



Queensland

Nature Conservation and Other Legislation Amendment Regulation (No. 2) 2005

Subordinate Legislation 2005 No. 138

made under the

Environmental Protection Act 1994

Nature Conservation Act 1992

Wet Tropics World Heritage Protection and Management Act 1993

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Nature Conservation and Other Legislation Amendment Regulation (No. 2) 2005*.

2 Commencement

This regulation commences on 25 June 2005.

Part 2 Amendment of the Environmental Protection (Waste Management) Regulation 2000

3 Regulation amended in pt 2

This part amends the *Environmental Protection (Waste Management) Regulation 2000*.

4 Amendment of s 5 (Application in relation to sewerage and stormwater drainage)

Section 5, from ‘to a sewerage’—

omit, insert—

‘to any of the following—

- (a) a sewerage system or stormwater installation within the meanings given by the *Plumbing and Drainage Act 2002*, schedule;
- (b) a local government’s stormwater drainage, within the meaning given by the *Local Government Act 1993*, schedule.’.

5 Amendment of sch 9 (Dictionary)

Schedule 9, definition *endangered wildlife*, ‘section 7’—
omit, insert—
‘schedule’.

**Part 3 Amendment of Nature
Conservation Regulation 1994**

6 Regulation amended in pt 3

This part amends the *Nature Conservation Regulation 1994*.

7 Amendment of s 33 (When chief executive must not grant authorities)

- (1) Section 33(1)(b), ‘rare or’—
omit, insert—
‘threatened, rare or near’.
- (2) Section 33(1)(c), from ‘(other’ to ‘wildlife)’—
omit, insert—
‘, other than threatened, rare or near threatened wildlife’.
- (3) Section 33(2), ‘rare or vulnerable’—
omit, insert—
‘vulnerable, rare or near threatened’.

8 Amendment of s 34 (Other restrictions on grant of authorities)

Section 34(3), from ‘rare’ to ‘common’—
omit, insert—
‘vulnerable, rare, near threatened or least concern’.

9 Amendment of ss 115, 147, 153, 172, 238, 308, 324, 331–335, 338, 427 and 453 and schs 6, 7, 9 and 10

Sections 115(b), 147, 153, 172, 238(1), 308(1), 324(d), 331, 332, 333, 334(1), 335, 338, 427(f) and 453, definition *prescribed period*, paragraph (c), schedule 6, section 7(2)(f), schedule 7, part 2, item 13, schedule 9, part 4, sections 1 and 3, and schedule 10, definition *relevant person*, paragraph (c), ‘common’—

omit, insert—

‘least concern’.

10 Amendment of ss 205 and 328 and sch 9

Sections 205 and 328(1) and schedule 9, part 5, sections 1 and 3, ‘or rare’—

omit, insert—

‘, rare or near threatened’.

11 Amendment of s 279 (Restriction on animals for which permit may be granted)

Section 279(a), ‘common’—

omit, insert—

‘near threatened or least concern’.

12 Amendment of ch 3, pt 6, div 4, hdg and sdivs 1–3, hdgs

Chapter 3, part 6, division 4, heading and subdivision 1, heading, subdivision 2, heading, and subdivision 3, heading, ‘common’—

omit, insert—

‘least concern’.

13 Amendment of s 374 (Restriction on plants for which permit may be granted)

Section 374(a), ‘common’—

omit, insert—

‘near threatened or least concern’.

14 Amendment of s 426 (Conservation value for protected wildlife)

(1) Section 426(1)(a), ‘presumed extinct’—

omit, insert—

‘extinct in the wild’.

(2) Section 426(1)(e)—

omit, insert—

‘(e) for near threatened wildlife—\$3500.00; or

(f) for least concern wildlife—\$1137.00.’.

15 Amendment of s 472 (Exemption from fee for recreational wildlife harvesting licence for protected plant parts that will be propagated and replanted)

Section 472, ‘or common’—

omit, insert—

‘, near threatened or least concern’.

16 Replacement of ch 5, hdg

Chapter 5, heading—

omit, insert—

‘Chapter 5 Transitional provisions

‘Part 1 Transitional provisions for Nature Conservation and Other Legislation Amendment Regulation (No. 3) 2003’.

relevant continuing appeal means an appeal to the Magistrates Court that—

- (a) is against a decision of the chief executive to refuse to grant a collection authority to take and keep common wildlife; and
- (b) was started but not decided before the commencement.

unamended regulation means the *Nature Conservation Regulation 1994* as in force before the commencement.

‘Division 2 Transitional provisions for collection authorities to take and keep common wildlife

‘490 Continuing force of existing authorities

- ‘(1) This section applies to a collection authority to take and keep common wildlife (an ***existing authority***) in force immediately before the commencement or granted under section 493.
- ‘(2) From the commencement, the existing authority, and any conditions of the existing authority, have force as if the existing authority were a collection authority to take and keep least concern wildlife for the wildlife identified on the existing licence.
- ‘(3) Subsection (2) has effect only for the term of the existing authority.

‘491 Applications in progress for authorities

- ‘(1) This section applies to an application for a collection authority to take and keep common wildlife for an animal if the application is not finally decided before the commencement.
- ‘(2) From the commencement, the application is taken to be an application for a collection authority to take and keep least concern wildlife for the animal.

‘492 Continuing appeals for authorities to be decided under provisions before commencement

‘The court must decide each relevant continuing appeal under the unamended regulation.

‘493 Effect of court decision to grant authority

‘If the court decides that a collection authority to take and keep common wildlife for an animal must be granted, the chief executive must grant a collection authority to take and keep least concern wildlife for the animal.

‘494 Effect of court decision to returns matter back to chief executive

- ‘(1) This section applies if the court returns the matter to which a relevant continuing appeal relates to the chief executive with directions.
- ‘(2) The application to which the relevant continuing appeal relates (the *existing application*) is taken to be an application for a collection authority to take and keep least concern wildlife for the animal to which the existing application relates.
- ‘(3) The chief executive must follow the court’s directions to the extent possible.

‘495 Effect of court decision to not grant authority

‘If the court confirms the decision being appealed against under a relevant continuing appeal, despite the commencement of the amending regulation—

- (a) the existing application continues to be an application for a collection authority to take and keep common wildlife for the animal to which the existing application relates; and
- (b) any further decision about the application must be made under the unamended regulation.

**‘Division 3 References to particular collection
 authorities or wildlife in relevant
 authorities or other documents**

**‘496 References to collection authorities to take and
 keep common wildlife**

‘In a relevant authority or another document, a reference to a collection authority to take and keep common wildlife granted under the Act is, if the context permits, taken to be a reference to a collection authority to take and keep least concern wildlife granted under the Act.

‘497 References to presumed extinct wildlife

‘In a relevant authority or another document—

- (a) a reference to presumed extinct wildlife is, if the context permits, taken to be a reference to extinct in the wild wildlife; and
- (b) a reference to a presumed extinct animal is, if the context permits, taken to be a reference to an extinct in the wild animal; and
- (c) a reference to a presumed extinct plant is, if the context permits, taken to be a reference to an extinct in the wild plant.

‘498 References to common wildlife

‘In a relevant authority or another document—

- (a) a reference to common wildlife is, if the context permits, taken to be a reference to least concern wildlife; and
- (b) a reference to a common animal is, if the context permits, taken to be a reference to a least concern animal; and
- (c) a reference to a common plant is, if the context permits, taken to be a reference to a least concern plant.’.

20 Amendment of sch 10 (Dictionary)

- (1) Schedule 10, definitions *common amphibian*, *common animal* and *common plant*—
omit.
- (2) Schedule 10—
insert—
'least concern amphibian means an amphibian that is least concern wildlife.
least concern animal means an animal that is least concern wildlife.
least concern plant means a plant that is least concern wildlife.
near threatened animal means an animal that is near threatened wildlife.
near threatened plant means a plant that is near threatened wildlife.'

Part 4
**Amendment of Nature
Conservation (Wildlife)
Regulation 1994****21 Regulation amended in pt 4**

This part amends the *Nature Conservation (Wildlife) Regulation 1994*.

22 Amendment of s 4 (Presumed extinct wildlife)

- (1) Section 4, heading, 'Presumed extinct'—
omit, insert—
'Extinct in the wild'.
- (2) Section 4(1), from 'specified' to 'extinct'—

omit, insert—

‘mentioned in schedule 1, parts 1 and 2, is extinct in the wild’.

- (3) Sections 4(2), ‘specified’—

omit, insert—

‘stated’.

23 Amendment of ss 5–7 and 9–10

- (1) Sections 5(1), 6(1), 7(1), 9(1) and 10(1), ‘specified’—

omit, insert—

‘mentioned’.

- (2) Sections 5(2), 6(2), 7(2), 9(2) and 10(2), ‘specified’—

omit, insert—

‘stated’.

24 Insertion of new s 7A

After section 7—

insert—

‘7A Near threatened wildlife

‘(1) Native wildlife mentioned in schedule 4A, part 1, is near threatened wildlife.

‘(2) The declared management intent for the wildlife is stated in schedule 4A, part 2.

25 Amendment of s 8 (Common wildlife)

- (1) Section 8, heading, ‘Common’—

omit, insert—

‘Least concern’.

- (2) Section 8(1), from ‘specified’ to ‘common’—

omit, insert—

‘mentioned in schedule 5, parts 1 and 2, is least concern’.

- (3) Sections 8(2), ‘specified’—
omit, insert—
‘stated’.

26 Amendment of sch 1 (Presumed extinct wildlife)

- (1) Schedule 1, heading, and part 1, heading, and part 2, heading, ‘Presumed extinct’—
omit, insert—
‘Extinct in the wild’.
- (2) Schedule 1, sections 2, 4, 6, 8 and 9, ‘presumed extinct’—
omit, insert—
‘extinct in the wild’.
- (3) Schedule 1, section 5—
omit, insert—

‘5 Scientific names

‘The scientific names for plants mentioned in this part follow the names used by the Queensland Herbarium in the census of Queensland plants, published from time to time under the title ‘Queensland Plants, Names and Distribution’.¹’.

- (4) Schedule 1, section 7, ‘Presumed extinct’—
omit, insert—
‘Extinct in the wild’.
- (5) Schedule 1, section 8(e)—
omit, insert—
‘(e) to cooperate with Commonwealth and other State agencies—
(i) for the ongoing protection and management of the wildlife; and

¹ An extract of the names used in the census is available for inspection by the public at the Queensland Herbarium, Mt Coot-tha Road, Toowong.

- (ii) to work towards a national conservation status for the wildlife;’.

27 Amendment of sch 2 (Endangered wildlife)

- (1) Schedule 2, section 13—

omit, insert—

‘13 Scientific names

‘The scientific names for plants mentioned in this part follow the names used by the Queensland Herbarium in the census of Queensland plants, published from time to time under the title ‘Queensland Plants, Names and Distribution’.²’.

- (2) Schedule 2, section 16(e)—

omit, insert—

‘(e) to cooperate with Commonwealth and other State agencies—

- (i) for the ongoing protection and management of the wildlife; and
- (ii) to work towards a national conservation status for the wildlife;’.

28 Amendment of sch 3 (Vulnerable wildlife)

- (1) Schedule 3, section 13—

omit, insert—

‘13 Scientific names

‘The scientific names for plants mentioned in this part follow the names used by the Queensland Herbarium in the census of Queensland plants, published from time to time under the title ‘Queensland Plants, Names and Distribution’.³’.

2 An extract of the names used in the census is available for inspection by the public at the Queensland Herbarium, Mt Coot-tha Road, Toowong.

3 An extract of the names used in the census is available for inspection by the public at the Queensland Herbarium, Mt Coot-tha Road, Toowong.

(2) Schedule 3, section 14, entry for *Acacia chinchillensis*—
omit.

(3) Schedule 3, section 16(e)—
omit, insert—

- ‘(e) to cooperate with Commonwealth and other State agencies—
- (i) for the ongoing protection and management of the wildlife; and
 - (ii) to work towards a national conservation status for the wildlife;’.

29 Amendment of sch 4 (Rare wildlife)

(1) Schedule 4, section 9—
omit, insert—

‘9 Scientific names

‘The scientific names for plants mentioned in this part follow the names used by the Queensland Herbarium in the census of Queensland plants, published from time to time under the title ‘Queensland Plants, Names and Distribution’.⁴’.

(2) Schedule 2, section 12(d)—
omit, insert—

- ‘(d) to cooperate with Commonwealth and other State agencies—
- (i) for the ongoing protection and management of the wildlife; and
 - (ii) to work towards a national conservation status for the wildlife;’.

4 An extract of the names used in the census is available for inspection by the public at the Queensland Herbarium, Mt Coot-tha Road, Toowong.

30 Insertion of new sch 4A

After schedule 4—

insert—

‘Schedule 4A Near threatened wildlife

section 7A

‘Part 1 Near threatened plants

‘1 Scientific names

‘The scientific names for plants mentioned in this part follow the names used by the Queensland Herbarium in the census of Queensland plants, published from time to time under the title ‘Queensland Plants, Names and Distribution’.⁵

‘2 Plants

‘The following plants—

‘Scientific name	Common name
<i>Acacia chinchillensis</i>	Chincilla wattle

‘Part 2 Declared management intent

‘3 Significance

‘Near threatened wildlife are a part of Queensland’s biodiversity and a vital component of the ecosystem it lives in, representing—

⁵ An extract of the names used in the census is available for inspection by the public at the Queensland Herbarium, Mt Coot-tha Road, Toowong.

- (a) a part of a biota of inherent value and potential importance for the maintenance of ecosystem processes; and
- (b) a source of genetic information integral to an understanding of the evolution of the Australian biota; and
- (c) a genetic resource of potential benefit to society.

‘4 Proposed management intent

‘The proposed management intent for near threatened wildlife is as follows—

- (a) to establish and maintain a database of records and information about the wildlife and its habitat;
- (b) to monitor and review the conservation status of the wildlife and its habitat;
- (c) to put into effect strategies to address any threats to the conservation of the wildlife;
- (d) to take action to prevent the further decline of populations of the wildlife in the wild;
- (e) to cooperate with Commonwealth and other State agencies—
 - (i) for the ongoing protection and management of the wildlife; and
 - (ii) to work towards a national conservation status for the wildlife;
- (f) to monitor and review environmental impact procedures to ensure they—
 - (i) accurately assess the extent of the impact, on the wildlife, of the activities to which the procedures relate; and
 - (ii) provide for effective measures to mitigate any adverse impact of the activities on the wildlife.

‘5 Principles for the taking and use of near threatened wildlife

‘Taking and use of near threatened wildlife under a licence, permit or other authority under the Act may be permitted only if—

- (a) the taking and use is consistent with the management principles for the wildlife;⁶ and
- (b) the taking and use will not affect the survival of populations of the wildlife in the wild.’.

31 Amendment of sch 5 (Common wildlife)

- (1) Schedule 5, heading, and part 1, heading, and part 2, heading, ‘Common’—

omit, insert—

‘Least concern’.

- (2) Schedule 5, section 1, ‘(other’ to ‘common’—

omit, insert—

‘, other than an extinct in the wild, endangered, vulnerable, rare or near threatened amphibian, is a least concern’.

- (3) Schedule 5, section 2, ‘(other’ to ‘common’—

omit, insert—

‘, other than an extinct in the wild, endangered, vulnerable, rare or near threatened bird, is a least concern’.

- (4) Schedule 5, section 3(2), ‘common’—

omit, insert—

‘least concern’.

- (5) Schedule 5, section 3(2)(a) and (b), from ‘a presumed’ to ‘rare’

⁶ The management principles are in section 73 of the Act.

omit, insert—

‘an extinct in the wild, endangered, vulnerable, rare or near threatened’.

- (6) Schedule 5, section 4, ‘common’—

omit, insert—

‘least concern’.

- (7) Schedule 5, section 4(1)(a)—

omit, insert—

‘(a) an extinct in the wild, endangered, vulnerable, rare or near threatened mammal; or’.

- (8) Schedule 5, section 5, ‘(other’ to ‘common’—

omit, insert—

‘, other than an extinct in the wild, endangered, vulnerable, rare or near threatened reptile, is a least concern’.

- (9) Schedule 5, section 6, from ‘a presumed’ to ‘common’—

omit, insert—

‘an extinct in the wild, endangered, vulnerable, rare or near threatened plant, is a least concern’.

- (10) Schedule 5, section 7, ‘Common’—

omit, insert—

‘Least concern’.

- (11) Schedule 5, sections 8 and 9, ‘common’—

omit, insert—

‘least concern’.

Part 5

Amendment of the Wet Tropics Management Plan 1998

32 Plan amended in pt 5

This part amends the *Wet Tropics Management Plan 1998*.

33 Amendment of s 59 (World heritage values)

Section 59(3)(a)(i), from ‘presumed’ to ‘or rare’—
omit, insert—

‘extinct in the wild, endangered, vulnerable, rare or near
threatened’.

ENDNOTES

1. Made by the Governor in Council on 23 June 2005.
2. Notified in the gazette on 24 June 2005.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Environmental Protection Agency.