

Vegetation Management (Clearing Codes) and Other Legislation Amendment Regulation 2018

Explanatory notes for SL 2018 No. 24

made under the

Planning Act 2016

Vegetation Management Act 1999

General Outline

Short title

Vegetation Management (Clearing Codes) and Other Legislation Amendment Regulation 2018.

Authorising law

Section 284 of the *Planning Act 2016*

Section 72 of the *Vegetation Management Act 1999*

Policy objectives and the reasons for them

The primary legislation for the *Vegetation Management Regulation 2012*, the *Vegetation Management Act 1999*, was established to regulate the clearing of native vegetation in Queensland.

The first objective of the *Vegetation Management (Clearing Codes) and Other Legislation Amendment Regulation 2018* (amendment regulation) is to give effect to the new version of State Development Assessment Provisions with amendments to State code 16: Native vegetation clearing to reflect the accepted development vegetation clearing codes 'Managing thickened vegetation' and 'Managing fodder harvesting', and other minor amendments to provisions of other state codes.

The second objective of the amendment regulation is to give effect to the remade accepted development vegetation clearing codes:

- 'Managing thickened vegetation';
- 'Managing fodder harvesting'; and
- 'Managing Category C regrowth vegetation'.

State Development Assessment Provisions

There are three categories of development under the *Planning Act 2016*—assessable, acceptable and prohibited development.

Assessable development is development for which a development approval is required. The State Development Assessment Provisions provide assessment benchmarks for the assessment of development applications for which the chief executive of the *Planning Act 2016* is the assessment manager or referral agency.

Accepted development is development for which a development approval is not required. Clearing under an accepted development vegetation clearing code is accepted development.

Consequential amendments are required to the State Development Assessment Provisions to ensure the provisions for assessable development are in alignment with the following the remade 'Managing thickened vegetation' and 'Managing fodder harvesting' accepted development vegetation clearing codes.

The *Planning Regulation 2017* needs to be updated to give effect to a new version of the State Development Assessment Provisions. The State Development Assessment Provisions contains matters the chief executive administering the *Planning Act 2016* must assess against when assessing a development application through the State Assessment Referral Agency and is made by the Planning Minister.

Other minor amendments to State Development Assessment Provisions are made to clarify provisions and eliminate ambiguity.

Accepted development vegetation clearing codes

The *Vegetation Management Act 1999* requires that the Minister must make accepted development vegetation clearing codes for various clearing activities.

The *Vegetation Management Act 1999* provides that the accepted development vegetation clearing codes take effect once approved under a regulation. Consistent with the State Policy for Vegetation Management, the codes provide opportunities for landholders to self-manage clearing for low-risk property management activities.

In 2013 and 2014, section 3 of the *Vegetation Management Regulation 2012* was amended to approve and give effect to 15 codes.

The Government's 2017 election commitment includes introducing legislation to further protect remnant and high conservation value regrowth vegetation, and amending accepted development vegetation clearing codes based on Queensland Herbarium advice.

The Queensland Herbarium's advice is reflected in the in the remade 'Managing thickened vegetation' and 'Managing Fodder Harvesting' codes. CSIRO recently

reviewed the Queensland Herbarium's advice on these codes and concluded that managing thickened vegetation by self-assessment is too high an ecological risk.

The Government proposes to introduce the Vegetation Management and Other Legislation Amendment Bill 2018 on 8 March 2018. The Vegetation Management and Other Legislation Amendment Bill 2018 proposes to amend section 19O of the *Vegetation Management Act 1999* so the Minister is not compelled to make accepted development vegetation clearing codes. This will allow the Government to give effect to CSIRO's recommendation to remove the self-assessment of managing of thickened vegetation.

As the current *Vegetation Management Act 1999* stipulates that the Minister must make an accepted development vegetation clearing code for thinning (known as Managing thickened vegetation), it is necessary to have an accepted development vegetation clearing code for managing thickened vegetation.

The introduction of the Vegetation Management and Other Legislation Amendment Bill 2018 will result in some unregulated areas of vegetation becoming regulated. Therefore it is necessary to amend the 'Managing Category C regrowth vegetation' code to meet the Government's election commitment to further protect high conservation value regrowth vegetation and prevent pre-emptive clearing of regrowth proposed for regulation.

The 'Managing Category C regrowth vegetation' code has been remade to remove the 'Agriculture and grazing' section of the code. Other minor updates have been made to reflect legislative and machinery of government changes. It is intended that this code will be in place temporarily, while it is reviewed and consultation occurs.

Achievement of policy objectives

To achieve the first objective, Schedule 24 of the *Planning Regulation 2017* will be amended to give effect to version 2.2 of the "State Development Assessment Provisions," made by the Planning Minister and dated 9 March 2018.

To achieve the second objective, Part 2, section 3 of the *Vegetation Management Regulation 2012* will be amended to provide for the approval of the new 'Managing thickened vegetation' and remade 'Managing Category C 'regrowth vegetation and 'Fodder harvesting' codes.

Part 2 section 3 of the *Vegetation Management Regulation 2012* will be amended to remove the previous versions of the codes that will no longer be required:

- a) The code called 'Managing thickened vegetation in the Mulga Lands' made by the Minister on 14 November 2013
- b) The code called 'Managing thickened vegetation in the South East Queensland and the New England Tableland bioregions' made by the Minister on 14 July 2014

- c) The code called 'Managing thickened vegetation in the Mitchell Grass Downs and the Channel Country bioregions' made by the Minister on 14 July 2014
- d) The code called 'Managing thickened vegetation in the North West Highlands, Gulf Plains, Cape York Peninsula, Wet Tropics and Einasleigh Uplands bioregions' made by the Minister on 14 July 2014
- e) The code called 'Managing thickened vegetation in the Brigalow Belt, Central Queensland Coast and Desert Uplands bioregions' made by the Minister on 14 July 2014
- f) The code called 'Managing fodder harvesting' made by the Minister on 14 November 2013
- g) The code called 'Managing Category C regrowth vegetation' made by the Minister on 14 November 2013

The codes will take effect when this amendment regulation commences.

Consistency with policy objectives of authorising law

The amendment regulation is also consistent with the policy objectives of the *Planning Act 2016* to establish an efficient, effective, transparent, integrated, coordinated and accountable system of development assessment that facilitates the achievement of ecological sustainability.

The amendment regulation is consistent with the objectives of the *Vegetation Management Act 1999*, to regulate the clearing of vegetation in a way that conserves remnant vegetation; ensures that clearing does not cause land degradation; prevents the loss of biodiversity; maintains ecological processes; manages the environmental effects of the clearing; reduces greenhouse gas emissions; and allows for sustainable land use.

Inconsistency with policy objectives of other legislation

Not applicable.

Alternative ways of achieving policy objectives

There are no alternatives to meet the desired policy outcomes.

Benefits and costs of implementation

There are no additional costs associated with implementation of this amendment. The introduction of the remade accepted development codes, will continue with the current simplified and streamlined administrative processes.

Consistency with fundamental legislative principles

The amendments are consistent with the fundamental legislative principles.

Consultation

Accepted development vegetation clearing codes

The draft managing thickened vegetation and fodder harvesting codes were released separately (between July and September 2016) for a 28 day public consultation period on the 'Get Involved' website. Peak stakeholder groups, World Wildlife Fund, The Wilderness Society, Environmental Defenders Office, AgForce, QLD Regional NRM Groups Collective and Queensland Farmers' Federation were briefed prior to the public release of the code and provided with an electronic version to be distributed to their members.

As part of the public consultation, 28 submissions were received on the draft thinning code. The feedback ranged from the code being too restrictive to it being not restrictive enough. Fourteen of the submissions came through the 'Get Involved' website from individual landholders and the other 14 through direct contact with the Department of Natural Resources, Mines and Energy. Conservation and Agricultural groups provided four submissions each.

In addition, seven submissions were received on the draft fodder harvesting code. Again, the feedback ranged from the code being too restrictive to it being not restrictive enough. Three of the submissions came through the 'Get Involved' website from individual landholders and the other four through direct contact with the Department of Natural Resources, Mines and Energy. The conservation and agricultural groups provided two submissions each.

No consultation has occurred on the 'Managing Category C regrowth vegetation' code. It is intended that the remade code will be in place temporarily, while advice on the appropriateness of its measures is obtained from the Queensland Herbarium and the CSIRO and consultation occurs on proposed changes.