



Queensland

Nature Conservation (Plants) Regulation 2020

Subordinate Legislation 2020 No. 137

made under the

Environmental Offsets Act 2014

Nature Conservation Act 1992

State Penalties Enforcement Act 1999

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Chapter 1 Introduction

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Nature Conservation (Plants) Regulation 2020*.

2 Commencement

This regulation commences on 22 August 2020.

Part 2 Interpretation

3 Definitions

The dictionary in schedule 5 defines particular words used in this regulation.

4 Meaning of *trade*

- (1) A person uses a protected plant for *trade* if the person—
- uses the plant for gain or reward (a *commercial purpose*); or
 - uses the plant for a purpose related to a commercial purpose; or
 - otherwise buys, exchanges, gives away, obtains or sells the plant for benefit, gain or reward.

Examples—

- a landscape contractor using a protected plant in a landscaping job
- 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
- (2) Without limiting subsection (1)(a), a person uses a plant for a commercial purpose if the person—
- (a) takes or uses the plant—
 - (i) as part of a business; or
 - (ii) for a home-based business, home occupation, or similar business, under a local law or a planning scheme under the *Planning Act 2016*; or
 - (b) buys or sells the plant and income tax is payable under a law of the Commonwealth for the proceeds from any sale of the plant; or
 - (c) takes or uses the plant while carrying on a business that involves buying or selling plants of the same species; or
 - (d) brings the plant, or has the plant brought, into the State for the main purpose of selling the plant.
- (3) However, a person does not use a protected plant for *trade* if the person uses the plant for the person’s own personal use.

Note—

See also sections 41(3) and 42(2).

5 Meaning of *relevant person*

A *relevant person*, for the holder of a plant authority, is—

- (a) for an Aboriginal tradition authority or Island custom authority—each person stated on the authority as a person who may take or use a plant under the authority; or
- (b) for another authority if the holder is an individual—an employee or agent of the individual acting under the direction of the individual; or
- (c) for another authority if the holder is a corporation—

[s 6]

- (i) the person stated in the authority as the person in charge of the licensed premises for the authority;
or
- (ii) an executive officer, employee or agent of the corporation acting under the direction of the person mentioned in subparagraph (i).

6 Meaning of *whole* of plant

- (1) The *whole* of a plant includes the following—
 - (a) in relation to taking a plant other than sandalwood—no part of the plant that may naturally and readily regrow is left behind;
 - (b) in relation to taking a plant that propagates by creeping rhizomes—
 - (i) each continuous piece of rhizome bearing living fronds; and
 - (ii) any removed section of joined rhizomes bearing living fronds;
 - (c) if the plant is sandalwood—the trunk, a log or timber of sandalwood;
 - (d) if a person divides the plant into 1 or more viable plants—each viable plant.
- (2) However, the *whole* of a plant does not include an ungerminated seed.

7 References to classes of wildlife

In this regulation, a reference to a plant of a particular class is a reference to a plant that is prescribed as wildlife of that class by chapter 2.

Example—

A reference to a least concern plant is a reference to a plant that is prescribed as least concern wildlife by chapter 2.

8 Scientific names

The scientific names used for plants mentioned in this regulation follow the names used in the document called ‘Census of the Queensland Flora’, published on the department’s website.

Note—

A copy of the census is available for inspection by the public at the Queensland Herbarium, Mt Coot-tha Road, Toowong.

9 References relating to plant authorities

- (1) A reference in this regulation to a licence, permit or other authority of a type mentioned in chapter 4, parts 3 to 7 is a reference to a licence, permit or other authority of that type under chapter 5.

Example—

A reference to a protected plant growing licence is a reference to a protected plant growing licence under chapter 5.

- (2) A reference in this regulation to a plant authority for a plant is a reference to a plant authority that applies to the plant whether or not the authority applies to—
 - (a) more than 1 plant; or
 - (b) plants of different types or species.

Part 3 Application of regulation

10 Protected areas

- (1) Chapter 2, parts 2 and 4 and schedules 1 and 3 apply in relation to a plant in a protected area.
- (2) This regulation does not otherwise apply in relation to a plant in a protected area.

Chapter 2 Classification of plants, declared management intent and conservation values

Part 1 Preliminary

11 Purpose of chapter

This chapter—

- (a) prescribes classes of plants for part 5, division 2 of the Act; and
- (b) provides for the declared management intent applying to each class of plant for section 72(2) of the Act; and
- (c) prescribes special least concern plants for section 88D(1) of the Act; and
- (d) prescribes the conservation value for particular plants for section 95 of the Act.

Part 2 Protected wildlife

12 Extinct wildlife

The declared management intent applicable to a plant being managed as extinct wildlife is to manage the plant having regard to the matters mentioned in schedule 1, part 2, division 1.

Note—

See schedule 1, section 3(g) for circumstances in which a plant that is extinct wildlife is to be managed as if it were critically endangered wildlife.

13 Extinct in the wild wildlife

- (1) For section 77 of the Act, a plant mentioned in schedule 1, part 2, division 2, subdivision 1 is prescribed as extinct in the wild wildlife.
- (2) The declared management intent applicable to a plant mentioned in subsection (1) is to manage the plant having regard to the matters mentioned in schedule 1, part 2, division 2, subdivision 2.

Note—

See schedule 1, section 7(g) for circumstances in which a plant that is extinct in the wild wildlife is to be managed as if it were critically endangered wildlife.

14 Critically endangered wildlife

- (1) For section 78 of the Act, a plant mentioned in schedule 1, part 2, division 3, subdivision 1 is prescribed as critically endangered wildlife.
- (2) The declared management intent applicable to a plant mentioned in subsection (1) is to manage the plant having regard to the matters mentioned in schedule 1, part 2, division 3, subdivision 2.

15 Endangered wildlife

- (1) For section 78A of the Act, a plant mentioned in schedule 1, part 2, division 4, subdivision 1 is prescribed as endangered wildlife.
- (2) The declared management intent applicable to a plant mentioned in subsection (1) is to manage the plant having regard to the matters mentioned in schedule 1, part 2, division 4, subdivision 2.

[s 16]

16 Vulnerable wildlife

- (1) For section 78B of the Act, a plant mentioned in schedule 1, part 2, division 5, subdivision 1 is prescribed as vulnerable wildlife.
- (2) The declared management intent applicable to a plant mentioned in subsection (1) is to manage the plant having regard to the matters mentioned in schedule 1, part 2, division 5, subdivision 2.

17 Near threatened wildlife

- (1) For section 79 of the Act, a plant mentioned in schedule 1, part 2, division 6, subdivision 1 is prescribed as near threatened wildlife.
- (2) The declared management intent applicable to a plant mentioned in subsection (1) is to manage the plant having regard to the matters mentioned in schedule 1, part 2, division 6, subdivision 2.

Note—

See schedule 1, section 23(h) for circumstances in which a plant that is near threatened wildlife is to be managed as if it were another class of wildlife.

18 Least concern wildlife

- (1) For section 80 of the Act, a plant mentioned in schedule 1, part 2, division 7, subdivision 1 is prescribed as least concern wildlife.
- (2) The declared management intent applicable to a plant mentioned in subsection (1) is to manage the plant having regard to the matters mentioned in schedule 1, part 2, division 7, subdivision 2.

Part 3 Special least concern plants

19 Special least concern plants

For section 88D(1) of the Act, a plant mentioned in schedule 2 is prescribed as a special least concern plant.

Part 4 Conservation values for protected plants

20 Conservation value for classes of protected plants

For section 95(1) of the Act, an amount mentioned in schedule 3, column 2 is prescribed as the conservation value for a protected plant in the class mentioned in schedule 3, column 1 opposite the value.

Chapter 3 Dealing with protected plants under exemptions

Part 1 General exemptions for taking protected plants

Division 1 Preliminary

21 Exemption for taking protected plants—Act, s 89

A person has an exemption for section 89(1) of the Act to take a protected plant that is in the wild if this part states an exemption applies to the person for taking the plant.

[s 22]

Note—

Chapter 4 provides for taking and using protected plants under a plant authority.

Division 2 Exemptions

22 Avoiding or reducing risk of death or serious injury to a person

An exemption applies to a person who takes a protected plant that is in the wild if—

- (a) the taking is necessary and reasonable to avoid or reduce an imminent risk of death or serious injury to a person; and
- (b) the taking can not reasonably be avoided or minimised.

23 Avoiding or reducing risk of serious damage to buildings or property

An exemption applies to a person who takes a protected plant that is in the wild if—

- (a) the taking is necessary and reasonable to avoid or reduce an imminent risk of serious damage to a building or other structure on land, or to personal property; and
- (b) significant economic loss may be suffered by any person if the damage is not prevented or controlled; and
- (c) the taking can not reasonably be avoided or minimised.

24 Particular persons acting under Fire and Emergency Services Act 1990

An exemption applies to a person who takes a protected plant that is in the wild if—

- (a) the taking is, or is a necessary part of, a measure that is—

- (i) authorised under the *Fire and Emergency Services 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 taking is by a person lighting a fire that is—
 - (i) authorised under a notification under the *Fire and Emergency Services Act 1990*, section 63 or a permit granted under section 65 of that Act; and
 - (ii) necessary as a means of fire hazard reduction.

Part 2 General exemptions for using protected plants

Division 1 Preliminary

25 Exemption for using protected plants—Act, s 90

A person has an exemption for section 90(1) of the Act to use a protected plant if this part states an exemption applies to the person for using the plant.

Notes—

- 1 Section 146 requires a person using a protected plant under an exemption in this part to comply with the plant exemptions code.
- 2 Chapter 4 provides for taking and using protected plants under a plant authority.

Division 2 Exemptions

26 Landholders gaining benefit

An exemption applies to a landholder of private land who gains a benefit for allowing a person to take a protected plant

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from the landholder's land if the taking is authorised under the Act.

27 Particular persons using protected plants for personal use

- (1) An exemption applies to a person who uses a protected plant for the person's own personal use if the person lawfully obtains the plant other than by taking it.

Example—

A person buys a protected plant from a nursery for the person's own personal use.

- (2) An exemption applies to the holder of a protected plant licence, or a relevant person for the holder, who uses a protected plant taken under the licence for the holder's own personal use.
- (3) However, subsection (2) applies to the holder of a protected plant harvesting licence, or a relevant person for the holder, only if the licence does not otherwise state the extent to which a plant may be used for personal use under the licence.
- (4) An exemption applies to a person who moves a protected plant to or from any place within, inside or outside of the State for the person's own personal use.

28 Particular persons using protected plants for trade

- (1) An exemption applies to a person who uses, for trade, a protected plant if—
 - (a) the person lawfully obtains the plant other than by taking it; and
 - (b) another exemption under this chapter does not apply to the person for using the plant.
- (2) An exemption applies to the holder of a protected plant growing licence, or a relevant person for the holder, who uses,

for trade, a protected plant taken under the licence unless the use of the plant—

- (a) is selling the plant; or
- (b) is giving away the plant if the plant is to be used for trade.

Examples for paragraph (b)—

- giving away a plant taken under the licence to a person for selling the plant
 - giving away a plant taken under the licence to a property developer for use in landscaping a property development
 - giving away a plant taken under the licence to a person who has purchased, or otherwise proposes to carry on, a protected plant growing licence holder's business of growing plants
- (3) An exemption applies to the holder of a protected plant harvesting licence, or a relevant person for the holder, who uses, for trade, a protected plant taken under the licence only if the licence does not otherwise state the extent to which the plant may be used for trade under the licence.

29 Propagated whole restricted plants

An exemption applies to a person who uses a whole restricted plant if—

- (a) the person—
 - (i) is the holder of a protected plant licence, or a relevant person for the holder; or
 - (ii) is acting under another exemption stated in this chapter; and
- (b) the person propagates the plant under controlled conditions—
 - (i) by using only reproductive or propagative material that was obtained lawfully; and

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- (ii) for a stock plant taken in the wild under a protected plant growing licence—by dividing the stock plant 12 months or more after it was taken from the wild.

30 Cultivated parts of restricted plants

An exemption applies to a person who uses a part of a restricted plant if—

- (a) the person—
 - (i) is the holder of a protected plant licence, or a relevant person for the holder; or
 - (ii) is acting under another exemption under this chapter; and
- (b) the person cultivates the part under controlled conditions using only reproductive or propagative material that was obtained lawfully.

Part 3 General exemptions for taking and using protected plants

Division 1 Preliminary

31 Exemption for taking and using protected plants—Act, ss 89 and 90

A person has an exemption—

- (a) for section 89(1) of the Act to take a protected plant that is in the wild if this part states an exemption applies to the person for taking the plant; and
- (b) for section 90(1) of the Act to use a protected plant if this part states an exemption applies to the person for using the plant.

Notes—

- 1 Section 146 requires a person taking or using a protected plant under an exemption in this part to comply with the plant exemptions code.
- 2 Chapter 4 provides for taking and using protected plants under a plant authority.

Division 2 Taking and using generally

32 Least concern plants, other than special least concern plants, taken for use of plant

An exemption applies to a person who takes and uses a least concern plant, other than a special least concern plant, if—

- (a) the person takes the plant other than by clearing; and
- (b) the person, when taking the plant, ensures the taking does not impact on a threatened plant or near threatened plant growing in close proximity to the plant; and
- (c) the person's primary reason for taking the plant is to use the plant.

33 Marine plants that are special least concern plants

An exemption applies to a person who takes or uses, other than for trade, a marine plant under the *Fisheries Act 1994* if—

- (a) the plant—
 - (i) is lawfully taken by the person under that Act; or
 - (ii) is used by the person under that Act; and
- (b) the plant is a special least concern plant; and
- (c) for a plant that is taken by the person—the plant is taken primarily for using the plant.

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34 Queensland Herbarium employees

- (1) An exemption applies to an employee of the Queensland Herbarium who takes and uses, other than for trade, a protected plant for the purposes for which the Queensland Herbarium was established.
- (2) However, subsection (1) applies only if the plant is taken by the employee primarily for using the plant.

35 Members of Australian Defence Force

- (1) An exemption applies to a member of a unit of the Australian Defence Force who takes and uses, other than for trade, a near threatened plant or least concern plant for food for training members of the unit about survival in the wild if—
 - (a) the plant—
 - (i) is taken under a military standing order prepared for the unit; or
 - (ii) is taken on private land with the permission of the landholder; or
 - (iii) is taken under a permit or other approval under the *Forestry Act 1959*; and
 - (b) the plant is taken by the member primarily for using the plant for food for training.
- (2) In this section—

member, of a unit of the Australian Defence Force, means a Member under the *Defence Act 1903* (Cwlth), section 4.

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 unit of the Australian Defence Force about survival in the wild.

Note—

A copy of the military standing orders to which this section applies may be inspected at the department's head office.

36 Conservation or revegetation program

- (1) An exemption applies to a landholder who takes and uses, other than for trade, a relevant plant if—
 - (a) the landholder takes the plant from the landholder's land; and
 - (b) the landholder takes the plant primarily for using the plant in a conservation or revegetation program; and
 - (c) the landholder uses the plant in a conservation or revegetation program; and
 - (d) the landholder's land, or land local to the landholder's land, to be revegetated is in the natural range of the species of relevant plant taken.
- (2) Without limiting subsection (1)(c), using a relevant plant in a conservation or revegetation program includes propagating a seed or other propagative material of the plant at a place other than on the landholder's land.
- (3) For subsection (1)(d), land is local to the landholder's land if the land—
 - (a) is adjacent to the landholder's land; or
 - (b) is included in a conservation or revegetation program that includes the landholder's land.
- (4) In this section—

relevant plant means—

 - (a) a seed or other propagative material of a vulnerable plant, near threatened plant or least concern plant; or
 - (b) a whole protected plant that is a near threatened plant or least concern plant.

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37 Grazing activities on private land

An exemption applies to a landholder of private land who takes and uses, other than for trade, 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; and
- (c) the plant is taken primarily for using the plant for grazing.

38 Grazing activities on State-related land

An exemption applies to a person who takes and uses, other than for trade, a protected plant on State-related land if—

- (a) the plant is taken by the person's stock grazing on the land under a lease, licence, permit or other authority, or an exemption, under another law; and
- (b) the plant is taken primarily for using the plant for grazing.

Division 3 Taking and using parts of protected plants

39 Identification, educational or scientific purpose

(1) An exemption applies to a person who takes and uses, other than for trade, up to 2 parts of a protected plant if—

- (a) either—
 - (i) it is necessary for the plant to be identified for an identification purpose; or
 - (ii) each part of the plant is taken and used for an educational or scientific purpose; and

-
- (b) the part of the plant is taken by the person primarily for a purpose mentioned in paragraph (a); and
 - (c) each part of the plant taken—
 - (i) is not more than would fit on a standard sheet of herbarium paper; or
 - (ii) if the person reasonably believes the plant exhibits a special life form and might not be correctly identified by complying with subparagraph (i)—is not more than is necessary for the plant to be identified.

Note—

See also section 148 about dealing with parts of protected plants taken under this section.

(2) In this section—

identification purpose means any of the following purposes—

- (a) to enable the chief executive to grant a plant authority;
- (b) to carry out a flora survey;
- (c) to make a record that may be kept by the Queensland Herbarium;
- (d) to carry out an environmental impact assessment study—
 - (i) under a condition of an approval by a government entity; or
 - (ii) under the *Environmental Protection Act 1994* to ensure the person complies with the general environmental duty; or
 - (iii) otherwise under an Act.

scientific purpose includes an anthropological, archaeological or sociological purpose.

standard sheet of herbarium paper means a sheet of paper or card 270mm wide and 450mm long.

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40 Parts of protected plants, other than critically endangered plants or endangered plants, taken with landholder's approval

- (1) An exemption applies to a person who takes and uses a part of a protected plant, other than a critically endangered plant or endangered plant, if—
 - (a) the person is the landholder, or has the written approval of the landholder, of the land from which the part is taken; and
 - (b) the person takes no more parts from a species of plant than the quantity of the parts that is stated for the species in the plant exemptions code; and
 - (c) the person's primary reason for taking the part is to use the part.
- (2) However, if the person takes a seed or other propagative material of a plant of the family Cycadaceae or Zamiaceae, the exemption applies—
 - (a) if the person is not a member of a recreational plant society—only to the extent the person does not use the part of the plant for trade; or
 - (b) if the person is a member of a recreational plant society—for using the part of the plant for trade only if—
 - (i) the member sells the part, or a plant propagated from the part, at an annual show or meeting of the society that is open to the public; and
 - (ii) the sale price of the part or plant is not more than a reasonable amount to meet the costs of taking the part or propagating the plant.

41 Fodder on private land

- (1) An exemption applies to a landholder of private land who takes or uses, other than for trade, a part of a near threatened plant or least concern plant on the land if—

-
- (a) the part is taken and used for fodder for stock lawfully kept on the land; and
 - (b) the part is taken primarily for using the part for fodder.
- (2) An exemption applies to a landholder of private land who takes or uses, other than for trade, a part of a near threatened plant or least concern plant on the land if—
- (a) the part is taken in the course of an activity done—
 - (i) for fodder harvesting under the *Vegetation Management Act 1999*; or
 - (ii) otherwise for the purpose of fodder for stock on the land; and
 - (b) the part is taken primarily for using the part for fodder.
- (3) A landholder mentioned in subsection (1) or (2) does not use a part of a near threatened plant or least concern plant for trade merely because the landholder uses the part for a business of keeping stock on the land.

42 Fodder on State-related land

- (1) An exemption applies to a person who takes and uses, other than for trade, a part of a near threatened plant or least concern plant on State-related land if—
- (a) the part—
 - (i) is taken or used for fodder for the person's stock on the land under a lease, licence, permit or other authority, or an exemption, under another law; or
 - (ii) is taken in the course of an activity done for fodder harvesting under the *Vegetation Management Act 1999*; and
 - (b) the part is taken primarily for using the part for fodder.
- (2) The person does not use the part for trade merely because the person uses the part for a business of keeping stock on the land.

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43 Sick, injured or orphaned protected animals

An exemption applies to a person who takes or uses, other than for trade, a part of a near threatened plant or least concern plant if—

- (a) the person takes the part for the care of a sick, injured or orphaned protected animal; and
- (b) the person—
 - (i) holds a rehabilitation permit under the *Nature Conservation (Animals) Regulation 2020* for the protected animal; or
 - (ii) is a veterinary practitioner, veterinary specialist or veterinary surgeon under the *Veterinary Surgeons Act 1936*; or
 - (iii) is acting under the direction of a person mentioned in subparagraph (ii); and
- (c) the person's primary reason for taking the part is to use the part for the care of a sick, injured or orphaned protected animal.

44 Operational salvage

An exemption applies to a person who takes or uses a part of a protected plant if the part is taken by way of operational salvage of the part.

Note—

For the meaning of the whole of sandalwood, see section 6.

Division 4 Taking by clearing and use

45 Least concern plants taken by clearing

- (1) An exemption applies to a person who uses a least concern plant, other than a special least concern plant, taken by clearing under an exemption in this division.

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- (2) An exemption applies to a person who uses, other than for trade, a special least concern plant taken by clearing under an exemption in this division if—
- (a) the plant is transplanted somewhere else within the vicinity of the land from which it is taken; or
 - (b) the plant is used for a conservation purpose.
- (3) For subsection (2)(b), a special least concern plant is used for a conservation purpose if the plant—
- (a) 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; or
- Example for paragraph (a)—*
- a special least concern plant used in a rehabilitation or revegetation activity
 - (b) is given to a voluntary conservation organisation or volunteer community organisation.

46 Areas other than high risk areas—proponent for particular projects

- (1) An exemption applies to a proponent for a relevant project who takes a protected plant in an area by clearing (the *clearing area*) if—
- (a) the proponent obtains or receives a copy of the flora survey trigger map for the clearing area on or after the relevant TOR date for the environmental impact statement for the relevant project; and
 - (b) the flora survey trigger map shows the clearing area is not within a high risk area; and
 - (c) either—
 - (i) the proponent is not aware of the presence of a threatened plant or near threatened plant in the clearing area; or

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- (ii) the proponent is aware of the presence of a threatened plant or near threatened plant in the clearing area but the plant is not cleared and there is no clearing within 100m of the plant; and
 - (d) the taking of the plant happens within 5 years from the relevant TOR date for the environmental impact statement.
- (2) In this section—

environmental impact statement 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 laws—

- (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 project means a project for which an environmental impact statement is required under a relevant Act.

relevant TOR date, for an environmental impact statement for a relevant project, means—

- (a) for the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth)—the day the EIS guidelines under that Act are given to the proponent for the relevant project; or
- (b) for another relevant Act—the day the final terms of reference for the environmental impact statement are published or otherwise given to the proponent for the relevant project.

47 Areas other than high risk areas—other persons

An exemption applies to a person, other than a proponent mentioned in section 46, who takes a protected plant in an area by clearing (the *clearing area*) if—

- (a) the person obtains or receives a copy of the flora survey trigger map for the clearing area before starting the clearing; and
- (b) the flora survey trigger map shows the clearing area is not within a high risk area; and
- (c) either—
 - (i) the person is not aware of the presence of a threatened plant or near threatened plant in the clearing area; or
 - (ii) the person is aware of the presence of a threatened plant or near threatened plant in the clearing area but the plant is not cleared and there is no clearing within 100m of the plant; and
- (d) the taking of the plant happens within 12 months after the day the person obtains or receives the copy of the flora survey trigger map.

48 High risk areas

An exemption applies to a person who takes a protected plant in an area within a high risk area by clearing (the *clearing area*) if—

- (a) the person prepares a flora survey report for the clearing impact area; and
- (b) either—
 - (i) the flora survey report identifies that a threatened plant or near threatened plant is not present in the clearing impact area; or
 - (ii) the flora survey report identifies that a threatened plant or near threatened plant is present in the

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clearing impact area but the plant is not cleared and there is no clearing within 100m of the plant; and

- (c) the person takes the plant in the clearing area within 3 years after the day the flora survey to which the flora survey report relates is completed.

49 Particular maintenance activities

- (1) An exemption applies to a person who takes a protected plant in an area if the person takes the plant by clearing 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 for the management of a cropping area, including site preparation, weed control, harvesting and harvest debris clearing.

existing infrastructure means infrastructure that exists before a plant is taken under this section.

existing land use, of an area, means a use of the land in the area that—

- (a) is a lawful use of the land under another law; and
- (b) is in existence before a plant is taken in the area under this section.

plantation management activity means an activity undertaken for the management of a tree plantation, including site preparation, weed control, harvesting and harvest debris clearing.

routine maintenance, of existing infrastructure, means maintenance—

- (a) necessary to maintain infrastructure established under the *Electricity Act 1994* for the generation, transmission or distribution of electricity, undertaken for an electricity entity under that Act; or
- (b) necessary to maintain transport infrastructure under the *Transport Infrastructure Act 1994*; or
- (c) necessary to maintain other infrastructure (other than contour banks) including a building, or other structure, built or used for any purpose.

Examples of infrastructure for paragraph (c)—

core airport infrastructure, fences, helipads, oil, gas or water pipelines, roads, stockyards, vehicular tracks, watering facilities, constructed drains

Examples of routine maintenance—

slashing, mowing, pruning or trimming of plants

50 Firebreaks or fire management lines

- (1) An exemption applies to a person who takes a protected plant in an area if the person takes the plant by clearing 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 equal to the wider of the following—
 - (i) 1.5 times the height of the tallest vegetation next to the infrastructure;
 - (ii) 20m; or
 - (b) establishing a necessary fire management line, if the maximum width of the clearing for the fire management line is 10m.
- (2) In this section—

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infrastructure includes a building, or other structure, built or used for any purpose.

51 Compliance with accepted development vegetation clearing code

- (1) An exemption applies to a person who takes a protected plant in an area by clearing if the taking complies with the requirements applying to the area under—
 - (a) the accepted development vegetation clearing code for managing encroachment; or
 - (b) the accepted development vegetation clearing code for managing weeds.
- (2) In this section—

accepted development vegetation clearing code see the *Vegetation Management Act 1999*, section 19O(1) and (2).

52 Authority under another law

An exemption applies to a person who takes a protected plant in an area by clearing if—

- (a) the taking is assessed and authorised under another law in a way that is consistent with the protected plants assessment guidelines; and
- (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) notice of the taking; and
 - (ii) a copy of the authorisation for the taking under the other law.

53 Conservation purposes

An exemption applies to a person who takes a protected plant in an area by clearing if—

- (a) the taking is for the purpose of conservation only, and to the extent necessary, to achieve the purpose; and
- (b) the taking causes disturbance to another protected plant only to the extent necessary to remove the plant being taken.

54 Area already cleared—particular permits

An exemption applies to a person who takes a protected plant in an area by clearing if—

- (a) the taking is within an area from which the person has already taken plants under a protected plant clearing permit, whether or not the permit ended before the commencement; and
- (b) the taking is only to the same extent as the taking that is or was authorised as lawful under the permit; and
- (c) the taking happens within 10 years from the day the permit is granted.

55 Area already cleared—high risk areas

An exemption applies to a person who takes a protected plant in an area by clearing if—

- (a) the taking is within an area from which the person has already taken plants under either of the following exemptions (each the *first exemption*)—
 - (i) an exemption under section 48;
 - (ii) an exemption under the repealed *Nature Conservation (Wildlife Management) Regulation 2006*, section 261ZA; and

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- (b) the taking is only to the same extent as the taking that is or was lawful under the first exemption; and
- (c) the taking happens within 10 years from the day the person—
 - (i) for plants taken under an exemption mentioned in paragraph (a)(i)—prepared the flora survey report required for the exemption; or
 - (ii) for plants taken under an exemption mentioned in paragraph (a)(ii)—gave the flora survey report required for the exemption.

56 Area already cleared—authority under another law

An exemption applies to a person who takes a protected plant in an area by clearing if—

- (a) the taking is within an area from which the person has already taken plants under either of the following exemptions (each the *first exemption*)—
 - (i) an exemption under section 52;
 - (ii) an exemption under the repealed *Nature Conservation (Wildlife Management) Regulation 2006*, section 261ZF; and
- (b) the taking is only to the same extent as the taking that is or was lawful under the first exemption; and
- (c) the taking happens within 10 years from the day the authorisation required for the first exemption was given to the person.

Part 4 Other exemptions

57 Exemption for taking and using protected plants under particular authority or lease—Act, ss 89 and 90

- (1) A person has an exemption for section 89(1) of the Act to take a protected plant that is in the wild if the person takes the plant by clearing—
 - (a) in the course of an activity under—
 - (i) an authority made, granted or given under another Act by the Governor in Council before 31 March 2014; or
 - (ii) a mining lease or petroleum lease granted before 31 March 2014; and
 - (b) in the way authorised under the authority, mining lease or petroleum lease.
- (2) A person who takes a protected plant under subsection (1) has an exemption for section 90(1) of the Act to use the plant.
- (3) 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*.

58 Exemption for using protected plant registered under Plant Breeder's Rights Act 1994 (Cwlth)—Act, s 90

A person has an exemption for section 90(1) of the Act to use a protected plant that is a plant variety for which a PBR, or plant breeder's right, has been granted under the *Plant Breeder's Rights Act 1994 (Cwlth)*.

Chapter 4 Dealing with plants under plant authorities

Part 1 Preliminary

59 Purpose of chapter

- (1) This chapter provides for a licensing scheme that authorises particular persons to take or use protected plants in particular circumstances—
 - (a) to promote the continued existence in the wild of biologically viable populations of all taxa of protected plants; and
 - (b) to allow the ecologically sustainable use of protected plants taken from the wild; and
 - (c) to control processes threatening to protected plants; and
 - (d) to 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 plant authorities for, protected plants; and
 - (e) to encourage greater reliance on obtaining whole protected plants or parts of protected plants from propagation or cultivation while recognising there may be grounds for taking them from the wild; and
 - (f) to minimise the potential for illegally taken protected plants to be used for any purpose.
- (2) The licensing scheme mentioned in subsection (1) authorises the commercial cultivation and propagation of protected plants to reduce the demand for taking whole protected plants and parts of protected plants in the wild.

Notes—

- 1 See part 5, division 4 of the Act for offences prohibiting particular persons from carrying out activities in relation to protected plants in particular circumstances.
- 2 See chapter 3 for activities that may be carried out by a person under an exemption whether or not the person holds a plant authority.
- 3 See chapter 8 for requirements for records, tags and labels relating to protected plants.

60 Inconsistency between authority provisions and conservation plan

- (1) This section applies if—
 - (a) a provision of this regulation (the ***regulation provision***) states what a holder of a plant authority, or a relevant person for the holder—
 - (i) may do under the authority; or
 - (ii) must or must not do under the authority; or
 - (iii) may do, or must do, on conditions under the authority; and
 - (b) a provision of a conservation plan (the ***conservation plan provision***) applying to an authorised plant for the authority is inconsistent with the regulation provision.
- (2) Unless otherwise stated in the conservation plan provision, the conservation plan provision prevails to the extent of the inconsistency.

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Part 2 **Provisions applying to all plant authorities**

Division 1 **General limitation on authorities**

61 **Plants must be lawfully obtained**

Nothing in this chapter authorises the holder of a plant authority, or a relevant person for the holder, to keep or use a plant that was not lawfully obtained by the holder or relevant person.

Notes—

- 1 See sections 89(4) and 90A of the Act for offences in relation to plants not lawfully taken.
- 2 Part 5, divisions 4 to 6 of the Act also contains other restrictions about keeping or using wildlife.

Division 2 **General conditions**

Subdivision 1 **Preliminary**

62 **Purpose of division**

- (1) This division states conditions that apply to all plant authorities.

Notes—

- 1 Failure to comply with a condition of a plant authority is an offence under section 145.
 - 2 Also, under chapter 5, part 5, failure to comply with a condition of a plant authority is a ground for amendment, suspension or cancellation of the authority.
- (2) This division does not limit any other condition the chief executive may impose on a plant authority.

Note—

For the power of the chief executive to impose conditions on a plant authority, see section 108.

Subdivision 2 Inspection of authorities

63 Plant authority must be available for inspection

- (1) The holder of a plant authority must, while carrying out an activity under the authority, have the authority, or a copy of the authority, available for inspection.
- (2) The holder of a plant authority must ensure a relevant person carrying out an activity under the authority has a copy of the authority endorsed by the holder with the relevant person's name and residential address available for inspection.

Subdivision 3 Notification of changes

64 Notification of particular changes

- (1) The holder of a plant authority must before, or immediately after, a relevant change happens—
 - (a) give the chief executive a notice stating the nature of the change; and
 - (b) apply to the chief executive for an amendment of the authority to reflect the change.

Note—

For amending a plant authority by application, see section 117.

- (2) In this section—

relevant change, in relation to a plant authority, means a change of any of the following—

- (a) the name of the holder of the authority;

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- (b) the postal, residential or business address of the holder stated in the authority;
- (c) if the holder is a corporation—
 - (i) the person in charge of the activity carried out under the authority; or
 - (ii) the person in charge of the licensed premises for the authority;
- (d) the licensed premises for the authority.

Subdivision 4 Buying, accepting, receiving, selling and giving away plants

65 Buying, accepting and receiving plants

The holder of a plant authority, or a relevant person for the holder, must not buy, accept or receive an authorised plant from a person who is not authorised to sell or give away the plant under—

- (a) the Act; or
- (b) a law of another State or the Commonwealth.

66 Selling and giving away plants

The holder of a plant authority, or a relevant person for the holder, must not sell or give away an authorised plant to a person who is not authorised to buy, accept or receive the plant under—

- (a) the Act; or
- (b) a law of another State or the Commonwealth.

Subdivision 5 Restriction on monitoring plots

67 Restricted plants not to be taken from another monitoring plot

The holder of a plant authority, or a relevant person for the holder, must not take a restricted plant from a monitoring plot established under another holder's protected plant harvesting licence.

Part 3 Protected plant growing licences

Division 1 Grant and restrictions on grant

68 Grant of licence

Subject to sections 69 and 70 and chapter 5, part 2, the chief executive may grant a protected plant growing licence for—

- (a) cultivating a restricted plant; or
- (b) propagating a part of a restricted plant.

69 General restrictions on grant

- (1) The chief executive must not grant a protected plant growing licence for taking a restricted plant unless the chief executive is satisfied—
 - (a) the proposed taking of the plant is ecologically sustainable; and
 - (b) the proposed activities under the licence are not likely to adversely affect the plant's survival in the wild; and
 - (c) the proposed way of taking the plant complies with the protected plants assessment guidelines.

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- (2) The chief executive must not grant a protected plant growing licence for the proposed holder of the licence to take a whole restricted plant for use as a stock plant unless the chief executive is satisfied—
 - (a) there is a need to introduce the plant into cultivation for commercial purposes or replenish or supplement the genetic variation of the plant already in cultivation; and
 - (b) the holder has the necessary knowledge, facilities and resources to propagate the plant and use the progeny of the plant.
- (3) Subsection (4) applies if the chief executive requires, under section 98, an application for a protected plant growing licence to be accompanied by a sustainable harvest plan.
- (4) The chief executive must not grant the protected plant growing licence unless the chief executive approves the sustainable harvest plan under section 106.

70 Restriction on grant of licence to take seed or propagative material from particular restricted plants

- (1) This section applies in relation to the following (each a *relevant plant*)—
 - (a) a critically endangered plant or endangered plant;
 - (b) a restricted plant of the family Cycadaceae;
 - (c) a restricted plant of the family Zamiaceae.
- (2) The chief executive must not grant a protected plant growing licence for the proposed holder of the licence to take and use a seed or other propagative material from a relevant plant unless the chief executive is satisfied the holder, or a relevant person for the holder, is able to identify the plant.

Division 2 Activities authorised under licence

71 Taking restricted plants

The holder of a protected plant growing licence, or a relevant person for the holder, may carry out the following activities—

- (a) take a part of an authorised plant for propagating the part under controlled conditions;
- (b) take an authorised plant for cultivating the plant under controlled conditions.

Note—

See also sections 27 to 30 about particular exemptions relating to restricted plants.

Division 3 Conditions

72 Purpose of division

- (1) This division states conditions that apply to all protected plant growing licences.

Notes—

- 1 Failure to comply with a condition of a plant authority is an offence under section 145.
 - 2 Also, under chapter 5, part 5, failure to comply with a condition of a plant authority is a ground for amendment, suspension or cancellation of the authority.
- (2) This division does not limit any other condition the chief executive may impose on a protected plant growing licence.

Note—

For the power of the chief executive to impose conditions on a plant authority, see section 108.

73 Way plant to be taken

The holder of a protected plant growing licence, or a relevant person for the holder, may take an authorised plant only in a way that—

- (a) if the taking requires disturbance of the soil from which the plant is taken—disturbs the soil to the extent necessary to remove the plant; and

Example—

digging an area of soil directly around a plant to enable the root base of the plant to be removed

- (b) if the taking is by harvesting a part of the plant—
 - (i) does not result in the death of the plant from which the part is taken; and
 - (ii) leaves enough of the plant to allow for reproduction of the plant and provide habitat or food for other wildlife; and
- (c) complies with the plant authorities code.

74 Taking of plant during harvest period

- (1) This section applies if—
 - (a) the holder of a protected plant growing licence is authorised to take a particular authorised plant under the licence; and
 - (b) a harvest period is declared for the particular authorised plant.
- (2) The holder, or a relevant person for the holder, may take the authorised plant under the licence only—
 - (a) during the harvest period; and
 - (b) by complying with the conditions stated in the harvest period notice for the harvest period.

- (3) However, this section does not apply if the holder or relevant person takes the authorised plant under the licence by way of operational salvage.

75 Compliance with sustainable harvest plan

The holder of a protected plant growing licence, or a relevant person for the holder, must comply with the approved sustainable harvest plan for the licence while carrying out activities under the licence.

76 Taking plant to sell or give away

The holder of a protected plant growing licence, or a relevant person for the holder, must not take an authorised plant for the purpose of—

- (a) selling the plant; or
- (b) giving away the plant if the plant is to be used for trade.

Part 4 Protected plant harvesting licences

Division 1 Grant and restrictions on grant

77 Grant of licence

Subject to section 78 and chapter 5, part 2, the chief executive may grant a protected plant harvesting licence for a restricted plant.

78 Restrictions on grant

- (1) The chief executive must not grant a protected plant harvesting licence for a restricted plant that has not been adequately identified unless the activity proposed to be carried

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out under the licence is for the purpose of research, education or conservation.

- (2) The chief executive must not grant more than 1 protected plant harvesting licence for the same species of restricted plant in relation to the same place for the same period.
- (3) The chief executive must not grant a protected plant harvesting licence for the proposed holder of the licence to take a restricted plant unless the chief executive is satisfied—
 - (a) the holder is the landholder, or has the written approval of the landholder, of the land on which the plant is located; and
 - (b) the proposed way of taking the plant is ecologically sustainable; and
 - (c) the proposed activities under the licence are not likely to adversely affect the plant’s survival in the wild; and
 - (d) the proposed way of taking the plant complies with the protected plants assessment guidelines.
- (4) Subsection (3) does not apply to the grant of a protected plant harvesting licence for taking a restricted plant only by way of contingent salvage.
- (5) The chief executive must not grant a protected plant harvesting licence for taking a restricted plant if the proposed taking poses a threat of serious or irreversible environmental damage related to the taking of the plant.
- (6) The chief executive must not grant a protected plant harvesting licence unless the chief executive approves a sustainable harvest plan under section 106 in relation to the application for the licence.

Division 2 Activities authorised under licence

79 Taking and using plants

The holder of a protected plant harvesting licence, or a relevant person for the holder, may—

- (a) take an authorised plant and use the plant to the extent stated in the licence; and
- (b) take any whole authorised plant by way of contingent salvage.

Note—

See also sections 27 and 28 about particular exemptions for using plants taken under a protected plant harvesting licence.

Division 3 Conditions

80 Purpose of division

- (1) This division states conditions that apply to all protected plant harvesting licences.

Notes—

- 1 Failure to comply with a condition of a plant authority is an offence under section 145.
 - 2 Also, under chapter 5, part 5, failure to comply with a condition of a plant authority is a ground for amendment, suspension or cancellation of the authority.
- (2) This division does not limit the conditions the chief executive may impose on a protected plant harvesting licence.

Note—

For the power of the chief executive to impose conditions on a plant authority, see section 108.

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81 Way plant to be taken

The holder of a protected plant harvesting licence, or a relevant person for the holder, may take an authorised plant only in a way that—

- (a) if the taking requires disturbance of the soil from which the plant is taken—disturbs the soil to the extent necessary to remove the plant; and

Example—

digging an area of soil directly around a plant to enable the root base of the plant to be removed

- (b) if the taking is by harvesting a part of the plant—
 - (i) does not result in the death of the plant from which the part is taken; and
 - (ii) leaves enough of the plant to allow for reproduction of the plant and provide habitat or food for other wildlife; and
- (c) complies with the plant authorities code.

82 Taking of plant during harvest period

- (1) This section applies if—
 - (a) the holder of a protected plant harvesting licence is authorised to take a particular authorised plant under the licence, other than by way of contingent salvage; and
 - (b) a harvest period is declared for the particular authorised plant.
- (2) The holder, or a relevant person for the holder, may take the authorised plant under the licence only—
 - (a) during the harvest period; and
 - (b) by complying with the conditions stated in the harvest period notice for the harvest period.

-
- (3) However, this section does not apply if the holder or relevant person takes the authorised plant under the licence by way of contingent salvage.

83 Compliance with sustainable harvest plan

The holder of a protected plant harvesting licence, or a relevant person for the holder, must comply with the approved sustainable harvest plan for the licence while carrying out activities under the licence.

84 Information about monitoring plot for research and monitoring condition

- (1) This section applies if—
- (a) a protected plant harvesting licence authorises the holder of the licence to take a part of a restricted plant; and
 - (b) the chief executive imposes a research and monitoring condition on the licence.
- (2) The holder must give the chief executive—
- (a) within 1 month after a monitoring plot is established—
 - (i) a map, in electronic form or ink, showing the location of the plot; or
 - (ii) a sketch, in ink, showing the location of the plot; and
 - (b) within 1 month after each yearly survey of plants in a monitoring plot—a statement containing the required information for the plot.
- (3) In this section—
- required information***, for a monitoring plot, means—
- (a) details of the growth of the plants of each species in the plot measured as average height for—

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- (i) each stem of each plant from which a part of the plant was taken; and
 - (ii) each plant designated when the plot was established as a plant from which 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.

Part 5 Protected plant clearing permits

Division 1 Preliminary

85 Purpose of part

- (1) This part provides for a protected plant clearing permit for taking, by clearing, protected plants, in particular threatened plants or near threatened plants, to ensure—
- (a) areas where threatened plants or near threatened plants and their supporting habitat are present, or likely to be present, are identified and assessed for risk before clearing; and
 - (b) any impacts on threatened plants or near threatened plants are managed.
- (2) In this section—

supporting habitat, for a protected plant, means the components, including other plants, of the habitat of the protected plant necessary for the plant's survival at any stage of its life cycle and located within 100m of the plant.

Division 2 Grant and restrictions on grant

86 Grant of permit

Subject to sections 87 and 88 and chapter 5, part 2, the chief executive may grant a protected plant clearing permit to take, by clearing, a protected plant in the wild for the use of the land on which the plant is taken.

87 General restrictions on grant

- (1) The chief executive must not grant a protected plant clearing permit unless the chief executive is satisfied—
 - (a) the proposed holder of the permit is the landholder, or has the written approval of the landholder, of the land on which the plant is located; and
 - (b) the holder has given the chief executive—
 - (i) for taking a protected plant within a clearing impact area—a flora survey report for the clearing impact area; or
 - (ii) for taking a protected plant within another area—a document identifying all threatened plants or near threatened plants the holder knows exist within the area; and
 - (c) the holder has identified all threatened plants or near threatened plants in the clearing impact area or other area to be cleared that the holder knows are likely to be impacted; and
 - (d) if a threatened plant or near threatened plant will be cleared or there will be clearing within 100m of the plant—the holder 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

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guidelines, to manage any impacts on the plant;
and

(iii) the clearing is not likely to adversely affect the
plant's survival in the wild.

- (2) However, if the chief executive is not satisfied of the matters mentioned in subsection (1)(d)(iii), the chief executive may grant the protected plant clearing permit only if the chief executive is satisfied—
- (a) there is an overriding public interest for the permit to be granted in relation to an activity related to a public utility easement for the supply of electricity; and
 - (b) the refusal of the permit would impede the provision of an essential community service; and
 - (c) the proposed holder of the permit has otherwise made all reasonable attempts to satisfy the chief executive of the matters mentioned in subsection (1).

88 Restriction on grant of permit in relation to particular areas

The chief executive may grant a protected plant clearing permit for taking, by clearing, a protected plant from 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 plant is not likely to have a significant impact on a viable population of protected wildlife or a community of native wildlife in the area.

Division 3 Activities authorised under permit

89 Taking and using plants

- (1) The holder of a protected plant clearing permit, or a relevant person for the holder, may carry out the following activities—
 - (a) take, by clearing, an authorised plant to the extent stated in the permit;
 - (b) use an authorised plant taken by clearing to the extent stated in the permit;
 - (c) otherwise clear all plants in an area to which the permit relates.
- (2) This section does not limit—
 - (a) a protected plant licence for taking a restricted plant by way of contingent salvage from land lawfully cleared under a protected plant clearing permit; or
 - (b) an exemption under section 44 for taking a part of a restricted plant by way of operational salvage from land lawfully cleared under a protected plant clearing permit.

Part 6 Aboriginal tradition authorities

Division 1 Grant and restrictions on grant

90 Grant of authority

Subject to section 91 and chapter 5, part 2, the chief executive may grant an Aboriginal tradition authority for a protected plant.

[s 91]

91 Restrictions on grant

- (1) The chief executive must not grant an Aboriginal tradition authority for a protected plant to a person other than a corporation whose members represent a community or group of Aboriginal people particularly concerned with the land from where the plant is to be taken.
- (2) The chief executive must not grant an Aboriginal tradition authority for a protected plant unless the chief executive is satisfied the purpose for which the plant is to be taken is of particular significance in accordance with Aboriginal tradition.
- (3) The matters mentioned in subsection (2) are to be considered according to the views of the people regarded by the members of the community or group that the proposed holder of the Aboriginal tradition authority represents as having authority to state the traditional significance of the protected plant.

Division 2 Activities authorised under authority

92 Taking and using plants

The holder of an Aboriginal tradition authority, or a relevant person for the holder, may carry out the following activities—

- (a) take, in accordance with Aboriginal tradition, an authorised plant from the place stated in the authority;
- (b) use an authorised plant taken under the authority for the personal or domestic needs of the members of the corporation to whom the authority is granted;
- (c) use an authorised plant taken under the authority for the non-commercial communal needs of the holder.

Part 7 **Island custom authorities**

Division 1 **Grant and restrictions on grant**

93 **Grant of authority**

Subject to section 94 and chapter 5, part 2, the chief executive may grant an Island custom authority for a protected plant.

94 **Restrictions on grant**

- (1) The chief executive must not grant an Island custom authority for a protected plant to a person other than a corporation whose members represent a community or group of Torres Strait Islanders particularly concerned with the land from where the plant is to be taken.
- (2) The chief executive must not grant an Island custom authority for a protected plant unless the chief executive is satisfied the purpose for which the plant is to be taken is of particular significance in accordance with Island custom.
- (3) The matters mentioned in subsection (2) are to be considered according to the views of the people regarded by the members of the community or group that the proposed holder of the Island custom authority represents as having authority to state the customary significance of the protected plant.

Division 2 **Activities authorised under authority**

95 **Taking and using plants**

The holder of an Island custom authority, or a relevant person for the holder, may carry out the following activities—

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- (a) take, in accordance with Island custom, an authorised plant from the place stated in the authority;
- (b) use an authorised plant taken under the authority for the personal or domestic needs of the members of the corporation to whom the authority is granted;
- (c) use an authorised plant taken under the authority for the non-commercial communal needs of the holder.

Chapter 5 Managing plant authorities

Part 1 Restrictions on grant for all authorities

96 Restrictions on grant

- (1) The chief executive must not grant a plant authority to an applicant for the authority if—
 - (a) for an applicant that is a corporation—the applicant does not have an office in the State; or
 - (b) a conservation plan prohibits the grant of the authority in the applicant’s circumstances; or
 - (c) the applicant is not a suitable person to hold the authority; or

Note—

See also part 2, division 2.

 - (d) the activities proposed to be carried out under the authority are likely to adversely affect—
 - (i) the conservation of the native wildlife; or
 - (ii) the ecological sustainability of any wildlife; or

-
- (e) a plant to which the authority could apply has been unlawfully taken, kept or used; or
 - (f) for an authority to take or use a protected plant in a dugong protection area—the taking or use of the plant is likely to—
 - (i) significantly reduce the local dugong population; or
 - (ii) significantly harm dugong habitat.

Note—

See also chapter 4, parts 3 to 7 for other restrictions on the grant of particular plant authorities.

- (2) In this section—

dugong means an animal of the species *Dugong dugon*.

dugong protection area means regulated waters under the *Fisheries Declaration 2019*, chapter 2 with a name that includes either of the following terms—

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

Part 2 Applications for authorities

Division 1 Making applications

97 Requirements for application

- (1) A person may apply to the chief executive for the grant of a plant authority.
- (2) The application must—
 - (a) be in the approved form; and
 - (b) be supported by enough information to enable the application to be decided; and

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- (c) be accompanied by the prescribed fee for the application; and
- (d) comply with any other requirements applying to the application under a conservation plan; and
- (e) for an application for a protected plant growing licence—be accompanied by a sustainable harvest plan if required under section 98; and
- (f) for an application for a protected plant harvesting licence—be accompanied by a sustainable harvest plan.

98 Chief executive may require sustainable harvest plan

The chief executive may require an application for a protected plant growing licence to be accompanied by a sustainable harvest plan if the chief executive is satisfied it is necessary for the application to demonstrate that the proposed level of harvest of a protected plant under the licence—

- (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.

Division 2 Suitability

99 Purpose of division

This division states when a person is not a suitable person to hold a plant authority.

100 Definitions for division

In this division—

associate, of a person whose suitability to hold a plant authority is being considered, means—

-
- (a) if the person is a corporation—each executive officer of the corporation; or
 - (b) if the person is an individual—another person who—
 - (i) is, or is intended to be, regularly or usually in charge of the individual’s activity or business, or proposed activity or business, that relates, or is intended to relate, to the authority; or
 - (ii) regularly directs staff of the activity or business in their duties; or
 - (iii) is, or is intended to be, in a position to control or substantially influence the activity or business, or proposed activity or business.

relevant day, for a person, means—

- (a) for deciding whether or not the person is a suitable person to hold a plant authority—the day the person made the application for the authority under division 1; or
- (b) for deciding whether or not the holder of a plant authority is not, or is no longer, a suitable person to hold the authority—the day the decision is made.

101 Suitability based on convictions

- (1) A person is not a suitable person to hold a plant authority if—
 - (a) the person, or an associate of the person, has, within 3 years before the relevant day, been convicted of—
 - (i) an offence against the Act; or
 - (ii) an animal welfare offence under the *Animal Care and Protection Act 2001*; or
 - (iii) an offence under another Act relating to wildlife; or

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- (iv) an offence, however described, equivalent to an offence mentioned in any of subparagraphs (i) to (iii) under the law of another jurisdiction; and
- (b) the chief executive is satisfied the activities of the person that led to the conviction are of the same nature as the activities to be carried out under the authority.

Examples of when chief executive may be satisfied—

- 1 A person convicted of an offence against section 62 of the Act for taking a plant that was a natural resource of a protected area applies for a plant authority for taking a protected plant.
 - 2 A person convicted of an offence against section 89 of the Act for taking a protected plant applies for a plant authority for taking a protected plant.
- (2) Subsection (1) does not apply if the person has been given an infringement notice for the offence under the *State Penalties Enforcement Act 1999*.

102 Suitability based on demerit points, suspensions and cancellations

- (1) A person is not a suitable person to hold a plant authority if the chief executive is satisfied the person would be unable to carry out activities under the authority in a competent and ethical way because—
- (a) the person, or an associate of the person, has accumulated 10 or more demerit points under section 103 within 3 years before the relevant day; or
 - (b) the person, or an associate of the person, is the former holder of a relevant authority that was cancelled within 2 years before the relevant day because the person or associate accumulated 10 or more demerit points under section 103; or
 - (c) the person, or an associate of the person, is or was the holder of an authority, however described, under the law of another jurisdiction that—

- (i) is or was equivalent to a relevant authority; and
 - (ii) was suspended or cancelled within 3 years before the relevant day.
- (2) In this section—
- relevant authority*** means—
- (a) a plant authority; or
 - (b) a licence, permit or other authority granted under the repealed *Nature Conservation (Administration) Regulation 2017*, section 14, 15 or 16.

103 Accumulation of demerit points

- (1) This section applies for considering suitability under section 102 of a person who—
- (a) is given an infringement notice under the *State Penalties Enforcement Act 1999* for an offence against the Act; and
 - (b) pays the fine for the infringement notice for the offence or is convicted of the offence.
- (2) The person accumulates the following number of demerit points for the offence—
- (a) for an offence for which the maximum penalty is not more than 20 penalty units—1 demerit point;
 - (b) for an offence for which the maximum penalty is more than 20 but not more than 50 penalty units—2 demerit points;
 - (c) for an offence for which the maximum penalty is more than 50 but not more than 80 penalty units—3 demerit points;
 - (d) for an offence for which the maximum penalty is more than 80 but not more than 120 penalty units—4 demerit points;

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- (e) for an offence for which the maximum penalty is more than 120 but not more than 165 penalty units—5 demerit points;
 - (f) for an offence for which the maximum penalty is more than 165 penalty units—7 demerit points.
- (3) Subsection (2) applies whether an event mentioned in subsection (1) happens before or after the commencement.

Division 3 Considering applications

104 Matters chief executive must consider

- (1) The chief executive must consider an application for a plant authority having regard to each of the following matters—
- (a) whether the chief executive is restricted from granting the authority under part 1 or chapter 4, parts 3 to 7;
 - (b) whether the applicant is a suitable person to hold the authority;
- Note—*
- See also division 2 for when a person is not a suitable person.
- (c) the impact the activities proposed to be carried out under the authority may have on the conservation of native wildlife;
 - (d) the effect the grant of the authority may have on the fair and equitable access to nature, in particular, the ecologically sustainable use of wildlife;
 - (e) any contribution the applicant proposes to make to the conservation of nature;
 - (f) any relevant Australian or international code, instrument, protocol or standard or any relevant intergovernmental agreement;
 - (g) the precautionary principle;

- (h) public health and safety;
 - (i) the public interest;
 - (j) any recovery plan for a plant to which the authority is proposed to apply;
 - (k) for a plant authority proposed to take effect immediately after an existing plant authority of the same type ends—
 - (i) whether the existing plant authority was obtained on the basis of incorrect or misleading information; and
 - (ii) whether the holder of the existing plant authority, or a relevant person for the holder, has failed to comply with a condition of the existing plant authority;
 - (l) for an Aboriginal tradition authority—any advice given by the corporation named in the application on the significance, under Aboriginal tradition, of the activity proposed to be carried out under the authority;
 - (m) for an Island custom authority—any advice given by the corporation named in the application on the significance, under Island custom, of the activity proposed to be carried out under the authority;
 - (n) any other matter stated in a conservation plan as a matter the chief executive must have regard to when considering an application for the authority.
- (2) Without limiting subsection (1), the chief executive may have regard to anything else the chief executive considers appropriate to achieve the object of the Act.
- (3) In this section—

precautionary principle means the principle that, if there are threats of serious or irreversible environmental damage, lack of full scientific certainty must not be used as a reason for postponing measures to prevent threatening processes.

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105 Chief executive may require further information or document

- (1) Before deciding an application for a plant authority, the chief executive may ask the applicant for further information or a document the chief executive reasonably requires to decide the application.
- (2) The chief executive may require the information or document to be verified by statutory declaration.
- (3) The chief executive may give the applicant a notice asking the applicant to give the information or document by the day stated in the notice.
- (4) A notice given under subsection (3) must—
 - (a) be given to the applicant within 20 business days after the chief executive receives the application; and
 - (b) state a reasonable period, of at least 20 business days after it is given, within which the information or document must be given.
- (5) The applicant is taken to have withdrawn the application if the applicant does not comply with the request within—
 - (a) if the chief executive has given a notice to the applicant under subsection (3)—the period stated in the notice; or
 - (b) otherwise—a reasonable period.
- (6) The chief executive may extend a period mentioned in subsection (5).

106 Approval of sustainable harvest plan

The chief executive may approve a sustainable harvest plan in relation to an application for a protected plant licence only if the chief executive is satisfied the plan—

- (a) demonstrates the proposed level of harvest of a restricted plant under the licence—
 - (i) is ecologically sustainable; or

- (ii) provides a benefit for the conservation of the species of restricted plant proposed to be taken under the licence; and

Examples—

increasing the extent or abundance of the wild population of the species or improving knowledge of the species biology

- (b) states the information required under the protected plants assessment guidelines for the plan in relation to the application for the licence.

107 Amending application

- (1) An applicant for an application for a plant authority may amend the application if—
 - (a) the chief executive has not finished considering whether to grant the application; and
 - (b) the chief executive agrees to the amendment of the application.
- (2) If the chief executive agrees to a major amendment of the application, the applicant must pay the prescribed fee for the amendment.
- (3) In this section—

major amendment, of an application for a plant authority, means—

 - (a) for an application for a protected plant licence—
 - (i) an increase in the size of the area to which the application relates; or
 - (ii) an addition of, or change to, a species of protected plant to which the application relates; or
 - (b) for an application for a protected plant clearing permit—a change to the size of the area to which the application relates.

Division 4 Deciding applications

108 Chief executive to decide application

- (1) The chief executive must, after considering an application for a plant authority, decide to—
 - (a) grant the authority, with or without conditions decided by the chief executive; or
 - (b) refuse the application.
- (2) The chief executive must decide the application—
 - (a) if, under section 105, the chief executive asks for further information or a document—within 40 business days after receiving the information or document; or
 - (b) otherwise—within 40 business days after receiving the application.
- (3) Subsection (4) applies if the chief executive considers a clearing activity to be carried out under a protected plant clearing permit will have a significant residual impact on endangered plants or vulnerable plants.
- (4) Without limiting subsection (1), the chief executive may impose a condition on the protected plant clearing permit requiring the holder of the permit to provide an environmental offset for the clearing activity.
- (5) 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.

109 Steps to be taken after application decided

- (1) If the chief executive decides to grant a plant authority, the chief executive must, as soon as practicable after making the decision, give the applicant—

-
- (a) the authority; and
 - (b) if a condition was imposed on the authority under section 108(1)(a)—an information notice for the decision to impose the condition.
- (2) Subsection (1)(b) does not apply in relation to a condition that the applicant sought in the application.
 - (3) If the chief executive decides to refuse the application, the chief executive must, as soon as practicable after making the decision, give the applicant an information notice for the decision.

Part 3 Form of authorities

110 Form

- (1) A plant authority must be in writing.
- (2) The chief executive may use 1 document for the grant of more than 1 plant authority.

111 Matters to be stated in plant authority

- (1) The following information must be stated in a plant authority—
 - (a) the day the authority is granted;
 - (b) if the authority does not take effect on the day it was granted—the day it takes effect;
 - (c) either the term or end date of the authority;
 - (d) the name of the holder of the authority and, if the holder is a corporation, the holder's ABN or ACN;
 - (e) the address of the holder of the authority;
 - (f) each species of plant to which the authority applies;

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- (g) if the authority applies to a particular number of plants of a particular species—the number;

Note—

See also section 114.

- (h) the premises that are the licensed premises for the authority;
 - (i) if the authority is for taking a plant—the place from where the plant may be taken;
 - (j) if the authority is granted to a corporation—the name of the individual in charge of—
 - (i) the activity to be carried out under the authority; or
 - (ii) the licensed premises for the authority;
 - (k) for an Aboriginal tradition authority or Island custom authority—the names of the individuals who may carry out activities under the authority;
 - (l) any conditions imposed by the chief executive on the authority.
- (2) Subsection (1)(f) does not apply to a plant authority granted for taking or using all plants in an area that is, or is about to be, lawfully destroyed.
- (3) For subsection (1)(k), an individual may be stated in an Aboriginal tradition authority or Island custom authority only if the individual is named in the application for the authority.

112 Stating species in plant authority

- (1) This section applies for stating a species of plant on a plant authority under section 111(1)(f).
- (2) The plant authority is taken to state—
 - (a) if the authority states a taxon of plant—each species of plant in the taxon; or
 - (b) if the authority states a class of wildlife—each species of plant in the class of wildlife; or

-
- (c) if the authority states the name of a harvest period notice—each species of plant to which the notice applies.
- (3) If it is not practicable to state multiple species on the plant authority, or use an approach mentioned in subsection (2), the authority may state the species of plant to which the authority applies by describing the species—
- (a) by using plain English; and
- (b) in a way that reasonably identifies all of the species.
- (4) In this section—
- harvest period notice* includes a notice declaring a harvest period under a conservation plan.

113 Plant authority may be limited to whole plants or parts of plants

A plant authority may state it applies to—

- (a) a whole protected plant of a species stated on the authority; or
- (b) a part of a protected plant of a species stated on the authority.

114 Meaning of number in plant authority

- (1) This section applies if a plant authority—
- (a) has a number (the *stated number*) written opposite a species of plant to which the authority applies; and
- (b) does not state what the stated number indicates.
- (2) The plant authority applies, for the duration of the authority, to no more than the stated number of plants of the species of plant.

Example—

A protected plant harvesting licence has ‘*xanthorrhoea johnsonii*—250’ written on it without any explanation about the meaning of the

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number. The licence is for taking no more than 250 *xanthorrhoea johnsonii* for the whole duration of the licence.

Part 4 Term of authorities

115 Term of plant authority

- (1) A plant authority is granted for the term stated in it.
- (2) The term must not be more than—
 - (a) if a conservation plan states a maximum term for the plant authority—the stated term; or
 - (b) otherwise—
 - (i) for a protected plant licence—5 years; or
 - (ii) for a protected plant clearing permit—2 years; or
 - (iii) for an Aboriginal tradition authority or Island custom authority—1 year.
- (3) Subject to part 5, the plant authority ends at the end of the term.

Part 5 Amendment, suspension or cancellation of authorities

Division 1 Minor amendments

116 Minor amendments by chief executive

- (1) This section applies if—
 - (a) the chief executive believes a plant authority should be amended; and
 - (b) the proposed amendment is a minor amendment.

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- (2) The chief executive may amend the plant authority by giving the holder of the authority notice of the amendment.
 - (3) The notice must state the reasons for the amendment.
 - (4) The amendment takes effect on the later of the following days—
 - (a) the day the notice is given to the holder;
 - (b) the day of effect stated in the notice.
 - (5) The effect of the amendment does not depend on the amendment being noted on the plant authority.

Note—

See, however, section 125.

- (6) In this section—

minor amendment, of a plant authority, means an amendment that—

- (a) removes a condition imposed by the chief executive on the authority, if the removal does not adversely affect the interests of the holder of the authority; or
- (b) corrects an error; or
- (c) makes another minor change that is not substantial and does not adversely affect the interests of the holder.

Division 2 Amendments by application

117 Application for amendment

- (1) The holder of a plant authority may apply to the chief executive for an amendment of the authority.
- (2) The application must be—
 - (a) in writing; and
 - (b) accompanied by the prescribed fee for the application.

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118 Considering and deciding application

- (1) The chief executive must consider an application for the amendment of a plant authority and decide—
 - (a) to make the amendment; or
 - (b) to make an amendment, other than the amendment applied for; or
 - (c) to refuse the application.
- (2) The chief executive must decide the application within 40 business days after receiving the application.

119 Steps to be taken after application decided

- (1) If the chief executive decides to amend a plant authority under this division, the chief executive must, as soon as practicable after making the decision, give the holder—
 - (a) if the amendment is the amendment the holder applied for—notice of the amendment; or
 - (b) if the amendment is not the amendment the holder applied for—an information notice for the decision.
- (2) The amendment takes effect on the later of the following days—
 - (a) the day the notice or information notice is given to the holder;
 - (b) the day of effect stated in the notice or information notice.
- (3) The effect of the amendment does not depend on the amendment being noted on the plant authority.

Note—

See, however, section 125.

- (4) If the chief executive decides to refuse the application, the chief executive must, as soon as practicable after making the decision, give the holder an information notice for the decision.

Division 3 Non-immediate amendments by chief executive

120 Grounds for amendment

The chief executive may, by complying with section 121, amend a plant authority if—

- (a) the chief executive believes—
 - (i) the authority was obtained because of false or misleading information; or
 - (ii) the holder of the authority has failed to comply with a condition of the authority; or
 - (iii) the holder is not, or is no longer, a suitable person to hold the authority; or

Note—

See also part 2, division 2.

- (iv) the amendment is necessary having regard to the object of the Act; or
- (b) the holder has failed to give the chief executive information required to be given under the Act for the authority, by the day or within the period during which the information must be given; or
- (c) the holder is convicted of an offence against the Act and the chief executive is satisfied the activities of the holder that led to the conviction are relevant to the holder's ability to carry out activities under the authority in a competent and ethical way; or
- (d) the chief executive believes the authority should be amended to—
 - (i) secure the safety of a person or a person's property; or
 - (ii) conserve or protect native wildlife.

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121 Procedure for amendment

- (1) If the chief executive proposes to amend a plant authority under section 120, the chief executive must give the holder of the authority a notice stating the following—
 - (a) the proposed amendment;
 - (b) the ground for the proposed amendment under section 120;
 - (c) an outline of the facts and circumstances forming the basis for the ground;
 - (d) that the holder may make written representations to the chief executive, within a stated period of at least 20 business days after the notice is given, about why the proposed amendment should not be made.
- (2) The chief executive may amend the plant authority if, after considering any written representations made within the stated period, the chief executive still believes the amendment should be made—
 - (a) in the way stated in the notice; or
 - (b) in another way, having regard to the representations.
- (3) If the chief executive decides to amend the plant authority, the chief executive must give the holder an information notice for the decision.
- (4) The amendment takes effect on the later of the following days—
 - (a) the day the information notice is given to the holder;
 - (b) the day of effect stated in the notice.
- (5) The effect of the amendment does not depend on the amendment being noted on the plant authority.

Note—

See, however, section 125.

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- (6) If the chief executive decides not to amend the plant authority, the chief executive must, as soon as practicable after making the decision, give the holder notice of the decision.

Division 4 Immediate amendment or suspension by chief executive

122 Safety and conservation grounds

- (1) This section applies if the chief executive believes a plant authority should be amended or suspended—
- (a) to secure the safety of a person or a person's property; or
 - (b) to conserve or protect native wildlife.
- (2) The chief executive may decide to amend or suspend the plant authority.
- (3) If the chief executive decides to amend or suspend the plant authority, the chief executive must give the holder of the authority an information notice for the decision.
- (4) The amendment or suspension takes effect on the later of the following days—
- (a) the day the information notice is given to the holder;
 - (b) the day of effect stated in the notice.
- (5) If the chief executive decides to suspend the plant authority—
- (a) the information notice must state the suspension period; and
 - (b) the suspension has effect until the end of the suspension period.
- (6) However, if the chief executive decides to suspend the plant authority for the immediate protection of life or property—
- (a) subsections (3) to (5) do not apply; and

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- (b) the chief executive must advise the holder about the decision; and
 - (c) the suspension—
 - (i) takes effect immediately after the holder is advised of the suspension; and
 - (ii) continues until the chief executive decides the reason for the suspension no longer exists; and
 - (d) the chief executive must as soon as practicable after the suspension ends—
 - (i) advise the holder that the suspension no longer applies; or
 - (ii) publish a notice on the department’s website advising that the suspension no longer applies.
- (7) The effect of an amendment of a plant authority under this section does not depend on the amendment being noted on the plant authority.

Note—

See, however, section 125.

Division 5 Non-immediate suspension or cancellation by chief executive

123 Grounds

The chief executive may, by complying with section 124, suspend or cancel a plant authority if—

- (a) there is a ground, under section 122, for immediately amending or suspending the authority; or
- (b) the chief executive believes—
 - (i) the authority was obtained because of false or misleading information; or

- (ii) the holder of the authority has failed to comply with a condition of the authority; or
- (iii) the holder is not, or is no longer, a suitable person to hold the authority; or

Note—

See also part 2, division 2.

- (c) the holder has failed to give the chief executive information required to be given under the Act for the authority, by the day or within the period during which the information must be given; or
- (d) the holder is convicted of an offence against the Act and the chief executive is satisfied the activities of the holder that led to the conviction are relevant to the holder's ability to carry out activities under the authority in a competent and ethical way; or
- (e) the chief executive believes the activities being carried out under the authority are threatening public health or safety.

124 Procedure

- (1) If the chief executive proposes to suspend or cancel a plant authority (the *proposed action*) under section 123, the chief executive must give the holder of the authority a notice stating the following—
 - (a) the proposed action;
 - (b) the ground for the proposed action under section 123;
 - (c) an outline of the facts and circumstances forming the basis for the ground;
 - (d) if the proposed action is to suspend the authority—the proposed suspension period;
 - (e) that the holder may make written representations to the chief executive, within a stated period of at least 20

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business days after the notice is given, about why the proposed action should not be taken.

- (2) If, after considering any written representations made within the stated period, the chief executive still considers the ground to take the proposed action exists, the chief executive may decide—
 - (a) if the proposed action was to suspend the plant authority—to suspend it for not longer than the proposed suspension period; or
 - (b) if the proposed action was to cancel the authority—either to cancel the authority or suspend it for a period.
- (3) If the chief executive decides to suspend or cancel the plant authority, the chief executive must give the holder an information notice for the decision.
- (4) The suspension or cancellation of the plant authority takes effect on the later of the following days—
 - (a) the day the information notice is given to the holder;
 - (b) the day of effect stated in the notice.
- (5) If the chief executive decides to suspend the plant authority, the suspension continues until the end of the suspension period.
- (6) If the chief executive decides not to take the proposed action, the chief executive must, as soon as practicable after making the decision, give the holder notice of the decision.
- (7) Despite subsection (4), if a plant authority is cancelled because of the conviction of a person for an offence and the conviction is quashed, the cancellation stops having effect.
- (8) Despite subsections (4) and (5), if a plant authority is suspended because of the conviction of a person for an offence and the conviction is quashed, the suspension period ends on the day the conviction is quashed.

Division 6 Return of authorities

125 After amendment

- (1) The chief executive may, by notice, ask the holder of a plant authority that has been amended under this part to return the authority to the chief executive by a day stated in the notice.
- (2) The day stated in the notice must be at least 10 business days after the day the holder receives the notice.
- (3) The holder must return the plant authority to the chief executive by the stated day unless the holder has a reasonable excuse.

Maximum penalty—20 penalty units.

- (4) The chief executive must, as soon as practicable after receiving the plant authority—
 - (a) note the amendment on the authority; and
 - (b) give the authority back to the holder.

126 After suspension

- (1) The chief executive may, by notice, ask the holder of a plant authority that has been suspended under this part to return the authority to the chief executive by a day stated in the notice.
- (2) The day stated in the notice must be at least 10 business days after the day the holder receives the notice.
- (3) The holder must return the plant authority to the chief executive by the stated day unless the holder has a reasonable excuse.

Maximum penalty—20 penalty units.

- (4) The chief executive must give the plant authority back to the holder on or before the day the suspension ends.

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127 After cancellation

The holder of a plant authority that has been cancelled under this part must return the authority to the chief executive within 10 business days after the cancellation takes effect unless the holder has a reasonable excuse.

Maximum penalty—20 penalty units.

Part 6 Replacement and surrender of authorities

128 Replacement

- (1) This section applies if a plant authority is damaged, destroyed, lost or stolen.
- (2) The holder of the plant authority may apply to the chief executive for the replacement of the authority.
- (3) The application must be—
 - (a) in writing; and
 - (b) accompanied by the prescribed fee for the application.
- (4) The chief executive must grant the application if the chief executive is satisfied the plant authority has been—
 - (a) damaged in a way that requires the replacement of the authority; or
 - (b) destroyed, lost or stolen.
- (5) If the chief executive decides to grant the application, the chief executive must give the holder another plant authority to replace the damaged, destroyed, lost or stolen plant authority.
- (6) If the chief executive decides to refuse the application, the chief executive must give the applicant an information notice for the decision within 14 days after the decision is made.

129 Surrender

- (1) The holder of a plant authority may surrender the authority by returning the authority and giving a notice of surrender to the chief executive.
- (2) A plant authority surrendered under subsection (1) stops having effect from—
 - (a) the day for surrender stated in the notice; or
 - (b) if paragraph (a) does not apply—the day the notice is received by the chief executive.

Chapter 6 Matters affecting the taking of protected plants

Part 1 Harvest periods

130 Declaration of harvest period

- (1) The chief executive may, by notice (a *harvest period notice*), declare a harvest period for a protected plant if the chief executive considers it necessary for the conservation of nature.
- (2) The harvest period notice may impose conditions on the taking of the protected plant during the harvest period, including, for example—
 - (a) the maximum number of protected plants that may be taken; and
 - (b) the way in which a whole protected plant or a part of the plant may be taken; and
 - (c) localities from which the plant must not be taken; and
 - (d) how the plant, if taken, may be used.

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- (3) The chief executive must publish the harvest period notice on the department's website.

Part 2 Flora surveys

Division 1 Preliminary

131 Purpose of part

This part provides for matters relating to the flora survey trigger map, flora surveys and flora survey reports.

132 Meaning of *high risk area*

A *high risk area* is an area—

- (a) in which threatened plants or near threatened plants are present or are likely to be present; and
- (b) shown as a high risk area on the flora survey trigger map.

133 Meaning of *clearing impact area*

(1) A *clearing impact area* is—

- (a) an area to be cleared to the extent it is within a high risk area; and
- (b) the buffer zone for the area to be cleared.

(2) The *buffer zone*, for an area to be cleared, is—

- (a) an area of 100m in width around the boundary of the area; or
- (b) another area agreed by the chief executive under section 134 to be a buffer zone for the area.

134 Agreed buffer zone for area to be cleared

- (1) A person may ask the chief executive, in the approved form, to agree to reduce the area of the usual buffer zone for an area to be cleared.
- (2) The chief executive may agree to the request if the chief executive is satisfied—
 - (a) it is not reasonably practicable for a flora survey to be undertaken in the usual buffer zone for the area; or
Example—

The applicant does not have the permission of a landowner to undertake a flora survey in part of the usual buffer zone.
 - (b) the request to reduce the area is consistent with any requirements of the flora survey guidelines.
- (3) As soon as practicable after making a decision on the request, the chief executive must give the person notice of the decision.
- (4) In this section—
usual buffer zone, for an area to be cleared, means the area mentioned in section 133(2)(a).

Division 2 Flora survey trigger map

135 What is the 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 136.
- (2) The *flora survey trigger map* includes any digital electronic spatial information that is used to produce the map.

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136 Reviewing and amending 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.

137 Public availability of map

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, including, for example, on a website.

138 Period of validity of copy of map

- (1) If the chief executive gives a person a copy of the flora survey trigger map, the copy of the map is valid for 12 months from the day the chief executive gives the person the copy.
- (2) If a person obtains a copy of the flora survey trigger map from a website on which the map is published, the copy of the map is valid for 12 months from the day the person obtains the copy from the website.
- (3) However, if a person obtains or receives a copy of the flora survey trigger map for an exemption under section 46, the copy of the map is valid for 5 years from the relevant TOR date under that section.

139 Checking map

A person may check the flora survey trigger map before starting any clearing to find out if any part of the area to be cleared is within a high risk area.

Note—

See sections 46 and 47 which deal with clearing in an area that is not within a high risk area.

Division 3 Flora surveys and flora survey reports

140 What is a flora survey and flora survey report

- (1) A *flora survey* is a survey of a clearing impact area—
 - (a) undertaken to identify whether threatened plants or near threatened plants are present within the clearing impact area; and
 - (b) that complies with the flora survey guidelines, or an alternative survey methodology agreed to by the chief executive under section 143.
- (2) A *flora survey report* is a report—
 - (a) about the results of a flora survey for a clearing impact area; and
 - (b) that complies with the flora survey guidelines, or an alternative survey methodology agreed to by the chief executive under section 143.

141 When flora survey is required

If any part of an area to be cleared is within a high risk area, a flora survey must be undertaken of the clearing impact area before the clearing starts.

Notes—

- 1 Under section 48, a person is required to prepare a flora survey report about the results of a flora survey to be a person to whom an exemption applies under that section.
- 2 Under section 87, the chief executive must not grant a protected plant clearing permit for clearing within a clearing impact area unless the applicant has given the chief executive a flora survey report about the results of a flora survey for the clearing impact area.

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142 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;
 - (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 the flora survey guidelines on the department's website.

143 Alternative survey methodology for flora survey or flora survey report

- (1) The chief executive may agree to an alternative survey methodology for carrying out a flora survey, or preparing a flora survey report.
- (2) However, the chief executive may agree to an alternative survey methodology only if the chief executive is satisfied the methodology is suitable for identifying whether threatened plants or near threatened plants 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.

144 False or misleading information in flora survey report

A person must not state anything in a flora survey report that the person knows is false or misleading in a material particular.

Maximum penalty—165 penalty units.

Chapter 7 Other offences

Part 1 Plant authorities

145 Compliance with conditions of plant authority

- (1) The holder of a plant authority must comply with the conditions of the authority applying to the holder unless the holder has a reasonable excuse.

Maximum penalty—

- (a) for failure to comply with a condition mentioned in section 63 or 64—20 penalty units; or
 - (b) for failure to comply with a licence condition, a research and monitoring condition or a condition mentioned in section 65, 66 or 84—165 penalty units; or
 - (c) otherwise—80 penalty units.
- (2) For subsection (1), the holder is taken to comply with a condition of the plant authority if a relevant person for the holder complies with the condition for the holder.
- (3) A relevant person for the holder of a plant authority must comply with the conditions of the authority applying to the person unless the person has a reasonable excuse.

Maximum penalty—

- (a) for a failure to comply with a licence condition—165 penalty units; or
 - (b) otherwise—80 penalty units.
- (4) It is a defence to a prosecution for an offence against subsection (1) or (3) relating to the death of a protected plant

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from which a part of the plant was taken if the defendant establishes that the defendant complied with the plant authorities code when taking the part of the plant.

Note—

See sections 73 and 81 for conditions about the death of protected plants.

(5) In this section—

licence condition means a condition mentioned in section 73, 74, 75, 76, 81, 82 or 83.

Part 2 Code of practice

146 Compliance with plant exemptions code

A person who takes or uses a protected plant under an exemption under chapter 3, part 2 or 3 must comply with the plant exemptions code in relation to taking or using the plant unless the person has a reasonable excuse.

Maximum penalty—120 penalty units.

Part 3 Protected plants

147 Procedure if particular whole restricted plant stolen

(1) This section applies if—

- (a) a person keeps a whole restricted plant taken lawfully from the wild; and
- (b) the plant is required to be tagged under this regulation or the plant exemptions code; and

Note—

For the requirement to tag a plant under this regulation, see section 167.

- (c) the plant is stolen from the person.

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- (2) The person must, unless the person has a reasonable excuse—
- (a) immediately report the theft to a police officer; and
 - (b) report the theft to a departmental conservation officer within 24 hours after the plant is stolen; and
 - (c) if the person is given a copy of a police report about the theft—keep the copy for 2 years after the day the person receives the copy.

Maximum penalty—20 penalty units.

- (3) Also, if the person keeps a record under the Act for the plant, the person must record the particulars of the theft in the record unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

- (4) In this section—

departmental conservation officer means a conservation officer who is an employee of the department.

148 Dealing with part of protected plant taken for identification, educational or scientific purpose

- (1) This section applies if a person takes a part of a protected plant under an exemption under section 39.
- (2) The person must, unless the person has a reasonable excuse—
- (a) complete a specimen label for the part before leaving the place where the part is taken; and
 - (b) give each part to the Queensland Herbarium within 28 days after taking it.

Maximum penalty—20 penalty units.

- (3) In this section—

specimen label, for a part of a protected plant, means a sheet of paper or cardboard kept with the part that includes the following information—

- (a) the name of the person who took the part;

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- (b) the place and date the part was taken;
- (c) information required under a condition of a harvest period notice for the plant.

Part 4 Non-native plants

149 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—

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—

- a seed or part of a seed
- a bulb, rhizome, root, stolon, tuber or part of a bulb, rhizome, stolon or tuber
- a stem or leaf cutting

Chapter 8 Records, tags and labels

Part 1 Records

Division 1 Preliminary

150 Purpose of part

- (1) This part requires the holder of a plant authority to keep particular records and provides for the way in which the records are to be kept.
- (2) Also, this part provides for other offences relating to records required to be kept under the Act.

151 Approved person may keep records

- (1) This section applies if the chief executive is satisfied a person who is required to keep a record under the Act—
 - (a) is illiterate; or
 - (b) is otherwise unable to keep the record.
- (2) The chief executive may give the person a written approval stating another person (an *approved person*), stated in the approval, may keep the record for the person.
- (3) However, the chief executive must only give the person the written approval if the approved person agrees to keep the record for the person.

Division 2 Records to be kept by holders of plant authorities

Subdivision 1 Keeping records

152 Protected plant harvest record for particular restricted plants

- (1) This section applies if the holder of a protected plant licence, or a relevant person for the holder, harvests a whole restricted plant or part of a restricted plant under the licence.
- (2) The holder must, unless the holder has a reasonable excuse, keep a record (a *protected plant harvest record*) for the whole plant or the part of the plant that includes the following information—
 - (a) if a conservation plan states the information that must be included in the record—the stated information;
 - (b) otherwise—the information the plant authorities code states must be included in the record.

Maximum penalty—120 penalty units.

153 Protected plant trade record for particular restricted plants

- (1) This section applies if the holder of a protected plant licence, or a relevant person for the holder—
 - (a) harvests a restricted plant under the licence that is to be used for trade; or
 - (b) uses a restricted plant for trade under the licence.
- (2) The holder must, unless the holder has a reasonable excuse, keep a record (a *protected plant trade record*) for the plant that includes the following information—
 - (a) if a conservation plan states the information that must be included in the record—the stated information;

- (b) otherwise—the information the plant authorities code states must be included in the record.

Maximum penalty—120 penalty units.

154 Record about buying or accepting restricted plant

- (1) This section applies if the holder of a plant authority, or a relevant person for the holder, buys or accepts a restricted plant under the authority.
- (2) The holder must, unless the holder has a reasonable excuse, keep a record of the following information for 5 years after the holder ceases to possess the plant—
 - (a) the name and address of the person selling or giving away the plant (the *seller*);
 - (b) the information used to verify the identity of the seller, including the particulars of the type of document produced by the seller and any identifying features of the document;

Example of identifying features of a document—

a licence number

- (c) if the seller is acting under a plant authority—the number of the authority;
- (d) if the seller obtained the plant under an exemption in chapter 3—details of the exemption identified by the seller.

Maximum penalty—100 penalty units.

155 Record about selling or giving away restricted plant

- (1) This section applies if the holder of a plant authority, or a relevant person for the holder, sells or gives away a restricted plant under the authority.

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- (2) The holder must, unless the holder has a reasonable excuse, keep a record of the following information for 5 years after the holder ceases to possess the plant—
- (a) the name and address of the person to whom the plant is sold or given (the *buyer*);
 - (b) the source of the information used to verify the identity of the buyer, including the particulars of the type of document produced by the buyer and any identifying features of the document;
Example of identifying features of a document—
a licence number
 - (c) if the buyer is a corporation—the name of the corporation;
 - (d) if the buyer is a business or a person operating under a business or trading name—the name of the business or trading name.

Maximum penalty—100 penalty units.

- (3) However, this section does not apply if the holder or relevant person sells or gives away the plant in the course of a retail activity to a person for the person's own personal use.

156 Relevant person may keep record for holder of plant authority

The holder of a plant authority complies with a requirement to keep a record under this subdivision if a relevant person for the holder keeps the record for the holder.

Subdivision 2 Requirements for protected plant harvest records and protected plant trade records

157 Application of subdivision

This subdivision applies to the holder of a protected plant licence who is required under subdivision 1 to keep a protected plant harvest record or a protected plant trade record in relation to a plant taken or used under the licence.

158 Information must be complete, accurate and legible

- (1) The holder must ensure that information included in the record is—
 - (a) complete and accurate; and
 - (b) legible; and
 - (c) in ink.

Maximum penalty—100 penalty units.

- (2) However, subsection (1)(c) does not apply in relation to a record kept in an electronic form.

159 How records must be kept

- (1) The holder must keep the record—
 - (a) in a written or electronic record system; and
 - (b) in a way that ensures the record is available on request by a conservation officer.
- (2) If the record is kept in an electronic record system (the *primary system*) and the primary system is not working on the day particular information must be included in the record—
 - (a) the information must be recorded in a written record system or another electronic record system; and

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- (b) the written record system or other electronic record system is taken to be a part of the primary system.

160 Where records or copies must be kept

The holder must, unless the holder has a reasonable excuse, keep the record or a copy of the record in a secure way at—

- (a) for an individual—the holder’s place of residence; or
- (b) for a recreational plant society—the society’s office or other usual place for keeping the society’s records; or
- (c) for a corporation—
 - (i) the licensed premises for the licence; or
 - (ii) if the licensed premises for the licence are not a place open for business—an office of the corporation that is in the State.

Maximum penalty—120 penalty units.

161 How long records or copies must be kept

The holder must keep the record or a copy of the record for at least 5 years after the holder ceases to hold the protected plant licence for the plant unless the holder has a reasonable excuse.

Maximum penalty—120 penalty units.

162 When information must be included in record

The holder must ensure the information required to be included in the record under subdivision 1 is included—

- (a) for information a conservation plan states must be included in the record—on the day stated in the conservation plan; or
- (b) for other information—within 72 hours after the event to which the information relates happens.

Maximum penalty—120 penalty units.

Division 3 Other offences for records required to be kept under Act

163 Notice of theft, loss or destruction of, or damage to, particular records

- (1) This section applies if—
 - (a) the holder of a plant authority is required to keep a record under division 2, subdivision 1; and
 - (b) the record, or a copy of the record, is stolen, lost, destroyed or damaged.
- (2) The holder must, within 24 hours after becoming aware of the theft, loss, destruction or damage, give the chief executive a notice stating the record or copy has been stolen, lost, destroyed or damaged, unless the holder has a reasonable excuse.

Maximum penalty—120 penalty units.

- (3) Subsection (4) applies if a person (the *second person*) keeps the record, or a copy of the record, for the holder.
- (4) The second person must, within 24 hours after becoming aware of the theft, loss, destruction or damage, notify the holder of the theft, loss, destruction or damage, unless the second person has a reasonable excuse.

Maximum penalty—40 penalty units.

164 Tampering with records

- (1) A person must not, unless the person has a reasonable excuse—
 - (a) deface, erase or obliterate an entry in a record or a copy of a record; or
 - (b) remove an entry from a record or a copy of a record; or
 - (c) modify an entry in a record or a copy of a record.

Maximum penalty—120 penalty units.

(2) In this section—

record means a record required to be kept under the Act in relation to a plant.

Part 2 Tags

Division 1 Supply of tags

165 Chief executive may supply tags for use

- (1) The chief executive may, upon payment of the prescribed fee, supply a tag to a person for use under the Act.
- (2) Without limiting subsection (1), a tag may be supplied to attach to a plant to allow the plant to be identified.
- (3) The chief executive must give the person a notice stating the species of plant for which the tag is supplied.

Note—

See section 169 for circumstances when a person may require the chief executive's written approval to possess a tag supplied under this section.

166 Nature of tags supplied by chief executive

- (1) A tag supplied under section 165 is the property of the State.
- (2) The tag must not be transferred unless the chief executive has given written approval for the transfer.
- (3) However, subsection (2) is subject to a provision of a conservation plan that provides that a tag supplied for a plant to which the conservation plan applies must not be transferred in any circumstances.

Division 2 Attaching tags

167 Attaching tag to particular whole restricted plants

- (1) This section applies if, under a protected plant harvesting licence, the holder of the licence, or a relevant person for the holder—
 - (a) takes a whole restricted plant (other than the trunk, a log or any timber of sandalwood); and
 - (b) uses the plant for trade.
- (2) The holder or relevant person must attach a tag supplied under section 165 to the plant—
 - (a) if the holder or person does not have the tag for the plant before the plant is taken—
 - (i) as soon as practicable after the plant is moved from the place where it is taken; and
 - (ii) before the plant is otherwise used for trade; or
 - (b) otherwise—before the plant is moved from the place where it is taken.

Maximum penalty—120 penalty units.

Division 3 Requirements for tags

168 Using tags generally

- (1) A person must not attach a tag supplied under section 165 to a protected plant of a species other than the species for which the tag is supplied unless the person has a reasonable excuse.

Maximum penalty—165 penalty units.

- (2) A person must not attach a tag to a protected plant if the tag has previously been attached to another plant.

Maximum penalty—165 penalty units.

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169 Tags not to be used by unauthorised person

- (1) A person, other than a tag-authorised person, must not, unless the person has a reasonable excuse—
 - (a) possess a tag supplied under section 165 without the chief executive’s written approval; or
 - (b) attach a tag supplied under section 165 to a plant without the chief executive’s written approval.

Maximum penalty—165 penalty units.

- (2) This section is subject to any provision of a conservation plan that provides for the persons who may attach a tag to a plant to which the plan relates.

- (3) In this section—

tag-authorised person means any of the following persons—

- (a) the chief executive;
- (b) a conservation officer;
- (c) the holder of a protected plant licence;
- (d) a relevant person for the holder of a protected plant licence;
- (e) a person who takes a whole protected plant under an exemption in chapter 3, part 3 if the person is required to attach a tag to the plant under the plant exemptions code.

170 Tampering with official tags

- (1) A person must not tamper with an official tag attached to a protected plant unless the person has a reasonable excuse.

Maximum penalty—80 penalty units.

- (2) Subsection (1) does not apply if the tampering by the person is approved in writing by the chief executive.
- (3) Also, subsection (1) does not apply to a person who removes an official tag from a protected plant if—

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- (a) the plant is being used for the person's own personal use; or
 - (b) this regulation or a conservation plan provides that the person may remove the tag from the plant.
- (4) In this section—
- official tag*, for a protected plant, means—
- (a) a tag supplied under section 165 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.
- tamper*, with an official tag, means—
- (a) to remove or damage the tag; or
 - (b) to cover or modify the writing on the tag.

171 Recall of tags supplied by chief executive

- (1) The chief executive may give a person a notice directing the person to return a tag supplied under section 165 to the chief executive.
- (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.
- (3) The person must comply with the notice unless the person has a reasonable excuse.

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

Part 3 Labels

Division 1 Preliminary

172 Purpose of part

- (1) This part requires the holder of a protected plant licence to attach particular labels to plants taken or used under the licence.
- (2) Also, this part provides for other offences relating to labels attached to protected plants taken or used under the Act.

Division 2 Attaching labels

173 Protected plant harvest label for particular restricted plants

- (1) This section applies to the holder of a protected plant licence, or a relevant person for the holder, who harvests a whole restricted plant, or a part of a restricted plant, under the licence.
- (2) At the time the holder or relevant person harvests the whole plant or the part, the holder or person must, unless the holder or person has a reasonable excuse, attach a protected plant harvest label to—
 - (a) the whole plant; or
 - (b) a bundle or container containing the part.

Maximum penalty—120 penalty units.

- (3) Subsection (4) applies if it is impractical or would be unreasonable for the holder or relevant person to attach a protected plant harvest label to a whole restricted plant under subsection (2)(a) given the plant's nature or condition.

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

- (4) The holder or relevant person is taken to have attached the protected plant harvest label to the whole plant if the holder or person attaches the label as close as is reasonably practicable to the plant.

174 Protected plant trade label for particular restricted plants

- (1) This section applies to the holder of a protected plant harvesting licence, or a relevant person for the holder, who uses a whole restricted plant (other than the trunk, a log or any timber of sandalwood), or a part of a restricted plant, for trade under the licence.
- (2) Before the whole plant or part is used for trade, the holder or relevant person must, unless the holder or person has a reasonable excuse, attach a protected plant trade label to—
 - (a) the whole plant; or
 - (b) a bundle or container containing the part.

Maximum penalty—120 penalty units.

- (3) Subsection (4) applies if it is impractical or would be unreasonable for the holder or relevant person to attach a protected plant trade label to a whole restricted plant under subsection (2)(a) given the plant's nature or condition.

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

- (4) The holder or relevant person is taken to have attached the protected plant trade label to the whole plant if the holder or person attaches the label as close as is reasonably practicable to the plant.

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175 Label for particular restricted plants sold, exchanged or given away, or moved, outside State

- (1) This section applies if, under a protected plant harvesting licence, the holder of the licence, or a relevant person for the holder—
 - (a) uses a restricted plant for trade by moving the plant to a place outside the State; or
 - (b) uses a restricted plant by selling, exchanging or giving away the plant to another person outside the State for benefit, gain or reward.
- (2) Before the restricted plant is used in the way mentioned in subsection (1), the holder or relevant person must, unless the holder or person has a reasonable excuse, mark or label a container containing the plant with the following words—
 - (a) if the container only contains restricted plants taken under a protected plant harvesting licence or an exemption in chapter 3, part 3—‘This product has been taken under a *Nature Conservation Act 1992* (Queensland) licence or exemption’;
 - (b) otherwise—
 - (i) ‘Some of this product has been taken under a *Nature Conservation Act 1992* (Queensland) licence or exemption’; and
 - (ii) ‘The remaining plants have been obtained from propagation or cultivation or lawfully taken in the wild in another State’.

Maximum penalty—120 penalty units.

Division 3 Requirements for labels

176 False or misleading information in particular labels

A person must not state anything that the person knows is false or misleading in a material particular in any of the following labels—

- (a) a protected plant harvest label;
- (b) a protected plant trade label;
- (c) a label about the harvest or use of a restricted plant that is required to be attached to the plant under the plant exemptions code.

Maximum penalty—80 penalty units.

177 Removing particular labels about harvest of restricted plants

- (1) A person must not remove a harvest label attached to a whole restricted plant, or a bundle or container containing a part of a restricted plant, other than under subsection (2), unless the person has a reasonable excuse.

Maximum penalty—80 penalty units.

- (2) A person may remove a harvest label attached to a whole restricted plant, or a bundle or container containing a part of a restricted plant, if—
- (a) the whole plant, or the bundle or container containing the part, has been moved from the place where the whole plant or part was harvested; and
 - (b) 1 of the following applies—
 - (i) a protected plant trade label is attached to the whole plant, or the bundle or container containing the part, under section 174;
 - (ii) a label under the plant exemptions code about the trade of the restricted plant is attached to the whole

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plant, or the bundle or container containing the part, as required under the code;

(iii) the whole plant or part starts being used for a purpose other than trade.

(3) In this section—

harvest label means—

- (a) a protected plant harvest label; or
- (b) a label about the harvest of a restricted plant that is required to be attached to the plant under the plant exemptions code.

Chapter 9 Fees

Part 1 Fees payable

178 Application of chapter

- (1) This chapter provides for fees payable under the Act in relation to a plant.
- (2) However, this chapter does not apply to a conservation value.

179 Fees generally

The fees are stated in schedule 4.

180 Concessional fee for application for particular plant authorities

- (1) This section applies in relation to an application for a plant authority if the activity proposed to be carried out under the authority is—

-
- (a) for an educational purpose; or
 - (b) for a scientific research purpose; or
 - (c) for the conservation of nature; or
 - (d) clearing to establish or maintain a fence, firebreak, road or vehicular track that is necessary for managing or protecting a property; or
 - (e) a traditional owner activity.
- (2) The fee payable for the application is the concessional fee stated in schedule 4 for the plant authority.
- (3) In this section—

educational purpose means the purpose of teaching at an educational institution or by an educational organisation.

scientific research purpose means the purpose of scientific research carried out at a tertiary or other institution administered by the Commonwealth, a State or another entity that is involved in scientific research.

traditional owner activity means an activity by which a protected plant is taken and used by—

- (a) an Aboriginal person for practising Aboriginal tradition; or
- (b) a Torres Strait Islander for practising Island custom.

Part 2 Exemption from plant authority fees

181 Application for fee exemption

- (1) This section applies to any of the following persons (each a *relevant applicant*)—
- (a) a recreational plant society;
 - (b) a voluntary conservation organisation;

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- (c) a volunteer community organisation.
- (2) The relevant applicant may apply to the chief executive for an exemption from the payment of a fee for an application for a plant authority (*a fee exemption*).
- (3) The application for the fee exemption must—
 - (a) be in writing; and
 - (b) include details about the contribution the activity proposed to be carried out under the plant authority will make to the conservation of nature generally; and
 - (c) be made before or when the application for the plant authority is made.

182 Considering and deciding application for fee exemption

- (1) The chief executive must consider an application for a fee exemption and decide to either—
 - (a) grant the exemption, with or without conditions; or
 - (b) refuse the application.
- (2) The chief executive may grant the exemption only if the chief executive is satisfied—
 - (a) the activity proposed to be carried out under the plant authority to which the application relates is likely to make a significant contribution to the conservation of nature generally; and
 - (b) any commercial or recreational aspect of the activity is not the primary purpose for carrying out the activity.

183 Steps to be taken after application for fee exemption decided

- (1) If the chief executive decides to grant a fee exemption, the chief executive must give the relevant applicant a notice stating—

- (a) the plant authority to which the exemption applies; and
 - (b) if a condition is imposed on the exemption under section 182(1)(a)—
 - (i) the condition; and
 - (ii) the reason for the condition.
- (2) If the chief executive decides to refuse an application for a fee exemption, the chief executive must, as soon as practicable after making the decision, give the relevant applicant notice of the decision and the reasons for the decision.

184 Effect of grant of fee exemption

- (1) If the chief executive grants a fee exemption, no fee is payable by the relevant applicant for the plant authority to which the exemption relates.
- (2) However, if the chief executive imposes a condition on the exemption under section 182(1)(a), subsection (1) applies only if the relevant applicant complies with the condition.

Part 3 Refund of fees

185 Refund of fees

- (1) This section applies if a plant authority has been—
 - (a) amended to an extent that the fee paid in relation to the authority before it was amended is higher than the fee that would be payable in relation to the authority in its amended form; or
 - (b) suspended or cancelled for a ground mentioned in section 123(e); or
 - (c) surrendered under section 129.

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- (2) The chief executive may refund all or part of a fee paid in relation to the plant authority if the chief executive considers the refund is appropriate having regard to—
 - (a) the nature of the amendment, suspension, cancellation or surrender; and
 - (b) any other relevant matter.
- (3) The chief executive may refund the fee in the way the chief executive considers appropriate.

Examples of ways chief executive may refund fee—

- by giving the person a cheque for the amount refunded
- by deducting the amount refunded from another fee the person is required to pay

Chapter 10 Miscellaneous

186 **Processed products—Act, schedule, definition *protected plant***

- (1) For the schedule of the Act, definition *protected plant*, paragraph (b), the following products are declared to be processed products not included in the definition—
 - (a) a part of a protected plant lawfully obtained from a place in another State if—
 - (i) the part is moved into the State; and
 - (ii) the way the part is packed and tagged complies with the requirements of any applicable law of the other State; and
 - (iii) the movement of the part from the other State into the State is authorised under any applicable law of the other State;
 - (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) In this section—
unpack, a product, does not include simply removing a mark, label, tag or other thing that has been directly placed on, or attached to, the product.

187 Officer of a prescribed class—Act, s 130

For section 130(1)(a) of the Act, the class of officer prescribed for this regulation is a conservation officer who—

- (a) is an officer of another department; and
- (b) has an identity card issued under another Act that states the officer is a conservation officer.

Chapter 11 Administrative provisions

Part 1 Review of decisions

Division 1 Preliminary

188 Definitions for part

In this part—

affected person, in relation to a decision, means—

- (a) if the decision is an original decision—
 - (i) a person who must be given an information notice for the decision; or

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- (ii) a person whose interests are otherwise affected by an original decision; or
- (b) if the decision is an internal review decision—the person who applied for the internal review.

internal review, of an original decision, see section 190(1).

internal review decision means a decision made, or taken to have been made, under section 192 on an application for internal review of an original decision.

original decision means—

- (a) a decision for which an information notice must be given under this regulation; or
- (b) a decision for which an information notice must be given under a conservation plan, if the decision applies in relation to a plant.

QCAT information notice, for an internal review decision, means a notice complying with the QCAT Act, section 157(2).

Division 2 Internal review

189 Review process must start with internal review

An affected person for an original decision may apply to QCAT for a review of the decision only if a decision on an application for internal review of the decision has been made, or taken to have been made, under this division.

190 Who may apply for internal review

- (1) An affected person for an original decision may apply to the chief executive for a review of the decision under this division (an *internal review*).
- (2) If the affected person has not been given an information notice for the original decision, the affected person may ask the chief executive for an information notice for the decision.

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- (3) A failure by the chief executive to give the affected person an information notice for the original decision does not limit or otherwise affect the person's right to apply for an internal review of the decision.

191 Requirements for application

- (1) An application for internal review of an original decision must—
- (a) be in the approved form; and
 - (b) for a person who has been given an information notice for the decision—include enough information to enable the chief executive to decide the application; and
 - (c) be made to the chief executive within 20 business days after—
 - (i) for a person who has been given an information notice for the decision—the day the person is given the notice; or
 - (ii) for a person who has not been given an information notice for the decision—the day the person becomes aware of the decision.
- (2) The chief executive may, at any time, extend the period within which the application may be made.
- (3) The application does not affect the operation of the original decision or prevent the decision being implemented.

Note—

Division 3 provides for a stay of the original decision.

192 Internal review

- (1) The chief executive must, within 28 days after receiving an application for internal review of an original decision—
- (a) review the original decision; and
 - (b) decide to—

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- (i) confirm the original decision; or
 - (ii) amend the original decision; or
 - (iii) substitute another decision for the original decision; and
- (c) give the affected person for the original decision a QCAT information notice for the chief executive's decision under paragraph (b).
- (2) The chief executive and the affected person may, before the period stated in subsection (1) ends, agree to a longer period for the chief executive to comply with the subsection.
- (3) The application may be dealt with only by a person who—
 - (a) did not make the original decision; and
 - (b) holds a more senior office than the person who made the original decision.
- (4) Subsection (3) does not apply to an original decision made by the chief executive personally.
- (5) If the chief executive does not give the affected person a QCAT information notice within the period required under subsection (1) or a longer period agreed under subsection (2), the chief executive is taken to confirm the original decision.

Division 3 Staying operation of original decision

193 QCAT may stay operation of original decision

- (1) An affected person for an original decision may apply to QCAT, in the way provided under the QCAT Act, for a stay of the operation of the decision.
- (2) However, subsection (1) does not apply in relation to a decision mentioned in section 173OA of the Act.

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- (3) The application may be made at any time within the period within which an application for an internal review of the original decision may be made under division 2.
 - (4) QCAT may make an order staying the operation of the original decision only if it considers the order is desirable after having regard to the following—
 - (a) the interests of any person whose interests may be affected by the making of the order or the order not being made;
 - (b) any submission made to QCAT by the entity that made the original decision;
 - (c) the public interest.
 - (5) Subsection (4)(a) does not require QCAT to give a person whose interests may be affected by the making of the order, or the order not being made, an opportunity to make submissions for QCAT's consideration if it is satisfied it is not practicable because of the urgency of the case or for another reason.
 - (6) A stay by QCAT under this section—
 - (a) may be given on conditions QCAT considers appropriate; and
 - (b) operates for the period fixed by QCAT; and
 - (c) may be amended or revoked by QCAT.
 - (7) The period of a stay by QCAT under this section must not extend past—
 - (a) the end of the period within which an application for an internal review of the original decision may be made under division 2; or
 - (b) if an application for an internal review of the original decision is made under division 2 within the period allowed under that division—the end of the period within which an application for a review of the internal review decision may be made under the QCAT Act.

Notes—

The QCAT Act, section 22(3) enables QCAT to stay the operation of the internal review decision, either on application by a person or on its own initiative. However, see also section 173OA of the Act.

Division 4 External review

194 Applying for external review

- (1) This section applies to a person who must be given a QCAT information notice for an internal review decision.
- (2) The person may apply to QCAT, as provided under the QCAT Act, for a review of the internal review decision.

Note—

The QCAT Act, section 22(3) enables QCAT to stay the operation of the internal review decision, either on application by a person or on its own initiative.

- (3) However, subsection (2) does not apply in relation to a decision mentioned in section 173OA of the Act.

Part 2 Seizure of property

Division 1 Preliminary

195 Definitions for part

In this part—

claim period, for a seized thing, means 2 months after the date of the seizure notice for the thing.

dangerous seized thing see section 199(1).

owner, of a seized thing, means—

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- (a) if the chief executive is aware of the actual owner of the thing immediately before the seizure—the owner; or
 - (b) otherwise—the person who would be entitled to the possession of the thing had it not been seized.

seized thing see section 196(2).

seizure notice, for a seized thing, means a notice given under section 201 for the thing.

Division 2 Power to seize things

196 Seizure of things for the protection of native plants

- (1) This section applies if a conservation officer believes on reasonable grounds—
 - (a) a vehicle, boat, aircraft or 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, boat, aircraft or appliance for the protection of a native plant.
- (2) The conservation officer may seize the vehicle, boat, aircraft or appliance (each a *seized thing*) and anything attached to or contained in the thing.

Division 3 Dealing with seized things

197 General powers for seized things

- (1) A conservation officer who has seized a seized thing under division 2 may—
 - (a) move the thing from the place where it was seized; or

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- (b) leave the thing at the place where it was seized, but take reasonable action to restrict access to the thing.

Examples of restricting access to a seized thing—

- branding, marking, sealing, tagging or otherwise identifying the thing to show access to it is restricted
- sealing the entrance to a room or other area where the thing is situated and marking it to show access to it is restricted

- (2) If the seized thing is equipment, the conservation officer may also make the thing inoperable.

Example of making equipment inoperable—

dismantling equipment or removing a component of equipment without which the equipment is not capable of being used

198 Tampering with seized thing

- (1) A person must not do, or attempt to do, any of the following unless the person has a reasonable excuse—

- (a) tamper with, or continue to tamper with, a seized thing or something done under section 197(1)(b) to restrict access to the thing;
- (b) enter, or be at, the place where a seized thing is being kept;
- (c) move a seized thing from the place where it is being kept;
- (d) have a seized thing in the person's possession.

Maximum penalty—100 penalty units.

- (2) Subsection (1) does not apply to—

- (a) a conservation officer; or
- (b) a person asked by a conservation officer to do something mentioned in the subsection.

199 Dangerous seized things must be destroyed

- (1) This section applies to a seized thing (a *dangerous seized thing*) that is—
 - (a) an explosive under the *Explosives Act 1999*; or
 - (b) a poison.
- (2) The chief executive must destroy the dangerous seized thing at the time the chief executive considers appropriate having regard to the reason for the seizure and any other matter relevant to the risks posed by the thing.

200 Way seized thing must be kept

- (1) This section applies—
 - (a) to a seized thing, other than a dangerous seized thing; and
 - (b) whether or not the thing is removed from the place where it was seized.
- (2) The chief executive must ensure the thing is kept in a reasonably secure way at all times until it is returned to the owner or otherwise dealt with under this division.

201 Seizure notices

- (1) This section applies to a seized thing, other than a dangerous seized thing.
- (2) If the conservation officer who seized the thing believes the thing has a market value of more than \$500, the officer must give the owner of the thing notice of its seizure.
- (3) If the owner's name is not known, the notice must be published in a newspaper circulating throughout the State.
- (4) If the owner's name is not known, the notice may also be given by displaying it in a prominent position on a permanent fixture as close as possible to the place where the thing was found.

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- (5) The notice must state—
 - (a) the date of the notice; and
 - (b) that the owner may claim the thing within the claim period for the thing; and
 - (c) that the thing may be disposed of if not claimed within the claim period.

202 Release of seized things

- (1) If a person claims a seized thing, the chief executive may release it to the person only if—
 - (a) the chief executive is satisfied the person has a right to the thing; and
 - (b) the person pays the chief executive's reasonable costs of—
 - (i) seizing, removing and holding the thing; and
 - (ii) giving a seizure notice for the thing; and
 - (iii) if a notice mentioned in section 203(3) is given—giving the notice; and
 - (iv) restoring the place from which the thing was removed, as nearly as practicable, to its former state.
- (2) The chief executive may require a person to verify the person's right to a seized thing by a statutory declaration before releasing the thing to the person.

203 Sale and disposal of seized things with market value of more than \$500

- (1) This section applies to a seized thing if—
 - (a) a conservation officer has given a seizure notice for the thing; and

- (b) the owner of the thing does not claim it within the claim period for the thing; and
 - (c) the chief executive believes the thing has a market value of more than \$500.
- (2) The chief executive may sell the thing in the way the chief executive considers will best realise its market value.
 - (3) Before selling the thing, the chief executive must publish a notice in a newspaper circulating throughout the State—
 - (a) identifying the thing; and
 - (b) stating how and when the thing is to be sold.
 - (4) The thing must not be sold within 20 business days after the notice is published.
 - (5) If the thing is not sold, the chief executive may dispose of it in the way the chief executive considers appropriate.

204 Sale and disposal of seized things with market value of \$500 or less

- (1) This section applies to a seized thing if—
 - (a) the chief executive believes the thing does not have a market value of more than \$500; and
 - (b) if a seizure notice has been given for the thing—the owner of the thing does not claim it within the claim period for the thing.
- (2) The chief executive may—
 - (a) sell the thing in the way the chief executive considers will best realise its market value; or
 - (b) if the chief executive considers the thing does not have a market value—dispose of it.

[s 205]

205 Application of proceeds of sale

If the chief executive sells a seized thing under this division, the proceeds of the sale must be applied in the following order—

- (a) in payment of the reasonable expenses of the chief executive incurred in the sale;
- (b) in payment of the reasonable costs of the following activities—
 - (i) seizing, removing and holding the thing;
 - (ii) giving a seizure notice for the thing;
 - (iii) if a notice mentioned in section 203(3) is given—giving the notice;
 - (iv) restoring the place from which the thing was removed, as nearly as practicable, to its former state;
- (c) in payment of any balance to the owner of the thing.

206 Compensation not payable

Compensation is not payable for the sale or disposal of a seized thing by the chief executive.

Part 3 Approved forms

207 Approved forms

The chief executive may approve forms for use under this regulation or a provision of a conservation plan relating to plants.

Chapter 12 Transitional provisions

Part 1 Preliminary

208 Definitions for chapter

In this chapter—

corresponding provision, for a repealed provision, means a provision of this regulation that provides for the same, or substantially the same, matter as the repealed provision.

existing wildlife authority see section 209(1).

repealed administration regulation means the repealed *Nature Conservation (Administration) Regulation 2017*.

repealed management regulation means the repealed *Nature Conservation (Wildlife Management) Regulation 2006*.

repealed provision means a provision of a repealed regulation as in force from time to time before the commencement.

repealed regulation means—

- (a) the repealed administration regulation; or
- (b) the repealed management regulation; or
- (c) the repealed wildlife regulation.

repealed wildlife regulation means the repealed *Nature Conservation (Wildlife) Regulation 2006*.

transitioned authority see section 209(5).

wildlife authority means a wildlife authority mentioned in the repealed administration regulation, section 14, 15 or 16.

Part 2 Existing wildlife authorities for plants

209 Existing wildlife authorities for plants continued

- (1) This section applies in relation to a wildlife authority that was granted by the chief executive under a repealed provision and in effect immediately before the commencement (an *existing wildlife authority*).
- (2) From the commencement, the existing wildlife authority is taken to be a plant authority granted under the corresponding provision for the repealed provision.
- (3) From the commencement, the person who was the holder of the existing wildlife authority immediately before the commencement is taken to be the holder of the plant authority.
- (4) If, immediately before the commencement, the existing wildlife authority was subject to a condition or other restriction (however described), the plant authority is subject to the same condition or restriction.
- (5) An existing wildlife authority continued in effect under this section as a plant authority is a *transitioned authority*.
- (6) Subsection (4) does not prevent a transitioned authority being amended, suspended or cancelled under this regulation.

210 Existing amendments or suspensions continued

- (1) This section applies if, immediately before the commencement, an amendment or suspension was in effect for a transitioned authority under a repealed provision.
- (2) The amendment or suspension continues in effect under this regulation for the transitioned authority as if the amendment or suspension were made or imposed under the corresponding provision for the repealed provision.

211 Term of transitioned authorities

- (1) A transitioned authority ends on the day it would have otherwise ended under a repealed provision, but for the repeal of the provision.
- (2) Subsection (1) does not prevent a transitioned authority being amended, surrendered or cancelled under this regulation.

212 Existing fee exemptions continued

- (1) This section applies if—
 - (a) before the commencement, the chief executive granted an exemption under the repealed administration regulation, section 166; and
 - (b) immediately before the commencement, the exemption was in effect.
- (2) The exemption continues in effect as if it were granted under section 182.
- (3) The exemption is subject to the same conditions, if any, imposed by the chief executive under the repealed administration regulation, section 166.

Part 3 Existing applications for wildlife authorities for plants and internal review

213 Undecided applications for wildlife authorities

- (1) This section applies if—
 - (a) before the commencement, a person made an application (the *existing application*) for the grant of a wildlife authority, or the amendment of an existing wildlife authority, under a repealed provision; and

[s 214]

- (b) immediately before the commencement, the existing application had not been decided.
- (2) If the existing application was for the grant of a wildlife authority, it is taken to be an application for a plant authority under the corresponding provision for the repealed provision.
- (3) If the existing application was for the amendment of an existing wildlife authority, it is taken to be an application of the same kind under the corresponding provision for the repealed provision.
- (4) No fee is payable for the application under this regulation if all fees payable for the existing application under the repealed administration regulation or the repealed management regulation were paid before the commencement.

214 Undecided applications or entitlements for internal or external review

- (1) This section applies if—
 - (a) before the commencement—
 - (i) a person made an application (the *existing application*) for an internal or external review, under a repealed provision, of a reviewable decision related to a plant or a wildlife authority granted before the commencement; or
 - (ii) a person was entitled to apply for a review mentioned in subparagraph (i) (the *existing entitlement*); and
 - (b) immediately before the commencement—
 - (i) the existing application had not been decided; or
 - (ii) the period in which the person was entitled to apply for the review had not ended.
- (2) Chapter 11, part 1 applies in relation to the person as if—
 - (a) the reviewable decision—

-
- (i) were an original decision or internal review decision within the meaning of section 188; and
 - (ii) had been made under the corresponding provision for the repealed provision under which the reviewable decision was made; and
- (b) for an existing application—the application had been made under that part; and
 - (c) for an existing entitlement—the person is entitled to apply for a review of the same kind under that part.
- (3) If a stay of the reviewable decision was granted under a repealed provision, the stay is taken to continue in force under the corresponding provision for the repealed provision.
- (4) In this section—
reviewable decision has the meaning given under the repealed administration regulation.

Part 4 Record keeping and supplied tags

215 Particular existing records

A record made or kept, before the commencement, in relation to a plant or an existing wildlife authority, under a repealed provision is taken to be made or kept—

- (a) under the corresponding provision for the repealed provision; or
- (b) if there is a provision of the plant exemptions code that provides for the same, or substantially the same, matter as the repealed provision—under the provision of the plant exemptions code.

[s 216]

216 Supplied tags

- (1) This section applies in relation to a tag supplied under the repealed management regulation, section 347 before the commencement in relation to a plant, other than a tag that was recalled under section 350 of that regulation before the commencement.
- (2) The tag is taken to be supplied under section 165(1).

217 Approvals about use or transfer of tags

- (1) This section applies if—
 - (a) before the commencement, the chief executive gave an approval under—
 - (i) the repealed management regulation, section 335; or
 - (ii) the repealed management regulation, section 349; and
 - (b) the approval relates to a tag supplied for a plant; and
 - (c) immediately before the commencement, the approval was in effect.
- (2) The approval is taken to be an approval given under—
 - (a) for an approval mentioned in subsection (1)(a)(i)—section 169(1); or
 - (b) for an approval mentioned in subsection (1)(a)(ii)—section 166(2).

218 Undecided applications for tags

- (1) This section applies if—
 - (a) before the commencement, a person made an application for an official tag under the repealed management regulation, section 261ZM(4) or 348A; and

[s 220]

220 Existing agreements by chief executive for alternative survey methodology

- (1) This section applies if—
 - (a) before the commencement, the chief executive agreed under the repealed management regulation, section 257(2) to an alternative survey methodology for carrying out a flora survey, or preparing a flora survey report, under that regulation; and
 - (b) immediately before the commencement, the agreement was in effect.
- (2) On the commencement, the agreement is taken to be an agreement under section 143 for an alternative survey methodology for carrying out a flora survey, or preparing a flora survey report, under this regulation.

221 Continuation of existing flora surveys

- (1) This section applies if, before the commencement—
 - (a) a flora survey under the repealed management regulation, section 250(1) was undertaken (the *existing survey*); and
 - (b) the existing survey complied with section 257 of that regulation.
- (2) On the commencement, the existing survey is taken to be a flora survey under section 140(1).

222 Continuation of existing flora survey reports

- (1) This section applies if, before the commencement—
 - (a) a flora survey report under the repealed management regulation, section 250(2) was prepared (the *existing report*); and
 - (b) the existing report complied with section 257 of that regulation.

-
- (2) On the commencement, the existing report is taken to be a flora survey report under section 140(2).

223 Existing copy of flora survey trigger map

- (1) This section applies if—
- (a) before the commencement, a person was required to keep a copy of the flora survey trigger map under the repealed management regulation, section 261Z(2); and
 - (b) immediately before the commencement, the time for keeping the copy had not ended; and
 - (c) on the commencement, a provision of the plant exemptions code (the *new code provision*) provides for the same, or substantially the same matter, as the repealed management regulation, section 261Z(2).
- (2) On the commencement, the requirement to keep the copy—
- (a) continues to apply; and
 - (b) is taken to be imposed under the new code provision.

Part 6 Other matters

224 Other undecided applications, invitations, requests, notices and notifications

- (1) This section applies if, immediately before the commencement—
- (a) an application, relating to a plant or an existing wildlife authority, made before the commencement under a repealed provision, had not been decided; or
 - (b) an invitation, request, notice or other notification (however called), relating to a plant or an existing wildlife authority, and given before the commencement under a repealed provision, was in effect and had not been complied with or otherwise fulfilled.

[s 225]

- (2) However, this section does not apply in relation to an application mentioned in part 3 or 4.
- (3) If subsection (1)(a) applies—
 - (a) the application is taken to be the same kind of application made under the corresponding provision for the repealed provision; and
 - (b) no fee is payable for the application under this regulation if all fees payable for the application under the repealed administration regulation or the repealed management regulation were paid before the commencement.
- (4) If subsection (1)(b) applies, the invitation, request, notice or other notification is taken to have been given under the corresponding provision for the repealed provision on the same terms as it was made or given under the repealed provision.

225 Seized things

- (1) This section applies if, immediately before the commencement, a thing seized under a repealed provision was being kept under a repealed provision.
- (2) The thing—
 - (a) is taken to have been seized under the corresponding provision for the repealed provision under which the thing was seized; and
 - (b) is taken to be kept under the corresponding provision for the repealed provision under which the thing was being kept.

Part 7 References in documents

226 References to repealed regulations

In a document, if the context permits—

- (a) a reference to a repealed regulation may be taken to be a reference to this regulation; and
- (b) a reference to a repealed provision may be taken to be a reference to the corresponding provision for the repealed provision.

Chapter 13 Amendment of other legislation

Part 1 Amendment of State Penalties Enforcement Regulation 2014

227 Regulation amended

This part amends the *State Penalties Enforcement Regulation 2014*.

228 Amendment of sch 1 (Infringement notice offences and fines for nominated laws)

- (1) Schedule 1, entry for *Nature Conservation Act 1992*—
insert—

[s 228]

s 90(1) if the contravention involves using a protected plant for trade within the meaning of the *Nature Conservation (Plants) Regulation 2020*, section 4 5 -

(2) Schedule 1—

insert—

Nature Conservation (Plants) Regulation 2020

| | Column 1 Infringement notice offence | Column 2 Infringement notice fine (penalty units) | |
|----------|--|---|-------------|
| | | Individual | Corporation |
| | | s 125(3) | 2 |
| s 126(3) | 2 | - | |
| s 127 | 2 | - | |
| s 145(1) | in the circumstances in paragraph (a) of the penalty | 2 | - |
| s 145(1) | in the circumstances in paragraph (b) of the penalty | 5 | 12 |
| s 145(1) | otherwise | 3 | 8 |
| s 145(3) | in the circumstances in paragraph (a) of the penalty | 5 | 12 |
| s 145(3) | otherwise | 3 | 8 |
| s 146 | | 5 | - |
| s 147(2) | | 2 | - |

| Column 1 Infringement notice offence | Column 2 Infringement notice fine (penalty units) | |
|---|--|--------------------|
| | Individual | Corporation |
| s 147(3) | 2 | - |
| s 148(2) | 2 | - |
| s 149(2) | 5 | - |
| s 152(2) | 5 | - |
| s 153(2) | 5 | - |
| s 154(2) | 5 | - |
| s 155(2) | 5 | - |
| s 158(1) | 5 | - |
| s 160 | 5 | - |
| s 161 | 5 | - |
| s 162 | 5 | - |
| s 163(2) | 5 | - |
| s 163(4) | 2 | - |
| s 164(1) | 5 | - |
| s 167(2) | 5 | - |
| s 168(1) | 5 | - |
| s 168(2) | 5 | - |
| s 169(1) | 5 | - |
| s 170(1) | 3 | - |
| s 171(3) | 2 | - |
| s 173(2) | 5 | - |

[s 229]

| | Column 1 Infringement notice offence | Column 2 Infringement notice fine (penalty units) | |
|----------|---|---|-------------|
| | | Individual | Corporation |
| s 174(2) | | 5 | - |
| s 175(2) | | 5 | - |
| s 177(1) | | 4 | - |
| s 198(1) | | 5 | - |

Authorised person for service of infringement notices—a conservation officer appointed under the *Nature Conservation Act 1992*, section 127

Part 2 Minor and consequential amendments

229 Legislation amended

Schedule 6 amends the legislation it mentions.

Schedule 1 **Classification of plants and declared management intent**

sections 13 to 18

Part 1 **Preliminary**

1 **Definitions for schedule**

In this schedule—

ecosystem process means a natural process that assists in sustaining an ecosystem as a living thing.

information, about a plant, includes—

- (a) the biochemical, genetic or molecular details of the plant; and
- (b) information about the distribution or natural history of the plant.

land manager means—

- (a) a landholder; or
- (b) the State, an entity representing the State, or a local government, to the extent the State, entity or local government—
 - (i) has an interest in public land under its management; or
 - (ii) is otherwise responsible for the management or development of public land.

management principles, for a protected plant, means the matters stated in section 73 of the Act.

Part 2 Protected wildlife

Division 1 Extinct wildlife—declared management intent

2 Significance to nature and its value

- (1) A plant that is extinct wildlife is a component of Queensland's biodiversity and a vital feature of the ecosystem of the plant.
- (2) Without limiting subsection (1), the plant represents—
 - (a) a part of the Australian biota that is 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.

3 Proposed management intent

The proposed management intent for a plant that is extinct wildlife is—

- (a) to establish and maintain a database of information about the plant and its former habitat; and
- (b) to investigate reliable sightings of the plant; and
- (c) to monitor and review information about reported sightings of the plant; and
- (d) to cooperate with the Commonwealth and other State agencies to work towards a national conservation status for the plant and its former habitat; and
- (e) to consider developing a strategy for re-establishing the plant in the wild and, if it is considered appropriate, to develop and implement the strategy; and

- (f) to implement education programs for land managers about—
 - (i) threatening processes to re-establishing the plant or its habitat; and
 - (ii) the conservation of the plant and its habitat; and
- (g) for a plant found to still exist in the wild—to manage the plant as if it were critically endangered wildlife until it is reclassified as another class of wildlife.

4 Principles relating to proposed taking, keeping and use

A plant that is extinct wildlife may be taken from the wild, kept or used under the Act only if the taking, keeping or use—

- (a) is for putting into effect a recovery plan for the plant; and
- (b) is not likely to reduce the ability of the plant's population to expand.

Division 2 Extinct in the wild wildlife

Subdivision 1 Plants

5 Plants

Scientific name

Amphibromus whitei

Antrophyum austroqueenslandicum

Calotis glabrescens

Corchorus thozetii

Didymoglossum exiguum

Embelia flueckigeri

Scientific name

Goodenia arenicola

Huperzia serrata

Hymenophyllum lobbii

Lemmaphyllum accedens

Lycopodium volubile

Monogramma dareicarpa

Musa fitzalanii

Oldenlandia tenelliflora var. *papuana*

Paspalum batianoffii

Persoonia prostrata

Ptilotus senarius

Tmesipteris lanceolata

Wendlandia psychotrioides

Subdivision 2 Declared management intent

6 Significance to nature and its value

- (1) A plant that is extinct in the wild wildlife is a component of Queensland's biodiversity and a vital feature of the ecosystem of the plant.
- (2) Without limiting subsection (1), the plant represents—
 - (a) a part of the Australian biota that is 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.

7 Proposed management intent

The proposed management intent for a plant that is extinct in the wild wildlife is—

- (a) to establish and maintain a database of information about the plant and its habitat; and
- (b) to investigate reliable sightings of the plant; and
- (c) to monitor and review information about reported sightings of the plant; and
- (d) to cooperate with the Commonwealth and other State agencies to work towards a national conservation status for the plant and its habitat; and
- (e) for a plant known to survive outside the wild—to consider developing a strategy for re-establishing the plant in the wild and, if it is considered appropriate, to develop and implement the strategy; and
- (f) to implement education programs for land managers about—
 - (i) threatening processes to the plant or its habitat; and
 - (ii) the conservation of the plant and its habitat; and
- (g) for a plant found to still exist in the wild—to manage the plant as if it were critically endangered wildlife until it is reclassified as another class of wildlife.

8 Principles relating to proposed taking, keeping and use

A plant that is extinct in the wild wildlife may be taken from the wild, kept or used under the Act only if the taking, keeping or use—

- (a) is for putting into effect a recovery plan for the plant; and
- (b) is not likely to reduce the ability of the plant's population to expand.

Division 3 Critically endangered wildlife

Subdivision 1 Plants

9 Plants

Scientific name

Acacia castorum

Acacia deuteroneura

Acacia forsteri

Amphineuron immersum

Amphineuron tildeniae

Apatophyllum flavovirens

Backhousia tetraptera

Boronia grimshawii

Borya inopinata

Brachychiton guymeri

Brachychiton sp. *Ormeau* (L.H.Bird AQ435851)

Bruguiera hainesii

Coleus acariformis

Coleus insularis

Coleus minutus

Commersonia beeronensis

Commersonia inglewoodensis

Commersonia pearnii

Commersonia perkinsiana

Scientific name

Croton lucens

Croton mamillatus

Decaspermum struckoiligum

Emmenosperma pancherianum

Eucalyptus dalveenica

Eucryphia wilkiei

Garcinia russellii

Grevillea hodgei

Grevillea scortechinii subsp.*scortechinii*

Hollandaea porphyrocarpa

Homoranthus brevistylis

Homoranthus coracinus

Homoranthus cummingii

Homoranthus inopinatus

Homoranthus montanus

Homoranthus papillatus

Homoranthus tricolor

Homoranthus vagans

Hymenophyllum whitei

Kunzea calida

Lenwebbia sp. *Main Range* (P.R.Sharpe+ 4877)

Marsdenia araujacea

Notelaea ipsviciensis

Oberonia attenuata

Scientific name

Phlegmariurus creber

Phlegmariurus dalhousieanus

Phlegmariurus squarrosus

Pimelea fugiens

Pimelea leptospermoides subsp. *bowmanii*

Prostanthera albohirta

Prostanthera athertonia

Prostanthera mulliganensis

Prostanthera tozerana

Rhodamnia angustifolia

Rhodamnia longisepala

Rhodamnia maideniana

Rhodamnia rubescens

Rhodomyrtus psidioides

Solanum orgadophilum

Syzygium fratris

Trioncinia patens

Zieria actites

Zieria alata

Zieria boolbunda

Zieria cephalophila

Zieria eungellaensis

Zieria exsul

Zieria fordii

Scientific name

Zieria furfuracea subsp. *gymnocarpa*

Zieria hydroscopica

Zieria madida

Zieria montana

Zieria scopulus

Zieria vagans

Zieria wilhelminae

Subdivision 2 Declared management intent**10 Significance to nature and its value**

- (1) A plant that is critically endangered wildlife is a component of Queensland's biodiversity and a vital feature of the ecosystem in which the plant lives.
- (2) Without limiting subsection (1), the plant represents—
 - (a) a part of the Australian biota that is 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.

11 Proposed management intent

The proposed management intent for a plant that is critically endangered wildlife is—

- (a) to establish and maintain a database of information about the plant and its habitat; and

Schedule 1

- (b) to the extent practicable, to prepare and put into effect recovery plans or conservation plans for the plant and its habitat; and
- (c) to seek funding to help achieve the objectives of the recovery plans or conservation plans; and
- (d) to act to ensure viable populations of the plant in the wild are preserved or re-established; and
- (e) to cooperate with the Commonwealth and other State agencies—
 - (i) for the ongoing protection and management of the plant and its habitat; and
 - (ii) to work towards a national conservation status for the plant and its habitat; and
- (f) to implement education programs for land managers about—
 - (i) threatening processes to the plant or its habitat; and
 - (ii) the conservation of the plant and its habitat; and
- (g) to regularly monitor and review the conservation status of the plant and its habitat; and
- (h) to encourage scientific research and inventory programs likely to contribute to an understanding of the plant or its habitat including, for example, the requirements for conserving the plant or habitat; and
- (i) to protect the critical habitat, or the areas of major interest, for the plant; and
- (j) to monitor and review environmental impact procedures to ensure they—
 - (i) accurately assess the extent of the impact, on the plant, of the activities to which the procedures relate; and
 - (ii) provide for effective measures to mitigate any adverse impact of the activities on the plant; and
 - (iii) if there is an adverse impact of the activities on an area in which the plant normally exists, provide for

the enhancement of other areas where the plant normally lives.

12 Principles relating to proposed taking, keeping and use

A plant that is critically endangered wildlife may be taken from the wild, kept or used under the Act only if the taking, keeping or use—

- (a) is consistent with the management principles for the plant; and
- (b) is not likely to reduce the ability of the plant's population to expand.

Division 4 Endangered wildlife

Subdivision 1 Plants

13 Plants

Scientific name

Acacia porcata

Acacia rubricola

Acacia saxicola

Acacia sp. (Ruined Castle Creek P.I.Forster+ PIF17848)

Acianthus saxatilis

Acronychia littoralis

Alectryon ramiflorus

Alectryon repandodentatus

Allocasuarina emuina

Allocasuarina thalassoscopica

Scientific name

Ammannia robertsii

Apatophyllum olsenii

Aponogeton bullosus

Aponogeton lancesmithii

Aponogeton prolifer

Archidendron kanisii

Archontophoenix myolensis

Aristida forsteri

Aristida granitica

Aristida thompsonii

Astonia australiensis

Astrotricha roddii

Atalaya collina

Backhousia oligantha

Bertya granitica

Bertya recurvata

Blandfordia grandiflora

Boea kinnearii

Boronia granitica

Boronia repanda

Bulbophyllum maxillare

Caladenia atroclavia

Callicarpa thozetii

Calochilus psednus

Scientific name

Calotis suffruticosa
Capparis humistrata
Carronia pedicellata
Cheilocostus potierae
Chingia australis
Chloris circumfontinalis
Clausena smyrelliana
Coix gasteenii
Coleus habrophyllus
Coleus nitidus
Coleus omissus
Coleus torrenticola
Commersonia leiperi
Cooktownia robertsii
Corchorus cunninghamii
Corunastylis tecta
Cossinia australiana
Crepidium lawleri
Crepidomanes aphlebioides
Croton caudatus
Cyathea exilis
Cyathea felina
Cycas megacarpa
Cycas ophiolitica

Scientific name

Cycas semota

Cymbonotus maidenii

Cyperus cephalotes

Dallwatsonia felliana

Davidsonia johnsonii

Dendrobium antennatum

Dendrobium mirbelianum

Dendrobium nindii

Denhamia megacarpa

Dinosperma longifolium

Diplazium pallidum

Diploglottis campbellii

Dipodium pandanum

Eleocharis difformis

Endiandra cooperana

Endiandra floydii

Eragrostis fenshamii

Eriocaulon aloefolium

Eriocaulon carsonii

Eriocaulon giganticum

Eryngium fontanum

Eucalyptus broviniensis

Eucalyptus conglomerata

Eucalyptus farinosa

Scientific name

Eucalyptus nudicaulis

Eucalyptus pachycalyx subsp. *waajensis*

Eucalyptus taurina

Eucryphia jinksii

Euphrasia bella

Fimbristylis adjuncta

Fimbristylis vagans

Fontainea fugax

Gardenia actinocarpa

Gaultheria viridicarpa

Glochidion pruinatum

Glossocardia orthochaeta

Goodyera grandis

Gossia fragrantissima

Gossia gonoclada

Graptophyllum reticulatum

Grevillea linsmithii

Gunniopsis sp. (Edgbaston R.J.Fensham 5094)

Gyrostemon osmus

Habenaria harroldii

Habenaria macraithii

Hedyotis novoguineensis

Hibbertia sp. (Taravale J.E.Kemp+ 20074)

Homopholis belsonii

Scientific name

Homoranthus zeteticorum

Isachne sharpii

Jasminum jenniae

Kardomia granitica

Kardomia silvestris

Kunzea sericothrix

Kunzea truncata

Lasiopetalum sp. (Proston J.A.Baker 17)

Leionema elatius subsp. *beckleri*

Lenwebbia sp. (Blackall Range P.R.Sharpe 5387)

Lepisanthes senegalensis

Leucopogon recurvisepalus

Leucopogon sp. (Coolmunda D.Halford Q1635)

Lilaeopsis brisbanica

Lobelia fontana

Macadamia jansenii

Macrozamia cranei

Macrozamia lomandroides

Macrozamia pauli-guilielmi

Macrozamia platyrhachis

Macrozamia serpentina

Macrozamia viridis

Melaleuca irbyana

Melaleuca sylvana

Scientific name

Melaleuca uxorum

Microcarpaea agonis

Micromyrtus carinata

Micromyrtus delicata

Micromyrtus patula

Mitranthia bilocularis

Musa jackeyi

Myriophyllum artesium

Myrsine serpenticola

Nepenthes mirabilis (Bramston Beach population)

Nicotiana wuttkei

Noahdendron nicholasii

Ochrosia moorei

Oldenlandia gibsonii

Oldenlandia spathulata

Olearia hygrophila

Olearia macdonnellensis

Parsonsia largiflorens

Parsonsia sankowskyana

Parsonsia wongabelensis

Peristylus banfieldii

Phaius australis

Phaius bernaysii

Phalaenopsis rosenstromii

Scientific name

Phebalium distans

Phlegmariurus carinatus

Phlegmariurus filiformis

Pimelea approximans

Planchonella eerwah

Plesioneuron tuberculatum

Pluchea alata

Pluchea punctata

Pneumatopteris pennigera

Pomaderris clivicola

Pomaderris coomingalensis

Prostanthera clotteniana

Pterostylis caligna

Pterostylis chaetophora

Pterostylis scoliosa

Ptilotus brachyanthus

Ptilotus extenuatus

Ptilotus uncinellus

Randia moorei

Rhizanthella omissa

Ricinocarpos canianus

Sankowskya stipularis

Sannantha papillosa

Sarcochilus fitzgeraldii

Scientific name

Sarcochilus weinthalii

Solanum adenophorum

Solanum adoxum

Solanum angustum

Solanum dissectum

Solanum elachophyllum

Solanum graniticum

Solanum hamulosum

Solanum johnsonianum

Solanum mentiense

Solanum papaverifolium

Solanum unispinum

Sporobolus pamela

Stackhousia sp. (McIvor River J.R.Clarkson 5201)

Stylidium elachophyllum

Syzygium glenum

Tectaria devexa var. *devexa*

Toechima pterocarpum

Trioncinia retroflexa

Triunia robusta

Tylophora linearis

Tylophora rupicola

Tylophora woollsii

Uncaria cordata var. *cordata*

Scientific name

Vittadinia decora

Vrydagzynea grayi

Westringia grandifolia

Xanthostemon formosus

Xerothamnella herbacea

Zieria bifida

Zieria graniticola

Zieria inexpectata

Subdivision 2 Declared management intent

14 Significance to nature and its value

- (1) A plant that is endangered wildlife is a component of Queensland's biodiversity and a vital feature of the ecosystem in which the plant lives.
- (2) Without limiting subsection (1), the plant represents—
 - (a) a part of the Australian biota that is 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.

15 Proposed management intent

The proposed management intent for a plant that is endangered wildlife is—

- (a) to establish and maintain a database of information about the plant and its habitat; and

-
- (b) to the extent practicable, to prepare and put into effect recovery plans or conservation plans for the plant and its habitat; and
 - (c) to seek funding to help achieve the objectives of the recovery plans or conservation plans; and
 - (d) to act to ensure viable populations of the plant in the wild are preserved or re-established; and
 - (e) to cooperate with the Commonwealth and other State agencies—
 - (i) for the ongoing protection and management of the plant and its habitat; and
 - (ii) to work towards a national conservation status for the plant and its habitat; and
 - (f) to implement education programs for land managers about—
 - (i) threatening processes to the plant or its habitat; and
 - (ii) the conservation of the plant and its habitat; and
 - (g) to regularly monitor and review the conservation status of the plant and its habitat; and
 - (h) to encourage scientific research and inventory programs likely to contribute to an understanding of the plant or its habitat including, for example, the requirements for conserving the plant or habitat; and
 - (i) to protect the critical habitat, or the areas of major interest, for the plant; and
 - (j) to monitor and review environmental impact procedures to ensure they—
 - (i) accurately assess the extent of the impact, on the plant, of the activities to which the procedures relate; and
 - (ii) provide for effective measures to mitigate any adverse impact of the activities on the plant; and
 - (iii) if there is an adverse impact of the activities on an area in which the plant normally exists, provide for

the enhancement of other areas where the plant normally lives.

16 Principles relating to proposed taking, keeping and use

A plant that is endangered wildlife may be taken from the wild, kept or used under the Act only if the taking, keeping or use—

- (a) is consistent with the management principles for the plant; and
- (b) is not likely to reduce the ability of the plant's population to expand.

Division 5 Vulnerable wildlife

Subdivision 1 Plants

17 Plants

Scientific name

Acacia ammophila

Acacia argentina

Acacia argyrotricha

Acacia attenuata

Acacia barakulensis

Acacia baueri subsp. *baueri*

Acacia crombiei

Acacia curranii

Acacia eremophiloides

Acacia guymeri

Scientific name

Acacia handonis
Acacia hockingsii
Acacia homaloclada
Acacia hylonoma
Acacia islana
Acacia lauta
Acacia lumholtzii
Acacia pedleyi
Acacia peuce
Acacia pubifolia
Acacia purpureopetala
Acacia ruppii
Acacia solenota
Acacia sp. (Castletower N.Gibson TOI345)
Acacia tingoorensis
Acalypha lyonsii
Acmenosperma pringlei
Acriopsis emarginata
Actephila bella
Actephila championiae
Actephila foetida
Aglaiia argentea
Albizia sp. (Windsor Tableland B.Gray 2181)
Allocasuarina filidens

Scientific name

Allocasuarina rigida subsp. *exsul*

Alloxylon flammeum

Amomum queenslandicum

Antrophyum subfalcatum

Apluda mutica

Aponogeton elongatus subsp. *fluitans*

Archidendron lovelliae

Ardisia fasciculata

Arenga australasica

Argophyllum cryptophlebium

Argophyllum verae

Aristida annua

Arthraxon australiense

Arthraxon hispidus

Arundinella grevillensis

Asplenium normale

Asplenium pellucidum

Asplenium unilaterale

Asplenium wildii

Atriplex morrisii

Austromuellera valida

Baeckea trapeza

Baloghia marmorata

Banksia conferta

Scientific name

Banksia plagiocarpa

Barongia lophandra

Berrya rotundifolia

Bertya calycina

Bertya ernestiana

Bertya glandulosa

Bertya pinifolia

Boronia keysii

Bothriochloa bunyensis

Brachyscome ascendens

Breynia macrantha

Bryobium dischorensense

Bryobium irukandjianum

Bubbia queenslandiana subsp. *australis*

Bubbia whiteana

Buchanania mangoides

Buckinghamia ferruginiflora

Bulbophyllum argyropus

Bulbophyllum boonjee

Bulbophyllum gracillimum

Bulbophyllum grandimesense

Bulbophyllum longiflorum

Bulbophyllum weinthalii

Bulbophyllum windsorensense

Scientific name

Bulbophyllum wolfei

Bursaria reevesii

Cadellia pentastylis

Cadetia collinsii

Cadetia wariana

Calamus aruensis

Calamus warburgii

Calocephalus glabratus

Calophyllum bicolor

Calytrix gurulmundensis

Calytrix islensis

Canarium acutifolium var. *acutifolium*

Capparis batianoffii

Capparis thozetiana

Carex breviscapa

Cassia marksiana

Cassinia collina

Caustis blakei subsp. *macrantha*

Ceratopetalum corymbosum

Cestichis condylobulbon

Chiloglottis sphyrnoides

Cinnamomum propinquum

Cissus aristata

Citrus inodora

Scientific name*Clematis fawcettii**Coleus amoenus**Coleus eungellaensis**Coleus gratus**Coleus leiperi**Combretum trifoliatum**Comesperma oblongatum**Comesperma praecelsum**Commersonia reticulata**Cooperookia scabridiuscula**Corchorus hygrophilus**Corchorus subargenteus**Corunastylis alticola**Corunastylis cranei**Corunastylis pedersonii**Corunastylis valida**Corybas montanus**Corymbia clandestina**Corymbia leptoloma**Corymbia petalophylla**Corymbia rhodops**Corymbia xanthope**Corynocarpus rupestris* subsp. *arborescens**Crepidium fimbriatum*

Scientific name

Crepidium flavovirens

Crepidomanes majoriae

Croton choristadenius

Croton magneticus

Croton simulans

Croton stockeri

Crudia papuana

Cryptocarya foetida

Cryptocarya glaucocarpa

Ctenopteris blechnoides

Ctenopteris walleri

Cupaniopsis cooperorum

Cupaniopsis shirleyana

Cupaniopsis tomentella

Cycas brunnea

Cycas cairnsiana

Cycas couttsiana

Cycas cupida

Cycas desolata

Cycas platyphylla

Cycas silvestris

Cycas tuckeri

Cyclophyllum costatum

Cyperus clarus

Scientific name

Cyperus rupicola

Cyperus semifertilis

Dansiea grandiflora

Daviesia discolor

Daviesia quoquoversus

Dendrobium bigibbum

Dendrobium callitrophilum

Dendrobium carronii

Dendrobium fellowsii

Dendrobium johannis

Dendrobium malbrownii

Dendrobium x superbiens

Dendromyza reinwardtiana

Denhamia parvifolia

Dichanthium queenslandicum

Dioclea hexandra

Diospyros areolifolia

Diplazium cordifolium

Dischidia littoralis

Dissiliaria tuckeri

Diuris parvipetala

Dodonaea hirsuta

Dodonaea rupicola

Dracophyllum sayeri

Scientific name

Drosera prolifera

Drosera schizandra

Drummondita calida

Drynaria x dumicola

Dryopteris sparsa

Dryopteris wattsii

Dubouzetia saxatilis

Ehretia microphylla

Eidothea zoexylocarya

Elaeocarpus thelmae

Eleocharis retroflexa

Endiandra anthropophagorum

Endiandra grayi

Endiandra hayesii

Endiandra jonesii

Endiandra phaeocarpa

Eremophila stenophylla

Eremophila tetraptera

Eucalyptus argophloia

Eucalyptus beaniana

Eucalyptus dunnii

Eucalyptus hallii

Eucalyptus infera

Eucalyptus kabiana

Scientific name

Eucalyptus paedoglauca

Eucalyptus scoparia

Eucalyptus sicilifolia

Eucalyptus sideroxylon subsp. *improcera*

Eucalyptus virens

Eulophia pelorica

Eulophia zollingeri

Euodia hylandii

Euodia pubifolia

Euphorbia carissoides

Fimbristylis distincta

Fimbristylis micans

Fimbristylis sp. (Elizabeth Springs R.J.Fensham 3743)

Firmiana papuana

Flindersia oppositifolia

Floydia praealta

Fontainea australis

Fontainea rostrata

Fontainea venosa

Freycinetia marginata

Freycinetia percostata

Gardenia psidioides

Gastrodia crebriflora

Gastrodia urceolata

Scientific name

Germainia capitata

Globba marantina

Gonocarpus effusus

Gonocarpus hirtus

Goodenia stirlingii

Grammitis albosetosa

Grammitis leonardii

Grammitis reinwardtii

Graptophyllum ilicifolium

Grastidium tozerense

Grevillea glossadenia

Grevillea hockingsii

Grevillea kennedyana

Grevillea quadricauda

Grevillea venusta

Gymnostoma australianum

Habenaria euryloba

Habenaria fuscina

Habenaria vatia

Hakea maconochieana

Hakea macrorrhyncha

Hakea trineura

Haloragis exalata subsp. *velutina*

Hardenbergia sp. (Mt Mulligan J.R.Clarkson 5775)

Scientific name*Helicia ferruginea**Helicia grayi**Helicia lewisensis**Hemmantia webbii**Hexaspora pubescens**Hibbertia cymosa**Hicksbeachia pinnatifolia**Hollandaea riparia**Homoranthus decumbens**Homoranthus porteri**Hydnophytum ferrugineum**Hydriastele costata**Hydrocotyle dipleura**Hymenophyllum digitatum**Hymenophyllum eboracense**Hymenophyllum gracilescens**Hymenophyllum kerianum**Hypserpa polyandra**Indigofera oxyrachis**Ipomoea imperati**Ipomoea saintronanensis**Jedda multicaulis**Kardomia squarrulosa**Lasianthus hirsutus*

Scientific name

Lasjia claudiensis

Lasjia grandis

Lastreopsis grayi

Lastreopsis silvestris

Lastreopsis tinarooensis

Lastreopsis walleri

Lawrenzia buchananensis

Leionema ellipticum

Leionema gracile

Leionema obtusifolium

Lepidagathis royenii

Lepiderema pulchella

Leptospermum barneyense

Leptospermum luehmannii

Leptospermum oreophilum

Leptospermum venustum

Lepturus minutus

Leucopogon malayanus subsp. *novoguineensis*

Lindsaea terrae-reginae

Lissanthe brevistyla

Litsea granitica

Livistona drudei

Livistona fulva

Livistona lanuginosa

Scientific name

Lobelia fenshamii

Logania diffusa

Lomandra teres

Lychnothamnus barbatus

Macadamia integrifolia

Macadamia ternifolia

Macadamia tetraphylla

Macropteranthes montana

Macrozamia cardiacensis

Macrozamia conferta

Macrozamia crassifolia

Macrozamia machinii

Macrozamia occidua

Macrozamia parcifolia

Mallotus megadontus

Marsdenia brevifolia

Marsdenia coronata

Marsdenia longiloba

Marsdenia paludicola

Marsdenia pumila

Marsdenia rara

Marsdenia straminea

Maundia triglochinosoides

Medicosma elliptica

Scientific name

Medicosma obovata

Melaleuca kunzeoides

Melaleuca williamsii

Mesua larnachiana

Micromyrtus rotundifolia

Micromyrtus vernicosa

Myriophyllum coronatum

Myrmecodia beccarii

Neisosperma kilneri

Neoroepera buxifolia

Newcastelia velutina

Niemeyera whitei

Notelaea lloydii

Nyssanthes impervia

Nyssanthes longistyla

Oberonia carnosa

Ochrosperma obovatum

Omphalea celata

Owenia cepiodora

Ozothamnus eriocephalus

Ozothamnus vagans

Pachystoma pubescens

Panicum chillagoanum

Paramapania parvibractea

Scientific name

Parsonsia bartlensis

Parsonsia kroombitensis

Parsonsia larcomensis

Parsonsia tenuis

Parsonsia wildensis

Paspalidium grandispiculatum

Paspalidium udum

Paspalum multinodum

Peripentadenia phelpsii

Persicaria elatior

Phaius pictus

Phaleria biflora

Phebalium glandulosum subsp. *eglandulosum*

Phebalium whitei

Philothea acrolopha

Phlegmariurus delbrueckii

Phlegmariurus lockyeri

Phlegmariurus phlegmarioides

Phlegmariurus tetrastichoides

Phlegmariurus varius

Phyllanthera grayi

Phyllanthus brassii

Phyllanthus sp. (Bulburin P.I.Forster+ PIF16034)

Picris barbarorum

Scientific name

Picris conyzoides

Picris evae

Pluchea tenuis

Podolepis monticola

Polianthion minutiflorum

Polyphlebium endlicherianum

Polyscias bellendenkerensis

Pomaderris crassifolia

Pomaderris notata

Pomatocalpa marsupiale

Prasophyllum wallum

Prostanthera spathulata

Prostanthera sp. (Dunmore D.M.Gordon 8A)

Psydrax reticulata

Pterostylis bicornis

Pultenaea setulosa

Pultenaea whiteana

Rhaphidospora bonneyana

Rhaphidospora cavernarum

Rhaponticum australe

Rhinerrhizopsis matutina

Rhomboda polygonoides

Ricinocarpos speciosus

Ristantia gouldii

Scientific name

Ristantia waterhousei

Romnalda ophiopogonoides

Romnalda strobilacea

Rutidosia crispata

Samadera bidwillii

Samadera sp. (Kennedy River J.R.Clarkson 5645)

Sannantha brachypoda

Sannantha tozerensis

Sarcochilus hartmannii

Sarcochilus hirticalcar

Sarcolobus vittatus

Schoenorchis sarcophylla

Sclerolaena blakei

Scrotochloa tararaensis

Scrotochloa urceolata

Secamone auriculata

Senegalia pennata subsp. *kerrii*

Shonia carinata

Solanum callium

Solanum carduiforme

Solanum dunalianum

Solanum lythrocarpum

Solanum stenopterum

Sophora fraseri

Scientific name

Sowerbaea subtilis

Spathoglottis plicata

Sphaerantia chartacea

Sphaerantia discolor

Stenanthemum argenteum

Stenocarpus davallioides

Sticherus milnei

Stictocardia queenslandica

Stockwellia quadrifida

Stylidium longissimum

Swainsona murrayana

Symplocos baeuerlenii

Symplocos crassiramifera

Symplocos graniticola

Syzygium aqueum

Syzygium hodgkinsoniae

Syzygium macilwraithianum

Syzygium moorei

Syzygium rubrimolle

Syzygium velarum

Tectaria siifolia

Tetramolopium sp. (Mt Bowen D.G.Fell+ DGF1224)

Tetramolopium vagans

Thelasis carinata

Scientific name

Thelypteris confluens

Thesium australe

Tinospora tinosporoides

Torenia polygonoides

Trichoglottis australiensis

Trigonostemon inopinatus

Triplarina nitchaga

Tristiropsis acutangula

Uromyrtus lamingtonensis

Vanda hindsii

Wahlenbergia scopulicola

Waterhousea mulgraveana

Westringia parvifolia

Westringia rupicola

Westringia sericea

Wetria australiensis

Wodyetia bifurcata

Xanthostemon graniticus

Xanthostemon oppositifolius

Xanthostemon verticillatus

Xylosma sp. (Mt Lewis G.Sankowsky+ 1108)

Zieria collina

Zieria obovata

Zieria rimulosa

Scientific name

Zieria verrucosa

Subdivision 2 Declared management intent

18 Significance to nature and its value

- (1) A plant that is vulnerable wildlife is a component of Queensland's biodiversity and a vital feature of the ecosystem in which the plant lives.
- (2) Without limiting subsection (1), the plant represents—
 - (a) a part of the Australian biota that is 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.

19 Proposed management intent

The proposed management intent for a plant that is vulnerable wildlife is—

- (a) to establish and maintain a database of information about the plant and its habitat; and
- (b) to the extent practicable, to prepare and put into effect recovery plans or conservation plans for the plant and its habitat; and
- (c) to seek funding to help achieve the objectives of the recovery plans or conservation plans; and
- (d) to act to ensure viable populations of the plant in the wild are preserved or re-established; and
- (e) to cooperate with the Commonwealth and other State agencies—

-
- (i) for the ongoing protection and management of the plant and its habitat; and
 - (ii) to work towards a national conservation status for the plant and its habitat; and
 - (f) to implement education programs for land managers about—
 - (i) threatening processes to the plant or its habitat; and
 - (ii) the conservation of the plant and its habitat; and
 - (g) to regularly monitor and review the conservation status of the plant and its habitat; and
 - (h) to encourage scientific research likely to contribute to an understanding of the plant or its habitat including, for example, the requirements for conserving the plant or habitat; and
 - (i) to protect the critical habitat, or the areas of major interest, for the plant; and
 - (j) to monitor and review environmental impact procedures to ensure they—
 - (i) accurately assess the extent of the impact, on the plant, of the activities to which the procedures relate; and
 - (ii) provide for effective measures to mitigate any adverse impact of the activities on the plant; and
 - (iii) if there is an adverse impact of the activities on an area in which the plant normally exists, provide for the enhancement of other areas where the plant normally lives.

20 Principles relating to proposed taking, keeping and use

A plant that is vulnerable wildlife may be taken from the wild, kept or used under the Act only if the taking, keeping or use—

- (a) is consistent with the management principles for the plant; and

- (b) is not likely to reduce the ability of the plant's population to expand.

Division 6 Near threatened wildlife

Subdivision 1 Plants

21 Plants

Scientific name

Acacia acrionastes

Acacia arbiana

Acacia armitii

Acacia calantha

Acacia longipedunculata

Acacia ommatosperma

Acacia spania

Acacia storyi

Acacia wardellii

Aceratium ferrugineum

Aceratium sericoleopsis

Acianthus sublestus

Acmena mackinnoniana

Acronychia acuminata

Acronychia eungellensis

Acrotriche baileyana

Agathis microstachya

Scientific name

Agiortia cicatricata

Aglaia brassii

Allocauarina rupicola

Alloxylon pinnatum

Alpinia hylandii

Anacolosa papuana

Anoectochilus yatesiae

Antrophyum plantagineum

Apatophyllum teretifolium

Aphyllorchis anomala

Aphyllorchis queenslandica

Aponogeton elongatus subsp. *elongatus*

Archidendropsis xanthoxylon

Ardisia bakeri

Argyrodendron sp. (Boonjie B.P.Hyland RFK2139)

Arytera dictyoneura

Austrobuxus megacarpus

Austromuellera trinervia

Beilschmiedia castrisinensis

Bertya pedicellata

Bertya sharpeana

Boronia amabilis

Boronia rivularis

Brachychiton compactus

Scientific name

Brachychiton grandiflorus

Brownlowia argentata

Bubbia queenslandiana subsp. *queenslandiana*

Bulbophyllum globuliforme

Callerya pilipes

Callitris baileyi

Calochlaena villosa

Cecarria obtusifolia

Ceratopetalum macrophyllum

Cerbera dumicola

Chiloglottis longiclavata

Coleus blakei

Comesperma breviflorum

Conospermum burgessiorum

Corsia dispar

Corunastylis sigmoidea

Corybas abellianus

Corybas cerasinus

Corymbia scabrida

Croton brachypus

Croton densivestitus

Crudia abbreviata

Cryptandra ciliata

Cryptocarya floydii

Scientific name

Cucumis costatus

Cupaniopsis newmanii

Cyathea celebica

Cyathea cunninghamii

Dactylophora novae-guineae

Dansiea elliptica

Demorchis queenslandica

Dendrobium schneiderae var. *schneiderae*

Dianella incollata

Didymoglossum mindorense

Didymoplexis pallens

Digitaria porrecta

Diospyros granitica

Diploglottis harpullioides

Diploglottis pedleyi

Dipteris conjugata

Discaria pubescens

Diteilis simmondsii

Diuris oporina

Dockrillia wassellii

Dodonaea uncinata

Dolichandrone spathacea

Donella lanceolata

Drosera adelae

Scientific name

Dryopteris hasseltii

Durringtonia paludosa

Elaeocarpus coorangooloo

Elaphoglossum callifolium

Endiandra bellendenkerana

Endiandra globosa

Endiandra microneura

Eucalyptus codonocarpa

Eucalyptus curtisii

Eucalyptus decolor

Eucalyptus tereticornis subsp. *rotunda*

Eulophia bicallosa

Euphrasia orthocheila

Ficus melinocarpa var. *hololampra*

Fimbristylis carolinii

Frankenia scabra

Glochidion pungens

Glycine argyrea

Goodyera viridiflora

Gossia inophloia

Graptophyllum excelsum

Habenaria hymenophylla

Habenaria rumphii

Habenaria xanthantha

Scientific name*Helicia recurva**Hernandia bivalvis**Hibbertia elata**Hibbertia hexandra**Hibbertia monticola**Homoranthus tropicus**Hoya anulata**Hoya macgillivrayi**Hoya revoluta**Hymenophyllum pallidum**Ipomoea antonschmidii**Labichea brassii**Lastreopsis dissecta**Leionema ambiens**Lenwebbia prominens**Lepiderema hirsuta**Lepiderema largiflorens**Leptospermum pallidum**Lepturus geminatus**Lepturus xerophilus**Linospadix palmerianus**Litsea macrophylla**Livistona concinna**Livistona nitida*

Scientific name

Lobelia membranacea

Macarthuria complanata

Macropteranthes leiocaulis

Macrozamia longispina

Mammea touriga

Margaritaria indica

Medicosma glandulosa

Megahertzia amplexicaulis

Meiogyne hirsuta

Melaleuca cheelii

Melaleuca flavovirens

Melaleuca formosa

Melaleuca groveana

Melaleuca pearsonii

Mezoneuron hymenocarpum

Microsorium membranifolium

Mirbelia confertiflora

Mischocarpus albescens

Momordica sphaeroidea

Muellerina myrtifolia

Neosepicaea viticoides

Neostrearia fleckeri

Nervilia crociformis

Nothoalsomitra suberosa

Scientific name

Oenanthe javanica

Oldenlandia polyclada

Olearia heterocarpa

Pandanus zea

Papillilabium beckleri

Pararistolochia praevenosa

Pectinopitys ladei

Peripentadenia mearsii

Persoonia daphnoides

Philothea sporadica

Phylacium bracteosum

Pimelea leptospermoides subsp. *Leptospermoides*

Pimelea umbratica

Piper mestonii

Pittosporum oreillyanum

Planchonella xylocarpa

Pneumatopteris costata

Polyalthia submontana subsp. *submontana*

Prasophyllum campestre

Prasophyllum exilis

Prasophyllum incompositum

Prostanthera petraea

Pseudanthus pauciflorus

Pseudolycopodiella limosa

Scientific name

Pseuduvaria hylandii

Pteridoblechnum acuminatum

Pterostylis nigricans

Pterostylis setifera

Pterostylis sp. (Gundiah W.W.Abell AQ72188)

Ptilotus maconochiei

Randia audasii

Remusatia vivipara

Rhodamnia glabrescens

Rhodanthe rufescens

Robiquetia wassellii

Rutidosis glandulosa

Rutidosis lanata

Ryparosa kurrangii

Samadera baileyana

Sarcopteryx montana

Sarcotoechia heterophylla

Schefflera bractescens

Senegalia albizioides

Solanum sporadotrichum

Spathoglottis paulinae

Sphaeromorphaea major

Stackhousia tryonii

Steganthera australiana

Scientific name

Steganotheca laxiflora subsp. *lewisensis*

Stemona angusta

Stenocarpus cryptocarpus

Sterculia shillinglawii subsp. *shillinglawii*

Strongylodon lucidus

Stylidium trichopodium

Symplocos ampulliformis

Symplocos harroldii

Symplocos oresbia

Symplocos wooroonooran

Syzygium buettnerianum

Taeniophyllum confertum

Taeniophyllum lobatum

Tecomanthe hillii

Thismia rodwayi

Trachymene geraniifolia

Trachymene glandulosa

Tristellateia australasiae

Wendlandia connata

Westringia blakeana

Whyanbeelia terrae-reginae

Wilkiea sp. (McDowall Range J.G.Tracey 14552)

Xanthophyllum fragrans

Xanthostemon arenarius

Scientific name

Xylosma ovata

Zieria adenodonta

Subdivision 2 Declared management intent

22 Significance to nature and its value

- (1) A plant that is near threatened wildlife is a component of Queensland's biodiversity and a vital feature of the ecosystem in which the plant lives.
- (2) Without limiting subsection (1), the plant represents—
 - (a) a part of the Australian biota that is 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.

23 Proposed management intent

The proposed management intent for a plant that is near threatened wildlife is—

- (a) to establish and maintain a database of information about the plant and its habitat; and
- (b) to monitor and review the conservation status of the plant and its habitat; and
- (c) to the extent practicable, to put into effect strategies to address any threats to the conservation of the plant; and
- (d) to act to prevent the further population decline of the plant in the wild; and

-
- (e) to cooperate with the Commonwealth and other State agencies—
 - (i) for the ongoing protection and management of the plant and its habitat; and
 - (ii) to work towards a national conservation status for the plant and its habitat; and
 - (f) to monitor and review information about the requirements for the conservation of the plant and its habitat; and
 - (g) to encourage scientific research likely to contribute to an understanding of the plant or its habitat including, for example, the requirements for conserving the plant or habitat; and
 - (h) if a threatening process is affecting the plant to the extent that it is likely to become classified as extinct wildlife, extinct in the wild wildlife, critically endangered wildlife, endangered wildlife or vulnerable wildlife (each the *new class of wildlife*)—to manage the plant as if it were in the new class of wildlife until the plant is reclassified as a new class of wildlife; and
 - (i) to protect the critical habitat, or the areas of major interest, for the plant; and
 - (j) to monitor and review environmental impact procedures to ensure they—
 - (i) accurately assess the extent of the impact, on the plant, of the activities to which the procedures relate; and
 - (ii) provide for effective measures to mitigate any adverse impact of the activities on the plant; and
 - (iii) if there is an adverse impact of the activities on an area in which the plant normally exists, provide for the enhancement of other areas where the plant normally lives.

24 Principles relating to proposed taking, keeping and use

A plant that is vulnerable wildlife may be taken from the wild, kept or used under the Act only if the taking, keeping or use—

- (a) is consistent with the management principles for the plant; and
- (b) is not likely to reduce the ability of the plant's population to expand.

Division 7 Least concern wildlife

Subdivision 1 Plants

25 Plants

A plant indigenous to Australia, other than a plant that is extinct, extinct in the wild, critically endangered, endangered, vulnerable or near threatened wildlife, is least concern wildlife.

Subdivision 2 Declared management intent

26 Significance to nature and its value

- (1) A plant that is least concern wildlife is a component of Queensland's biodiversity and a vital feature of the ecosystem in which the plant lives.
- (2) Without limiting subsection (1), the plant represents—
 - (a) a part of the Australian biota that is 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.

27 Proposed management intent

The proposed management intent for a plant that is least concern wildlife is—

- (a) to monitor and review the conservation status of the plant; and
- (b) to the extent practicable, to prepare and put into effect conservation plans or other instruments for the plant if—
 - (i) the plant is of commercial, recreational, traditional or potential conservation interest; or
 - (ii) the chief executive considers the plant to be potentially vulnerable; and
- (c) to encourage scientific research and inventory programs likely to contribute to an understanding of the plant or the Australian biota; and
- (d) to incorporate into educational material and programs provided by the department, information about the plant's contribution to Queensland's and Australia's biodiversity.

28 Principles relating to proposed taking, keeping and use

A plant that is least concern wildlife may be taken from the wild, kept or used under the Act only if the taking, keeping or use is consistent with the management principles for the plant.

Schedule 2 Special least concern plants

section 19

1 Plant families

Least concern plants of the following families—

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

Droseraceae

Dryopteridaceae

Gesneriaceae

Goodeniaceae (*Brunonia* only)

Hydrocharitaceae

Hymenophyllaceae

Juncaginaceae

Lentibulariaceae

Lycopodiaceae, other than *Lycopodiella cernua*

Menyanthaceae

Najadaceae

Nelumbonaceae
Nepenthaceae
Nymphaeaceae
Orchidaceae
Podostemaceae
Polypodiaceae
Potamogetonaceae
Psilotaceae
Pteridaceae, other than *Adiantum formosum* and
Cheilanthes
Schizaeaceae
Stylidiaceae, other than *Stylidium graminifolium*
Zamiaceae
Zosteraceae

2 Plant genera

Least concern plants of the following genera—

Aponogeton
Blandfordia (Christmas bells)
Brachychiton
Cordyline, other than *Cordyline petiolaris* and *C. rubra*
Hydnophytum
Livistona
Myrmecodia
Xanthorrhoea

3 Plant species

Least concern plants of the following species—

Santalum lanceolatum (sandalwood)

Schedule 3 Conservation values for protected plants

section 20

| | Column 1 Class of plant | Column 2 Conservation value |
|---|------------------------------------|--|
| 1 | extinct plants | \$19,326 |
| 2 | extinct in the wild plants | \$19,326 |
| 3 | critically endangered plants | \$15,461 |
| 4 | endangered plants | \$15,461 |
| 5 | vulnerable plants | \$11,591 |
| 6 | near threatened plants | \$7,723 |
| 7 | least concern plants | \$1,921 |

Schedule 4 Fees

sections 179 and 180

| | \$ |
|---|---|
| 1 Application for a protected plant growing licence (ss 97 and 180)— | |
| (a) concessional fee | 154.20 |
| (b) otherwise | 615.00 |
| 2 Application for a protected plant harvesting licence (ss 97 and 180)— | |
| (a) concessional fee | 308.70 |
| (b) otherwise | 1,233.00 |
| 3 Application for a protected plant clearing permit (ss 97 and 180)— | |
| (a) concessional fee | 769.00 |
| (b) otherwise | 3,086.00 |
| 4 For a major amendment of an application for a plant authority (s 107) | an amount equivalent to the concessional fee for an application for the authority |
| 5 Application for each amendment of a plant authority, other than to change an address, requested by the holder of the authority (s 117) | 18.65 |
| 6 Supply of a tag (s 165) | 0.49 |

Schedule 5 Dictionary

section 3

accept, a plant, does not include transfer of the plant between the holder of a plant authority and a relevant person for the holder who has taken the plant under the authority.

affected person, for chapter 11, part 1, see section 188.

approved form means a form approved under section 207.

approved sustainable harvest plan, for a protected plant licence, means the sustainable harvest plan approved under section 106 by the chief executive for the licence.

associate, of a person whose suitability to hold a plant authority is being considered, for chapter 5, part 2, division 2, see section 100.

attach, a tag to a protected plant, means—

- (a) insert into, or fasten to the outside of, the individual tube or pot containing the plant; or
- (b) attach to the stem of the plant; or
- (c) fasten to the board or other material on which the plant is mounted; or
- (d) insert between the board or other material on which the plant is mounted and any backing material for the board or other material in a way that allows the tag to be seen.

authorised plant, in relation to a plant authority, means—

- (a) for a plant authority granted for taking or using all plants in an area that is, or is about to be, lawfully destroyed—all plants in the area; or
- (b) otherwise—a plant—
 - (i) identified on the authority under section 111(1)(f); and

- (ii) the authority states it applies to under section 113; and
- (iii) if section 114 applies to the plant—to which the authority applies under section 114(2).

buffer zone see section 133(2).

claim period, for a seized thing, for chapter 11, part 2, see section 195.

clearing impact area see section 133(1).

contingent salvage, of a whole restricted plant, means harvesting of the plant in the following circumstances—

- (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 57 applies; or
 - (iii) for carrying out a government infrastructure project; or
 - (iv) to harvest a timber plantation; or
 - (v) under a development approval under the *Planning Act 2016*;
- (b) the plant—
 - (i) would otherwise be destroyed by the clearing; or
 - (ii) if the land from which the plant is harvested is lawfully cleared under a protected plant clearing permit—is not to be used under the permit for an impact management measure;
- (c) the use of the plant is not the primary reason for the clearing.

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.

corporation see the Corporations Act, section 57A.

dangerous seized thing, for chapter 11, part 2, see section 199(1).

ecosystem process, for schedule 1, see schedule 1, section 1.

environmental management plan means an operational plan for monitoring and managing the taking of part of a restricted plant under a protected plant harvesting licence.

fee exemption see section 181(2).

flora survey see section 140(1).

flora survey guidelines see section 142(1).

flora survey report see section 140(2).

flora survey trigger map see section 135.

harvest, for a protected plant—

- (a) means take the plant in the wild to use the plant; and
(b) does not include take the plant by clearing for the use of the land from which the plant is taken.

harvest period, for a protected plant, means a period during which a person may take the plant.

harvest period notice see section 130(1).

high risk area see section 132.

impact management measure means work or an activity undertaken to ensure the survival of a threatened plant or near threatened plant.

Examples of impact management measures—

transplanting or propagating a threatened plant or near threatened plant

information, for schedule 1, see schedule 1, section 1.

information notice, for a decision, means a notice stating the following—

- (a) the decision;
- (b) the reasons for the decision;

Note—

See the *Acts Interpretation Act 1954*, section 27B for matters that must be included with the reasons.

- (c) that the person to whom the notice is given may ask for a review of the decision under this regulation;
- (d) how, and the period within which, the review may be started;
- (e) if the person may apply for a stay of the operation of the decision under the Act—how the person may apply for the stay.

internal review, for chapter 11, part 1, see section 190(1).

internal review decision, for chapter 11, part 1, see section 188.

land manager, for schedule 1, see schedule 1, section 1.

lawfully, in relation to doing an act, means to do the act in a way that is not prohibited under the Act or another law applying to the act.

licensed premises, for a plant authority, means the premises stated in the authority as the licensed premises for the authority.

management principles, for a protected plant, for schedule 1, see schedule 1, section 1.

movement, of a plant, 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—

- a stop ordinarily made by persons in transit for food, rest, bathing or using toilet facilities

- a stop for placing a plant to be moved to another country in quarantine

notice means written notice.

operational salvage, of a part of a protected plant, means harvesting the part of the plant in the following circumstances—

- (a) the land from which the part is harvested is cleared or disturbed by repetitive, routine weed control activities, including, for example, slashing, ploughing or poisoning;
- (b) the activities mentioned in paragraph (a) 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;
- (c) the part—
 - (i) is taken in carrying out the activities; and
 - (ii) would otherwise be destroyed by carrying out the activities;
- (d) the type of plant from which the part is taken will normally regenerate even if a significant proportion of the other parts of the plant that are above ground are taken or die;
- (e) the use of the part is not the primary reason for carrying out the activities.

original decision, for chapter 11, part 1, see section 188.

owner, of a seized thing, for chapter 11, part 2, see section 195.

part, of a protected plant, includes a stem, phyllode, foliage, bud, flower, spore, seed, fruit, bark, oil, root, rhizome, resin, gum, exudate, gall, genetic material, chemical, and any other structural component or constituent, of the plant.

personal use, in relation to a local government's use of a protected plant, includes use of a part of the plant in the local government's botanical garden or park.

plant authorities code means the document called 'The code of practice for the harvest and use of protected plants under an authority', approved by the chief executive under section 174A of the Act and published on the department's website.

plant authority means a licence, permit or other authority mentioned in chapter 4, parts 3 to 7.

plant exemptions code means the document called 'The code of practice for the take or use of a protected plant under an exemption', approved by the chief executive under section 174A of the Act and published on the department's website.

prescribed fee means a fee payable under chapter 9.

private land means—

- (a) freehold land; or
- (b) land the subject of a lease containing an entitlement to a deed of grant in fee simple.

protected plant harvest label means a label about the harvest of a restricted plant that—

- (a) states the matters set out for the label under the plant authorities code; and
- (b) is legible for the life of the label.

protected plant harvest record see section 152(2).

protected plant licence means a protected plant growing licence or protected plant harvesting licence.

protected plants assessment guidelines means the assessment guidelines under section 174B of the Act about considering an application for a plant authority.

protected plant trade label means a label about the use of a restricted plant for trade that—

- (a) states the matters set out for the label under the plant authorities code; and

(b) is legible for the life of the label.

protected plant trade record see section 153(2).

QCAT information notice, for chapter 11, part 1, see section 188.

recovery plan, for a plant—

- (a) means a document stating what research and management is necessary to—
 - (i) stop the decline of the plant in the wild; or
 - (ii) support the recovery of the plant in the wild; or
 - (iii) enhance the chance of long-term survival of the plant in the wild; and
- (b) includes a recovery plan made or adopted under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth), section 269A.

recreational plant society means a society that—

- (a) is an incorporated association under the *Associations Incorporation Act 1981*; and
- (b) has, as 1 of its main functions, the conservation of plants.

relevant applicant see section 181(1).

relevant day, for a person, for chapter 5, part 2, division 2, see section 100.

relevant person, for the holder of a plant authority, see section 5.

research and monitoring condition, in relation to a protected plant harvesting licence, means a condition requiring the holder of the licence—

- (a) to research and monitor the effects of taking a part of a restricted plant under the licence; and
- (b) to adopt an environmental management plan and give a copy of the plan to the chief executive when it is adopted and each time it is significantly changed; and

- (c) to establish 1 or more monitoring plots to sample each species of restricted plant taken under the licence; and
- (d) to carry out a yearly survey of the plants in each monitoring plot established.

restricted plant means a threatened plant, near threatened plant or special least concern plant.

sandalwood means a plant of the species *Santalum lanceolatum*.

seized thing, for chapter 11, part 2, see section 196(2).

seizure notice, for a seized thing, for chapter 11, part 2, see section 195.

State-related 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*.

stock plant means a plant for providing propagative material by—

- (a) dividing the plant; or
- (b) removing the seed, cuttings or propagative material from the plant.

sustainable harvest plan, in relation to an application 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.

tag includes a band, ring, label or other thing that may be attached to a plant.

threatened plant means a plant that is threatened wildlife.

trade see section 4.

voluntary conservation organisation means an organisation that—

- (a) is an incorporated association under the *Associations Incorporation Act 1981*; and
- (b) has, as 1 of its objects or functions, the conservation of native plants.

volunteer community organisation means an organisation whose primary object or function is organising the provision of community services by volunteers.

whole, of a plant, see section 6.

year means a period of 12 months—

- (a) starting at the beginning of any day; and
- (b) ending—
 - (i) immediately before the beginning of the corresponding day of the following 12-month period; or
 - (ii) if the year started on 29 February—at the end of 28 February of the following 12-month period.

Schedule 6 Minor and consequential amendments

section 229

Environmental Offsets Regulation 2014

1 Section 36(1)(a), before ‘endangered’—

insert—

critically endangered wildlife,

2 Section 36(1)(a), ‘*Nature Conservation (Administration) Regulation 2006*’—

omit, insert—

Nature Conservation (Plants) Regulation 2020

3 Schedule 1, item 5, from ‘granted under’—

omit, insert—

under the *Nature Conservation (Plants) Regulation 2020*

4 Schedule 2, section 1, definition *plant that is endangered wildlife or vulnerable wildlife*—

omit, insert—

plant that is critically endangered wildlife, endangered wildlife or vulnerable wildlife means a plant that is critically endangered wildlife, endangered wildlife, or vulnerable wildlife, under the *Nature Conservation Act 1992*.

Notes—

- See the *Nature Conservation (Plants) Regulation 2020*, schedule 1, part 2, division 3 for plants that are critically endangered wildlife.
- See the *Nature Conservation (Plants) Regulation 2020*, schedule 1, part 2, division 4 for plants that are endangered wildlife.
- See the *Nature Conservation (Plants) Regulation 2020*, schedule 1, part 2, division 5 for plants that are vulnerable wildlife.

5 Schedule 2, section 2(3)(b), after ‘plant that is’—

insert—

critically endangered wildlife,

6 Schedule 2, section 2(6), definition *plant that is near threatened wildlife*, note—

omit, insert—

Note—

See the *Nature Conservation (Plants) Regulation 2020*, schedule 1, part 2, division 6 for plants that are near threatened wildlife.

7 Schedule 2, section 6(1) and (2), before ‘endangered’—

insert—

critically endangered wildlife,

8 Schedule 2, section 6(5), definition *flora survey trigger map*—

omit, insert—

flora survey trigger map see the *Nature Conservation (Plants) Regulation 2020*, section 135.

9 Schedule 3, definition *plant that is endangered wildlife or vulnerable wildlife*—

omit, insert—

plant that is critically endangered wildlife, endangered wildlife or vulnerable wildlife, for schedule 2, see schedule 2, section 1.

ENDNOTES

- 1 Made by the Governor in Council on 23 July 2020.
- 2 Notified on the Queensland legislation website on 24 July 2020.
- 3 The administering agency is the Department of Environment and Science.

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