

# Nature Conservation and Other Legislation Amendment Regulation (No. 2) 2023

Explanatory notes for SL 2023 No. 186

made under the

*Environmental Offsets Act 2014*  
*Nature Conservation Act 1992*

## General Outline

### Short title

*Nature Conservation and Other Legislation Amendment Regulation (No. 2) 2023*

### Authorising law

Sections 12 and 93 of the *Environmental Offsets Act 2014*  
Sections 76 to 80 and 175 of the *Nature Conservation Act 1992*

### Policy objectives and the reasons for them

The objectives of the *Nature Conservation and Other Legislation Amendment Regulation (No. 2) 2023* (Amendment Regulation) are to:

1. ensure the prescription, conservation status and taxonomy of fauna and flora species reflect current scientific knowledge;
2. make consequential amendments to reflect changes to conservation status and taxonomy;
3. make minor clarification amendments to particular entities dealing with animals, requirements for dealing with sick, injured, and orphaned animals and authorisations for veterinarians; and
4. make minor administrative amendments.

Sections 76 to 80 of the *Nature Conservation Act 1992* (NC Act) provide for a regulation to prescribe wildlife to classes. The reclassification of Queensland's native wildlife species is a routine process, ensuring that listings under the NC Act are kept up to date with current knowledge, including population size and trends, risk of extinction, and validity of native status. The conservation status of protected wildlife may be listed by regulation as 'extinct', 'extinct in the wild', 'critically endangered', 'endangered', 'vulnerable', 'near threatened' and 'least concern'.

The Species Technical Committee (STC) is a panel of experts responsible for undertaking independent scientific assessments to determine the classification of wildlife under the NC Act and making recommendations to the responsible Minister. Following Ministerial approval, schedules 1 and 3 of the *Nature Conservation (Animals) Regulation 2020* (Animals Regulation) and schedule 1 of the *Nature Conservation (Plants) Regulation 2020* (Plants Regulation) must be amended for listings and taxonomy to reflect the most recent recommendations from the STC.

On 21 June 2023 and 25 September 2023, the STC made recommendations to the Minister for the Environment and the Great Barrier Reef, Minister for Science and Minister for Multicultural Affairs. The recommendations were approved by the Minister on 30 July 2023 and 3 November 2023. The Amendment Regulation has been drafted to implement the reclassification of 8 fauna species and 31 flora species including the prescription of a newly protected fish species, as follows:

#### Fauna

- ~ one species upgraded to ‘extinct’ (northern gastric brooding frog);
- ~ four species upgraded to ‘endangered’ (Fitzroy River turtle; Mount Ballow mountain frog; non-parasitic lamprey; and ringed thin-tailed gecko);
- ~ three species downgraded to ‘least concern’ (Black Mountain boulderfrog; bold blue-line; and Cape Melville boulderfrog).

#### Flora

- ~ seven species upgraded to ‘critically endangered’ (*Amomum queenslandicum*; *Calyptochloa johnsoniana*; *Coleus fragrantissimus*; *Gossia hillii*; *Gymnema stramineum*; *Parsonsia sankowskyana*; and *Parsonsia wongabelensis*);
- ~ thirteen species upgraded to ‘endangered’ (*Acacia parvifoliolata*; *Acacia pedleyi*; *Actephila bella*; *Argophyllum ferrugineum*; *Argophyllum palumense*; *Bubbia queenslandiana* subsp. *queenslandiana*; *Dioclea hexandra*; *Freycinetia marginata*; *Leptospermum barneyense*; *Lissanthe brevistyla*; *Mallotus megadontus*; *Romnaldia ophiopogonoides*; and *Symplocos crassiramifera*);
- ~ three species upgraded to ‘vulnerable’ (*Argophyllum iridescens*; *Goodenia nocoleche*; and *Goodenia stirlingii*);
- ~ two upgraded to ‘near threatened’ (*Argophyllum curtum*; and *Argophyllum heterodontum*);
- ~ two species downgraded to ‘vulnerable’ (*Kardomia granitica*; and *Lepisanthes senegalensis*);
- ~ four species downgraded to ‘near threatened’ (*Euodia hylandii*; *Hibbertia cymosa*; *Kardomia squarrulosa*; and *Sannantha brachypoda*).

The STC recommendation for the non-parasitic lamprey (*Mordacia praecox*) means this species will become newly protected wildlife under the NC Act. Instead of being regulated as a ‘fish’ under the *Fisheries Act 1994* (Fisheries Act), this species will now be managed for conservation purposes under the NC Act.

Minor amendments to the Animals Regulation are also required to clarify existing conditions for particular entities dealing with animals, requirements for dealing with sick, injured, and orphaned animals and authorisations for veterinarians.

Under the Animals Regulation, a person who is an authorised keeper in another State or country for a species of protected, international, or prohibited animal is permitted to buy an animal of the species from a person authorised to sell or give away the animal. To remove any ambiguity, the proposed amendments will clarify that an authorised keeper may also accept or receive the animal.

To allow particular entities to deal with dead protected animals, the Animals Regulation provides a general authorisation for a public service employee or a contractor of a department to take, keep, use, or move a dead protected animal from a public place. The person may take, keep, use, or move the animal only if it is necessary or desirable to do so, such as to perform a function or exercise a power under an Act, to ensure the free and safe movement of traffic on a road, to maintain public safety or the health or wellbeing of persons, or to perform research. However, there are no clear provisions that allow an authorised person to delegate their responsibilities to an individual and/or member of a conservation or volunteer group that provides wildlife conservation services to deal with the dead animal; for example, to facilitate research, investigate cause of death, or mitigate safety concerns. The proposed amendments will clarify existing provisions to allow the individual and/or member of a conservation or volunteer group to act on the behalf of an authorised person to deal with a dead protected animal, as directed by the authorised person.

When dealing with sick, injured, or orphaned animals, the Animals Regulation allows a person to take, keep, or move a sick or injured marine mammal or turtle, or another animal that is sick, injured, or orphaned, to seek treatment or care for the animal. Under the current provisions, a person may move the animal to a place in the State where the person intends to care for the animal or where the holder of a rehabilitation permit or relevant person for the holder intends to keep the animal, unless directed otherwise by a conservation officer. While seeking veterinary care for the animal in the first instance is also considered a suitable outcome, this is not clearly stated. The proposed amendments will clarify that a person can also move the animal to a veterinary surgeon to treat or care for the animal, and that the animal can be given to either the holder of a rehabilitation permit or a relevant person for the holder, or a veterinary surgeon within 72 hours of the person taking possession of the animal.

As part of the treatment or care of a sick, injured, orphaned, or dead animal, a general authorisation is provided under the Animals Regulation that allows a veterinary surgeon to take, keep, use, move, or euthanase the animal. At times it may be necessary for a veterinary surgeon undertake an autopsy on the animal to assist in determining cause of death or illness. To remove any uncertainty, the proposed amendments will clarify that a veterinary surgeon may perform an autopsy on an animal that is either received dead, or dies during treatment or care, to investigate cause of death or illness. These amendments do not provide general authorisation to a person to take dead protected animals from the wild and give the animals to a veterinary surgeon for autopsy.

The amendment to the *Environmental Offsets Regulation 2014* (Offsets Regulation) prescribes a new version of the Queensland Environmental Offsets Policy. The new version reflects updates to classification and taxonomy of species prescribed in schedule 1 of the Animals Regulation.

Administrative amendments are also required to the Plants Regulation to provide taxonomic updates to achieve consistency with scientific nomenclature and to update the title of the

document that is used as the reference source for the scientific names of plants mentioned under regulation.

## **Achievement of policy objectives**

To achieve its objectives, the Amendment Regulation will amend:

1. the conservation status of wildlife under the Animal Regulation and Plants Regulation by:
  - updating the conservation status of native fauna and flora species to reflect recent scientific assessments against criteria outlined under sections 76 to 80 of the NC Act;
  - updating the taxonomy of native flora and fauna species and provide nomenclature updates to reflect current scientific knowledge; and
  - making consequential amendments to the Offsets Regulation to refer to the most recent version of the Queensland Environmental Offsets Policy, which is amended to reflect the updates to conservation status and taxonomy.
2. provisions relating to dealing with animals under the Animals Regulation by making minor amendments to clarify:
  - ~ that authorised keepers may buy, accept, or receive protected, international, or prohibited animals from authorised persons;
  - ~ when individuals and/or members of conservation/volunteer groups are authorised to deal with dead protected animals;
  - ~ that a person may move and give a sick, injured, or orphaned animals to a veterinary surgeon to treat or care for the animal; and
  - ~ that a veterinary surgeon may perform an autopsy on animals that are either received dead or die during treatment or care to investigate cause of death or illness.

In addition, the Amendment Regulation will achieve the objectives by making other minor consequential and administrative amendments to subordinate legislation under the NC Act to ensure consistency across provisions and reflect modern drafting standards.

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

The Amendment Regulation is consistent with the object of the NC Act, that is, to ensure the conservation of nature while allowing for the involvement of First Nations peoples in the management of protected areas in which they have interest under Aboriginal tradition or Island custom.

The Amendment Regulation is consistent with the objective of the *Environmental Offsets Act 2014* which is to counterbalance the significant residual impacts of particular activities on prescribed environmental matters through the use of environmental offsets.

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

The Amendment Regulation is not inconsistent with any other legislation.

## Benefits and costs of implementation

The Amendment Regulation will ensure that the prescription, conservation status, and taxonomy of fauna and flora species reflect current scientific knowledge. Without the amendments, there is a risk that, over time, conservation and land use requirements applied based on inaccurate species classifications may be ineffective where the species is being upgraded to a more threatened status, or unnecessary where a species is being downgraded to a less threatened or non-threatened status. The proposed reclassifications are not anticipated to impose significant costs on the community, business, or government. The changes are necessary to achieve the objectives of the NC Act, particularly the protection of native wildlife and its habitat, as well as the appropriate management of other types of wildlife.

Implementing the Amendment Regulation is in the public interest, is not considered to constitute significant subordinate legislation and will have negligible costs.

## Consistency with fundamental legislative principles

This Amendment Regulation is consistent with fundamental legislative principles as defined in section 24 of the *Legislative Standards Act 1992* and has no adverse impacts on the rights and liberties of individuals or on the institution of Parliament.

## Consultation

Amendments to the reclassification of wildlife are administrative and reflect the scientific assessment of the STC. The chair of the STC was consulted to confirm details of species reclassifications and nomenclature for species. Other associated amendments did not require consultation as they are consequential or minor in nature.

Consultation was undertaken with key stakeholders to determine an appropriate management approach for a newly protected fish species and to evaluate threats to conservation outcomes. There was determined to be no impact because the species is not taken or harvested for recreational or commercial purposes.

The Office of Best Practice Regulation (OBPR) was notified of the proposed amendments, and an Impact Analysis Statement was provided to the Minister to ensure that the regulatory review requirements were met. As per *The Queensland Government Better Regulation Policy* amendments to the Offsets Regulation, Animals Regulation, and Plants Regulation did not require further regulatory impact analysis as these amendments are minor and machinery in nature.