



Queensland

Vegetation Management and Other Legislation Amendment Regulation (No. 1) 2011

Explanatory Notes for SL 2011 No. 218

made under the

Sustainable Planning Regulation 2009
Vegetation Management Act 1999

General outline

Short title

*Vegetation Management and Other Legislation Amendment Regulation
(No. 1) 2011.*

Authorising law

Section 2 of the *Natural Resources and Other Legislation Amendment Act
(No. 2) 2010*;

Section 763 of the *Sustainable Planning Act 2009*; and

Section 72 of the *Vegetation Management Act 1999*.

Policy objectives

Proclaiming Part 12 of the *Natural Resources and Other Legislation Amendment Act (No. 2) 2010* (NROLA 2) will commence amendments to the *Vegetation Management Act 1999* (VMA) to give effect to the Area Management Plan (AMP) framework. The AMP framework has been

developed under the Blueprint for the Bush - OnePlan project to streamline regulatory requirements for rural land and natural resource managers.

The AMP framework provides an alternative pathway for landholders to meet their vegetation management regulatory requirements, providing an avenue to undertake a more holistic property management approach. The framework also enables third parties, such as local government, industry or regional natural resource management groups, to develop and submit a draft AMP for approval by the Department of Environment and Resource Management's (DERM) Chief Executive.

Although AMPs will provide an alternative approval process to development applications, AMPs must still meet the requirements in the Regional Vegetation Management Codes and the State Policy for Vegetation Management.

Once a draft AMP has been approved, landholders whose property falls within the boundaries of the approved plan can notify DERM of their intent to undertake those vegetation clearing activities covered by the AMP, providing it is in accordance with the AMP. This will negate the need to obtain a separate, individual development approval per property. AMP's also provide longer-term approvals (up to 10 years), reducing the regulatory burden associated with landholders submitting multiple applications, and DERM's need to assess them.

The Regulation supports the NROLA 2 by establishing application and amendment fees for the framework and amending the Sustainable Planning Regulation 2009 to make approved AMP's not-assessable development.

Reasons for policy objectives

Proclamation of parts of Natural Resources and Other Legislation Amendment Act (No. 2) 2010

The *Natural Resources and Other Legislation Amendment Act (No. 2) 2010* was passed on 23 November 2010 with commencement to occur by proclamation. Amendments are required to the sustainable planning and vegetation management regulations to provide the operational framework for the provisions. The Regulation has been drafted and are to be made in conjunction with this proclamation.

Regulations to support the Area Management Plan framework.

The OnePlan project is part of the Government's Blueprint for the Bush initiative, aiming to streamline and simplify regulatory requirements for

rural landholders. Part 12 of the NROLA 2 amends the VMA to create the AMP framework. The AMP framework enables multi-property approval of certain low risk vegetation clearing activities, for up to 10 years. The framework is expected to reduce the regulatory burden on landholders, facilitate holistic landscape-scale planning and allow certain vegetation management issues to be considered at the regional, catchment and landscape levels.

The fees have been designed to support the policy intent of the AMP framework to facilitate the strategic management of vegetation at the landscape scale, such as catchment or bioregion. The fee structure has been tiered to provide an incentive for larger groups of landholders, or organisations such as local government, industry or natural resource management groups, to work collectively in developing the AMP and the vegetation clearing activities.

The Sustainable Planning Regulation amendments will make vegetation clearing approved under an AMP not-assessable development. Establishing AMP's as not-assessable development ensure landholders can undertake the approved vegetation clearing activities without the need to obtain an individual development approval for vegetation clearing. While supporting the legislation's policy objective for improved holistic vegetation management, the amendment will also reduce the regulatory burden on landholders in relation to the development and submission of clearing applications. The current regulatory requirements require approval of vegetation clearing activities at least every five years on a property-by-property basis.

Land Management Agreement Vegetation Clearing Purposes

Clearing vegetation under a Land Management Agreement is currently not-assessable development under the Sustainable Planning Regulations. However, the current drafting enables clearing for any purpose to be undertaken through a registered land management agreement, contrary to the original policy intent. The amendments will correct this oversight by limiting the relevant purposes to those considered low risk and necessary for the sustainable management of natural resources on the leasehold land.

This provision will also facilitate the streamlining of the land management agreement process by incorporating and approving the necessary vegetation management activities into the Agreement, preventing the leaseholder from needing to obtain a separate permit after the Agreement is registered.

Achievement of policy objectives

Regulations to support the Area Management Plan framework.

Sustainable Planning Regulation amendments

The Sustainable Planning Regulation is being amended to add approved AMP's to Schedule 24 to become not-assessable development. This will align AMP's with other similar activities under the vegetation management framework. The regulation amendments will enable a landholder to clear in accordance with the approved plan, after it has been approved by the Chief Executive of DERM, without the need for a separate, individual permit.

Vegetation Management Regulation amendments

The amendment to the Vegetation Management Regulation introduces application and amendments fees for the AMP's. The fee structure is tiered, with the application fees determined by the number of properties within the boundaries of the draft AMP. This recognises that the number of properties covered by an AMP increases the complexity of, and time needed, to assess an AMP. The increase in fee as a result of the increase in the number of properties is capped at \$7000. The fee structure encourages applicants to develop landscape-scale plans in consultation and partnership with groups of landholders, regional natural resource management groups and local government authorities.

The public benefit value of vegetation clearing for public safety purposes or managing weeds and pest plants is recognised and no fee is proposed for these activities. This continues the status quo and applies to AMP's that cover only these two clearing activities. Where the AMP considers a number of issues, including pest management or public safety, the tiered fee structure will apply. No fees will be charged for applications to—

- approve a draft area management plan or amend an area management plan:
 - to control non-native plants or declared pests
 - to ensure public safety
- accredit an existing planning instrument

as most regulatory planning documents have application fees under their empowering regulations.

Aligning with the current prescribed fees, the AMP fees will increase annually in line with the Consumer Price Index (CPI) to recognise the increased cost associated with assessment.

Examples

Landholder group 1

A group of six landholders individually have been attempting to treat a prescribed pest weed, such as Prickly Acacia (a class 2 pest under the *Land Protection (Pest and Stock Route Management Act 2002)* and Gidgee encroachment into particular Mitchell Grass Downs regional ecosystems. To pool their resources and achieve more strategic results the group prepare an AMP outlining how, collectively, they will be treating the Prickly Acacia and managing the Gidgee encroachment. The fee to accompany the plan with is \$1700. The calculations for the fee are:

\$ 500	base fee (up to 10 properties)
\$1,200	\$200 x 6 properties
\$ nil	fee for weed and pest management component
\$1,700	Total fee payable

NRM Group

As part of a Q2 Coasts to Country proposal, an NRM group proposes to run community programs to educate and assist landholders to treat and manage class 1 and 2 weeds under the *Land Protection (Pest and Stock Route Management) Act 2002* and undertake general management activities for Mulga vegetation communities to control thickening and encroachment. To facilitate this, the NRM group, in consultation with affected landholders and relevant local governments, develops an AMP covering 25 affected properties. The application fee, payable by the NRM Group will be \$5,000 and is calculated below.

\$4,250	base fee for 20 properties
\$ 750	\$150 x 5 properties (the number of properties over 20 in this tier)
\$ nil	fee for weed and pest management
\$5,000	Total fee payable

Local Government Pest Management Plan

A local government has developed their *Local Government Area Pest Management Plan* developed under the requirements of the *Land Protection (Pest and Stock Route Management) Act 2002*. The Pest Management Plan outlines the strategies proposed by the local government to manage the pest plants, and the necessary activities required to treat or manage the pest plants within the relevant ecosystems, including some

vegetation clearing activities. The local government consists of 60 properties, all of which are covered by the AMP.

As the plan only deals with the management of weeds and pests, the nil fee applies

These examples are tabulated below.

Table 1: Examples of AMP fees with an indicative comparison with existing development application fees.

Applicant	Properties covered by AMP	AMP Purpose	AMP fee (10-year approval)	Current comparable DA fee
Small group of landholders	6	Weeds and encroachment	\$1700	\$4239.60
Small group of landholders	6	Weed and pest management	Nil	Nil
NRM group	25	Weeds, thinning and encroachment	\$5,000	\$35,330.00
Local Government	60	Pest management and public safety	Nil	Nil

Vegetation Clearing Purposes covered by a Land Management Agreement

The amendments will limit the breadth of the provision by listing the specific clearing activities that can be approved under a land management agreement as not-assessable development. The amendments will ensure the original policy intent of the provision for the approval of only those vegetation clearing activities necessary for the management and improvement of the leasehold land, and is reflected by the legislative framework.

Consistency with policy objectives of authorising law

Proclamation of parts of Natural Resources and Other Legislation Amendment Act (No. 2) 2010

Section 2 of the *Natural Resources and Other Legislation Amendment Act (No. 2) 2010* provided for Part 12 of the Act to commence by proclamation.

AMP and Land Management Agreement Vegetation Clearing Purposes

The *Sustainable Planning Act 2009* regulates and simplifies the development approvals process in a way that delivers sustainable outcomes. The clearing of native vegetation under the vegetation management framework requires a development approval, unless the activity is not-assessable development. The amendments for both the Land Management Agreement exemption and the new AMP framework will bring these activities in line with the existing activities listed in Schedule 24 of the Sustainable Planning Regulation.

The legislative objectives of the *Land Act 1994* for Land Management Agreements under the *Land Act 1994* provides a mechanism for regulating clearing that is consistent with the intent of the *Vegetation Management Act 1999*. The amendments enable the necessary vegetation clearing activities to be approved as part of the Land Management Agreement, ensuring that the document is a holistic management document for leasehold land.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The AMP framework under the VMA will benefit landholders by reducing the costs associated with the planning and application procedures required before undertaking certain vegetation clearing activities. While the AMP is an alternative to the current approval process, the Integrated Development Assessment System (IDAS) only provides for small scale, site specific applications. The AMP framework, however, enables a single plan to be developed over multiple properties and submitted for approval in a single application. AMP's can also be approved for a period of up to ten years, double that possible under a development approval.

Once the plan is approved by DERM's Chief Executive, these regulation amendments will make clearing under the plan not-assessable development. This means that separate, individual development approvals will not be required for each of the properties covered by the plan. Additionally the plan can be prepared by an organisation, such as a local government, industry or natural resource management group, to support a community program or coordinate management activities to generate improved environmental outcomes at the landscape scale.

The AMP application fee structure has been developed to encourage landholders to work collectively or in partnership with regional natural resource management groups or local governments. Planning at the landscape scale, will generally work out to have lower costs per person, than the costs for each individual to submit their own development application. See the fee comparison in Table 1 (above).

The implementation of the AMP framework may impose minimal short-term costs for DERM in meeting the expected initial demand for AMP approvals. These costs will be absorbed within existing departmental budgets and will even out to provide long-term savings as the number of applications and subsequent development applications decline. As a result, an over-all reduction in the costs associated with assessing certain vegetation management applications is expected.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles.

The use of subordinate legislation is necessary to give full effect to the policy objectives of the AMP framework.

The Regulation establishes the fees payable for activities regulated by the VMA. The ability to prescribe a fee for applications to approve an AMP was passed by the Queensland Parliament on 23 November 2010. The fees have been reasonably calculated to reflect the costs involved with administering the framework and in line with the fundamental legislative principals, do not unfairly burden any person or group.

Consultation

Government

The amendments to the Sustainable Planning Regulation were prepared in consultation with the Department of Local Government and Planning (DLGP).

Queensland Treasury and the Queensland Office of Regulatory Efficiency (QORE) was consulted in relation to the Regulatory Assessment Statement (RAS) system and provided advice on 25 January 2001, that the requirements of the system were satisfied by the development of the

regulation amendment. It was determined that RAS quantification was not necessary as:

- compliance costs will have a low impact and did not require further analysis
- there was a net benefit (savings) to industry and community, and
- there will be a decrease in the regulatory burden for government.

Community and Industry

The Amendment Regulation will give operational effect to the NROLA 2 amendments, which were developed in consultation with industry, conservation and community group stakeholders. Additional consultation was held with AgForce Queensland and selected NRM groups in relation to the application fee.

Consultation on the policy frameworks was undertaken with:

- Queensland Farmers Federation
- AgForce Queensland
- Regional Groups Collective for natural resource management groups
- Queensland Murray Darling Committee
- World Wildlife Fund
- Queensland Conservation Council
- The Wilderness Society
- Wildlife Preservation Society Queensland.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Environment and Resource Management.