

# **Code of Practice—for the harvest and use of protected plants**

Explanatory notes for Code of Practice—for the harvest and use of protected plants

made under the

*Nature Conservation Act 1992*

## **General Outline**

### **Short title**

The short title of the subordinate legislation is the Code of Practice—for the harvest and use of protected plants.

### **Authorising law**

Section 174A of the *Nature Conservation Act 1992* (the Act) provides that the chief executive may, by gazette notice, approve or make codes of practice for—

- (a) protected areas;
- (b) forest reserves under part 4A; or
- (c) protected wildlife.

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

The object of the Act, as stated in section 4, is to provide for the conservation of nature. Under the Nature Conservation (Wildlife Management) Regulation 2006 (the Wildlife Management Regulation), a person may harvest, grow or trade in restricted plants (those that are classed as endangered, vulnerable, near threatened or special least concern), under a licence or relevant exemption. To do so they are required to comply with certain requirements detailed in the Code of Practice-for the harvest and use of protected plants (the Code).

The Code helps to support the protected plants legislative framework to ensure threatening processes are effectively managed in a manner that:

- maintains or improves the current conservation status of protected plant species in Queensland;
- facilitates the sustainable harvest, use and trade of protected plants; and
- operates efficiently and does not impose a significant regulatory or administrative burden on business, government or the community.

The Code was reviewed for currency, effectiveness and applicability after six months in operation.

The revised Code aims to remove unnecessary and burdensome requirements, provide greater clarity in specifying the requirements which must be adhered to by persons taking and using protected plants for the purposes of harvest, growing and/or trade activities.

## **Achievement of policy objectives**

The Code achieves the policy objectives by outlining the detailed and technical requirements, including labelling and record-keeping requirements that are applicable to the taking and use of protected plants for harvest, growing and trade activities. The Code applies to both exempt and licensed activities administered under the Wildlife Management Regulation.

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

The Code is consistent with the object of the *Nature Conservation Act 1992*, which is the conservation of nature, and is consistent with how the object is to be achieved, specifically in relation to the protection of native wildlife and its habitat, and ensuring the harvest and use of protected wildlife is ecologically sustainable.

The Code is also consistent with the policy objectives of the Nature Conservation (Wildlife Management) Regulation 2006 and the Nature Conservation (Administration) Regulation 2006.

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

The Code is not inconsistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

The code does not impose significant impacts on the community, business or government. The main benefit of implementing the revised code is to provide greater clarity regarding the standards and guidelines for achieving best practice harvesting, leading to improved plant conservation outcomes.

In particular, the removal of the requirement to only harvest using hand tools will be of great benefit to whole plant harvesters as previously mechanical excavation equipment was unable to be used, which was impractical and did not improve conservation outcomes.

## Consistency with fundamental legislative principles

The Wildlife Management Regulation relies on the Code to list requirements of a detailed and more technical nature for harvesting and using protected plants.

The reliance on the Code for these matters is consistent with the principle that legislative power should be delegated only in appropriate cases and to appropriate people as authorised under an Act. The Code is made under section 174A of the Act, which allows the chief executive to approve or make codes of practice specifically for protected wildlife (plants and animals).

The Act also outlines that relevant sections of the *Statutory Instruments Act 1992* apply to a code of practice as if it were subordinate legislation. Accordingly, the Code will be subject to tabling in Parliament and to disallowance.

It is therefore considered that the Code is consistent with fundamental legislative principles.

## Consultation

Consultation on the code commenced on 20 November 2014 with submissions closing on 3 December 2014.

A total of nine submissions (five external to the Department of Environment and Heritage Protection) were received during consultation. Submissions were received from the following interest groups:

- consultancy sector;
- agriculture and horticulture industry;
- nursery and gardening industry;
- government bodies; and
- Department of Environment and Heritage Protection staff administering the Code and answering client inquiries.

In addition to responding to the key issues raised during consultation, the Department of Environment and Heritage Protection continued to proactively consult with key industry groups following the close of submissions.

Changes were appropriately made to the Code following consideration of the key issues raised.