

From: Josh Lockyer
Sent: Wednesday, 4 October 2017 4:43 PM
To: Simon Zanatta; Matthew Pitman
Subject: Petition Delivery: Wednesday 11th October

Hi guys,
See below email. How do you want to handle this request?
Thanks
Josh

From: Stafford Electorate Office [mailto:Stafford@parliament.qld.gov.au]

Sent: Tuesday, 3 October 2017 8:46 AM

To: State Development & Natural Resources and Mines

Subject: FW: Petition Delivery: Wednesday 11th October

Kind regards

Susan Lynch

Electorate Officer

Office of Hon Dr Anthony Lynham MP

STATE MEMBER FOR STAFFORD

Minister for State Development, Minister for Natural Resources and Mines

Unit 207, 6 Babarra Street

Stafford Qld 4053

P: 07) 3554-8100

E: Stafford@parliament.qld.gov.au

W: www.dranthonylynham.com.au

Facebook: www.facebook.com/dranthonylynham



From: 73(2)Irrelevant

Sent: Friday, 29 September 2017 3:53 PM

To: Stafford Electorate Office <Stafford@parliament.qld.gov.au>

Subject: Petition Delivery: Wednesday 11th October

Dear Mr Anthony Lynham MP,

I am emailing to find out if you would be available to accept petitions from the land clearing Alliance and community members from Stafford during the next Parliamentary sitting week - on Wednesday 11th October?

We will be gathering at Parliament at 11am after which we have constituents who wish to meet with their MP about the issue.

Please let me know if this is a possibility.

Best wishes,

73(2)Irrelevant

Queensland Campaign Manager

The Wilderness Society Ltd.

PO Box 5427, West End QLD 4101

P | 73(2)Irrelevant

www.wilderness.org.au



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From: Simon Zanatta
Sent: Wednesday, 4 October 2017 4:59 PM
To: Helena Langton
CC: Matthew Pitman; Josh Lockyer
Subject: FW: Petition Delivery: Wednesday 11th October

Helena,
This would have gone to everyone in the caucus. Might be worth seeing how everyone else is approaching.
S

Simon Zanatta

Senior Policy Advisor



Office of the Hon. Dr Anthony Lynham MP

Minister for State Development and Natural Resources and Mines

P 07 3719 7360 M **73(2)Irrelevant**

1 William Street Brisbane QLD 4000

From: Josh Lockyer
Sent: Wednesday, 4 October 2017 4:44 PM
To: Simon Zanatta ; Matthew Pitman
Subject: Petition Delivery: Wednesday 11th October

Hi guys,
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Thanks
Josh

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Sent: Tuesday, 3 October 2017 8:46 AM
To: State Development & Natural Resources and Mines <sdnrm@ministerial.qld.gov.au>
Subject: FW: Petition Delivery: Wednesday 11th October

Kind regards

Susan Lynch

Electorate Officer

Office of Hon Dr Anthony Lynham MP

STATE MEMBER FOR STAFFORD

Minister for State Development, Minister for Natural Resources and Mines

Unit 207, 6 Babarra Street

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P: 07) 3554-8100

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MEDIA RELEASE: 19 January 2016

Palaszczuk government should ignore ‘irresponsible land clearing cheer squad’ and deliver on commitments to protect wildlife

Peak environment group the Queensland Conservation Council is urging the Palaszczuk government to get on with the job of re-strengthening Queensland’s land clearing laws as an urgent priority.

During the recent Queensland election, Labor made a major land clearing policy announcement, committing to restore stronger land clearing laws, establish a \$500M Land Restoration Fund, and to put conservation science and accountability back at the heart of the regulatory system.

The commitments on land clearing law reform included driving down tree clearing rates, legislating to end broadscale clearing of remnant (older, established) vegetation, and protecting high conservation value regrowing woodlands. The Land Restoration Fund will ensure areas are restored for biodiversity and carbon outcomes, and is designed to be a complementary incentive for retaining woodlands.

The Queensland Conservation Council has also admonished AgForce Queensland for continuing to attack sensible environmental law reform and for suggesting its members seek to circumvent incoming protections.

“Queensland has a land clearing crisis, but we now have a government with the mandate, the numbers and the political imperative to address it. Our message to Premier Palaszczuk and her majority administration is to get on with the job, effectively and expeditiously”, said Dr Tim Seelig who heads up the Queensland Conservation Council.

“Nearly 400,000 hectares of land was cleared in Queensland in the last year for which we have data; a rise of 33% statewide and almost a 50% increase in Great Barrier Reef areas. This also released 46 million tonnes of carbon stored in trees into the atmosphere

“We need swift and strong action to rein in clearing rates in Queensland, to stop the further mass destruction of wildlife and habitats, reduce threats to Reef water quality and reduce carbon emissions.

“Ending broadscale clearing of remnant woodlands, including so-called thinning as well as spurious high value agriculture permits, will make an important difference to wildlife and woodland protection.

“Bringing legal protections back to other ecologically significant woodlands, where habitats have been restored in regenerating areas, is also essential.

“These are the commitments that Labor made during the election, and they are largely the same protections that were in place before the LNP trashed Queensland’s land clearing laws.

“Those pre-2012 laws didn’t go far enough, but they did substantially reduce clearing rates and they also had no impact on farm productivity or agricultural output.

“The lines from AgForce about stronger land clearing laws being bad for farming are just plain wrong, and are part of the ongoing scaremongering effort amongst the small pro-land clearing cheer squad that AgForce and the Old Guard of the LNP represent. AgForce is being irresponsible in urging members to attempt to sidestep regulation.

“The Palaszczuk government should ignore the bullshit, get cracking with its law reform work, make sure it is comprehensive and effective, and is not undermined by AgForce and its devious tactics.”

For further comment contact:

Queensland Conservation Council Coordinator Dr Tim Seelig on

73(2)Irrelevant

Department of Natural Resources, Mines and Energy
MINISTER'S MEETING BRIEF – Dr Anthony Lynham MP

SUBJECT: Meeting with World Wildlife Fund

TIMING: Routine

MEETING: Date and time: Thursday 1 February 10:30 am
 Venue: 1 William Street
 Attendees: Damian McGreevy, World Wildlife Fund

Policy Advisor.....OK
 Chief of Staff OK

Approved / Not approved / Noted

Minister
Dated...../...../.....

RECOMMENDATION:

The suggested approach the Minister should take for this meeting is:

- a. **Note** the program of work put forward to meet the government's 2017 election commitments for vegetation management which may be referenced for the upcoming meeting with the World Wildlife Fund.

KEY ISSUES:

1. The Queensland Government is working to implement a program that will involve five key deliverables to bring the government's 2017 election commitments for vegetation management to fruition.
2. The first deliverable is to release a major update to the Vegetation Management Maps based upon the Queensland Herbarium's regional ecosystem mapping. An update of this scale has not been undertaken since 2013 and will ensure the vegetation management framework is using the best available science. The update will include changes to regional ecosystem, essential habitat and wetland mapping.
3. The second action is to introduce a Vegetation Management Amendment Bill 2018 (the Amendment Bill) to Parliament in the first Parliamentary sitting in 2018 to deliver on the government's vegetation management commitments. The Amendment Bill is substantially the same as the defeated 2016 Reinstatement Bill and aims to deliver a responsible vegetation management framework for Queensland.
4. The Amendment Bill will reinstate protections that were removed by the previous government in 2013 and introduce enhanced compliance measures to assist with enforcement of vegetation management laws. In particular, the Bill will:
 - Reinstate the protection of high-value regrowth vegetation on freehold and Indigenous land.
 - Remove provisions which allow clearing for high value agriculture and irrigated high value agriculture.
 - Broaden the protection of regrowth vegetation in watercourse areas (Category R) to the Burnett-Mary, Eastern Cape York and Fitzroy catchments, which will provide consistent protection to regrowth vegetation in all Great Barrier Reef catchments.
 - Re-introduce provisions into the *Water Act 2000* (Water Act) to regulate the removal of vegetation in a watercourse under a riverine protection permit.
5. Additionally, the Amendment Bill will provide enhanced compliance measures that will better enforce vegetation management laws and support the implementation of the self-assessable codes. Changes to the compliance framework will ensure the *Vegetation Management Act 1999* is contemporary and aligns with other natural resource legislation.
6. To minimise pre-emptive clearing, certain provisions in the Amendment Bill will apply retrospectively from the date of its introduction.
7. The third deliverable is the progression of the 2017 thinning and fodder self-assessable codes and a rolling program to revise and implement nine self-assessable codes throughout 2018. The revised thinning and fodder codes have been developed by the Department of Natural Resources, Mines and Energy based on scientific input from the Queensland Herbarium and has been the subject of extensive stakeholder consultation.

Author:	Recommended – ED:	Endorsed – DDG:
Name: Peter Jamieson Title/Business Group: Land Policy Telephone: 73(2)Irrelevant Date: 23 January 2018	Name: Lyall Hinrichsen Title/Business Group: Land Policy Telephone: 73(2)Irrelevant Date: 24 January 2018	Name: Nicole Buchanski Title/Business Group: Deputy Director-General Policy Telephone: 73(2)Irrelevant Date: 30 January 2018

8. The fourth area will be aligning the definition of high conservation value with high value regrowth vegetation. Options will be developed following examination of the mapping requirements and policy and legislative tools to support the 'High Conservation Values' classificatory approach as advocated by the High Conservation Resource Network.
9. The fifth deliverable is the development of a 'State of Native Vegetation Report'. This will establish a comprehensive monitoring programme for the vegetation management framework to better support evidence based policy into the future. This action will build upon the Statewide Landcover and Trees Study to provide up-to-date scientific information that will better enable government to evaluate and report on the effectiveness of the vegetation management framework.

BACKGROUND:

10. The latest clearing figures contained within the 2015-16 Statewide Landcover and Trees Study (SLATS report) show a total statewide woody vegetation clearing rate of approximately 395 000 hectares per year.
11. These increases highlight the impacts of the reinstatement of broadscale clearing in 2013 for agricultural purposes and clearing under the self-assessable vegetation clearing codes.
12. The clearing rate of 395 000 hectares per year represents an approximate increase of 33 per cent from the 2014-15 clearing rate of 296 000 hectares. It is the highest clearing rate since 2003-04. This also represents approximately 0.45 per cent of the total area of woody vegetation in Queensland (approximately 87 million hectares or about 50-51 per cent of the state).
13. In terms of remnant clearing, in 2015-16 clearing of remnant vegetation increased by approximately 21 per cent to 138 000 hectares from 114 000 hectares in 2014-15.
14. The proportion of total statewide clearing that is remnant vegetation has also increased, from 22 per cent in 2012-13, to 35 per cent of total statewide clearing in 2015-16.
15. In terms of non-remnant (i.e. regrowth) clearing, in 2015-16 the rate of non-remnant woody vegetation clearing was 257 000 hectares, an increase of 39 per cent from the 185 000 hectares cleared in 2014-15.
16. Clearing rates in Great Barrier Reef catchments have also increased from 109 000 hectares per year in 2014-15, to 158 000 hectares per year in the 2015-16 period which represents a 45 per cent increase.

BUSHLAND DESTRUCTION IN QUEENSLAND SINCE LAWS AXED

Key findings

The Queensland Government has promised “cessation of remnant clearing” and a ban on clearing for “High Value Agriculture” (HVA). “Remnant” means mature bushland that has either never been cleared or has been cleared but has regrown back to maturity. However, HVA approvals explain only 10% of the clearing of all regulated vegetation (remnant and regulated regrowth) in Queensland.

Most clearing of regulated vegetation in Queensland in the period 2013-16 was traced to self-assessable codes, particularly the so called thinning code which allows bulldozing of forests into paddocks with scattered trees, at unlimited scales, with no permit required. Any attempt to rein in clearing of regulated vegetation must either eliminate or greatly restrict clearing under these codes.

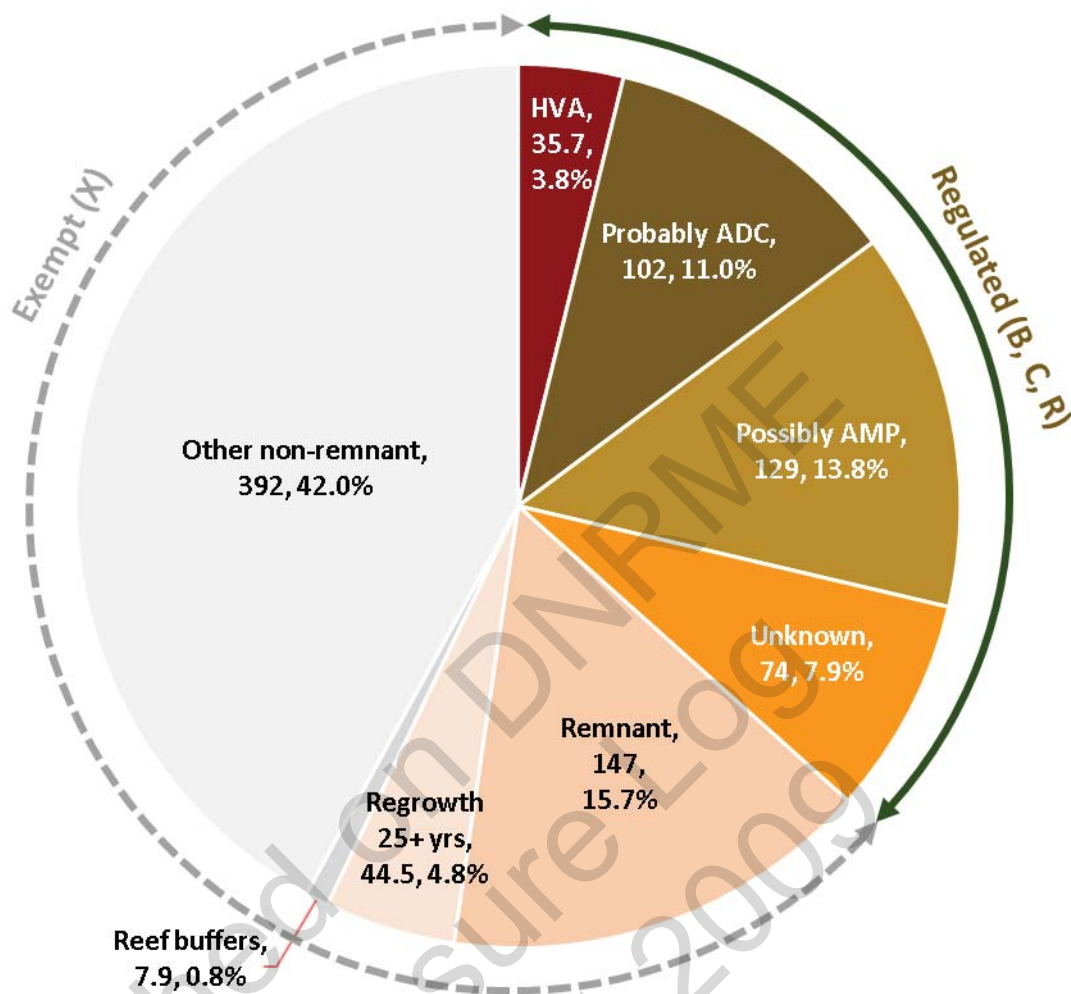
Large areas are also cleared without evident authorisation, indicating that much greater public transparency is needed for clearing authorisations and better enforcement to stop unauthorised clearing.

The clearing of remnant bushland has been greatly underestimated, because large areas of actual or regrown remnant are mapped exempt from clearing controls on regulatory maps, and because there is no process of detecting and protecting remnant bushland that has regrown. About 324,000 ha of mapped regulated remnant bushland was cleared from 2013 to 2016 according to state government maps. In fact, about 470,000 ha of actual remnant was cleared, nearly half a million hectares in three years and half of all clearing, because so much is exempt from clearing controls.

Far from being knee-high shrubs, the majority (67%) of exempt vegetation being cleared is either remnant, advanced regrowth more than 25 years old, or if younger, still has foliage cover that meets the international definition of a forest.

The government has promised to protect not only remnant but also, high conservation value non-remnant vegetation. Current definitions of “High Value Regrowth” are flawed and inadequate. This new commitment will require a major reappraisal of regrowth vegetation in Queensland, most of which is currently exempt and free to clear.

The major stumbling block for the government in meeting its election commitment is the vast area of the state that is either remnant or high conservation regrowth but which can be cleared under self-assessable codes or because it is currently mapped as exempt from any clearing controls.



Summary infographic: All areas cleared 2013 to 2016, whether of mapped regulated or exempt bushland.

For clearing of mapped **regulated** bushland, authorisation was either: a) High Value Agriculture development approvals (HVA); b) linked to and probably authorised by notification under Accepted Development Codes (ADC); c) within an area covered by an Area Management Plan (AMP) and thus, possibly authorised under such plans; or d) unknown.

Areas of mapped **exempt** bushland cleared were either: a) remnant as mapped by Qld Herbarium or as determined to be regrown remnant in this analysis; b) 25 years or older regrowth; c) Reef buffers within 50m of a Great Barrier Reef watercourse or wetland; or d) other non-remnant vegetation.

KEY: Label names are followed by, the areas cleared (1000 ha), and the percentage that represents of the total area cleared.

Key statistics

- Annual bulldozing of native bushland in Queensland rose from 92,000 ha in 2010-11 to 395,000 ha in 2015-16, following weakening of safeguards starting early in 2012 by the Newman government.
- Annual clearing of mature or remnant bushland jumped more than fivefold in that same five-year period, from just 26,000 ha in 2010-11 to 138,000 ha in 2015-16.
- In the three years after laws were axed in mid-2013, about 932,000 ha of bushland was bulldozed up to mid-2016. Of this total area cleared:
 - 35% was in Great Barrier Reef Catchments;
 - 35% (323,690 ha) was mapped as remnant on the Regulated Vegetation Map (category B)¹;
 - 1.9% (17,444 ha) was mapped as High Value Regrowth or Reef Watercourse Regrowth (categories C and R);
 - 63.4% (590,785 ha) was mapped exempt (X) or outside the scope of the Act, of which:
 - 25% (146,554 ha) was remnant according to the Queensland Herbarium's Regional Ecosystems v9, or had regrown to remnant status and so should be mapped as category B;
 - 7.5% (44,539 ha) was regrowth more than 25 years old and should be mapped as category C;
 - 1.3% (7,897 ha) was regrowth within 50m of a Great Barrier Reef watercourse or wetland that should be mapped as category R.
- Of all regulated vegetation (categories B, C & R) cleared from 2013 to 2016, up to 68% (231,394 ha) may have been self-assessable under Accepted Development Codes or Area Management Plans.
- Only about 10% was due to High Value Agriculture approvals.
- Of all notifications to clear under self-assessable codes for which areas were specified:
 - Thinning is the most prevalent, representing approx. 60% by area notified, all of which is for clearing of remnant bushland;
 - Fodder harvest represents about 17%, all of which is for clearing of remnant bushland
- From 1 up to 6.6 million ha of regulated vegetation almost all remnant bushland has been committed for future clearing (as of July 2016 to end Sept 2017) based on Accepted Development Code notifications or unexercised High Value Agriculture approvals. The large uncertainty is due to poor transparency.

¹ Note this also includes small areas mapped as category A, which is banned to all clearing. However, it most likely was not category A at the time it was cleared. Rather it would have been assigned to category A as a penalty for clearing it without authorisation.

History of bushland safeguards

In 2004, the *Vegetation Management Act* (VMA or “the Act” hereafter) in Queensland was greatly strengthened with a ban on “broadscale” clearing of “remnant” (mature or intact) vegetation (now mapped as category B on the Regulated Vegetation Map) which came into effect at the end of 2006. “Broadscale” is not defined in the Act, and is taken here to mean the clearing of large areas of bushland.

Then in 2009, the Act was further amended to regulate clearing of two types of regrowth: High Value Regrowth, which had been cleared previously, but had been regrowing since 1989 (now termed category C), or regrowth of any age within 50 metres of a Great Barrier Reef watercourse or wetland (now termed category R). Not all such regrowth was protected by these changes however. Rather clearing of these categories was permissible under a self-assessable code.

Clearing both of remnant and regrowth bushland declined sharply following these two initiatives, despite most regrowth still being exempt from clearing controls (Fig. 1).

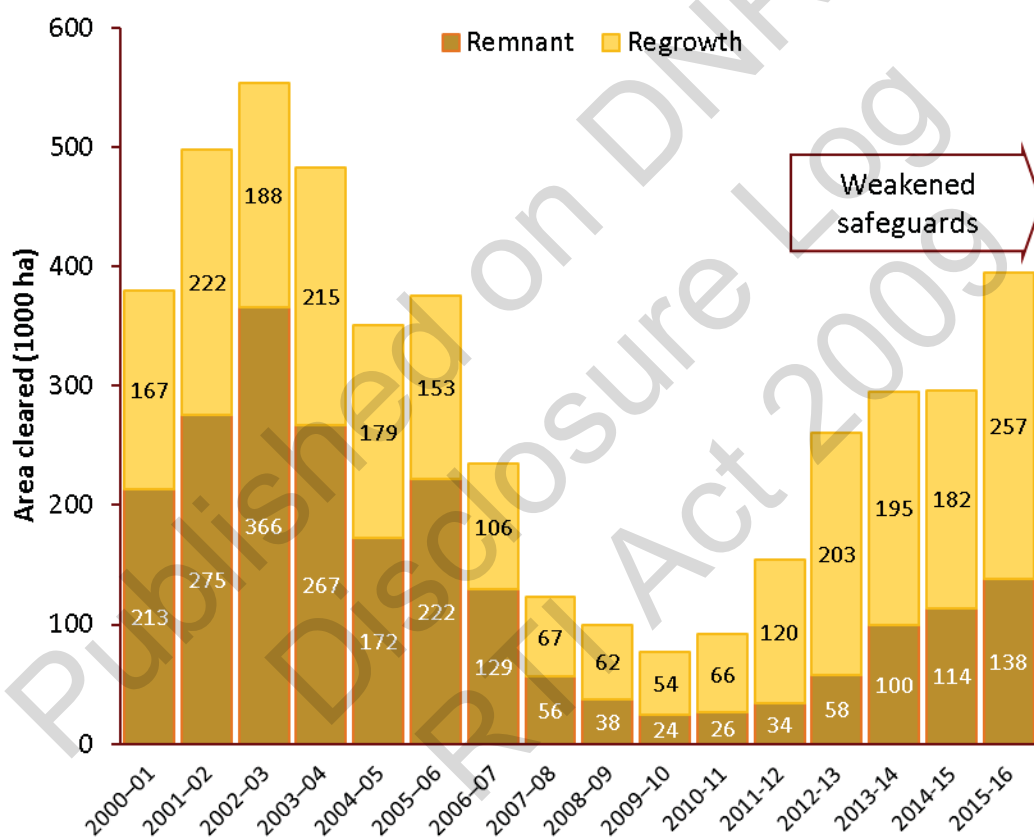


Fig. 1. Areas of bushland cleared in Queensland 200-2016 according to Queensland Government SLATS reports for 2013-14, 2014-15 and 2015-16.

Safeguards axed

In April 2012, the newly elected Newman LNP government (2012-2015) immediately set about weakening enforcement of the Act. The 2012-14 Queensland Government SLATS report released in 2015, after the fall of the Newman government, revealed that enforcement efforts had been intentionally cut:

“Clearing trends were also likely to be driven by a shift in clearing culture and perceptions brought about by the change in government in 2012. The change in landholder perceptions was supported by a new compliance approach, introduced soon after the change in government in 2012. The Department of Natural Resources and Mines shifted the priority to assisting landholders to undertake clearing rather than the previous priority on assessment and compliance.”²

The need for permits was removed for particular activities of thinning, fodder harvest and treatment of “encroachment”³ with new self-assessable clearing codes created under Area Management Plans (AMPs) which came to occupy the entire southwest of the state (Fig. 2).⁴

Then in mid-2013, the Newman government broke a pre-election promise that they would “retain the current level of statutory vegetation protection”⁵, and drastically weakened the Act itself. The key changes were:

- Ending the ban on broadscale clearing of remnant bushland by:
 - o Allowing broadscale clearing under new allowable uses of “High Value Agriculture” and “High Value Irrigated Agriculture”.
 - o Allowing clearing of remnant bushland under self-assessable codes without the need for a permit.
- Ending the 2009 regulation of clearing of High Value Regrowth (category C) on freehold properties.

² p.6 in Department of Natural Resources and Mines, 2015. *Vegetation clearing rates in Queensland: Supplementary report to the Statewide Landcover and Trees Study Report 2012–14*, November 2015

³ *Thinning* is the bulldozing of forests to turn them into paddocks with scattered trees, supposedly to correct unnatural “thickening”, a phenomenon for which no scientific evidence exists. Nor is any evidence currently required by law.

Fodder harvest is the bulldozing of mulga (native wattle) trees in the semi-arid southwest of the state, to feed livestock on their foliage, whilst also establishing more pasture grass cover.

Encroachment is the bulldozing of native trees growing in what are mapped as grasslands, despite this likely being a natural response to climate change.

⁴ <https://www.qld.gov.au/environment/land/vegetation/area-plans>

⁵ <http://www.parliament.qld.gov.au/documents/committees/SDIIC/2013/10-VegetationMgmtFramework/submissions/057.pdf>

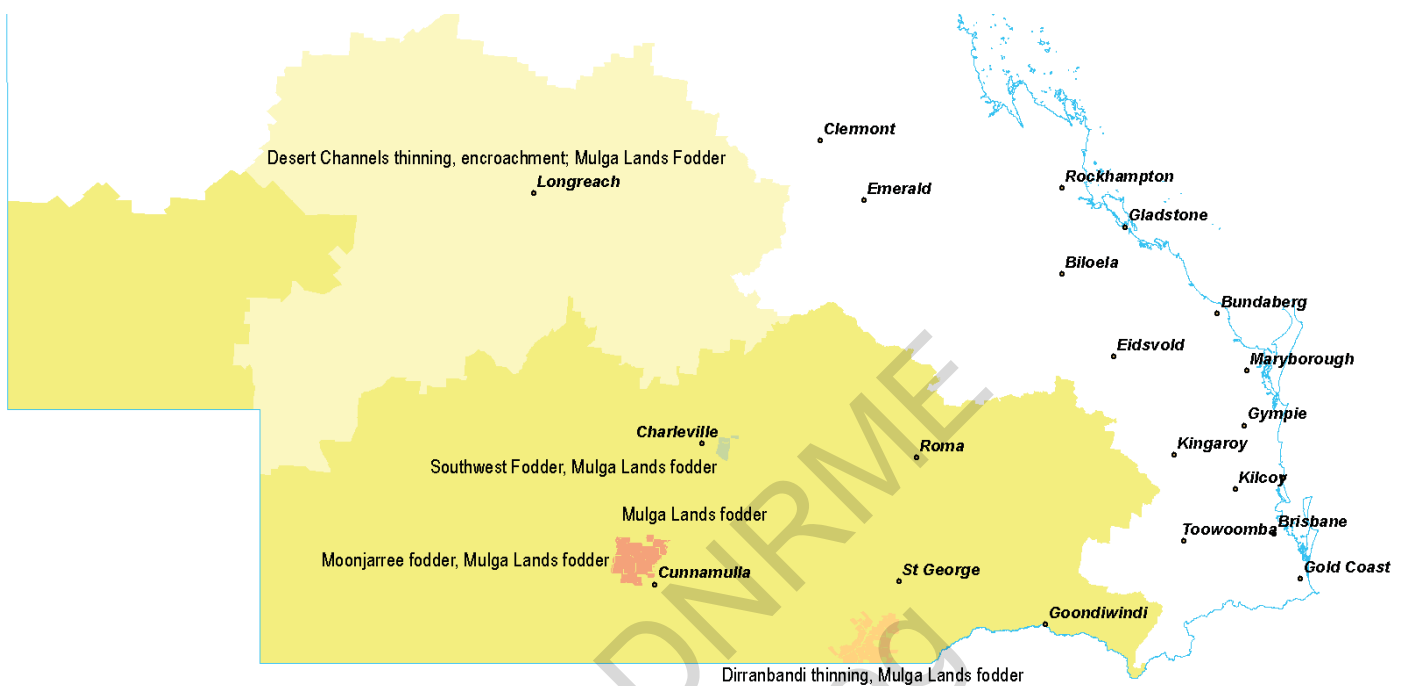


Fig. 2. Geographic scope of Area Management Plans established to allow self-assessable clearing for thinning, fodder harvest and encroachment prior to the VMA amendments of 2013.⁶

Bushland destruction resurges

Tree-clearing resurged dramatically (Fig. 1) following these changes, with the rise starting even before the laws were axed, likely due to reduced enforcement, and the creation of Area Management Plans allowing clearing of remnant bushland without permits over the entire southwest of the state as discussed above (Fig. 2).

The latest SLATS report for 2015-16 reveals that nearly all bulldozing of bushland in Queensland, over 90%, is simply to make pasture or provide fodder for livestock (Table 1).⁷

About this analysis

It has been claimed by industry interests that there is “nothing to see here” in these dramatic changes, that clearing is just “routine” agricultural management mostly controlling young regrowth, or harvesting mulga for stock feed, which is presumed to be unquestionably benign. Since regrowth is not accurately assessed by the Queensland Government, the claim has also been made that there are “more trees than ever” and that regrowth is outpacing destruction.

In this analysis, we:

- breakdown clearing by regulated vegetation categories;
- quantify bushland that has regrown to remnant;
- quantify how much exempt clearing is actually remnant or advanced regrowth;
- attempt to identify the regulatory authorities for clearing since mid-2013 when the law changed until mid-2016, the latest clearing data available; and
- quantify latent clearing yet to be exercised.

⁶ <https://www.qld.gov.au/environment/land/vegetation/area-plans>

⁷ <https://www.qld.gov.au/environment/land/vegetation/mapping/slats>

Clearing by regulatory categories and vegetation stages

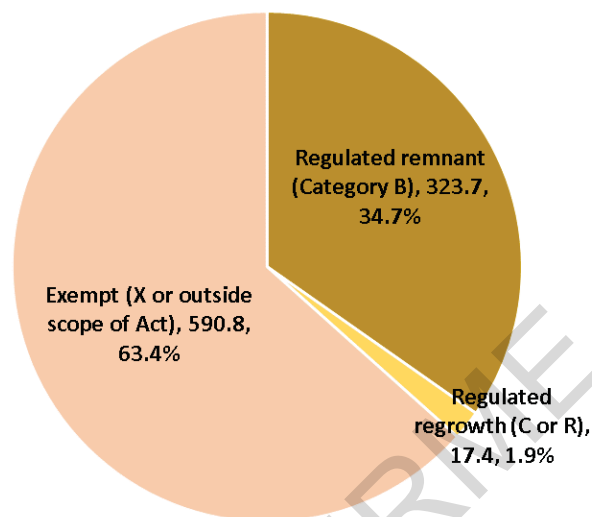


Fig. 3. Areas cleared 2013-16 by categories on the regulatory map as of Nov 2015.

KEY: The number after the label is the total area cleared (1000 ha), and the second number is the percentage of all clearing this represents.

About 35% of all clearing over the 2013-16 period was clearing of mapped regulated remnant (323,690 ha, Fig. 3).

A small fraction (~2%, 17,444 ha, Fig. 3) was of regulated regrowth in the two categories C and R.

The majority (63.4%, 590,785 ha, Fig. 3) of all clearing was exempt from all clearing controls.

The majority (60%, 356,242 ha, Fig. 4) of exempt clearing was woodland or forest above 11% foliage projective cover-equivalent to the Kyoto Protocol definition of “forest”⁸ and 25% (146,554 ha) was of actual or regrown remnant bushland (Fig. 4).

Only 38% of exempt clearing was of *sparse* regrowth (less than 11% foliage cover) (Fig. 4).

⁸ Scarth P, Armston J, Danaher T (2008), ‘On the Relationship between Crown Cover, Foliage Cover and Leaf Area Index’ Proceedings of the 14th Australasian Remote Sensing and Photogrammetry Conference, Darwin, Australia, October 2008.

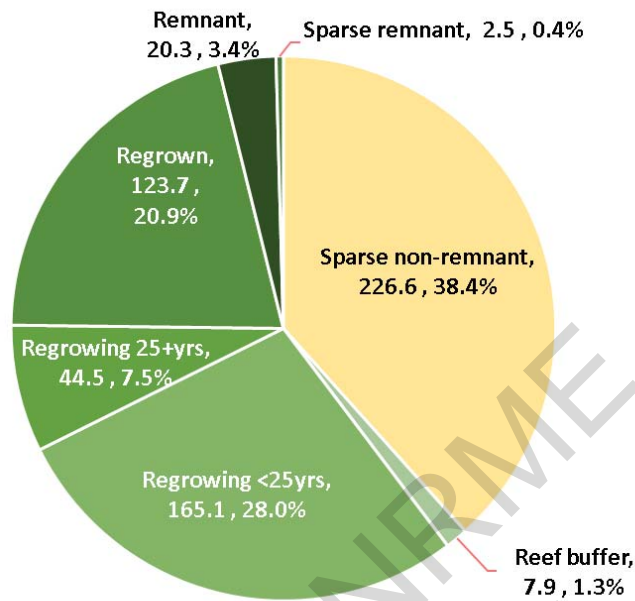


Fig. 4. Regrowth stage of bushland mapped exempt (X) in Nov 2015 (or outside the scope of the Act), and cleared from 2013 to 2016. *Reef buffer* means within 50 m of a regulated watercourse or wetland in a Great Barrier Reef catchment. Sparse means below 11% foliage cover. KEY as in Fig. 3.

Although the Queensland Government detects loss of bushland through the Statewide Land and Tree Study or SLATS, it does not conduct regular systematic assessments of how much bushland has regrown. Nor is any effort made to re-map regrowth that has regrown to remnant status from exempt to regulated remnant. It remains exempt from all clearing controls and large areas that have regrown to remnant are cleared as a result (125,000 ha Fig. 4).

We estimate approx. 3.9 million ha of forest and woodland in Queensland has regrown to the point it is remnant again, mostly in higher rainfall areas closer to the coast (“Regrown” in Figs 4-5). Almost all of this is mapped as exempt non-remnant on regulatory maps and so can be cleared again without restriction.

This oversight should be corrected as soon as possible.

In addition, 3.9% of exempt clearing was mapped as remnant in 2013 according to the Queensland Herbarium’s Regional Ecosystems version 9 map (22,858 ha, Fig. 4).

Of the non-remnant that was either sparse or had been regrowing less than 25 years, 7,897 ha was within 50 m of a Great Barrier Reef watercourse or wetland, but is mapped exempt when it should be mapped as category R (“Reef buffer” in Fig. 4).

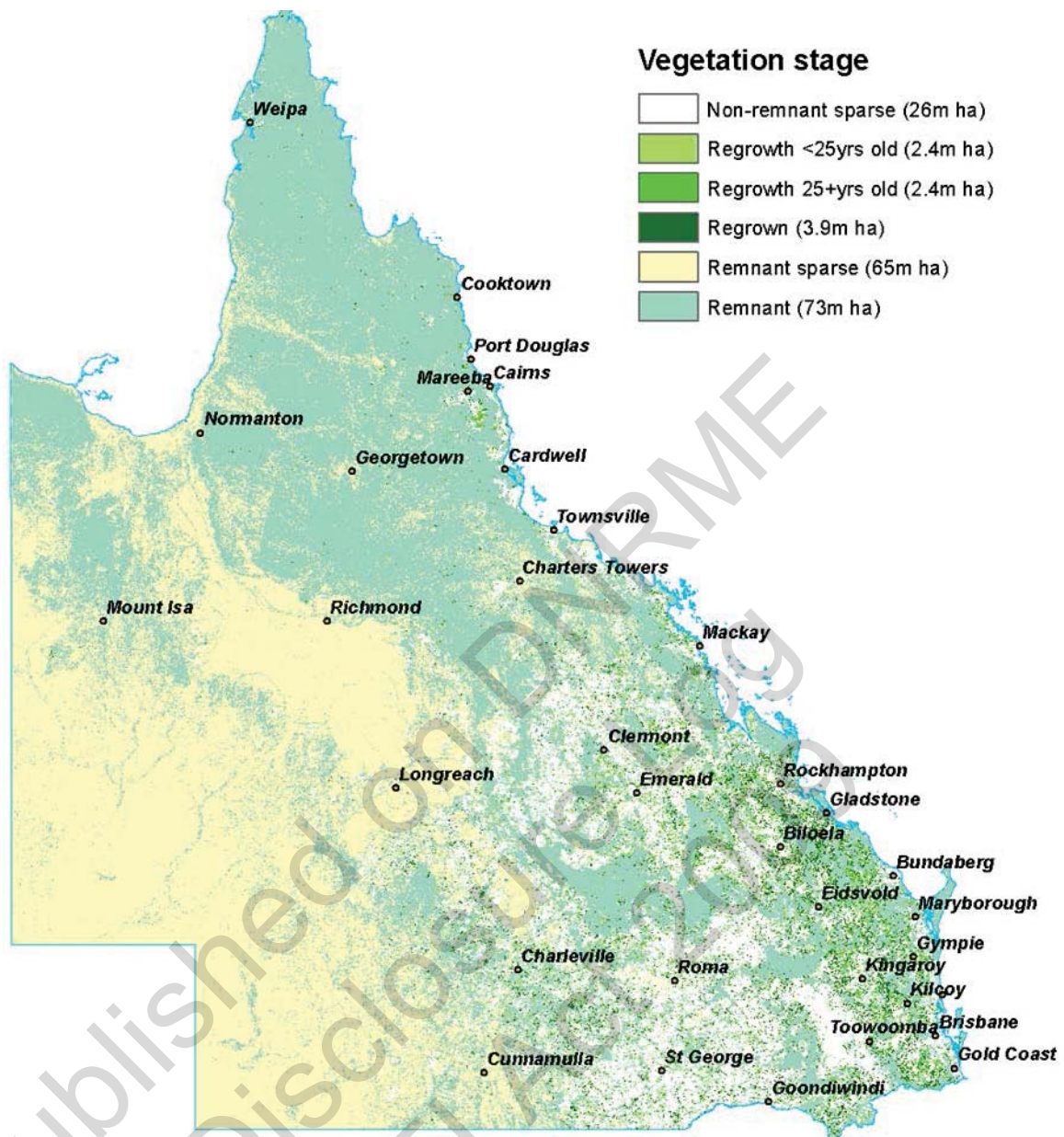


Fig. 5. Vegetation stages in Queensland as of mid-2013. “Sparse” means below 11% foliage projective cover, otherwise all categories are above that threshold. Regrown means regrowth that meets criteria to be considered remnant. See Methods for more details. Note that regrown areas are predominantly closer to the coast where rainfall is higher.

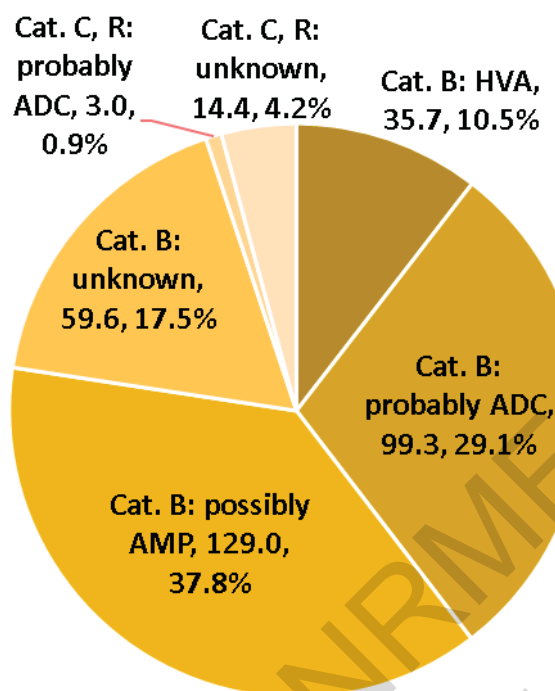


Fig. 6: Regulatory authority for clearing of regulated vegetation from 2013 to 2016, where known or implied. HVA means High Value Agriculture (including Irrigated) approvals; “Probably ADC” means overlaps a property with a notification under an Accepted Development Code; “Possibly AMP” means occurs in the areas covered by Areas Management Plans in Fig.2 and so may be self-assessed under those codes. Otherwise clearing is of unknown authority.

Regulatory authority for clearing

Authorities for clearing of vegetation are classified as follows.

1. **Regulated remnant category B.**⁹
 - 1.1. **High Value Agriculture** (HVA) (including Irrigated) approvals for clearing of Cat. B).
 - 1.2. **Probably Accepted Development Codes** (ADC, formerly called “Self-Assessable Code”)
 - 1.3. **Possibly Area Management Plans** (AMP) a parallel system of self-assessable codes (Fig. 2).
 - 1.4. **Unknown** other than above.
2. **Regulated Regrowth categories C or R.**
 - 2.1. **Probably ADC.**
 - 2.2. **Unknown** other than above.
3. **Exempt**
 - 3.1. **X** exempt on the regulated vegetation map, other than on a Property Map of Assessable Vegetation (PMAV).
 - 3.2. **X (PMAV)** exempt on a Property Map of Assessable Vegetation.
 - 3.3. **Outside** the jurisdiction of the Act (mostly national parks or state forests).

Clearing of regulated vegetation

Of a total of 931,919 ha cleared between mid-2013 and mid-2016 according to SLATS, 35% fell in Great Barrier Reef catchments and 36.6% (341,134 ha) was of regulated vegetation (Fig. 3).

Of this, clearing that overlapped an approval for High Value Agriculture represented only about 10% (35,726 ha, Fig. 6).

⁹ Note that some small areas of category A as of Nov 2015, were cleared, but this was assigned to category B because it was sure to have been category B at the time of clearing, then was found to be unauthorised and then remapped as category A — totally protected -by the regulator as an enforcement action.

Up to 68% (231,394 ha) of clearing of regulated vegetation was likely or possibly self-assessed comprising: notifications under Accepted Development Codes (29% remnant + 0.9% regrowth) or overlapping areas subject to Area Management Plans (37.8% Fig. 2) (Fig. 6).

Of this, as seen below, about 60% was probably for thinning, and 17% for fodder harvest the two dominant codes (Fig. 7). This means that up to 40% of regulated vegetation clearing was likely for thinning, and 11% for fodder harvest.

SLATS only ascribes 6.6% of all clearing to thinning (Table 1), but this is likely to greatly underestimate the true contribution from thinning as determined here by cross-comparing clearing with notifications made. SLATS should be doing the same to avoid under-reporting.

SLATS also misclassified clearing in High Value Agriculture approval areas as for “pasture” when it was surely for cropping.

Linkage to self-assessable code notifications was assumed and was not verified in detail in this analysis. It was sufficient for clearing to occur on a property for which a notification had been made sometime in the register from 2013 till mid-2016 to be flagged as *probably* ADC authorised. The exact timing of clearing in relation to timing of the notification was not checked as the register did not include areas or dates over that period. Likewise, it was sufficient for clearing of regulated remnant vegetation to occur anywhere within the areas covered by AMPs (other than that already ascribed to HVA or ADCs) (Fig. 2) to flag it as *possibly* AMP authorised.

No remnant clearing authorisation was evident for 22% (74,014 ha) of regulated vegetation clearing (mostly remnant, Fig. 6). This could include development approvals for other clearing than agricultural clearing. These are generally small but multitudinous and difficult to map because there is no central registry available to the public.

SLATS only identifies ~21,000 ha as due to mining, infrastructure and settlements (Table 1), which accounts for less than one third of the ~74,000 ha of “unknown authority” clearing of regulated vegetation (Fig. 6, Table 2). Hence most of the “unknown authority” clearing cannot be explained by development approvals for these purposes.

Note also that adding all three years of clearing 2013-2016 from SLATS reports (Fig. 1) gives a total of 986,000 ha. However, after excluding repeat clearing within the period, natural tree death including natural disasters, plantation harvest and clearing missed in earlier epochs (SLATS does not say which epoch), the total area unambiguously attributed to clearing within the period reduces to ~932,000 ha (Table 1).

Table 1. Breakdown of purpose of clearing 2013-16 according to SLATS.

Purpose	2013-14	2014-15	2015-16	TOTAL (ha)	TOTAL (%)
Pasture	244,927	257,039	334,512	836,478	90%
Thinning	11,158	15,523	34,669	61,350	6.6%
Crop	3,881	5,096	4,005	12,981	1.4%
Mine	4,919	2,902	2,833	10,654	1.1%
Infrastructure	4,061	1,148	1,511	6,719	0.7%
Settlement	1,200	1,625	911	3,737	0.4%
TOTAL	270,146	283,332	378,441	931,919	100%

Clearing of exempt vegetation

Of all clearing, 63.4% (590,785 ha) was exempt from *Vegetation Management Act* clearing controls, including a small area outside of the jurisdiction of the Act (1,759 ha) (Fig. 3, Table 2).

Most exempt clearing (80%) is exempt on a Property Map of Assessable Vegetation (PMAV, Table 2).

Despite being mapped exempt, as noted above, the majority of exempt clearing was clearing of regrowing forest or woodland (11%+ foliage cover) at the time it was cleared, and one quarter 25% was actual or likely remnant (Fig. 4).

Table 2. Breakdown of areas cleared 2013-2016 by vegetation category and presumed authority; and estimated area committed for clearing under approvals or self-assessable code notifications, but yet to be exercised as of mid-2016. See Methods for details. ADC means Accepted Development Code self-assessed clearing. AMP means self-assessed clearing under Area Management Plans shown in Fig. 2. PMAV means Property Map of Assessable Vegetation.

category	Authority	Cleared 2013-16 (ha)	Yet to be exercised
Regulated remnant (B)	High Value Agriculture	35,726	80,159
	Probably ADC	99,316	903,521-6,541,090
	Possibly AMP	129,028	
	Unknown	59,619	
Regulated regrowth (Cor R)	Probably ADC	3,049	7,416-17,601
	Unknown	14,395	
Exempt (X)	Not PMAV	113,458	
	PMAV	475,628	
Outside Act		1,699	
TOTAL		931,919	991,096-6,638,849

1m – 6.6 m ha of bushland destruction in the pipeline

As of end of October 2017, 115,586 ha of remnant bushland had been approved for bulldozing under 67 High Value Agriculture approvals, primarily for forage or forage crops like sorghum.¹⁰

As of mid-2016, 35,427 ha had been cleared, leaving 80,159 ha yet to be cleared (Table 2). At time of writing in Jan 2018, considerably more than 35,427 ha is known to have been cleared in the two largest approval areas of Strathmore in the Gulf region and Olive Vale on Cape York, but we will not be able to quantify how much more until SLATS data are released for 2016-17.

Some local governments can approve clearing for agriculture, which goes unrecorded on the central register. Also there are sure to be more development approvals for urban, industrial and mining clearing than are shown here, but which in the absence of central registries and maps, are subsumed in the “Unknown authority” categories (Table 2).

These figures are dwarfed however by the areas notified for self-assessable clearing under Accepted Development Codes (ADC), which add up to nearly 1 million ha of notifications for which areas of intended clearing have been made public, but which could be as much as 6.6 million ha after including notifications from 2013 to July 2016, where the areas of intended clearing were not made public, and in which cases, the entire area of regulated vegetation on the property was assumed to be at risk (Table 1). This does not include any notifications that may have been made under AMPs, for which no public register exists.

The dominant ADCs by area are for thinning and fodder harvest, representing 60% and 17% respectively of all notified ADC areas from 20 July 2016 to 28 Sept 2017 (Table 2, Fig. 2). These are included under “yet to be exercised” in Table 1. Notifications have increased exponentially over this 14 month period with a peak of over 200,000 ha notified in July 2017 under all codes (Fig.7).

¹⁰ Information provided by the Department of Natural Resources and Mines

Why thinning should be removed as an allowable purpose

Under the thinning code made law by the former Newman government, a remnant or mature forest can legally be converted into a paddock leaving scattered trees or thin lines of trees behind, on the pretence that a problem of anthropogenic “thickening” is being corrected (see Fig. 8 for a graphic example of legal “thinning” below).

This one code represents 60% of all areas notified for clearing in the period July 2016- Sept 2017 and on that basis is estimated to account for up to 40% of all remnant clearing.

Strangely, areas bulldozed under this code are still considered to be remnant vegetation, even though it may be recorded as cleared by SLATS.

There is no requirement to show that any actual thickening has taken place by empirical comparison with “floristic composition and range of densities typical of the regional ecosystem surrounding that locality”, as the Act specifies¹¹. Nor is there any requirement to show that any thickening, even if genuine, has been caused by past mismanagement (mostly, inappropriate fire and livestock grazing). Studies of changes in tree densities in Queensland have failed to find any impact of management, indicating there is no anthropogenic problem to be corrected in the first place.¹² Even assuming there might be instances of genuine anthropogenic thickening, there is no requirement to show that it is ecologically undesirable and therefore in need of correction. Scientific evidence suggests the opposite. Dense thickets of trees, whether anthropogenic or not, are found to be more beneficial for biodiversity than “thinned” forests, and thinning them is harmful.¹³ None of these concerns entered into the formulation of current legislation or codes by the former Newman government, codes that remain in force at time of writing.

There is no cap or limitation on how much can be “thinned”. Entire properties of thousands of hectares have been notified and entirely bulldozed under this code (see example in Fig. 8). The code is supposed to be confined in theory to a subset of regional ecosystems. Amazingly, this list includes endangered and of-concern regional ecosystems, but the code then also allows landholders to alter the regional ecosystem map “on the fly” based on their own assessment, turning regional ecosystems not on the thinning list into ones that are, with no requirement for any expert to check their decisions. This has actually happened in practice.

Bulldozing forests and woodlands to turn them into open paddocks with scattered trees is not a valid or defensible means of redressing any genuine thickening that may have been caused by past grazing or fire mismanagement. If grazing or fire mismanagement has caused genuine change in forest structure, then the only legitimate remedy is to correct the management, not to bulldoze the forest.

There is no question that the thinning code lacks scientific support and represents a gaping loophole in the legislation which allows broadscale clearing by stealth for pasture, in defiance of the 2006 ban on such clearing, on a pretence of doing ecological “good”.

It must be removed as an allowable purpose.

¹¹ “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” *Vegetation Management Act*

¹² Fensham, R.J., Fairfax, R.J. and Archer, S.R., 2005. Rainfall, land use and woody vegetation cover change in semi-arid Australian savanna. *Journal of Ecology*, 93(3), pp.596-606; Witt, G., Luly, J. and Fairfax, R.J., 2006. How the west was once: vegetation change in south-west Queensland from 1930 to 1995. *Journal of Biogeography*, 33(9), pp.1585-1596; Silcock, J.L., Witt, G.B. and Fensham, R.J., 2016. A 150-year fire history of mulga (*Acacia aneura* F. Muell. ex Benth.) dominated vegetation in semiarid Queensland, Australia. *The Rangeland Journal*, 38(4), pp.391-415.

¹³ Thompson, W.A. and Eldridge, D.J., 2005. Plant cover and composition in relation to density of *Callitris glaucophylla* (white cypress pine) along a rainfall gradient in eastern Australia. *Australian Journal of Botany*, 53(6), pp.545-554.

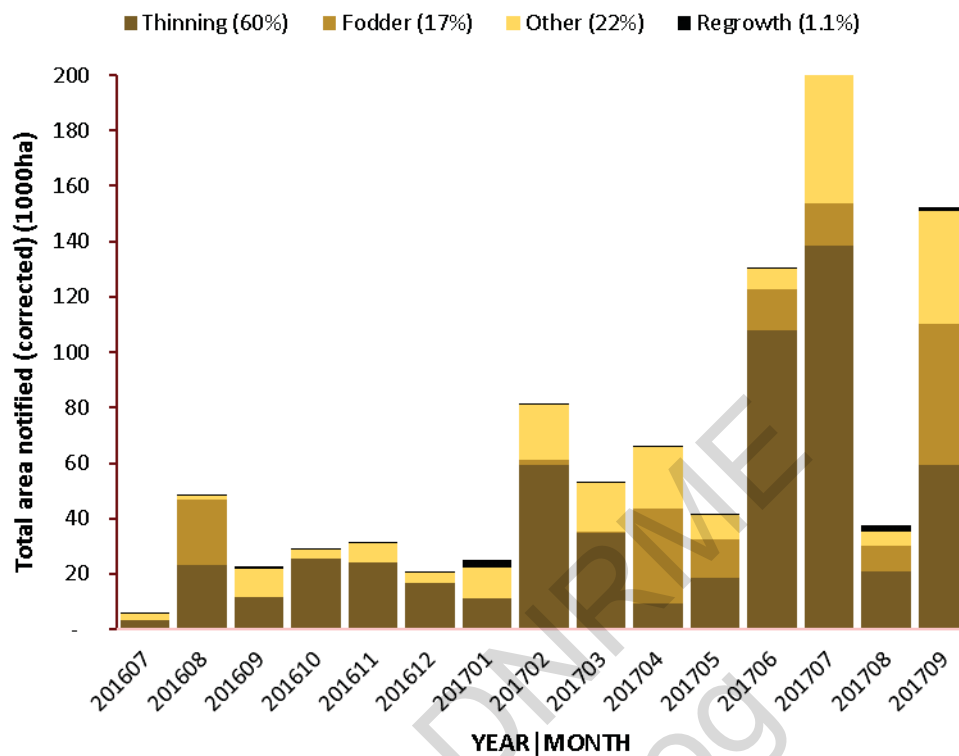


Fig. 7. Areas notified under different Accepted Development Codes by month from 20/7/16 to 30/9/17. Note that the totals for 07/2016 (ie. July 2016) are only for the 11 days out of that month after 20/7/16, and do not represent a whole month of records. See Methods for details of corrections for double counting.

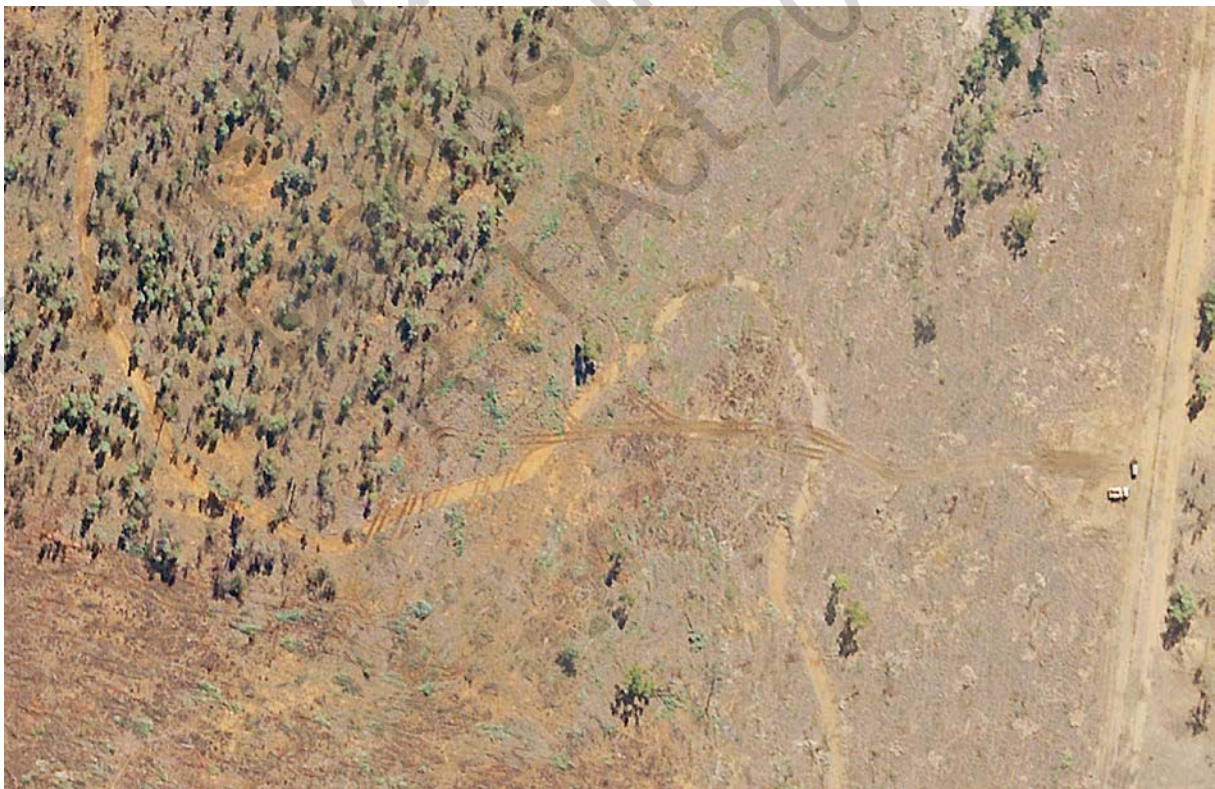


Fig. 8. Legal “thinning” of remnant ironbark forest near Alpha, central Queensland, 2015-16. The original forest is almost totally cleared with only a few trees left behind.

DISCUSSION

The present government promised in the 2017 election to (*inter alia*):¹⁴

- Introduce legislation to protect remnant and high conservation value regrowth vegetation;
- Cease remnant clearing;
- Remove the provision to allow High Value Agriculture clearing of remnant vegetation;
- Continue self-assessable codes (for fodder harvest in particular) as long as they are providing appropriate protections and are low ecological risk

Ceasing remnant clearing

The results of this analysis suggest that ending remnant clearing as promised will not be possible only by ending High Value Agriculture clearing of remnant vegetation since this only represents about 10% of clearing of regulated vegetation, and it accounts for an even smaller fraction of the clearing in the pipeline that we know about.

The largest source of remnant clearing is self-assessed clearing which does not require a permit, and among these, thinning and fodder harvest are the most prevalent.

There is no scientific justification for thinning as explained above. First, there is no evidence that supposed thickening has taken place as a result of past mis-management. Second, even it had taken place, the solution is surely to change management, not bulldoze forests into open paddocks.

Likewise fodder harvest, knocking down mulga trees to feed stock during drought, should not require bulldozing entire tracts of trees. Rather lopping of branches can meet stock requirements during droughts without any need to knock down whole trees, killing all the wildlife there.

The scope of all self-assessed clearing also needs to be capped to ensure “low ecological risk”. At present the areas that can be cleared this way can and do encompass entire properties.

The scale of self-assessed clearing under Area Management Plans is a major unknown because transparency via notifications on public register is absent. These legacy plans need to be eliminated since they duplicate and sometimes clash with Accepted Development codes.

The other disturbing discovery is just how much clearing of remnant bushland which is supposed to be banned and which is promised by the government to cease entirely is going on without readily available evidence of an authority. A major increase in transparency and public accountability is needed, making sure that all clearing authorities are publicly notified on a single central register. At the moment, there is no single central register of authorities for clearing. To the extent that these large areas of uncertain authority may be unauthorised, there will also need to be major effort put into enforcement.

The missing remnant

The other major stumbling block for the Queensland Government’s election commitment is the bushland that is mapped as exempt on the regulatory map, but is either mapped as remnant by the Queensland Herbarium¹⁵ or has regrown to remnant (this analysis).

Large areas are erroneously mapped exempt and as shown above represent 25% of all exempt clearing (Fig. 4). The clearing of actual (22,858 ha) and regrown remnant (123,696 ha) that is mapped Exempt (X) on the regulatory map (Fig. 4), is nearly half (45.3%) as much again as the 323,690 ha of regulated remnant (B) cleared from 2013 to 2016 (Fig. 3). The real area of remnant being cleared is therefore 470,244 ha, which represents half of all clearing.

¹⁴ Queensland Labor Party 2017 *Saving Habitat, Protecting Wildlife and Restoring Land: Ending broadscale tree-clearing in Queensland (again)* Election policy and letter to WWF from the Party.

¹⁵ Regional Ecosystems Version 9 current for 2013.

Government has no process for taking stock of how much regrowth has regrown to remnant. We estimate here that approx. 3.9 million ha of regrowth has regrown to the point it now meets this definition of remnant, but almost all of which continues to be mapped as exempt.

If the Government is serious about ceasing the clearing of actual remnant, then this error needs to be corrected, and regrown or exempt remnant recognised and protected.

The Act should be amended to ensure mandatory annual updating of the Regulated Vegetation Map, including all property maps.

The PMAV loophole

Currently the Department administering the Act (Natural Resources) must provide a certified copy of the regulatory map for a property if the landholder requests it, and may correct the regulatory map if the landholder presents evidence to show it is incorrect. But the Department has limited powers under the Act to later alter certified property maps (Property Maps of Assessable Vegetation or PMAVs) once issued, which may “freeze” exemptions that are inappropriate, such as when regrowth is found to be high conservation value, or regrows back to maturity or remnant condition.

The Government however, can and must make sweeping changes to PMAVs through legislation. For example, the Newman Government in 2013 removed regulated High Value Regrowth (category C) from all freehold properties and replaced all the PMAVs to re-classify such High Value Regrowth as X (exempt), without landholder consent or consultation.

PMAVs need to be returned to their legitimate role as a ground-truthed corrections to the Regulated Vegetation Map, whether requested by the landholder or initiated by the Department. PMAVs should always be subject to further revision at any time as required to meet the purposes of the Act and in particular, when exempt regrowth regrows to the point it is remnant again or if High Conservation Value Regrowth reaches age thresholds to be counted as such.

High Conservation Value Regrowth

The government has made an election promise to “introduce legislation to protect remnant and high conservation value non-remnant vegetation” where “‘High conservation value’ will be defined consistently with the international definition advocated by the High Conservation Resource Network, including (but not limited to) endangered vegetation species and communities, vegetation in reef catchments, riparian areas, threatened species habitat and areas where landscape integrity is at risk.”

This is quite a significant expansion beyond the regulated regrowth categories of High Value Regrowth (now category C) and regrowth in Great Barrier Reef watercourse or wetland buffers (now category R) as originally conceived by the Bligh government in 2009.

The three major problems with the current definition of High Value Regrowth are that a) it is now confined only to leasehold land (since it was removed from freehold land by the Newman government in 2013), b) it is based on a threshold date (31/12/1989) rather than a threshold age and c) involves no other defined conservation values such as habitat value for threatened species or ecosystem recovery, value as a corridor or riparian buffer or whether it is on land vulnerable to degradation. These details are buried in codes that govern self-assessed clearing of regulated regrowth. Great Barrier Reef watercourse and wetland regrowth (category R) was not constrained by an age or date threshold, but was limited by the fact that it was restricted to northern and central Great Barrier Reef catchments. In 2016, the Palaszczuk government attempted to restore category C back to freehold land and to expand category R to all Great Barrier Reef watercourses, but was unsuccessful.

In meeting the election promise, the present government will have to move beyond the limits of these categories. High conservation value regrowth needs to be redefined and explicitly mapped as a) on any tenure, b) based on a threshold age (or where landscape integrity is at risk, as for category R, no threshold age) and c) high conservation value as outlined in the promise, and elaborated further below.

The use of a threshold date as at present means that High Value Regrowth will inevitably disappear as it regrows back to remnant. Any other regrowth subsequently attaining or exceeding the same age of 20 years that High Value Regrowth had when it was first defined in 2009, will be perversely excluded from protection under the current definition.

This is poor policy. In contrast, for example, clearing of endangered brigalow regrowth triggers referral for approval under Commonwealth biodiversity law if the brigalow reaches a threshold age of 15 years.¹⁶ Using threshold ages means that maps must be revised regularly to capture new regrowth which has attained the threshold age and also meets the conservation value criteria.

We propose that high conservation value regrowth be defined as:

- 1) any regrowth vegetation of 15 years or more in age on any land tenure that is important to the maintenance and conservation of biodiversity including:
 - a. at risk, rare, threatened or endangered ecosystems; or
 - b. habitat necessary for recovery of threatened species to the point they are no longer threatened including:
 - i. dispersal corridors* including those needed for successful adaptation under projected climate change, or
 - ii. refugia* needed for successful adaptation under projected climate change, or
 - iii. centres* of endemism.
- 2) any regrowth vegetation of any age on any tenure where landscape integrity is at risk, including:
 - a. within 100m of any watercourse, wetland, lake or spring, or
 - b. within 1km of a wild or pristine river, or
 - c. on slopes above 10%, or
 - d. on fragile or erodible soils*, or
 - e. in areas prone to salinity or rising water tables*, or
 - f. in areas prone to mass movement by gravity of soil or rock*, or
 - g. in an area that would result in declining water quality*, or
 - h. in an area within a catchment that is important to the health of the Great Barrier Reef or the Murray Darling Basin.

The criteria marked * above are already listed in the Act under section 19G *Particular criteria for declaration*.

METHODS

Area Management Plans

Boundaries were mapped using the property descriptions or local government areas identified as the scope of particular AMPs.¹⁷ Boundaries were obtained from the *Digital Cadastral Database* (DCDB) for November 2016, and *Local government area boundaries – Queensland*.¹⁸ All boundaries were combined with some polygons identified as overlapping more than one AMP (Fig. 2).

Clearing by regulatory categories

We combined SLATS¹⁹ raster files for the years 2013-14, 2014-15 and 2015-16, excluding the categories: 6 Timber Plantation, 8 Missed clearing in previous era, 10 Natural disaster damage, and 11 Natural tree death. This left only active clearing of natural, native vegetation in the period in question. Double counting was removed as follows. If clearing occurred in one year and a later year, the clearing was ascribed only to the earlier year, ignoring later

¹⁶ <http://www.environment.gov.au/system/files/resources/43e7adb3-247e-4285-9a2e-386be94c9523/files/brigalow-regrowth.pdf>

¹⁷ <https://www.qld.gov.au/environment/land/vegetation/area-plans>

¹⁸ <http://qldspatial.information.qld.gov.au/catalogue/custom/detail.page?fid={3F3DBD69-647B-4833-B0A5-CC43D5E70699}>

¹⁹ <http://qldspatial.information.qld.gov.au/catalogue/custom/detail.page?fid={04F163B3-F898-47E0-9411-BBCDEBC8D592}>

repeat clearing. We intersected this combination SLATS raster with the *Regulated Vegetation Map* as current in 24/6/2015 after conversion of the latter to 30x30m raster aligned or “snapped” to SLATS.

Clearing by vegetation stages

We created a six-level classification for vegetation stages combining four spatial data layers: Foliage projective cover (FPC) 2013, Regional Ecosystems (RE) v9, SLATS 1988-2013 combined and Land use (QLUMP) 2014 with criteria as shown in Table 3. We converted all spatial layers to 30 x 30 m grids aligned to SLATS and combined them using raster arithmetic to produce the raster shown in Fig. 5.

The thresholds of FPC for regrowth to be considered remnant were derived as follows. We constructed histograms of non-zero FPC values for the remnant portions of 29 categories of *Dominant Broad Vegetation Groups (2M scale) version 10* (excluding grasslands and marshes), by intersecting these two layers after conversion to the same 30 x 30 m grid. We used the FPC value representing the 25th percentile of the histogram as the threshold for regrowth to be considered equivalent to remnant, provided it was also more than 25 years old (had not been cleared previously in the entire SLATS record 1988-2013) and in a “natural” land use (Table 4).

We intersected the final six level vegetation stage raster with areas mapped as cleared by SLATS from 2013-2016 after conversion to a 30x30m rasters aligned to SLATS, and confined or masked to include only the Exempt or Outside pixels from the *Regulated Vegetation Map* for 2015 as described above.

From within the categories of exempt, non-remnant sparse vegetation, or regrowth less than 25 years old (Table 3), we extracted those pixels which were within 50 m of a Great Barrier Reef watercourse or wetland using the 2015 regulatory maps for watercourse and wetlands, and totalled those areas separately.

Table 3. Six-level classification for vegetation stages.

Description	Source spatial data layers ²⁰			
	FPC 2013	RE v9	SLATS 1988-2013	QLUMP 2014
Sparse non-remnant	<11%	Non-remnant	disregard	OR not Natural, non remnant
Regrowing <25 yr old	11%+	Non-remnant	Cleared	AND Natural ²¹
Regrowing 25+ yr old	11%+	Non-remnant	Not detected	AND Natural
Regrown	Above thresholds (Table 3)	Non-remnant	Not detected	AND Natural
Remnant	11%+	Remnant	disregard	disregard
Sparse remnant	<11%	Remnant	disregard	disregard

²⁰ FPC is Foliage Projective Cover, RE is Regional Ecosystems of Queensland, SLATS is Statewide Land and Tree Study, QLUMP is Queensland Land Use Mapping Program.

²¹ Primary levels of “Conservation and natural environments” or “Production from relatively natural environments” or “Water” the last only with the secondary level of “Marsh or wetland”

Table 4. Thresholds of Foliage Projective Cover (FPC) specific to dominant Broad Veg Groups version 10, for regrowth to be considered remnant, and areas that meet criteria.

DBVG 2M	FPC 25th percentile (%)	DESCRIPTION
1	64	Complex mesophyll to notophyll vine forests of the Wet Tropics bioregion.
2	60	Complex to simple, semi-deciduous mesophyll to notophyll vine forest, sometimes with Araucaria cunninghamii (hoop pine).
3	43	Notophyll vine forest/ thicker (sometimes with sclerophyll and/or Araucarian emergents) on coastal dunes and sandmasses.
4	41	Notophyll and mesophyll vine forest with feather or fan palms on alluvia, along streamlines and in swamps on ranges or within coastal sandmasses.
5	61	Notophyll to microphyll vine forests, frequently with Araucaria spp. or Agathis spp. (kauri pines)
6	67	Notophyll vine forest and microphyll fern forest to thicket on high peaks and plateaus.
7	36	Semi-evergreen to deciduous microphyll vine thicket.
8	57	Wet eucalypt tall open forest on uplands and alluvia.
9	28	Moist to dry eucalypt open forests to woodlands usually on coastal lowlands and ranges.
10	36	Corymbia citriodora (spotted gum) dominated open forests to woodlands on undulating to hilly terrain.
11	17	Moist to dry eucalypt open forests to woodlands mainly on basalt areas (land zone 8).
12	33	Dry eucalypt woodlands to open woodlands, mostly on shallow soils in hilly terrain (mainly on sandstone and weathered rocks, land zones 7 and 10).
13	16	Dry to moist eucalypt woodlands and open forests, mainly on undulating to hilly terrain of mainly metamorphic and acid igneous rocks, Land zones 11 and 12).
14	24	Woodlands/tall woodlands dominated by Eucalyptus tetrodonta (Darwin stringybark) (or E. megasepala), and/or Corymbia nesophila (Melville Island bloodwood) and/or E. phoenicea (scarlet gum).
15	38	Temperate eucalypt woodlands.
16	14	Eucalyptus spp. dominated open forest and woodlands drainage lines and alluvial plains.
17	18	Eucalyptus populnea (poplar box) or E. melanophloia (silver-leaved ironbark) (or E. whitei (White's ironbark)) dry woodlands to open woodlands on sandplains or depositional plains.
18	19	Dry eucalypt woodlands to open woodlands primarily on sandplains or depositional plains.
19	15	Eucalyptus spp. (E. leucophloia (snappy gum), E. leucophylla (Cloncurry box), E. persistens, E. normantonensis (Normanton box)) low open woodlands often with Triodia spp. dominated ground layer.
20	27	Woodlands to open forests dominated by Callitris glaucophylla (white cypress pine) or C. intratropica (coast cypress pine) (land zones 3, 5, 10, 12) (BRB, DEU, EIU, MUL)
21	17	Melaleuca spp. dry woodlands to open woodlands on sandplains or depositional plains.
22	23	Melaleuca spp. on seasonally inundated open forests and woodlands of lowland coastal swamps and fringing lines. (palustrine wetlands).
23	12	Acacia aneura (mulga) dominated associations on red earth plains, sandplains or residuals.
24	14	Acacia spp. on residuals. Species include A. clivicola, A. sibirica, A. shirleyi (lancewood), A. microserma (bowyacka), A. catenulata (bendee), Acacia rhodoxylon (ringy rosewood).
25	21	Acacia harpophylla (brigalow) sometimes with Casuarina cristata (belah) open forests to woodlands on heavy clay soils.
26	13	Acacia cambagei (gidgee) / A. georginae (Georgina gidgee) / A. argyrodendron (blackwood) dominated associations.
27	14	Mixed species woodlands - open woodlands (Atalaya hemiglauca (whitewood), Lysiphillum spp., Acacia tephрина (boree), wooded downs.
28	29	Open forests to open woodlands in coastal locations. Dominant species such as Casuarina spp., Corymbia spp., Allocasuarina spp. (she-oak), Acacia spp., Lophostemon suaveolens (swamp box), Asteromyrtus spp., Neofabricia myrtifolia.
29	29	Heathlands and associated scrubs and shrublands on coastal dunefields and inland/ montane locations.
30-35	excluded	Grasslands, forblands, wetlands, mangroves and marshes.

Regulatory authority for clearing

We created a 12 level raster map for the major types of authorisation of clearing as follows to enable classification of areas cleared 2013-2016. As above, this raster was also 30m pixel size, aligned to SLATS as described above.

1. Regulated remnant category B²²

- 1.1. **High Value Agriculture (HVA)** (including Irrigated HVA) approvals for clearing. The approved areas were converted into shapefiles from tables of coordinates defining the areas approved for clearing in approvals documentation as posted on the *State Assessment and Referral Agency* public register,²³ or as provided by the Queensland Government Department of Natural Resources. Resulting polygons were checked against publicized paper maps and corrected where necessary.
- 1.2. **Probably Accepted Development Codes (ADC)**, formerly called “Self-Assessable Code”). Under changes to the Act made in 2013, landholders are required to give prior notice to the Department of Natural Resources and then follow the applicable code governing clearing of regulated vegetation for allowed purposes. Notifications did not include maps of areas proposed for clearing nor areas intended to be cleared. Only property descriptors and codes being followed are provided in the online register notified from 2013 up until 20/7/2016.²⁴ The register in this earlier period also contained many errors, typos and lacked information which would enable the notification to be linked to a particular lot. For those with a readable lot on plan descriptor, and excluding notifications for clearing of regrowth (see below), weeds or environmental clearing, we extracted boundaries for those lots on plans from successive downloads of the *Queensland Digital Cadastral Database (DCDB)* for the dates 14/5/13, 14/12/14, 20/12/15 and 27/11/16. If a lot could not be found in one version it was sought in a later. This was necessary because the DCDB is dynamic, with lots being reconfigured split or renamed. We then combined all lots because, for example, a lot might have been notified earlier that was later notified again under another changed lot descriptor. The combined property boundary was clipped to only remnant category B according to the regulatory map as it was on 24/6/2015. The register contains no specified date for the notification and so we did not attempt to determine whether the clearing observed preceded or succeeded the notification. Also we did not attempt to identify whether the regional ecosystems being cleared were those allowable under the code, a complex undertaking and in any case moot because some of the codes allow landholders to change the regional ecosystem map “on the fly” and without approval. It was sufficient for any clearing over the 2013-16 to occur on category B on a property for which notification was given at anytime over the 2013-16 period to be deemed *probably* authorised under an ADC.
- 1.3. **Possibly Area Management Plans.** AMPs provide a parallel system of self-assessable codes (Fig. 2 and see above). However, since there is no public register of notifications under these codes, it was only possible to identify clearing as possibly authorised under an AMP if it fell within the AMP areas (Fig. 2). Hence any and all clearing of category B over the 2013-16 period within an AMP boundary other than that specifically authorised under HVAs or ADCs above was deemed *possibly* authorised under an AMP.
- 1.4. **Unknown.** All other category B clearing fell in this category. Unknown does not mean unauthorised. It could include development approvals for other clearing than HVA clearing. These are generally small but multitudinous and difficult to track down because there is no comprehensive central registry available to the public. The SARA registry only contains development applications for which the state is the assessment manager. Most non-agricultural development and even some agricultural development can be approved by local councils.

2. High Value Regrowth categories C or R.

- 2.1. **Probably Accepted Development Codes.** Boundaries were extracted from the DCDB for any properties for which clearing of these categories was notified, and clipped to categories C and R respectively extracted from the *Regulated Vegetation Map* as current on 24/6/2015, largely as described above for category B remnant. Any clearing which overlapped these extracted category C and R areas were deemed possibly due to these regrowth specific ADCs.
- 2.2. **Unknown** any clearing of these vegetation categories other than that above.

²² Note that some small areas of category A as of Nov 2015, appeared to have been cleared in 2015-16, but this was disregarded because it was sure to have been category B at the time of clearing, then was found to be unauthorised and then remapped as category A –totally protected—by the regulator as an enforcement action.

²³ <http://www.dilgp.qld.gov.au/planning/development-assessment/sara-assessment-manager-decisions.html>

²⁴ <https://data.qld.gov.au/dataset/vegetation-management-register-of-self-assessable-code-notifications>

3. Exempt

- 3.1. **X** any clearing that intersected category X on the *Regulated Vegetation Map* as current on 24/6/2015, exclusive of the below.
- 3.2. **X (PMAV)** any clearing that intersected category X on a Property Map of Assessable Vegetation (PMAV) current as of 18/3/2015.
4. **Outside** the jurisdiction of the Act. The *Regulated Vegetation Map* as current on 24/6/2015 was modified to ensure all national parks and state forests were classified as outside the scope of the Act as provided in section 7, and any clearing there classified accordingly.

Notified or approved clearing yet to be exercised

We mapped and quantified areas of remnant (Cat B) or High Value regrowth (C or R) with potential yet to be cleared as follows.

First, any regulated vegetation overlapping a High Value Agriculture approval area as mapped above, but not mapped as cleared from 2013-16, was deemed to be category B yet to be exercised under a HVA (1.1 above).

Second, all areas of category B (or C or R combined) on properties notified under ADCs up to 20/7/2016 which did not overlap areas cleared from 2013 to 2016, were deemed to be probably at risk of future clearing. To these areas, we added areas notified from 20/7/2016 up until 30/9/2017, the latest that had been posted to the register as of Jan 2018 (see Fig. 7).

For these later notifications, all of which are “yet to be exercised”, actual areas intended to be cleared are provided in the public register. We extracted property boundaries as described above and clipped to categories B, C or R respectively. There were many instances where an area greater than that of the relevant category actually present on the property was notified. In such cases, we corrected the area notified to be no more than the area of regulated vegetation available.

There were also multiple notifications made under different codes which added up to more than the area of the regulated vegetation category available. In such cases, we assigned areas to codes in a hierarchy starting with thinning (the most prevalent), then fodder, then other minor codes, until the total area available was filled, so that the total of areas notified under respective codes could not exceed the area of regulated vegetation available.

Finally, there were many instances where the same properties had also been notified for clearing in the earlier period before 20/7/16. The areas notified later from 20/7/2016 up until 30/9/2017, were subtracted from the total areas of the relevant categories available, to give corrected estimates of the areas available for clearing in the 2013-16 period, but not yet exercised.

Author

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WWF-Australia Briefing 29 January 2018

From: [REDACTED] s78(B)(2) [REDACTED]@wwf.org.au]
Sent: Monday, 12 February 2018 2:02 PM
To: Ian Hutcheon; Matthew Pitman
Subject: FW: Options paper
Attachments: VMOLAWWFsubmissionD4.pdf

Hi Ian & Matt

Anxious to have another quick catchup when possible.

Am attaching our critique of the 2016 VMROLA bill which it seems remains relevant now.

Thanks

MT

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R



**WWF- Australia submission to the Queensland
Parliamentary Agriculture and Environment Committee
on the *Vegetation Management (Reinstatement) and
other Legislation Amendment Bill 2016***

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Executive summary

The *Vegetation Management Act* (VMA) in Queensland is no longer fit for purpose, as a result of the drastic weakening of its provisions by the previous state government. Under sect. 3 of the VMA:

*“(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.”¹*

Failure to fulfil the purpose to conserve remnant vegetation is indicated by fact that remnant vegetation clearing tripled from 34,588 ha in 2011–12 to 103,308 in 2013–14. Land clearing data for 2014–15 are expected to show yet higher levels. The VMROLA Bill partly redresses this failing by restoring the ban on broadscale clearing that was reversed for so-called ‘high value agriculture’ by the former Newman government, and by restoring reasonable capacity to effectively prosecute unlawful clearing of regulated remnant vegetation.

Failure to fulfil the purpose to prevent land degradation and allow for sustainable land use is indicated by the fact approx. 700,000 ha of formerly protected high conservation value regrowth on freehold land was de-protected by the former government. Clearing of this high conservation value regrowth is increasing despite much of it containing streamside buffers and slopes vulnerable to erosion. In Great Barrier Reef catchments over 30,000ha of riparian or streamside bushland has been cleared, mostly in those catchments lacking protection of Reef watercourse regrowth. Tree cover loss also means loss of ecosystem services valuable to agriculture, and increased drought risk. The 2011 Queensland State of the Environment report highlighted the importance of conserving native vegetation to prevention of land and water degradation, reporting how coastal rivers were degraded by high sediment and chemical pollution, how 30% of coastal wetlands had been lost and how fertility of topsoil is severely depleted.

Failure to fulfil the purpose to prevent loss of biodiversity is indicated by the fact that over 200,000 ha known and likely to occur habitats of threatened species was cleared in the period 2012–14. Approx. 700,000 ha of formerly protected high conservation value regrowth was de-protected by the former government. Clearing of this high conservation value regrowth is increasing despite it containing endangered ecosystems, habitat for endangered species, streamside buffers and slopes vulnerable to erosion. Land clearing in Great Barrier Reef catchments more than doubled, including over 30,000ha of riparian or streamside bushland, increasing water pollution risk for the Great Barrier Reef. Increased land clearing also increases greenhouse emissions helping to drive global warming. At a time when almost the entire Reef has bleached due to record water temperatures, the very existence of the Reef is at stake, and escalating air and water pollution caused by land clearing is only making the threat worse.

¹ <https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/V/VegetManA99.pdf>

Failure to fulfil the purpose to reduce greenhouse gas emissions is indicated by the fact land clearing emissions have doubled since 2009-10, and now represent 6.6% of national greenhouse emissions.

The VMROLA Bill by restoring the ban on broadscale clearing, restoring protection of high conservation value regrowth, reducing greenhouse gas emissions and by expanding the protection of regrowth in watercourse buffer zones to all Great Barrier Reef catchments will substantially improve the degree to which the VMA fulfils all the above mentioned purposes.

WWF supports the VMROLA Bill, but also urges the Committee to recommend measures to strengthen it further.

WWF is also willing to provide testimony at the Committee hearings to answer any questions that that the Committee may have.

Introduction

WWF supports VMROLA Bill

Founded in 1962, WWF is an international network of conservation organisations with offices in over 100 countries and with over five million supporters worldwide. WWF- Australia has over 200,000 supporters, more than 40,000 resident in Queensland.

WWF's mission is to stop the degradation of the planet's natural environment and to build a future in which humans live in harmony with nature, by conserving the world's biological diversity and ensuring that the use of renewable natural resources is sustainable.

WWF supports efficient and effective laws to conserve the natural resources on which human life depends – water, soil, climate and biodiversity – and works closely with business and industry to slow, stop and ultimately reverse our negative impact on the natural environment.

To this end, in Queensland, WWF-Australia is working with sugarcane farmers in Project Catalyst to prove that cane farming can eliminate its negative water quality impacts on the Great Barrier Reef while still remaining profitable.² Through Project Pioneer, WWF is working with innovative beef producers to achieve the same objectives.

Australia is a party to the Aichi Targets of the Convention on Biological Diversity, in particular, target 5:

'By 2020, the rate of loss of all natural habitats, including forests, is at least halved and where feasible brought close to zero, and degradation and fragmentation is significantly reduced,' where

*'The emphasis of this target should be on preventing the loss of high-biodiversity value habitats, such as primary forests and many wetlands.'*³

The reason given for this target is that

*'Ultimately, there must be limits to the conversion or degradation of natural habitats. This is particularly the case for some ecosystems, where continued loss risks passing 'tipping points' that could lead to large scale negative effects on human well being'.*⁴

The growing field of ecosystem services recognises that natural ecosystems supply very real and economically valuable services to agriculture and more widely to the human economy, services which have been valued at about USD33 trillion a year. These services include aesthetic, amenity and tourism value, regeneration of soils, moderation of local climate and hydrology, sinks for greenhouse gases, cleansing of other air and water pollution and conservation of beneficial species such as pollinators and genetic resources for crops and pharmaceuticals.⁵

The Consumer Goods Forum announced in 2010 its intention 'to achieve zero net deforestation by 2020' in the supply chains of its members. Consumer Goods Forum members represent some of the largest goods

² http://www.wwf.org.au/about_us/working_with_business/project_sponsorships/project_catalyst/

³ <https://www.cbd.int/sp/targets/rationale/target-5/> Primary forest in Queensland is called 'remnant vegetation.'

⁴ Ibid and citations made therein

⁵ http://www.esd.onrnl.gov/benefits_conference/nature_paper.pdf

corporations in the world and in Australia, including Woolworths, IGA, Walmart, Amazon, Cargill, Kimberley-Clarke and Proctor & Gamble.⁶

Queensland agriculture cannot continue to rely on the outmoded and ultimately self-defeating approach of bulldozing and burning forests and woodlands. This destructive approach is increasingly out of step with evolving markets and inconsistent with Australia's commitments to the world in regard both to greenhouse gas emissions and the conservation of biodiversity and natural ecosystem services.

VMA settled in 2009

In 2004, the Beattie government legislated a ban on broadscale clearing of intact or remnant bushland. This was supported by then Liberal Party MPs (Langbroek, McArdle, Stuckey, Quinn) and Independent MP Wellington.⁷ Mr Quinn, then Liberal Member for Robina, explained in Hansard his support for the ban:

'we need to reduce the amount of tree clearing across the state in order to protect our biodiversity, our endangered species and our species of concern'
and...

'We have also had to recognise the salinity problem and ensure that water quality is improved and maintained at the highest level.'

The Liberal Member for Surfers Paradise, Mr Langbroek added:

'One of the positive outcomes of this move is the massive reduction in greenhouse gas emissions.'

Agriculture lobby group AgForce accepted the ban, saying publicly *'we're prepared to accept the Act as it is'*. AgForce received a grant of \$8 million to help roll out more than \$150 million in assistance to landholders and contractors affected by the ban.⁸ In addition, the amendments of 2004 provided for one final tranche of 500,000ha of remnant clearing allotted by ballot to landholders with more than 30% tree cover on their properties, prior to the ban taking effect at the end of 2006.⁹

The ban on broad-scale land clearing was a negotiated bipartisan settlement, entailing extensive consultation, financial assistance for affected interests and stakeholder acceptance.

In 2009, the Bligh government also regulated (not banned) clearing of certain regrowth bushland in two categories ('regulated regrowth'): a) 'high value regrowth', bushland that had been cleared prior to 1990 but had been regrowing since; and b) regrowth of any age in 50m buffer zones around watercourses in particular Great Barrier Reef catchments. Self-assessable codes were enacted for clearing of this regulated regrowth, which restrict clearing only for endangered ecosystems, essential habitat of threatened species, on slopes vulnerable to erosion and in buffer zones around wetlands and watercourses. Only regrowth bushland with undoubtedly high conservation value and value for preventing land and water degradation is restricted for clearing. Even restricted regrowth can still be cleared under the code, if an appropriate 'exchange area' is provided.

⁶ <http://www.theconsumergoodsforum.com/sustainability-strategic-focus/climate-change/deforestations> emiss

⁷ Hansard Legislative Assembly Tuesday, 20 April 2004

⁸ <http://southburnett.com.au/pdfs/20050210agforce.pdf>

<http://www.abc.net.au/news/2005-07-19/vegetation-law-changes-promise-farmer-benefits/2061642>

⁹ <http://www.parliament.qld.gov.au/documents/explore/ResearchPublications/ResearchBriefs/2004/200406.pdf>

Agforce welcomed these changes, saying *'the new legislation balances productive land management while maintaining biodiversity values.'*¹⁰

With extensive consultation and funding provided to assist industry to adapt to the new regulations, these changes were likewise widely accepted.

This acceptance was made clear in AgForce's official policy in the lead up to the 2012 election. After revealing that *'farmers and graziers have adapted extremely well to landmark Vegetation Management laws introduced in 2009'*, AgForce recommended there be *'No new vegetation management legislation.'*¹¹

Campbell Newman, then leader of the opposition, evidently agreed, promising publicly *'The LNP will retain the current level of statutory vegetation protection.'*¹²

Broken promise

After the 2012 election, the Newman government broke that election promise, with a succession of steps, culminating in the 2013 amendments to the VMA and related legislation.

Reduced enforcement

Newly appointed Minister Cripps suspended enforcement penalties in April 2012, pending a review. In October 2012 he revealed that the report of the review existed and would be tabled in due course. However, the report does not appear in the Parliamentary record.¹³

The 2012-14 SLATS supplementary report from the Dept. of Natural Resources reveals that there was a real policy change in regard to enforcement, and that this had an impact on the rise in clearing rates:

*'Clearing trends were also likely to be driven by a shift in clearing culture and perceptions brought about by the change in government in 2012. The change in landholder perceptions was supported by a new compliance approach, introduced soon after the change in government in 2012. The Department of Natural Resources and Mines shifted the priority to assisting landholders to undertake clearing rather than the previous priority on assessment and compliance.'*¹⁴

Likewise, the state Auditor General in 2015 observed that increased clearing in Great Barrier Reef catchments *'coincided with the policy change to reduce compliance activities.'*¹⁵

Of 1,425 notifications of clearing irregularities only three prosecutions commenced and only one was concluded in the period 2012-14.¹⁶

¹⁰ <http://www.agforceqld.org.au/file.php?id=211&open=yes>

¹¹ <http://www.agforceqld.org.au/file.php?id=1285&open=yes>

¹² This statement is contained in WWF's submission to the inquiry into *Vegetation Management Framework Amendment Bill 2013* found at <https://www.parliament.qld.gov.au/documents/committees/SDIIC/2013/10-VegetationMgmtFramewk/submissions/057.pdf>

¹³ <http://statements.qld.gov.au/Statement/Id/79000>

For the admission about the report see Hansard Estimates—Natural Resources and Mines 12 Oct 2012 p.9

¹⁴ <https://publications.qld.gov.au/dataset/supplementary-report-to-the-statewide-landcover-and-trees-study-report-2012-14>

¹⁵ <https://www.qao.qld.gov.au/files/file/Reports%20and%20publications/Reports%20to%20Parliament%202014-15/RtP20GreatBarrierReef.pdf>

WWF- Australia submission *VMROLA Bill 2016*

Changes to codes

The Newman government also removed the requirement for permits and allowed clearing under self-assessable codes (SACs) for thinning of remnant bushland, clearing encroaching woodlands and harvesting mulga for stock fodder within four Area Management Plans (AMPs) in July 2012, prior to changing the Act itself. These AMPs remain in operation.¹⁷ Regional Vegetation Management Codes, which governed the assessment of applications to clear, were likewise amended in Nov 2012, however WWF has yet to complete detailed analysis of the impact of those code changes.¹⁸ Ultimately these codes were repealed and replaced by State Development Assessment Provisions Module 8 following amendment of the VMA.¹⁹

Amendment of the VMA

The *Vegetation Management Framework Amendment Act* of 2013 (VMFA) introduced major changes to the operation of the VMA that impair the ability to fulfil its purposes.²⁰ The intent of the former government to weaken the law was made quite clear by then Minister Cripps who announced he was 'Taking the axe to Queensland's tree clearing laws.'²¹

Key changes include:

- Reversing the 2006 ban on broadscale clearing with new relevant purposes of 'high value agriculture' and 'high value irrigated agriculture' (the latter including irrigated pastures).
- Repealing the 2009 regulation of clearing of 'high value regrowth' on freehold and Indigenous lands, and a blanket amendment of all extant Property Maps of Assessable Vegetation to show such regulated regrowth as exempt (although Reef watercourse regrowth buffers – Category R--- continued to be regulated).
- Replacing the requirement to obtain permits with self-assessable codes for 'necessary environmental clearing' (also a new purpose), thinning, clearing of encroachment, fodder harvesting, and other purposes. Previously only clearing of 'high value regrowth' (including Reef watercourse regrowth) and native forest practices were subject to self-assessable codes, apart from areas under Area Management Plans as described above.
- Removing landholder deemed liability and inserting honest mistake and withholding of self-incriminating documents defences in regard to prosecutions.

Other related Acts were also amended in the process. The Water Act was amended to remove the requirement for a Riverine Protection Permit to clear in-stream native vegetation between the defining banks of watercourses. Instead, regulation of clearing of in-stream vegetation came under the exemptions and self-assessable codes of the amended VMA or new development assessment codes under the

¹⁶ Agriculture, Resources And Environment Committee, Estimates Pre-Hearing Non-Government Answer to Question On Notice No. 9 asked on 25 June 2014

¹⁷ Desert Channels Thinning and Encroachment Area Management Plan', 'Dirranbandi Thinning Area Management Plan', 'Moonjaree Fodder Harvesting Area Management Plan' and 'South West Fodder Harvesting Area Management Plan'

¹⁸ <https://www.legislation.qld.gov.au/LEGISLTN/SLS/2012/12SL128.pdf> and <https://www.legislation.qld.gov.au/LEGISLTN/SLS/2012/12SL220.pdf>

¹⁹ <http://www.dilgp.qld.gov.au/resources/policy/sdap/sdap-module-8.pdf>

²⁰ <https://www.legislation.qld.gov.au/Bills/54PDF/2013/VegeMgmtFramwkAB13E.pdf>

²¹ <http://www.sunshinecoastdaily.com.au/news/changes-will-take-axe-to-clearing-laws/1851306/>

Sustainable Planning Act. As far as we have been able to ascertain, Fig 1 illustrates how this currently affects clearing of instream vegetation. Prior to this change, conditions for issuing a permit under the *Water Act* were more restrictive.

The Sustainable Planning Act and regulations were also amended, in effect, granting sole approval power for development applications for clearing of native vegetation to the planning department, and removing the power of veto over such approvals from other departments.²²

One beneficial amendment in the VFMA Act was the establishment of a single regulated vegetation map, replacing earlier multiple maps.

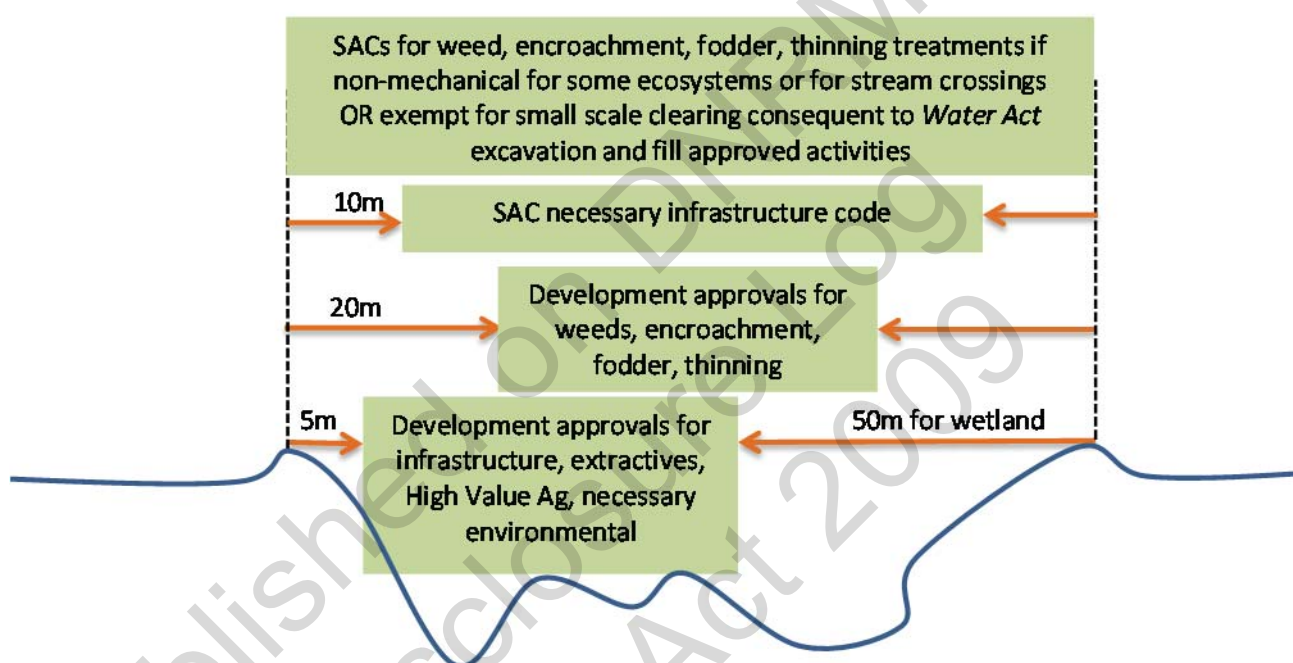


FIG 1. Summary of where and under what circumstances in-stream vegetation between the high banks of watercourses or wetlands might be cleared following 2013 amendments to the relevant Acts. Green boxes indicate circumstances in which clearing could be permitted. Red arrows indicate setbacks from defining banks for each category of permitted clearing. SAC means self-assessable code.

²² *Sustainable Planning Amendment Regulation (No. 3) 2013*, regulation 12(4) omitted reference to the chief executive of DNRM as a concurrence agency, and replaced it with 'The chief executive', which refers to the chief executive administering the *Sustainable Planning Act 2009 (Qld)*, being the Director General of the Department of Planning. This amendment therefore made the State Assessment and Referral Agency (SARA) the sole decision maker for vegetation clearing under development applications, and reduced the roles of other agencies to providers of advice.

Mandate for reinstatement

Election promise

The present government was elected in Jan 2015 on a promise to reinstate land clearing laws as follows:²³

'We will reinstate the nation-leading vegetation protection laws repealed by the Newman Government. In addition, we will reintroduce riverine protection permits to guard against excessive clearing of riparian vegetation. These laws will reduce the clearing of native vegetation and contribute to our effort to reduce sediment run-off.'

The Palaszczuk government subsequently secured government based on this promise and therefore has a mandate to reinstate key protections removed by the previous government.

Promise to the world on the Great Barrier Reef

Australia was one of the first signatories of the World Heritage Convention, which ensures the protection of natural and cultural heritage of 'outstanding universal value'. The Great Barrier Reef ('GBR') was declared a World Heritage Site in 1981.

In 2012, UNESCO's World Heritage Committee warned of significant risks to the GBR from coastal development, poor water quality, and climate change and proposed to list the Reef as World Heritage 'in danger' unless steps were taken to prevent further decline of the condition of the GBR.²⁴

After the change of government in 2015, the Queensland and federal governments made an urgent amendment to the State Party report to the UNESCO World Heritage Committee.²⁵

This addendum promised that *'the new Queensland Government will introduce riverine protection permits to guard against excessive clearing of riparian vegetation'* and also that *'Queensland will: strengthen vegetation management laws to protect remnant and 'high value regrowth' native vegetation (including in riparian zones)'*.

Based on this updated report, the Committee decided in July 2015 not to list the GBR as 'in danger' for the time being.²⁶

VMROLA Bill

The VMROLA Bill currently under consideration by the Agriculture and Environment Committee partly delivers on these promises:

- restoring the 2006 ban on broadscale clearing by removing high value agriculture (including high value irrigated agriculture) as a relevant purpose for a development application;
- restoring the 2009 regulation of 'high value regrowth' on freehold and Indigenous land (except for those areas which had been locked-in as exempt on property maps of assessable vegetation);

²³ Queensland Labor Party, *Saving the Great Barrier Reef: Labor's plan to protect a natural wonder*, Jan 2015.

²⁴ <https://theconversation.com/unesco-recommends-great-barrier-reef-should-not-be-classed-as-in-danger-42564>

²⁵ <http://www.environment.gov.au/system/files/resources/cb36afd7-7f52-468a-9d69-a6bdd7da156b/files/2015-state-party-report-addendum.pdf>

²⁶ <http://whc.unesco.org/en/decisions/6216/>

- restoring the regulation of clearing of instream vegetation to the Riverine Protection Permit provisions of the *Water Act*; and
- restoring deemed landholder liability for clearing offences while removing the honest mistake of fact defence.

The VMROLA Bill does not however, reverse the 2013 changes replacing permits with self-assessable codes. This is a significant shortfall on the promise to reinstate earlier protections. Self-assessable codes (SACs) have been a major driver of increased land clearing as shown below. The thinning code in particular allows unchecked broadscale bulldozing of virtually unlimited areas of intact native bushland under the pretext that an environmental problem is being corrected, when the clear purpose is to create pasture for livestock.

In one key aspect, the VMROLA Bill goes further than promised by expanding the area of Great Barrier Reef regulated watercourse buffers (Category R) beyond just the central catchments to all of the catchments feeding into the Reef, from the mouth of the Mary River to the tip of Cape York.

The Bill also provides retrospective regulatory powers to prevent panic clearing of areas that are proposed for reinstatement of protection, the clearing of which might otherwise run counter to government policy.

Analysis of the provisions of the VMROLA Bill

How VMA is not fit for purpose, & how VMROLA would redress

The purpose of the VMA is to regulate land clearing so that it ‘conserves remnant vegetation’, ‘does not cause land degradation’, ‘prevents the loss of biodiversity’ and ‘reduces greenhouse gas emissions’. These purposes of the VMA were left largely unchanged by the amendments of 2013.²⁷ The VFMA did add an additional purpose of 3(1)(h) ‘allows for sustainable land-use’.

Evidence suggests that the Act no longer serves these purposes, including the latter purpose added in 2013.

Examination of the provisions of the VMROLA Bill suggests that the flaws in the VMA introduced in 2013 will be substantively corrected by the Bill.

Conserving remnant vegetation

The VMA is no longer fit for the purpose of conserving remnant vegetation as indicated by the fact that remnant clearing increased fourfold since 2009-10, and tripled in just the two years 2012-14. In addition, over 112,000 ha of remnant vegetation lost protection and may now be cleared under ‘high value agriculture’ approvals.²⁸ The rise in remnant clearing derives in part from due to reversal of the broad-scale clearing ban, self-assessable codes and weaker enforcement.

- Remnant clearing nearly doubled following the changes to codes and compliance approach in 2012. The SLATS unit reports ‘In 2012–13, clearing of remnant woody vegetation increased to 59 776 ha/year ... from 34 588 ha/year in 2011–12’
- Remnant clearing nearly doubled again following the changes to the Act in 2013. SLATS reports ‘In 2013–14, clearing of remnant woody vegetation increased to 103 308 ha/year from 59 776 ha/year in 2012–13.’²⁹
- It has been argued that since remnant clearing was increasing prior the changes of the VFMA Act, the changes observed cannot be attributed to the Act. However, as noted above, the Newman government weakened enforcement and changed self-assessable codes for broadscale thinning, encroachment and fodder under Area Management Plans in 2012, prior to the change in the law itself.
- The 2012-14 SLATS supplementary report attributes the observed rise in clearing rates to such changes as well to changed landholder perceptions:

‘Clearing trends were also likely to be driven by a shift in clearing culture and perceptions brought about by the change in government in 2012. The change in landholder perceptions was supported by a new compliance approach, introduced soon after the change in government in 2012. The Department of Natural Resources and Mines shifted the priority to assisting landholders to undertake clearing rather than the previous priority on assessment and compliance.’³⁰

²⁷ VMA sect 3

²⁸ The area approved to date for high value agriculture is as quoted to WWF by the Dept of Natural Resources

²⁹ <https://publications.qld.gov.au/dataset/8d2f982c-7a5b-41fa-935e-5f0ea4f65f9a/resource/db43b755-0a44-4b50-8d76-51c5c55da357/download/slatsreport201214.pdf>

³⁰ <https://publications.qld.gov.au/dataset/supplementary-report-to-the-statewide-landcover-and-trees-study-report-2012-14>

- Figure 2 shows an example of unexplained possibly unlawful clearing of endangered remnant forest that may have derived from this shift in perceptions and policy.
- The effect of removing requirements to obtain a permit for most clearing also had a dramatic effect. In the first year after the VFMA changes, 2013-14, allowable clearing (including under SACs) rose from 8% to 20% of all clearing observed.³¹ Large areas have been cleared since then under SACs as illustrated further below (Fig. 7).



Fig 2. Satellite photos showing an example of unexplained possibly unlawful broadscale clearing of what is currently mapped as regulated remnant of endangered brigalow forest north of Carnarvon Gorge National Park. The dark green patch indicated at left was endangered brigalow forest.

VMROLA Bill will partly restore capacity to ‘conserve remnant vegetation’

The VMROLA Bill will close substantial loopholes that have meant the VMA is currently no longer fit for its purpose to conserve remnant vegetation.

- By removing high value agriculture as an allowable purpose, the VMROLA Bill will restore the 2006 ban on broadscale clearing, and enhance conservation of remnant vegetation.
- By restoring the deemed landholder liability provisions, and removing the honest mistake of fact defence, the Bill will remove unnecessary impediments to effective prosecution of illegal clearing.

Nonetheless, the Bill will retain Self-Assessable codes, a major reason for the recent increases in remnant clearing. SLATS reports that 5,176 ha of clearing in 2012-13 was identified as thinning. After the change in law greatly expanding SACs, thinning more than doubled to 12,036 ha in 2013-14, illustrating the effect of allowing statewide SACs for thinning in 2013.³²

Since SACs will continue to replace permits, the SACs will have to bear the brunt of realising this purpose of the VMA, rather than the VMA itself. For this reason the current review of the Self Assessable Codes must be

³¹ SLATS supplementary report 2012-14 figs 3 and 4.

³² SLATS report 2012-14 p. 29

used to replace the lax codes created by the previous government as soon as possible.³³ The VMA should be amended to constrain the application of SACs to genuinely low ecological risk levels. Further below we recommend further amendments to the VMA to restrict the scope of SACs so as to keep ecological risk within acceptable limits.

Stronger administration of the Act is also needed to realise this purpose. The Department of Natural Resources has developed an Early Detection System to catch unauthorised clearing in the early stages. We are informed by the Department that once landholders are warned about such clearing, they stop immediately, saving them from going too far and facing a major prosecution.³⁴

A major area of concern, that unfortunately will not be addressed by this Bill, is the administrative remapping of 125,000 ha of remnant bushland as exempt on Property Maps of Assessable Vegetation by regional officers with little oversight. This represents another little appreciated reduction in capacity of the VMA to fulfill the purpose of 'conserving remnant vegetation'.³⁵

³³ <https://www.dnrm.qld.gov.au/our-department/policies-initiatives/vegetation-management/review-sac>

³⁴ *Satellite to root out rogue tree clearers*, Sunday Mail 3/4/16

³⁵

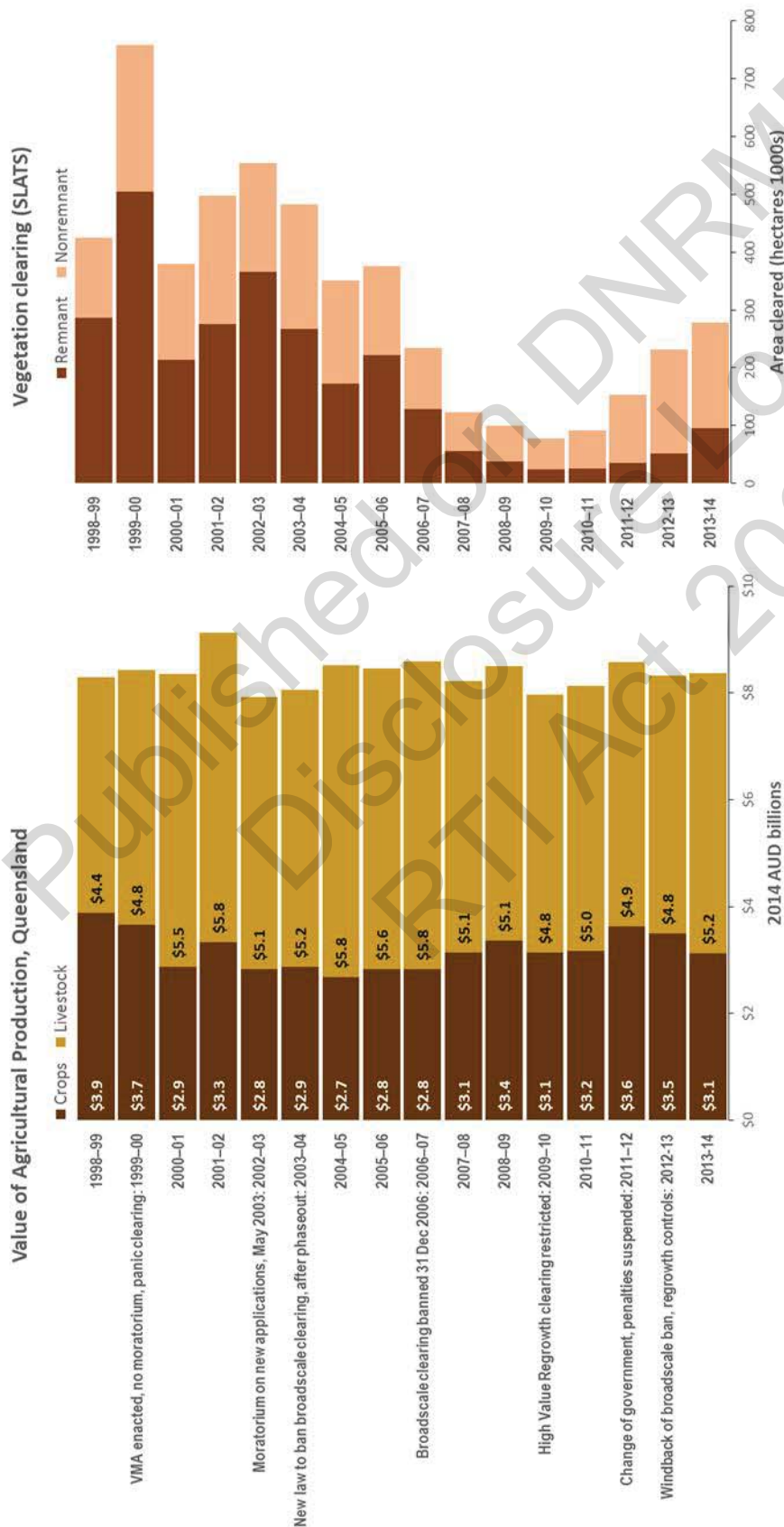


Fig. 3. LEFT Total value of agricultural production in Queensland from 1998-2014, and significant changes in land clearing controls, and RIGHT, the record of areas cleared from SLATS.³⁶

³⁶ Queensland Government Statistician's Office Agriculture: Gross value of production by commodity, Queensland, <http://www.agso.qld.gov.au/products/tables/agriculture-gross-value-production/index.php>. We aggregated production values into two classes of livestock and livestock products, or crops. We corrected all values to 2014 dollar equivalents using the inflation correction calculator of the Reserve Bank at <http://www.rba.gov.au/calculator/>. For areas cleared we used the SLATS report for 2012-14 already cited above.

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Prevent land degradation, allow for sustainable use.

It has been claimed that the VMROLA bill will negatively impact agriculture in Queensland. We argue here that the opposite is true. Sustainable agriculture is only possible if there is effective regulation to prevent land and water degradation and to conserve native bushland and the ecosystem services that it provides to agriculture, without which agriculture cannot reasonably be called sustainable.

Existing purposes under the VMA of 'ensures the clearing does not cause land degradation' and 'maintains ecological processes' are both relevant to the sustainability of agriculture and more broadly primary production, including fisheries production downstream of catchments within which land clearing occurs. The previous government when amending the VMA added an additional purpose of 'allows for sustainable land use'. WWF proposes that the 2013 changes to the VMA have meant that none of these purposes are being well-served, including the added purpose of 'allows for sustainable land use'.

Agricultural production unaffected by vegetation management laws

The value of agricultural production is not correlated with changes to vegetation management laws, nor with fluctuation in areas cleared, refuting a key argument of opponents of the VMROLA Bill. Statistics for livestock and crop gross value of production from the Australian Bureau of Statistics (corrected to 2014 AUD values using Reserve Bank CPI values) showed no significant trend up or down for the period 1998-2014 during which major changes in the *Vegetation Management Act* and in land clearing rates were observed (Fig 3). There was no significant correlation (or lagged correlation) between the areas cleared and the total value of production. This suggests that other drivers are more important in affecting agricultural production than the regulation of land clearing. Some may wish to see an upward trend in agricultural production. These data suggest that reversing key protections for high value native vegetation is not going to deliver that outcome.

An independent analysis of the drivers of agricultural profitability in NSW likewise found that vegetation management was bottom ranked in a list of nine key drivers.³⁷

Excessive land clearing negatively impacts agriculture

Effective regulation to guarantee retention of important bushland is essential to achieve the VMA's purposes, including the purpose of sustainable land use which was added by 2013. A large body of peer-reviewed scientific research reveals negative feedbacks of excessive land clearing and associated land use change on agricultural potential.

Drought: Land clearing is strongly correlated spatially with local increases in surface temperatures and an observed 4-12% decline in mean summer rainfall in south eastern Australia (Fig. 4). This local climatic desertification effect is quite separate from and additional to the larger global warming trend.³⁸ A hot topic

³⁷

http://www.wwf.org.au/our_work/saving_the_natural_world/wildlife_and_habitats/threats_to_species/loss_of_habitat/?11180/no-major-impact-on-agriculture-from-nsw-vegetation-laws

³⁸ McAlpine CA et al. (2007) Modeling the impact of historical land cover change on Australia's regional climate. *Geophysical Research Letters* 34:n/a-n/a.

McAlpine CA et al (2009) A continent under stress: interactions, feedbacks and risks associated with impact of modified land cover on Australia's climate. *Global Change Biology* 15:2206-2223.

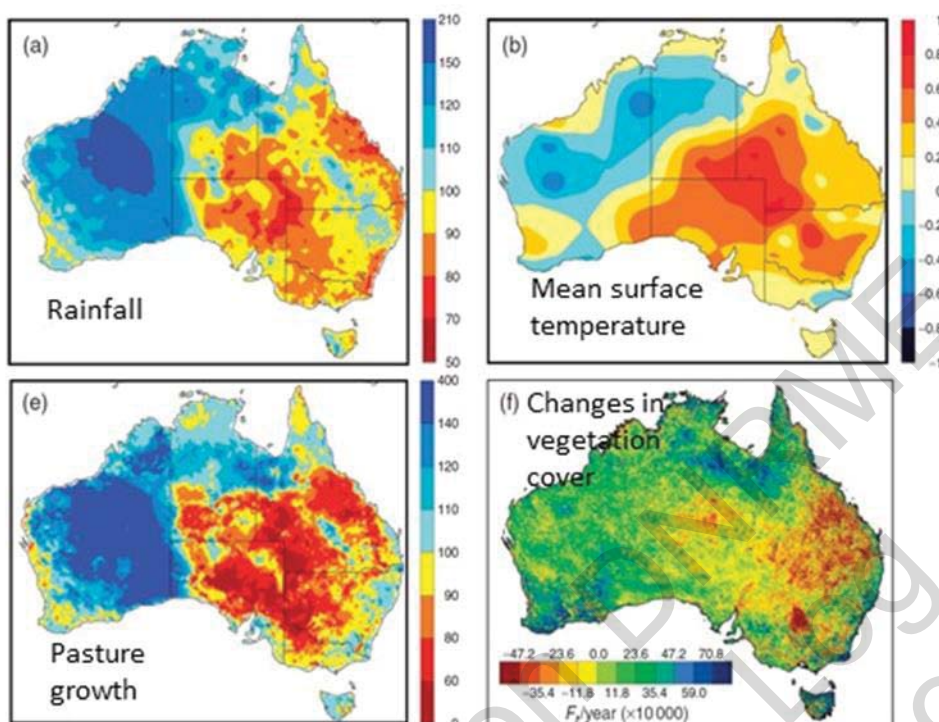


FIG 4. Departures from long term averages in (a) observed annual rainfall, (b) observed mean surface temperature, (e) estimated pasture growth showing spatial correspondence with (f) observed changes in vegetation fractional cover over 1981-2006 (Adapted from McAlpine et al., 2009)³⁹

of research now is how best to retain native vegetation so as to prevent desertification and retain ecosystem services.⁴⁰

Soil salinity: The removal of deep-rooted vegetation like trees and their replacement with shallow-rooted crops and pasture also leads to increased soil salinity through rising ground water, severely degrading the soil and reducing productivity.⁴¹

Erosion: Land clearing exacerbates soil erosion by wind and water, leading to soil and water degradation. Land clearing reduces rainfall infiltration and increases runoff, which also accelerates erosion, and reduces the recharge of the water table. For example, a study of land clearing in the Comet River catchment concluded that broadscale clearing had increased runoff in the catchment by 40-58%.⁴²

³⁹ McAlpine CA et al (2009) A continent under stress: interactions, feedbacks and risks associated with impact of modified land cover on Australia's climate. *Global Change Biology* 15:2206-2223.

⁴⁰

https://www.researchgate.net/profile/Justin_Ryan2/publication/47456695_Integrated_vegetation_designs_for_enhancing_water_retention_and_recycling_in_agroecosystems/links/02e7e5227dc4047fa1000000.pdf

⁴¹ Lindenmayer D, Burgman M (2005) Vegetation Loss and Degradation. In: *Practical Conservation Biology* Collingwood, VIC Australia: CSIRO Publishing.

⁴² Siriwardene et al 2006, The impact of land use change on catchment hydrology in large catchments: The Comet River, Central Queensland, Australia, *Journal of Hydrology*, 326, 199-214, <http://www.sciencedirect.com/science/article/pii/S0022169405005639>

Loss of beneficial species: retaining important habitat including both remnant and 'high value regrowth', also benefits agriculture, as native animals provide many services such as pollination, seed dispersal, and pest control services to agriculture.⁴³

Global warming & climate change: The emission of greenhouse gases from deforestation and consequent land use change contributes to global warming. Resulting climatic change is expected to substantially impair agricultural production. The former Department of Environment and Resource Management summarised these impacts as follows:

'The effects of declining rainfall and runoff into streams are already being felt by primary producers and the effects of temperature changes are likely to be felt within the next decade. Key impacts on the primary industries sector are likely to include:

- *warmer and drier weather in future decades over much of Queensland*
- *more frequent droughts and drier conditions*
- *increased frequency of severe weather events including flooding, which could also reduce primary and agricultural production through reduction in crop yields and through stock losses*
- *changes in average rainfall and temperatures, in seasonal distribution of rainfall and in rainfall variability, which directly affect crop production.*

*Land clearing is a significant factor in Australia's recent droughts and changing climate. The intensity and duration of droughts may have increased as a result of large-scale clearing of native vegetation, amplifying the effects of El Niño related droughts. Maintaining adequate land cover could help reduce the impacts of climate change.'*⁴⁴

VMROLA Bill will likely benefit agriculture

The VMROLA Bill will likely generate a net benefit for agriculture:

- by preventing excessive loss of tree cover that would otherwise exacerbate drought risk;
- by reducing greenhouse emissions contributing to global warming;
- by preventing excessive runoff, soil erosion, land and water degradation due to enhanced regulation of instream vegetation and of regrowth in stream margins and on slopes vulnerable to erosion;
- by conserving habitats for beneficial species.

Genuinely high value agricultural projects will be unaffected by the VMROLA Bill. Agricultural projects declared as a coordinated projects under the *State Development and Public Works Organisation Act 1971* (SDPWO Act) are an allowable purpose under the VMA and this will remain unchanged by the VMROLA Bill. Agricultural projects which have '*strategic significance to the locality, region or state, including for the infrastructure, economic and social benefits, capital investment or employment opportunities*' may qualify for

⁴³ http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp0102/02RP02

⁴⁴ Department of Environment and Resource Management 2010. *Climate Change in Queensland: What the Science is Telling Us*. <https://www.longpaddock.qld.gov.au/about/publications/pdf/climate-change-in-queensland-2010.pdf>

such treatment.⁴⁶ Two such agricultural projects in northern Queensland are currently under the Coordinator General's consideration.⁴⁷

Also, an area of 22 million hectares of land, comprising the best agricultural land, is already 'locked in' as exempt on property maps, of which we estimate based on land use data, that 13 million hectares have not yet been converted to development, cropping or sown pastures (Fig 5). This represents a significant unrealised potential for agricultural expansion that remains unchanged by the VMROLA Bill.

Reducing greenhouse gas emissions

The VMA is no longer fit for the purpose of reducing greenhouse gas emissions as indicated by rising emissions following weakening of the law, its codes and administration by the previous government.

As areas cleared have risen, so have greenhouse gas emissions resulting from burning and decay of dead vegetation. Greenhouse gas emissions from land clearing more than doubled to nearly 36 million tonnes CO₂ in 2013-14, from the low point of 16 million tonnes in 2010-11 (Fig 6).⁴⁸ This is roughly equivalent to the annual emissions from 8 million cars, or 6.6% of Australia's total greenhouse emissions.⁴⁹

Emissions are also generated by machinery doing the clearing, and of nitrogen-based gases and methane due to more intensive livestock production and cropping that follow land clearing. However, these potentiated emissions are not captured in the SLATS estimates.

We previously estimated that remnant bushland put at risk by the changes to the VMA of 2013 contained stocks of 184 million tonnes of CO₂, while areas of de-protected 'high value regrowth' holds a stock of about

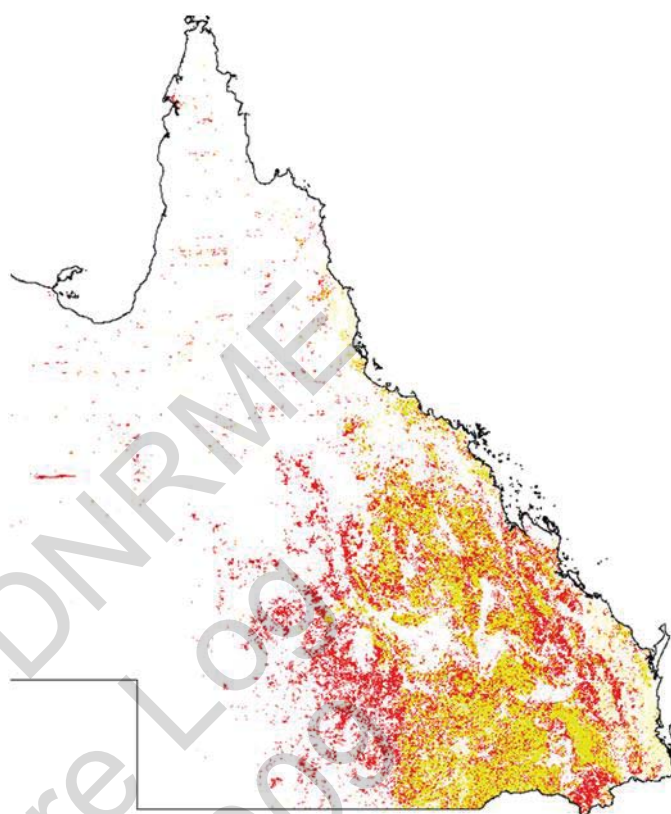


Fig 5. Areas exempt from land clearing controls on property maps of assessable vegetation in April 2016.⁴⁵ Yellow indicates exempt areas that according to the land use map of Queensland have been converted to crops, sown pastures, mines or buildings and infrastructure. Maroon indicates areas that do not appear to have been converted and which contains substantial areas of regrowth in various stages.

⁴⁵ <http://qldspatial.information.qld.gov.au/catalogue/custom/detail.page?fid={D96F12B8-D3A3-4D7D-824B-AF2D45805592}>

⁴⁶ <http://www.statedevelopment.qld.gov.au/assessments-and-approvals/coordinated-projects.html>

⁴⁷ <http://www.statedevelopment.qld.gov.au/assessments-and-approvals/current-eis-projects.html>

⁴⁸ <https://www.qld.gov.au/environment/land/vegetation/mapping/slats-reports/> SLATS supplementary report 2012-14.

⁴⁹ Total national emissions were 549 million tonnes in the latest year reported of 2013.

<http://ageis.climatechange.gov.au/>

46 million tonnes of carbon dioxide, which if allowed to regrow to maturity, would absorb an estimated additional 139 million tonnes.⁵⁰

VMROLA Bill will make significant contribution to reducing greenhouse gas emissions

The VMROLA Bill by restoring the 2006 ban on broadscale clearing and restoring the 2009 protection of 'high value regrowth' will make a significant contribution to meeting this purpose.

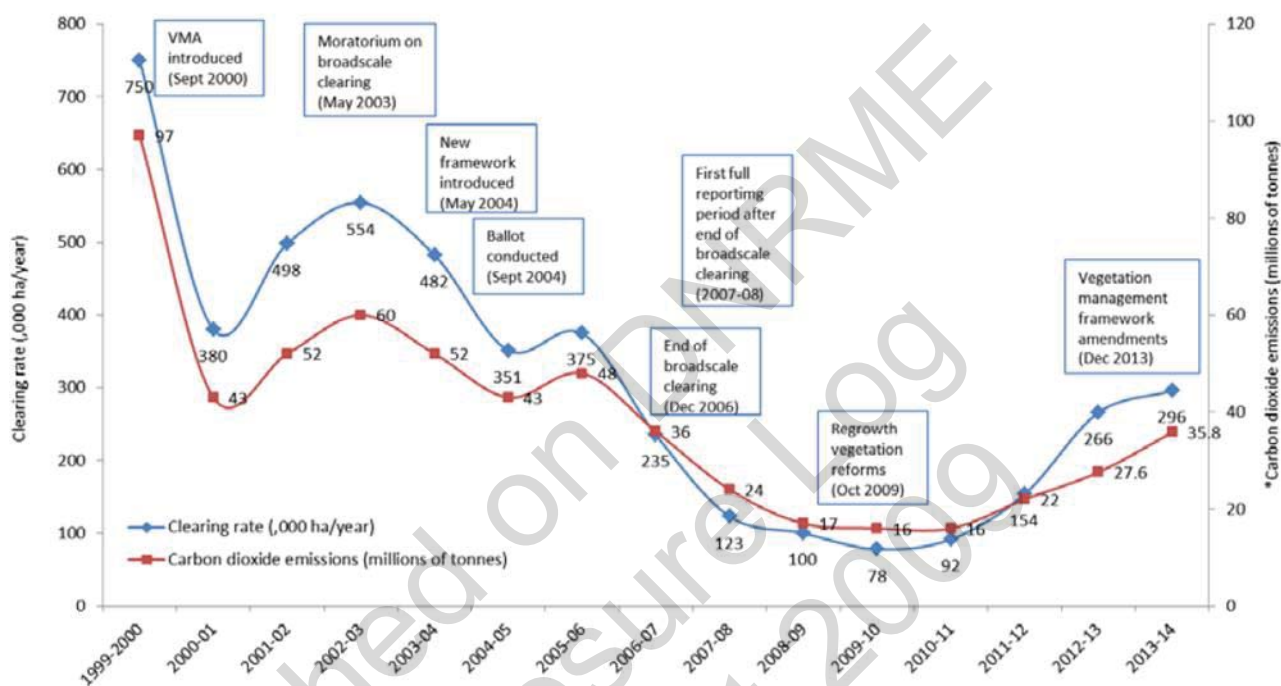


Figure 6. Figure 9 greenhouse gas emissions and areas cleared since 1999, reprinted from the Supplementary SLATS report 2012-14.⁵¹

Preventing loss of biodiversity

The VMA is not fit for the purpose of preventing loss of biodiversity after the major jump in de-protection and clearing of habitats for threatened species, and land and water degradation affecting the Great Barrier Reef from 2012 to present.

Rising rates of land clearing as detected by the Queensland Government in the 2012-14 period, include the destruction of over 200,000 of known or likely to occur habitats of threatened species of national significance as mapped by the Australian Government.⁵² As noted above, this rise in clearing likely derives from:

- escalation of remnant bushland clearing due to lax self-assessable codes;⁵³

⁵⁰ <http://www.wwf.org.au/?6800/bushland-at-risk-of-renewed-clearing-in-queensland> p 3

⁵¹ <https://www.qld.gov.au/environment/land/vegetation/mapping/slats-reports/> SLATS supplementary report 2012-14.

⁵² http://www.wwf.org.au/news_resources/?15660/More-than-40000-hectares-of-koala-habitat-cleared

⁵³ The recent Cardno review of the Self-Assessable Codes of 2013-14 compared them with the Regional Vegetation Management Codes that previously governed the issuance of permits, and found substantial weakening of protections buried in the details of the codes. Perhaps greatest change was in the so-called thinning code which allows broadscale bulldozing of up to 75% of remnant bushland, leaving thin strips 5m wide behind, without any requirement to show WWF- Australia submission VMROLA Bill 2016

- increases in unexplained, potentially unlawful, clearing due to weakened enforcement.

In addition, changes to the Act, its codes and its administration under the Newman government condemned more than 800,000 ha of such habitats for threatened species, habitats that lost protection but had not yet been cleared as of mid-2014 according to SLATS mapping.⁵⁴ The major sources of loss of protection are:

- reversal of the ban on broadscale clearing for high value agriculture, which has led to over 112,000 ha of remnant bushland being condemned to be broadscale cleared;⁵⁵
- repealing of the regulation of clearing of 'high value regrowth' on freehold or Indigenous land;
- the administrative remapping of 125,000 ha of remnant vegetation as exempt on property maps by regional officers with little oversight.⁵⁶

In 2003, a panel of eminent zoologists and botanists estimated that:⁵⁷

'The average annual clearing rate of 446,000 ha of remnant vegetation in Queensland during 1997-99 also led to the loss of an estimated 190 million trees per year'; and also

'approximately 100 million native mammals, birds and reptiles die yearly as a result of the broad-scale clearing of remnant vegetation.'

This estimate included 2.1 million native mammals including 19,000 koalas, 8.5 million birds and 89 million reptiles. Native animals do not simply move and live elsewhere when their habitat is destroyed. Those not killed during the bulldozing of their bushland homes, are often killed by cars or mauled by dogs and cats as they scramble to find new homes. Even if they chance on intact habitat, they come into conflict with animals already living there, causing stress, starvation and disease to which most survivors succumb.

WWF estimates based on this earlier study, that resurgent land clearing in Queensland must be resulting in millions of native animal deaths every year.⁵⁸

RSPCA and other wildlife rescue organisations have reported manifold increases in wildlife rescues in recent years, which they attribute ultimately to increasing habitat loss. RSPCA's annual reports report that wildlife patients jumped from 8,359 in 2011-12 to 18,413 in 2014-15.⁵⁹

there had been a thickening problem to correct in the first place. The previous codes had at least contained such a requirement. <https://www.dnrm.qld.gov.au/our-department/policies-initiatives/vegetation-management/review-sac>

⁵⁴ http://www.wwf.org.au/news_resources/?15800/400000-hectares-of-Queensland-koala-habitat-could-be-bulldozed-if-land-clearing-controls-not-restored

⁵⁵ Except that the approval for Olive Vale station has been suspended pending approval by the Australian Government.
⁵⁶

http://awsassets.wwf.org.au/downloads/fl024_bushland_destruction_rapidly_increasing_in_queensland_16sep15.pdf

⁵⁷ http://awsassets.wwf.org.au/downloads/sp128_impacts_land_clearing_on_australian_wildlife_qld_1jan03.pdf

⁵⁸

http://awsassets.wwf.org.au/downloads/fl024_bushland_destruction_rapidly_increasing_in_queensland_16sep15.pdf

⁵⁹ http://www.wwf.org.au/news_resources/?16100/Land-clearing-causing-uptake-in-distressed-native-wildlife-needing-treatment

Preventing land degradation and consequent loss of marine biodiversity of the Great Barrier Reef

- Bulldozing trees disturbs soils and increases runoff, leading to spikes of soil erosion.⁶¹ Eroded soil washes downstream where it smothers and kills seagrass beds and corals.
- The definitive study in Great Barrier Reef catchments found that *'Catchments with high levels of land clearing, cattle grazing and cropping show the largest increases in sediment export compared with natural conditions.'*⁶²
- Conversion of bushland to crops generates ongoing pollution. In the Wet Tropics, crops generate from 4.5 to 9 times the sediment pollution of intact bushland, and from 2-7 times the nitrogen pollution, depending on the crop. Sugarcane and bananas are the highest polluters.⁶³
- The Reef is in grave danger due to global warming and ocean acidification caused by rising greenhouse gas pollution of the planetary atmosphere. A more acidic ocean makes it harder for marine life to form shells and coral skeletons. Warming is leading to widespread coral bleaching and death. Land clearing emissions after a long period of decline in Queensland more than doubled from 2010 to 2014 (see next section). Hence the greenhouse gas emissions from land clearing are also having biodiversity impacts.
- The 2015 Queensland Auditor General's report *Managing water quality in Great Barrier Reef catchments Report 20: 2014–15* recognised that the Newman government's weakening of controls over land clearing adversely affects the Reef: *'The recent relaxation of land clearing rules also increases the risk of adverse consequences from sedimentation run-off'* noting that *'land cleared in reef catchments increased by 229 per cent, from 31 000 ha per year in 2008–09 to 102 000 ha per year in 2013–14.'*⁶⁴
- The Queensland Government's 2014 report card on progress toward Reef water quality targets, reveals that the target of increasing riparian vegetation in Reef catchments is far from attained, with: *'Overall forest loss in riparian areas continued between 2009 and 2013 (31,000 hectares, 0.4 per cent), with an increased rate of loss compared to the previous periods.'*
- The report card reveals further that almost all this riparian forest loss happened in Fitzroy and Burnett - Mary catchments, catchments conspicuously lacking Reef watercourse buffer protections (Category R in current VMA).⁶⁵



Sediment laden water run-off from a recently cleared banana farm, Lakeland Downs, Normanby River Catchment, Cape York.⁶⁰

⁶⁰ Fig 12 in http://www.capeyorkwaterquality.info/sites/default/files/downloads/normanby_wqmp_final_draft.pdf

⁶¹ Thornton et al. (2007) The Brigalow Catchment Study: II*. Clearing brigalow (*Acacia harpophylla*) for cropping or pasture increases runoff. *Soil Research* 45, 496–511.

⁶² McKergow et al. (2005) Sources of sediment to the Great Barrier Reef world heritage area. *Marine Pollution Bulletin* 51.1: 200–211.

⁶³ Table 44 in http://www.terrain.org.au/content/download/1566/9499/file/WT_TechReport_Final_190914.pdf

⁶⁴ <https://www.qao.qld.gov.au/files/file/Reports%20and%20publications/Reports%20to%20Parliament%202014-15/RtP20GreatBarrierReef.pdf>

⁶⁵ <http://www.reefplan.qld.gov.au/measuring-success/report-cards/2014/assets/gbr-2014report-card.pdf>

VMROLA Bill will partly restore capacity to ‘prevent loss of biodiversity’

The VMROLA Bill will close substantial loopholes that have meant the VMA is not fit for its purpose to prevent biodiversity loss.

- By removing ‘high value agriculture’ as an allowable purpose, the Bill will restore the 2006 ban on broadscale clearing, and enhance conservation of intact habitats for native wildlife.
- Restoration of regulated regrowth will provide major biodiversity benefits. WWF estimated that repealing protections for ‘high value regrowth’ in 2013, prevented the eventual recovery of 27 endangered regional ecosystems to less threatened categories, as well as putting at risk habitat for many threatened species. The VMROLA Bill will partly restore those protections.⁶⁶
- Restoration of more effective prosecution of illegal clearing will also prevent unlawful clearing of wildlife habitats.

By restoring stronger protection for in-stream vegetation under the Riverine Protection Permit system of the former *Water Act* (Fig 1), by restoring ‘high value regrowth’ protection in watercourse buffers and on high slopes, and by expanding the protection of regrowth in Reef watercourse to all Great Barrier Reef catchments, the VMROLA Bill will also greatly reduce clearing of riparian forests, reducing pressure on aquatic biodiversity and marine biodiversity particularly in the Great Barrier Reef.

Nonetheless, the Bill will retain self-assessable codes, a major reason for the recent increases in land clearing. The VMROLA Bill will also leave unregulated approx. 22 million hectares of land that is currently mapped as exempt from all land clearing controls on property maps of assessable vegetation (‘PMAVs’, Fig 5), regardless that it may contain formerly protected ‘high value regrowth’, endangered ecosystems, essential habitat for threatened species, or land vulnerable to degradation such as riparian buffer zones and high slopes.

Already a compromise, needs to go further

The VMROLA Bill is already a significant compromise and it does not fully reinstate provisions that were in place prior to 2012.

Self-assessable codes

The Bill does not reverse one of the most damaging loopholes introduced in the 2013 amendments, which is the almost complete reliance on self-assessable codes, with the thinning code arguably being the most damaging, as recognised in the independent review of the SACs⁶⁷ and as we have argued in our earlier reports on this matter⁶⁸ (Fig 7).

By evading this issue, the Bill allows significant broadscale clearing to occur under self-assessable codes in contravention of the 2006 ban on such clearing. Virtually unlimited areas of land can be bulldozed without any permit, thereby completely undermining the purposes of the Vegetation Management Act to ‘conserve remnant vegetation’, ‘not cause land degradation’, ‘prevent the loss of biodiversity’ and ‘reduce greenhouse gas emissions’.

⁶⁶ <http://www.wwf.org.au/?6800/bushland-at-risk-of-renewed-clearing-in-queensland> p 3

⁶⁷ <https://www.dnrm.qld.gov.au/our-department/policies-initiatives/vegetation-management/review-sac>

⁶⁸

For the VMA to fulfil its purposes the VMROLA Bill needs to go further and restrict the scope of operation of self-assessable codes.

Recommendation: The Act should be amended to remove the risk of serious ecological harm from clearing under self-assessable codes. This could be achieved by limiting the application of all exemptions and self-assessable codes combined to no more than 1% of any given lot, and no more than 50ha total. Any larger scale clearing should require a development approval. Exemptions and SACs should also be excluded from areas with endangered ecosystems, essential habitat, stream or wetland buffer zones, and on high slopes or land vulnerable to degradation. Any clearing of such high conservation value habitats should require a development approval.



Fig 7. LEFT intact bushland near Augathella in 2014 prior to being cleared under the self-assessable code for thinning introduced with the amendments of 2013. RIGHT is the same area in July 2015. Over 4400 hectares were cleared in the space of six months from Feb to July 2015 on just one property. Up to 75% of tree cover has been removed in laneways 10-15m wide leaving only narrow strips of remaining trees of at most 5m width. New roads were also bulldozed including through endangered remnant brigalow forest. The area is still mapped as remnant vegetation category B based on the presumption that the vegetation structure was unnatural and has now been restored to its 'ideal' ecological state, which it seems, is cattle pasture. There is no requirement in the code to show that the vegetation cleared in this manner had been subject to unnatural anthropogenic thickening.

Thickening and encroachment

The definition of thinning in the Act represents a major loophole in the ban on broadscale clearing of remnant vegetation (Fig 7).⁶⁹ Only clearing with a chain is prohibited under this SAC, not clearing with other heavy machinery. Running heavy machinery over 75% of an otherwise intact forest or woodland cannot possibly avoid substantial wildlife death and soil damage. In some respects, the immediate death of wildlife

⁶⁹ VMA Dictionary

'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.'

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and damage to soil may be greater for direct bulldozing than for chaining. At least with chaining, the proportion of area impacted by bulldozer tracks is less than with direct bulldozing.

The belief in a widespread unnatural thickening problem underpinning the thinning code has little scientific support,⁷⁰ and is primarily driven by livestock production not ecological objectives.⁷¹ Likewise, the concept of encroachment⁷² is predicated on the belief that woody shrub invasions of grasslands are anthropogenic disturbances from a natural state that need to be corrected. The definitive work on invasions of grasslands in Queensland by trees and shrubs shows that it is a natural fluctuation tied to fluctuations in rainfall at the boundary of the arid and semi-arid zones, not a primarily anthropogenic disturbance.⁷³ A recent global review further disputes the belief that transition from grassland to shrub or woodlands represents a form of ecological degradation.⁷⁴

Entirely natural responses of natural ecosystems to changes in climate, are being artificially disrupted by clearing for thinning and encroachment on the pretext of correcting an 'unnatural' process, when the real motivation is to create pasture for livestock. In the process, the natural adaptation of wildlife and ecosystems to a changing climate or climatic fluctuations is hampered, and opportunities to sequester atmospheric CO₂ pollution are foregone, contrary to the purposes of the VMA.

Recommendation: The definition of thinning should be modified as follows: 'Thinning is the non-mechanical manipulation of vegetation community composition and density which has been proven to be an ecologically detrimental and unnatural result of land management practices, rather than due to natural processes'. The definition of encroachment should also be modified as follows 'Encroachment means an invasion of naturally treeless grasslands by trees, which has been proven to be an ecologically detrimental and unnatural result of land management practices, rather than due to natural processes.'

Any proponent of thinning or clearing of encroachment should be required to prove a) that statistically significant thickening/encroachment has taken place, b) that it has been caused by land management practices as opposed to natural processes, and c) that it is ecologically detrimental.

Scope of 'High Value Regrowth'

The current definition of 'high value regrowth' in the VMA uses a cut-off date of 31 Dec 1989, which is not ecologically meaningful. As regrowth forests progressively mature they reach ages in advance of the 20 years of age regrowth forests that were protected when the provision was first made in 2009, but paradoxically may not now be protected. Rather than a fixed date threshold in the definition, an ecologically meaningful age should be used. By comparison, the Australian Government follows better practice by for instance,

⁷⁰ Fensham, R. J., Fairfax, R. J. & Ward, D. P. (2009) Drought-induced tree death in savanna. *Global Change Biology*, 15, 380-387.

⁷¹ *The Production, Economic And Environmental Impacts Of Tree Clearing In Queensland*, J.C. Scanlan and E.J Turner, Department of Lands, 1995.

⁷² VMA Dictionary '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.'

⁷³ Fensham R et al 2005, Rainfall, land use and woody vegetation cover change in semi-arid Australian savanna. *Journal of Ecology* 93, 596-505 (<http://onlinelibrary.wiley.com/doi/10.1111/j.1365-2745.2005.00998.x/full>).

⁷⁴ Eldridge DJ et al 2011, Impacts of shrub encroachment on ecosystem structure and functioning: towards a global synthesis. *Ecology Letters* 14, 709-722. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3563963/>

requiring referral for clearing of endangered brigalow more than 15 years old, under the *Environment Protection and Biodiversity Conservation Act*.⁷⁵

Recommendation: ‘High Value Regrowth’ should be defined as any woody vegetation that has been regrowing for more than 15 years, and which also contains endangered ecosystems, or essential habitat for threatened species, or is within 10-50m buffers of streams (depending on stream order) or wetlands, or protects slopes above 8% or highly erodible soils, recharge areas or other land vulnerable to degradation.

Lock-it-in PMAVs

A disturbingly large area, 125,000 ha of remnant bushland, including ecosystems mapped as endangered, has been administratively remapped as exempt (Category X) via property maps of assessable vegetation or PMAVs between 2012 and 2015.⁷⁶

Once an area is mapped as exempt on a PMAV it is presumed to be ‘locked-in’ as an enduring right to clear regardless of ecological consequences. The VFMA amendments of 2013 included a blanket amendment of all existing PMAVs to ‘lock-in’ de-protected ‘high value regrowth’ as exempt.

‘Lock-it-in’ PMAVs confer a permanent right where none should exist. There should be no presumption that areas exempt now, can never be protected in future if environmental values are discovered to be significant and worthy of protection, for example as a result of high conservation regrowth reaching a threshold age as proposed above.

PMAVs should be returned to the original intent of providing a means to check for and if necessary correct genuine inaccuracies in regulatory maps. Regulatory maps should be reserved to the state in the VMA, and not taken to represent a property right.

Recommendation: There should be no enduring right to clear areas mapped as exempt in PMAVs. Any authority to clear exempt vegetation should be temporary and only endure for as long as the regulatory map allows. A later change to regulatory maps revoking exempt areas should not be presumed to constitute a taking of a property right. The purpose of PMAVs should be solely to correct errors of fact in regulatory maps. In cases where it is proposed in a PMAV to remap remnant vegetation as exempt or to change the regional ecosystem map from endangered or of concern to a lower concern status, concurrence of the custodian of regional ecosystem maps should also be required.

Dispelling misconceptions about VMROLA

‘Land clearing already increasing prior to 2013 amendments, not caused by them’

Rates of land clearing were indeed increasing prior to the changes to the VMA in mid 2013 (Fig. 6). However, the weakening of land clearing controls did not start in 2013 with the VFMA Bill. As explained above, weakening of land clearing controls began immediately the government changed in March 2012.

⁷⁵ <http://www.environment.gov.au/system/files/resources/43e7adb3-247e-4285-9a2e-386be94c9523/files/brigalow-regrowth.pdf>

⁷⁶

The 2012-14 SLATS supplementary report attributes the observed rise in clearing rates to changes in enforcement as well to changed landholder perceptions, not simply to changes in the Act itself:

‘Clearing trends were also likely to be driven by a shift in clearing culture and perceptions brought about by the change in government in 2012. The change in landholder perceptions was supported by a new compliance approach, introduced soon after the change in government in 2012. The Department of Natural Resources and Mines shifted the priority to assisting landholders to undertake clearing rather than the previous priority on assessment and compliance.’⁷⁷

‘VMROLA Bill will hold back agriculture’

As indicated above, there is no correlation between changes in land clearing controls, or areas cleared and total value of agricultural production in Queensland (Fig. 3). Research shows to the contrary that droughts have increased in Queensland due to cumulative effects of tree cover reduction from entire landscapes (Fig 4). It is more likely that poorly regulated, excessive land clearing is holding back agricultural production, by impairing the provision of ecosystem services by native vegetation.

‘VMROLA Bill will hold back Indigenous development’

Some commentators have suggested that the closing of the high value agriculture loophole via the VMROLA Bill will thwart Indigenous opportunities to develop, particularly for Indigenous communities of Cape York.⁷⁸

However, none of the applications for High Value Agriculture made to date were on indigenous land to our knowledge.

On Cape York, there is a specific provision to allow broadscale clearing for agricultural development by Indigenous communities pursuant to the *Cape York Peninsula Heritage Act 2007*.⁷⁹ The VMROLA Bill will not affect this provision.

‘VMROLA Bill an attack on property rights’

There is no unqualified right to do whatever one pleases on private property. Building construction, plumbing, drainage, excavation which alters overland flows or could contaminate waterways are all heavily regulated in the public interest. Industrial operations are prohibited in areas zoned as residential. Emissions from industrial operations are regulated, in the public interest. Landholders are obligated to control declared pests on their properties, in the public interest.

Environmental harm caused by poorly regulated land clearing is an infringement of the public interest and of the rights of all Queenslanders to a clean and healthy environment. Laws are in place to ensure that publicly owned resources and amenities such as native wildlife and native vegetation are not threatened and destroyed by untrammelled private interests. These public interests are articulated in the purposes of the *Vegetation Management Act*, purposes which were retained in the amendments of 2013:

- conserves remnant vegetation

⁷⁷ <https://publications.qld.gov.au/dataset/supplementary-report-to-the-statewide-landcover-and-trees-study-report-2012-14>

⁷⁸ <http://www.abc.net.au/news/2016-03-09/indigenous-leader-hits-out-at-qld-land-clearing-laws/7230726>

⁷⁹ VMA Section (2AA) states ‘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.’

- ensures the clearing does not cause land degradation
- prevents the loss of biodiversity
- maintains ecological processes
- reduces greenhouse gas emissions

Nonetheless, the VMROLA Bill does not change the exemption of over 22 million hectares on property maps of assessable vegetation (Fig 5). It does not affect the validity of permits already approved for High Value Agriculture, notwithstanding that many of these areas should not be exempt due to their conservation value and the environmental harm caused by clearing them.

Such property rights as may be represented by PMAVs and already approved applications are unaffected by the VMROLA Bill.

‘VMROLA Bill consultation blocked by conservation groups’

Key provisions of the VMROLA Bill have already been through extensive stakeholder consultation prior to the amendments of 2004 which introduced the ban on broadscale clearing and the amendments of 2009 for regulation of ‘high value regrowth’ and Reef watercourse regrowth. As noted above, these provisions have long been accepted by all stakeholders and should never have been reopened for debate.

It has been alleged that a stakeholder roundtable process in 2015 was blocked by environmental groups refusal to participate. The facts are however, essentially as related by DNRM Deputy Director General Sue Ryan to the Agriculture Environment Committee on 22 Mar 2016:

‘On 13 July 2015, DNRM held a stakeholder round-table meeting on the future of vegetation management with participants from AgForce, the Queensland Farmers’ Federation, Canegrowers, WWF, the Wilderness Society, the EDO, and the Wildlife Preservation Society of Queensland. At that meeting, background information on clearing rates was provided and discussions held on potential future vegetation management reforms. Following that meeting, DNRM engaged Professor Allan Dale of James Cook University to liaise with the key stakeholders to build consensus on the best possible approach for the government to meet its election commitment in relation to vegetation management. The stakeholders the professor has been talking to included agriculture and conservation groups and natural resource management and Indigenous representatives. In late 2015, it became clear to the government that the process being facilitated by Professor Dale was not going to meet consensus and that urgent action was required to deliver on the government’s election commitments.’ (emphasis added).

We believe that the rejection of the government’s election commitment by industry stakeholders was a key stumbling block to consensus.

‘Woody cover increased by 437,000 ha’

It has been claimed that ‘Tree coverage in Queensland has increased by almost twice the size of the ACT in just three years.’⁸⁰ This estimate comprises the difference between woody cover estimates provided in successive SLATS reports.

In SLATS analysis, woody cover is defined as anything above zero foliage projective cover (FPC), which includes knee-high shrubs.⁸¹ Woody cover as reported by SLATS is also modelled approximation, not ground validated, unlike SLATS clearing data.

⁸⁰ <http://www.agforceqld.org.au/index.php?tgtPage=news&id=view,511>

Mindful of this the Queensland Government has issued the following warning in regard to use of the FPC layers: *‘While some land cover change may be detected in the FPC processing, this product is not designed to generate clearing or regrowth following clearing layers, and should not be used to assess clearing or be compared with previous years for change monitoring.’* (emphasis added)

An increase in FPC is a result of more leaves being visible to the satellite camera. More leaves do not mean more trees. Leaves can and do come and go depending on rain or drought, resulting in fluctuations in foliage cover. A minor change for example from zero to just 1% FPC over large areas can make it seem a large area of forest suddenly appeared, when in reality it may just be widespread leafing-out of small shrubs, or the appearance of many seedlings.

Much of the increased FPC is likely to be either regrowth or appearance of woody seedlings in grasslands or unseasonably green ground cover misinterpreted as woody foliage. Regrowth is almost all exempt and subject to re-clearing at any time. Encroachment can also be freely cleared under the self-assessable codes.

Minor increases in foliage cover due to climate fluctuations or directional change cannot be treated as an offset against the clearing recorded by SLATS in the same year, because:

- it’s generally not secured to prevent it being cleared;
- it can and will reverse if drought comes along;
- it cannot meaningfully be compared with or replace the clearing of trees down to bare ground;
- it likely occurs in quite different ecosystems from those being cleared; and
- it cannot offset carbon emissions, because under carbon accounting rules, only human induced changes in carbon stocks are relevant.

‘Farmers ability to control regrowth and weeds curtailed’

The VMROLA Bill does nothing to restrict control of exotic weeds because the VMA only regulates clearing of native vegetation.

Farmers already have unrestricted ability to control regrowth over the 22 million hectares that is exempt on property maps, an area approaching that of the entire island of Great Britain (Fig. 5).

Almost all regrowth is exempt. Even ‘high value regrowth’ may be cleared to the extent provided by codes.

The VMROLA Bill does not change any of these vegetation management capabilities.

Acknowledgements

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⁸¹ SLATS report 2012-14, p. 6 “The wooded vegetation extent for 2012 and 2013 is compiled from the foliage projective cover (FPC) index values, ranging from 1–100%. Non-wooded pixels (0% FPC) are excluded from the wooded extent area.”

From: Matthew Pitman
Sent: Thursday, 8 March 2018 3:38 PM
To: Martin Taylor
Subject: FW: Vegetation Management and Other Legislation Amendment Bill 2018
Attachments: B18_0010_Vegetation_Management_and_Other_Legislation_Amendment_Bill_2018.pdf

Hi Martin,
Please find attached VMA bill.
Let's catch up next week.

Matthew Pitman

Policy Advisor



Office of the Hon. Dr Anthony Lynham MP

Minister for State Development and Natural Resources and Mines

P 07 3719 7368 M 73(2)Irrelevant

1 William Street Brisbane QLD 4000

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Queensland

Vegetation Management and Other Legislation Amendment Bill 2018



Queensland

Vegetation Management and Other Legislation Amendment Bill 2018

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2018

A Bill

for

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

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Vegetation Management and Other Legislation Amendment Act 2018*. 4
5

Clause 2 Commencement 6

- (1) Sections 6, 14, 16(11), 37 (other than to the extent it inserts section 144) and 45 are taken to have commenced on 8 March 2018. 7
8
9
- (2) Section 35 commences on a day to be fixed by proclamation. 10

Part 2 Amendment of Vegetation Management Act 1999 11
12

Clause 3 Act amended 13

This part amends the *Vegetation Management Act 1999*. 14

Clause 4 Amendment of s 190 (Accepted development vegetation clearing code) 15
16

Section 190(1)— 17
omit, insert— 18

- (1) The Minister may make a code (an *accepted development vegetation clearing code*) for— 19
20
- (a) clearing of vegetation, including for the following— 21
22

- (i) an extractive industry; 1
- (ii) relevant infrastructure activities; 2
- (iii) environmental activities, including 3
necessary environmental clearing; 4
- (iv) sustainable land use, including fodder 5
harvesting; or 6
- (b) conducting a native forest practice. 7

**Clause 5 Amendment of s 19Q (When code compliant clearing and 8
conduct of native forest practices are accepted 9
development, assessable development or prohibited 10
development for Planning Act) 11**

Section 19Q(2)(b)(ii) and (c)(ii), 'any vegetation'— 12
omit, insert— 13
the development the subject of a vegetation 14

Clause 6 Insertion of new s 19S 15

Part 2, division 4B— 16
insert— 17

19S When notice given under code ends 18

- (1) This section applies if the Minister revokes or 19
replaces an accepted development vegetation 20
clearing code. 21
- (2) For this Act and the Planning Act— 22
 - (a) a notice for the intended clearing of 23
vegetation or the conduct of a native forest 24
practice (the *activity*) given under the code 25
ceases to have effect when the code is 26
revoked or replaced; and 27
 - (b) the activity can not continue to be carried 28
out under that code or, if that code is 29
replaced, the replacement code. 30

[s 7]

Clause 7	Amendment of s 20AH (Deciding to show particular areas as category B areas)	1
		2
(1)	Section 20AH(a)(ii), 'thinning'—	3
	<i>omit, insert—</i>	4
	managing thickened vegetation	5
(2)	Section 20AH(c)—	6
	<i>omit, insert—</i>	7
	(c) the area has been subject to clearing of	8
	vegetation under an accepted development	9
	vegetation clearing code on a category B	10
	area for 1 or more of the following—	11
	(i) conducting a native forest practice;	12
	(ii) fodder harvesting;	13
	(iii) clearing of encroachment;	14
	(iv) controlling non-native plants or	15
	declared pests;	16
	(v) necessary environmental clearing; or	17
(3)	Section 20AH(i)—	18
	<i>omit, insert—</i>	19
	(i) the area has been subject to clearing of	20
	vegetation under an area management plan	21
	on a category B area for 1 or more of the	22
	following—	23
	(i) fodder harvesting;	24
	(ii) managing thickened vegetation;	25
	(iii) clearing of encroachment;	26
	(iv) controlling non-native plants or	27
	declared pests;	28
	(v) necessary environmental clearing; or	29
	(j) the area has been subject to a native forest	30
	practice on a category B area.	31

Clause 8	Amendment of s 20AI (Deciding to show particular areas as category C areas)	1
		2
(1)	Section 20AI(a)—	3
	<i>omit, insert—</i>	4
(a)	the area has been subject to clearing of	5
	vegetation under an accepted development	6
	vegetation clearing code on a category C	7
	area for 1 or more of the following—	8
(i)	conducting a native forest practice;	9
(ii)	fodder harvesting;	10
(iii)	clearing of encroachment;	11
(iv)	controlling non-native plants or	12
	declared pests;	13
(v)	necessary environmental clearing; or	14
(2)	Section 20AI—	15
	<i>insert—</i>	16
(g)	the area has been subject to clearing of	17
	vegetation under an area management plan	18
	on a category C area for 1 or more of the	19
	following—	20
(i)	fodder harvesting;	21
(ii)	managing thickened vegetation;	22
(iii)	clearing of encroachment;	23
(iv)	controlling non-native plants or	24
	declared pests;	25
(v)	necessary environmental clearing.	26
Clause 9	Amendment of s 20AL (What is a <i>category A area</i>)	27
	Section 20AL—	28
	<i>insert—</i>	29

[s 10]

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

Clause 10	Amendment of s 20AO (What is a <i>category X</i> area)	6
	Section 20AO(1), after 'category R area'—	7
	<i>insert</i> —	8
	(in which the clearing of vegetation has happened)	9
		10
Clause 11	Amendment of s 20B (When chief executive may make PMAV)	11
	Section 20B—	12
	<i>insert</i> —	13
	(3) Nothing prevents the chief executive making a PMAV for 2 or more of the circumstances mentioned in subsection (1)(a) to (i) over the same or different areas.	14
		15
		16
		17
		18
Clause 12	Amendment of s 20CA (Process before making PMAV)	19
	(1) Section 20CA(2)(a) to (e)—	20
	<i>omit, insert</i> —	21
	(a) the clearing was carried out under a moratorium exemption; or	22
		23
	(b) the clearing was carried out under a development approval other than a development approval for—	24
		25
		26
	(i) fodder harvesting; or	27
	(ii) managing thickened vegetation; or	28
	(iii) clearing of encroachment; or	29

- (iv) controlling non-native plants or declared pests; or 1
2
- (v) necessary environmental clearing; or 3
- (c) the clearing was carried out under an accepted development vegetation clearing code other than for— 4
5
6
- (i) conducting a native forest practice; or 7
- (ii) fodder harvesting; or 8
- (iii) clearing of encroachment; or 9
- (iv) controlling non-native plants or declared pests; or 10
11
- (v) necessary environmental clearing; or 12
- (d) the clearing was carried out under an area management plan other than for— 13
14
- (i) fodder harvesting; or 15
- (ii) managing thickened vegetation; or 16
- (iii) clearing of encroachment; or 17
- (iv) controlling non-native plants or declared pests; or 18
19
- (v) necessary environmental clearing; or 20
- (e) the clearing was not carried out under an accepted development vegetation clearing code or an area management plan and, when the clearing was carried out, the clearing did not require a development permit under the Planning Act. 21
22
23
24
25
26
- (2) Section 20CA(3)— 27
omit, insert— 28
- (3) Also, the chief executive can not make the relevant area a category X area on the PMAV if— 29
30

[s 13]

- (a) the vegetation in the relevant area is not remnant vegetation or high value regrowth vegetation because of clearing that happened because of burning, flooding or natural causes; or
- (b) the chief executive is satisfied the clearing of vegetation for the relevant area after 29 November 2013 was not lawfully carried out.
- (3A) However, subsection (3) does not prevent the chief executive making the relevant area a category X area on the PMAV if clearing in the area was carried out under subsection (2)(a), (b), (c), (d) or (e) after the clearing mentioned in subsection (3)(a) or (b).
- (3) Section 20CA(9)—
insert—
lawfully carried out, for the clearing of vegetation, means the clearing was, at the time of the clearing, authorised or permitted under this Act or under any of the following—
 - (a) the Planning Act;
 - (b) the repealed *Integrated Planning Act 1997*;
 - (c) the repealed *Sustainable Planning Act 2009*;
 - (d) the *State Development and Public Works Organisation Act 1971*;
 - (e) the *Cape York Peninsula Heritage Act 2007*.

- Clause 13 Amendment of s 20D (When PMAV may be replaced)**
- Section 20D(3)(c)—
omit, insert—
(c) to change a category A area mentioned in section 20AL(f) to a category B area,

	category C area or category X area, if each of the affected owners agrees to the replacement; or	1 2 3
	(d) for a matter other than a matter mentioned in paragraph (a), (b) or (c), if each of the affected owners agrees to the replacement.	4 5 6
Clause 14	Replacement of pt 2, div 5B (Area management plans)	7
	Part 2, division 5B—	8
	<i>omit, insert—</i>	9
	Division 5B Area management plans	10
	Subdivision 1 Preliminary	11
	21 Definitions for division	12
	In this division—	13
	<i>area management plan</i> means an area management plan made by the chief executive under subdivision 2.	14 15 16
	<i>plan area</i> , for an area management plan, means the area to which the plan relates.	17 18
	<i>restricted (fodder harvesting) land</i> see section 21A.	19 20
	21A What is <i>restricted (fodder harvesting) land</i>	21
	(1) <i>Restricted (fodder harvesting) land</i> is—	22
	(a) a State-controlled road under the <i>Transport Infrastructure Act 1994</i> ; or	23 24
	(b) a road controlled by a local government under the <i>Local Government Act 2009</i> ; or	25 26
	(c) trust land under the <i>Land Act 1994</i> .	27

[s 14]

- (2) However, *restricted (fodder harvesting) land* 1
does not include indigenous land. 2

Subdivision 2 Plans made by chief executive 3 4

21B Chief executive may make area management plans 5 6

- (1) The chief executive may make an area 7
management plan for an area that provides for any 8
matter about clearing vegetation the chief 9
executive considers necessary or desirable for 10
achieving the purpose of this Act. 11
- (2) An area management plan must— 12
- (a) include enough information to allow the 13
chief executive to map the boundary of— 14
- (i) the plan area; and 15
- (ii) if the conditions for clearing vegetation 16
relate to different zones within the plan 17
area—each of the zones; and 18
- (b) state— 19
- (i) the management intent and 20
management outcomes for vegetation 21
management in the plan area; and 22
- (ii) the conditions for clearing, or 23
restricting clearing of, vegetation in the 24
area to achieve the management intent 25
and management outcomes; and 26
- (c) provide for, or allow, clearing of vegetation 27
for 1 or more of the following— 28
- (i) controlling non-native plants or 29
declared pests; 30
- (ii) ensuring public safety; 31

R

- (iii) relevant infrastructure activities; 1
- (iv) clearing of encroachment; 2
- (v) managing thickened vegetation; 3
- (vi) fodder harvesting, other than on a part 4
of the area that is restricted (fodder 5
harvesting) land; 6
- (vii) necessary environmental clearing; and 7
- (d) not be inconsistent with the State policy. 8
- (3) An area management plan is not subordinate 9
legislation. 10

21C Plan period for area management plan 11

An area management plan must state the period, 12
of no longer than 10 years, for which it will be in 13
force, and remains in force until the end of the 14
period. 15

21D Mandatory conditions for area management plan 16 17

- (1) An area management plan is subject to the 18
conditions under subsections (2) and (3). 19
- (2) If the plan provides for, or allows, clearing of 20
vegetation for relevant infrastructure activities, 21
the condition is that the clearing can not 22
reasonably be avoided or minimised. 23
- (3) If the plan area includes restricted (fodder 24
harvesting) land, the condition is that vegetation 25
on the land can not be cleared for fodder 26
harvesting. 27

Subdivision 3 Keeping plans 28

[s 15]

	21E Register of area management plans	1
	(1) The chief executive must—	2
	(a) give each area management plan a unique identifying number; and	3
	(b) keep a register of area management plans.	5
	(2) The register must include details of each notice the chief executive considers appropriate.	6
		7
Clause 15	Omission of pt 2, div 6, sdiv 1, hdg (Relevant purposes)	8
	Part 2, division 6, subdivision 1, heading—	9
	<i>omit.</i>	10
Clause 16	Amendment of s 22A (Particular vegetation clearing applications may be assessed)	11
	(1) Section 22A, heading—	12
	<i>omit, insert—</i>	13
	22A When development is for a relevant purpose	14
	(2) Section 22A(1)—	15
	<i>omit, insert—</i>	16
	(1) This section provides for when development the subject of a vegetation clearing application is for a relevant purpose.	17
	(2) This section provides for when development the subject of a vegetation clearing application is for a relevant purpose.	18
	(3) Section 22A(2), from 'A vegetation' to 'applied for'—	19
	<i>omit, insert—</i>	20
	Development is for a relevant purpose under this section if the chief executive is satisfied the development	21
	(4) Section 22A(2)(d), 'the clearing'—	22
	<i>omit, insert—</i>	23
	clearing for the development	24
		25
		26
		27
		28

- (5) Section 22A(2)(g), 'thinning'— 1
omit, insert— 2
managing thickened vegetation 3
- (6) Section 22A(2)(k) and (l)— 4
omit. 5
- (7) Section 22A(2AA), after 'Also,'— 6
insert— 7
development the subject of 8
- (8) Section 22A(2AA), 'applied for'— 9
omit. 10
- (9) Section 22A(2B), 'a vegetation clearing application'— 11
omit, insert— 12
development 13
- (10) Section 22A(2B), 'applied for'— 14
omit. 15
- (11) Section 22A(2B)(a), after 'area'— 16
insert— 17
if the land on which the development is carried 18
out is freehold land, indigenous land or the subject 19
of a lease issued under the *Land Act 1994* for 20
agriculture or grazing purposes or an occupation 21
licence under that Act 22
- (12) Section 22A(2B)(b), 'the subject of the application is freehold 23
land, indigenous land or a lease'— 24
omit, insert— 25
on which the development is carried out is 26
freehold land, indigenous land or the subject of a 27
lease 28

[s 17]

Clause 17	Insertion of new s 22B	1
	Part 2, division 6—	2
	<i>insert—</i>	3
	22B Requirements for vegetation clearing application for managing thickened vegetation	4 5
	(1) This section applies if a vegetation clearing application is for managing thickened vegetation.	6 7
	(2) The application must demonstrate how the proposed clearing will restore the regional ecosystem subject to the clearing to the floristic composition and densities typical of the regional ecosystem in the bioregion and include the following—	8 9 10 11 12 13
	(a) the location and extent of the proposed clearing;	14 15
	(b) the selective clearing methods proposed to be used;	16 17
	(c) evidence that the clearing will be limited to the prescribed regional ecosystems and restrictions;	18 19 20
	(d) evidence that the regional ecosystem has thickened in comparison to the same regional ecosystem in the bioregion.	21 22 23
	(3) In this section—	24
	<i>prescribed regional ecosystems and restrictions</i> means regional ecosystems and restrictions prescribed by regulation under the Planning Act, section 55(2) to be a regional ecosystem or restriction for managing thickened vegetation.	25 26 27 28 29
Clause 18	Omission of pt 2, div 6, sdiv 1A (Particular vegetation clearing applications)	30 31
	Part 2, division 6, subdivision 1A—	32

	<i>omit.</i>	1
Clause 19	Amendment of s 28 (Failure to return identity card)	2
	Section 28, penalty—	3
	<i>omit, insert—</i>	4
	Maximum penalty—50 penalty units.	5
Clause 20	Amendment of s 30 (Power to enter places)	6
(1)	Section 30(1)(c)(i)(D), ‘and’—	7
	<i>omit, insert—</i>	8
	or	9
(2)	Section 30(1)(c)(i)—	10
	<i>insert—</i>	11
	(E) an activity, being carried out at the time of entry, to which an enforceable undertaking relates; or	12
	(F) a notification of an intention to clear vegetation given under an accepted development vegetation clearing code or an area management plan; and	13
		14
(3)	Section 30(1)(e), after ‘entry’—	15
	<i>insert—</i>	16
	is under section 30A or	17
		18
Clause 21	Insertion of new s 30A	19
	Part 3, division 1, subdivision 2—	20
	<i>insert—</i>	21
	30A Power to enter place on reasonable belief of vegetation clearing offence	22
	(1) This section applies if an authorised officer	23
		24
		25
		26
		27

[s 21]

- believes on reasonable grounds that a vegetation clearing offence is happening, or has happened, at a place. 1
2
3
- (2) The authorised officer may enter and re-enter the place without the occupier's consent or a warrant to investigate whether a vegetation clearing offence is happening, or has happened, at the place. 4
5
6
7
8
- (3) The authorised officer may exercise powers under subsection (2), at the time, with the help, and using the force, that is necessary and reasonable in the circumstances. 9
10
11
12
- (4) However, before first entering the place, the authorised officer must give at least 24 hours written notice of the proposed entry to an occupier of the place. 13
14
15
16
- (5) Notice of the proposed entry must include the following information— 17
18
- (a) that the authorised officer believes on reasonable grounds that a vegetation clearing offence is happening, or has happened, at the place; 19
20
21
22
- (b) the reasons for the authorised officer's belief; 23
24
- (c) that the authorised officer intends to enter the place and may re-enter the place; 25
26
- (d) the purpose of the proposed entry; 27
- (e) the dates and times of entry and re-entry. 28
- (6) In exercising a power under this section, an authorised officer must take all reasonable steps to ensure the officer causes as little inconvenience, and does as little damage, as is practicable in the circumstances. 29
30
31
32
33
- (7) This section does not apply to a part of a place where a person resides. 34
35

Clause 22	Amendment of s 37 (Failure to help authorised officer)	1
	Section 37(1), penalty—	2
	<i>omit, insert—</i>	3
	Maximum penalty—200 penalty units.	4
Clause 23	Amendment of s 38 (Failure to give information)	5
	Section 38(1), penalty—	6
	<i>omit, insert—</i>	7
	Maximum penalty—200 penalty units.	8
Clause 24	Amendment of s 39 (Seizing evidence)	9
	(1) Section 39(1), after ‘or under’—	10
	<i>insert—</i>	11
	section 30A or	12
	(2) Section 39(2)—	13
	<i>omit, insert—</i>	14
	(2) If the authorised officer enters the place with the	15
	occupier’s consent or under section 30A, the	16
	authorised officer may seize a thing at the place	17
	if—	18
	(a) the authorised officer reasonably believes	19
	the thing is evidence of a vegetation clearing	20
	offence; and	21
	(b) either—	22
	(i) if the authorised officer entered the	23
	place with the occupier’s consent—	24
	seizure of the thing is consistent with	25
	the purpose of the entry as told to the	26
	occupier when asking for the	27
	occupier’s consent; or	28

[s 25]

	(ii) if the authorised officer entered the place under section 30A—seizure of the thing is consistent with the purpose of the proposed entry stated in the written notice of entry given to the occupier under that section.	1 2 3 4 5 6
Clause 25	Amendment of s 51 (Power to require information)	7
	Section 51(3), penalty—	8
	<i>omit, insert—</i>	9
	Maximum penalty—200 penalty units.	10
Clause 26	Amendment of s 53 (Failure to certify copy of document)	11
	Section 53(1), penalty—	12
	<i>omit, insert—</i>	13
	Maximum penalty—200 penalty units.	14
Clause 27	Amendment of s 54 (Failure to produce document)	15
	Section 54(1), penalty—	16
	<i>omit, insert—</i>	17
	Maximum penalty—200 penalty units.	18
Clause 28	Amendment of s 54A (Stop work notice)	19
	(1) Section 54A(1), after ‘committing’—	20
	<i>insert—</i>	21
	, or has committed,	22
	(2) Section 54A(2)—	23
	<i>insert—</i>	24

	<i>Examples of what a stop work notice may require—</i>	1
	The notice may require a person to do any or all of the following on or before a stated time or within a stated period—	2
		3
		4
	• to stop carrying out development	5
	• to demolish or remove development	6
	• to not remove, burn, dispose of, or otherwise cause to be removed, burnt, or disposed of, any felled vegetation	7
		8
		9
(3)	Section 54A(3)(a), after ‘committing’—	10
	<i>insert—</i>	11
	, or has committed,	12
(4)	Section 54A(3)(b) and (c), after ‘being’—	13
	<i>insert—</i>	14
	, or has been,	15
(5)	Section 54A(5), penalty—	16
	<i>omit, insert—</i>	17
	Maximum penalty—4,500 penalty units.	18
Clause 29	Amendment of s 54B (Restoration notice)	19
	Section 54B(5), penalty—	20
	<i>omit, insert—</i>	21
	Maximum penalty—4,500 penalty units.	22
Clause 30	Amendment of s 58 (False or misleading statements)	23
	Section 58(1), penalty—	24
	<i>omit, insert—</i>	25
	Maximum penalty—500 penalty units.	26

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Clause 31	Amendment of s 59 (False or misleading documents)	1
	Section 59(1), penalty—	2
	<i>omit, insert—</i>	3
	Maximum penalty—500 penalty units.	4
Clause 32	Amendment of s 59A (Impersonation of authorised officer)	5
	Section 59A, penalty—	6
	<i>omit, insert—</i>	7
	Maximum penalty—200 penalty units.	8
Clause 33	Amendment of s 60 (Obstructing an authorised officer)	10
	Section 60(1), penalty—	11
	<i>omit, insert—</i>	12
	Maximum penalty—500 penalty units.	13
Clause 34	Amendment of s 63A (Review decision)	14
	Section 63A(3)—	15
	<i>omit, insert—</i>	16
	(3) However, subsection (2) does not apply if the	17
	review decision relates to an original decision	18
	under section 138(1)(b).	19
Clause 35	Insertion of new pt 4, div 5	20
	Part 4—	21
	<i>insert—</i>	22
	Division 5 Enforceable undertakings	23
		24

68CC Chief executive may accept enforceable undertakings

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

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proceedings discontinued as soon as practicable. 1

68CD Effect of enforceable undertaking 2

- (1) An enforceable undertaking takes effect when the 3
chief executive gives the person who made the 4
undertaking notice of the decision to accept the 5
undertaking. 6
- (2) No proceedings for a contravention or alleged 7
contravention of this Act, or the Planning Act to 8
the extent that Act relates to the clearing of 9
vegetation, may be taken against the person in 10
relation to the enforceable undertaking if the 11
person is complying, or has complied, with the 12
undertaking. 13
- (3) The making of an enforceable undertaking does 14
not constitute an admission of guilt by the person 15
making the undertaking. 16

68CE Withdrawal or variation of enforceable 17 undertaking 18

- (1) A person who has made an enforceable 19
undertaking may, at any time, with the written 20
agreement of the chief executive— 21
 - (a) withdraw the undertaking; or 22
 - (b) vary the undertaking. 23
- (2) However, the undertaking may not be varied to 24
provide for a different contravention or alleged 25
contravention of this Act or the Planning Act. 26
- (3) The chief executive must publish the details of the 27
withdrawal or variation of an enforceable 28
undertaking the chief executive considers 29
appropriate on the department's website. 30

68CF Amending enforceable undertaking—with agreement

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

68CG Amending enforceable undertaking—clerical or formal errors

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

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

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

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

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

- (6) Within 10 business days after making a decision to take the action, the chief executive must give the person an information notice about the decision. 1
2
3
4
- (7) If the chief executive, at any time, decides not to take the action, the chief executive must promptly give the person written notice of the decision. 5
6
7
- (8) In this section— 8
impacts, of a contravention or alleged contravention, include the following— 9
10
- (a) loss of vegetation; 11
 - (b) loss of biodiversity; 12
 - (c) land degradation; 13
 - (d) loss of connectivity; 14
 - (e) altered ecological processes; 15
 - (f) contributions to greenhouse gas emissions. 16

68CI Contravention of enforceable undertaking 17

- (1) A person must not contravene an enforceable undertaking made by the person that is in effect. 18
19
Maximum penalty— 20
- (a) if the offence is committed wilfully—6,250 penalty units; or 21
22
 - (b) otherwise—4,500 penalty units. 23
- (2) Regardless of whether the person is prosecuted for an offence against subsection (1), the chief executive may apply to a Magistrates Court for an order if the person contravenes the enforceable undertaking. 24
25
26
27
28
- (3) If the court is satisfied the person contravened the undertaking, the court, in addition to imposing any penalty, may make either or both of the 29
30
31

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	following orders—	1
	(a) an order directing the person to comply with the undertaking;	2
		3
	(b) an order discharging the undertaking.	4
	(4) Also, the court may make any other order the court considers just and appropriate in the circumstances, including an order directing the person to pay to the chief executive—	5
		6
		7
		8
	(a) the costs of the proceedings; and	9
	(b) the costs associated with the investigation of the contravention of the enforceable undertaking; and	10
		11
		12
	(c) the reasonable costs of the chief executive in monitoring compliance with the enforceable undertaking in the future.	13
		14
		15
Clause 36	Renumbering of pt 6, div 13 and ss 133–135	16
	(1) Part 6, division 13—	17
	<i>renumber</i> as division 12.	18
	(2) Sections 133 to 135—	19
	<i>renumber</i> as sections 125 to 127.	20
Clause 37	Insertion of new pt 6, div 13	21
	Part 6—	22
	<i>insert</i> —	23
	Division 13	24
	Transitional provisions for	25
	Vegetation Management	26
	and Other Legislation	27
	Amendment Act 2018	

128 Definitions for division

In this division—

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

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

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

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

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

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

(1) This section applies if—

(a) before 8 March 2018, an application was made under section 20C; and

(b) immediately before 8 March 2018, the application had not been decided.

(2) The chief executive must continue to deal with and decide the application under this Act as in force before 8 March 2018.

130 Applications under s 20C made during the interim period

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

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an application was made under section 20C to show an area on a PMAV as a category X area that, after 8 March 2018, becomes a category C area or category R area.	1 2 3 4
(2) A decision of the chief executive to show the area as a category X area on a PMAV during the interim period is taken to have no effect.	5 6 7
(3) The chief executive may reconsider and decide the application and remake the PMAV after the date of assent.	8 9 10
131 Proposed regulated vegetation management map	11 12
(1) During the interim period, the chief executive must publish, and may republish, on the department's website, a proposed regulated vegetation management map showing proposed category C areas and category R areas.	13 14 15 16 17
(2) The proposed regulated vegetation management map is taken to be the regulated vegetation management map on 8 March 2018.	18 19 20
132 How definition <i>high value regrowth vegetation</i> and codes apply during and after interim period	21 22 23
(1) During the interim period, the schedule, definition <i>high value regrowth vegetation</i> , paragraph (a) is taken to include a reference to vegetation located on freehold land, indigenous land or land subject of an occupation licence under the <i>Land Act 1994</i> .	24 25 26 27 28
(2) Until the Minister remakes it under section 19O after the date of assent, the category C code applies to high value regrowth vegetation on land mentioned in subsection (1) in the same way it applies to high value regrowth vegetation located on a lease issued under the <i>Land Act 1994</i> for	29 30 31 32 33 34

- agriculture or grazing purposes. 1
- (3) Until the Minister remakes it under section 190 2
after the date of assent, the native forest practice 3
code applies to high value regrowth vegetation on 4
freehold land and indigenous land in the same 5
way it applies to remnant vegetation on freehold 6
land and indigenous land. 7
- (4) An area management plan applies to high value 8
regrowth vegetation on land mentioned in 9
subsection (1) in the same way it applies to high 10
value regrowth vegetation located on a lease 11
issued under the *Land Act 1994* for agriculture or 12
grazing purposes, until the end of the plan period 13
for the plan. 14
- (5) In this section— 15
- category C code* means the accepted development 16
vegetation clearing code called ‘Managing 17
category C regrowth vegetation’. 18
- native forest practice code* means the accepted 19
development vegetation clearing code called 20
‘Managing a native forest practice’. 21
- 133 How definition *regrowth watercourse and* 22
drainage feature area applies during and after 23
the interim period 24**
- (1) During the interim period, the schedule, definition 25
regrowth watercourse and drainage feature area 26
is also taken to mean an area located within 50m 27
of a watercourse or drainage feature located in the 28
following catchments identified on the vegetation 29
management watercourse and drainage feature 30
map— 31
- (a) Burnett-Mary; 32
- (b) Eastern Cape York; 33
- (c) Fitzroy. 34

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

134 Restoration and other requirements after unlawful clearing

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

the *Environmental Offsets Act 2014*. 1

- (6) The restoration notice, including any additional 2
requirements, is taken to be a restoration notice 3
for this Act. 4

135 No compensation payable 5

To remove any doubt, it is declared that no 6
amount, whether by way of compensation, 7
reimbursement or otherwise, is payable by the 8
State to any person for, or in connection with, a 9
provision of this division that applies in relation to 10
the interim period. 11

**136 Area management plans that are to remain in 12
force for 2 years** 13

- (1) This section applies to an area management plan, 14
other than a plan made by the chief executive 15
under section 20UA, that relates to the 16
following— 17
- (a) clearing of encroachment; 18
 - (b) thinning; 19
 - (c) fodder harvesting, other than on a part of the 20
area that is restricted (fodder harvesting) 21
land. 22
- (2) The plan continues as an area management plan 23
under this Act and remains in force until 8 March 24
2020. 25
- (3) An entity that has given notification of an 26
intention to clear vegetation under the plan before 27
8 March 2018 may continue to clear under the 28
plan while it remains in force. 29
- (4) However, an entity may not give notification 30
under the plan after 8 March 2018. 31
- (5) In this section— 32

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

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

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

138 Amendment of area management plans

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

139 Revocation of particular area management plan	1 2
(1) The area management plan made by the chief executive under section 20UA called the 'Managing fodder harvesting Mulga Lands Fodder Area Management Plan' is revoked.	3 4 5 6
(2) For this Act—	7
(a) a notice for the intended clearing of vegetation given under the plan ceases to have effect when the plan is revoked; and	8 9 10
(b) the clearing can not continue to be carried out under the plan.	11 12
140 Applications under pt 2, div 5B, sdiv 2 made during the interim period	13 14
(1) This section applies if, during the interim period, an application was made under part 2, division 5B, subdivision 2.	15 16 17
(2) Any decision of the chief executive on the application during the interim period is taken to have no effect.	18 19 20
141 Proposed map showing essential habitat	21
(1) During the interim period, the chief executive must publish, and may republish, on the department's website, a map showing areas of proposed essential habitat for protected wildlife and near threatened wildlife.	22 23 24 25 26
(2) For making the proposed map under subsection (1), protected wildlife under this Act is taken to include near threatened wildlife.	27 28 29
(3) The proposed map is taken to be the essential habitat map on 8 March 2018.	30 31

[s 37]

142 Provision about essential habitat

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

143 Application of particular instruments

- (1) This section applies to development for which an environmental offset may be required under State Code 16: Native vegetation clearing of the State development assessment provisions under the Planning Act. 16
- (2) The *Environmental Offsets Regulation 2014*, schedule 2, section (2)(3)(b) applies as if the reference in that paragraph to an animal or a plant that is endangered wildlife or vulnerable wildlife included a reference to near threatened wildlife. 17
- (3) Subsection (2) applies until the day the provision mentioned in the subsection is amended to provide for its application to near threatened wildlife. 18
- (4) The Queensland Environmental Offsets Policy prescribed under the *Environmental Offsets Act 2014*, section 12(1) applies as if— 19

- (a) section 4.3.6 of the policy provided for a multiplier of 4 for essential habitat for near threatened wildlife; and
- (b) table one, in section 4.3.13.2 of the policy applies to near threatened wildlife.
- (5) Subsection (4) applies until the day the provision mentioned in the subsection is amended to provide for its application to near threatened wildlife.
- (6) A reference in the *Environmental Offsets Regulation 2014*, schedule 2 to the essential habitat map is taken to include a reference to the map mentioned in section 140.

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

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

Clause 38 Amendment of schedule (Dictionary)

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

[s 38]

<i>high value agriculture clearing, mandatory condition, owner,</i>	1
<i>plan period, proposed area, referral matter, thinning and</i>	2
<i>vegetation clearing provision—</i>	3
<i>omit.</i>	4
(2) Schedule—	5
<i>insert—</i>	6
area management plan see section 21.	7
enforceable undertaking see section 68CC(1).	8
high value regrowth vegetation means vegetation	9
located—	10
(a) on freehold land, indigenous land, or land	11
subject of a lease issued under the <i>Land Act</i>	12
1994 for agriculture or grazing purposes or	13
an occupation licence under that Act; and	14
(b) in an area that has not been cleared (other	15
than for relevant clearing activities) for at	16
least 15 years, if the area is—	17
(i) an endangered regional ecosystem; or	18
(ii) an of concern regional ecosystem; or	19
(iii) a least concern regional ecosystem.	20
managing thickened vegetation means the	21
selective clearing of vegetation at a locality that	22
does not include clearing using a chain or cable	23
linked between 2 tractors, bulldozers or other	24
traction vehicles—	25
(a) to restore a regional ecosystem to the	26
floristic composition and range of densities	27
typical of the regional ecosystem in the	28
bioregion in which it is located; and	29
(b) to maintain ecological processes and prevent	30
loss of diversity.	31
owner , of land, includes the following—	32

- (a) for freehold land—the registered owner; 1
- (b) for a lease, licence or permit under the *Land Act 1994*—the lessee, licensee or permittee; 2
3
- (c) for indigenous land—the holder of the title to the land; 4
5
- (d) for any tenure under any other Act—the holder of the tenure. 6
7
- relevant clearing activities** means— 8
- (a) fodder harvesting; or 9
- (b) managing thickened vegetation; or 10
- (c) clearing of encroachment; or 11
- (d) controlling non-native plants or declared pests; or 12
13
- (e) necessary environmental clearing; or 14
- (f) managing, felling and removing trees for an ongoing forestry business. 15
16
- vegetation clearing provision** means any of the following to the extent the provision relates to the clearing of vegetation— 17
18
19
- (a) the Planning Act, section 162, 163(1), 164, 165 or 168(5); 20
21
- (b) for the clearing of vegetation that happened before the repeal of the *Sustainable Planning Act 2009*—section 578(1), 580(1), 581(1), 582 or 594(1) of that Act. 22
23
24
25
- (3) Schedule, definition *fodder harvesting*, paragraph 2(a) to (h)— 26
27
- omit, insert— 28
- (a) *Acacia aneura*; 29
- (b) *Acacia brachystachya*; 30
- (c) *Acacia excelsa*; 31

[s 38]

- (d) *Acacia pendula*; 1
- (e) *Acacia sibirica*; 2
- (f) *Alphitonia excelsa*; 3
- (g) *Flindersia maculosa*; 4
- (h) *Geijera parviflora*. 5
- (4) Schedule, definition *forest practice*, paragraph 1(b)— 6
omit, insert— 7
- (b) native forest if, in the native forest, all the 8
activities are conducted in a way that— 9
- (i) ensures restoration of a similar type, 10
and to the extent, of the removed trees; 11
and 12
- (ii) ensures trees are only felled for the 13
purpose of being sawn into timber or 14
processed into another value-added 15
product (other than woodchips for an 16
export market); and 17
- (iii) does not cause land degradation; and 18
- (iv) is consistent with the accepted 19
development vegetation clearing code 20
for native forest practice. 21
- (5) Schedule, definition *plan area*, 'section 20I'— 22
omit, insert— 23
section 21 24
- (6) Schedule, definition *protected wildlife*, 'or vulnerable 25
wildlife'— 26
omit, insert— 27
, vulnerable wildlife or near threatened wildlife 28
- (7) Schedule, definition *regrowth watercourse and drainage 29
feature area*, 'Burdekin, Mackay Whitsunday or Wet Tropics 30
catchments identified'— 31

	<i>omit, insert—</i>	1
	Burdekin, Burnett-Mary, Eastern Cape York, Fitzroy, Mackay Whitsunday or Wet Tropics catchments represented	2 3 4
(8)	Schedule, definition <i>restricted (fodder harvesting) land</i> , 'section 20I'—	5 6
	<i>omit, insert—</i>	7
	section 21A	8
Part 3	Amendment of Planning Act 2016	9 10
Clause 39	Act amended	11
	This part amends the <i>Planning Act 2016</i> .	12
Clause 40	Replacement of ch 8, hdg (Transitional provisions and repeal)	13 14
	Chapter 8, heading—	15
	<i>omit, insert—</i>	16
	Chapter 8 Repeal and transitional provisions	17 18 19
Clause 41	Relocation and renumbering of ch 8, pt 2 and s 325	20
(1)	Chapter 8, part 2—	21
	<i>relocate and renumber</i> as chapter 8, part 1.	22
(2)	Section 325—	23
	<i>renumber</i> as section 284A.	24

[s 42]

Clause 42	Renumbering of ch 8, pt 1 (Transitional provisions for repeal of Sustainable Planning Act 2009)	1
	Chapter 8, part 1—	2
	<i>renumber</i> as chapter 8, part 2.	3
Clause 43	Renumbering of ch 8, pt 1A (Transitional and saving provisions for Waste Reduction and Recycling Amendment Act 2017)	4
	Chapter 8, part 1A—	5
	<i>renumber</i> as chapter 8, part 3.	6
Clause 44	Renumbering of ss 324A–324D	7
	Sections 324A to 324D—	8
	<i>renumber</i> as sections 325 to 328.	9
Clause 45	Insertion of new ch 8, pt 4	10
	Chapter 8—	11
	<i>insert</i> —	12
	Part 4	13
	Transitional provisions for Vegetation Management and Other Legislation Amendment Act 2018	14
		15
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	329 Definitions for part	21
	In this part—	22
	<i>amending Act</i> means the <i>Vegetation Management and Other Legislation Amendment Act 2018</i> .	23
		24
		25
	<i>date of assent</i> means the date of assent of the	26

amending Act.	1
<i>essential habitat</i> see the <i>Vegetation Management Act 1999</i> , section 20AC(2).	2 3
<i>high value agriculture clearing</i> means high value agriculture clearing within the meaning of the <i>Vegetation Management Act 1999</i> immediately before 8 March 2018.	4 5 6 7
<i>interim period</i> means the period starting on 8 March 2018 and ending immediately before the date of assent.	8 9 10
<i>irrigated high value agriculture clearing</i> means irrigated high value agriculture clearing within the meaning of the <i>Vegetation Management Act 1999</i> immediately before 8 March 2018.	11 12 13 14
<i>near threatened wildlife</i> see the <i>Nature Conservation Act 1992</i> , schedule.	15 16
<i>protected wildlife</i> see the <i>Vegetation Management Act 1999</i> , schedule.	17 18
<i>unlawful clearing</i> means clearing of vegetation that, because of the amendment of this Act or the <i>Vegetation Management Act 1999</i> by the amending Act, constitutes a development offence.	19 20 21 22
330 Development applications made but not decided before commencement	23 24
(1) This section applies if—	25
(a) before 8 March 2018, a development application was made for development that, on 8 March 2018—	26 27 28
(i) is prohibited development under the <i>Planning Regulation 2017</i> , schedule 10, part 3, division 1; or	29 30 31
(ii) is assessable development prescribed under section 43(1)(a) for the clearing	32 33

[s 45]

of vegetation that includes essential habitat for protected wildlife and near threatened wildlife; and	1 2 3
(b) the application was a properly made application; and	4 5
(c) immediately before 8 March 2018, the development application had not been decided.	6 7 8
(2) The application must continue to be dealt with and decided under this Act as in force before 8 March 2018.	9 10 11
331 Certain development approvals not affected	12
(1) This section applies to a development approval in effect immediately before 8 March 2018.	13 14
(2) The amending Act does not stop or further regulate development under the development approval or otherwise affect the approval.	15 16 17
332 Unlawful clearing not an offence during interim period	18 19
Sections 162 and 163, to the extent the provisions relate to unlawful clearing, do not apply to a person carrying out unlawful clearing during the interim period.	20 21 22 23
<i>Note—</i>	24
See the <i>Vegetation Management Act 1999</i> , part 3, division 1, subdivision 7 for provisions relating to a restoration notice under that Act.	25 26 27
333 Development application for certain operational works during interim period	28 29
(1) This section applies to a development application made during the interim period for operational	30 31

- work that is the clearing of vegetation that— 1
- (a) is assessable development prescribed under 2
section 43(1)(a); and 3
 - (b) is high value agriculture clearing or irrigated 4
high value agriculture clearing; and 5
 - (c) is not for a relevant purpose mentioned in 6
the *Vegetation Management Act 1999*, 7
section 22A(2)(a) to (j) or (2AA). 8
- (2) The application is taken not to have been made 9
and any decision on the application is of no effect. 10

**334 Development application for certain material 11
change of use during interim period 12**

- (1) This section applies to a development application 13
made during the interim period for a material 14
change of use that is assessable development if— 15
- (a) the material change of use involves the 16
clearing of vegetation that is high value 17
agriculture clearing or irrigated high value 18
agriculture clearing; and 19
 - (b) because of the clearing, the chief executive 20
would be a referral agency for the material 21
change of use if a development application 22
were made for the material change of use. 23
- (2) The application is taken not to have been made 24
and any decision on the application is of no effect. 25

**Part 4 26
Amendment of Planning 27
Regulation 2017**

- Clause 46 Regulation amended 28**
This part amends the *Planning Regulation 2017*. 29

[s 47]

Clause 47	Amendment of sch 10 (Development assessment)	1
	Schedule 10, part 3, division 3, table 1, item 5(c)(iii), 'thinning'—	2
	<i>omit, insert—</i>	3
	managing thickened vegetation	4
Clause 48	Amendment of sch 21 (Exempt clearing work)	5
	(1) Schedule 21, part 1, section 1—	6
	<i>insert—</i>	7
	(19A) Clearing vegetation in accordance with a restoration notice under the Vegetation Management Act or an enforcement notice under the Act if the clearing is carried out for—	8
	(a) 1 or more of the purposes stated in the Vegetation Management Act, section 22A(2)(b), (c), (g) or (j); or	9
	(b) establishing a necessary fence, firebreak, road or vehicular track and the clearing can not reasonably be avoided or minimised.	10
	(2) Schedule 21, part 2, section 8(b)(iv)—	11
	<i>omit, insert—</i>	12
	(iv) is for urban purposes in an urban area, if the vegetation is—	13
	(A) regulated regrowth vegetation; or	14
	(B) an of concern regional ecosystem in a category B area; or	15
	(C) a least concern regional ecosystem in a category B area; or	16
	(3) Schedule 21, part 2, section 8(b)(v), after 'category B area'—	17
	<i>insert—</i>	18
	or regulated regrowth vegetation	19

Part 5 Amendment of Water Act 2000 1

Clause 49	Act amended	2
	This part amends the <i>Water Act 2000</i> .	3
Clause 50	Amendment of ch 2, pt 4, div 1, hdg (Granting permits for excavating or placing fill in a watercourse, lake or spring)	4
	Chapter 2, part 4, division 1, heading, after 'permits for'—	5
	<i>insert—</i>	6
	destroying vegetation,	7
Clause 51	Amendment of s 218 (Applying for permit to excavate or place fill in a watercourse, lake or spring)	8
	(1) Section 218, heading, after 'permit to'—	9
	<i>insert—</i>	10
	destroy vegetation,	11
	(2) Section 218(1)—	12
	<i>omit, insert—</i>	13
	(1) A person may apply to the chief executive for a permit (a <i>riverine protection permit</i>) to do any or all of the following activities—	14
	(a) destroy vegetation in a watercourse, lake or spring;	15
	(b) excavate in a watercourse, lake or spring;	16
	(c) place fill in a watercourse, lake or spring.	17
Clause 52	Replacement of s 220 (Criteria for deciding application)	18
	Section 220—	19
	<i>omit, insert—</i>	20

[s 53]

220 Criteria for deciding application	1
In deciding whether to grant or refuse the application or what should be the conditions of the riverine protection permit, the chief executive must consider all of the following—	2
(a) the effects of the proposed activity on water quality;	3
(b) the quantity of vegetation to be destroyed or material to be excavated or placed;	4
(c) the type of vegetation to be destroyed or material to be excavated or placed;	5
(d) the seasonal factors influencing the watercourse, lake or spring from time to time;	6
(e) the position in the watercourse, lake or spring of the vegetation to be destroyed or the proposed excavation or placing of fill;	7
(f) the reasons given by the applicant for wishing to carry out the activity;	8
(g) whether, and to what extent, the activity that the permit would allow may have an adverse effect on the physical integrity of the watercourse, lake or spring;	9
(h) the implications of granting the permit for the long-term sustainable use of the river systems of Australia, and especially the cumulative effect of granting the application and likely similar applications;	10
(i) any other matters the chief executive considers to be relevant.	11

Clause 53	Amendment of s 746 (Power to enter land to monitor compliance)	31
		32
(1)	Section 746(2), 'destroy quarry material'—	33

	<i>omit, insert—</i>	1
	destroy other resources	2
(2)	Section 746(2)(a), 'quarry material'—	3
	<i>omit, insert—</i>	4
	resource	5
Clause 54	Amendment of s 748 (Power to enter land to search for unauthorised activities)	6
	Section 748(1)(c)—	7
	<i>omit, insert—</i>	8
	(c) unauthorised taking, or destruction, of other resources;	9
		10
		11
Clause 55	Amendment of s 814 (Excavating or placing fill without permit)	12
	(1) Section 814, heading, 'Excavating'—	13
	<i>omit, insert—</i>	14
	Destroying vegetation, excavating	15
	(2) Section 814(1)—	16
	<i>omit, insert—</i>	17
	(1) A person must not do any of the following activities unless the person has a riverine protection permit to carry out the activity—	18
	(a) destroy vegetation in a watercourse, lake or spring;	19
	(b) excavate in a watercourse, lake or spring;	20
	(c) place fill in a watercourse, lake or spring.	21
	Maximum penalty—1,665 penalty units.	22
	(3) Section 814(2), after 'does not apply to the'—	23
	<i>insert—</i>	24
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		28

[s 55]

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- destruction of vegetation,
- (4) After section 814(2)—
- insert—*
- (2AA) Also, subsection (1) does not apply to the destruction of vegetation—
- (a) that is required under a requisition under the *Fire and Emergency Services Act 1990*, section 69, for reducing the risk of fire; or
- (b) that is permitted or required to be carried out under the *Electrical Safety Act 2002* or the *Electricity Act 1994* to prevent the obstruction of, or interference with, an electric line or the creation of an electrical hazard; or
- (c) that is necessary for construction or maintenance of government supported transport infrastructure under the *Transport Infrastructure Act 1994*; or
- (d) that happens as a necessary part of works carried out under this Act, other than under a licence, permit or notice; or
- (e) that is regrowth (other than mulga or other fodder trees) following destruction of vegetation under a riverine protection permit issued less than 2 years previously; or
- (f) that has been lawfully planted for woodlot, fodder, agriculture, forestry, garden or horticultural purposes; or
- (g) that is necessary to prevent personal injury or property damage or to provide for emergency access.
- (5) Section 814(2A), ‘permit under section 269’—
- omit, insert—*
- riverine protection permit

[s 56]

- (6) Section 814(5), definition *prescribed assessable development*,
paragraph (b), 'part 9'— 1
2
omit, insert— 3
part 5 4

- Clause 56 Amendment of sch 4 (Dictionary)** 5
Schedule 4, definition *other resources*, 'riverine vegetation'— 6
omit, insert— 7
vegetation in a watercourse, lake or spring 8

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Vegetation Management and Other Legislation Amendment Bill 2018

Explanatory Notes

Short title

The short title of the Bill is the Vegetation Management and Other Legislation Amendment Bill 2018.

Policy objectives and the reasons for them

The policy objective of the Bill is to amend the *Vegetation Management Act 1999*, *Planning Act 2016*, *Planning Regulation 2017* and *Water Act 2000* to reinstate responsible clearing laws.

In 2015, the Queensland Government made election commitments to:

- protect the Great Barrier Reef by strengthening vegetation management laws to protect remnant and high value regrowth native vegetation (including in riparian zones);
- reduce Queensland's carbon emissions by re-instating vegetation protection laws repealed by the previous government;
- retain existing self-assessable codes as long as they provide appropriate protection; and
- re-introduce riverine protection permits to guard against excessive clearing of riparian vegetation.

In November 2015, the government introduced legislation to Parliament to reinstate a responsible vegetation management framework. These laws were defeated in the Legislative Assembly in 2016.

Election commitments were made in the Labor Party 2017 Policy Document '*Saving Habitat, Protecting Wildlife and Restoring Land: ending broadscale tree clearing in Queensland (again)*'. The Amendment Bill delivers the Government's 2017 election commitments to protect remnant and high conservation value non-remnant vegetation; amend the accepted development vegetation clearing codes to ensure they are providing appropriate protections based on Queensland Herbarium advice; and align the definition of high value regrowth vegetation with the international definition of High Conservation Value.

The Bill will:

- extend the protection of high value regrowth vegetation to align with High Conservation Values by:
 - Increasing the land types on which high value regrowth is regulated (as category C) to include freehold land, indigenous land and occupational licences; and
 - amend the definition of high value regrowth to be vegetation that has not been cleared for 15 years;
- remove high value agriculture and irrigated high value agriculture as a relevant purpose under the *Vegetation Management Act 1999*. This will remove the ability to apply for a development approval for clearing for high-value and irrigated high value agriculture, and removing supporting provisions such as relevant purpose decision making criteria;
- provide consistent protection to regrowth vegetation near watercourses in all Great Barrier Reef catchments, by extending category R to include regrowth vegetation in watercourse and drainage feature areas in three additional Great Barrier Reef catchments—Eastern Cape York, Fitzroy and Burnett-Mary catchments;
- reintroduce provisions in the *Water Act 2000* to require landholders to obtain riverine protection permits for clearing vegetation in a watercourse;
- provide enhanced compliance measures that will assist with enforcement of vegetation management laws consistent with other similar contemporary natural resource legislation;
- provide an option to landholders to request an area mapped as a category X area to be converted to a category A area, where the area contains remnant vegetation or high value regrowth vegetation on the ground; and
- support the implementation of the revised accepted development vegetation clearing codes (accepted development codes) including changes to area management plans.

Unlike the *Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016*, this Bill does not propose to reinstate the reverse onus of proof offence provision nor does it propose to remove application of the mistake of fact defence provisions under the *Criminal Code 1899* from the *Vegetation Management Act 1999*.

The Department of Natural Resources, Mines and Energy has made widely available, at no, or little charge, all the information required by landholders to ensure they undertake clearing in accordance with the amended vegetation management laws. New tools and products have been developed to further assist landholders in applying the laws correctly.

Achievement of policy objectives

Extend the protection of high value regrowth vegetation by regulating it on freehold and indigenous land, and occupation licences under the Land Act 1994; and aligning high value regrowth with High Conservation Values

High value regrowth vegetation is defined as native woody vegetation that has not been cleared since 31 December 1989, and forms an endangered, of concern or least concern regional ecosystem. High value regrowth vegetation is shown as a category C area on the regulated vegetation management map.

Prior to 2009, only leaseholders for agriculture and grazing leases under the *Land Act 1994* needed permits to clear regrowth vegetation that had not been re-cleared since 31 December 1989. All regrowth on freehold and indigenous land was exempt under the *Vegetation Management Act 1999*. In 2009, protection of high value regrowth was extended to freehold and indigenous land, and aligned with protections applying on agriculture and grazing leases. As a consequence of the 2013 amendments to the *Vegetation Management Act 1999*, legislative protections for regrowth on freehold and indigenous land were removed.

The Bill will achieve the objective of protecting high value regrowth vegetation and aligning it to High Conservation Values by:

- re-defining 'high value regrowth vegetation' to mean native woody vegetation that has not been cleared for 15 years, and forms an Endangered, Of Concern or Least Concern regional ecosystem; and
- further amending the definition to include high value regrowth vegetation on freehold land, Indigenous land, and land which is the subject of an occupation licence under the *Land Act 1994*.

While many High Conservation Values are afforded protection under Queensland legislation, some categories are not comprehensively considered via the assessment framework for clearing regulated vegetation. The Queensland Government intends to further align high value regrowth with High Conservation Values by amending the definition of protected wildlife for the regulation of essential habitat to include habitat for near-threatened wildlife species, for both remnant and high value regrowth vegetation.

The Bill will also make transitional provisions for retrospective regulation of essential habitat for near threatened wildlife on the proposed essential habitat map.

Removing the ability to apply for a development approval for clearing for high-value and irrigated high value agriculture

In December 2013, high value agriculture and irrigated high value agriculture were introduced as relevant purposes for clearing under the *Vegetation Management Act 1999*.

High value agricultural clearing is defined as clearing carried out to establish, cultivate and harvest crops, other than clearing for grazing activities or plantation forestry. Irrigated high value agricultural clearing is defined as 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.

The 2013 amendments to the *Vegetation Management Act 1999* allowed a landholder to apply for a development approval to broadscale clear remnant vegetation for high value agriculture or irrigated high value agriculture.

This Bill will remove high value agriculture and irrigated high value agriculture as relevant purposes for clearing under the *Vegetation Management Act 1999*, and will include consequential amendments to the Planning Regulation 2017 and the State Development Assessment Provisions (SDAP). It is anticipated this amendment will reduce clearing rates and subsequent carbon emissions in Queensland.

Any existing development applications for clearing of high value agriculture or irrigated high value agriculture that are considered to be a properly made application under the *Planning Act 2016*, prior to the commencement of the retrospective provisions of the Amendment Bill, will continue to be assessed under the current legislation.

Provide consistent protection to regrowth vegetation in all Great Barrier Reef catchments, by extending category R areas to include regrowth vegetation in watercourse and drainage feature areas in three additional reef catchments—Eastern Cape York, Fitzroy and Burnett-Mary catchments

Since 2009, native regrowth within 50 metres of watercourses in the Burdekin, Mackay Whitsunday and Wet Tropics Great Barrier Reef catchments has been regulated to protect Reef water quality. This regulation applies across freehold, indigenous and leasehold land. This area is mapped as a Category R area on the Regulated Vegetation Management Maps, and vegetation in this area can only be cleared for limited purposes in accordance with clearing exemptions or the 'Managing Category R regrowth vegetation' accepted development vegetation clearing code.

Currently there is no regulation of clearing regrowth near watercourses in the remainder of the Great Barrier Reef catchments—Eastern Cape York, Fitzroy and Burnett-Mary rivers catchments. Expanding the regulation of riverine regrowth to include these catchments will increase the protection for the Great Barrier Reef from sediment run-off and other impacts of clearing.

The Bill will amend the *Vegetation Management Act 1999* to expand the definition of a Category R area to include these additional Reef catchments, and make transitional provisions for application of the proposed Regulated Vegetation Management Map.

Reintroducing provisions in the Water Act 2000 to require landholders to obtain riverine protection permits for clearing vegetation in a watercourse

The Bill achieves the objective of reinstating the application of the riverine protection permit framework to include the destruction of vegetation in a watercourse, lake or spring by amending the provisions of the *Water Act 2000*. Reinstating the application of these riverine protection permit provisions will ensure appropriate management of the risks associated with riverine activities to prevent adverse impacts to the integrity of the watercourse and the environment.

The current provisions only apply to activities that involve the excavation or placing of fill in a watercourse, lake or spring. The amendments proposed by the Bill will reinstate the provisions for destruction of vegetation as they were prior to the amendments made by the *Land, Water and Other Legislation Amendment Act 2013*.

Improving the ability to undertake compliance action where unlawful clearing has been undertaken, or where there is suspicion it is occurring

A range of amendments are proposed to update and modernise the vegetation management compliance framework. The Bill will amend the *Vegetation Management Act 1999* to ensure the framework can be more effectively enforced, and is consistent with other contemporary natural resource compliance frameworks. These amendments include:

- increasing the penalty units for offence provisions. This achieves a more appropriate level of deterrence, and consistently aligns maximum penalty units for the same offences under the *Planning Act 2016* and the *Water Act 2000*;
- introducing enforceable undertakings: this provides a new compliance tool (an enforceable undertaking) to expand the options available under the *Vegetation Management Act 1999* and the *Planning Act 2016* to address unlawful clearing events. It is a voluntary tool, whereby a person can request the chief executive to enter into a written agreement in relation to a penalty or remedy for a contravention or alleged contravention by the person under the *Vegetation Management Act 1999* or *Planning Act 2016*. Enforceable undertakings commit the alleged offender to deliver on agreed environmental outcomes, for example revegetating an area connecting a strategic environmental corridor. These enforceable undertakings can be used as an alternative to prosecution or a remedial tool (for example where the giving of a restoration notice is not practical or appropriate);
- amending provisions for stop work notices to broaden their use to include instances where there is a reasonable belief that a clearing offence has occurred. The amendment will create consistency with the comparable enforcement notice tools under the *Planning Act 2016*;
- clarifying that property maps of assessable vegetation can be issued for multiple purposes over the same area or different areas;
- expanding powers of entry: this will allow an authorised officer to enter a place to monitor compliance for clearing of vegetation under an accepted development vegetation clearing code or an area management plan; or where an authorised officer believes on reasonable grounds that a vegetation clearing offence is happening, or has happened. This power is consistent with other natural resource legislation. It is necessary to ensure effective and proactive enforcement of vegetation clearing legislation, and to prevent serious and often irreversible impacts on biodiversity and land degradation in imminent circumstances;
- clarify an area can only be made category X area on a Property Map of Assessable Vegetation in accordance with section 20CA of the *Vegetation Management Act 1999* where the area has been lawfully cleared; and
- providing for exemption under the Planning Regulation 2017 for clearing in accordance with a restoration notice or an enforcement notice. This will remove doubt that any clearing directed under a restoration notice or an enforcement notice is exempt and does not require any further approvals under the *Planning Act 2016*. For example, clearing native vegetation for weed management.

The approach adopted in the Bill balances the government's commitment to reduce carbon emissions and protect the Great Barrier Reef with landholders' ability to responsibly manage vegetation on their properties.

Allow vegetation mapped as a category X area in a Property Map of Assessable Vegetation (PMAV) to be converted to category A area with the landholders agreement

An amendment to the *Vegetation Management Act 1999* will allow vegetation mapped as a category X area on a Property Map of Assessable Vegetation (PMAV) to be converted to a category A area with the landholders' agreement. This implements an election commitment and assists landholders who wish to protect remnant or high value regrowth vegetation on their land.

The Bill further amends the *Vegetation Management Act 1999* to clarify that a PMAV can be made for multiples areas or for multiple circumstances on a single lot. This amendment removes any doubt that a PMAV made to made for one or more circumstances on the same area or a different area.

Providing flexibility in provision of accepted development vegetation clearing codes

The *Vegetation Management Act 1999* requires the Minister to make accepted development vegetation clearing codes for a number of activities, as well as providing the ability to make accepted development vegetation clearing codes for other activities. To increase flexibility and advance the purpose of the *Vegetation Management Act 1999*, the power to make an accepted development vegetation clearing code will be made discretionary for all activities.

Alternative ways of achieving policy objectives

To fulfil the Government's election commitment, and commitments under the Reef 2050 Plan, the *Vegetation Management Act 1999*, the *Planning Act 2016*, and the *Water Act 2000* must be amended. There is no alternative way to achieve the policy objective.

Estimated cost for government implementation

There will be an increased number of landholder notifications for clearing high value regrowth vegetation on freehold land, Indigenous land, and occupational licences, and regrowth vegetation along watercourses in the additional Great Barrier Reef catchments, in accordance with the accepted development vegetation clearing codes. However, this is largely managed through an automated electronic data system that captures and stores the notifications.

Implementation of the Bill will result in additional administrative, auditing and compliance activities by the Department of Natural Resources, Mines and Energy.

There will be an increase of riverine protection permits under the *Water Act 2000* for the destruction of vegetation that may result in increased assessment costs for the Department of Natural Resource, Mines and Energy.

There will be a reduction in resources required to assess vegetation clearing applications for high value agriculture and irrigated high value agriculture.

Overall, the financial cost of administering the legislation is expected to be cost neutral or covered by prioritising existing resources.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles. The Bill potentially breaches fundamental legislative principles (FLPs) as outlined in section 4 of the *Legislative Standards Act 1992*. The inconsistencies only occur in order to achieve the policy objective of enforcing a balanced vegetation management framework. Justification for these potential breaches of FLPs is outlined below.

Does the legislation adversely affect rights and liberties, or impose obligations, retrospectively—*Legislative Standards Act 1992*, section 4(3)(g)?

The proposed Bill may adversely affect the following rights retrospectively:

- the right to clear particular vegetation within the period between the date of introduction and the date of assent for the legislation; and
- the right to have certain applications considered or amended.

Arguably these amendments offend section 4(3)(g) of the *Legislative Standards Act 1992* which provides that legislation have sufficient regard to the rights and liberties of individuals and consequently should not adversely affect rights and liberties, or impose obligations, retrospectively.

Pre-emptive clearing or submission of applications ahead of Parliament enacting reforms to the vegetation management framework can cause significant negative impacts on the environment, business and the community. An increase in certain development applications and requests for maps has already been recorded since media articles alerted the public to potential changes to the vegetation management laws. While the Bill is before Parliament, retrospectivity is necessary to ensure pre-emptive clearing and increases in certain applications do not render the reforms less effective.

There may be some detrimental effects on individual rights in relation to these applications; however the impacts on individual rights are outweighed by the public interest in protecting the long-term health of our biologically diverse State and our world heritage listed Great Barrier Reef, and reducing carbon emissions from vegetation clearing.

The following parts of the Bill have retrospective commencement, from the date the Bill was introduced in Parliament:

- amendment of the *Vegetation Management Act 1999* to regulate and restrict clearing of native vegetation that is:
 - high value regrowth vegetation on freehold land, Indigenous land and occupational licences across the State (similar to restrictions which already apply on leasehold land under the *Land Act 1994* for agriculture and grazing purposes);
 - regrowth vegetation within 50 metres of certain watercourses and drainage features in the Burnett-Mary, Eastern Cape York and Fitzroy Great Barrier Reef catchments (similar to current restrictions applying in priority Great Barrier Reef catchments—Burdekin, Mackay Whitsunday and Wet Tropics); and
 - essential habitat for protected wildlife that is near threatened wildlife;
- amendment of the *Planning Act 2016* to make development for high value agriculture or irrigated high value agriculture prohibited development across the state; and
- amendment of the *Vegetation Management Act 1999* to remove the effect of any decision of the chief executive on applications to approve a landholder's draft area management plan, or accredit an existing planning document as an area management plan.

Any existing applications for clearing of high value agriculture or irrigated high value agriculture that are considered to be a properly made application under the *Planning Act 2016*, prior to the commencement of the retrospective provisions of the Amendment Bill, will continue to be assessed under the current legislation.

Similarly, any Property Map of Assessable Vegetation applications, and any application for approval or amendment of a draft area management plan or existing planning document as an area management plan, that are considered to have been made in accordance with application requirements under the *Vegetation Management Act 1999*, prior to the commencement of the retrospective provisions of the Amendment Bill, will continue to be assessed under the current legislation.

Does the legislation confer power to enter premises, and search for or seize documents or other property, with a warrant issued by a judge or other judicial officer—*Legislative Standards Act 1992*, section 4(3)(e)?

The proposed Bill amends the *Vegetation Management Act 1999* to provide a new power of entry that will allow an authorised officer to enter a place where the authorised officer believes on reasonable grounds that a vegetation clearing offence is happening, or has happened. This will allow the authorised officer to enter and re-enter a property without the occupier's consent or a warrant to investigate whether a vegetation clearing offence has happened or is happening at the place. Subsection 30A(4) however requires the authorised officer must, prior to entering the place, provide the occupier with 24 hours written notice of the proposed entry. The provision also requires the authorised officer to cause as little inconvenience and damage as is practicable in the circumstances. This power of entry does not extend to entry of a building used for residential purposes.

This power of entry is necessary to ensure effective and proactive enforcement of vegetation clearing legislation and to prevent serious and often irreversible impacts on biodiversity and land degradation in imminent circumstances, or where obtaining the consent of the occupier to enter the place is not practicable or possible.

Section 30A is consistent with other natural resource legislation in Queensland and other States, including the *Water Act 2000*, the *Land Act 1994*, the *Environmental Protection Act 1994* and the *Local Land Services Act 2013* (New South Wales) to ensure the power can only be used in a way that does not amount to an intrusion on a person's rights which have been granted under an existing right to occupy the land.

Is the legislation unambiguous and drafted in a sufficiently clear and precise way—*Legislative Standards Act 1992*, section 4(3)(k)?

The application of restoration notices under clause 134 of the Bill arguably offends section 4(3)(k) of the *Legislative Standards Act 1992* by remaining unclear about the scope of a restoration notice. This is unavoidable due to the nature of the content of restoration notices, which are case specific and in response to a particular instance of unlawful clearing.

Landholders are sufficiently informed in advance of the possibility of receiving a restoration notice as a result of retrospective unlawful clearing resulting from the Bill and will also be aware that the restoration requirements will aim to negate the damage caused by the clearing. Landholders will be informed of the legislative changes to the vegetation management framework, which negates any ambiguity and inconsistency with the fundamental legislative principles.

Consultation

Stakeholders have not been consulted specifically on the Amendment Bill. The aim of the Amendment Bill is to implement the election commitments and reinstate a more sustainable vegetation management framework for Queensland. Throughout 2015, the then Department of Natural Resources and Mines held discussions with key stakeholders including: Queensland Farmers' Federation, AgForce, Canegrowers, World Wildlife Fund, The Wilderness Society and Environmental Defenders Office.

Stakeholders are divided on the treatment of high value agriculture and irrigated high value agriculture. AgForce, Queensland Farmers' Federation are concerned about how the government will support development of the industry. The conservation sector wants an end to broadscale clearing and has been critical of high value agriculture and irrigated high value agriculture clearing projects, especially in northern Queensland.

Consistency with legislation of other jurisdictions

While this Bill is specific to Queensland, all jurisdictions regulate clearing of native vegetation.

For example, the Australian Government regulates actions (including clearing) that will have a significant impact on nine matters of national environmental significance under the *Environment Protection and Biodiversity Conservation Act 1999*. Matters of national environmental significance include the Great Barrier Reef Marine Park and listed threatened species and ecological communities.

The New South Wales Government regulates clearing of remnant and protected regrowth vegetation under the *Biodiversity Conservation Act 2016* and *Local Land Services Act 2013*. Similar to Queensland, the New South Wales legislation has particular exemptions where approval is not required, and self-assessable codes for low risk activities and activities where approval is required.

All jurisdictions support vegetation clearing regulations with mapping and compliance frameworks.

Notes on provisions

Part 1 Preliminary

Short title

Clause 1 states that this Act may be cited as the *Vegetation Management and Other Legislation Amendment Act 2018*.

Commencement

Clause 2 provides for when particular provisions of the Bill will commence.

Clauses 6, 14, 16(11), 37 (other than inserted section 144) and 45 commence on 8 March 2018 when the Bill was introduced to Parliament. Commencing these provisions retrospectively from the date of introduction aims to prevent pre-emptive clearing and deter increases in applications for clearing during the period following introduction of the Bill until its assent. Clearing during this period would significantly reduce the effectiveness of the proposed reforms, allowing continued clearing for agriculture, causing damage to high conservation values, and potentially causing irreversible impacts on wildlife, the Great Barrier Reef and the climate.

The clause also provides that section 35 is to commence on a day to be fixed by proclamation. The remaining provisions of the *Vegetation Management and Other Legislation Amendment Act 2018* will commence on assent.

Part 2 Amendment of Vegetation Management Act 1999

Act amended

Clause 3 provides that the part amends the *Vegetation Management Act 1999*.

Amendment of s19O (Accepted development vegetation clearing code)

Clause 4 removes the mandatory requirement on the Minister to make certain accepted development vegetation clearing codes. The clause replaces the specific activities listed in subsections 19O(1)(a) and (b) with more references which cover broad clearing purposes and activities. For example, the reference to sustainable land use includes fodder harvesting.

Amendment of s19Q (When code compliant clearing and conduct of native forest practices are accepted development, assessable development or prohibited development for Planning Act)

Clause 5 amends section 19Q to ensure consistency of terminology with the *Planning Act 2016*, and to accurately reflect that the development (the subject of a vegetation clearing application) must be for a relevant purpose, as opposed to the application.

Insertion of new s19S

Clause 6 inserts a new section 19S into part 2, division 4B. The new section provides that if the Minister revokes or replaces an accepted development vegetation clearing code, a notice given under the revoked or replaced accepted development clearing code ceases to be valid, and the activity cannot continue to be carried out under the replaced or revoked code. If the code is replaced, a notification must be made under the replacement code before the activity can be carried out under the replacement code.

Amendment of s20AH (Deciding to show particular areas as category B areas)

Clause 7 amends section 20AH to correct inconsistencies in terminology between, and the application of, sections 20AH, 20AI and 20CA that align to apply in conjunction. These sections ensure clearing for purposes that aim to retain the remnant status of the regional ecosystem, will continue to be mapped as a remnant regional ecosystem (category B area) on the regulated vegetation management map following clearing.

Amendment of s20AI (Deciding to show particular areas as category C areas)

Clause 8 amends section 20AI to correct inconsistencies in terminology between, and the application of, sections 20AH, 20AI and 20CA that align to apply in conjunction. These sections ensure areas that undergo clearing for purposes that aim to retain the high value regrowth vegetation status of the regional ecosystem, will continue to be mapped as high value regrowth (a category C area) on the regulated vegetation management map following clearing.

Amendments to clause 8 also insert native forest practice due to the re-regulation of high value regrowth (category C areas) on freehold and Indigenous land.

Amendment of s20AL (What is a category A area)

Clause 9 inserts a new subsection (f) into section 20AL, which enables the chief executive under section 20C(3) of the *Vegetation Management Act 1999* to make an area a category A area on a Property Map of Assessable Vegetation (PMAV) if the chief executive and the landholder agree to the area being made a category A area, and prior to the chief executive making the area a category A area, the area is a category X area on a PMAV which contains remnant vegetation or high value regrowth vegetation.

Amendment of s20AO (What is a category X area)

Clause 10 amends section 20AO to clarify that an area cannot be made a category X area on a Property Map of Assessable Vegetation unless the area is an area where clearing of vegetation has happened.

Amendment of s20B (When chief executive may make PMAV)

Clause 11 inserts a new sub section (3) to clarify that the chief executive can make a Property Map of Assessable Vegetation (PMAV) for more than one circumstance listed in subsection (1)(a) to (i), over the same area or different areas. For example, the chief executive may make a PMAV for an area where the area becomes a declared area, while also making a PMAV over part of the same area where the area is subject to a restoration notice.

Amendment of s20CA (Process before making PMAV)

Clause 12 amends subsections 20CA(2)(a) to (e) to reorder and correct subsections (2)(a) to (e) to clarify that clearing under an accepted development vegetation clearing code or an area management plan for purposes that aim to retain the remnant status of the regional ecosystem, cannot be made a category X area on a Property Map of Assessable Vegetation (PMAV).

These amendments to subsections (2)(a) to (e) also correct alignment errors with the application of sections 20AH and 20AI. For example, native forest practice has been inserted into the reordered subsection relating to accepted development vegetation clearing codes to ensure areas where clearing for native forest practice has occurred remain regulated as a category B area or a category C area on the regulated vegetation management map.

Subsection 20CA(3) has been amended to clarify that the chief executive cannot make an area a category X area on a PMAV if the clearing event which is the subject of the applicant's request to make the area a category X area on a PMAV, was not lawfully carried out. Subsection 20CA(3) applies to the clearing of vegetation after 29 November 2013 to align with the version map updates on that date. 'Lawfully carried out' has been defined in subsection 20CA(9) to include all lawful clearing under the vegetation management framework.

Amendment of s20D (When PMAV may be replaced)

Clause 13 inserts a new subsection reordered as subsection 20D(3)(c). This new subsection allows for a replacement Property Map of Assessable Vegetation (PMAV)

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to be made to change a category A area mentioned in subsection 20AL(f) (an area made a category A area by agreement between the chief executive and the landholder) to be either a category B area, category C area or category X area on a PMAV if each of the affected owners agrees to the replacement PMAV.

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

Clause 14 replaces Part 2, division 5B with a new division 5B. The new division does not include the ability for an entity to apply for an area management plan or have an existing planning document accredited as an area management plan. It retains the ability of the chief executive to make area management plans that are for one or more of the purposes / activities listed in subsection 21B(2)(c) provided the area management plan is consistent with the State Policy.

Area management plans are approved for single areas or contiguous areas and are suitable for large areas with similar vegetation management issues (e.g. regional council areas). Area management plans can be approved for a maximum period of 10 years. The ability to apply for an area management plan was introduced in 2011 prior to the introduction of accepted development vegetation clearing codes, to enable landholders to undertake management activities such as fodder harvesting, under a self-assessable framework that included a notification process.

The self-assessable model for area management plans is similar to that of accepted development vegetation clearing codes. Removing the ability for a landholder to apply for an area management plan, or accredit an existing planning document as an area management plan, reinforces the role and function of accepted development vegetation clearing codes being the supported mechanism in which low-risk clearing activities are undertaken. By retaining the ability for the chief executive to make an area management plan, any low risk small scale vegetation management issues outside the scope of an accepted development vegetation clearing code that are necessary or desirable for achieving the purposes of the Act, may still be addressed in a self-assessable framework.

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

Clause 15 omits the heading of part 2, division 6, subdivision 1.

Amendment of s22A (Particular vegetation clearing applications may be assessed)

Clause 16 amends the heading of, and subsections within, section 22A to align with the planning framework terminology and to clarify that it is the development (the subject of the vegetation clearing application) which must be for a relevant purpose, not the vegetation clearing application.

Subsections 22A(2)(k) and (l) are omitted to remove high value agriculture clearing and irrigated high value agriculture clearing as relevant purposes under the *Vegetation Management Act 1999* for which a development application can be made under the *Planning Act 2016*.

The clause amends subsection 22A(2)(g) to change the reference to the activity 'thinning' to 'managing thickened vegetation'. This change in terminology better describes the intent of the activity under the *Vegetation Management Act 1999*.

Subsection 22A(2B)(a) has been amended to insert the land tenures associated with category C areas, including the re-regulation of category C areas on freehold land and Indigenous land, and the regulation of category C areas on land subject to an occupation licence under the *Land Act 1994*.

Insertion of new s22B

Clause 17 inserts a new section 22B into part 2, division 6 which provides the requirements applicants must demonstrate when submitting an application to manage thickened vegetation.

These requirements include demonstrating the proposed location and extent of the proposed clearing, the proposed methods, evidence the regional ecosystem has thickened, and limitations based on regional ecosystems and clearing restrictions prescribed under a regulation. These requirements ensure areas where managing thickened vegetation is proposed are appropriate for the activity because they have thickened for the particular regional ecosystem. The requirements also ensure that the proposed methods and clearing will result in the restoration of the regional ecosystem to the floristic composition and densities typical of the regional ecosystem in the bioregion.

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

Clause 18 omits Part 2, Division 6, Subdivision 1A. The subdivision provided the requirements and considerations for applications for high value agriculture clearing and irrigated high value agriculture clearing. This omission reflects amendments under *Clause 16* which omitted high value agriculture clearing and irrigated high value agriculture clearing as being relevant purposes under subsection 22A(2).

Amendment of s28 (Failure to return identity card)

Clause 19 changes the maximum penalty units for failing to return an identity card where a person ceases to be an authorised officer, from 10 to 50 penalty units. This brings the maximum penalty in line with other natural resource legislation, such as the *Water Act 2000*.

Amendment of s30 (Power to enter places)

Clause 20 amends section 30(1)(c)(i) to provide a power for an authorised officer to enter a place to monitor compliance with development that is the clearing of vegetation under an enforceable undertaking, an accepted development vegetation clearing code or an area management plan.

This amendment also reflects amendments under *Clauses 21* and *35* by including entry authorised under section 30A (Power to enter place on reasonable belief of

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unlawful clearing), and enabling an authorised officer to enter a place to monitor activities associated with an enforceable undertaking.

Insertion of new s30A

Clause 21 inserts a new section 30A in part 3, division 1, subdivision 2 which enables an authorised officer who believes on reasonable grounds that a vegetation clearing offence is happening at a place, or has happened at a place, to enter and re-enter a property without the occupier's consent or a warrant to investigate. Subsection 30A(4) however requires the authorised officer must, prior to entering the place, provide the occupier with 24 hours written notice of the proposed entry. The provision also requires the authorised officer to cause as little inconvenience and damage as is practicable in the circumstances. This power of entry does not extend to entry of a building used for residential purposes.

This power of entry is necessary to ensure effective and proactive enforcement of vegetation clearing legislation and to prevent serious and often irreversible impacts on biodiversity and land degradation in imminent circumstances, or where obtaining the consent of the occupier to enter the place is not practicable or possible.

Section 30A is consistent with other natural resource legislation in Queensland and other States, including the *Water Act 2000*, the *Land Act 1994*, the *Environmental Protection Act 1994* and the *Local Land Services Act 2013* (New South Wales) to ensure the power can only be used in a way that does not amount to an intrusion on a person's rights which have been granted under an existing right to occupy the land.

Amendment of s37 (Failure to help authorised officer)

Clause 22 changes the maximum penalty units where a person fails to give reasonable help to an authorised officer, from 50 to 200 penalty units. This brings the maximum penalty in line with other natural resource legislation, such as the *Water Act 2000*.

Amendment of s38 (Failure to give information)

Clause 23 changes the maximum penalty units where a person fails to comply with a requirement from an authorised officer and does not have a reasonable excuse, from 50 to 200 penalty units. This brings the maximum penalty in line with other natural resource legislation, such as the *Water Act 2000*.

Amendment of s39 (Seizing evidence)

Clause 24 amends section 39 to reflect the amendments under Clause 21. This amendment provides an authorised officer entering a place under section 30A with the power to seize evidence consistent with the purpose of the entry stated in the written notice to the occupier.

Amendment of s51 (Power to require information)

Clause 25 changes the maximum penalty units for failing to give information to an authorised officer about a vegetation clearing offence, from 50 to 200 penalty units.

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This creates a more appropriate level of deterrence for non-compliance and also aligns the *Vegetation Management Act 1999* with other Queensland natural resources legislation, such as the *Water Act 2000*.

Amendment of s53 (Failure to certify copy of document)

Clause 26 changes the maximum penalty units for a person failing to comply with a document certification requirement, unless the person has a reasonable excuse, from 50 to 200 penalty units. This brings the maximum penalty in line with other natural resource legislation, such as the *Water Act 2000*.

Amendment of s54 (Failure to produce document)

Clause 27 changes the maximum penalty for a person failing to comply with a document production requirement, unless the person has a reasonable excuse, from 50 to 200 penalty units. This brings the maximum penalty in line with other natural resource legislation, such as the *Water Act 2000*.

Amendment of s54A (Stop work notice)

Clause 28 amends section 54A to make it clear that a stop work notice may be issued in situations where a person is either currently committing, or has committed a vegetation clearing offence, and there is a reasonable belief that further clearing will continue or that evidence of the clearing will be destroyed if a stop work notice is not issued.

Where relevant, these amendments reflect section 168 (Enforcement Notices) of the *Planning Act 2016*. The amendments will provide for more timely and effective compliance action, and enforcement of vegetation management laws.

The clause amends the maximum penalty for failing to comply with a stop work notice, from 1665 to 4500 penalty units. This creates a more appropriate level of deterrence for recidivist behaviour in circumstances where a person continues to ignore the direction and continues to commit the offence. It also aligns the *Vegetation Management Act 1999* with the penalty level for contravening an enforcement notice under the *Planning Act 2016*, which serves the same purpose for stopping the continuance of a development offence for the clearing of native vegetation.

Amendment of s54B (Restoration notice)

Clause 29 changes the maximum penalty for failing to comply with a restoration notice, from 1665 to 4500 penalty units. This creates a more appropriate level of deterrence for aggravated non-compliance, in circumstances where a person continues to ignore the direction to remedy the original clearing offence. This increase of the maximum penalty units ensures the *Vegetation Management Act 1999* is consistent with the penalty units for contravening an enforcement notice under the *Planning Act 2016*, particularly given both restoration notices under the *Vegetation Management Act 1999* and enforcement notices under the *Planning Act 2016* serve the same purpose.

Amendment of s58 (False or misleading statements)

Clause 30 changes the maximum penalty for giving a false or misleading statement to an authorised officer, from 50 to 500 penalty units. This creates a more appropriate level of deterrence for non-compliance and also aligns the *Vegetation Management Act 1999* with other Queensland natural resources legislation, such as the *Water Act 2000*. The substantive increase of penalty units for this offence reflects the nature of this offence being an offence involving fraudulent or deceptive behaviour.

Amendment of s59 (False or misleading documents)

Clause 31 changes the maximum penalty for giving a false or misleading document to an authorised officer, from 50 to 500 penalty units. This creates a more appropriate level of deterrence for non-compliance and also aligns the *Vegetation Management Act 1999* with other Queensland natural resources legislation, such as the *Water Act 2000*. The substantive increase of penalty units for this offence reflects the nature of this offence being an offence involving fraudulent or deceptive behaviour.

Amendment of s59A (Impersonation of authorised officer)

Clause 32 changes the maximum penalty for pretending to be an authorised officer, from 50 to 200 penalty units. This creates a more appropriate level of deterrence for non-compliance and also aligns the *Vegetation Management Act 1999* with other Queensland natural resources legislation, such as the *Water Act 2000*.

Amendment of s60 (Obstructing an authorised officer)

Clause 33 changes the maximum penalty for obstructing an authorised officer in the exercise of a power, from 100 to 500 penalty units. This creates a more appropriate level of deterrence for non-compliance and also aligns the *Vegetation Management Act 1999* with other Queensland natural resources legislation, such as the *Water Act 2000*.

Amendment of s63A (Review decision)

Clause 34 amends section 63A(3) to align with the replacement of Part 2, division 5B under clause 14.

Insertion of new pt 4, div 5

Clause 35 inserts a new part 4, division 5 to provide for enforceable undertakings.

New section 68CC Chief executive may accept enforceable undertakings

New section 68CC provides a new compliance tool (an enforceable undertaking) to expand the compliance options available under the *Vegetation Management Act 1999* and the *Planning Act 2016* to address unlawful clearing. It is a voluntary tool whereby a person can request the chief executive enter into a written agreement in relation to a contravention, or alleged contravention, by the person under the *Vegetation Management Act 1999* or *Planning Act 2016*. Enforceable undertakings commit the

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alleged offender to deliver on agreed environmental outcomes, for example: revegetating an area connecting a strategic environmental corridor; contributing to environmental research; or implementing education strategies to improve a broader understanding of the vegetation management framework and better land management practices.

These enforceable undertakings can be used as an alternative to prosecution or a remedial tool (for example where a restoration notice is not practical or appropriate). Section 68CC provides that an enforceable undertaking must only be accepted by the chief executive if the enforceable undertaking secures compliance with, or advances the purposes of, the *Vegetation Management Act 1999*. An enforceable undertaking can be accepted by the chief executive at any time before or during proceedings in relation to the alleged contravention. If proceedings have started when the chief executive accepts the enforceable undertaking, the chief executive will take all reasonable steps to discontinue the proceedings noting the State is bound by model litigant principles.

If an enforceable undertaking is accepted by the chief executive, the chief executive must publish the details of the undertaking the chief executive considers appropriate on the department's website. All material published will be compliant with the *Information Privacy Act 2009*.

New section 68CD Effect of enforceable undertakings

New section 68CD specifies the effect of an accepted enforceable undertaking. An undertaking only takes effect once the administering authority has given the person who made the undertaking the notice of the decision to accept the undertaking.

Subsection 68CD(2) provides that no proceedings for contravention or alleged contravention may be brought in relation to the contravention or the alleged contravention which is the subject of the enforceable undertaking if the person is complying or has complied with the enforceable undertaking.

If however the person does not comply with the enforceable undertaking, section 68CD does not prevent the chief executive from commencing proceedings for the original offence (the contravention or alleged contravention the subject of the enforceable undertaking), and the contravention of the enforceable undertaking.

Subsection 68CD(3) confirms the making of an enforceable undertaking does not constitute admission of guilt in relation to the contravention or alleged contravention which is the subject of the enforceable undertaking.

New section 68CE Withdrawal or variation of enforceable undertakings

New section 68CE provides for withdrawal or variation of an enforceable undertaking. The person who has made the enforceable undertaking may at any time withdraw or vary the enforceable undertaking with the written agreement of the chief executive. This however does not extend to a variation of the enforceable undertaking to provide for a different contravention or alleged contravention.

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New section 68CF Amending enforceable undertaking-with agreement

New section 68CF provides that the chief executive may amend an enforceable undertaking only with the written agreement of the person who made the undertaking.

New section 68CG Amending enforceable undertaking-clerical or formal errors

New section 68CG provides that the chief executive may only amend an enforceable undertaking to correct a clerical or formal error if the amendment does not adversely affect the interests of the person who made the undertaking or anyone else, and the person has been given written notice of the amendment.

New section 68CH Amending or suspending enforceable undertaking-after show cause process

New section 68CH enables the chief executive to amend or suspend an enforceable undertaking for one of the circumstances listed in subsection 68CH1(a) to (d). For example, the enforceable undertaking was accepted relying on a representation or declaration that was materially false or misleading.

The chief executive must first afford the person who made the undertaking with natural justice by providing the person with a notice that allows the person to make written representations to show why the action should not be taken. The chief executive must give the person 20 business days to make the representations, and must consider any written representations made during this time. If after considering all the written representations the chief executive still believes a ground exists to take the action, the chief executive may take the action. Within 10 days after making a decision to take the action, the chief executive must give the person an information notice about the decision. By the giving of an information notice, the decision is then subject to review under Part 4, Divisions 1 (Internal reviews by chief executive) and 1A (External review by Queensland Civil and Administrative Tribunal) of the *Vegetation Management Act 1999*.

If at any stage the chief executive decides to not take the action, the chief executive must promptly give the person written notice of the decision.

New section 68CI Contravention of enforceable undertaking

New section 68CI applies if a person contravenes an enforceable undertaking. It provides that the maximum penalty for wilfully contravening an undertaking is 6,250 penalty units, otherwise the maximum penalty is 4,500 penalty units. The maximum penalty units are reflective of the offence being an aggravation of the original non-compliance, or alleged non-compliance, of the substantive offence.

Under s68CI(2) the chief executive may apply to a Magistrates Court for an order if a person contravenes an enforceable undertaking regardless of whether the person is prosecuted for the offence of contravening the enforceable undertaking. This means that the chief executive may seek an order from the Magistrates Court sitting in criminal jurisdiction to make an order directing the person to comply with the enforceable undertaking, or discharging the undertaking. Also the court may make any other order

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the court considers just and appropriate, including orders for the person to comply with the enforceable undertaking, or cost orders relating to investigating the contravention of the enforceable undertaking, and monitoring compliance with the enforceable undertaking in the future.

Renumbering of pt 6, div 13 and ss 133-135

Clause 36 renumbers part 6, division 13 as division 12 and also renumbers sections 133 to 135 as 125 to 127.

Insertion of new pt 6, div 13

Clause 37 inserts a new division 13 into part 6 to provide a number of transitional provisions for the amendment Act.

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

New section 128 definitions for division

A new section provides a definition of 'area management plan', 'date of assent', 'interim period', 'near threatened wildlife' and 'unlawful clearing' for the purposes of the division.

'Area management plan' is an area management plan that was in force immediately before 8 March 2018.

'Date of assent' is the date of assent of the *Vegetation Management and Other Legislation Amendment Act 2018*.

'Interim period' defines the period starting 8 March 2018 and ending immediately before the date of assent.

'Near threatened wildlife' is as defined in the *Nature Conservation Act 1992*, schedule.

'Unlawful clearing' is development during the interim period that has become unlawful as a result of the *Vegetation Management and Other Legislation Amendment Act 2018* commencing.

New section 129 Applications under s20C made but not decided before 8 March 2018

New section 129 provides that applications for a Property Map of Assessable Vegetation (PMAV) made but not decided before 8 March 2018, must be dealt with and decided by the chief executive as if the *Vegetation Management and Other Legislation Amendment Act 2018* had not commenced.

New section 130 Applications under s20C made during the interim period

New section 130 requires that if the chief executive receives a Property Map of Assessable Vegetation (PMAV) application during the interim period that requests an area be made a category X area on a PMAV, which would, after 8 March 2018, become a category C area or category R area and the chief executive makes a decision to show that area as a category X area on a PMAV during the interim period, then the decision will have no effect once the *Vegetation Management and Other Legislation Amendment Act 2018* commences. In these circumstances, the chief executive may reconsider and decide the application, and remake the PMAV after the date of assent.

New section 131 Proposed regulated vegetation management map

New section 131 requires the chief executive to publish a map during the interim period—a proposed regulated vegetation management map, on the Department of Natural Resources, Mines and Energy website. The map shows proposed category C areas and proposed category R areas. The chief executive may also republish the map during the interim period.

On the 8 March 2018, the proposed regulated vegetation management map is taken to be the regulated vegetation management map.

The map will assist landholders to determine what new requirements (including any retrospective requirements) may apply to their property during the interim period and on the commencement of the *Vegetation Management and Other Legislation Amendment Act 2018*.

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

New section 132 provides that during the interim period, the definition of high value regrowth vegetation is taken to include a reference to freehold land, indigenous land or land which is the subject of an occupation licence under the *Land Act 1994*.

It also provides that from 8 March 2018, the 'Managing category C regrowth vegetation' accepted development vegetation clearing code applies to high value regrowth vegetation on freehold land, Indigenous land and occupational licences under the *Land Act 1994* in the same way it applies to vegetation located on a lease issued under the *Land Act 1994* for agriculture and grazing purposes. This extended application of this code applies until the Minister remakes the code under section 190 of the *Vegetation Management Act 1999* after the assent of the *Vegetation Management and Other Legislation Amendment Act 2018*.

Similarly, from 8 March 2018, the 'Managing a native forest practice' accepted development vegetation clearing code" applies to high value regrowth vegetation on freehold land and indigenous land in the same way it applies to remnant vegetation on freehold land and indigenous land until the Minister remakes the code under section 190 of the *Vegetation Management Act 1999* following assent of the *Vegetation Management and Other Legislation Amendment Act 2018*.

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The section also provides that from 8 March 2018, an area management plan is taken to apply to high value regrowth vegetation on freehold land and Indigenous land in the same way it applies to high value regrowth vegetation located on a lease issued under the *Land Act 1994* for agriculture and grazing purposes until the end of the plan period for the plan.

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

This new section provides that during the interim period, the definition of regrowth watercourse and drainage feature area is also taken to include an area located within 50 metres of a watercourse or drainage feature located in the Burnett-Mary, Eastern Cape York and Fitzroy Great Barrier Reef catchments identified on the vegetation management watercourse and drainage feature map.

It also provides that from 8 March 2018, the 'Managing category R regrowth vegetation' accepted development vegetation clearing code applies to the Burnett-Mary, Eastern Cape York and Fitzroy catchments in the same way it applies to the catchments in the definition regrowth watercourse and drainage feature area, until the Minister remakes the code under section 190 *Vegetation Management Act 1999* following assent of the *Vegetation Management and Other Legislation Amendment Act 2018*.

The section also provides that an area management plan will apply to the Burnett-Mary, Eastern Cape York and Fitzroy catchments in the same way it applies to the catchments mentioned in the definition of regrowth watercourse and drainage feature area until the end of the plan period for the plan.

New section 134 Restoration and other requirements after unlawful clearing

This new section states that the chief executive may give a person a restoration notice in relation to unlawful clearing that has occurred during the interim period, which is the period between introduction and immediately before the date of assent of the *Vegetation Management and Other Legislation Amendment Act 2018*. Additional requirements may be applied to the restoration notice, over and above the requirements contained in subsection 54B(3), which may include the restoration of additional land that was not the land subject of the unlawful clearing. The chief executive must have regard to the environmental offsets policy under the *Environmental Offsets Act 2014* when deciding the additional requirements of the restoration notice.

For the purposes of this section, 'unlawful clearing' is clearing that becomes a development offence under the *Planning Act 2016* because of an amendment to the *Vegetation Management Act 1999* or the *Planning Act 2016* by the *Vegetation Management and Other Legislation Amendment Act 2018*. New section 332 provides that unlawful clearing is not an offence under the *Planning Act 2016* during the interim period.

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New section 135 No compensation payable

New section establishes that no compensation will be payable by the State as a consequence of any of the provisions in this division that applies in relation to the interim period.

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

New section 136 commences the phasing out of landholder-driven area management plans as a mechanism for managing low-risk clearing that is or may be managed by the accepted development vegetation clearing codes.

This new section provides that an area management plan relating to the clearing for encroachment, thinning or fodder harvesting, remains in force until 8 March 2020 only. This means that despite any end of the plan period mentioned in an area management plan, these area management plans will cease on 8 March 2020. Section 136 does not however apply to an area management plan made by the chief executive under section 20UA of the *Vegetation Management Act 1999*. Thinning has the meaning given by the *Vegetation Management Act 1999* immediately before 8 March 2018.

An entity who has provided notice of an intention to clear under a relevant area management plan prior to 8 March 2018 may continue to clear under the plan while it remains in force. However, no further notifications to clear can be made after 8 March 2018.

The two year period recognises that, in some instances, the clearing requirements for encroachment, thinning and fodder harvesting under current area management plans may not be consistent with the best available science. The two year period also recognises the longer-term security and business planning benefits for landholders provided by area management plans and as such, allows ongoing clearing to occur (consistent with the area management plan) for landholders actively using the area management plan.

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

New section 137 enables landholders to continue to notify and to clear vegetation under an area management plan for the area management plan's stated period, where the area management plan relates to controlling non-native plants or declared pests; ensuring public safety; relevant infrastructure activities; and necessary environmental clearing.

This section supports the transition from having multiple mechanisms under which low-risk clearing may occur, to having one primary mechanism-the accepted development vegetation clearing codes.

New section 138 Amendment of area management plans

New section 138 enables the chief executive to amend landholder-driven area management plans (area management plans made by the chief executive under

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section 20UA of the *Vegetation Management Act 1999*) by agreement with the applicant. It also provides that the chief executive can amend an area management plan without the applicant's agreement if the chief executive considers the area management plan is not consistent with the State policy. Written notice must be provided to the applicant of the area management plan if the chief executive amends an area management plan due to inconsistency with the State policy.

New section 139 Revocation of particular area management plans

New section 139 revokes the area management plan made by the chief executive under section 20UA of the *Vegetation Management Act 1999* called the 'Managing fodder harvesting Mulga Lands Fodder Area Management Plan' (the Mulga Lands Fodder AMP) effective 8 March 2018. A notice of intended clearing under the Mulga Lands Fodder Area Management Plan ceases to have effect on 8 March 2018, and no further clearing can be carried out under the Mulga Lands Fodder Area Management Plan from 8 March 2018.

The self-assessable model for area management plans is similar to that of accepted development vegetation clearing codes. Revoking the Mulga Lands Fodder Area Management Plan reinforces the role and function of the accepted development vegetation clearing code for fodder harvesting being the supported mechanism in which low-risk clearing activities are undertaken.

Landholders can continue to undertake self-assessable clearing under the accepted development vegetation clearing code for fodder harvesting, or alternatively, apply for a development permit under the *Planning Act 2016*.

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

New section 140 applies to applications made to the chief executive during the interim period to approve a landholder-driven draft area management plan, or accredit an existing planning document as an area management plan. Any decision by the chief executive on these applications during the interim period will have no effect on assent. The interim period is the period between commencing 8 March 2018 and ending immediately before the date of assent.

New section 141 Proposed map showing essential habitat

This new section requires the chief executive to publish a map during the interim period showing areas of proposed essential habitat for protected wildlife and near threatened wildlife on the Department of Natural Resources, Mines and Energy website. The chief executive may republish the map during the interim period.

The section provides that for making the map showing areas of proposed essential habitat, protected wildlife under the *Vegetation Management Act 1999* is taken to include near threatened wildlife. The map will assist landholders to determine what new requirements may apply to their property on the commencement of the *Vegetation Management and Other Legislation Amendment Act 2018*, which in turn can help guide clearing to ensure it does not become unlawful following commencement.

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The proposed map is taken to be the essential habitat map on 8 March 2018.

New section 142 Provision about essential habitat

New section 142 provides that during the interim period a reference to essential habitat for protected wildlife in an accepted development vegetation clearing code or area management plan includes essential habitat for near threatened wildlife.

It also provides that until the accepted development vegetation clearing codes are remade following the date of assent of the *Vegetation Management and Other Legislation Amendment Act 2018*, an accepted development vegetation clearing code applies in relation to near threatened wildlife as if that wildlife were protected wildlife.

Similarly, an area management plan applies in relation to near threatened wildlife as if that wildlife were protected wildlife until the end of the plan period for the plan.

New section 143 Application of particular instruments

New section 143 applies to development for which an environmental offset may be required under State Code 16: (Native vegetation clearing) of the State development assessment provisions under the *Planning Act 2016*.

The section also provides that the reference to an animal or a plant that is endangered wildlife or vulnerable wildlife includes near threatened wildlife under section (2)(3)(b), schedule 2 of the *Environmental Offsets Regulation 2014*.

Under subsection 143(4) of the new section, it is stated that the Queensland Environmental Offsets Policy prescribed under the *Environmental Offsets Act 2014*, section 12(1) applies as if section 4.3.6 of the policy provided for a multiplier of 4 for essential habitat for near threatened wildlife and table one, in section 4.3.13.2 of the policy applies to near threatened wildlife.

This new section also provides that a reference in the *Environmental Offsets Regulation 2014*, schedule 2, to the essential habitat map includes the map mentioned in new section 141 of the *Vegetation Management and Other Legislation Amendment Act 2018*.

Subsections 143(2) and (4) only apply until the provisions mentioned in each subsection are amended to provide for their application to near threatened wildlife.

New section 144 Transitional provision for ss 20AH and 20AI

New section 144 enables the chief executive, in certifying the regulated vegetation management map under sections 20AH(c) and 20AI(a), to show an area as category B area or category C area respectively, if the areas have been subject to thinning under an accepted development vegetation clearing code. 'Thinning' has the meaning provided by the *Vegetation Management Act 1999* immediately before the date of assent of the *Vegetation Management and Other Legislation Amendment Act 2018*.

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New section 144 also enables the chief executive to continue to consider thinning under section 20CA(2)(c), where 'thinning' has the meaning provided by the *Vegetation Management Act 1999* immediately before the date of assent of the *Vegetation Management and Other Legislation Amendment Act 2018*.

Amendment of schedule (Dictionary)

Clause 38 makes a number of amendments to the dictionary of the *Vegetation Management Act 1999* to ensure it is consistent with the *Vegetation Management and Other Legislation Amendment Act 2018*.

The definitions for 'high value agriculture clearing' and 'irrigated high value agriculture clearing' are omitted as they are being removed as relevant clearing purposes under the *Vegetation Management Act 1999*.

The definition of 'high value regrowth vegetation' is amended to include vegetation located on freehold land, indigenous land, and land subject to an occupation licence under the *Land Act 1994*. These new areas are in addition to the existing leasehold land for leases issued under the *Land Act 1994* for agriculture or grazing purposes. This gives effect to the policy objective of re-regulating high value regrowth vegetation on freehold land, indigenous land and on occupation licences.

The definition of 'high value regrowth vegetation' is also amended from vegetation that has not been cleared since 31 December 1989, to vegetation that has not been cleared (other than for relevant clearing activities) for at least 15 years, if the area is an endangered regional ecosystem, an of concern regional ecosystem or a least concern regional ecosystem. This gives effect to the policy objective of aligning the high value regrowth definition with the 'high conservation value' international definition advocated by the High Conservation Resource Network. See new definition for 'relevant clearing activities' below.

A new definition of 'managing thickened vegetation' replaces the previous definition for "thinning" to ensure the new definition is consistent with the *Vegetation Management and Other Legislation Amendment Act 2018*.

The definition of 'owner' is amended to align with the removal of the ability for landholders to apply for an area management plan, or to have planning documents accredited as an area management plan.

'Relevant clearing activities' is a new definition which includes fodder harvesting, managing thickened vegetation, clearing of encroachment, controlling non-native plants or declared pests, necessary environmental clearing, and managing, felling and removing trees for an ongoing forestry business.

The definition of 'vegetation clearing provision' is amended to add a provision which identifies the clearing of vegetation that happened before the repeal of the *Sustainable Planning Act 2009*—sections 578(1), 580(1), 581(1), 582 or 594(1).

The fodder species under the definition of 'fodder harvesting' are amended in line with current science.

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The definition of 'forest practice' is amended to ensure forestry practices in native forests must be consistent with the accepted development vegetation clearing code for native forest practice.

The definition of 'protected wildlife' is amended to include near threatened wildlife. This gives effect to the policy objective of aligning the high value regrowth definition with the 'high conservation value' international definition advocated by the High Conservation Resource Network.

The definition of 'regrowth watercourse and drainage feature area' is amended to apply to the Burnett-Mary, Eastern Cape York, and Fitzroy Great Barrier Reef catchments, in addition to the Burdekin, Mackay Whitsunday and Wet Tropics catchments. This amendment gives effect to the policy objective of broadening protection of regrowth vegetation in watercourse areas to these additional Great Barrier Reef catchments.

Part 3 Amendment of Planning Act 2016

Act amended

*Clause 39 provides that this part amends the *Planning Act 2016*.*

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

Clause 40 changes the heading of chapter 8 to 'Repeal and transitional provisions'.

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

*Clause 41 relocates and renumbers chapter 8, part 2 as chapter 8, part 1 to provide transitional provisions required as a consequence of the *Vegetation Management and Other Legislation Amendment Act 2018*. Section 325 is also renumbered as section 284A.*

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

*Clause 42 renumbers chapter 8, part 1 as chapter 8, part 2 to provide transitional provisions required as a consequence of the *Vegetation Management and Other Legislation Amendment Act 2018*.*

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

*Clause 43 renumbers chapter 8, part 1A as chapter 8, part 3 to provide transitional provisions required as a consequence of the *Vegetation Management and Other Legislation Amendment Act 2018*.*

Renumbering of ss 324A-324D

Clause 44 renumbers sections 324A to 324D as sections 325 to 328 to provide for transitional provisions required as a consequence of the *Vegetation Management and Other Legislation Amendment Act 2018*.

Insertion of new ch 8, pt 4

Clause 45 inserts a new part 4 into chapter 8, which contains transitional provisions for the *Vegetation Management and Other Legislation Amendment Act 2018*.

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

New section 329 Definitions for part

New section 329 provides definitions necessary for interpreting the new part 4 in chapter 8. For this part, unlawful clearing refers to clearing that constitutes a clearing offence as a consequence of the commencement of the *Vegetation Management and Other Legislation Amendment Act 2018*.

New section 330 Development applications made but not decided before commencement

New section 330 provides that development applications for:

1. high value agriculture and irrigated high value agriculture; or
2. assessable development under section 43(1)(a) of the *Planning Act 2016* for the clearing of vegetation that includes essential habitat for protected wildlife that is near threatened wildlife;

that were properly made under the *Planning Act 2016* and undecided before 8 March 2018, must continue to be dealt with and decided under the *Planning Act 2016* as in force before 8 March 2018.

In effect, this section enables relevant applications to continue to be assessed and decided under the *Planning Act 2016*, and will not be affected by amendments resulting from the *Vegetation Management and Other Legislation Amendment Act 2018*.

New section 331 Certain development approvals not affected

This new section provides that a development approval given before 8 March 2018 will not be affected by amendments resulting from the *Vegetation Management and Other Legislation Amendment Act 2018*.

New section 332 Unlawful clearing not an offence during interim period

This section provides that unlawful clearing is not an offence against section 162 (Carrying out prohibited development) or section 163 (Carrying out assessable development without permit) of the *Planning Act 2016* to the extent that the offence became unlawful clearing on the commencement of the *Vegetation Management and*

Other Legislation Amendment Act 2018. Accordingly, it will not be an offence under the *Planning Act 2016* if this clearing is undertaken, however a restoration notice may be given under the *Vegetation Management Act 1999* for the unlawful clearing.

New section 333 Development application for certain operational works during interim period

New section 333 provides that a development application for operational works made during the interim period for high value agriculture clearing or irrigated high value agriculture clearing, will, on assent of the *Vegetation Management and Other Legislation Amendment Act 2018*, be taken not to have been properly made, and any decision on the development application will have no effect. This is because on assent, high value agriculture and irrigated high value agriculture clearing will no longer be a relevant purpose under the *Vegetation Management Act 1999* for which clearing can occur under the vegetation management framework.

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

New section 334 provides that development applications made during the interim period for a material change of use that involves clearing for high value agriculture and irrigated high value agriculture, where the chief executive of the *Planning Act 2016* is a referral agency, will, on assent of the *Vegetation Management and Other Legislation Amendment Act 2018*, be taken not to have been properly made, and any decision on the development application will have no effect. This is because on assent, high value agriculture and irrigated high value agriculture clearing will no longer be a relevant purpose under the *Vegetation Management Act 1999* for which clearing can occur under the vegetation management framework.

Part 4 Amendment of Planning Regulation 2017

Regulation amended

Clause 46 provides that this part amends the Planning Regulation 2017.

Amendment of sch 10 (Development assessment)

Clause 47 amends schedule 10, part 3, division 3, table 1, item 5(c)(iii), to remove the term 'thinning' and replace it with the term 'managing thickened vegetation'. This amendment ensures the new term 'managing thickened vegetation' used in the *Vegetation Management and Other Legislation Amendment Act 2018* is consistent with the term used in the Planning Regulation 2017.

Amendment of sch 21 (Exempt clearing work)

Clause 48 inserts a new section 19A in schedule 21, part 1, section 1. The new provision removes doubt that clearing in accordance with a restoration notice under

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the *Vegetation Management Act 1999* or an enforcement notice under the *Planning Act 2016* does not require any further approval and will be exempt clearing work.

The clause also amends schedule 21, part 2, section 8(b)(iv) and (v) to expand the exemption for urban purposes in an urban area, and the exemption for routine management, on land subject to a licence or permit under the *Land Act 1994*, to include 'regulated regrowth vegetation'. The expansion of these exemptions are necessary given the regulation of high value regrowth (category C) on occupational licences issued under the *Land Act 1994*, and to ensure the consistency of application of exemption across various tenures.

Part 5 Amendment of Water Act 2000

Act amended

Clause 49 provides that this part amends the *Water Act 2000*.

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

Clause 50 amends the heading to include 'destroying vegetation'. This reflects that the requirement for a riverine protection permit to destroy vegetation in a watercourse, lake or spring is being reinstated by the *Vegetation Management and Other Legislation Amendment Act 2018*.

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

Clause 51 amends section 218 of the *Water Act 2000* to allow a person to apply to the chief executive for a riverine protection permit to destroy vegetation in a watercourse, lake or spring. Currently this section only requires a person to apply for a riverine protection permit to excavate or place fill in a watercourse, lake or spring. This clause reinstates its application to destruction of vegetation. Vegetation is defined under the *Water Act 2000* to mean native plants including trees, shrubs, bushes, seedlings, saplings and reshoots and the destruction of vegetation refers to the removing, clearing, killing, cutting down, felling, ringbarking, digging up, pushing over, pulling over or poisoning of the vegetation.

Replacement of s 220 (Criteria for deciding application)

Clause 52 replaces section 220 to include criteria relevant for deciding an application for a riverine protection permit to destroy vegetation in a watercourse, lake or spring. This reflects that the requirement for a riverine protection permit to destroy vegetation in a watercourse, lake or spring is being reinstated by the *Vegetation Management and Other Legislation Amendment Act 2018*.

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

Clause 53 amends section 746 of the *Water Act 2000* to expand its application to allow an authorised officer to enter land of a person authorised to destroy vegetation (other resource) to monitor compliance. For example, enter land to calculate or measure the amount of vegetation destroyed.

The term 'other resources' is defined under the *Water Act 2000* to mean quarry material and riverine vegetation.

This reflects the reinstatement by the *Vegetation Management and Other Legislation Amendment Act 2018* of the application of the riverine protection provisions to the destruction of vegetation.

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

Clause 54 amends section 748 of the *Water Act 2000* to allow an authorised officer to enter land to assess whether the unauthorised destruction of other resources has occurred, or is occurring. The term 'other resources' is defined under the *Water Act 2000* to mean quarry material and riverine vegetation. This amendment reflects the reinstatement by the *Vegetation Management and Other Legislation Amendment Act 2018* of the application of the riverine protection provisions to the destruction of vegetation.

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

Clause 55 amends section 814 of the *Water Act 2000* to make it an offence to destroy vegetation in a watercourse, lake or spring without a riverine protection permit. This reflects the reinstatement by the *Vegetation Management and Other Legislation Amendment Act 2018* of the application of the riverine protection provisions to the destruction of vegetation. Section 814 of the *Water Act 2000* provides for a number of circumstances when the offence does not apply, for example when the activity is permitted under regulation.

This clause also amends section 814 to expand the application of existing exemptions to the destruction of vegetation and also reinstates some vegetation specific exemptions that were provided for prior to the destruction of vegetation provisions being removed from the *Water Act 2000* in 2013. These include, for example, where required under the *Fire and Emergency Services Act 1990* to reduce the risk of fire; where vegetation has been unlawfully planted for woodlot, fodder, agriculture, forestry, garden or horticultural purposes; or where it is necessary to prevent personal injury or property damage or to provide for emergency access.

Amendment of sch 4 (Dictionary)

Clause 56 amends the definition of 'other resources' to ensure it appropriately includes reference to vegetation in a watercourse, lake or spring.

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