

Waste Reduction and Recycling and Other Legislation Amendment Regulation 2025

Explanatory notes for SL 2025 No. 154

made under the

Nature Conservation Act 1992

Waste Reduction and Recycling Act 2011

General Outline

Short title

Waste Reduction and Recycling and Other Legislation Amendment Regulation 2025

Authorising law

Sections 76 to 80, and 175 of the *Nature Conservation Act 1992*

Sections 8A, 26, 99B and 271 of the *Waste Reduction and Recycling Act 2011*

Policy objectives and the reasons for them

The objectives of the *Waste Reduction and Recycling and Other Legislation Amendment Regulation 2025* (Amendment Regulation) are to:

1. provide a permanent waste levy exemption for all forms of ash waste from coal fired power stations;
2. extend the existing arrangements for waste generated in Norfolk Island and imported by the Norfolk Island Regional Council into Queensland as exempt waste;
3. update the unit of measurement for banned plastic shopping bags;
4. repeal expiry provisions that apply to the grant of flying-fox lethal take damage mitigation permits; and
5. ensure the prescription and conservation status of fauna and flora species reflect current scientific knowledge.

Ash waste produced by coal fired power stations in Queensland

When the waste levy was introduced in 2019, *fly-ash produced by a power station* was prescribed as exempt waste for the meaning of a waste disposal site, and as waste exempt from the waste levy, until 30 June 2029. The intent of these exclusions was to provide an exemption from all obligations relating to the waste levy for fly-ash produced by a coal fired power station in Queensland, as distinct from incinerator bottom ash, until 30 June 2029.

Some coal fired power stations in Queensland mix fly-ash with other ash waste (such as incinerator bottom ash) before disposal. This excludes the waste from the exemption for *fly-ash produced by a power station*. To minimise the economic impact of the waste levy on these operators, a declaration of exempt waste was made under section 35 of the *Waste Reduction and Recycling Act 2011* (the Waste Act) that effectively provided a waste levy exemption for all power station ash waste until 31 December 2024. A further declaration of exempt waste for power station ash waste was made in 2024 continuing the effect of this waste levy exemption until 31 December 2025.

The effect of these exemptions is that all forms of ash waste generated by coal fired power stations in Queensland have been exempt from the waste levy since the introduction of the waste levy in 2019.

To simplify the multiple waste levy exemptions for various forms of ash waste from coal power stations, the Amendment Regulation changes the exempt waste type in section 6 and section 8 of the Waste Regulation from *fly-ash produced by a power station* to include all power station ash waste from coal fired power stations in Queensland.

The imposition of the waste levy to coal fired power stations would be a new and significant cost to this industry, and may result in increased costs for electricity users. The Amendment Regulation continues the effect of the current waste levy exemptions for this waste type. If the waste levy was to be charged on this waste type, it would be a substantial economic cost to the industry and would likely be passed on to electricity users, significantly increasing the cost of electricity.

Waste generated in Norfolk Island

On 22 October 2021, the Queensland Government and the Australian Government signed an Intergovernmental Agreement on State Service Delivery to Norfolk Island as a basis for a partnership to provide state-level services to Norfolk Island on an enduring basis. The Intergovernmental Agreement focuses on critical priorities including health and education services and supports the further exploration for service standards comparable with mainland remote communities.

On 24 June 2022, *waste generated in Norfolk Island and imported by the Norfolk Island Regional Council into Queensland* was prescribed as a waste type that is exempt waste. This included an expiry date of 30 June 2026 for the expiry of this waste levy exemption.

The Amendment Regulation will extend the expiry date for this waste to 30 June 2030 and will continue the Queensland Government's commitment to the Intergovernmental Agreement with the Commonwealth Government for the provision of State services to Norfolk Island. Extending the waste levy exemption for Norfolk Island Regional Council will provide longer term financial certainty allowing for investment in the planning and implementation of Norfolk Island's waste management strategy which requires infrastructure investment to support an increase of on-island recycling and resource recovery practices.

Unit of measurement for banned plastic shopping bags

Chapter 4, Part 3A of the Waste Act sets out requirements in relation to banned plastic shopping bags. The thickness of banned plastic shopping bags is prescribed by regulation. Section 28 of the Waste Regulation prescribes the thickness of 35 microns or more for carry

bags made of plastic film. This does not comply with Queensland drafting standards as microns are no longer recognised as an official unit of measurement. The Amendment Regulation will update the standard unit of measurement for this section replacing microns with micrometres (µm).

Flying-fox lethal take damage mitigation permits

The lethal take of flying-foxes in Queensland for crop protection purposes is currently permitted through a damage mitigation permit (DMP) under the *Nature Conservation (Animals) Regulation 2020* (Animals Regulation).

DMPs are issued to allow the lethal take of flying-foxes by shooting but are subject to conditions intended to limit the impact of lethal take on flying-fox species populations and minimise welfare concerns. These include:

- only commercial growers can be issued a DMP, and they must have previously held a DMP;
- DMP holders must demonstrate they may suffer significant economic loss if flying-fox damage is not prevented or controlled; and
- DMPs are issued subject to the *Code of practice—ecologically sustainable lethal take of flying-foxes for crop protection* which, among other things, requires that use of non-lethal measures is demonstrated before a DMP is issued, sets out the method by which DMP holders must take and deal with flying-foxes, and imposes annual quotas for lethal take of flying foxes which cannot be exceeded.

Laws were introduced in 2023 to phase-out DMPs over three years. The Animals Regulation prescribed an expiry date of 30 June 2026 for the phase-out period to end to give industry three years to move away from lethal take towards non-lethal crop protection methods.

Consultation with affected industry stakeholders in the lead-up to the end of the phase-out period highlighted significant challenges in fully transitioning to non-lethal damage mitigation measures. For example, the cost to install and maintain permanent exclusion netting is a significant resourcing cost, and insurance cover for such infrastructure is either unavailable or prohibitively expensive in Queensland's storm prone regions north of Bundaberg. Additionally, certain parts of a property may not be viable to net or may escalate costs due to topography (e.g. steep slopes, flood zones) and boundary constraints which do not allow sufficient space for netting infrastructure.

The Amendment Regulation repeals the remaining phase-out period of lethal take DMPs so they may continue to be applied for and issued. This allows commercial growers to continue controlled levels of shooting flying-foxes as a last resort crop protection measure and is consistent with the ecologically sustainable take principles under the *Nature Conservation Act 1992* (NC Act).

The amendments operate to balance the need to support the commercial fruit growing industry with the need for conservation of flying-fox species by retaining the current strict conditions on the grant of lethal take DMPs.

Species reclassifications

Sections 76 to 80 of the 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, schedule 1 of the 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.

The Amendment Regulation has been drafted to implement the reclassification of one fauna species and ten flora species, including the prescription of one newly protected invertebrate species as recommended by the STC on 29 September 2025. The changes are as follows:

Fauna

- one species uplisted to endangered (*Euastacus mirangudjin* orange-bellied crayfish).

Flora

- three species uplisted to critically endangered (*Cycas cupida*, *Hymenasplenium perriei*, and *Lepidagathis royenii*);
- two species uplisted to endangered (*Paramapania parvibractea* and *Torenia polygonoides*);
- two species downlisted to vulnerable (*Homoranthus cummingii* and *Zieria hydroscopica*); and
- three species downlisted to near threatened (*Acacia purpureopetala*, *Corchorus subargenteus*, and *Daviesia quoquoversus*).

Achievement of policy objectives

To achieve its objectives, the Amendment Regulation amends:

Ash waste produced by coal fired power stations in Queensland

Provisions of the Waste Regulation relating to exempt waste to:

- replace fly-ash produced from a power station with coal power station ash; and
- remove the expiry date for coal power station ash.

To achieve the objectives, the Amendment Regulation amends the Waste Regulation to provide ongoing certainty on what wastes the waste levy applies to and how the levy is applied.

Waste generated in Norfolk Island

Provisions of the Waste Regulation relating to exempt waste to:

- extend the expiry date of waste generated in Norfolk Island and imported by the Norfolk Island Regional Council into Queensland to 30 June 2030.

Unit of measurement for banned plastic shopping bags

The Amendment Regulation will achieve the objectives by making a minor, consequential and administrative amendment to subordinate legislation under the Waste Act to replace the outdated unit of measurement of microns to micrometres.

Flying-fox lethal take damage mitigation permits

Provisions of the Animals Regulation relating to the lethal take of flying-foxes under damage mitigation permits by:

- repealing sections that prescribed an expiry date of 30 June 2026 by which the grant of such permits was to be phased out.

Species reclassifications

The conservation status of wildlife under the Animals Regulation and Plants Regulation by:

- updating the conservation status of native fauna and flora species to reflect recent scientific assessment against criteria outlined under sections 76 to 80 of the NC Act.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the objectives of the Waste Act to ensure a shared responsibility between government, business and industry and the community in waste management and resource recovery.

The Amendment Regulation is consistent with the objective of the NC Act; that is, to ensure the conservation of nature while allowing for the involvement of Aboriginal peoples and Torres Strait Islander peoples in the management of protected areas in which they have an interest under Aboriginal tradition or Ailan Kastom.

Inconsistency with policy objectives of other legislation

No inconsistencies with the policy objectives of other legislation have been identified.

Alternative ways of achieving policy objectives

Ash waste produced by coal fired power stations in Queensland

Two alternative options were considered in relation to the waste levy payable on disposal of mixed ash waste produced by power stations in Queensland.

- Allowing the current section 35 declaration of exempt waste for fly-ash combined with other ash to expire on 31 December 2025 would mean that coal fired power stations that combine fly-ash with other ash waste would be required to comply with all waste levy obligations. While this option could encourage reuse options, it would be a new cost with significant economic impacts that could be passed on to electricity users in Queensland.
- Extending the section 35 declaration of exempt waste for fly-ash combined with other ash would continue the existing arrangements and not improve clarity or long-term certainty for industry or the community on the application of the waste levy to this waste type.

Waste generated in Norfolk Island

For waste generated in Norfolk Island and imported by the Norfolk Island Regional Council into Queensland, allowing the waste levy exemption to expire would not align with Queensland's obligations under the Intergovernmental Agreement on State Service Delivery to Norfolk Island. Under this option, Norfolk Island Regional Council would be required to pay the applicable waste levy rate for the waste imported into Queensland. As the waste levy has never previously applied to this waste, this would be a new cost to Norfolk Island Regional Council.

Flying-fox lethal take damage mitigation permits

Alternative ways of achieving policy objectives were considered. The alternative approach of retaining a phase out date would not provide long-term certainty to affected commercial fruit growers, that they can continue to apply for a permit to shoot flying-foxes as a last resort crop protection method.

Other amendments

Alternative approaches were not considered for all other proposed amendments as they are either machinery in nature, consequential or clarifications.

Benefits and costs of implementation

In accordance with *The Queensland Government Better Regulation Policy*, Summary Impact Analysis Statements were prepared for the regulatory proposals to provide a permanent waste levy exemption for ash waste from coal fired power stations and to extend the waste levy exemption for waste generated in Norfolk Island and imported into Queensland, and to continue flying-fox lethal take damage mitigation permit, as these amendments have some, but not significant impacts. The regulatory proposals to amend the unit of measurement for banned shopping bags to the standard unit of measurement and to reclassify protected wildlife are minor and machinery in nature, will not add to the burden of regulation and are unlikely to result in significant adverse impacts, and no further regulatory impact analysis is required.

The Amendment Regulation reduces costs to businesses by providing certainty in relation to the waste levy for disposal of ash waste from coal fired power stations and protects electricity users from waste levy costs being passed on. It also provides stability and certainty to Norfolk Island Regional Council by extending the waste levy exemption for waste transported to Queensland for disposal to help reduce the cost of disposal of this waste while Norfolk Island works towards sustainable options for on-island management.

The Amendment Regulation ensures affected growers will continue to be able to apply for, and be issued, DMPs in relation to the lethal take of flying-foxes for crop protection. Without the amendments, not all affected growers will be able to transition to fully non-lethal measures due to financial constraints, operational limitations and environmental conditions. The amendments are not anticipated to impose significant costs on the community or business, although the existing cost to government to continue assessment and management of flying-fox lethal take DMPs after 30 June 2026 will remain.

The Amendment Regulation ensures that the prescription and conservation status 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 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 the types of wildlife.

Consistency with fundamental legislative principles

The fundamental legislative principles under the *Legislative Standards Act 1992* require that legislation has sufficient regard to the rights and liberties of individuals and for the institution of Parliament.

The Amendment Regulation is consistent with these principles.

Consultation

Ash waste produced by coal fired power stations in Queensland

Targeted consultation was undertaken with industry representatives as the primary stakeholder group. Public consultation was not undertaken as the changes continue the current effect of the waste levy exemptions.

Waste generated in Norfolk Island

Targeted consultation was undertaken with Norfolk Island Regional Council. Public consultation was not undertaken as the changes continue the current effect of the waste levy exemption.

Unit of measurement for banned plastic shopping bags

Public consultation was not undertaken in relation to updating the measurement unit to align with drafting standards as these are administrative amendments.

Flying-fox lethal take damage mitigation permits

Targeted consultation was undertaken with industry as the primary stakeholder group impacted by the DMP phase-out provisions. Consultation with other stakeholder groups did not occur given that conservation views are unlikely to have changed since consultation on the phase-out provisions in 2023.

Species reclassifications

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 species.

The Office of Best Practice Regulation was notified of the proposed amendments, and Impact Analysis Statements were prepared for relevant matters.

Notes on provisions

Part 1 Preliminary

Clause 1 Short title

This clause states that the regulation may be cited as the *Waste Reduction and Recycling and Other Legislation Amendment Regulation 2025*.

Part 2 Amendment of Nature Conservation (Animals) Regulation 2020

Clause 2 Regulation amended

This clause states that part 2 amends the *Nature Conservation (Animals) Regulation 2020*.

Clause 3 Amendment of s 163 (Restrictions on grant of permit to prevent damage or loss)

This clause amends section 163 to exclude flying-foxes from the general restrictions on granting damage mitigation permits to prevent damage or loss, which apply to all protected animals. The amendments ensure the continuation of specific flying-fox restrictions (section 164) on granting damage mitigation permits to prevent damage or loss.

Clause 4 Amendment of s 164 (Restrictions on grant of permit to prevent damage or loss by flying-foxes)

This clause omits section 164(5) to remove the expiry provision to ensure the continuation of specific flying-fox restrictions on granting damage mitigation permits to prevent damage or loss.

Clause 5 Amendment of s 167 (Killing dependent flying-foxes)

This clause omits subsection 167(3) to remove the expiry provision to ensure a holder of a damage mitigation permit for taking a flying-fox can continue to kill dependant young of an animal that is authorised to be shot under that permit.

Clause 6 Amendment of s 171 (Way animals to be taken)

This clause omits subsection (4) to remove the expiry provision to ensure the way of taking a flying-fox continues to be in accordance with the flying-fox damage mitigation code. The amendment retains subsection (3) to exclude flying-fox damage mitigation permits specific to preventing damage or loss from the general provisions for taking a protected animal under a damage mitigation permit. This clause also amends the section heading to clarify that this provision applies to taking animals under a damage mitigation permit to prevent damage or loss.

Clause 7 Amendment of s 171A (Way flying-foxes to be taken)

This clause omits subsection 171A(2) to remove the expiry provision to ensure the way of taking a flying-fox continues to be in accordance with the flying-fox damage mitigation code.

Clause 8 Omission of s 430 (Applications for damage mitigation permits made, but not decided, on 1 July 2026)

This clause omits section 430 as this transitional provision does not apply on commencement of the Amendment Regulation.

Clause 9 Amendment of sch 1, s 22 (Invertebrates)

This part amends schedule 1 of the *Nature Conservation (Animals) Regulation 2020* to prescribe an invertebrate species as ‘endangered’ wildlife.

Part 3 Amendment of Nature Conservation (Plants) Regulation 2020

Clause 10 Regulation amended

This clause specifies that this part (part 3 of the Amendment Regulation) amends the *Nature Conservation (Plants) Regulation 2020*.

Clause 11 Amendment of sch 1, s 9 (Plants)

This part amends schedule 1 of the *Nature Conservation (Plants) Regulation 2020* to remove and prescribe certain plant species as ‘critically endangered’ wildlife.

Clause 12 Amendment of sch 1, s 13 (Plants)

This clause amends schedule 1 of the *Nature Conservation (Plants) Regulation 2020* to prescribe certain plant species as ‘endangered’ wildlife.

Clause 13 Amendment of sch 1, s 17 (Plants)

This clause amends schedule 1 of the *Nature Conservation (Plants) Regulation 2020* to remove and prescribe certain plant species as ‘vulnerable’ wildlife.

Clause 14 Amendment of sch 1, s 21 (Plants)

This clause amends schedule 1 of the *Nature Conservation (Plants) Regulation 2020* to prescribe certain plant species as ‘near threatened’ wildlife.

Part 4 Amendment of Waste Reduction and Recycling Regulation 2023

Clause 15 Regulation amended

This part amends the *Waste Reduction and Recycling Regulation 2023*.

Clause 16 Amendment of s 6 (Types of exempt waste for definition waste disposal site—Act, s 8A)

This clause replaces “fly-ash produced by a power station” with “coal power station ash” in the types of exempt waste for definition of waste disposal site and removes the expiry date for this exemption. This provides for the current exemptions to be managed through the one provision by broadening the definition to include fly ash waste mixed with other ash waste and removes the requirement for a separate exempt waste declaration for mixed coal power station ash waste.

Clause 17 Amendment of s 8 (Exempt waste—Act, s 26)

This clause replaces “fly-ash produced by a power station” with “coal power station ash” as an exempt waste to ensure all coal power station ash is exempt from the waste levy as per the effect of the current waste levy exemptions, and removes the expiry date for this exemption. It also extends the expiry for “waste generated in Norfolk Island and imported by the Norfolk Island Regional Council into Queensland” from 2026 to 2030.

Clause 18 Amendment of s 28 (Banned plastic shopping bags—Act, s 99B)

This clause replaces “35 microns” with “35µm”. This is a housekeeping amendment because the current reference to microns is no longer recognised as an official unit of measurement, and therefore does not comply with contemporary, Queensland drafting standards, which use the standard unit of measurement (i.e. micrometres (µm)).

Clause 19 Amendment of sch 13 (Dictionary)

This clause inserts a new definition for “coal power station ash”.

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