



Queensland

*Nature Conservation Act 1992*

# **Nature Conservation (Wildlife Management) Regulation 2006**

**Current as at 28 May 2019**

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# Nature Conservation (Wildlife Management) Regulation 2006

## Contents

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		Page
<b>Chapter 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	21
2	Commencement . . . . .	21
3	Relationship with Administration Regulation . . . . .	21
4	Application . . . . .	22
5	Interpretation generally . . . . .	22
6	Meaning of commercial purpose . . . . .	23
6A	Meaning of trade for protected plants . . . . .	23
7	Meaning of unauthorised interaction . . . . .	24
7A	When whole plant is taken . . . . .	24
8	Scientific names . . . . .	25
<b>Chapter 2</b>	<b>Provisions applying to all wildlife authorities</b>	
<b>Part 1</b>	<b>Restrictions on grant for all wildlife authorities</b>	
9	Purpose of pt 1 . . . . .	25
10	Who may obtain wildlife authority . . . . .	26
11	General restriction on grant of wildlife authorities . . . . .	26
11A	General restriction on grant of wildlife authorities in dugong protection areas . . . . .	27
12	Wildlife authority must not authorise taking protected animal by using regulated substance . . . . .	27
13	Restriction on grant about places where animals to be kept . . . . .	27
14	Wildlife authority must be for only 1 licensed premises . . . . .	28
<b>Part 2</b>	<b>Activities authorised by all or most relevant authorities</b>	
15	Conservation plan may limit or extend activities authorised by wildlife authority . . . . .	28
16	Wildlife authority only authorises keeping, using and moving of lawfully obtained wildlife . . . . .	29
17	Particular wildlife authorities for animals limited to only live or dead species . . . . .	29
18	Limitation for wildlife authorities for taking animal by killing the animal	

Contents

---

	30		
19	Wildlife authorities for protected plants limited to species identified on authority . . . . .	31	
20	Meaning of number on wildlife authority . . . . .	31	
21	Particular wildlife authorities authorise engaging in unauthorised interaction . . . . .	32	
22	Animals may be moved from place of taking to place of keeping	33	
23	Animals may be moved to particular authorised buyers . . . . .	34	
24	Animals may be moved from interstate sellers . . . . .	35	
25	Animals may be moved for private reasons . . . . .	36	
26	Live animals may be moved to and from veterinary surgeon . . .	36	
27	Live animals may be moved to and from display . . . . .	37	
<b>Part 3</b>	<b>Carrying out activities under wildlife authority</b>		
30	Persons to whom holders may sell or give wildlife . . . . .	38	
31	Persons from whom holders may buy or accept wildlife . . . . .	38	
32	Compliance with chief executive's directions about sampling or implanting . . . . .	39	
33	Dealing with animals after death—sampled or implanted animals	39	
34	Dealing with animals after death—other animals . . . . .	41	
35	Assistance to conservation officers . . . . .	42	
<b>Chapter 3</b>	<b>Taking, keeping, using, moving or dealing with animals</b>		
<b>Part 1</b>	<b>Taking, keeping, using, moving or dealing with protected animals other than under wildlife authority</b>		
36	Purpose of pt 1 . . . . .	43	
37	Authorised keeper in another State . . . . .	44	
38	Authorised keeper in another country . . . . .	44	
39	Veterinary surgeons . . . . .	44	
40	Particular government officers or employees . . . . .	45	
40A	Exemptions for railway managers . . . . .	46	
41	Australian Defence Force . . . . .	47	
41A	Local government dealing with flying-fox roost in urban flying-fox management area . . . . .	48	
41B	Low impact activities affecting a flying-fox roost . . . . .	48	
42	Animals taken under Aboriginal tradition or Island custom authority for protected area . . . . .	49	
43	Marine turtle or dugong taken under Aboriginal tradition or Island custom	49	
43A	Keeping and use of dead marine mammals . . . . .	50	
44	Keeping and using exempt animals . . . . .	51	
44A	Breeding mutation of exempt birds authorised . . . . .	53	
45	Moving exempt animals . . . . .	53	
46	Keeping or using controlled animals . . . . .	53	

46A	Breeding mutation of controlled birds authorised . . . . .	55
47	Moving controlled animals from seller to exempt person . . . . .	55
48	Moving controlled animals from exempt person to buyer . . . . .	56
49	Particular reptiles . . . . .	57
50	Least concern amphibians . . . . .	57
51	Keeping or using particular protected fish for recreational purpose	58
52	Moving protected fish kept for recreational purpose from seller to exempt person . . . . .	59
53	Moving protected fish kept for recreational purpose from exempt person to buyer . . . . .	59
54	Taking, keeping and using protected scorpions or spiders for recreational purpose . . . . .	60
55	Moving protected scorpion or spider kept for recreational purpose from seller to exempt person . . . . .	60
56	Moving protected scorpion or spider kept for recreational purpose from exempt person to seller . . . . .	60
57	Educational or scientific purposes . . . . .	61
58	Sick or injured protected marine mammals and turtles . . . . .	62
59	Other sick, injured or orphaned protected animals . . . . .	62
60	Interacting with animals in the wild . . . . .	63
60A	Interacting with dolphins as part of Tin Can Bay dolphin feeding program	64
61	Wholesalers may move dead protected animals . . . . .	65
62	Protected animals may be moved for private reasons . . . . .	65
63	Animals may be moved to and from veterinary surgeon . . . . .	66
64	Animals may be moved to and from display . . . . .	66
65	Dead protected animals may be moved to particular holders . . .	66
<b>Part 2</b>	<b>Keeping, using or moving international or prohibited animals, other than under wildlife authority</b>	
66	Purpose of pt 2 . . . . .	67
67	Authorised keepers in another State . . . . .	68
68	Authorised keepers in another country . . . . .	68
69	Veterinary surgeons . . . . .	68
<b>Part 3</b>	<b>Licences for taking, keeping or using animals</b>	
<b>Division 1</b>	<b>Commercial wildlife licence (wildlife interaction)</b>	
<b>Subdivision 1</b>	<b>Purposes</b>	
70	Purpose of licence and div 1 . . . . .	69
<b>Subdivision 2</b>	<b>Restrictions on grant of licence</b>	
71	Restriction about persons to whom licence may be granted . . . .	70
72	Restriction about activities for which licence may be granted . . .	70
<b>Subdivision 3</b>	<b>Activities authorised by licence</b>	
73	Engaging in unauthorised interaction authorised for particular animals	

Contents

---

	70	
74	Using animals for training authorised for particular animals . . . .	71
<b>Subdivision 4</b>	<b>Carrying out activities under licence</b>	
75	Compliance with approved interaction plan . . . . .	72
76	Keeping report about activities under licence . . . . .	72
<b>Division 2</b>	<b>Commercial wildlife licences</b>	
<b>Subdivision 1</b>	<b>Purposes</b>	
77	Purpose of licence and div 2 . . . . .	73
<b>Subdivision 2</b>	<b>Restrictions on grant of licence</b>	
78	Restriction about animals for which licence may be granted . . .	74
79	General restriction on grant of licence for birds or reptiles . . . .	74
80	Additional restriction for licence for live birds or reptiles . . . . .	74
81	Additional restriction for licence for reptiles . . . . .	75
<b>Subdivision 3</b>	<b>Activities authorised by licence</b>	
82	Keeping and using animals authorised . . . . .	75
83	Processing animals authorised . . . . .	76
84	Moving live protected animal to and from residence to provide care authorised . . . . .	76
85	Moving protected animals to display authorised with approval . .	77
86	Moving international animals to display authorised with approval	77
87	Breeding mutation of protected birds authorised . . . . .	77
<b>Subdivision 4</b>	<b>Carrying out activities under licence</b>	
88	Way animal must be kept and used . . . . .	78
89	Identifying dead animals kept under licence . . . . .	78
90	Keeping record . . . . .	78
91	Giving return of operations . . . . .	79
<b>Division 4</b>	<b>Recreational wildlife licences</b>	
<b>Subdivision 1</b>	<b>Purposes</b>	
97	Purpose of licence and div 4 . . . . .	80
<b>Subdivision 2</b>	<b>Restrictions on grant of licence</b>	
98	Restriction about animals for which licence may be granted . . .	80
99	Restriction on grant of licence to children . . . . .	81
100	Restriction on grant of licence for restricted birds, reptiles or amphibians	81
101	General restriction on grant of licence for birds and reptiles . . . .	82
<b>Subdivision 3</b>	<b>Activities authorised by licence</b>	
102	Keeping and using animals authorised . . . . .	82
103	Taking particular reptiles to feed other reptiles authorised . . . .	83
104	Moving protected animals to display authorised with approval . .	83
105	Moving international animals to display authorised with approval	83

106	Breeding mutation of protected birds authorised . . . . .	84
<b>Subdivision 4</b>	<b>Carrying out activities under licence</b>	
107	Way animal must be kept and used . . . . .	84
108	Particular animals must be kept for minimum period . . . . .	85
109	Keeping record . . . . .	85
<b>Division 5</b>	<b>Commercial wildlife harvesting licences</b>	
<b>Subdivision 1</b>	<b>Purposes</b>	
110	Purpose of licence and div 5 . . . . .	86
<b>Subdivision 2</b>	<b>Restrictions on grant of licence</b>	
111	Restriction about animals for which licence may be granted . . .	86
112	Restriction on grant of licence to children if weapons involved . .	87
113	Restriction on grant of licence for whales or dolphins . . . . .	87
<b>Subdivision 3</b>	<b>Activities authorised by licence</b>	
114	Taking, keeping and using particular animals authorised . . . . .	87
<b>Subdivision 4</b>	<b>Carrying out activities under licence</b>	
115	Way animal may be taken . . . . .	88
116	Dealing with carcass of animal taken under licence . . . . .	89
117	Keeping record . . . . .	89
118	Giving return of operations . . . . .	90
<b>Division 6</b>	<b>Recreational wildlife harvesting licences</b>	
<b>Subdivision 1</b>	<b>Purposes</b>	
119	Purpose of licence and div 6 . . . . .	91
<b>Subdivision 2</b>	<b>Restriction on grant of licence</b>	
120	Restrictions about animals for which licence may be granted . . .	92
121	Restriction on grant of licence to children if weapons involved . .	92
<b>Subdivision 3</b>	<b>Activities authorised by licence</b>	
122	Taking, keeping, processing and using particular animals authorised	92
<b>Subdivision 4</b>	<b>Carrying out activities under licence</b>	
123	Way animal may be taken . . . . .	93
124	Dealing with carcass of animal taken under licence . . . . .	93
125	Giving return of operations . . . . .	94
<b>Division 9</b>	<b>Wildlife farming licence</b>	
<b>Subdivision 1</b>	<b>Purposes</b>	
152	Purpose of licence and div 9 . . . . .	94
<b>Subdivision 2</b>	<b>Restrictions on grant of licence</b>	
153	Restriction about animals for which licence may be granted . . .	95
154	Restriction on grant of licence for particular reptiles . . . . .	95
<b>Subdivision 3</b>	<b>Activities authorised by licence</b>	

Contents

---

155	Keeping, using and processing particular animals authorised . .	95
156	Moving animals to or from other licensed premises authorised .	96
<b>Subdivision 4</b>	<b>Carrying out activities under licence</b>	
157	Identifying animal taken from the wild . . . . .	96
158	Sampling particular reptiles . . . . .	97
159	Implanting particular reptiles . . . . .	98
160	Way animal may be displayed . . . . .	99
161	Animal being displayed must be supervised . . . . .	99
162	Acts animal being displayed may be required to do . . . . .	99
163	Handling dangerous animals . . . . .	100
164	Keeping record . . . . .	100
165	Giving return of operations . . . . .	100
<b>Division 10</b>	<b>Museum licences</b>	
<b>Subdivision 1</b>	<b>Purposes</b>	
166	Purpose of licence and div 10 . . . . .	101
<b>Subdivision 2</b>	<b>Restrictions on grant of licence</b>	
167	Restriction about persons to whom licence may be granted . . . .	101
168	Restriction about animals for which licence may be granted . . . .	102
169	Restriction on grant of licence authorising display . . . . .	102
<b>Subdivision 3</b>	<b>Activities authorised by licence</b>	
170	Taking, keeping, using and processing particular animals authorised 102	
171	Moving animals to or from other licensed premises authorised .	103
<b>Subdivision 4</b>	<b>Carrying out activities under licence</b>	
172	Where animals may be displayed . . . . .	104
173	Way animal may be displayed . . . . .	104
174	Animal being displayed must be supervised . . . . .	105
175	Acts animal being displayed may be required to do . . . . .	105
176	Handling dangerous animals . . . . .	105
177	Keeping record . . . . .	105
178	Giving return of operations . . . . .	106
<b>Part 4</b>	<b>Permits for taking, keeping, using or dealing with animals</b>	
<b>Division 1</b>	<b>General restrictions on grant for all permits</b>	
179	General restriction on grant of permits to children . . . . .	106
180	Restriction on grant of particular permits to children if weapon involved 107	
<b>Division 2</b>	<b>Damage mitigation permits</b>	
<b>Subdivision 1</b>	<b>Purposes</b>	
181	Purpose of permit and div 2 . . . . .	107
<b>Subdivision 2</b>	<b>Restrictions on grant of permit</b>	



182	General restriction about animals for which permit may be granted	108
184	Restriction about purposes for which permit may be granted . . .	108
185	Restriction on grant of permit for damage or loss . . . . .	109
186	Restriction on grant of permit for threat to human health or wellbeing 111	
<b>Subdivision 3</b>	<b>Activities authorised by permit</b>	
187	Taking particular animals authorised . . . . .	112
187B	Killing dependent flying-fox authorised for particular permits . . .	112
<b>Subdivision 4</b>	<b>Carrying out activities under permit</b>	
188	Giving return of operations . . . . .	113
<b>Division 2A</b>	<b>Flying-fox roost management permits</b>	
<b>Subdivision 1</b>	<b>Purposes</b>	
188A	Purpose of permit and div 2A . . . . .	114
<b>Subdivision 2</b>	<b>Restrictions on grant of permit</b>	
188B	Restriction about purposes for which permit may be granted . . .	115
188C	Restriction on grant of permit for damage or loss . . . . .	115
188D	Restriction on grant of permit for threat to human health or wellbeing 116	
188E	Additional restriction on grant of permit outside an urban flying-fox management area . . . . .	116
<b>Subdivision 3</b>	<b>Activities authorised by permit</b>	
188F	Destruction etc. of flying-fox roost authorised . . . . .	117
<b>Subdivision 4</b>	<b>Carrying out activities under permit</b>	
188G	Giving return of operations . . . . .	117
<b>Division 3</b>	<b>Educational purposes permits</b>	
<b>Subdivision 1</b>	<b>Purpose</b>	
189	Purpose of permit . . . . .	118
<b>Subdivision 2</b>	<b>Restriction on grant of permit</b>	
190	Restriction about persons to whom permit may be granted . . . .	118
191	Restriction about purposes for which permit may be granted . . .	118
<b>Subdivision 3</b>	<b>Activities authorised by permit</b>	
192	Taking, keeping and using particular animals authorised . . . . .	119
<b>Subdivision 4</b>	<b>Carrying out activities under permit</b>	
193	Giving return of operations . . . . .	119
<b>Division 4</b>	<b>Permits to keep wildlife</b>	
<b>Subdivision 1</b>	<b>Purpose</b>	
194	Purpose of permit . . . . .	120
<b>Subdivision 2</b>	<b>Restrictions on grant of permit</b>	
195	Restriction about purposes for which permit may be granted . . .	120

Contents

---

196	Restriction on grant of permit for protected animal taken under rehabilitation permit . . . . .	121
197	Restriction on grant of permit for animal from another State . . . .	122
198	Restriction on grant of permit for protected or prohibited animal kept under expired authority . . . . .	122
199	Restriction on grant of permit to holders of particular authorities	123
<b>Subdivision 3</b>	<b>Activities authorised by permit</b>	
200	Keeping particular animals authorised . . . . .	123
201	Moving animal to another holder authorised in particular circumstances	123
202	Moving animal to an institution authorised in particular circumstances	124
203	Moving particular birds authorised . . . . .	125
<b>Subdivision 4</b>	<b>Carrying out activities under permit</b>	
204	Breeding animals . . . . .	125
205	Keeping record . . . . .	126
206	Giving return of operations . . . . .	126
<b>Division 5</b>	<b>Rehabilitation permits</b>	
<b>Subdivision 1</b>	<b>Purpose</b>	
207	Purpose of permit . . . . .	127
<b>Subdivision 2</b>	<b>Restrictions on grant of permit</b>	
208	Restriction about persons to whom permit may be granted . . . .	127
209	Restriction on grant of permit to voluntary wildlife care associations	127
210	Restriction about animals for which permit may be granted . . . .	128
<b>Subdivision 3</b>	<b>Activities authorised by permit</b>	
211	Obtaining and keeping particular animals authorised . . . . .	128
212	Taking particular dead animals for feeding particular animals authorised	129
213	Displaying particular animals authorised with approval . . . . .	129
214	Moving particular animals authorised in particular circumstances	130
<b>Subdivision 4</b>	<b>Carrying out activities under permit</b>	
215	Way animal must be kept . . . . .	130
216	Returning animal to natural habitat . . . . .	131
<b>Division 6</b>	<b>Scientific purposes permit</b>	
<b>Subdivision 1</b>	<b>Purposes</b>	
217	Purpose of permit . . . . .	132
<b>Subdivision 2</b>	<b>Restrictions on grant of permit</b>	
218	Restriction about persons to whom permit may be granted . . . .	132
219	Restriction on grant of permit authorising animal to be taken . . .	133
220	Restriction on grant of permit for particular mammals . . . . .	133
<b>Subdivision 3</b>	<b>Activities authorised by permit</b>	

221	Taking, keeping, using and processing particular animals authorised 134	
<b>Subdivision 4</b>	<b>Carrying out activities under permit</b>	
222	Giving return of operations . . . . .	135
<b>Part 5</b>	<b>Authorities for taking, keeping or using animals</b>	
<b>Division 1</b>	<b>Aboriginal tradition authorities</b>	
<b>Subdivision 1</b>	<b>Preliminary</b>	
223	Application of div 1 . . . . .	136
<b>Subdivision 2</b>	<b>Considering application</b>	
224	Additional matter to be considered . . . . .	136
<b>Subdivision 3</b>	<b>Restrictions on grant of authority</b>	
225	Restriction about persons to whom authority may be granted . .	137
226	Restriction about purpose for which authority may be granted . .	137
227	Restriction on grant of authority for particular marine animals . .	137
<b>Subdivision 4</b>	<b>Activities authorised by authority</b>	
228	Taking, keeping and use of particular animals authorised . . . . .	138
<b>Division 2</b>	<b>Island custom authorities</b>	
<b>Subdivision 1</b>	<b>Preliminary</b>	
229	Application of div 2 . . . . .	138
<b>Subdivision 2</b>	<b>Considering application</b>	
230	Additional matter to be considered . . . . .	139
<b>Subdivision 3</b>	<b>Restrictions on grant of authority</b>	
231	Restriction about persons to whom authority may be granted . .	139
232	Restriction about purpose for which authority may be granted . .	139
233	Restriction on grant of authority for particular marine animals . .	140
<b>Subdivision 4</b>	<b>Activities authorised by authority</b>	
234	Taking, keeping and use of particular animals authorised . . . . .	140
<b>Division 3</b>	<b>Collection authorities</b>	
<b>Subdivision 1</b>	<b>Restrictions on grant</b>	
235	Purposes for which collection authorities may be granted . . . . .	141
236	Additional restrictions for collection authority to take and keep least concern animals . . . . .	141
<b>Subdivision 2</b>	<b>Activities authorised by authority</b>	
237	Collection authority to keep a collection of dead animals . . . . .	141
238	Collection authority to take and keep least concern animals . . .	142
239	Moving animals for survival training authorised . . . . .	142
<b>Subdivision 3</b>	<b>Carrying out activities under authority</b>	
240	Giving return of operations . . . . .	142
<b>Division 4</b>	<b>Exhibited animal authorities</b>	

Contents

---

240A	Compliance with chief executive’s directions about sampling or implanting . . . . .	143
240B	Dealing with animals after death—sampled or implanted animals	143
<b>Chapter 4</b>	<b>Taking, keeping, using or moving protected plants</b>	
<b>Part 1</b>	<b>Preliminary</b>	
241	Purpose of ch 4 . . . . .	145
<b>Part 2</b>	<b>Requirements for and restrictions about taking and using protected plants</b>	
<b>Division 1</b>	<b>Preliminary</b>	
242	Purpose of pt 2 . . . . .	146
<b>Division 2</b>	<b>General requirements for taking protected plants</b>	
243	General requirements for taking protected plants . . . . .	147
244	Restriction on taking protected plant in monitoring plot . . . . .	148
<b>Division 3</b>	<b>Requirements for taking protected plants by harvest</b>	
245	Keeping record . . . . .	148
246	Harvest labels for taking whole restricted plants or restricted plant parts in the wild . . . . .	149
<b>Division 4</b>	<b>Requirements for taking protected plants by clearing</b>	
<b>Subdivision 1</b>	<b>Interpretation</b>	
247	Meaning of flora survey trigger map . . . . .	150
248	Meaning of high risk area . . . . .	150
249	Meaning of clearing impact area . . . . .	151
250	Meaning of flora survey and flora survey report . . . . .	151
<b>Subdivision 2</b>	<b>Provisions about flora survey trigger map</b>	
251	Reviewing and amending flora survey trigger map . . . . .	152
252	Public availability of flora survey trigger map . . . . .	152
<b>Subdivision 3</b>	<b>Flora survey guidelines</b>	
253	Chief executive may make flora survey guidelines . . . . .	152
<b>Subdivision 4</b>	<b>Steps to be taken before taking protected plants by clearing</b>	
254	Flora survey trigger map check required for all clearing . . . . .	153
255	Copy of flora survey trigger map . . . . .	153
256	When flora survey is required . . . . .	154
257	Flora survey and flora survey report must comply with certain guidelines or methodology . . . . .	154
258	Inaccurate or misleading information in flora survey report . . . . .	154
<b>Subdivision 5</b>	<b>When protected plant clearing permit is required for area other than high risk area</b>	
259	When a protected plant clearing permit is required for an area other than a high risk area . . . . .	155
<b>Part 3</b>	<b>Exemptions for taking or using protected plants</b>	
<b>Division 1</b>	<b>Purpose of part</b>	

260	Purpose of pt 3 . . . . .	155
261	References to protected plant . . . . .	156
<b>Division 2</b>	<b>Exemptions for taking protected plants generally</b>	
261A	Taking protected plant to avoid or reduce risk of death or serious injury 156	
261B	Taking protected plant to avoid or reduce risk of serious damage to buildings or property . . . . .	156
261C	Taking protected plant under the Fire and Rescue Service Act 1990 157	
<b>Division 3</b>	<b>Exemptions for using and moving protected plants generally</b>	
261D	Using protected plants registered under Plant Breeder's Rights Act 1994 (Cwlth) . . . . .	157
261E	Landholders may gain benefit . . . . .	158
261F	Moving restricted plants being used for personal use . . . . .	158
261G	Whole restricted plants propagated by propagator . . . . .	158
261H	Using restricted plant parts cultivated by cultivator . . . . .	159
<b>Division 4</b>	<b>Exemptions for taking and using particular protected plants</b>	
<b>Subdivision 1</b>	<b>Preliminary</b>	
261I	What div 4 is about . . . . .	160
261J	Application of exemptions under div 4 . . . . .	160
<b>Subdivision 2</b>	<b>Exemptions for taking and using whole protected plants and protected plant parts</b>	
261K	Taking and using a least concern plant other than a special least concern plant . . . . .	160
261L	Taking or using protected plants under collection authority for biodiscovery . . . . .	161
261M	Chief executive taking and using protected plants . . . . .	161
261N	Exemption for Queensland Herbarium employees . . . . .	161
261O	Taking particular protected plants for conservation or revegetation program . . . . .	161
261P	Taking or using protected plants for grazing activities . . . . .	162
261Q	Australian Defence Force taking and using particular protected plants 162	
261R	Taking or using marine plant . . . . .	163
<b>Subdivision 3</b>	<b>Exemptions for taking and using protected plant parts</b>	
261S	Taking protected plant parts for identification or an educational or scientific purpose . . . . .	163
261T	Taking or using protected plant parts, other than plant parts that are endangered wildlife etc. . . . .	165
261U	Taking or using particular protected plant parts for fodder . . . . .	166
261V	Taking protected plant parts for sick, injured or orphaned wildlife	167
261W	Taking or using protected plant parts by way of operational salvage	168
<b>Division 5</b>	<b>Exemptions for taking protected plants when clearing</b>	

Contents

---

<b>Subdivision 1</b>	<b>Preliminary</b>	
261X	What div 5 is about . . . . .	168
261Y	Application of exemptions under div 5 . . . . .	168
<b>Subdivision 2</b>	<b>Exemption for taking protected plants in an area other than a high risk area</b>	
261Z	Taking protected plants in an area other than a high risk area . .	169
<b>Subdivision 3</b>	<b>Exemption for taking protected plants in any areas</b>	
261ZA	Taking protected plant after flora survey report given to chief executive 171	
261ZB	Taking protected plant from area from which plants already lawfully taken . . . . .	172
261ZC	Taking protected plant for particular maintenance activities . . . .	172
261ZD	Taking protected plant for firebreak or fire management line . . .	174
261ZE	Taking protected plant under a self-assessable vegetation clearing code etc. . . . .	174
261ZF	Taking protected plant if authorised under another Act or law . .	174
261ZG	Taking protected plant for conservation purposes . . . . .	175
<b>Division 6</b>	<b>Exemption for using restricted plants for trade</b>	
261ZH	What div 6 is about . . . . .	175
261ZI	Using restricted plants for trade . . . . .	175
261ZJ	Keeping record about trade of restricted plants . . . . .	176
261ZK	Labelling of restricted plants for trade . . . . .	176
261ZL	Additional labelling of restricted plants for movement outside of State 177	
261ZM	Particular plants for trade to be tagged . . . . .	178
<b>Part 4</b>	<b>Licences for protected plants</b>	
<b>Division 1</b>	<b>Purpose</b>	
262	Purpose of pt 4 . . . . .	179
263	References to protected plant . . . . .	179
<b>Division 2</b>	<b>Protected plant growing licence</b>	
<b>Subdivision 1</b>	<b>Purpose of licence</b>	
264	Purpose of protected plant growing licence . . . . .	180
<b>Subdivision 2</b>	<b>Restrictions on grant</b>	
265	General restrictions on grant of protected plant growing licence	180
266	Restriction on grant of licence for salvage . . . . .	181
267	Restriction on grant of licence to take seed or propagative material from particular protected plants . . . . .	181
268	Chief executive may require preparation of sustainable harvest plan 181	
<b>Subdivision 3</b>	<b>Activities authorised by licence</b>	
269	Activities authorised by protected plant growing licence . . . . .	182

<b>Subdivision 4</b>	<b>Carrying out activities under licence</b>	
270	Taking and using restricted plants under licence .....	183
271	Taking of protected plant during harvest period .....	183
272	Compliance with sustainable harvest plan .....	184
<b>Division 3</b>	<b>Protected plant harvesting licence</b>	
<b>Subdivision 1</b>	<b>Purpose of licence</b>	
273	Purpose of protected plant harvesting licence .....	184
<b>Subdivision 2</b>	<b>Grant of licence</b>	
274	Restrictions on grant of licence .....	185
275	Particular restrictions on grant of licence for particular species or if threat exists .....	185
276	Research and monitoring condition .....	185
277	Applicant must prepare sustainable harvest plan .....	187
<b>Subdivision 3</b>	<b>Activities authorised by licence</b>	
278	Activities authorised by protected plant harvesting licence .....	187
<b>Subdivision 4</b>	<b>Carrying out activities under licence</b>	
279	Taking of protected plant during harvest period .....	188
280	Compliance with sustainable harvest plan .....	188
<b>Part 4A</b>	<b>Protected plant clearing permits</b>	
<b>Division 1</b>	<b>Purposes of part</b>	
281	Purpose of pt 4A .....	189
<b>Division 2</b>	<b>Purpose of permit</b>	
282	Purpose of permit .....	190
<b>Division 3</b>	<b>When permit is required</b>	
283	When protected plant clearing permit is required .....	190
<b>Division 4</b>	<b>Restrictions on grant</b>	
284	General restrictions on grant of protected plant clearing permit .	191
285	Particular circumstances when chief executive may grant protected plant clearing permit .....	192
286	Chief executive may grant protected plant clearing permit in relation to particular areas .....	193
287	Chief executive may impose conditions on protected plant clearing permit .....	193
288	Chief executive may require environmental offset .....	193
<b>Division 5</b>	<b>Activities authorised under permit</b>	
289	Activities authorised by protected plant clearing permit .....	194
<b>Part 4B</b>	<b>Authorities for taking or using protected plants</b>	
<b>Division 1</b>	<b>Aboriginal tradition authorities</b>	
291	Additional matter to be considered .....	194
292	Restriction about persons to whom authority may be granted ..	195

Contents

---

293	Restriction about purpose for which authority may be granted . .	195
294	Taking and using protected plants authorised . . . . .	195
<b>Division 2</b>	<b>Island custom authorities</b>	
295	Additional matter to be considered . . . . .	196
296	Restriction about persons to whom authority may be granted . .	196
297	Restriction about purpose for which authority may be granted . .	196
298	Taking and using protected plants authorised . . . . .	196
<b>Part 5</b>	<b>Miscellaneous provisions</b>	
299	Declaration of harvest period . . . . .	197
300	Special least concern plants . . . . .	197
<b>Chapter 5</b>	<b>Permit for moving wildlife</b>	
<b>Part 1</b>	<b>General provisions</b>	
<b>Division 1</b>	<b>Purpose of permit</b>	
305	Purpose of permit . . . . .	198
<b>Division 2</b>	<b>Conditions of permit</b>	
309	Conditions for permits for interstate movements . . . . .	198
<b>Part 2</b>	<b>Restrictions on grant of permit</b>	
310	General restrictions about movements for which permit may be granted 199	
311	Additional general restriction for movements out of the State . . .	200
312	Additional general restriction for movements into the State . . . .	200
313	Additional restriction for movement of prescribed protected animal to another State . . . . .	200
314	Additional restriction for movement of prescribed protected animal within the State for export . . . . .	201
<b>Part 3</b>	<b>Activities authorised by permit</b>	
315	Moving particular wildlife authorised . . . . .	202
<b>Chapter 6</b>	<b>Processed products</b>	
316	Purpose of ch 6 . . . . .	202
317	Processed products made or derived from protected animals . .	203
318	Processed products made or derived from protected plants . . . .	203
319	Conservation officer may ask for evidence of source used . . . . .	204
<b>Chapter 7</b>	<b>Other offences relating to wildlife</b>	
<b>Part 1</b>	<b>Taking, keeping or using animals generally</b>	
320	Use of animals to take protected animals . . . . .	204
321	Using live protected animals that are not self-sufficient . . . . .	205
322	Procedure for accidental taking of marine mammal . . . . .	206
322A	Procedure for accidental taking of marine turtle . . . . .	206
323	Procedure for accidental taking of protected shark . . . . .	207
<b>Part 2</b>	<b>Moving wildlife</b>	



<b>Division 1</b>	<b>Moving wildlife generally</b>	
324	Moving live protected animals in containers . . . . .	208
325	Labels for containers used to send protected animals . . . . .	209
326	Sending or moving wildlife other than protected, international or prohibited wildlife into the State . . . . .	210
<b>Division 2</b>	<b>Movement advices</b>	
327	Only 1 movement under movement advice . . . . .	210
328	Dealing with parts of movement advice . . . . .	210
329	Keeping and producing movement advice . . . . .	211
330	Tampering with movement advice . . . . .	211
<b>Part 3</b>	<b>Housing for animals</b>	
331	Housing and care of live protected animals . . . . .	212
332	Tampering with animal breeding place . . . . .	213
333	Housing wildlife other than protected wildlife . . . . .	215
<b>Part 4</b>	<b>Tags</b>	
334	Using tags generally . . . . .	215
335	Tags not to be used by unauthorised person . . . . .	216
336	Tampering with tags . . . . .	217
<b>Part 5</b>	<b>Identification and information requirement</b>	
337	Record of identification of person selling or giving away protected, international or prohibited wildlife . . . . .	217
338	Record of identification of person buying or accepting protected, international or prohibited wildlife . . . . .	218
<b>Part 5A</b>	<b>Marine mammals</b>	
<b>Division 1</b>	<b>Preliminary</b>	
338A	Application of pt 5A . . . . .	220
<b>Division 2</b>	<b>Restrictions and requirements for boats</b>	
<b>Subdivision 1</b>	<b>General restrictions</b>	
338B	Speed limit . . . . .	221
338C	Restricting path or causing change in direction of travel of a marine mammal . . . . .	221
338D	Dividing a group of marine mammals . . . . .	221
<b>Subdivision 2</b>	<b>Distance restrictions</b>	
338E	Entering no approach zone for a marine mammal . . . . .	222
338F	Entering caution zone for a marine mammal . . . . .	222
338G	Requirement if a whale or dugong comes within no approach zone . . . . .	222
338H	Requirement if a whale or dugong comes within caution zone . . . . .	223
338I	Requirement if a dolphin comes within no approach zone or caution zone . . . . .	224
338J	Requirement if a marine mammal in no approach zone or caution zone shows signs of being disturbed . . . . .	224

Contents

---

338K	Exception for approved filming of marine mammals . . . . .	225
<b>Division 3</b>	<b>Restrictions and requirements for prohibited vessels and aircraft</b>	
338L	Minimum distance for a prohibited vessel . . . . .	226
338M	Minimum distance for a helicopter . . . . .	227
338N	Hovering helicopter . . . . .	228
338O	Minimum distance for an aircraft . . . . .	228
338P	Exception for approved filming of marine mammals . . . . .	229
<b>Division 4</b>	<b>Other restrictions</b>	
338Q	Minimum distance for people in water . . . . .	230
338R	Conducting prohibited activity in a special management area . .	232
338S	Other restrictions relating to marine mammals . . . . .	232
<b>Part 6</b>	<b>Other offences</b>	
339	Using poison or adhesive substance in a way that may take protected animals . . . . .	233
340	Feeding native animals in the wild generally . . . . .	234
341	Feeding dangerous native animals in the wild . . . . .	234
342	Disturbing dangerous native animals in the wild . . . . .	234
343	Release of animals into the wild . . . . .	235
344	Spreading or releasing particular parts of non-native plants . . .	235
345	Procedure if wildlife stolen . . . . .	236
<b>Chapter 8</b>	<b>Miscellaneous provisions</b>	
<b>Part 1</b>	<b>Seizure of property</b>	
346	Seizure of particular things for the protection of native wildlife . .	237
<b>Part 2</b>	<b>Provisions about tags</b>	
347	Chief executive may supply tags for use by person . . . . .	238
348	Chief executive may approve tags for use by person . . . . .	238
348A	Approved tags for protected plants taken by way of salvage . . .	239
349	Nature of tags supplied by the chief executive . . . . .	239
350	Chief executive may recall tags . . . . .	239
<b>Part 3</b>	<b>Conservation value for wildlife</b>	
351	Conservation value for protected wildlife . . . . .	240
352	No conservation value payable for protected wildlife taken under particular authorities . . . . .	240
353	No conservation value payable for protected scorpions or spiders	241
354	No conservation value payable for particular reptiles . . . . .	241
355	No conservation value payable for particular lizards . . . . .	241
356	No conservation value payable for estuarine crocodile eggs . . .	242
<b>Part 5</b>	<b>Special management declarations for marine mammals</b>	
<b>Division 1</b>	<b>Preliminary</b>	
357	Main purposes of pt 5 . . . . .	242

358	Achieving main purposes—special management areas . . . . .	243
359	Achieving main purposes—special management marine mammals	244
<b>Division 2</b>	<b>Special management areas</b>	
<b>Subdivision 1</b>	<b>Special management areas generally</b>	
360	Special management area . . . . .	245
<b>Subdivision 2</b>	<b>Temporary special management areas</b>	
361	Declaration of temporary special management area . . . . .	245
362	Form of declaration . . . . .	247
363	Term of declaration . . . . .	248
364	Extension of period of declaration . . . . .	248
365	Repeal of declaration . . . . .	249
<b>Division 3</b>	<b>Special management marine mammals</b>	
<b>Subdivision 1</b>	<b>Special management marine mammals generally</b>	
366	Special management marine mammals . . . . .	249
<b>Subdivision 2</b>	<b>Temporary special management marine mammals</b>	
367	Declaration of temporary special management marine mammal	250
368	Effect of declaration for a group of marine mammals . . . . .	252
369	Form of declaration . . . . .	252
370	Term of declaration . . . . .	253
371	Repeal of declaration . . . . .	253
<b>Part 6</b>	<b>Stranded marine mammals</b>	
372	Reference to stranded marine mammal in pt 6 . . . . .	253
373	Powers of conservation officer . . . . .	253
374	Authorised taking, keeping or use of a stranded marine mammal that is dead or dies . . . . .	254
<b>Part 7</b>	<b>Urban flying-fox management area map</b>	
<b>Division 1</b>	<b>Preliminary</b>	
375	Main purpose of pt 7 and its achievement . . . . .	255
376	Definitions for pt 7 . . . . .	255
<b>Division 2</b>	<b>Making, publishing and accessing map</b>	
377	Making and keeping map . . . . .	256
378	Public access to map . . . . .	256
<b>Division 3</b>	<b>Amending the map</b>	
379	Chief executive may amend map in particular circumstances . .	256
380	Period for considering requests by local government . . . . .	257
381	Amending map on request by local government . . . . .	257
382	Amending map in other circumstances . . . . .	258
383	Chief executive to decide whether to reinstate removed area . .	259
<b>Division 4</b>	<b>Map or amendment taking effect</b>	

Contents

---

384	When map or amendment takes effect . . . . .	260
<b>Chapter 9</b>	<b>Transitional provision</b>	
385	Taking protected plant if authorised in particular circumstances .	260
<b>Schedule 1</b>	<b>Processed products</b> . . . . .	262
<b>Part 1</b>	<b>Preliminary</b>	
1	Definition for sch 1 . . . . .	262
<b>Part 2</b>	<b>Processed products made or derived from protected animals</b>	
2	Processed products made or derived from particular protected birds 262	
3	Processed products made or derived from particular protected butterflies . . . . . 262	
4	Processed products made or derived from particular protected crocodiles . . . . . 263	
5	Processed products made of or derived from particular protected emus 265	
6	Processed products made or derived from other protected animals	267
<b>Part 3</b>	<b>Processed products made or derived from protected plants</b>	
7	Processed products made or derived from protected plants . . . .	269
<b>Schedule 2</b>	<b>Special management declarations</b> . . . . .	270
<b>Part 1</b>	<b>Special management area</b>	
1	Description . . . . .	270
2	Distance for no approach zone for whales . . . . .	270
<b>Part 2</b>	<b>Special management marine mammals</b>	
1	Description . . . . .	270
2	Distance for no approach zone . . . . .	270
3	Prescribed distances for prohibited vessel and aircraft . . . . .	270
<b>Schedule 3</b>	<b>Domestic animal</b> . . . . .	272
<b>Schedule 3A</b>	<b>Special least concern plants</b> . . . . .	281
<b>Schedule 4</b>	<b>Relevant protected animals</b> . . . . .	283
<b>Part 1</b>	<b>Exempt animals</b>	
1	Birds . . . . .	283
<b>Part 2</b>	<b>Controlled animals</b>	
2	Birds . . . . .	284
<b>Part 3</b>	<b>Commercial animals</b>	
3	Birds . . . . .	285
4	Invertebrates . . . . .	287
5	Reptiles . . . . .	287
<b>Part 4</b>	<b>Recreational animals</b>	
6	Amphibians . . . . .	289
7	Birds . . . . .	289

---

8	Reptiles .....	290
<b>Part 5</b>	<b>Restricted animals</b>	
9	Amphibians .....	290
10	Birds .....	290
11	Reptiles .....	291
<b>Schedule 5</b>	<b>Dictionary</b> .....	293



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# Nature Conservation (Wildlife Management) Regulation 2006

## Chapter 1 Preliminary

### 1 Short title

This regulation may be cited as the *Nature Conservation (Wildlife Management) Regulation 2006*.

### 2 Commencement

This regulation commences on 21 August 2006.

### 3 Relationship with Administration Regulation

- (1) This regulation must be read together with the Administration Regulation.
- (2) In overview only, the Administration Regulation—
  - (a) provides for the administrative matters relating to the grant, amendment, suspension, cancellation, surrender and replacement of relevant authorities, including restrictions on the grant of wildlife authorities in addition to restrictions stated in this regulation; and
  - (b) states requirements applying to carrying out activities under a relevant authority, including requirements applying to wildlife authorities in addition to requirements stated in this regulation; and
  - (c) provides for the review of, and appeal against, particular decisions, including decisions of the chief executive, or a conservation officer, under this regulation; and
  - (d) states the procedures applying after a thing is seized under section 346 of this regulation; and

[s 4]

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- (e) states the requirements for records required to be kept under the Act, including records required to be kept by the holder of a wildlife authority under this regulation or a conservation plan; and
- (f) states the requirements for returns of operations required to be given to the chief executive under the Act, including returns of operations required to be given by the holder of a wildlife authority under this regulation or a conservation plan; and
- (g) provides for the fees that are payable under the Act; and
- (h) includes additional general provisions for the Act, including—
  - (i) how demerit points are accumulated; and
  - (ii) the period for which particular documents must be kept under the Act.

#### **4 Application**

This regulation applies only to wildlife that is not in a protected area.

#### **5 Interpretation generally**

- (1) The dictionary in schedule 5 defines particular terms used in this regulation.
- (2) Subject to subsection (1), and unless this regulation provides otherwise, terms used in this regulation have the same meaning they have in the Administration Regulation.
- (3) Subsection (2) is not limited to a term defined in the Administration Regulation but also applies to a provision of that regulation aiding the interpretation of a term used in it.

*Note—*

For provisions that aid the interpretation of terms used in the Administration Regulation, see sections 5 to 7 of that regulation.



## 6 Meaning of *commercial purpose*

- (1) A person does an act for a *commercial purpose* if the person does the act for gain or reward.
- (2) Without limiting subsection (1), a person takes, keeps or uses wildlife for a *commercial purpose* if—
  - (a) the activity for which the wildlife is, or is to be, used—
    - (i) is part of a business; or
    - (ii) is for a business, home occupation or home industry under a local law or a planning scheme; or
  - (b) the person buys or sells, or intends to buy or sell, the wildlife and the proceeds from the sale are, or will be, subject to income tax under a law of the Commonwealth; or
  - (c) the person operates under a business or trading name and the business or trade involves buying or selling wildlife of the same species; or
  - (d) the wildlife is brought into the State for the main purpose of selling the wildlife.
- (3) Also, without limiting subsection (1), a person displays an animal for a commercial purpose if—
  - (a) the animal is displayed in a public place in a way that another person may reasonably believe it is for sale; or
  - (b) the animal is displayed in a way that promotes a particular product or service or a business name.

## 6A Meaning of *trade* for protected plants

- (1) A person keeps or uses a protected plant or protected plant part for *trade* if the person—
  - (a) uses or keeps the plant or plant part for a commercial purpose or a related purpose; or

*Examples for paragraph (a)—*

- a landscape contractor using a protected plant in a landscaping job

[s 7]

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- a nursery owner using a whole protected plant to produce other whole plants for potential sale
  - a plant hobbyist selling at a flea market the progeny of a whole protected plant the hobbyist has propagated at their home
  - a person using seed to propagate a whole protected plant for sale
- (b) otherwise sells, gives away, buys, obtains or exchanges the plant or plant part for gain, benefit or reward.
- (2) A person does not use or keep a protected plant or a protected plant part for trade if the person uses or keeps the plant or plant part for the person's own personal use.

## **7 Meaning of *unauthorised interaction***

Each of the following is an *unauthorised interaction* for a protected animal in the wild—

- (a) an interaction with the animal, other than photographing or filming the animal in a way that does not disturb or interfere with the animal, for which a person gains a financial benefit;
- (b) handling or touching the animal;
- (c) interacting with the animal in a way that will, or may, disturb or interfere with the animal;
- (d) physically restraining, or placing a physical restraint on, the animal.

## **7A When whole plant is taken**

- (1) For this regulation, a whole plant is taken if—
- (a) for a protected plant other than sandalwood—no part of the plant that may naturally and readily regrow is left behind; or
  - (b) for sandalwood—the trunk or main stem of the plant is taken even if a part of the plant that may naturally and readily regrow is left behind.

- 
- (2) However, if a person divides a plant into 2 or more viable sections, a whole plant is taken if any of the resulting plants are taken, even if a viable section of the original plant is left behind.
- (3) Also, if a person takes a plant that propagates by creeping rhizomes, a whole plant is taken if any of the following parts of the plant are taken—
- (a) a continuous piece of rhizome bearing living fronds;
  - (b) any removed section of joined rhizomes bearing living fronds.

## **8 Scientific names**

The scientific names used for wildlife mentioned in this regulation follow the scientific reference stated for the wildlife in the Wildlife Regulation, section 5.

# **Chapter 2 Provisions applying to all wildlife authorities**

## **Part 1 Restrictions on grant for all wildlife authorities**

### **9 Purpose of pt 1**

The purpose of this part is to state restrictions that apply to the grant of all wildlife authorities.

*Notes—*

- 1 The Administration Regulation, section 32, contains other restrictions on grant applying to all wildlife authorities.
- 2 The *Nature Conservation (Koala) Conservation Plan 2017*, sections 13 and 14 contain other restrictions on grant applying to most wildlife authorities.

[s 10]

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## 10 Who may obtain wildlife authority

- (1) The chief executive may grant a wildlife authority to a person.
- (2) However, the chief executive can not grant a wildlife authority for an animal to an individual younger than—
  - (a) for a recreational wildlife licence, commercial wildlife harvesting licence, recreational wildlife harvesting licence, or a permit for an animal—13 years; or
  - (b) for another wildlife authority for an animal—18 years.
- (3) Also, the chief executive may grant a wildlife authority, other than a wildlife movement permit, to a corporation only if the corporation has an office in the State.
- (4) In this section—

*wildlife authority* includes a commercial wildlife licence (wildlife interaction) and a wildlife movement permit.

## 11 General restriction on grant of wildlife authorities

- (1) The chief executive may grant a wildlife authority only if the chief executive is satisfied—
  - (a) the activities to be carried out under the authority are not likely to adversely affect the ecological sustainability of any wildlife; and
  - (b) if the authority is for wildlife that has been taken, kept or used before the authority is granted—the wildlife has been lawfully taken, kept or used.

*Note—*

See also section 137 of the Act.

- (2) In this section—

*wildlife authority* includes a commercial wildlife licence (wildlife interaction) and a wildlife movement permit.

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## 11A General restriction on grant of wildlife authorities in dugong protection areas

- (1) The chief executive may grant a wildlife authority authorising a person to take, keep or use protected wildlife in a dugong protection area only if the chief executive is satisfied the taking, keeping or using of the protected wildlife is not likely to significantly reduce the local dugong population or significantly harm dugong habitat.
- (2) In this section—

*dugong protection area* means regulated waters, described in the *Fisheries Declaration 2019*, schedule 1, that have a name that includes either of the following terms—

  - (a) greater dugong protection area;
  - (b) dugong protection area.

## 12 Wildlife authority must not authorise taking protected animal by using regulated substance

- (1) The chief executive can not grant a wildlife authority authorising a person to take a protected animal by using a regulated substance if—
  - (a) the use of the substance on the animal is prohibited under an Act; or
  - (b) an Act requires a person using the regulated substance on the animal to hold a particular authority and the person does not hold the authority.
- (2) In this section—

*regulated substance* means a substance, including, for example, a poison or other toxic substance the use of which is regulated under an Act.

## 13 Restriction on grant about places where animals to be kept

The chief executive can not grant a wildlife authority for an animal if the chief executive reasonably believes the place

[s 14]

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where the animal is to be kept, under the authority, is not appropriate, or does not have the appropriate facilities, for keeping the animal, including, for example—

- (a) because the place does not have facilities that will enable a person keeping the animal at the place to keep the animal in a way that complies with requirements about housing the animal, under this regulation or a relevant code of practice for the animal; or

*Note—*

Section 331 contains requirements about housing and care of live protected animals.

- (b) because the place does not comply with requirements, under this regulation, for places where activities under wildlife authorities of the same type are to be carried out.

#### **14 Wildlife authority must be for only 1 licensed premises**

The chief executive may grant a wildlife authority for an animal for only 1 licensed premises.

## **Part 2 Activities authorised by all or most relevant authorities**

#### **15 Conservation plan may limit or extend activities authorised by wildlife authority**

- (1) A provision of this regulation stating what the holder of a wildlife authority, or a relevant person for the holder, may or may not do under the authority is subject to any provision of a conservation plan for the wildlife about what the holder or relevant person may or may not do under the authority.

*Note—*

The *Nature Conservation (Estuarine Crocodile) Conservation Plan 2018* includes limitations on activities authorised under particular wildlife authorities. See part 4, division 2, of that plan.

- (2) This section does not apply to a provision of this regulation, or a conservation plan, that creates an offence.

## 16 **Wildlife authority only authorises keeping, using and moving of lawfully obtained wildlife**

- (1) The holder of a wildlife authority, or a relevant person for the holder, may only keep, use or move wildlife under the authority if the wildlife was lawfully obtained by the holder or a relevant person for the holder.

*Notes—*

- 1 Under section 88(5) of the Act, it is an offence for a person, other than an authorised person, to keep or use a protected animal, or a descendant of a protected animal, that has not been lawfully taken unless the keeping or use is authorised under the Act.
  - 2 Under section 90A of the Act, it is an offence for a person, other than an authorised person, to keep or use native wildlife that the person ought to have reasonably suspected was not lawfully taken unless the State has, under the Act, disposed of the native wildlife to the person.
  - 3 Under section 89(4) of the Act, it is an offence for a person to keep or use a protected plant that has been taken in contravention of section 89(1) of the Act.
  - 4 Part 5, divisions 4 to 6 of the Act contain other restrictions about keeping, using or moving wildlife.
- (2) In this section—
- wildlife authority*** includes a commercial wildlife licence (wildlife interaction) and a wildlife movement permit.

## 17 **Particular wildlife authorities for animals limited to only live or dead species**

- (1) This section applies if—
- (a) a wildlife authority is for—
    - (i) only a live animal of a particular species; or
    - (ii) only a dead animal of a particular species; and

[s 18]

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- (b) the authority authorises the holder of the authority, or a relevant person for the holder, to take, keep, use, process or move an animal of the species identified on the authority.
- (2) The holder or relevant person may only take, keep, use, process or move—
- (a) for a wildlife authority for only a live animal of a particular species—a live animal of the species identified on the authority; and
  - (b) for a wildlife authority for only a dead animal of a particular species—a dead animal of the species identified on the authority.
- (3) In this section—
- wildlife authority* includes a commercial wildlife licence (wildlife interaction) and a wildlife movement permit.

## **18 Limitation for wildlife authorities for taking animal by killing the animal**

- (1) This section applies if—
- (a) a wildlife authority authorises the holder of the authority, or a relevant person for the holder, to—
    - (i) take an animal of a species identified on the authority only by killing the animal; and
    - (ii) keep, use, process or move an animal of a species identified on the authority; and
  - (b) the authority does not state whether it is for a live or dead animal of the species.
- (2) The holder or relevant person may—
- (a) take only a live animal of the species identified on the authority by killing the animal; and
  - (b) keep, use, process or move only a dead animal of the species identified on the authority.



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**19 Wildlife authorities for protected plants limited to species identified on authority**

- (1) This section applies if—
- (a) a wildlife authority authorises the holder of the authority, or a relevant person for the holder, to take or use protected plants; and
  - (b) states—
    - (i) the particular species of protected plants to which it applies; or
    - (ii) that the authority applies only to whole protected plants of a species identified on the licence; or
    - (iii) that the authority applies only to protected plant parts of a species identified on the licence.
- (2) The holder or relevant person may take or use only—
- (a) if the authority states the species of protected plants to which it applies—protected plants of a species identified on the authority; and
  - (b) if the authority states the authority applies only to whole protected plants of a species identified on the licence—whole protected plants of the species identified on the authority; and
  - (c) if the authority states the authority applies only to protected plant parts of a species identified on the licence—protected plant parts of the species identified on the authority.

**20 Meaning of number on wildlife authority**

- (1) This section applies if—
- (a) a wildlife authority authorises a person to take, keep, use, process or move wildlife; and
  - (b) the authority has a number written opposite the species of wildlife for which the authority is granted.

[s 21]

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- (2) Unless otherwise stated on the authority, a person may take, keep, use, process or move, for the duration of the authority, no more than the number of wildlife of the species stated opposite the species.

*Examples—*

- 1 A commercial wildlife harvesting licence authorises a person to take, keep or use particular animals and the licence has the following written on it without any explanation about the meaning of the numbers—

- carpet python—5
- spotted python—2.

The person may take, keep or use, under the licence, not more than 5 carpet pythons and not more than 2 spotted pythons for the whole duration of the licence.

- 2 A rehabilitation permit authorises a person to take, keep or use particular animals and the licence has the following written on it and states that the number indicates the number of animals that may be taken, kept or used at any given time—

- bar-shouldered dove—3
- emerald dove—5.

The person may take, keep or use, under the permit, not more than 3 bar-shouldered doves, and not more than 5 emerald doves, at any given time while the permit is in force.

- (3) In this section—

***wildlife authority*** includes a commercial wildlife licence (wildlife interaction) and a wildlife movement permit.

## **21 Particular wildlife authorities authorise engaging in unauthorised interaction**

- (1) This section applies to a wildlife authority that authorises the holder of the authority, or a relevant person for the holder, to take an animal of the species identified on the authority.
- (2) The holder or relevant person may, without a commercial wildlife licence (wildlife interaction), engage in an unauthorised interaction for an animal of the species in the wild, if the interaction is part of an activity carried out under the authority.

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**22 Animals may be moved from place of taking to place of keeping**

- (1) This section applies to a wildlife authority authorising the holder of the authority, or a relevant person for the holder, to take an animal under the authority, if the licensed premises for the authority is in the State or another State.
- (2) The holder or relevant person may, without a wildlife movement permit, move the animal from the place where the animal was taken to—
  - (a) the licensed premises; or
  - (b) another authorised premises for the animal that is in the State or another State.
- (3) Also, if the authority is a commercial wildlife harvesting licence or a recreational wildlife harvesting licence, the holder or relevant person may, without a wildlife movement permit, move the animal—
  - (a) from the place where the animal was taken to another place where the holder intends to take other animals under the licence; and
  - (b) from the place, mentioned in paragraph (a), where the holder intends to take other animals under the licence to—
    - (i) the licensed premises; or
    - (ii) another authorised premises for the animal that is in the State or another State.
- (4) However, subsection (2) authorises the holder of a rehabilitation permit, or a relevant person for the holder, to move an animal into the State only if the chief executive has written on the permit that the holder or relevant person may bring an animal taken in another State into the State for keeping it in the State.
- (5) Also, for subsections (2) and (3), if the licensed premises or other authorised premises is in another State, the holder or relevant person must fill in a movement advice for the movement before the movement happens.

[s 23]

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Maximum penalty—50 penalty units.

- (6) Further, this section does not authorise the movement of a prescribed protected animal into another State if the movement is, whether directly or indirectly, associated with—
- (a) moving the animal to another country; or
  - (b) selling, giving or moving the animal to a person in another country.

### **23 Animals may be moved to particular authorised buyers**

- (1) This section applies if the holder of a wildlife authority, or a relevant person for the holder, sells or gives, under the authority, an animal to an authorised buyer for the animal.
- (2) The holder, relevant person or buyer may, without a wildlife movement permit, move the animal from the place where the holder or relevant person keeps the animal to the place where the buyer intends to keep the animal.
- (3) However, the holder or relevant person must fill in a movement advice for the movement before the movement happens.

Maximum penalty—50 penalty units.

- (4) Subsection (3) does not apply to—
- (a) the movement of a controlled animal to a person intending to keep the animal under section 46; or
  - (b) the movement of a protected fish to a person intending to keep the fish under section 51; or
  - (c) the movement of a protected scorpion or spider to a person intending to keep the scorpion or spider under section 54.
- (5) This section does not apply to a live special native animal.
- (6) Also, this section does not authorise the movement of a prescribed protected animal—
- (a) to another country; or

- (b) into another State if the movement is, whether directly or indirectly, associated with—
  - (i) moving the animal to another country; or
  - (ii) selling, giving or moving the animal to a person in another country.

## **24 Animals may be moved from interstate sellers**

- (1) This section applies if—
  - (a) the holder of a wildlife authority, or a relevant person for the holder, buys or accepts, under the authority, an animal from an authorised interstate seller for the animal; and
  - (b) the licensed premises for the authority is in the State or another State.
- (2) The holder, relevant person or seller may, without a wildlife movement permit, move the animal from the place where the seller keeps the animal to—
  - (a) the licensed premises for the wildlife authority; or
  - (b) another authorised premises for the animal that is in the State or another State.
- (3) However, the holder or relevant person must fill in a movement advice for the movement before the movement happens.  
Maximum penalty—50 penalty units.
- (4) This section does not apply to—
  - (a) a live special native animal; or
  - (b) a dead crocodile or emu.
- (5) Also, this section does not authorise the movement of a prescribed protected animal into another State if the movement is, whether directly or indirectly, associated with—
  - (a) moving the animal to another country; or

[s 25]

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- (b) selling, giving or moving the animal to a person in another country.

## 25 Animals may be moved for private reasons

The holder of a wildlife authority, or a relevant person for the holder, who keeps an animal under the authority may, without a wildlife movement permit, move the animal—

- (a) on the land on which the authorised premises for the animal are located; or
- (b) if the animal is kept at the holder's or relevant person's place of business and the holder or relevant person moves to a new place of business within the State—to the new place of business; or
- (c) if the animal is kept at the holder's or relevant person's place of residence and the holder or relevant person moves to a new place of residence within the State—to the new place of residence.

*Note—*

See the Administration Regulation, section 79, for the requirement to notify the chief executive of a change of an address stated on a wildlife authority.

## 26 Live animals may be moved to and from veterinary surgeon

- (1) The holder of a wildlife authority, or a relevant person for the holder, who keeps a live animal in the State under the authority may, without a wildlife movement permit, move the animal—
  - (a) from the place where the animal is being kept (the *place of keeping*) to the premises of a veterinary surgeon for treatment or care for the animal; or
  - (b) from the premises of a veterinary surgeon who treated or cared for the animal to the place of keeping.

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- (2) However, if the premises of the veterinary surgeon is outside the State, subsection (1)(a) applies only if the holder or relevant person ensures the animal is moved back to the place of keeping as soon as practicable after the treatment or care is given.
  - (3) Subsection (2) does not apply if the animal dies.

## **27 Live animals may be moved to and from display**

- (1) This section applies to the holder of any of the following licences, or a relevant person for the holder, who keeps a live protected, international or prohibited animal in the State under the licence—
  - (c) wildlife farming licence;
  - (d) museum licence.
- (2) The holder or relevant person may, without a wildlife movement permit, move the animal—
  - (a) from the licensed premises for the licence to a place in the State or another State where the animal is to be displayed under the licence; or
  - (b) from a place in the State or another State where the animal was displayed under the licence to another place in the State or another State where the animal is to be displayed under the licence; or
  - (c) from a place in the State or another State where the animal was displayed under the licence to the licensed premises for the licence.
- (3) However, subsection (2) applies only if the holder or relevant person ensures the animal is moved back to the licensed premises for the licence as soon as practicable after the animal stops being displayed under the licence.
- (4) Also, if the movement is into or out of the State, the holder or relevant person must fill in a movement advice for the movement before the movement happens.

Maximum penalty for subsection (4)—50 penalty units.

## **Part 3** **Carrying out activities under wildlife authority**

### **30 Persons to whom holders may sell or give wildlife**

- (1) This section applies if—
  - (a) a person keeps wildlife under a wildlife authority; and
  - (b) the authority authorises the holder of the authority, or a relevant person for the holder, to sell or give away the wildlife.
- (2) The holder or relevant person must not sell or give the wildlife to a person other than—
  - (a) for a commercial wildlife harvesting licence—
    - (i) if a conservation plan states the holder of the licence may sell or give the wildlife only to a particular person—the particular person; or
    - (ii) otherwise—the holder of a commercial wildlife licence for the wildlife, or another person if the chief executive has given the holder of the commercial wildlife harvesting licence written approval to sell or give the wildlife to the other person; or
  - (b) for another licence—a person who is authorised to buy or accept the wildlife under the Act, the *Exhibited Animals Act 2015* or a law of another State.

Maximum penalty—120 penalty units.

### **31 Persons from whom holders may buy or accept wildlife**

- (1) This section applies if a wildlife authority authorises the holder of the authority, or a relevant person for the holder, to—
  - (a) buy or accept wildlife; and
  - (b) keep wildlife.



- (2) The holder or relevant person must not buy or accept the wildlife from a person other than a person who is authorised to sell or give away the wildlife under the Act, the *Exhibited Animals Act 2015* or a law of another State.

*Note—*

The *Nature Conservation (Macropod) Conservation Plan 2017* includes other restrictions applying to the buying or accepting of dead macropods under a commercial wildlife licence for dead macropods.

Maximum penalty—120 penalty units.

### **32 Compliance with chief executive's directions about sampling or implanting**

- (1) The chief executive may give the holder of a wildlife authority, or a relevant person for the holder, who keeps a live protected, international or prohibited animal under the authority, a notice requiring the holder or relevant person to—
  - (a) take a biological tissue sample of the animal and give the sample to an approved scientific institution; or
  - (b) insert an approved electromagnetic implant into the animal and give the chief executive a notice stating the identification code for the implant.
- (2) The notice must state the period, of at least 28 days, within which the holder or relevant person must comply with the notice.
- (3) The holder or relevant person must comply with the notice within the stated period.

Maximum penalty for subsection (3)—165 penalty units.

### **33 Dealing with animals after death—sampled or implanted animals**

- (1) This section applies if—
  - (a) the holder of a wildlife authority, or a relevant person for the holder, keeps a live animal under the authority; and
  - (b) either—

[s 33]

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- (i) a biological tissue sample was taken from the animal and given to an approved scientific institution; or
    - (ii) an approved electromagnetic implant was inserted into the animal and the chief executive was given a notice stating the identification code for the implant; and
  - (c) the animal dies.
- (2) The holder or relevant person must ensure either—
- (a) within 14 days after the animal dies, an autopsy is performed on the animal by a veterinary surgeon and the chief executive is given the following—
    - (i) a biological tissue sample taken from the animal under the autopsy;
    - (ii) if an electromagnetic implant was inserted into the animal—the implant;
    - (iii) if an electromagnetic implant was inserted into the animal and the veterinary surgeon finds the implant was not working—a written report prepared by the veterinary surgeon stating the reason why the implant was not working; or
  - (b) the animal is frozen immediately after it dies and the frozen animal is given to the chief executive within 14 days after the animal dies.

Maximum penalty—120 penalty units.

- (3) A holder or relevant person dealing with an animal under this section may, without a wildlife movement permit, move the animal—
- (a) if the holder or relevant person intends to have a veterinary surgeon perform an autopsy on the animal—from the place where the holder or relevant person kept the animal to the premises of the veterinary surgeon; and
  - (b) if the holder or relevant person intends to give the frozen animal to the chief executive—from the place where the

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holder or relevant person kept the animal to the chief executive.

- (4) This section does not apply if a conservation plan states the way an animal to which the plan applies must be dealt with if it dies while being kept under a wildlife authority.

### **34 Dealing with animals after death—other animals**

- (1) This section applies if—
- (a) the holder of a wildlife authority, or a relevant person for the holder, keeps a live animal under the authority; and
  - (b) the animal dies; and
  - (c) the authority does not authorise the holder or relevant person to sell or give away a dead animal of the same species; and
  - (d) section 33 does not apply.
- (2) The holder or relevant person may deal with the animal only in 1 of the following ways—
- (a) by selling or giving the animal to—
    - (i) the holder of a commercial wildlife licence for the dead animal, or a relevant person for the holder of a commercial wildlife licence; or
    - (ii) the holder of a museum licence for the dead animal, or a relevant person for the holder of a museum licence;
  - (b) by giving the animal to the holder of a commercial wildlife licence for the dead animal, or a relevant person for the holder of a commercial wildlife licence, for processing and reclaiming the animal after it is processed;
  - (c) by incinerating or burying the animal.
- (3) A holder or relevant person dealing with an animal under this section may, without a wildlife movement permit, move the animal—

[s 35]

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- (a) if the animal is sold or given to the holder of a commercial wildlife licence or a museum licence for the dead animal—to the licensed premises for the commercial wildlife licence or museum licence; or
  - (b) if the animal is to be buried or incinerated—to the place where the animal is to be buried or incinerated.
- (4) However, if the holder or relevant person sells or gives the animal to a person acting under a commercial wildlife licence or museum licence, the holder or relevant person must fill in movement advice for the movement before the movement happens.

Maximum penalty—50 penalty units.

- (5) To remove any doubt, it is declared that the wildlife authority authorises the holder of the authority, or a relevant person for the holder, to deal with the animal in the way stated in subsection (2).
- (6) This section does not apply if a conservation plan states the way an animal to which the plan applies must be dealt with if it dies while being kept under a wildlife authority.
- (7) In this section—  
*wildlife authority* means a wildlife authority other than a rehabilitation permit.

### **35 Assistance to conservation officers**

- (1) The holder of a wildlife authority, or a relevant person for the holder, must—
- (a) allow a conservation officer to access and inspect the wildlife at any reasonable time; and
  - (b) if asked by the conservation officer—give the officer all necessary help to enable the officer to do any of the following—
    - (i) photograph the wildlife;
    - (ii) if the wildlife is a live animal—

- (A) obtain or check the animal's biological tissue sample; or
- (B) if an electromagnetic implant has been inserted into the animal—identify the identification code for the implant; or
- (C) insert an electromagnetic implant into the animal.

Maximum penalty—165 penalty units.

- (2) In this section—

*wildlife authority* includes a commercial wildlife licence (wildlife interaction) and a wildlife movement permit.

## **Chapter 3      Taking, keeping, using, moving or dealing with animals**

### **Part 1            Taking, keeping, using, moving or dealing with protected animals other than under wildlife authority**

#### **36      Purpose of pt 1**

The purpose of this part is to state the circumstances in which the taking, keeping, using or moving of, or dealing with, protected animals is authorised under the Act, other than under a wildlife authority.

### **37 Authorised keeper in another State**

A person who is an authorised keeper in another State for an animal of a species that is a protected animal may, without a wildlife authority—

- (a) buy or accept an animal of the species from a person authorised to sell or give away the animal under the Act; and
- (b) keep the animal in the other State.

### **38 Authorised keeper in another country**

A person who is an authorised keeper in another country for an animal of a species that is a protected animal may, without a wildlife authority—

- (a) buy or accept an animal of the species from a person authorised to sell or give away the animal under the Act; and
- (b) keep the animal in the other country.

### **39 Veterinary surgeons**

- (1) A veterinary surgeon may take, keep and use a live protected animal, without a wildlife authority for taking, keeping or using the animal, if the animal is taken, kept or used for providing treatment or care for the animal.
- (2) Also, the surgeon may euthanase the animal if the surgeon reasonably believes the animal—
  - (a) is sick or injured to the extent that the animal is unable or unlikely to recover from the sickness or injury; or
  - (b) is unable or unlikely to survive in the wild because the animal is orphaned.
- (3) If the animal dies or the surgeon has euthanased the animal under subsection (2), the surgeon may, without a wildlife movement permit, move the animal from the place where the surgeon keeps the animal to—

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- (a) the place where the animal is to be buried or incinerated;  
or
  - (b) if the chief executive has asked the surgeon to move the animal to another place—the other place.

#### **40 Particular government officers or employees**

- (1) This section applies to an officer or employee of—
  - (a) a local government; or
  - (b) a rail government entity; or
  - (c) the department in which the *Transport Operations (Road Use Management) Act 1995* is administered.
- (2) The officer or employee may take a dead protected animal from public land, without a wildlife authority for taking the animal, if—
  - (a) it is necessary or desirable for the officer or employee to take the animal, including, for example, for the performance of a function or the exercise of a power under an Act; and
  - (b) the animal is to be—
    - (i) buried or incinerated; or
    - (ii) moved to another place where the animal will not pose a risk to the officer or employee or to public safety; or
    - (iii) if the chief executive has directed the officer or employee to deal with the animal in a particular way—dealt with in the way directed.

*Examples of when it may be necessary or desirable to take a dead protected animal—*

- 1 to remove the animal from a road to ensure the free and safe movement of traffic on the road
- 2 to remove the animal from a public place to maintain health and wellbeing of persons attending the place

[s 40A]

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- (3) Also, the officer or employee may, without a wildlife movement permit, move the dead animal from the place where the animal is taken to—
- (a) the place where the animal is to be buried or incinerated; or
  - (b) if subsection (2)(b)(ii) applies—the other place; or
  - (c) if the chief executive has asked the person to move the animal to another place—the other place.

- (4) In this section—

*officer or employee*, of an entity mentioned in subsection (1)(a), (b) or (c), includes a contractor, employee of a contractor, and subcontractor of the entity.

*public land* means—

- (a) a State-controlled road under the *Transport Infrastructure Act 1994*; or
- (b) a road controlled by a local government; or
- (c) land dedicated as a reserve for community purposes under the *Land Act 1994* for which a local government is trustee; or
- (d) a railway managed by a rail government entity.

#### **40A Exemptions for railway managers**

- (1) A railway officer of a railway manager may, without a wildlife authority for taking the animal or a wildlife movement permit, and on the conditions the chief executive decides and notifies to the railway manager—
- (a) take a dead protected animal from a railway managed by the railway manager to a place; and
  - (b) move the dead animal from the place to which the animal is taken to another place.
- (2) The conditions may include—



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- (a) the manner in which the animal is to be dealt with following its taking or movement; and
  - (b) the records the railway manager must keep for things done under subsection (1), the manner in which the records are kept and access to the records.
- (3) This section does not apply to a rail government entity.
- (4) In this section—

*railway manager* see the *Transport Infrastructure Act 1994*, schedule 6.

*railway officer*, of a railway manager, means—

- (a) an employee or contractor of the railway manager; or
- (b) an employee or contractor of a related body corporate of a railway manager; or
- (c) an employee of a contractor mentioned in paragraph (a) or (b); or
- (d) another person approved by the chief executive by written notice to the railway manager.

*related body corporate* has the meaning given in the Corporations Act.

## 41 Australian Defence Force

A member of the Australian Defence Force may take and keep a least concern animal from land owned by the Commonwealth if—

- (a) the animal is to be used for training members of a part of the defence force about survival in the wild; and
- (b) the use of the animal is, or will be, consistent with the military standing order prepared for the part of the defence force.

**41A Local government dealing with flying-fox roost in urban flying-fox management area**

- (1) This section applies to a local government dealing with a flying-fox roost located in an urban flying-fox management area in the local government area.
- (2) However, this section does not apply to an area for which the local government has been granted a flying-fox roost management permit.
- (3) The local government may, without a wildlife authority, do any of the following—
  - (a) destroy a flying-fox roost;
  - (b) drive away, or attempt to drive away, a flying-fox from a flying-fox roost;
  - (c) disturb a flying fox in a flying-fox roost.
- (4) The local government may take action under subsection (3) only in a way that complies with the flying-fox roost management code.
- (5) In this section—

*local government* includes a person acting under the authority of a local government.

**41B Low impact activities affecting a flying-fox roost**

- (1) A person may, without a wildlife authority, do any of the following to or near a tree that is a flying-fox roost—
  - (a) cut the branches of the tree;
  - (b) put mulch near the tree;
  - (c) mow grass near the tree;
  - (d) cut, remove or destroy vegetation near the tree.

*Note—*

The clearing of vegetation is regulated by the *Vegetation Management Act 1999*.

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- (2) A person may take action under subsection (1) only in a way that complies with the flying-fox roost low impact activities code.

**42 Animals taken under Aboriginal tradition or Island custom authority for protected area**

- (1) This section applies if—
- (a) a relevant person for the holder of an Aboriginal tradition authority takes an animal from a protected area under the authority; or
  - (b) a relevant person for the holder of an Island custom authority takes an animal from a protected area under the authority.
- (2) The relevant person may—
- (a) without a wildlife movement permit, move the animal from the protected area from which the animal was taken to the place where the person intends to keep or use the animal under paragraph (b) or (c); and
  - (b) keep the animal; and
  - (c) use the animal if the use is for the personal, domestic or non-commercial communal needs of the members of the corporation to whom the authority is granted.
- (3) However, subsection (2)(a) does not authorise the movement of a prescribed protected animal, whether from the State or another State, to another country.

**43 Marine turtle or dugong taken under Aboriginal tradition or Island custom**

- (1) A person may take, keep and use a protected marine turtle or dugong, without a wildlife authority for taking, keeping and using the turtle or dugong, if—
- (a) the person—

[s 43A]

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- (i) takes the turtle or dugong under Aboriginal tradition or Island custom; and
    - (ii) holds a permit or other authority granted under the *Marine Parks Act 2004* or the *Great Barrier Reef Marine Park Act 1975* (Cwlth) that authorises the person to take the turtle or dugong; or
  - (b) the person takes the turtle or dugong under a traditional use of marine resources agreement allowing the person to take the turtle or dugong.
- (2) Also, the person may, without a wildlife movement permit, move the turtle or dugong from the place from where the turtle or dugong is taken to the place where the person intends to keep or use the turtle or dugong.
- (3) However, subsection (2) does not authorise the movement of a prescribed protected animal, whether from the State or another State, to another country.
- (4) In this section—
- traditional use of marine resources agreement*** means—
- (a) a traditional use of marine resources agreement accredited under the *Marine Parks (Great Barrier Reef Coast) Zoning Plan 2004*, part 5, division 1; and
  - (b) a traditional use of marine resources agreement accredited under the *Great Barrier Reef Marine Park Regulations 1983* (Cwlth), part 2B, division 2B.2.

### **43A Keeping and use of dead marine mammals**

- (1) The chief executive may give a dead marine mammal to—
- (a) a traditional owner for the land or waters from which the mammal was taken or on or in which the mammal was found; or
  - (b) a person nominated by a person mentioned in paragraph (a).

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- (2) If a person is given a dead marine mammal under subsection (1), the person may keep or use the mammal if the keeping or use is for the personal, domestic or non-commercial communal needs of a community or group of Aboriginal people or Torres Strait Islanders.
- (3) In this section—
- representative Aboriginal/Torres Strait Islander body* has the meaning given by the *Native Title Act 1993* (Cwlth).
- traditional owner*, for land or waters, means a person of Aboriginal or Torres Strait Islander descent who—
- (a) is recognised in the Aboriginal or Torres Strait Islander community generally, or by a representative Aboriginal/Torres Strait Islander body for an area that includes the land or waters—
- (i) as having spiritual or cultural affiliations with the land or waters; or
- (ii) as holding native title in relation to the land or waters; and
- (b) is entitled to undertake activities under Aboriginal tradition or Island custom on the land or in the waters.

#### 44 Keeping and using exempt animals

- (1) A person may buy or accept, keep and use an exempt animal, without a wildlife authority for keeping and using the animal, if before the person bought or accepted the animal—
- (a) it was taken, kept and used lawfully; or
- (b) the parents of the animal were taken, kept and used lawfully.
- (2) However, the person must not—
- (a) buy or accept the animal from a person who is not authorised to sell or give away the animal under the Act or a law of another State; or

[s 44]

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- (b) sell or give the animal to a person who is not authorised to buy or accept the animal under the Act or a law of another State.

Maximum penalty—20 penalty units.

- (3) Also, if the person keeps a prescribed exempt bird at a place used for a commercial purpose, the person must, as soon as practicable after the person bought or accepted the bird—
  - (a) apply, to the chief executive, for—
    - (i) a record book for keeping a record for the bird; or
    - (ii) an approval of an electronic record system for keeping a record for the bird; and
  - (b) pay the prescribed fee for the book or approval.

Maximum penalty—10 penalty units.

- (4) Further, after the chief executive supplies the book or approves the system, the person must keep a record for the bird.

*Note—*

For the requirements for records required to be kept under the Act, see the Administration Regulation, part 6.

Maximum penalty—120 penalty units.

- (5) In this section—

***prescribed exempt bird*** means any of the following—

- (a) a galah (*Cacatua roseicapilla*);
- (b) a little corella (*Cacatua sanguinea*);
- (c) a long-billed corella (*Cacatua tenuirostris*);
- (d) a princess parrot (*Polytelis alexandrae*);
- (e) a rainbow lorikeet (*Trichoglossus haematodus haematodus*);
- (f) a scarlet-chested parrot (*Neophema splendida*);
- (g) a sulphur-crested cockatoo (*Cacatua galerita*);

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- (h) a twenty-eight parrot (*Barnardius zonarius semitorquatus*);
  - (i) a western corella (*Cacatua pastinator*).

#### **44A Breeding mutation of exempt birds authorised**

A person who keeps and uses an exempt bird under section 44 may breed a mutation of the bird.

*Note—*

Under section 92(1) of the Act, it is an offence for a person to knowingly breed a hybrid or mutation of a protected animal other than under a regulation or an exemption under a regulation.

#### **45 Moving exempt animals**

- (1) This section applies to a person (the *exempt person*) who keeps, or intends to keep, an exempt animal under section 44.
- (2) The person may, without a wildlife movement permit, move the animal to or from any place in or outside of the State.
- (3) However, subsection (2) does not authorise the movement of a prescribed protected animal—
  - (a) to another country; or
  - (b) into another State if the movement is, whether directly or indirectly, associated with—
    - (i) moving the animal to another country; or
    - (ii) selling, giving or moving the animal to a person in another country.

#### **46 Keeping or using controlled animals**

- (1) A person, other than the holder of a wildlife authority for keeping controlled animals, (the *exempt person*) may buy or accept and keep a live controlled animal without a wildlife authority for keeping and using the animal if—

[s 46]

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- (a) before the person bought or accepted the animal, it was taken, kept and used lawfully; and
  - (b) the animal is kept for the person's private enjoyment.
- (2) Also, the exempt person may—
- (a) sell or give away the animal, without a wildlife authority for using the animal, to—
    - (i) the holder of a wildlife authority, or a relevant person for the holder of a wildlife authority, who is authorised to buy or accept the animal; or
    - (ii) another person if the chief executive has given the exempt person written approval to sell or give the animal to the other person; and
  - (b) if the animal dies—sell or give the dead animal, without a wildlife authority for using the dead animal, to the holder of a commercial wildlife licence for the dead animal, or a relevant person for the holder of a commercial wildlife licence for the dead animal.

*Note—*

See section 337 for requirements about records of identification details of the person from whom a person buys or accepts protected, international or prohibited wildlife.

- (3) However, the person must keep an animal bought or accepted by the person for at least 6 months after the person receives the animal unless—
- (a) the person has written approval from the chief executive to sell or give away the animal within 6 months after the person received the animal; or
  - (b) the animal dies or escapes; or
  - (c) if the animal is a bird—the person bought or accepted the bird for rearing the bird and the bird fledges within 6 months after the person received the bird.

Maximum penalty—20 penalty units.

- (4) Further, the person must not—



- 
- (a) buy or accept the animal from a person who is not authorised to sell or give away the animal under the Act or a law of another State; or
  - (b) deal with more than 10 live animals of the same class in any period of 12 months; or
  - (c) display the animal for a commercial purpose.

Maximum penalty—20 penalty units.

- (5) In this section—

*deal with* means—

- (a) buy or accept; or
- (b) sell or give away.

#### **46A Breeding mutation of controlled birds authorised**

A person who keeps a controlled bird under section 46 may breed a mutation of the bird.

*Note—*

Under section 92(1) of the Act, it is an offence for a person to knowingly breed a hybrid or mutation of a protected animal other than under a regulation or an exemption under a regulation.

#### **47 Moving controlled animals from seller to exempt person**

- (1) This section applies to a person (the *exempt person*) who buys or accepts a controlled animal, from another person, for keeping the animal under section 46.
- (2) The exempt person or other person may, without a wildlife movement permit, move the animal from the place where the other person kept the animal to the place where the exempt person intends to keep the animal.
- (3) However, before the movement happens a movement advice for the movement must be filled in by—
  - (a) if the exempt person buys or accepts the animal from an authorised interstate seller—the exempt person; or

[s 48]

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(b) otherwise—the other person.

*Note—*

See section 337 for requirements about records of identification details of the person from whom a person buys or accepts protected, international or prohibited wildlife.

Maximum penalty for subsection (3)—50 penalty units.

#### **48 Moving controlled animals from exempt person to buyer**

- (1) This section applies to a person (the *exempt person*) who keeps an animal under section 46 and sells or gives the animal to another person.
- (2) The exempt person or the other person may, without a wildlife movement permit, move the animal from the place where the exempt person keeps the animal to the place where the other person intends to keep the animal.
- (3) However, the exempt person must fill in a movement advice for the movement before the movement happens.

Maximum penalty—50 penalty units.

*Note—*

See section 338 for requirements about records of identification details of the person to whom a person sells or gives protected, international or prohibited wildlife.

- (4) Subsection (2) does not authorise the movement of a prescribed protected animal—
  - (a) to another country; or
  - (b) into another State if the movement is, whether directly or indirectly, associated with—
    - (i) moving the animal to another country; or
    - (ii) selling, giving or moving the animal to a person in another country.

## 49 Particular reptiles

- (1) This section applies to a person who on 1 March 2004 lawfully kept, other than under a wildlife authority, a commercial or recreational reptile that was lawfully taken from the wild other than under a wildlife authority.
- (2) The person may—
  - (a) keep the reptile without a wildlife authority for keeping the reptile; or
  - (b) release the reptile into the wild at the place from where the person took the reptile.
- (3) However, if the reptile produces offspring, the person must release the offspring into the wild in the way stated in the reptile and amphibian code within 14 days after—
  - (a) for a reptile that produces offspring by giving birth to the offspring—the day the offspring is born; or
  - (b) for a reptile that produces offspring by laying an egg—the day the egg hatches.

Maximum penalty—80 penalty units.

- (4) In this section—

*lawfully*, in relation to taking or keeping a reptile, means to take or keep the reptile in a way that is authorised under the Act.

## 50 Least concern amphibians

- (1) This section applies only to a person who does not hold a wildlife authority for taking, keeping or using amphibians.
- (2) The person may catch and keep a least concern amphibian from the person's land, without a wildlife authority for taking and keeping the amphibian.
- (3) However, the person—
  - (a) must keep the amphibian—
    - (i) on the person's land; and

[s 51]

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- (ii) only for the person's private enjoyment; and
- (b) must not keep—
  - (i) more than 8 least concern amphibians; or
  - (ii) more than 2 least concern amphibians of the same species.

Maximum penalty—20 penalty units.

- (4) Also, if the amphibian produces offspring, the person must, within 7 days after the offspring's metamorphosis, release the offspring into the wild in the way stated in the reptile and amphibian code.

Maximum penalty—80 penalty units.

- (5) For subsection (3)(b), tadpoles are not counted in the number of amphibians kept by a person or the number of species of amphibians kept by a person.

## **51 Keeping or using particular protected fish for recreational purpose**

- (1) A person may buy or accept, keep and use a protected fish of the following species, without a wildlife authority for keeping and using the fish, if the fish is not kept or used for a commercial purpose—
  - (a) Elizabeth Springs goby (*Chlamydogobius* sp. A);
  - (b) Edgbaston goby (*Chlamydogobius* sp. B);
  - (c) red-finned blue-eye (*Scaturiginichthys vermeilipinnis*);
  - (d) oxleyan pygmy perch (*Nannoperca oxleyana*);
  - (e) honey blue-eye (*Pseudomugil mellis*).
- (2) However, the person must not—
  - (a) buy or accept the fish from a person who is not authorised to sell or give away the fish under the Act or a law of another State; or

- 
- (b) sell or give the fish to a person who is not authorised to buy or accept the fish under the Act or a law of another State.

Maximum penalty for subsection (2)—20 penalty units.

## **52 Moving protected fish kept for recreational purpose from seller to exempt person**

- (1) This section applies if a person (the *exempt person*) buys or accepts protected fish, from another person, for keeping the fish under section 51.
- (2) The exempt person or other person may, without a wildlife movement permit, move the fish from the place where the other person kept the fish to the place where the exempt person intends to keep the fish.

*Note—*

See section 337 for requirements about records of identification details of the person from whom a person buys or accepts protected, international or prohibited wildlife.

## **53 Moving protected fish kept for recreational purpose from exempt person to buyer**

- (1) This section applies if a person (the *exempt person*) keeps protected fish under section 51 and sells or gives the fish to another person.
- (2) The exempt person or the other person may, without a wildlife movement permit, move the fish from the place where the exempt person keeps the fish to the place where the other person intends to keep the fish.

*Note—*

See section 338 for requirements about records of identification details of the person to whom a person sells or gives protected, international or prohibited wildlife.

**54 Taking, keeping and using protected scorpions or spiders for recreational purpose**

- (1) A person may take, keep and use a protected scorpion or spider, without a wildlife authority for taking, keeping and using the scorpion or spider, if the scorpion or spider is not taken, kept or used for a commercial purpose.
- (2) However, the person must not—
  - (a) buy or accept the scorpion or spider from a person who is not authorised to sell or give away the scorpion or spider under the Act or a law of another State; or
  - (b) sell or give the scorpion or spider to a person who is not authorised to buy or accept the scorpion or spider under the Act or a law of another State.

Maximum penalty for subsection (2)—20 penalty units.

**55 Moving protected scorpion or spider kept for recreational purpose from seller to exempt person**

- (1) This section applies if a person (the *exempt person*) buys or accepts a protected scorpion or spider, from another person, for keeping the scorpion or spider under section 54.
- (2) The exempt person or other person may, without a wildlife movement permit, move the scorpion or spider from the place where the other person kept the scorpion or spider to the place where the exempt person intends to keep the scorpion or spider.

*Note—*

See section 337 for requirements about records of identification details of the person from whom a person buys or accepts protected, international or prohibited wildlife.

**56 Moving protected scorpion or spider kept for recreational purpose from exempt person to seller**

- (1) This section applies if a person (the *exempt person*) keeps a protected scorpion or spider under section 54 and sells or gives the scorpion or spider to another person.

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- (2) The exempt person or the other person may, without a wildlife movement permit, move the scorpion or spider from the place where the exempt person keeps the scorpion or spider to the place where the other person intends to keep the scorpion or spider.

*Note—*

See section 338 for requirements about records of identification details of the person to whom a person sells or gives protected, international or prohibited wildlife.

## **57 Educational or scientific purposes**

- (1) This section applies to a protected animal that—
- (a) was taken or kept under a licence, permit or other authority under the Act or a law of another State; and
  - (b) is in the State.
- (2) A person may, without a wildlife authority for using the animal, use part of the animal if—
- (a) the person is a person to whom an educational purposes permit or scientific purposes permit for using the part of the animal may be granted; and
  - (b) the part of the animal is used for—
    - (i) scientific research at a tertiary or other institution administered by the Commonwealth or a State or an entity that is involved in scientific research; or
    - (ii) teaching at an educational institution or organisation.

*Notes—*

- 1 Section 190 includes a restriction about persons to whom an educational purposes permit for an animal may be granted.
- 2 Section 218 includes a restriction about persons to whom a scientific purposes permit may be granted.

## **58 Sick or injured protected marine mammals and turtles**

- (1) This section applies to a sick or injured protected marine mammal or marine turtle.
- (2) A person may take and keep the mammal or turtle, without a wildlife authority for taking and keeping the mammal or turtle.
- (3) Also, the person may, without a wildlife movement permit, move the animal—
  - (a) from the place where the person takes possession of the animal to a place in the State where the person intends to care for the animal; or
  - (b) to a place in the State where the holder of a rehabilitation permit, or a relevant person for the holder, intends to keep the animal; or
  - (c) if a conservation officer directs, under subsection (4)(b), the person to move the animal to another place—to the other place.
- (4) However, the person must—
  - (a) notify, as soon as practicable, a conservation officer that the person has taken possession of the mammal or turtle; and
  - (b) if the conservation officer directs the person to deal with the mammal or turtle in a particular way—deal with the mammal or turtle in the way directed.

Maximum penalty for subsection (4)—20 penalty units.

## **59 Other sick, injured or orphaned protected animals**

- (1) This section applies to a sick, injured or orphaned protected animal other than a marine mammal or marine turtle.
- (2) A person may take and keep the animal without a wildlife authority for taking and keeping the animal.
- (3) Also, the person may, without a wildlife movement permit, move the animal—



- 
- (a) from the place where the person takes possession of the animal to a place in the State where the person intends to care for the animal; or
  - (b) to a place in the State where the holder of a rehabilitation permit, or a relevant person for the holder, intends to keep the animal; or
  - (c) if a conservation officer directs, under subsection (5), the person to move the animal to another place—to the other place.
- (4) However, the person must, within 72 hours after the person takes possession of the animal, either—
- (a) give the animal to the holder of a rehabilitation permit for the animal, or a relevant person for the holder; or
  - (b) notify a conservation officer that the person has taken possession of the animal.

Maximum penalty—20 penalty units.

- (5) If the person notifies a conservation officer under subsection (4)(b) and the officer directs the person to deal with the animal in a particular way, the person must deal with the animal in the way directed.

Maximum penalty for subsection (5)—20 penalty units.

## **60 Interacting with animals in the wild**

- (1) A person may, without a commercial wildlife licence (wildlife interaction), interact with a protected animal in the wild if the interaction is not an unauthorised interaction for the animal.
- (2) Also, a person who is authorised to watch, observe, interact with or feed a protected animal in the wild under either of the following Acts may, without a commercial wildlife licence (wildlife interaction), engage in an unauthorised interaction for the animal—
  - (a) the *Marine Parks Act 2004*;
  - (b) the *Great Barrier Reef Marine Park Act 1975* (Cwlth).

**60A Interacting with dolphins as part of Tin Can Bay dolphin feeding program**

- (1) A person may, without a commercial wildlife licence (wildlife interaction), engage in an unauthorised interaction for a dolphin if the interaction—
  - (a) is part of the Tin Can Bay dolphin feeding program; and
  - (b) is authorised under the conditions of operation imposed by the chief executive on the approval for the program.
- (2) If the operator of the Tin Can Bay dolphin feeding program knows, or ought reasonably to know, a dolphin the subject of the program is sick or injured or has died, the operator must—
  - (a) immediately notify a conservation officer of the matter; and
  - (b) if the officer directs the operator to deal with the dolphin in a particular way—deal with the dolphin in the way directed.

Maximum penalty—100 penalty units.

- (3) A conservation officer may give a direction under subsection (2)(b) only if the direction is reasonable in the circumstances.
- (4) The operator of the Tin Can Bay dolphin feeding program must give the chief executive a written report, in the approved form, about the activities carried out as part of the program—
  - (a) for each month; and
  - (b) within 10 business days after the month ends.

Maximum penalty—120 penalty units.

- (5) In this section—

***Tin Can Bay dolphin feeding program*** means the program for feeding dolphins in the waters adjacent to lot 80 shown on plan MCH5383 approved by the chief executive (subject to stated conditions of operation).

*Note—*

A copy of plan MCH5383 is available on the department's website.

## **61 Wholesalers may move dead protected animals**

- (1) This section applies to a dead protected animal, other than a crocodile or emu, lawfully taken, kept and used in another State.
- (2) A wholesaler in the State may, without a wildlife movement permit, move the skin, carcass or meat of the animal into the State if—
  - (a) the wholesaler buys the skin, carcass or meat by wholesale from a person in the other State; and
  - (b) the way in which the skin, carcass or meat is packed complies with the requirements of any applicable law of the other State; and
  - (c) the movement of the skin, carcass or meat from the place is authorised by any applicable law of the other State; and
  - (d) the movement is for a lawful purpose.

*Note—*

See also section 317 and schedule 1 and, for macropods, the *Nature Conservation (Macropod) Conservation Plan 2017*, section 83 and schedule 1, for the skin, carcass and meat of animals that are a processed product.

- (3) However, the wholesaler must fill in a movement advice for the movement before the movement happens.

Maximum penalty for subsection (3)—50 penalty units.

## **62 Protected animals may be moved for private reasons**

A person who lawfully keeps, other than under a wildlife authority, a protected animal may, without a wildlife movement permit, move the animal—

- (a) on the person's land; or
- (b) if the person keeps the animal at the person's place of residence and is moving to a new place of residence within the State—to the new place of residence.

**63 Animals may be moved to and from veterinary surgeon**

- (1) A person who lawfully keeps, other than under a wildlife authority, a live protected animal in the State may, without a wildlife movement permit, move the animal—
  - (a) from the place where the animal is being kept (the *place of keeping*) to the premises of a veterinary surgeon for treatment or care for the animal; or
  - (b) from the premises of a veterinary surgeon who treated or cared for the animal to the place of keeping.
- (2) However, if the premises of the veterinary surgeon is outside the State, subsection (1) applies only if the person ensures the animal is moved back to the place of keeping as soon as practicable after the treatment or care is given.
- (3) Subsection (2) does not apply if the animal dies.

**64 Animals may be moved to and from display**

- (1) This section applies to a person who lawfully keeps a protected animal in the State, other than under a wildlife authority.
- (2) The person may, without a wildlife movement permit, move the animal to or from an authorised display.
- (3) However, subsection (2) applies only if the person ensures the animal is moved back to the place the person keeps the animal as soon as practicable after the animal stops being displayed in the display.
- (4) This section does not apply to a restricted animal.

**65 Dead protected animals may be moved to particular holders**

- (1) This section applies if—
  - (a) either—

- 
- (i) a person lawfully keeps a live protected animal other than under a wildlife authority, and the animal dies; or
  - (ii) a person lawfully keeps a dead protected animal other than under a wildlife authority; and
  - (b) under the Act, the person is authorised to sell or give away the animal; and
  - (c) the person sells or gives the dead animal to the holder of a commercial wildlife licence for the dead animal, or a relevant person for the holder.
- (2) The person may, without a wildlife movement permit, move the animal from the place where the person keeps the animal to the place where the holder of the commercial wildlife licence, or a relevant person for the holder, intends to keep the animal.
- (3) However, the person must fill in a movement advice for the movement before the movement happens.
- Maximum penalty—50 penalty units.
- (4) This section does not apply to an exempt animal.

## **Part 2**                      **Keeping, using or moving international or prohibited animals, other than under wildlife authority**

### **66 Purpose of pt 2**

The purpose of this part is to state the circumstances in which the keeping, using or moving of international or prohibited animals is authorised under the Act, other than under a wildlife authority.

### **67 Authorised keepers in another State**

A person who is an authorised keeper in another State for an animal of a species that is an international or prohibited animal may, without a wildlife authority—

- (a) buy or accept an animal of the species from a person authorised to sell or give away the animal under the Act; and
- (b) keep the animal in the other State.

### **68 Authorised keepers in another country**

A person who is an authorised keeper in another country for an animal of a species that is an international or prohibited animal may, without a wildlife authority—

- (a) buy or accept an animal of the species from a person authorised to sell or give away the animal under the Act; and
- (b) keep the animal in the other country.

### **69 Veterinary surgeons**

(1) A veterinary surgeon may—

- (a) keep and use an international or prohibited animal for providing treatment or care for the animal; and
- (b) euthanase the animal if the surgeon reasonably believes the animal is sick or injured to the extent that the animal is unable or unlikely to recover from the sickness or injury.

(2) Also, if an animal kept under subsection (1) dies or has been euthanased by the surgeon, the surgeon may, without a wildlife movement permit, move the animal from the place where the surgeon keeps the animal to—

- (a) the place where the animal is to be buried or incinerated; or

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- (b) if the chief executive has asked the surgeon to move the animal to another place—the other place.

## **Part 3 Licences for taking, keeping or using animals**

### **Division 1 Commercial wildlife licence (wildlife interaction)**

#### **Subdivision 1 Purposes**

##### **70 Purpose of licence and div 1**

- (1) The purpose of a commercial wildlife licence (wildlife interaction) for an animal is to allow a person to engage in particular interactions with protected animals in a way that is not otherwise authorised under a provision of this regulation, or most other licences, permits or other authorities granted under the Act.
- (2) The purpose of this division is to control and monitor the interactions for which a commercial wildlife licence (wildlife interaction) is granted, to ensure the safety, health and wellbeing of humans and animals is maintained.
- (3) The purpose mentioned in subsection (2) is achieved by—
  - (a) allowing the chief executive to grant a commercial wildlife licence (wildlife interaction) only in limited circumstances; and
  - (b) requiring holders of a commercial wildlife licence (wildlife interaction) to give reports about the activities carried out under the licence.

## **Subdivision 2      Restrictions on grant of licence**

### **71      Restriction about persons to whom licence may be granted**

The chief executive can not grant a commercial wildlife licence (wildlife interaction) for a protected animal of a species to a person unless the person has an approved interaction plan for the species.

### **72      Restriction about activities for which licence may be granted**

The chief executive can not grant a commercial wildlife licence (wildlife interaction) for a protected animal to a person if the chief executive reasonably believes the activity for which the application for the licence is made is an activity for which another wildlife authority or an exhibited animal authority would be more appropriate.

*Examples—*

- 1 A person applies for a commercial wildlife licence (wildlife interaction) for an activity for a scientific purpose and the chief executive believes, in the circumstances, it would be more appropriate for the person to carry out the activity under a scientific purposes permit.
- 2 A person applies for a commercial wildlife licence (wildlife interaction) to exhibit and deal with a protected animal and the chief executive believes, in the circumstances, it would be more appropriate for the person to apply for an exhibited animal authority.

## **Subdivision 3      Activities authorised by licence**

### **73      Engaging in unauthorised interaction authorised for particular animals**

- (1) The holder of a commercial wildlife licence (wildlife interaction), or a relevant person for the holder, may engage in



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an unauthorised interaction for a protected animal in the wild of a species identified on the licence.

*Notes—*

- 1 For the unauthorised interactions authorised under a commercial wildlife licence (wildlife interaction) for estuarine crocodiles, see the *Nature Conservation (Estuarine Crocodile) Conservation Plan 2018*, section 48.
  - 2 Section 340 contains an offence for feeding native animals in the wild that applies to the holder of a commercial wildlife licence (wildlife interaction), and relevant persons for the holder.
- (2) However, subsection (1) does not authorise a person to engage in an unauthorised interaction in either of the following—
- (a) an area declared as a marine park under the *Marine Parks Act 2004*;
  - (b) the Great Barrier Reef Marine Park.

## **74 Using animals for training authorised for particular animals**

- (1) The holder of a commercial wildlife licence (wildlife interaction), or a relevant person for the holder, may use a protected animal under the licence if—
  - (a) the animal is lawfully kept by the holder or relevant person under another wildlife authority held by the holder; and
  - (b) the use is for training a person about handling the animal safely.
- (2) To remove any doubt, it is declared that subsection (1) does not authorise the use of an animal in a way that contravenes the applicable requirements about workplace health and safety under the *Work Health and Safety Act 2011*.
- (3) Also, subsection (1) does not authorise the display of a reptile in a permanent or temporary enclosure.

## **Subdivision 4 Carrying out activities under licence**

### **75 Compliance with approved interaction plan**

The holder of a commercial wildlife licence (wildlife interaction) for a protected animal of a species, or a relevant person for the holder, must comply with the holder's approved interaction plan for the species while carrying out activities under the licence.

Maximum penalty—20 penalty units.

### **76 Keeping report about activities under licence**

- (1) The holder of a commercial wildlife licence (wildlife interaction) for a protected animal, or a relevant person for the holder, must keep a written report, complying with subsection (2), about the activities carried out under the licence.

Maximum penalty—20 penalty units.

- (2) The report must include the following information about the activities—
- (a) any identified problems or concerns relating to the activities, including, for example—
    - (i) any increase in illness or injury in the animals the subject of the activities; and
    - (ii) any incidence of aggression by animals the subject of the activities against the holder's clients participating in the activities; and
    - (iii) any complaint by a member of the public about the impact of the activities on the member's lifestyle or interests;
  - (b) how the problems or concerns mentioned in paragraph (a) were identified and resolved.
- (3) The holder must—

- (a) keep the report in a secure place at the licensed premises for the licence, for the record-keeping period; and
- (b) if asked by a conservation officer, make the report available for inspection by the officer.

Maximum penalty for subsection (3)—20 penalty units.

## **Division 2                      Commercial wildlife licences**

### **Subdivision 1              Purposes**

#### **77              Purpose of licence and div 2**

- (1) The purpose of a commercial wildlife licence for an animal is to allow a person to keep and use protected or international animals for a commercial purpose.
- (2) The purpose of this division is to ensure the grant of commercial wildlife licences for animals does not adversely affect the conservation of the animals.
- (3) The purpose mentioned in subsection (2) is achieved by—
  - (a) allowing the chief executive to grant a commercial wildlife licence for an animal only in limited circumstances; and
  - (b) limiting the activities that a person is authorised to do under a commercial wildlife licence for an animal; and
  - (c) regulating activities of persons acting under a commercial wildlife licence for an animal.

## **Subdivision 2      Restrictions on grant of licence**

### **78      Restriction about animals for which licence may be granted**

The chief executive may grant a commercial wildlife licence only for—

- (a) a live controlled or commercial animal; or
- (b) a dead protected or international animal; or
- (c) a live farm animal.

### **79      General restriction on grant of licence for birds or reptiles**

- (1) The chief executive can not grant a commercial wildlife licence for birds for a place for which a recreational wildlife licence for birds has been granted under the Act.
- (2) The chief executive can not grant a commercial wildlife licence for reptiles for a place for which a recreational wildlife licence for reptiles has been granted under the Act.

### **80      Additional restriction for licence for live birds or reptiles**

- (1) The chief executive can not grant a commercial wildlife licence for a live bird or reptile for a place unless the chief executive is satisfied the place is used, or is intended to be used, to keep live birds or reptiles of the same species on more than a temporary basis.

*Examples of when chief executive may be satisfied—*

- 1 the place has appropriate housing structures for birds or reptiles of the same species fixed to it
- 2 all or part of the place is permanently roofed
- 3 the place is usually open for the conduct of a business for most days in a year

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- (2) However, subsection (1) does not apply if the licence is granted to a recreational bird or reptile society for a term of not more than 2 days.
- (3) In this section—
- recreational bird or reptile society*, for an animal, means a society that—
- (a) is an incorporated association; and
  - (b) has, as its main function, the keeping and breeding of native animals of the same species.

## **81 Additional restriction for licence for reptiles**

The chief executive can not grant a commercial wildlife licence for reptiles to a person (the *applicant*) unless the chief executive is satisfied the applicant, or a person who would be a relevant person for the applicant if the applicant were granted the licence (the *relevant person*), has passed a course approved by the chief executive that—

- (a) includes matters about maintaining the health, safety and wellbeing of reptiles; and
- (b) provides training about how the applicant or relevant person may teach another person about the matters mentioned in paragraph (a).

## **Subdivision 3 Activities authorised by licence**

### **82 Keeping and using animals authorised**

- (1) The holder of a commercial wildlife licence for an animal, or a relevant person for the holder, may—
- (a) buy or accept an animal of a species identified on the licence; and
  - (b) keep and use an animal of a species identified on the licence at the licensed premises for the licence.

[s 83]

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- (2) Also, the holder or a relevant person for the holder may keep a live animal of a species identified on the licence at the holder's or person's place of residence for a period of time if—
- (a) the licensed premises for the licence—
    - (i) are not the holder's place of residence; and
    - (ii) are unattended for the period; and
  - (b) the animal is kept at the place of residence for providing care to the animal.

*Note—*

The *Nature Conservation (Macropod) Conservation Plan 2017* includes provisions limiting and extending the activities authorised under a commercial wildlife licence for dead macropods.

### **83 Processing animals authorised**

The holder of a commercial wildlife licence for a dead animal, or a relevant person for the holder, may process a dead animal of a species identified on the licence.

### **84 Moving live protected animal to and from residence to provide care authorised**

- (1) This section applies if the licensed premises for a commercial wildlife licence for a live protected animal is not the place of residence of the holder of the licence.
- (2) The holder, or a relevant person for the holder, may, without a wildlife movement permit, move the animal—
- (a) from the licensed premises for the licence to the holder's or person's place of residence if—
    - (i) the movement is necessary to care for the animal; and
    - (ii) the licensed premises will be unattended for the period for which the animal is to be kept at the place of residence; and

- (b) from the holder's or person's place of residence to the licensed premises for the licence.

**85 Moving protected animals to display authorised with approval**

- (1) The holder of a commercial wildlife licence for a protected animal, or a relevant person for the holder, may, without a wildlife movement permit, move the animal to or from an authorised display if the holder has written approval from the chief executive for the movement.
- (2) However, subsection (1) applies only if the holder or person ensures the animal is moved back to the place the holder or person keeps the animal as soon as practicable after the animal stops being displayed in the display.
- (3) This section does not apply to a restricted animal.

**86 Moving international animals to display authorised with approval**

- (1) The holder of a commercial wildlife licence for an international animal, or a relevant person for the holder, may, without a wildlife movement permit, move the animal to or from an authorised display if the holder has written approval from the chief executive for the movement.
- (2) However, subsection (1) applies only if the holder or person ensures the animal is moved back to the place the holder or person keeps the animal as soon as practicable after the animal stops being displayed in the display.

**87 Breeding mutation of protected birds authorised**

The holder of a commercial wildlife licence for a protected bird, or a relevant person for the holder, may breed a mutation of the bird.

*Note—*

Under section 92(1) of the Act, it is an offence for a person to knowingly breed a hybrid or mutation of a protected animal other than under a regulation or an exemption under a regulation.

## **Subdivision 4 Carrying out activities under licence**

### **88 Way animal must be kept and used**

- (1) A person who keeps or uses a live protected animal under a commercial wildlife licence must keep and use the animal in a way that ensures the likelihood of escape, injury or ill-health of the animal is minimised.

Maximum penalty—80 penalty units.

- (2) A person complies with subsection (1) if the person complies with a relevant code of practice for the animal to the extent the code of practice provides for how the likelihood of escape, injury or ill-health of the animal may be minimised.
- (3) Subsection (2) does not limit the ways in which a person may comply with subsection (1).

### **89 Identifying dead animals kept under licence**

A person who keeps a dead animal under a commercial wildlife licence must identify the animal in the way approved by the chief executive.

*Examples of ways that may be approved—*

- 1 attaching a particular tag to the animal
- 2 placing a particular mark on the animal

Maximum penalty—80 penalty units.

### **90 Keeping record**

- (1) The holder of a commercial wildlife licence for an animal must keep a record for the licence.



*Note—*

For the requirements for records required to be kept under the Act, see the Administration Regulation, part 6.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder keeps the record for the holder.
- (3) This section is subject to any provision of a conservation plan about the keeping of a record for a commercial wildlife licence for an animal to which the plan relates.

## **91 Giving return of operations**

- (1) The holder of a commercial wildlife licence for an animal must give the chief executive a return of operations for the licence.

*Note—*

For the requirements for returns of operation required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder gives the return to the chief executive for the holder.
- (3) This section is subject to any provision of a conservation plan about the giving of a return of operations for a commercial wildlife licence for an animal to which the plan relates.

*Note—*

For the requirements about returns of operations required to be given for a commercial wildlife licence for dead macropods, see the *Nature Conservation (Macropod) Conservation Plan 2017*.

## **Division 4                      Recreational wildlife licences**

### **Subdivision 1                Purposes**

#### **97            Purpose of licence and div 4**

- (1) The purpose of a recreational wildlife licence for an animal is to allow a person to keep and use protected or international animals for the person's personal enjoyment.
- (2) The purpose of this division is to ensure the grant of recreational wildlife licences for animals does not adversely affect the conservation of the animals.
- (3) The purpose mentioned in subsection (2) is achieved by—
  - (a) allowing the chief executive to grant a recreational wildlife licence for an animal only in limited circumstances; and
  - (b) limiting the activities that a person is authorised to do under a recreational wildlife licence for an animal; and
  - (c) regulating the activities of persons acting under a recreational wildlife licence for an animal.

### **Subdivision 2                Restrictions on grant of licence**

#### **98            Restriction about animals for which licence may be granted**

The chief executive may grant a recreational wildlife licence only for 1 or more of the following—

- (a) a live controlled, commercial, recreational, restricted or international animal;
- (b) a dead protected or international animal.

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**99 Restriction on grant of licence to children**

- (1) The chief executive may grant a recreational wildlife licence for an animal to a child only if—
  - (a) the child and the child’s parents or guardians live at the licensed premises for the licence; and
  - (b) the chief executive is satisfied the parents or guardians will supervise the child while the child is carrying out activities under the licence; and
  - (c) the chief executive states the name of the parents or guardians on the licence.
- (2) Also, the chief executive can not grant a recreational wildlife licence for a restricted animal to a child.

**100 Restriction on grant of licence for restricted birds, reptiles or amphibians**

- (1) The chief executive can not grant a recreational wildlife licence for a restricted bird, reptile or amphibian to a person unless the chief executive is satisfied the person has the knowledge, experience and facilities necessary to keep the bird, reptile or amphibian in the way required under—
  - (a) for a bird—the aviculture code; or
  - (b) for a reptile or amphibian—the reptile and amphibian code.
- (2) In this section—

*aviculture code* means the document called ‘Code of Practice—Aviculture’, approved by the chief executive under section 174A of the Act.

*Note—*

A copy of the code is open for public inspection, during office hours on business days, at the department’s head office and each regional office of the department. See section 174A(3) of the Act.

### **101 General restriction on grant of licence for birds and reptiles**

- (1) The chief executive can not grant a recreational wildlife licence for birds for a place for which a commercial wildlife licence for birds has been granted under the Act.
- (2) The chief executive can not grant a recreational wildlife licence for reptiles for a place for which a commercial wildlife licence for reptiles has been granted under the Act.

## **Subdivision 3 Activities authorised by licence**

### **102 Keeping and using animals authorised**

- (1) The holder of a recreational wildlife licence for an animal, or a relevant person for the holder, may—
  - (a) buy or accept an animal of a species identified on the licence; and
  - (b) keep and use an animal of a species identified on the licence at the licensed premises for the licence.
- (2) Also, the holder of a recreational wildlife licence for a live protected animal other than a restricted animal, or a relevant person for the holder, may also keep and use, at the licensed premises for the licence—
  - (a) if the licence is a recreational wildlife licence for birds—1 or 2 birds that are a restricted animal; or
  - (b) if the licence is a recreational wildlife licence for reptiles and amphibians—1 or 2 reptiles that are a restricted animal, other than reptiles of the family Elapidae.
- (3) However, subsections (1) and (2) do not authorise the holder or relevant person to use an animal for a commercial purpose.

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### **103 Taking particular reptiles to feed other reptiles authorised**

The holder of a recreational wildlife licence for reptiles, or a relevant person for the holder, may take any of the following reptiles if the reptile is taken to ensure the wellbeing or maintenance of a reptile kept under the licence—

- (a) *Carlia pectoralis*;
- (b) *Carlia vivax*;
- (c) *Cryptoblepharus carnabyi*;
- (d) *Cryptoblepharus virgatus*;
- (e) *Ctenotus robustus*;
- (f) *Lampropholis delicata*;
- (g) *Morethia boulengeri*.

### **104 Moving protected animals to display authorised with approval**

- (1) The holder of a recreational wildlife licence for a protected animal, or a relevant person for the holder, may, without a wildlife movement permit, move the animal to or from an authorised display if the holder has written approval from the chief executive for the movement.
- (2) However, subsection (1) applies only if the holder or person ensures the animal is moved back to the place the holder or person keeps the animal as soon as practicable after the animal stops being displayed in the display.
- (3) This section does not apply to a restricted animal.

### **105 Moving international animals to display authorised with approval**

- (1) The holder of a recreational wildlife licence for an international animal, or a relevant person for the holder, may, without a wildlife movement permit, move the animal to or from an authorised display if the holder has written approval from the chief executive for the movement.

- (2) However, subsection (1) applies only if the holder or person ensures the animal is moved back to the place the holder or person keeps the animal as soon as practicable after the animal stops being displayed in the display.

## **106 Breeding mutation of protected birds authorised**

- (1) The holder of a recreational wildlife licence for a protected bird, or a relevant person for the holder, may breed a mutation of the bird.

*Note—*

Under section 92(1) of the Act, it is an offence for a person to knowingly breed a hybrid or mutation of a protected animal other than under a regulation or an exemption under a regulation.

- (2) However, this section does not apply to a bird that is a restricted animal.

## **Subdivision 4 Carrying out activities under licence**

### **107 Way animal must be kept and used**

- (1) A person who keeps or uses a live animal under a recreational wildlife licence must keep and use the animal in a way that ensures the likelihood of escape, injury or ill-health of the animal is minimised.

Maximum penalty—80 penalty units.

- (2) The person complies with subsection (1) if the person complies with a relevant code of practice for the animal to the extent the code of practice provides for how the likelihood of escape, injury or ill-health of the animal may be minimised.
- (3) Subsection (2) does not limit the ways in which a person may comply with subsection (1).

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## 108 Particular animals must be kept for minimum period

- (1) This section applies to a live protected animal bought or accepted under a recreational wildlife licence for the animal.
- (2) The holder of the licence must keep the animal for at least 6 months after the person who bought or accepted the animal, under the licence, receives the animal unless—
  - (a) the holder has written approval from the chief executive to sell or give away the animal within 6 months after the person received the animal; or
  - (b) the animal dies or escapes; or
  - (c) if the animal is a bird—the person bought or accepted the bird for rearing the bird and the bird fledges within 6 months after the person receives the bird.

Maximum penalty—80 penalty units.

- (3) For subsection (2), the holder keeps an animal under the licence if a relevant person for the holder keeps the animal under the licence.

## 109 Keeping record

- (1) The holder of a recreational wildlife licence for an animal must keep a record for the licence.

*Note—*

For the requirements for records required to be kept under the Act, see the Administration Regulation, part 6.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder keeps the record for the holder.
- (3) This section is subject to any provision of a conservation plan about the keeping of a record for a recreational wildlife licence for an animal to which the plan relates.

## **Division 5                      Commercial wildlife harvesting licences**

### **Subdivision 1            Purposes**

#### **110    Purpose of licence and div 5**

- (1) The purpose of a commercial wildlife harvesting licence for animals is to allow a person to harvest protected animals for a commercial purpose.
- (2) The purpose of this division is to ensure the grant of commercial wildlife harvesting licences for animals does not adversely affect the conservation of the animals.
- (3) The purpose mentioned in subsection (2) is achieved by—
  - (a) allowing the chief executive to grant a commercial wildlife harvesting licence for an animal only in limited circumstances; and
  - (b) limiting the activities that a person is authorised to do under a commercial wildlife harvesting licence for an animal; and
  - (c) regulating the activities of persons acting under a commercial wildlife harvesting licence for an animal.

### **Subdivision 2            Restrictions on grant of licence**

#### **111    Restriction about animals for which licence may be granted**

- (1) The chief executive can not grant a commercial wildlife harvesting licence for a threatened or near threatened animal unless a conservation plan for the animal authorises the holder of a commercial wildlife harvesting licence to take the animal.
- (2) Subsection (1) does not apply to a commercial wildlife harvesting licence for a vulnerable or near threatened snake if



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the snake is to be taken for the extraction of venom to produce antivenom for humans.

## **112 Restriction on grant of licence to children if weapons involved**

The chief executive can not grant to a child younger than 17 years a commercial wildlife harvesting licence that authorises the holder of the licence to take an animal by using a weapon.

*Note—*

The *Nature Conservation (Macropod) Conservation Plan 2017*, section 36 limits the grant of a commercial wildlife harvesting licence for harvest macropods to an individual over 18 years.

## **113 Restriction on grant of licence for whales or dolphins**

The chief executive can not grant a commercial wildlife harvesting licence for a whale or dolphin if the chief executive reasonably believes the whale or dolphin is to be taken for displaying the whale or dolphin under an exhibited animal authority under the *Exhibited Animals Act 2015*.

## **Subdivision 3 Activities authorised by licence**

### **114 Taking, keeping and using particular animals authorised**

- (1) The holder of a commercial wildlife harvesting licence for an animal, or a relevant person for the holder, may—
  - (a) take an animal of a species identified on the licence from the place stated on the licence as a place from where the animal may be taken; and
  - (b) keep and use an animal of a species identified on the licence at the licensed premises for the licence.

*Notes—*

- 1 The *Nature Conservation (Estuarine Crocodile) Conservation Plan 2018* includes provisions limiting and extending the activities

[s 115]

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authorised under a commercial wildlife harvesting licence for estuarine crocodile eggs.

- 2 The *Nature Conservation (Macropod) Conservation Plan 2017* includes provisions limiting and extending the activities authorised under a commercial wildlife harvesting licence for harvest macropods.
- (2) However, subsection (1) does not authorise the holder or relevant person to buy or accept an animal from another person.

## **Subdivision 4      Carrying out activities under licence**

### **115      Way animal may be taken**

- (1) The holder of a commercial wildlife harvesting licence for a protected animal, or a relevant person for the holder, may take the animal only—
- (a) from a location that is not visible to a person other than a person also taking an animal from the location; and
  - (b) in a way that causes minimal damage or disturbance to other wildlife or the environment; and
  - (c) by using an approved method for taking the animal; and
  - (d) if the animal is to be taken by killing the animal—by killing the animal in a quick and humane way.

Maximum penalty—120 penalty units.

- (2) Subsection (1) is subject to any provision of a conservation plan, or a harvest period notice, about the way the animal may be taken.

*Notes—*

- 1 For the requirements about the way an estuarine crocodile egg may be taken, see the *Nature Conservation (Estuarine Crocodile) Conservation Plan 2018*.
- 2 For the requirements about the way a harvest macropod may be taken, see the *Nature Conservation (Macropod) Conservation Plan 2017*.

## 116 Dealing with carcass of animal taken under licence

- (1) The holder of a commercial wildlife harvesting licence, or a relevant person for the holder, who takes, under the licence, an animal by killing the animal must keep the carcass of the animal in a way that ensures the animal can be easily identified.

Maximum penalty—120 penalty units.

- (2) Subsection (1) is subject to any provision of a conservation plan about identifying animals to which the plan relates.

*Note—*

For the requirements about identifying harvest macropods, see the *Nature Conservation (Macropod) Conservation Plan 2017*.

## 117 Keeping record

- (1) The holder of a commercial wildlife harvesting licence for an animal must keep a record for the licence.

*Note—*

For the requirements for records required to be kept under the Act, see the Administration Regulation, part 6.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder keeps the record for the holder.
- (3) This section is subject to any provision of a conservation plan about the keeping of a record for a commercial wildlife harvesting licence for an animal to which the plan relates.

*Notes—*

- 1 For the requirements about the keeping of a record for a commercial wildlife harvesting licence for estuarine crocodile eggs, see the *Nature Conservation (Estuarine Crocodile) Conservation Plan 2018*.

- 2 For the requirements about the keeping of a record for a commercial wildlife harvesting licence for harvest macropods, see the *Nature Conservation (Macropod) Conservation Plan 2017*.

- (4) In this section—

**relevant person**, for the holder of a commercial wildlife harvesting licence for harvest macropods, includes—

- (a) a person who lives with the holder; and
- (b) a person who is authorised to keep the record for the licence under the *Nature Conservation (Macropod) Conservation Plan 2017*, section 62.

### 118 Giving return of operations

- (1) The holder of a commercial wildlife harvesting licence for an animal must give the chief executive a return of operations for the licence.

*Note—*

For the requirements for returns of operations required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder gives the return to the chief executive for the holder.
- (3) This section is subject to any provision of a conservation plan about the giving of a return of operations for a commercial wildlife harvesting licence for an animal to which the plan relates.

*Notes—*

- 1 For the requirements for returns of operations required to be given for a commercial wildlife harvesting licence for estuarine crocodile eggs, see the *Nature Conservation (Estuarine Crocodile) Conservation Plan 2018*.
- 2 For the requirements for returns of operations required to be given for a commercial wildlife harvesting licence for harvest macropods, see the *Nature Conservation (Macropod) Conservation Plan 2017*.

- (4) In this section—

**relevant person**, for the holder of a commercial wildlife harvesting licence for harvest macropods, includes—

- (a) a person who lives with the holder; and

- (b) a person who is authorised to give a return of operations to the chief executive for the holder under the *Nature Conservation (Macropod) Conservation Plan 2017*, section 62.

## **Division 6                      Recreational wildlife harvesting licences**

### **Subdivision 1              Purposes**

#### **119      Purpose of licence and div 6**

- (1) The purpose of a recreational wildlife harvesting licence for animals is to allow a person to harvest and use protected animals for the person's personal enjoyment.
- (2) The purpose of this division is to ensure the grant of recreational wildlife harvesting licences for animals does not adversely affect the conservation of the animals.
- (3) The purpose mentioned in subsection (2) is achieved by—
  - (a) allowing the chief executive to grant a recreational wildlife harvesting licence for an animal only in limited circumstances; and
  - (b) limiting the activities that a person is authorised to do under a recreational wildlife harvesting licence for an animal; and
  - (c) regulating the activities of persons acting under a recreational wildlife harvesting licence for an animal.

## **Subdivision 2      Restriction on grant of licence**

### **120      Restrictions about animals for which licence may be granted**

- (1) The chief executive may grant a recreational wildlife harvesting licence for a threatened or near threatened animal only if a conservation plan authorises the holder of a recreational wildlife harvesting licence to take the animal under the licence.
- (2) The chief executive can not grant a recreational wildlife harvesting licence for a macropod.

### **121      Restriction on grant of licence to children if weapons involved**

The chief executive can not grant to a child younger than 17 years a recreational wildlife harvesting licence that authorises the holder of the licence to take an animal by using a weapon.

## **Subdivision 3      Activities authorised by licence**

### **122      Taking, keeping, processing and using particular animals authorised**

- (1) The holder of a recreational wildlife harvesting licence for an animal may—
  - (a) take an animal of a species identified on the licence from the place stated on the licence as a place from where the animal may be taken; and
  - (b) keep, use, other than sell or give away, an animal of a species identified on the licence at the licensed premises for the licence; and
  - (c) process an animal of a species identified on the licence at the licensed premises for the licence.

- (2) However, subsection (1) does not authorise the holder to buy or accept an animal from another person.

## **Subdivision 4 Carrying out activities under licence**

### **123 Way animal may be taken**

- (1) The holder of a recreational wildlife harvesting licence for a protected animal may take the animal only—
- (a) from a location that is not visible to a person other than a person also taking an animal from the location; and
  - (b) in a way that causes minimal damage or disturbance to other wildlife or the environment; and
  - (c) by using an approved method for taking the animal; and
  - (d) if the animal is to be taken by killing the animal—by killing the animal in a quick and humane way.

Maximum penalty—120 penalty units.

- (2) Subsection (1) is subject to any provision of a conservation plan, or a harvest period notice, about the way animals to which the plan relates may be taken.

### **124 Dealing with carcass of animal taken under licence**

- (1) The holder of a recreational wildlife harvesting licence who takes, under the licence, an animal by killing the animal must keep the carcass of the animal in a way that ensures the animal can be easily identified.

Maximum penalty—120 penalty units.

- (2) However, the holder may remove a tag or any other thing used to identify the animal—
- (a) immediately before the holder tans the skin of the animal; or
  - (b) immediately before the holder prepares the meat of the animal for consumption.

- (3) Subsections (1) and (2) are subject to any provision of a conservation plan about identifying animals to which the plan relates.

## **125 Giving return of operations**

- (1) The holder of a recreational wildlife harvesting licence for an animal must give the chief executive a return of operations for the licence.

*Note—*

For the requirements for returns of operations required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder gives the return to the chief executive for the holder.
- (3) This section is subject to any provision of a conservation plan about the giving of a return of operations for a recreational wildlife harvesting licence for an animal to which the plan relates.

## **Division 9 Wildlife farming licence**

### **Subdivision 1 Purposes**

#### **152 Purpose of licence and div 9**

- (1) The purpose of a wildlife farming licence for animals is to allow a person to farm a farm animal.
- (2) The purpose of this division is to ensure the grant of wildlife farming licences for animals does not adversely affect the conservation of the animals.
- (3) The purpose mentioned in subsection (2) is achieved by—



- (a) allowing the chief executive to grant a wildlife farming licence only in limited circumstances; and
- (b) limiting the activities that a person is authorised to do under a wildlife farming licence; and
- (c) regulating the activities of persons acting under a wildlife farming licence.

## **Subdivision 2      Restrictions on grant of licence**

### **153      Restriction about animals for which licence may be granted**

The chief executive may grant a wildlife farming licence for only a farm animal.

### **154      Restriction on grant of licence for particular reptiles**

The chief executive may grant a wildlife farming licence for a reptile of the family Elapidae only if the chief executive is satisfied the reptile is to be kept for collecting venom to produce antivenom for humans.

## **Subdivision 3      Activities authorised by licence**

### **155      Keeping, using and processing particular animals authorised**

- (1) The holder of a wildlife farming licence, or a relevant person for the holder, may—
  - (a) buy or accept an animal of a species identified on the licence; and
  - (b) keep, use, other than display, and process an animal of a species identified on the licence at the licensed premises for the licence; and

[s 156]

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- (c) display a live animal of a species identified on the licence at the licensed premises for the licence or in a travelling or temporary display.
- (2) However, subsection (1)(c) only authorises the holder or relevant person to display an animal for an approved display purpose.

## **156 Moving animals to or from other licensed premises authorised**

- (1) The holder of a wildlife farming licence (the *primary licence*), or a relevant person for the holder, who keeps a farm animal in the State under the licence may, without a wildlife movement permit, move the animal—
  - (a) from the licensed premises for the primary licence to the licensed premises for either of the following (each a *secondary authority*) also held by the holder—
    - (i) another wildlife farming licence for the animal;
    - (ii) a permit to keep wildlife for the animal; or
  - (b) from the licensed premises for the secondary authority to the licensed premises for the primary licence.
- (2) However, subsection (1) does not authorise the movement of a prescribed protected animal out of the State.

## **Subdivision 4 Carrying out activities under licence**

### **157 Identifying animal taken from the wild**

- (1) This section applies if the holder of a wildlife farming licence, or a relevant person for the holder, keeps, under the licence, an animal that was taken from the wild.
- (2) The holder must ensure the animal is identified in the way approved for the animal by the chief executive.

Maximum penalty—80 penalty units.

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## 158 Sampling particular reptiles

- (1) This section applies if—
  - (a) the Minister has approved a scientific institution as an approved scientific institution for reptiles; and
  - (b) the holder of a wildlife farming licence, or a relevant person for the holder—
    - (i) keeps a reptile of the family Elapidae under the licence when the approval happens; or
    - (ii) buys or accepts a reptile of the family Elapidae under the licence after the approval happens.
- (2) The holder must ensure that, by the relevant day for the reptile, a biological tissue sample is taken from the reptile and given to an approved scientific institution.

Maximum penalty—165 penalty units.

- (3) This section does not apply if, before the relevant day for the reptile—
  - (a) the Minister approves an electromagnetic implant as an approved electromagnetic implant; and
  - (b) an approved electromagnetic implant is inserted into the reptile; and
  - (c) the chief executive is given a notice stating the identification code for the implant.

- (4) In this section—

*relevant day* means—

- (a) for a reptile kept under a wildlife farming licence when the approval under subsection (1) happens—the day that is 20 business days after the approval happens; or
- (b) for a reptile bought or accepted under a wildlife farming licence after the approval under subsection (1) happens—the day that is 20 business days after the reptile is bought or accepted.

## 159 Implanting particular reptiles

- (1) This section applies if—
  - (a) the Minister has approved an electromagnetic implant as an approved electromagnetic implant; and
  - (b) the holder of a wildlife farming licence, or a relevant person for the holder—
    - (i) keeps a reptile of the family Elapidae under the licence when the approval happens; or
    - (ii) buys or accepts a reptile of the family Elapidae under the licence after the approval happens.
- (2) The holder must ensure that, by the relevant day for the reptile—
  - (a) an approved electromagnetic implant is inserted into the reptile; and
  - (b) the chief executive is given a notice stating the identification code for the implant.

Maximum penalty—165 penalty units.

- (3) This section does not apply if, before the relevant day for the reptile—
  - (a) the Minister approves a scientific institution as an approved scientific institution for reptiles; and
  - (b) a biological tissue sample is taken from the reptile and given to the approved scientific institution.
- (4) In this section—

***relevant day*** means—

  - (a) for a reptile kept under a wildlife farming licence when the approval under subsection (1) happens—the day that is 20 business days after the approval happens; or
  - (b) for a reptile bought or accepted under a wildlife farming licence after the approval under subsection (1) happens—the day that is 20 business days after the reptile is bought or accepted.

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## **160 Way animal may be displayed**

- (1) A person displaying an animal under a wildlife farming licence must display the animal in a way that ensures the following are minimised—
  - (a) the likelihood of the animal's escape;
  - (b) the risk of injury to a person;
  - (c) the risk of injury or ill-health to the animal.

Maximum penalty—80 penalty units.

- (2) A person complies with subsection (1) if the person complies with the exhibition code to the extent the code is relevant to the way in which animals should be displayed.
- (3) Subsection (2) does not limit the ways in which a person may comply with subsection (1).
- (4) A person displaying animals under a wildlife farming licence must not, without the chief executive's written approval, display an animal that has visible signs of illness or injury.

Maximum penalty for subsection (4)—80 penalty units.

## **161 Animal being displayed must be supervised**

A person displaying an animal under a wildlife farming licence must ensure the animal is supervised by the holder of the licence, or a relevant person for the holder, at all times while it is being displayed.

Maximum penalty—80 penalty units.

## **162 Acts animal being displayed may be required to do**

A person displaying an animal under a wildlife farming licence must not, without the chief executive's written approval, require the animal to do an act the animal would not normally do in the wild.

Maximum penalty—80 penalty units.

### **163 Handling dangerous animals**

- (1) The holder of a wildlife farming licence must not allow a person to handle a live dangerous or venomous animal kept under the licence unless the person—
  - (a) is a relevant person for the holder; and
  - (b) has appropriate training for handling the animal.Maximum penalty—80 penalty units.
- (2) Subsection (1) does not apply if the person is handling the animal as part of training being conducted by the holder or the relevant person for the holder mentioned in subsection (1).

### **164 Keeping record**

- (1) The holder of a wildlife farming licence must keep a record for the licence.

*Note—*

For the requirements for records required to be kept under the Act, see the Administration Regulation, part 6.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder keeps the record for the holder.
- (3) This section is subject to any provision of a conservation plan about the keeping of a record for a wildlife farming licence for an animal to which the plan relates.

### **165 Giving return of operations**

- (1) The holder of a wildlife farming licence must give the chief executive a return of operations for the licence.

*Note—*

For the requirements for returns of operations required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder gives the return to the chief executive for the holder.
- (3) This section is subject to any provision of a conservation plan about the giving of a return of operations for a wildlife farming licence for an animal to which the plan relates.

## **Division 10            Museum licences**

### **Subdivision 1        Purposes**

#### **166    Purpose of licence and div 10**

- (1) The purpose of a museum licence for animals is to allow a State museum to take, keep and use a protected or international animal.
- (2) The purpose of this division is to ensure the grant of museum licences for animals does not adversely affect the conservation of the animals.
- (3) The purpose mentioned in subsection (2) is achieved by—
  - (a) allowing the chief executive to grant a museum licence only in limited circumstances; and
  - (b) limiting the activities that a person is authorised to do under a museum licence; and
  - (c) regulating the activities of persons acting under a museum licence.

### **Subdivision 2        Restrictions on grant of licence**

#### **167    Restriction about persons to whom licence may be granted**

The chief executive may grant a museum licence only to a State museum.

**168 Restriction about animals for which licence may be granted**

The chief executive may grant a museum licence only for a live or dead protected or international animal.

**169 Restriction on grant of licence authorising display**

- (1) The chief executive may grant a museum licence authorising a State museum to display, under the licence, a live protected or international animal in an exhibit only if the chief executive is satisfied—
  - (a) the museum has the facilities to comply with the code requirements for the exhibit; and
  - (b) the exhibit complies with the prescribed criteria for the exhibit.
- (2) For subsection (1), the chief executive grants a museum licence authorising the State museum to display a live protected or international animal if the chief executive writes on the licence that the State museum may display the live animal under the licence.

### **Subdivision 3 Activities authorised by licence**

**170 Taking, keeping, using and processing particular animals authorised**

- (1) The holder of a museum licence for a protected or international animal, or a relevant person for the holder, may—
  - (a) take a protected animal of a species identified on the licence from the place stated on the licence from where the animal may be taken; and
  - (b) buy or accept an animal of a species identified on the licence; and



- (c) keep, use and process a live protected or international animal of a species identified on the licence at the licensed premises for the licence; and
  - (d) if the chief executive has written on the licence that the holder may display, under the licence, a live protected or international animal of a species identified on the licence—display a live animal of the species at the licensed premises for the licence.
- (2) However, subsection (1) does not authorise the holder or relevant person to—
- (a) take, keep, use or process an animal for biodiscovery; or
  - (b) take an animal for display as a live animal.

*Notes—*

- 1 The holder of a museum licence could also be granted 1 or more other licences under the Act authorising the holder to take, keep, use or process, for biodiscovery, animals in or on land other than State land under the *Biodiscovery Act 2004*.
  - 2 The holder of a museum licence could also be granted 1 or more collection authorities under the *Biodiscovery Act 2004* for animals in or on State land under that Act.
- (3) Also, subsection (1) only authorises the holder or relevant person to display a live animal for an approved display purpose.

## 171 Moving animals to or from other licensed premises authorised

- (1) The holder of a museum licence (the *primary licence*), or a relevant person for the holder, who keeps a live protected or international animal in the State under the licence may, without a wildlife movement permit, move the animal—
- (a) from the licensed premises for the primary licence to the licensed premises for either of the following (each a *secondary authority*) also held by the holder—
    - (i) another museum licence for the animal;
    - (ii) a permit to keep wildlife for the animal; or

- (b) from the licensed premises for the secondary authority to the licensed premises for the primary licence.
- (2) However, subsection (1) does not authorise the movement of a prescribed protected animal out of the State.

## **Subdivision 4 Carrying out activities under licence**

### **172 Where animals may be displayed**

A person displaying a live animal under a museum licence must display the animal in permanent enclosures that form an integral part of the display.

Maximum penalty—80 penalty units.

### **173 Way animal may be displayed**

- (1) A person displaying a live animal under a museum licence must display the animal in a way that ensures the following are minimised—
  - (a) the likelihood of the animal's escape;
  - (b) the risk of injury to a person;
  - (c) the risk of injury or ill-health to the animal.

Maximum penalty—80 penalty units.

- (2) A person complies with subsection (1) if the person complies with the exhibition code to the extent the code is relevant to the way in which animals should be displayed.
- (3) Subsection (2) does not limit the ways in which a person may comply with subsection (1).
- (4) A person displaying live animals under a museum licence must not, without the chief executive's approval, display an animal that has visible signs of illness or injury.

Maximum penalty for subsection (4)—80 penalty units.

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**174 Animal being displayed must be supervised**

A person displaying a live animal under a museum licence must ensure the animal is supervised by the holder of the licence, or a relevant person for the holder, at all times while it is being displayed.

Maximum penalty—80 penalty units.

**175 Acts animal being displayed may be required to do**

A person displaying an animal under a museum licence must not, without the chief executive's written approval, require the animal to do an act the animal would not normally do in the wild.

Maximum penalty—80 penalty units.

**176 Handling dangerous animals**

- (1) The holder of a museum licence must not allow a person to handle a live dangerous or venomous animal kept under the licence unless the person—
- (a) is a relevant person for the holder; and
  - (b) has appropriate training for handling the animal.

Maximum penalty—80 penalty units.

- (2) Subsection (1) does not apply if the person is handling the animal as part of training being conducted by the holder.

**177 Keeping record**

- (1) The holder of a museum licence must keep a record for the licence.

*Note—*

For the requirements for records required to be kept under the Act, see the Administration Regulation, part 6.

Maximum penalty—120 penalty units.

[s 178]

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- (2) The holder complies with subsection (1) if a relevant person for the holder keeps the record for the holder.
- (3) This section is subject to any provision of a conservation plan about the keeping of a record for a museum licence for an animal to which the plan relates.

## **178 Giving return of operations**

- (1) The holder of a museum licence for an animal must give the chief executive a return of operations for the licence.

*Note—*

For the requirements for returns of operations required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder gives the return to the chief executive for the holder.
- (3) This section is subject to any provision of a conservation plan about the giving of a return of operations for a museum licence for an animal to which the plan relates.

# **Part 4 Permits for taking, keeping, using or dealing with animals**

## **Division 1 General restrictions on grant for all permits**

### **179 General restriction on grant of permits to children**

The chief executive may grant a permit to a child only if—

- (a) the child and the child's parents or guardians live at the premises for which the permit is granted; and

- (b) the chief executive is satisfied the parents or guardians will supervise the child while the child is carrying out activities under the permit; and
- (c) the chief executive states the name of the parents or guardians on the permit.

### **180 Restriction on grant of particular permits to children if weapon involved**

The chief executive can not grant any of the following permits to a child younger than 17 years if the permit is for an activity for which a weapon is to be used—

- (a) a damage mitigation permit;
- (b) a flying-fox roost management permit;
- (c) an educational purposes permit;
- (d) a scientific purposes permit.

## **Division 2 Damage mitigation permits**

### **Subdivision 1 Purposes**

#### **181 Purpose of permit and div 2**

- (1) The purpose of a damage mitigation permit for animals is to allow a person to take, keep or use a protected animal if the animal—
  - (a) is causing, or may cause, damage or loss; or
  - (b) represents a threat to human health or wellbeing.
- (2) The purpose of this division is to ensure the grant of damage mitigation permits to take, keep or use animals does not adversely affect the conservation of the animals.
- (3) The purpose mentioned in subsection (2) is achieved by—

[s 182]

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- (a) allowing the chief executive to grant a damage mitigation permit to take, keep or use an animal only in limited circumstances; and
- (b) limiting the activities that a person is authorised to do under a damage mitigation permit; and
- (c) regulating the activities of persons acting under a damage mitigation permit.

## **Subdivision 2      Restrictions on grant of permit**

### **182      General restriction about animals for which permit may be granted**

- (1) The chief executive may grant a damage mitigation permit only for—
  - (a) a least concern animal; or
  - (b) an endangered, vulnerable or near threatened animal.
- (2) However, for a damage mitigation permit for an animal mentioned in subsection (1)(b), other than a damage mitigation permit (removal and relocation of wildlife), the chief executive must not grant the permit unless a conservation plan authorises the holder of a damage mitigation permit to take the animal under the permit.
- (3) In this section—

*damage mitigation permit (removal and relocation of wildlife)* means a damage mitigation permit under which the holder of the permit, or a relevant person for the holder, may take a live animal, other than a flying-fox, and release the live animal into prescribed natural habitat for the animal.

### **184      Restriction about purposes for which permit may be granted**

- (1) The chief executive may grant a damage mitigation permit only for 1 or both of the following purposes—

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- (a) to prevent damage or loss caused, or likely to be caused, by a protected animal;
  - (b) to prevent or minimise a threat, or potential threat, to human health or wellbeing caused by a protected animal.
- (2) However, a conservation plan may authorise the grant of a damage mitigation permit for another purpose for animals to which the plan relates.

*Note—*

For problem crocodiles, see the *Nature Conservation (Estuarine Crocodile) Conservation Plan 2018*, section 22.

## **185 Restriction on grant of permit for damage or loss**

- (1) The chief executive may grant a damage mitigation permit, other than a permit for taking a flying-fox, for damage or loss caused, or likely to be caused, by a protected animal only if the chief executive is satisfied—
- (a) the animal is causing, or may cause, damage; and
  - (b) the landholder of the land on which the animal is causing, or may cause, damage has made a reasonable attempt to prevent or minimise the damage and the action taken has not prevented or minimised the damage; and

*Examples of action that may be taken to prevent or minimise damage caused by an animal—*

- 1 taking measures, for example, installing a fence or other enclosure, to prevent the animal from accessing the land, or property on the land, on which the animal is causing or may cause damage
  - 2 using an audio or visual device or other thing to deter the animal from accessing the land, or property on the land, on which the animal is causing or may cause damage
- (c) if the damage is not prevented or controlled—
- (i) individuals may suffer significant economic loss;  
or

- (ii) the ecological sustainability of nature is likely to be harmed; and
  - (d) action under the permit will not adversely affect the survival of the animal in the wild; and
  - (e) the proposed way of taking the animal is humane and not likely to cause unnecessary suffering to the animal.
- (2) The chief executive may grant a damage mitigation permit for taking a flying-fox, for damage or loss caused, or likely to be caused, by a flying-fox, only if the chief executive is satisfied—
  - (a) the flying-fox is causing, or may cause, damage to crops; and
  - (b) the landholder of the land on which the flying-fox is causing, or may cause, damage has made a reasonable attempt to take any action the flying-fox damage mitigation code states the landholder must take to prevent or control the damage; and
  - (c) if the damage is not prevented or controlled the landholder may suffer significant economic loss as defined under the flying-fox damage mitigation code; and
  - (d) action under the permit will not adversely affect the survival of the species of flying-fox in the wild; and
  - (e) the landholder is a commercial crop grower for the land; and
  - (f) the proposed way of taking the flying-fox complies with the flying-fox damage mitigation code; and
  - (g) the proposed way of dealing with the flying-fox after the flying-fox has been taken complies with the flying-fox damage mitigation code.
- (3) Despite subsection (2), the chief executive can not grant a damage mitigation permit for taking a flying-fox of a particular species in a financial year after the total permit number for the species for the financial year has reached the maximum permit number for the species.



(4) In this section—

*commercial crop grower*, for the land on which the flying-fox is causing, or may cause, damage, means a person carrying on a business of growing a crop for commercial gain, other than incidentally to a lawful use of the land that does not involve growing a crop.

*maximum permit number*, for a species of flying-fox, means the number of flying-foxes of that species that the flying-fox damage mitigation code states is the maximum number of flying-foxes of that species that may be taken in a financial year under damage mitigation permits.

*total permit number*, for a species of flying-fox for a financial year, means the total number of flying-fox of that species for which damage mitigation permits for taking flying-fox have been granted under the Act in the financial year.

## **186 Restriction on grant of permit for threat to human health or wellbeing**

The chief executive may grant a damage mitigation permit for a threat, or potential threat, to human health and wellbeing caused by a protected animal only if the chief executive is satisfied—

- (a) there is, or may be, a threat to a person's health or wellbeing resulting from harm caused by the animal to the person; and
- (b) action under the permit will not detrimentally affect the survival of the animal in the wild; and
- (c) the proposed way of taking the animal is humane and not likely to cause unnecessary suffering to the animal; and
- (d) if the animal is a protected reptile—
  - (i) the reptile will be released into the wild; or

- (ii) a conservation plan for the reptile authorises the holder of a damage mitigation permit to keep the reptile under the permit or otherwise.

### **Subdivision 3      Activities authorised by permit**

#### **187      Taking particular animals authorised**

- (1) The holder of a damage mitigation permit, or a relevant person for the holder, may do the following—
  - (a) take an animal of a species identified on the permit—
    - (i) if the identified species is a species other than a species of flying-fox—from the place stated on the permit from where the animal may be taken; or
    - (ii) if the identified species is a species of flying-fox—
      - (A) from the place stated on the permit from where the animal may be taken; and
      - (B) only in a way that complies with the flying-fox damage mitigation code;
  - (b) if it is stated on the permit that the holder may remove or otherwise deal with an animal breeding place used by the animal—remove the place or deal with the place in the way stated on the permit;
  - (c) if it is stated on the permit that the holder may release the animal—release the animal into prescribed natural habitat for the animal.
- (2) Subsection (1) does not authorise the holder or relevant person to keep or use an animal under the permit.

#### **187B      Killing dependent flying-fox authorised for particular permits**

- (1) This section applies if a damage mitigation permit authorises the taking of a flying-fox.

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- (2) The holder, or a relevant person for the holder, of the permit may kill another flying-fox if—
- (a) the other flying-fox is attached to a female flying-fox that has been taken under the permit; or
  - (b) the other flying-fox—
    - (i) has been separated from a female flying-fox to which it was attached or upon which it was otherwise dependent; and
    - (ii) is at the place stated on the permit from where a flying-fox may be taken.
- (3) However, the holder or relevant person may kill the other flying-fox only in the way stated in the flying-fox damage mitigation code.

## **Subdivision 4      Carrying out activities under permit**

### **188      Giving return of operations**

- (1) The holder of a damage mitigation permit for an animal must give the chief executive a return of operations for the permit.

*Note—*

For the requirements for returns of operations required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder gives the return to the chief executive for the holder.
- (3) This section is subject to any provision of a conservation plan about the giving of a return of operations for a damage mitigation permit for an animal to which the plan relates.

## **Division 2A            Flying-fox roost management permits**

### **Subdivision 1        Purposes**

#### **188A Purpose of permit and div 2A**

- (1) The purpose of a flying-fox roost management permit is to allow a person to deal with a flying-fox roost if flying-foxes in the flying-fox roost—
  - (a) are causing, or may cause, damage to property; or
  - (b) represent a threat, or potential threat, to human health or wellbeing.
- (2) The purpose of this division is to ensure the grant of a flying-fox roost management permit to deal with a flying-fox roost does not adversely affect the conservation of flying-foxes.
- (3) The purpose mentioned in subsection (2) is achieved by—
  - (a) allowing the chief executive to grant a flying-fox roost management permit to deal with a flying-fox roost only in limited circumstances; and
  - (b) limiting the activities that a person is authorised to do under a flying-fox roost management permit; and
  - (c) regulating the activities of persons acting under a flying-fox roost management permit.
- (4) In this section—

***deal with***, a flying-fox roost, means any of the following—

  - (a) destroy a flying-fox roost;
  - (b) drive away, or attempt to drive away, a flying-fox from a flying-fox roost;
  - (c) disturb a flying-fox in a flying-fox roost.

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## **Subdivision 2      Restrictions on grant of permit**

### **188B    Restriction about purposes for which permit may be granted**

The chief executive may grant a flying-fox roost management permit only for 1 or both of the following purposes—

- (a) to prevent damage or loss caused, or likely to be caused, by flying-foxes;
- (b) to prevent or minimise a threat, or potential threat, to human health or wellbeing caused by flying-foxes.

### **188C    Restriction on grant of permit for damage or loss**

The chief executive may grant a flying-fox roost management permit for damage or loss caused, or likely to be caused, by flying-foxes only if the chief executive is satisfied—

- (a) the flying-foxes are causing, or may cause, damage; and
- (b) the landholder of the land on which the flying-foxes are causing, or may cause, damage has made a reasonable attempt to prevent or minimise the damage and the action taken has not prevented or minimised the damage; and

*Examples of action that may be taken to prevent or minimise damage caused by flying-foxes—*

- 1 covering fruit trees with netting
- 2 moving cars or equipment to a sheltered location
- (c) if the damage is not prevented or controlled—
  - (i) individuals may suffer significant economic loss; or
  - (ii) the ecological sustainability of nature is likely to be harmed; and
- (d) action under the permit will not adversely affect the survival of flying-foxes in the wild; and

[s 188D]

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- (e) the proposed way of taking action under the permit is humane and not likely to cause unnecessary suffering to the flying-foxes.

### **188D Restriction on grant of permit for threat to human health or wellbeing**

The chief executive may grant a flying-fox roost management permit for a threat, or potential threat, to human health or wellbeing caused by flying-foxes only if the chief executive is satisfied—

- (a) there is, or may be, a threat to a person's health or wellbeing resulting from harm caused by the flying-foxes to the person; and
- (b) action under the permit will not detrimentally affect the survival of flying-foxes in the wild; and
- (c) the proposed way of taking action under the permit is humane and not likely to cause unnecessary suffering to the flying-foxes.

### **188E Additional restriction on grant of permit outside an urban flying-fox management area**

- (1) This section applies if the chief executive intends to grant a flying-fox roost management permit in an area (the *permit area*) that is outside an urban flying-fox management area.
- (2) Before granting the permit, the chief executive must consider whether the flying-foxes in the flying-fox roost in the permit area are likely to move to, and congregate at, a tree or other place within an urban-flying fox management area, taking into account—
  - (a) the proximity of the permit area to the urban flying-fox management area; and
  - (b) the direction, from the permit area, of trees or other places suitable for the flying-foxes to move to and congregate at.

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## **Subdivision 3      Activities authorised by permit**

### **188F    Destruction etc. of flying-fox roost authorised**

The holder of a flying-fox roost management permit, or a relevant person for the holder, may do any of the following stated on the permit—

- (a) destroy a flying-fox roost in the way stated on the permit;
- (b) drive away, or attempt to drive away, flying-foxes from a flying-fox roost in the way stated on the permit;
- (c) disturb flying-foxes in a flying-fox roost in the way stated on the permit.

## **Subdivision 4      Carrying out activities under permit**

### **188G    Giving return of operations**

- (1) The holder of a flying-fox roost management permit must give the chief executive a return of operations for the permit.

*Note—*

For the requirements for returns of operations required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder gives the return to the chief executive for the holder.

## **Division 3                    Educational purposes permits**

### **Subdivision 1            Purpose**

#### **189    Purpose of permit**

The purpose of an educational purposes permit for animals is to allow particular persons to take, use or keep a protected animal for a genuine educational purpose.

### **Subdivision 2            Restriction on grant of permit**

#### **190    Restriction about persons to whom permit may be granted**

- (1) The chief executive may grant an educational purposes permit for a protected animal to an individual only if the chief executive is satisfied the person—
  - (a) either—
    - (i) holds a tertiary qualification relevant to the activities to be carried out under the permit; or
    - (ii) has demonstrated experience and knowledge in relation to the activities to be carried out under the permit; and
  - (b) has experience in the care and husbandry of the species of animals for which the permit is to be granted.
- (2) The chief executive may grant an educational purposes permit for a protected animal to a corporation only if the corporation is an educational institution or organisation.

#### **191    Restriction about purposes for which permit may be granted**

The chief executive may grant an educational purposes permit for a protected animal only if the chief executive is satisfied—



- (a) the purpose for which the animal is proposed to be taken, used or kept under the permit is a genuine educational purpose; and
- (b) the applicant for the permit will not, or does not intend to, make a financial benefit from taking, keeping or using the animal under the permit.

### **Subdivision 3      Activities authorised by permit**

#### **192      Taking, keeping and using particular animals authorised**

- (1) The holder of an educational purposes permit, or a relevant person for the holder, may—
  - (a) if the chief executive has written on the permit that the holder of the permit may take an animal of a species identified on the permit—take an animal of a species identified on the permit from the place stated on the permit as the place from where the animal may be taken; and
  - (b) buy or accept an animal of a species identified on the permit; and
  - (c) keep and use, other than sell or give away, an animal of a species identified on the permit at the licensed premises for the permit.
- (2) However, subsection (1) does not authorise the holder or relevant person to use the animal for a commercial purpose.

### **Subdivision 4      Carrying out activities under permit**

#### **193      Giving return of operations**

- (1) The holder of an educational purposes permit for an animal must give the chief executive a return of operations for the permit.

*Note—*

For the requirements for returns of operations required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder gives the return to the chief executive for the holder.
- (3) This section is subject to any provision of a conservation plan about the giving of a return of operations for educational purposes permit for an animal to which the plan relates.

## **Division 4            Permits to keep wildlife**

### **Subdivision 1        Purpose**

#### **194    Purpose of permit**

The purpose of a permit to keep wildlife is to allow a person—

- (a) to keep a protected animal when there is no other wildlife authority that would be appropriate for allowing the person to keep the animal; or
- (b) to temporarily keep a protected, international or prohibited animal that is or was kept under another wildlife authority.

### **Subdivision 2        Restrictions on grant of permit**

#### **195    Restriction about purposes for which permit may be granted**

The chief executive may grant a permit to keep wildlife only for 1 or more of the following purposes—

- (a) to keep a protected animal taken under a rehabilitation permit;
- (b) to keep a protected animal that has been taken and kept under a law of another State;
- (c) to temporarily keep a protected, international or prohibited animal that has been kept or used under a wildlife authority, other than a rehabilitation permit, that has ended;
- (d) to temporarily keep a protected, international or prohibited animal that is being kept or used under a wildlife farming licence or museum licence at a place other than the authorised premises for keeping the animal under the licence.

## **196 Restriction on grant of permit for protected animal taken under rehabilitation permit**

- (1) This section applies to a protected animal taken under a rehabilitation permit.
- (2) The chief executive may grant a permit to keep wildlife for the animal to a person only if—
  - (a) the chief executive reasonably believes the animal will not, or is unlikely to, survive in the wild, including, for example, because of the nature of the animal's sickness or injury; and
  - (b) the chief executive has notified the holder of the rehabilitation permit, in writing, that the animal must not be returned to the wild; and

### *Note—*

See section 216 for when a holder of a rehabilitation permit must return an animal taken under the permit to the wild.

- (c) for an animal other than a relevant protected animal—  
the chief executive is satisfied the animal will contribute to the rehabilitation of animals of the same species or closely related species; and

[s 197]

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- (d) if there is an approved captive breeding program for animals of the same species—the person is a participant in the captive breeding program.
- (3) In this section—
- approved captive breeding program*, for a species of animal, means a program for the captive breeding for the species that has been approved by the chief executive.

### **197 Restriction on grant of permit for animal from another State**

- (1) This section applies to a person who—
  - (a) resides or has resided in another State; and
  - (b) has kept, in that other State, a protected animal under a law of that other State.
- (2) The chief executive may grant a permit to keep wildlife for the animal to the person only if the chief executive is satisfied—
  - (a) the person resides, or intends to reside, in the State; and
  - (b) the person intends to keep the animal for the term of its natural life; and
  - (c) the person intends to keep, but not use, the animal under the permit.

### **198 Restriction on grant of permit for protected or prohibited animal kept under expired authority**

- (1) This section applies if—
  - (a) a person kept a live protected or prohibited animal under a wildlife authority, other than a rehabilitation permit; and
  - (b) the authority has ended or is about to end.
- (2) The chief executive may grant a permit to keep wildlife for the animal to the person only if—
  - (a) the animal is not a relevant protected animal; and

- (b) the chief executive is satisfied the person intends—
  - (i) to keep, but not use, the animal under the permit; and
  - (ii) to keep the animal under the permit only temporarily.

### **199 Restriction on grant of permit to holders of particular authorities**

- (1) This section applies if the holder of a wildlife farming licence or museum licence keeps a live protected, international or prohibited animal under the licence.
- (2) The chief executive may grant a permit to keep wildlife for the animal to the holder only if the chief executive is satisfied—
  - (a) the person intends to keep, but not use, the animal under the permit; and
  - (b) the animal is to be kept under the permit only temporarily.

## **Subdivision 3 Activities authorised by permit**

### **200 Keeping particular animals authorised**

The holder of a permit to keep wildlife for a protected, international or prohibited animal may keep an animal of a species identified on the permit at the licensed premises for the permit.

### **201 Moving animal to another holder authorised in particular circumstances**

- (1) This section applies if—
  - (a) the holder of a permit to keep wildlife keeps an animal under the permit; and
  - (b) the holder—

- (i) has decided to dispose of all animals kept by the holder; or
- (ii) is no longer able to keep the animal because the holder's personal circumstances have changed; and

*Examples for subparagraph (ii)—*

- 1 The person is no longer able to keep the animal because of injury, illness or old age.
  - 2 The person is no longer able to keep the animal because the person has moved to a place where the person can not keep the animal because the place does not have the appropriate facilities to keep the animal or is not large enough to keep all the animals the person usually keeps.
- (c) the holder has written approval from the chief executive to give the animal to the holder of a wildlife authority for the animal, or a relevant person for the holder of the wildlife authority.
- (2) The holder may, without a wildlife movement permit, move the animal to the place where the holder of the wildlife authority, or the relevant person for the holder of the wildlife authority, intends to keep the animal under the authority.
  - (3) However, subsection (2) does not authorise the movement of a prescribed protected animal—
    - (a) to another country; or
    - (b) into another State if the movement is, whether directly or indirectly, associated with—
      - (i) moving the animal to another country; or
      - (ii) selling, giving or moving the animal to a person in another country.

## **202 Moving animal to an institution authorised in particular circumstances**

- (1) This section applies if—
  - (a) the holder of a permit to keep wildlife keeps an animal under the permit; and

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- (b) the chief executive has asked the holder to give the animal to a zoological institution for captive breeding.
  - (2) The holder may, without a wildlife movement permit, move the animal to the institution.

### **203 Moving particular birds authorised**

- (1) This section applies if—
  - (a) the holder of a permit to keep wildlife keeps only 1 bird under the permit; and
  - (b) the bird suffers from the behavioural disorder known as human imprinting.
- (2) The holder may, without a wildlife movement permit, move the bird to or from any place within the State.

## **Subdivision 4 Carrying out activities under permit**

### **204 Breeding animals**

- (1) The holder of a permit to keep wildlife who keeps an animal other than a bird under the permit must not, without the chief executive's approval, allow the animal to breed.

Maximum penalty—165 penalty units.

- (2) Subsection (3) applies if the holder advises the chief executive that an animal kept under the permit is incapable of breeding because of permanent surgical or chemical sterilisation.
- (3) If asked by the chief executive, the holder must give the chief executive a certificate from a veterinary surgeon stating the animal is incapable of breeding because of permanent surgical or chemical sterilisation.

Maximum penalty—20 penalty units.

## **205 Keeping record**

- (1) This section applies if the holder of a permit to keep wildlife keeps an animal under the permit that is breeding, or has bred, while being kept by the holder under the permit.
- (2) The holder must keep a record for the permit.

*Note—*

For the requirements for records required to be kept under the Act, see the Administration Regulation, part 6.

Maximum penalty—120 penalty units.

- (3) The holder complies with subsection (2) if a relevant person for the holder keeps the record for the holder.
- (4) This section is subject to any provision of a conservation plan about the keeping of a record for a permit to keep wildlife for an animal to which the plan relates.

## **206 Giving return of operations**

- (1) This section applies to the holder of a permit to keep wildlife if—
  - (a) the holder keeps an animal under the permit; and
  - (b) either—
    - (i) the holder is required to keep a record for the permit; or
    - (ii) the animal dies or escapes.
- (2) The holder must give the chief executive a return of operations for the permit.

*Note—*

For the requirements for returns of operations required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (3) The holder complies with subsection (2) if a relevant person for the holder gives the return to the chief executive for the holder.



- (4) This section is subject to any provision of a conservation plan about the giving of a return of operations for a permit to keep wildlife for an animal to which the plan relates.

## **Division 5            Rehabilitation permits**

### **Subdivision 1        Purpose**

#### **207    Purpose of permit**

The purpose of a rehabilitation permit for animals is to allow a person to care for and rehabilitate—

- (a) a sick, injured or orphaned protected animal; or
- (b) a protected animal whose habitat has been, or will be, destroyed by human activity or a natural disaster.

### **Subdivision 2        Restrictions on grant of permit**

#### **208    Restriction about persons to whom permit may be granted**

The chief executive can not grant a rehabilitation permit for a protected animal to a person unless the chief executive is satisfied the person intends to rehabilitate the animal and return it to a prescribed natural habitat for the animal.

#### **209    Restriction on grant of permit to voluntary wildlife care associations**

The chief executive can not grant a rehabilitation permit for a protected animal to a voluntary wildlife care association unless the association does not engage in commercial activities, other than fundraising for the objects of the association.

## **210 Restriction about animals for which permit may be granted**

The chief executive may grant a rehabilitation permit only for a protected animal.

*Note—*

The *Nature Conservation (Koala) Conservation Plan 2017*, section 15, contains other restrictions on the grant of a rehabilitation permit for koalas.

## **Subdivision 3 Activities authorised by permit**

### **211 Obtaining and keeping particular animals authorised**

- (1) The holder of a rehabilitation permit, or a relevant person for the holder, may do any of the following—
  - (a) obtain and keep a sick, injured or orphaned animal of a species identified on the permit;
  - (b) obtain and keep an animal of a species identified on the permit whose habitat has been destroyed by human activity or a natural disaster;
  - (c) if stated on the rehabilitation permit—obtain and keep an animal of a species identified on the permit whose habitat is about to be destroyed by human activity.
- (2) However, subsection (1)—
  - (a) only authorises the holder or relevant person to obtain or keep an animal that was taken from the wild; and
  - (b) only authorises the holder or relevant person to keep the animal at the holder's or person's place of residence.
- (3) Also, the holder of the permit may limit the species of animals that a relevant person may obtain or keep under the permit by giving the person a copy of the permit with the animals the person may not obtain or keep crossed out.
- (4) In this section—

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*obtain*, an animal, means take the animal or accept the animal from another person.

## **212 Taking particular dead animals for feeding particular animals authorised**

- (1) The holder of a rehabilitation permit for a bird of prey, or a relevant person for the holder, may take a dead least concern animal, other than a special native animal, if the dead animal is taken to feed the bird of prey kept under the permit.

- (2) In this section—

*bird of prey* means a bird of the family Accitripidae, Falconidae or Strigidae.

## **213 Displaying particular animals authorised with approval**

- (1) This section applies if—
  - (a) the holder of a rehabilitation permit is a voluntary wildlife care association; and
  - (b) the chief executive has given the holder a written approval authorising the holder to display an animal kept under the permit.
- (2) The holder, or a relevant person for the holder, may display the animal.
- (3) For subsection (1)(b), the chief executive may give the written approval only if the chief executive is satisfied—
  - (a) the animal does not have any visible signs of illness or injury; and
  - (b) the purpose of the display is—
    - (i) an approved display purpose; or
    - (ii) to raise funds to assist in providing care and treatment for animals kept under the permit.

## **214 Moving particular animals authorised in particular circumstances**

The holder of a rehabilitation permit, or a relevant person for the holder, who keeps a protected animal under the permit may, without a wildlife movement permit, move the animal—

- (a) from the place where the animal is kept under the permit to—
  - (i) a place, within the State, where the holder of another rehabilitation permit is to care for the animal; or
  - (ii) a prescribed natural habitat for the animal; or
  - (iii) if the chief executive has asked the holder or relevant person to give the animal to another person—the place where the other person intends to keep the animal; or
- (b) if the holder is a volunteer wildlife care association and the chief executive has given the holder a written approval authorising the holder to display an animal kept under the permit—to and from the place where the animal is to be displayed.

## **Subdivision 4 Carrying out activities under permit**

### **215 Way animal must be kept**

- (1) A person who keeps an animal under a rehabilitation permit must keep the animal in a way that will, or is likely to, rehabilitate the animal so that it can be returned to the wild.

Maximum penalty—80 penalty units.

- (2) A person complies with subsection (1) if the person keeps the animal in a way complying with the rehabilitation code to the extent the code provides for how an animal should be rehabilitated.
- (3) Subsection (2) does not limit the ways in which a person may comply with subsection (1).

(4) In this section—

*rehabilitation code* means the document called ‘Code of Practice—Care of Sick, Injured or Orphaned Protected Animals in Queensland’, approved by the chief executive under section 174A of the Act.

*Note—*

A copy of the code is open for public inspection, during office hours on business days, at the department’s head office and each regional office of the department. See section 174A(3) of the Act.

## **216 Returning animal to natural habitat**

- (1) A person who keeps an animal under a rehabilitation permit must return the animal to a prescribed natural habitat for the animal—
- (a) if the chief executive has stated on the permit that the animal must be returned to the wild on a stated day—on the stated day; or
  - (b) otherwise—when the animal is able to again live in the habitat.

Maximum penalty—80 penalty units.

- (2) Subsection (1) does not apply if—
- (a) the animal dies or escapes; or
  - (b) the chief executive has given the holder of the permit a notice stating that the animal should not be returned to the wild.

## **Division 6                      Scientific purposes permit**

### **Subdivision 1              Purposes**

#### **217      Purpose of permit**

The purpose of a scientific purposes permit for animals is to allow a person to take, keep or use a protected, international or prohibited animal for conducting scientific research for a genuine scientific purpose.

### **Subdivision 2              Restrictions on grant of permit**

#### **218      Restriction about persons to whom permit may be granted**

- (1) The chief executive may grant a scientific purposes permit to a person only if—
  - (a) the person is, or is associated with, any of the following—
    - (i) a tertiary or other institution administered by the Commonwealth or a State;
    - (ii) an entity that is involved in scientific research; and
  - (b) if the person is an individual—the individual—
    - (i) is receiving, or has completed, postgraduate training in scientific research relevant to the activities the person proposes to carry out under the permit; or
    - (ii) has achieved a satisfactory level of competence in scientific research relevant to the activities the person proposes to carry out under the permit.
- (2) Also, the chief executive may grant a scientific purposes permit to a person associated with an institution or entity only if the chief executive is satisfied the way the scientific purpose

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is to be achieved is consistent with the requirements of the institution or entity.

## **219 Restriction on grant of permit authorising animal to be taken**

- (1) The chief executive may grant a scientific purposes permit for a protected animal authorising the holder to take the animal only if the chief executive is satisfied—
  - (a) the animal is to be taken, kept, used or processed for research that will, or is likely to, make a significant contribution to community knowledge about the matter for which the research is carried out; and
  - (b) the animal is not intended to be taken, kept, used or processed for a commercial purpose; and
  - (c) it is necessary to take the animal from the wild, including, for example, because there are no animals of the same species in captivity that are available or appropriate for the research that is to be carried out under the permit.
- (2) For subsection (1), the chief executive grants a scientific purposes permit authorising the holder to take a protected animal if the chief executive writes on the permit that the holder may take the animal.

## **220 Restriction on grant of permit for particular mammals**

- (1) The chief executive may grant a scientific purposes permit for whales or dolphins only if the whale or dolphin is to be taken, kept, used or processed for scientific research that has been recommended by—
  - (a) the scientific advisory committee; or
  - (b) a person who is recognised in the research community for whales or dolphins as a person who is highly experienced and qualified in scientific research about whales or dolphins.

(2) In this section—

***minimum distance***, for a whale or dolphin, means the minimum distance permitted under chapter 7, part 5A for the whale or dolphin.

***research community***, for whales or dolphins, means the group of academics in the field of research about whales or dolphins.

***scientific advisory committee*** means the scientific advisory committee established under section 132 of the Act.

***scientific research***, in relation to a whale or dolphin, includes research involving any of the following—

- (a) the temporary capture of a whale or dolphin;
- (b) attaching a tracking device to a whale or dolphin;
- (c) taking biological samples from a whale or dolphin;
- (d) the use of a floating platform for commercial filming of whales or dolphins;
- (e) approaching a whale or dolphin, at a closer distance than the minimum distance for the whale or dolphin, for interacting with or observing the whale or dolphin.

*Note—*

For restrictions on the grant of a scientific purposes permit for koalas, see the *Nature Conservation (Koala) Conservation Plan 2017*, section 16.

### **Subdivision 3      Activities authorised by permit**

#### **221      Taking, keeping, using and processing particular animals authorised**

- (1) The holder of a scientific purposes permit, or a relevant person for the holder, may—
  - (a) if the chief executive has written on the permit that the holder of the permit may take an animal of a species identified on the permit—take an animal of a species identified on the permit from the place stated on the



- permit as a place from where the animal may be taken;  
and
- (b) keep, use, other than sell or give away, and process an animal of a species identified on the permit at the licensed premises for the permit.
- (2) Also, the holder, or a relevant person for the holder, may give a part of an animal kept under the permit to a person who intends to keep and use the part of the animal under section 57.

## **Subdivision 4      Carrying out activities under permit**

### **222      Giving return of operations**

- (1) The holder of a scientific purposes permit for an animal must give the chief executive a return of operations for the permit.

*Note—*

For the requirements for returns of operations required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder gives the return to the chief executive for the holder.
- (3) This section is subject to any provision of a conservation plan about the giving of a return of operations for a scientific purposes permit for an animal to which the plan relates.

## **Part 5**                      **Authorities for taking, keeping or using animals**

### **Division 1**                **Aboriginal tradition authorities**

#### **Subdivision 1**        **Preliminary**

##### **223**    **Application of div 1**

This division applies only if, under section 93 of the Act, a person may take, keep or use protected wildlife under Aboriginal tradition.

*Note—*

At the commencement of this section, section 93 of the Act had not commenced.

#### **Subdivision 2**        **Considering application**

##### **224**    **Additional matter to be considered**

In considering an application for an Aboriginal tradition authority for a protected animal, the chief executive must have regard to any advice given by the corporation named in the application on the significance, under Aboriginal tradition, of the activity the subject of the application.

*Note—*

See the Administration Regulation, section 26 for other matters the chief executive must have regard to when considering an application for a wildlife authority.

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### **Subdivision 3      Restrictions on grant of authority**

#### **225      Restriction about persons to whom authority may be granted**

The chief executive may grant an Aboriginal tradition authority for a protected animal only to a corporation whose members represent a community or group of Aboriginal people particularly concerned with the land from where the animal is to be taken.

#### **226      Restriction about purpose for which authority may be granted**

The chief executive may grant an Aboriginal tradition authority for a protected animal only if the chief executive is satisfied the purpose for which the animal is to be taken is of particular significance under Aboriginal tradition, according to the views of the people regarded by the members of the group the applicant represents as having authority to state the traditional significance of the animal.

#### **227      Restriction on grant of authority for particular marine animals**

- (1) This section applies to an application for the grant of an Aboriginal tradition authority for an endangered, vulnerable or near threatened marine animal in coastal waters of the State adjacent to the Great Barrier Reef Marine Park.
- (2) The chief executive may grant the authority only if the chief executive is satisfied the applicant would be eligible for the grant of a permit or other authority under the *Great Barrier Reef Marine Park Act 1975* (Cwlth) authorising the person to take the animal from within the Great Barrier Reef Marine Park.

## **Subdivision 4      Activities authorised by authority**

### **228      Taking, keeping and use of particular animals authorised**

- (1) A relevant person for the holder of an Aboriginal tradition authority may—
  - (a) take, under Aboriginal tradition, an animal of a species identified on the authority from a place stated on the permit as a place from where the animal may be taken; and
  - (b) keep an animal of a species identified on the authority.
- (2) Also, the relevant person may use and process the animal if the use and processing is for the personal, domestic or non-commercial communal needs of the members of the corporation to whom the authority is granted.

## **Division 2              Island custom authorities**

### **Subdivision 1      Preliminary**

#### **229      Application of div 2**

This division applies only if, under section 93 of the Act, a person may take, keep or use protected wildlife under Island custom.

*Note—*

At the commencement of this section, section 93 of the Act had not commenced.

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## **Subdivision 2      Considering application**

### **230      Additional matter to be considered**

In considering an application for an Island custom authority for a protected animal, the chief executive must have regard to any advice given by the corporation named in the application on the significance, under Island custom, of the activity the subject of the application.

*Note—*

See the Administration Regulation, section 26 for other matters the chief executive must have regard to when considering an application for a wildlife authority.

## **Subdivision 3      Restrictions on grant of authority**

### **231      Restriction about persons to whom authority may be granted**

The chief executive may grant an Island custom authority for a protected animal only to a corporation whose members represent a community or group of Torres Strait Islanders particularly concerned with the land from where the animal is to be taken.

### **232      Restriction about purpose for which authority may be granted**

The chief executive may grant an Island custom authority for a protected animal only if the chief executive is satisfied the purpose for which the animal is to be taken is of particular significance under Island custom, according to the views of the people regarded by the members of the group the applicant represents as having authority to state the customary significance of the animal.

**233 Restriction on grant of authority for particular marine animals**

- (1) This section applies to an application for the grant of an Island custom authority for a vulnerable or near threatened marine animal in coastal waters of the State adjacent to the Great Barrier Reef Marine Park.
- (2) The chief executive may grant the authority only if the chief executive is satisfied the applicant would be eligible for the grant of a permit or other authority under the *Great Barrier Reef Marine Park Act 1975* (Cwlth) authorising the person to take the animal from within the Great Barrier Reef Marine Park.

**Subdivision 4 Activities authorised by authority**

**234 Taking, keeping and use of particular animals authorised**

- (1) A relevant person for the holder of an Island custom authority may—
  - (a) take, under Island custom, an animal of a species identified on the authority from a place stated on the permit as a place from where the animal may be taken; and
  - (b) keep an animal of a species identified on the authority.
- (2) Also, the relevant person may use and process the animal if the use and processing is for the personal, domestic or non-commercial communal needs of the members of the corporation to whom the authority is granted.

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## **Division 3                      Collection authorities**

### **Subdivision 1                Restrictions on grant**

#### **235        Purposes for which collection authorities may be granted**

The chief executive may grant a collection authority for only the following purposes—

- (a) to keep a collection of dead protected animals;
- (b) to take and keep least concern animals.

#### **236        Additional restrictions for collection authority to take and keep least concern animals**

- (1) The chief executive may grant a collection authority to take and keep least concern animals only to a member of the Australian Defence Force acting for the defence force.
- (2) Also, the chief executive may grant a collection authority to take and keep least concern animals only if the chief executive is satisfied—
  - (a) the animals will be used only for training members of a part of the Australian Defence Force about survival in the wild; and
  - (b) the use of the animals is, or will be, consistent with the military standing order prepared for the part of the defence force.

### **Subdivision 2                Activities authorised by authority**

#### **237        Collection authority to keep a collection of dead animals**

The holder of a collection authority to keep a collection of dead protected animals may keep a dead animal of a species identified on the authority at the licensed premises for the authority.

### **238 Collection authority to take and keep least concern animals**

- (1) The holder of a collection authority to take and keep least concern animals, or a relevant person for the holder, may take and keep an animal of a species identified on the authority.
- (2) Also, the holder, or relevant person, may use the animal for training members of a part of the Australian Defence Force about survival in the wild if the use is consistent with the military standing order prepared for the part of the defence force.

### **239 Moving animals for survival training authorised**

- (1) This section applies if an animal is taken under a collection authority to take and keep least concern animals.
- (2) The holder of the authority, or a relevant person for the holder, may, without a wildlife movement permit, move the animal to or from any place within the State if the movement is for training members of the Australian Defence Force about survival in the wild.

## **Subdivision 3 Carrying out activities under authority**

### **240 Giving return of operations**

- (1) The holder of a collection authority to take and keep least concern animals must give the chief executive a return of operations for the authority.

*Note—*

For the requirements for returns of operations required to be given under the Act, see the Administration Regulation, part 7.

Maximum penalty—120 penalty units.

- (2) The holder complies with subsection (1) if a relevant person for the holder gives the return to the chief executive for the holder.



- (3) This section is subject to any provision of a conservation plan about the giving of a return of operations for a collection authority to take and keep least concern animals to which the plan relates.

## Division 4                      Exhibited animal authorities

### 240A Compliance with chief executive's directions about sampling or implanting

- (1) The chief executive may give the holder of an exhibited animal authority who keeps a live protected, international or prohibited animal under the authority, a notice (the *chief executive's notice*) requiring the holder to—
- (a) take a biological tissue sample from the animal and give the sample to an approved scientific institution; or
  - (b) either—
    - (i) ensure an approved electromagnetic implant is inserted into the animal and give the chief executive a notice stating the identification code for the implant; or
    - (ii) if an electromagnetic implant has already been inserted into the animal—give the chief executive a notice stating the identification code for the implant.
- (2) The chief executive's notice must state the period, of at least 28 days, within which the holder must comply with the notice.
- (3) The holder must comply with the chief executive's notice within the stated period.

Maximum penalty for subsection (3)—165 penalty units.

### 240B Dealing with animals after death—sampled or implanted animals

- (1) This section applies if—

[s 240B]

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- (a) the holder of an exhibited animal authority, to comply with a notice under section 240A given to the holder by the chief executive for an animal—
    - (i) gave a biological tissue sample from the animal to an approved scientific institution; or
    - (ii) had an approved electromagnetic implant inserted into the animal; and
  - (b) the animal dies.
- (2) The holder must ensure either—
- (a) within 14 days after the animal dies, an autopsy is performed on the animal by a veterinary surgeon and the chief executive is given each of the following—
    - (i) a biological tissue sample taken from the animal under the autopsy;
    - (ii) the implant mentioned in subsection (1)(a)(ii), if applicable;
    - (iii) if the veterinary surgeon finds the implant mentioned in subsection (1)(a)(ii) was not working—a written report prepared by the veterinary surgeon stating the reason why the implant was not working; or
  - (b) the animal is frozen immediately after it dies and the frozen animal is given to the chief executive within 14 days after the animal dies.

Maximum penalty—120 penalty units.

- (3) The holder, or a person acting on behalf of the holder, dealing with an animal under this section may, without a wildlife movement permit, move the animal—
- (a) if the holder intends to have a veterinary surgeon perform an autopsy on the animal—from the place where the holder kept the animal to the premises of the veterinary surgeon; or

- (b) if the holder intends to give the frozen animal to the chief executive—from the place where the holder kept the animal to the chief executive.
- (4) This section does not apply if a conservation plan states the way an animal to which the plan applies must be dealt with if it dies while being kept under an exhibited animal authority.

## **Chapter 4      Taking, keeping, using or moving protected plants**

### **Part 1              Preliminary**

#### **241      Purpose of ch 4**

- (1) The purpose of this chapter is to regulate the taking, keeping, use or movement of protected plants to—
  - (a) promote the continued existence in the wild of biologically viable populations of all taxa of protected plants; and
  - (b) allow the ecologically sustainable use of protected plants taken from the wild; and
  - (c) control processes threatening to protected plants; and
  - (d) minimise the impact of the taking of protected plants on nature, including, for example, by adopting a precautionary approach in the setting of limits for taking and the granting of wildlife authorities for protected plants; and
  - (e) encourage greater reliance on obtaining whole protected plants or protected plant parts from propagation or cultivation while recognising there may be grounds for taking them from the wild; and

[s 242]

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- (f) minimise the potential for illegally taken protected plants to be used for any purpose.
- (2) The purpose is achieved by—
  - (a) regulating the taking, keeping, use and movement of protected plants; and
  - (b) providing exemptions for taking, using or moving whole protected plants or protected plant parts in particular circumstances; and
  - (c) providing for a licensing scheme that allows only particular persons to take, keep, use or move protected plants and only in particular circumstances.
- (3) The licensing scheme mentioned in subsection (2)(c) allows the commercial cultivation and propagation of protected plants to reduce the demand for taking whole protected plants and protected plant parts in the wild.

## **Part 2**

# **Requirements for and restrictions about taking and using protected plants**

### **Division 1**

## **Preliminary**

#### **242 Purpose of pt 2**

This part states particular requirements and restrictions that apply in relation to taking and using protected plants.

*Note—*

For other restrictions that apply to the taking and use of protected plants, see sections 89 and 90 of the Act.

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## **Division 2                      General requirements for taking protected plants**

### **243      General requirements for taking protected plants**

- (1) A person must not take a protected plant under a protected plant licence or a relevant exemption, other than in a way that—
- (a) if the taking requires disturbance of the soil the plant is taken from—the disturbance is only to the extent necessary to remove the plant; or
  - (b) if the taking is by harvest of a protected plant part—
    - (i) the taking does not result in the death of the plant from which the part is taken; and
    - (ii) enough of the plant remains to—
      - (A) allow for reproduction of the plant; and
      - (B) provide habitat or food for other wildlife.

Maximum penalty—165 penalty units.

- (2) Also, a person must, when taking a protected plant by harvest under a protected plant licence or an exemption under this regulation, comply with each of the following—
- (a) the protected plants code of practice;
  - (b) an applicable harvest period notice;
  - (c) a sustainable harvest plan approved by the chief executive.

Maximum penalty—165 penalty units.

- (3) It is a defence to a prosecution for an offence against subsection (1) relating to the death of a plant if the defendant establishes that the defendant complied with the protected plants code of practice when taking the plant.
- (4) In this section—

[s 244]

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*relevant exemption* means an exemption under this regulation, other than an exemption under part 3, division 2.

#### **244 Restriction on taking protected plant in monitoring plot**

A person must not take a protected plant in a monitoring plot established under a protected plant harvesting licence other than under the licence.

Maximum penalty—80 penalty units.

### **Division 3 Requirements for taking protected plants by harvest**

#### **245 Keeping record**

- (1) This section applies if—
  - (a) a person (a *holder*) harvests a whole restricted plant or restricted plant part under a protected plant licence; or
  - (b) both of the following apply—
    - (i) a person (an *exempted person*) harvests a whole restricted plant or restricted plant part under an exemption under this regulation;
    - (ii) the whole plant or plant part is to be used for trade.
- (2) The holder or exempted person must keep a protected plant harvest record of each whole plant or plant part harvested under the licence.

Maximum penalty—120 penalty units.

*Notes—*

- 1 For the requirements for a protected plant harvest record, see the Administration Regulation, part 6.
  - 2 Additional record-keeping requirements apply under section 261ZI for plants used under a protected plant trade exemption.
- (3) A holder complies with subsection (2) if a relevant person for the holder keeps the record for the holder.

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**246 Harvest labels for taking whole restricted plants or restricted plant parts in the wild**

- (1) This section applies to a person who harvests a whole restricted plant or restricted plant part in the wild under a protected plant licence or an exemption under part 3.
- (2) The person must, at the time of harvest, attach a label that complies with subsection (3) (a *protected plant harvest label*) to each of the following harvested—
  - (a) whole plant;
  - (b) bundle of plant parts;
  - (c) container of plant parts.

Maximum penalty—120 penalty units.

- (2A) However, if—
  - (a) the person harvests a whole plant; and
  - (b) it is impractical or would be unreasonable for the person to attach a protected plant harvest label to the whole plant, given the plant's nature or condition;

the person complies with subsection (2)(a) if the person attaches the label as close as is reasonably practicable to the plant.

*Example of a plant's nature or condition—*

a plant that is too small or fragile for a person to attach a label to it

- (3) The protected plant harvest label must—
  - (a) state the matters set out for the label under the protected plants code of practice; and
  - (b) be legible for the life of the label.
- (4) A person must not state anything in a protected plant harvest label that the person knows is inaccurate or misleading in a material particular.

Maximum penalty—80 penalty units.

[s 247]

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- (5) A person must not remove a protected plant harvest label from a plant, or the place where it has been securely attached under subsection (2A), or from a bundle or container until—
- (a) the plant, bundle or container has been moved from the place where the plant or plant parts were harvested; and
  - (b) the earlier of the following happens—
    - (i) a protected plant trade label is attached to the plant, bundle or container;
    - (ii) the plant or plant parts start being used for a purpose other than trade.

Maximum penalty—80 penalty units.

## **Division 4                    Requirements for taking protected plants by clearing**

### **Subdivision 1            Interpretation**

#### **247    Meaning of *flora survey trigger map***

- (1) The *flora survey trigger map* is the map called ‘Flora Survey Trigger Map for Clearing Protected Plants in Queensland’ held by the department, as amended from time to time under section 251.
- (2) The *flora survey trigger map* includes any digital electronic spatial information that is used to produce the map.

#### **248    Meaning of *high risk area***

A *high risk area* is an area—

- (a) where plants that are endangered, vulnerable or near threatened wildlife are present or are likely to be present; and



- (b) shown as a high risk area on the flora survey trigger map.

## **249 Meaning of *clearing impact area***

- (1) A *clearing impact area* means—
  - (a) an area to be cleared to the extent it is within a high risk area; and
  - (b) a buffer zone that is—
    - (i) an additional area of 100m in width around the boundary of the area mentioned in paragraph (a); or
    - (ii) an additional area of less than 100m in width around the boundary of the area mentioned in paragraph (a) agreed to by the chief executive under subsection (2).
- (2) The chief executive may agree to a buffer zone for a clearing impact area that is less than 100m in width around the boundary of the area mentioned in subsection (1)(a) if the chief executive is satisfied—
  - (a) it is not reasonably practicable for a flora survey to be undertaken of a buffer zone that is an area of 100m in width around the boundary of the area mentioned in subsection (1)(a); or

*Example—*

the applicant does not have the permission of a landowner to undertake a flora survey of the area

- (b) a reduction in the width of the buffer zone is consistent with any requirements of the flora survey guidelines.

## **250 Meaning of *flora survey* and *flora survey report***

- (1) A *flora survey* is a survey undertaken to identify whether plants that are endangered, vulnerable or near threatened wildlife are present within a clearing impact area.

- (2) A report about the results of a flora survey for a clearing impact area is a *flora survey report*.

## **Subdivision 2 Provisions about flora survey trigger map**

### **251 Reviewing and amending flora survey trigger map**

- (1) The chief executive must review and, if necessary, amend the flora survey trigger map at least every 12 months, including, for example, by adding or removing a high risk area.
- (2) However, subsection (1) does not stop the chief executive from reviewing or amending the map at any time.

### **252 Public availability of flora survey trigger map**

- (1) The chief executive must make the current version of the flora survey trigger map publicly available for inspection in the way the chief executive considers appropriate.
- (2) For subsection (1), an example of a way the chief executive may consider appropriate is making the map available for inspection on a website.

## **Subdivision 3 Flora survey guidelines**

### **253 Chief executive may make flora survey guidelines**

- (1) The chief executive may, by gazette notice, approve or make guidelines (the *flora survey guidelines*) about the conduct of a flora survey.
- (2) The flora survey guidelines may, for example, contain requirements or provisions about the following—
  - (a) who may undertake a flora survey;
  - (b) the extent of an area to be surveyed;

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- (c) information to be included in a flora survey report, including, for example, a map or plan showing the clearing impact area.
- (3) The chief executive must publish a copy of the flora survey guidelines as in force from time to time on the department's website.

## **Subdivision 4      Steps to be taken before taking protected plants by clearing**

### **254      Flora survey trigger map check required for all clearing**

- (1) Before starting any clearing, a person must check the flora survey trigger map to find out if any part of the area to be cleared is within a high risk area.
- (2) Subsection (1) does not apply to a person who is taking protected plants under—
  - (a) an exemption under part 3, division 5, subdivision 3; or
  - (b) a protected plant clearing permit.

### **255      Copy of flora survey trigger map**

- (1) The chief executive may give a person a copy of the flora survey trigger map that is current at the time it is given for checking the area to be cleared under section 254.
- (2) The copy of the map is valid for 12 months from the day the chief executive gives the person the copy.
- (3) Also, a person may obtain, from a website on which the map is published, a copy of the flora survey trigger map that is current at the time it is obtained for checking the area to be cleared under section 254.
- (4) The copy of the map is valid for 12 months from the day the person obtains the copy from the website.

*Note—*

However, see section 261Z(3) about when a flora survey trigger map is valid for 5 years in particular circumstances.

**256 When flora survey is required**

- (1) This section applies if any part of an area to be cleared is within a high risk area.
- (2) Before any clearing is started, a flora survey must be undertaken of the clearing impact area.

**257 Flora survey and flora survey report must comply with certain guidelines or methodology**

- (1) A flora survey and flora survey report must comply with the flora survey guidelines or an alternative survey methodology agreed to by the chief executive under subsection (2).
- (2) The chief executive may agree to an alternative survey methodology for carrying out a flora survey or preparing a flora survey report if the chief executive is satisfied the methodology is suitable for identifying whether plants that are endangered, vulnerable or near threatened wildlife are present within a clearing impact area.

*Example—*

An alternative survey methodology could include an alternative methodology for identifying protected plants and assessing the impacts of particular activities.

**258 Inaccurate or misleading information in flora survey report**

A person must not—

- (a) state anything in a flora survey report that the person knows is inaccurate or misleading in a material particular; or
- (b) omit, from a flora survey report, information known to the person about the presence of a plant that is

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endangered, vulnerable or near threatened wildlife and its supporting habitat in an area.

Maximum penalty—165 penalty units.

## **Subdivision 5      When protected plant clearing permit is required for area other than high risk area**

### **259      When a protected plant clearing permit is required for an area other than a high risk area**

- (1) This section applies if, before a person starts clearing in an area other than a high risk area, the person is, or becomes, aware that—
  - (a) there are plants that are endangered, vulnerable or near threatened wildlife within the area to be cleared; and
  - (b) the plants would be taken by the clearing or there would be clearing within 100m of the plants.
- (2) A protected plant clearing permit is required for the clearing of the plants.

*Note—*

See part 4A.

## **Part 3                      Exemptions for taking or using protected plants**

### **Division 1              Purpose of part**

#### **260      Purpose of pt 3**

- (1) The purpose of this part is to provide exemptions for offences for taking protected plants under section 89 of the Act or using protected plants under section 90 of the Act and part 2.

[s 261]

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- (2) The *Justices Act 1886*, section 76, applies to each exemption in this part.
- (3) This section does not limit another provision of this regulation that creates an exemption to which the *Justices Act 1886*, section 76, applies.

## **261 References to protected plant**

In this part, unless otherwise stated, a reference to a protected plant (including a restricted plant), or type of protected plant (including a type of restricted plant), is a reference to the whole plant and to parts of the plant.

## **Division 2 Exemptions for taking protected plants generally**

### **261A Taking protected plant to avoid or reduce risk of death or serious injury**

A person may take a protected plant that is in the wild if the taking—

- (a) is necessary and reasonable to avoid or reduce an imminent risk of death or serious injury to a person; and
- (b) can not reasonably be avoided or minimised.

### **261B Taking protected plant to avoid or reduce risk of serious damage to buildings or property**

A person may take a protected plant that is in the wild if each of the following applies—

- (a) it is necessary and reasonable to take the plant to avoid or reduce an imminent risk of serious damage to a building or other structure on land, or to personal property;
- (b) if the damage is not prevented or controlled, a person may suffer significant economic loss;

- (c) the taking can not reasonably be avoided or minimised.

### **261C Taking protected plant under the Fire and Rescue Service Act 1990**

A person may take a protected plant that is in the wild if—

- (a) taking the plant is, or is a necessary part of, a measure that is—
- (i) authorised under the *Fire and Rescue Service Act 1990*, section 53(1) or 68(1)(c); or
  - (ii) required under section 53(2)(j) or 69(1) of that Act; or
- (b) the person takes the plant by lighting a fire that is—
- (i) authorised under a notification under the *Fire and Rescue Service Act 1990*, section 63 or a permit granted under section 65 of that Act; and
  - (ii) necessary as a means of hazard reduction.

## **Division 3 Exemptions for using and moving protected plants generally**

### **261D Using protected plants registered under Plant Breeder's Rights Act 1994 (Cwlth)**

- (1) A person may use a protected plant for which a plant breeder's right has been granted under the *Plant Breeder's Rights Act 1994* (Cwlth).
- (2) However, if asked by a conservation officer, the person must produce evidence that the plant breeder's right has been granted for the plant, unless the person has a reasonable excuse.

Maximum penalty for subsection (2)—80 penalty units.

### **261E Landholders may gain benefit**

A landholder of private land may gain a benefit for allowing a person to take a protected plant from the landholder's land if the taking is authorised under the Act.

### **261F Moving restricted plants being used for personal use**

A person may move a restricted plant to or from any place within, inside or outside of the State for the person's own personal use.

### **261G Whole restricted plants propagated by propagator**

- (1) This section applies if any of the following (each a *propagator*) propagates a whole restricted plant in the approved way—
  - (a) a holder of a protected plant growing licence or a relevant person for the holder;
  - (b) a holder of a protected plant harvesting licence or a relevant person for the holder;
  - (c) a person acting under another exemption under this part.
- (2) The propagator may use the whole restricted plant for any purpose.

*Note—*

However, see division 6 for requirements for trading in restricted plants.

- (3) However, for subsection (1), a stock plant taken under a protected plant growing licence is not propagated in the approved way if the plant is divided less than 12 months after it was taken from the wild.
- (4) If asked by a conservation officer, the propagator must, unless the propagator has a reasonable excuse, give the officer details about—
  - (a) the source of the reproductive or propagative material used in the propagation; and



(b) the date on which the material was obtained.

Maximum penalty for subsection (4)—165 penalty units.

(5) In this section—

***approved way***, for propagating a restricted plant, means the plant is propagated—

- (a) by using only reproductive or propagative material that was obtained lawfully; and
- (b) under controlled conditions.

### **261H Using restricted plant parts cultivated by cultivator**

(1) This section applies if any of the following (each a ***cultivator***) cultivates plant parts taken from a restricted plant using only reproductive or propagative material that was obtained lawfully, and under controlled conditions—

- (a) a holder of a protected plant growing licence or a relevant person for the holder;
- (b) a holder of a protected plant harvesting licence or a relevant person for the holder;
- (c) a person acting under another exemption under this part.

(2) The cultivator may use the restricted plant part for any purpose.

*Note—*

However, see division 6 for requirements for trading in restricted plants.

(3) If asked by a conservation officer, the cultivator must, unless the cultivator has a reasonable excuse, give the officer details about the source of the reproductive or propagative material used for the cultivation.

Maximum penalty for subsection (3)—165 penalty units.

## **Division 4 Exemptions for taking and using particular protected plants**

### **Subdivision 1 Preliminary**

#### **261I What div 4 is about**

This division is about providing exemptions for taking and using particular protected plants for particular purposes or in particular circumstances.

#### **261J Application of exemptions under div 4**

An exemption under this division does not authorise a person to take a protected plant if the taking would require the person to hold a protected plant clearing permit under part 4A.

## **Subdivision 2 Exemptions for taking and using whole protected plants and protected plant parts**

#### **261K Taking and using a least concern plant other than a special least concern plant**

- (1) A person may take, by harvest, and use a protected plant that is least concern wildlife, other than a special least concern plant, only if the person, when taking the plant, ensures the taking does not impact on a plant that is endangered, vulnerable or near threatened wildlife growing in close proximity.
- (2) A plant taken under this section may be used for any purpose, including, for example, trade.
- (3) Nothing in this section allows a person to take a protected plant by clearing.

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**261L Taking or using protected plants under collection authority for biodiscovery**

A person may take and use a protected plant on State land if the person—

- (a) holds a collection authority under the *Biodiscovery Act 2004*; and
- (b) takes or uses the plant under the collection authority.

**261M Chief executive taking and using protected plants**

The chief executive may take and use a protected plant for conservation purposes.

**261N Exemption for Queensland Herbarium employees**

- (1) An employee of the Queensland Herbarium may take and use a protected plant for the purposes for which the Queensland Herbarium was established.
- (2) A person must not use a whole protected plant or protected plant part taken under this section for trade.

Maximum penalty—165 penalty units.

**261O Taking particular protected plants for conservation or revegetation program**

- (1) A landholder may take the following protected plants from the land for use in a conservation or revegetation program if the landholder's land, or land local to the landholder's land, to be revegetated is in the natural range of the species—
  - (a) the seed or other propagative material of a plant that is vulnerable, near threatened or least concern wildlife or a special least concern plant;
  - (b) a whole plant that is near threatened or least concern wildlife or a special least concern plant.
- (2) For subsection (1), land is local to the landholder's land if it—

[s 261P]

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- (a) is adjacent to the landholder's land; or
  - (b) is included in a conservation or revegetation program that includes the landholder's land.
- (3) Seed or other propagative material taken under this section may be propagated at a place other than on the landholder's land.
- (4) A person must not use a plant taken under this section for trade.
- Maximum penalty—165 penalty units.
- (5) For subsection (4), the landholder does not use seed or propagative material for trade merely because the landholder engages another person to take, propagate or transplant the plant.

#### **261P Taking or using protected plants for grazing activities**

- (1) The landholder of private land may take and use a protected plant on the land if—
- (a) the plant is consumed by stock grazing on the land; and
  - (b) the grazing is authorised or permitted under another law.
- (2) Also, a person may take and use a protected plant on State land if the plant is taken by stock grazing under a lease, licence, permit or other authority, or an exemption, given under another law.
- (3) A person must not use a protected plant taken under this section for trade.
- Maximum penalty—165 penalty units.

#### **261Q Australian Defence Force taking and using particular protected plants**

- (1) A member of the Australian Defence Force may take and use a plant that is near threatened or least concern wildlife or a special least concern plant for food during authorised survival exercises if the plant is taken—

- (a) under a military standing order; or
  - (b) on private land with the permission of the landholder; or
  - (c) under a permit or other approval under the *Forestry Act 1959*.
- (2) A person must not use a plant taken under this section for trade.
- Maximum penalty—165 penalty units.

### **261R Taking or using marine plant**

- (1) A person may take or use a marine plant under the *Fisheries Act 1994* if—
- (a) the plant is lawfully taken or used under that Act; and
  - (b) the plant is a special least concern plant.
- (2) A person must not use a marine plant taken under this section for trade.
- Maximum penalty—165 penalty units.
- (3) In this section—
- marine plant* see the *Fisheries Act 1994*, section 8.

## **Subdivision 3 Exemptions for taking and using protected plant parts**

### **261S Taking protected plant parts for identification or an educational or scientific purpose**

- (1) This section applies if it is necessary for a protected plant to be identified—
- (a) to enable the chief executive to grant a person a wildlife authority for a protected plant; or
  - (b) for a flora survey; or

[s 261S]

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- (c) for a record that may be kept by the Queensland Herbarium; or
  - (d) to carry out an environmental impact assessment study—
    - (i) under an Act; or
    - (ii) as a condition of an approval by a government entity; or
    - (iii) to ensure the person complies with the general environmental duty under the *Environmental Protection Act 1994*.
- (2) Also, this section applies if the taking of a protected plant part is for an educational or scientific purpose.
- (3) A person may take up to 2 specimens from a protected plant.
- (4) However, the person must not take more of the protected plant than will fit on a standard sheet of herbarium paper unless—
- (a) the person reasonably believes the plant exhibits special life forms and might not be correctly identified if a smaller part of the plant were taken; and
  - (b) the taking will not cause the plant to die.
- (5) The person must—
- (a) complete a specimen label for each specimen taken before leaving the place where the specimen is taken; and
  - (b) give each specimen to the Queensland Herbarium within 28 days after taking it.

Maximum penalty—20 penalty units.

- (6) A person must not use a plant part taken under this section for trade.

Maximum penalty—165 penalty units.

- (7) In this section—

*specimen* means part of a plant, including leaves, flowers or fruit—

- 
- (a) that when taken fits on a single standard sheet of herbarium paper; and
  - (b) the taking of which will not cause the plant to die.

***specimen label***, for a specimen, means a sheet of paper or cardboard kept with the specimen that includes the following information—

- (a) the name of the person who took the specimen;
- (b) the place and date the specimen was taken;
- (c) information required under a condition of an applicable harvest period notice.

***standard sheet of herbarium paper*** means a sheet of paper or card 270mm wide and 450mm long.

## **261T Taking or using protected plant parts, other than plant parts that are endangered wildlife etc.**

- (1) A person may take and use a part from a protected plant other than a plant that is endangered wildlife if—
  - (a) the person is the landholder, or has the written approval of the landholder, of the land from which the plant part is taken; and
  - (b) the person takes no more of the plant part from a species of plant than the quantity of the plant part that is specified for the species in the protected plants code of practice.

*Note—*

However, see division 6 for requirements for trading in restricted plants.

- (2) A person must not use seed or other propagative material taken from a relevant plant under subsection (1) for trade.

Maximum penalty—165 penalty units.

- (3) Despite subsection (2), a person who is a member of a recreational plant society may use seed or other propagative material of a relevant plant for trade only if—

[s 261U]

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- (a) the person sells the plant part, or plants propagated from the plant part, at an annual show or meeting of the society that is open to the public; and
  - (b) the sale price is not more than a reasonable amount to meet the costs of propagating or taking the plant.
- (4) Nothing in this section allows a person to take and use a sandalwood plant other than its leaves and twigs.

*Note—*

For when a whole plant that is sandalwood is taken, see section 7A.

- (5) In this section—

***relevant plant*** means—

- (a) a plant of the family Cycadaceae; or
- (b) a plant of the family Zamiaceae.

## **261U Taking or using particular protected plant parts for fodder**

- (1) The landholder of private land may take or use parts of a protected plant, other than a plant that is endangered or vulnerable wildlife, on the land if—
- (a) both of the following apply—
    - (i) the plant parts are taken and used for fodder for stock on the land;
    - (ii) keeping stock on the land is authorised under another law; or
  - (b) the taking is in the course of an activity done—
    - (i) for fodder harvesting under the *Vegetation Management Act 1999*; or
    - (ii) otherwise—in a way that complies with the protected plants code of practice.
- (2) Also, a person may take and use parts of a protected plant that is near threatened or least concern wildlife or a special least concern plant on State land if—



- 
- (a) the plant parts are taken or used for fodder for stock on the land under a lease, licence, permit or other authority given, or an exemption, under another law; or
  - (b) the taking is in the course of an activity done for fodder harvesting under the *Vegetation Management Act 1999*.
- (3) A person must not use a protected plant part taken under this section for trade.
- Maximum penalty—165 penalty units.
- (4) For subsection (3), a person does not use a plant part for trade merely because the person is keeping stock on the land for a business activity.

#### **261V Taking protected plant parts for sick, injured or orphaned wildlife**

- (1) A person may take parts from a protected plant that is near threatened or least concern wildlife or a special least concern plant if—
- (a) the plant parts are taken for the care of a sick, injured or orphaned protected animal; and
  - (b) the person—
    - (i) holds a rehabilitation permit for the animal; or
    - (ii) is a veterinary practitioner, veterinary specialist or veterinary surgeon within the meaning of the *Veterinary Surgeons Act 1936* or a person acting under the direction of a veterinary practitioner, veterinary specialist or veterinary surgeon.
- (2) A person mentioned in subsection (1)(b)(i) who takes a plant part under this section must carry a copy of the person's rehabilitation permit when taking the plant part.
- Maximum penalty—20 penalty units.
- (3) A person must not use a protected plant part taken under this section for trade.

Maximum penalty—165 penalty units.

## **261W Taking or using protected plant parts by way of operational salvage**

- (1) A person may take protected plant parts by way of operational salvage.
- (2) A person may use plant parts taken under this section for any purpose.

*Note—*

However, see division 6 for requirements for trading in restricted plants.

- (3) Nothing in this section allows a person to take and use a sandalwood plant by way of operational salvage other than its leaves, twigs, seeds or propagative material.

*Note—*

For when a whole plant that is sandalwood is taken, see section 7A.

## **Division 5 Exemptions for taking protected plants when clearing**

### **Subdivision 1 Preliminary**

#### **261X What div 5 is about**

This division is about providing exemptions for the taking of protected plants when clearing protected plants in particular circumstances.

#### **261Y Application of exemptions under div 5**

- (1) An exemption under this division for taking a protected plant does not authorise a person to use the plant unless—
  - (a) the plant is least concern wildlife, other than a special least concern plant; or
  - (b) the plant is a special least concern plant and is—

- 
- (i) transplanted somewhere else within the vicinity of the land from which it is taken; or
  - (ii) used or given away for a conservation purpose; or
  - (c) for a protected plant part—the part is taken by way of operational salvage.
- (2) A plant that may be used under subsection (1)(b) must not be used for trade.

Maximum penalty—165 penalty units.

## **Subdivision 2      Exemption for taking protected plants in an area other than a high risk area**

### **261Z Taking protected plants in an area other than a high risk area**

- (1) A person may take a protected plant by clearing if—
- (a) either—
    - (i) for a person who is a proponent (a *proponent*) for a project for which an environmental impact statement is required under a relevant Act—the proponent has received or obtained a copy of the flora survey trigger map for the area to be cleared on or after the relevant TOR date; or
    - (ii) for any other person—the person has received or obtained a copy of the flora survey trigger map for the area to be cleared; and

*Note—*

See section 254.

- (b) the area to be cleared is not within a high risk area; and
- (c) either—

[s 261Z]

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- (i) the person is not aware of the presence of any plants that are endangered, vulnerable or near threatened wildlife in the area to be cleared; or
  - (ii) if the person is aware of the presence of plants that are endangered, vulnerable or near threatened wildlife in the area to be cleared—there is no clearing of the plants or within 100m of the plants; and
- (d) either—
- (i) for a proponent—the clearing happens within 5 years (the *relevant period*) from the relevant TOR date; or
  - (ii) for any other person—the clearing happens within 12 months (also the *relevant period*) after the date the person receives or obtains a copy of the flora survey trigger map.
- (2) If a person takes a protected plant by clearing during the relevant period, the person must keep the copy of the trigger map mentioned in subsection (1)(a) for 5 years from the day the clearing started.

Maximum penalty—120 penalty units.

*Note—*

See part 4A about protected plant clearing permits.

- (3) Despite section 255(2) or (4), a copy of a flora survey trigger map received or obtained by a proponent for the purposes of this section is valid for 5 years from the relevant TOR date.
- (4) In this section—
- environmental impact statement*, for a project to which a relevant Act applies, means an environmental impact statement within the meaning of the relevant Act under which the statement is required.

*relevant Act* means any of the following—

- (a) the *Environmental Protection Act 1994*;

- (b) the *State Development and Public Works Organisation Act 1971*;
- (c) the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth).

**relevant TOR date**, for an environmental impact statement, means the day the final terms of reference for the environmental impact statement are published (if relevant) or otherwise issued to the proponent.

### **Subdivision 3 Exemption for taking protected plants in any areas**

#### **261ZA Taking protected plant after flora survey report given to chief executive**

- (1) A person may take a protected plant in any area by clearing if the person has given a flora survey report for the clearing impact area to the chief executive and the report identifies that—
  - (a) plants that are endangered, vulnerable or near threatened wildlife were not present in the clearing impact area; or
  - (b) plants that are endangered, vulnerable or near threatened wildlife are present in the clearing impact area but the plants will not be cleared and there will be no clearing within 100m of the plants.
- (2) The person must give a flora survey report to the chief executive—
  - (a) at least 1 week before the person starts clearing; and
  - (b) no later than 12 months after the flora survey undertaken for the report was completed.

Maximum penalty—165 penalty units.

- (3) For complying with subsection (2), a person may give the flora survey report to the chief executive electronically using

[s 261ZB]

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an online system on the department's website or by some other way.

- (4) Clearing of a protected plant under this section must be conducted within 2 years after the flora survey report is given to the chief executive.

### **261ZB Taking protected plant from area from which plants already lawfully taken**

A person may take a protected plant in any area by clearing if the taking—

- (a) is within an area from which plants have already been taken under—
- (i) a protected plant clearing permit, granted under part 4A; or
  - (ii) an exemption under section 261ZA(1) and within the period mentioned in section 261ZA(4); or
  - (iii) an authority mentioned in section 261ZF; and
- (b) is only to the extent authorised as lawful taking under the permit, exemption or authority; and
- (c) happens within 10 years from—
- (i) for the permit mentioned in paragraph (a)(i)—the granting of the permit; or
  - (ii) for the exemption mentioned in paragraph (a)(ii)—the day the person gives the flora survey report to the chief executive; or
  - (iii) for the authority mentioned in paragraph (a)(iii)—the granting of the authority.

### **261ZC Taking protected plant for particular maintenance activities**

- (1) A person may take a protected plant in any area by clearing if the taking is for any of the following maintenance activities for an existing land use of the area—

- 
- (a) routine maintenance of existing infrastructure;
  - (b) maintenance in the course of a plantation management activity on land that was previously lawfully cleared;
  - (c) maintenance in the course of a cropping activity on land that was previously lawfully cleared.

(2) In this section—

***cropping activity*** means an activity undertaken in connection with the management of a cropping area, including site preparation, weed control, harvesting and harvest debris clearing.

***land use***, of an area, means a use of the land in the area that is a lawful use of the land under another law.

***plantation management activity*** means an activity undertaken in connection with the management of a tree plantation, including site preparation, weed control, harvesting and harvest debris clearing.

***routine maintenance***, of existing infrastructure, means maintenance—

- (a) done for an electricity entity under the *Electricity Act 1994* that is necessary to maintain infrastructure established under that Act for the generation, transmission or distribution of electricity; or
- (b) necessary to maintain transport infrastructure within the meaning of the *Transport Infrastructure Act 1994*; or
- (c) necessary to maintain other infrastructure including any core airport infrastructure, buildings, fences, helipads, oil and gas pipelines, roads, stockyards, vehicular tracks, water pipelines, watering facilities and constructed drains other than contour banks.

*Examples of routine maintenance—*

slashing, mowing, pruning or trimming of plants

### **261ZD Taking protected plant for firebreak or fire management line**

A person may take a protected plant in any area by clearing if the taking is for—

- (a) establishing or maintaining a necessary firebreak to protect infrastructure (other than a fence, road or vehicular track), if the maximum width of the firebreak is the greater of the following—
  - (i) 1.5 times the height of the tallest vegetation adjacent to the infrastructure;
  - (ii) 20m; or
- (b) establishing a necessary fire management line if the maximum width of the line is 10m.

### **261ZE Taking protected plant under a self-assessable vegetation clearing code etc.**

- (1) A person may take a protected plant in any area by clearing if the taking complies with the requirements of a self-assessable vegetation clearing code that apply to the area, for—
  - (a) thinning; or
  - (b) managing weeds; or
  - (c) managing encroachment.
- (2) In this section—

*self-assessable vegetation clearing code* see the *Vegetation Management Act 1999*, section 19O(1) and (2).

### **261ZF Taking protected plant if authorised under another Act or law**

A person may take a protected plant in any area by clearing if—

- (a) the taking has been assessed and authorised under another law in a way that complies with the protected plants assessment guideline; and



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- (b) the taking is only to the extent authorised under the other law; and
  - (c) at least 7 days before the taking starts, the person gives the chief executive—
    - (i) written notice of the taking; and
    - (ii) a copy of the authorisation for the taking under the other law.

### **261ZG Taking protected plant for conservation purposes**

A person may take a protected plant in any area by clearing if the taking—

- (a) is for a conservation purpose only and to the extent necessary to achieve the purpose; and
- (b) causes disturbance to protected plants only to the extent necessary to remove the plants.

## **Division 6 Exemption for using restricted plants for trade**

### **261ZH What div 6 is about**

This division is about providing an exemption for using restricted plants for trade (a *protected plant trade exemption*).

### **261ZI Using restricted plants for trade**

A person may use a restricted plant for trade only if the person complies with—

- (a) the record-keeping requirements under section 261ZJ; and
- (b) the labelling requirements under sections 261ZK and 261ZL; and
- (c) the tagging requirements under section 261ZM.

*Note—*

See also the identification and information requirements under sections 337 and 338.

### **261ZJ Keeping record about trade of restricted plants**

- (1) This section applies to the following persons—
  - (a) a person who uses a restricted plant for trade;
  - (b) a person who harvests a restricted plant, under an exemption under this part or a protected plant licence, for trade;
  - (c) a person who moves a restricted plant for trade.
- (2) The person must keep a protected plant trade record.

Maximum penalty—120 penalty units.

*Note—*

For the requirements for a protected plant trade record, see the Administration Regulation, part 6.

### **261ZK Labelling of restricted plants for trade**

- (1) This section applies to a person who—
  - (a) uses a restricted plant for trade; or
  - (b) moves a restricted plant for a trade-related purpose, including moving the plant from another State or outside of the State; or
  - (c) propagates a whole restricted plant that is to be used for trade or moved for a trade-related purpose; or
  - (d) cultivates a restricted plant part that is to be used for trade or moved for a trade-related purpose.
- (2) The person must not use the plant for trade or move the plant unless a label that complies with subsection (3) (a ***protected plant trade label***) is attached to each of the following that are used for trade or moved—

- (a) whole plant, other than the trunk, a log or timber of a sandalwood plant;
- (b) bundle of plant parts;
- (c) container of plant parts.

Maximum penalty—120 penalty units.

(2A) However, if—

- (a) the person uses for trade or moves a whole plant; and
- (b) it is impractical or would be unreasonable for a person to attach a protected plant trade label to the whole plant, given the plant's nature or condition;

the person complies with subsection (2)(a) if the person attaches the label as close as is reasonably practicable to the plant.

*Example of a plant's nature or condition—*

a plant that is too small or fragile for a person to attach a label to it

(3) The protected plant trade label must—

- (a) state the matters set out for the label under the protected plants code of practice; and
- (b) be legible for the life of the label.

(4) A person must not state anything in a protected plant trade label that the person knows is inaccurate or misleading in a material particular.

Maximum penalty—80 penalty units.

### **261ZL Additional labelling of restricted plants for movement outside of State**

- (1) This section applies to a person who trades or moves a restricted plant outside of the State for a trade-related purpose.
- (2) The person must, before trading or moving the plant, ensure each container of plants is marked or labelled as follows—
  - (a) if only some of the plants were taken under a licence or exemption—

[s 261ZM]

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- (i) ‘Some of this product has been taken under a *Nature Conservation Act 1992* (Queensland) licence or exemption.’; and
  - (ii) ‘The remaining plant parts have been obtained from propagation or cultivation or lawfully taken in the wild in another State.’;
- (b) otherwise—‘This product has been taken under a *Nature Conservation Act 1992* (Queensland) licence or exemption.’.

Maximum penalty—120 penalty units.

### **261ZM Particular plants for trade to be tagged**

- (1) This section applies to a person who—
  - (a) takes a whole restricted plant in the wild, other than the trunk, a log or timber of a sandalwood plant; and
  - (b) uses or intends to use the plant for trade.
- (2) If the person has an official tag for the plant when the plant is taken, the person must attach the tag to the plant before it is moved from the place where it was taken.

Maximum penalty—120 penalty units.

- (3) Subsections (4) to (6) apply if the person does not have an official tag for the plant when the plant is taken.
- (4) As soon as practicable after the plant is taken, the person must apply to the chief executive to be supplied with an official tag for the plant.
- (5) The person may move the plant from the place where it was taken to another place in the State but must not otherwise use the plant.
- (6) When the person receives an official tag for the plant the person must attach the tag to the plant.
- (7) A person must not use the plant for trade unless an official tag supplied by chief executive for the plant is attached to the plant.

Maximum penalty—165 penalty units.

- (8) A person must not remove an official tag from a plant unless the person starts using the plant for the person's own personal use.

Maximum penalty for subsection (8)—80 penalty units.

## **Part 4 Licences for protected plants**

### **Division 1 Purpose**

#### **262 Purpose of pt 4**

- (1) The purpose of this part is to ensure the grant of a protected plant licence does not adversely affect the conservation of protected plants.
- (2) This purpose is achieved by—
- (a) allowing the chief executive to grant a protected plant licence only in limited circumstances; and
  - (b) limiting the activities that a person is authorised to do under a protected plant licence; and
  - (c) regulating the activities of persons acting under a protected plant licence.

#### **263 References to protected plant**

In this part, unless otherwise stated, a reference to a protected plant (including a restricted plant), or type of protected plant (including a type of restricted plant), is a reference to the whole plant and to parts of the plant.

## **Division 2                    Protected plant growing licence**

### **Subdivision 1            Purpose of licence**

#### **264    Purpose of protected plant growing licence**

The purpose of a protected plant growing licence is to allow a person to take a whole restricted plant or restricted plant part for—

- (a) cultivating the restricted plant in controlled conditions;  
or
- (b) propagating the restricted plant part in controlled conditions.

### **Subdivision 2            Restrictions on grant**

*Note—*

See also section 137 of the Act.

#### **265    General restrictions on grant of protected plant growing licence**

Subject to this subdivision, the chief executive may grant a protected plant growing licence for the taking of a restricted plant only if the chief executive is satisfied of all of the following—

- (a) if the licence relates to the taking of whole plants to be used as stock plants—
  - (i) there is a need to—
    - (A) introduce the plant into cultivation for commercial purposes; or
    - (B) replenish or supplement the genetic variation of the plant already in cultivation; and

- (ii) the applicant has the necessary knowledge, facilities and resources to propagate the plants and use the progeny of the plants;
- (b) the taking is ecologically sustainable and will not adversely affect the plant's survival in the wild;
- (c) the taking complies with the protected plants assessment guidelines.

#### **266 Restriction on grant of licence for salvage**

The chief executive must not grant a protected plant growing licence for the taking of whole protected plants only by way of salvage.

#### **267 Restriction on grant of licence to take seed or propagative material from particular protected plants**

- (1) This section applies in relation to the following (each a *relevant plant*)—
  - (a) a protected plant that is endangered wildlife;
  - (b) a protected plant of the family Cycadaceae;
  - (c) a protected plant of the family Zamiaceae.
- (2) The chief executive must not grant a protected plant growing licence to take seed or other propagative material from a relevant plant unless the chief executive is satisfied the holder of the licence, or a relevant person for the holder, is able to identify the plant.

#### **268 Chief executive may require preparation of sustainable harvest plan**

- (1) The chief executive may require the applicant for a protected plant growing licence to prepare a sustainable harvest plan to demonstrate that the proposed level of harvest—
  - (a) is ecologically sustainable; or

- (b) provides a benefit for the conservation of the species of protected plant proposed to be taken under the licence.

*Examples for paragraph (b)—*

increasing the extent or abundance of the wild population or improving knowledge of species biology

- (2) If the chief executive requires the preparation of a sustainable harvest plan, the chief executive must not grant a protected plant growing licence until the chief executive has approved the plan.
- (3) The chief executive may approve a sustainable harvest plan only if the chief executive is satisfied the plan—
  - (a) demonstrates the matters mentioned in subsection (1)(a) or (b); and
  - (b) states the information required under the protected plant assessment guidelines.

## **Subdivision 3      Activities authorised by licence**

### **269      Activities authorised by protected plant growing licence**

The holder of a protected plant growing licence, or a relevant person for the holder, may take a restricted plant stated in the licence for—

- (a) cultivating the restricted plant in controlled conditions; or
- (b) propagating restricted plant parts in controlled conditions.

*Note—*

However, see part 3, division 6 for requirements for using restricted plants for trade.



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## Subdivision 4 Carrying out activities under licence

### 270 Taking and using restricted plants under licence

- (1) A holder of a protected plant growing licence, or a relevant person for the holder, may take whole restricted plants under the licence to be used as stock plants only if the taking complies with the protected plants code of practice.

Maximum penalty—165 penalty units.

- (2) A holder of a protected plant growing licence, or a relevant person for the holder, must not—
- (a) sell a plant taken under the licence; or
  - (b) give away a plant taken under the licence if the plant is to be used for trade.

*Examples—*

- giving away a plant taken under the licence to a person who intends to sell the plant
- giving away the plant to a property developer who intends to use the plant for landscaping purposes in a property development
- giving away a plant to a person who has purchased, or otherwise intends to carry on, a licence holder's business of growing plants

Maximum penalty—165 penalty units.

- (3) Nothing in this section restricts the use of the progeny, or parts of the progeny, of restricted plants taken under a protected plant growing licence.

### 271 Taking of protected plant during harvest period

- (1) This section applies if—
- (a) a holder of a protected plant growing licence, or a relevant person for the holder, may take a particular protected plant under the licence; and
  - (b) a harvest period is declared for the plant.

[s 272]

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- (2) The holder, or a relevant person for the holder, may only take the plant during the harvest period for the plant.
- (3) The holder, or a relevant person for the holder, must comply with the conditions stated in the harvest period notice.  
Maximum penalty—120 penalty units.
- (4) However, this section does not apply if a plant is taken by way of salvage.

## **272 Compliance with sustainable harvest plan**

The holder of a protected plant growing licence, or a relevant person for the holder, must comply with a sustainable harvest plan approved by the chief executive for the licence.

Maximum penalty—165 penalty units.

## **Division 3 Protected plant harvesting licence**

### **Subdivision 1 Purpose of licence**

#### **273 Purpose of protected plant harvesting licence**

The purpose of a protected plant harvesting licence is to allow a person to take a restricted plant in particular circumstances and use the plant to the extent authorised under the licence.

### **Subdivision 2 Grant of licence**

*Note—*

See also section 137 of the Act.

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## **274 Restrictions on grant of licence**

- (1) Subject to this subdivision, the chief executive may grant a protected plant harvesting licence for the taking of a restricted plant only if the chief executive is satisfied of all of the following—
  - (a) the applicant is the landholder, or has the written approval of the landholder, of the land on which the plant is located;
  - (b) the taking is ecologically sustainable and will not adversely affect the plant's survival in the wild;
  - (c) the taking complies with the relevant provisions of the protected plants assessment guidelines.
- (2) However, subsection (1) does not apply if the chief executive is satisfied the licence is only for the taking of whole restricted plants by way of salvage.
- (3) Also, the chief executive may grant a protected plant harvesting licence for a restricted plant that has not been adequately identified only for the purpose of research, education or conservation.

## **275 Particular restrictions on grant of licence for particular species or if threat exists**

The chief executive must not grant a protected plant harvesting licence—

- (a) to more than 1 person for the same species of protected plant for the same place for the same period; or
- (b) if the proposed harvesting poses a threat of serious or irreversible environmental damage related to the taking of the plant.

## **276 Research and monitoring condition**

- (1) This section applies if the chief executive grants a protected plant harvesting licence for taking protected plant parts.

- (2) The chief executive may impose a condition (a ***research and monitoring condition***) on the licence requiring the holder of the licence to—
- (a) research and monitor the effects of taking plant parts under the licence; and
  - (b) adopt an environmental management system and give a copy of the system to the chief executive when it is adopted and each time it is significantly changed; and
  - (c) establish 1 or more monitoring plots to sample all species of plants taken under the licence; and
  - (d) carry out a yearly survey of the plants in the plots.

- (3) The holder of the licence must comply with the research and monitoring condition.

Maximum penalty—120 penalty units.

- (4) The holder of the licence must give the chief executive—
- (a) within 1 month after each monitoring plot is established—a map or sketch showing the location of the plot; and
  - (b) within 1 month after each yearly survey—a statement containing the required information.

Maximum penalty—120 penalty units.

- (5) In this section—

***environmental management system*** is an operational plan complying with the Australian/New Zealand Environmental Management Systems Standard 1996.

***required information*** means—

- (a) details of the growth of the plants of each species in the plot measured as average height for—
  - (i) each stem of each plant from which plant parts were taken; and

- (ii) each plant designated when the plot was established as a plant from which plant parts are not to be taken; and
- (b) details of the total amount, measured by volume or weight, of material taken from plants of each species in the plot since the last survey.

## **277 Applicant must prepare sustainable harvest plan**

- (1) An applicant for a protected plant harvesting licence must prepare a sustainable harvest plan to demonstrate that the proposed level of harvest—
  - (a) is ecologically sustainable; or
  - (b) provides a benefit for the conservation of the species of protected plant proposed to be taken under the licence.

*Examples for paragraph (b)—*

increasing the extent or abundance of the wild population or improving knowledge of species biology

- (2) The chief executive must not grant a protected plant harvesting licence until the chief executive has approved the plan.
- (3) The chief executive may approve a sustainable harvest plan only if the chief executive is satisfied the plan—
  - (a) demonstrates the matters mentioned in subsection (1)(a) or (b); and
  - (b) states the information required under the protected plant assessment guidelines.

## **Subdivision 3 Activities authorised by licence**

### **278 Activities authorised by protected plant harvesting licence**

The holder of a protected plant harvesting licence, or a relevant person for the holder, may—

[s 279]

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- (a) take a restricted plant stated in the licence and use the plant to the extent authorised under the licence; and
- (b) take any restricted plant by way of contingent salvage.

*Note—*

However, see part 3, division 6 for using restricted plants for trade.

## **Subdivision 4 Carrying out activities under licence**

### **279 Taking of protected plant during harvest period**

- (1) This section applies if—
  - (a) the holder of a protected plant harvesting licence, or a relevant person for the holder, may take a particular protected plant under the licence; and
  - (b) a harvest period is declared for the plant.
- (2) The holder, or a relevant person for the holder, may only take the plant under the licence during the harvest period.
- (3) The holder, or the relevant person for the holder, must comply with the conditions stated in the harvest period notice.

Maximum penalty—120 penalty units.

- (4) However, this section does not apply if a plant is taken by way of salvage.

### **280 Compliance with sustainable harvest plan**

The holder of a protected plant harvesting licence, or a relevant person for the holder, must comply with a sustainable harvest plan approved by the chief executive for the licence.

Maximum penalty—165 penalty units.

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## Part 4A                      Protected plant clearing permits

### Division 1                      Purposes of part

#### 281      Purpose of pt 4A

- (1) The purpose of this part is to regulate the taking by clearing of protected plants, in particular plants that are endangered, vulnerable or near threatened wildlife.
- (2) The purpose is achieved by—
  - (a) ensuring areas where protected plants that are endangered, vulnerable or near threatened wildlife and their supporting habitat are present, or are likely to be present, are identified and assessed for risk before clearing; and
  - (b) if clearing can not avoid protected plants that are endangered, vulnerable or near threatened wildlife—regulating the impact on these plants through a protected plant clearing permit; and
  - (c) ensuring any impacts on protected plants that are endangered, vulnerable or near threatened wildlife are managed; and
  - (d) limiting the circumstances in which the chief executive can grant a protected plant clearing permit; and
  - (e) stating the activities a person is authorised to do under a protected plant clearing permit; and
  - (f) regulating the activities of a person acting under a protected plant clearing permit.

- (3) In this section—

*avoid*, for a protected plant in an area being cleared, means the plant is not cleared and there is no clearing within 100m of the plant.

## **Division 2                      Purpose of permit**

### **282      Purpose of permit**

- (1) The purpose of a protected plant clearing permit is to allow a person to take any protected plant within an area, by clearing the plant in circumstances where—
  - (a) the clearing is for the use of the land on which the plant is located; and
  - (b) the impacts of the clearing on protected plants that are endangered, vulnerable or near threatened wildlife—
    - (i) have been identified; and
    - (ii) can be managed in a way that does not affect the survival of the plants in the wild; and
  - (c) impact management measures are to be implemented.
- (2) A protected plant clearing permit generally does not allow a person to use a restricted plant.

*Note—*

See also section 289(2).

## **Division 3                      When permit is required**

### **283      When protected plant clearing permit is required**

- (1) A protected plant clearing permit is required for the taking of all protected plants present in a clearing impact area.

*Note—*

See section 249 for the meaning of *clearing impact area*.

- (2) A protected plant clearing permit is also required for the taking of all protected plants known to be present in an area to be cleared that is not within a high risk area.

*Note—*

See also section 259.



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## Division 4                      Restrictions on grant

### 284      **General restrictions on grant of protected plant clearing permit**

- (1) The chief executive may grant a protected plant clearing permit for the taking of a protected plant, by clearing the plant, only if the chief executive is satisfied of the following—
  - (a) the applicant is the landholder, or has the written approval of the landholder, of the land on which the plant is located;
  - (b) the applicant has given the chief executive—
    - (i) for clearing within a clearing impact area—a flora survey report that complies with section 257; or
    - (ii) for clearing in any other area—a document identifying all protected plants that are endangered, vulnerable or near threatened wildlife the person knows exist in the area to be cleared;
  - (c) the applicant has identified all protected plants that are endangered, vulnerable or near threatened wildlife that the applicant knows will be impacted in the relevant area;
  - (d) if the clearing can not avoid a protected plant that is endangered, vulnerable or near threatened wildlife in the relevant area—the applicant has demonstrated—
    - (i) any impacts the clearing is expected to have on the plant; and
    - (ii) all reasonable attempts have been taken, in accordance with the protected plants assessment guidelines, to manage any impacts on the plant; and
    - (iii) the clearing will not adversely affect the plant's survival in the wild.

*Note—*

See also section 137 of the Act.

[s 285]

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- (2) The chief executive must not approve an application for a protected plant clearing permit if the flora survey or flora survey report for the application do not comply with section 257.
- (3) In this section—

*avoid*, for a plant in an area being cleared, means the plant is not cleared and there is no clearing within 100m of the plant.

*relevant area* means—

  - (a) for clearing within a clearing impact area—the clearing impact area; or
  - (b) for clearing in any other area—the area to be cleared.

## **285 Particular circumstances when chief executive may grant protected plant clearing permit**

- (1) The chief executive may grant a protected plant clearing permit without being satisfied of the matters mentioned in section 284(1)(d)(iii) if the chief executive is satisfied—
  - (a) there is an overriding public interest for the permit to be granted for an activity related to a public utility easement for the supply of electricity; and
  - (b) refusal of the permit would impede the provision of an essential community service; and
  - (c) the applicant has otherwise made all reasonable attempts to satisfy the chief executive of the matters mentioned in section 284(1).
- (2) If the chief executive grants a protected plant clearing permit under subsection (1), the chief executive may—
  - (a) grant the permit with or without conditions; and
  - (b) notify the applicant of the obligation to pay the conservation value.

*Note—*

See section 95 of the Act.

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**286 Chief executive may grant protected plant clearing permit in relation to particular areas**

The chief executive may grant a clearing permit for taking protected plants in an area identified under a regulation or conservation plan as, or including, a critical habitat or an area of major interest only if—

- (a) the regulation or plan does not prohibit the granting of the permit; and
- (b) the chief executive is satisfied the taking of the plants will not have a significant impact on a viable population of protected wildlife or a community of native wildlife in the area.

**287 Chief executive may impose conditions on protected plant clearing permit**

The chief executive may grant a protected plant clearing permit with or without conditions.

**288 Chief executive may require environmental offset**

- (1) This section applies if the chief executive—
  - (a) grants a protected plant clearing permit under this part; and
  - (b) considers a clearing activity to be undertaken under the permit will have a significant residual impact on plants that are endangered or vulnerable wildlife.
- (2) The chief executive may impose a condition on the protected plant clearing permit requiring the applicant for the permit to provide an environmental offset for the clearing activity.
- (3) In this section—

*environmental offset* see the *Environmental Offsets Act 2014*, section 7(2).

*significant residual impact* see the *Environmental Offsets Act 2014*, section 8.

## **Division 5                      Activities authorised under permit**

### **289      Activities authorised by protected plant clearing permit**

- (1) The holder of a protected plant clearing permit, or a relevant person for the holder, may—
  - (a) take a protected plant by clearing to the extent authorised under the permit; and
  - (b) otherwise clear all plants in an area to which the permit relates.
- (2) However, a person may use a restricted plant taken under a protected plant clearing permit only if—
  - (a) either—
    - (i) for a restricted plant part—the part is taken by way of operational salvage; or
    - (ii) for a whole restricted plant—the plant is taken by way of contingent salvage by the holder of a protected plant harvesting licence, or a relevant person for the holder; or
  - (b) the use is authorised under the permit.

## **Part 4B                      Authorities for taking or using protected plants**

### **Division 1                      Aboriginal tradition authorities**

#### **291      Additional matter to be considered**

In considering an application for an Aboriginal tradition authority for protected plants, the chief executive must have regard to any advice given by the corporation named in the application on the significance, under Aboriginal tradition, of the activity the subject of the application.

*Note—*

See the Administration Regulation, section 26 for other matters the chief executive must have regard to when considering an application for a wildlife authority.

**292 Restriction about persons to whom authority may be granted**

The chief executive may grant an Aboriginal tradition authority for protected plants only to a corporation whose members represent a community or group of Aboriginal people particularly concerned with the land from where the protected plants are to be taken.

**293 Restriction about purpose for which authority may be granted**

The chief executive may grant an Aboriginal tradition authority for protected plants only if the chief executive is satisfied the purpose for which the plants are to be taken is of particular significance under Aboriginal tradition, according to the views of the people regarded by the members of the group the applicant represents as having authority to state the traditional significance of the plants.

**294 Taking and using protected plants authorised**

- (1) The holder of an Aboriginal tradition authority for protected plants, or a relevant person for the holder, may take, under Aboriginal tradition, protected plants from the place stated on the permit as a place from where the protected plants may be taken.
- (2) Also, the holder or relevant person may use the plants if the use is for the personal, domestic or non-commercial communal needs of the members of the corporation to whom the authority is granted.

## **Division 2                    Island custom authorities**

### **295     Additional matter to be considered**

In considering an application for an Island custom authority for protected plants, the chief executive must have regard to any advice given by the corporation named in the application on the significance, under Island custom, of the activity the subject of the application.

*Note—*

See the Administration Regulation, section 26 for other matters the chief executive must have regard to when considering an application for a wildlife authority.

### **296     Restriction about persons to whom authority may be granted**

The chief executive may grant an Island custom authority for protected plants only to a corporation whose members represent a community or group of Torres Strait Islanders particularly concerned with the land from where the protected plants are to be taken.

### **297     Restriction about purpose for which authority may be granted**

The chief executive may grant an Island custom authority for protected plants only if the chief executive is satisfied the purpose for which the plants are to be taken is of particular significance under Island custom, according to the views of the people regarded by the members of the group the applicant represents as having authority to state the customary significance of the plants.

### **298     Taking and using protected plants authorised**

- (1) The holder of an Island custom authority for protected plants, or a relevant person for the holder, may take, under Island

custom, protected plants from the place stated on the permit as a place from where the protected plants may be taken.

- (2) Also, the holder or relevant person may use the plants if the use is for the personal, domestic or non-commercial communal needs of the members of the corporation to whom the authority is granted.

## **Part 5**                      **Miscellaneous provisions**

### **299**      **Declaration of harvest period**

- (1) The chief executive may, by notice (a *harvest period notice*), declare a harvest period for a protected plant.
- (2) The harvest period notice may impose conditions on the taking of a protected plant during the harvest period, including, for example—
  - (a) the maximum number of plants that may be taken; and
  - (b) the way in which a whole protected plant or protected plant part may be taken; and
  - (c) localities from which a plant must not be taken; and
  - (d) how a plant that is taken may be used.

### **300**      **Special least concern plants**

Each plant mentioned in schedule 3A is prescribed as a special least concern plant for the Act, section 88D(1).

## **Chapter 5      Permit for moving wildlife**

### **Part 1            General provisions**

#### **Division 1        Purpose of permit**

##### **305      Purpose of permit**

The purpose of a wildlife movement permit is to allow a person to move wildlife to or from a place for particular movements that are not otherwise authorised under the Act.

#### **Division 2        Conditions of permit**

##### **309      Conditions for permits for interstate movements**

- (1) This section applies to a wildlife movement permit for the movement of a live protected animal to another State if the person to whom the wildlife is being moved is not the holder of a wildlife authority, or a relevant person for the holder of a wildlife authority.
- (2) Without limiting the conditions the chief executive may impose, the chief executive may impose on the permit—
  - (a) a condition about the purpose for which the animal, or a progeny of the animal, may be used, or the way the animal, or a progeny of the animal, must be kept, in the other State; and
  - (b) a condition of a type mentioned in paragraph (a) that imposes an obligation on the holder of the permit, or a relevant person for the holder, that continues after the permit expires.
- (3) However, the chief executive may impose the condition on the permit only if—



- 
- (a) the chief executive reasonably believes the imposition is necessary to achieve the object of the Act; and
  - (b) the condition is not inconsistent with the laws of the other State.
- (4) In this section—
- holder*, of a wildlife movement permit that has expired, means the person who held the permit immediately before its expiry.

## Part 2                      Restrictions on grant of permit

### 310      General restrictions about movements for which permit may be granted

- (1) The chief executive may grant a wildlife movement permit for the movement of wildlife only if—
  - (a) the person from whom the wildlife is to be moved and the person to whom the wildlife is to be moved are authorised to keep the wildlife under the Act or a law of another State or country; and
  - (b) the chief executive is satisfied the movement will not—
    - (i) risk the health or safety of humans or livestock; or
    - (ii) adversely affect the conservation of native wildlife in the State; or
    - (iii) adversely affect the population in the wild of the wildlife being moved.
- (2) Also, the chief executive can not grant a wildlife movement permit for the movement of wildlife if the movement is prohibited under a conservation plan for the wildlife.
- (3) Further, the chief executive can not grant a wildlife movement permit for the movement into the State of a live marine mammal taken from the wild other than under a rehabilitation permit or scientific purposes permit.

**311 Additional general restriction for movements out of the State**

- (1) This section applies to a movement of wildlife from the State to another State if the approval of an entity is required before the wildlife may be moved into the other State.
- (2) The chief executive may grant a wildlife movement permit for the movement only if—
  - (a) the approval of the entity has been given; or
  - (b) the chief executive is satisfied the approval of the entity will be given.

**312 Additional general restriction for movements into the State**

The chief executive may grant a wildlife movement permit for the movement of wildlife from another State into the State only if—

- (a) the movement is not prohibited under a law of the other State; and
- (b) if the approval of an entity in the other State is required before the wildlife can be moved out of that State—
  - (i) the approval has been given; or
  - (ii) the chief executive is satisfied the approval will be given.

**313 Additional restriction for movement of prescribed protected animal to another State**

The chief executive can not grant a wildlife movement permit for the movement of a prescribed protected animal from a place in the State to another State unless—

- (a) the chief executive is reasonably satisfied the person in the other State to whom the animal is to be moved does not intend to—
  - (i) move the animal to another country; or

- (ii) sell, give or move the animal to a person in another country; or
- (b) if the chief executive is not satisfied under paragraph (a)—
  - (i) the animal has been bred in captivity or the chief executive reasonably believes the animal, if released into the wild, will not, or is unlikely to, survive because it suffers from the behavioural disorder known as human imprinting; and
  - (ii) the chief executive is satisfied selling, giving or moving the animal to a person in another country will not adversely affect the viability of populations of animals of the same species that are kept in zoos in the State; and
  - (iii) if an export permit is required before the animal may be exported to the other country—
    - (A) an export permit has been issued for the export of the animal; or
    - (B) the chief executive is satisfied an export permit will be issued for the export of the animal.

### **314 Additional restriction for movement of prescribed protected animal within the State for export**

The chief executive can not grant a wildlife movement permit for the movement of a prescribed protected animal from a place in the State to another place in the State for exporting the animal unless—

- (a) the animal has been bred in captivity or the chief executive reasonably believes the animal, if released into the wild, will not, or is unlikely to, survive because it suffers from the behavioural disorder known as human imprinting; and
- (b) the chief executive is satisfied selling, giving or moving the animal to a person in another country will not

[s 315]

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- adversely affect the viability of populations of animals of the same species that are kept in zoos in the State; and
- (c) if an export permit is required before the animal may be exported to the other country—
    - (i) an export permit has been issued for the export of the animal; or
    - (ii) the chief executive is satisfied an export permit will be issued for the export of the animal; and
  - (d) an approved electromagnetic implant has been inserted into the animal and the chief executive has been given a written notice stating the identification code for the implant.

## **Part 3                      Activities authorised by permit**

### **315      Moving particular wildlife authorised**

- (1) The holder of a wildlife movement permit for wildlife, or a relevant person for the holder, may move the wildlife identified on the permit from and to the places stated on the permit.
- (2) However, subsection (1) only authorises the holder or relevant person to make 1 movement under the permit.

## **Chapter 6                  Processed products**

### **316      Purpose of ch 6**

The purpose of this chapter is to declare particular products made or derived from particular protected wildlife as processed products that are not included in the definitions under the Act of *protected animal* or *protected plant*.

*Note—*

For processed products made or derived from macropods, see the *Nature Conservation (Macropod) Conservation Plan 2017*, section 83 and schedule 1.

**317 Processed products made or derived from protected animals**

- (1) For the Act, schedule, definition *protected animal*, paragraph (b), the following products are a processed product that is not included in the definition—
  - (a) a processed product mentioned in schedule 1, part 2;
  - (b) a product mentioned in paragraph (a) that has been unpacked;
  - (c) a product made or derived from a product mentioned in paragraph (a).
- (2) However, a processed product that is a natural product of an animal, other than a crocodile, ceases to be a processed product if the animal—
  - (a) is included in the list of threatened species established and maintained under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth), chapter 5, part 13, division 1; and
  - (b) is sold or given to a person other than the chief executive or the holder of a museum licence.

**318 Processed products made or derived from protected plants**

For the Act, schedule, definition *protected plant*, paragraph (b), the following products are a processed product that is not included in the definition—

- (a) a processed product mentioned in schedule 1, part 3;
- (b) a product mentioned in paragraph (a) that has been unpacked;

[s 319]

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- (c) a product made or derived from a product mentioned in paragraph (a).

### **319 Conservation officer may ask for evidence of source used**

- (1) This section applies to a person who possesses a processed product.
- (2) If asked by a conservation officer, the person must, unless the person has a reasonable excuse, produce evidence of the source from which the processed product was made or derived.

Maximum penalty—165 penalty units.

## **Chapter 7 Other offences relating to wildlife**

### **Part 1 Taking, keeping or using animals generally**

#### **320 Use of animals to take protected animals**

- (1) A person taking a protected animal under the Act must not use a dog or other animal to take the animal.

Maximum penalty—120 penalty units.

- (2) Subsection (1) does not apply if—
  - (a) a conservation plan for the protected animal authorises the person to take the protected animal by using a dog or other animal; and
  - (b) the person complies with the conservation plan when taking the protected animal.

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### 321 Using live protected animals that are not self-sufficient

- (1) This section applies if—
  - (a) a person keeps, or intends to keep, a live protected animal under the Act; and
  - (b) the animal—
    - (i) can not feed itself; or
    - (ii) is a bird that is too young to fly; or
    - (iii) is a mammal that has not been weaned; or
    - (iv) has visible signs of illness or injury.

- (2) The person must not, without the chief executive's written approval, buy or accept, sell or give away, send or move the animal.

Maximum penalty—20 penalty units.

- (3) Subsection (2) does not apply to—
  - (a) a sick, injured or orphaned animal sent or moved to or from a veterinary surgeon for treatment or care; or
  - (b) an animal that is, or is to be, sent or moved with its mother; or
  - (c) a captive bred bird that is, or is to be, sent or moved from the holder of a wildlife authority for the bird to another holder of a wildlife authority for the bird, for hand raising the bird; or
  - (d) a bird's egg that is, or is to be, sent or moved from the holder of a wildlife authority for the bird to another holder of a wildlife authority for the bird, for artificial incubation or foster parent incubation of the egg.

- (4) In this section—

**wildlife authority**, for a bird, means a licence, permit or other authority authorising the holder of the authority to keep the bird.

### **322 Procedure for accidental taking of marine mammal**

- (1) This section applies if—
  - (a) a person takes a marine mammal in the course of a lawful activity that was not directed towards taking the mammal; and
  - (b) the taking could not have been reasonably avoided.
- (2) The person must—
  - (a) immediately notify a conservation officer about the marine mammal and the circumstances in which the mammal was taken; and
  - (b) if the officer directs the person to deal with the marine mammal in a particular way—deal with the mammal in the way directed.

Maximum penalty—165 penalty units.

- (3) A conservation officer may give a direction under subsection (2)(b) only if the direction is reasonable in the circumstances.
- (4) In this section—

*take*, a marine mammal, includes—

  - (a) cause the mammal to—
    - (i) go ashore; or
    - (ii) become trapped or entangled; or
  - (b) strike the mammal with a boat.

### **322A Procedure for accidental taking of marine turtle**

- (1) This section applies if—
  - (a) a person takes a marine turtle in the course of a lawful activity that was not directed towards taking the turtle; and
  - (b) the taking could not have been reasonably avoided.
- (2) The person must—



- 
- (a) if the marine turtle is sick, injured, trapped, entangled or dead, or has been struck by a boat—
    - (i) immediately notify a conservation officer about the turtle and the circumstances in which the turtle was taken; and
    - (ii) if the officer directs the person to deal with the turtle in a particular way—deal with the turtle in the way directed; or
  - (b) otherwise—return the turtle to the waters from which it was taken.

Maximum penalty—120 penalty units.

- (3) A conservation officer may give a direction under subsection (2)(a)(ii) only if the direction is reasonable in the circumstances.
- (4) In this section—

*take*, a marine turtle, includes—

  - (a) cause the turtle to become trapped or entangled; or
  - (b) strike the turtle with a boat.

### **323 Procedure for accidental taking of protected shark**

- (1) This section applies if—
  - (a) an authorised shark taker takes a protected shark in the course of a lawful activity that was not directed towards taking the shark; and
  - (b) the taking could not have been reasonably avoided.
- (2) The person must—
  - (a) if the shark is sick, injured or dead—
    - (i) as soon as practicable, notify a conservation officer about the shark and the circumstances in which the shark was taken; and

[s 324]

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- (ii) if the officer directs the person to deal with the shark in a particular way—deal with the shark in the way directed; or
- (b) otherwise—return it to the waters from which it was taken.

Maximum penalty—120 penalty units.

- (3) A conservation officer may give a direction under subsection (2)(a)(ii) only if the direction is reasonable in the circumstances.
- (4) In this section—

*authorised shark taker* means a person who is authorised to take sharks under the *Fisheries Act 1994*.

## Part 2                      Moving wildlife

### Division 1                Moving wildlife generally

#### 324    Moving live protected animals in containers

- (1) This section applies if—
  - (a) a person who, under the Act, keeps a live protected animal sells or gives the animal to another person; and
  - (b) either—
    - (i) the person (the *sender*) intends to send the animal in a container to the person who bought or accepted the animal; or
    - (ii) the person, or the person who bought or accepted the animal, (the *mover*) intends to move the animal in a container.
- (2) The sender or mover must ensure the container in which the animal is sent or moved—

- 
- (a) will keep the animal stable under ordinary transportation conditions; and
  - (b) will prevent the animal's escape; and
  - (c) will protect the animal from predators; and
  - (d) is locked or otherwise secured.

Maximum penalty—20 penalty units.

### **325 Labels for containers used to send protected animals**

- (1) This section applies if—
  - (a) a person who keeps a live protected animal under the Act sells or gives the animal to another person, other than a veterinary surgeon for treatment or care of the animal; and
  - (b) the person intends to send the animal in a container.
- (2) The person must attach to the container a written statement including the following information—
  - (a) the following details for the person who sent the animal and the person to whom the animal is sent—
    - (i) name and address;
    - (ii) if the person holds a wildlife authority—the number of the authority;
  - (b) the animal's common name or, if the animal does not have a common name, the animal's scientific name;
  - (c) if there is more than 1 animal in the container—how many animals are in the container;
  - (d) if the animal is dangerous or venomous—that the animal is dangerous or venomous.

Maximum penalty—20 penalty units.

**326 Sending or moving wildlife other than protected, international or prohibited wildlife into the State**

- (1) This section applies to a live bird, mammal, reptile or amphibian other than a bird, mammal, reptile or amphibian that is a protected, international, prohibited or domestic animal.
- (2) A person must not send or move into the State the bird, mammal, reptile or amphibian unless the person holds a wildlife movement permit authorising the movement.

Maximum penalty—165 penalty units.

- (3) In this section—

*move*, a bird, mammal, reptile or amphibian, includes attempt to move the bird, mammal, reptile or amphibian.

*send*, a bird, mammal, reptile or amphibian, includes attempt to send the bird, mammal, reptile or amphibian.

## **Division 2 Movement advices**

**327 Only 1 movement under movement advice**

A person must not make more than 1 movement under a movement advice.

Maximum penalty—50 penalty units.

**328 Dealing with parts of movement advice**

- (1) This section applies if a movement advice must be filled in for the movement of wildlife.
- (2) The person who filled in the movement advice must—
  - (a) ensure parts 2 and 3 of the advice are—
    - (i) attached to the wildlife to which the advice relates or the container in which the wildlife is being moved; or

- (ii) otherwise in the possession of the person moving the wildlife to which the advice relates; and
- (b) give part 1 of the advice to the chief executive within 7 days after the movement happens.

Maximum penalty—50 penalty units.

- (3) Also, the person to whom the wildlife for which the movement advice has been filled in is moved must give part 3 of the movement advice to the chief executive within 7 days after the person receives the wildlife.

Maximum penalty—50 penalty units.

### **329 Keeping and producing movement advice**

- (1) This section applies if a movement advice must be filled in for the movement of wildlife.
- (2) The following persons are required to keep a copy of the movement advice in a secure place, for the record-keeping period—
  - (a) if the movement is for a sale or giving away of wildlife—the person who sold or gave away the wildlife and the person who bought or accepted the wildlife;
  - (b) otherwise—the person who filled in the movement advice.

Maximum penalty—50 penalty units.

- (3) If asked by a conservation officer, the person must, unless the person has a reasonable excuse, make the advice available for inspection by the officer.

Maximum penalty—50 penalty units.

### **330 Tampering with movement advice**

- (1) A person must not tamper with a movement advice that has been filled in for a movement of wildlife.

Maximum penalty—50 penalty units.

- (2) Subsection (1) does not apply to a person who—
  - (a) removes part 1 of the advice to give it to the chief executive; or
  - (b) removes part 2 or part 3 of the advice to—
    - (i) attach it to the wildlife to which the advice relates, or the container in which the wildlife is being moved; or
    - (ii) give it to the person moving the wildlife to which the advice relates.
- (3) In this section—

*tamper with*, a movement advice, means—

  - (a) destroy the advice; or
  - (b) remove a part of the advice; or
  - (c) cover, erase or modify an entry on the advice.

## Part 3 Housing for animals

### 331 Housing and care of live protected animals

- (1) A person who keeps a live protected animal under the Act must do each of the following—
  - (a) keep the animal in a secure cage or enclosure that prevents the animal's escape and protects it from predators;
  - (b) supply the animal with shelter, ventilation and enough water and food to maintain the animal's health and wellbeing;
  - (c) provide the animal with enough opportunities for exercise to maintain the animal's health and wellbeing.

Maximum penalty—20 penalty units.

- (2) If the chief executive reasonably believes a cage or enclosure in which a live protected animal is kept does not comply with

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subsection (1)(a), the chief executive may give the person keeping the animal a notice stating the person must do any of the following—

- (a) make stated alterations to the cage or enclosure within a stated period;
  - (b) surrender the animal to the chief executive within a stated period;
  - (c) if the person holds a licence, permit or other authority—surrender the person's licence, permit or authority to the chief executive within a stated period.
- (3) A notice given under subsection (2) must be, or include, an information notice about the decision to give the notice.
- (4) A person to whom a notice is given under subsection (2) must comply with the notice.

Maximum penalty for subsection (4)—20 penalty units.

### **332 Tampering with animal breeding place**

- (1) A person must not, without a reasonable excuse, tamper with an animal breeding place that is being used by a protected animal to incubate or rear the animal's offspring.

Maximum penalty—165 penalty units.

- (2) For subsection (1), an animal breeding place is being used by a protected animal to incubate or rear the animal's offspring if—
- (a) the animal is preparing, or has prepared, the place for incubating or rearing the animal's offspring; or
  - (b) the animal is breeding, or is about to breed, and is physically occupying the place; or
  - (c) the animal and the animal's offspring are physically occupying the place, even if the occupation is only periodical; or
  - (d) the animal has used the place to incubate or rear the animal's offspring and is of a species generally known

to return to the same place to incubate or rear offspring in each breeding season for the animal.

- (3) It is a reasonable excuse for a person to tamper with the breeding place if—
- (a) the tampering happened in the course of a lawful activity that was not directed towards the tampering; and
  - (b) the tampering could not have been reasonably avoided.
- (4) Also, subsection (1) does not apply to a person removing or otherwise tampering with the breeding place if—
- (a) the removal or tampering is part of an approved species management program for animals of the same species; or
  - (b) the person holds a damage mitigation permit for the animal and the permit authorises the removal or tampering; or
  - (c) the breeding place is a flying-fox roost and—
    - (i) the person holds a flying-fox roost management permit authorising the removal or tampering; or
    - (ii) the removal or tampering is authorised under section 41A or 41B; or
  - (d) the person is taking estuarine crocodile eggs under a commercial wildlife harvesting licence for estuarine crocodile eggs and the removal or tampering is necessary to allow the taking of the eggs; or
  - (e) the person is preparing a report mentioned in the *Nature Conservation (Estuarine Crocodile) Conservation Plan 2018*, section 35(b) and the removal or tampering is necessary for the preparation of the report.
- (5) In this section—
- approved species management program***, for a species of animal, means a program about managing the population and habitat of the species of animal that is approved by the chief executive.



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*tamper*, with an animal breeding place, means damage, destroy, mark, move or dig up the breeding place.

### 333 Housing wildlife other than protected wildlife

- (1) This section applies to—
  - (a) a domestic bird other than the following—
    - (i) an ostrich;
    - (ii) a peafowl or pheasant of the family Phasianidae, other than quail indigenous to Australia;
    - (iii) a pigeon (*Columba livia*) or poultry; and
  - (b) another animal other than a domestic or protected animal.
- (2) A person must keep the bird or animal in a secure cage or enclosure that prevents the bird's or animal's escape.  
Maximum penalty—20 penalty units.
- (3) In this section—  
*domestic bird* means a bird that is a domestic animal.

## Part 4 Tags

### 334 Using tags generally

- (1) A person must not attach a tag to wildlife of a species other than the species for which the tag is supplied or approved.  
Maximum penalty—165 penalty units.
- (2) A person must not attach a used tag to wildlife.  
Maximum penalty—165 penalty units.
- (3) In this section—  
*used tag* means a tag that has been previously attached to wildlife.

### 335 Tags not to be used by unauthorised person

- (1) A person, other than an authorised person, must not, without the chief executive's written approval—
- (a) possess a tag supplied or approved under chapter 8, part 2; or
  - (b) attach a tag supplied or approved under chapter 8, part 2, to wildlife.

Maximum penalty—165 penalty units.

- (2) This section is subject to any provision of a conservation plan that provides for the persons that may attach a tag to wildlife to which the plan relates.

*Note—*

For identification requirements for persons possessing tags for macropods, see the *Nature Conservation (Macropod) Conservation Plan 2017*, part 4, division 3.

- (3) In this section—

***authorised person***, in relation to a tag supplied or approved under chapter 8, part 2, means any of the following persons—

- (a) the chief executive;
- (b) a conservation officer;
- (c) for a tag for animals—
  - (i) the person to whom the tag was supplied or for whom the tag was approved; or
  - (ii) a person authorised to possess or attach the tag by the person mentioned in paragraph (a);
- (d) for a tag for protected plants—
  - (i) the holder of a protected plant licence; or
  - (ii) a person who has taken a whole protected plant under an exemption under chapter 4, part 3.

### **336 Tampering with tags**

- (1) A person must not, without the chief executive's approval, tamper with a tag attached to wildlife.

Maximum penalty—80 penalty units.

- (2) Subsection (1) does not apply to a person who removes a tag from wildlife if this regulation or a conservation plan states the person may remove the tag from the wildlife.

*Notes—*

- 1 For the holder of a recreational wildlife harvesting licence removing tags from animals, see section 124.
- 2 For removing tags from macropods, see the *Nature Conservation (Macropod) Conservation Plan 2017*, part 4, division 2.

- (3) In this section—

*tamper*, with a tag, means to—

- (a) remove or damage the tag; or
- (b) cover or modify the writing on the tag.

## **Part 5 Identification and information requirement**

### **337 Record of identification of person selling or giving away protected, international or prohibited wildlife**

- (1) A person who buys or accepts protected, international or prohibited wildlife under the Act must—

- (a) on receipt of the wildlife—
  - (i) obtain from the person from whom the wildlife is bought or accepted (the *seller*) verification of the seller's identity; and
  - (ii) if the seller is acting under a wildlife authority or an exhibited animal authority—inspect the authority or a copy of the authority; and

[s 338]

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- (iii) if the protected wildlife is a whole protected plant or protected plant part obtained by the seller under an exemption under chapter 4, part 3—ask the seller to identify the exemption; and
- (b) keep a record of the following for the record-keeping period—
  - (i) the name and address of the seller;
  - (ii) the source of the identification used to verify the identity of the seller, including the particulars of the type of document produced and any identifying features of the document, including, for example, the number of the document;
  - (iii) if the seller is acting under a wildlife authority or an exhibited animal authority—the number of the authority;
  - (iv) if the protected wildlife is a whole protected plant or protected plant part obtained by the seller under an exemption under chapter 4, part 3—the exemption identified by the seller; and

*Note—*

See the *Exhibited Animals Regulation 2016*, part 4 about requirements for the holder of an exhibited animal authority to keep particular records.

- (c) if asked by a conservation officer, produce the record for inspection by the officer, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) However, subsection (1) does not apply to a person who buys or accepts a protected plant that is least concern wildlife, other than a special least concern plant.

### **338 Record of identification of person buying or accepting protected, international or prohibited wildlife**

- (1) A person who sells or gives away protected, international or prohibited wildlife under the Act must—

- 
- (a) before parting with possession of the wildlife—
- (i) obtain from the person to whom the wildlife is sold or given (the **buyer**) verification of the buyer's identity; and
  - (ii) if the buyer is acting under a wildlife authority or an exhibited animal authority—inspect the authority or a copy of the authority; and
- (b) keep a record of the following for the record-keeping period—
- (i) the name and address of the buyer;
  - (ii) the source of the identification used to verify the identity of the buyer, including the particulars of the type of document produced and any identifying features of the document, including, for example, the number of the document;
  - (iii) if the buyer is acting under a wildlife authority or an exhibited animal authority—the number of the authority;
  - (iv) if the buyer—
    - (A) is a corporation—the name of the corporation; or
    - (B) is a business or a person operating under a business or trading name—the name of the business or the trading name; and

*Note—*

See the *Exhibited Animals Regulation 2016*, part 4 about requirements for the holder of an exhibited animal authority to keep particular records.

- (c) if asked by a conservation officer, produce the record for inspection by the officer, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) However, subsection (1) does not apply to the following—

[s 338A]

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- (a) a person who sells or gives away a protected plant that is least concern wildlife, other than a special least concern plant;
- (b) a person who sells or gives away a protected plant in the course of a retail activity to a buyer for the buyer's personal use.

## **Part 5A                    Marine mammals**

### **Division 1                Preliminary**

#### **338A Application of pt 5A**

- (1) This part applies to marine mammals in the wild.
- (2) However, a provision of this part that applies in relation to a no approach zone, caution zone or prescribed distance for a marine mammal applies to a dugong only if a special management declaration provides for the no approach zone, caution zone or prescribed distance for the dugong.
- (3) This part does not apply to—
  - (a) a person acting under a scientific purposes permit; or
  - (b) a person complying with—
    - (i) a direction given by a conservation officer under section 373(2)(a) or (3); or
    - (ii) a request made by a conservation officer under section 373(2)(b).

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## **Division 2                      Restrictions and requirements for boats**

### **Subdivision 1                General restrictions**

#### **338B    Speed limit**

- (1) This section applies if a special management declaration states that a person in control of a boat must not bring the boat within a stated distance of a marine mammal at a stated speed.
- (2) A person in control of a boat must not, without a reasonable excuse, bring the boat within the stated distance of the marine mammal at the stated speed.

Maximum penalty—165 penalty units.

#### **338C    Restricting path or causing change in direction of travel of a marine mammal**

A person in control of a boat must not, without a reasonable excuse, restrict the path of a marine mammal or cause a marine mammal to change its direction of travel.

Maximum penalty—120 penalty units.

#### **338D    Dividing a group of marine mammals**

A person in control of a boat must not, without a reasonable excuse, bring the boat between members of a pod of whales or dolphins or a herd of dugongs.

Maximum penalty—120 penalty units.

## **Subdivision 2      Distance restrictions**

### **338E    Entering no approach zone for a marine mammal**

A person in control of a boat must not, without a reasonable excuse, bring the boat within the no approach zone for a marine mammal.

Maximum penalty—

- (a) if the no approach zone is provided for by a special management declaration—165 penalty units; or
- (b) otherwise—120 penalty units.

### **338F    Entering caution zone for a marine mammal**

- (1) A person in control of a boat must not, without a reasonable excuse, bring the boat within the caution zone for a marine mammal if—

- (a) 3 or more boats are already within the caution zone; or
- (b) the boat is moving—
  - (i) at a speed of more than 6 knots; or
  - (ii) at a speed that creates a wake.

Maximum penalty—

- (a) if the caution zone is provided for by a special management declaration—165 penalty units; or
  - (b) otherwise—120 penalty units.
- (2) For subsection (1)(a), a boat within the no approach zone for the marine mammal is taken to be within the caution zone for the mammal.

### **338G    Requirement if a whale or dugong comes within no approach zone**

- (1) This section applies if—



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- (a) a whale or dugong moves towards a boat; and
  - (b) as a result the boat is within the no approach zone for the whale or dugong.
- (2) The person in control of the boat must, unless the person has a reasonable excuse—
- (a) stop the boat and—
    - (i) turn the engines off; or
    - (ii) disengage the gears; or
  - (b) withdraw to an area outside the no approach zone for the whale or dugong at a speed that—
    - (i) is not more than 6 knots; and
    - (ii) does not create a wake.

Maximum penalty—

- (a) if the no approach zone is provided for by a special management declaration—165 penalty units; or
- (b) otherwise—120 penalty units.

### **338H Requirement if a whale or dugong comes within caution zone**

- (1) This section applies if—
  - (a) a whale or dugong moves towards a boat; and
  - (b) as a result the boat is within the caution zone for the whale or dugong.
- (2) The person in control of the boat must not, without a reasonable excuse, operate the boat—
  - (a) at a speed of more than 6 knots; or
  - (b) at a speed that creates a wake.

Maximum penalty—

- (a) if the caution zone is provided for by a special management declaration—165 penalty units; or

- (b) otherwise—120 penalty units.

**338I Requirement if a dolphin comes within no approach zone or caution zone**

- (1) This section applies if a dolphin moves towards a boat and as a result the boat is—
- (a) within the no approach zone for the dolphin; or
- (b) within the caution zone for the dolphin.
- (2) The person in control of the boat must not, without a reasonable excuse—

- (a) change the direction of travel of the boat in a way that would disturb the dolphin; or

*Example of a way of changing direction that is not likely to disturb the dolphin—*

gradually changing the direction of travel of the boat to avoid making contact with the dolphin

- (b) change the speed of travel of the boat in a way that would disturb the dolphin.

Maximum penalty—

- (a) in the circumstances mentioned in subsection (1)(a), if the no approach zone is provided for by a special management declaration—165 penalty units; or
- (b) in the circumstances mentioned in subsection (1)(b), if the caution zone is provided for by a special management declaration—165 penalty units; or
- (c) otherwise—120 penalty units.

**338J Requirement if a marine mammal in no approach zone or caution zone shows signs of being disturbed**

- (1) This section applies to a person in control of a boat within the no approach zone or caution zone for a marine mammal if the mammal shows signs of being disturbed.

*Examples of what may be a sign of a marine mammal being disturbed—*

a mammal—

- leaving an area or moving away from a boat quickly
- regularly changing its direction or speed of swimming
- changing its breathing patterns
- acting in an aggressive manner such as tail slashing or trumpet blowing
- diving in haste

(2) The person must, unless the person has a reasonable excuse, withdraw the boat to outside the caution zone for the marine mammal at a speed that—

- (a) is not more than 6 knots; and
- (b) does not create a wake.

Maximum penalty—

- (a) if the no approach zone or caution zone is provided for by a special management declaration—165 penalty units; or
- (b) otherwise—80 penalty units.

### **338K Exception for approved filming of marine mammals**

(1) Sections 338E, 338F(1), 338G(2), 338H(2) and 338I(2) do not apply to a person in control of a boat that is at a closer distance to a marine mammal than the no approach zone or caution zone for the mammal if—

- (a) the person, or another person on the boat, is filming the mammal; and
- (b) the person has written approval of the chief executive to bring the boat at the closer distance for the filming.

(2) The chief executive may impose conditions on an approval given under subsection (1), including, for example, conditions about what the person in control of the boat must do if the marine mammal moves towards the boat so that the boat is at a

[s 338L]

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closer distance to the mammal than permitted under the approval.

- (3) A person in control of a boat acting under an approval given under subsection (1) must comply with the conditions of the approval.

Maximum penalty for subsection (3)—

- (a) if the boat is at a closer distance to a marine mammal than permitted by a no approach zone provided for by a special management declaration—165 penalty units; or
- (b) if paragraph (a) does not apply and the boat is at a closer distance to a marine mammal than permitted by a caution zone provided for by a special management declaration—165 penalty units; or
- (c) otherwise—120 penalty units.

## **Division 3                      Restrictions and requirements for prohibited vessels and aircraft**

### **338L    Minimum distance for a prohibited vessel**

- (1) A person in control of a prohibited vessel must not, without a reasonable excuse—
- (a) bring the vessel any closer than the prescribed distance to a marine mammal; or
  - (b) bring the vessel to a position that would cause a marine mammal to come closer than the prescribed distance to the vessel if the mammal continued on its direction of travel.

Maximum penalty—

- (a) if the prescribed distance is provided for by a special management declaration—165 penalty units; or
  - (b) otherwise—120 penalty units.
- (2) In this section—

*prescribed distance* means—

- (a) for a special management marine mammal, if the special management declaration for the mammal states the prescribed distance for a prohibited vessel—the stated distance; or
- (b) for a marine mammal in a special management area, if the special management declaration for the area states the prescribed distance for a prohibited vessel for the mammal—the stated distance; or
- (c) for a whale or dolphin other than a whale or dolphin to which paragraph (a) or (b) applies—300m.

### **338M Minimum distance for a helicopter**

- (1) A person in control of a helicopter must not, without a reasonable excuse—
  - (a) bring the helicopter closer than the prescribed distance to a marine mammal; or
  - (b) bring the helicopter to a position that would cause a marine mammal to come closer than the prescribed distance to the helicopter if the mammal continued on its direction of travel.

Maximum penalty—

- (a) if the prescribed distance is provided for by a special management declaration—165 penalty units; or
  - (b) otherwise—120 penalty units.
- (2) In this section—

*prescribed distance* means—

- (a) for a special management marine mammal, if the special management declaration for the mammal states the prescribed distance for a helicopter—the stated distance; or
- (b) for a marine mammal in a special management area, if the special management declaration for the area states

[s 338N]

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- the prescribed distance for a helicopter for the mammal—the stated distance; or
- (c) for a whale or dolphin other than a whale or dolphin to which paragraph (a) or (b) applies—500m.

### **338N Hovering helicopter**

A person in control of a helicopter must not, without a reasonable excuse, hover above a marine mammal.

Maximum penalty—120 penalty units.

### **338O Minimum distance for an aircraft**

- (1) A person in control of an aircraft must not, without a reasonable excuse—
- (a) operate or land the aircraft closer than the prescribed distance to a marine mammal; or
- (b) bring the aircraft to a position that would cause a marine mammal to come closer than the prescribed distance to the aircraft if the mammal continued on its direction of travel.

Maximum penalty—

- (a) if the prescribed distance is provided for by a special management declaration—165 penalty units; or
- (b) otherwise—120 penalty units.
- (2) In this section—

*aircraft* does not include a helicopter.

*prescribed distance* means—

- (a) for a special management marine mammal, if the special management declaration for the mammal states the prescribed distance for an aircraft—the stated distance; or
- (b) for a marine mammal in a special management area, if the special management declaration for the area states

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the prescribed distance for an aircraft for the mammal—  
the stated distance; or

- (c) for a whale or dolphin other than a whale or dolphin to  
which paragraph (a) or (b) applies—300m.

### **338P Exception for approved filming of marine mammals**

- (1) Sections 338L(1), 338M(1) and 338O(1) do not apply to a  
person in control of a prohibited vessel or aircraft that is at a  
closer distance to a marine mammal than the prescribed  
distance for the mammal if—
- (a) the person, or another person on the vessel or aircraft, is  
filming the mammal; and
- (b) the person has written approval of the chief executive to  
bring the vessel or aircraft at the closer distance for the  
filming.
- (2) The chief executive may impose conditions on an approval  
given under subsection (1), including, for example, conditions  
about what the person in control of the prohibited vessel or  
aircraft must do if the marine mammal moves towards the  
vessel or aircraft so that the vessel or aircraft is at a closer  
distance to the mammal than permitted under the approval.
- (3) A person in control of a prohibited vessel or aircraft acting  
under an approval given under subsection (1) must comply  
with the conditions of the approval.

Maximum penalty for subsection (3)—

- (a) if the prohibited vessel or aircraft is at a closer distance  
to a marine mammal than permitted by a prescribed  
distance provided for by a special management  
declaration—165 penalty units; or
- (b) otherwise—120 penalty units.

## Division 4                      Other restrictions

### 338Q Minimum distance for people in water

- (1) A person must not enter water any closer than the prescribed distance to a marine mammal.

Maximum penalty—

- (a) if the prescribed distance is provided for by a special management declaration—165 penalty units; or  
(b) otherwise—120 penalty units.

- (2) A person in water must not move any closer than the prescribed distance to a marine mammal.

Maximum penalty—

- (a) if the prescribed distance is provided for by a special management declaration—165 penalty units; or  
(b) otherwise—120 penalty units.

- (3) Subsections (1) and (2) do not apply to a person—

- (a) feeding a dolphin—  
(i) under section 60A; or  
(ii) under a permission granted under the *Marine Parks Act 2004*; or

*Note—*

See the *Marine Parks Regulation 2017*, section 19 for the restriction on the grant of permissions authorising the feeding of dolphins in a marine park or part of a marine park.

- (b) acting under a commercial wildlife licence (wildlife interaction); or  
(c) if the person has a reasonable excuse.

- (4) Also, subsections (1) and (2) do not apply to a person entering or in water at a closer distance to a marine mammal than the prescribed distance for the mammal if—



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- (a) the person is entering or in the water for the purpose of filming the mammal; and
  - (b) the person has written approval of the chief executive to enter or be in the water at the closer distance for the filming.
- (5) The chief executive may impose conditions on an approval given under subsection (4), including, for example, conditions about what the person entering or in water must do if the marine mammal moves towards the person so that the person is at a closer distance to the mammal than permitted under the approval.
- (6) A person acting under an approval given under subsection (4) must comply with the conditions of the approval.

Maximum penalty—

- (a) if the person is at a closer distance to a marine mammal than permitted by a prescribed distance provided for by a special management declaration—165 penalty units; or
  - (b) otherwise—120 penalty units.
- (7) In this section—

***prescribed distance*** means—

- (a) for a special management marine mammal, if the special management declaration for the mammal states the prescribed distance for a person in water—the stated distance; or
- (b) for a marine mammal in a special management area, if the special management declaration for the area states the prescribed distance for a person in water for the mammal—the stated distance; or
- (c) for a whale other than a whale to which paragraph (a) or (b) applies—100m; or
- (d) for a dolphin other than a dolphin to which paragraph (a) or (b) applies—50m.

[s 338R]

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### **338R Conducting prohibited activity in a special management area**

- (1) A person in a special management area must not, without a reasonable excuse, carry out a prohibited activity for the area.

Maximum penalty—165 penalty units.

- (2) In this section—

*prohibited activity*, for a special management area, means an activity that the special management declaration for the area states is a prohibited activity for the area.

### **338S Other restrictions relating to marine mammals**

- (1) A person must not, without a reasonable excuse, do any of the following—

- (a) deposit rubbish near a marine mammal;  
(b) make a loud or sudden noise within 300m of a marine mammal that may disturb the mammal;

*Example of a loud or sudden noise that may disturb a marine mammal—*

recordings of whale or dolphin sounds or songs played under water

- (c) touch a marine mammal;  
(d) feed a marine mammal.

Maximum penalty—80 penalty units.

- (2) Subsection (1)(d) does not apply to a person feeding a dolphin—

- (a) under section 60A; or  
(b) under a permission granted under the *Marine Parks Act 2004*.

*Note—*

See the *Marine Parks Regulation 2017*, section 19 for the restriction on the grant of permissions authorising the feeding of dolphins in a marine park or part of a marine park.

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## Part 6 Other offences

### 339 Using poison or adhesive substance in a way that may take protected animals

- (1) A person must not use, or direct another person to use, a poison or adhesive substance in a way that may result in the taking of a protected animal.

Maximum penalty—165 penalty units.

- (2) Subsection (1) does not apply to the holder of a wildlife authority for an animal, or a relevant person for the holder, using a poison or adhesive substance to take the animal if—
- (a) the authority authorises the holder to use the poison or substance to take the animal; and
  - (b) the holder complies with any conditions of the authority.

*Notes—*

- 1 Section 115 contains additional requirements about the way an animal may be taken under a commercial wildlife harvesting licence for the animal.
- 2 Section 123 contains additional requirements about the way an animal may be taken under a recreational wildlife harvesting licence for the animal.

- (3) In this section—

***adhesive substance*** includes birdlime or a viscid substance.

***condition***, of a wildlife authority, includes—

- (a) a condition that the chief executive has written on the authority; and

*Note—*

Under the Administration Regulation, section 69, it is an offence for a person to fail to comply with a condition of a wildlife authority.

- (b) a requirement under the Act that applies to the carrying out of activities under the authority.

*use*, in relation to a poison or adhesive substance, includes attempt to use the poison or substance.

### **340 Feeding native animals in the wild generally**

- (1) This section applies to a person even if the person holds a commercial wildlife licence (wildlife interaction) for a protected animal.
- (2) A person must not feed a native animal in the wild in a way that may immediately threaten human health or safety.

Maximum penalty—165 penalty units.

- (3) Without limiting subsection (2), a person feeds an animal in a way that may immediately threaten human health or safety if—
  - (a) the person feeds the animal in a way that causes the animal to move from the place where it is located to the place where the person is providing the food; and
  - (b) the movement of the animal results in danger to human health or safety.

### **341 Feeding dangerous native animals in the wild**

- (1) A person, other than an authorised person, must not feed a native animal in the wild that is dangerous, venomous or capable of injuring a person.

Maximum penalty—40 penalty units.

- (2) Subsection (1) does not apply to a person who feeds a native animal under a wildlife authority for the animal.

### **342 Disturbing dangerous native animals in the wild**

- (1) A person, other than an authorised person, must not disturb a native animal in the wild that is dangerous, venomous or capable of injuring a person.

Maximum penalty—40 penalty units.

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- (2) Subsection (1) does not apply to a person who disturbs a native animal—
- (a) under a wildlife authority for the animal; or
  - (b) in the course of a lawful activity that was not directed towards the disturbance if the disturbance could not have been reasonably avoided.

### **343 Release of animals into the wild**

- (1) A person must not—
- (a) release into the wild an animal that has been bred or kept in captivity; or
  - (b) release an animal into an area of the wild that is not a prescribed natural habitat for the animal.

Maximum penalty—165 penalty units.

- (2) However, subsection (1) does not apply to a person who releases an animal if—
- (a) the release is authorised under an Act, including a licence, permit or other authority granted under the Act; or
  - (b) the chief executive has given the person a written approval authorising the person to release the animal; or
  - (c) the person releasing the animal reasonably expects to recover the animal after it is released.

### **344 Spreading or releasing particular parts of non-native plants**

- (1) This section applies to a plant other than a native plant.
- (2) A person must not, without the chief executive's approval, spread or release reproductive material of the plant into the wild.

Maximum penalty—165 penalty units.

- (3) In this section—

[s 345]

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***reproductive material***, of a plant, means any part of the plant that is capable of asexual or sexual reproduction.

*Examples of reproductive material of a plant—*

- 1 seed or part of a seed
- 2 bulb, rhizome, root, stolon, tuber or part of a bulb, rhizome, stolon or tuber
- 3 stem or leaf cutting

### **345 Procedure if wildlife stolen**

- (1) This section applies if—
  - (a) a person keeps wildlife under the Act; and
  - (b) the wildlife is stolen.
- (2) The person must—
  - (a) immediately report the theft to—
    - (i) a police officer; and
    - (ii) a departmental conservation officer; and
  - (b) if the person is given a copy of a police report about the theft—
    - (i) keep the copy for the record-keeping period; and
    - (ii) if asked by a departmental conservation officer—  
produce the copy for inspection by the officer.

Maximum penalty—20 penalty units.

- (3) Also, if the person keeps a record under the Act for the wildlife, the person must record the particulars of the theft in the record.

Maximum penalty—20 penalty units.

- (4) A reference in this section to wildlife is, for protected plants, a reference only to a whole protected plant that is—
  - (a) a restricted plant; and
  - (b) taken from the wild; and

- (c) required to be tagged under this regulation.
- (5) This section does not apply to wildlife that is a protected plant if the plant is kept for personal use.
- (6) In this section—  
*departmental conservation officer* means a conservation officer who is an employee of the department.

## Chapter 8      Miscellaneous provisions

### Part 1              Seizure of property

#### 346      Seizure of particular things for the protection of native wildlife

- (1) This section applies if a conservation officer reasonably believes—
  - (a) a vehicle or an appliance that is on land, other than land in a protected area, is—
    - (i) on the land without the consent of the landholder; or
    - (ii) abandoned; and
  - (b) it is necessary or desirable to remove the vehicle or appliance for the protection of native wildlife.
- (2) The conservation officer may—
  - (a) seize the vehicle or appliance and anything attached to or contained in the vehicle or appliance (each a *seized thing*); and
  - (b) remove the seized thing from the land.
- (3) The seized thing must be dealt with under the Administration Regulation, part 5.

(4) In this section—

*recreational craft* includes a hot air balloon, hang-glider, paraglider and an ultralight aircraft.

*vehicle* includes an aircraft, a boat and a recreational craft.

## Part 2 Provisions about tags

### 347 Chief executive may supply tags for use by person

- (1) The chief executive may supply a tag to a person for use under the Act.
- (2) Without limiting subsection (1), a tag may be supplied for any of the following purposes—
  - (a) to attach to wildlife to allow the wildlife to be identified;
  - (b) to attach to wildlife that is, or will be after the tag is attached, a processed product.
- (3) The chief executive must give the person a notice stating the species of wildlife for which the tag is supplied.

### 348 Chief executive may approve tags for use by person

- (1) The chief executive may, upon application by a person, approve a tag for use by the person under the Act.
- (2) Without limiting subsection (1), a tag may be approved for any of the following purposes—
  - (a) to attach to wildlife to allow the wildlife to be identified;
  - (b) to attach to wildlife that is, or will be after the tag is attached, a processed product.
- (3) The chief executive must give the person a notice stating the species of wildlife for which the tag is approved.



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**348A Approved tags for protected plants taken by way of salvage**

- (1) This section applies—
  - (a) to a person who harvests a whole protected plant by way of salvage; and
  - (b) the plant is to be used for trade.
- (2) The person must apply to the chief executive to be supplied with an official tag for each plant.
- (3) The application must be in the approved form.
- (4) A person must not state anything in an application that the person knows is inaccurate or misleading in a material particular.

Maximum penalty for subsection (4)—100 penalty units.

**349 Nature of tags supplied by the chief executive**

- (1) A tag supplied by the chief executive under this part—
  - (a) is the property of the State; and
  - (b) may not be transferred unless the chief executive has given a written approval for the transfer.
- (2) However, subsection (1)(b) is subject to any provision of a conservation plan that provides that a tag supplied for wildlife to which the conservation plan applies may not be transferred in any circumstances.

**350 Chief executive may recall tags**

- (1) The chief executive may give a person a notice directing the person to return a tag that has been supplied under this part.
- (2) The notice must state—
  - (a) the place where the tag must be returned; and
  - (b) the date and time by which the tag must be returned.

[s 351]

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- (3) The person must, unless the person has a reasonable excuse, comply with the notice.

Maximum penalty for subsection (3)—50 penalty units.

## **Part 3 Conservation value for wildlife**

### **351 Conservation value for protected wildlife**

- (1) Subject to this part, for section 95(1) of the Act, the conservation value for protected wildlife is—
- (a) for extinct in the wild wildlife—\$18,568; or
  - (b) for endangered wildlife—\$14,854; or
  - (c) for vulnerable wildlife—\$11,137; or
  - (d) for near threatened wildlife—\$7,421; or
  - (e) for least concern wildlife—\$1,847.
- (2) However, subsection (1) does not apply if a conservation plan that applies to the protected wildlife—
- (a) states a different conservation value for the wildlife; or
  - (b) states that no conservation value is payable for the wildlife in stated circumstances.

*Notes—*

- 1 For the conservation value payable for a harvest macropod, see the *Nature Conservation (Macropod) Conservation Plan 2017*, section 85.
- 2 For the conservation value payable for a problem crocodile, see the *Nature Conservation (Estuarine Crocodile) Conservation Plan 2018*, section 31.

### **352 No conservation value payable for protected wildlife taken under particular authorities**

A person who takes protected wildlife under any of the following authorities for the wildlife is exempt from payment of the conservation value for the wildlife—

- (a) a museum licence;
- (b) a damage mitigation permit;
- (c) an educational purposes permit;
- (d) a scientific purposes permit;
- (e) a rehabilitation permit;
- (f) a collection authority to take and keep least concern animals.

**353 No conservation value payable for protected scorpions or spiders**

A person who takes a scorpion or spider under a commercial wildlife harvesting licence for the scorpion or spider is exempt from payment of the conservation value for the scorpion or spider.

**354 No conservation value payable for particular reptiles**

- (1) This section applies to a person who takes a reptile of the family Elapidae—
  - (a) under a commercial wildlife harvesting licence for the reptile; and
  - (b) for extracting venom for the production of antivenom for humans.
- (2) The person is exempt from payment of the conservation value for the reptile.

**355 No conservation value payable for particular lizards**

- (1) This section applies to a person who takes a racing lizard—
  - (a) under a recreational wildlife harvesting licence held by the secretary of the committee of the Cunnamulla–Eulo Festival of Opals; and
  - (b) for racing the lizard in the festival.

[s 356]

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- (2) The person is exempt from payment of the conservation value for the lizard.
- (3) In this section—  
*racing lizard* means—
  - (a) *Trachydosaurus rugosus* (shingle back); or
  - (b) *Pogona vitticeps*.

**356 No conservation value payable for estuarine crocodile eggs**

A person who takes an estuarine crocodile egg under a commercial wildlife harvesting licence for estuarine crocodile eggs is exempt from payment of the conservation value for the egg.

## **Part 5 Special management declarations for marine mammals**

### **Division 1 Preliminary**

**357 Main purposes of pt 5**

The main purposes of this part are to—

- (a) ensure biologically viable populations of marine mammals are conserved or re-established, including, for example, by—
  - (i) conserving critical habitat for marine mammals; or
  - (ii) controlling or removing a threatening process; and
- (b) minimise harm and distress caused directly or indirectly to marine mammals or their habitat by human activity; and

- (c) recognise the interest of Aboriginal people and Torres Strait Islanders in marine mammals, and their involvement in the conservation of marine mammals.

### **358 Achieving main purposes—special management areas**

- (1) To achieve the main purposes of this part, this part provides for the special management of areas that—
  - (a) include critical habitat for a marine mammal; or
  - (b) are a migratory route or corridor for a marine mammal; or
  - (c) are a mating or calving ground for a marine mammal; or
  - (d) are a feeding ground for a marine mammal; or
  - (e) are otherwise regularly frequented by marine mammals; or
  - (f) are the subject of an activity for which a marine mammal is, or is to be, used under Aboriginal tradition or Island custom; or
  - (g) are the subject of scientific research relevant to the conservation of marine mammals (including, for example, by enhancing the scientific knowledge of marine mammals)—
    - (i) that is carried out by a tertiary institution or other institution administered by the Commonwealth or a State; or
    - (ii) that is carried out by an entity that is involved in scientific research; or
    - (iii) that the chief executive is satisfied is necessary, or will significantly contribute, to achieving the main purposes of this part.
- (2) Without limiting subsection (1), special management of the areas mentioned in the subsection is provided for by regulating activities carried out in the area, including, for example, by—

[s 359]

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- (a) imposing stricter approach distances for marine mammals than otherwise provided in this regulation; and
  - (b) imposing speed restrictions for approaching marine mammals; and
  - (c) prohibiting—
    - (i) the carrying out of commercial marine mammal watching activities in the area; or
    - (ii) the carrying out of commercial marine mammal watching activities in the area in a particular way.
- (3) In this section—

*commercial marine mammal watching activities* means activities carried out as part of a business operation involving carrying people in a boat, prohibited vessel or aircraft to watch marine mammals.

### **359 Achieving main purposes—special management marine mammals**

- (1) To achieve the main purposes of this part, this part provides for the special management of a marine mammal that—
- (a) is at risk of harassment, injury (or further injury) or death because the mammal is—
    - (i) a female marine mammal that has recently given, or is about to give, birth; or
    - (ii) a calf separated from a marine mammal or group of marine mammals; or
    - (iii) a stranded marine mammal or marine mammal at risk of being stranded; or
    - (iv) a morphological-variant or colour-variant marine mammal of its species; or
  - (b) may potentially be at risk of harassment, injury (or further injury) or death because the mammal is in a place readily accessible to members of the public; or

- (c) is to be used under Aboriginal tradition or Island custom.
- (2) Without limiting subsection (1), special management of marine mammals mentioned in the subsection is provided for by regulating activities carried out near the mammals, including, for example, by—
  - (a) imposing stricter approach distances for the mammals than otherwise provided in this regulation; and
  - (b) imposing speed restrictions for approaching the mammals.

## **Division 2            Special management areas**

### **Subdivision 1        Special management areas generally**

#### **360    Special management area**

- (1) The area described in schedule 2, part 1 is a special management area.
- (2) Schedule 2, part 1 states the stated distance for the no approach zone for whales in the special management area.

### **Subdivision 2        Temporary special management areas**

#### **361    Declaration of temporary special management area**

- (1) This section applies if the chief executive is satisfied—
  - (a) an area is or will be of a kind mentioned in section 358(1); and

[s 361]

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- (b) it is not appropriate to declare the area to be a special management area under section 360(1) because it will be an area of that kind only for a temporary period.

*Example of areas to which this section may apply—*

an area that has become a temporary feeding ground for a herd of dugong because the herd's permanent feeding ground has been damaged by a natural disaster

- (2) The chief executive may, in the way stated in subsection (4)—
  - (a) declare the area to be a temporary special management area for a period of not more than 60 days; and
  - (b) declare 1 or more of the following for a marine mammal in the special management area—
    - (i) the stated distance for the caution zone;
    - (ii) the stated distance for the no approach zone;
    - (iii) the prescribed distance for a prohibited vessel or aircraft;
    - (iv) the prescribed distance for a person entering or in water;
    - (v) that a person in control of a boat must not bring the boat within a stated distance of the mammal at a stated speed; and

*Examples of speeds that may be stated—*

a speed of more than 6 knots, a speed that creates a wake

- (c) declare activities that are prohibited activities for the area.
- (3) The chief executive may make a declaration under subsection (2) only if the chief executive is satisfied the declaration is necessary to achieve the main purposes of this part.
- (4) The chief executive may make a declaration under subsection (2) by—
  - (a) gazette notice; or
  - (b) subject to subsection (5), a notice published in—



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- (i) a newspaper circulating generally throughout Queensland; and
  - (ii) a newspaper circulating generally in the area in which the temporary special management area the subject of the declaration is located.
- (5) The chief executive need not publish notice of the declaration under subsection (4)(b)(ii) if the chief executive is satisfied that publishing the notice under subsection (4)(b)(i) and (6) will give sufficient notice of the declaration to the people particularly affected by it, having regard to—
- (a) the area the subject of the declaration; and
  - (b) the activities to be regulated in the area.
- (6) The chief executive—
- (a) must also publish a copy of the notice on the department's website and, if practicable, on a sign erected—
    - (i) at or near a usual access point to the area the subject of the temporary special management area declaration; or
    - (ii) in a position that would normally be seen by a person accessing the area the subject of the temporary special management area declaration; and
  - (b) may publish the temporary special management declaration in any other way the chief executive considers appropriate.

*Examples of other ways—*

radio announcements, publication on other websites

## **362 Form of declaration**

A declaration under section 361 must—

- (a) identify the limits of the area the subject of the declaration; and

[s 363]

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- (b) state the reasons for the declaration; and
- (c) include the declarations under section 361(2)(b) applying to the area the subject of the declaration; and
- (d) state the nature of the offence against this regulation arising from each declaration mentioned in paragraph (c), and the maximum penalty under this regulation for the offence; and
- (e) state the period for which the declaration will be in force.

### **363 Term of declaration**

A declaration under section 361—

- (a) takes effect—
  - (i) when the notice for the declaration is published under section 361(4); or
  - (ii) if a later time is stated in the notice—at the later time; and
- (b) applies for the period stated in the notice unless—
  - (i) the period is extended under section 364; or
  - (ii) the declaration is repealed under section 365.

### **364 Extension of period of declaration**

- (1) If the chief executive is satisfied the reasons for making a declaration under section 361 will still exist after the period stated in the notice for the declaration as the period for which the declaration will be in force, the chief executive may extend the period for a further period of not more than 120 days.
- (2) Before extending the period under subsection (1), the chief executive must—
  - (a) publish a notice about the proposed extension—

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- (i) in a newspaper likely to be read by people particularly affected by the proposed extension; and
  - (ii) on the department's website; and
  - (b) have regard to any submissions received under subsection (3)(b).
- (3) The notice must state that—
- (a) consideration is being given to extending the period for which the declaration will be in force; and
  - (b) people are invited to make written submissions in relation to the proposed extension within a period of at least 7 days stated in the notice.

### **365 Repeal of declaration**

If the chief executive is satisfied the reasons for making a declaration under section 361 no longer exist, the chief executive must repeal the declaration as soon as practicable.

## **Division 3 Special management marine mammals**

### **Subdivision 1 Special management marine mammals generally**

#### **366 Special management marine mammals**

- (1) The marine mammal described in schedule 2, part 2 is a special management marine mammal.
- (2) Schedule 2, part 2 states the following for the special management marine mammal—
  - (a) the stated distance for the no approach zone;

[s 367]

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- (b) the prescribed distances for a prohibited vessel and an aircraft.

## **Subdivision 2      Temporary special management marine mammals**

### **367      Declaration of temporary special management marine mammal**

- (1) This section applies if the chief executive is satisfied—
  - (a) a marine mammal, or 1 or more marine mammals in a group, is of a kind mentioned in section 359(1); and
  - (b) it is not appropriate to declare the mammal or mammals to be a special management marine mammal under section 366(1) because the mammal or mammals will be of that kind only for a temporary period.
- (2) The chief executive may, in the way stated in subsection (4)—
  - (a) declare the marine mammal, or all the marine mammals in the group, to be a temporary special management marine mammal for a period of not more than 1 year; and
  - (b) declare 1 or more of the following for the marine mammal or marine mammals—
    - (i) the stated distance for the caution zone;
    - (ii) the stated distance for the no approach zone;
    - (iii) the prescribed distance for a prohibited vessel or aircraft;
    - (iv) the prescribed distance for a person entering or in water;
    - (v) that a person in control of a boat must not bring the boat within a stated distance of the mammal at a stated speed.

*Examples of speeds that may be stated—*

a speed of more than 6 knots, a speed that creates a wake

- (3) However, the chief executive may make a declaration under subsection (2) only if the chief executive is satisfied the declaration is necessary to—
  - (a) achieve the main purposes of this part; or
  - (b) ensure the safety, health and wellbeing of humans.
- (4) Subject to subsection (5), the chief executive may make a declaration under subsection (2) by—
  - (a) gazette notice; or
  - (b) a notice published in—
    - (i) a newspaper circulating generally throughout Queensland; and
    - (ii) a newspaper circulating generally in the area in which the temporary special management marine mammal the subject of the declaration is or is likely to be located.
- (5) The chief executive need not publish notice of the declaration under subsection (4)(b)(ii) if the chief executive is satisfied that publishing the notice under subsection (4)(b)(i) and (6) will give sufficient notice of the declaration to the people particularly affected by it, having regard to—
  - (a) the nature of the temporary special management marine mammal; and
  - (b) the area in which the mammal is or is likely to be located.
- (6) The chief executive—
  - (a) must also publish a copy of the notice on the department's website and, if practicable, on a sign erected—
    - (i) at or near a usual access point to an area in which the temporary special management marine

[s 368]

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mammal the subject of the declaration is or is likely to be located; or

(ii) in a position that would normally be seen by a person accessing an area in which the temporary special management marine mammal the subject of the declaration is or is likely to be located; and

(b) may publish the temporary special management declaration in any other way the chief executive considers appropriate.

*Examples of other ways—*

radio announcements, publication on other websites

### **368 Effect of declaration for a group of marine mammals**

- (1) This section applies if all the marine mammals in a group are declared to be a temporary special management marine mammal.
- (2) Each of the marine mammals in the group is a special management marine mammal at all times the mammal is a member of the group.

### **369 Form of declaration**

A declaration under section 367 must—

(a) identify the marine mammal or marine mammals the subject of the declaration; and

*Example of how a marine mammal may be identified—*

naming the species of marine mammal and describing the unique characteristics of the mammal

(b) state the reasons for the declaration; and

(c) include the declarations under section 367(2)(b) applying to the marine mammal or marine mammals the subject of the declaration; and

(d) state the nature of the offence against this regulation arising from each declaration mentioned in

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paragraph (c), and the maximum penalty under this regulation for the offence; and

- (e) state the period for which the declaration will be in force.

### **370 Term of declaration**

A declaration under section 367—

- (a) takes effect—
  - (i) when the notice for the declaration is published under section 367(4); or
  - (ii) if a later time is stated in the notice—at the later time; and
- (b) applies for the period stated in the notice.

### **371 Repeal of declaration**

If the chief executive is satisfied the reason for making a declaration under section 367 no longer exists, the chief executive must repeal the declaration as soon as practicable.

## **Part 6 Stranded marine mammals**

### **372 Reference to stranded marine mammal in pt 6**

In this part a reference to a stranded marine mammal includes a reference to a marine mammal at risk of being stranded.

### **373 Powers of conservation officer**

- (1) A conservation officer may take the measures the officer considers reasonably necessary to protect or deal with a stranded marine mammal.
- (2) Without limiting subsection (1), a conservation officer may—

[s 374]

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- (a) direct the treatment or, if necessary, the humane killing of a stranded marine mammal; or
  - (b) ask a person to move, or help move, a stranded marine mammal to another place for release or treatment.
- (3) Also, without limiting subsection (1), a conservation officer may direct a person, or a person in control of a boat, prohibited vessel, aircraft or vehicle, at a site where a marine mammal is stranded to—
- (a) keep a stated distance from the mammal; or
  - (b) move the boat, prohibited vessel, aircraft or vehicle in the person's control to a stated place or a stated distance from the mammal.
- (4) A person given a direction under subsection (2)(a) or (3) must comply with the direction unless the person has a reasonable excuse for not complying with it.

Maximum penalty for subsection (4)—165 penalty units.

**374 Authorised taking, keeping or use of a stranded marine mammal that is dead or dies**

If a stranded marine mammal is dead or dies—

- (a) the chief executive may, in writing, authorise—
  - (i) a person to take, keep or use the mammal to carry out scientific research; or
  - (ii) the Queensland Museum to take, keep or use the mammal to carry out the museum's research; and
- (b) the person or museum may take, keep or use the mammal as mentioned in the authority.



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## Part 7                      **Urban flying-fox management area map**

### Division 1                **Preliminary**

#### **375    Main purpose of pt 7 and its achievement**

- (1) The main purpose of this part is to manage the impacts of flying-foxes on human health or wellbeing in urban areas in a way that ensures the conservation of flying-foxes.
- (2) The main purpose is achieved by authorising the chief executive to—
  - (a) make a map of the areas in which a local government may deal with a flying-fox roost under section 41A; and
  - (b) allow or stop action under section 41A by amending the map in particular circumstances.

#### **376    Definitions for pt 7**

In this part—

*local government* includes a person acting under the authority of the local government.

*urban flying-fox management area* means an area described and shown on the urban flying-fox management area map.

*urban flying-fox management area map* means the electronic map of that name, held by the department, as made and amended from time to time under division 3.

## **Division 2                    Making, publishing and accessing map**

### **377    Making and keeping map**

- (1) The chief executive may make an urban flying-fox management area map.
- (2) The chief executive must keep digital electronic information that allows the exact location of the boundaries shown on the map to be identified.
- (3) The chief executive must continue to keep the information, including information about amendments under division 3.
- (4) The information is taken to form part of the map.

### **378    Public access to map**

The chief executive must—

- (a) keep the urban flying-fox management area map published on the department's website; and
- (b) make the map available for inspection during office hours on business days, free of charge, by members of the public at the department's head office and each regional office of the department; and
- (c) permit anyone to take extracts from the map, free of charge, from the department's website, head office or regional office.

## **Division 3                    Amending the map**

### **379    Chief executive may amend map in particular circumstances**

- (1) The chief executive may amend the urban flying-fox management area map under this division in any of the circumstances mentioned in subsections (2) and (3).

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- (2) A local government may—
- (a) give the chief executive information about an area zoned for use for residential or commercial purposes under the local government’s planning scheme; and
  - (b) ask the chief executive to amend the map to include the area.
- (3) The chief executive may also amend the map without a request under subsection (2)—
- (a) to include an area if the chief executive reasonably believes flying-foxes are impacting on human health or wellbeing in the area; or
  - (b) to remove an urban flying-fox management area if the chief executive reasonably believes—
    - (i) the local government for the area has contravened the flying-fox roost management code or the flying-fox roost low impact activities code; or
    - (ii) the conservation of flying-foxes cannot reasonably be achieved by allowing action authorised under section 41A to happen in the area.

*Example for subparagraph (ii)—*

The destruction of flying-fox roosts, when combined with a heatwave in the local government area, will adversely affect the survival of flying-foxes in the area.

### **380 Period for considering requests by local government**

The chief executive may give a local government notice stating that the chief executive will only consider a request by the local government under section 379(2) during a stated period each year.

### **381 Amending map on request by local government**

- (1) This section applies to an amendment of the urban flying-fox management area map requested by a local government under section 379(2).

[s 382]

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- (2) The chief executive must consider whether to make the amendment, taking into account the impact of the amendment on—
  - (a) human health or wellbeing; and
  - (b) the conservation of flying-foxes.
- (3) The chief executive may amend the map in the way decided by the chief executive.
- (4) If the chief executive decides to amend the map, the chief executive must—
  - (a) give the local government notice of the amendment at least 7 days before the day the map is amended; and
  - (b) publish a notice, stating the nature of the amendment, on the department's website on the day the amendment is made.
- (5) If the chief executive decides not to amend the map, the chief executive must—
  - (a) give the local government notice of the chief executive's decision and reason for the decision; and
  - (b) publish a notice, stating the chief executive's decision and the reason for the decision on the department's website.

### **382 Amending map in other circumstances**

- (1) The chief executive may, in a circumstance mentioned in section 379(3), amend the urban flying-fox management area map in the way decided by the chief executive.
- (2) The chief executive must—
  - (a) give the local government for the affected urban flying-fox management area notice of the amendment at least 2 days before the day the map is amended; and
  - (b) publish a notice, stating the nature of the amendment, on the department's website on the day the amendment is made.

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- (3) A notice under subsection (2) must state—
- (a) the period of not more than 3 months that the amendment takes effect; and
  - (b) the reason for the amendment.

**383 Chief executive to decide whether to reinstate removed area**

- (1) This section applies to an area removed from the urban flying-fox management area map in a circumstance mentioned in section 379(3)(b).
- (2) Before the end of the period stated in the notice for the removal under section 382(2)(b), the chief executive must—
- (a) ask the local government for the area for any information relevant to the removal of the area from the map; and
  - (b) consider any information given to the chief executive by the local government under paragraph (a); and
  - (c) decide—
    - (i) to amend the map to reinstate the area, or part of the area; or
    - (ii) not to amend the map.
- (3) The chief executive must—
- (a) give the local government notice of the chief executive's decision under subsection (2)(c); and
  - (b) publish a notice stating the chief executive's decision on the department's website.
- (4) A notice under subsection (3) must state—
- (a) the reason for the chief executive's decision; and
  - (b) if the chief executive decides not to amend the map—the day the decision takes effect.
- (5) If the chief executive decides to amend the map under subsection (2)(c)(i), the chief executive—

[s 384]

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- (a) may amend the map in the way decided by the chief executive; and
- (b) must publish a notice, stating the nature of the amendment, on the department's website on the day the amendment is made.

## **Division 4                    Map or amendment taking effect**

### **384    When map or amendment takes effect**

- (1) The urban flying-fox management area map takes effect when it is published on the department's website.
- (2) An amendment of the map takes effect on the day the chief executive publishes the notice for the amendment on the department's website.

## **Chapter 9                    Transitional provision**

### **385    Taking protected plant if authorised in particular circumstances**

- (1) This section applies if a person was authorised to take a protected plant by clearing in the course of an activity under—
  - (a) an authority, that was in force immediately before the commencement of this section, made, granted or given under another Act by the Governor in Council; or
  - (b) a mining lease or a petroleum lease that was in force immediately before the commencement of this section.
- (2) The person may continue to take the plant in the way the taking was authorised under the authority mentioned in subsection (1)(a) or the mining lease or petroleum lease.

(3) A person who takes a protected plant under this section has an exemption for offences for taking protected plants under section 89 of the Act or using protected plants under section 90 of the Act.

(4) In this section—

*mining lease* means a mining lease granted under the *Mineral Resources Act 1989*.

*petroleum lease* means a petroleum lease granted under the *Petroleum Act 1923*.

## **Schedule 1      Processed products**

sections 317 and 318

### **Part 1                      Preliminary**

#### **1                      Definition for sch 1**

In this schedule—

*approved tag* means a tag that the chief executive has supplied or approved, under chapter 8, part 2, for attaching to an animal to identify the animal as a processed product.

### **Part 2                      Processed products made or derived from protected animals**

#### **2                      Processed products made or derived from particular protected birds**

A dried, freeze-dried, skinned, or chemically treated dead controlled, commercial, recreational or restricted bird if the bird was lawfully taken, kept and used and either—

- (a) the holder of a commercial wildlife licence has—
  - (i) mounted the dead bird; and
  - (ii) attached an approved tag to the dead bird; or
- (b) the bird was taken, kept and used in another State and is lawfully moved into the State.

#### **3                      Processed products made or derived from particular protected butterflies**

- (1) A dead protected butterfly if—
  - (a) the holder of a commercial wildlife licence or wildlife farming licence has—



- (i) mounted the dead butterfly; or
  - (ii) placed the dead butterfly in resin or a resin-like substance; or
  - (b) the butterfly was taken, kept and used in another State and is lawfully moved into the State.
- (2) In this section—

*protected butterfly* means—

- (a) a protected butterfly that—
  - (i) is a farm animal kept by the holder of a wildlife farming licence for the butterfly; and
  - (ii) was lawfully taken or bred from a butterfly that was lawfully taken; and
  - (iii) if the butterfly was taken or bred in another State— was lawfully moved into the State; or
- (b) a protected butterfly that was lawfully taken, kept and used in a place outside the State.

#### **4 Processed products made or derived from particular protected crocodiles**

- (1) The following processed products—
- (a) the skinned carcass, or meat, of a dead protected crocodile lawfully obtained by a person from the holder of a commercial wildlife licence or wildlife farming licence if—
    - (i) the way the carcass or meat is packed complies with the requirements for packing the carcass or meat under the *Food Production (Safety) Act 2000*; and
    - (ii) the carcass or meat was lawfully moved from the holder to the person;
  - (b) the skinned carcass, or meat, of a dead protected crocodile lawfully obtained by a person from a person in another State if—

Schedule 1

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- (i) the way the carcass or meat is packed complies with any applicable law of the other State; and
  - (ii) the carcass or meat is lawfully moved into the State to the person;
- (c) a fully tanned skin of a dead protected crocodile lawfully obtained by a person from the holder of a commercial wildlife licence or wildlife farming licence;
- (d) a fully tanned skin of a dead protected crocodile lawfully obtained by a person from a person outside the State if the skin has an export permit lawfully attached to it;
- (e) an egg of a dead protected crocodile if the egg—
  - (i) has had its contents removed; and
  - (ii) has an export permit lawfully attached to it;
- (f) the whole skin of a dead protected crocodile if the skin—
  - (i) is mounted by either of the following persons—
    - (A) the holder of a commercial wildlife licence;
    - (B) a person in another State who is authorised, under a law of that State, to mount the skin; and
  - (ii) is mounted in a way to display the crocodile in whole form; and
  - (iii) has an export permit lawfully attached to it;
- (g) the skull of a dead protected crocodile if the skull—
  - (i) is prepared or mounted by 1 of the following persons—
    - (A) the holder of a commercial wildlife licence;
    - (B) a person outside the State who is authorised, under a law of that State, to prepare or mount the skull; and
  - (ii) has an export permit lawfully attached to it;

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- (h) another product of a dead protected crocodile if—
    - (i) the product has an export permit lawfully attached to it; or
    - (ii) if the product is packed in a container—the container—
      - (A) is transparent; and
      - (B) has an export permit lawfully attached to it.
  - (2) In this section—

***protected crocodile*** means—

- (a) a protected crocodile that—
  - (i) is a farm animal kept by the holder of a wildlife farming licence for the crocodile; and
  - (ii) was lawfully taken or bred from a crocodile that was lawfully taken; and
  - (iii) if the crocodile was taken or bred in another State—was lawfully moved into the State; or
- (b) a protected crocodile that was lawfully taken, kept and used in a place outside the State.

## **5 Processed products made of or derived from particular protected emus**

- (1) The following processed products—
  - (a) the skinned carcass, or meat, of a dead protected emu lawfully obtained by a person from the holder of a commercial wildlife licence or wildlife farming licence for the emu if—
    - (i) the way the carcass or meat is packed complies with the requirements about packing the carcass or meat under the *Food Production (Safety) Act 2000*; and
    - (ii) the carcass or meat is lawfully moved from the holder to the person;

Schedule 1

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- (b) the skinned carcass, or meat, of a dead protected emu lawfully obtained by a person from a person in another State if—
  - (i) the way the carcass or meat is packed complies with any applicable law of the other State; and
  - (ii) the carcass or meat is lawfully moved into the State;
- (c) the whole skin of a dead protected emu if the skin is fleshed and tanned at the licensed premises for a commercial wildlife licence or wildlife farming licence for emus;
- (d) the whole skin of a dead protected emu if the skin—
  - (i) is mounted by the holder of a commercial wildlife licence for a dead protected emu or a person in another State who is authorised, under a law of that other State, to mount the skin; and
  - (ii) is mounted in a way to display the emu in whole form; and
  - (iii) has an approved tag lawfully attached to it;
- (e) the skin from the leg of a dead protected emu if the skin is fleshed and tanned at the licensed premises for a commercial wildlife licence or wildlife farming licence for emus;
- (f) an egg of a live or dead protected emu if the egg—
  - (i) has had its contents removed; and
  - (ii) has an approved mark on it;
- (g) a feather from a live or dead protected emu;
- (h) oil or fat derived from a dead protected emu;
- (i) a beak, foot or bone of a protected emu if the beak, foot or bone is in a sealed container with an approved label lawfully attached to it.

(2) In this section—

***approved label*** means a label that—

- 
- (a) is of a size required for a product label under the emu code; and
  - (b) includes all the information required for a product label under the emu code.

***approved mark*** means a mark that—

- (a) is of a size and format approved by the chief executive for marks on emu eggs; and
- (b) includes all the information required under the emu code for marks on emu eggs.

***emu code*** means the document called ‘Code of Practice—Emu Farming’, approved by the chief executive under section 174A of the Act.

*Note—*

A copy of the code is open for public inspection, during office hours on business days, at the department’s head office and each regional office of the department. See section 174A(3) of the Act.

***protected emu*** means—

- (a) a protected emu that—
  - (i) is a farm animal kept by the holder of a wildlife farming licence for the emu; and
  - (ii) was lawfully taken or bred from an emu that was lawfully taken; and
  - (iii) if the emu was taken or bred in another State—was lawfully moved into the State; or
- (b) a protected emu that was lawfully taken, kept and used in a place outside the State.

## **6 Processed products made or derived from other protected animals**

- (1) This section applies to a dead protected animal other than—
  - (a) a macropod; and
  - (b) an animal to which section 2, 3, 4 or 5 of this schedule applies.

- (2) The following processed products—
- (a) the skinned carcass, or meat, of a dead protected animal lawfully obtained by a person from the holder of a commercial wildlife licence for the animal if—
    - (i) the way the carcass or meat is packed complies with the requirements about packing the carcass or meat under the *Food Production (Safety) Act 2000*; and
    - (ii) the carcass or meat is lawfully moved from the holder to the person;
  - (b) the skinned carcass, or meat, of a dead protected animal lawfully obtained by the person from a person in another State if—
    - (i) the animal was lawfully taken, kept and used in the other State; and
    - (ii) the way the carcass or meat is packed complies with any applicable law of the other State; and
    - (iii) the carcass or meat is lawfully moved into the State;
  - (c) the skin of a dead protected animal if the animal was lawfully taken, kept and used and—
    - (i) the skin was fully tanned by the holder of a commercial wildlife licence or a recreational wildlife harvesting licence for the animal; or
    - (ii) the skin was lawfully obtained by a person from a place outside the State and the skin—
      - (A) was fully tanned by a person who is authorised, under a law of the place, to tan the animal; and
      - (B) is lawfully moved into the State;
  - (d) a dead protected animal if the animal—
    - (i) was lawfully taken, kept and used; and
    - (ii) has an approved tag lawfully attached to it;

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- (e) the dehydrated and crystallised venom of a snake if the snake—
    - (i) is a farm animal; and
    - (ii) was lawfully taken, kept and used;
  - (f) a natural product of a least concern animal if—
    - (i) the animal has been lawfully taken and is being lawfully kept; and
    - (ii) the product is not used for wholesale sale.

### **Part 3                      Processed products made or derived from protected plants**

#### **7                      Processed products made or derived from protected plants**

A protected plant part lawfully obtained from a place in another State if the plant part was moved into the State under a wildlife movement permit and—

- (a) the way the plant part is packed and tagged complies with the requirements of any applicable law of the other State; and
- (b) the movement of the plant part from the other State into the State is authorised under any applicable law of the other State.

## **Schedule 2      Special management declarations**

sections 360 and 366

### **Part 1              Special management area**

#### **1      Description**

The Whitsunday whale protection area described in the *Great Barrier Reef Marine Park Regulations 1983* (Cwlth), schedule 2, part 2.

#### **2      Distance for no approach zone for whales**

The stated distance for the no approach zone for a whale in the special management area is 300m.

### **Part 2              Special management marine mammals**

#### **1      Description**

A humpback whale with a body pigmentation that is over 90% white in colour.

#### **2      Distance for no approach zone**

The stated distance for the no approach zone for the special management marine mammal is 500m.

#### **3      Prescribed distances for prohibited vessel and aircraft**

For the special management marine mammal—



- (a) the prescribed distance for a prohibited vessel is 500m;  
and
- (b) the prescribed distance for an aircraft is 610m.

## Schedule 3 Domestic animal

schedule 4, definition *domestic animal*

- 1 an alpaca, banteng cattle (*Bos banteng*), cattle (*Bos taurus* or *Bos indicus*), deer, llama or sheep
- 2 an apiary bee other than an indigenous bee
- 3 a camel, cat (*Felis catus*), dog (*Canis lupus familiaris*), donkey, goat, guinea pig, horse, mule or pig
- 4 a captive bred domestic chicken, duck, goose or turkey, other than a chicken, duck, goose or turkey that is indigenous to Australia
- 5 the captive bred domestic form of the house mouse (*Mus musculus*) or brown rat (*Rattus norvegicus*)
- 6 the larval stage of *Ambystoma mexicanum*, commonly known as the Mexican walking fish or Axolotl
- 7 an ostrich, a peafowl or pheasant of the family Phasianidae, other than quail indigenous to Australia
- 8 The following birds—

Common name	Scientific name
Abyssinian yellow-rumped seedeater	<i>Serinus xanthopygius</i>
African silverbill	<i>Lonchura cantans</i>
Alexandrine parakeet	<i>Psittacula eupatria</i>
barred parakeet	<i>Bolborhynchus lineola</i>
black-and-white munia	<i>Lonchura bicolor</i>
black-capped lory	<i>Lorius lory</i>
black-capped parakeet	<i>Yrrhura rupicola</i>
black-capped siskin	<i>Carduelis atriceps</i>
black-headed munia	<i>Lonchura malacca</i>

<b>Common name</b>	<b>Scientific name</b>
black-headed parrot	<i>Pionites melanocephala</i>
black-headed siskin	<i>Carduelis notata</i>
black lory	<i>Chalcopsitta atra</i>
black-rumped waxbill	<i>Estrilda troglodytes</i>
black-winged lory	<i>Eos cyanogenia</i>
blossom-headed parakeet	<i>Psittacula roseata</i>
blue-and-yellow macaw	<i>Ara ararauna</i>
blue-black grassquit	<i>Volatinia jacarina</i>
blue-crowned hanging-parrot	<i>Loriculus galgulus</i>
blue-crowned parakeet	<i>Aratinga acuticaudata</i>
blue-fronted parrot	<i>Amazona aestiva</i>
blue-streaked lory	<i>Eos reticulata</i>
blue-throated parakeet	<i>Pyrrhura cruentata</i>
blue-winged macaw	<i>Ara maracana</i>
bronze munia	<i>Lonchura cucullata</i>
burrowing parakeet	<i>Cyanoliseus patagonus</i>
California quail	<i>Callipepla californica</i>
Canada goose	<i>Branta canadensis</i>
cardinal lory	<i>Chalcopsitta cardinalis</i>
chattering lory	<i>Lorius garrulus</i>
chestnut-fronted macaw	<i>Ara severa</i>
chukar	<i>Alectoris chukar</i>
common pheasant	<i>Phasianus colchicus</i>
common quail	<i>Coturnix coturnix</i>

Schedule 3

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<b>Common name</b>	<b>Scientific name</b>
common redpoll	<i>Carduelis flammea</i>
common waxbill	<i>Estrilda astrild</i>
cordon bleus	<i>Uraeginthus</i> spp.
crimson-bellied parakeet	<i>Pyrrhura rhodogaster</i>
Cuban grassquit	<i>Tiaris canora</i>
Cuban parrot	<i>Amazona leucocephala</i>
cut-throat	<i>Amadina fasciata</i>
derbyan parakeet	<i>Psittacula derbiana</i>
dove, including ruddy turtle, senegal laughing, harlequin and pink-headed	<i>Streptopelia</i> spp.
dusky-headed parakeet	<i>Aratinga weddellii</i>
dusky lory	<i>Pseudeos fuscata</i>
Dybowski's twinspace	<i>Euschistospiza dybowskii</i>
eastern paradise whydah	<i>Vidua paradisaea</i>
Edwards' pheasant	<i>Lophura edwardsi</i>
Egyptian goose	<i>Alopochen aegyptiacus</i>
Eurasian linnet	<i>Carduelis cannabina</i>
Eurasian siskin	<i>Carduelis spinus</i>
Eurasian skylark	<i>Alauda arvensis</i>
European goldfinch	<i>Carduelis carduelis</i>
European greenfinch	<i>Carduelis chloris</i>
European serin	<i>Serinus serinus</i>
fan-tailed widowbird	<i>Euplectes axillaris</i>
fiery-shouldered parakeet	<i>Pyrrhura egregia</i>

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<b>Common name</b>	<b>Scientific name</b>
golden-capped parakeet	<i>Aratinga auricapilla</i>
golden parakeet	<i>Aratinga guarouba</i>
goldie's lorikeet	<i>Psitteuteles goldiei</i>
great green macaw	<i>Ara ambigua</i>
green avadavat	<i>Amandava formosa</i>
green-cheeked parakeet	<i>Pyrrhura molinae</i>
green peafowl	<i>Pavo muticus</i>
green-winged pytilia	<i>Pytilia melba</i>
grey parrot	<i>Psittacus erithacus</i>
grey-capped greenfinch	<i>Carduelis sinica</i>
grey-headed munia	<i>Lonchura caniceps</i>
greylag goose	<i>Anser anser</i>
helmeted guineafowl	<i>Numida meleagris</i>
hooded siskin	<i>Carduelis magellanica</i>
house sparrow	<i>Passer domesticus</i>
hyacinth macaw	<i>Anodorhynchus hyacinthinus</i>
Indian peafowl	<i>Pavo cristatus</i>
island canary	<i>Serinus canaria</i>
jandaya parakeet	<i>Aratinga jandaya</i>
japanese quail	<i>Coturnix japonica</i>
javan munia	<i>Lonchura leucogastroides</i>
java sparrow	<i>Padda oryzivora</i>
Joby Island dove	<i>Gallicolumba jobiensis</i>
kalij pheasant	<i>Lophura leucomelanos</i>

Schedule 3

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<b>Common name</b>	<b>Scientific name</b>
lavender waxbill	<i>Estrilda caerulescens</i>
lilac-crowned parrot	<i>Amazona finschi</i>
love bird	<i>Agapornis</i> spp.
luzon bleeding-heart	<i>Gallicolumba luzonica</i>
Madagascar red fody	<i>Foudia madagascariensis</i>
magpie munia	<i>Lonchura fringilloides</i>
malabar parakeet	<i>Psittacula columboides</i>
mallard	<i>Anas platyrhynchos</i>
mandarin duck	<i>Aix galericulata</i>
maroon-bellied parakeet	<i>Pyrrhura frontalis</i>
maroon-tailed parakeet	<i>Pyrrhura melanura</i>
meyer's parrot	<i>Poicephalus meyeri</i>
military macaw	<i>Ara militaris</i>
mindanao lorikeet	<i>Trichoglossus johnstoniae</i>
moluccan king-parrot	<i>Alisterus amboinensis</i>
monk parakeet	<i>Myiopsitta monachus</i>
muscovy duck	<i>Cairina moschata</i>
mute swan	<i>Cygnus olor</i>
namaqua dove	<i>Oena capensis</i>
nanday parakeet	<i>Nandayus nenday</i>
New Zealand scaup	<i>Aythya novaeseelandiae</i>
nicobar pigeon	<i>Caloenas nicobarica</i>
northern bobwhite	<i>Colinus virginianus</i>
olive-headed lorikeet	<i>Trichoglossus euteles</i>

<b>Common name</b>	<b>Scientific name</b>
orange-cheeked waxbill	<i>Estrilda melpoda</i>
orange-winged parrot	<i>Amazona amazonica</i>
oriental magpie-robin	<i>Copsychus saularis</i>
ornate lorikeet	<i>Trichoglossus ornatus</i>
Pacific parrotlet	<i>Forpus coelestis</i>
painted parakeet	<i>Pyrrhura picta</i>
paradise shelduck	<i>Tadorna variegata</i>
peach-fronted parakeet	<i>Aratinga aurea</i>
pearly parakeet	<i>Pyrrhura perlata</i>
pin-tailed parrotfinch	<i>Erythrura prasina</i>
pin-tailed whydah	<i>Vidua macroura</i>
plain-backed sparrow	<i>Passer flaveolus</i>
plum-headed parakeet	<i>Psittacula cyanocephala</i>
purple-naped lory	<i>Lorius domicella</i>
razor-billed curassow	<i>Mitu tuberosa</i>
red-and-blue lory	<i>Eos histrio</i>
red-and-green macaw	<i>Ara chloropterus</i>
red avadavat	<i>Amandava amandava</i>
red-bellied macaw	<i>Ara manilata</i>
red-bellied parrot	<i>Poicephalus rufiventris</i>
red-billed firefinch	<i>Lagonosticta senegala</i>
red-billed leiothrix	<i>Leiothrix lutea</i>
red bishop	<i>Euplectes orix</i>
red-breasted parakeet	<i>Psittacula alexandri</i>

Schedule 3

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<b>Common name</b>	<b>Scientific name</b>
red-crested cardinal	<i>Paroaria coronata</i>
red-crested finch	<i>Coryphospingus cucullatus</i>
red-crowned parrot	<i>Amazona viridigenalis</i>
red-faced pytilia	<i>Pytilia hypogrammica</i>
red-fan parrot	<i>Deropterus accipitrinus</i>
red-fronted macaw	<i>Ara rubrogenys</i>
red-fronted parakeet	<i>Cyanoramphus novaezelandiae</i>
red-fronted parrot	<i>Poicephalus gulielmi</i>
red-headed finch	<i>Amadina erythrocephala</i>
red-headed fody	<i>Foudia eminentissima</i>
red-headed parrotfinch	<i>Erythrura cyaneovirens</i>
red junglefowl	<i>Gallus gallus</i>
red-lored parrot	<i>Amazona autumnalis</i>
red lory	<i>Eos bornea</i>
red-shouldered macaw	<i>Ara nobilis</i>
red siskin	<i>Carduelis cucullata</i>
red-throated parrotfinch	<i>Erythrura psittacea</i>
red-winged pytilia	<i>Pytilia phoenicoptera</i>
rock partridge	<i>Alectoris graeca</i>
rock pigeon	<i>Columba livia</i>
rose-ringed parakeet	<i>Psittacula krameri</i>
ruddy ground-dove	<i>Columbina talpacoti</i>
ruddy shelduck	<i>Tadorna ferruginea</i>
saffron finch	<i>Sicalis flaveola</i>



<b>Common name</b>	<b>Scientific name</b>
salmon-crested cockatoo	<i>Cacatua moluccensis</i>
scaly-breasted munia	<i>Lonchura punctulata</i>
scarlet macaw	<i>Ara macao</i>
senegal parrot	<i>Poicephalus senegalus</i>
Siamese fireback	<i>Lophura diardi</i>
silver-eared mesia	<i>Leiothrix argentauris</i>
silver pheasant	<i>Lophura nycthemera</i>
slaty-headed parakeet	<i>Psittacula himalayana</i>
southern yellow-rumped seedeater	<i>Serinus atrogularis</i>
Sudan golden-sparrow	<i>Passer luteus</i>
sun parakeet	<i>Aratinga solstitialis</i>
swan goose	<i>Anser cygnoides</i>
swinhoe's pheasant	<i>Lophura swinhoii</i>
thick-billed parrot	<i>Rhynchopsitta pachyrhyncha</i>
tricolored parrotfinch	<i>Erythrura tricolor</i>
Victoria crowned-pigeon	<i>Goura victoria</i>
violet-necked lory	<i>Eos squamata</i>
white-bellied canary	<i>Serinus dorsostriatus</i>
white-bellied parrot	<i>Pionites leucogaster</i>
white-bibbed ground-dove	<i>Gallicolumba jobiensis</i>
white cockatoo	<i>Cacatua alba</i>
white-eared parakeet	<i>Pyrrhura leucotis</i>
white-fronted parrot	<i>Amazona albifrons</i>
white-headed munia	<i>Lonchura maja</i>

Schedule 3

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<b>Common name</b>	<b>Scientific name</b>
white-rumped munia	<i>Lonchura striata</i>
white-rumped seedeater	<i>Serinus leucopygius</i>
white-rumped shama	<i>Copsychus malabaricus</i>
white-throated munia	<i>Lonchura malabarica</i>
wild turkey	<i>Meleagris gallopavo</i>
wood duck	<i>Aix sponsa</i>
yellow-bibbed lory	<i>Lorius chlorocercus</i>
yellow-billed cardinal	<i>Paroaria capitata</i>
yellow-billed lorikeet	<i>Neopsittacus musschenbroekii</i>
yellow-breasted greenfinch	<i>Carduelis spinoides</i>
yellow canary	<i>Serinus flaviventris</i>
yellow cardinal	<i>Gubernatrix cristata</i>
yellow-collared macaw	<i>Ara auricollis</i>
yellow-crowned bishop	<i>Euplectes afer</i>
yellow-crowned parrot	<i>Amazona ochrocephala</i>
yellow-fronted canary	<i>Serinus mozambicus</i>
yellow-fronted parakeet	<i>Cyanoramphus auriceps</i>
yellow-rumped siskin	<i>Carduelis uropygialis</i>
zebra waxbill	<i>Amandava subflava</i>

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## Schedule 3A Special least concern plants

### section 300

Plants of the following families—

Adiantaceae, other than *Adiantum formosum*

Alismataceae

Amaryllidaceae

Blechnaceae, other than *Blechnum cartilagineum* and *Doodia aspera*

Burmanniaceae

Byblidaceae

Campanulaceae, other than *Isotoma anethifolia*;

Cycadaceae

Cymodoceaceae

Dicksoniaceae, other than *Calochlaena dubia*

Doryanthaceae

Dracaenaceae, other than *Cordyline petiolaris* and *Cordyline rubra*

Droseraceae

Dryopteridaceae

Gesneriaceae

Goodeniaceae (*Brunonia* only)

Grammitidaceae

Hydrocharitaceae

Hymenophyllaceae

Juncaginaceae

Lentibulariaceae

Lycopodiaceae, other than *Lycopodiella cernua*

Menyanthaceae

Najadaceae

Nelumbonaceae

Nepenthaceae

Nymphaeaceae

Orchidaceae

Podostemaceae

Potamogetonaceae

Schizaeaceae

Stylidiaceae, other than *Stylidium graminifolium*

Tmesipteridaceae

Vittariaceae

Zamiaceae

Zosteraceae

Plants of the following genera—

Aponogeton

Blandfordia (Christmas bells)

Brachychiton

Hydnophytum

Livistona

Microsorium

Myrmecodia

Platynerium

Xanthorrhoea

Plants of the following species—

*Santalum lanceolatum* (sandalwood)

## Schedule 4 Relevant protected animals

schedule 5, definitions *exempt animal*, *controlled animal*, *commercial animal*, *recreational animal*, *relevant protected animal* and *restricted animal*

### Part 1 Exempt animals

#### 1 Birds

The following birds are exempt animals—

Common name	Scientific name
Australian ringneck or twenty-eight parrot	<i>Barnardius zonarius semitorquatus</i>
Bourke's parrot	<i>Neophema bourkii</i>
brown quail	<i>Coturnix ypsilophora</i>
budgerigar	<i>Melopsittacus undulates</i>
cockatiel or quarrion	<i>Nymphicus hollandicus</i>
diamond dove	<i>Geopelia cuneata</i>
elegant parrot	<i>Neophema elegans</i>
galah	<i>Cacatua roseicapilla</i>
Gouldian finch	<i>Erythrura gouldiae</i>
king quail	<i>Coturnix chinensis</i>
little corella	<i>Cacatua sanguinea</i>
long-billed corella	<i>Cacatua tenuirostris</i>
peaceful dove	<i>Geopelia striata</i>
princess parrot or Alexandra's parrot	<i>Polytelis alexandrae</i>

<b>Common name</b>	<b>Scientific name</b>
rainbow lorikeet	<i>Trichoglossus haematodus haematodus</i>
red-rumped parrot	<i>Psephotus haematonotus</i>
scarlet-chested parrot	<i>Neophema splendida</i>
star finch, other than the eastern subspecies	<i>Neochmia ruficauda</i> , other than <i>N. r. ruficauda</i>
stubble quail	<i>Coturnix pectoralis</i>
sulphur-crested cockatoo	<i>Cacatua galerita</i>
western corella	<i>Cacatua pastinator</i>
zebra finch	<i>Taeniopygia guttata</i>

## Part 2                      Controlled animals

### 2            Birds

The following birds are controlled animals—

<b>Common name</b>	<b>Scientific name</b>
Adelaide rosella	<i>Platycercus elegans adelaidae</i>
bar-shouldered dove	<i>Geopelia humeralis</i>
black-throated finch	<i>Poephila cincta</i>
blue-faced parrot finch	<i>Erythrura trichroa</i>
chestnut-breasted mannikin	<i>Lonchura castaneothorax</i>
common bronzewing	<i>Phaps chalcoptera</i>
crested pigeon	<i>Ocyphaps (Geophaps) lophotes</i>
crimson rosella	<i>Platycercus elegans elegans</i>
diamond firetail	<i>Stagonopleura guttata</i>

<b>Common name</b>	<b>Scientific name</b>
double-barred finch	<i>Taeniopygia bichenovii</i>
eastern rosella	<i>Platycercus eximius</i>
emerald dove	<i>Chalcophaps indica</i>
hooded parrot	<i>Psephotus dissimilis</i>
little button-quail	<i>Turnix velox</i>
long-tailed finch	<i>Poephila acuticauda</i>
mallee ringneck	<i>Barnardius zonarius barnardi</i>
masked finch	<i>Poephila personata</i>
musk lorikeet	<i>Glossopsitta concinna</i>
painted button-quail	<i>Turnix varia</i>
painted finch	<i>Emblema pictum</i>
pale-headed rosella	<i>Platycercus adscitus</i>
Port Lincoln ringneck	<i>Barnardius zonarius zonarius</i>
rainbow (red-collared) lorikeet	<i>Trichoglossus haematodus rubritorquatus</i>
red-capped parrot	<i>Purpureicephalus spurius</i>
scaly-breasted lorikeet	<i>Trichoglossus chlorolepidotus</i>
turquoise parrot	<i>Neophema pulchella</i>
western rosella	<i>Platycercus icterotis</i>
yellow rosella	<i>Platycercus elegans flaveolus</i>

## **Part 3 Commercial animals**

### **3 Birds**

The following birds are commercial animals—

<b>Common name</b>	<b>Scientific name</b>
Australian ringneck or Cloncurry parrot	<i>Barnardius zonarius macgillivrayi</i>
beautiful firetail	<i>Stagonopleura bellum</i>
black-breasted button-quail	<i>Turnix melanogaster</i>
blue bonnet, other than the narethae subspecies	<i>Northiella haematogaster</i> , other than <i>N.h. narethae</i>
blue-winged parrot	<i>Neophema chrysostoma</i>
brown cuckoo-dove	<i>Macropygia amboinensis</i>
brush bronzewing	<i>Phaps elegans</i>
chestnut quilled rock-pigeon	<i>Petrophassa rufipennis</i>
crimson finch	<i>Neochmia phaeton</i>
flock bronzewing	<i>Phaps histrionica</i>
golden-shouldered parrot	<i>Psephotus chrysopterygius</i>
king parrot	<i>Alisterus scapularis</i>
little lorikeet	<i>Glossopsitta pusilla</i>
mulga parrot	<i>Psephotus varius</i>
northern rosella	<i>Platycercus venustus</i>
pictorella mannikin	<i>Heteromunia pectoralis</i>
pie imperial-pigeon	<i>Ducula bicolor</i>
plum-headed finch	<i>Neochmia modesta</i>
purple-crowned lorikeet	<i>Glossopsitta porphyrocephala</i>
red-backed button-quail	<i>Turnix maculosa</i>
red-browed finch	<i>Neochmia temporalis</i>
red-chested button-quail	<i>Turnix pyrrhothorax</i>



<b>Common name</b>	<b>Scientific name</b>
red-winged parrot	<i>Aprosmictus erythropterus</i>
regent parrot	<i>Polytelis anthopeplus</i>
rock parrot	<i>Neophema petrophila</i>
spinifex pigeon	<i>Geophaps plumifera</i>
squatter pigeon	<i>Geophaps scripta</i>
superb parrot	<i>Polytelis swainsonii</i>
varied lorikeet	<i>Psitteuteles versicolor</i>
white-headed pigeon	<i>Columba leucomela</i>
white-quilled rock-pigeon	<i>Petrophassa albipennis</i>
wonga pigeon	<i>Leucosarcia melanoleuca</i>
yellow-rumped mannikin	<i>Lonchura flaviprymna</i>

#### **4 Invertebrates**

The following invertebrates are commercial animals—

- (a) all protected spiders;
- (b) all protected scorpions.

#### **5 Reptiles**

The following reptiles are commercial animals—

<b>Common name</b>	<b>Scientific name</b>
The following reptiles of the family Agamidae—	
central netted dragon	<i>Ctenophorus nuchalis</i>
inland bearded dragon	<i>Pogona vitticeps</i>
[no common name]	<i>Pogona henrylawsoni</i>

**Common name**

**Scientific name**

The following reptiles of the family Scincidae—

Cunningham's skink	<i>Egernia cunninghami</i>
eastern blue-tongued lizard	<i>Tiliqua scincoides</i>
pink-tongued lizard	<i>Hemisphaeriodon gerrardii</i>

The following reptiles of the family Chelidae—

eastern snake-necked turtle	<i>Chelodina longicollis</i>
Krefft's river turtle	<i>Emydura krefftii</i>
Murray turtle	<i>Emydura macquarii</i>
saw-shelled turtle	<i>Elseya latisternum</i>

The following reptiles of the family Geckonidae—

[no common name]	<i>Nephrurus amylae</i>
[no common name]	<i>Nephrurus levis</i>
thick-tailed gecko	<i>Underwoodisaurus milii</i>
rough knob-tailed gecko	<i>Nephrurus asper</i>

The following reptiles of the family Boidae—

children's python	<i>Antaresia childreni</i>
spotted python	<i>Antaresia maculosa</i>
Stimson's python	<i>Antaresia stimsoni</i>

## Part 4 Recreational animals

### 6 Amphibians

A least concern amphibian is a recreational animal.

### 7 Birds

The following birds are recreational animals—

<b>Common name</b>	<b>Scientific name</b>
Australasian shoveler	<i>Anas rhynchotis</i>
Australian shelduck	<i>Tadorna tadornoides</i>
black duck	<i>Anas superciliosa</i>
black swan	<i>Cygnus atratus</i>
blue-billed duck	<i>Oxyura australis</i>
Cape Barren goose	<i>Cereopsis novaehollandiae</i>
chestnut teal	<i>Anas castanea</i>
green pygmy-goose	<i>Nettapus pulchellus</i>
grey teal	<i>Anas gracilis</i>
hardhead	<i>Aythya australis</i>
magpie goose	<i>Anseranas semipalmata</i>
maned duck or wood duck	<i>Chenonetta jubata</i>
pink-eared duck	<i>Malacorhynchus membranaceus</i>
plumed whistling-duck	<i>Dendrocygna eytoni</i>
radjah shelduck	<i>Tadorna radjah</i>
wandering whistling-duck	<i>Dendrocygna arcuata</i>

## 8 Reptiles

A least concern reptile, other than the following, is a recreational animal—

- (a) a reptile that is a restricted reptile;
- (b) a freshwater crocodile (*Crocodylus johnstoni*).

## Part 5 Restricted animals

### 9 Amphibians

A threatened or near threatened amphibian is a restricted animal.

### 10 Birds

The following birds are restricted animals—

<b>Common name</b>	<b>Scientific name</b>
Australian magpie (black-backed)	<i>Gymnorhina tibicen tibicen</i>
banded lapwing	<i>Vanellus tricolor</i>
buff-breasted button-quail	<i>Turnix olivii</i>
eclectus parrot (Australian subspecies)	<i>Eclectus roratus macgillivrayi</i>
figbird	<i>Specotheres viridis</i>
gang gang cockatoo	<i>Callocephalon fimbriatum</i>
glossy black-cockatoo	<i>Calyptorhynchus lathami</i>
green rosella	<i>Platycercus caledonicus</i>
long-billed black-cockatoo	<i>Calyptorhynchus baudinii</i>
Macleay's fig parrot	<i>Cyclopsita diopthalma macleayana</i>
Major Mitchell's cockatoo (pink cockatoo)	<i>Cacatua leadbeateri</i>

<b>Common name</b>	<b>Scientific name</b>
masked lapwing	<i>Vanellus miles</i>
naretha blue bonnet	<i>Northiella haematogaster naretha</i>
partridge pigeon	<i>Geophaps smithii</i>
red-eared firetail	<i>Tagonopleura oculata</i>
red-tailed black-cockatoo	<i>Calyptorhynchus banksii</i>
red wattlebird	<i>Anthochaera carunculata</i>
rose-crowned fruit-dove	<i>Ptilinopus regina</i>
scarlet honeyeater	<i>Myzomela sanguinolenta</i>
short-billed (white-tailed) black-cockatoo	<i>Calyptorhynchus latirostris</i>
silvereve (grey-backed)	<i>Zosterops lateralis</i>
splendid fairy-wren	<i>Malurus splendens</i>
spotted pardalote	<i>Pardalotus punctatus</i>
superb fairy-wren	<i>Malurus cyaneus</i>
superb fruit-dove	<i>Ptilinopus superbus</i>
swift parrot	<i>Lathamus discolor</i>
topknot pigeon	<i>Lopholaimus antarcticus</i>
variegated fairy-wren	<i>Malurus lamberti</i>
white-winged fairy-wren	<i>Malurus leucopterus</i>
wompoo fruit-dove	<i>Ptilinopus magnificus</i>
yellow-tailed black-cockatoo	<i>Calyptorhynchus funereus</i>

## 11 Reptiles

The following reptiles are restricted animals—

Schedule 4

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- (a) a threatened or near threatened reptile other than the following—
  - (i) a reptile of the family Cheloniidae;
  - (ii) a reptile of the family Dermochelyidae;
  - (iii) an estuarine crocodile (*Crocodylus porosus*);
- (b) a reptile of the family Hydrophiidae;
- (c) a reptile of the family Laticaudidae;
- (d) the following reptiles of the family Elapidae—

<b>Common name</b>	<b>Scientific name</b>
black snakes	<i>Pseudechis</i> spp.
broad-headed snakes	<i>Hoplocephalus</i> spp.
brown snakes	<i>Pseudonaja</i> spp.
Collett's snake	<i>Pseudechis colletti</i>
copperheads	<i>Austrelaps</i> spp.
death adders	<i>Acanthopis</i> spp.
eastern small-eyed snake	<i>Rhinoplocephalus nigriscens</i>
rough scaled snake	<i>Tropidechis carinatus</i>
taipans	<i>Oxyuranus</i> spp.
tiger snakes	<i>Notechis</i> spp.

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## Schedule 5      Dictionary

## section 5(1)

***Aboriginal people particularly concerned with the land*** means Aborigines particularly concerned with land within the meaning given by the *Aboriginal Land Act 1991*, section 3.

***accept***, wildlife, does not include—

- (a) take the wildlife; and
- (b) for the holder of a wildlife authority—accept the wildlife from a relevant person for the holder who has taken the wildlife under the authority.

***Administration Regulation*** means the *Nature Conservation (Administration) Regulation 2017*.

***animal breeding place***, of an animal, means a bower, burrow, cave, hollow, nest or other thing that is commonly used by the animal to incubate or rear the animal's offspring.

***approved display purpose***, for a display of an animal, means any of the following—

- (a) to give public information about the ecological role of the animal;
- (b) to promote education about, and the conservation of, the animal;
- (c) to promote an understanding of ecology and the conservation of the animal.

***approved interaction plan***, for a species of protected animal, means a plan that is—

- (a) about interacting with animals of the species; and
- (b) approved by the chief executive.

***approved method***, for taking an animal under a commercial wildlife harvesting licence or recreational wildlife harvesting licence, means—

Schedule 5

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- (a) if the chief executive has written the way the animal may be taken on the licence—the method written on the licence; or
- (b) otherwise—
  - (i) a method that is mentioned in a relevant code of practice for the animal as a method by which the animal may be taken; or
  - (ii) another method consistent with the *Animal Care and Protection Act 2001*.

***approved tag***, for schedule 1, see schedule 1, section 1.

***authorised buyer***, for wildlife, means a person who is authorised to keep the wildlife under the Act, including a person authorised, under the Act, to keep the wildlife in another State or country.

***authorised display*** means a show or display that—

- (a) is not conducted for a commercial purpose; and
- (b) lasts for not longer than 11 days.

***authorised interstate seller***, for wildlife, means a person who—

- (a) is authorised to sell or give away the wildlife under a law of another State; and
- (b) does not hold a wildlife authority authorising the person to sell or give away the wildlife.

***authorised keeper in another country***, for an animal of a species, means—

- (a) a person who is specifically authorised to keep an animal of the species in the other country under a law of that country; and
- (b) a person who is not prohibited from keeping an animal of the species in the other country under the laws of that country.

***authorised keeper in another State***, for an animal of a species, means—



- 
- (a) a person who is specifically authorised to keep an animal of the species in the other State under a law of that State; and
  - (b) a person who is not prohibited from keeping an animal of the species in the other State under the laws of that State.

***authorised premises***, for an animal, means premises where the animal is authorised to be kept under the Act.

***biodiscovery*** see the *Biodiscovery Act 2004*, schedule.

***boat*** does not include a prohibited vessel.

***caution zone***—

- 1 The *caution zone* for a marine mammal is—
  - (a) for a special management marine mammal, if the special management declaration for the mammal includes a stated distance for the caution zone for the mammal—an area outside the no approach zone for the mammal but within the stated distance from the mammal; or
  - (b) for a marine mammal in a special management area, if the special management declaration for the area includes a stated distance for the caution zone for the mammal—an area outside the no approach zone for the mammal but within the stated distance from the mammal; or
  - (c) for a whale other than a whale to which paragraph (a) or (b) applies—an area outside the no approach zone for the whale but within a distance of 300m from the whale; or
  - (d) for a dolphin other than a dolphin to which paragraph (a) or (b) applies—an area outside the no approach zone for the dolphin but within a distance of 150m from the dolphin.
- 2 However, there is no caution zone for a marine mammal mentioned in paragraph 1 if, because of a special management declaration, there is no area that is outside

the no approach zone and within the distance mentioned in paragraph 1 for the mammal.

**clearing impact area** see section 249.

**code requirements**, for an exhibit for an animal, means the requirements under the exhibition code for the facilities associated with an exhibit for the animal, to the extent the requirements are not inconsistent with the prescribed criteria for the exhibit.

**commercial animal** means a protected animal mentioned in schedule 4, part 3.

**commercial purpose** see section 6.

**conservation purpose**, for a protected plant—

- 1 A protected plant is used for a **conservation purpose** when it is used for an activity, other than an activity for a commercial purpose or landscaping, that supports the conservation of the plant or its natural habitat.

*Example—*

a protected plant used in rehabilitation or revegetation activities

- 2 A protected plant is also used for a **conservation purpose** if the plant is given away to—
  - (a) a voluntary conservation organisation; or
  - (b) a volunteer community organisation.

**contingent salvage**, of a whole restricted plant, means the harvesting of the plant by the holder of a protected plant harvesting licence, or a relevant person for the holder, if—

- (a) the land from which the plant is harvested is lawfully cleared—
  - (i) under a protected plant clearing permit; or
  - (ii) in the course of an activity under a mining lease or petroleum lease to which section 385 applies; or
  - (iii) for a government infrastructure project; or
  - (iv) to harvest a timber plantation; or

- 
- (v) under a development approval under the Planning Act; and
  - (b) the plant—
    - (i) would otherwise be destroyed by the clearing; or
    - (ii) is not the subject of a condition of a clearing permit allowing the use of plants for an impact management measure; and
  - (c) the use of the plant is not the primary reason for the clearing.

***controlled animal*** means a protected animal mentioned in schedule 4, part 2.

***controlled conditions*** means—

- (a) for cultivating a protected plant, conditions under which the plant's reproduction and growth are actively manipulated which are achieved by, for example, irrigation, weed and disease control, tillage and fertilising; or
- (b) for propagating a protected plant, conditions under which the plant's reproduction and growth are actively manipulated which are achieved by nursery operations, including, for example, potting, bedding, watering and protection from the weather.

***disturb***, an animal, includes—

- (a) approach, harass, harm, lure, pursue, tease or touch the animal; and
- (b) attempt to do an act mentioned in paragraph (a).

***dolphin*** means a member of the family Delphinidae or the family Phocoenidae.

***domestic animal*** means an animal mentioned in schedule 3.

***drive away***, a flying-fox from a flying-fox roost, see section 88C(6) of the Act.

***dugong*** means the mammal *Dugong dugon*.

***estuarine crocodile*** means an animal of the species *Crocodylus porosus*.

***exempt animal*** means a protected animal mentioned in schedule 4, part 1.

***exhibited animal authority*** means an exhibited animal authority under the *Exhibited Animals Act 2015*.

***exhibition code*** means the document called ‘Code of practice of the Australasian Regional Association of Zoological Parks and Aquaria—Minimum standards for exhibiting wildlife in Queensland’, approved by the chief executive under section 174A of the Act.

*Note—*

A copy of the code is open for public inspection, during office hours on business days, at the department’s head office and each regional office of the department. See section 174A(3) of the Act.

***export permit*** means a permit to export issued under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth).

***farm animal—***

- 1 An animal of a species mentioned in paragraph 2 is a *farm animal* if the animal—
  - (a) is wild by nature and is lawfully taken from the wild under the Act; or
  - (b) is farmed; or
  - (c) has been, or is being, lawfully moved into the State for use for farming.
- 2 For paragraph 1, the species are as follows—
  - (a) a reptile of the family Elapidae;
  - (b) birdwing butterfly (*Ornithoptera sp.*);
  - (c) emu (*Dromaius novaehollandiae*);
  - (d) estuarine crocodile (*Crocodylus porosus*);
  - (e) freshwater crocodile (*Crocodylus johnstoni*);
  - (f) Ulysses butterfly (*Papilio ulysses*);

(g) water buffalo (*Bubalus bubalis*).

**feed**, in relation to an animal, includes—

- (a) use food to tease or lure the animal; and
- (b) attempt to feed the animal.

**flora survey** see section 250(1).

**flora survey guidelines** see section 253(1).

**flora survey report** see section 250(2).

**flora survey trigger map** see section 247.

**flying-fox** means a protected animal of the genus *Pteropus*.

**flying-fox damage mitigation code** means the document called ‘Code of practice—Ecologically sustainable lethal take of flying-foxes for crop protection’, approved by the chief executive under section 174A of the Act.

*Note—*

A copy of the code is open for public inspection, during office hours on business days, at the department’s head office and each regional office of the department. See section 174A(3) of the Act.

**flying-fox roost** see section 88C(6) of the Act.

**flying-fox roost low impact activities code** means the document called ‘Code of practice—low impact activities affecting flying-fox roosts’, approved by the chief executive under section 174A of the Act.

**flying-fox roost management code** means the document called ‘Code of practice—Ecologically sustainable management of flying-fox roosts’, approved by the chief executive under section 174A of the Act.

**Great Barrier Reef Marine Park** means the Great Barrier Reef Marine Park established under the *Great Barrier Reef Marine Park Act 1975* (Cwlth).

**harvest**, for a whole protected plant or protected plant part—

- (a) means taking the plant or plant part in the wild to be used; but

- (b) does not include taking, by clearing, the plant or plant part in the wild for the use of the land from which the plant or plant part is taken.

**harvest macropod** has the meaning given by the *Nature Conservation (Macropod) Conservation Plan 2017*, schedule 2.

**helicopter** includes a gyrocopter.

**high risk area** see section 248.

**impact management measure** means a work or activity undertaken to ensure the survival of a protected plant that is endangered, vulnerable or near threatened wildlife.

*Examples of impact management measures—*

transplanting or propagating an endangered, vulnerable or near threatened plant species

**interact**, with an animal, includes the following—

- (a) approach, pursue or lure an animal for interacting with or feeding the animal;
- (b) gain a benefit from interacting with or feeding the animal;
- (c) attempt to do an act mentioned in paragraph (a) or (b).

**local government**, for chapter 8, part 7, see section 376.

**marine mammal** means a dolphin, dugong or whale.

**marine turtle** means a turtle of the family Cheloniidae or Dermochelyidae.

**meat**, of an animal, includes the flesh and offal of the animal.

**military standing order** means a standing order that—

- (a) is a general order under the *Defence Force Discipline Act 1982* (Cwlth); and
- (b) includes provisions relating to training members of a part of the Australian Defence Force about survival in the wild.

*Note—*

A copy of the relevant military standing orders may be inspected at the department's head office.

***motorised diving aid*** means a vessel that has a motor and is used to aid diving.

*Examples—*

a diver propulsion vehicle, an underwater scooter

***movement***, of wildlife, means a continuous journey between 2 places that is broken only for a stop that is necessary or incidental for the journey.

*Examples of stops necessary or incidental for a journey—*

- 1 a stop ordinarily made by persons in transit for food, rest, bathing or using toilet facilities
- 2 a stop for feeding, cleaning or resting an animal being transported
- 3 a stop for placing wildlife to be moved to another country in quarantine
- 4 a stop for placing a live animal to be moved to another country in facilities to acclimatise the animal for the other country's conditions

***movement advice*** means a movement advice in the approved form under the Administration Regulation, section 174.

***native animal*** means any taxon or species of animal indigenous to Australia, including, for example, a dingo (*Canis familiaris dingo*).

***natural product***, of an animal, means a product that is shed, lost or excreted by the animal without any human inducement or other human intervention.

*Examples of natural products—*

- feathers of a bird that the bird naturally sheds or loses
- skin of a snake that is naturally shed by the snake
- teeth of a snake that are naturally passed in the faeces of the snake

***no approach zone*** means—

- (a) for a special management marine mammal, if the special management declaration for the mammal includes a stated distance for the no approach zone for the mammal—the stated distance; or

- (b) for a marine mammal in a special management area, if the special management declaration for the area includes a stated distance for the no approach zone for the mammal—the stated distance; or
- (c) for a whale other than a whale to which paragraph (a) or (b) applies—
  - (i) 100m from the whale; or
  - (ii) 300m from any point within an arc of 30 degrees from either side of the front or rear of the whale; or
- (d) for a dolphin other than a dolphin to which paragraph (a) or (b) applies—
  - (i) 50m from the dolphin; or
  - (ii) 150m from any point within an arc of 30 degrees from either side of the front or rear of the dolphin.

***official tag***, for a protected plant, means—

- (a) a tag supplied by the chief executive, under chapter 8, part 2, for attaching to the plant; or
- (b) for a tag used for attaching to the plant under a law of another State—a tag that complies with the requirements, for the tag, of any applicable law of the other State.

***operational salvage***, of a protected plant part, means the harvesting of the plant part if—

- (a) the land from which the plant part is harvested is cleared or disturbed by repetitive, routine weed control activities, including, for example, slashing, ploughing or poisoning; and
- (b) the activities are carried out to allow the land to be used for—
  - (i) forest management; or
  - (ii) road safety; or
  - (iii) maintaining electricity, water, gas, telecommunication or another service facility; and



- 
- (c) the plant part—
    - (i) is taken in carrying out the activities; and
    - (ii) would otherwise be destroyed by carrying out the activities; and
  - (d) the type of plant from which the part is taken will normally regenerate even if a significant proportion of the parts of the plant that are above ground are taken or die; and
  - (e) the use of the plant part is not the primary reason for carrying out the activities.

***personal use***, of a protected plant—

- (a) means a use of the plant for a purpose other than for trade; and
- (b) includes the taking of a protected plant part for use in a local government's botanic garden or park.

***person in control***, of a boat, prohibited vessel, or aircraft, includes—

- (a) the person in command of the boat, vessel, or aircraft; or
- (b) the person who appears to be in control or command of the boat, vessel, or aircraft.

***Planning Act*** means the *Planning Act 2016*.

***planning scheme*** means a planning scheme under the Planning Act.

***prescribed criteria***, for an exhibit for an animal, means each of the following—

- (a) the exhibit is, or will be, used to display the animal only for an approved display purpose for the animal;
- (b) the exhibit is, or will be, located at a place that is appropriate for the approved display purpose;
- (c) the exhibit is, or will be, of a size and design that will allow the animal to behave in a way reasonably similar to which the animal would behave in the wild in normal environmental conditions;

Schedule 5

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- (d) the exhibit is, or will be, located in a place, and is, or will be, built in a way, that—
  - (i) will allow the animal to experience environmental conditions similar to the conditions the animal would experience in the wild; and
  - (ii) will not expose the animal to excessive noise or vibration or otherwise cause the animal to experience unreasonable stress levels;
- (e) the exhibit will be at an appropriate temperature and humidity level to ensure the health and wellbeing of the animal is maintained;
- (f) the exhibit has, or will have, a part that may be used to house the animal for long periods away from the part of the exhibit used to display animals.

***prescribed natural habitat***, for an animal, means—

- (a) if a conservation plan includes a definition of a ‘prescribed natural habitat’ for the animal—a habitat within the meaning of the definition; or

*Note—*

For koalas, see the *Nature Conservation (Koala) Conservation Plan 2017*, schedule 2.

- (b) if paragraph (a) does not apply—an appropriate natural habitat for the animal.

***prescribed protected animal*** means—

- (a) a live mammal that is a protected animal; and
- (b) a fertilised egg of a mammal that is a protected animal.

***private land*** means—

- (a) freehold land; or
- (b) land the subject of a lease under any Act containing an entitlement to a deed of grant in fee simple.

***problem crocodile*** see the *Nature Conservation (Estuarine Crocodile) Conservation Plan 2018*, section 5.

***prohibited vessel*** means a hovercraft, hydrofoil, jet ski, motorised diving aid, parasail or wing in ground effect craft.

***protected plant licence*** means a protected plant growing licence or protected plant harvesting licence.

***protected plants assessment guidelines*** means the assessment guidelines for considering applications for wildlife authorities for protected plants approved or made by the chief executive under section 174B of the Act.

*Note—*

A copy of the guidelines as in force from time to time is available for inspection on the department's website. See section 174B(3) of the Act.

***protected plant trade exemption*** see section 261ZH.

***protected plant trade label*** see section 261ZK(2).

***public place*** means—

- (a) a place, or part of a place, that the public is entitled to use, is open to members of the public or is used by the public, whether or not on payment of money; or
- (b) a place, or part of a place, other than a place of residence or part of a place of residence, the occupier of which allows members of the public to enter, whether or not on payment of money.

***rail government entity*** see the *Transport Infrastructure Act 1994*, schedule 6.

***record*** means a record in a form complying with the Administration Regulation, section 133.

***record-keeping period***, for a record or other document, means the period for which the record or document is required to be kept under the Administration Regulation, section 171.

***recreational animal*** means a protected animal mentioned in schedule 4, part 4.

***relevant code of practice***, for an animal, means a code of practice that—

Schedule 5

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- (a) relates to animals of the same species as the animal, to the extent the code of practice provides for the way in which the animals must be kept or used; and
- (b) has been approved or made by the chief executive under section 174A of the Act.

***relevant protected animal*** means an animal mentioned in schedule 4.

***reptile and amphibian code*** means the document called ‘Code of Practice—Captive Reptile and Amphibian Husbandry’, approved by the chief executive under section 174A of the Act.

*Note—*

A copy of the code is open for public inspection, during office hours on business days, at the department’s head office and each regional office of the department. See section 174A(3) of the Act.

***restricted animal*** means a protected animal mentioned in schedule 4, part 5.

***restricted plant*** means a protected plant that is any of the following—

- (a) endangered wildlife;
- (b) vulnerable wildlife;
- (c) near threatened wildlife;
- (d) a special least concern plant.

*Note—*

- 1 See the Wildlife Regulation, schedule 2, part 2 about plants that are endangered wildlife.
- 2 See the Wildlife Regulation, schedule 3, part 2 about plants that are vulnerable wildlife.
- 3 See the Wildlife Regulation, schedule 5, part 2 about plants that are near threatened wildlife.

***return of operations*** means a return of operations in a form complying with the Administration Regulation, section 142.

***salvage*** means contingent salvage or operational salvage.

***sandalwood*** means a plant of the species *Santalum lanceolatum*.

**scientific purpose** includes an archaeological, anthropological or sociological purpose.

**shark** means a cartilaginous fish of the superorder Euselachii.

**skinned carcass**, of an animal, means the carcass of the animal with the skin removed.

**special management area** means—

- (a) an area declared to be a special management area under section 360(1); or
- (b) an area declared to be a temporary special management area under section 361.

**special management declaration** means—

- (a) for a special management area—a declaration under section 360(1) or 361; or
- (b) for a special management marine mammal—a declaration under section 366(1) or 367.

**special management marine mammal** means—

- (a) a marine mammal declared to be a special management marine mammal under section 366(1); or
- (b) a marine mammal declared to be a temporary special management marine mammal under section 367.

**special native animal** means—

- (a) echidna (*Tachyglossus aculeatus*); and
- (b) koala (*Phascolarctos cinereus*); and
- (c) platypus (*Ornithorhynchus anatinus*); and
- (d) wombat (Family Vombatidae).

**State land** means—

- (a) unallocated State land under the *Land Act 1994*; or
- (b) a reserve for community purposes under the *Land Act 1994*; or
- (c) a State forest or timber reserve under the *Forestry Act 1959*; or

- (d) a forest reserve; or
- (e) land subject to a lease or licence under the *Land Act 1994*; or
- (f) a State-controlled road or local government road under the *Transport Infrastructure Act 1994*.

**State museum** means a non-profit institution that—

- (a) is owned or administered by the Commonwealth or a State; and
- (b) has, as a function, the preservation of information in any branch of the natural sciences about animals.

**stock plant** means a plant taken in the wild—

- (a) under a protected plant growing licence; and
- (b) for providing propagative material by—
  - (i) dividing the plant; or
  - (ii) removing the seed, cuttings or propagative material from the plant.

**stranded**, for a marine mammal, means the mammal is—

- (a) aground on a shore; or
- (b) in a helpless state; or

*Examples of a marine mammal in a helpless state—*

- an entangled marine mammal
- an incapacitated marine mammal

- (c) sick, injured or dead.

**supporting habitat**, for a protected plant, means the components, including other plants, of the habitat of a protected plant necessary for the plant's survival at any stage of its life cycle located within 100m of the protected plant.

**sustainable harvest plan**, for a protected plant licence, means a plan about the harvesting of protected plants that may be taken under the licence and the ecological sustainability or benefits of the proposed harvest.

**temporary display** means a display that lasts for not more than 14 days.

**Torres Strait Islanders particularly concerned with land** means Torres Strait Islanders particularly concerned with land within the meaning given by the *Torres Strait Islander Land Act 1991*, section 3.

**trade**, for restricted plants, see section 6A.

**unauthorised interaction** see section 7.

**unpack**, in relation to a product, does not include removing a mark, label, tag or other thing that has been directly placed on, or attached to, the product.

**urban flying-fox management area** see section 376.

**urban flying-fox management area map** see section 376.

**use**—

- (a) for an animal—does not include the following—
  - (i) process the animal;
  - (ii) move the animal;
  - (iii) for a protected animal in the wild—engage in an unauthorised interaction for the animal; and
- (b) for a protected plant—does not include move the plant.

**veterinary surgeon** means a person registered as a veterinary surgeon under the *Veterinary Surgeons Act 1936*.

**voluntary wildlife care association** means a corporation whose objects include—

- (a) the voluntary rehabilitation of sick, injured or orphaned protected animals and, if possible, the return of the animals to the wild; and
- (b) the conservation of native animals.

**wake** means a breaking wave created in water by a moving boat or prohibited vessel.

**weapon** see the *Weapons Act 1990*, schedule 2.

***whale*** means a cetacean of the family Balaenidae, Balaenopteridae, Kogiidae, Physeteridae or Ziphiidae.

***wing in ground effect craft*** means a vessel constructed to move above the surface of the water using ground effect to lift off, land and maintain a limited altitude.

***wildlife authority*** does not include—

- (a) a commercial wildlife licence (wildlife interaction); and
- (b) a wildlife movement permit.