

Queensland



# **VEGETATION MANAGEMENT BILL 1999**



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**1999**

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**A BILL**

**FOR**

**An Act about the management of vegetation on freehold land**

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**The Parliament of Queensland enacts—**

1

## **PART 1—PRELIMINARY**

2

### **Short title**

3

1. This Act may be cited as the *Vegetation Management Act 1999*.

4

### **Commencement**

5

2. This Act commences on a day to be fixed by proclamation.

6

### **Purposes of Act**

7

3.(1) The purposes of this Act are to regulate the clearing of vegetation on freehold land to—

8

9

- (a) preserve the following—

10

(i) remnant endangered regional ecosystems;

11

(ii) remnant of concern regional ecosystems;

12

(iii) vegetation in areas of high nature conservation value and areas vulnerable to land degradation; and

13

14

- (b) ensure that the clearing does not cause land degradation; and

15

- (c) maintain or increase biodiversity; and

16

- (d) maintain ecological processes; and

17

- (e) allow for ecologically sustainable land use.

18

- (2) The purposes are achieved mainly by providing for—

19

- (a) codes for the *Integrated Planning Act 1997* relating to the clearing of vegetation that are applicable codes for the assessment of development applications under IDAS; and

20

21

22

- (b) the enforcement of vegetation clearing provisions.

23

**Advancing the Act's purposes**

4. If, under this Act, a function or power is conferred on an entity, the entity must perform the function or exercise the power in a way that advances this Act's purposes.

**Definitions**

5. The dictionary in the schedule defines particular words used in this Act.

**Act binds all persons**

6. This Act binds all persons, including the State, and, so far as the legislative power of the Parliament permits, the Commonwealth and the other States.

**Application of Act**

7.(1) This Act only applies to vegetation on freehold land.<sup>1</sup>

(2) This Act does not prevent a local law from imposing requirements on the clearing of vegetation in its local government area.

(3) The requirements mentioned in subsection (2) are unaffected by the *Local Government Act 1993*, section 31.<sup>2</sup>

(4) The *Local Government Act 1993*, section 31 is subject to subsection (3).

(5) This Act does not prevent a local planning instrument under the *Integrated Planning Act 1997* from imposing requirements on the clearing of vegetation in its local government area.

(6) The requirements mentioned in subsection (5) are unaffected by the *Integrated Planning Act 1997*, section 3.1.3.

(7) The *Integrated Planning Act 1997*, section 3.1.3 is subject to subsection (6).

<sup>1</sup> See schedule (Dictionary), definition "freehold land".

<sup>2</sup> *Local Government Act 1993*, section 31 (Inconsistency with State law)

**PART 2—VEGETATION MANAGEMENT**

1

*Division 1—Key concepts*

2

**What is vegetation**

3

**8. “Vegetation” is—**

4

(a) a native tree; or

5

(b) a native plant, other than a grass or mangrove.

6

**What is vegetation management**

7

**9.(1) “Vegetation management”** is the management of vegetation in a way that achieves the purposes of this Act.

8

9

**(2)** For subsection (1), the management of vegetation may include, for example, the following—

10

11

(a) the retention or maintenance of vegetation to—

12

(i) avoid land degradation; or

13

(ii) maintain or increase biodiversity; or

14

(iii) maintain ecological processes;

15

(b) the retention of riparian vegetation;

16

(c) the retention of vegetation clumps or corridors.

17

*Division 2—State policy for vegetation management*

18

**State policy for vegetation management**

19

**10.(1)** The Minister must prepare a policy for vegetation management on freehold land for the State.

20

21

**(2)** Without limiting subsection (1), the policy must—

22

(a) state outcomes for vegetation management and actions proposed to achieve the outcomes; and

23

24

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- (b) include a code for the clearing of vegetation. 1
- (3) The Governor in Council, by gazette notice, may approve the policy. 2
- (4) The chief executive must keep a copy of the policy available for inspection— 3
  - (a) at the department’s head office and regional offices at all times 5
    - when the offices are open for the transaction of public business; 6
    - and 7
  - (b) on the department’s web site on the Internet. 8
- (5) On payment of a fee, a person may buy a copy of the policy. 9
- (6) The fee for the copy of the policy must not be more than the 10
 reasonable cost of publishing the copy. 11
- (7) The policy is not subordinate legislation. 12

*Division 3—Regional vegetation management plans* 13

**Obligation to prepare and make regional vegetation management plans** 14  
15

11. The Minister must prepare and make regional vegetation 16  
management plans for vegetation management on freehold land in regions 17  
of the State. 18

**Content of regional vegetation management plan** 19

- 12.(1) A regional vegetation management plan must— 20
  - (a) state the region for which it is made; and 21
  - (b) state outcomes for vegetation management and actions proposed 22
 to achieve the outcomes; and 23
  - (c) include a code for the clearing of vegetation. 24
- (2) A regional vegetation management plan may declare an area in the 25
 region to be— 26
  - (a) an area of high nature conservation value; or 27

(b) an area vulnerable to land degradation. 1

(3) Subsections (1) and (2) do not limit what may be included in a regional vegetation management plan. 2  
3

### **Consultation for regional vegetation management plan** 4

13. The Minister must consult with the following entities in preparing a regional vegetation management plan— 5  
6

(a) an advisory committee established to advise the Minister about vegetation management; 7  
8

(b) the relevant regional vegetation management committee; 9

(c) each local government whose area is affected by the plan. 10

### **Public notice of preparation of regional vegetation management plan** 11

14.(1) After preparing the plan, the Minister must give notice of the preparation of the plan. 12  
13

(2) The notice must— 14

(a) be published in a newspaper the Minister considers appropriate; 15  
and 16

(b) state the places where copies of the plan— 17

(i) may be inspected; or 18

(ii) bought on payment of the reasonable fee decided by the chief executive; and 19  
20

(c) invite submissions on the plan; and 21

(d) state a day by which submissions may be made on the contents of the plan. 22  
23

### **Making regional vegetation management plan** 24

15.(1) The Minister, by gazette notice, after considering any submissions made about the draft plan, must make the plan, or the plan as amended, as a regional vegetation management plan. 25  
26  
27

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- (2) The regional vegetation management plan made under subsection (1) is the regional vegetation management plan for the region for which it is made. 1  
2  
3
- (3) The chief executive must keep a copy of the regional vegetation management plan available for inspection— 4  
5
- (a) at the department’s head office and regional offices at all times when the offices are open for the transaction of public business; and 6  
7  
8
- (b) on the department’s web site on the Internet. 9
- (4) On payment of a fee, a person may buy a copy of the plan. 10
- (5) The fee for the copy of the plan must not be more than the reasonable cost of publishing the copy. 11  
12
- (6) The plan is not subordinate legislation. 13

***Division 4—Declaration of areas of high nature conservation value and areas vulnerable to land degradation*** 14  
15

**Preparing declaration** 16

- 16.(1) The Minister may prepare a declaration that a stated area is— 17
- (a) an area of high nature conservation value; or 18
- (b) an area vulnerable to land degradation. 19
- (2) The Minister must consult with the following entities in preparing the declaration— 20  
21
- (a) an advisory committee established to advise the Minister about vegetation management; 22  
23
- (b) any relevant regional vegetation management committee; 24
- (c) each local government whose area is affected by the declaration. 25

**Making declaration** 26

- 17.(1) The Governor in Council, by gazette notice, may declare— 27

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- 
- (a) an area mentioned in section 16(1)(a) to be an area of high nature conservation value; or 1  
2
- (b) an area mentioned in section 16(1)(b) to be an area vulnerable to land degradation. 3  
4
- (2) The chief executive must keep a copy of the declaration available for inspection— 5  
6
- (a) at the department’s head office and regional offices at all times when the offices are open for the transaction of public business; and 7  
8  
9
- (b) on the department’s web site on the Internet. 10
- (3) On payment of a fee, a person may buy a copy of the declaration. 11
- (4) The fee for the copy of the declaration must not be more than the reasonable cost of publishing the copy. 12  
13
- (5) The declaration is not subordinate legislation. 14

**Interim declaration** 15

**18.(1)** The Minister, by gazette notice, may make an interim declaration that a stated area is— 16  
17

- (a) an area of high nature conservation value; or 18
- (b) an area vulnerable to land degradation. 19

(2) The Minister may make the interim declaration only if the Minister considers that urgent action is needed to protect the area. 20  
21

(3) The interim declaration must state it is an interim declaration and the date, not more than 3 months after it is made, on which it expires. 22  
23

(4) The interim declaration is not subordinate legislation. 24

**Criteria for declarations** 25

**19.(1)** The Minister may declare, or provide for a declaration of, an area to be an area of high nature conservation value only if the Minister considers the area is 1 or more of the following— 26  
27  
28

- (a) a wildlife refugium; 29



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- (b) a centre of endemism; 1
  - (c) an area containing a vegetation clump or corridor that contributes to the maintenance of biodiversity; 2  
3
  - (d) an area of regrowth vegetation that, if retained, will enhance an endangered regional ecosystem stated in the notice; 4  
5
  - (e) an area of high biodiversity; 6
  - (f) an area that contributes to the conservation value of a wetland, lake or spring stated in the notice. 7  
8
- (2) The Minister may declare, or provide for a declaration of, an area to be an area vulnerable to land degradation only if the Minister considers the area is subject to 1 or more of the following— 9  
10  
11
- (a) soil erosion; 12
  - (b) rising water tables; 13
  - (c) the expression of salinity, whether inside or outside the area; 14
  - (d) mass movement by gravity of soil or rock; 15
  - (e) stream bank instability; 16
  - (f) a process that results in declining water quality. 17

***Division 5—Declarations about codes for IDAS*** 18

**Regional vegetation management plans are codes for IDAS** 19

**20.(1)** If a regional vegetation management plan is made for a region, the part of the plan identified as a code for the clearing of vegetation is— 20  
21

- (a) a code for IDAS for a development application for land in the region; and 22  
23
- (b) an applicable code for the clearing of vegetation in the region. 24

**(2)** If a regional vegetation management plan is not made for a region, the part of the State policy identified as a code for the clearing of vegetation is— 25  
26

- (a) a code for IDAS for a development application for land in the region; and 27  
28

- (b) an applicable code for the clearing of vegetation in the region. 1

***Division 6—Modifying effect of Integrated Planning Act 1997*** 2

**Modifying effect on development applications** 3

**21.(1)** This section applies for a development application. 4

**(2)** If the chief executive is the assessment manager for the application, a property vegetation management plan is a mandatory requirement in addition to the requirements stated in the *Integrated Planning Act 1997*, section 3.2.1(3)(a). 5  
6  
7  
8

**(3)** If the chief executive is a concurrence agency for the application, the applicant must give the chief executive a property vegetation management plan in addition to the things mentioned in section 3.3.3(1) of that Act. 9  
10  
11

**(4)** For the aspect of the application relating to the clearing of vegetation, sections 3.3.18(4)(b) and 3.5.13(4)(b)<sup>3</sup> of that Act do not apply and the official may take the action mentioned in the subsection whether or not compliance with the laws and policies mentioned in the subsection can be achieved by imposing conditions. 12  
13  
14  
15  
16

**(5)** For the aspect of the application relating to the clearing of vegetation, section 3.5.13(2) of that Act does not apply and the assessment manager's decision must not conflict with an applicable code. 17  
18  
19

**(6)** In this section— 20

**“official”** means— 21

- (a) for the *Integrated Planning Act 1997*, section 3.3.18(4)—a concurrence agency; or 22  
23
- (b) for the *Integrated Planning Act 1997*, section 3.5.13(4)—the assessment manager. 24  
25

---

<sup>3</sup> *Integrated Planning Act 1997*, sections 3.3.18 (Concurrence agency's response powers) and 3.5.13 (Decision if application requires code assessment)

---

**Declaration for the *Integrated Planning Act 1997*, s 1.3.4**

**22.** To remove any doubt, it is declared that for the *Integrated Planning Act 1997*, section 1.3.4, a use of premises does not include clearing vegetation that is assessable development.

**Transitional modifying effect**

**23.(1)** Despite the *Integrated Planning Act 1997* a person may, on a single development application made before 1 January 2001, apply for development approval for only 1 of the following—

- (a) clearing vegetation only;
- (b) other assessable development that may include the clearing of vegetation as a natural and ordinary consequence of the development.

*Example of operation of subsection (1)—*

If a person wants to build a piggery on 1 ha and clear 100 ha of vegetation to grow grain for the pigs, the person must make 2 development applications—1 application to the chief executive for clearing the 100 ha and the other application to the local government for building the piggery.

Clearing vegetation on the 1 ha is a natural and ordinary consequence of building the piggery and clearing the 100 ha to grow the grain is not a natural and ordinary consequence of building the piggery.

**(2)** Despite the *Integrated Planning Act 1997*, any time frame within which an application mentioned in subsection (1)(a) must be dealt with, assessed or decided under that Act does not apply to the application.

**(3)** This section expires on 31 December 2000.

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**PART 3—ENFORCEMENT, INVESTIGATIONS AND OFFENCES** 1  
2

*Division 1—Enforcement and investigations* 3

*Subdivision 1—Authorised officers* 4

**Appointment and qualifications of authorised officers** 5

**24.(1)** The chief executive may appoint a person as an authorised officer. 6

**(2)** The chief executive may appoint a person as an authorised officer 7  
only if the chief executive is satisfied the person has the necessary expertise 8  
or experience to be an authorised officer. 9

**Functions and powers of authorised officers** 10

**25.(1)** An authorised officer has the function of conducting investigations 11  
and inspections to monitor and enforce compliance with— 12

(a) this Act; and 13

(b) a vegetation clearing provision. 14

**(2)** An authorised officer has the powers given under this or another Act. 15

**(3)** An authorised officer is subject to the directions of the chief executive 16  
in exercising the powers. 17

**(4)** The powers of an authorised officer may be limited— 18

(a) under a regulation; or 19

(b) under a condition of appointment; or 20

(c) by notice of the chief executive given to the authorised officer. 21

**Conditions of appointment of authorised officers** 22

**26.(1)** An authorised officer holds office on the conditions stated in the 23  
officer's instrument of appointment. 24

(2) An authorised officer—	1
(a) if the appointment provides for a term of appointment—ceases to hold office at the end of the term; and	2 3
(b) may resign by signed notice of resignation given to the chief executive.	4 5
<b>Authorised officer’s identity card</b>	6
27.(1) The chief executive must give each authorised officer an identity card.	7 8
(2) The identity card must—	9
(a) contain a recent photograph of the authorised officer; and	10
(b) be signed by the authorised officer; and	11
(c) identify the person as an authorised officer under this Act.	12
(3) This section does not prevent the giving of a single identity card to a person for this Act and other Acts.	13 14
<b>Failure to return identity card</b>	15
28. A person who ceases to be an authorised officer must return the person’s identity card to the chief executive as soon as practicable, but within 15 business days, after ceasing to be an authorised officer, unless the person has a reasonable excuse for not returning it.	16 17 18 19
Maximum penalty—10 penalty units.	20
<b>Production or display of identity card</b>	21
29.(1) An authorised officer may exercise a power under this Act in relation to someone else only if the authorised officer—	22 23
(a) first produces his or her identity card for the person’s inspection; or	24 25
(b) has the identity card displayed so it is clearly visible to the person.	26
(2) If it is not practicable to comply with subsection (1), the authorised	27

officer must produce the identity card for the person's inspection at the first reasonable opportunity.

### ***Subdivision 2—Power to enter places***

#### **Power to enter places**

**30.(1)** An authorised officer may enter a place if—

- (a) its occupier consents to the entry; or
- (b) it is a public place and the entry is made when it is open to the public; or
- (c) the entry is authorised by a warrant.

**(2)** For the purpose of asking the occupier of a place for consent to enter, an authorised officer may, without the occupier's consent or a warrant—

- (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
- (b) enter part of the place the authorised officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

### ***Subdivision 3—Procedure for entry***

#### **Entry with consent**

**31.(1)** This section applies if an authorised officer intends to ask an occupier of a place to consent to the authorised officer or another authorised officer entering the place under section 30(1)(a).

**(2)** Before asking for the consent, the authorised officer must tell the occupier—

- (a) the purpose of the entry; and
- (b) that the occupier is not required to consent.

**(3)** If the consent is given, the authorised officer may ask the occupier to sign an acknowledgment of the consent.

<b>(4)</b> The acknowledgment must state—	1
(a) the occupier has been told—	2
(i) the purpose of the entry; and	3
(ii) that the occupier is not required to consent; and	4
(b) the purpose of the entry; and	5
(c) the occupier gives the authorised officer consent to enter the place and exercise powers under this division; and	6 7
(d) the time and date the consent was given.	8
<b>(5)</b> If the occupier signs the acknowledgment, the authorised officer must immediately give a copy to the occupier.	9 10
<b>(6)</b> A court must find the occupier of a place did not consent to an authorised officer entering the place under this division if—	11 12
(a) an issue arises in a proceeding before the court whether the occupier of the place consented to the entry under section 30(1)(a); and	13 14 15
(b) an acknowledgment mentioned in subsection (4) is not produced in evidence for the entry; and	16 17
(c) it is not proved by the person relying on the lawfulness of the entry that the occupier consented to the entry.	18 19
 <b>Application for warrant</b>	 20
<b>32.(1)</b> An authorised officer may apply to a magistrate for a warrant for a place.	21 22
<b>(2)</b> The application must be sworn and state the grounds on which the warrant is sought.	23 24
<b>(3)</b> The magistrate may refuse to consider the application until the authorised officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.	25 26 27
<i>Example—</i>	28
The magistrate may require additional information supporting the application to be given by statutory declaration.	29 30

**Issue of warrant**

**33.(1)** The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—

- (a) there is a particular thing or activity (the “**evidence**”) that may provide evidence of a vegetation clearing offence; and
- (b) the evidence is at the place, or, within the next 7 days, may be at the place.

**(2)** The warrant must state—

- (a) that a stated authorised officer may, with necessary and reasonable help and force—
  - (i) enter the place and any other place necessary for the entry; and
  - (ii) exercise the authorised officer’s powers under this division; and
- (b) the offence for which the warrant is sought; and
- (c) the evidence that may be seized under the warrant; and
- (d) the hours of the day or night when the place may be entered; and
- (e) the date, within 14 days after the warrant’s issue, the warrant ends.

**Special warrants**

**34.(1)** An authorised officer may apply for a warrant (a “**special warrant**”) by phone, fax, radio or another form of communication if the authorised officer considers it necessary because of—

- (a) urgent circumstances; or
- (b) other special circumstances, including, for example, the authorised officer’s remote location.

**(2)** Before applying for the special warrant, the authorised officer must prepare an application stating the grounds on which the warrant is sought.

**(3)** The authorised officer may apply for the special warrant before the application is sworn.



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- (4) After issuing the special warrant, the magistrate must promptly fax a copy (a **“facsimile warrant”**) to the authorised officer if it is reasonably practicable to fax the copy. 1  
2  
3
- (5) If it is not reasonably practicable to fax a copy to the authorised officer— 4  
5
- (a) the magistrate must tell the authorised officer— 6
- (i) what the terms of the special warrant are; and 7
- (ii) the date and time the special warrant is issued; and 8
- (b) the authorised officer must complete a form of warrant (a **“warrant form”**) and write on it— 9  
10
- (i) the magistrate’s name; and 11
- (ii) the date and time the magistrate issued the special warrant; 12  
and 13
- (iii) the terms of the special warrant. 14
- (6) The facsimile warrant, or the warrant form properly completed by the authorised officer, authorises the entry and the exercise of the other powers stated in the special warrant issued. 15  
16  
17
- (7) The authorised officer must, at the first reasonable opportunity, send to the magistrate— 18  
19
- (a) the sworn application; and 20
- (b) if the authorised officer completed a warrant form—the completed warrant form. 21  
22
- (8) On receiving the documents, the magistrate must attach them to the special warrant. 23  
24
- (9) A court must find the exercise of the power by an authorised officer was not authorised by a special warrant if— 25  
26
- (a) an issue arises in a proceeding before the court whether the exercise of the power was authorised by a special warrant mentioned in subsection (1); and 27  
28  
29
- (b) the special warrant is not produced in evidence; and 30
- (c) it is not proved by the person relying on the lawfulness of the entry that the authorised officer obtained the special warrant. 31  
32

**Warrants—procedure before entry**

**35.(1)** This section applies if an authorised officer named in a special warrant issued under this division for a place is intending to enter the place under the warrant.

**(2)** Before entering the place, the authorised officer must do or make a reasonable attempt to do the following things—

- (a) identify himself or herself to a person present at the place who is an occupier of the place by producing the authorised officer's identity card or a copy of another document evidencing the authorised officer's appointment;
- (b) give the person a copy of the warrant or, if the entry is authorised by a facsimile warrant or warrant form mentioned in section 34(6), a copy of the facsimile warrant or warrant form;
- (c) tell the person the authorised officer is permitted by the warrant to enter the place;
- (d) give the person an opportunity to allow the authorised officer immediate entry to the place without using force.

**(3)** However, the authorised officer need not comply with subsection (2) if the authorised officer reasonably believes that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

***Subdivision 4—Powers after entering a place*****General powers after entering places**

**36.(1)** This section applies to an authorised officer who enters a place.

**(2)** However, if an authorised officer enters a place to get the occupier's consent to enter the place, this section applies to the authorised officer only if the consent is given or the entry is otherwise authorised.

**(3)** For monitoring or enforcing compliance with this Act or a vegetation clearing provision, the authorised officer may—

- (a) search any part of the place; or
- (b) inspect, measure, test, photograph or film any part of the place or

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anything at the place; or	1
(c) take a thing, or a sample of or from a thing, at the place for analysis or testing; or	2 3
(d) copy a document at the place; or	4
(e) take into or onto the place any person, equipment and materials the authorised officer reasonably requires for the exercise of a power under this division; or	5 6 7
(f) require the occupier of the place, or a person at the place, to give the authorised officer reasonable help to exercise the authorised officer's powers under paragraphs (a) to (e); or	8 9 10
(g) require the occupier of a place, or a person at the place, to give the authorised officer information to help the authorised officer ascertain whether the Act or a vegetation clearing provision is being complied with.	11 12 13 14
(4) When making a requirement mentioned in subsection (3)(f) or (g), the authorised officer must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.	15 16 17
<b>Failure to help authorised officer</b>	18
37.(1) A person required to give reasonable help under section 36(3)(f) must comply with the requirement, unless the person has a reasonable excuse.	19 20 21
Maximum penalty—50 penalty units.	22
(2) If the requirement is to be complied with by an individual giving information, or producing a document, it is a reasonable excuse for the individual not to comply with the requirement that complying with the requirement may tend to incriminate the individual.	23 24 25 26
<b>Failure to give information</b>	27
38.(1) A person of whom a requirement is made under section 36(3)(g) must comply with the requirement, unless the person has a reasonable excuse.	28 29 30
Maximum penalty—50 penalty units.	31

(2) It is a reasonable excuse for an individual not to comply with the requirement that complying with the requirement may tend to incriminate the individual.

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### ***Subdivision 5—Power to seize evidence***

4

#### **Seizing evidence**

5

**39.(1)** This section applies if—

6

- (a) an authorised officer is authorised to enter a place under this division only with the consent of the occupier or a warrant; and
- (b) the authorised officer enters the place after obtaining the necessary consent or warrant.

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9  
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(2) If the authorised officer enters the place with the occupier's consent, the authorised officer may seize a thing at the place if—

11  
12

- (a) the authorised officer reasonably believes the thing is evidence of a vegetation clearing offence; and
- (b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.

13  
14  
15  
16

(3) If the authorised officer enters the place with a warrant, the authorised officer may seize the evidence for which the warrant was issued.

17  
18

(4) The authorised officer may seize anything else at the place if the authorised officer reasonably believes—

19  
20

- (a) the thing is evidence of a vegetation clearing offence; and
- (b) the seizure is necessary to prevent the thing being—
  - (i) hidden, lost or destroyed; or
  - (ii) used to continue, or repeat, the offence.

21  
22  
23  
24

(5) Also, the authorised officer may seize a thing at the place if the authorised officer reasonably believes it has just been used in committing a vegetation clearing offence.

25  
26  
27

<b>Securing seized things</b>	1
<b>40.</b> Having seized a thing, an authorised officer may—	2
(a) move the thing from the place where it was seized (the “ <b>place of seizure</b> ”); or	3 4
(b) leave the thing at the place of seizure but take reasonable action to restrict access to it; or	5 6
(c) if the thing is equipment—make it inoperable.	7
<i>Examples of restricting access to a thing—</i>	8
1. Sealing a thing and marking it to show access to it is restricted.	9
2. Sealing the entrance to a place where the thing is situated and marking it to show access to it is restricted.	10 11
<i>Example of making equipment inoperable—</i>	12
Dismantling equipment or removing a component of equipment without which the equipment is not capable of being used.	13 14
<b>Tampering with seized things</b>	15
<b>41.(1)</b> If an authorised officer restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing, or something restricting access to the thing, without an authorised officer’s approval.	16 17 18
Maximum penalty—100 penalty units.	19
<b>(2)</b> If an authorised officer makes seized equipment inoperable, a person must not tamper, or attempt to tamper, with the equipment, without an authorised officer’s approval.	20 21 22
Maximum penalty—100 penalty units.	23
<b>Powers to support seizure</b>	24
<b>42.(1)</b> To enable a thing to be seized, an authorised officer may require the person in control of it—	25 26
(a) to take it to a stated reasonable place by a stated reasonable time; and	27 28
(b) if necessary, to remain in control of it at the stated place for a stated reasonable period.	29 30

- (2) The requirement— 1
- (a) must be made by notice in the approved form; or 2
  - (b) if for any reason it is not practicable to give the notice, may be 3  
made orally and confirmed by a notice in the approved form as 4  
soon as practicable. 5
- (3) A further requirement may be made under this section about the thing 6  
if it is necessary and reasonable to make the further requirement. 7
- (4) A person of whom a requirement is made under subsection (1) or (3) 8  
must comply with the requirement, unless the person has a reasonable 9  
excuse. 10
- Maximum penalty for subsection (4)—50 penalty units. 11

### **Receipts for seized things** 12

- 43.(1)** As soon as practicable after an authorised officer seizes a thing, the 13  
authorised officer must give a receipt for it to the person from whom it was 14  
seized. 15
- (2) However, if for any reason it is not practicable to comply with 16  
subsection (1), the authorised officer must leave the receipt at the place of 17  
seizure in a conspicuous position and in a reasonably secure way. 18
- (3) The receipt must describe generally each thing seized and its 19  
condition. 20
- (4) This section does not apply to a thing if it is impracticable, or would 21  
be unreasonable, to give the receipt, having regard to the thing's nature, 22  
condition and value. 23

### **Forfeiture by authorised officer** 24

- 44.(1)** A thing that has been seized under this subdivision is forfeited to 25  
the State if the authorised officer who seized the thing— 26
- (a) can not find its owner, after making reasonable inquiries; or 27
  - (b) can not return it to its owner, after making reasonable efforts; or 28
  - (c) reasonably believes it is necessary to keep the thing to prevent it 29  
being used to commit a vegetation clearing offence. 30

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- (2) In applying subsection (1)— 1
- (a) subsection (1)(a) does not require the authorised officer to make 2  
inquiries if it would be unreasonable to make inquiries to find the 3  
owner; and 4
- (b) subsection (1)(b) does not require the authorised officer to make 5  
efforts if it would be unreasonable to make efforts to return the 6  
thing to its owner. 7
- Example for paragraph (b)—* 8
- The owner of the thing has migrated to another country. 9
- (3) If the authorised officer makes a decision under subsection (1)(c) 10  
resulting in the seized thing being forfeited to the State, the authorised 11  
officer must immediately give the owner an information notice about the 12  
decision. 13
- (4) Subsection (3) does not apply if— 14
- (a) the authorised officer can not find the owner, after making 15  
reasonable inquiries; or 16
- (b) it is impracticable or would be unreasonable to give the 17  
information notice. 18
- (5) Regard must be had to a thing’s nature, condition and value— 19
- (a) in deciding— 20
- (i) whether it is reasonable to make inquiries or efforts; and 21
- (ii) if making inquiries or efforts—what inquiries or efforts, 22  
including the period over which they are made, are 23  
reasonable; or 24
- (b) in deciding whether it would be unreasonable to give the 25  
information notice. 26
- Forfeiture on conviction** 27
- 45.(1) On conviction of a person for a vegetation clearing offence, the 28  
court may order the forfeiture to the State of anything owned by the person 29  
and seized under this subdivision. 30
- (2) The court may make any order to enforce the forfeiture it considers 31

appropriate.

(3) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

### **Dealing with forfeited things**

46.(1) On forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with by the chief executive as the chief executive considers appropriate.

(2) Without limiting subsection (1), the chief executive may destroy or dispose of the thing.

### **Return of seized things**

47.(1) If a seized thing is not forfeited, the authorised officer must return it to its owner—

- (a) at the end of 6 months; or
- (b) if a proceeding for a vegetation clearing offence involving the thing is started within 6 months—at the end of the proceeding and any appeal from the proceeding.

(2) Despite subsection (1), unless the thing is forfeited, the authorised officer must immediately return a thing seized to its owner if the authorised officer stops being satisfied—

- (a) its continued retention as evidence is necessary; or
- (b) its continued retention is necessary to prevent the thing being used to continue, or repeat, the offence.

### **Access to seized things**

48.(1) Until a seized thing is forfeited or returned, an authorised officer must allow its owner to inspect it and, if it is a document, to copy it.

(2) Subsection (1) does not apply if it is impracticable, or would be unreasonable, to allow the inspection or copying.



***Subdivision 6—Power to obtain information*****Power to require name and address**

**49.(1)** This section applies if—

- (a) an authorised officer finds a person committing a vegetation clearing offence; or
- (b) an authorised officer finds a person in circumstances that lead, or has information that leads, the authorised officer to reasonably suspect the person has just committed a vegetation clearing offence.

**(2)** The authorised officer may require the person to state the person's name and residential address.

**(3)** When making the requirement, the authorised officer must warn the person it is an offence to fail to state the person's name or residential address, unless the person has a reasonable excuse.

**(4)** The authorised officer may require the person to give evidence of the correctness of the stated name or residential address if the authorised officer reasonably suspects the stated name or address to be false.

**Failure to give name or address**

**50.(1)** A person of whom a requirement is made under section 49 must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

**(2)** A person does not commit an offence against subsection (1) if—

- (a) the person was required to state the person's name and residential address by an authorised officer who suspected the person had committed a vegetation clearing offence; and
- (b) the person is not proved to have committed the offence.

**Power to require information**

**51.(1)** This section applies if an authorised officer reasonably believes—

- (a) a vegetation clearing offence has been committed; and 1
- (b) a person may be able to give information about the offence. 2
- (2) The authorised officer may, by notice given to the person, require the 3  
person to give information about the offence to the authorised officer at a 4  
stated reasonable place and at a stated reasonable time. 5
- (3) The person must comply with a requirement under subsection (2), 6  
unless the person has a reasonable excuse. 7
- Maximum penalty—50 penalty units. 8
- (4) It is a reasonable excuse for an individual to fail to give information if 9  
giving the information might tend to incriminate the individual. 10

### **Power to require production of documents** 11

**52.(1)** An authorised officer may require a person to make available for 12  
inspection by an authorised officer, or produce to the authorised officer for 13  
inspection, at a reasonable time and place nominated by the authorised 14  
officer, a document relating to the clearing of vegetation. 15

(2) The authorised officer may keep the document to copy it. 16

(3) If the authorised officer copies a document mentioned in 17  
subsection (1), or an entry in the document, the authorised officer may 18  
require the person responsible for keeping the document to certify the copy 19  
as a true copy of the document or entry. 20

(4) The authorised officer must return the document to the person as 21  
soon as practicable after copying it. 22

(5) However, if a requirement (a “**document certification** 23  
**requirement**”) is made of a person under subsection (3), the authorised 24  
officer may keep the document until the person complies with the 25  
requirement. 26

(6) A requirement under subsection (1) is called a “**document** 27  
**production requirement**”. 28

### **Failure to certify copy of document** 29

**53.** A person of whom a document certification requirement is made 30

must comply with the requirement, unless the person has a reasonable  
excuse. 1  
2

Maximum penalty—50 penalty units. 3

### **Failure to produce document** 4

**54.(1)** A person of whom a document production requirement is made  
must comply with the requirement, unless the person has a reasonable  
excuse. 5  
6  
7

Maximum penalty—50 penalty units. 8

**(2)** It is a reasonable excuse for an individual not to comply with a  
document production requirement if complying with the requirement might  
tend to incriminate the individual. 9  
10  
11

### ***Subdivision 7—Power to require compliance*** 12

### **Compliance notice** 13

**55.(1)** This section applies if the chief executive or an authorised officer  
(the “**official**”) reasonably believes a person— 14  
15

(a) is committing a vegetation clearing offence; or 16

(b) has committed a vegetation clearing offence. 17

**(2)** The official may give the person a notice (a “**compliance notice**”) 18  
requiring the person to— 19

(a) stop committing the offence; or 20

(b) stop committing the offence and rectify the matter; or 21

(c) rectify the matter. 22

**(3)** The compliance notice must state— 23

(a) that the official believes the person— 24

(i) is committing a vegetation clearing offence; or 25

(ii) has committed a vegetation clearing offence; and 26

(b) the vegetation clearing offence the official believes is being, or has 27

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- been, committed; and 1
- (c) briefly, how it is believed the offence is being, or has been 2  
committed; and 3
- (d) if the notice requires the person to rectify a matter— 4
- (i) the matter the official believes is reasonably capable of being 5  
rectified; and 6
- (ii) the reasonable steps the person must take to rectify the 7  
matter; and 8
- (iii) the stated reasonable period in which the person must take 9  
the steps. 10
- (4) The person must comply with the compliance notice, unless the 11  
person has a reasonable excuse. 12
- Maximum penalty—100 penalty units. 13
- (5) If the person does, or does not do, something in contravention of the 14  
compliance notice, the official may take any reasonable action to stop the 15  
contravention. 16
- (6) Any reasonable cost or expense incurred by the official in doing 17  
anything under subsection (5) may be recovered as a debt owing to the State 18  
by the person. 19
- (7) If the compliance notice requires the person to rectify a matter relating 20  
to a vegetation clearing offence, the person can not be prosecuted for the 21  
offence if the person rectifies the matter within the period stated in the 22  
notice. 23

*Division 2—Other enforcement provisions* 24**Notice of damage** 25

- 56.(1)** This section applies if— 26
- (a) an authorised officer damages property when exercising or 27  
purporting to exercise a power; or 28
- (b) a person (the “**other person**”) acting under the direction or 29  
authority of an authorised officer damages property. 30

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- (2) The authorised officer must immediately give notice of particulars of the damage to the person who appears to the authorised officer to be the owner of the property. 1  
2  
3
- (3) If the authorised officer believes the damage was caused by a latent defect in the property or circumstances beyond the authorised officer's, or other person's, control, the authorised officer may state the belief in the notice. 4  
5  
6  
7
- (4) If, for any reason, it is impracticable to comply with subsection (2), the authorised officer must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened. 8  
9  
10
- (5) This section does not apply to damage the authorised officer reasonably believes is trivial. 11  
12
- (6) In this section— 13  
“owner”, of property, includes the person in possession or control of it. 14

**Compensation** 15

- 57.(1) A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under division 1, subdivision 2, 4 or 5.<sup>4</sup> 16  
17  
18
- (2) Without limiting subsection (1), compensation may be claimed for loss or expense incurred in complying with a requirement made of the person under the subdivision. 19  
20  
21
- (3) Compensation may be claimed and ordered to be paid in a proceeding— 22  
23
- (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or 24  
25
- (b) for a vegetation clearing offence brought against the person claiming compensation. 26  
27
- (4) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case. 28  
29

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<sup>4</sup> Division 1, subdivision 2 (Power to enter places), 4 (Powers after entering a place) or 5 (Power to seize evidence)

<b><i>Division 3—Offences</i></b>		1
<b>False or misleading statements</b>		2
<b>58.(1)</b> A person must not state anything to an authorised officer that the person knows is false or misleading in a material particular.		3 4
Maximum penalty—50 penalty units.		5
<b>(2)</b> In a proceeding for an offence against subsection (1), it is enough to state that the statement made was, without specifying which, false or misleading.		6 7 8
<b>False or misleading documents</b>		9
<b>59.(1)</b> A person must not give an authorised officer a document containing information that the person knows is false or misleading in a material particular.		10 11 12
Maximum penalty—50 penalty units.		13
<b>(2)</b> Subsection (1) does not apply to a person if the person, when giving the document—		14 15
(a) tells the authorised officer, to the best of the person’s ability, how it is false or misleading; and		16 17
(b) if the person has, or can reasonably obtain, the correct information—gives the correct information.		18 19
<b>(3)</b> In a proceeding for an offence against subsection (1), it is enough to state that the document was, without specifying which, false or misleading.		20 21
<b>Obstructing an authorised officer</b>		22
<b>60.(1)</b> A person must not obstruct an authorised officer in the exercise of a power, unless the person has a reasonable excuse.		23 24
Maximum penalty—100 penalty units.		25
<b>(2)</b> If a person has obstructed an authorised officer and the authorised officer decides to proceed with the exercise of the power, the authorised officer must warn the person that—		26 27 28

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- (a) it is an offence to obstruct the authorised officer, unless the person has a reasonable excuse; and 1  
2
- (b) the authorised officer considers the person’s conduct an obstruction. 3  
4
- (3) In this section— 5
- “**obstruct**” includes assault, hinder and threaten, and attempt to obstruct. 6
- Ability to prosecute under other Acts** 7
- 61.** Nothing in this Act prevents a person from being prosecuted for any of the following offences in relation to the clearing of vegetation— 8  
9
- (a) a development offence under the *Integrated Planning Act 1997*; 10
- (b) an offence against a following provision of the *Environmental Protection Act 1994*— 11  
12
- section 120(1) 13
  - section 120(2) 14
  - section 121(1) 15
  - section 121(2).<sup>5</sup> 16

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<sup>5</sup> Under the *Environmental Protection Act 1994*, the maximum penalties are—

- for section 120(1)—4 165 penalty units or 5 years imprisonment
- for section 120(2)—1 665 penalty units
- for section 121(1)—1 665 penalty units or 2 years imprisonment
- for section 121(2)—835 penalty units.

**PART 4—APPEALS AND LEGAL PROCEEDINGS**

1

***Division 1—Appeals***

2

**Who may appeal**

3

**62.** A person who has been given a compliance notice or an information notice may appeal to the Magistrates Court nearest the place where the person resides or carries on business against—

4

5

6

(a) for a compliance notice—the decision to give the notice; or

7

(b) for an information notice—the decision stated in the notice.

8

**Stay of operation of decision**

9

**63.(1)** The court may grant a stay of the operation of the decision to secure the effectiveness of the appeal.

10

11

**(2)** The stay—

12

(a) may be given on conditions the court considers appropriate; and

13

(b) operates for the period fixed by the court; and

14

(c) may be revoked or amended by the court.

15

**(3)** The period of the stay must not extend past the time when the court decides the appeal.

16

17

**(4)** The appeal affects the decision, or carrying out of the decision, only if the decision is stayed.

18

19

***Division 2—Evidence***

20

**Application of div 2**

21

**64.** This division applies to a proceeding under this Act.

22



<b>Appointments and authority</b>	1
<b>65.</b> It is not necessary to prove—	2
(a) the chief executive’s appointment; or	3
(b) an authorised officer’s appointment; or	4
(c) the authority of the chief executive or an authorised officer to do anything under this Act.	5 6
 <b>Signatures</b>	 7
<b>66.</b> A signature purporting to be the signature of the chief executive or an authorised officer is evidence of the signature it purports to be.	8 9
 <b>Evidentiary aids</b>	 10
<b>67.(1)</b> A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of it—	11 12
(a) a stated document is one of the following things made, given, or issued under this Act or the <i>Integrated Planning Act 1997</i> —	13 14
(i) an appointment;	15
(ii) a decision;	16
(iii) a compliance notice;	17
(iv) a development approval;	18
(v) a property vegetation management plan;	19
(vi) an applicable code;	20
(b) a stated document is a copy of a thing mentioned in paragraph (a);	21
(c) on a stated day, or during a stated period, a person’s appointment as an authorised officer was, or was not, in force;	22 23
(d) on a stated day, a stated person was given a compliance notice under this Act;	24 25
(e) on a stated day, a stated requirement was made of a stated person.	26
<b>(2)</b> A statement in a complaint for an offence against this Act that the	27

matter of the complaint came to the knowledge of the complainant on a stated day is evidence of the matter stated. 1  
2

### *Division 3—Proceedings* 3

#### **Summary proceedings for offences** 4

**68.(1)** A proceeding for an offence against this Act, or for a vegetation clearing offence, must be taken in a summary way under the *Justices Act 1886*. 5  
6  
7

**(2)** A proceeding for an offence against this Act must start— 8

(a) within 1 year after the commission of the offence; or 9

(b) within 1 year after the offence comes to the complainant's knowledge, but within 5 years after the offence is committed. 10  
11

**(3)** Despite the *Integrated Planning Act 1997*, a proceeding for a vegetation clearing offence must start— 12  
13

(a) within 1 year after the commission of the offence; or 14

(b) within 1 year after the offence comes to the complainant's knowledge, but within 5 years after the offence is committed. 15  
16

## **PART 5—MISCELLANEOUS** 17

#### **Advisory committees** 18

**69.(1)** The Minister may establish advisory committees to advise the Minister about vegetation management. 19  
20

**(2)** The Minister may decide— 21

(a) the functions or terms of reference of a committee; and 22

(b) the membership of a committee; and 23

(c) how a committee is to operate. 24

(3) A committee member is entitled to be paid the fees and allowances decided by the Governor in Council. 1  
2

### **Regional vegetation management committees** 3

70.(1) The Minister may establish regional vegetation management committees to advise the Minister about vegetation management. 4  
5

(2) The Minister may decide— 6

(a) the functions or terms of reference of a committee; and 7

(b) the membership of a committee; and 8

(c) how a committee is to operate. 9

(3) A committee member is entitled to be paid the fees and allowances decided by the Governor in Council. 10  
11

### **Protecting officials from civil liability** 12

71.(1) An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act. 13  
14

(2) If subsection (1) prevents civil liability attaching to an official, the liability attaches instead to the State. 15  
16

(3) In this section— 17

“official” means— 18

(a) the Minister; or 19

(b) the chief executive; or 20

(c) an authorised officer; or 21

(d) a person acting under the direction of an authorised officer. 22

### **Regulation-making power** 23

72. The Governor in Council may make regulations under this Act. 24

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## PART 6—TRANSITIONAL PROVISIONS

### Existing development approvals and applications for development approvals

**73.(1)** Subsection (2) applies to a development approval involving the clearing of vegetation in force immediately before the commencement of this section.

(2) The approval has effect as if this Act had not been enacted.

(3) Subsection (4) applies to a development application involving the clearing of vegetation made to the assessment manager that—

(a) has not been decided before the commencement of this section; or

(b) has been decided, but is the subject of an appeal under the *Integrated Planning Act 1997* and the appeal has not been decided before the commencement of this section.

(4) The application may be decided as if this Act had not been enacted and, if a development approval is given for the application, the approval has effect as if this Act had not been enacted.

### Existing development control plans and special facilities zones

**74.** Nothing in this Act affects the clearing of vegetation—

(a) under a development control plan mentioned in the *Integrated Planning Act 1997*, section 6.1.45A;<sup>6</sup> or

(b) in an area designated, immediately before the commencement of this section, as a special facilities zone, or like zone, under a planning scheme under the *Integrated Planning Act 1997*.

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<sup>6</sup> *Integrated Planning Act 1997*, section 6.1.45A (Development control plans under repealed Act)

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**PART 7—AMENDMENT OF INTEGRATED  
PLANNING ACT 1997**

**Act amended in pt 7**

**75.** This part amends the *Integrated Planning Act 1997*.

**Amendment of s 1.3.5 (Definitions for terms used in “development”)**

**76.(1)** Section 1.3.5, definition “**operational work**”, paragraph (b)—  
*omit, insert—*

‘(b) conducting a forest practice; or’.

**(2)** Section 1.3.5, definition “**operational work**”, paragraph (e), after  
‘vegetation’—

*insert—*

‘not on freehold land’.

**(3)** Section 1.3.5, definition “**operational work**”—

*insert—*

‘(f) clearing vegetation on freehold land;’.

**Amendment of s 3.2.3 (Acknowledgment notices generally)**

**77.** Section 3.2.3(2)(a)—

*insert—*

‘(vi) clearing vegetation on freehold land;’.

**Amendment of s 3.3.15 (Referral agency assesses application)**

**78.(1)** Section 3.3.15(1)—

*insert—*

‘(c) for a concurrence agency—against any applicable concurrence  
agency code.’.

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(2) Section 3.3.15(2)(a), ‘relevant’—	1
<i>omit.</i>	2
(3) Section 3.3.15(2)(a), ‘schemes and policies’—	3
<i>omit, insert—</i>	4
‘schemes, policies and codes, of the type mentioned in subsection (1),’.	5
<b>Amendment of s 3.3.18 (Concurrence agency’s response powers)</b>	6
<b>79.</b> Section 3.3.18(4)(a) and (b)—	7
<i>omit, insert—</i>	8
‘(a) the development does not comply with a law, policy or code mentioned in section 3.3.15(1)(a) or (c); and	9
10	10
(b) compliance with the law, policy or code can not be achieved by imposing conditions.’.	11
12	12
<b>Amendment of s 3.5.4 (Code assessment)</b>	13
<b>80.(1)</b> Section 3.5.4(2)—	14
<i>omit, insert—</i>	15
‘(2) The assessment manager must assess the part of the application only against—	16
17	17
(a) applicable codes (other than concurrence agency codes the assessment manager does not apply); and	18
19	19
(b) subject to paragraph (a)—the common material.’.	20
(2) Section 3.5.4(3), after ‘codes’—	21
<i>insert—</i>	22
‘in addition to the applicable codes mentioned in subsection (2)(a)’.	23

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<b>Amendment of s 4.1.33 (Stay of operation of enforcement notice)</b>	1
<b>81.</b> Section 4.1.33(2)—	2
<i>insert—</i>	3
‘(c) clearing vegetation on freehold land.’	4
<b>Amendment of s 4.3.8 (Application of div 2)</b>	5
<b>82.</b> Section 4.3.8—	6
<i>insert—</i>	7
‘(e) clearing vegetation on freehold land.’	8
<b>Amendment of s 4.3.26 (Effect of orders)</b>	9
<b>83.</b> Section 4.3.26(2)—	10
<i>omit, insert—</i>	11
‘(2) Without limiting the court’s powers, the court may make an order requiring—	12
(a) the repairing, demolition or removal of a building; or	14
(b) for a development offence relating to the clearing of vegetation on freehold land—	15
(i) rehabilitation or restoration of the area cleared; or	17
(ii) if the area cleared is not capable of being rehabilitated or restored—the planting of stated vegetation on a stated area of equivalent size.’	18
	19
	20
<b>Amendment of sch 8 (Assessable, self-assessable and exempt development)</b>	21
<b>84.(1)</b> Schedule 8, after item 3—	23
<i>insert—</i>	24
‘ <b>3A.</b> Carrying out operational work that is the clearing of native vegetation on freehold land, unless the clearing is—	25
	26

*Vegetation Management*

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- |     |  |                |
|-----|--|----------------|
| (a) | to the extent necessary to build a single residence and any reasonably associated building or structure; or  | 1<br>2         |
| (b) | necessary for essential management; or   | 3              |
| (c) | necessary for routine management in an area that is covered by a regional ecosystem map and is outside—  | 4<br>5         |
|     | (i) a remnant endangered regional ecosystem; or  | 6              |
|     | (ii) a remnant of concern regional ecosystem; or   | 7              |
| (d) | necessary for routine management in an area outside—   | 8              |
|     | (i) an area of high nature conservation value; or  | 9              |
|     | (ii) an area vulnerable to land degradation; or  | 10             |
| (e) | necessary for routine management in an area covered by a remnant map; or   | 11<br>12       |
| (f) | in an urban area, other than a regional ecosystem shown on a regional ecosystem map and mentioned in paragraph (c)(i) or (ii) or an area mentioned in paragraph (d)(i); or                   | 13<br>14<br>15 |
| (g) | in a non-urban area that is not in a regional ecosystem shown on a regional ecosystem map and mentioned in paragraph (c)(i) or (ii) or an area mentioned in paragraph (d)(i) or (ii) and is— | 16<br>17<br>18 |
|     | (i) for the reconfiguration of a lot not involving the opening of a road; or   | 19<br>20       |
|     | (ii) the natural and ordinary consequence of other assessable development and the total area of the part of the land on which the development occurs is less than 5 ha; or                   | 21<br>22<br>23 |
| (h) | before 1 July 2000—the natural and ordinary consequence of other assessable development.’.   | 24<br>25       |
| (2) | Schedule 8, item 13(a), after ‘use’—   | 26             |
|     | <i>insert</i> —  | 27             |
|     | ‘, other than the clearing of native vegetation on freehold land’.   | 28             |
| (3) | Schedule 8, item 13(b), after ‘reduction’—   | 29             |
|     | <i>insert</i> —  | 30             |
|     | ‘under the <i>Fire and Rescue Authority Act 1990</i> ’.  | 31             |



*Vegetation Management*

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(4) Schedule 8, item 13(c)—	1
<i>omit, insert—</i>	2
‘(c) the use of premises for forest practices.’.	3
(5) Schedule 8, item 22—	4
<i>insert—</i>	5
‘ <b>“area of high nature conservation value”</b> means an area of high nature conservation value as defined under the <i>Vegetation Management Act 1999</i> .	6 7 8
<b>“area vulnerable to land degradation”</b> means an area vulnerable to land degradation as defined under the <i>Vegetation Management Act 1999</i> .	9 10
<b>“essential management”</b> means clearing native vegetation—	11
(a) for establishing or maintaining a fire break sufficient to protect a building, property boundary or paddock; or	12 13
(b) that is likely to endanger the safety of a person or property on the land because the vegetation is likely to fall; or	14 15
(c) for maintaining an existing fence, stock yard, shed, road or other built infrastructure; or	16 17
(d) for maintaining a garden or orchard.	18
<b>“regional ecosystem”</b> means a regional ecosystem as defined under the <i>Vegetation Management Act 1999</i> .	19 20
<b>“regional ecosystem map”</b> means a regional ecosystem map as defined under the <i>Vegetation Management Act 1999</i> .	21 22
<b>“remnant endangered regional ecosystem”</b> means a remnant endangered regional ecosystem as defined under the <i>Vegetation Management Act 1999</i> .	23 24 25
<b>“remnant map”</b> means a remnant map as defined under the <i>Vegetation Management Act 1999</i> .	26 27
<b>“remnant of concern regional ecosystem”</b> means a remnant of concern regional ecosystem as defined under the <i>Vegetation Management Act 1999</i> .	28 29 30
<b>“remnant vegetation”</b> means remnant vegetation as defined under the <i>Vegetation Management Act 1999</i> .	31 32

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<b>“routine management”</b> means clearing native vegetation—	1
(a) for establishing a necessary fence, road or other built infrastructure; or	2 3
(b) that is not remnant vegetation; or	4
(c) for supplying fodder for stock, in drought conditions only.	5
<b>“non-urban area”</b> means an area other than an urban area.	6
<b>“urban area”</b> means an area identified on a map in a planning scheme as an area for urban purposes, including rural residential purposes and future urban purposes.’.	7 8 9
<b>Amendment of sch 10 (Dictionary)</b>	10
<b>85.</b> Schedule 10—	11
<i>insert—</i>	12
‘ <b>“clear”</b> , for vegetation—	13
(a) means remove or cut down, ringbark, push over, poison or destroy the vegetation in any way; but	14 15
(b) does not include—	16
(i) destroying standing vegetation by stock, or lopping a tree; and	17 18
(ii) removing or cutting down, ringbarking, pushing over, poisoning or destroying the vegetation in any way as a forest practice.	19 20 21
<b>“concurrency agency code”</b> , for a concurrence agency, means a code, or part of a code, the concurrence agency is required under this Act or another Act to assess a development application against.	22 23 24
<b>“destroy”</b> , for vegetation, includes destroy it by burning, flooding or draining.	25 26
<b>“forest practice”</b> —	27
1. “Forest practice” means planting trees or managing, felling and removing standing trees for an ongoing forestry business in—	28 29
(a) a plantation; or	30

*Vegetation Management*

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- (b) native forest, if, in the native forest— 1
- (i) the activities are conducted in a way that is consistent 2  
with a code applying to native forest management and 3  
approved by the Minister responsible for administering 4  
the *Vegetation Management Act 1999*; or 5
- (ii) the activities are conducted in a way that— 6
- (A) ensures restoration of a similar type, and to the 7  
extent, of the removed trees; and 8
- (B) ensures trees are only felled for the purpose of 9  
being sawn into timber or processed into another 10  
value added product (other than woodchips for an 11  
export market); and 12
- (C) does not cause land degradation as defined under 13  
the *Vegetation Management Act 1999*. 14
2. The term includes carrying out limited associated work, including, 15  
for example, drainage and other necessary engineering works. 16
3. The term does not include clearing native vegetation for the initial 17  
establishment of a plantation. 18
- “freehold land”** includes land in a freeholding lease under the *Land Act* 19  
*1994*. 20
- “lopping”**, a tree, means cutting or pruning its branches, but does not 21  
include— 22
- (a) removing its trunk; and 23
- (b) cutting or pruning its branches so severely that it is likely to die. 24
- “native vegetation”** means— 25
- (a) a native tree; or 26
- (b) a native plant, other than a grass or mangrove.’. 27

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<b>PART 8—AMENDMENT OF LAND ACT 1994</b>	1
<b>Act amended in pt 8</b>	2
<b>86.</b> This part amends the <i>Land Act 1994</i> .	3
<b>Amendment of s 214 (Land protection)</b>	4
<b>87.</b> Section 214(1)(c), ‘degradation to the land’—	5
<i>omit, insert—</i>	6
‘land degradation’.	7
<b>Amendment of s 252 (Object of part)</b>	8
<b>88.</b> Section 252(c), ‘degradation of the land’—	9
<i>omit, insert—</i>	10
‘land degradation’.	11
<b>Amendment of s 253 (Definitions)</b>	12
<b>89.</b> Section 253, definitions “ <b>critical area</b> ” and “ <b>environmentally sensitive area</b> ”—	13
<i>omit.</i>	14
<b>Amendment of s 255 (Tree clearing permit needed)</b>	16
<b>90.</b> Section 255, penalty, ‘400 penalty units’—	17
<i>omit, insert—</i>	18
‘1 665 penalty units’.	19

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<b>Amendment of s 257 (When tree clearing permit is not needed)</b>	1
<b>91.</b> Section 257(e), ‘a critical area’—	2
<i>omit, insert—</i>	3
‘an environmentally sensitive area’.	4
<b>Amendment of s 260 (How application for tree clearing permit made)</b>	5
<b>92.</b> Section 260(1)(b), after ‘by the’—	6
<i>insert—</i>	7
‘fee and’.	8
<b>Amendment of s 261 (Tree management plan)</b>	9
<b>93.</b> Section 261—	10
<i>insert—</i>	11
‘(ca)any areas affected by land degradation;’.	12
<b>Amendment of s 262 (Issues chief executive must consider)</b>	13
<b>94.(1)</b> Section 262(1)(a)—	14
<i>omit, insert—</i>	15
‘(a) the protection of restricted vegetation types and areas of heritage value;’.	16
17	17
<b>(2)</b> Section 262(1)(c)—	18
<i>omit, insert—</i>	19
‘(c) the protection of environmentally sensitive areas;	20
(ca) any effect of the clearing on land degradation;’.	21

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<b>Amendment of s 270 (Conditions of clearing)</b>	1
<b>95.</b> Section 270(1)(b), ‘a critical area’—	2
<i>omit, insert—</i>	3
‘an environmentally sensitive area’.	4
 <b>Amendment of sch 6 (Dictionary)</b>	5
<b>96.(1)</b> Schedule 6, definitions “critical area” and “environmentally sensitive area”—	6
<i>omit.</i>	7
<b>(2)</b> Schedule 6—	8
<i>insert—</i>	9
‘ “ <b>environmentally sensitive area</b> ” means an area of high nature conservation value, or an area vulnerable to land degradation, as defined under the <i>Vegetation Management Act 1999</i> .	10
<b>“land degradation”</b> includes the following—	11
(a) soil erosion;	12
(b) rising water tables;	13
(c) the expression of salinity;	14
(d) mass movement by gravity of soil or rock;	15
(e) stream bank instability;	16
(f) a process that results in declining water quality.’.	17
	18
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	20

<b>SCHEDULE</b>	1
<b>DICTIONARY</b>	2
section 5	3
<b>“applicable code”</b> means an applicable code as defined under the <i>Integrated Planning Act 1997</i> .	4 5
<b>“area of high nature conservation value”</b> means an area declared to be an area of high nature conservation value under the following—	6 7
(a) a regional vegetation management plan;	8
(b) a declaration made by the Governor in Council under section 17;	9
(c) an interim declaration made by the Minister under section 18.	10
<b>“area vulnerable to land degradation”</b> means an area declared to be an area vulnerable to land degradation under the following—	11 12
(a) a regional vegetation management plan;	13
(b) a declaration made by the Governor in Council under section 17;	14
(c) an interim declaration made by the Minister under section 18.	15
<b>“assessment manager”</b> means an assessment manager as defined under the <i>Integrated Planning Act 1997</i> .	16 17
<b>“biodiversity”</b> means the variability among living organisms from all sources, including terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part, and includes—	18 19 20
(a) diversity within species and between species; and	21
(b) diversity of ecosystems.	22
<b>“bioregion”</b> means a bioregion shown on map number V0001 held by the department.	23 24
<b>“centre of endemism”</b> means an area containing concentrations of species that are largely restricted to the area.	25 26

## SCHEDULE (continued)

<b>“clear”</b> , for vegetation—	1
(a) means remove or cut down, ringbark, push over, poison or destroy the vegetation in any way; but	2 3
(b) does not include—	4
(i) destroying standing vegetation by stock, or lopping a tree; and	5 6
(ii) removing or cutting down, ringbarking, pushing over, poisoning or destroying the vegetation in any way as a forest practice.	7 8 9
<b>“concurrence agency”</b> means a concurrence agency as defined under the <i>Integrated Planning Act 1997</i> .	10 11
<b>“destroy”</b> , for vegetation, includes destroy it by burning, flooding and draining.	12 13
<b>“development”</b> means development as defined under the <i>Integrated Planning Act 1997</i> .	14 15
<b>“development application”</b> means a development application as defined under the <i>Integrated Planning Act 1997</i> that involves the clearing of vegetation.	16 17 18
<b>“development approval”</b> means a development approval as defined under the <i>Integrated Planning Act 1997</i> .	19 20
<b>“endangered regional ecosystem”</b> means a regional ecosystem that is prescribed under a regulation and has either—	21 22
(a) less than 10% of its pre-clearing extent remaining; or	23
(b) 10% to 30% of its pre-clearing extent remaining and the pre-clearing extent was less than 10 000 ha.	24 25
<b>“equipment”</b> includes machinery.	26
<b>“forest practice”</b> —	27
1. “Forest practice” means planting trees or managing, felling and removing standing trees for an ongoing forestry business in—	28 29
(a) a plantation; or	30



## SCHEDULE (continued)

(b) native forest, if, in the native forest—	1
(i) the activities are conducted in a way that is consistent with a code applying to native forest management and approved by the Minister responsible for administering the <i>Vegetation Management Act 1999</i> ; or	2 3 4 5
(ii) the activities are conducted in a way that—	6
(A) ensures restoration of a similar type, and to the extent, of the removed trees; and	7 8
(B) ensures trees are only felled for the purpose of being sawn into timber or processed into another value added product (other than woodchips for an export market); and	9 10 11 12
(C) does not cause land degradation as defined under the <i>Vegetation Management Act 1999</i> .	13 14
2. The term includes carrying out limited associated work, including, for example, drainage and other necessary engineering works.	15 16
3. The term does not include clearing native vegetation for the initial establishment of a plantation.	17 18
<b>“freehold land”</b> includes land in a freeholding lease as defined under the <i>Land Act 1994</i> .	19 20
<b>“IDAS”</b> means the system detailed in the <i>Integrated Planning Act 1997</i> , chapter 3, for integrating State and local government assessment and approval processes for development.	21 22 23
<b>“information notice”</b> , about a decision, means a notice stating the following—	24 25
(a) the decision;	26
(b) the reasons for the decision;	27
(c) that the person given the notice may appeal against the decision to the Magistrates Court within 28 days after the notice is given;	28 29
(d) how to start the appeal.	30

## SCHEDULE (continued)

<b>“land degradation”</b> includes the following—	1
(a) soil erosion;	2
(b) rising water tables;	3
(c) the expression of salinity;	4
(d) mass movement by gravity of soil or rock;	5
(e) stream bank instability;	6
(f) a process that results in declining water quality.	7
<b>“lopping”</b> , a tree, means cutting or pruning its branches, but does not include—	8
(a) removing its trunk; and	9
(b) cutting or pruning its branches so severely that it is likely to die.	10
<b>“of concern regional ecosystem”</b> means a regional ecosystem that is prescribed under a regulation and has either—	11
(a) 10% to 30% of its pre-clearing extent remaining; or	12
(b) more than 30% of its pre-clearing extent remaining and the pre-clearing vegetation was less than 10 000 ha.	13
<b>“pre-clearing extent”</b> , for a regional ecosystem, means the extent of the regional ecosystem before it was cleared.	14
<b>“property vegetation management plan”</b> means a plan of the area to which a development application relates showing the matters prescribed under a regulation.	15
<b>“public place”</b> means a place the public is entitled to use, open to the public or used by the public, whether or not on payment of an amount.	16
<b>“reasonably believes”</b> means believes on grounds that are reasonable in the circumstances.	17
<b>“reasonably suspects”</b> means suspects on grounds that are reasonable in the circumstances.	18
<b>“regional ecosystem”</b> means a vegetation community in a bioregion that is consistently associated with a particular combination of geology,	19
	20
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	29

## SCHEDULE (continued)

landform and soil.	1
<b>“regional ecosystem map”</b> means a map—	2
(a) certified as a regional ecosystem map by the chief executive of the department in which the <i>Vegetation Management Act 1999</i> is administered; and	3 4 5
(b) maintained by that department for the purpose of showing—	6
(i) remnant endangered regional ecosystems; and	7
(ii) remnant of concern regional ecosystems.	8
<b>“regional vegetation management plan”</b> means a plan made under section 15.	9 10
<b>“regrowth vegetation”</b> means vegetation that is not remnant vegetation.	11
<b>“regulate”</b> includes prohibit.	12
<b>“remnant endangered regional ecosystem”</b> —	13
1. A “remnant endangered regional ecosystem”, for an area of Queensland within a regional ecosystem map, means the part of an endangered regional ecosystem—	14 15 16
(a) mapped as a remnant endangered regional ecosystem on the map; and	17 18
(b) having vegetation, forming the predominant canopy—	19
(i) covering more than 50% of the undisturbed predominant canopy; and	20 21
(ii) averaging more than 70% of the vegetation’s undisturbed height.	22 23
2. A “remnant endangered regional ecosystem”, for an area of Queensland for which there is no regional ecosystem map, means the part of an endangered regional ecosystem having vegetation, forming the predominant canopy—	24 25 26 27
(a) covering more than 50% of the undisturbed predominant canopy; and	28 29

## SCHEDULE (continued)

- (b) averaging more than 70% of the vegetation’s undisturbed height. 1  
2
- “remnant map”** means a map— 3
- (a) certified as a remnant map by the chief executive of the department in which the *Vegetation Management Act 1999* is administered; and 4  
5  
6
- (b) maintained by that department for the purpose of showing areas of remnant and regrowth vegetation. 7  
8
- “remnant of concern regional ecosystem”**— 9
1. A “remnant of concern regional ecosystem”, for an area of Queensland within a regional ecosystem map, means the part of an of concern regional ecosystem— 10  
11  
12
- (a) mapped as a remnant of concern regional ecosystem on the map; and 13  
14
- (b) having vegetation, forming the predominant canopy— 15
- (i) covering more than 50% of the undisturbed predominant canopy; and 16  
17
- (ii) averaging more than 70% of the vegetation’s undisturbed height. 18  
19
2. A “remnant of concern regional ecosystem”, for an area of Queensland for which there is no regional ecosystem map, means the part of an of concern regional ecosystem having vegetation, forming the predominant canopy— 20  
21  
22  
23
- (a) covering more than 50% of the undisturbed predominant canopy; and 24  
25
- (b) averaging more than 70% of the vegetation’s undisturbed height. 26  
27
- “remnant vegetation”**— 28
1. “Remnant vegetation”, for an area of Queensland within a regional ecosystem map, means the vegetation— 29  
30
- (a) mapped as remnant vegetation on the map; and 31

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 SCHEDULE (continued)

- |  |             |
|--|-------------|
| (b) part of which forms the predominant canopy of the vegetation—  | 1<br>2      |
| (i) covering more than 50% of the undisturbed predominant canopy; and  | 3<br>4      |
| (ii) averaging more than 70% of the vegetation's undisturbed height.   | 5<br>6      |
| 2. “Remnant vegetation”, for an area of Queensland for which there is no regional ecosystem map, means the vegetation, part of which forms the predominant canopy of the vegetation— | 7<br>8<br>9 |
| (a) covering more than 50% of the undisturbed predominant canopy; and  | 10<br>11    |

## SCHEDULE (continued)

(b) averaging more than 70% of the vegetation’s undisturbed height.	1 2
“ <b>State policy</b> ” means the policy approved under section 10(3).	3
“ <b>undisturbed height</b> ”, for vegetation, means the height to which the vegetation normally grows.	4 5
“ <b>undisturbed predominant canopy</b> ”, for vegetation, means the predominant canopy the vegetation normally has.	6 7
“ <b>vegetation</b> ” see section 8.	8
“ <b>vegetation clearing offence</b> ” means an offence against a vegetation clearing provision.	9 10
“ <b>vegetation clearing provision</b> ” means the <i>Integrated Planning Act 1997</i> , section 4.3.1(1), 4.3.3(1), 4.3.4(1), 4.3.5(1) or 4.3.15 <sup>7</sup> to the extent the provision relates to the clearing of vegetation on freehold land.	11 12 13
“ <b>vegetation management</b> ” see section 9.	14
“ <b>wildlife refugium</b> ” means an area that is a sanctuary to which a species or group of species has retreated, or been confined, in response to threatening processes, including a climatic change.	15 16 17

<sup>7</sup> *Integrated Planning Act 1997*, section 4.3.1 (Carrying out assessable development without permit), 4.3.3 (Compliance with development approval), 4.3.4 (Compliance with identified codes about use of premises), 4.3.5 (Carrying on unlawful use of premises) or 4.3.15 (Compliance with enforcement notice)