

# Vegetation Management Framework Amendment Bill 2013

## Explanatory Notes for amendments to be moved during consideration in detail by the Honourable Andrew Cripps MP, Minister for Natural Resources and Mines

### Title of the Bill

The short title of the bill is the Vegetation Management Framework Amendment Bill 2013 (the Bill).

### Objectives of the Amendments

#### *Amendment of commencement provisions*

The objective of the amendment is to allow for some provisions and corresponding clauses to commence on date of assent and others to commence on a date yet to be set for proclamation.

#### *Making of self-assessable codes*

The objective of the amendment is to replace the word “to” with the word “for” to where the Minister must make a self assessable code for relevant infrastructure activities.

#### *Essential habitat map definition*

The objective of the amendment is to amend the existing essential habitat map provisions in the *Vegetation Management Act 1999*, by including category A areas, to support the new mapping model.

#### *Extractive industry definition*

The objective of the amendment is to ensure that the definition of extractive industry applies consistently to self-assessable vegetation clearing codes and the vegetation clearing application provisions of the *Vegetation Management Act 1999*.

#### *Prescribed restrictions for clearing*

The objective of the amendment is to detail when restrictions might be prescribed to clearing for high value or irrigated high value agriculture. The amendment also addresses an issue raised by the Committee concerning the Minister’s power to prescribe these types of

restrictions, and moves the power to do so to a regulation. This amendment makes for a more transparent approach for assessing applications to clear for high value and irrigated high value agriculture.

*Matters for deciding an application provision for high value agriculture and irrigated high value agriculture*

The objective of this amendment is to ensure that details provided by an applicant, about how adverse impacts of the clearing will be minimised or mitigated, will be considered when the Chief Executive is deciding if an application is for high value agriculture or irrigated high value agriculture.

*Eligible owner definition for irrigated high value agriculture clearing applications*

The objective of the amendment is to ensure that clearing applications under the *Vegetation Management Act 1999* for high value agriculture and irrigated high value agriculture are only accepted if specific requirements are satisfied. For irrigated agriculture, this means that adequate water supply must be available and permitted to be taken by legislation.

*Relevant vegetation map definition for existing restrictions on legal proceedings provisions*

The objective of the amendment is to correct inadvertent inclusion of Property Map of Assessable Vegetation (PMAV) in the definition of relevant vegetation map and to clarify the intent of the provisions.

*Wild river transitional provision*

The objective of the amendment is to revoke category A PMAVs that were made because the area became a wild river high preservation areas which supports the removal of all wild river requirements from the *Vegetation Management Act 1999*.

*Native forest practice definition*

The objective of the amendment is to amend the *Vegetation Management Act 1999* Dictionary to include the revised definition of 'native forest practice' to align with changes to the native forest practice code as a result of new provisions for self-assessable codes.

*Amendments to the Nature Conservation Act 1992*

The objective of the amendment is to allow emergency drought relief grazing to be authorised on a limited number of national parks until the end of 2013

*Formatting amendments*

These amendments were to correct minor formatting and grammatical errors.

## **Achievement of the Objectives**

### *Amendment of commencement provisions*

The amendment achieves the policy objective by allowing for some provisions and corresponding clauses to commence on date of assent and others to commence on a date yet to be set for proclamation.

### *Making of self assessable codes*

The amendment achieves the policy objective by allowing the existing intent of the legislation to be maintained.

### *Essential habitat map definition*

The amendment achieves the policy objective by allowing essential habitat maps to be made over category A areas, as well as category B and category C areas.

### *Extractive industry definition*

The amendment achieves the policy objective by ensuring that the definition of extractive industry applies consistently to self-assessable vegetation clearing codes and the vegetation clearing application provisions of the Act.

### *Prescribed restrictions for clearing*

The amendment achieves the policy objective by inserting new provisions to allow for prescribed restrictions on clearing for high value and irrigated high value agriculture.

### *Matters for deciding an application provision for high value agriculture and irrigated high value agriculture*

The amendment achieves the policy objective by ensuring details, about how the adverse impacts of clearing will be minimised or mitigated, will be considered when the Chief Executive is deciding if an application is for high value agriculture or irrigated high value agriculture.

### *Eligible owner definition for irrigated high value agriculture clearing applications*

The amendment achieves the policy objective by amending the definition of ‘eligible owner’ to align with amendments made to section 20 of the *Water Act 2000* as a consequence of the *Land, Water and Other Legislation Amendment Act 2013*. The policy objective is also achieved by amending the definition of ‘eligible owner’ to include landholders who have authority to take water under another State or Territory’s legislation that are recognised under Queensland’s *Water Act 2000*, to be able to apply to clear for irrigated high value agriculture in Queensland.

*Relevant vegetation map definition for existing restrictions on legal proceedings provisions*

The amendment achieves the policy objective by allowing the existing intent of the legislation to be maintained. Without the amendment, a landholder's rights to appeal a Property Map of Assessable Vegetation (PMAV) will be removed.

*Wild river transitional provision*

The amendment achieves the policy objective by clarifying the intent of the transitional provision that supports the removal of all wild river requirements from the *Vegetation Management Act 1999*. Without the amendment the provision could be misinterpreted, resulting in the incorrect revoking of certain PMAVs.

*Native forest practice definition*

The amendment achieves the policy objective by aligning the definition to new provisions for self-assessable codes made by the Bill.

*Amendments to the Nature Conservation Act 1992*

Severe drought and extensive wildfire across much of western and northern Queensland in early 2013 has resulted in the loss of fodder and extreme hardship for many graziers. Drought declarations are in place for 13 local government areas covering about a third of the state.

In addition to a range of drought relief measures available to affected graziers in the form of financial assistance and concessions, the Queensland Government is looking to provide for access to State owned lands for emergency drought relief grazing.

State owned land in the affected areas is limited. Grazing access is being provided to some resources reserves declared under the *Nature Conservation Act 1992* and other properties purchased for declaration as protected areas.

Consideration has also been given to allowing temporary drought relief grazing on national parks. A number of national parks were identified that could be offered for emergency short term grazing. These parks are characterised as being predominantly outside the drought declared area and containing the drought tolerant introduced 'buffel grass' a relatively high biomass source of available food that could support emergency grazing in these locations.

The *Nature Conservation Act 1992* does not presently allow for a stock grazing permit to be granted for a national park. The Act is to be amended to achieve the policy objective of allowing for emergency drought relief grazing on the nominated national parks for a limited period of time, by means of the grant of a stock grazing permit.

This initiative will provide an additional 50 000 hectares of land for emergency short term grazing relief and will occur as a small part of the larger State strategy for relief provided under the Drought Relief Assistance Scheme administered by the Department of Agriculture Fisheries and Forestry and other measures.

### *Formatting amendments*

These amendments were to correct minor formatting and grammatical errors.

## **Alternative Ways of Achieving Policy Objectives**

### *Amendments to the Nature Conservation Act 1992*

The proposed amendment of the *Nature Conservation Act 1992* for the purpose of the policy objective is being made in addition to a range of other available drought relief measures. Therefore, alternative ways of responding to drought-related hardship are already being applied.

The national parks proposed to be made available were selected on the basis of relative proximity to hardship areas and suitability for short-term grazing, particularly in areas of introduced buffel grass.

There is no alternative way of achieving the other additional policy objectives as they require amendments to clauses in the Bill.

## **Estimated Cost for Government Implementation**

The additional amendments to the Bill do not result in any additional cost for government implementation.

### *Amendments to the Nature Conservation Act 1992*

Additional fencing and fencing repairs will be required for the effective management of drought relief grazing in the nominated national parks. Effective boundary fencing will be required as those being offered drought relief grazing may not be immediate neighbours and contention could arise as to ownership of agisted or neighbours' stock. The Department of National Parks, Recreation, Sport and Racing estimates that approximately \$500 000 will need to be provided from departmental funds for this purpose.

## **Consistency with Fundamental Legislative Principles**

### *Amendments to the Nature Conservation Act 1992*

The amendments are consistent with the fundamental legislative principles. The grant of a stock grazing permit will be subject to the usual permit provisions under the *Nature Conservation Act 1992*, including opportunities for review and appeal of decisions and conditions. In addition, these permits will be offered free of charge.

The other proposed amendments are consistent with fundamental legislative principles and have sufficient regard to the rights and liberties of individuals.

## Consultation

### *Amendments to the Nature Conservation Act 1992*

Consultation has occurred with the Department of Agriculture, Fisheries and Forestry about drought assessments and drought declarations, and with staff of the Department of National Parks, Recreation, Sport and Racing about potential stock grazing in particular national park areas, including areas with introduced buffel grass.

Consultation has also occurred with the Department of the Premier and Cabinet and Queensland Treasury and Trade with both agencies supporting the proposed amendments.

No consultation has been undertaken on the other proposed amendments. The amendments seek to ensure the policy intent of the Bill is achieved.

# NOTES ON PROVISIONS

## Amendment 1

**Amendment 1 amends clause 2 (Commencement)** of the Bill. Some provisions and corresponding clauses will commence on the date of assent and others will commence on a date to be fixed by proclamation.

## Amendment 2

**Amendment 2 amends clause 7 (Amendment of pt 2, div 4 hdg (Declaration of areas of high nature conservation value and areas vulnerable to land degradation))** of the Bill. This is a minor formatting amendment only.

## Amendment 3

**Amendment 3 amends clause 10 (Insertion of new pt 2, div 4, sdiv 1A)** of the Bill. This amendment removes clause 10 of the Bill as restricted areas are provided for in proposed new section 22DAB(4) in Amendment 10. Section 22DAB(4) provides that a regulation may be made to restrict clearing for high value and irrigated high value agriculture.

## Amendment 4

**Amendment 4 amends clause 11 (Replacement of pt2, divs 4B and 4C- specifically s190(1)(a)(ii))** of the Bill. This amendment was a recommendation from the Committee; it will clarify the intent of the provision. The amendment will replace the word ‘to’ with the word ‘for’ in new section 190(1)(a)(ii). This is a minor amendment to where the Minister must make a self assessable code for relevant infrastructure activities.

## Amendment 5

**Amendment 5 amends clause 13** of the Bill, which replaces existing section 20AC of the *Vegetation Management Act 1999*, giving the chief executive the power to make the essential habitat map and define what the map can contain to support the new mapping model. Currently in the Bill, clause 13 incorrectly excludes ‘category A areas’ from areas where the essential habitat map can be made. Category A areas can contain both remnant and high value regrowth vegetation which is essential habitat. Consequently clause 13 must be amended to include category A.

## Amendment 6

**Amendment 6 amends clause 24 (Insertion of a new s20ANA)** of the Bill. This is a minor correction and amends the definition of a category R to reflect the intent of the policy.

### **Amendment 7**

**Amendment 7 amends clause 25 (Amendment of s 20AO (What is a category X area))** of the Bill. This is a minor amendment to ensure that the definition of category X remains consistent throughout the Act.

### **Amendment 8**

**Amendment 8 amends clause 46 (Amendment of s 22A (Particular vegetation clearing applications may be assessed))** of the Bill. The definition of extractive industry must be removed from section 22A of the Act and inserted into the Dictionary of the Act so that the definition applies consistently to self-assessable vegetation clearing codes and the vegetation clearing application provisions of the Act.

### **Amendment 9**

**Amendment 9 amends clause 47 (Insertion of new pt 2, div 6, sdiv 1A)** of the Bill. This amendment aligns with the changes made to prescribed restrictions to clearing for high value or irrigated high value agriculture under section 22DAB (Requirements for making application). Applicants will be required to show how their application complies with prescribed restrictions, if any, for the proposed area of clearing.

### **Amendment 10**

**Amendment 10 amends clause 47 (Insertion of new pt 2, div 6, sdiv 1A)** of the Bill. This amendment identifies when restrictions might be prescribed for clearing for high value and irrigated high value agriculture. The amendment also addresses an issue raised by the Committee concerning the Minister's power to declare these types of restrictions, and moves the power to do so to the regulation. Together these amendments make for a more transparent approach for assessing applications for high value and irrigated high value agriculture.

### **Amendment 11**

**Amendment 11 amends clause 47 (Insertion of new pt 2, div 6, sdiv 1A)** of the Bill. This amendment has been made to align Chief Executive considerations of high value and irrigated high value agriculture applications with application requirements in 22DAB.

### **Amendment 12**

**Amendment 12 amends clause 47 (Insertion of new pt 2, div 6, sdiv 1A)** of the Bill. This new insertion amends the definition of 'eligible owner' to align with renumbering of section 20 of the *Water Act 2000* through the passing of the *Land, Water and Other Legislation Amendment Act 2013*. This amendment will avoid any inadvertent misalignment of the cross reference to section 20 while maintaining the intent of the original provision.

### **Amendment 13**

**Amendment 13 amends clause 47 (Insertion of new pt2, div 6, sdiv 1A)** of the Bill. This new insertion amends the definition of 'eligible owner' to also include someone that holds an



authorisation to take water under a law of another State or Territory that is recognised to be of similar nature and effect as an authorisation under the *Water Act 2000*. Recognition of a similar nature and effect is through declaration under the Water Regulation 2002.

For example, section 52A of the Water Regulation 2002 recognises that, in accordance with the Border Rivers Resource Operations Plan and the New South Wales-Queensland Intergovernmental Agreement 2008, an authorisation to take water under a New South Wales access licence is of a similar nature and effect as a water allocation under the *Water Act 2000*. Landholders with these authorisations will be able to apply to clear for irrigated high value agricultural as with holders of other authorisations under the *Water Act 2000*.

#### **Amendment 14**

**Amendment 14 amends clause 57 (Replacement of 68CA (Definitions of div 4))** of the Bill and replaces the existing reference of ‘relevant vegetation map’ with ‘regulated vegetation management map’. This is as a consequence of amendments made to the definition of ‘relevant vegetation map’ in Amendment 16.

#### **Amendment 15**

**Amendment 15 amends clause 57 (Replacement of 68CA (Definitions of div 4))** of the Bill. Clause 57 must be amended to maintain the intent of the existing provision which is to restrict legal proceedings for PMAV applications from 8 October 2009 to 3 November 2009 only, not all PMAVs made since 8 October 2009 to the present.

#### **Amendment 16**

**Amendment 16 amends clause 57 (Replacement of 68CA (Definitions of div 4))** of the Bill and removes the existing definition of ‘relevant vegetation map’. The definition in the Bill incorrectly included PMAVs which would have limited legal proceedings for all PMAVs. This amendment ensures the intent of the original provisions is maintained. As a consequence of removing ‘PMAV’, the definition of ‘relevant vegetation map’ was no longer required.

#### **Amendment 17**

**Amendment 17 amends clause 64 (insertion of new pt 6, div 9)** of the Bill, which is the Transitional arrangements. This amendment removes the definition of ‘commencement’, which is no longer accurate due to the requirement to commence some of the Bill’s provisions at assent and others at a later date fixed by proclamation. The details of commencement are outlined in Amendment 1.

#### **Amendments 18 and 19**

**Amendments 18 and 19 amend clause 64 (insertion of new pt 6, div 9)** of the Bill, which is the Transitional arrangements. These amendments are as a consequence of the removal of the definition of commencement in Amendment 17 and tie the commencement of the sections to the date of assent or a date fixed by proclamation. The details of commencement are outlined in Amendment 1.

### **Amendment 20**

**Amendment 20 amends clause 64 (Insertion of new pt 6, div 9)** of the Bill and inserts new Part 6, Division 9, which provides transitional provisions to handle the transitional issues related to the Bill. The intent of this section is to only revoke category A PMAVs that were made because the area became a wild river high preservation areas, not to impact on other PMAVs; for example category X PMAVs that were agreed to by landholders. New section 113 must be amended to refer specifically to this situation.

### **Amendments 21 - 28**

**Amendments 21-28 amend clause 64 (insertion of new pt 6, div 9)** of the Bill, which is the Transitional arrangements. These amendments are as a consequence of the removal of the definition of commencement in Amendment 17 and tie the commencement of the sections to the date of assent or a date fixed by proclamation. The details of commencement are outlined in Amendment 1.

### **Amendment 29**

**Amendment 29 amends Clause 65 (Amendment of schedule (Dictionary))** of the Bill. The definition of ‘extractive industry’ was removed from section 22A of the Act and inserted into the Dictionary of the Act. This will ensure that the definition of extractive industry applies consistently to all Act provisions.

### **Amendment 30**

**Amendment 30 amends Clause 65 (Amendment of schedule (Dictionary))** of the Bill. This amendment removes the term ‘high value area declaration’, which is no longer needed due to changes relating to prescribed restricted areas in Amendment 10.

### **Amendment 31**

**Amendment 31 amends Clause 65 (Amendment of schedule (Dictionary))**. This amendment removes the term ‘restricted high value agriculture area’, which is no longer needed due to changes relating to prescribed restricted areas in Amendment 10.

### **Amendment 32**

**Amendment 32 amends clause 65(2) Dictionary** of the Bill to insert the definition of ‘forest practice’. This amendment defines the activity of ‘forest practice’ to include a self-assessable vegetation clearing code. This amendment is required to better align the definition with the changes that will occur to the native forest practice code, as a result of the broader self-assessable code amendments.

### **Amendment 33**

**Amendment 33 After clause 71** inserts a new part 3A into the Vegetation Management Framework Amendment Bill 2013 which amends the *Nature Conservation Act 1992*.

New section 71A provide that this part amends the *Nature Conservation Act 1992*.

New Section 71B provides the chief executive (who administers the *Nature Conservation Act 1992*) with the ability to grant emergency stock grazing permits over a prescribed protected area for the purposes of drought relief grazing.

Six protected areas are so prescribed – Blackbraes, Forest Den, Mazeppa, Moorrinya and Nairana National Parks, and Nairana National Park (Recovery).

The amendment provides that the stock grazing permit may authorise grazing to occur until 31 December 2013. No fees will apply for the permit.

This amendment will commence on assent.

### **Amendment 34**

**Amendment 34 Long title** amends the long title of the Bill to add reference to the *Nature Conservation Act 1992*.