

# Operational policy

## Queensland Parks and Wildlife Service & Partnerships

### When a protected plant in Queensland is taken to be 'in the wild'

*Operational policies provide a framework for consistent application and interpretation of legislation and for the management of non-legislative matters by the Department of Environment and Science. Operational policies are not intended to be applied inflexibly in all circumstances. Individual circumstances may require a modified application of policy.*

#### Policy subject

In Queensland, all plants that are native to Australia are considered 'protected plants' under the *Nature Conservation Act 1992* (the Act). The Act regulates the taking, keeping and use of protected plants (whole plants and plant parts) to maintain species viability. However these regulations do not apply to protected plants that are not 'in the wild'.

#### Purpose

This operational policy provides guidance regarding interpretation of the definition of 'in the wild', as stated in the Act, for protected plants.

#### Background

The Act provides the following definition of 'in the wild':

**'in the wild**, in relation to wildlife, means in an independent state of natural liberty.'

Under the Act, a protected plant clearing permit, growing licence or harvesting licence may be required to take a protected plant that is in the wild.

Likewise, if a native plant is not considered to fall within the definition of being 'in the wild', an authority or permission is not required under the Act for the taking of that plant.

#### Policy statement

A number of factors may contribute to a determination of whether a protected plant is 'in the wild'. These include:

- the process by which the plant has become established, i.e. either initiated through human intervention or naturally occurring
  - the natural range of the plant species
  - the ecological situation in which the plant is found.
1. Has the plant grown naturally or has the plant been propagated and established through human intervention?
    - A protected plant that has been propagated and established through human intervention would not normally be considered to be 'in the wild', especially where the plant receives regular management and maintenance (e.g. watering, protection from weeds or pests.) over a period of time. Typically this type of native vegetation is located within a tended garden or street-scaped or landscaped area.

## When a protected plant in Queensland is taken to be 'in the wild'

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- An exception to this circumstance could be where vegetation has been propagated and established through human intervention as part of a revegetation program, including but not limited to, a formal offset or mitigation requirement (e.g. a revegetation condition of an approval, an offset protected through a tenure mechanism). In this circumstance, artificially established vegetation may be considered to be 'in the wild' and thereby protected under the Act, particularly if the revegetated area has reached a relatively self-sustaining state and no longer receives active management or maintenance through human intervention.

*Note: Offsets are generally protected under the legislation by which that offset was approved. This exception as it relates to offsets, is to address plants and activities that are not covered under offset legislation and for after an offset agreement has ceased to have effect. Further information regarding legally secured offset areas can be found in the Environmental Offsets Act 2014 and the Queensland Environmental Offsets Policy.*

2. Is the species found naturally in the local area?
  - Plants of a species that is found naturally in the local area are considered to be 'in the wild', unless other circumstances apply (e.g. the plant was propagated and established through human intervention—see 1). Where a plant is growing outside of its natural range, consideration should be given to whether it could reasonably be expected that the plant has naturally expanded its range and in this case could be considered to be 'in the wild'.
  - A protected plant identified by a local government authority as a weed in the location from which it is to be taken is generally not considered to be 'in the wild'. Examples of this include the least concern species umbrella tree (*Schefflera actinophylla*) and cadaghi (*Corymbia torelliana*) in Brisbane City.
3. Is the ecological situation in which the plant is found considered natural?
  - The plant should be found in a relatively natural ecological situation (e.g. in bushland) to be considered 'in the wild'. Generally speaking, planted vegetation is not considered 'in the wild' (see 1 for an exception), unless it has matured and is part of a relatively natural ecological community.
  - The *Vegetation Management Act 1999* provides guidance about when vegetation can be considered a 'remnant ecosystem'. These relate to the height of vegetation, the percentage canopy cover and species composition. Where the definition of remnant vegetation is met, protected plants are likely to be considered 'in the wild'.
  - Plantations that are actively managed are unlikely to be considered 'in the wild'. Likewise, a plant grown in a residential garden that is tended regularly is also not considered to be 'in the wild'.

### Reference materials

Code of Practice for the Harvest and Use of Protected Plants

Protected Plants Assessment Guidelines

### Authorities

*Nature Conservation Act 1992*

Nature Conservation (Plants) Regulation 2020

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### Disclaimer

While this document has been prepared with care it contains general information and does not profess to offer legal, professional or commercial advice. The Queensland Government accepts no liability for any external decisions or actions taken on the basis of this document. Persons external to the Department of Environment and Science should satisfy themselves independently and by consulting their own professional advisors before embarking on any proposed course of action.

### Approved By

Kirstin Kenyon

10.9.2020



Signature

Date

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### Human Rights compatibility

The Department of Environment and Science is committed to respecting, protecting and promoting human rights. Under the [Human Rights Act 2019](#), the department has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights. When acting or making a decision under this code of practice, officers must comply with that obligation (refer to [Comply with Human Rights Act](#)).