

THIS PUBLIC BILL has this day been read a Third time and passed

The Clerk of the Parliament.

*Legislative Assembly Chamber,
Brisbane, May 2018*



Queensland

**No.
A BILL for**

An Act to amend the Planning Act 2016, the Planning Regulation 2017, the Vegetation Management Act 1999 and the Water Act 2000 for particular purposes



Queensland

Vegetation Management and Other Legislation Amendment Bill 2018

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2018

A Bill

for

An Act to amend the *Planning Act 2016*, the *Planning Regulation 2017*, the *Vegetation Management Act 1999* and the *Water Act 2000* for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Vegetation Management and Other Legislation Amendment Act 2018*.

2 Commencement

- (1) Sections 6, 14, 16(11), 37 (other than to the extent it inserts section 144) and 45 are taken to have commenced on 8 March 2018.
- (2) Section 35 commences on a day to be fixed by proclamation.

Part 2 Amendment of Vegetation Management Act 1999

3 Act amended

This part amends the *Vegetation Management Act 1999*.

4 Amendment of s 190 (Accepted development vegetation clearing code)

Section 190(1)—

omit, insert—

- (1) The Minister may make a code (an *accepted development vegetation clearing code*) for—
 - (a) clearing of vegetation, including for the following—

- (i) an extractive industry;
 - (ii) relevant infrastructure activities;
 - (iii) environmental activities, including necessary environmental clearing;
 - (iv) sustainable land use, including fodder harvesting; or
- (b) conducting a native forest practice.

5 Amendment of s 19Q (When code compliant clearing and conduct of native forest practices are accepted development, assessable development or prohibited development for Planning Act)

Section 19Q(2)(b)(ii) and (c)(ii), ‘any vegetation’—

omit, insert—

the development the subject of a vegetation

6 Insertion of new s 19S

Part 2, division 4B—

insert—

19S When notice given under code ends

- (1) This section applies if the Minister revokes or replaces an accepted development vegetation clearing code.
- (2) For this Act and the Planning Act—
 - (a) a notice for the intended clearing of vegetation or the conduct of a native forest practice (the *activity*) given under the code ceases to have effect when the code is revoked or replaced; and
 - (b) the activity can not continue to be carried out under that code or, if that code is replaced, the replacement code.

[s 7]

- (3) However, if the Minister replaces an accepted development vegetation clearing code, subsection (2) does not apply to the extent the replacement code provides otherwise.

7 Amendment of s 20AH (Deciding to show particular areas as category B areas)

- (1) Section 20AH(a)(ii), ‘thinning’—
omit, insert—
managing thickened vegetation
- (2) Section 20AH(c)—
omit, insert—
(c) the area has been subject to clearing of vegetation under an accepted development vegetation clearing code on a category B area for 1 or more of the following—
(i) conducting a native forest practice;
(ii) fodder harvesting;
(iii) clearing of encroachment;
(iv) controlling non-native plants or declared pests;
(v) necessary environmental clearing; or
- (3) Section 20AH(i)—
omit, insert—
(i) the area has been subject to clearing of vegetation under an area management plan on a category B area for 1 or more of the following—
(i) fodder harvesting;
(ii) managing thickened vegetation;
(iii) clearing of encroachment;

- (iv) controlling non-native plants or declared pests;
- (v) necessary environmental clearing; or
- (j) the area has been subject to a native forest practice on a category B area.

8 Amendment of s 20AI (Deciding to show particular areas as category C areas)

(1) Section 20AI(a)—

omit, insert—

- (a) the area has been subject to clearing of vegetation under an accepted development vegetation clearing code on a category C area for 1 or more of the following—
 - (i) conducting a native forest practice;
 - (ii) fodder harvesting;
 - (iii) clearing of encroachment;
 - (iv) controlling non-native plants or declared pests;
 - (v) necessary environmental clearing; or

(2) Section 20AI—

insert—

- (g) the area has been subject to clearing of vegetation under an area management plan on a category C area for 1 or more of the following—
 - (i) fodder harvesting;
 - (ii) managing thickened vegetation;
 - (iii) clearing of encroachment;
 - (iv) controlling non-native plants or declared pests;

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(v) necessary environmental clearing.

9 Amendment of s 20AL (What is a *category A area*)

Section 20AL—

insert—

(f) is a category A area by agreement under section 20C(3) if, immediately before the agreement is entered into, the area was a category X area on a PMAV containing remnant vegetation or high value regrowth.

10 Amendment of s 20AO (What is a *category X area*)

Section 20AO(1), after ‘category R area’—

insert—

(in which the clearing of vegetation has happened)

11 Amendment of s 20B (When chief executive may make PMAV)

Section 20B—

insert—

(3) Nothing prevents the chief executive making a PMAV for 2 or more of the circumstances mentioned in subsection (1)(a) to (i) over the same or different areas.

12 Amendment of s 20CA (Process before making PMAV)

(1) Section 20CA(2)(a) to (e)—

omit, insert—

(a) the clearing was carried out under a moratorium exemption; or

- (b) the clearing was carried out under a development approval other than a development approval for—
 - (i) fodder harvesting; or
 - (ii) managing thickened vegetation; or
 - (iii) clearing of encroachment; or
 - (iv) controlling non-native plants or declared pests; or
 - (v) necessary environmental clearing; or
- (c) the clearing was carried out under an accepted development vegetation clearing code other than for—
 - (i) conducting a native forest practice; or
 - (ii) fodder harvesting; or
 - (iii) clearing of encroachment; or
 - (iv) controlling non-native plants or declared pests; or
 - (v) necessary environmental clearing; or
- (d) the clearing was carried out under an area management plan other than for—
 - (i) fodder harvesting; or
 - (ii) managing thickened vegetation; or
 - (iii) clearing of encroachment; or
 - (iv) controlling non-native plants or declared pests; or
 - (v) necessary environmental clearing; or
- (e) the clearing was not carried out under an accepted development vegetation clearing code or an area management plan and, when the clearing was carried out, the clearing did

[s 12]

not require a development permit under the Planning Act.

(2) Section 20CA(3)—

omit, insert—

(3) Also, the chief executive can not make the relevant area a category X area on the PMAV if—

- (a) the vegetation in the relevant area is not remnant vegetation or high value regrowth vegetation because of clearing that happened because of burning, flooding or natural causes; or
- (b) the chief executive is satisfied the clearing of vegetation for the relevant area after 29 November 2013 was not lawfully carried out.

(3A) However, subsection (3) does not prevent the chief executive making the relevant area a category X area on the PMAV if clearing in the area was carried out under subsection (2)(a), (b), (c), (d) or (e) after the clearing mentioned in subsection (3)(a) or (b).

(3) Section 20CA(9)—

insert—

lawfully carried out, for the clearing of vegetation, means the clearing was, at the time of the clearing, authorised or permitted under this Act or under any of the following—

- (a) the Planning Act;
- (b) the repealed *Integrated Planning Act 1997*;
- (c) the repealed *Sustainable Planning Act 2009*;
- (d) the *State Development and Public Works Organisation Act 1971*;
- (e) the *Cape York Peninsula Heritage Act 2007*.

13 Amendment of s 20D (When PMAV may be replaced)

Section 20D(3)(c)—

omit, insert—

- (c) to change a category A area mentioned in section 20AL(f) to a category B area, category C area or category X area, if each of the affected owners agrees to the replacement; or
- (d) for a matter other than a matter mentioned in paragraph (a), (b) or (c), if each of the affected owners agrees to the replacement.

14 Replacement of pt 2, div 5B (Area management plans)

Part 2, division 5B—

omit, insert—

Division 5B Area management plans

Subdivision 1 Preliminary

21 Definitions for division

In this division—

area management plan means an area management plan made by the chief executive under subdivision 2.

plan area, for an area management plan, means the area to which the plan relates.

restricted (fodder harvesting) land see section 21A.

21A What is *restricted (fodder harvesting) land*

- (1) *Restricted (fodder harvesting) land* is—

[s 14]

- (a) a State-controlled road under the *Transport Infrastructure Act 1994*; or
 - (b) a road controlled by a local government under the *Local Government Act 2009*; or
 - (c) trust land under the *Land Act 1994*.
- (2) However, *restricted (fodder harvesting) land* does not include indigenous land.

Subdivision 2 Plans made by chief executive

21B Chief executive may make area management plans

- (1) The chief executive may make an area management plan for an area that provides for any matter about clearing vegetation the chief executive considers necessary or desirable for achieving the purpose of this Act.
- (2) An area management plan must—
 - (a) include enough information to allow the chief executive to map the boundary of—
 - (i) the plan area; and
 - (ii) if the conditions for clearing vegetation relate to different zones within the plan area—each of the zones; and
 - (b) state—
 - (i) the management intent and management outcomes for vegetation management in the plan area; and
 - (ii) the conditions for clearing, or restricting clearing of, vegetation in the area to achieve the management intent and management outcomes; and

- (c) provide for, or allow, clearing of vegetation for 1 or more of the following—
 - (i) controlling non-native plants or declared pests;
 - (ii) ensuring public safety;
 - (iii) relevant infrastructure activities;
 - (iv) clearing of encroachment;
 - (v) managing thickened vegetation;
 - (vi) fodder harvesting, other than on a part of the area that is restricted (fodder harvesting) land;
 - (vii) necessary environmental clearing; and
 - (d) not be inconsistent with the State policy.
- (3) An area management plan is not subordinate legislation.

21C Plan period for area management plan

An area management plan must state the period, of no longer than 10 years, for which it will be in force, and remains in force until the end of the period.

21D Mandatory conditions for area management plan

- (1) An area management plan is subject to the conditions under subsections (2) and (3).
- (2) If the plan provides for, or allows, clearing of vegetation for relevant infrastructure activities, the condition is that the clearing can not reasonably be avoided or minimised.
- (3) If the plan area includes restricted (fodder harvesting) land, the condition is that vegetation

[s 15]

on the land can not be cleared for fodder harvesting.

Subdivision 3 Keeping plans

21E Register of area management plans

- (1) The chief executive must—
 - (a) give each area management plan a unique identifying number; and
 - (b) keep a register of area management plans.
- (2) The register must include details of each notice the chief executive considers appropriate.

15 Omission of pt 2, div 6, sdiv 1, hdg (Relevant purposes)

Part 2, division 6, subdivision 1, heading—
omit.

16 Amendment of s 22A (Particular vegetation clearing applications may be assessed)

- (1) Section 22A, heading—
omit, insert—

22A When development is for a relevant purpose

- (2) Section 22A(1)—
omit, insert—
 - (1) This section provides for when development the subject of a vegetation clearing application is for a relevant purpose.
- (3) Section 22A(2), from ‘A vegetation’ to ‘applied for’—
omit, insert—

Development is for a relevant purpose under this

section if the chief executive is satisfied the
development

- (4) Section 22A(2)(d), ‘the clearing’—

omit, insert—

clearing for the development

- (5) Section 22A(2)(g), ‘thinning’—

omit, insert—

managing thickened vegetation

- (6) Section 22A(2)(k) and (l)—

omit.

- (7) Section 22A(2AA), after ‘Also,’—

insert—

development the subject of

- (8) Section 22A(2AA), ‘applied for’—

omit.

- (9) Section 22A(2B), ‘a vegetation clearing application’—

omit, insert—

development

- (10) Section 22A(2B), ‘applied for’—

omit.

- (11) Section 22A(2B)(a), after ‘area’—

insert—

if the land on which the development is carried
out is freehold land, indigenous land or the subject
of a lease issued under the *Land Act 1994* for
agriculture or grazing purposes or an occupation
licence under that Act

- (12) Section 22A(2B)(b), ‘the subject of the application is freehold
land, indigenous land or a lease’—

[s 17]

omit, insert—

on which the development is carried out is freehold land, indigenous land or the subject of a lease

17 Insertion of new s 22B

Part 2, division 6—

insert—

22B Requirements for vegetation clearing application for managing thickened vegetation

- (1) This section applies if a vegetation clearing application is for managing thickened vegetation.
- (2) The application must demonstrate how the proposed clearing will restore the regional ecosystem subject to the clearing to the floristic composition and densities typical of the regional ecosystem in the bioregion and include the following—
 - (a) the location and extent of the proposed clearing;
 - (b) the selective clearing methods proposed to be used;
 - (c) evidence that the clearing will be limited to the prescribed regional ecosystems and restrictions;
 - (d) evidence that the regional ecosystem has thickened in comparison to the same regional ecosystem in the bioregion.
- (3) In this section—

prescribed regional ecosystems and restrictions means regional ecosystems and restrictions prescribed by regulation under the Planning Act, section 55(2) to be a regional ecosystem or restriction for managing thickened vegetation.

18 Omission of pt 2, div 6, sdiv 1A (Particular vegetation clearing applications)

Part 2, division 6, subdivision 1A—

omit.

19 Amendment of s 28 (Failure to return identity card)

Section 28, penalty—

omit, insert—

Maximum penalty—50 penalty units.

20 Amendment of s 30 (Power to enter places)

(1) Section 30(1)(c)(i)(D), ‘and’—

omit, insert—

or

(2) Section 30(1)(c)(i)—

insert—

(E) an activity, being carried out at the time of entry, to which an enforceable undertaking relates; or

(F) a notification of an intention to clear vegetation given under an accepted development vegetation clearing code or an area management plan; and

(3) Section 30(1)(e), after ‘entry’—

insert—

is under section 30A or

21 Insertion of new s 30A

Part 3, division 1, subdivision 2—

insert—

[s 21]

30A Power to enter place on reasonable belief of vegetation clearing offence

- (1) This section applies if an authorised officer believes on reasonable grounds that a vegetation clearing offence is happening, or has happened, at a place.
- (2) The authorised officer may enter and re-enter the place without the occupier's consent or a warrant to investigate whether a vegetation clearing offence is happening, or has happened, at the place.
- (3) The authorised officer may exercise powers under subsection (2), at the time, with the help, and using the force, that is necessary and reasonable in the circumstances.
- (4) However, before first entering the place, the authorised officer must give at least 24 hours written notice of the proposed entry to an occupier of the place.
- (5) Notice of the proposed entry must include the following information—
 - (a) that the authorised officer believes on reasonable grounds that a vegetation clearing offence is happening, or has happened, at the place;
 - (b) the reasons for the authorised officer's belief;
 - (c) that the authorised officer intends to enter the place and may re-enter the place;
 - (d) the purpose of the proposed entry;
 - (e) the dates and times of entry and re-entry.
- (6) In exercising a power under this section, an authorised officer must take all reasonable steps to ensure the officer causes as little inconvenience, and does as little damage, as is

practicable in the circumstances.

- (7) This section does not apply to a part of a place where a person resides.

22 Amendment of s 37 (Failure to help authorised officer)

Section 37(1), penalty—

omit, insert—

Maximum penalty—200 penalty units.

23 Amendment of s 38 (Failure to give information)

Section 38(1), penalty—

omit, insert—

Maximum penalty—200 penalty units.

24 Amendment of s 39 (Seizing evidence)

- (1) Section 39(1), after ‘or under’—

insert—

section 30A or

- (2) Section 39(2)—

omit, insert—

- (2) If the authorised officer enters the place with the occupier’s consent or under section 30A, the authorised officer may seize a thing at the place if—

(a) the authorised officer reasonably believes the thing is evidence of a vegetation clearing offence; and

(b) either—

- (i) if the authorised officer entered the place with the occupier’s consent—

[s 25]

seizure of the thing is consistent with the purpose of the entry as told to the occupier when asking for the occupier's consent; or

- (ii) if the authorised officer entered the place under section 30A—seizure of the thing is consistent with the purpose of the proposed entry stated in the written notice of entry given to the occupier under that section.

25 Amendment of s 51 (Power to require information)

Section 51(3), penalty—

omit, insert—

Maximum penalty—200 penalty units.

26 Amendment of s 53 (Failure to certify copy of document)

Section 53(1), penalty—

omit, insert—

Maximum penalty—200 penalty units.

27 Amendment of s 54 (Failure to produce document)

Section 54(1), penalty—

omit, insert—

Maximum penalty—200 penalty units.

28 Amendment of s 54A (Stop work notice)

- (1) Section 54A(1), after 'committing'—

insert—

, or has committed,

(2) Section 54A(2)—

insert—

Examples of what a stop work notice may require—

The notice may require a person to do any or all of the following on or before a stated time or within a stated period—

- to stop carrying out development
- to demolish or remove development
- to not remove, burn, dispose of, or otherwise cause to be removed, burnt, or disposed of, any felled vegetation

(3) Section 54A(3)(a), after ‘committing’—

insert—

, or has committed,

(4) Section 54A(3)(b) and (c), after ‘being’—

insert—

, or has been,

(5) Section 54A(5), penalty—

omit, insert—

Maximum penalty—4,500 penalty units.

29 Amendment of s 54B (Restoration notice)

Section 54B(5), penalty—

omit, insert—

Maximum penalty—4,500 penalty units.

30 Amendment of s 58 (False or misleading statements)

Section 58(1), penalty—

omit, insert—

Maximum penalty—500 penalty units.

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31 Amendment of s 59 (False or misleading documents)

Section 59(1), penalty—

omit, insert—

Maximum penalty—500 penalty units.

32 Amendment of s 59A (Impersonation of authorised officer)

Section 59A, penalty—

omit, insert—

Maximum penalty—200 penalty units.

33 Amendment of s 60 (Obstructing an authorised officer)

Section 60(1), penalty—

omit, insert—

Maximum penalty—500 penalty units.

34 Amendment of s 63A (Review decision)

Section 63A(3)—

omit, insert—

(3) However, subsection (2) does not apply if the review decision relates to an original decision under section 138(1)(b).

35 Insertion of new pt 4, div 5

Part 4—

insert—

Division 5

**Enforceable
undertakings**

68CC Chief executive may accept enforceable undertakings

- (1) The chief executive may accept a written undertaking (an *enforceable undertaking*) made by a person in relation to a contravention or alleged contravention by the person of this Act or the Planning Act to the extent that Act relates to the clearing of vegetation.
- (2) An enforceable undertaking must be in the approved form.
- (3) The chief executive must give the person written notice of—
 - (a) the chief executive’s decision to accept or reject the enforceable undertaking; and
 - (b) the reasons for the decision.
- (4) The chief executive must not accept the enforceable undertaking unless the chief executive reasonably believes the undertaking will—
 - (a) secure compliance with this Act or the Planning Act; or
 - (b) advance the purpose of this Act.
- (5) If the chief executive decides to accept the enforceable undertaking, the chief executive must publish the details of the undertaking the chief executive considers appropriate on the department’s website.
- (6) The chief executive may accept an enforceable undertaking in relation to a contravention or alleged contravention at any time before any proceedings in relation to the contravention end.
- (7) If the chief executive accepts an enforceable undertaking after proceedings in relation to the contravention have started, the chief executive must take all reasonable steps to have the

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proceedings discontinued as soon as practicable.

68CD Effect of enforceable undertaking

- (1) An enforceable undertaking takes effect when the chief executive gives the person who made the undertaking notice of the decision to accept the undertaking.
- (2) No proceedings for a contravention or alleged contravention of this Act, or the Planning Act to the extent that Act relates to the clearing of vegetation, may be taken against the person in relation to the enforceable undertaking if the person is complying, or has complied, with the undertaking.
- (3) The making of an enforceable undertaking does not constitute an admission of guilt by the person making the undertaking.

68CE Withdrawal or variation of enforceable undertaking

- (1) A person who has made an enforceable undertaking may, at any time, with the written agreement of the chief executive—
 - (a) withdraw the undertaking; or
 - (b) vary the undertaking.
- (2) However, the undertaking may not be varied to provide for a different contravention or alleged contravention of this Act or the Planning Act.
- (3) The chief executive must publish the details of the withdrawal or variation of an enforceable undertaking the chief executive considers appropriate on the department's website.

68CF Amending enforceable undertaking—with agreement

The chief executive may amend an enforceable undertaking with the written agreement of the person who made the undertaking.

68CG Amending enforceable undertaking—clerical or formal errors

The chief executive may amend an enforceable undertaking to correct a clerical or formal error if—

- (a) the amendment does not adversely affect the interests of the person who made the undertaking or anyone else; and
- (b) the person has been given written notice of the amendment.

68CH Amending or suspending enforceable undertaking—after show cause process

- (1) The chief executive may amend or suspend an enforceable undertaking if the chief executive is satisfied—
 - (a) the undertaking was accepted relying on a representation or declaration, made either orally or in writing, that was false or misleading in a material particular; or
 - (b) the undertaking was accepted on the basis of a miscalculation of the impacts of the contravention or alleged contravention; or
 - (c) the amendment or suspension is necessary or desirable because of an inspection, investigation or other matter under part 3; or
 - (d) the amendment or suspension is necessary or desirable because of a significant change in the way in which, or the extent to which,

[s 35]

an activity is being carried out that affects the likelihood of the undertaking—

- (i) securing compliance with this Act or the Planning Act; or
 - (ii) advancing the purpose of this Act.
- (2) The chief executive must give the person who made the enforceable undertaking a notice that states—
- (a) the action the chief executive proposes to take; and
 - (b) if the action is an amendment of the undertaking—the amendment; and
 - (c) if the action is a suspension of the undertaking—the period of the suspension; and
 - (d) the grounds for taking the action; and
 - (e) the facts and circumstances that are the basis for the grounds; and
 - (f) that the person may make written representations to show why the action should not be taken; and
 - (g) the period, of at least 20 business days after the person is given the notice, within which the person may make the representations.
- (3) If the chief executive proposes to amend the enforceable undertaking, the notice must be accompanied by a copy of the undertaking that shows the amendment.
- (4) The chief executive must consider any written representation the person makes within the period stated in the notice.
- (5) If the chief executive still believes a ground exists to take the action, the chief executive may decide to take the action.

- (6) Within 10 business days after making a decision to take the action, the chief executive must give the person an information notice about the decision.
- (7) If the chief executive, at any time, decides not to take the action, the chief executive must promptly give the person written notice of the decision.
- (8) In this section—
impacts, of a contravention or alleged contravention, include the following—
 - (a) loss of vegetation;
 - (b) loss of biodiversity;
 - (c) land degradation;
 - (d) loss of connectivity;
 - (e) altered ecological processes;
 - (f) contributions to greenhouse gas emissions.

68CI Contravention of enforceable undertaking

- (1) A person must not contravene an enforceable undertaking made by the person that is in effect.
Maximum penalty—
 - (a) if the offence is committed wilfully—6,250 penalty units; or
 - (b) otherwise—4,500 penalty units.
- (2) Regardless of whether the person is prosecuted for an offence against subsection (1), the chief executive may apply to a Magistrates Court for an order if the person contravenes the enforceable undertaking.
- (3) If the court is satisfied the person contravened the undertaking, the court, in addition to imposing any penalty, may make either or both of the

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following orders—

- (a) an order directing the person to comply with the undertaking;
 - (b) an order discharging the undertaking.
- (4) Also, the court may make any other order the court considers just and appropriate in the circumstances, including an order directing the person to pay to the chief executive—
- (a) the costs of the proceedings; and
 - (b) the costs associated with the investigation of the contravention of the enforceable undertaking; and
 - (c) the reasonable costs of the chief executive in monitoring compliance with the enforceable undertaking in the future.

36 Renumbering of pt 6, div 13 and ss 133–135

- (1) Part 6, division 13—
renumber as division 12.
- (2) Sections 133 to 135—
renumber as sections 125 to 127.

37 Insertion of new pt 6, div 13

Part 6—
insert—

**Division 13 Transitional provisions for
Vegetation Management
and Other Legislation
Amendment Act 2018**

128 Definitions for division

In this division—

area management plan means an area management plan in force immediately before 8 March 2018.

date of assent means the date of assent of the *Vegetation Management and Other Legislation Amendment Act 2018*.

interim period means the period starting on 8 March 2018 and ending immediately before the date of assent.

near threatened wildlife see the *Nature Conservation Act 1992*, schedule.

unlawful clearing means clearing of vegetation that, because of the amendment of this Act or the Planning Act by the *Vegetation Management and Other Legislation Amendment Act 2018*, constitutes a development offence under the Planning Act.

129 Applications under s 20C made but not decided before 8 March 2018

- (1) This section applies if—
 - (a) before 8 March 2018, an application was made under section 20C; and
 - (b) immediately before 8 March 2018, the application had not been decided.
- (2) The chief executive must continue to deal with and decide the application under this Act as in force before 8 March 2018.

130 Applications under s 20C made during the interim period

- (1) This section applies if, during the interim period,

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an application was made under section 20C to show an area on a PMAV as a category X area that, after 8 March 2018, becomes a category C area or category R area.

- (2) A decision of the chief executive to show the area as a category X area on a PMAV during the interim period is taken to have no effect.
- (3) The chief executive may reconsider and decide the application and remake the PMAV after the date of assent.

131 Proposed regulated vegetation management map

- (1) During the interim period, the chief executive must publish, and may republish, on the department's website, a proposed regulated vegetation management map showing proposed category C areas and category R areas.
- (2) The proposed regulated vegetation management map is taken to be the regulated vegetation management map on 8 March 2018.

132 How definition *high value regrowth vegetation* and codes apply during and after interim period

- (1) During the interim period, the schedule, definition *high value regrowth vegetation*, paragraph (a) is taken to include a reference to vegetation located on freehold land, indigenous land or land subject of an occupation licence under the *Land Act 1994*.
- (2) Until the Minister remakes it under section 190 after the date of assent, the category C code applies to high value regrowth vegetation on land mentioned in subsection (1) in the same way it applies to high value regrowth vegetation located on a lease issued under the *Land Act 1994* for

agriculture or grazing purposes.

- (3) Until the Minister remakes it under section 190 after the date of assent, the native forest practice code applies to high value regrowth vegetation on freehold land and indigenous land in the same way it applies to remnant vegetation on freehold land and indigenous land.
- (4) An area management plan applies to high value regrowth vegetation on land mentioned in subsection (1) in the same way it applies to high value regrowth vegetation located on a lease issued under the *Land Act 1994* for agriculture or grazing purposes, until the end of the plan period for the plan.
- (5) In this section—

category C code means the accepted development vegetation clearing code called ‘Managing category C regrowth vegetation’.

native forest practice code means the accepted development vegetation clearing code called ‘Managing a native forest practice’.

133 How definition *regrowth watercourse and drainage feature area* applies during and after the interim period

- (1) During the interim period, the schedule, definition *regrowth watercourse and drainage feature area* is also taken to mean an area located within 50m of a watercourse or drainage feature located in the following catchments identified on the vegetation management watercourse and drainage feature map—
 - (a) Burnett-Mary;
 - (b) Eastern Cape York;
 - (c) Fitzroy.

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- (2) Until the Minister remakes it under section 190 after the date of assent, the category R code applies to the catchments mentioned in subsection (1)(a), (b) or (c) in the same way it applies to the catchments mentioned in the definition *regrowth watercourse and drainage feature area*.
- (3) An area management plan applies to the catchments mentioned in subsection (1)(a), (b) or (c) in the same way it applies to the catchments mentioned in the definition *regrowth watercourse and drainage feature area*, until the end of the plan period for the plan.
- (4) In this section—
category R code means the accepted development vegetation clearing code called ‘Managing category R regrowth vegetation’.

134 Restoration and other requirements after unlawful clearing

- (1) This section applies if a person undertakes unlawful clearing during the interim period.
- (2) The chief executive may give the person a restoration notice in relation to the unlawful clearing.
- (3) The chief executive may, in addition to the matters mentioned in section 54B(3), also include additional requirements in the notice for the person to undertake.
- (4) Without limiting subsection (3), the restoration notice may require the person to restore land in addition to the land the subject of the unlawful clearing.
- (5) In deciding the additional requirements for the restoration notice, the chief executive must have regard to the environmental offsets policy under

the *Environmental Offsets Act 2014*.

- (6) The restoration notice, including any additional requirements, is taken to be a restoration notice for this Act.

135 No compensation payable

To remove any doubt, it is declared that no amount, whether by way of compensation, reimbursement or otherwise, is payable by the State to any person for, or in connection with, a provision of this division that applies in relation to the interim period.

136 Area management plans that are to remain in force for 2 years

- (1) This section applies to an area management plan, other than a plan made by the chief executive under section 20UA, that relates to the following—
 - (a) clearing of encroachment;
 - (b) thinning;
 - (c) fodder harvesting, other than on a part of the area that is restricted (fodder harvesting) land.
- (2) The plan continues as an area management plan under this Act and remains in force until 8 March 2020.
- (3) An entity that has given notification of an intention to clear vegetation under the plan before 8 March 2018 may continue to clear under the plan while it remains in force.
- (4) However, an entity may not give notification under the plan after 8 March 2018.
- (5) In this section—

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thinning has the meaning given by this Act immediately before 8 March 2018.

137 Area management plans that are to remain in force until the end of the plan period for the plan

- (1) This section applies to an area management plan that relates to the following—
 - (a) controlling non-native plants or declared pests;
 - (b) ensuring public safety;
 - (c) relevant infrastructure activities;
 - (d) necessary environmental clearing.
- (2) The plan continues as an area management plan under this Act and remains in force until the end of the plan period for the plan.
- (3) An entity may continue to give notification of an intention to clear vegetation under the plan, and clear under the plan, while it remains in force.

138 Amendment of area management plans

- (1) An area management plan, other than a plan made by the chief executive under section 20UA, may be amended—
 - (a) by agreement between the chief executive and the applicant for the plan; or
 - (b) by the chief executive, if the chief executive considers the plan is not consistent with the State policy.
- (2) If the chief executive amends an area management plan under subsection (1)(b), the chief executive must give the applicant for the plan written notice of the amendment.

139 Revocation of particular area management plan

- (1) The area management plan made by the chief executive under section 20UA called the 'Managing fodder harvesting Mulga Lands Fodder Area Management Plan' is revoked.
- (2) For this Act—
 - (a) a notice for the intended clearing of vegetation given under the plan ceases to have effect when the plan is revoked; and
 - (b) the clearing can not continue to be carried out under the plan.

140 Applications under pt 2, div 5B, sdiv 2 made during the interim period

- (1) This section applies if, during the interim period, an application was made under part 2, division 5B, subdivision 2.
- (2) Any decision of the chief executive on the application during the interim period is taken to have no effect.

141 Proposed map showing essential habitat

- (1) During the interim period, the chief executive must publish, and may republish, on the department's website, a map showing areas of proposed essential habitat for protected wildlife and near threatened wildlife.
- (2) For making the proposed map under subsection (1), protected wildlife under this Act is taken to include near threatened wildlife.
- (3) The proposed map is taken to be the essential habitat map on 8 March 2018.

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142 Provision about essential habitat

- (1) During the interim period, a reference to essential habitat for protected wildlife in an accepted development vegetation clearing code or area management plan applies as if protected wildlife included near threatened wildlife.
- (2) An accepted development vegetation clearing code applies in relation to near threatened wildlife as if that wildlife were protected wildlife, until the code is remade under section 190 after the date of assent.
- (3) An area management plan applies in relation to near threatened wildlife as if that wildlife were protected wildlife, until the end of the plan period for the plan.

143 Application of particular instruments

- (1) This section applies to development for which an environmental offset may be required under State Code 16: Native vegetation clearing of the State development assessment provisions under the Planning Act.
- (2) The *Environmental Offsets Regulation 2014*, schedule 2, section (2)(3)(b) applies as if the reference in that paragraph to an animal or a plant that is endangered wildlife or vulnerable wildlife included a reference to near threatened wildlife.
- (3) Subsection (2) applies until the day the provision mentioned in the subsection is amended to provide for its application to near threatened wildlife.
- (4) The Queensland Environmental Offsets Policy prescribed under the *Environmental Offsets Act 2014*, section 12(1) applies as if—

-
- (a) section 4.3.6 of the policy provided for a multiplier of 4 for essential habitat for near threatened wildlife; and
 - (b) table one, in section 4.3.13.2 of the policy applies to near threatened wildlife.
- (5) Subsection (4) applies until the day the provision mentioned in the subsection is amended to provide for its application to near threatened wildlife.
- (6) A reference in the *Environmental Offsets Regulation 2014*, schedule 2 to the essential habitat map is taken to include a reference to the map mentioned in section 141.

144 Transitional provision for ss 20AH, 20AI and 20CA

- (1) For deciding to show category B areas or category C areas on the regulated vegetation management map under this Act, sections 20AH(c) and 20AI(a) are taken to include a reference to thinning.
- (2) For making a relevant area a category X area on a PMAV under this Act, section 20CA(2)(c) is taken to include a reference to thinning.
- (3) In this section—
thinning has the meaning given by this Act immediately before the date of assent.

38 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *accreditation notice, accredited existing planning document, approved draft plan, area management plan, area plan (chief executive), clearing area, clearing assessment benchmarks, crops, draft plan, existing planning document, high risk species, high value agriculture clearing, high value regrowth vegetation, identifying number, irrigated*

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high value agriculture clearing, mandatory condition, owner, plan period, proposed area, referral matter, thinning and vegetation clearing provision—

omit.

(2) Schedule—

insert—

area management plan see section 21.

enforceable undertaking see section 68CC(1).

high value regrowth vegetation means vegetation located—

- (a) on freehold land, indigenous land, or land subject of a lease issued under the *Land Act 1994* for agriculture or grazing purposes or an occupation licence under that Act; and
- (b) in an area that has not been cleared (other than for relevant clearing activities) for at least 15 years, if the area is—
 - (i) an endangered regional ecosystem; or
 - (ii) an of concern regional ecosystem; or
 - (iii) a least concern regional ecosystem.

managing thickened vegetation means the selective clearing of vegetation at a locality that does not include clearing using a chain or cable linked between 2 tractors, bulldozers or other traction vehicles—

- (a) to restore a regional ecosystem to the floristic composition and range of densities typical of the regional ecosystem in the bioregion in which it is located; and
- (b) to maintain ecological processes and prevent loss of biodiversity.

owner, of land, includes the following—

-
- (a) for freehold land—the registered owner;
 - (b) for a lease, licence or permit under the *Land Act 1994*—the lessee, licensee or permittee;
 - (c) for indigenous land—the holder of the title to the land;
 - (d) for any tenure under any other Act—the holder of the tenure.

relevant clearing activities means—

- (a) fodder harvesting; or
- (b) managing thickened vegetation; or
- (c) clearing of encroachment; or
- (d) controlling non-native plants or declared pests; or
- (e) necessary environmental clearing; or
- (f) managing, felling and removing trees for an ongoing forestry business.

vegetation clearing provision means any of the following to the extent the provision relates to the clearing of vegetation—

- (a) the Planning Act, section 162, 163(1), 164, 165 or 168(5);
- (b) for the clearing of vegetation that happened before the repeal of the *Sustainable Planning Act 2009*—section 578(1), 580(1), 581(1), 582 or 594(1) of that Act.

- (3) Schedule, definition *fodder harvesting*, paragraph 2(a) to (h)—

omit, insert—

- (a) *Acacia aneura*;
- (b) *Acacia brachystachya*;
- (c) *Acacia excelsa*;

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- (d) *Acacia pendula*;
 - (e) *Acacia sibirica*;
 - (f) *Alphitonia excelsa*;
 - (g) *Flindersia maculosa*;
 - (h) *Geijera parviflora*.
- (4) Schedule, definition *forest practice*, paragraph 1(b)—
omit, insert—
- (b) native forest if, in the native forest, all the activities are conducted in a way that—
 - (i) ensures restoration of a similar type, and to the extent, of the removed trees; and
 - (ii) 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
 - (iii) does not cause land degradation; and
 - (iv) is consistent with the accepted development vegetation clearing code for native forest practice.
- (5) Schedule, definition *plan area*, ‘section 20I’—
omit, insert—
- section 21
- (6) Schedule, definition *protected wildlife*, ‘or vulnerable wildlife’—
omit, insert—
- , vulnerable wildlife or near threatened wildlife
- (7) Schedule, definition *regrowth watercourse and drainage feature area*, ‘Burdekin, Mackay Whitsunday or Wet Tropics catchments identified’—

omit, insert—

Burdekin, Burnett-Mary, Eastern Cape York,
Fitzroy, Mackay Whitsunday or Wet Tropics
catchments represented

- (8) Schedule, definition *restricted (fodder harvesting) land*,
'section 20I'—

omit, insert—

section 21A

Part 3 Amendment of Planning Act 2016

39 Act amended

This part amends the *Planning Act 2016*.

40 Replacement of ch 8, hdg (Transitional provisions and repeal)

Chapter 8, heading—

omit, insert—

Chapter 8 Repeal and transitional provisions

41 Relocation and renumbering of ch 8, pt 2 and s 325

- (1) Chapter 8, part 2—

relocate and renumber as chapter 8, part 1.

- (2) Section 325—

renumber as section 284A.

[s 42]

42 Renumbering of ch 8, pt 1 (Transitional provisions for repeal of Sustainable Planning Act 2009)

Chapter 8, part 1—

renumber as chapter 8, part 2.

43 Renumbering of ch 8, pt 1A (Transitional and saving provisions for Waste Reduction and Recycling Amendment Act 2017)

Chapter 8, part 1A—

renumber as chapter 8, part 3.

44 Renumbering of ss 324A–324D

Sections 324A to 324D—

renumber as sections 325 to 328.

45 Insertion of new ch 8, pt 4

Chapter 8—

insert—

**Part 4 Transitional provisions
for Vegetation
Management and Other
Legislation
Amendment Act 2018**

329 Definitions for part

In this part—

amending Act means the *Vegetation Management and Other Legislation Amendment Act 2018*.

date of assent means the date of assent of the

amending Act.

essential habitat see the *Vegetation Management Act 1999*, section 20AC(2).

high value agriculture clearing means high value agriculture clearing within the meaning of the *Vegetation Management Act 1999* immediately before 8 March 2018.

interim period means the period starting on 8 March 2018 and ending immediately before the date of assent.

irrigated high value agriculture clearing means irrigated high value agriculture clearing within the meaning of the *Vegetation Management Act 1999* immediately before 8 March 2018.

near threatened wildlife see the *Nature Conservation Act 1992*, schedule.

protected wildlife see the *Vegetation Management Act 1999*, schedule.

unlawful clearing means clearing of vegetation that, because of the amendment of this Act or the *Vegetation Management Act 1999* by the amending Act, constitutes a development offence.

330 Development applications made but not decided before commencement

- (1) This section applies if—
 - (a) before 8 March 2018, a development application was made for development that, on 8 March 2018—
 - (i) is prohibited development under the *Planning Regulation 2017*, schedule 10, part 3, division 1; or
 - (ii) is assessable development prescribed under section 43(1)(a) for the clearing

[s 45]

of vegetation that includes essential habitat for protected wildlife and near threatened wildlife; and

- (b) the application was a properly made application; and
 - (c) immediately before 8 March 2018, the development application had not been decided.
- (2) The application must continue to be dealt with and decided under this Act as in force before 8 March 2018.

331 Certain development approvals not affected

- (1) This section applies to a development approval in effect immediately before 8 March 2018.
- (2) The amending Act does not stop or further regulate development under the development approval or otherwise affect the approval.

332 Unlawful clearing not an offence during interim period

Sections 162 and 163, to the extent the provisions relate to unlawful clearing, do not apply to a person carrying out unlawful clearing during the interim period.

Note—

See the *Vegetation Management Act 1999*, part 3, division 1, subdivision 7 for provisions relating to a restoration notice under that Act.

333 Development application for certain operational works during interim period

- (1) This section applies to a development application made during the interim period for operational

work that is the clearing of vegetation that—

- (a) is assessable development prescribed under section 43(1)(a); and
 - (b) is high value agriculture clearing or irrigated high value agriculture clearing; and
 - (c) is not for a relevant purpose mentioned in the *Vegetation Management Act 1999*, section 22A(2)(a) to (j) or (2AA).
- (2) The application is taken not to have been made and any decision on the application is of no effect.

334 Development application for certain material change of use during interim period

- (1) This section applies to a development application made during the interim period for a material change of use that is assessable development if—
- (a) the material change of use involves the clearing of vegetation that is high value agriculture clearing or irrigated high value agriculture clearing; and
 - (b) because of the clearing, the chief executive would be a referral agency for the material change of use if a development application were made for the material change of use.
- (2) The application is taken not to have been made and any decision on the application is of no effect.

Part 4

Amendment of Planning Regulation 2017

46 Regulation amended

This part amends the *Planning Regulation 2017*.

[s 47]

47 Amendment of sch 10 (Development assessment)

- (1) Schedule 10, part 3, division 3, table 1, item 5(c)(iii), ‘thinning’—

omit, insert—

managing thickened vegetation

- (2) Schedule 10, part 3, division 4, table 3, item 1, column 2, paragraph (b)(iii), after ‘indigenous land,’—

insert—

land the subject of an occupation licence under the Land Act,

48 Amendment of sch 21 (Exempt clearing work)

- (1) Schedule 21, part 1, section 1—

insert—

(19A) Clearing vegetation in accordance with a restoration notice under the Vegetation Management Act or an enforcement notice under the Act if the clearing is carried out for—

- (a) 1 or more of the purposes stated in the Vegetation Management Act, section 22A(2)(b), (c), (g) or (j); or
- (b) establishing a necessary fence, firebreak, road or vehicular track and the clearing can not reasonably be avoided or minimised.

- (2) Schedule 21, part 2, section 8(b)(iv)—

omit, insert—

(iv) is for urban purposes in an urban area, if the vegetation is—

(A) regulated regrowth vegetation; or

(B) an of concern regional ecosystem in a category B area; or

- (C) a least concern regional ecosystem in a category B area; or
- (3) Schedule 21, part 2, section 8(b)(v), after ‘category B area’—
insert—
or regulated regrowth vegetation

Part 5 Amendment of Water Act 2000

49 Act amended

This part amends the *Water Act 2000*.

50 Amendment of ch 2, pt 4, div 1, hdg (Granting permits for excavating or placing fill in a watercourse, lake or spring)

Chapter 2, part 4, division 1, heading, after ‘permits for’—
insert—

destroying vegetation,

51 Amendment of s 218 (Applying for permit to excavate or place fill in a watercourse, lake or spring)

- (1) Section 218, heading, after ‘permit to’—
insert—

destroy vegetation,

- (2) Section 218(1)—
omit, insert—

- (1) A person may apply to the chief executive for a permit (a ***riverine protection permit***) to do any or all of the following activities—
- (a) destroy vegetation in a watercourse, lake or spring;
- (b) excavate in a watercourse, lake or spring;

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- (c) place fill in a watercourse, lake or spring.

52 Replacement of s 220 (Criteria for deciding application)

Section 220—

omit, insert—

220 Criteria for deciding application

In deciding whether to grant or refuse the application or what should be the conditions of the riverine protection permit, the chief executive must consider all of the following—

- (a) the effects of the proposed activity on water quality;
- (b) the quantity of vegetation to be destroyed or material to be excavated or placed;
- (c) the type of vegetation to be destroyed or material to be excavated or placed;
- (d) the seasonal factors influencing the watercourse, lake or spring from time to time;
- (e) the position in the watercourse, lake or spring of the vegetation to be destroyed or the proposed excavation or placing of fill;
- (f) the reasons given by the applicant for wishing to carry out the activity;
- (g) whether, and to what extent, the activity that the permit would allow may have an adverse effect on the physical integrity of the watercourse, lake or spring;
- (h) the implications of granting the permit for the long-term sustainable use of the river systems of Australia, and especially the cumulative effect of granting the application and likely similar applications;

-
- (i) any other matters the chief executive considers to be relevant.

53 Amendment of s 746 (Power to enter land to monitor compliance)

- (1) Section 746(2), ‘destroy quarry material’—

omit, insert—

destroy other resources

- (2) Section 746(2)(a), ‘quarry material’—

omit, insert—

resource

54 Amendment of s 748 (Power to enter land to search for unauthorised activities)

Section 748(1)(c)—

omit, insert—

- (c) unauthorised taking, or destruction, of other resources;

55 Amendment of s 814 (Excavating or placing fill without permit)

- (1) Section 814, heading, ‘Excavating’—

omit, insert—

Destroying vegetation, excavating

- (2) Section 814(1)—

omit, insert—

- (1) A person must not do any of the following activities unless the person has a riverine protection permit to carry out the activity—

[s 55]

- (a) destroy vegetation in a watercourse, lake or spring;
- (b) excavate in a watercourse, lake or spring;
- (c) place fill in a watercourse, lake or spring.

Maximum penalty—1,665 penalty units.

- (3) Section 814(2), after ‘does not apply to the’—

insert—

destruction of vegetation,

- (4) After section 814(2)—

insert—

(2AA) Also, subsection (1) does not apply to the destruction of vegetation—

- (a) that is required under a requisition under the *Fire and Emergency Services Act 1990*, section 69, for reducing the risk of fire; or
- (b) that is permitted or required to be carried out under the *Electrical Safety Act 2002* or the *Electricity Act 1994* to prevent the obstruction of, or interference with, an electric line or the creation of an electrical hazard; or
- (c) that is necessary for construction or maintenance of government supported transport infrastructure under the *Transport Infrastructure Act 1994*; or
- (d) that happens as a necessary part of works carried out under this Act, other than under a licence, permit or notice; or
- (e) that is regrowth (other than mulga or other fodder trees) following destruction of vegetation under a riverine protection permit issued less than 2 years previously; or

- (f) that has been lawfully planted for woodlot, fodder, agriculture, forestry, garden or horticultural purposes; or
 - (g) that is necessary to prevent personal injury or property damage or to provide for emergency access.
- (5) Section 814(2A), ‘permit under section 269’—
omit, insert—
riverine protection permit
- (6) Section 814(5), definition *prescribed assessable development*, paragraph (b), ‘part 9’—
omit, insert—
part 5

56 Amendment of sch 4 (Dictionary)

Schedule 4, definition *other resources*, ‘riverine vegetation’—
omit, insert—
vegetation in a watercourse, lake or spring

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