

Information sheet

Species Management Program

Requirements for tampering with a protected animal breeding place in Queensland

This document has been developed by the Department of Environment and Science (DES) and describes the minimum requirements for the development of a Species Management Program (SMP) as an 'approved species management program' under the Nature Conservation (Animals) Regulation 2020.

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1. Purpose

This information sheet explains the expected protocols for tampering with *animal breeding places* for environmental consultants and proponents. The use of an *approved species management program* (SMP) is described and the standard requirements are outlined to achieve a consistent approach in the consideration of the impact of proposals on all identified animal breeding places.

This document also provides the details required to ensure that species management programs are presented to the Department of Environment and Science (DES) in an appropriate format for assessment.

2. Background

The object of the *Nature Conservation Act 1992* (NCA) is the conservation of nature, which is to be achieved through the protection of wildlife and its habitat, and the ecological sustainability of any use of *protected wildlife*.

For any proposed activity that will impact on breeding places of protected animals that are classified as *extinct in the wild*, *critically endangered*, *endangered*, *vulnerable*, *near threatened* (EVNT), *special least concern*, *colonial breeder* or *least concern*, an SMP for that species will be required. Animal breeding places include obvious structures such as bird nests and tree hollows, as well as more cryptic places such as amphibian or reptile habitat where breeding takes place.

The purpose of an SMP is to:

- assess the threats to native animal breeding places resulting from a planned activity
- incorporate management actions that will avoid or minimise both the immediate and the long term impact of removing or altering an animal breeding place
- set monitoring and reporting requirements that demonstrate the management actions in the SMP are effectively implemented and produce the intended results.

SMPs do not give authority for a planned activity such as clearing or removal of habitat (excluding animal breeding places), as these are potentially addressed under other approval systems such as the *Planning Act 2016*, the *Vegetation Management Act 1999* and the NCA (for example, clearing of protected plants).

An SMP is only required where an animal breeding place, as defined under section 335 of the *Nature Conservation (Animals) Regulation 2020*, has been identified and activities are proposed that would tamper with the breeding place.

There are generally two types of SMP's approved under the *Animals Regulation*, Low-risk and a High-risk

A High-Risk SMP is to be used for:

- Least concern animals that are colonial breeders, and therefore whose broader populations are at greater risk from the impacts of events at a single location
- Special least concern animals (as prescribed in the *Nature Conservation (Animals) Regulation 2020* (the *Animals Regulation*))
- Near threatened, Vulnerable, Endangered, Critically Endangered, or Extinct in the Wild Animals (as prescribed in the *Animals Regulation*)

A Low Risk SMP is to be used for

- Least concern animals (that aren't colonial breeders)

3. Legislative requirements

3.1 Queensland Government requirements

3.1.1 *Nature Conservation Act 1992*

Under section 88 of the Act, a person must not take, keep or use a protected animal unless authorised, such as by the grant of a licence or permit or under the authority of a conservation plan, unless:

- (a) the taking happened in the course of a lawful activity that was not directed towards the taking; and
- (b) the taking could not have been reasonably avoided.

Maximum penalty—3000 penalty units or 2 years imprisonment.

Note: The taking of a protected animal is not authorised under an SMP. Under the NCA, a separate wildlife authority such as a damage mitigation permit (culling and dispersal of wildlife) is required.

3.1.2 *Nature Conservation (Animals) Regulation 2020*

The Animals Regulation prohibits tampering with an animal breeding place except under specific conditions which include the activity being part of an approved SMP.

Section 335 of the Animals Regulation states:

- (1) A person must not, without a reasonable excuse, tamper with an animal breeding place that is being used by a protected animal to incubate or rear the animal's offspring.

Maximum penalty—165 penalty units.

- (2) For subsection (1), an animal breeding place is being used by a protected animal to incubate or rear the animal's offspring if—

- the animal is preparing, or has prepared, the place for incubating or rearing the animal's offspring; or
- the animal is breeding, or is about to breed, and is physically occupying the place; or
- the animal and the animal's offspring are physically occupying the place, even if the occupation is only periodical; or
- the animal has used the place to incubate or rear the animal's offspring and is of a species generally known to return to the same place to incubate or rear offspring in each breeding season for the animal.

- (3) Subsection (1) does not apply if—

- (a) the person is an authorised person; or
- (b) the removal or tampering by the person is—
 - (i) authorised under the Act; or
 - (ii) reasonably necessary for the person to carry out an activity authorised under the Act; or (c) the removal or tampering is part of an approved species management program for the animal.

Also, subsection (1) does not apply to a person removing or otherwise tampering with the breeding place if—

- the removal or tampering is part of an approved species management program for animals of the same species; or

- the person holds a damage mitigation permit for the animal and the permit authorises the removal or tampering.

3.1.3 Koala habitat

Koalas are not included in SMP documentation, as koalas do not use a habitual breeding place (e.g. a nest or tree hollow). The clearing of vegetation in which koalas are present should be viewed as clearing of koala habitat rather than clearing of a koala breeding place. Special requirements apply to the disturbance of koala habitat, such as sequential clearing, having a koala spotter in attendance and limits on the area of habitat that can be cleared at any one time. Refer to the following documents:

- South East Queensland Koala Conservation Strategy 2020-2025
- Nature Conservation (Koala) Conservation Plan 2017.

3.1.4 Flying-fox roosts

Disturbance of a flying-fox roost (genus *Pteropus*) is dealt with separately under section 88C of the Act and section 61 of the Animals Regulation. An SMP does not authorise a person to destroy, drive away, attempt to drive away or disturb a flying-fox roost. DES must be contacted directly to discuss any proposed activity relating to flying-foxes and flying-fox roosts.

4. Survey Requirements

A survey for an animal breeding places is recommended prior to disturbance/clearing of a natural area to prevent the unintended tampering with breeding places. If a survey isn't conducted, there is a risk of committing an offence against section 335 of the Animals Regulation. The ideal extent and approach of the survey will vary based on the conditions at the site and the nature of the disturbance.

5. Species Management Program Requirements

For any activity that will impact on an animal breeding place, an entity must apply in writing to DES for the approval of an SMP to tamper with an animal breeding place.

5.1 Approved species management program

5.1.1 Standard SMP documents

The department has standard documents which form the conditions of approval to tamper with an animal breeding place. An entity can request approval to use these standard documents prior to any works being undertaken on a project site.

Depending on the species, proponents may use one of the following SMP documents:

1. Species management program for tampering with animal breeding places - low risk of impacts - least concern animals (excluding special least concern or colonial breeders). Generally the only additional information required to be supplied is a map or plan of the proposed impact area.
2. Species Management Program for tampering with animal breeding places - high risk of impacts - all other protected animals including special least concern animals and colonial breeders, and near threatened and threatened species. Additional information tailored for the identified species will be required (refer to section 5.1.2).

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Refer to the Department's website at <https://environment.des.qld.gov.au/licences-permits/plants-animals/species-management-program> to view the terms and conditions of these documents prior to making an application to the department for the approval of an SMP.

5.1.2 Additional requirements for SMP – high risk of impact

An additional report must be provided as an appendix to the template SMP - high risk of impacts (all protected animals, other than least concern animals but including special least concern animals and colonial breeders).

Information required in the report is detailed in Table 1 below.

Table 1: Additional information required for SMP high risk of impacts			
Item	Information required	Assessment Consideration	Yes / No
Application details			
1. Application	Applicant details	The applicant has provided name, address, phone number, as well as the following: <ul style="list-style-type: none"> Registered legal entity name (not a business trading name) Trading name (if applicable) Contact details including registered business address (not a post office box), including permanent Queensland address. ABN/ACN, or title and section of legislation under which corporation has legal status Name of principal of corporation Details of nominated person in charge where the approved activity is to be undertaken. 	
	Location details	The applicant has provided the items listed: <ul style="list-style-type: none"> A map or plan of the proposed impact area including scale. A description of the location including address and registered lot and plan details. Any other relevant project documentation.	
	Approved <i>agents</i>	Applicant specifies the agents approved to operate under the program including suitably qualified and experienced persons, <i>authorised wildlife carer</i> and veterinarian.	
Terms			
1. Terms of approval	Duration	Applicant specifies the approval period for the SMP. The term must be relevant to the activity being undertaken and allow for a periodic review of the program. The standard term for a SMP is three years.	
Assessment of impacts to animal breeding places			
1. Desktop assessment	Desktop assessment undertaken prior to field assessment	The applicant has undertaken a desktop assessment to research and evaluate the potential for an animal breeding place to be present on a works site using a variety of resources including but not limited to: <ul style="list-style-type: none"> WildNet records Museum records Atlas of Living Australia Essential habitat mapping Legislative requirements and listings (State and Federal Governments) SMPs previously approved by the department 	
2. Field assessment	Survey conducted by a suitably qualified and experienced person.	The animal breeding place survey was undertaken by a suitably qualified and experienced person, for example:	

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		<ul style="list-style-type: none"> • An ecological consultant with experience in conducting surveys for animal breeding places; • A person who possesses a degree in natural science or similar with experience in conducting fauna surveys; • A person who is a spotter-catcher under a rehabilitation permit issued under the Act. <p>A statement to justify the suitability and qualifications of the person undertaking the animal breeding place survey is required.</p>	
3. Assessment report.	Report requirements	<p>The applicant submitted an animal breeding place survey report including:</p> <ul style="list-style-type: none"> • A list of all animal breeding places identified within the impact area, including conservation status. • A statement to justify the suitability and qualifications of the person undertaking the animal breeding place survey. • Justification of the timing of the survey and detail of any limitations and assumptions associated with the timing of the survey. • A map or plan of the proposed impact area indicating the locations of identified animal breeding places. • A description of the location. 	
Impact management plan			
1. Plan	Impact management plan has been submitted	<p>The applicant has submitted an impact management plan with the SMP application that includes the following sections:</p> <ul style="list-style-type: none"> • The nature of impact • The proposed management of impacts (if any) 	
2. Impact management strategies	Avoid and minimise interference with animal breeding place.	<p>The applicant has provided evidence that alternative options were thoroughly considered. Examples may include:</p> <ul style="list-style-type: none"> • Avoidance through the design phase • Avoidance through works period • Avoidance through adaptive management • Consideration of seasonal factors e.g. completing works outside of breeding season • Sequential clearing • Rehabilitation of animal breeding habitat • Replacement or translocation of breeding structure • Use of authorised spotter catchers, licensed wildlife carer and veterinarian • Staff training and procedures 	
	Nature of impact	<p>The applicant has provided the following information:</p> <p>a) The applicant has identified the area (Ha) and number of particular animal breeding places to be tampered with, and the conservation status of the species.</p> <p>b) Information has been provided on the population dynamics of the species.</p> <p>c) Information has been provided about the ecology of the species.</p> <p>d) The applicant has accounted for all impacts, both direct and indirect, on an animal breeding place, where tampering is required.</p>	
	Management of impact	<p>The applicant has provided the following information:</p> <p>a) The applicant has listed appropriate impact management solutions to account for all EVNT, special least concern or colonial breeding places identified in the animal breeding place survey report.</p> <p>b) The applicant has provided a list of rehabilitation methods to be</p>	

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		used in impact management for animal breeding places.	
	Contingency planning	The applicant has outlined the process to be followed in the event of unexpected impacts on animal breeding places and other protected animals (e.g. will a Damage Mitigation Permit (culling and dispersal of wildlife) be required?). If a DMP is proposed, has the applicant demonstrated what impacts, if any, may occur upon the broader species population?	
3. Supporting information	The applicant has demonstrated proposed impact management measures are appropriate for the applicable species.	The applicant demonstrates how the proposed impact management measures are appropriate for the animal breeding places identified and will ensure the animals survival in the wild through the following: a) Written advice obtained from a suitably qualified person or expert regarding impact management strategies b) Reference to scientific papers which discuss the success of proposed mitigation strategies to the specific animal breeding place or that of a comparable species has been made c) SMP documents and reports previously approved by the department were referred to d) The expected success rate of the proposed impact management and any serious limitations or potential threats associated with the impact management have been identified. e) Identified how limitations or threats to the success of the impact management will be overcome.	

5.2 Application

Entities wishing to operate under the conditions of the DES species management program must notify the Department of their intent to use an SMP.

5.2.1 Department contact details

Correspondence should be directed to:

wildlife@des.qld.gov.au

Wildlife and Threatened Species Operations Branch

Department of Environment and Science

GPO Box 2454

BRISBANE QLD 4001

5.2.2 Notification requirements

Written notification to use an SMP should include the following information:

- A signed and dated statement of intention:

I _____ [name of Chief Executive Officer (if applicable)] on behalf of _____ [applicant, person or other legal entity] accept the species management program offered by the Department of Environment and

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Science under section 335 of the Nature Conservation (Animals) Regulation 1992 in its current form and agree to abide by the conditions of approval.

- Registered legal entity name (not a business trading name)
- Trading name (if applicable)
- Contact details including registered business address (not a post office box), including permanent Queensland address.
- ABN/ACN or title and section of legislation under which corporation has legal status
- Name of principal of corporation
- Details of nominated person in charge where the approved activity is to be undertaken.
- Landholder consent (if applicable)
- Nature of activities resulting in tampering with an animal breeding place
- A description of the location including project name, address and registered lot and plan details
- A map or plan of the proposed impact area including scale.

In addition, for an SMP for all protected animals (other than least concern animals but including special least concern animals and colonial breeders), the following is required:

- Animal breeding place assessment report; and
- Impact management plan.

5.3 Approval

Upon approval, an entity will receive the following documents:

- Approval letter from the Director, Wildlife Operations.
- Species Management Program containing entities name and authorisation expiry date.
- Access to an electronic register for tampering with animal breeding places, via the DES website.

An entities details and approval and expiry dates will be registered by DES.

Interference with an animal breeding place may not commence until written approval has been obtained.

5.4 Updates to approvals

It may be necessary for an approved SMP to be amended to address minor changes or issues that have arisen during its implementation. For example –

- change in methodology due to issues arising during program implementation (including updated versions)
- greater geographic extent to that originally provided
- new species that have been identified during implementation
- a greater number of species tampered with or impacted by the activity than originally assessed (this could impact upon the broader species population)
- a new nominated person in charge.

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The holder of an approved SMP must discuss any proposed amendment of the document with DES.

Requests should be made as per standard approval requests.

It should be noted that the requested changes could be considered by the Director, Wildlife Management, to be major, requiring submission to DES of a new Species Management Program for consideration.

6. Reporting requirements

An entity must keep an electronic register concerning tampering with animal breeding places while operating under an approved SMP. Please refer to the Animal Breeding Place register provided with the approval documentation or available from the department's website. Details of other authority holders related to the activity must be included such a licenced DMP – removal and relocation or a rehabilitation permit.

For a *Low Risk of impacts SMP*, a copy of the electronic register for tampering with animal breeding places must be submitted to DES annually from the date of approval and upon expiry of the approved SMP at wildlife@des.qld.gov.au.

For a *High Risk of impacts SMP*, a copy of the electronic register for tampering with animal breeding places must be submitted to DES within 6 months of the interactions with the high risk of impacts SMP species at wildlife@des.qld.gov.au. The complete electronic register must also be supplied to DES upon expiry of the approved SMP.

7. Key definitions

For the purpose of this document:

agents includes—

Contractors and sub-contractors.

animal breeding place means—

A bower, burrow, cave, hollow, nest or other thing that is commonly used by the animal to incubate or rear the animal's offspring'.

approved species management program means—

For a species of animal, means a program about managing the population and habitat of the species of animal that is approved by the chief executive, Department of Environment and Science.

colonial breeders means—

A group of animals of the same kind, that co-exist in close association for breeding purposes, e.g. birds that construct large numbers of nests in close proximity and hatch and rear young at the same time.

critically endangered wildlife means –

Protected wildlife prescribed in section 15 of the Animals Regulation as endangered wildlife.

endangered wildlife means –

Protected wildlife prescribed in section 16 of the Animals Regulation as endangered wildlife.

extinct in the wild means –

Protected wildlife prescribed in section 14 of the Animals Regulation as extinct in the wild wildlife.

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keep in relation to wildlife includes –

Have in possession, or under control, in any place (whether for the use or benefit of the person in relation to whom the term is used or another person), even though another person has the actual possession or custody.

least concern wildlife means –

Protected wildlife prescribed in section 19 of the Animals Regulation as least concern wildlife.

authorised wildlife carer means—

A person qualified to take and keep protected wildlife under a current rehabilitation permit in accordance with the Nature Conservation (Wildlife Management) Regulation 2006.

native wildlife means –

Any taxon or species of wildlife indigenous to Australia

near threatened wildlife means –

Protected wildlife prescribed in section 18 of the Animals Regulation as near threatened wildlife

person includes –

A body of persons, whether incorporated or unincorporated.

protected animal means –

An animal that is prescribed under the NCA as threatened, near threatened or least concern wildlife, but does not include a processed product.

protected wildlife means native wildlife prescribed under the Act as—

- (a) extinct in the wild wildlife; or
- (b) endangered wildlife; or
- (c) vulnerable wildlife; or
- (d) near threatened wildlife; or
- (e) least concern wildlife.

special least concern animal under the Animals Regulation means the following—

- (a) an echidna (*Tachyglossus aculeatus*);
- (b) a platypus (*Ornithorhynchus anatinus*);
- (c) a least concern bird to which any of the following agreements apply—
 - (i) the agreement called 'Agreement Between the Government of Australia and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction and their Environment', signed at Tokyo on 6 February 1974;

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- (ii) the agreement called 'Agreement Between the Government of Australia and the Government of the People's Republic of China for the Protection of Migratory Birds and their Environment', signed at Canberra on 20 October 1986;
- (iii) the agreement called 'Agreement Between the Government of Australia and the Government of the Republic of Korea on the Protection of Migratory Birds and Exchange of Notes', signed at Canberra on 6 December 2006;
- (iv) the convention called 'Convention on the Conservation of Migratory Species of Wild Animals', signed at Bonn on 23 June 1979.

—

A program about managing the population and habitat of protected animals prescribed as least concern animals where the impacts are unlikely to affect broader population and excludes least concern wildlife that are colonial breeders and wildlife prescribed as extinct in the wild, endangered, vulnerable, near threatened, or a special least concern animal under the Nature Conservation (Animals) Regulation 2020 (Animals Regulation).

species management program (SMP)- high risk of impacts means —

A program about managing the population and habitat of protected animals prescribed by Animals Regulation or breeding type (e.g. least concern colonial breeders), where the broader population is at a greater risk from impacts and includes least concern animals that are colonial breeders and animals prescribed as extinct in the wild, endangered, vulnerable, near threatened, or a special least concern animal under the Nature Conservation (Animals) Regulation 2020.

suitably qualified and experienced person means—

A person with formal qualifications and/or experience in fauna identification and life ecology and environmental management. A person is considered to be suitably qualified and experienced if they meet one or more of the following criteria:

- An ecological consultant with experience in conducting surveys for animal breeding places;
- A person who possesses a degree in natural science or similar with experience in conducting surveys for animal breeding places;
- A person who is a spotter-catcher under a rehabilitation permit issued under the Act.

spotter-catcher means—

A person qualified to take and keep protected wildlife under a current rehabilitation permit granted under the Nature Conservation (Animals) Regulation 2020 (or previous regulations to authorise the take, keep or use of an animal whose habitat is about to be destroyed by human activity).

tamper with an animal breeding place means—

Damage, destroy, mark, move or dig up the breeding place.

take includes—

- (a) in relation to an animal -

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(i) hunt, shoot, wound, kill, skin, poison, net, snare, spear, trap, catch, dredge for, bring ashore or aboard a boat, pursue, lure, injure or harm the animal; or

(ii) attempt to do an act mentioned in subparagraph (i).

use, in relation to wildlife includes –

Buy, sell, give away, process, move or gain any benefit from the resource or wildlife.

vulnerable animal means –

A protected animal that is prescribed in section 17 of the Animals Regulation as vulnerable wildlife.

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Disclaimer

While this document has been prepared with care, it contains general information and does not profess to other legal, professional or commercial advice. The Queensland Government accepts no liability for any external decisions of 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 advisers before embarking on any proposed course of action.

Approved:

Enquiries:

Wildlife Operations Ph. 1300 130372

Version history:

Version	Effective date	Comments
1.00	03 May 2016	Approved by: L Delzoppo, Acting Executive Director, Nature Conservation Services
1.01	18 May 2016	Section 6. Reporting requirement corrected
1.02	09 June 2016	Office use only – added attach documents. Wording in Table 1 changed.
1.03	07 July 2016	Wording changes throughout the document to make it clearer. High risk reporting changed to 6 months.
1.04	24/08/2017	Email address updated to wildlife@des.qld.gov.au
1.05	23/07/2018	Inserted sample templates for High and Low Risk SMP.
1.06	26/08/2020	Changed references from Wildlife Regulations to Animals Regulation