

Nature Conservation (Protected Areas Management) and Other Legislation Amendment Regulation 2019

Explanatory notes for SL 2019 No. 108

made under the

Nature Conservation Act 1992
State Penalties Enforcement Act 1999

General Outline

Short title

Nature Conservation (Protected Areas Management) and Other Legislation Amendment Regulation 2019

Authorising law

Section 175 of the *Nature Conservation Act 1992*
Section 165 of the *State Penalties Enforcement Act 1999*

Policy objectives and the reasons for them

The policy objective of the *Nature Conservation (Protected Areas Management) and Other Legislation Amendment Regulation 2019* (amendment regulation) is to increase penalties for feeding or disturbing dingoes on K'gari (Fraser Island).

Following a number of recent dingo attacks on K'gari, the Minister for Environment and the Great Barrier Reef, Minister for Science and Minister for the Arts announced that existing fines for disturbing or feeding dingoes would be significantly increased.

The Department of Environment and Science's (DES) Fraser Island Dingo Conservation and Risk Management Strategy identifies that feeding dingoes results in an increase in their breeding capacity and inflates their population above the natural carrying capacity of K'gari. Consequently, the normal ecological balance that would otherwise keep the population

numbers aligned with available resources is disturbed. Feeding can also result in dingoes losing their hunting skills and their fear of humans, leading to a reliance on handouts and scavenging food scraps from people. These consequences can all contribute to negative interactions between dingoes and visitors and residents on K'gari.

The dingoes on K'gari are an important population of the species remaining in Queensland and are considered to be one of the purest strains of dingo remaining on the eastern Australian seaboard. Interactions between these apex predators and people visiting, working and living on K'gari presents a range of challenges for the Government when seeking to conserve the dingo population and ensuring safety for people on the Island. It is therefore critical that the feeding of dingoes and other interactions with these animals cease.

Significant efforts are made by the Queensland Government to educate visitors and the broader community regarding the importance of not feeding dingoes on K'gari. However, increased deterrents are required to ensure such activities do not continue. This approach is part of the Government's strategy for managing the way the community interacts with dingoes on the Island.

The increase in penalties for feeding or disturbing dingoes is intended to highlight the seriousness of such actions to the community and deter anyone considering such actions. To achieve this outcome, amendments to subordinate legislation applying to the management of human/dingo interactions on K'gari, and associated penalty infringement notices, are necessary.

Achievement of policy objectives

The objective of the policy will be achieved through amendment of the *Nature Conservation (Protected Areas Management) Regulation 2017*, the *Nature Conservation (Wildlife Management) Regulation 2006* (nature conservation regulations) and the *State Penalties Enforcement Regulation 2014*.

The nature conservation regulations contain existing provisions regarding feeding or disturbing an animal that is dangerous, venomous or capable of injuring a person. The *State Penalties Enforcement Regulation 2014* contains the infringement notice offences and their associated fines. The current maximum penalty that may be imposed by a court for an offence against these provisions is 40 penalty units (\$5,222) with a penalty infringement notice fine of three penalty units (\$391.65).

The amendment regulation will amend the penalties associated with these provisions to insert new penalties specific to feeding or disturbing a dingo on K'gari. The new penalties are consistent with the announcement made on 26 April 2019 by the Minister for Environment and the Great Barrier Reef, Minister for Science and Minister for the Arts. As announced, the maximum penalty for an offence of feeding or disturbing a dingo on K'gari will be 80 penalty units (\$10,444) with a penalty infringement notice fine of 16 penalty units (\$2,088). Under the nature conservation regulations, 'disturb' includes approaching, harassing, teasing or touching an animal.

The amendment regulation will also make consequential amendments to the *State Penalties Enforcement Regulation 2014* to insert the new infringement notice offences and the associated infringement notice fines.

While the amendment regulation increases the penalties for dingo-related offences on K'gari, the penalties for the more general offence of feeding or disturbing an animal that is dangerous, venomous or capable of injuring a person will remain unchanged. For example, if a person feeds a goanna in a campsite or harasses a venomous snake, the infringement notice amount that may be issued by an authorised officer, such as a Queensland Parks and Wildlife Service (QPWS) ranger, will remain a fine that is equivalent to three penalty units (\$391.65).

The amendments will ensure that the increased penalties apply consistently across all land (national park and non-national park) on K'gari in relation to feeding and disturbing dingoes. K'gari comprises a number of different land types and limiting the new penalties only to the national park would leave significant parts of the Island subject to the lower existing penalties described above. The serious risks and potential consequences of feeding or disturbing dingoes on the Island are the same on all land types, it is therefore necessary to ensure a uniform approach to deterring such activities is applied.

Given the number of recent dingo attacks on K'gari, increasing penalties for deliberately feeding or disturbing dingoes is an appropriate response as part of a suite of measures announced which seek to achieve the Government's commitment to the continued safety of visitors to K'gari.

Communication of the new penalties will be important to achieve their intended effect as a deterrent. The statement regarding the increase in fines made by the Minister for Environment and the Great Barrier Reef, Minister for Science and Minister for the Arts was widely reported in the media, and included an announcement that DES is also commencing an independent review of the Fraser Island Dingo Conservation and Risk Management Strategy Implementation Plan (the Implementation Plan). This review will include an education and communication workshop, and DES is also working with the Butchulla Aboriginal Corporation to complement existing public communication by delivery of further community education and engagement in relation to dingo management and visitor safety.

Persons responsible for undertaking compliance activities for these offences will primarily be QPWS rangers. These rangers are appointed as authorised officers under the *Nature Conservation Act 1992* (the NC Act) and have completed pre-requisite compliance training as a condition of their appointment to such a role. This training ensures rangers are equipped with the knowledge and skills to appropriately assess various situations and circumstances and undertake compliance action only as necessary in a balanced and reasonable manner.

As a reflection of the Government's intent for the fines to represent a deterrent, the penalty increases are significant. However, they are considered appropriate in response to the potential consequences of interactions with dingoes, the considered approach to compliance undertaken by QPWS rangers and the desire of the Government to balance managing visitor safety and the continued survival of the unique dingo population on K'gari.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the object of the NC Act, which is ‘the conservation of nature while allowing for the involvement of Indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom’.

The object is to be achieved through, among other things, the conservation and management of protected areas and the protection of native wildlife and its habitat. Dingoes on K’gari are native wildlife under the NC Act.

Section 175 of the NC Act allows the Governor in Council to make regulations under the NC Act, including for the purposes of prescribing offences for contraventions of a regulation and fixing a maximum penalty or fine of not more than 165 penalty units for such a contravention.

The amendment regulation provides for an increase in penalties associated with offences under the nature conservation regulations relating to the feeding or disturbance of dingoes on K’gari, and is consistent with the regulation-making power under the NC Act.

The amendment regulation also amends the *State Penalties Enforcement Regulation 2014* to provide for the new infringement notice offences and the associated infringement notice fines. This is consistent with the objects of the *State Penalties Enforcement Act 1999* and the regulation-making power under section 165 of that Act.

Inconsistency with policy objectives of other legislation

The amendment regulation provides for increased penalties associated with feeding or disturbing dingoes across the landscape on K’gari to reduce risks of negative human/dingo interactions and the detrimental consequences for both people and dingoes from such interactions. This is not considered to be inconsistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

Achieving the Government’s commitment to increasing fines for feeding and disturbing dingoes on K’gari can only be achieved by inserting new penalties related to the existing offences in the nature conservation regulations. The objective is to establish a more significant deterrent to such activities being undertaken by people on the Island, and consequently reduce this type of human/dingo interaction. The ultimate aim being to reduce the number of dingoes habituated through intervention and community education.

While legislative amendment is the only way to achieve the penalty increase, it is not the only way that DES is seeking to continue the Government’s commitment to visitor safety and management of dingoes on K’gari. This is occurring through a range of initiatives outlined in the Implementation Plan. The Plan includes five programs of action comprising on-ground risk intervention, communication and education, research to support management actions, compliance and evaluation and review.

Under the Implementation Plan, DES has established five dingo-deterrent fenced campgrounds and installed electrified vehicle grids and self-closing pedestrian gates to improve visitor safety. The communication and education program targets improving dingo-safe behaviour by all people on the Island, through public contact with QPWS rangers, and communication and education material being provided via signs, brochures, audio-visual formats and web pages. Additionally, when camping bookings for K'gari are made, visitors are provided with a message regarding the offence associated with feeding or disturbing dingoes. A comprehensive safety and information guide 'The Dingoes (Wongari) of K'gari (Fraser Island)' is also available on DES's website.

In addition to the increase in penalties provided by the amendment regulation, the Government has also announced further measures to seek to minimise the risk to human safety and dingo welfare on the Island. These include:

- a new Butchulla community education ranger to assist with educating visitors to K'gari about being dingo safe;
- scoping potential new sites for fenced camping; and
- a review of the Implementation Plan to ensure it remains contemporary.

Benefits and costs of implementation

Given the amendment regulation adds new penalties for existing offences relating to feeding or disturbing animals that are dangerous, venomous or capable of injuring a person it is not anticipated that there will be any new costs associated with implementing these changes. There will be minimal cost associate with increased promotion and public education programs which will be met with existing departmental resources.

The benefits are anticipated to be an increased deterrent associated with activities such as feeding or disturbing dingoes on K'gari and the resulting benefits of a reduction in such human/dingo interactions.

Consistency with fundamental legislative principles

The amendment regulation has been examined for compliance with the fundamental legislative principles outlined in section 4 of the *Legislative Standards Act 1992* and is considered to have sufficient regard to the rights and liberties of individuals and the institution of Parliament. The issue of whether the increase in the penalties is proportionate to the offences was identified by the Office of the Queensland Parliamentary Counsel during drafting and is discussed below.

The consequences of dingo attacks for people on K'gari are extremely serious and can be fatal. In response to a number of recent attacks on the Island, the Government announced a significant increase in penalties for feeding or disturbing dingoes as part of a broader strategy seeking to reduce the risk posed to humans by dingoes to a low level.

As outlined above, feeding dingoes can result in loss of hunting skills and the fear of humans, leading to a reliance on handouts and scavenging food scraps from people. These consequences can all contribute to negative interactions between dingoes and visitors and residents on K'gari. Previous independent review of dingo management on K'gari concluded

that feeding by humans greatly increases the likelihood of dingo attacks occurring in certain circumstances.

The offences for feeding or disturbing dangerous animals such as dingoes are typically associated with intentional behaviour. For example, the definition of 'disturb' under the legislation includes to approach, harass, harm, lure, pursue, tease or touch the animal or an attempt to do any of these things. Situations are occurring where people are seeking to lure dingoes to take photographs and 'selfies' and such behaviour is an offence to which the increased penalties will apply.

QPWS rangers are trained in the exercise of their compliance powers and have the knowledge and skills to appropriately assess various situations and circumstances and undertake compliance action only as necessary in a balanced and reasonable manner.

Advice regarding the increased penalties will be provided to visitors and residents on the Island through a continuing community education strategy delivered by DES in collaboration with the Butchulla Aboriginal Corporation.

Considering the context and consequences of dingo attacks, and the Government's approach to community education and compliance, the increase to penalties for feeding and disturbing dingoes are considered to have sufficient regard to the rights and liberties of individuals.

Consultation

No direct community consultation has occurred in relation to this amendment regulation. Following recent dingo attacks that occurred on K'gari, the Government sought to act quickly with a package of measures as part of an ongoing commitment to safety in relation to dingo interactions on the Island.

The Office of Best Practice Regulation (OBPR) within the Queensland Productivity Commission was consulted regarding the requirement for further analysis or assessment in accordance with *The Queensland Government Guide to Better Regulation* (the Guidelines). OBPR granted an exemption under the Guidelines (Category (m) 'Regulatory proposals for matters that require immediate legislative response to prevent damage to property or injury to persons').