

# Nature Conservation (Wildlife) and Other Legislation Amendment Regulation 2019

Explanatory notes for SL 2019 No. 188

made under the

*Nature Conservation Act 1992*

## General Outline

### Short title

*Nature Conservation (Wildlife) and Other Legislation Amendment Regulation 2019*

### Authorising law

Sections 76 to 79, 89 and 175 of the *Nature Conservation Act 1992* (NC Act).

### Policy objectives and the reasons for them

*Amendments to the Nature Conservation (Wildlife) Regulation 2006*

Section 72(1) of the NC Act states that wildlife is to be managed in accordance with, among other things, the management principles prescribed for the class of wildlife. The NC Act provides the legislative framework and criteria for the classification of native wildlife according to their conservation status.

The *Nature Conservation (Wildlife) Regulation 2006* (Wildlife Regulation) lists the native wildlife species which have been classified as ‘extinct in the wild’, ‘endangered’, ‘vulnerable’, ‘near threatened’ or ‘least concern’, based upon factors including their prevalence and the extent and nature of threats to their sustainability.

The current regulatory amendments do not change the objects of the NC Act or the regulation of these matters. The reclassification of wildlife species’ conservation status by regulation is an administrative process which gives effect to a decision under the NC Act.

Nominations for reclassification of species can be received from members of the public, government, scientists, environmental groups, and development and industry proponents. These nominations include recommendations to change the conservation status of a species on the basis of current scientific information.

Recommendations for reclassification of species follow independent scientific assessment of available information by the Species Technical Committee (STC). This is a panel of government and non-government scientific experts, who consider the nominations against the criteria under the NC Act and guidelines of the International Union for Conservation of Nature. Recommendations made by the STC to change the conservation status of a species reflect assessment of the species' population size and trends, geographic range, area of occupancy and risk of extinction, as well as taxonomic knowledge. These recommendations are made to the Minister administering the NC Act for consideration and any necessary action.

The conservation status of a species must be listed in the Wildlife Regulation to give statutory effect to any reclassification.

Wildlife species classification is an ongoing process that is necessary to ensure the legislative conservation status of species reflects current scientific knowledge in order to accurately inform conservation initiatives and land use requirements.

Similarly, updating species' names to reflect current nomenclature is an administrative process.

#### Amendment to the *Nature Conservation (Wildlife Management) Regulation 2006*

Section 89(1)(c) of the NC Act states that a person must not take a protected plant that is in the wild unless the plant is taken under an exemption under a regulation.

One such exemption is found in section 261ZE of the *Nature Conservation (Wildlife Management) Regulation 2006* (Wildlife Management Regulation), which allows for a person to take a protected plant by clearing if the take complies with the requirements of one of three 'self-assessable vegetation clearing codes' that are prescribed under the *Vegetation Management Act 1999* (VM Act). Section 19O of the VM Act provides that the relevant Minister may make these codes under that Act, and section 3 of the *Vegetation Management Regulation 2012* identifies the approved codes.

Amendments to the VM Act, contained in the *Vegetation Management and Other Legislation Amendment Act 2018*, changed the name of the clearing codes from 'self-assessable vegetation clearing code', to 'accepted development vegetation clearing code'. Subsequent amendments to the *Vegetation Management Regulation 2012* on 18 May 2018, removed the code that allowed for the self-assessable management of thickened vegetation (thinning).

The current section 261ZE of the Wildlife Management Regulation contains incorrect references, and requires updating to reflect the current code names and reflect removal of the thinning code from the vegetation management framework.

Updating the references to the clearing codes is, therefore, an administrative amendment that will remove confusion and ambiguity around the exemption.

## **Achievement of policy objectives**

The objective of the amendments to the Wildlife Regulation is to ensure that conservation and land use measures involving listed species are commensurate with their scientifically determined conservation status. It also ensures that species' names are accurate and reflect current scientific nomenclature. In order for current scientific knowledge to be reflected in the legislated conservation status of species, the Wildlife Regulation requires amendments to give effect to the recommended changes.

The amendment to the Wildlife Management Regulation is consequential in nature and will maintain consistency between this regulation and the VM Act.

## **Consistency with policy objectives of authorising law**

The *Nature Conservation (Wildlife) and Other Legislation Amendment Regulation 2019* (Amendment Regulation) is consistent with the object of the NC Act which is the conservation of nature, and with how the object is to be achieved, including ensuring the take and use of protected wildlife is ecologically sustainable.

## **Inconsistency with policy objectives of other legislation**

The Amendment Regulation is not inconsistent with the policy objectives of other legislation. The amendments to the Wildlife Regulation reflect contemporary scientific knowledge of wildlife species' populations. The amendment to the Wildlife Management Regulation allows continuation of the existing policy objective that people may clear under an exemption where they are clearing in accordance with the relevant codes under the VM Act.

## **Benefits and costs of implementation**

The amendments to the Wildlife Regulation will ensure that conservation and land use measures for listed species applied under the NC Act as well as other legislation on the basis of species classification is scientifically justified, and that species' names are correctly referenced.

Without the amendments, there is a risk that conservation and land use requirements applied on the basis of inaccurate species classifications may be ineffective where a species is recommended for reclassification to a more threatened status. Without amending species' names and reflecting current nomenclature there is also a risk that species will not be correctly identified in future conservation and land use measures.

The proposed reclassification and renaming is not anticipated to impose significant costs on the community, business or government. The changes are necessary to achieve the object of the NC Act, particularly the protection of native wildlife and its habitat.

The amendment to the Wildlife Management Regulation will reduce ambiguity around the management of protected plants, and is a consequential amendment.

## Consistency with fundamental legislative principles

The amendments are consistent with fundamental legislative principles, as defined under the *Legislative Standards Act 1992*.

The purpose of the Amendment Regulation is to change the conservation status and names of a number of fauna and flora species based on expert scientific assessment; and updates references to clearing codes. The Amendment Regulation has no adverse impact on the rights and liberties of individuals or on the institution of Parliament.

## Consultation

Public consultation was not undertaken on the Amendment Regulation. The decision to update a wildlife species' conservation status or name relies on the expert scientific advice of the STC, which is a panel of government and non-government scientific experts. Community involvement in species reclassification can occur through the species nomination process, which is open to any party. The reclassification of all species in this regulation has previously been the subject of public consultation by the Australian Government when it updated these species' status under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth). The amendment to the Wildlife Management Regulation is a consequential amendment; therefore no public consultation was undertaken.

In accordance with *The Queensland Government Guide to Better Regulation*, the Office of Best Practice Regulation was not consulted in relation to the regulatory proposal. The Department of Environment and Science applied a self-assessable exclusion from undertaking further regulatory impact analysis (Category g – Regulatory proposals that are of a machinery nature and Category a – Regulatory proposals that make consequential amendments).