

# VEGETATION MANAGEMENT AMENDMENT BILL 2000

## EXPLANATORY NOTES

### GENERAL OUTLINE

#### Short title

The Act will be known as the *Vegetation Management Amendment Act 2000*.

#### Objective of the Bill

The purpose of the Bill is to amend the *Vegetation Management Act 1999*.

The Bill provides for the amendment of the *Vegetation Management Act 1999* in order to clarify matters raised during recent public forums on vegetation management and to effect procedural amendments following Crown Law advice.

#### Reasons for the Bill

The Premier and Minister made a commitment at public forums to remove references to 'of concern' regional ecosystems from the *Vegetation Management Act 1999* unless financial assistance was forthcoming from the Commonwealth. The Commonwealth has not made any commitment to a financial assistance package. As a consequence, the Queensland Government has moved to honour the Premier's commitment.

Other procedural difficulties have also arisen due to the delay in the proclamation of the Act. In addition, Local Governments have expressed concern about the effect of the Act on existing Local Laws.

**Ways in which the policy objective is to be achieved**

The policy objectives will be achieved by removing the preservation of 'of concern' regional ecosystems from the purpose of the Act. Other policy objectives will be met by providing transitional arrangements for local governments that allow time to adapt to the new regulations, and clarifying a number of procedural arrangements.

**Alternative ways of achieving the objective**

The alternative to the Amendment Bill was to exclude sections of the *Vegetation Management Act 1999* that dealt with 'of concern' regional ecosystems from proclamation. However, those sections would automatically be proclaimed in December 2000, 12 months from the passing of the Act in December 1999. If the funding issues were still unresolved at that time, the Act would need to be amended as promised. The procedural amendments and transitional arrangements for local governments can only be made by amending the Act.

**Administrative cost to government of implementation**

This Act places no further costs on government for implementation.

**Compliance with fundamental legislative principles**

The *Vegetation Management Amendment Bill 2000* is consistent with the fundamental legislative principles. This Bill provides for greater consultation with landholders in proposed declared areas and provides for longer timeframes for Local Government to prepare for implementation of the *Vegetation Management Act 1999*. The Bill simplifies and clarifies a number of terms to assist applicants in understanding when an application is required for vegetation clearing

**Consultation**

Consultation has occurred through public forums and with major stakeholders including The Queensland Farmers' Federation (QFF) AGFORCE and CANEGROWERS, and the Queensland Conservation Council (QCC)

Consultation has also occurred with DCILGPS, Brisbane City Council, Local Government Association of Queensland and Office of the Queensland Parliamentary Counsel.

## **ANALYSIS OF THE BILL**

### **Short Title**

*Clause 1* sets out the short title of the Act

### **Act amended**

*Clause 2* identifies that the Act amends the *Vegetation Management Act 1999*.

### **Amendment of s 3 (Purposes of Act)**

*Clause 3* amends Section 3, the Purposes of the Act by deleting the preservation of ‘of concern’ regional ecosystems from the purposes, and renumbering the subsequent clause.

### **Amendment of s 7 (Application of Act)**

*Clause 4* amends Section 7 by inserting a new subsection 8 to allow land other than freehold land to be shown in a regional vegetation management plan.

### **Amendment of s 13 (Consultation for regional vegetation management plan)**

*Clause 5* amends Section 13 to require the minister to give each owner of land that is in the proposed area for declaration a written notice inviting the owner to make submissions about the declaration or plan, where the declaration is made through the regional vegetation management planning process.

**Amendment of s 16 (Preparing declaration)**

*Clause 6* amends Section 16 by inserting a new clause 1A that requires the Minister to prepare a proposed code for clearing vegetation in the stated area of a proposed declaration; and by adding a new clause (3) requiring the Minister to make a written notice to each owner of land that is in the stated area of the proposed declaration, inviting them to make a submission about the proposed declaration. The sections are then renumbered.

**Amendments of s 17 (Making declaration)**

*Clause 7* amends Section 17 by inserting a new clause (1A) requiring a declaration to also include a code for clearing vegetation in the declared area as part of the declaration, and a new clause (1B) which provides for the declaration to form an amendment to any relevant regional vegetation management plan. The subsections are renumbered for clarity.

**Amendment of s 18 (Interim declaration)**

*Clause 8* amends Section 18 by inserting a new clause (5) which states that no clearing may occur in the stated area of an interim declaration while that declaration has affect. Maximum penalty units applying to a breach of the requirement are also added. These penalty units are consistent with other provisions in the *Vegetation Management Act 1999* and the *Integrated Planning Act 1997*.

**Amendment of s 19 (Criteria for declarations)**

*Clause 9* amends Section 19 to replace clause (e) to clarify the criterion of high biodiversity as a justification for a declaration. The criterion now requires that the area proposed to be declared, makes a significant contribution to the conservation of biodiversity.

**Amendment of s 20 (Regional vegetation management plans are codes for IDAS)**

*Clause 10* amends Section 20 by renaming the section “IDAS codes for the clearing of vegetation”; and clarifies wording in section 20(1). Two additional subsections (3) and (4) are inserted which allow for a code for a

declared area to prevail over the State policy, where a declared area is not covered by a regional vegetation management plan.

**Amendment of s 23 (Transitional modifying effect)**

*Clause 11* amends Section 23 to extend the period during which separate applications for clearing vegetation and other assessable development is required until 5 March 2001. The requirement that applications for clearing of vegetation must only comply with *Integrated Planning Act 1997* timeframes from 1 January 2001 is retained. The expiry of the section is extended until 4 March 2001.

**Amendment of s 35 (Warrants—procedure before entry)**

*Clause 12* amends Section 35(1) to delete the word ‘special’ as the Act does not otherwise refer to a ‘special’ warrant.

**Amendment of s 67 (Evidentiary aids)**

*Clause 13* amends Section 67(1)(a), Evidentiary aids, to include a regional ecosystem map and a remnant map as stated documents for evidentiary purposes.

**Amendment of s 83 (Amendment of s 4.3.26 (Effect of orders))**

*Clause 14* amends Section 83, Amendment of the *Integrated Planning Act 1997*, to include nurturing in addition to planting stated vegetation.

**Amendment of s 84 (Amendment of sch 8 (Assessable, self-assessable and exempt development))**

*Clause 15(1-3), (5) and (8)* amends Section 84 to remove references to ‘of concern’ regional ecosystems and to renumber the subsection

*Clause 15(4)* amends Section 84(1) 3A (h) to extend the exemption for vegetation clearing that is a natural and ordinary consequence of another assessable development from requiring an approval from the Department of Natural Resources until 5 March 2001.

*Clause 15(6)* amends Section 84(2), to clarify that the exemptions for operational work associated with agricultural use set out in Schedule 8, item 13 of the *Integrated Planning Act 1997* do not apply to clearing that is assessable development under item 3A.

*Clause 15(7)* amends Section 84 (3) to amend Schedule 8, item 13(b) of the *Integrated Planning Act 1997* to clarify that the exemption for operational work associated with weed or pest control does not include an exemption for clearing native vegetation that is assessable development under item 3A. Fire hazard reduction is also replaced with the ‘use of fire’ so that persons are not constrained to being able to burn vegetation only for fire hazard reduction.

*Clause 15(9)* amends Section 84(5) to change item 22 of Schedule 8 of the *Integrated Planning Act 1997* to confine the definition of built infrastructure to an areas less than 5ha. This means that clearing more than 5ha of vegetation for built infrastructure under the definition of routine management is not exempt from requiring approval.

### **Amendment of s 85 (Amendment of sch 10 (Dictionary))**

*Clause 16* amends Section 85, Schedule 10 of the *Integrated Planning Act 1997* to remove the definition of concurrence agency code.

### **Insertion of new s 85A**

*Clause 17* inserts a new Section 85A providing for the completion of the amendments of the *Integrated Planning Act 1997* and the subsequent expiry of Part 7 of the *Vegetation Management Act 1999*.

### **Amendment of s 92 (Amendment of s 260 (How application for tree clearing permit made))**

*Clauses 18-21* amends Sections 92 to 94 and adds new Sections 94A-E in Part 8, Amendments to the *Land Act 1994*, to change ‘tree management plan’ to ‘property vegetation management plan’ in s 260, 261, 262, 264, 265, 267, 322 and 346 of the *Land Act 1994*. *Clause 19* also amends Section 93, Amendment of s 261(b) of the *Land Act 1994* to add ‘or regional ecosystems’ and ‘any areas affected by land degradation’ to make wording consistent between the *Vegetation Management Act 1999* and the *Land Act 1994*.

*Clause 22* amends Section 96(2) of the *Land Act 1994* to redefine environmentally sensitive areas to be consistent with the wording of the *Vegetation Management Act 1999*. The clause also inserts a definition of a property vegetation management plan. This clarifies that a plan approved under part 6 of the *Land Act 1994* either before or after the proclamation of the *Vegetation Management Act 1999* qualifies as a property vegetation management plan.

### **Insertion of new s 97**

*Clause 23* inserts a new section 97 providing for the completion of the amendments to the *Land Act 1994* and the expiry of Part 8 of the *Vegetation Management Act 1999*.

### **Insertion of new pt 9**

*Clause 24* inserts a new Part 9 that amends the *Local Government Act 1993*. This provides for the amendment of Section 854 of the *Local Government Act 1993* to insert a new subsection (5) which extends the capacity of local governments to make local laws relating to vegetation clearing until 1 July 2001, despite it becoming development under the *Integrated Planning Act 1997*. New section 100 provides for the completion of amendments to the *Local Government Act 1993* and the expiry of this Part thereafter.

### **Amendment of schedule (Dictionary)**

*Clause 25* amends the Schedule—Dictionary to amend the definition of a ‘regional ecosystem map’, a ‘remnant map’, ‘remnant vegetation’, ‘remnant endangered regional ecosystem’ and ‘remnant of concern regional ecosystem’ and insert definitions for ‘compliance notice’; ‘document certification requirement’; ‘not of concern regional ecosystem’; and ‘remnant not of concern regional ecosystem’.