



Vegetation Management Act 1999

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Queensland

Vegetation Management Act 1999

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Vegetation Management Act 1999

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
 - (g) reduces greenhouse gas emissions; and
 - (h) allows for sustainable land use.

- (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) any of the following protected areas under the *Nature Conservation Act 1992*—
 - (i) a national park (scientific);
 - (ii) a national park;
 - (iii) a national park (Aboriginal land);
 - (iv) a national park (Torres Strait Islander land);
 - (v) a national park (Cape York Peninsula Aboriginal land);
 - (vi) a conservation park;
 - (vii) a resources reserve; 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 2009*, section 27.
- (4) The *Local Government Act 2009*, section 27 is subject to subsection (3).
- (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 233(3) to (7).
- (7) The Planning Act, section 233(3) to (7) 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

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.

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—
 - (a) the habitat of native wildlife prescribed under the Nature Conservation Act as endangered or vulnerable wildlife (*protected wildlife*); or

- (b) a plant that is protected wildlife or least concern wildlife; or
 - (c) the breeding place of an animal that is protected wildlife or least concern wildlife.
- (3) The codes must not be inconsistent with the State policy for vegetation management mentioned in section 10.
- (4) In this section—

breeding place, of an animal, means a bower, burrow, cave, hollow, nest or other place or thing that is commonly used by the animal to incubate or rear the animal's offspring.

least concern wildlife means native wildlife prescribed under the Nature Conservation Act as least concern wildlife.

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
 - (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 particular areas

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.
- (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.

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.
- (2) The declaration must include a code for the clearing of vegetation in the declared area (a *declared area code*).
- (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;
 - (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.

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—
 - (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;
 - (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—
 - (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

- (1) 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.
- (2) Also, the chief executive may, by notice given to the owner of land declared as an area of high conservation value, end the declaration if—

-
- (a) the area is, on or after the commencement of this subsection, a legally secured offset area; and
 - (b) a prescribed activity is, under an authority under another Act, to be carried out in or on the area; and
 - (c) the holder of the authority has entered into an agreed delivery arrangement in relation to an environmental offset for impacts to the area.
- (3) In this section—

agreed delivery arrangement see the *Environmental Offsets Act 2014*, schedule 2.

authority, under another Act, see the *Environmental Offsets Act 2014*, schedule 2.

environmental offset see the *Environmental Offsets Act 2014*, schedule 2.

legally secured offset area see the *Environmental Offsets Act 2014*, schedule 2.

prescribed activity see the *Environmental Offsets Act 2014*, schedule 2.

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

Division 4B Self-assessable codes

190 Self-assessable vegetation clearing code

- (1) The Minister must make a code (a *self-assessable vegetation clearing code*) for—
 - (a) clearing vegetation for the following—
 - (i) controlling non-native plants or declared pests;
 - (ii) relevant infrastructure activities for which the clearing can not reasonably be avoided or minimised;
 - (iii) fodder harvesting;
 - (iv) thinning;
 - (v) clearing of encroachment;
 - (vi) an extractive industry;
 - (vii) necessary environmental clearing;
 - (viii) in a category C area;
 - (ix) in a category R area; and
 - (b) conducting a native forest practice.
- (2) Also, the Minister may make a code (also a *self-assessable vegetation clearing code*) for any other matter about clearing vegetation the Minister considers is necessary or desirable for achieving the purpose of this Act.

- (3) A self-assessable vegetation clearing code may provide for all or any of the following—
- (a) clearing for 1 or more relevant purposes under section 22A;
 - (b) clearing that is subject to another code under this Act;
 - (c) clearing a particular area;
 - (d) clearing a particular type of vegetation;
 - (e) required outcomes and practices, and voluntary best practices, for clearing vegetation;
 - (f) restrictions on clearing commercial timber on State land;
 - (g) the protection of habitat for protected wildlife;
 - (h) the circumstance in which an exchange area must be provided;
 - (i) giving notice to the chief executive of the intended clearing or native forest practice to be conducted under the code.
- (4) A self-assessable vegetation clearing code must not be inconsistent with this Act or the State policy.

19P When self-assessable vegetation clearing code takes effect

A self-assessable vegetation clearing code does not take effect until it has been approved under a regulation.

19Q Code compliant clearing and native forest practices self-assessable

- (1) This section applies if a self-assessable vegetation clearing code applies to the clearing of vegetation or the conduct of a native forest practice (the *activity*).

-
- (2) For the Planning Act, the activity is self-assessable development but only if it is carried out in compliance with the code.

Note—

The effects of this section are that if the code is not complied with—

- (a) the activity will be assessable development under the Planning Act; and
- (b) under section 578 of that Act, it will be an offence to carry out the activity without a development permit unless an exemption under section 584 applies.

19R Register of self-assessable notices given under code

- (1) The chief executive must keep a register of notices required to be given to the chief executive under a self-assessable vegetation clearing code.
- (2) The register must include details of each notice the chief executive considers appropriate.
- (3) The publicly available part of the register must not contain the name of the person giving the notice.
- (4) The chief executive must publish the real property description of the land the subject of the notification in the publicly available part of the register on the department's website.

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 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 *regulated vegetation management map*

The *regulated vegetation management map* is the map certified by the chief executive as the regulated vegetation management map for a part of the State and showing the vegetation category areas for the part.

Note—

The chief executive may decide under section 20AH or 20AI to show an area on the map as a category B or a category C area even though the vegetation is not remnant vegetation or high value regrowth vegetation.

20AA What is the *vegetation management wetlands map*

The *vegetation management wetlands map* is the map certified by the chief executive as the vegetation management wetlands map showing particular wetlands for the State.

20AB What is the *vegetation management watercourse and drainage feature map*

The *vegetation management watercourse and drainage feature map* is the map certified by the chief executive as the vegetation management watercourse and drainage feature map showing particular watercourses and drainage features for the State.

Note—

The map consists of the following documents—

- the document called ‘Vegetation management watercourse and drainage feature map (1:25 000)’
- the document called ‘Vegetation management watercourse and drainage feature map (1:100 000 and 1:250 000)’.

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 for protected wildlife.
- (2) *Essential habitat*, for protected wildlife, is a category A area, a category B area or category C area shown on the regulated vegetation management map—
 - (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* is 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.

20AH Deciding to show particular areas as category B areas

In certifying the regulated vegetation management map, the chief executive may decide to show an area on the map as a category B area 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
 - (v) necessary environmental clearing; or
- (b) the area is a declared area, offset area or exchange area; or
- (c) the area—
 - (i) has been subject to a native forest practice on a category B area; or
 - (ii) has been subject to clearing vegetation or conducting a native forest practice under a self-assessable vegetation clearing code on a category B area; or
- (d) the area contains forest products under the *Forestry Act 1959* 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; or
- (i) an area management plan has been made or approved for the area and the area has been subject to clearing vegetation under the plan and the clearing was for—
 - (i) fodder harvesting; or
 - (ii) thinning; or
 - (iii) clearing of encroachment; or
 - (iv) controlling non-native plants or declared pests; or
 - (v) necessary environmental clearing.

20A1 Deciding to show particular areas as category C areas

In certifying the regulated vegetation management map, the chief executive may decide to show an area on the map as a category C area if—

- (a) the area is a category C area and has been subject to clearing vegetation under a self-assessable vegetation clearing code and the clearing was for—
 - (i) thinning; or
 - (ii) clearing of encroachment; or
 - (iii) controlling non-native plants or declared pests; or
 - (iv) necessary environmental clearing that is not the diverting of existing natural channels in a way that replicates the existing form of the natural channels;
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 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.

20AJ Application to make PMAV before amending regulated vegetation management map

If an owner of land in an area wants the chief executive to amend the regulated 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 the regulated vegetation management map.

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 the vegetation category area for the area.
- (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.

20AKA What is a *vegetation category area*

A *vegetation category area* is a category A area, category B area, category C area, category R area or category X 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.

20AL What is a *category A area*

A *category A area* is an area, other than a category B area, category C area, category R area or category X area, shown on the regulated vegetation management map as a category A 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.

20AM What is a *category B area*

A *category B area* is an area, other than a category A area, category C area, category R area or category X area, shown on the regulated vegetation management map as a category B area that—

- (a) contains remnant vegetation; or
- (b) the chief executive decides to show on the regulated vegetation management map as a category B area; or

Note—

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

- (c) if section 20AN does not apply to the area—
 - (i) is a Land Act tenure to be converted under the *Land Act 1994* to another form of tenure; and
 - (ii) contains—
 - (A) an endangered regional ecosystem; or

- (B) an of concern regional ecosystem; or
- (C) 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, category B area, category R area or category X area, shown on the regulated vegetation management map as a category C area that—

- (a) contains high value regrowth vegetation; or
- (b) the chief executive decides to show on the regulated vegetation management map as a category C area.

Note—

The chief executive may decide under section 20AI to show an area on the regulated vegetation management map as a category C area even though the vegetation is not high value regrowth vegetation.

20ANA What is a *category R area*

A *category R area* is an area, other than a category A area, category B area, category C area or category X area, shown on the regulated vegetation management map as a category R area that is a regrowth watercourse and drainage feature area.

20AO What is a *category X area*

- (1) A *category X area* is an area, other than a category A area, category B area, category C area or category R area, shown on the regulated vegetation management map as a category X area.
- (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 regulated vegetation management map for the area.
- (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
 - (v) necessary environmental clearing; or
 - (d) the chief executive has, under a self-assessable vegetation clearing code, been given a notice relating to clearing vegetation other than for—

- (i) thinning; or
 - (ii) clearing of encroachment; or
 - (iii) controlling non-native plants or declared pests; or
 - (iv) necessary environmental clearing that is not the diverting of existing natural channels in a way that replicates the existing form of the natural channels;
or
- (e) the chief executive has received a notice under an area management plan for the area and the purpose of clearing was other than clearing vegetation in the area for—
- (i) fodder harvesting; or
 - (ii) thinning; or
 - (iii) clearing of encroachment; or
 - (iv) control of non-native plants or declared pests.
- (3) Also, the chief executive can not make the relevant area a category X area on the PMAV if vegetation in the area is not remnant vegetation because of clearing that happened because of burning, flooding or natural causes.
- (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 2012*.

- (c) for a matter other than a matter mentioned in paragraph (a) or (b), if each of the affected owners agrees to the replacement.
- (3A) Despite subsection (3), the chief executive may replace 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 a self-assessable vegetation clearing code; or
 - (d) for a PMAV made under section 20B(1)(d), (e), (f) or (g)—
 - (i) the area contains remnant vegetation; or
 - (ii) the person the subject of a restoration notice, an enforcement notice under the Planning Act or a court order has complied with the conditions of the restoration notice or enforcement notice or order;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 regulated vegetation management map is amended to correct the error.
- (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.

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 affected owner of land that is included in the PMAV.
- (2) However, if there are 2 or more affected owners who reside at the same address, a copy of the PMAV may be sent to the owners jointly.
- (3) In this section—
 - affected owner*, of land included in a PMAV, means an owner of the land if all, or a part of, the land will be affected by a change to the boundary of a vegetation category area in the PMAV.

20H PMAV boundaries prevail

- (1) This section applies if there is an inconsistency between a boundary of a vegetation category area shown on a PMAV and the boundary of the area shown on the regulated vegetation management map.

- (2) The boundary shown on the PMAV prevails to the extent of the inconsistency.

20HA 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.

20HB Amending vegetation management map

If the chief executive certifies or amends a PMAV the chief executive must amend the regulated vegetation management map in a way that reflects the certification or amendment.

20HC When vegetation management map takes effect

A vegetation management map or a map replacing a vegetation management map does not take effect until the map is certified by the chief executive.

Division 5B Area management plans

Subdivision 1 Preliminary

20I Definitions for div 5B

In this division—

accredited existing planning document means an existing planning document accredited under section 200(3)(a).

approved draft plan means a draft plan approved under section 200(1)(a).

area management plan see section 20J.

draft plan see section 20M(3)(a)(i).

existing planning document see section 20K.

owner, of land, includes—

- (a) for trust land under the *Land Act 1994*—a trustee of the land; or
- (b) for a State-controlled road under the *Transport Infrastructure Act 1994*—the chief executive of the department in which that Act is administered; or
- (c) for a road controlled by a local government under the *Local Government Act 2009*—the local government.

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

proposed area—

- (a) for a draft plan—see section 20O(2)(a); or
- (b) for an existing planning document—see section 20O(3)(a).

restricted (fodder harvesting) land see section 20L.

20J What is an *area management plan*

- (1) An ***area management plan*** is—
 - (a) a draft area management plan that is approved as an area management plan under section 20O(1)(a); or
 - (b) an existing planning document that is accredited as an area management plan under section 20O(3)(a); or
 - (c) an area management plan made by the chief executive under subdivision 2A.
- (2) However, if an area management plan is amended by the chief executive under section 20ZB, the ***area management plan*** is the plan as amended.
- (3) Also, if an amendment of an area management plan is approved under section 20ZC, the ***area management plan*** is the amended plan as approved under that section.

20K What is an *existing planning document*

An *existing planning document* is any of the following—

- (a) a conservation agreement under the Nature Conservation Act;
- (b) an accredited environmental risk management plan under the *Environmental Protection Act 1994*, chapter 4A;
- (c) a plan for managing declared pests on State-controlled land under the *Land Protection (Pest and Stock Route Management) Act 2002*, chapter 2, part 3;
- (d) a local government's pest management plan under the *Land Protection (Pest and Stock Route Management) Act 2002*, chapter 2, part 4 or stock route network management plan under chapter 3, part 3 of that Act;
- (e) a land management agreement under the *Land Act 1994*;
- (f) another document that provides for clearing vegetation and is prescribed under a regulation.

20L What is *restricted (fodder harvesting) land*

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

- (a) a State-controlled road under the *Transport Infrastructure Act 1994*; or
- (b) a road controlled by a local government under the *Local Government Act 2009*; or
- (c) trust land under the *Land Act 1994*.

(2) However, *restricted (fodder harvesting) land* does not include indigenous land.

Subdivision 2 Approval of plans and accreditation of planning documents

20M Application for approval of draft plan or accreditation of planning document

- (1) An entity or a group of entities may apply to the chief executive to approve a draft area management plan or accredit an existing planning document for an area.

Examples of entities who may apply—

- an owner, or a group of owners, of land in the area
- an organisation whose main function involves managing land in the area

- (2) The application must—
- (a) be in the approved form; and
 - (b) be signed by—
 - (i) the applicant; or
 - (ii) if there are 2 or more applicants, at least 1 applicant; and
 - (c) relate to an area or areas that—
 - (i) have the same or similar vegetation types and characteristics; or
 - (ii) will be subject to the same or similar management intent and management outcomes for vegetation management in the area or areas; and
 - (d) show that the applicant has given, or taken reasonable steps to give, notice of the application to each owner of land in the area.
- (3) The application must also be accompanied by—
- (a) either—
 - (i) the draft area management plan (the *draft plan*); or
 - (ii) a copy of the existing planning document; and

- (b) the fee prescribed under a regulation.
- (4) However, the chief executive may waive the fee if the chief executive considers the waiver is in the interest of the State.

20N Further information or documents for application

- (1) Before deciding the application, the chief executive may ask the applicant for further information or a document the chief executive reasonably requires to decide the application.
- (2) If the chief executive asks for information or a document under subsection (1)—
 - (a) the applicant must give the chief executive the information or document within—
 - (i) 30 business days after the request is made; or
 - (ii) a longer period, if agreed to by the chief executive; and
 - (b) the chief executive may stop considering the application until the information or document is given.

20O Deciding applications

- (1) The chief executive must decide an application for approval of a draft plan by—
 - (a) approving the draft plan as an area management plan; or
 - (b) refusing to approve the draft plan.
- (2) For approving the draft plan, the chief executive may—
 - (a) approve the draft plan as the area management plan for the area (the *proposed area*) to which the draft plan relates; or
 - (b) approve the draft plan as the area management plan for part of the proposed area; or
 - (c) approve the draft plan under paragraph (a) or (b) and impose an additional condition on the area management plan.

- (3) The chief executive must decide an application for accreditation of an existing planning document by—
 - (a) accrediting the document as an area management plan for the area (also the *proposed area*) to which the document relates; or
 - (b) refusing to accredit the document.

20P Criteria for approving draft plan or accrediting planning document

The chief executive may approve a draft plan or accredit an existing planning document only if the chief executive is satisfied—

- (a) the application for approval of the plan or accreditation of the document is properly made under section 20M; and
- (b) the plan or document includes enough information to allow the chief executive to map the boundary of—
 - (i) the proposed area; and
 - (ii) if the conditions for clearing vegetation relate to different zones within the proposed area—each of the zones; and
- (c) the plan or document states—
 - (i) the management intent and management outcomes for vegetation management in the proposed area; and
 - (ii) the conditions for clearing vegetation in the proposed area to achieve the management outcomes; and
- (d) the plan or document provides for, or allows, clearing of vegetation for 1 or more of the following—
 - (i) controlling non-native plants or declared pests;
 - (ii) ensuring public safety;
 - (iii) relevant infrastructure activities;

- (iv) clearing of encroachment;
 - (v) thinning;
 - (vi) fodder harvesting, other than on a part of the area that is restricted (fodder harvesting) land;
 - (vii) necessary environmental clearing; and
- (e) the plan or document is not inconsistent with the following—
- (i) the State policy;
 - (ii) the regional vegetation management code for the proposed area.

20Q Mandatory condition on approval of draft plan or accreditation of planning document

- (1) The chief executive may only approve a draft plan or accredit an existing planning document as an area management plan subject to the conditions (each a *mandatory condition*) under subsections (2) and (3).
- (2) If the draft plan or existing planning document provides for, or allows, clearing of vegetation for relevant infrastructure activities, the condition is that the clearing can not reasonably be avoided or minimised.
- (3) If the plan area includes restricted (fodder harvesting) land, the condition is that vegetation on the land can not be cleared for fodder harvesting.

20R Imposing additional condition on approval of draft plan

- (1) This section applies to the chief executive for approving a draft plan as an area management plan.
- (2) The chief executive may impose an additional condition on the area management plan if the chief executive considers the condition is necessary or appropriate—
 - (a) to manage vegetation in a way that achieves the purposes of the Act; or

- (b) to avoid inconsistency with—
 - (i) the State policy; or
 - (ii) the regional vegetation management code for the plan area.
- (3) In this section—

condition, for an area management plan, includes a condition about any of the following—

 - (a) the management intent of the plan;
 - (b) a management outcome of the plan;
 - (c) clearing vegetation or restricting the clearing of vegetation under the plan;
 - (d) giving notice to the chief executive of intended clearing.

20S Other requirements for approving draft plan

- (1) If the chief executive approves a draft plan as an area management plan, the chief executive must—
 - (a) decide the period, of no longer than 10 years, for which the area management plan will be in force (the *plan period*); and
 - (b) ensure the following is stated on the area management plan—
 - (i) the plan period;
 - (ii) each relevant mandatory condition; and
 - (c) give the applicant—
 - (i) a copy of the area management plan; and
 - (ii) if the plan period is not 10 years—an information notice about the decision under paragraph (a).
- (2) If the chief executive decides to approve the draft plan for only part of the proposed area, the chief executive must also—
 - (a) ensure the part of the area is accurately shown in the area management plan; and

- (b) give the applicant an information notice about the decision.
- (3) If the chief executive decides to impose an additional condition on the area management plan under section 20R, the chief executive must also—
 - (a) ensure the condition is stated on or reflected in the plan; and
 - (b) give the applicant an information notice about the decision.

20T Other requirements for accrediting existing planning document

- (1) If the chief executive accredits an existing planning document as an area management plan, the chief executive must—
 - (a) give the applicant written notice of the accreditation (the *accreditation notice*); and
 - (b) ensure the accreditation notice states each relevant mandatory condition.
- (2) The accreditation notice forms part of the area management plan.

20U Refusing to approve draft plan or accredit planning document

- (1) Without limiting section 20O(1)(b) or (3)(b), the chief executive may refuse to approve a draft plan or accredit an existing planning document if—
 - (a) the chief executive has asked the applicant for information or a document under section 20N(1) and the applicant has not given the chief executive the information or document within the period mentioned in section 20N(2)(a); or
 - (b) the chief executive considers that approving the draft plan or accrediting the existing planning document is

not in the interests of the State, having regard to the public interest.

- (2) If the chief executive decides to refuse to approve a draft plan or accredit an existing planning document, the chief executive must give the applicant an information notice about the decision.

Subdivision 2A Plans made by chief executive

20UA Chief executive may make area management plans

- (1) The chief executive may make an area management plan for an area (an *area plan (chief executive)*) that provides for any matter about clearing vegetation the chief executive considers necessary or desirable for achieving the purpose of this Act.
- (2) An area plan (chief executive) must—
 - (a) include enough information to allow the chief executive to map the boundary of—
 - (i) the plan area; and
 - (ii) if the conditions for clearing vegetation relate to different zones within the plan area—each of the zones; and
 - (b) state—
 - (i) the management intent and management outcomes for vegetation management in the plan area; and
 - (ii) the conditions for clearing vegetation or restricting clearing in the area to achieve the management intent and management outcomes; and
 - (c) provide for, or allow, clearing of vegetation for 1 or more of the purposes mentioned in section 20P(d); and
 - (d) not be inconsistent with the following—
 - (i) the State policy;

- (ii) the regional vegetation management code for the plan area.
- (3) An area plan (chief executive) is not subordinate legislation.

20UB Plan period for area management plan

An area plan (chief executive) must state the period, of no longer than 10 years, for which it will be in force (the *plan period*).

20UC Mandatory conditions for area management plan

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

Subdivision 3 Keeping plans

20V Register of area management plans

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

Subdivision 5 Duration of plans

20Z When area management plan ends

- (1) An area management plan consisting of an approved draft plan, or an area plan (chief executive), remains in force until the end of the plan period for the plan.
- (2) An area management plan consisting of an accredited existing planning document remains in force until the first of the following happens—
 - (a) the end of 10 years after the accreditation;
 - (b) the existing planning document stops being in force.

Subdivision 6 Amending particular plans

20ZA Application of sdiv 6

This subdivision applies to an area management plan mentioned in section 20J(1)(a) or (b).

20ZB Amendment by chief executive

- (1) The chief executive may amend an area management plan if—
 - (a) the amendment is only to correct a minor error in the plan, or make another change that is not a change of substance; or
 - (b) the chief executive considers it is necessary or appropriate to amend the plan because the plan—
 - (i) has become inconsistent with the State policy or the regional vegetation management code for the plan area; or
 - (ii) will become inconsistent with the State policy or relevant regional vegetation management code if it is not amended; or

Examples—

- 1 An area management plan becomes inconsistent with the relevant regional vegetation management code because of a change to the code.
 - 2 An area management plan consisting of an accredited existing planning document becomes inconsistent with the relevant regional vegetation management code because of an amendment of the document.
- (c) for an area management plan consisting of an accredited existing planning document—
- (i) the document has been, or is expected to be, amended; and
 - (ii) the chief executive considers that, because of the amendment, the document no longer satisfies or will no longer satisfy a criterion under section 20P(b) to (d).
- (2) However, the amendment of an area management plan consisting of an accredited existing planning document may relate only to a criterion under section 20P(b) to (e) for vegetation management or clearing vegetation under the plan.
- (3) If the chief executive amends an area management plan under subsection (1), the chief executive must ensure the amendment is clearly shown on—
- (a) for an area management plan consisting of an approved draft plan—the area management plan; or
 - (b) for an area management plan consisting of an accredited existing planning document—the accreditation notice for the plan.
- (4) If the chief executive amends an area management plan under subsection (1)(a), the chief executive must give the applicant written notice of the amendment.
- (5) If the chief executive decides to amend an area management plan under subsection (1)(b) or (c), the chief executive must give the applicant—
- (a) a copy of the amended area management plan or amended accreditation notice; and

- (b) an information notice about the decision.
- (6) In this section—
- applicant* means—
- (a) for an area management plan consisting of an approved draft plan—the person who applied for the approval; or
 - (b) for an area management plan consisting of an accredited existing planning document—the person who applied for the accreditation.

20ZC Amendment application for particular plans

- (1) This section applies to an area management plan consisting of an approved draft plan if—
- (a) a change in circumstances significantly affects, or could significantly affect, the operation of the plan; or
- Example—*
- The applicant for an area management plan wants to use a new and improved method for clearing vegetation that has become available since the plan was approved but is not provided for, or allowed, under the plan.
- (b) an owner of land applies under this section to include the land in the plan area of the plan.
- (2) The applicant may apply to the chief executive to approve an amendment of the area management plan.
- (3) However, the applicant can not apply for an approval of an amendment of—
- (a) the plan period for the plan; or
 - (b) a mandatory condition.
- (3A) Also, if the applicant is an owner of land whose land is not included in the plan area of the plan, the application can only be to include the applicant's land or a part of the land in the plan area.
- (4) The application (the *amendment application*) must be accompanied by—

- (a) a draft amended management plan (the ***draft amended plan***) that clearly shows the amendment; and
 - (b) the fee prescribed under a regulation.
- (5) However, the chief executive may waive the fee if the chief executive considers the waiver is in the interest of the State.
- (6) Sections 20M(2), 20N, 20O(1) and (2), 20P, 20Q, 20R, 20S(1)(c)(i), (2) and (3) and 20U (the ***applied provisions***) apply to the amendment application and draft amended plan as if—
- (a) a reference in the applied provisions to the application were a reference to the amendment application; and
 - (b) a reference in the applied provisions to the applicant were a reference to the applicant for the amendment application; and
 - (c) a reference in the applied provisions to the draft plan were a reference to the draft amended plan.
- (7) However, the chief executive may approve the amendment of the area management plan only if—
- (a) subject to paragraph (c), the chief executive considers the draft amended plan is consistent with the management intent and management outcomes stated in the area management plan (the ***original plan***) to which the amendment application relates; and
 - (b) the draft amended plan does not remove or further restrict a condition on clearing vegetation stated in the original plan; and
 - (c) for a draft amended plan that amends the original plan by enlarging the plan area, the enlargement is no more than 10% of the plan area; and
 - (d) if the applicant is the owner of land whose land is not already included in the approved draft plan, the chief executive is satisfied—
 - (i) the original applicant has given consent to the amendment application; and

- (ii) the land is appropriate for inclusion in the plan.

Example—

The owner's land has similar vegetation types and characteristics to other landholders' land covered by the area management plan.

- (8) In this section—

applicant means—

- (a) the original applicant; or
(b) the owner of land whose land is not included in the approved draft plan.

original applicant means the person who applied for approval of the approved draft plan.

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 260(2)(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 272(1) of that Act.
- (4) For the aspect of the application relating to the clearing of vegetation—
- (a) section 326 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 9, 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 282.

22A Particular vegetation clearing applications may be assessed

- (1) This section provides for when a vegetation clearing application is for a relevant purpose for the Planning Act, schedule 1, item 3.
- (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 coordinated 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 relevant infrastructure activities and the clearing can
not reasonably be avoided or minimised; or
 - (e) a natural and ordinary consequence of other assessable
development for which a development approval was
given under the repealed *Integrated Planning Act 1997*,
or a development application was made under that Act,
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 necessary environmental clearing; or
 - (k) for high value agriculture clearing; or
 - (l) for irrigated high value agriculture clearing.
- (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.
- (2B) However, a vegetation clearing application is not for a relevant
purpose under this section if the development applied for is—
- (a) clearing in a category C area; or
 - (b) clearing in a category R area if the land the subject of
the application is freehold land, indigenous land or a
lease issued under the *Land Act 1994* for agriculture or
grazing purposes; or
 - (c) mentioned in subsection (2)(e), (f) or (i) or (2AA) and
the land the subject of the application is an area declared
to be a declared area under division 4, subdivision 2.

- (2C) Also, 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.

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 570(1) and 761(1) 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 7, 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 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 461.
- (3) However, an appeal, other than for a deemed refusal, may not be made unless the applicant has made representations about the matter.

Note—

See the Planning Act, chapter 6, part 8, division 1 (Changing decision notices and approvals during applicant's appeal period).

- (4) The representations may also be about a refusal.

- (5) The Planning Act, sections 361 to 365, 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 320 about the matter being appealed.

Subdivision 1A Particular vegetation clearing applications

22DAA Application of subdivision

This subdivision applies if a vegetation clearing application for particular land is for high value agriculture clearing or irrigated high value agriculture clearing.

22DAB Requirements for making application

- (1) The application must be accompanied by a development plan (the *development plan*).
- (2) The development plan must include the following—
- (a) the extent and location of the proposed clearing;
 - (b) particulars of the clearing, including when it is expected the clearing will be completed;
 - (c) evidence that—
 - (i) the land is suitable for agriculture having regard to topography, climate and soil attributes; and

Example of a soil attribute—

the sodicity and salinity of the soil

- (ii) there is no suitable alternative site on the land for the clearing;
 - (d) details of a business plan, for activities related to the clearing, showing information about the viability of the activities;
 - (e) if the clearing involves irrigated high value agriculture clearing, evidence that the owner of the land is an eligible owner who has, or may have, access to enough water for establishing, cultivating and harvesting the crops to which the clearing relates;
 - (f) evidence that the clearing will comply with all restrictions prescribed under a regulation and relevant to the clearing;
 - (g) evidence that the application does not involve the clearing of native vegetation to plant a high risk species.
- (3) For subsection (2)(f), a regulation may prescribe restrictions on any or all of the following for high value agriculture clearing or irrigated high value agriculture clearing—
- (a) the type of crops for which the clearing is to be carried out;
 - (b) the size of land that can be subject to a vegetation clearing application;
 - (c) for an area of the State—the total amount of land that may be cleared in the area.

22DAC Matters for deciding application

- (1) The chief executive may be satisfied that, having regard to the development plan, the vegetation clearing application is for high value agriculture clearing or irrigated high value agriculture clearing only if—
- (a) the clearing is likely to be economically viable; and
 - (b) the clearing is limited to the extent necessary to establish and cultivate the crops to which the clearing relates; and

[s 22DAC]

- (c) the land is suitable for establishing, cultivating and harvesting the crops to which the clearing relates; and
- (d) there is no suitable alternative site for establishing, cultivating and harvesting crops on the land that is reasonably available and would not require the clearing of native vegetation; and
- (e) the clearing will comply with all restrictions prescribed under section 22DAB(2)(f) and relevant to the clearing; and
- (f) the application does not involve the clearing of native vegetation to plant a high risk species; and
- (g) if the clearing is for irrigated high value agriculture clearing, the volume of water the eligible owner is, or may be, able to access is enough for establishing, cultivating and harvesting the crops to which the clearing relates.

(2) In this section—

eligible owner means an owner of land who—

- (a) is authorised under the *Water Act 2000*, section 20 to take overland flow water or subartesian water for any purpose; or
- (b) holds a water entitlement for the taking of water under the *Water Act 2000*; or
- (c) holds an existing authority for the taking of water under the *Water Act 2000*, section 1089; or
- (d) was, when the application was made, eligible to participate in a process for a water entitlement; or

Note—

A process under the *Water Act 2000* can be a public auction, public ballot or public tender that may have eligibility requirements.

- (e) is a customer of a water service provider under the *Water Supply (Safety and Reliability) Act 2008*; or

-
- (f) is a registered resource producer, or holds an end of waste approval, under the *Waste Reduction and Recycling Act 2011*, chapter 8 and the resource to which the code or approval relates is water; or
 - (g) has applied for a water licence under the *Water Act 2000*, section 206; or
 - (h) holds, or has a right to be supplied water under, an environmental authority under the *Environmental Protection Act 1994*; or
 - (i) is authorised to take water under a law of another State or Territory in compliance with an authorisation declared under the *Water Act 2000*, section 808(1)(b).

process, for a water entitlement, see the *Water Act 2000*, schedule 4, definition *process*, paragraph (a).

water entitlement see the *Water Act 2000*, schedule 4.

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 272(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 replaced; 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.

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 for a purpose that is essential management for the Planning Act, definition *essential management*, paragraph (a) or (b).

Note—

See the *Sustainable Planning Regulation 2009*, schedule 26.

- (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 282 and chapter 6, part 5, division 2.
- (4) In this section—
infrastructure means infrastructure other than a fence, road or vehicular track.

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 326.

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 351(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—

- (a) in section 276(5), there were no time limit within which the assessment manager must make the request; and
- (b) in section 278, 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 278(1)(c); and
- (c) in section 318(1), there were no time limit within which the assessment manager must decide the application; and
- (d) in section 366(3) and (4), the period were 10 business days; and
- (e) in section 527(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 building and development dispute resolution committee under the Planning Act, section 527.
- (2) However, an appeal, other than for a deemed refusal, may not be made unless the applicant has made representations about the matter.

Note—

See the Planning Act, chapter 6, part 8, division 1 (Changing decision notices and approvals during applicant's appeal period).

- (3) The representations may also be about a refusal.

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- (4) The Planning Act, sections 361 to 365, 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 building and development dispute resolution committee under the Planning Act.

Note—

See the Planning Act, section 479 (Appeals from building and development committees).

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 10,000ha.

- (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.
- (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 10,000ha.
- (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 10,000ha.
- (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.

Part 3 Enforcement, investigations and offences

Division 1 Enforcement and investigations

Subdivision 1 Authorised officers

24 Appointment and qualifications of authorised officers

- (1) The chief executive may appoint a person as an authorised officer.
- (2) The chief executive may appoint a person as an authorised officer only if the chief executive is satisfied the person has the necessary expertise or experience to be an authorised officer.

25 Functions and powers of authorised officers

- (1) An authorised officer has the functions of—
 - (a) conducting investigations and inspections to monitor and enforce compliance with—
 - (i) this Act; and
 - (ii) a vegetation clearing provision; and
 - (b) giving stop work notices and restoration notices.
- (2) An authorised officer has the powers given under this or another Act.
- (3) An authorised officer is subject to the directions of the chief executive in exercising the powers.
- (4) The powers of an authorised officer may be limited—
 - (a) under a regulation; or
 - (b) under a condition of appointment; or

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- (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.
- (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.
- (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—

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- (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—
 - (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—

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- (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.
- (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

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- (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.

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
- (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

[s 43]

- (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)—

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- (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.
- (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

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- (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—
 - (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 a reasonable excuse for an individual not to comply if doing so might tend to incriminate the individual or expose the individual to a penalty.
- (5) 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

- (1) 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.

- (2) It is a reasonable excuse for an individual not to comply if doing so might tend to incriminate the individual or expose the individual to a penalty.

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 a reasonable excuse for an individual not to comply if doing so might tend to incriminate the individual or expose the individual to a penalty.
- (3) 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.
- (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
- (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.

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- (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.
- (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

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- (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.

[s 55D]

- (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

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- (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—
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—
- 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—

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- (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.

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

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).
- (3) However, subsection (2) does not apply if the review decision relates to an original decision under—
- (a) section 20O(1)(b) or (2)(b) or (c), 20R(2) or the provisions as applied under section 20ZC(6); or
 - (b) section 20O(3)(b), 20S(1)(a) or 20ZB(1)(b) or (c).

Division 1A External reviews by QCAT

63B Who may apply for external review

- (1) 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.
- (2) However, subsection (1) does not apply if the review decision relates to an original decision mentioned in section 63A(3).

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.

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—

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- (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.

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.
- (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 means—

- (a) a decision by the chief executive to—

- (i) certify, amend or replace a regulated vegetation management map; or
- (ii) agree to make a PMAV the subject of a relevant PMAV application; or
- (b) a failure to make a decision to make a PMAV the subject of a relevant PMAV application; or
- (c) a purported decision relating to a matter mentioned in paragraph (a).

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 3 November 2009.

68CB Limitation of review and appeal

- (1) This section applies to a decision by the chief executive.
- (2) Unless there is a determination by the Supreme Court that the decision is affected by jurisdictional error, the decision—
 - (a) is final and conclusive; and
 - (b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

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
 - (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 to be available for inspection and purchase

- (1) This section applies to vegetation management maps.
- (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 is located at <www.dnrm.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;

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- (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;
 - (h) an area management plan that does not show the name of a person under section 20V(2)(c).
- (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
 - (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.dnrm.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 regulated vegetation management map as a category B area does not involve the removal of a species prescribed under a regulation and the clearing is not assessable development under a regulation under the Planning Act, section 232(1), 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 regulated vegetation management map as other than a category B area is not assessable development under a regulation under the Planning Act, section 232(1), 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 and it contains a category A area.
- (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.
- (5) If the approval is cancelled under the Planning Act, section 381, or the PMAV is replaced, the chief executive must give written notice of the fact to the registrar.
- (5A) Also, the chief executive may, by written notice, ask the registrar to remove the particulars of the approval or PMAV from the registrar's records if the chief executive considers it is necessary or desirable to remove the particulars—
 - (a) to achieve the purposes of this Act: or
 - (b) because the particulars are no longer relevant for the land the subject of the approval or PMAV.
- (6) As soon as practicable after receiving a notice under subsection (5) or (5A), 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 concurrency 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

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may prescribe the fees that are payable—
 - (a) under this Act; or
 - (b) to the chief executive in relation to the chief executive's functions, under the Planning Act, as assessment manager or a concurrence agency.

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 repealed Integrated Planning Act 1997**

- (1) Subsection (2) applies to a development approval under the repealed *Integrated Planning Act 1997* 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 repealed *Integrated Planning Act 1997* 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 repealed *Integrated Planning Act 1997* 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—

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- (a) under a development control plan mentioned in the repealed *Integrated Planning Act 1997*, 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 repealed *Integrated Planning Act 1997*.
- (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 repealed *Integrated Planning Act 1997*, section 3.2.5(1) or a request made under the Planning Act, section 95(1) that has been agreed to, or is taken to have been agreed to, by the local government; 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
- (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.

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- (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 or the repealed *Integrated Planning Act 1997*—
- (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
- 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 repealed *Integrated Planning Act 1997*, 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—

existing application (pre VACA) means a development application, as defined under the repealed *Integrated Planning Act 1997*, 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

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- (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.

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 coordinated 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 repealed Integrated Planning Act 1997 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 repealed *Integrated Planning Act 1997*, 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
 - (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 as defined under that Act that is the clearing of vegetation and is assessable development prescribed under the Planning Act, section 232(1).

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.

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- (2) The clearing is taken to have been lawfully carried out under this Act and the repealed *Integrated Planning Act 1997* even if there was, for the clearing, no development permit given for operational work under the repealed *Integrated Planning Act 1997*, 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 repealed *Integrated Planning Act 1997* 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

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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.

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 repealed *Integrated Planning Act 1997*, 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*.

Division 6 Transitional provision for Sustainable Planning Act 2009

87 Vegetation clearing applications under repealed Integrated Planning Act 1997

For this Act, a *vegetation clearing application* is taken to include a development application as defined under the repealed *Integrated Planning Act 1997* that—

- (a) involves assessable development mentioned in that Act, schedule 8, part 1, table 4, items 1A to 1G; and
- (b) was made but not decided under that Act before the commencement of this section.

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

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- ‘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 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.
- (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—

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- (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—

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
 - (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.

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—
 - (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.

Division 8 Transitional provision for Land, Water and Other Legislation Amendment Act 2013

109 Validation for reliance on particular maps

- (1) This section applies if, before the commencement of this section—
 - (a) the chief executive—
 - (i) assessed, as the assessment manager or a concurrence agency, a vegetation clearing application against a regional vegetation management code; or
 - (ii) assessed, as a concurrence agency, a concurrence agency application against a regional vegetation management code; and

[s 110]

- (b) the code referred to a document it called the ‘vegetation management watercourse map’; and
 - (c) the chief executive, in assessing the application against the code, relied on the document; and
 - (d) when the application was assessed, the document was known by any of the following names—
 - (i) ‘*Vegetation Management Act* Remnant Watercourses Version 2.1’;
 - (ii) ‘*Vegetation Management Act* Remnant Watercourses 25K Version 2.1’;
 - (iii) ‘Vegetation management watercourse map part 1’;
 - (iv) ‘Vegetation management watercourse map part 2’.
- (2) The chief executive’s reliance on the document is taken to be, and always to have been, valid for assessing the application.

Division 9 Transitional provisions for Vegetation Management Framework Amendment Act 2013

110 Definitions for div 9

In this division—

amending Act means the *Vegetation Management Framework Amendment Act 2013*.

clearing activity means conducting a native forest practice or clearing regulated regrowth vegetation under a relevant code.

existing PMAV means a PMAV made before the commencement.

notice means—

- (a) a notice given under the unamended Act, section 19Q;
or

- (b) a clearing notification given under the unamended Act, section 19U.

relevant code means each of the following as in force immediately before the commencement—

- (a) the native forest practice code;
(b) the regrowth vegetation code.

unamended Act means this Act as in force before the commencement.

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

111 Change to category C areas on freehold land or indigenous land

- (1) This section applies to an area located on freehold land or indigenous land shown as a category C area on a PMAV immediately before this section commences.
- (2) From the commencement, the PMAV is taken to be amended to show the area on the regulated vegetation management map as—
- (a) a category X area; or
(b) a category R area.

112 Particular PMAV applications

- (1) This section applies if, before this section commences—
- (a) an owner of land applied to the chief executive for the making of a PMAV for the land or part of the land; and
(b) the chief executive has not made a PMAV for the land or the part of the land the subject of the application.
- (2) The chief executive may consider the application and make the PMAV under the unamended Act.

113 Revocation of particular PMAVs over wild river high preservation areas

- (1) This section applies to a PMAV, in effect immediately before this section commences, if—
 - (a) the PMAV is for an area that includes land in a wild rivers high preservation area; and
 - (b) the chief executive made the PMAV under section 20B(1)(a) because the area became a declared area; and
 - (c) the area became a declared area under section 17(1A) of the unamended Act.
- (2) On the commencement, the PMAV is revoked to the extent it includes the land in the wild river high preservation area.
- (3) In this section—

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

114 Vegetation category areas on existing PMAVs

- (1) This section applies to land identified as a vegetation category area on a PMAV immediately before this section commences.
- (2) Subject to section 111, each category A area, category B area, category C area or category X area on an existing PMAV is taken to be the corresponding vegetation category area shown on the regulated vegetation management map.

115 Information on register of clearing notifications

- (1) This section applies to information kept on the register under the unamended Act, section 19X.
- (2) From the commencement of this section, the information is to be included on the register the chief executive must keep under section 19R.

116 Particular notices

- (1) This section applies to a notice given to the chief executive immediately before this section commences and not included on the register kept by the chief executive.
- (2) From the commencement, each notice is taken to be a notice given under a self-assessable vegetation clearing code and to be included on the register the chief executive must keep under section 19R.

117 Compliance with codes

- (1) This section applies to a clearing activity carried out under a relevant code.
- (2) From the commencement of this section, the clearing activity is taken to be clearing vegetation or conducting a native forest practice under any self-assessable vegetation clearing code applying to the activity.

118 Existing development approvals

- (1) This section applies if, before this section commences, a development approval was given for clearing.
- (2) From the commencement—
 - (a) the development approval has effect as if the amending Act had not been enacted; and
 - (b) a reference in the development approval to the regional ecosystem map or remnant map is taken to be a reference to the regional ecosystem map or remnant map as in force when the development approval was given.

119 Reference to particular maps

- (1) This section applies if, before this section commences, a document makes reference to—
 - (a) the regional ecosystem map; or

- (b) the regrowth vegetation map; or
 - (c) the remnant map; or
 - (d) the registered area of agriculture map.
- (2) Subject to section 118, from the commencement, if the context permits, the reference in the document is taken to be a reference to the regulated vegetation management map.

120 Reference to relevant codes

- (1) This section applies if, before this section commences, a document makes reference to a relevant code.
- (2) From the commencement, if the context permits, the reference in the document is taken to be a reference to a self-assessable vegetation clearing code relating to the clearing activity to which the relevant code applied.

121 Applying guide for deciding penalty

- (1) This section applies for deciding the end of a proceeding for a vegetation clearing offence commenced before this section commences.
- (2) Section 60B as in force immediately before the commencement continues to apply after the commencement to decide the end of the proceeding.

Division 10 Transitional provisions for Environmental Offsets Act 2014

122 Continued effect of particular agreements

- (1) This section applies despite the repeal of section 22DG by the *Environmental Offsets Act 2014*.
- (2) An agreement mentioned in repealed section 22DG that is in existence immediately before the commencement of this section continues to have effect according to its terms.

- (3) However, on and after the commencement, the area to which the agreement applies is a legally secured offset area for the *Environmental Offsets Act 2014*.

Division 11 Transitional provision for Water Reform And Other Legislation Amendment Act 2014

124 References to regrowth watercourse area and vegetation management watercourse map

- (1) A reference in an Act or document to the regrowth watercourse area may, if the context permits, be read as a reference to the regrowth watercourse and drainage feature area.
- (2) A reference in an Act or document to the vegetation management watercourse map may, if the context permits, be read as a reference to the vegetation management watercourse and drainage feature map.

Schedule Dictionary

section 5

accreditation notice, for an area management plan, see section 20T(1)(a).

accredited existing planning document, for part 2, division 5B, see section 20I.

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

approved draft plan, for part 2, division 5B, see section 20I.

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 management plan, for part 2, division 5B, see section 20J.

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 plan (chief executive) see section 20UA(1).

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.

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 R area see section 20ANA.

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 20W(2)(c).

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).

contaminant includes a gas, liquid, solid or energy source, including radioactivity and electromagnetic radiation.

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.

crops means all or any of the following—

- (a) annual horticulture;
- (b) broadacre cropping;
- (c) perennial horticulture.

currency period means the period mentioned in the *Planning Act*, section 341.

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 plant or an animal, other than a native species of plant or animal, that is—

- (a) invasive biosecurity matter under the *Biosecurity Act 2014*; or

Notes—

- 1 See the *Biosecurity Act 2014*, schedule 1, part 3 or 4 or schedule 2, part 2.
- 2 See also the note to the *Biosecurity Act 2014*, schedules 1 and 2.

- (b) controlled biosecurity matter or regulated biosecurity matter under the *Biosecurity Act 2014*.

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 means a development approval under the Planning Act for a vegetation clearing application.

development plan see section 22DAB(1).

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

downstream limit, of a watercourse, see the *Water Act 2000*, schedule 4.

draft plan, for part 2, division 5B, subdivision 2, see section 20M(3)(a)(i).

drainage feature see the *Water Act 2000*, schedule 4.

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).

exchange area means an area of vegetation that must be protected in the way provided under a self-assessable vegetation clearing code in exchange for clearing high value regrowth vegetation.

exempt development means exempt development under the Planning Act.

existing planning document, for part 2, division 5B, see section 20K.

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

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 self-assessable vegetation clearing code applying to conducting a native forest practice; or

- (ii) if the 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.

high risk species means—

- (a) a declared pest plant under the *Land Protection (Pest and Stock Route Management) Act 2002*; or
- (b) another plant listed in the regional vegetation management code as a high risk species.

high value agriculture clearing means clearing carried out to establish, cultivate and harvest crops, other than clearing for grazing activities or plantation forestry.

high value regrowth vegetation means vegetation located—

- (a) on a lease issued under the *Land Act 1994* for agriculture or grazing purposes; and

- (b) in an area that has not been cleared since 31 December 1989 that is—
- (i) an endangered regional ecosystem; or
 - (ii) an of concern regional ecosystem; or
 - (iii) a least concern regional ecosystem.

IDAS means the system detailed in the Planning Act, chapter 6, for integrating State and local government assessment and approval processes for development.

identifying number, for an area management plan, see section 20V(1)(a).

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 *Aboriginal Land Act 1991*;
- (b) the *Torres Strait Islander Land Act 1991*;
- (c) 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.

irrigated high value agriculture clearing means clearing carried out to establish, cultivate and harvest crops, or pasture, other than clearing for plantation forestry, that will be supplied with water by artificial means.

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 Amendment 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.

mandatory condition—

- (a) of an area management plan consisting of an approved draft plan or an existing planning document under part 2, division 5B, subdivision 1—see section 20Q(1); or
- (b) of a clearing plan—see section 20UC(1).

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—

- (a) a forest practice in a plantation; or
- (b) the harvesting, on freehold land, of sandalwood.

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

necessary environmental clearing means clearing of vegetation that is necessary to—

- (a) restore the ecological and environmental condition of land; or

Example—

stabilising banks of watercourses, works to rehabilitate eroded areas, works to prevent erosion of land or for ecological fire management

- (b) divert existing natural channels in a way that replicates the existing form of the natural channels; or
- (c) prepare for the likelihood of a natural disaster; or

Example—

removal of silt to mitigate flooding

- (d) remove contaminants from land.

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 area means a legally secured offset area under the *Environmental Offsets Act 2014*.

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

owner, of land—

- (a) includes, generally—
 - (i) for freehold land—the registered owner; or
 - (ii) for a lease, license or permit under the *Land Act 1994*—the lessee, licensee or permittee; or
 - (iii) for indigenous land—the holder of title to the land; or
 - (iv) for any tenure under any other Act—the holder of the tenure; and
- (b) for part 2, division 5B—see section 20I.

plan area, for part 2, division 5B, see section 20I.

Planning Act means the *Sustainable Planning Act 2009*.

plan period—

- (a) for an area management plan consisting of an approved draft plan—see section 20S(1)(a); and
- (b) for an area plan (chief executive)—see section 20UB.

plantation forestry means the planting and cultivation of timber for commercial purposes.

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).

proposed area, for part 2, division 5B, see section 20I.

protected wildlife see section 11(2)(a).

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.

Editor's note—

The Queensland Herbarium publishes a map of the regional ecosystems in Queensland and the map is available on the department's website.

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.dnrm.qld.gov.au>.

regional vegetation management code see section 11.

regrowth vegetation means vegetation that is not remnant vegetation.

regrowth watercourse and drainage feature area means an area located within 50m of a watercourse or drainage feature located in the Burdekin, Mackay Whitsunday or Wet Tropics catchments identified on the vegetation management watercourse and drainage feature map.

regulate includes prohibit.

regulated regrowth vegetation is vegetation contained in a category C or category R area.

regulated vegetation management map see section 20A.

relevant infrastructure activities means—

- (a) establishing and maintaining a necessary fence, firebreak, road, or vehicular track; or
- (b) constructing and maintaining necessary built infrastructure.

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

remnant vegetation means vegetation—

- (a) that is—
 - (i) an endangered regional ecosystem; or
 - (ii) an of concern regional ecosystem; or
 - (iii) a least concern regional ecosystem; and
- (b) forming the predominant canopy of the vegetation—
 - (i) covering more than 50% of the undisturbed predominant canopy; and
 - (ii) averaging more than 70% of the vegetation's undisturbed height; and
 - (iii) 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).

restricted (fodder harvesting) land, for part 2, division 5B, see section 20I.

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

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

sandalwood means a plant of the species *Santalum lanceolatum*.

self-assessable vegetation clearing code see section 19O(1) and (2).

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 land means all land (including roads and reserves), other than—

- (a) freehold land or land contracted to be granted in fee simple by the State; or
- (b) indigenous land on which the State does not own the trees.

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 20AKA.

vegetation clearing application means a development application that involves development that is—

- (a) the clearing of native vegetation as defined under the Planning Act; and
- (b) assessable development prescribed under section 232(1) of that Act.

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

vegetation clearing provision means the Planning Act, section 578(1), 580(1), 581, 582 or 594(1) to the extent the provision relates to the clearing of vegetation.

vegetation management see section 9.

vegetation management map means—

- (a) the essential habitat map; or
- (b) the regulated vegetation management map; or
- (c) the vegetation management watercourse and drainage feature map; or
- (d) the vegetation management wetlands map; or
- (e) a PMAV.

vegetation management watercourse and drainage feature map see section 20AB.

vegetation management wetlands map see section 20AA.

watercourse has the meaning given by the *Water Act 2000*, section 5, but a reference to a watercourse in this Act includes a reference to anywhere that is downstream of the downstream limit of the watercourse.

Note for definition watercourse—

For the purposes of this Act, the length of a watercourse is not limited by any downstream limit applying to it under the *Water Act 2000*.

wetland means an area of land that supports plants or is associated with plants that are adapted to and dependent on living in wet conditions for at least part of their life cycle.

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.

1 Index to endnotes

- 2 Key
- 3 Table of reprints
- 4 List of legislation
- 5 List of annotations
- 6 Information about retrospectivity

2 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
amd	= amendment	prov	= provision
t			
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	renu	= renumbered
		m	
ins	= inserted	rep	= repealed
lap	= lapsed	(retro	= retrospectively
)	
notf	= notified	rv	= revised version
d			
num	= numbered	s	= section

Key	Explanation	Key	Explanation
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 2012
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
		m	
prev	= previous		

3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the **Reprints Act 1992** used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email legislation.queries@oqpc.qld.gov.au.

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

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

Reprint No.	Amendments to	Effective	Reprint date
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	
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	
3C	2009 Act No. 36	18 December 2009	
3D	2010 Act No. 12	26 March 2010	
3E	2009 Act No. 17	1 July 2010	

Reprint No.	Amendments included	Effective	Notes
3F	2010 Act No. 53	1 December 2010	R3F withdrawn, see R4
4	—	1 December 2010	
4A	2011 Act No. 26	9 September 2011	
4B	2010 Act No. 52	4 November 2011	

Current as at	Amendments included	Notes
1 February 2013	2012 Act No. 43	
23 May 2013	2013 Act No. 24	
1 July 2013	2013 Act No. 23	
23 September 2013	2013 Act No. 39	
2 December 2013	2013 Act No. 24 (amd 2013 No. 63)	
20 February 2014	2013 Act No. 2	
28 March 2014	2013 Act No. 55	
31 March 2014	2013 Act No. 50	
1 July 2014	2014 Act No. 33	
1 October 2014	2014 Act No. 40	
1 January 2015	2014 Act No. 45	
2 July 2015	—	s 123 exp 1 July 2015 RA ss 27, 28, 43
11 September 2015	2014 Act No. 64	
1 July 2016	2014 Act No. 7 2016 Act No. 22	RA ss 30, 35

Current as at	Amendments included	Notes
8 November 2016	2014 Act No. 59	

4 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 om 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 commenced 1 July 2010 (2010 SL No. 122)

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 never proclaimed into force and om 2009 No. 43 s 59
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 commenced 18 December 2009 (2009 SL No. 281)

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)

Natural Resources and Other Legislation Amendment Act 2010 No. 12 s 1, pt 20

date of assent 26 March 2010
commenced on date of assent

Natural Resources and Other Legislation Amendment Act (No. 2) 2010 No. 52 pts 1, 12

date of assent 1 December 2010
ss 1–2 commenced on date of assent
remaining provisions commenced 4 November 2011 (2011 SL No. 217)

Water and Other Legislation Amendment Act 2010 No. 53 s 1, pt 13

date of assent 1 December 2010
commenced on date of assent

Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Act 2011 No. 26 pt 1, s 189 sch

date of assent 29 August 2011
ss 1–2 commenced on date of assent
remaining provisions commenced 9 September 2011 (2011 SL No. 173)

Economic Development Act 2012 No. 43 ss 1, 2(c), 325 sch 2

date of assent 11 December 2012
ss 1–2 commenced on date of assent
s 325 commenced on date of assent (see s 2(c))
remaining provisions commenced 1 February 2013 (2013 SL No. 1)

Aboriginal and Torres Strait Islander Land Holding Act 2013 No. 2 ss 1–2, pt 12 div 11

date of assent 19 February 2013
ss 1–2 commenced on date of assent

remaining provisions commenced 20 February 2014 (automatic commencement under AIA s15DA(2))

Land, Water and Other Legislation Amendment Act 2013 No. 23 ss 1, 2(a), (d), pt 18, s 352 sch 1 pt 2

date of assent 14 May 2013

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2013 (2013 SL No. 126)

Vegetation Management Framework Amendment Act 2013 No. 24 ss 1–2(a)–(b), pt 2 (this Act is amended, see amending legislation below)

date of assent 23 May 2013

ss 1–2 commenced on date of assent

ss 5, 7, 11–32, 35, 36, 40, 46–49, 57–61, 64 (to the extent it ins new ss 111, 112, 114–120), 65 commenced 2 December 2013 (2013 SL No. 255)

remaining provisions commenced on date of assent

amending legislation—

North Stradbroke Island Protection and Sustainability and Another Act Amendment Act 2013 No. 63 s 1, pt 3 (amends 2013 No. 24 above)

date of assent 27 November 2013

commenced on date of assent

Treasury and Trade and Other Legislation Amendment Act 2013 No. 39 ss 1, 109 sch 2

date of assent 23 September 2013

commenced on date of assent

Nature Conservation (Protected Plants) and Other Legislation Amendment Act 2013 No. 50 pts 1, 4

date of assent 29 October 2013

ss 1–2 commenced on date of assent

remaining provisions commenced 31 March 2014 (2014 SL No. 31)

Nature Conservation and Other Legislation Amendment Act (No. 2) 2013 No. 55 pts 1, 3 div 12, s 175 sch 1 pt 3

date of assent 7 November 2013

ss 1–2 commenced on date of assent

pt 3 div 12 commenced 28 March 2014 (2014 SL No. 34)

s 175 sch 1 pt 3 never commenced and om 2015 Act No. 15 s 96

Biosecurity Act 2014 No. 7 ss 1–2, 578 sch 4 pt 2

date of assent 13 March 2014

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2016 (see s 2(1)–(2))

Environmental Offsets Act 2014 No. 33 pts 1, 24

date of assent 28 May 2014

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2014 (2014 SL No. 144)

State Development, Infrastructure and Planning (Red Tape Reduction) and Other Legislation Amendment Act 2014 No. 40 ss 1–2, 154 sch 1 pt 2

date of assent 15 August 2014

ss 1–2 commenced on date of assent

remaining provisions commenced 1 October 2014 (2014 SL No. 209)

Aboriginal and Torres Strait Islander Land (Providing Freehold) and Other Legislation Amendment Act 2014 No. 45 ss 1–2(1)–(2), 58 sch 1 pt 2

date of assent 5 September 2014

ss 1–2 commenced on date of assent

sch 1 pt 2 commenced 1 January 2015 (2014 SL No. 270)

remaining provision commenced 1 January 2015 (see s 2(1))

Environmental Protection and Other Legislation Amendment Act 2014 No. 59 ss 1, 2(d)(ii), 174 sch 1

date of assent 7 November 2014

ss 1–2 commenced on date of assent

remaining provisions commenced 8 November 2016 (2015 SL No. 153 s 2)

Water Reform and Other Legislation Amendment Act 2014 No. 64 ss 1, 2(2), pt 7

date of assent 5 December 2014

ss 1–2 commenced on date of assent

remaining provisions commenced 11 September 2015 (2015 SL No. 122)

Nature Conservation and Other Legislation Amendment Act 2016 No. 22 ss 1, 2(b)–(c), 48 sch 1

date of assent 25 May 2016

ss 1–2 commenced on date of assent

s 48 sch 1 commenced 1 July 2016 (see s 2(b)–(c))

Planning (Consequential) and Other Legislation Amendment Act 2016 No. 27 pts 1, 66

date of assent 25 May 2016

ss 1–2 commenced on date of assent

pt 66 not yet proclaimed into force (see s 2)

5 List of annotations

Long 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); 2013 No. 24 s 4

Advancing the Act's purpose

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; 2009 No. 36 s 872 sch 2; 2010 No. 12 s 236; 2009 No. 17 s 331 sch 1; 2013 No. 55 s 163; 2016 No. 22 s 48 sch 1

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 hdg ins 2009 No. 43 s 6 (retro)

Subdivision 1—Concurrence agency policies

sdiv 1 (ss 10A–10B) ins 2009 No. 43 s 6 (retro)

Subdivision 2—Offsets policy

sdiv 2 (ss 10C–10D) ins 2009 No. 43 s 6 (retro)
om 2014 No. 33 s 144

Division 3—Regional vegetation management codes

div hdg sub 2004 No. 1 s 10

Minister must make regional vegetation management codes

s 11 sub 2004 No. 1 s 10
amd 2009 No. 43 ss 7 (retro), 63 sch (amdt could not be given effect); 2010 No. 52 s 44; 2013 No. 23 s 223; 2013 No. 24 s 5

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

s 15 sub 2004 No. 1 s 10
amd 2009 No. 43 s 11 (retro)

Division 4—Declaration of particular areas

div hdg sub 2013 No. 24 s 7

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; 2013 No. 24 s 6

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); 2010 No. 53 s 178; 2013 No. 24 s 8

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 ss 19A–19C to wild rivers code

s 19D ins 2007 No. 8 s 21
om 2013 No. 24 s 9

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

amd 2014 No. 33 s 145

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—Self-assessable codes

div hdg ins 2009 No. 43 s 15 (retro)

sub 2013 No. 24 s 11

Subdivision 1—Conducting a native forest practice

sdiv hdg ins 2009 No. 43 s 15 (retro)

om 2013 No. 24 s 11

Self-assessable vegetation clearing code

s 19O ins 2009 No. 43 s 15 (retro)

sub 2013 No. 24 s 11

When self-assessable vegetation clearing code takes effect

s 19P ins 2009 No. 43 s 15 (retro)

sub 2013 No. 24 s 11

Code compliant clearing and native forest practices self-assessable

s 19Q ins 2009 No. 43 s 15 (retro)

sub 2013 No. 24 s 11

Register of self-assessable notices given under code

s 19R ins 2009 No. 43 s 15 (retro)

sub 2013 No. 24 s 11

Subdivision 2—Clearing regulated regrowth vegetation under the regrowth vegetation code

sdiv 2 (ss 19S–19X) ins 2009 No. 43 s 15 (retro)

om 2013 No. 24 s 11

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)

om 2013 No. 24 s 11

Division 5—Declarations about codes

div hdg sub 2004 No. 1 s 14

IDAS codes for the clearing of vegetation

s 20 amd 2000 No. 35 s 10; 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 regulated vegetation management map

s **20A** ins 2004 No. 1 s 14
sub 2009 No. 43 s 16 (retro); 2013 No. 24 s 12

What is the vegetation management wetlands map

s **20AA** ins 2009 No. 43 s 16 (retro)
sub 2013 No. 24 s 12

What is the vegetation management watercourse and drainage feature map

s **20AB** ins 2009 No. 43 s 16 (retro)
amd 2013 No. 23 s 352 sch 1 pt 2
sub 2013 No. 24 s 12; 2014 No. 64 s 53

What is the essential habitat map

s **20AC** ins 2009 No. 43 s 16 (retro)
amd 2013 No. 24 s 13

What is a registered area of agriculture map

s **20AD** ins 2009 No. 43 s 16 (retro)
om 2013 No. 24 s 14

What is the vegetation management watercourse map

s **20ADA** ins 2013 No. 23 s 224
om 2013 No. 24 s 14

Certifying vegetation management map

s **20AE** ins 2009 No. 43 s 16 (retro)
om 2013 No. 24 s 14

Amending vegetation management map

s **20AF** ins 2009 No. 43 s 16 (retro)
om 2013 No. 24 s 14

When vegetation management map takes effect

s **20AG** ins 2009 No. 43 s 16 (retro)
om 2013 No. 24 s 14

Deciding to show particular areas as category B areas

s **20AH** ins 2009 No. 43 s 16 (retro)
amd 2010 No. 52 s 45; 2013 No. 24 s 15

Deciding to show particular areas as category C areas

s **20AI** ins 2009 No. 43 s 16 (retro)
amd 2013 No. 24 s 16

Application to make PMAV before amending regulated vegetation management map

s **20AJ** ins 2009 No. 43 s 16 (retro)
sub 2013 No. 24 s 17

Division 5A—Property map of assessable vegetation

div hdg ins 2004 No. 1 s 14
om 2013 No. 24 s 18

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

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

amd 2013 No. 24 s 19

What is a vegetation category area

s 20AKA ins 2013 No. 24 s 20

What is a category A area

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

amd 2013 No. 24 s 21

What is a category B area

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

sub 2013 No. 24 s 22

What is a category C area

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

sub 2013 No. 24 s 23

What is a category R area

s 20ANA ins 2013 No. 24 s 24

amd 2014 No. 64 s 54

What is a category X area

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

amd 2013 No. 24 s 25

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)

amd 2013 No. 24 s 26

Chief executive may make decision about category A area

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

When owner may apply for PMAV

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)

amd 2010 No. 52 s 46; 2013 No. 24 s 27

When PMAV may be replaced

s 20D ins 2004 No. 1 s 14

amd 2009 No. 43 s 21 (retro); 2013 No. 24 s 28

When PMAV may be revoked

s 20E ins 2004 No. 1 s 14

amd 2007 No. 19 s 222

amd 2009 No. 43 s 22 (retro)

om 2013 No. 24 s 29

Copies of PMAV given to owners

s 20F ins 2004 No. 1 s 14

amd 2009 No. 43 s 23 (retro); 2010 No. 53 s 179

Owners to be advised of revocation of PMAV

s 20G ins 2004 No. 1 s 14
amd 2009 No. 43 s 63 sch (retro)
om 2013 No. 24 s 30

PMAV boundaries prevail

s 20H ins 2009 No. 43 s 24 (retro)
sub 2013 No. 24 s 31

Certifying vegetation management map

s 20HA ins 2013 No. 24 s 32

Amending vegetation management map

s 20HB ins 2013 No. 24 s 32

When vegetation management map takes effect

s 20HC ins 2013 No. 24 s 32

Division 5B—Area management plans

div hdg ins 2010 No. 52 s 47

Subdivision 1—Preliminary

sdiv hdg ins 2010 No. 52 s 47

Definitions for div 5B

s 20I ins 2010 No. 52 s 47

What is an area management plan

s 20J ins 2010 No. 52 s 47
amd 2013 No. 24 s 33

What is an existing planning document

s 20K ins 2010 No. 52 s 47

What is restricted (fodder harvesting) land

s 20L ins 2010 No. 52 s 47

Subdivision 2—Approval of plans and accreditation of planning documents

sdiv hdg ins 2010 No. 52 s 47

Application for approval of draft plan or accreditation of planning document

s 20M ins 2010 No. 52 s 47
amd 2013 No. 24 s 34

Further information or documents for application

s 20N ins 2010 No. 52 s 47

Deciding applications

s 20O ins 2010 No. 52 s 47

Criteria for approving draft plan or accrediting planning document

s 20P ins 2010 No. 52 s 47
amd 2013 No. 24 s 35

Mandatory condition on approval of draft plan or accreditation of planning document

s **20Q** ins 2010 No. 52 s 47
amd 2013 No. 24 s 36

Imposing additional condition on approval of draft plan

s **20R** ins 2010 No. 52 s 47
amd 2013 No. 24 s 37

Other requirements for approving draft plan

s **20S** ins 2010 No. 52 s 47

Other requirements for accrediting existing planning document

s **20T** ins 2010 No. 52 s 47

Refusing to approve draft plan or accredit planning document

s **20U** ins 2010 No. 52 s 47

Subdivision 2A—Plans made by chief executive

sdiv **2A** (ss **20UA–20UC**) ins 2013 No. 24 s 38

Subdivision 3—Keeping plans

sdiv **hdg** ins 2010 No. 52 s 47

Register of area management plans

s **20V** ins 2010 No. 52 s 47
sub 2013 No. 24 s 39

Subdivision 4—Notifying clearing under plans

sdiv **4** (ss **20W–20Y**) ins 2010 No. 52 s 47
om 2013 No. 24 s 40

Subdivision 5—Duration of plans

sdiv **hdg** ins 2010 No. 52 s 47

When an area management plan ends

s **20Z** ins 2010 No. 52 s 47
amd 2013 No. 24 s 41

Subdivision 6—Amending particular plans

sdiv **hdg** ins 2010 No. 52 s 47
amd 2013 No. 24 s 42

Application of sdiv 6

s **20ZA** ins 2010 No. 52 s 47
sub 2013 No. 24 s 43

Amendment by chief executive

s **20ZB** ins 2010 No. 52 s 47
amd 2013 No. 24 s 44

Amendment application for particular plans

s **20ZC** ins 2010 No. 52 s 47
amd 2013 No. 24 s 45

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

s 21 amd 2003 No. 10 s 76 sch; 2004 No. 1 s 44(1) sch 1; 2003 No. 64 s 149; 2009 No. 36 s 872 sch 2

Declarations for the Planning Act

s 22 amd 2003 No. 10 s 76 sch; 2005 No. 41 s 3; 2009 No. 43 ss 26, 63 sch (retro); 2009 No. 36 s 872 sch 2

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); 2009 No. 36 s 872 sch 2; 2010 No. 53 s 180; 2012 No. 43 s 325 sch 2; 2013 No. 24 s 46

Modifying Planning Act effect for delegations and appointment of referees

s 22B ins 2004 No. 1 s 15
amd 2009 No. 36 s 872 sch 2

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

s 22C ins 2004 No. 1 s 15
amd 2007 No. 19 s 224; 2009 No. 36 s 872 sch 2

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

s 22D ins 2004 No. 1 s 15
amd 2007 No. 19 s 225; 2009 No. 36 s 872 sch 2

Subdivision 1A—Particular vegetation clearing applications

sdiv hdg ins 2013 No. 24 s 47 (amd 2013 No. 63 s 17)

Application of subdivision

s 22DAA ins 2013 No. 24 s 47 (amd 2013 No. 63 s 17)

Requirements for making application

s 22DAB ins 2013 No. 24 s 47 (amd 2013 No. 63 s 17)

Matters for deciding application

s 22DAC ins 2013 No. 24 s 47 (amd 2013 No. 63 s 17)
amd 2014 No. 40 s 154 sch 1 pt 2; 2014 No. 59 s 174 sch 1

Subdivision 2—Referral agency assessment and responses

sdiv hdg ins 2009 No. 43 s 28 (retro)

Requirement for property vegetation management plan

s 22DA ins 2009 No. 43 s 28 (retro)

amd 2013 No. 24 s 48

Compliance with concurrence agency policy

s 22DB ins 2009 No. 43 s 28 (retro)

Refusal of particular concurrence agency application

s 22DC ins 2009 No. 43 s 28 (retro)

amd 2013 No. 24 s 49

Commercial timber on State land

s 22DD ins 2009 No. 43 s 28 (retro)

Development not for a relevant purpose under s 22A

s 22DE ins 2009 No. 43 s 28 (retro)

Clearing vegetation on adjoining lot for firebreaks and fire management lines

s 22DF ins 2009 No. 43 s 28 (retro)

amd 2013 No. 24 s 50

Division 6A—Vegetation management offsets

div hdg ins 2009 No. 43 s 29 (retro)

om 2014 No. 33 s 146

Subdivision 1—Preliminary

sdiv 1 (s 22DG) ins 2009 No. 43 s 29 (retro)

om 2014 No. 33 s 146

Subdivision 2—Imposing offsets

sdiv 2 (ss 22DH–22DK) ins 2009 No. 43 s 29 (retro)

om 2014 No. 33 s 146

Subdivision 3—Register of offsets

sdiv 2 (s 22DL) ins 2009 No. 43 s 29 (retro)

om 2014 No. 33 s 146

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

amd 2009 No. 36 s 872 sch 2

Modifying Planning Act effect on changing broadscale application

s 22H ins 2004 No. 1 s 15

amd 2004 No. 33 s 44; 2009 No. 36 s 872 sch 2

Modifying Planning Act time frames

s 22I ins 2004 No. 1 s 15

amd 2009 No. 36 s 872 sch 2

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
amd 2009 No. 36 s 872 sch 2

Appeals
s 22L ins 2004 No. 1 s 15
amd 2009 No. 36 s 872 sch 2

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
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
amds 9–10 (retro), 63 sch amdt 11; 2010 No. 52 s 48; 2013 No. 24 s 51

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; 2013 No. 24 s 52

Power to require production of documents

s 52 amd 2003 No. 10 s 76 sch

Failure to certify copy of document

s 53 amd 2013 No. 24 s 53

Failure to produce document

s 54 amd 2003 No. 10 s 65; 2013 No. 24 s 54

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

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

Record of restoration notice in land registry

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)
om 2013 No. 24 s 55

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)
amd 2010 No. 52 s 49

Division 1A—External reviews by QCAT

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

Who may apply for external review

s 63B ins 2009 No. 43 s 38 (retro)
amd 2010 No. 52 s 50

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
om 2013 No. 24 s 56

Division 2A—Defences

div 2A (s 67B) ins 2003 No. 10 s 72
om 2013 No. 24 s 56

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 hdg ins 2009 No. 43 s 43 (retro)

Definitions for div 4

s 68CA ins 2009 No. 43 s 43 (retro)

sub 2013 No. 24 s 57

Limitation of review and appeal

s 68CB ins 2009 No. 43 s 43 (retro)

sub 2013 No. 24 s 58

No appeals about relevant vegetation maps and particular PMAV applications

s 68CC ins 2009 No. 43 s 43 (retro)

om 2013 No. 24 s 59

PART 5—MISCELLANEOUS**Approved forms**

s 68D ins 2004 No. 1 s 24

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

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

amd 2013 No. 23 s 352 sch 1 pt 2; 2013 No. 24 s 60(1)–(2); 2013 No. 24 s 60(3)
(amdt could not be given effect)

Copies of documents to be available for inspection and purchase

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

amd 2010 No. 52 s 51; 2013 No. 23 s 352 sch 1 pt 2

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); 2009 No. 36 s 872 sch 2;
2013 No. 24 s 61

Record of particular matters in land registry

s 70B ins 2004 No. 1 s 25

amd 2009 No. 43 s 45 (retro); 2009 No. 36 s 872 sch 2; 2013 No. 24 s 62

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

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

Regulation-making power

s 72 amd 2013 No. 24 s 63

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 repealed Integrated Planning Act 1997

s 73 amd 2003 No. 10 s 76 sch; 2004 No. 1 s 44(1) sch 1; 2009 No. 36 s 872 sch 2

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; 2009 No. 36 s 872 sch 2

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)
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)
pres s 76 ins 2004 No. 1 s 27
sub 2004 No. 33 s 45
amd 2009 No. 36 s 872 sch 2

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

s 77 prev s 77 exp 16 September 2000 (see s 85A)
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)
pres s 78 ins 2004 No. 1 s 27
amd 2004 No. 33 s 46; 2012 No. 43 s 325 sch 2

When the Land Act 1994 continues to apply

s 79 prev s 79 exp 16 September 2000 (see s 85A)
pres s 79 ins 2004 No. 1 s 27

Modifying effect of repealed Integrated Planning Act 1997 for owner's consent

s 80 prev s 80 exp 16 September 2000 (see s 85A)
pres s 80 ins 2004 No. 1 s 27
amd 2009 No. 36 s 872 sch 2

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
amd 2009 No. 36 s 872 sch 2

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

amd 2009 No. 36 s 872 sch 2

Validation of regional vegetation management codes

s 83 prev s 83 amd 2000 No. 35 s 14
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
amd 2009 No. 36 s 872 sch 2

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 orig s 86 exp 16 September 2000 (see s 97)
prev s 86 ins 2008 No. 8 s 5
om 2013 No. 39 s 109 sch 2

Division 6—Transitional provision for Sustainable Planning Act 2009

div hdg ins 2009 No. 36 s 872 sch 2

Vegetation clearing applications under repealed Integrated Planning Act 1997

s 87 prev s 87 exp 16 September 2000 (see s 97)
pres s 87 ins 2009 No. 36 s 872 sch 2

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)

Amendment of s 264 (Terms of tree clearing permit)

s 94A ins 2000 No. 35 s 21
exp 16 September 2000 (see prev s 97)

Amendment of s 265 (Conditions of tree clearing permit)

s 94B ins 2000 No. 35 s 20
exp 16 September 2000 (see prev 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 prev s 97)

Amendment of s 322 (Requirements for transfers)

s 94D ins 2000 No. 35 s 20
exp 16 September 2000 (see prev s 97)

Amendment of s 346 (Sale of mortgaged lease)

s 94E ins 2000 No. 35 s 20
exp 16 September 2000 (see prev s 97)

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)
om 2013 No. 39 s 109 sch 2

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)

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)

Division 8—Transitional provision for Land, Water and Other Legislation Amendment Act 2013

div 8 (s 109) ins 2013 No. 23 s 225

Division 9—Transitional provisions for Vegetation Management Framework Amendment Act 2013

div hdg ins 2013 No. 24 s 64

Definitions for div 9

s 110 ins 2013 No. 24 s 64

Change to category C areas on freehold land or indigenous land

s 111 ins 2013 No. 24 s 64

Particular PMAV applications

s 112 ins 2013 No. 24 s 64

Revocation of particular PMAVs over wild river high preservation areas

s 113 ins 2013 No. 24 s 64

Vegetation category areas on existing PMAVs

s 114 ins 2013 No. 24 s 64

Information on register of clearing notifications

s 115 ins 2013 No. 24 s 64

Particular notices

s 116 ins 2013 No. 24 s 64

Compliance with codes

s 117 ins 2013 No. 24 s 64

Existing development approvals

s 118 ins 2013 No. 24 s 64

Reference to particular maps

s 119 ins 2013 No. 24 s 64

Reference to relevant codes

s 120 ins 2013 No. 24 s 64

Applying guide for deciding penalty

s 121 ins 2013 No. 24 s 64

Division 10—Transitional provisions for Environmental Offsets Act 2014

div hdg ins 2014 No. 33 s 147

Continued effect of particular agreements

s 122 ins 2014 No. 33 s 147

Transitional regulation-making power

s 123 ins 2014 No. 33 s 147

exp 1 July 2015 (see s 123(4))

Division 11—Transitional provision for Water Reform And Other Legislation Amendment Act 2014

div hdg ins 2014 No. 64 s 55

References to regrowth watercourse area and vegetation management watercourse map

s 124 ins 2014 No. 64 s 55

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 prev s 97)

PART 9—AMENDMENT OF LOCAL GOVERNMENT ACT 1993

pt hdg ins 2000 No. 35 s 24

exp 16 September 2000 (see prev s 100)

SCHEDULE—DICTIONARY

def *accreditation notice* ins 2010 No. 52 s 52(2)

def *accredited existing planning document* ins 2010 No. 52 s 52(2)

def *applicable code* amd 2003 No. 10 s 76 sch

def *applicant* ins 2010 No. 52 s 52(2)

om 2013 No. 24 s 65(1)

def *approved draft plan* ins 2010 No. 52 s 52(2)

def *approved form* ins 2004 No. 1 s 28(2)

def *approved restoration plan* ins 2009 No. 43 s 49(2) (retro)

def *area management clearing notification* ins 2010 No. 52 s 52(2)

om 2013 No. 24 s 65(1)

def *area management plan* ins 2010 No. 52 s 52(2)

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 plan (chief executive)* ins 2013 No. 24 s 65(2)

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

om 2014 No. 64 s 56(1)

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 R area* ins 2013 No. 24 s 65(2)
- 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)
- sub 2010 No. 52 s 52; 2013 No. 24 s 65(1)–(2)
- def *clearing notification* ins 2009 No. 43 s 49(2) (retro)
- om 2013 No. 24 s 65(1)
- 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 *concurrency agency* amd 2003 No. 10 s 76 sch
- def *concurrency agency application* ins 2009 No. 43 s 49(2) (retro)
- def *concurrency agency policy* ins 2009 No. 43 s 49(2) (retro)
- def *contaminant* ins 2013 No. 24 s 65(2)
- def *criminal history* ins 2003 No. 10 s 75(1)
- def *crops* ins 2013 No. 24 s 65(2)
- def *currency period* ins 2004 No. 1 s 28(2)
- amd 2006 No. 11 s 110; 2009 No. 36 s 872 sch 2
- 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)
- sub 2014 No. 7 s 578 sch 4
- 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); 2014 No. 33 s 148
- def *development plan* ins 2013 No. 24 s 65(2)
- def *document certification requirement* ins 2000 No. 35 s 25(2)
- def *downstream limit* ins 2014 No. 64 s 56(2)
- def *draft plan* ins 2010 No. 52 s 52(2)
- def *drainage feature* ins 2014 No. 64 s 56(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)
om 2013 No. 24 s 65(1)
- def *exchange area* ins 2009 No. 43 s 49(2) (retro)
sub 2013 No. 24 s 65(1)–(2)
- def *exempt development* ins 2009 No. 43 s 49(2) (retro)
- def *existing planning document* ins 2010 No. 52 s 52(2)
- def *extractive industry* ins 2013 No. 24 s 65(2)
- 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); 2013 No. 24 s 65(2A)–(2B)
- 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 *high risk species* ins 2013 No. 24 s 65(2)
- def *high value agriculture clearing* ins 2013 No. 24 s 65(2)
- def *high value regrowth vegetation* ins 2013 No. 24 s 65(2)
- def *IDAS* amd 2003 No. 10 s 76 sch; 2009 No. 36 s 872 sch 2
- def *identifying number* ins 2010 No. 52 s 52(2)
- def *indigenous community use area* ins 2007 No. 48 s 61
- def *indigenous land* ins 2004 No. 1 s 28(2)
amd 2011 No. 26 s 189 sch; 2013 No. 2 s 163; 2014 No. 45 s 58 sch 1 pt 2
- def *information notice* ins 2009 No. 43 s 49(2) (retro)
- def *information request* ins 2004 No. 1 s 28(2)
- def *irrigated high value agriculture clearing* ins 2013 No. 24 s 65(2)
- def *lake* ins 2005 No. 41 s 6
- def *Land Act notice* ins 2009 No. 43 s 49(2) (retro)
amd 2013 No. 23 s 352 sch 1 pt 2
- 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 *mandatory condition* ins 2010 No. 52 s 52(2)
sub 2013 No. 24 s 65(1)–(2)
- 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)
sub 2013 No. 50 s 25
- def *native forest practice code* ins 2009 No. 43 s 49(2) (retro)
om 2013 No. 24 s 65(1)
- def *Nature Conservation Act* ins 2009 No. 43 s 49(2) (retro)
- def *necessary environmental clearing* ins 2013 No. 24 s 65(2)
- 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)
om 2014 No. 33 s 148
def *offset area* ins 2009 No. 43 s 49(2) (retro)
sub 2014 No. 33 s 148
def *offsets policy* ins 2009 No. 43 s 49(2) (retro)
om 2014 No. 33 s 148
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)
sub 2010 No. 52 s 52
def *plan area* ins 2010 No. 52 s 52(2)
def *Planning Act* ins 2003 No. 10 s 75(1)
amd 2009 No. 36 s 872 sch 2
def *plan period* ins 2010 No. 52 s 52(2)
sub 2013 No. 24 s 65(1)–(2)
def *plantation forestry* ins 2013 No. 24 s 65(2)
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 *proposed area* ins 2010 No. 52 s 52(2)
def *protected wildlife* ins 2009 No. 43 s 49(2) (retro)
sub 2010 No. 52 s 52
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* amd 2013 No. 24 s 65(3)
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)
om 2013 No. 24 s 65(1)
def *regional ecosystem number* ins 2009 No. 43 s 49(2) (retro)
amd 2013 No. 23 s 352 sch 1 pt 2; 2013 No. 24 s 65(4) (amdt could not be given effect)
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)
om 2013 No. 24 s 65(1)
def *regrowth clearing authorisation* ins 2009 No. 43 s 49(2) (retro)
om 2013 No. 24 s 65(1)

- def *regrowth vegetation code* ins 2009 No. 43 s 49(2) (retro)
om 2013 No. 24 s 65(1)
- def *regrowth vegetation map* ins 2009 No. 43 s 49(2) (retro)
om 2013 No. 24 s 65(1)
- def *regrowth watercourse and drainage feature area* ins 2014 No. 64 s 56(2)
- def *regrowth watercourse area* ins 2013 No. 24 s 65(2)
om 2014 No. 64 s 56(1)
- def *regulated regrowth vegetation* ins 2009 No. 43 s 49(2) (retro)
sub 2013 No. 24 s 65(1)–(2)
- def *regulated vegetation management map* ins 2013 No. 24 s 65(2)
- def *relevant entity* ins 2009 No. 43 s 49(2) (retro)
om 2013 No. 24 s 65(1)
- def *relevant infrastructure activities* ins 2013 No. 24 s 65(2)
- def *relevant PMAV application* ins 2009 No. 43 s 49(2) (retro)
- def *relevant vegetation map* ins 2009 No. 43 s 49(2) (retro)
om 2013 No. 24 s 65(1)
- 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)
om 2013 No. 24 s 65(1)
- 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); 2009 No. 43 s 49(1)–(2)
(retro); 2013 No. 24 s 65(1)–(2)
- 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 *restricted (fodder harvesting) land* ins 2010 No. 52 s 52
- def *review decision* ins 2009 No. 43 s 49(2) (retro)
- def *road* ins 2007 No. 19 s 227(2)
- def *sandalwood* ins 2013 No. 50 s 25(2)
- def *self-assessable vegetation clearing code* ins 2013 No. 24 s 65(2)
- def *special clearing code* ins 2007 No. 48 s 61
- def *spent conviction* ins 2003 No. 10 s 75(1)
- def *State land* ins 2013 No. 24 s 65(2)
- 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)
sub 2013 No. 24 s 65(1)–(2)
- 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); 2009 No. 36 s 872 sch 2; 2013 No. 23 s 352 sch 1
pt 2
def *vegetation clearing provision* amd 2003 No. 10 s 76 sch
sub 2004 No. 1 s 28(1)–(2)
amd 2009 No. 36 s 872 sch 2
def *vegetation management map* ins 2009 No. 43 s 49(2) (retro)
amd 2013 No. 23 s 226(2)
sub 2013 No. 24 s 65(1)–(2)
amd 2014 No. 64 s 56(3)
def *vegetation management offset* ins 2009 No. 43 s 49(2) (retro)
om 2014 No. 33 s 148
def *vegetation management watercourse and drainage feature map* ins 2014 No. 64
s 56(2)
def *vegetation management watercourse map* ins 2013 No. 23 s 226(1)
sub 2013 No. 24 s 65(1)–(2)
om 2014 No. 64 s 56(1)
def *vegetation management wetlands map* ins 2013 No. 24 s 65(2)
def *watercourse* ins 2005 No. 41 s 6
sub 2014 No. 64 s 56(1)–(2)
def *wetland* ins 2013 No. 24 s 65(2)
def *wild river area* ins 2005 No. 42 s 52 sch 1
amd 2006 No. 59 s 85 sch
om 2013 No. 24 s 65(1)
def *wild river declaration* ins 2005 No. 42 s 52 sch 1
amd 2006 No. 59 s 85 sch
om 2013 No. 24 s 65(1)
def *wild river high preservation area* om 2013 No. 24 s 65(1)

6 Information about retrospectivity

Retrospective amendments that have been consolidated are noted in the list of legislation and list of annotations. From mid-2013 any retrospective amendment that has not been consolidated is noted on the cover page.