

Queensland



NATURE CONSERVATION AMENDMENT BILL 2004

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FOR

An Act to amend the Nature Conservation Act 1992

	The Parliament of Queensland enacts—	1
Clause 1	Short title	2
	This Act may be cited as the <i>Nature Conservation Amendment Act 2004</i> .	3
Clause 2	Act amended	4
	This Act amends the <i>Nature Conservation Act 1992</i> .	5
Clause 3	Commencement	6
	This Act commences on a day to be fixed by proclamation.	7
Clause 4	Amendment of s 62 (Restriction on taking etc. of cultural and natural resources of protected areas)	8
	Section 62(5)(b), ‘or rare’—	10
	<i>omit, insert—</i>	11
	‘, rare or near threatened’.	12
Clause 5	Amendment of s 71 (Classes of wildlife to which Act applies)	13
	(1) Section 71(a)(i)—	14
	<i>omit, insert—</i>	15
	‘(i) extinct in the wild wildlife; and’.	16
	(2) Section 71(a)(v)—	17
	<i>omit, insert—</i>	18
	‘(v) near threatened wildlife; and	19
	(vi) least concern wildlife; and’.	20
Clause 6	Replacement of ss 76–80	21
	Sections 76 to 80—	22

<i>omit, insert—</i>	1
‘76 Native wildlife may be prescribed as extinct in the wild wildlife	2
‘A regulation may prescribe native wildlife as extinct in the wild wildlife if—	3 4
(a) there have been thorough searches conducted for the wildlife; and	5 6
(b) the wildlife has not been seen in the wild over a period that is appropriate for the life cycle or form of the wildlife.	7 8
‘77 Native wildlife may be prescribed as endangered wildlife	9
‘A regulation may prescribe native wildlife as endangered wildlife if—	10
(a) there have not been thorough searches conducted for the wildlife and the wildlife has not been seen in the wild over a period that is appropriate for the life cycle or form of the wildlife; or	11 12 13
(b) the habitat or distribution of the wildlife has been reduced to an extent that the wildlife may be in danger of extinction; or	14 15
(c) the population size of the wildlife has declined, or is likely to decline, to an extent that the wildlife may be in danger of extinction; or	16 17 18
(d) the survival of the wildlife in the wild is unlikely if a threatening process continues.	19 20
‘78 Native wildlife may be prescribed as vulnerable wildlife	21
‘(1) A regulation may prescribe native wildlife as vulnerable wildlife if—	22 23
(a) the population size or distribution of the wildlife has declined, or is likely to decline, to an extent that the wildlife may become endangered because of a threatening process; or	24 25 26
(b) the population size of the wildlife has been seriously depleted and the protection of the wildlife is not secured; or	27 28
(c) the population of the wildlife is—	29
(i) low or localised; and	30

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(ii) dependent on habitat that has been, or is likely to be, adversely affected, in terms of quantity or quality, by a threatening process.	1 2 3
‘(2) In this section—	4
“ endangered ”, in relation to wildlife, means the wildlife falls within a description mentioned in section 77.	5 6
‘78A Native wildlife may be prescribed as rare wildlife	7
‘(1) A regulation may prescribe native wildlife as rare wildlife if the wildlife is not threatened wildlife and—	8 9
(a) the population of the wildlife is represented by—	10
(i) a relatively large population in a restricted range; or	11
(ii) relatively small populations thinly spread over a wide range;	12
or	13
(b) the survival of the wildlife in the wild is affected to an extent that the wildlife is in danger of becoming vulnerable.	14 15
‘(2) Native wildlife may be prescribed as rare wildlife even if the wildlife is the subject of a threatening process.	16 17
‘(3) This section expires 5 years after it commences.	18
‘(4) In this section—	19
“ vulnerable ”, in relation to wildlife, means the wildlife falls within a description mentioned in section 78(1).	20 21
‘79 Native wildlife may be prescribed as near threatened wildlife	22
‘(1) A regulation may prescribe native wildlife as near threatened wildlife if—	23 24
(a) the population size or distribution of the wildlife is small and may become smaller; or	25 26
(b) the population size of the wildlife has declined, or is likely to decline, at a rate higher than the usual rate for population changes for the wildlife; or	27 28 29
(c) the survival of the wildlife in the wild is affected to an extent that the wildlife is in danger of becoming vulnerable.	30 31

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‘(2) Native wildlife may be prescribed as near threatened wildlife even if the wildlife is the subject of a threatening process.	1 2
‘(3) In this section—	3
“vulnerable”, in relation to wildlife, means the wildlife falls within a description mentioned in section 78(1).	4 5
‘80 Native wildlife may be prescribed as least concern wildlife	6
‘(1) A regulation may prescribe native wildlife as least concern wildlife if the wildlife is common or abundant and is likely to survive in the wild.	7 8
‘(2) Native wildlife may be prescribed as least concern wildlife even if—	9
(a) the wildlife is the subject of a threatening process; or	10
(b) the population size or distribution of the wildlife has declined; or	11
(c) there is insufficient information about the wildlife to conclude whether the wildlife is common or abundant or likely to survive in the wild.’.	12 13 14
Clause 7 Amendment of s 84 (Property in protected plants)	15
Section 84(5), definition “protected plant”—	16
<i>omit, insert—</i>	17
‘ “protected plant” means a protected plant that is in the wild.’.	18
Clause 8 Amendment of s 89 (Restriction on taking etc. protected plants)	19
(1) Section 89, heading, before ‘protected’—	20
<i>insert—</i>	21
‘particular’.	22
(2) Section 89(5), definition “protected plant”, paragraph (a), ‘rare or threatened’—	23 24
<i>omit, insert—</i>	25
‘threatened, rare or near threatened’.	26

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Clause 9	Amendment of s 90 (Restriction on using threatened or rare plants)	1 2
	(1) Section 90, heading, ‘threatened or rare’—	3
	<i>omit, insert—</i>	4
	‘particular protected’.	5
	(2) Section 90(1), ‘or rare’—	6
	<i>omit, insert—</i>	7
	‘, rare or near threatened’.	8
	(3) Section 90(2), definition “authorised person”, from ‘means’ to ‘plant’—	9 10
	<i>omit, insert—</i>	11
	‘, in relation to a protected plant, means any of the following persons performing functions under the Act in relation to the plant’.	12 13
Clause 10	Amendment of s 102 (Issue of order)	14
	Section 102(a)—	15
	<i>omit, insert—</i>	16
	‘(a) threatened, rare or near threatened wildlife; or’.	17
Clause 11	Insertion of new pt 12, div 1, hdg	18
	Part 12—	19
	<i>insert—</i>	20
	<i>‘Division 1—General savings and transitional provisions’.</i>	21
Clause 12	Insertion of new pt 12, div 2	22
	Part 12—	23
	<i>insert—</i>	24

***‘Division 2—Transitional provision for the Nature Conservation
Amendment Act 2004***

	1 2
‘184 Abolition of class of rare wildlife	3
‘After section 78A expires—	4
(a) the class of rare wildlife is abolished; and	5
(b) a reference in an Act or document to rare wildlife is, if the context permits, redundant.’.	6 7
Clause 13 Amendment of schedule (Dictionary)	8
(1) Schedule, definitions “common wildlife”, “presumed extinct wildlife” and “protected wildlife”—	9 10
<i>omit.</i>	11
(2) Schedule—	12
<i>insert—</i>	13
‘ “extinct in the wild wildlife” means native wildlife prescribed under this Act as extinct in the wild wildlife.	14 15
“least concern wildlife” means native wildlife prescribed under this Act as least concern wildlife.	16 17
“near threatened wildlife” means native wildlife prescribed under this Act as near threatened wildlife.	18 19
“protected wildlife” means native wildlife prescribed under this Act as—	20
(a) extinct in the wild wildlife; or	21
(b) endangered wildlife; or	22
(c) vulnerable wildlife; or	23
(d) rare wildlife; or	24
(e) near threatened wildlife; or	25
(f) least concern wildlife.’.	26
(3) Schedule, definitions “protected animal” and “protected plant”, ‘or common’—	27 28

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<i>omit, insert—</i>	1
‘, near threatened or least concern’.	2
(4) Schedule, definition “threatened wildlife”, paragraph (a)—	3
<i>omit, insert—</i>	4
‘(a) extinct in the wild wildlife; or’.	5