsets Act will continue as is. Status quo will also not improve the compliance and enforcement framework.

Option 2 (Preferred) – Introduce PINs under the Offsets Act

The introduction of a PIN for existing offences is unlikely to incur significant additional costs to any group other than persons charged with the offences. Due to the infancy of the framework and the fact that conservation outcomes can take in excess of twenty years to achieve, there have been no instances

where court-based penalties have been applied. It is predicted that up to 2 PINs per year may be issued for existing offences relating to compliance notices. The approximate cost to the community (individuals) will range from \$322 - \$4,839 per offence, and for business (corporations) from \$8,065 - \$24,195 per offence. The likely overall impact to the community resulting from these changes is considered insignificant. In addition, if a person believes they have been wrongfully charged with an offence they may contest the matter through a court process. Compliance and enforcement actions will be absorbed by the department's current program.

Who was consulted?

Public consultation was determined to be not required under the Queensland Government Better Regulation Policy as the proposal is machinery in nature.

What is the recommended option and why?

Option 2 – Introduce PINs under the Offsets Act

The recommended option is to introduce new PINs for enforcement related offences under the Offsets Act. Imposing penalties for offences is a widely accepted practice for achieving compliance with legislation and deterring unwanted behaviours. Inclusion of PINs under the Offsets Act contributes to the protection of environmental offset protection areas, and provides less of a financial imposition for offenders than court imposed maximum penalties.

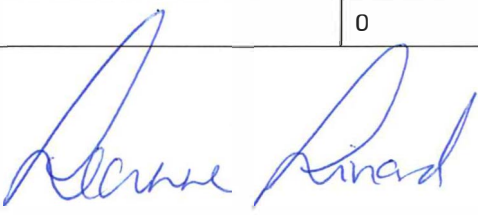
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