

# **Nature Conservation (Wildlife Management) (Low Impact Activities) Amendment Regulation 2020**

Explanatory notes for SL 2020 No. 12

made under the

*Nature Conservation Act 1992*

## **General Outline**

### **Short title**

*Nature Conservation (Wildlife Management) (Low Impact Activities) Amendment Regulation 2020*

### **Authorising law**

Section 175 of the *Nature Conservation Act 1992*.

### **Policy objectives and the reasons for them**

The policy objective of the *Nature Conservation (Wildlife Management) (Low Impact Activities) Amendment Regulation 2020* (Amendment Regulation) is to broaden the range of activities that are currently listed in section 41B of the *Nature Conservation (Wildlife Management) Regulation 2006* (the Regulation).

The currently limited range of low impact activities identified in section 41B of the Regulation makes it necessary for other forms of authorisation (i.e. a flying-fox roost management permit) to carry out activities that otherwise are not directed at managing a flying-fox roost and have a level of impact that is consistent with being a low impact activity, including being compliant with the *Code of practice—Low impact activities affecting flying-fox roosts* (the code of practice).

By broadening the definition of low impact activities, additional activities commonly undertaken as part of property and infrastructure maintenance will be allowed to take place at or near a roost. (i.e. using a hose or water sprinkler near the tree; and building, maintaining or removing infrastructure near the tree, such as a fence, pipeline or road).

These amendments distinguish these activities from roost management activities that are directly focused on the management of flying-fox roosts. In doing so, it also removes the administrative burden of requiring flying-fox roost management permits for activities which have very minimal impacts on flying-foxes.

## **Achievement of policy objectives**

The reframing of the definition of low impact activities in section 41B of the Regulation provides the necessary scope and clarity to allow a greater variety of activities to be undertaken without sacrificing the prescriptions provided by the code of practice (i.e. being consistent with animal welfare standards). While the reframing of this definition broadens the classes of action that can occur under section 41B of the Regulation to include a relatively broad set of infrastructure related activities, such activities can only occur under this section if they are of sufficiently low impact to be able to meet the requirements of the low-impact activity code.

This corrects the balance between the subordinate legislation and the code of practice, with the Regulation allowing common activities to be undertaken without a wildlife authority, and the code of practice being responsible for maintaining welfare standards based on the current understanding of how flying-foxes respond to and tolerate disturbance. The code of practice will also be amended to provide limitations and requirements for the additional authorised low impact activities introduced by the Amendment Regulation.

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

The Amendment Regulation is consistent with the main objective of the *Nature Conservation Act 1992*, that is the conservation of nature and is achieved through the gathering of information and community education, and the management of wildlife in accordance with a declared management intent.

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

The Amendment Regulation is consistent with the policy objectives of other legislation. It provides for animal welfare standards that are consistent with other State laws relating to animal care and protection.

## **Benefits and costs of implementation**

The benefits of the Amendment Regulation will be the clear demarcation between activities aimed at roost management and those that have other purposes and may incidentally affect a flying-fox roost. In particular, this will reduce costs to local government and persons wishing to undertake low impact activities at or near a flying-fox roost. There are no foreseeable costs associated with the Amendment Regulation.

## Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles.

## Consultation

DES initially invited feedback on the effectiveness of the flying-fox roost management framework from key stakeholders including the Local Government Association of Queensland, all Queensland local government authorities, CSIRO, and key conservation and animal welfare groups concerned with flying-fox conservation; and rescue and rehabilitation.

More targeted consultation was then carried out by approaching local government authorities that had provided DES with notifications that they were managing a flying-fox roost under their as-of-right authority. Corresponding approaches were made to the non-government groups and comment was received through face-to-face meetings, teleconferencing and written submissions. These parties were contacted again as successive drafts of the code of practice and the management guideline were produced.

In total, four rounds of consultation were undertaken. In each round of consultation the proposed amendment to broaden the range of low impact activities was discussed with the stakeholders identified above.

There was general support for the direction that the review took and the parties involved in the consultation provided constructive comment on the effectiveness of the roost management framework. This led to a number of widely supported improvements to the relevant code of practice and management guideline. This regulatory amendment is an important part of the improvements to the roost management framework and is strongly supported by all local governments and no significant issues were raised by other stakeholders.

In accordance with *The Queensland Government Guide to Better Regulation*, the Office of Best Practice Regulation (OBPR), Queensland Productivity Commission was consulted in relation to the regulatory proposal. OBPR has provided an exclusion from undertaking further regulatory impact analysis (Category K – Regulatory proposals designed to reduce the burden of regulation, or that clearly do not add to the burden, and it is reasonably clear there are no significant adverse impacts).