



Vegetation Management Act 1999

Reprinted as in force on 3 November 2009

Reprint No. 3B

**This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy**

Information about this reprint

This Act is reprinted as at 3 November 2009. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Spelling

The spelling of certain words or phrases may be inconsistent in this reprint or with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’). Variations of spelling will be updated in the next authorised reprint.

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised version will have the same date as that version.

Replacement reprint date If the date of an authorised reprint is the same as the date shown on another authorised reprint it means that one is the replacement of the other.



Queensland

Vegetation Management Act 1999

Contents

		Page
Part 1	Preliminary	
1	Short title	11
3	Purpose of Act	11
4	Advancing the Act's purpose	13
5	Definitions.	13
6	Act binds all persons	13
7	Application of Act	13
Part 2	Vegetation management	
Division 1	Key concepts	
8	What is vegetation	14
9	What is vegetation management	14
Division 2	State policy for vegetation management	
10	State policy for vegetation management	15
Division 2A	Other policies for vegetation management	
Subdivision 1	Concurrence agency policies	
10A	Types of concurrence agency policies	16
10B	Content of concurrence agency policy	16
Subdivision 2	Offsets policy	
10C	What is the offsets policy	17
10D	Content of offsets policy.	17
Division 3	Regional vegetation management codes	
11	Minister must make regional vegetation management codes	19
12	Preparing codes	19
13	Minister must consider all properly made submissions	20
14	When regional vegetation management code takes effect.	20
15	Minor, stated or permitted amendments of regional vegetation management code	20

Division 4	Declaration of areas of high nature conservation value and areas vulnerable to land degradation	
Subdivision 1	Declarations by Governor in Council or Minister	
16	Preparing declaration	21
17	Making declaration	22
18	Interim declaration	22
19	Criteria for declarations	23
19A	Preparing amendment of declared area code	24
19B	Approving amendment of declared area code	25
19C	Minor or stated amendment of declared area code	25
19D	Application of ss 19A–19C to wild rivers code	25
Subdivision 2	Declarations by chief executive	
19E	Request for declaration	25
19F	Making declaration	26
19G	Particular criteria for declaration	27
19H	Code for clearing of vegetation	28
19I	Amendment of management plan	28
19J	When management plan stops having effect	28
19K	Recording of declared areas and management plans	29
19L	Ending declaration	30
Division 4A	Code for clearing vegetation for special indigenous purpose	
19N	Code for clearing vegetation for special indigenous purpose.	30
Division 4B	Other codes for vegetation management	
Subdivision 1	Conducting a native forest practice	
19O	Native forest practice code	32
19P	Content of native forest practice code	32
19Q	Offence to conduct native forest practice without giving notice	33
19R	Offence to conduct particular native forest practice other than under native forest practice code	33
Subdivision 2	Clearing regulated regrowth vegetation under the regrowth vegetation code	
19S	Making regrowth vegetation code	33
19T	When regrowth vegetation code takes effect	34
19U	Requirement and process for giving notice of clearing regulated regrowth vegetation	34
19V	Offence to clear regulated regrowth vegetation under regrowth vegetation code without clearing notification	35

19W	Offence to clear regulated regrowth vegetation other than under regrowth vegetation code	36
19X	Register of clearing notifications	36
Division 4C	Authorisation to clear regulated regrowth vegetation other than under regrowth vegetation code	
19Y	Definitions for div 4C	37
19Z	Application of div 4C.	37
19ZA	Applying for authorisation.	38
19ZB	Chief executive to consider application	39
19ZC	Criteria for granting the application.	39
19ZD	Deciding application	39
19ZE	Expiry of regrowth clearing authorisation on transfer of land	40
19ZF	Clearing regulated regrowth vegetation under authorisation	40
19ZG	Register of regrowth clearing authorisations	40
Division 5	Declarations about codes	
20	IDAS codes for the clearing of vegetation	41
Division 5AA	Vegetation management maps	
20A	What is the regional ecosystem map	42
20AA	What is the remnant map	42
20AB	What is the regrowth vegetation map	43
20AC	What is the essential habitat map	44
20AD	What is a registered area of agriculture map	45
20AE	Certifying vegetation management map.	45
20AF	Amending vegetation management map	45
20AG	When vegetation management map takes effect	45
20AH	Deciding to show particular areas as remnant vegetation	45
20AI	Deciding to show particular areas as high value regrowth vegetation	47
20AJ	Application to make PMAV before amending particular vegetation management maps	48
Division 5A	Property map of assessable vegetation	
20AK	What is a property map of assessable vegetation (or PMAV)	48
20AL	What is a category A area	49
20AM	What is a category B area	50
20AN	What is a category C area	50
20AO	What is a category X area	50
20B	When chief executive may make PMAV	51

Contents

20BA	Chief executive may make decision about category A area	52
20C	When owner may apply for PMAV	52
20CA	Process before making PMAV	53
20D	When PMAV may be replaced	55
20E	When PMAV may be revoked.	56
20F	Copies of PMAV given to owners	57
20G	Owners to be advised of revocation of PMAV	57
20H	Inconsistency between PMAV and particular vegetation management maps.	57
Division 6	Relationship with Planning Act	
Subdivision 1	Modifying effect of Planning Act	
21	Modifying effect on vegetation clearing applications	58
22	Declarations for the Planning Act	58
22A	Particular vegetation clearing applications may be assessed	59
22B	Modifying Planning Act effect for delegations and appointment of referees	61
22C	Modifying Planning Act effect of appeal rights on particular applications (assessment manager).	61
22D	Modifying Planning Act effect of appeal rights on particular applications (concurrence agency).	62
Subdivision 2	Referral agency assessment and responses	
22DA	Requirement for property vegetation management plan	62
22DB	Compliance with concurrence agency policy	63
22DC	Refusal of particular concurrence agency application	63
22DD	Commercial timber on State land	64
22DE	Development not for a relevant purpose under s 22A	64
22DF	Clearing vegetation on adjoining lot for firebreaks and fire management lines	64
Division 6A	Vegetation management offsets	
Subdivision 1	Preliminary	
22DG	What are vegetation management offsets (or offsets) and offset areas	65
Subdivision 2	Imposing offsets	
22DH	Application of sdiv 2	65
22DI	Compliance with offsets policy	66
22DJ	Criteria for decision about offset.	66
22DK	When offset ends	67

Subdivision 3	Register of offsets	
22DL	Chief executive must keep register of offsets	67
Division 7	Broadscale applications and ballots	
22E	Application of div 7	68
22F	Exception to s 22A(1)	68
22G	Regions and ballots	68
22H	Modifying Planning Act effect on changing broadscale application	69
22I	Modifying Planning Act time frames	69
22J	Modifying Planning Act effect on changing development approval	70
22K	Modifying Planning Act effect of appeal rights on broadscale applications	70
22L	Appeals	71
Division 7A	Classes of regional ecosystems	
22LA	Endangered regional ecosystems	71
22LB	Of concern regional ecosystems	71
22LC	Least concern regional ecosystems	72
Division 8	Miscellaneous	
22M	Refusing vegetation clearing application after conviction for vegetation clearing offence	73
Part 3	Enforcement, investigations and offences	
Division 1	Enforcement and investigations	
Subdivision 1	Authorised officers	
24	Appointment and qualifications of authorised officers	74
25	Functions and powers of authorised officers	74
26	Conditions of appointment of authorised officers	75
27	Authorised officer's identity card	75
28	Failure to return identity card	75
29	Production or display of identity card	76
Subdivision 2	Power to enter places	
30	Power to enter places	76
Subdivision 3	Procedure for entry	
31	Entry with consent	77
32	Application for warrant	78
33	Issue of warrant	79
34	Special warrants	79

Contents

35	Warrants—procedure before entry	81
Subdivision 4	Powers after entering a place	
36	General powers after entering places.	82
37	Failure to help authorised officer	83
38	Failure to give information	83
Subdivision 5	Power to seize evidence	
39	Seizing evidence	84
40	Securing seized things	85
41	Tampering with seized things	85
42	Powers to support seizure	85
43	Receipts for seized things	86
44	Forfeiture by authorised officer	86
45	Forfeiture on conviction	87
46	Dealing with forfeited things	87
47	Return of seized things.	88
48	Access to seized things	88
Subdivision 6	Power to obtain information	
49	Power to require name and address.	88
50	Failure to give name or address	89
51	Power to require information.	89
52	Power to require production of documents.	90
53	Failure to certify copy of document.	91
54	Failure to produce document	91
Subdivision 7	Power to require compliance	
54A	Stop work notice	92
54B	Restoration notice	92
54C	Contravention of stop work notices and restoration notices.	93
55	Transfer of land the subject of restoration notice	94
55A	Record of restoration notice in land registry.	95
Subdivision 8	Restoration plans	
55AA	Application of sdiv 8	95
55AB	Preparing restoration plan	96
55AC	Approving restoration plan	96
55AD	Chief executive may amend approved restoration plan	97
55AE	Steps after, and taking effect of, decision.	98
55AF	Failure to comply with restoration notice	99

Division 2	Other enforcement provisions	
Subdivision 1	Obtaining criminal history reports	
55B	Purpose of sdiv 1	100
55C	Chief executive's power to obtain criminal history report	100
55D	Criminal history is confidential document.	100
Subdivision 2	Notice of damage and compensation	
56	Notice of damage	101
57	Compensation	102
Division 3	General offences	
58	False or misleading statements	102
59	False or misleading documents	103
59A	Impersonation of authorised officer	103
60	Obstructing an authorised officer	103
60A	Executive officers must ensure corporation complies with Act. . .	104
60B	Guide for deciding penalty for vegetation clearing offence.	104
61	Ability to prosecute under other Acts	105
Part 4	Reviews and legal proceedings	
Division 1	Internal reviews by chief executive	
62	Internal review process before external review	106
63	How to apply for internal review	106
63A	Review decision	107
Division 1A	External reviews by QCAT	
63B	Who may apply for external review.	107
Division 2	Evidence	
64	Application of div 2	108
65	Appointments and authority	108
66	Signatures	108
66A	Instruments, equipment and installations.	108
66B	Certificate or report about remotely sensed image	109
67	Evidentiary aids	110
67A	Responsibility for unauthorised clearing of vegetation	110
Division 2A	Defences	
67B	Defence in proceeding for vegetation clearing offence.	111
Division 3	Proceedings	
68	Summary proceedings for offences	111

Contents

68A	Particulars to be stated for complaint for vegetation clearing offence	112
68B	Representation of departmental officer in court	113
68C	Recovery of costs of investigation	113
Division 4	Restrictions on legal proceedings	
68CA	Definitions for div 4.	113
68CB	Non-application of Judicial Review Act 1991	114
68CC	No appeals about relevant vegetation maps and particular PMAV applications	114
Part 5	Miscellaneous	
68D	Approved forms	115
69	Advisory committees	115
70	Regional vegetation management committees	115
70AA	Copies of vegetation management maps and PMAVs to be available for inspection and purchase	116
70AB	Copies of documents to be available for inspection and purchase	117
70A	Application of development approvals and exemptions for Forestry Act	118
70B	Record of particular matters in land registry	119
70C	Particular vegetation not natural resource owned by person as improvement on leasehold land	120
71	Protecting officials from civil liability	121
72	Regulation-making power.	121
Part 6	Transitional and declaratory provisions	
Division 1	Transitional provisions for Act No. 90 of 1999	
73	Existing development approvals and applications for development approvals under the Planning Act	122
74	Existing development control plans and special facilities zones.	122
Division 2	Transitional provisions for Vegetation Management and Other Legislation Amendment Act 2004	
75	What may be approved as codes	124
76	Existing applications (pre VACA) and development approvals	125
77	Existing applications (pre VACA) and permits under the Land Act 1994	126
78	Existing applications (post VACA) under the Land Act 1994	128
79	When the Land Act 1994 continues to apply	129
80	Modifying effect of Planning Act for owner's consent	129

Division 3	Transitional provisions for Vegetation Management and Other Legislation Amendment Act 2005	
81	Effect on existing riverine protection permits	129
82	Validation of particular clearing	130
83	Validation of regional vegetation management codes	130
Division 4	Transitional provision for Land and Other Legislation Amendment Act 2007	
84	Existing appeals under s 22C.	132
Division 5	Declaratory and transitional provisions for Vegetation Management Amendment Act 2008	
85	Declaration about types of regional ecosystems	132
86	Amendment of regulation	133
Division 7	Transitional provisions for Vegetation Management and Other Legislation Amendment Act 2009	
Subdivision 1	Preliminary	
88	Definitions for div 7.	134
89	References to unamended Act	134
Subdivision 2	Transitional provisions for amendments of Vegetation Management Act 1999	
90	Existing regional vegetation management codes approved by the Minister.	135
91	Native forest practice code	135
92	Existing regional ecosystems maps and remnant maps	136
93	Certifying vegetation management maps in retrospective period	137
94	Changes to existing vegetation category areas	137
95	When particular PMAVs may be revoked	138
96	Existing compliance notices	139
97	Tree clearing provisions under unamended Land Act	139
98	Existing development approvals and development applications.	140
99	References to not of concern regional ecosystems	140
100	Clearing of regulated regrowth vegetation in retrospective period not an offence	140
101	Application of s 19Q.	141
102	Not giving notice in retrospective period not an offence.	141
103	Delayed applications to QCAT	142
104	Amendment of Vegetation Management Regulation 2000.	142

Contents

Subdivision 3	Transitional provisions for repeal of Vegetation Management (Regrowth Clearing Moratorium) Act 2009	
105	Existing applications for moratorium exemption	142
106	Existing PMAV applications	143
107	Existing show cause notices and compliance notices	143
108	Appeals	145
Schedule	Dictionary	146
 Endnotes		
1	Index to endnotes	159
2	Date to which amendments incorporated	159
3	Key	160
4	Table of reprints	160
5	List of legislation	161
6	List of annotations	163
7	Information about retrospectivity	180

Vegetation Management Act 1999

[as amended by all amendments that commenced on or before 3 November 2009]

An Act about the management of vegetation

Part 1 Preliminary

1 Short title

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

3 Purpose of Act

- (1) The purpose of this Act is to regulate the clearing of vegetation in a way that—
- (a) conserves remnant vegetation that is—
 - (i) an endangered regional ecosystem; or
 - (ii) an of concern regional ecosystem; or
 - (iii) a least concern regional ecosystem; and
 - (b) conserves vegetation in declared areas; and
 - (c) ensures the clearing does not cause land degradation; and
 - (d) prevents the loss of biodiversity; and
 - (e) maintains ecological processes; and
 - (f) manages the environmental effects of the clearing to achieve the matters mentioned in paragraphs (a) to (e); and

[s 3]

- (g) reduces greenhouse gas emissions.
- (2) The purpose is achieved mainly by providing for—
- (a) codes for the Planning Act relating to the clearing of vegetation that are applicable codes for the assessment of vegetation clearing applications under IDAS; and
 - (b) the enforcement of vegetation clearing provisions; and
 - (c) declared areas; and
 - (d) a framework for decision making that, in achieving this Act's purpose in relation to subsection (1)(a) to (e), applies the precautionary principle that lack of full scientific certainty should not be used as a reason for postponing a measure to prevent degradation of the environment if there are threats of serious or irreversible environmental damage; and
 - (e) the phasing out of broadscale clearing of remnant vegetation by 31 December 2006; and
 - (f) the regulation of particular regrowth vegetation.
- (3) In this section—
- environment*** includes—
- (a) ecosystems and their constituent parts including people and communities; and
 - (b) all natural and physical resources; and
 - (c) those qualities and characteristics of locations, places and areas, however large or small, that contribute to their biological diversity and integrity, intrinsic or attributed scientific value or interest, amenity, harmony and sense of community; and
 - (d) the social, economic, aesthetic and cultural conditions affecting the matters in paragraphs (a) to (c) or affected by those matters.

4 Advancing the Act's purpose

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 the purpose of this Act.

5 Definitions

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

6 Act binds all persons

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.

7 Application of Act

- (1) This Act applies to all clearing of vegetation other than vegetation on—
 - (a) a forest reserve under the *Nature Conservation Act 1992*; or
 - (b) a protected area under the *Nature Conservation Act 1992*, section 28; or
 - (c) an area declared as a State forest or timber reserve under the *Forestry Act 1959*; or
 - (d) a forest entitlement area under the *Land Act 1994*.
- (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.
- (4) The *Local Government Act 1993*, section 31 is subject to subsection (3).

[s 8]

- (5) This Act does not prevent a local planning instrument under the Planning Act from imposing requirements on the clearing of vegetation in its local government area.
- (6) The requirements mentioned in subsection (5) are unaffected by the Planning Act, section 3.1.3.
- (7) The Planning Act, section 3.1.3 is subject to subsection (6).

Part 2 Vegetation management

Division 1 Key concepts

8 What is vegetation

Vegetation is a native tree or plant other than the following—

- (a) grass or non-woody herbage;
- (b) a plant within a grassland regional ecosystem prescribed under a regulation;
- (c) a mangrove.

9 What is vegetation management

- (1) *Vegetation management* is the management of vegetation in a way that achieves the purpose of this Act.
- (2) For subsection (1), the management of vegetation may include, for example, the following—
 - (a) the retention or maintenance of vegetation to—
 - (i) avoid land degradation; or
 - (ii) maintain or increase biodiversity; or
 - (iii) maintain ecological processes;

- (b) the retention of riparian vegetation;
- (c) the retention of vegetation clumps or corridors.

Division 2 State policy for vegetation management

10 State policy for vegetation management

- (1) The Minister must prepare a policy for vegetation management for the State.
- (2) Without limiting subsection (1), the policy must state—
 - (a) outcomes for vegetation management and actions proposed to achieve the outcomes; and
 - (b) special considerations for significant community projects.
- (3) The Governor in Council, by gazette notice, may approve the policy.
- (4) The policy is not subordinate legislation.
- (5) In this section—

significant community projects means projects the chief executive considers have an aesthetic, conservation, cultural or economic benefit to a local or regional community or the State, including—

- (a) a project that serves an essential need of the community; and

Examples—

essential infrastructure, school

- (b) a project that significantly improves the community's access to services.

Examples—

hospital, State or local government library or museum

[s 10A]

Division 2A Other policies for vegetation management

Subdivision 1 Concurrence agency policies

10A Types of concurrence agency policies

- (1) The *MCU policy* is the document called ‘Concurrence Agency Policy for Material Change of Use (MCU)’ made by the chief executive on 23 August 2007, as amended or replaced from time to time under this section.
- (2) The *RaL policy* is the document called ‘Concurrence Agency Policy for Reconfiguring a Lot (RaL)’ made by the chief executive on 23 August 2007, as amended or replaced from time to time under this section.
- (3) Each of the MCU policy and the RaL policy is called a *concurrence agency policy*.
- (4) The chief executive may amend or replace the document mentioned in subsection (1) or (2) or any amendment or replacement of it.
- (5) However, the amendment or replacement does not take effect until it is approved under a regulation.
- (6) A reference to a concurrence agency policy is taken to include any amendment or replacement under subsection (4) that has taken effect.

10B Content of concurrence agency policy

- (1) A concurrence agency policy may provide for any matter about assessing and responding as a concurrence agency to the part of a concurrence agency application giving rise to the referral that the chief executive considers is necessary or desirable for achieving the purpose of this Act.
- (2) A concurrence agency policy may—

-
- (a) provide criteria for assessing the part of a concurrence agency application giving rise to the referral, including the clearing of native vegetation—
 - (i) made assessable under the Planning Act; or
 - (ii) that becomes exempt development under the Planning Act if the application is approved; or
 - (b) state the circumstances in which the chief executive must in its referral agency's response to a concurrence agency application tell the assessment manager to refuse the application.
- (3) A concurrence agency policy must not be inconsistent with the State policy.

Subdivision 2 Offsets policy

10C What is the *offsets policy*

- (1) The *offsets policy* is the document called 'Policy for Vegetation Management Offsets' made by the chief executive on 28 September 2007, as amended or replaced from time to time under this section.
- (2) The chief executive may amend or replace the document mentioned in subsection (1) or any amendment or replacement of it.
- (3) However, the amendment or replacement does not take effect until it is approved under a regulation.
- (4) A reference to the offsets policy is taken to include any amendment or replacement under subsection (2) that has taken effect.

10D Content of offsets policy

- (1) The offsets policy may provide for any matter about the requirements for an offset as a condition of a development

[s 10D]

approval that the chief executive considers is necessary or desirable for achieving the purpose of this Act.

- (2) The offsets policy may—
- (a) set out the characteristics of a suitable offset area for the offset, including the following—
 - (i) remnant status or current level of protection of the vegetation in the offset area;
 - (ii) the location and size of the offset area;
 - (iii) the ecological equivalence of the vegetation in the offset area to the vegetation in the area to be cleared; and
 - (b) provide for on-going management and monitoring of the vegetation in the offset area; and
 - (c) require reporting about the management and monitoring of the vegetation in the offset area; and
 - (d) provide for a range of ways to legally secure an offset area; and
- Examples—*
- a covenant under the *Land Title Act 1994*
 - a declaration under part 2, division 4
- (e) provide the circumstances when the chief executive may enter into an agreement with the applicant for the development approval or a third party to provide an offset area; and
 - (f) provide the circumstances when the applicant for the development approval may provide an offset area and the period within which the offset area is provided.
- (3) The offsets policy must not be inconsistent with the State policy.
- (4) In this section—
- development approval*** means a development approval under the Planning Act for—

-
- (a) a concurrence agency application; or
 - (b) a vegetation clearing application.

Division 3 Regional vegetation management codes

11 Minister must make regional vegetation management codes

- (1) The Minister must make codes for vegetation management for regions of the State (*regional vegetation management codes*).
- (2) A regional vegetation management code may provide for the protection of the habitat of native wildlife prescribed under the Nature Conservation Act as endangered, vulnerable, rare or near threatened wildlife (*protected wildlife*).
- (3) For subsection (2), the code may refer to an essential habitat map for the area of habitat in which the protected wildlife is protected.
- (4) The codes must not be inconsistent with the State policy for vegetation management mentioned in section 10.

12 Preparing codes

- (1) Before making a regional vegetation management code, the Minister may seek appropriate public input in preparing a draft code.
- (2) Before making the regional vegetation management code, the Minister must give notice of the draft code.
- (3) The notice must—
 - (a) be published in a newspaper the Minister considers appropriate; and
 - (b) state the places where copies of the draft code—
 - (i) may be inspected; or

[s 13]

- (ii) may be bought, on payment of the reasonable fee decided by the chief executive; and
- (c) invite submissions on the draft code; and
- (d) state a day by which submissions may be made on the contents of the draft code.

13 Minister must consider all properly made submissions

Before making a regional vegetation management code, the Minister must consider all submissions on the code properly made under section 12(3)(c).

14 When regional vegetation management code takes effect

- (1) A regional vegetation management code, or an amendment or replacement of a regional vegetation management code, does not take effect until it has been approved under a regulation.
- (2) A reference to a regional vegetation management code is taken to include any amendment or replacement under subsection (1) that has taken effect.

15 Minor, stated or permitted amendments of regional vegetation management code

- (1) Despite sections 12 and 13, the Minister may amend a regional vegetation management code without complying with those sections if—
 - (a) the amendment is only to correct a minor error in the code, or make another change that is not a change of substance; or
 - (b) the code states that an amendment of a stated type may be made to the code by amendment under this section and the amendment is of the stated type; or
 - (c) the amendment is a permitted amendment of the code.
- (2) In this section—

permitted amendment, of a regional vegetation management code, means an amendment of—

- (a) a provision of the code about a suggested way of achieving a required outcome under the code; or
- (b) a provision of the code to make it consistent with the State policy.

Division 4 Declaration of areas of high nature conservation value and areas vulnerable to land degradation

Subdivision 1 Declarations by Governor in Council or Minister

16 Preparing declaration

- (1) The Minister may prepare a declaration that a stated area is—
 - (a) an area of high nature conservation value; or
 - (b) an area vulnerable to land degradation.
- (2) Also, a person may request the Minister to prepare a declaration mentioned in subsection (1).
- (3) The proposed declaration must include a proposed code for the clearing of vegetation in the stated area.
- (4) The Minister must consult with the following entities in preparing the declaration—
 - (a) an advisory committee established to advise the Minister about vegetation management;
 - (b) each local government whose area is affected by the declaration.
- (5) The Minister must give each owner of land that is in the stated area a written notice inviting the owner to make a submission about the proposed declaration.

[s 17]

- (6) The Minister must also give notice of the proposed declaration.
- (7) The notice must—
 - (a) be published in a newspaper the Minister considers appropriate; and
 - (b) state the places where copies of the proposed declaration may be inspected; and
 - (c) invite submissions on the proposed declaration; and
 - (d) state a day by which submissions may be made on the proposed declaration.
- (8) This section does not apply to a declaration of an area of high nature conservation value taken to exist under section 17(1A).

17 Making declaration

- (1) The Governor in Council, by gazette notice, may declare—
 - (a) an area mentioned in section 16(1)(a) to be an area of high nature conservation value; or
 - (b) an area mentioned in section 16(1)(b) to be an area vulnerable to land degradation.
- (1A) A wild river high preservation area is taken to be declared to be an area of high nature conservation value under subsection (1)(a).
- (2) The declaration must include a code for the clearing of vegetation in the declared area (a *declared area code*).
- (2A) For an area mentioned in subsection (1A), the declared area code is the code identified in the wild river declaration for the wild river area.
- (3) The declaration is not subordinate legislation.

18 Interim declaration

- (1) The Minister, by gazette notice, may make an interim declaration that a stated area is—

-
- (a) an area of high nature conservation value; or
 - (b) an area vulnerable to land degradation.
- (2) The Minister may make the interim declaration only if the Minister considers that urgent action is needed to protect the area.
 - (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.
 - (4) The interim declaration is not subordinate legislation.
 - (5) If an area is declared under subsection (1), a person must not clear vegetation in the area while the declaration has effect.

Maximum penalty—1665 penalty units.

19 Criteria for declarations

- (1) The Minister may make an interim declaration of, or prepare 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—
 - (a) a wildlife refugium;
 - (b) a centre of endemism;
 - (c) an area containing a vegetation clump or corridor that contributes to the maintenance of biodiversity;
 - (d) an area that makes a significant contribution to the conservation of biodiversity;
 - (e) an area that contributes to the conservation value of a wetland, lake or spring stated in the notice.
- (2) The Minister may make an interim declaration of, or prepare 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—
 - (a) soil erosion;
 - (b) rising water tables;

[s 19A]

- (c) the expression of salinity, whether inside or outside the area;
 - (d) mass movement by gravity of soil or rock;
 - (e) stream bank instability;
 - (f) a process that results in declining water quality.
- (3) An area declared under subsection (1) or (2) may include an area of regrowth vegetation.

19A Preparing amendment of declared area code

- (1) The Minister may prepare an amendment of a declared area code.
- (2) The Minister must consult with the following entities in preparing the amendment—
 - (a) an advisory committee established to advise the Minister about vegetation management;
 - (b) each local government whose area is affected by the code.
- (3) The Minister must give each owner of land that is in the area to which the code applies a written notice inviting the owner to make a submission about the proposed amendment.
- (4) The Minister must also give public notice of the proposed amendment.
- (5) The notice must be published in a newspaper the Minister considers appropriate and state—
 - (a) where copies of the proposed amendment may be inspected; and
 - (b) that written submissions may be made by any entity about the proposed amendment; and
 - (c) the day by which submissions must be made, and the person to whom, and the place where, the submissions must be made.

19B Approving amendment of declared area code

- (1) The Governor in Council may, by gazette notice, approve the amendment of a declared area code.
- (2) The amendment is not subordinate legislation.

19C Minor or stated amendment of declared area code

The Governor in Council may amend a declared area code without section 19A applying if—

- (a) the amendment is only to correct a minor error in the code, or to make another change that is not a change of substance; or
- (b) the code states that an amendment of a stated type may be made to the code by amendment under this subsection and the amendment is of the stated type.

19D Application of ss 19A–19C to wild rivers code

Sections 19A to 19C do not apply to the wild rivers code under the *Wild Rivers Act 2005*, or a part of that code, that is a declared area code.

Subdivision 2 Declarations by chief executive

19E Request for declaration

- (1) The owner of land (the *proponent*) may, by written notice given to the chief executive, ask the chief executive to declare that a stated area of the land is—
 - (a) an area of high nature conservation value; or
 - (b) an area vulnerable to land degradation.
- (2) The notice must be accompanied by a management plan for the stated area.
- (3) The management plan must—

[s 19F]

- (a) be signed by the proponent; and
 - (b) include enough information to allow the chief executive to map the boundary of the stated area; and
 - (c) state the proponent's management intent, and management outcomes proposed by the proponent, for the conservation of the high nature conservation value of the area or the prevention of land degradation in the area; and
 - (d) state the activities the proponent intends to carry out, or refrain from carrying out, to achieve the management outcomes mentioned in paragraph (c); and
 - (e) state the restrictions, if any, to be imposed on the use of, or access to, the area by other persons to achieve the management outcomes mentioned in paragraph (c).
- (4) Subsection (3) does not limit the matters the management plan may contain.

19F Making declaration

- (1) The chief executive may, by written notice given to the proponent, declare that the stated area is—
 - (a) an area of high nature conservation value; or
 - (b) an area vulnerable to land degradation.
- (2) If a person other than the proponent has a registered interest in the stated area the chief executive must not make the declaration without the person's written consent.
- (3) The chief executive need not make a declaration for the stated area if the chief executive—
 - (a) prepares a code for the clearing of vegetation in the area and the proponent does not agree, under section 19H(2), that it is the code for the clearing of vegetation in the area; or
 - (b) considers the making of the declaration is not in the interests of the State, having regard to the public interest.

(4) In this section—

registered means registered under the *Land Act 1994* or *Land Title Act 1994*.

19G Particular criteria for declaration

(1) The chief executive may declare an area to be an area of high nature conservation value only if the chief executive considers—

(a) implementation of the management plan for the area will help to conserve its high nature conservation value; and

(b) the area is 1 or more of the following—

(i) a wildlife refugium;

(ii) a centre of endemism;

(iii) an area containing a vegetation clump or corridor that contributes to the maintenance of biodiversity;

(iv) an area that makes a significant contribution to the conservation of biodiversity;

(v) an area that contributes to the conservation value of a wetland, lake or spring stated in the notice mentioned in section 19F(1) for the declaration;

(vi) another area that contributes to the conservation of the environment.

(2) The chief executive may declare an area to be an area vulnerable to land degradation only if the chief executive considers—

(a) implementation of the management plan for the area will help to prevent or minimise land degradation in the area; and

(b) the area is subject to 1 or more of the following—

(i) soil erosion;

(ii) rising water tables;

[s 19H]

- (iii) the expression of salinity, whether inside or outside the area;
 - (iv) mass movement by gravity of soil or rock;
 - (v) stream bank instability;
 - (vi) a process that results in declining water quality.
- (3) An area declared under this subdivision may include an area of regrowth vegetation.

19H Code for clearing of vegetation

- (1) The chief executive may prepare a code for the clearing of vegetation in an area declared to be a declared area under this subdivision.
- (2) A code mentioned in subsection (1) is the code for the clearing of vegetation in the declared area (a *declared area code*) if, before the declaration for the area is made, the proponent agrees by written notice given to the chief executive that it is the code for the clearing of vegetation in the area.
- (3) If there is no declared area code for the area, the regional vegetation management code for the region of the State in which the area is situated is the code for the clearing of vegetation in the area.
- (4) The chief executive may, with the agreement of the owner of the land the subject of a declared area code, amend the code.

19I Amendment of management plan

The chief executive may, with the agreement of the owner of the land the subject of a management plan, amend the plan.

19J When management plan stops having effect

A management plan for a declared area has effect until the earlier of the following happens—

- (a) the plan ends under its terms;

-
- (b) the declaration of the area as a declared area ends under section 19L.

19K Recording of declared areas and management plans

- (1) As soon as practicable after declaring an area to be a declared area, the chief executive must give the registrar of titles written notice of—
 - (a) the declaration; and
 - (b) the management plan for the declared area.
- (2) The notice must include particulars of the land the subject of the declaration.
- (3) The registrar must keep records that—
 - (a) show the land is a declared area; and
 - (b) state the places where particulars of the management plan may be inspected.
- (4) The registrar must keep the records in a way that a search of the register kept by the registrar under any Act relating to title to the land will show—
 - (a) the declaration has been made; and
 - (b) the existence of the management plan.
- (5) As soon as practicable after a declaration ends or a management plan for the land the subject of a declaration stops having effect—
 - (a) the chief executive must give the registrar written notice of the fact; and
 - (b) the registrar must remove the particulars of the declaration or management plan from the registrar's records.
- (6) While a management plan has effect for the land and is recorded by the registrar under this section, the plan is binding on—

[s 19L]

- (a) each person who is from time to time the owner of the land, whether or not the person signed the plan or agreed to any amendment of the plan; and
- (b) each person who has an interest in the land.

19L Ending declaration

The chief executive may, by written notice given to the owner of the land the subject of a declaration under this subdivision, end the declaration if the chief executive considers—

- (a) the declaration is not in the interests of the State, having regard to the public interest; or
- (b) the management outcomes mentioned in section 19E(3)(c) for the management plan relevant to the declaration have been achieved.

Division 4A Code for clearing vegetation for special indigenous purpose

19N Code for clearing vegetation for special indigenous purpose

- (1) The Minister may prepare and make a code for the clearing of vegetation for development that the Minister is satisfied, under the CYPH Act, is for a special indigenous purpose (the *special clearing code*).
- (2) Before making the code, the Minister must consult with—
 - (a) the relevant landholders; and
 - (b) the Cape York Peninsula Regional Advisory Committee.
- (2A) To prepare the code, the Minister may consider any matters stated in the CYPH Act, section 18 or 19, the Minister considers relevant to the clearing of vegetation for development mentioned in subsection (1).
- (2B) Subsection (2A) does not limit the matters the Minister may consider.

-
- (3) The Minister may amend the code with the agreement of—
- (a) the relevant landholders; and
 - (b) the Cape York Peninsula Regional Advisory Committee.
- (4) However, the Minister may amend the code without subsection (3) applying if—
- (a) the amendment is only to correct a minor error in the code, or to make another change that is not a change of substance; or
 - (b) the code states that an amendment of a stated type may be made to the code by amendment under this subsection and the amendment is of the stated type.
- (5) If there is no code under this section for the clearing of vegetation for development mentioned in subsection (1), the code for clearing of vegetation for the development is—
- (a) if there is a declared area code for the clearing—the declared area code; or
 - (b) otherwise—the regional vegetation management code for the region of the State that includes the Cape York Peninsula Region.

- (6) In this section—

Cape York Peninsula Region means the Cape York Peninsula Region under the CYPH Act.

Cape York Peninsula Regional Advisory Committee means the Cape York Peninsula Regional Advisory Committee established under the CYPH Act.

DOGIT land means DOGIT land under the *Aboriginal Land Act 1991*.

relevant landholders means each of the following—

- (a) the land trusts for Aboriginal land, under the *Aboriginal Land Act 1991*, that is in the Cape York Peninsula Region;
- (b) the Aurukun Shire Council;

[s 190]

- (c) the trustees, under the *Land Act 1994*, of DOGIT land in the Cape York Peninsula Region.

Division 4B Other codes for vegetation management

Subdivision 1 Conducting a native forest practice

190 Native forest practice code

- (1) The *native forest practice code* is the document called ‘The Code applying to a Native Forest Practice on Freehold Land’ approved by the Minister, as amended or replaced from time to time under this section.
- (2) The Minister may amend or replace the document mentioned in subsection (1) or any amendment or replacement of it.
- (3) However, the amendment or replacement does not take effect until it is approved under a regulation.
- (4) A reference to the native forest practice code is taken to include any amendment or replacement under subsection (2) that has taken effect.

19P Content of native forest practice code

- (1) The native forest practice code may provide for any matter about conducting a native forest practice the Minister considers is necessary or desirable for achieving the purpose of this Act.
- (2) The native forest practice code may provide for required outcomes and practices for producing, managing and removing commercial timber in native forests.
- (3) The native forest practice code must not be inconsistent with the State policy.

19Q Offence to conduct native forest practice without giving notice

A person must not conduct a native forest practice in an area of remnant vegetation or regulated regrowth vegetation unless the person has given the chief executive a notice in the approved form stating the location of the proposed conducting of the practice.

Maximum penalty—50 penalty units.

19R Offence to conduct particular native forest practice other than under native forest practice code

If the native forest practice code applies to a native forest practice, the native forest practice must be conducted in a way that complies with the code.

Note—

See the Planning Act, section 4.3.1, schedule 8, part 1, table 4, item 1A and schedule 10, definition *forest practice* for the penalty for carrying out a native forest practice other than under the code.

Subdivision 2 Clearing regulated regrowth vegetation under the regrowth vegetation code

19S Making regrowth vegetation code

- (1) The Minister may make a code for clearing regulated regrowth vegetation (the *regrowth vegetation code*).
- (2) The regrowth vegetation code may provide for any matter about clearing regulated regrowth vegetation the Minister considers is necessary or desirable for achieving the purpose of this Act.
- (3) The regrowth vegetation code may provide for the following—

[s 19T]

- (a) required outcomes and practices, and voluntary best practice activities, for clearing regulated regrowth vegetation;
 - (b) the protection of habitat for protected wildlife;
 - (c) the restriction on clearing commercial timber on State land;
 - (d) the circumstance in which an exchange area must be provided.
- (4) For subsection (3)(b), the code may refer to an essential habitat map for the area of habitat in which the protected wildlife is protected.
- (5) The regrowth vegetation code must not be inconsistent with the State policy.

19T When regrowth vegetation code takes effect

The regrowth vegetation code, or an amendment or replacement of the regrowth vegetation code, does not take effect until it has been approved under a regulation.

19U Requirement and process for giving notice of clearing regulated regrowth vegetation

- (1) This section applies if a person proposes clearing regulated regrowth vegetation under the regrowth vegetation code on land (a *clearing area*).
- (2) The person must give the chief executive notice in the approved form (a *clearing notification*) stating—
 - (a) the real property description of the land; and
 - (b) the location and extent of—
 - (i) the clearing area; and
 - (ii) any exchange area; and
 - (c) the purpose of clearing the regulated regrowth vegetation.

-
- (3) The chief executive must, within 5 business days after receiving the clearing notification—
 - (a) give the person notice that the notification was received and information included in the notification is enough to identify the location and extent of the clearing area and any exchange area; or
 - (b) ask the person to give the chief executive further reasonable information or documents about the location or extent of the clearing area or any exchange area within a stated period.
 - (4) A notice or request under subsection (3) may be given orally or by written notice.
 - (5) However, if the notice or request is given orally, the chief executive must, within 5 business days after giving the notice or request, confirm the notice or request by written notice given to the person.
 - (6) The stated period mentioned in subsection (3)(b) must be at least 10 business days after the chief executive gives the person written notice of the request.
 - (7) The notice given under subsection (2) is taken to be a clearing notification whether or not the chief executive acts under subsection (3) in relation to the notice.

19V Offence to clear regulated regrowth vegetation under regrowth vegetation code without clearing notification

A person must not clear regulated regrowth vegetation under the regrowth vegetation code unless the person has given the chief executive a clearing notification for the clearing.

Maximum penalty—50 penalty units.

[s 19W]

19W Offence to clear regulated regrowth vegetation other than under regrowth vegetation code

Subject to section 19ZF, regulated regrowth vegetation may be cleared only in a way that complies with the regrowth vegetation code.

Note—

See the Planning Act, section 4.3.1 and schedule 8, part 1, table 4, items 1A and 1B for the penalty for clearing regulated regrowth vegetation other than under the regrowth vegetation code or a regrowth clearing authorisation.

19X Register of clearing notifications

- (1) The chief executive must keep a register of clearing notifications.
- (2) The register must include, for each clearing notification—
 - (a) the person's name; and
 - (b) the real property description of the land the subject of the notification; and
 - (c) the location and extent of—
 - (i) the clearing area; and
 - (ii) any exchange area; and
 - (d) the purpose of clearing the regulated regrowth vegetation; and
 - (e) the day the chief executive received the notification.
- (3) The chief executive may also keep in the register other information about a clearing notification given to the chief executive under section 19U.
- (4) The person's name for each clearing notification must not be contained in the publicly available part of the register.
- (5) The chief executive must publish details in the publicly available part of the register on the department's website.

Division 4C Authorisation to clear regulated regrowth vegetation other than under regrowth vegetation code

19Y Definitions for div 4C

In this division—

primary producer means an individual who spends the majority of the individual's labour on, and derives the majority of the individual's income from, a primary production business.

primary production business means a business carried on within the State in a primary production industry, including the agricultural, apicultural, aquacultural, horticultural and pastoral industries.

primary production entity means a partnership, proprietary company, or trust that is solely or mainly engaged in a primary production business.

relevant entity means—

- (a) a primary producer; or
- (b) a primary production entity in which a primary producer is—
 - (i) if the entity is a partnership—a partner in the partnership; or
 - (ii) if the entity is a proprietary company—a person who holds shares in the company; or
 - (iii) if the entity is a trust—a trustee of the trust.

19Z Application of div 4C

This division applies to a relevant entity if—

- (a) the relevant entity is carrying on a primary production business on 8 October 2009; and

[s 19ZA]

- (b) the relevant entity proposes clearing regulated regrowth vegetation for the purpose of carrying on the business; and
- (c) clearing the regulated regrowth vegetation in compliance with the regrowth vegetation code would cause the relevant entity financial hardship to an extent that would stop the business from operating.

19ZA Applying for authorisation

- (1) The relevant entity may in the application period apply to the chief executive for an authorisation (a ***regrowth clearing authorisation***) to clear the regulated regrowth vegetation in a way other than in compliance with the regrowth vegetation code.
- (2) The application must—
 - (a) be made in the approved form; and
 - (b) state the real property description of the land on which the proposed clearing is to take place; and
 - (c) state the location and extent of the area proposed to be cleared under the regrowth clearing authorisation; and
 - (d) be accompanied by evidence satisfactory to the chief executive to show—
 - (i) the relevant entity is carrying on a primary production business; and
 - (ii) the purpose of the proposed clearing; and
 - (iii) that clearing the regulated regrowth vegetation in compliance with the regrowth vegetation code would cause the relevant entity financial hardship to an extent that would stop the relevant entity's primary production business from operating.
- (3) In this section—
application period means the period—

- (a) starting on 8 October 2009; and
- (b) ending immediately before 8 October 2011.

19ZB Chief executive to consider application

- (1) The chief executive must consider the application and decide to grant or refuse to grant the application.
- (2) In considering the application, the chief executive may consult with QRAA.
- (3) A function of QRAA is to give the chief executive advice about whether clearing the regulated regrowth vegetation in compliance with the regrowth vegetation code would cause the relevant entity financial hardship.
- (4) In this section—

QRAA means the authority established under the *Rural and Regional Adjustment Act 1994*, section 5.

19ZC Criteria for granting the application

The chief executive may grant the application only if satisfied—

- (a) the relevant entity is carrying on a primary production business; and
- (b) the proposed clearing is for the purpose of the business; and
- (c) clearing the regulated regrowth vegetation in compliance with the regrowth vegetation code would cause the relevant entity financial hardship to an extent that would stop the business from operating.

19ZD Deciding application

- (1) If the chief executive decides to grant the application, the chief executive must give the relevant entity a regrowth clearing authorisation for the proposed clearing.

[s 19ZE]

- (2) The chief executive may impose conditions on the regrowth clearing authorisation, including conditions about how and where the relevant entity may clear the regulated regrowth vegetation under the authorisation and when the authorisation expires.
- (3) If the chief executive decides to refuse to grant the application or grant the application on conditions, the chief executive must give the relevant entity an information notice about the decision.

19ZE Expiry of regrowth clearing authorisation on transfer of land

- (1) If land the subject of a regrowth clearing authorisation is transferred from the relevant entity to another entity, the authorisation expires on the day the land is transferred.
- (2) This section applies despite any condition imposed on the regrowth clearing authorisation stating the day the authorisation expires.

19ZF Clearing regulated regrowth vegetation under authorisation

- (1) This section applies if the relevant entity is given a regrowth clearing authorisation for the proposed clearing.
- (2) Regulated regrowth vegetation may be cleared under the regrowth clearing authorisation only in a way that complies with the authorisation.

19ZG Register of regrowth clearing authorisations

- (1) The chief executive must keep a register of regrowth clearing authorisations.
- (2) The register must include, for each regrowth clearing authorisation—
 - (a) the relevant entity's name; and

-
- (b) the real property description of the land the subject of the authorisation; and
 - (c) the location and extent of the clearing area; and
 - (d) the purpose of clearing the regulated regrowth vegetation; and
 - (e) the day the chief executive grants the authorisation; and
 - (f) the day the authorisation expires.
- (3) The register must not be publicly available.

Division 5 Declarations about codes

20 IDAS codes for the clearing of vegetation

- (1) A regional vegetation management code for a region is—
 - (a) a code for IDAS for a vegetation clearing application for land in the region; and
 - (b) an applicable code for the clearing of vegetation in the region.
- (2) A code for a declared area is—
 - (a) a code for IDAS for a vegetation clearing application for land in the area; and
 - (b) an applicable code for the clearing of vegetation in the area.
- (3) The special clearing code is—
 - (a) a code for IDAS for a vegetation clearing application for development that the Minister is satisfied, under the CYPH Act, is for a special indigenous purpose; and
 - (b) an applicable code for the clearing of vegetation for the development.
- (4) To the extent that a regional vegetation management code for a region that includes a declared area is inconsistent with the

[s 20A]

declared area code for the declared area, the declared area code prevails.

- (5) To the extent that the special clearing code is inconsistent with a declared area code in relation to particular clearing, the declared area code prevails.
- (6) To the extent that the special clearing code is inconsistent with a regional vegetation management code in relation to particular clearing, the special clearing code prevails.

Division 5AA Vegetation management maps

20A What is the *regional ecosystem map*

The *regional ecosystem map* is a map certified by the chief executive as the regional ecosystem map for a part of the State and showing for the part—

- (a) areas of remnant vegetation that are—
 - (i) an endangered regional ecosystem; or
 - (ii) an of concern regional ecosystem; or
 - (iii) a least concern regional ecosystem; and
- (b) the regional ecosystem number for each of the regional ecosystems mentioned in paragraph (a); and
- (c) areas the chief executive decides under section 20AH to show on the map as remnant vegetation.

Note—

The chief executive may decide under section 20AH to show an area on the regional ecosystem map as remnant vegetation even though the vegetation is not remnant vegetation.

20AA What is the *remnant map*

The *remnant map* is a map certified by the chief executive as the remnant map for the part of the State to which the regional ecosystem map does not apply and showing for the part—

-
- (a) areas of remnant vegetation; and
 - (b) areas the chief executive decides under section 20AH to show on the map as remnant vegetation.

Note—

The chief executive may decide under section 20AH to show an area on the remnant map as remnant vegetation even though the vegetation is not remnant vegetation.

20AB What is the *regrowth vegetation map*

The *regrowth vegetation map* is a map certified by the chief executive as the regrowth vegetation map for the State and showing for the State—

- (a) areas of regrowth vegetation, identified on the map as high value regrowth vegetation, that—
 - (i) are any of the following—
 - (A) an endangered regional ecosystem;
 - (B) an of concern regional ecosystem;
 - (C) a least concern regional ecosystem; and
 - (ii) have not been cleared since 31 December 1989; and
- (b) particular watercourses in the Burdekin, Mackay Whitsunday and Wet Tropics catchments, identified on the map as regrowth watercourses; and

Editor's note—

At the date of assent, a map showing the Burdekin, Mackay Whitsunday and Wet Tropics catchments can be inspected on the department's website at <www.derm.qld.gov.au>.

- (c) areas the chief executive decides under section 20AI to show on the map as high value regrowth vegetation.

Note—

The chief executive may decide under section 20AI to show an area on the regrowth vegetation map as high value regrowth vegetation even though the vegetation is not regrowth vegetation that satisfies paragraph (a).

[s 20AC]

20AC What is the *essential habitat map*

- (1) The *essential habitat map* is a map certified by the chief executive as the essential habitat map for the State and showing, for the State, areas the chief executive reasonably believes are areas of essential habitat or essential regrowth habitat for protected wildlife.
- (2) *Essential habitat*, for protected wildlife, means an area of vegetation shown on the regional ecosystem map or remnant map as remnant vegetation—
 - (a) that has at least 3 essential habitat factors for the protected wildlife that must include any essential habitat factors that are stated as mandatory for the protected wildlife in the essential habitat database; or
 - (b) in which the protected wildlife, at any stage of its life cycle, is located.
- (3) *Essential habitat database* means a database, listing essential habitat factors for protected wildlife, certified by the chief executive as an essential habitat database.
- (4) An *essential habitat factor*, for protected wildlife, is a component of the wildlife's habitat, including, for example, a landform, pollinator, regional ecosystem, soil and water, that is necessary or desirable for the wildlife at any stage of its lifecycle.
- (5) *Essential regrowth habitat*, for protected wildlife, means an area of vegetation shown on the regrowth vegetation map as high value regrowth vegetation—
 - (a) that has at least 3 essential habitat factors for the protected wildlife that must include any essential habitat factors that are stated as mandatory for the protected wildlife in the essential regrowth habitat database; or
 - (b) in which the protected wildlife, at any stage of its life cycle, is located.
- (6) *Essential regrowth habitat database* means a database, listing essential habitat factors for protected wildlife, certified by the chief executive as an essential regrowth habitat database.

20AD What is a *registered area of agriculture map*

A *registered area of agriculture map* is a map certified by the chief executive as a registered area of agriculture map for a wild river area and showing, for the wild river area, registered areas of agriculture.

20AE Certifying vegetation management map

The chief executive may certify a vegetation management map by certifying—

- (a) a hard copy of the map; or
- (b) a digital electronic form of the map.

20AF Amending vegetation management map

The chief executive may amend a vegetation management map (the *old map*) by—

- (a) replacing the map; and
- (b) certifying a vegetation management map that replaces the old map.

20AG When vegetation management map takes effect

- (1) A vegetation management map or a map replacing a vegetation management map does not take effect until a regulation approves the map.
- (2) The regulation must state the day on which the map was certified.
- (3) A reference to a vegetation management map is taken to include any replacement under subsection (1) that has taken effect.

20AH Deciding to show particular areas as remnant vegetation

In certifying the regional ecosystem map or remnant map, the chief executive may decide to show an area on the map as

[s 20AH]

remnant vegetation if—

- (a) a development approval for the area has been given for—
 - (i) fodder harvesting; or
 - (ii) thinning; or
 - (iii) clearing of encroachment; or
 - (iv) control of non-native plants or declared pests; or
- (b) the area is a declared area or offset area; or
- (c) the chief executive has been notified that the area is subject to a native forest practice; or
- (d) the area contains forest products under the *Forestry Act 1959* and the vegetation in the area is shown on the regional ecosystem map or remnant map as remnant vegetation and—
 - (i) has been defined by agreement with the FA chief executive as an area in which the State has an interest in commercial timber; or
 - (ii) is an area in which the State has carried out harvesting of commercial timber; or
 - (iii) has been cleared under section 70A; or
- (e) the chief executive has made a PMAV for the area under section 20B(1)(e), (g) or (h); or
- (f) the area has been unlawfully cleared; or
- (g) the area has been cleared of native vegetation and in relation to the clearing a person has been found guilty by a court, whether or not a conviction has been recorded, of a clearing offence; or
- (h) the area is a regional ecosystem that—
 - (i) has a predominant canopy not dominated by woody vegetation; and
 - (ii) has not been cultivated for 15 years; and

- (iii) contains native species normally found in the regional ecosystem; and
- (iv) is not dominated by non-native perennial species.

20AI Deciding to show particular areas as high value regrowth vegetation

In certifying the regrowth vegetation map, the chief executive may decide to show an area on the map as high value regrowth vegetation if—

- (a) the chief executive has been given a clearing notification for the area and the purpose of clearing the regulated regrowth vegetation in the area is for—
 - (i) thinning; or
 - (ii) clearing of encroachment; or
 - (iii) control of non-native plants or declared pests; or
- (b) the area is an exchange area; or
- (c) the area contains forest products under the *Forestry Act 1959* that are regulated regrowth vegetation and—
 - (i) has been defined by agreement with the FA chief executive as an area in which the State has an interest in commercial timber; or
 - (ii) is an area in which the State has carried out harvesting of commercial timber; or
 - (iii) has been cleared under section 70A; or
- (d) the chief executive has made a PMAV for the area under section 20B(1)(e), (g) or (h); or
- (e) the area has been unlawfully cleared; or
- (f) the chief executive has been notified that the area is subject to a native forest practice; or
- (g) the area has been cleared of native vegetation and in relation to the clearing a person has been found guilty by

[s 20AJ]

a court, whether or not a conviction has been recorded, of a clearing offence.

20AJ Application to make PMAV before amending particular vegetation management maps

- (1) This section applies to the following vegetation management maps—
 - (a) the regional ecosystem map;
 - (b) the remnant map;
 - (c) the regrowth vegetation map.
- (2) If an owner of land in an area wants the chief executive to amend a vegetation management map, the owner must apply to the chief executive under section 20C to make a PMAV for the area.

Note—

See section 20H for the effect of an inconsistency between a PMAV and a vegetation management map.

Division 5A Property map of assessable vegetation

20AK What is a *property map of assessable vegetation* (or *PMAV*)

- (1) A *property map of assessable vegetation* (or *PMAV*) is a map certified by the chief executive as a PMAV for an area and showing for the area the following—
 - (a) category A areas;
 - (b) category B areas;
 - (c) category C areas;
 - (d) category X areas;
 - (e) areas subject to a regional ecosystem map, remnant map or regrowth vegetation map.

-
- (2) The map may also show for the area the location of the boundaries of, and the regional ecosystem number for, each regional ecosystem in the area.
 - (3) Each of category A area, category B area, category C area and category X area is called a *vegetation category area*.

Note—

The effect of sections 20AL to 20AO, 20BA and 20CA is that there is no overlap of the boundaries of the vegetation category areas.

- (4) The chief executive may certify a map as a PMAV by certifying—
 - (a) a hard copy of the map; or
 - (b) a digital electronic form of the map.

20AL What is a *category A area*

A *category A area* is an area that—

- (a) is any of the following—
 - (i) a declared area;
 - (ii) an offset area;
 - (iii) an exchange area; or
- (b) has been unlawfully cleared; or
- (c) is, or has been, subject to—
 - (i) a restoration notice; or
 - (ii) an enforcement notice under the Planning Act containing conditions about restoration of vegetation; or
- (d) has been cleared of native vegetation and in relation to the clearing a person has been found guilty by a court, whether or not a conviction has been recorded, of a clearing offence; or
- (e) the chief executive decides under section 20BA is a category A area.

[s 20AM]

20AM What is a *category B area*

A *category B area* is an area, other than a category A area—

- (a) shown on a regional ecosystem map or remnant map as remnant vegetation; or
- (b) that, if section 20AN does not apply to the area, is a Land Act tenure to be converted under the *Land Act 1994* to another form of tenure and is or contains an endangered regional ecosystem, of concern regional ecosystem or a least concern regional ecosystem.

20AN What is a *category C area*

A *category C area* is an area, other than a category A area, that contains regrowth vegetation that is—

- (a) an endangered regional ecosystem, of concern regional ecosystem or a least concern regional ecosystem that has not been cleared since 31 December 1989; and
- (b) either—
 - (i) shown on a regional ecosystem map or remnant map as remnant vegetation; or
 - (ii) shown on a regrowth vegetation map as high value regrowth vegetation.

20AO What is a *category X area*

- (1) A *category X area* is an area, other than a category A area or category C area, in which clearing of vegetation has happened and that, when a PMAV applying to the area was made, did not contain remnant vegetation or vegetation shown on the regional ecosystem map or remnant map as remnant vegetation.
- (2) However, an area is not a *category X area* if the chief executive decides under section 20CA the area is not a category X area.

20B When chief executive may make PMAV

- (1) The chief executive may make a PMAV for an area if—
- (a) the area becomes a declared area; or
 - (b) the area becomes an offset area; or
 - (c) the area becomes an exchange area; or
 - (d) the area has been unlawfully cleared; or
 - (e) the area is subject to—
 - (i) a restoration notice; or
 - (ii) an enforcement notice under the Planning Act containing conditions about restoration of vegetation; or
 - (f) the area has been cleared of native vegetation and in relation to the clearing a person has been found guilty by a court, whether or not a conviction has been recorded, of a clearing offence; or
 - (g) the chief executive reasonably believes—
 - (i) a person has committed a vegetation clearing offence in relation to the area, whether before or after the commencement of this section, or a vegetation clearing offence is being committed in relation to the area; or
 - (ii) the area was cleared of vegetation in contravention of a tree clearing provision under the *Land Act 1994* as in force before the commencement of the *Vegetation Management and Other Legislation Amendment Act 2004*, section 3; or
 - (iii) prohibited development under the repealed Moratorium Act, part 5 was carried out in relation to the area; or
 - (h) the area is a Land Act tenure that is to be converted under the *Land Act 1994* to another form of tenure; or
 - (i) the chief executive reasonably believes there is an error in the part of the regrowth vegetation map for the area.

[s 20BA]

- (2) The chief executive must give each owner of land to be included in the PMAV an information notice about the decision to make the PMAV.

20BA Chief executive may make decision about category A area

The chief executive may make an area a category A area on a PMAV if the chief executive reasonably believes—

- (a) a vegetation clearing offence is being, or has been, committed in relation to the area; or
- (b) the area was cleared of vegetation in contravention of a tree clearing provision under the *Land Act 1994* as in force before the commencement of the *Vegetation Management and Other Legislation Amendment Act 2004*, section 3; or
- (c) prohibited development under the repealed Moratorium Act, part 5 was carried out in relation to the area.

20C When owner may apply for PMAV

- (1) An owner of land may apply to the chief executive for the making of a PMAV for the land or part of the land.
- (2) The application must—
 - (a) be in the approved form; and
 - (b) state the information prescribed under a regulation; and
 - (c) be accompanied by the fee prescribed under a regulation.
- (3) If the owner of the land and the chief executive agree to the making of the PMAV, the chief executive must make the PMAV.
- (4) The chief executive may waive the prescribed fee for the making of a PMAV if it is in the interests of the State and the owner.

-
- (5) If the chief executive refuses to make a PMAV for the area, the chief executive must give the owner an information notice about the decision.

20CA Process before making PMAV

- (1) This section applies if—
- (a) an owner of land applies under section 20C for the making of a PMAV for the land or part of the land; and
 - (b) the owner proposes that the land or part of the land (the *relevant area*) be a category X area on the PMAV.
- (2) The chief executive can not make the relevant area a category X area on the PMAV if any of the circumstances mentioned in section 20AH or 20AI for the area have happened unless the area has later been cleared and—
- (a) when the area was cleared of vegetation, the clearing was exempt development; or
 - (b) the clearing of vegetation has been carried out under a moratorium exemption; or
 - (c) the clearing of vegetation has been carried out under a development approval other than a development approval for—
 - (i) fodder harvesting; or
 - (ii) thinning; or
 - (iii) clearing of encroachment; or
 - (iv) control of non-native plants or declared pests; or
 - (d) a clearing notification for the area has been received and the purpose of clearing was other than clearing regulated regrowth vegetation in the area for—
 - (i) thinning; or
 - (ii) clearing of encroachment; or
 - (iii) control of non-native plants or declared pests.

[s 20CA]

- (3) Also, the chief executive can not make the relevant area a category X area on the PMAV if—
 - (a) vegetation in the area is not remnant vegetation because of clearing that happened as a result of burning, flooding or natural causes; or
 - (b) the area is located within 50m of a watercourse identified on the regrowth vegetation map as a regrowth watercourse.
- (4) If the chief executive considers the relevant area can not be made a category X area because of subsection (2) or (3), the chief executive must, before making the PMAV, give the owner of the land a notice inviting the owner to show why the relevant area should be a category X area.
- (5) The notice must state the following—
 - (a) the grounds for the proposed decision that the relevant area is not a category X area;
 - (b) the facts and circumstances forming the basis for the grounds;
 - (c) the proposed boundaries of the vegetation category areas for the PMAV;
 - (d) that the owner may make submissions about the proposed decision;
 - (e) how to make a properly made submission;
 - (f) where the submission may be made or sent;
 - (g) a period within which the submission must be made.
- (6) The stated period must be at least 15 business days after the notice is given.
- (7) If, after considering any properly made submission by the owner, the chief executive still considers the relevant area is not a category X area, the chief executive may make the relevant area other than a category X area on the PMAV.

-
- (8) The chief executive must give the owner an information notice about the decision to make the relevant area other than a category X area.
- (9) In this section—
- properly made submission*** means a submission that—
- (a) is written; and
 - (b) is signed by each person (a ***signatory***) who made the submission; and
 - (c) states the name and address of each signatory; and
 - (d) states the grounds of the submission and the facts and circumstances relied on in support of the grounds; and
 - (e) is made to the person stated in the notice inviting the submission; and
 - (f) is received on or before the last day for the making of the submission.

20D When PMAV may be replaced

- (1) The chief executive may replace a PMAV for an area (the ***previous area***) with 1 or more PMAVs (each a ***new PMAV***).
- (2) A new PMAV may apply to—
 - (a) part or all of the previous area; or
 - (b) part or all of the previous area and another area.
- (3) Subsection (1) applies only—
 - (a) if a matter mentioned in section 20B occurs in relation to an area mentioned in subsection (2); or
 - (b) to reflect a change to an endangered, of concern or a least concern regional ecosystem in an area mentioned in subsection (2); or

Editor's note

A change may only be made by amending the *Vegetation Management Regulation 2000*.

[s 20E]

- (c) for a matter other than a matter mentioned in paragraph (a) or (b), if each of the affected owners agrees to the replacement.
- (4) A reference to a PMAV made under section 20B or 20C is taken to include its replacement under this section.
- (5) In this section—

affected owner means an owner of land proposed to be included in a new PMAV if any of the following apply—

 - (a) the owner applied under section 20C for the making of the new PMAV;
 - (b) there was not a PMAV for the land or part of the land;
 - (c) the land, or part of the land, will be affected by a change to the boundary of a vegetation category area in the new PMAV.

20E When PMAV may be revoked

- (1) The chief executive may revoke a PMAV for an area if—
 - (a) for a PMAV made under section 20B(1)(a) for a declared area under division 4, subdivision 2—the declaration for the area ends; or
 - (b) for a PMAV made under section 20B(1)(b)—the offset in relation to the offset area ends; or
 - (c) for a PMAV made under section 20B(1)(c)—the exchange area is no longer an exchange area required under the regrowth vegetation code; or
 - (d) for a PMAV made under section 20B(1)(d), (e), (f) or (g)—the area is shown on a regional ecosystem map or remnant map as remnant vegetation; or
 - (e) for a PMAV made under section 20B(1)(h)—the Land Act tenure over the area is not converted to another form of tenure; or
 - (f) for a PMAV made under section 20B(1)(i)—the regrowth vegetation map is amended to correct the error.

- (2) Also, the chief executive may revoke a property map of assessable vegetation made under section 20C(3) if the owner of the land agrees to the revocation.

20F Copies of PMAV given to owners

- (1) If a PMAV is made or replaced, a copy must be given, free of charge, to each owner of land that is included in the PMAV.
- (2) However, if there are 2 or more owners who reside at the same address, a copy of the PMAV may be sent to the owners jointly.

20G Owners to be advised of revocation of PMAV

If a PMAV is revoked, the chief executive must give each owner of land that is included in the map written notice of the revocation and the reasons for the revocation.

20H Inconsistency between PMAV and particular vegetation management maps

If there is an inconsistency in the boundary of an area shown on a PMAV and a boundary of the area shown on any of the following, the boundary of the area shown on the PMAV prevails to the extent of the inconsistency—

- (a) the regional ecosystem map;
- (b) the remnant map;
- (c) the regrowth vegetation map.

Division 6 Relationship with Planning Act

Subdivision 1 Modifying effect of Planning Act

21 Modifying effect on vegetation clearing applications

- (1) This section applies for a vegetation clearing application.
- (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 Planning Act, section 3.2.1(3)(a).
- (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.
- (4) For the aspect of the application relating to the clearing of vegetation—
 - (a) section 3.5.13 of that Act does not apply; and
 - (b) the assessment manager's decision must comply with the applicable code.

22 Declarations for the Planning Act

- (1) To remove any doubt, it is declared that for the Planning Act, section 1.3.4, a use of premises does not include clearing vegetation that is assessable development.
- (2) Subsection (3) applies if the chief executive is the assessment manager for a vegetation clearing application and is satisfied there is commercial timber on the land the subject of the application.
- (3) The chief executive may—
 - (a) refuse the application to the extent the development will affect the commercial timber; or

-
- (b) grant the vegetation clearing application but impose conditions on the development approval in relation to the commercial timber.
 - (4) Subsection (5) applies if the chief executive is a concurrence agency for a development application and is satisfied there is commercial timber on the land the subject of the application.
 - (5) Consideration of the application by the chief executive, in relation to the existence of the timber, is taken to be within the limits of the chief executive's jurisdiction for the Planning Act, section 3.3.15.

22A Particular vegetation clearing applications may be assessed

- (1) Despite the Planning Act, section 3.2.1, if a vegetation clearing application is not for a relevant purpose under this section—
 - (a) the application is taken, for the Planning Act, not to be a properly made application; and
 - (b) the assessment manager must refuse to receive the application.
- (2) A vegetation clearing application is for a relevant purpose under this section if the applicant satisfies the chief executive that the development applied for is—
 - (a) a project declared to be a significant project under the *State Development and Public Works Organisation Act 1971*, section 26; or
 - (b) necessary to control non-native plants or declared pests; or
 - (c) to ensure public safety; or
 - (d) for establishing a necessary fence, firebreak, road or vehicular track, or for constructing necessary built infrastructure, (each *relevant infrastructure*) and the clearing for the relevant infrastructure can not reasonably be avoided or minimised; or

[s 22A]

- (e) a natural and ordinary consequence of other assessable development for which a development approval as defined under the Planning Act was given, or a development application as defined under the Planning Act was made, before 16 May 2003; or
 - (f) for fodder harvesting; or
 - (g) for thinning; or
 - (h) for clearing of encroachment; or
 - (i) for an extractive industry; or
 - (j) for clearing regrowth vegetation on freehold land, indigenous land or leases issued under the *Land Act 1994* for agriculture or grazing purposes, in an area shown as a registered area of agriculture on a registered area of agriculture map in a wild river high preservation area.
- (2AA) Also, a vegetation clearing application is for a relevant purpose under this section if, under the CYPH Act, the Minister is satisfied the development applied for is for a special indigenous purpose.
- (2A) However, a vegetation clearing application is not for a relevant purpose under this section if the development applied for is—
- (a) mentioned in subsection (2)(a), (f), (g) or (i) or subsection (2AA); and
 - (b) proposed for a wild river high preservation area.
- (2B) Also, a vegetation clearing application is not for a relevant purpose under this section if the development applied for is clearing regulated regrowth vegetation on freehold land, indigenous land or leases issued under the *Land Act 1994* for agriculture or grazing purposes.
- (2C) In addition, a vegetation clearing application is not for a relevant purpose under this section if the development applied for is—
- (a) mentioned in subsection (2)(e), (f) or (i) or subsection (2AA); and

-
- (b) proposed for an area declared to be a declared area under division 4, subdivision 2.
- (3) In this section—
- extractive industry***—
- (a) means 1 or more of the following—
- (i) dredging material from the bed of any waters;
 - (ii) extracting, from a pit or quarry, rock, sand, clay, gravel, loam or other material;
 - (iii) screening, washing, grinding, milling, sizing or separating material extracted from a pit or quarry; and
- (b) includes carrying out work that is the natural and ordinary consequence of carrying out the work mentioned in paragraph (a).

Example—

constructing roads, buildings and other infrastructure

22B Modifying Planning Act effect for delegations and appointment of referees

- (1) For a vegetation clearing application for which the chief executive is the assessment manager, the Planning Act, sections 4.2.36(1) and 5.8.1A apply as if a reference to the Minister in those sections were a reference to the Minister for this Act.
- (2) For a vegetation clearing application for which the chief executive is the assessment manager, the Planning Act, chapter 4, part 2 applies as if a reference to the chief executive in that part were a reference to the chief executive for this Act.

22C Modifying Planning Act effect of appeal rights on particular applications (assessment manager)

- (1) This section applies for a vegetation clearing application that is for a relevant purpose under section 22A if the chief

[s 22D]

executive is the assessment manager for the application.

- (2) An appeal about an application for which this section applies may only be made to the Planning and Environment Court under the Planning Act, section 4.1.27.
- (3) However, an appeal, other than for a deemed refusal, may not be made unless the applicant has made representations about the matter.

Editor's note—

See the Planning Act, section 3.5.17 (Changing conditions and other matters during the applicant's appeal period).

- (4) The representations may also be about a refusal.
- (5) The Planning Act, section 3.5.17, applies for the representations, including representations about a refusal.

22D Modifying Planning Act effect of appeal rights on particular applications (concurrence agency)

- (1) This section applies for a vegetation clearing application that is for a relevant purpose under section 22A if the chief executive is a concurrence agency for the application.
- (2) Before an appeal may be made in relation to the application, the applicant must make representations under the Planning Act, section 3.5.9 about the matter being appealed.

Subdivision 2 Referral agency assessment and responses

22DA Requirement for property vegetation management plan

The applicant for a concurrence agency application must give the chief executive a property vegetation management plan for the area to which the application relates in addition to the things mentioned in the Planning Act, section 3.3.3(1).

22DB Compliance with concurrence agency policy

The chief executive must, for assessing and giving its referral agency's response to a concurrence agency application, comply with—

- (a) the concurrence agency policy applicable to the referral;
or
- (b) if both the concurrence agency policies are applicable to the referral—each of the concurrence agency policies.

22DC Refusal of particular concurrence agency application

(1) The chief executive may in its referral agency's response to a concurrence agency application tell the assessment manager to refuse the application or impose a condition—

- (a) if a PMAV applying to the relevant land or part of the land has been made under section 20B and has not been revoked; or
- (b) if the relevant land is subject to any of the following—
 - (i) a restoration notice;
 - (ii) a compliance notice given before the commencement of this section containing conditions about the restoration of vegetation;
 - (iii) a Land Act notice;
 - (iv) a trespass notice if the trespass related act under the *Land Act 1994* for the notice is the clearing of vegetation on the relevant land;
 - (v) an enforcement notice under the Planning Act issued for a vegetation clearing offence; or
- (c) to the extent the development applied for is inconsistent with an offset or another agreement related to an offset.

(2) In this section—

relevant land means land to which the concurrence agency application relates.

[s 22DD]

22DD Commercial timber on State land

- (1) This section applies if—
 - (a) a concurrence agency application is for a material change of use of premises on State land; and
 - (b) the chief executive is satisfied there is commercial timber on the land.
- (2) The chief executive may in its referral agency's response to the application tell the assessment manager—
 - (a) to refuse the application to the extent the development affects the commercial timber; or
 - (b) any conditions in relation to the commercial timber that must attach to the development approval.

22DE Development not for a relevant purpose under s 22A

- (1) This section applies if the chief executive is not satisfied the development applied for under a concurrence agency application is for a relevant purpose under section 22A.
- (2) For applying section 22A, a reference to a vegetation clearing application is taken to be a reference to a concurrence agency application.
- (3) The chief executive must in its referral agency's response to the application tell the assessment manager to refuse the application to the extent the development is not for a relevant purpose under section 22A other than subsection (2B) of that section.

22DF Clearing vegetation on adjoining lot for firebreaks and fire management lines

- (1) This section applies if the location of proposed infrastructure for a concurrence agency application would enable the applicant to clear vegetation on adjoining land under the Planning Act, schedule 10, definition *essential management*, paragraphs (a) or (b).

- (2) In assessing and responding to the part of the application giving rise to the referral, the chief executive must consider any clearing of vegetation that may be required on the adjoining land for—
 - (a) establishing or maintaining a necessary firebreak to protect the infrastructure; or
 - (b) for establishing a necessary fire management line.
- (3) Subsection (2) is in addition to, and does not limit, the Planning Act, section 3.3.15 and chapter 3, part 5, division 2.
- (4) In this section—

infrastructure means infrastructure other than a fence, road or vehicular track.

Division 6A Vegetation management offsets

Subdivision 1 Preliminary

22DG What are *vegetation management offsets* (or *offsets*) and *offset areas*

- (1) A *vegetation management offset* (or an *offset*) is an agreement to carry out works or activities to conserve, enhance, maintain, monitor or rehabilitate an area of vegetation.
- (2) The area to be conserved, enhanced, maintained, monitored or rehabilitated is called the *offset area*.

Subdivision 2 Imposing offsets

22DH Application of sdiv 2

- (1) This subdivision applies to an application for a development approval if—

[s 22DI]

- (a) the relevant regional vegetation management code is the code for the clearing of vegetation in the area; and
- (b) a required outcome under the code is to maintain the current extent of a particular regional ecosystem by—
 - (i) not clearing the regional ecosystem; or
 - (ii) if subparagraph (i) is not reasonably practicable, ensuring the structure and function of the regional ecosystem is maintained; or
 - (iii) if subparagraphs (i) and (ii) are not reasonably practicable, imposing an offset as a condition of the development approval; and
- (c) the applicant proposes an offset to satisfy the required outcome.

(2) In this section—

relevant regional vegetation management code means the regional vegetation management code for the region of the State in which the area proposed to be cleared under the application is situated.

22DI Compliance with offsets policy

- (1) The chief executive must, for assessing the application, comply with the offsets policy.
- (2) Without limiting subsection (1), the chief executive may impose the offset as a condition of the development approval.

22DJ Criteria for decision about offset

In deciding whether to impose the proposed offset as a condition of the development approval, the chief executive may refuse to impose the proposed offset as a condition of the development approval to satisfy a required outcome under the code if—

- (a) the applicant has had an offset imposed as a condition of another development approval; and
- (b) the applicant has not complied with the condition.

22DK When offset ends

The offset remains in effect until the offset ends under its terms.

Subdivision 3 Register of offsets

22DL Chief executive must keep register of offsets

- (1) The chief executive must keep a register of offsets.
- (2) The register must include, for each offset imposed as a condition of a development approval—
 - (a) the name of the applicant for the development approval; and
 - (b) the name of the owner of the land in which the offset area is located; and
 - (c) the department's reference number for the development approval; and
 - (d) the real property description of the land—
 - (i) in which the offset area is located; and
 - (ii) on which the vegetation is cleared under the development approval; and
 - (e) the location and extent of the offset area; and
 - (f) a description of the vegetation in the offset area; and
 - (g) a description of the vegetation cleared under the development approval.
- (3) The chief executive may also keep in the register other information about the development approval the chief executive considers appropriate.

[s 22E]

- (4) A person's name under subsection (2)(a) or (b) must not be contained in the publicly available part of the register.
- (5) The chief executive must publish details in the publicly available part of the register on the department's website.

Division 7 Broadscale applications and ballots

22E Application of div 7

This division applies for a broadscale application.

22F Exception to s 22A(1)

- (1) Section 22A(1) does not apply to a broadscale application if the application is—
 - (a) only for land in a single region prescribed under section 22G(1)(a); and
 - (b) properly made during the ballot application period.
- (2) The chief executive must, for each region of the State for which a ballot must be conducted, conduct a ballot for all broadscale applications for that region that comply with subsection (1).
- (3) If, during the ballot application period, another broadscale application mentioned in subsection (1) is made for clearing land already included in a ballot, section 22A(1) applies to the other application to the extent the other application includes land already included in a ballot.

22G Regions and ballots

- (1) A regulation may prescribe—
 - (a) the regions of the State for which a ballot must be conducted; and
 - (b) the way, and the time at which, each ballot must be conducted; and

-
- (c) the clearing allocation for each region; and
 - (d) the matters a broadscale application must contain.
- (2) The purpose of conducting the ballot for a region is to decide the priority in which applications included in the ballot will be assessed under subsection (3) for receiving part of the clearing allocation for the region until the allocation is exhausted.
- (3) After the ballot for a region is conducted—
- (a) the applications for the ballot must be assessed in their priority against the regional vegetation management codes; and
 - (b) subject to the finalisation of any appeals, development approvals may be given only until the clearing allocation for the region is exhausted.
- (4) When the clearing allocation for a region has been exhausted, any applications not assessed from the ballot for the region must be refused and need not be assessed, despite the Planning Act, section 3.5.13.

22H Modifying Planning Act effect on changing broadscale application

Despite the Planning Act, a broadscale application included in the ballot for a region—

- (a) may only be changed under the Planning Act, section 3.2.9(1) until 20 business days after an information request has been made for the application; and
- (b) can not be changed after the ballot application period has ended in a way that increases the size of the area proposed to be cleared.

22I Modifying Planning Act time frames

For a broadscale application included in the ballot for a region, each of the following sections of the Planning Act applies as if—

[s 22J]

- (a) in section 3.3.6(4), there were no time limit within which the assessment manager must make the request; and
- (b) in section 3.3.8, if the applicant did not respond within 20 business days, the assessment manager may assess the application as if the applicant had sent a notice under the Planning Act, section 3.3.8(1)(c); and
- (c) in section 3.5.7(1), there were no time limit within which the assessment manager must decide the application; and
- (d) in section 3.5.18(3) and (4), the period were 10 business days; and
- (e) in section 4.2.9(2), the period were 10 business days.

22J Modifying Planning Act effect on changing development approval

Despite the Planning Act, a development approval for the application can not be changed to extend the currency period.

22K Modifying Planning Act effect of appeal rights on broadscale applications

- (1) Subject to section 22L(c), an appeal may only be made to a tribunal under the Planning Act, section 4.2.9.
- (2) However, an appeal, other than for a deemed refusal, may not be made unless the applicant has made representations about the matter.

Editor's note—

See the Planning Act, section 3.5.17 (Changing conditions and other matters during the applicant's appeal period).

- (3) The representations may also be about a refusal.
- (4) The Planning Act, section 3.5.17, applies for the representations, including representations about a refusal.

22L Appeals

A person can not appeal under any Act against—

- (a) the ballot process or result; or
- (b) a refusal under section 22G(4); or
- (c) the length of the currency period; or
- (d) the decision of a tribunal.

Editor's note—

See the Planning Act, section 4.1.37 (Appeals from tribunals).

Division 7A Classes of regional ecosystems

22LA Endangered regional ecosystems

- (1) A regulation may declare a stated regional ecosystem to be an endangered regional ecosystem.
- (2) The Minister must not recommend to the Governor in Council the making of a regulation under subsection (1) unless the Minister is satisfied—
 - (a) the area of remnant vegetation for the regional ecosystem is less than 10% of the pre-clearing extent of the regional ecosystem; or
 - (b) the area of remnant vegetation for the regional ecosystem is—
 - (i) 10% to 30% of the pre-clearing extent of the regional ecosystem; and
 - (ii) less than 10000ha.
- (3) However, failure to comply with subsection (2) in relation to a regulation does not affect the regulation's validity.

22LB Of concern regional ecosystems

- (1) A regulation may declare a stated regional ecosystem to be an of concern regional ecosystem.

[s 22LC]

- (2) The Minister must not recommend to the Governor in Council the making of a regulation under subsection (1) unless the Minister is satisfied—
 - (a) the area of remnant vegetation for the regional ecosystem is 10% to 30% of the pre-clearing extent of the regional ecosystem; or
 - (b) the area of remnant vegetation for the regional ecosystem is—
 - (i) more than 30% of the pre-clearing extent of the regional ecosystem; and
 - (ii) less than 10000ha.
- (3) However, failure to comply with subsection (2) in relation to a regulation does not affect the regulation's validity.

22LC Least concern regional ecosystems

- (1) A regulation may declare a stated regional ecosystem to be a least concern regional ecosystem.
- (2) The Minister must not recommend to the Governor in Council the making of a regulation under subsection (1) unless the Minister is satisfied the area of remnant vegetation for the regional ecosystem is—
 - (a) more than 30% of the pre-clearing extent of the regional ecosystem; and
 - (b) more than 10000ha.
- (3) However, failure to comply with subsection (2) in relation to a regulation does not affect the regulation's validity.

Division 8 Miscellaneous

22M Refusing vegetation clearing application after conviction for vegetation clearing offence

- (1) The assessment manager may refuse a vegetation clearing application if—
 - (a) the applicant has been convicted of a vegetation clearing offence in the relevant period, regardless of whether the offence was committed before the relevant period; or
 - (b) the owner of the land has been convicted of a vegetation clearing offence in the relevant period, regardless of whether the offence was committed before the relevant period.
- (2) Subsection (1) does not limit the grounds on which the assessment manager may refuse the application under the Planning Act.
- (3) In this section—

conviction includes a finding of guilt or the acceptance of a plea of guilty by a court, whether or not a conviction is recorded.

relevant period means—

- (a) for an application made before 28 March 2008—the period from 28 March 2003 until the application is made; or
- (b) for an application made on or after 28 March 2008—the period of 5 years immediately before the application is made.

vegetation clearing offence includes a tree clearing offence under the *Land Act 1994*, as in force before the commencement of the *Vegetation Management and Other Legislation Amendment Act 2004*, section 3.

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

26 Conditions of appointment of authorised officers

- (1) An authorised officer holds office on the conditions stated in the officer's instrument of appointment.
- (2) An authorised officer—
 - (a) if the appointment provides for a term of appointment—ceases to hold office at the end of the term; and
 - (b) may resign by signed notice of resignation given to the chief executive.

27 Authorised officer's identity card

- (1) The chief executive must give each authorised officer an identity card.
- (2) The identity card must—
 - (a) contain a recent photograph of the authorised officer; and
 - (b) be signed by the authorised officer; and
 - (c) identify the person as an authorised officer under this Act.
- (3) This section does not prevent the giving of a single identity card to a person for this Act and other Acts.

28 Failure to return identity card

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.

Maximum penalty—10 penalty units.

29 Production or display of identity card

- (1) An authorised officer may exercise a power under this Act in relation to someone else only if the authorised officer—
 - (a) first produces his or her identity card for the person's inspection; or
 - (b) has the identity card displayed so it is clearly visible to the person.
- (2) If it is not practicable to comply with subsection (1), the authorised officer must produce the identity card for the person's inspection at the first reasonable opportunity.

Subdivision 2 Power to enter places

30 Power to enter places

- (1) An authorised officer may enter a place if—
 - (a) an occupier of the place 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 place is—
 - (i) the subject of—
 - (A) a development approval; or
 - (B) a lease, licence or permit under the *Land Act 1994*; or
 - (C) a stop work notice or restoration notice; or
 - (D) an enforcement notice under the Planning Act relating to the contravention of a vegetation clearing provision; and
 - (ii) entered during daylight hours; or
 - (d) the entry is for the purpose of giving an occupier a stop work notice requiring the occupier to immediately stop committing a vegetation clearing offence; or

-
- (e) the entry is authorised by a warrant; or
 - (f) a person proposing to conduct a native forest practice at the place has given the chief executive a notice under section 19Q for the place; or
 - (g) a person proposing to clear regulated regrowth vegetation under the regrowth vegetation code at the place has given the chief executive a clearing notification for the place.
- (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.
- (3) Subsection (1)(c) does not apply to a part of a place where a person resides.

Subdivision 3 Procedure for entry

31 Entry with consent

- (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 acknowledgement of the consent.

[s 32]

- (4) The acknowledgement must state—
 - (a) the occupier has been told—
 - (i) the purpose of the entry; and
 - (ii) that the occupier is not required to consent; and
 - (b) the purpose of the entry; and
 - (c) the occupier gives the authorised officer consent to enter the place and exercise powers under this division; and
 - (d) the time and date the consent was given.
- (5) If the occupier signs the acknowledgement, the authorised officer must immediately give a copy to the occupier.
- (6) A court must find the occupier of a place did not consent to an authorised officer entering the place under this division if—
 - (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
 - (b) an acknowledgement mentioned in subsection (4) is not produced in evidence for the entry; and
 - (c) it is not proved by the person relying on the lawfulness of the entry that the occupier consented to the entry.

32 Application for warrant

- (1) An authorised officer may apply to a magistrate for a warrant for a place.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) 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.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

33 Issue of warrant

- (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 any authorised officer or 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.
- (3) The warrant may, as well as authorising entry of the place, authorise re-entry by stating it on the warrant.
- (4) A provision of this part applying to entry authorised under a warrant is taken also to apply to any re-entry authorised under the warrant.

34 Special warrants

- (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—

[s 34]

- (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.
- (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.
- (5) If it is not reasonably practicable to fax a copy to the authorised officer—
 - (a) the magistrate must tell the authorised officer—
 - (i) what the terms of the special warrant are; and
 - (ii) the date and time the special warrant is issued; and
 - (b) the authorised officer must complete a form of warrant (a *warrant form*) and write on it—
 - (i) the magistrate's name; and
 - (ii) the date and time the magistrate issued the special warrant; and
 - (iii) the terms of the special warrant.
- (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.
- (7) The authorised officer must, at the first reasonable opportunity, send to the magistrate—
 - (a) the sworn application; and
 - (b) if the authorised officer completed a warrant form—the completed warrant form.

-
- (8) On receiving the documents, the magistrate must attach them to the special warrant.
 - (9) A court must find the exercise of the power by an authorised officer was not authorised by a special warrant if—
 - (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
 - (b) the special warrant is not produced in evidence; and
 - (c) it is not proved by the person relying on the lawfulness of the entry that the authorised officer obtained the special warrant.

35 Warrants—procedure before entry

- (1) This section applies if an authorised officer is intending to enter a place under a warrant issued under this division.
- (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.

[s 36]

- (4) If there is no person present at the place who is an occupier of the place, or it is vacant land, it is sufficient compliance with subsection (2) for the officer, before entering the place, to do or make a reasonable attempt to do the following things—
- (a) contact an owner or occupier of the place;
 - (b) tell the owner or occupier the authorised officer is permitted by the warrant to enter the place;
 - (c) give the owner or occupier an opportunity to allow the authorised officer immediate entry to the place without using force.

Subdivision 4 Powers after entering a place

36 General powers after entering places

- (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, subject to subsection (5)—
 - (a) search any part of the place; or
 - (b) inspect, measure, test, photograph or film any part of the place or anything at the place; or
 - (c) take a thing, or a sample of or from a thing, at the place for analysis or testing; or
 - (d) copy a document at the place; or
 - (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

-
- (f) require an 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
 - (g) require an 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.
- (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.
- (5) If the authorised officer enters the place under section 30(1)(d) for the purpose of giving an occupier a stop work notice, the authorised officer may only—
- (a) give the occupier the stop work notice; and
 - (b) take into or onto the place any person the authorised officer reasonably requires for giving the notice.

37 Failure to help authorised officer

- (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.

Maximum penalty—50 penalty units.

- (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.

38 Failure to give information

- (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.

[s 39]

Maximum penalty—50 penalty units.

- (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.

Subdivision 5 Power to seize evidence

39 Seizing evidence

- (1) This section applies if, under this division, an authorised officer enters a place after obtaining the consent of an occupier or under a warrant.
- (2) If the authorised officer enters the place with the occupier's consent, 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) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.
- (3) If the authorised officer enters the place with a warrant, the authorised officer may seize the evidence for which the warrant was issued.
- (4) The authorised officer may seize anything else at the place if the authorised officer reasonably believes—
 - (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.
- (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.

40 Securing seized things

Having seized a thing, an authorised officer may—

- (a) move the thing from the place where it was seized (the *place of seizure*); or
- (b) leave the thing at the place of seizure but take reasonable action to restrict access to it; or

Examples of restricting access to a thing—

- 1 sealing a thing and marking it to show access to it is restricted
 - 2 sealing the entrance to a place where the thing is situated and marking it to show access to it is restricted
- (c) if the thing is equipment—make it inoperable.

Example of making equipment inoperable—

dismantling equipment or removing a component of equipment without which the equipment is not capable of being used

41 Tampering with seized things

- (1) 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.

Maximum penalty—100 penalty units.

- (2) 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.

Maximum penalty—100 penalty units.

42 Powers to support seizure

- (1) To enable a thing to be seized, an authorised officer may require the person in control of it—
 - (a) to take it to a stated reasonable place by a stated reasonable time; and

[s 43]

- (b) if necessary, to remain in control of it at the stated place for a stated reasonable period.
- (2) The requirement—
 - (a) must be made by notice in the approved form; or
 - (b) if for any reason it is not practicable to give the notice, may be made orally and confirmed by a notice in the approved form as soon as practicable.
- (3) A further requirement may be made under this section about the thing if it is necessary and reasonable to make the further requirement.
- (4) A person of whom a requirement is made under subsection (1) or (3) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty for subsection (4)—50 penalty units.

43 Receipts for seized things

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

44 Forfeiture by authorised officer

- (1) A thing that has been seized under this subdivision is forfeited to the State if the authorised officer who seized the thing—

-
- (a) can not find its owner, after making reasonable inquiries; or
 - (b) can not return it to its owner, after making reasonable efforts.
- (2) In applying subsection (1)—
- (a) subsection (1)(a) does not require the authorised officer to make inquiries if it would be unreasonable to make inquiries to find the owner; and
 - (b) subsection (1)(b) does not require the authorised officer to make efforts if it would be unreasonable to make efforts to return the thing to its owner.

Example for paragraph (b)—

the owner of the thing has migrated to another country

- (3) Regard must be had to a thing's nature, condition and value in deciding—
- (a) whether it is reasonable to make inquiries or efforts; and
 - (b) if making inquiries or efforts—what inquiries or efforts, including the period over which they are made, are reasonable.

45 Forfeiture on conviction

- (1) On conviction of a person for a vegetation clearing offence, the court may order the forfeiture to the State of anything owned by the person and seized under this subdivision.
- (2) The court may make any order to enforce the forfeiture it considers appropriate.
- (3) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

46 Dealing with forfeited things

- (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.

[s 47]

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

47 Return of seized things

- (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.

48 Access to seized things

- (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

49 Power to require name and address

- (1) This section applies if an authorised officer—
 - (a) finds a person committing a vegetation clearing offence;
or

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

50 Failure to give name or address

- (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.

51 Power to require information

- (1) This section applies if an authorised officer reasonably believes—

[s 52]

- (a) a vegetation clearing offence has been committed; and
 - (b) a person may be able to give information about the offence.
- (2) The authorised officer may, by notice given to the person, require the person to give information about the offence to the authorised officer at a stated reasonable place and at a stated reasonable time.
- (3) The person must comply with a requirement under subsection (2), unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (4) It is not a reasonable excuse for a person to fail to give the information because giving the information might tend to incriminate the person.
- (5) However, if the person is an individual, evidence of, or evidence directly or indirectly derived from, the information that might tend to incriminate the person is not admissible in evidence against the person in a civil or criminal proceeding, other than a proceeding for an offence about the falsity of the information.
- (6) If a person is convicted of an offence against subsection (3), the court may, as well as imposing a penalty for the offence, order the person to comply with the requirement.

52 Power to require production of documents

- (1) An authorised officer may require a person to make available for inspection by an authorised officer, or produce to the authorised officer for inspection, at a reasonable time and place nominated by the authorised officer, a document relating to the clearing of vegetation.
- (2) The authorised officer may keep the document to copy it.
- (3) If the authorised officer copies a document mentioned in subsection (1), or an entry in the document, the authorised officer may require the person responsible for keeping the

document to certify the copy as a true copy of the document or entry.

- (4) The authorised officer must return the document to the person as soon as practicable after copying it.
- (5) However, if a requirement (a *document certification requirement*) is made of a person under subsection (3), the authorised officer may keep the document until the person complies with the requirement.
- (6) A requirement under subsection (1) is a *document production requirement*.

53 Failure to certify copy of document

A person of whom a document certification requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

54 Failure to produce document

- (1) A person of whom a document production requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) It is not a reasonable excuse for a person not to comply with a document production requirement that complying with the requirement might tend to incriminate the person.
- (3) However, if the person is an individual, evidence of, or evidence directly or indirectly derived from, the document that might tend to incriminate the person is not admissible in evidence against the person in a civil or criminal proceeding, other than a proceeding for an offence about the falsity of the document.
- (4) If a person is convicted of an offence against subsection (1), the court may, as well as imposing a penalty for the offence, order the person to comply with the requirement.

Subdivision 7 Power to require compliance

54A Stop work notice

- (1) This section applies if an official reasonably believes a person is committing a vegetation clearing offence.
- (2) The official may give the person a notice (a *stop work notice*) requiring the person to stop committing the offence or not to commit that type of offence again.
- (3) The stop work notice must state—
 - (a) that the official believes the person is committing a vegetation clearing offence; and
 - (b) the vegetation clearing offence the official believes is being committed; and
 - (c) briefly, how it is believed the offence is being committed.
- (4) The stop work notice must be accompanied by or include an information notice about the decision to give the notice.
- (5) The person must comply with the stop work notice unless the person has a reasonable excuse.

Maximum penalty for subsection (5)—1665 penalty units.

54B Restoration notice

- (1) This section applies if an official reasonably believes—
 - (a) a person has committed a vegetation clearing offence, whether before or after the commencement of this section; and
 - (b) the matter is capable of being rectified.
- (2) The official may give the person a notice (a *restoration notice*) requiring the person to rectify the matter.
- (3) The restoration notice must state—

-
- (a) that the official believes the person has committed a vegetation clearing offence; and
 - (b) the vegetation clearing offence the official believes has been committed; and
 - (c) briefly, how it is believed the offence has been committed; and
 - (d) the matter the official believes is reasonably capable of being rectified; and
 - (e) the reasonable steps the person must take to rectify the matter; and
 - (f) the stated reasonable period in which the person must take the steps.
- (4) The restoration notice must be accompanied by or include an information notice about the decision to give the notice.
 - (5) The person must comply with the restoration notice unless the person has a reasonable excuse.

Maximum penalty—1665 penalty units.

- (6) In this section—

step includes any action or other measure the official believes is necessary to rectify the matter.

Examples—

- giving a proposed restoration plan under section 55AB(1) or making a request under section 55AB(3)
- setting objectives and timeframes for restoring the vegetation
- giving the chief executive a progress report about whether the steps taken within a particular period to rectify the matter have satisfied a stated objective

54C Contravention of stop work notices and restoration notices

- (1) This section applies to a person who is given a stop work notice or a restoration notice.

[s 55]

- (2) If the person does an act, or makes an omission, in contravention of the stop work notice or restoration notice, an official may use reasonable force and take any other reasonable action to stop the contravention.
- (3) Any reasonable cost or expense incurred by the official in doing anything under subsection (2) may be recovered as a debt owing to the State by the person.

55 Transfer of land the subject of restoration notice

- (1) If a person has an interest in land the subject of a restoration notice and all or part of the interest, to the extent it is the subject of the restoration notice, is transferred, in any way, to another person (the *transferee*), on the transfer—
 - (a) a reference in the restoration notice to the person is taken to be a reference to the transferee; and
 - (b) the restoration notice is taken to have been given to the transferee on the transfer of the interest; and
 - (c) any outstanding liability, other than criminal liability, of the person becomes a liability of the transferee.
- (2) If the restoration notice requires a matter to be rectified by a stated day or within a stated period and it is not reasonably practical for the transferee to comply with the notice by the stated day or within the stated period, the transferee may ask the chief executive to extend the time for compliance with the notice.

Example—

A is given a restoration notice on 1 January 2010 requiring A to rectify a matter by 30 June 2010. In May 2010, A transfers the land the subject of the restoration notice to B.

- (3) If the chief executive, by written notice given to the transferee, extends the time for compliance with the restoration notice, the restoration notice is taken to require the matter to be rectified within the extended time for compliance stated in the chief executive's written notice.

- (4) To remove any doubt, it is declared that on the transfer of the interest, the person to whom the restoration notice was given is not criminally liable for any contravention of the restoration notice that happens on or after the transfer of the interest.
- (5) Subsections (1) to (4) have effect in relation to each successor in title to the transferee's interest in the same way the subsections had effect in relation to the transferee.

55A Record of restoration notice in land registry

- (1) As soon as practicable after a restoration notice is given, the chief executive must give the registrar of titles written notice of the giving of the restoration notice.
- (2) The registrar must keep records showing the restoration notice has been given.
- (3) The registrar must keep the records in a way that a search of the register kept by the registrar under any Act relating to title to the land the subject of the restoration notice will show the notice has been given.
- (4) As soon as practicable after the restoration notice has been complied with, withdrawn or in any other way terminated, the chief executive must give written notice of the fact to the registrar.
- (5) As soon as practicable after receiving a notice under subsection (4), the registrar must remove the particulars of the restoration notice from the registrar's records.

Subdivision 8 Restoration plans

55AA Application of sdiv 8

This subdivision applies if—

- (a) an official gives a person a restoration notice in relation to the committing of a vegetation clearing offence on land; and

[s 55AB]

- (b) the notice requires the person to prepare a plan (a *restoration plan*) to rectify the matter by restoring vegetation on the land.

55AB Preparing restoration plan

- (1) The person must, within the reasonable period stated in the restoration notice, prepare and give the chief executive a proposed restoration plan for the land.
- (2) The restoration plan must include the matters stated for the plan in the restoration notice.
- (3) However, the person may, within 20 business days after the restoration notice is given, ask the chief executive to prepare a restoration plan for the land.
- (4) The fee payable to the chief executive for preparing the plan must not be more than the fee prescribed under a regulation.

55AC Approving restoration plan

- (1) The chief executive must review a proposed restoration plan given to the chief executive under section 55AB(1) and—
 - (a) approve the plan; or
 - (b) if the chief executive considers the plan does not adequately rectify the matter, ask the person—
 - (i) to consider or further consider any matter; and
 - (ii) to amend the plan in the light of the person's consideration or further consideration; and
 - (iii) to give the amended plan to the chief executive for approval; or
 - (c) ask the person to make stated changes to the plan and give the amended plan to the chief executive for approval.
- (2) The person must give the amended restoration plan to the chief executive within 20 business days after the chief executive makes a request under subsection (1)(b) or (c).

- (3) The chief executive must review the amended restoration plan and approve the plan or refuse to approve the plan.
- (4) If the chief executive approves the restoration plan under subsection (1)(a) or (3), the chief executive must give the person notice that the plan or amended plan is the approved restoration plan.
- (5) If the chief executive refuses to approve the amended restoration plan, the chief executive must give the person—
 - (a) notice of the refusal; and
 - (b) an information notice about the decision to refuse to approve the plan.
- (6) If the person asks the chief executive to prepare the restoration plan under section 55AB(3), the plan prepared by the chief executive is the approved restoration plan.

55AD Chief executive may amend approved restoration plan

- (1) The chief executive may amend the approved restoration plan at any time.
- (2) Before amending the approved restoration plan, the chief executive must give the person a written notice inviting the person to show why the plan should not be amended.
- (3) The notice must state each of the following—
 - (a) the grounds for the proposed amendment of the plan;
 - (b) the facts and circumstances forming the basis for the grounds;
 - (c) the proposed amendment of the plan;
 - (d) that the person may make submissions about the proposed amendment;
 - (e) how to make a properly made submission;
 - (f) where the submission may be made or sent;
 - (g) a period within which the submission must be made.

[s 55AE]

- (4) The stated period must be at least 20 business days after the notice is given.
- (5) If, after considering any properly made submission by the person, the chief executive still considers the approved restoration plan should be amended, the chief executive may amend the plan.
- (6) In this section—
properly made submission means a submission that—
 - (a) is written; and
 - (b) is signed by each person (a *signatory*) who made the submission; and
 - (c) states the name and address of each signatory; and
 - (d) states the grounds of the submission and the facts and circumstances relied on in support of the grounds; and
 - (e) is made to the person stated in the notice inviting the submission; and
 - (f) is received on or before the last day for the making of the submission.

55AE Steps after, and taking effect of, decision

- (1) If the chief executive decides to amend the approved restoration plan—
 - (a) the chief executive must give the person an information notice about the decision; and
 - (b) the amendment does not take effect until the end of the review period for the decision; and
 - (c) the plan, as amended, becomes the approved restoration plan for the land.
- (2) If the chief executive decides not to amend the approved plan, the chief executive must give the person notice of the decision.
- (3) In this section—

review period, for a decision, means the period provided for under section 63 for applying for an internal review of the decision.

55AF Failure to comply with restoration notice

- (1) The person is taken not to have complied with the restoration notice if—
 - (a) the person fails to give the chief executive a proposed restoration plan within the period stated in the restoration notice; or
 - (b) for a restoration plan not approved under section 55AC(1)(a)—
 - (i) the person fails to comply with section 55AC(2); or
 - (ii) the chief executive refuses to approve the restoration plan under section 55AC(5).
- (2) Also, the person is taken not to have complied with the restoration notice if the person fails to comply with the approved restoration plan.

Note—

For the effect of a failure to comply with a restoration notice, see section 54B(5).

- (3) Subsection (1) does not apply if the person has under section 55AB(3) asked the chief executive to prepare a restoration plan for the land.

Division 2 Other enforcement provisions

Subdivision 1 Obtaining criminal history reports

55B Purpose of sdiv 1

The purpose of this subdivision is to help an authorised officer to decide whether the authorised officer's unaccompanied entry of a place under division 1 would create an unacceptable level of risk to the authorised officer's safety.

55C Chief executive's power to obtain criminal history report

- (1) The chief executive may ask the commissioner of the police service for a written report about the criminal history of a person if the authorised officer reasonably suspects the person may be present at the place when the authorised officer enters the place under division 1.
- (2) The commissioner must give the report to the chief executive.
- (3) However, the report is required to contain only criminal history that is in the commissioner's possession or to which the commissioner has access.
- (4) The chief executive must examine the report and identify, to the extent it is reasonably practicable to do so, offences involving the use of a weapon or violence against a person.
- (5) The chief executive may give the authorised officer information in the report about the offences identified under subsection (4).

55D Criminal history is confidential document

- (1) A person must not, directly or indirectly, disclose to anyone else a report about a person's criminal history, or information contained in the report, given under section 55C.

Maximum penalty—100 penalty units.

-
- (2) However, the person does not contravene subsection (1) if—
 - (a) the disclosure is for the purpose of the other person performing a function under or in relation to this Act; or
 - (b) the disclosure is otherwise required or permitted by law.
 - (3) The chief executive or an authorised officer to whom the report or written information in the report is provided must destroy the report or information as soon as practicable after the authorised officer considers the risk mentioned in section 55B.

Subdivision 2 Notice of damage and compensation

56 Notice of damage

- (1) This section applies if—
 - (a) an authorised officer damages property when exercising or purporting to exercise a power; or
 - (b) a person (the *other person*) acting under the direction or authority of an authorised officer damages property.
- (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.
- (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) 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.
- (5) This section does not apply to damage the authorised officer reasonably believes is trivial.
- (6) In this section—

[s 57]

owner, of property, includes the person in possession or control of it.

57 Compensation

- (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.
- (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.
- (3) Compensation may be claimed and ordered to be paid in a proceeding—
 - (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or
 - (b) for a vegetation clearing offence brought against the person claiming compensation.
- (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.

Division 3 General offences

58 False or misleading statements

- (1) A person must not state anything to an authorised officer that the person knows is false or misleading in a material particular.
Maximum penalty—50 penalty units.
- (2) 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.

59 False or misleading documents

- (1) A person must not give an authorised officer a document containing information that the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

- (2) Subsection (1) does not apply to a person if the person, when giving the document—
- (a) tells the authorised officer, to the best of the person's ability, how it is false or misleading; and
 - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.
- (3) In a proceeding for an offence against subsection (1), it is enough to state that the document was, without specifying which, false or misleading.

59A Impersonation of authorised officer

A person must not pretend to be an authorised officer.

Maximum penalty—50 penalty units.

60 Obstructing an authorised officer

- (1) A person must not obstruct an authorised officer in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) 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—
- (a) it is an offence to obstruct the authorised officer, unless the person has a reasonable excuse; and
 - (b) the authorised officer considers the person's conduct an obstruction.
- (3) In this section—

[s 60A]

obstruct includes assault, hinder and threaten, and attempt to obstruct.

60A Executive officers must ensure corporation complies with Act

- (1) The executive officers of a corporation must ensure the corporation complies with this Act.
- (2) If a corporation commits an offence against a provision of this Act, each of the corporation's executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.

Maximum penalty for subsection (2)—the penalty for the contravention of the provision by an individual.

- (3) Evidence that the corporation has been convicted of an offence against a provision of this Act is evidence that each of the executive officers committed the offence of failing to ensure the corporation complies with the provision.
- (4) However, it is a defence for an executive officer to prove—
 - (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the provision; or
 - (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

- (5) In this section—

executive officer, of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.

60B Guide for deciding penalty for vegetation clearing offence

- (1) The purpose of this section is to provide a guide for a court in deciding the penalty to impose on a person for a vegetation clearing offence.

-
- (2) Without affecting the maximum penalty the court may impose under the Planning Act for the offence, the court may take the following levels of penalty to be appropriate in the absence of circumstances of mitigation—
- (a) for each hectare of vegetation cleared unlawfully in a declared area or offset area or that is an endangered regional ecosystem other than regulated regrowth vegetation—30 penalty units;
 - (b) for each hectare of vegetation cleared unlawfully that is an of concern regional ecosystem other than regulated regrowth vegetation—24 penalty units;
 - (c) for each hectare of vegetation cleared unlawfully that is a least concern regional ecosystem other than regulated regrowth vegetation—18 penalty units;
 - (d) for each hectare of vegetation cleared unlawfully that is regulated regrowth vegetation or an exchange area—12 penalty units.
- (3) This section does not limit the matters to which the court may have regard in deciding the penalty.
- (4) In this section—
- declared area*** means an area of high nature conservation value or an area vulnerable to land degradation.

61 Ability to prosecute under other Acts

Nothing in this Act prevents a person from being prosecuted for any of the following offences in relation to the clearing of vegetation—

- (a) a development offence under the Planning Act;
- (b) an offence against a following provision of the *Environmental Protection Act 1994*—
 - section 437(1)
 - section 437(2)

[s 62]

- section 438(1)
- section 438(2).

Editor's note—

Under the *Environmental Protection Act 1994*, the maximum penalties are—

- for section 437(1)—4165 penalty units or 5 years imprisonment
- for section 437(2)—1665 penalty units
- for section 438(1)—1665 penalty units or 2 years imprisonment
- for section 438(2)—835 penalty units.

Part 4 Reviews and legal proceedings

Division 1 Internal reviews by chief executive

62 Internal review process before external review

Every review of an original decision must be, in the first instance, by way of an application for an internal review of the decision.

63 How to apply for internal review

- (1) A person who is given, or is entitled to be given, an information notice about a decision made under this Act may apply for an internal review of the decision.
- (2) An application for internal review of a decision must be—
 - (a) in the approved form; and
 - (b) made to the chief executive; and
 - (c) supported by enough information to enable the chief executive to decide the application.

-
- (3) The application must be made within 20 business days after—
 - (a) the day the person is given the information notice about the decision; or
 - (b) if paragraph (a) does not apply—the day the person otherwise becomes aware of the decision.
 - (4) The chief executive may extend the time for applying for the internal review.
 - (5) The application does not stay the decision.

63A Review decision

- (1) The chief executive must, within 30 business days after receiving the application—
 - (a) review the decision (the *original decision*); and
 - (b) make a decision (the *review decision*) to—
 - (i) confirm the original decision; or
 - (ii) amend the original decision; or
 - (iii) substitute another decision for the original decision; and
 - (c) give the applicant notice (the *review notice*) of the review decision.
- (2) If the review decision is not the decision sought by the applicant, the review notice must comply with the QCAT Act, section 157(2).

Division 1A External reviews by QCAT

63B Who may apply for external review

A person who is dissatisfied with a review decision may apply, as provided under the QCAT Act, to QCAT for a review of the review decision.

Division 2 Evidence

64 Application of div 2

This division applies to a proceeding under this Act.

65 Appointments and authority

It is not necessary to prove—

- (a) the chief executive's appointment; or
- (b) an authorised officer's appointment; or
- (c) the authority of the chief executive or an authorised officer to do anything under this Act.

66 Signatures

A signature purporting to be the signature of the chief executive or an authorised officer is evidence of the signature it purports to be.

66A Instruments, equipment and installations

- (1) An instrument, equipment or installation prescribed under a regulation that is used in accordance with any conditions prescribed under a regulation is taken, in the absence of evidence to the contrary—
 - (a) to be accurate and precise; and
 - (b) to have been used by an appropriately qualified person.
- (2) A party to the proceeding intending to challenge a matter mentioned in subsection (1)(a) or (b) must give each other party notice of the party's intention to adduce relevant evidence at least 20 business days before the evidence is adduced.
- (3) The notice must state the grounds on which the party intends to rely to prove that the instrument, equipment or installation—

- (a) was not accurate or precise; or
- (b) was not used by an appropriately qualified person.

66B Certificate or report about remotely sensed image

- (1) A signature on a certificate or report purporting to be the signature of an appropriately qualified person who gave the certificate or report is evidence of the signature it purports to be.
- (2) A statement of any of the following matters in the certificate or report is evidence of the matters stated in the absence of evidence to the contrary—
 - (a) the person's qualifications;
 - (b) a stated document is a remotely sensed image, or a copy of a remotely sensed image, of a stated area;
 - (c) the date on which a stated remotely sensed image was produced;
 - (d) the person's stated conclusions drawn from a stated remotely sensed image;
 - (e) the location of a stated area;
 - (f) whether vegetation in a stated area has been cleared;
 - (g) whether a stated area is or is likely to be an area of remnant vegetation or regulated regrowth vegetation.
- (3) A party to the proceeding intending to challenge the statement must give each other party notice of the party's intention to adduce relevant evidence at least 20 business days before the evidence is adduced.
- (4) The notice must state the grounds on which the party intends to rely to prove that the statement was not correct.

[s 67]

67 Evidentiary aids

- (1) A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—
 - (a) a stated document is one of the following things made, certified, maintained, given or issued under this Act or the Planning Act—
 - (i) an appointment, approval or decision;
 - (ii) a direction, notice or requirement;
 - (iii) a code, plan or policy;
 - (iv) a map;
 - (b) a stated document is another document kept under this Act or the Planning Act;
 - (c) a stated document is a copy of, or an extract from or part of, a thing mentioned in paragraph (a) or (b);
 - (d) on a stated day—
 - (i) a stated person was given a stated decision, direction or notice under this Act; or
 - (ii) a stated requirement under this Act was made of a stated person.
- (2) A statement in a complaint for an offence against this Act that the matter of the complaint came to the knowledge of the complainant on a stated day is evidence of the matter stated.

67A Responsibility for unauthorised clearing of vegetation

- (1) The clearing of vegetation on land in contravention of a vegetation clearing provision is taken to have been done by an occupier of the land in the absence of evidence to the contrary.
- (2) In this section—

occupier, of land, includes—

 - (a) for freehold land—the registered owner; or

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

Division 2A Defences

67B Defence in proceeding for vegetation clearing offence

For a proceeding against a person for a vegetation clearing offence, the Criminal Code, section 24, does not apply.

Division 3 Proceedings

68 Summary proceedings for offences

- (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*.
- (2) Subject to subsection (4), a proceeding for an offence against this Act must start—
 - (a) within 1 year after the commission of the offence; or
 - (b) within 1 year after the offence comes to the complainant's knowledge, but within 5 years after the offence is committed.
- (3) Despite the Planning Act, and subject to subsection (4), a proceeding for a vegetation clearing offence must start—
 - (a) within 1 year after the commission of the offence; or
 - (b) within 1 year after the offence comes to the complainant's knowledge, but within 5 years after the offence is committed.

[s 68A]

- (4) If a Magistrates Court considers it just and equitable in the circumstances, the court may, at any time, extend a time set under this section.
- (5) Subsection (4)—
 - (a) applies to an offence regardless of whether it was committed before or after the commencement of the subsection; and
 - (b) does not apply to an offence if the time for starting a proceeding for the offence had expired before the commencement of the subsection.
- (6) A vegetation clearing offence does not come to the complainant's knowledge merely because the complainant receives a remotely sensed image that may provide evidence of the offence.

68A Particulars to be stated for complaint for vegetation clearing offence

- (1) This section applies to a complaint for a proceeding for a vegetation clearing offence.
- (2) It is enough, for identifying the vegetation cleared and the place where the vegetation was cleared, for the particulars for the complaint to state the following—
 - (a) the number of hectares of vegetation that have been cleared unlawfully;
 - (b) the location where the vegetation was cleared;
 - (c) a description of the vegetation;
Example—
remnant vegetation that is an endangered regional ecosystem and essential habitat for protected wildlife
 - (d) whether the vegetation was in—
 - (i) an area of high nature conservation value; or
 - (ii) an area vulnerable to land degradation.

68B Representation of departmental officer in court

(1) Any departmental officer may appear for and represent another departmental officer in a Magistrates Court in a proceeding brought by the other officer under this Act or for a vegetation clearing offence.

(2) In this section—

departmental officer means a public service officer employed in the department.

68C Recovery of costs of investigation

(1) If a court convicts a person of an offence against this Act or a vegetation clearing offence, the court may order the person to pay the department's reasonable costs of investigating the offence, including reasonable costs of preparing for the prosecution of the offence.

Examples of reasonable costs—

- 1 obtaining and analysing remotely sensed images
- 2 costs of travelling for departmental officers and experts

(2) Subsection (1) does not limit the orders for costs the court may make.

Division 4 Restrictions on legal proceedings

68CA Definitions for div 4

In this division—

decision includes a purported decision.

PMAV application means an application under section 20C to make a PMAV for an area.

relevant PMAV application means a PMAV application made on or after 8 October 2009 and before the date of assent.

relevant vegetation map means each of the following—

[s 68CB]

- (a) regional ecosystem map;
- (b) remnant map;
- (c) regrowth vegetation map.

68CB Non-application of Judicial Review Act 1991

- (1) The *Judicial Review Act 1991* does not apply to the following matters under this Act—
 - (a) conduct engaged in for the purpose of making a relevant decision;
 - (b) other conduct that relates to the making of a relevant decision;
 - (c) the making of a relevant decision or the failure to make a relevant decision;
 - (d) a relevant decision.
- (2) In particular, for subsection (1), the Supreme Court does not have jurisdiction to hear and determine applications made to it under the *Judicial Review Act 1991*, parts 3 to 5 in relation to matters mentioned in subsection (1).
- (3) In this section—

relevant decision means—

 - (a) the certifying by the chief executive or the approval of a relevant vegetation map or an amendment or replacement of a relevant vegetation map; or
 - (b) a decision to agree to make a PMAV the subject of a relevant PMAV application.

68CC No appeals about relevant vegetation maps and particular PMAV applications

- (1) A person can not appeal under any Act or other law—
 - (a) in relation to the chief executive certifying, or the approval of, a relevant vegetation map or an amendment or replacement of a relevant vegetation map; or

-
- (b) about a delay in the chief executive agreeing to make a PMAV the subject of a relevant PMAV application.
- (2) In this section—
- appeal* includes to seek injunctive or any other relief in a proceeding.

Part 5 Miscellaneous

68D Approved forms

The chief executive may approve forms for use under this Act.

69 Advisory committees

- (1) The Minister may establish advisory committees to advise the Minister about vegetation management.
- (2) The Minister may decide—
 - (a) the functions or terms of reference of a committee; and
 - (b) the membership of a committee; and
 - (c) how a committee is to operate.
- (3) A committee member is entitled to be paid the fees and allowances decided by the Governor in Council.

70 Regional vegetation management committees

- (1) The Minister may establish regional vegetation management committees to advise the Minister about vegetation management.
- (2) The Minister may decide—
 - (a) the functions or terms of reference of a committee; and
 - (b) the membership of a committee; and

[s 70AA]

- (c) how a committee is to operate.
- (3) A committee member is entitled to be paid the fees and allowances decided by the Governor in Council.

70AA Copies of vegetation management maps and PMAVs to be available for inspection and purchase

- (1) This section applies to the following maps—
 - (a) a vegetation management map;
 - (b) a PMAV.
- (2) The chief executive must—
 - (a) keep the digital electronic form of the map available for inspection, free of charge, by members of the public at particular regional offices; and
 - (b) publish the digital electronic form of the map on the department's website.

Editor's note—

The department's website address at the commencement of this section is <www.derm.qld.gov.au>. The regional offices where the digital electronic form of a relevant map can be inspected are stated on the department's website.

- (3) The chief executive may publish 2 or more maps as a single map in digital electronic form on the department's website.
- (4) The exact location of the boundary of each of the areas shown on the map is held in digital electronic form by the department.

Note—

The department uses a geographic information system for capturing, managing, analysing and displaying the data for a map for an area.

- (5) The information held in digital electronic form can be reduced or enlarged to show the details of the boundaries of the areas shown on the map.
- (6) On payment of a fee, a person may buy—
 - (a) a copy of the map or part of the map; or

-
- (b) information about the boundaries of an area shown on the map.

Note—

The information about the boundaries of an area, taken from the geographic information system, would include the coordinates of the corners and bends of the area.

- (7) The fee for the copy of the map, or part of the map, or the information about the boundaries of an area must not be more than the reasonable cost of publishing the copy or giving the information.

70AB Copies of documents to be available for inspection and purchase

- (1) This section applies to each of the following documents—
 - (a) the State policy;
 - (b) a policy approved under part 2, division 2A;
 - (c) a regional vegetation management code;
 - (d) a code approved under part 2, division 4A or 4B;
 - (e) a declaration made under section 17;
 - (f) an amendment of a declared area code approved under section 19B;
 - (g) for each declaration made under section 19F—
 - (i) the notice given to the proponent under section 19F(1); and
 - (ii) the management plan relevant to the declaration; and
 - (iii) the declared area code, if any, relevant to the declaration.
- (2) The chief executive must—
 - (a) keep a copy of the document available for inspection, free of charge, by members of the public at particular regional offices; and

[s 70A]

- (b) publish the document, other than a document mentioned in subsection (1)(g), on the department's website.

Editor's note—

The department's website address at the commencement of this section is <www.derm.qld.gov.au>. The regional offices where the document can be inspected are stated on the department's website.

- (3) On payment of a fee, a person may buy a copy of the document.
- (4) The fee for the copy of the document must not be more than the reasonable cost of publishing the copy.

70A Application of development approvals and exemptions for Forestry Act

- (1) If a development approval is given in relation to a forest product on forestry land, the approval is taken to be, for the *Forestry Act 1959*, section 53, a permit, lease, licence, agreement or contract required under that section.
- (2) If a development approval is given in relation to a forest product on forestry land, the approval is taken to be, for the *Forestry Act 1959*, section 54, the authority of another Act.
- (3) If the clearing on forestry land of vegetation shown on the regional ecosystem map or remnant map as remnant vegetation does not involve the removal of a species prescribed under a regulation and the clearing falls within 1 or more of the exemptions listed in the Planning Act schedule 8, part 1, table 4, items 1A to 1G, the clearing is taken to be authorised under the *Forestry Act 1959*, section 53 or 54.
- (4) If the clearing on forestry land of vegetation shown on the regional ecosystem map or remnant map as other than remnant vegetation falls within 1 or more of the exemptions listed in the Planning Act schedule 8, part 1, table 4, items 1A to 1G, the clearing is taken to be authorised under the *Forestry Act 1959*, section 53 or 54.
- (5) To remove doubt, it is declared that subsections (3) and (4) only authorise the use of a forest product cleared if the clearing is—

-
- (a) on land subject to a lease issued under the *Land Act 1994* for agriculture or grazing purposes; and
 - (b) to source construction timber to repair existing infrastructure on the land, if—
 - (i) the infrastructure is in need of immediate repair; and
 - (ii) the clearing does not cause land degradation; and
 - (iii) restoration of a similar type, and to the extent of the removed trees, is ensured.
- (6) In this section—
forestry land means land to which the *Forestry Act 1959*, section 53 or 54 applies.

70B Record of particular matters in land registry

- (1) This section applies if—
 - (a) a development approval, or referral agency development approval, is issued; or
 - (b) a PMAV is made.
- (2) As soon as practicable after the approval is issued or the PMAV is made, the chief executive must give the registrar of titles written notice of the approval or the PMAV.
- (3) The registrar must keep records showing the approval has been issued, including, for a referral agency development approval, any concurrence agency conditions for the approval, or the PMAV has been made.
- (4) The registrar must keep the records in a way that a search of the register kept by the registrar under any Act relating to title to the land the subject of the approval or PMAV will show the approval has been issued, including, for a referral agency development approval, any concurrence agency conditions for the approval, or the PMAV has been made.

[s 70C]

- (5) If the approval is cancelled under the Planning Act, section 3.5.26, or the PMAV is replaced or revoked, the chief executive must give written notice of the fact to the registrar.
- (6) As soon as practicable after receiving the notice, the registrar must adjust or remove the particulars of the approval or PMAV from the registrar's records.
- (7) In this section—

concurrency agency condition means a concurrence agency condition under the Planning Act.

referral agency development approval means a development approval under the Planning Act for a development application for which the chief executive gives a referral agency's response under that Act.

70C Particular vegetation not natural resource owned by person as improvement on leasehold land

- (1) Subsection (2) applies if—
 - (a) a person—
 - (i) is given a restoration notice in relation to land; or
 - (ii) was or is given a trespass notice if the trespass related act under the *Land Act 1994* for the notice is the clearing of vegetation on the land; or
 - (iii) was given before the commencement of this section a compliance notice in relation to land; and
 - (b) the land is subject to a lease under the *Land Act 1994*; and
 - (c) the person is required under the notice to plant vegetation on the land; and
 - (d) the person complies with the notice.
- (2) The vegetation is not a natural resource owned by the person as an improvement.
- (3) Subsection (4) applies if vegetation is or was planted on land subject to a lease to comply with a Land Act notice.

- (4) To remove any doubt, it is declared that the vegetation is not and never has been a natural resource owned by the lessee of the land as an improvement.

71 Protecting officials from civil liability

- (1) An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents civil liability attaching to an official, the liability attaches instead to the State.
- (3) In this section—
official means—
- (a) the Minister; or
 - (b) the chief executive; or
 - (c) an authorised officer; or
 - (d) a person acting under the direction of an authorised officer.

72 Regulation-making power

The Governor in Council may make regulations under this Act.

[s 73]

Part 6 Transitional and declaratory provisions

Division 1 Transitional provisions for Act No. 90 of 1999

73 Existing development approvals and applications for development approvals under the Planning Act

- (1) Subsection (2) applies to a development approval under the Planning Act 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 under the Planning Act 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 Planning Act 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.

74 Existing development control plans and special facilities zones

- (1) Nothing in this Act affects the clearing of vegetation—
 - (a) under a development control plan mentioned in the Planning Act, section 6.1.45A; or

-
- (b) in an area designated, immediately before the commencement of this section, as a special facilities zone under a planning scheme under the Planning Act.
- (2) Subsection (1)(b) applies to an area only if—
- (a) the area continues to be designated as a special facilities zone, or like zone, under the scheme; or
- (b) the current planning scheme for the area no longer designates the area as a special facilities zone but there is, for the area and in relation to the zone—
- (i) a development permit that—
- (A) was given before the designation ceased; and
- (B) has not lapsed; and
- (C) is for building work or operational work under the Planning Act; or
- (ii) an acknowledgement notice mentioned in the Planning Act, section 3.2.5(1); or
- (iii) a development permit granted for a development application (superseded planning scheme) under the Planning Act.
- (3) However, subsection (1)(b) also applies to an area if—
- (a) the current planning scheme for the area no longer designates the area as a special facilities zone but the development rights conferred by the earlier designation have been preserved under the scheme; and
- (b) the clearing of vegetation is in relation to the development rights.
- (4) In this section—
- special facilities zone*** means a zone under the repealed *Local Government (Planning and Environment) Act 1990*—
- (a) for which the permitted use is special facilities, whether or not the zone has been designated under the planning scheme by the name ‘special facilities zone’; and

[s 75]

- (b) in which development of a particular type may be carried out without a development approval.

Division 2 Transitional provisions for Vegetation Management and Other Legislation Amendment Act 2004

75 What may be approved as codes

- (1) Subsection (2) applies if before the commencement of this section—
 - (a) the Minister prepared a regional vegetation management plan under section 12, as in force before the commencement; and
 - (b) the Minister consulted on the plan under section 13, as in force before the commencement; and
 - (c) part of the plan was identified as a code for the clearing of vegetation; and
 - (d) the plan had not been made under section 15, as in force before the commencement.
- (2) The Minister may approve the part of the plan identified as a code for the clearing of vegetation as a regional vegetation management code.
- (3) Before approving the part under subsection (2), the Minister may amend the part in any way the Minister could have amended the part under section 15, as in force immediately before the commencement.
- (4) The Minister may approve a regional vegetation management code for Cape York Peninsula based on the local guideline for Cape York Peninsula previously approved by the Minister under the *Land Act 1994*, section 272.

76 Existing applications (pre VACA) and development approvals

- (1) Despite the Planning Act—
- (a) before an existing application (pre VACA) is decided, the application can not be changed in any way that increases the size of the area proposed to be cleared; and
Editor's note—
References to VACA relate to the *Vegetation (Application for Clearing) Act 2003*, repealed by Act No. 1 of 2004.
 - (b) from the day the application is decided until the day the development approval for the application has effect, the application can not be changed in any way that—
 - (i) increases the size of the area proposed to be cleared; or
 - (ii) changes the location of the area proposed to be cleared; and
 - (c) from the day the development approval has effect, the approval can not be changed in any way that—
 - (i) increases the size of the area approved to be cleared; or
 - (ii) changes the location of the area approved to be cleared; or
 - (iii) extends the currency period for the approval.
- (2) Subsection (1)(b)(ii) does not apply to an application decided before the commencement of this section if an appeal against the decision was started before the commencement.
- (3) Subsection (1)(c) applies to a development approval even if the approval had effect before the commencement of this section.
- (4) Despite the Planning Act, section 3.5.21, the currency period for a development approval for an existing application (pre VACA) must end no later than 31 December 2006.
- (5) In this section—

[s 77]

existing application (pre VACA) means a development application, as defined under the Planning Act, involving the clearing of vegetation and made before midday 16 May 2003.

location, of an area proposed to be cleared in an existing application (pre VACA), means—

- (a) the boundary delineating the area in the property vegetation management plan for the application; or
- (b) if the application was amended before it was decided—the boundary of the area described in the amendment.

77 Existing applications (pre VACA) and permits under the Land Act 1994

- (1) An existing application (pre VACA) must be dealt with under the *Land Act 1994*, as in force on 20 May 2004.
- (2) Despite subsection (1)—
 - (a) before an existing application (pre VACA) is decided, the application can not be changed in any way that increases the size of the area proposed to be cleared; and
 - (b) from the day the application is decided until the end of the appeal period, the application can not be changed in any way that—
 - (i) increases the size of the area proposed to be cleared; or
 - (ii) changes the location of the area proposed to be cleared; and
 - (c) from the end of the appeal period, the permit can not be changed in any way that—
 - (i) increases the size of the area approved to be cleared; or
 - (ii) changes the location of the area approved to be cleared; or
 - (iii) extends the term of the permit.

-
- (3) Subsection (2)(b)(ii) does not apply to an application decided before the commencement of this section if an appeal against the decision was started before the commencement.
 - (4) Subsection (2)(c) applies to a tree clearing permit even if the appeal period, in relation to the permit, ended before the commencement of this section.
 - (5) Despite the *Land Act 1994*, section 264, the term of a tree clearing permit for an existing application (pre VACA) must end no later than 31 December 2006.
 - (6) In this section—

end of the appeal period means—

- (a) for an application for an internal review of a decision under the *Land Act 1994*, section 263—the day the Minister makes a review decision under the *Land Act 1994*, section 426; and
- (b) for an appeal against a review decision—the day the court decides the appeal under the *Land Act 1994*, section 429; and
- (c) otherwise—42 days after notice of the decision is given to the applicant.

existing application (pre VACA) means an application for a tree clearing permit, made before midday 16 May 2003 under the *Land Act 1994*, chapter 5, part 6, as in force at that time.

location, of an area proposed to be cleared in an existing application (pre VACA), means—

- (a) the boundary delineating the area in—
 - (i) the property vegetation management plan for the application; or
 - (ii) the map requested by the chief executive under the *Land Act 1994*, section 260(2)(b) for the application; or
- (b) if the application was amended before it was decided—the boundary of the area described in the amendment.

[s 78]

78 Existing applications (post VACA) under the Land Act 1994

- (1) An existing application (post VACA) must be dealt with under the *Land Act 1994*, as in force immediately before the commencement of the *Vegetation Management and Other Legislation Amendment Act 2004*, section 3.
- (2) Despite subsection (1), the chief executive must refuse to issue the tree clearing permit, without considering the issues stated in the *Land Act 1994*, section 262, unless the applicant satisfies the chief executive—
 - (a) the proposed tree clearing is necessary for 1 or more of the following—
 - (i) a project declared to be a significant project under the *State Development and Public Works Organisation Act 1971*, section 26;
 - (ii) a project that is of major significance because of its regional, State or national benefit;
 - (iii) supplying fodder for stock in a drought declared area;
 - (iv) weed control;
 - (v) ensuring public safety;
 - (vi) establishing a necessary fence, road or other built infrastructure if there is no suitable alternative site for the fence, road or infrastructure; or
 - (b) the area proposed to be cleared is an area of regrowth vegetation.
- (3) In this section—

existing application (post VACA) means an application for a tree clearing permit made at or after midday 16 May 2003 under the *Land Act 1994*, chapter 5, part 6, as in force at that time.

tree has the same meaning as in the *Forestry Act 1959*.

79 When the Land Act 1994 continues to apply

- (1) The *Land Act 1994*, as in force immediately before the commencement of the *Vegetation Management and Other Legislation Amendment Act 2004*, section 3, continues to apply for tree clearing permits issued under the *Land Act 1994* or as a result of an application dealt with under section 77 or 78.
- (2) The *Land Act 1994*, as in force immediately before the commencement of the *Vegetation Management and Other Legislation Amendment Act 2004*, section 3, continues to apply for monitoring, enforcing compliance with or the prosecution of an offence against a tree clearing provision under the *Land Act 1994*, as in force immediately before the commencement.

80 Modifying effect of Planning Act for owner's consent

- (1) This section applies to a vegetation clearing application, but only until the commencement of the *Integrated Planning and Other Legislation Amendment Act 2003*, section 49.
- (2) For applying the Planning Act, section 3.2.1(3)(a)(ii), the owner of the land, the subject of the application, is taken to be the owner of the land under this Act.

**Division 3 Transitional provisions for
Vegetation Management and Other
Legislation Amendment Act 2005**

81 Effect on existing riverine protection permits

- (1) This section applies to the clearing of vegetation carried out—
 - (a) after the commencement of this section; and
 - (b) under the authority of a permit—
 - (i) issued under the *Water Act 2000*, section 269; and

[s 82]

- (ii) in force immediately before the commencement of this section; and
 - (c) in a watercourse or lake; and
 - (d) on land other than freehold land.
- (2) The clearing is taken to be lawfully carried out under this Act and the Planning Act even if there is, for the clearing, no development permit given for operational work under the Planning Act, schedule 8, part 1, table 4, items 1A to 1G.

82 Validation of particular clearing

- (1) This section applies to the clearing of vegetation carried out—
- (a) after 20 May 2004 but before the commencement of this section; and
 - (b) to the extent necessary for an activity approved under another Act; and
 - (c) in a watercourse or lake; and
 - (d) on land other than freehold land.
- (2) The clearing is taken to have been lawfully carried out under this Act and the Planning Act even if there was, for the clearing, no development permit given for operational work under the Planning Act, schedule 8, part 1, table 4, items 1A to 1G.
- (3) In this section—
- activity* does not include an activity relating to a development approval under the Planning Act given for a material change of use of premises or the reconfiguration of a lot.

83 Validation of regional vegetation management codes

- (1) Each relevant code—
- (a) is valid, and has effect, as a regional vegetation management code under this Act; and

- (b) is taken, on and from its approval or purported approval under section 75(2), always to have been valid, and always to have had effect, as a regional vegetation management code under this Act.
- (2) Without limiting subsection (1), the subsection applies—
- (a) despite the following provisions (including any requirements included in the following provisions)—
 - (i) part 2, division 3 as in force before 21 May 2004;
 - (ii) part 2, division 3 as in force on or after 21 May 2004;
 - (iii) section 75; and
 - (b) even if a relevant instrument for the relevant code was certified, or was prepared and certified, or otherwise came into existence, after the relevant code was approved, or purportedly approved, under section 75(2).
- (3) In this section—

relevant code means a document that the Minister, on or after 21 May 2004 but before 26 June 2004, approved under section 75(2), or purportedly approved under section 75(2), as a regional vegetation management code.

relevant instrument, for a relevant code, means a map, plan or other document certified, prepared and certified, or otherwise coming into existence, for the purposes of a relevant provision of the relevant code.

relevant provision, of a relevant code, means a provision of the relevant code that incorporates by reference, whether in general or specific terms, or otherwise provides for or refers to, a map, plan or other document.

[s 84]

Division 4 Transitional provision for Land and Other Legislation Amendment Act 2007

84 Existing appeals under s 22C

- (1) Subsection (2) applies if, before the commencement—
 - (a) a person has appealed to a tribunal under the Planning Act, section 4.2.9, about an application for which section 22C as in force before the commencement applied; and
 - (b) the appeal has not been decided.
- (2) The tribunal may hear, or continue to hear, and decide the appeal as if the *Land and Other Legislation Amendment Act 2007*, part 9, had not commenced.
- (3) In this section—
commencement means the day this section commences.

Division 5 Declaratory and transitional provisions for Vegetation Management Amendment Act 2008

85 Declaration about types of regional ecosystems

- (1) It is declared that—
 - (a) if, for any period before the commencement day, the regulation stated that a regional ecosystem was an endangered regional ecosystem for the definition *endangered regional ecosystem* in this Act, the regional ecosystem was an endangered regional ecosystem for the period; and
 - (b) if, for any period before the commencement day, the regulation stated that a regional ecosystem was a not of concern regional ecosystem for the definition *not of*

concern regional ecosystem in this Act, the regional ecosystem was a not of concern regional ecosystem for the period; and

- (c) if, for any period before the commencement day, the regulation stated that a regional ecosystem was an of concern regional ecosystem for the definition of *concern regional ecosystem* in this Act, the regional ecosystem was an of concern regional ecosystem for the period.
- (2) Subsection (1) applies despite any provision of the Act in force before the commencement day including the definitions *endangered regional ecosystem*, *not of concern regional ecosystem* and *of concern regional ecosystem*.
- (3) Subsection (1) applies for all purposes, including a civil or criminal proceeding decided before, or started before or after, the commencement day.
- (4) In this section—

commencement day means the day this section commences.

regulation means the *Vegetation Management Regulation 2000*.

86 Amendment of regulation

The amendment of the *Vegetation Management Regulation 2000* by the *Vegetation Management Amendment Act 2008* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.

[s 88]

Division 7 **Transitional provisions for Vegetation Management and Other Legislation Amendment Act 2009**

Subdivision 1 **Preliminary**

88 **Definitions for div 7**

In this division—

amending Act means the *Vegetation Management and Other Legislation Amendment Act 2009*.

moratorium period see the repealed Moratorium Act, section 7.

retrospective period means the period—

- (a) starting on 8 October 2009; and
- (b) ending immediately before the date of assent of the amending Act.

unamended Act means this Act as in force immediately before 8 October 2009.

89 **References to unamended Act**

If this division states that a provision of the unamended Act continues to apply—

- (a) the provision applies as if the amending Act had not been enacted; and
- (b) any other provision referred to in the provision continues to apply.

Subdivision 2 Transitional provisions for amendments of Vegetation Management Act 1999

90 Existing regional vegetation management codes approved by the Minister

- (1) This section applies to a regional vegetation management code for a region of the State—
 - (a) either—
 - (i) approved by the Minister before 8 October 2009 under the unamended Act, section 11; or
 - (ii) approved or purportedly approved under section 75(2); and
 - (b) in effect, or taken to have had effect, as the regional vegetation management code for the region.
- (2) From 8 October 2009, the regional vegetation management code is taken to be a code made by the Minister under section 11(1) and approved under a regulation under section 14(1).

Note—

On 8 October 2009, each of the following is the current version of a regional vegetation management code approved under the unamended Act, section 11—

- ‘Regional Vegetation Management Code for Southeast Queensland Bioregion’, dated 20 November 2006
- ‘Regional Vegetation Management Code for Coastal Bioregions’, dated 20 November 2006
- ‘Regional Vegetation Management Code for Brigalow Belt and New England Tablelands Bioregions’, dated 20 November 2006
- ‘Regional Vegetation Management Code for Western Bioregions’, dated 20 November 2006.

91 Native forest practice code

- (1) The native forest practice code in force immediately before 8 October 2009 is, from 8 October 2009, taken to be the native

[s 92]

forest practice code even though the code has not been approved under section 19O.

- (2) To remove any doubt, it is declared that the reference to a code applying to native forest practice in a relevant provision is taken to have always been a reference to the native forest practice code.
- (3) In this section—
relevant provision means—
 - (a) the unamended Act, section 20A; or
 - (b) the unamended Act, schedule, definition *forest practice*, paragraph 1(b); or
 - (c) the Planning Act, schedule 10, definition *forest practice*, paragraph 1(b), as in force immediately before 8 October 2009.

92 Existing regional ecosystems maps and remnant maps

- (1) Subsection (2) applies to the regional ecosystem maps, each certified by the chief executive as the regional ecosystem map for a particular area and in effect for the area immediately before 8 October 2009.
- (2) The regional ecosystem maps are, from 8 October 2009, taken to be the regional ecosystem map for the part of the State under section 20A even though the map has not been approved under section 20AG.
- (3) Subsection (4) applies to the remnant maps, each certified by the chief executive as the remnant map for a particular area and in effect for the area immediately before 8 October 2009.
- (4) The remnant maps are, from 8 October 2009, taken to be the remnant map for the part of the State to which the regional ecosystem map does not apply under section 20AA even though the map has not been approved under section 20AG.

93 Certifying vegetation management maps in retrospective period

The chief executive may, in the retrospective period—

- (a) certify a vegetation management map as if part 2, division 5AA had commenced on 8 October 2009; and
- (b) in certifying the regional ecosystem map, remnant map or regrowth vegetation map, decide under section 20AH or 20AI to show an area on the map as remnant vegetation or high value regrowth vegetation.

94 Changes to existing vegetation category areas

- (1) An area shown as a particular category 1 area on a PMAV immediately before 8 October 2009 is, from 8 October 2009, taken to be a category A area on the PMAV.
- (2) An area shown as any of the following on a PMAV immediately before 8 October 2009 is, from 8 October 2009, taken to be a category B area on the PMAV—
 - (a) a category 1 area other than a particular category 1 area;
 - (b) a category 2 area;
 - (c) a category 3 area.
- (3) An area shown as a category 4 area on a PMAV immediately before 8 October 2009 is, from 8 October 2009, taken to be a category C area on the PMAV.
- (4) Subsection (5) applies if, before 8 October 2009, a PMAV is in effect for an area (a *previous area*).
- (5) Despite section 20D, the chief executive may replace the PMAV with a new PMAV if—
 - (a) the new PMAV applies only to the previous area; and
 - (b) the vegetation category areas in the PMAV are changed as stated in subsections (1) to (3) from category 1 area, category 2 area, category 3 area or category 4 area to category A area, category B area or category C area in the new PMAV.

[s 95]

(6) The new PMAV must not change the location, area or boundary of a previous area.

(7) In this section—

category 1 area means the unamended Act, schedule, definition *category 1 area*.

category 2 area means the unamended Act, schedule, definition *category 2 area*.

category 3 area means the unamended Act, schedule, definition *category 3 area*.

category 4 area means the unamended Act, schedule, definition *category 4 area*.

particular category 1 area means an area that is mentioned in the unamended Act, schedule, definition *category 1 area*, paragraphs (d), (e) or (f).

95 When particular PMAVs may be revoked

(1) This section applies if—

- (a) before 8 October 2009, the chief executive had made a PMAV for an area under the unamended Act, section 20B(a), (c) or (d); and
- (b) immediately before 8 October 2009, the PMAV is in effect for the area.

(2) The chief executive may revoke the PMAV from 8 October 2009 if—

- (a) for a map made under the unamended Act, section 20B(a)—the area is shown on the regional ecosystem map or remnant map as remnant vegetation; or
- (b) for a map made under the unamended Act, section 20B(c)—the area is shown on the regional ecosystem map or remnant map as remnant vegetation; or
- (c) for a map made under the unamended Act, section 20B(d)—the area is shown on the regional ecosystem map or remnant map as remnant vegetation.

96 Existing compliance notices

- (1) If an existing compliance notice requires the person given the notice to stop committing the offence, the compliance notice is, from 8 October 2009, taken to be a stop work notice.
- (2) If an existing compliance notice requires the person given the notice to stop committing the offence and to rectify the matter the subject of the compliance notice, the person is, from 8 October 2009, taken to have been given a stop work notice and a restoration notice.
- (3) If an existing compliance notice requires the person to rectify the matter the subject of the compliance notice, the compliance notice is, from 8 October 2009, taken to be a restoration notice.
- (4) This section applies despite section 54A(3) or (4) or 54B(3) or (4).
- (5) In this section—
existing compliance notice means—
 - (a) a compliance notice for a vegetation clearing offence in force immediately before 8 October 2009; or
 - (b) a Land Act notice.

97 Tree clearing provisions under unamended Land Act

- (1) From 8 October 2009, section 79(2) continues to apply in relation to an offence against a tree clearing provision under the unamended Land Act except that—
 - (a) a reference to a compliance notice under the unamended Land Act to stop committing the offence is, from 8 October 2009, taken to be a reference to a stop work notice; and
 - (b) a reference to a compliance notice under the unamended Land Act to rectify the matter is, from 8 October 2009, taken to be a restoration notice.
- (2) In this section—

[s 98]

unamended Land Act means the *Land Act 1994* as in force immediately before the commencement of the *Vegetation Management and Other Legislation Amendment Act 2004*, section 3.

98 Existing development approvals and development applications

- (1) A development approval under the Planning Act that is in force immediately before 8 October 2009 has effect as if the amending Act had not been enacted.
- (2) Subsection (3) applies if, immediately before 8 October 2009—
 - (a) a development application had been made; and
 - (b) clearing regulated regrowth vegetation is a natural and ordinary consequence of the development the subject of the application; and
 - (c) the application was a properly made application and had not lapsed under the Planning Act; and
 - (d) the application had not been decided.
- (3) If a development approval under the Planning Act is given for the development, the regulated regrowth vegetation may be cleared under the development approval as if the amending Act had not been enacted.

99 References to not of concern regional ecosystems

From 8 October 2009, a reference in an Act or document to a not of concern regional ecosystem is, if the context permits, taken to be a reference to a least concern regional ecosystem.

100 Clearing of regulated regrowth vegetation in retrospective period not an offence

- (1) The Planning Act, section 4.3.1(1), to the extent the provision relates to unauthorised development, does not apply to a person carrying out unauthorised development.

-
- (2) However, if an official reasonably believes a person has carried out unauthorised development, the official may give the person a restoration notice for the development.
- (3) In this section—
- unauthorised development*** means development that is the clearing of regulated regrowth vegetation if—
- (a) any of the following apply—
 - (i) the clearing does not comply with the regrowth vegetation code;
 - (ii) there is no moratorium exemption in force for the development;
 - (iii) the clearing is exempt development; and
 - (b) the clearing was carried out in the retrospective period.

101 Application of s 19Q

Section 19Q does not apply to a person conducting a native forest practice in an area of regulated regrowth vegetation until 1 year after 8 October 2009.

102 Not giving notice in retrospective period not an offence

- (1) Section 19Q does not apply to a person conducting a native forest practice in an area of remnant vegetation in the retrospective period if—
- (a) the person started the native forest practice before the start of the retrospective period; or
 - (b) otherwise—the person gives the chief executive the notice mentioned in section 19Q within 20 business days after the end of the retrospective period.
- (2) Section 19V does not apply to a person clearing regulated regrowth vegetation in the retrospective period if—
- (a) the person started the clearing before the start of the retrospective period; or

[s 103]

- (b) otherwise—the person gives the chief executive the clearing notification mentioned in section 19V within 20 business days after the end of the retrospective period.

103 Delayed applications to QCAT

If a person may apply to QCAT under section 63B before QCAT comes into existence, the person may apply to QCAT within 20 business days after QCAT comes into existence.

104 Amendment of Vegetation Management Regulation 2000

The amendment of the *Vegetation Management Regulation 2000* by the *Vegetation Management and Other Legislation Amendment Act 2009* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.

Subdivision 3 Transitional provisions for repeal of Vegetation Management (Regrowth Clearing Moratorium) Act 2009

105 Existing applications for moratorium exemption

- (1) This section applies if—
 - (a) in the moratorium period, an application had been made under the repealed Moratorium Act, section 14 for a decision that modified schedule 8 development is exempt development; and
 - (b) immediately before 8 October 2009, the application had not been decided.
- (2) From 8 October 2009—
 - (a) the application may be decided under the repealed Moratorium Act as if it had not been repealed; and
 - (b) the repealed Moratorium Act, section 16(1) continues to apply and, if the decision is to refuse the moratorium

exemption or grant the moratorium exemption on conditions, the notice must be an information notice about the decision; and

- (c) if the moratorium exemption is granted—
 - (i) the repealed Moratorium Act, section 17(1) continues to apply; and
 - (ii) the development taken to be exempt development under the moratorium exemption continues to be exempt development only if any conditions imposed on the exemption are complied with.

- (3) In this section—

modified schedule 8 development see the repealed Moratorium Act, schedule 2.

106 Existing PMAV applications

- (1) This section applies to a PMAV application made in the relevant period if the chief executive has not agreed to make the PMAV before 8 October 2009.
- (2) Despite section 20C(3), the chief executive may, from 8 October 2009, agree to make the PMAV only if satisfied doing so is consistent with the purpose of this Act or the repealed Moratorium Act.
- (3) In this section—

PMAV application means an application under the unamended Act, section 20C to make a PMAV for an area.

relevant period means the period—

- (a) starting on 26 March 2009; and
- (b) ending immediately before 8 October 2009.

107 Existing show cause notices and compliance notices

- (1) Subsection (2) applies if, before 8 October 2009—

[s 107]

- (a) a person was given a show cause notice under the repealed Moratorium Act, section 24 in relation to the carrying out of prohibited development under that Act; and
 - (b) the chief executive has not under the repealed Moratorium Act, section 25 given the person a notice stating that the proposed action will not be taken; and
 - (c) an official has not under the repealed Moratorium Act, section 26(1) given the person a compliance notice.
- (2) From 8 October 2009—
- (a) the repealed Moratorium Act, sections 25 and 26(1) to (4) continue to apply; and
 - (b) a reference to a compliance notice in the provisions is taken to be a reference to a restoration notice; and
 - (c) a reference in the compliance notice to carrying out prohibited development is taken to be a reference to committing a vegetation clearing offence in the restoration notice.
- (3) Subsection (4) applies if a compliance notice was given under the repealed Moratorium Act, section 26 before 8 October 2009 in relation to the carrying out of prohibited development under that Act.
- (4) From 8 October 2009—
- (a) the compliance notice is taken to be a restoration notice; and
 - (b) a reference in the compliance notice to carrying out prohibited development is taken to be a reference to committing a vegetation clearing offence in the restoration notice.
- (5) In this section—
- compliance notice*** see the repealed Moratorium Act, section 24(2).
- show cause notice*** means a notice that complies with the Moratorium Act, section 24(3).

108 Appeals

- (1) This section applies in relation to a decision to refuse a moratorium exemption or grant a moratorium exemption on conditions, made before 8 October 2009, from which a person had a right of appeal under the repealed Moratorium Act, section 29 before 8 October 2009.
- (2) The appeal may be started or continued from 8 October 2009 and, for that purpose, the repealed Moratorium Act, part 6, division 2 continues to apply.

Schedule Dictionary

section 5

applicable code means an applicable code as defined under the Planning Act.

approved form means a form approved by the chief executive under section 68D.

approved restoration plan means a restoration plan approved by the chief executive under part 3, division 1, subdivision 8.

area of high nature conservation value means an area declared to be an area of high nature conservation value under—

- (a) a declaration made by the Governor in Council under section 17; or
- (b) an interim declaration made by the Minister under section 18; or
- (c) a declaration made by the chief executive under section 19F.

area vulnerable to land degradation means an area declared to be an area vulnerable to land degradation under—

- (a) a declaration made by the Governor in Council under section 17; or
- (b) an interim declaration made by the Minister under section 18; or
- (c) a declaration made by the chief executive under section 19F.

assessment manager means an assessment manager as defined under the Planning Act.

ballot application period means the period notified by the Minister in the gazette as the ballot application period.

bed and banks—

- 1 *Bed and banks*, of a watercourse or lake, means land over which the water of the watercourse or lake normally flows or that is normally covered by the water, whether permanently or intermittently.
- 2 *Bed and banks*, does not include land adjoining or adjacent to the bed or banks that is from time to time covered by floodwater.

biodiversity 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—

- (a) diversity within species and between species; and
- (b) diversity of ecosystems.

bioregion means a bioregion shown on map number V0001 held by the department.

broadscale application means a vegetation clearing application that—

- (a) does not include any other development; and
- (b) is not for a relevant purpose under section 22A.

category A area see section 20AL.

category B area see section 20AM.

category C area see section 20AN.

category X area see section 20AO.

centre of endemism means an area containing concentrations of species that are largely restricted to the area.

clear, for vegetation—

- (a) means remove, cut down, ringbark, push over, poison or destroy in any way including by burning, flooding or draining; but
- (b) does not include destroying standing vegetation by stock, or lopping a tree.

clearing allocation, for a region, means the total area of the region for which broadscale applications may be approved.

clearing area see section 19U(1).

clearing notification, for clearing regulated regrowth vegetation under the regrowth vegetation code, see section 19U(2).

clearing offence means an offence under the *Forestry Act 1959*, the *Nature Conservation Act* or the *Environmental Protection Act 1994*.

commercial timber includes timber of a species prescribed under a regulation for section 70A(3).

concurrency agency means a concurrency agency as defined under the *Planning Act*.

concurrency agency application means a development application for a material change of use of premises or reconfiguring a lot for which the chief executive is a concurrency agency.

concurrency agency policy see section 10A(3).

criminal history, of a person, means the convictions, including spent convictions, recorded against the person for offences, in Queensland or elsewhere, whether before or after the commencement of this Act.

currency period means the period mentioned in the *Planning Act*, section 3.5.21.

CYPH Act means the *Cape York Peninsula Heritage Act 2007*.

decision, for part 4, division 4, see section 68CA.

declared area means an area declared under section 17, 18 or 19F.

declared area code—

- (a) for a declared area under part 2, division 4, subdivision 1—see section 17(2); and
- (b) for a declared area under part 2, division 4, subdivision 2—see section 19H(2).

declared pest means a declared pest under the *Land Protection (Pest and Stock Route Management) Act 2002*.

deemed refusal means a deemed refusal as defined under the Planning Act.

development means development as defined under the Planning Act.

development application means a development application under the Planning Act.

development approval—

- 1 Generally, a *development approval* is a development approval under the Planning Act for a vegetation clearing application.
- 2 For part 2, division 6A, the term also includes a development approval under the Planning Act for a concurrence agency application.

document certification requirement see section 52(5) and (6).

encroachment means a woody species that has invaded an area of a grassland regional ecosystem to an extent the area is no longer consistent with the description of the regional ecosystem.

endangered regional ecosystem means a regional ecosystem declared to be an endangered regional ecosystem under section 22LA.

equipment includes machinery.

essential habitat, for protected wildlife, see section 20AC(2).

essential habitat map see section 20AC(1).

essential regrowth habitat, for protected wildlife, see section 20AC(5).

exchange area means an area of vegetation that must be protected in the way provided under the regrowth vegetation code in exchange for clearing regulated regrowth vegetation.

exempt development means exempt development under the Planning Act.

FA chief executive means the chief executive of the department that administers the *Forestry Act 1959*.

fodder harvesting—

- 1 *Fodder harvesting* is the clearing of vegetation, predominantly consisting of fodder species—
 - (a) necessary to provide fodder for stock; and
 - (b) carried out in a way that—
 - (i) conserves the vegetation in perpetuity; and
 - (ii) conserves the regional ecosystem in which the vegetation is situated; and
 - (iii) results in the woody biomass of the cleared vegetation remaining where it is cleared.
- 2 For paragraph 1, fodder species are any of the following—
 - (a) *Acacia aneura*;
 - (b) *Acacia cibaria* (*Acacia brachystachya*);
 - (c) *Acacia excelsa*;
 - (d) *Acacia pendula*;
 - (e) *Acacia stowardii*;
 - (f) *Alphitonia excelsa*;
 - (g) *Flindersia maculosa*;
 - (h) *Geijera parviflora*.

forest practice—

- 1 *Forest practice* means planting trees, or managing, felling and removing standing trees, on freehold land or indigenous land on which the State does not own the trees, for an ongoing forestry business in a—
 - (a) plantation; or
 - (b) native forest, if, in the native forest—
 - (i) all the activities are conducted in a way that is consistent with the native forest practice code; or

-
- (ii) if the native forest practice code does not apply to the activities, all the activities are conducted in a way that—
- (A) ensures restoration of a similar type, and to the extent, of the removed trees; and
 - (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
 - (C) does not cause land degradation.
- 2 The term includes carrying out limited associated work, including, for example, drainage, construction and maintenance of roads or vehicular tracks, and other necessary engineering works.
- 3 The term does not include clearing vegetation for the initial establishment of a plantation.

freehold land includes land in a freeholding lease under the *Land Act 1994*.

grassland regional ecosystem means a regional ecosystem prescribed under a regulation as a grassland regional ecosystem.

IDAS means the system detailed in the Planning Act, chapter 3, for integrating State and local government assessment and approval processes for development.

indigenous community use area see the CYPH Act, schedule.

indigenous land means, for regulating the clearing of vegetation, land held under a following Act by, or on behalf of or for the benefit of, Aboriginal or Torres Strait Islander inhabitants or purposes—

- (a) the *Local Government (Aboriginal Lands) Act 1978*;
- (b) the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985*;
- (c) the *Aboriginal Land Act 1991*;

(d) the *Torres Strait Islander Land Act 1991*;

(e) the *Land Act 1994*.

information notice, about a decision, means a notice stating each of the following—

(a) the decision, and the reasons for it;

(b) the rights of review under this Act;

(c) the period in which any review under this Act must be started;

(d) how rights of review under this Act are to be exercised.

information request means an information request as defined under the Planning Act.

lake see the *Water Act 2000*.

Land Act notice means a compliance notice given for a tree clearing offence under the *Land Act 1994* as in force immediately before the commencement of the *Vegetation Management and Other Legislation Act 2004*, section 3.

Land Act tenure means any of the following—

(a) unallocated State land;

(b) a road;

(c) an area subject to a lease under the *Land Act 1994*.

land degradation includes the following—

(a) soil erosion;

(b) rising water tables;

(c) the expression of salinity;

(d) mass movement by gravity of soil or rock;

(e) stream bank instability;

(f) a process that results in declining water quality.

least concern regional ecosystem means a regional ecosystem declared to be a least concern regional ecosystem under section 22LC.

lopping, a tree, means cutting or pruning its branches, but does not include—

- (a) removing its trunk; and
- (b) cutting or pruning its branches so severely that it is likely to die.

material change of use means a material change of use under the Planning Act.

moratorium exemption means an exemption under the repealed Moratorium Act.

native forest practice means a forest practice other than in a plantation.

native forest practice code see section 19O.

Nature Conservation Act means the *Nature Conservation Act 1992*.

occupier, of land, means—

- (a) the person in actual occupation of the land or, if there is no person in actual occupation, the person entitled to possession of the land; and
- (b) if there is more than 1 occupier of the land—any of the occupiers.

of concern regional ecosystem means a regional ecosystem declared to be an of concern regional ecosystem under section 22LB.

official means—

- (a) the chief executive; or
- (b) an authorised officer.

offset see section 22DG(1).

offset area see section 22DG(2).

offsets policy see section 10C(1).

original decision see section 63A(1)(a).

owner, of land, includes—

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

Planning Act means the *Integrated Planning Act 1997*.

PMAV see section 20AK.

PMAV application, for part 4, division 4, see section 68CA.

pre-clearing extent, of a regional ecosystem, means the extent of the regional ecosystem before it was cleared.

primary producer, for part 2, division 4C, see section 19Y.

primary production business, for part 2, division 4C, see section 19Y.

primary production entity, for part 2, division 4C, see section 19Y.

property map of assessable vegetation see section 20AK.

property vegetation management plan means a plan of the area to which a vegetation clearing application or concurrence agency application relates showing the matters prescribed under a regulation.

proponent, for part 2, division 4, subdivision 2, see section 19E(1).

protected wildlife see section 11(2).

public place 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.

reasonably believes means believes on grounds that are reasonable in the circumstances.

reasonably suspects means suspects on grounds that are reasonable in the circumstances.

reconfiguring a lot means reconfiguring a lot under the Planning Act.

referral agency's response means an advice agency's response or a concurrence agency's response under the Planning Act.

regional ecosystem means a vegetation community in a bioregion that is consistently associated with a particular combination of geology, landform and soil.

regional ecosystem map see section 20A.

regional ecosystem number, for a regional ecosystem, means the regional ecosystem number that is established under the Regional Ecosystem Description Database.

Note—

The Regional Ecosystem Description Database is a database containing regional ecosystem numbers and descriptions of the regional ecosystems that is maintained by the Queensland Herbarium. The database is available on the department's website at <www.derm.qld.gov.au>.

regional vegetation management code see section 11.

registered area of agriculture map see section 20AD.

regrowth clearing authorisation see section 19ZA(1).

regrowth vegetation means vegetation that is not remnant vegetation.

regrowth vegetation code see section 19S(1).

regrowth vegetation map see section 20AB.

regulate includes prohibit.

regulated regrowth vegetation—

- 1 *Regulated regrowth vegetation* is vegetation—
 - (a) identified on the regrowth vegetation map as high value regrowth vegetation; or
 - (b) located within 50m of a watercourse identified on the regrowth vegetation map as a regrowth watercourse; or

(c) contained in a category C area shown on a PMAV.

2 The exact location of a watercourse mentioned in paragraph 1(b) depends upon the location of the watercourse from time to time.

relevant entity, for part 2, division 4C, see section 19Y.

relevant PMAV application, for part 4, division 4, see section 68CA.

relevant vegetation map, for part 4, division 4, see section 68CA.

remnant map see section 20AA.

remnant vegetation means vegetation, part of which forms the predominant canopy of the vegetation—

- (a) covering more than 50% of the undisturbed predominant canopy; and
- (b) averaging more than 70% of the vegetation's undisturbed height; and
- (c) composed of species characteristic of the vegetation's undisturbed predominant canopy.

repealed Moratorium Act means the *Vegetation Management (Regrowth Clearing Moratorium) Act 2009*.

restoration notice see section 54B(2).

restoration plan see section 55AA(b).

review decision see section 63A(1)(b).

road see the *Transport Infrastructure Act 1994*, schedule 6.

special clearing code see section 19N(1).

spent conviction means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

State policy means the policy approved under section 10(3).

stop work notice see section 54A(2).

thinning—

- 1 *Thinning* means the selective clearing of vegetation at a locality to restore a regional ecosystem to the floristic composition and range of densities typical of the regional ecosystem surrounding that locality.
- 2 The term does not include clearing using a chain or cable linked between 2 tractors, bulldozers or other traction vehicles.

trespass notice means a trespass notice under the *Land Act 1994*, section 406.

undisturbed height, for vegetation, means the height to which the vegetation normally grows.

undisturbed predominant canopy, for vegetation, means the predominant canopy the vegetation normally has.

unlawfully cleared means cleared of vegetation by a person in contravention of—

- (a) a vegetation clearing provision, if the person—
 - (i) has not contested an infringement notice given for the contravention; or
 - (ii) has been convicted of the contravention, whether or not the conviction is recorded; or
- (b) a tree clearing provision under the *Land Act 1994*, as in force before the commencement of the *Vegetation Management and Other Legislation Amendment Act 2004*, section 3.

vegetation see section 8.

vegetation category area see section 20AK(3).

vegetation clearing application means a development application that involves assessable development mentioned in the Planning Act, schedule 8, part 1, table 4, items 1A to 1G.

vegetation clearing offence means an offence against a vegetation clearing provision.

vegetation clearing provision means the Planning Act, section 4.3.1(1), 4.3.3(1), 4.3.4(1), 4.3.5 or 4.3.15(1) to the extent the provision relates to the clearing of vegetation.

vegetation management see section 9.

vegetation management map means each of the following—

- (a) regional ecosystem map;
- (b) remnant map;
- (c) regrowth vegetation map;
- (d) essential habitat map;
- (e) registered area of agriculture map.

vegetation management offset see section 22DG(1).

watercourse—

- 1 *Watercourse* means a river, creek or stream in which water flows permanently or intermittently—
 - (a) in a natural channel, whether artificially improved or not; or
 - (b) in an artificial channel that has changed the course of the watercourse.
- 2 *Watercourse* includes the bed and banks and any other element of a river, creek or stream confining or containing water.

wildlife refugium 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.

wild river area see the *Wild Rivers Act 2005*, schedule.

wild river declaration see the *Wild Rivers Act 2005*, schedule.

wild river high preservation area means a high preservation area under the *Wild Rivers Act 2005*.

Endnotes

1 Index to endnotes

	Page
2 Date to which amendments incorporated	159
3 Key	160
4 Table of reprints	160
5 List of legislation	161
6 List of annotations	163
7 Information about retrospectivity	180

2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 3 November 2009. Future amendments of the Vegetation Management Act 1999 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	2000 Act No. 35	15 September 2000	6 October 2000
1A	2000 Act No. 35	15 September 2000	14 August 2001
1B	2002 Act No. 25	20 June 2002	20 June 2002

Reprint No.	Amendments included	Effective	Notes
1C	2003 Act No. 10	28 March 2003	
1D	2004 Act No. 1	21 May 2004	
1E	2003 Act No. 64	4 October 2004	
1F	2004 Act No. 33	27 October 2004	
1G	2005 Act No. 41	14 October 2005	
1H	2005 Act No. 42	2 December 2005	R1H withdrawn, see R2
2	—	2 December 2005	
2A	2006 Act No. 11	30 March 2006	

Reprint No.	Amendments included	Effective	Notes
2B	2006 Act No. 59	7 December 2006	
2C	2007 Act No. 8	28 February 2007	
2D	2007 Act No. 19	18 May 2007	
2E	2007 Act No. 41	21 September 2007	
2F	2008 Act No. 8	6 March 2008	
3	2007 Act No. 48	26 October 2008	
3A	2009 Act No. 43	8 October 2009	
3B	2009 Act No. 43	3 November 2009	

5 List of legislation

Vegetation Management Act 1999 No. 90

date of assent 21 December 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 15 September 2000 (2000 SL No. 242)

amending legislation—

Water Act 2000 No. 34 ss 1–2, 1144 sch 2 (this Act is amended, see amending legislation below)

date of assent 13 September 2000

ss 1–2 commenced on date of assent

remaining provisions never proclaimed into force and on 2001 No. 75 s 115(13)

amending legislation—

Water Amendment Act 2001 No. 75 ss 1, 2(3), 115(13) (amends 2000 No. 34 above)

date of assent 13 November 2001

commenced on date of assent

Vegetation Management Amendment Act 2000 No. 35

date of assent 13 September 2000

commenced on date of assent

Natural Resources and Mines Legislation Amendment Act 2002 No. 25 pts 1, 6

date of assent 20 June 2002

commenced on date of assent

Natural Resources and Other Legislation Amendment Act 2003 No. 10 pts 1, 7, s 76 sch

date of assent 28 March 2003

commenced on date of assent

Integrated Planning and Other Legislation Amendment Act 2003 No. 64 ss 1, 2(4), pt 11

date of assent 16 October 2003
ss 1–2 commenced on date of assent
remaining provisions commenced 4 October 2004 (2004 SL No. 199)

Vegetation Management and Other Legislation Amendment Act 2004 No. 1 pts 1–2, s 44(1)–(2) schs 1–2

date of assent 29 April 2004
ss 1–2 commenced on date of assent
remaining provisions commenced 21 May 2004 (2004 SL No. 62)

Natural Resources Legislation Amendment Act 2004 No. 33 pts 1, 6

date of assent 27 October 2004
commenced on date of assent

Vegetation Management and Other Legislation Amendment Act 2005 No. 41 pts 1–2

date of assent 14 October 2005
commenced on date of assent

Wild Rivers Act 2005 No. 42 ss 1–2, 52 sch 1

date of assent 14 October 2005
ss 1–2 commenced on date of assent
remaining provisions commenced 2 December 2005 (2005 SL No. 287)

Integrated Planning and Other Legislation Amendment Act 2006 No. 11 s 1, pt 13

date of assent 30 March 2006
commenced on date of assent

Wild Rivers and Other Legislation Amendment Act 2006 No. 59 pts 1, 10, s 85 sch

date of assent 7 December 2006
commenced on date of assent

Wild Rivers and Other Legislation Amendment Act 2007 No. 8 pts 1, 4

date of assent 28 February 2007
commenced on date of assent

Land and Other Legislation Amendment Act 2007 No. 19 pts 1, 9

date of assent 23 April 2007
ss 1–2 commenced on date of assent
remaining provisions commenced 18 May 2007 (2007 SL No. 88)

Urban Land Development Authority Act 2007 No. 41 ss 1–2, pt 14

date of assent 11 September 2007
ss 1–2 commenced on date of assent
remaining provisions commenced 21 September 2007 (2007 SL No. 235)

Cape York Peninsula Heritage Act 2007 No. 48 ss 1–2, pt 7 div 4

date of assent 25 October 2007
ss 1–2 commenced on date of assent
remaining provisions commenced 26 October 2008 (automatic commencement under AIA s 15DA(2))

Vegetation Management Amendment Act 2008 No. 8 pts 1–2

date of assent 6 March 2008
 commenced on date of assent

Local Government Act 2009 No. 17 ss 1, 2(4), 331 sch 1

date of assent 12 June 2009
 ss 1–2 commenced on date of assent
 remaining provisions not yet proclaimed into force (see s 2(4))

Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009 No. 24 ss 1–2, ch 6 pt 10 (this Act is amended, see amending legislation below)

date of assent 26 June 2009
 ss 1–2 commenced on date of assent
 remaining provisions not yet proclaimed into force (see s 2)
 amending legislation—

Vegetation Management and Other Legislation Amendment Act 2009 No. 43 pts 1, 6 (amends 2009 No. 24 above)

date of assent 3 November 2009
 commenced on date of assent (see s 2)

Sustainable Planning Act 2009 No. 36 ss 1–2, 872 sch 2

date of assent 22 September 2009
 ss 1–2 commenced on date of assent
 remaining provisions not yet proclaimed into force (see s 2)

Vegetation Management and Other Legislation Amendment Act 2009 No. 43 pts 1–2, s 63 sch

date of assent 3 November 2009
 ss 1–2, 31, 39, 40(2)–(3), 47, sch amdts 2, 11, 15 commenced on date of assent (see s 2)
 sch amdt 1 commenced on date of assent (see s 2) (amdt could not be given effect)
 remaining provisions commenced 8 October 2009 (see s 2)

6 List of annotations

Title amd 2004 No. 1 s 4

Commencement

s 2 om 2004 No. 1 s 5

Purpose of Act

s 3 amd 2000 No. 35 s 3; 2003 No. 10 s 76 sch
 sub 2004 No. 1 s 6
 amd 2009 No. 43 s 4 (retro)

Advancing the Act's purpose

prov hdg amd 2004 No. 1 s 44(1) sch 1
s 4 amd 2004 No. 1 s 44(1) sch 1

Application of Act

s 7 amd 2000 No. 35 s 4; 2003 No. 10 s 76 sch; 2004 No. 1 s 7

PART 2—VEGETATION MANAGEMENT

What is vegetation

s 8 sub 2004 No. 1 s 8

What is vegetation management

s 9 amd 2004 No. 1 s 44(1) sch 1

State policy for vegetation management

s 10 amd 2004 No. 1 s 9; 2009 No. 43 s 5 (retro)

Division 2A—Other policies for vegetation management

div 2A (ss 10A–10D) ins 2009 No. 43 s 6 (retro)

Division 3—Regional vegetation management codes

div hdg sub 2004 No. 1 s 10

Minister must make regional vegetation management codes

prov hdg amd 2009 No. 43 s 7(1) (retro)

s 11 sub 2004 No. 1 s 10

amd 2009 No. 43 ss 7 (retro), 63 sch (amdt could not be given effect)

Preparing codes

s 12 sub 2004 No. 1 s 10

amd 2009 No. 43 s 8 (retro)

Minister must consider all properly made submissions

s 13 amd 2000 No. 35 s 5

sub 2004 No. 1 s 10

amd 2009 No. 43 s 9 (retro)

When regional vegetation management code takes effect

s 14 sub 2004 No. 1 s 10; 2009 No. 43 s 10 (retro)

Minor, stated or permitted amendments of regional vegetation management code

prov hdg amd 2009 No. 43 s 11(1) (retro)

s 15 sub 2004 No. 1 s 10

amd 2009 No. 43 s 11(2)–(4) (retro)

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

Subdivision 1—Declarations by Governor in Council or Minister

sdiv hdg ins 2007 No. 19 s 219

Preparing declaration

s 16 amd 2000 No. 35 s 6

sub 2004 No. 1 s 11

amd 2005 No. 42 s 52 sch 1

Making declaration

s 17 amd 2000 No. 35 s 7; 2004 No. 1 ss 12, 44(1) sch 1; 2005 No. 42 s 52 sch 1; 2009 No. 43 s 12 (retro)

Interim declaration

s 18 amd 2000 No. 35 s 8

Criteria for declarations

s 19 amd 2000 No. 35 s 9; 2004 No. 1 s 13; 2009 No. 43 s 63 sch

Preparing amendment of declared area code

s 19A ins 2005 No. 42 s 52 sch 1

Approving amendment of declared area code

s 19B ins 2005 No. 42 s 52 sch 1
amd 2009 No. 43 s 13 (retro)

Minor or stated amendment of declared area code

s 19C ins 2005 No. 42 s 52 sch 1

Application of ss19A–19C to wild rivers code

s 19D ins 2007 No. 8 s 21

Subdivision 2—Declarations by chief executive

sdiv hdg ins 2007 No. 19 s 220

Request for declaration

s 19E ins 2007 No. 19 s 220

Making declaration

s 19F ins 2007 No. 19 s 220

Particular criteria for declaration

s 19G ins 2007 No. 19 s 220

Code for clearing of vegetation

s 19H ins 2007 No. 19 s 220

Amendment of management plan

s 19I ins 2007 No. 19 s 220

When management plan stops having effect

s 19J ins 2007 No. 19 s 220

Recording of declared areas and management plans

s 19K ins 2007 No. 19 s 220

Ending declaration

s 19L ins 2007 No. 19 s 220

Information to be available for inspection

19M ins 2007 No. 19 s 220
om 2009 No. 43 s 14 (retro)

Division 4A—Code for clearing vegetation for special indigenous purpose

div 4A (s 19N) ins 2007 No. 48 s 57

Division 4B—Other codes for vegetation management

div 4B (ss 19O–19X) ins 2009 No. 43 s 15 (retro)

Division 4C—Authorisation to clear regulated regrowth vegetation other than under regrowth vegetation code

div 4C (ss 19Y–19ZG) ins 2009 No. 43 s 15 (retro)

Division 5—Declarations about codes

div hdg sub 2004 No. 1 s 14

IDAS codes for the clearing of vegetation

prov hdg sub 2000 No. 35 s 10(1)

s 20 amd 2000 No. 35 s 10(2)–(3); 2002 No. 25 s 42

sub 2004 No. 1 s 14

amd 2007 No. 48 s 58

Division 5AA—Vegetation management maps

div hdg ins 2009 No. 43 s 16 (retro)

What is the “regional ecosystem map”

s 20A ins 2004 No. 1 s 14

sub 2009 No. 43 s 16 (retro)

What is the “remnant map”

s 20AA ins 2009 No. 43 s 16 (retro)

What is the “regrowth vegetation map”

s 20AB ins 2009 No. 43 s 16 (retro)

What is the “essential habitat map”

s 20AC ins 2009 No. 43 s 16 (retro)

What is a “registered area of agriculture map”

s 20AD ins 2009 No. 43 s 16 (retro)

Certifying vegetation management map

s 20AE ins 2009 No. 43 s 16 (retro)

Amending vegetation management map

s 20AF ins 2009 No. 43 s 16 (retro)

When vegetation management map takes effect

s 20AG ins 2009 No. 43 s 16 (retro)

Deciding to show particular areas as remnant vegetation

s 20AH ins 2009 No. 43 s 16 (retro)

Deciding to show particular areas as high value regrowth vegetation

s 20AI ins 2009 No. 43 s 16 (retro)

Application to make PMAV before amending particular vegetation management maps

s 20AJ ins 2009 No. 43 s 16 (retro)

Division 5A—Property map of assessable vegetation

div hdg ins 2004 No. 1 s 14

What is a “property map of assessable vegetation” (or “PMAV”)

s 20AK ins 2009 No. 43 s 17 (retro)

What is a “category A area”

s 20AL ins 2009 No. 43 s 17 (retro)

What is a “category B area”

s 20AM ins 2009 No. 43 s 17 (retro)

What is a “category C area”

s 20AN ins 2009 No. 43 s 17 (retro)

What is a “category X area”

s 20AO ins 2009 No. 43 s 17 (retro)

When chief executive may make PMAV

s 20B ins 2004 No. 1 s 14
amd 2007 No. 19 s 221; 2007 No. 48 s 59
sub 2009 No. 43 s 18 (retro)

Chief executive may make decision about category A area

s 20BA ins 2009 No. 43 s 18 (retro)

When owner may apply for PMAV

prov hdg amd 2009 No. 43 s 19(1) (retro)
s 20C ins 2004 No. 1 s 14
amd 2009 No. 43 s 19 (retro)

Process before making PMAV

s 20CA ins 2009 No. 43 s 20 (retro)

When PMAV may be replaced

prov hdg amd 2009 No. 43 s 21(1) (retro)
s 20D ins 2004 No. 1 s 14
amd 2009 No. 43 s 21(2)–(6) (retro)

When PMAV may be revoked

prov hdg amd 2009 No. 43 s 22(1) (retro)
s 20E ins 2004 No. 1 s 14
amd 2007 No. 19 s 222
amd 2009 No. 43 s 22(2) (retro)

Copies of PMAV given to owners

prov hdg amd 2009 No. 43 s 23(1) (retro)
s 20F ins 2004 No. 1 s 14
amd 2009 No. 43 s 23(2)–(4) (retro)

Owners to be advised of revocation of PMAV

prov hdg amd 2009 No. 43 s 63 sch (retro)
s 20G ins 2004 No. 1 s 14
amd 2009 No. 43 s 63 sch (retro)

Inconsistency between PMAV and particular vegetation management maps

s 20H ins 2009 No. 43 s 24 (retro)

Division 6—Relationship with Planning Act

div hdg amd 2003 No. 10 s 76 sch
sub 2009 No. 43 s 25 (retro)

Subdivision 1—Modifying effect of Planning Act

sdiv hdg ins 2009 No. 43 s 25 (retro)

Modifying effect on vegetation clearing applications

prov hdg amd 2004 No. 1 s 44(1) sch 1
s 21 amd 2003 No. 10 s 76 sch; 2004 No. 1 s 44(1) sch 1; 2003 No. 64 s 149

Declarations for the Planning Act

prov hdg amd 2003 No. 10 s 76 sch
sub 2005 No. 41 s 3(1)
s 22 amd 2003 No. 10 s 76 sch; 2005 No. 41 s 3(2); 2009 No. 43 ss 26, 63 sch
(retro)

Particular vegetation clearing applications may be assessed

s 22A ins 2003 No. 10 s 58
sub 2004 No. 1 s 15
amd 2005 No. 42 s 52 sch 1; 2006 No. 59 s 66; 2007 No. 19 s 223; 2007 No.
41 s 250; 2007 No. 48 s 60; 2009 No. 43 s 27 (retro)

Modifying Planning Act effect for delegations and appointment of referees

s 22B ins 2004 No. 1 s 15

**Modifying Planning Act effect of appeal rights on particular applications
(assessment manager)**

prov hdg amd 2007 No. 19 s 224(1)
s 22C ins 2004 No. 1 s 15
amd 2007 No. 19 s 224(2)–(3)

**Modifying Planning Act effect of appeal rights on particular applications
(concurrence agency)**

prov hdg amd 2007 No. 19 s 225(1)
s 22D ins 2004 No. 1 s 15
amd 2007 No. 19 s 225(2)

Subdivision 2—Referral agency assessment and responses

sdiv 2 (ss 22DA–22DF) ins 2009 No. 43 s 28 (retro)

Division 6A—Vegetation management offsets

div 6A (ss 22DG–22DL) ins 2009 No. 43 s 29 (retro)

Division 7—Broadscale applications and ballots

div hdg ins 2004 No. 1 s 15

Application of div 7

s 22E ins 2004 No. 1 s 15

Exception to s 22A(1)

s 22F ins 2004 No. 1 s 15

Regions and ballots

s 22G ins 2004 No. 1 s 15

Modifying Planning Act effect on changing broadscale application

s 22H ins 2004 No. 1 s 15
amd 2004 No. 33 s 44

Modifying Planning Act time frames

s 22I ins 2004 No. 1 s 15

Modifying Planning Act effect on changing development approval

s 22J ins 2004 No. 1 s 15

Modifying Planning Act effect of appeal rights on broadscale applications

s 22K ins 2004 No. 1 s 15

Appeals

s 22L ins 2004 No. 1 s 15

Division 7A—Classes of regional ecosystems

div hdg ins 2008 No. 8 s 3

Endangered regional ecosystems

s 22LA ins 2008 No. 8 s 3

Of concern regional ecosystems

s 22LB ins 2008 No. 8 s 3

Least concern regional ecosystems

prov hdg amd 2009 No. 43 s 63 sch (retro)
s 22LC ins 2008 No. 8 s 3
amd 2009 No. 43 s 63 sch (retro)

Division 8—Miscellaneous

div 8 (s 22M) ins 2004 No. 1 s 15

Transitional modifying effect

s 23 amd 2000 No. 35 s 11
exp 4 March 2001 (see s 23(3))

PART 3—ENFORCEMENT, INVESTIGATIONS AND OFFENCES**Functions and powers of authorised officers**

s 25 amd 2003 No. 10 s 59; 2009 No. 43 s 63 sch (retro)

Power to enter places

s 30 amd 2003 No. 10 s 60; 2004 No. 1 ss 16, 44(1) sch 1; 2009 No. 43 ss 30, 63
sch amdts 9–10 (retro), 63 sch amdt 11

Issue of warrant

s 33 amd 2004 No. 1 s 17

Warrants—procedure before entry

s 35 amd 2000 No. 35 s 12; 2003 No. 10 s 61; 2004 No. 1 s 18

General powers after entering places

s 36 amd 2003 No. 10 s 62; 2004 No. 1 s 44(1) sch 1; 2009 No. 43 s 63 sch (retro)

Seizing evidence

s 39 amd 2003 No. 10 s 63; 2004 No. 1 s 44(1) sch 1

Power to require name and address

s 49 amd 2009 No. 43 s 31

Power to require information

s 51 amd 2003 No. 10 s 64

Power to require production of documents

s 52 amd 2003 No. 10 s 76 sch

Failure to produce document

s 54 amd 2003 No. 10 s 65

Stop work notice

s 54A ins 2009 No. 43 s 32 (retro)

Restoration notice

s 54B ins 2009 No. 43 s 32 (retro)

Contravention of stop work notices and restoration notices

s 54C ins 2009 No. 43 s 32 (retro)

Transfer of land the subject of restoration notice

prov hdg sub 2009 No. 43 s 33(1) (retro)

s 55 amd 2003 No. 10 s 66; 2004 No. 1 s 19; 2009 No. 43 s 33(2)–(8) (retro)

Record of restoration notice in land registry

prov hdg amd 2009 No. 43 s 34(1) (retro)

s 55A ins 2003 No. 10 s 67
amd 2009 No. 43 s 34 (retro)

Subdivision 8—Restoration plans

sdiv 8 (ss 55AA–55AF) ins 2009 No. 43 s 35 (retro)

Division 2—Other enforcement provisions

Subdivision 1—Obtaining criminal history reports

sdiv 1 (ss 55B–55D) ins 2003 No. 10 s 68

Subdivision 2—Notice of damage and compensation

sdiv hdg ins 2003 No. 10 s 68

Division 3—General offences

div hdg sub 2009 No. 43 s 63 sch (retro)

Impersonation of authorised officer

s 59A ins 2004 No. 1 s 20

Executive officers must ensure corporation complies with Act

s 60A ins 2003 No. 10 s 69

Guide for deciding penalty for vegetation clearing offence

s 60B ins 2003 No. 10 s 69
amd 2009 No. 43 s 36 (retro)

Ability to prosecute under other Acts

s 61 amd 1994 No. 62 s 616(2) (amd 2000 No. 64 s 52); 2003 No. 10 s 76 sch

PART 4—REVIEWS AND LEGAL PROCEEDINGS

pt hdg amd 2009 No. 43 s 37 (retro)

Division 1—Internal reviews by chief executive

div hdg sub 2009 No. 43 s 38 (retro)

Internal review process before external review

s 62 amd 2004 No. 1 s 21
sub 2009 No. 43 s 38 (retro)

How to apply for internal review

s 63 sub 2009 No. 43 s 38 (retro)

Review decision

s 63A ins 2009 No. 43 s 38 (retro)

Division 1A—External reviews by QCAT

div 1A (s 63B) ins 2009 No. 43 s 38 (retro)

Division 2—Evidence**Instruments, equipment and installations**

s 66A ins 2003 No. 10 s 70
amd 2009 No. 43 s 39

Certificate or report about remotely sensed image

s 66B ins 2003 No. 10 s 70
amd 2009 No. 43 s 40(1) (retro), (2)–(3)

Evidentiary aids

s 67 amd 2000 No. 35 s 13; 2003 No. 10 s 76 sch; 2004 No. 1 s 22; 2009 No. 43 s 41 (retro)

Responsibility for unauthorised clearing of vegetation

s 67A ins 2003 No. 10 s 71
amd 2004 No. 1 s 23

Division 2A—Defences

div 2A (s 67B) ins 2003 No. 10 s 72

Summary proceedings for offences

s 68 amd 2003 No. 10 ss 73, 76 sch

Particulars to be stated for complaint for vegetation clearing offence

s 68A ins 2003 No. 10 s 74
amd 2009 No. 43 s 42 (retro)

Representation of departmental officer in court

s 68B ins 2003 No. 10 s 74

Recovery of costs of investigation

s 68C ins 2003 No. 10 s 74

Division 4—Restrictions on legal proceedings

div 4 (ss 68CA–68CC) ins 2009 No. 43 s 43 (retro)

PART 5—MISCELLANEOUS

Approved forms

s 68D ins 2004 No. 1 s 24

Copies of vegetation management maps and PMAVs to be available for inspection and purchase

s 70AA ins 2009 No. 43 s 44 (retro)

Copies of documents to be available for inspection and purchase

s 70AB ins 2009 No. 43 s 44 (retro)

Application of development approvals and exemptions for Forestry Act

s 70A ins 2004 No. 1 s 25
amd 2004 No. 1 s 44(2) sch 2; 2009 No. 43 s 43A (retro)

Record of particular matters in land registry

prov hdg amd 2009 No. 43 s 45(1) (retro)
s 70B ins 2004 No. 1 s 25
amd 2009 No. 43 s 45(2)–(6) (retro)

Particular vegetation not natural resource owned by person as improvement on leasehold land

s 70C ins 2009 No. 43 s 46 (retro)

PART 6—TRANSITIONAL AND DECLARATORY PROVISIONS

pt hdg amd 2008 No. 8 s 4

Division 1—Transitional provisions for Act No. 90 of 1999

div hdg ins 2004 No. 1 s 26

Existing development approvals and applications for development approvals under the Planning Act

prov hdg amd 2004 No. 1 s 44(1) sch 1
s 73 amd 2003 No. 10 s 76 sch; 2004 No. 1 s 44(1) sch 1

Existing development control plans and special facilities zones

s 74 amd 2003 No. 10 s 76 sch; 2005 No. 41 s 4; 2009 No. 43 s 47

Division 2—Transitional provisions for Vegetation Management and Other Legislation Amendment Act 2004

div hdg ins 2004 No. 1 s 27

What may be approved as codes

s 75 prev s 75 exp 16 September 2000 (see s 85A)
om R1 (see RA s 37)
pres s 75 ins 2004 No. 1 s 27

Existing applications (pre VACA) and development approvals

- s 76** prev s 76 exp 16 September 2000 (see s 85A)
 om R1 (see RA s 37)
 pres s 76 ins 2004 No. 1 s 27
 sub 2004 No. 33 s 45

Existing applications (pre VACA) and permits under the Land Act 1994

- s 77** prev s 77 exp 16 September 2000 (see s 85A)
 om R1 (see RA s 37)
 pres s 77 ins 2004 No. 1 s 27
 sub 2004 No. 33 s 45

Existing applications (post VACA) under the Land Act 1994

- s 78** prev s 78 exp 16 September 2000 (see s 85A)
 om R1 (see RA s 37)
 pres s 78 ins 2004 No. 1 s 27
 amd 2004 No. 33 s 46

When the Land Act 1994 continues to apply

- s 79** prev s 79 exp 16 September 2000 (see s 85A)
 om R1 (see RA s 37)
 pres s 79 ins 2004 No. 1 s 27

Modifying effect of Planning Act for owner's consent

- s 80** prev s 80 exp 16 September 2000 (see s 85A)
 om R1 (see RA s 37)
 pres s 80 ins 2004 No. 1 s 27

Division 3—Transitional provisions for Vegetation Management and Other Legislation Amendment Act 2005

- div hdg** ins 2005 No. 41 s 5

Effect on existing riverine protection permits

- s 81** prev s 81 exp 16 September 2000 (see s 85A)
 pres s 81 ins 2005 No. 41 s 5

Validation of particular clearing

- s 82** prev s 82 exp 16 September 2000 (see s 85A)
 pres s 82 ins 2005 No. 41 s 5

Validation of regional vegetation management codes

- s 83** amd 2000 No. 35 s 14
 prev s 83 exp 16 September 2000 (see s 85A)
 pres s 83 ins 2005 No. 41 s 5

Division 4—Transitional provision for Land and Other Legislation Amendment Act 2007

- div hdg** ins 2007 No. 19 s 226

Existing appeals under s 22C

- s 84** prev s 84 amd 2000 No. 35 s 15
 exp 16 September 2000 (see s 85A)
 pres s 84 ins 2007 No. 19 s 226

Division 5—Declaratory and transitional provisions for Vegetation Management Amendment Act 2008

div hdg ins 2008 No. 8 s 5

Declaration about types of regional ecosystems

s 85 prev s 85 amd 2000 No. 35 s 16
exp 16 September 2000 (see s 85A)
pres s 85 ins 2008 No. 8 s 5

Expiry of pt 7

s 85A ins 2000 No. 35 s 17
exp 16 September 2000 (see s 85A)

Amendment of regulation

s 86 prev s 86 exp 16 September 2000 (see s 97)
pres s 86 ins 2008 No. 8 s 5

Division 7—Transitional provisions for Vegetation Management and Other Legislation Amendment Act 2009

div hdg ins 2009 No. 43 s 48 (retro)

Subdivision 1—Preliminary

sdiv hdg ins 2009 No. 43 s 48 (retro)

Definitions for div 7

s 88 prev s 88 exp 16 September 2000 (see prev s 97)
pres s 88 ins 2009 No. 43 s 48 (retro)

References to unamended Act

s 89 prev s 89 exp 16 September 2000 (see prev s 97)
pres s 89 ins 2009 No. 43 s 48 (retro)

Subdivision 2—Transitional provisions for amendments of Vegetation Management Act 1999

sdiv hdg ins 2009 No. 43 s 48 (retro)

Existing regional vegetation management codes approved by the Minister

s 90 prev s 90 exp 16 September 2000 (see prev s 97)
pres s 90 ins 2009 No. 43 s 48 (retro)

Native forest practice code

s 91 prev s 91 exp 16 September 2000 (see prev s 97)
pres s 91 ins 2009 No. 43 s 48 (retro)

Existing regional ecosystems maps and remnant maps

s 92 prev s 92 amd 2000 No. 35 s 18
exp 16 September 2000 (see prev s 97)
pres s 92 ins 2009 No. 43 s 48 (retro)

Certifying vegetation management maps in retrospective period

s 93 prev s 93 sub 2000 No. 35 s 19
exp 16 September 2000 (see prev s 97)
pres s 93 ins 2009 No. 43 s 48 (retro)

Changes to existing vegetation category areas

- s 94** prev s 94 amd 2000 No. 35 s 20
exp 16 September 2000 (see prev s 97)
pres s 94 ins 2009 No. 43 s 48 (retro)

When particular PMAVs may be revoked

- s 95** prev s 95 exp 16 September 2000 (see prev s 97)
pres s 95 ins 2009 No. 43 s 48 (retro)

Existing compliance notices

- s 96** prev s 96 amd 2000 No. 35 s 22
exp 16 September 2000 (see prev s 97)
pres s 96 ins 2009 No. 43 s 48 (retro)

Tree clearing provisions under unamended Land Act

- s 97** prev s 97 ins 2000 No. 35 s 23
exp 16 September 2000 (see prev s 97)
pres s 97 ins 2009 No. 43 s 48 (retro)

Existing development approvals and development applications

- s 98** prev s 98 ins 2000 No. 35 s 24
exp 16 September 2000 (see prev s 100)
pres s 98 ins 2009 No. 43 s 48 (retro)

References to not of concern regional ecosystems

- s 99** prev s 99 ins 2000 No. 35 s 24
exp 16 September 2000 (see prev s 100)
pres s 99 ins 2009 No. 43 s 48 (retro)

Clearing of regulated regrowth vegetation in retrospective period not an offence

- s 100** prev s 100 ins 2000 No. 35 s 24
exp 16 September 2000 (see prev s 100)
pres s 100 ins 2009 No. 43 s 48 (retro)

Application of s 19Q

- s 101** ins 2009 No. 43 s 48 (retro)

Not giving notice in retrospective period not an offence

- s 102** ins 2009 No. 43 s 48 (retro)

Delayed applications to QCAT

- s 103** ins 2009 No. 43 s 48 (retro)

Amendment of Vegetation Management Regulation 2000

- s 104** ins 2009 No. 43 s 48 (retro)

Subdivision 3—Transitional provisions for repeal of Vegetation Management (Regrowth Clearing Moratorium) Act 2009

- sdiv hdg** ins 2009 No. 43 s 48 (retro)

Existing applications for moratorium exemption

- s 105** ins 2009 No. 43 s 48 (retro)

Endnotes

Existing PMAV applications

s 106 ins 2009 No. 43 s 48 (retro)

Existing show cause notices and compliance notices

s 107 ins 2009 No. 43 s 48 (retro)

Appeals

s 108 ins 2009 No. 43 s 48 (retro)

PART 7—AMENDMENT OF INTEGRATED PLANNING ACT 1997

pt hdg exp 16 September 2000 (see s 85A)

PART 8—AMENDMENT OF LAND ACT 1994

pt hdg exp 16 September 2000 (see s 97)

Amendment of s 214 (Land protection)

s 87 exp 16 September 2000 (see s 97)

Amendment of s 264 (Terms of tree clearing permit)

s 94A ins 2000 No. 35 s 21
exp 16 September 2000 (see s 97)

Amendment of s 265 (Conditions of tree clearing permit)

s 94B ins 2000 No. 35 s 20
exp 16 September 2000 (see s 97)

Amendment of s 267 (Tree clearing permit may continue on transfer)

s 94C ins 2000 No. 35 s 20
exp 16 September 2000 (see s 97)

Amendment of s 322 (Requirements for transfers)

s 94D ins 2000 No. 35 s 20
exp 16 September 2000 (see s 97)

Amendment of s 346 (Sale of mortgaged lease)

s 94E ins 2000 No. 35 s 20
exp 16 September 2000 (see s 97)

PART 9—AMENDMENT OF LOCAL GOVERNMENT ACT 1993

pt hdg ins 2000 No. 35 s 24
exp 16 September 2000 (see s 100)

SCHEDULE—DICTIONARY

- def “**applicable code**” amd 2003 No. 10 s 76 sch
- def “**approved form**” ins 2004 No. 1 s 28(2)
- def “**approved restoration plan**” ins 2009 No. 43 s 49(2) (retro)
- def “**area of high nature conservation value**” amd 2009 No. 43 s 63 sch (retro)
- def “**area of unlawfully cleared vegetation**” ins 2003 No. 10 s 75(1) om 2004 No. 1 s 28(1)
- def “**area vulnerable to land degradation**” amd 2009 No. 43 s 63 sch
- def “**assessment manager**” amd 2003 No. 10 s 76 sch
- def “**ballot application period**” ins 2004 No. 1 s 28(2)
- def “**bed and banks**” ins 2005 No. 41 s 6

- def “**broadscale application**” ins 2004 No. 1 s 28(2)
- def “**category 1 area**” ins 2004 No. 1 s 28(2)
 amd 2007 No. 19 s 227(3)–(4)
 om 2009 No. 43 s 49(1) (retro)
- def “**category 2 area**” ins 2004 No. 1 s 28(2)
 amd 2007 No. 19 s 227(3)
 om 2009 No. 43 s 49(1) (retro)
- def “**category 3 area**” ins 2004 No. 1 s 28(2)
 amd 2007 No. 19 s 227(3)
 om 2009 No. 43 s 49(1) (retro)
- def “**category 4 area**” ins 2004 No. 1 s 28(2)
 om 2009 No. 43 s 49(1) (retro)
- def “**category A area**” ins 2009 No. 43 s 49(2) (retro)
- def “**category B area**” ins 2009 No. 43 s 49(2) (retro)
- def “**category C area**” ins 2009 No. 43 s 49(2) (retro)
- def “**category X area**” ins 2004 No. 1 s 28(2)
 sub 2009 No. 43 s 49(1)–(2) (retro)
- def “**clear**” sub 2004 No. 1 s 28(1)–(2)
- def “**clearing allocation**” ins 2004 No. 1 s 28(2)
- def “**clearing area**” ins 2009 No. 43 s 49(2) (retro)
- def “**clearing notification**” ins 2009 No. 43 s 49(2) (retro)
- def “**clearing offence**” ins 2009 No. 43 s 49(2) (retro)
- def “**commercial timber**” ins 2005 No. 41 s 6
- def “**compliance notice**” ins 2000 No. 35 s 25(2)
 om 2009 No. 43 s 49(1) (retro)
- def “**concurrence agency**” amd 2003 No. 10 s 76 sch
- def “**concurrence agency application**” ins 2009 No. 43 s 49(2) (retro)
- def “**concurrence agency policy**” ins 2009 No. 43 s 49(2) (retro)
- def “**criminal history**” ins 2003 No. 10 s 75(1)
- def “**currency period**” ins 2004 No. 1 s 28(2)
 amd 2006 No. 11 s 110
- def “**CYPH Act**” ins 2007 No. 48 s 61
- def “**decision**” ins 2009 No. 43 s 49(2) (retro)
- def “**declared area**” ins 2004 No. 1 s 28(2)
 amd 2007 No. 19 s 227(5)
- def “**declared area code**” ins 2004 No. 1 s 28(2)
 sub 2007 No. 19 s 227(1)–(2)
- def “**declared pest**” ins 2004 No. 1 s 28(2)
- def “**deemed refusal**” ins 2004 No. 1 s 28(2)
- def “**destroy**” om 2004 No. 1 s 28(1)
- def “**development**” amd 2003 No. 10 s 76 sch
- def “**development application**” amd 2003 No. 10 s 76 sch
 om 2004 No. 1 s 28(1)
 ins 2009 No. 43 s 49(2) (retro)
- def “**development approval**” amd 2003 No. 10 s 76 sch
 sub 2004 No. 1 s 28(1)–(2); 2009 No. 43 s 49(1)–(2) (retro)
- def “**document certification requirement**” ins 2000 No. 35 s 25(2)
- def “**encroachment**” ins 2004 No. 1 s 28(2)

- def “**endangered regional ecosystem**” sub 2008 No. 8 s 6(1)–(2)
- def “**essential habitat**” ins 2009 No. 43 s 49(2) (retro)
- def “**essential habitat map**” ins 2009 No. 43 s 49(2) (retro)
- def “**essential regrowth habitat**” ins 2009 No. 43 s 49(2) (retro)
- def “**exchange area**” ins 2009 No. 43 s 49(2) (retro)
- def “**exempt development**” ins 2009 No. 43 s 49(2) (retro)
- def “**FA chief executive**” ins 2009 No. 43 s 49(2) (retro)
- def “**fodder harvesting**” ins 2009 No. 43 s 49(2) (retro)
- def “**forest practice**” sub 2004 No. 1 s 28(1)–(2)
amd 2007 No. 19 s 227(6)–(8); 2009 No. 43 s 49(3)–(4) (retro)
- def “**freeholding lease**” ins 2003 No. 10 s 75(1)
om 2004 No. 1 s 28(1)
- def “**freehold land**” amd 2003 No. 10 s 75(2)
sub 2004 No. 1 s 28(1)–(2)
- def “**grassland regional ecosystem**” ins 2004 No. 1 s 28(2)
- def “**IDAS**” amd 2003 No. 10 s 76 sch
- def “**indigenous community use area**” ins 2007 No. 48 s 61
- def “**indigenous land**” ins 2004 No. 1 s 28(2)
- def “**information notice**” ins 2009 No. 43 s 49(2) (retro)
- def “**information request**” ins 2004 No. 1 s 28(2)
- def “**lake**” ins 2005 No. 41 s 6
- def “**Land Act notice**” ins 2009 No. 43 s 49(2) (retro)
- def “**Land Act tenure**” ins 2009 No. 43 s 49(2) (retro)
- def “**least concern regional ecosystem**” ins 2009 No. 43 s 49(2) (retro)
- def “**material change of use**” ins 2009 No. 43 s 49(2) (retro)
- def “**moratorium exemption**” ins 2009 No. 43 s 49(2) (retro)
- def “**native forest practice**” ins 2004 No. 1 s 28(2)
- def “**native forest practice code**” ins 2009 No. 43 s 49(2) (retro)
- def “**Nature Conservation Act**” ins 2009 No. 43 s 49(2) (retro)
- def “**not of concern regional ecosystem**” ins 2000 No. 35 s 35 s 25(2)
sub 2008 No. 8 s 6(1)–(2)
om 2009 No. 43 s 49(1) (retro)
- def “**occupier**” ins 2003 No. 10 s 75(1)
- def “**of concern regional ecosystem**” sub 2008 No. 8 s 6(1)–(2)
- def “**official**” ins 2009 No. 43 s 49(2) (retro)
- def “**offset**” ins 2009 No. 43 s 49(2) (retro)
- def “**offset area**” ins 2009 No. 43 s 49(2) (retro)
- def “**offsets policy**” ins 2009 No. 43 s 49(2) (retro)
- def “**ongoing application**” ins 2004 No. 1 s 28(2)
om 2007 No. 19 s 227(1)
- def “**original decision**” ins 2009 No. 43 s 49(2) (retro)
- def “**owner**” ins 2004 No. 1 s 28(2)
- def “**Planning Act**” ins 2003 No. 10 s 75(1)
- def “**PMAV**” ins 2009 No. 43 s 49(2) (retro)
- def “**PMAV application**” ins 2009 No. 43 s 49(2) (retro)
- def “**pre-clearing extent**” amd 2008 No. 8 s 6(3)
- def “**primary producer**” ins 2009 No. 43 s 49(2) (retro)
- def “**primary production business**” ins 2009 No. 43 s 49(2) (retro)

- def “**primary production entity**” ins 2009 No. 43 s 49(2) (retro)
- def “**property map of assessable vegetation**” ins 2004 No. 1 s 28(2)
sub 2009 No. 43 s 49(1)–(2) (retro)
- def “**property vegetation management plan**” amd 2004 No. 1 s 44(1) sch 1;
2009 No. 43 s 49(5) (retro)
- def “**proponent**” ins 2007 No. 19 s 227(2)
- def “**protected wildlife**” ins 2009 No. 43 s 49(2) (retro)
- def “**reconfiguring a lot**” ins 2009 No. 43 s 49(2) (retro)
- def “**referral agency’s response**” ins 2009 No. 43 s 49(2) (retro)
- def “**regional ecosystem map**” sub 2000 No. 35 s 25(1)–(2)
amd 2003 No. 10 s 75(3); 2004 No. 1 s 28(3)
sub 2009 No. 43 s 49(1)–(2) (retro)
- def “**regional ecosystem number**” ins 2009 No. 43 s 49(2) (retro)
- def “**regional vegetation management code**” ins 2004 No. 1 s 28(2)
- def “**regional vegetation management plan**” om 2004 No. 1 s 28(1)
- def “**registered area of agriculture map**” ins 2009 No. 43 s 49(2) (retro)
- def “**regrowth clearing authorisation**” ins 2009 No. 43 s 49(2) (retro)
- def “**regrowth vegetation code**” ins 2009 No. 43 s 49(2) (retro)
- def “**regrowth vegetation map**” ins 2009 No. 43 s 49(2) (retro)
- def “**regulated regrowth vegetation**” ins 2009 No. 43 s 49(2) (retro)
- def “**relevant entity**” ins 2009 No. 43 s 49(2) (retro)
- def “**relevant PMAV application**” ins 2009 No. 43 s 49(2) (retro)
- def “**relevant vegetation map**” ins 2009 No. 43 s 49(2) (retro)
- def “**remnant endangered regional ecosystem**” amd 2000 No. 35 s 25(3)
om 2009 No. 43 s 49(1) (retro)
- def “**remnant map**” sub 2000 No. 35 s 25(1)–(2)
amd 2003 No. 10 s 75(4); 2004 No. 1 s 28(4)
sub 2009 No. 43 s 49(1)–(2) (retro)
- def “**remnant not of concern regional ecosystem**” ins 2000 No. 35 s 25(2)
om 2009 No. 43 s 49(1) (retro)
- def “**remnant of concern regional ecosystem**” amd 2000 No. 35 s 25(3)
om 2009 No. 43 s 49(1) (retro)
- def “**remnant vegetation**” sub 2000 No. 35 s 25(1)–(2)
sub 2009 No. 43 s 49(1)–(2) (retro)
- def “**repealed Moratorium Act**” ins 2009 No. 43 s 49(2) (retro)
- def “**restoration notice**” ins 2009 No. 43 s 49(2) (retro)
- def “**restoration plan**” ins 2009 No. 43 s 49(2) (retro)
- def “**review decision**” ins 2009 No. 43 s 49(2) (retro)
- def “**road**” ins 2007 No. 19 s 227(2)
- def “**special clearing code**” ins 2007 No. 48 s 61
- def “**spent conviction**” ins 2003 No. 10 s 75(1)
- def “**stop work notice**” ins 2009 No. 43 s 49(2) (retro)
- def “**thinning**” ins 2004 No. 1 s 28(2)
- def “**trespass notice**” ins 2009 No. 43 s 49(2) (retro)
- def “**unlawfully cleared**” ins 2004 No. 1 s 28(2)
sub 2007 No. 19 s 227(1)–(2)
- def “**vegetation category area**” ins 2009 No. 43 s 49(2) (retro)

- def **“vegetation clearing application”** ins 2004 No. 1 s 28(2)
sub 2004 No. 1 s 44(2) sch 2
amd 2009 No. 43 s 63 sch (retro)
- def **“vegetation clearing provision”** amd 2003 No. 10 s 76 sch
sub 2004 No. 1 s 28(1)–(2)
- def **“vegetation management map”** ins 2009 No. 43 s 49(2) (retro)
- def **“vegetation management offset”** ins 2009 No. 43 s 49(2) (retro)
- def **“watercourse”** ins 2005 No. 41 s 6
- def **“wild river area”** ins 2005 No. 42 s 52 sch 1
amd 2006 No. 59 s 85 sch
- def **“wild river declaration”** ins 2005 No. 42 s 52 sch 1
amd 2006 No. 59 s 85 sch

7 Information about retrospectivity

Retrospective amendments that have been consolidated are noted in the list of legislation and list of annotations. Any retrospective amendment that has not been consolidated is noted in an editor’s note to the text.

© State of Queensland 2009