



Queensland

# **Vegetation Management Act 1999**

**Current as at 3 July 2017**





Queensland

# Vegetation Management Act 1999

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# Vegetation Management Act 1999

## An Act about the management of vegetation

### Part 1 Preliminary

#### 1 Short title

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

#### 3 Purpose of Act

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

- (2) The purpose is achieved mainly by providing for—
  - (a) the following matters—
    - (i) assessment benchmarks for the Planning Act for the assessment of assessable development that is the clearing of vegetation, other than an assessment carried out by the planning chief executive;
    - (ii) for the Planning Act, the matters a referral agency other than the planning chief executive—
      - (A) must or may assess a development application against; or
      - (B) must or may assess a development application having regard to; and
  - (b) the enforcement of vegetation clearing provisions; and
  - (c) declared areas; and
  - (d) a framework for decision making that, in achieving this Act's purpose in relation to subsection (1)(a) to (e), applies the precautionary principle that lack of full scientific certainty should not be used as a reason for postponing a measure to prevent degradation of the environment if there are threats of serious or irreversible environmental damage; and
  - (e) the regulation of particular regrowth vegetation.
- (3) In this section—
  - environment*** includes—
    - (a) ecosystems and their constituent parts including people and communities; and
    - (b) all natural and physical resources; and
    - (c) those qualities and characteristics of locations, places and areas, however large or small, that contribute to their biological diversity and integrity, intrinsic or attributed scientific value or interest, amenity, harmony and sense of community; and

- (d) the social, economic, aesthetic and cultural conditions affecting the matters in paragraphs (a) to (c) or affected by those matters.

#### **4 Advancing the Act's purpose**

If, under this Act, a function or power is conferred on an entity, the entity must perform the function or exercise the power in a way that advances the purpose of this Act.

#### **5 Definitions**

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

#### **6 Act binds all persons**

This Act binds all persons, including the State, and, so far as the legislative power of the Parliament permits, the Commonwealth and the other States.

#### **7 Application of Act**

- (1) This Act applies to all clearing of vegetation other than vegetation on—
  - (a) a forest reserve under the *Nature Conservation Act 1992*; or
  - (b) any of the following protected areas under the *Nature Conservation Act 1992*—
    - (i) a national park (scientific);
    - (ii) a national park;
    - (iii) a national park (Aboriginal land);
    - (iv) a national park (Torres Strait Islander land);
    - (v) a national park (Cape York Peninsula Aboriginal land);

- (vi) a conservation park;
  - (vii) a resources reserve; or
- (c) an area declared as a State forest or timber reserve under the *Forestry Act 1959*; or
- (d) a forest entitlement area under the *Land Act 1994*.
- (2) This Act does not prevent a local law from imposing requirements on the clearing of vegetation in its local government area.
- (3) The requirements mentioned in subsection (2) are unaffected by the *Local Government Act 2009*, section 27.
- (4) The *Local Government Act 2009*, section 27 is subject to subsection (3).
- (5) This Act does not prevent a local planning instrument under the Planning Act from imposing requirements on the clearing of vegetation in its local government area.

## Part 2                      Vegetation management

### Division 1                Key concepts

#### 8                What is vegetation

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

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

#### 9                What is vegetation management

- (1) ***Vegetation management*** is the management of vegetation in a way that achieves the purpose of this Act.

- 
- (2) For subsection (1), the management of vegetation may include, for example, the following—
- (a) the retention or maintenance of vegetation to—
    - (i) avoid land degradation; or
    - (ii) maintain or increase biodiversity; or
    - (iii) maintain ecological processes;
  - (b) the retention of riparian vegetation;
  - (c) the retention of vegetation clumps or corridors.

## **Division 2                      State policy for vegetation management**

### **10            State policy for vegetation management**

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

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

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

*Examples—*

essential infrastructure, school

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

*Examples—*

hospital, State or local government library or museum

## **Division 4                      Declaration of particular areas**

### **Subdivision 1              Declarations by Governor in Council or Minister**

#### **16              Preparing declaration**

- (1) The Minister may prepare a declaration that a stated area is—
  - (a) an area of high nature conservation value; or
  - (b) an area vulnerable to land degradation.
- (2) Also, a person may request the Minister to prepare a declaration mentioned in subsection (1).
- (3) The proposed declaration must include—
  - (a) proposed assessment benchmarks for the assessment of development that is the clearing of vegetation in the stated area; and
  - (b) proposed matters that a referral agency must or may assess a development application against, or having regard to.
- (4) The Minister must consult with the following entities in preparing the declaration—
  - (a) an advisory committee established to advise the Minister about vegetation management;
  - (b) each local government whose area is affected by the declaration.



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- (5) The Minister must give each owner of land that is in the stated area a written notice inviting the owner to make a submission about the proposed declaration.
  - (6) The Minister must also give notice of the proposed declaration.
  - (7) The notice must—
    - (a) be published in a newspaper the Minister considers appropriate; and
    - (b) state the places where copies of the proposed declaration may be inspected; and
    - (c) invite submissions on the proposed declaration; and
    - (d) state a day by which submissions may be made on the proposed declaration.

## **17 Making declaration**

- (1) The Governor in Council, by gazette notice, may declare—
  - (a) an area mentioned in section 16(1)(a) to be an area of high nature conservation value; or
  - (b) an area mentioned in section 16(1)(b) to be an area vulnerable to land degradation.
- (2) The declaration must not include the matters proposed under section 16(3)(a) and (b).
- (3) The declaration is not subordinate legislation.

## **18 Interim declaration**

- (1) The Minister, by gazette notice, may make an interim declaration that a stated area is—
  - (a) an area of high nature conservation value; or
  - (b) an area vulnerable to land degradation.

- (2) The Minister may make the interim declaration only if the Minister considers that urgent action is needed to protect the area.
- (3) The interim declaration must state it is an interim declaration and the date, not more than 3 months after it is made, on which it expires.
- (4) The interim declaration is not subordinate legislation.
- (5) If an area is declared under subsection (1), a person must not clear vegetation in the area while the declaration has effect.

Maximum penalty—1665 penalty units.

## **19 Criteria for declarations**

- (1) The Minister may make an interim declaration of, or prepare a declaration of, an area to be an area of high nature conservation value only if the Minister considers the area is 1 or more of the following—
  - (a) a wildlife refugium;
  - (b) a centre of endemism;
  - (c) an area containing a vegetation clump or corridor that contributes to the maintenance of biodiversity;
  - (d) an area that makes a significant contribution to the conservation of biodiversity;
  - (e) an area that contributes to the conservation value of a wetland, lake or spring stated in the notice.
- (2) The Minister may make an interim declaration of, or prepare a declaration of, an area to be an area vulnerable to land degradation only if the Minister considers the area is subject to 1 or more of the following—
  - (a) soil erosion;
  - (b) rising water tables;
  - (c) the expression of salinity, whether inside or outside the area;

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

## Subdivision 2      **Declarations by chief executive**

### **19E      Request for declaration**

- (1) The owner of land (the *proponent*) may, by written notice given to the chief executive, ask the chief executive to declare that a stated area of the land is—
- (a) an area of high nature conservation value; or
  - (b) an area vulnerable to land degradation.
- (2) The notice must be accompanied by a management plan for the stated area.
- (3) The management plan must—
- (a) be signed by the proponent; and
  - (b) include enough information to allow the chief executive to map the boundary of the stated area; and
  - (c) state the proponent's management intent, and management outcomes proposed by the proponent, for the conservation of the high nature conservation value of the area or the prevention of land degradation in the area; and
  - (d) state the activities the proponent intends to carry out, or refrain from carrying out, to achieve the management outcomes mentioned in paragraph (c); and
  - (e) state the restrictions, if any, to be imposed on the use of, or access to, the area by other persons to achieve the management outcomes mentioned in paragraph (c).

- (4) Subsection (3) does not limit the matters the management plan may contain.

## **19F Making declaration**

- (1) The chief executive may, by written notice given to the proponent, declare that the stated area is—
- (a) an area of high nature conservation value; or
  - (b) an area vulnerable to land degradation.
- (2) If a person other than the proponent has a registered interest in the stated area the chief executive must not make the declaration without the person's written consent.
- (3) Without limiting subsection (1), the chief executive may decide not to make a declaration for the stated area if the chief executive considers the making of the declaration is not in the interests of the State, having regard to the public interest.
- (4) In this section—
- registered*** means registered under the *Land Act 1994* or *Land Title Act 1994*.

## **19G Particular criteria for declaration**

- (1) The chief executive may declare an area to be an area of high nature conservation value only if the chief executive considers—
- (a) implementation of the management plan for the area will help to conserve its high nature conservation value; and
  - (b) the area is 1 or more of the following—
    - (i) a wildlife refugium;
    - (ii) a centre of endemism;
    - (iii) an area containing a vegetation clump or corridor that contributes to the maintenance of biodiversity;

- (iv) an area that makes a significant contribution to the conservation of biodiversity;
  - (v) an area that contributes to the conservation value of a wetland, lake or spring stated in the notice mentioned in section 19F(1) for the declaration;
  - (vi) another area that contributes to the conservation of the environment.
- (2) The chief executive may declare an area to be an area vulnerable to land degradation only if the chief executive considers—
  - (a) implementation of the management plan for the area will help to prevent or minimise land degradation in the area; and
  - (b) the area is subject to 1 or more of the following—
    - (i) soil erosion;
    - (ii) rising water tables;
    - (iii) the expression of salinity, whether inside or outside the area;
    - (iv) mass movement by gravity of soil or rock;
    - (v) stream bank instability;
    - (vi) a process that results in declining water quality.
- (3) An area declared under this subdivision may include an area of regrowth vegetation.

## **19I Amendment of management plan**

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

## **19J When management plan stops having effect**

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

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

## **19K Recording of declared areas and management plans**

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

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

## 19L Ending declaration

- (1) The chief executive may, by written notice given to the owner of the land the subject of a declaration under this subdivision, end the declaration if the chief executive considers—
  - (a) the declaration is not in the interests of the State, having regard to the public interest; or
  - (b) the management outcomes mentioned in section 19E(3)(c) for the management plan relevant to the declaration have been achieved.
- (2) Also, the chief executive may, by notice given to the owner of land declared as an area of high conservation value, end the declaration if—
  - (a) the area is, on or after the commencement of this subsection, a legally secured offset area; and
  - (b) a prescribed activity is, under an authority under another Act, to be carried out in or on the area; and
  - (c) the holder of the authority has entered into an agreed delivery arrangement in relation to an environmental offset for impacts to the area.
- (3) In this section—

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

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

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

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

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

## **Division 4A                      Clearing vegetation for special indigenous purpose**

### **19N      Draft matters for assessing development application for clearing of vegetation for special indigenous purpose**

- (1) The Minister may prepare a document stating draft assessment matters for development that—
  - (a) involves, or relates to, the clearing of vegetation; and
  - (b) the Minister is satisfied is for a special indigenous purpose under the CYPH Act.
- (2) In preparing the document, the Minister—
  - (a) must consult with—
    - (i) the relevant landholders; and
    - (ii) the Cape York Peninsula Regional Advisory Committee; and
  - (b) may, for example, consider any matter stated in the CYPH Act, section 18 or 19 the Minister considers is relevant to the clearing of vegetation for development.
- (3) In preparing assessment matters under the Planning Act, the document may be considered, but otherwise does not affect the preparation or making of assessment matters under that Act.
- (4) In this section—

***assessment matters*** means—

  - (a) assessment benchmarks for assessing development under the Planning Act; and
  - (b) the matters a referral agency must or may assess a development application against, or having regard to.



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

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

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

***relevant landholders*** means—

- (a) the land trusts for Aboriginal land, under the *Aboriginal Land Act 1991*, that is in the Cape York Peninsula Region; and
- (b) the Aurukun Shire Council; and
- (c) the trustees, under the *Land Act 1994*, of DOGIT land in the Cape York Peninsula Region.

## **Division 4B                      Accepted development**

### **190      Accepted development vegetation clearing code**

- (1) The Minister must make a code (an ***accepted development vegetation clearing code***) for—
  - (a) clearing vegetation for the following—
    - (i) controlling non-native plants or declared pests;
    - (ii) relevant infrastructure activities for which the clearing can not reasonably be avoided or minimised;
    - (iii) fodder harvesting;
    - (iv) thinning;
    - (v) clearing of encroachment;
    - (vi) an extractive industry;
    - (vii) necessary environmental clearing;
    - (viii) in a category C area;

- (ix) in a category R area; and
  - (b) conducting a native forest practice.
- (2) Also, the Minister may make a code (also an *accepted development vegetation clearing code*) for any other matter about clearing vegetation the Minister considers is necessary or desirable for achieving the purpose of this Act.
- (3) An accepted development vegetation clearing code may provide for all or any of the following—
  - (a) clearing for 1 or more relevant purposes under section 22A;
  - (b) clearing that is subject to another code under this Act;
  - (c) clearing a particular area;
  - (d) clearing a particular type of vegetation;
  - (e) required outcomes and practices, and voluntary best practices, for clearing vegetation;
  - (f) restrictions on clearing commercial timber on State land;
  - (g) the protection of habitat for protected wildlife;
  - (h) the circumstance in which an exchange area must be provided;
  - (i) giving notice to the chief executive of the intended clearing or native forest practice to be conducted under the code.
- (4) An accepted development vegetation clearing code must not be inconsistent with this Act or the State policy.

## **19P When accepted development vegetation clearing code takes effect**

An accepted development vegetation clearing code does not take effect until it has been approved under a regulation.

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**19Q When code compliant clearing and conduct of native forest practices are accepted development, assessable development or prohibited development for Planning Act**

- (1) This section applies if an accepted development vegetation clearing code applies to the clearing of vegetation or the conduct of a native forest practice (the *activity*).
- (2) For the Planning Act, the activity is—
  - (a) accepted development to the extent the activity complies with the code; or
  - (b) assessable development to the extent—
    - (i) the activity does not comply with the code; and
    - (ii) any vegetation clearing application for the activity would be for a relevant purpose under section 22A; or
  - (c) prohibited development under that Act to the extent—
    - (i) the activity does not comply with the code; and
    - (ii) any vegetation clearing application for the activity would not be for a relevant purpose under section 22A.

*Note—*

For an offence relating to carrying out assessable development without a development permit under the Planning Act and an exemption from the offence, see chapter 5, part 2 of that Act.

**19R Register of accepted development notices given under code**

- (1) The chief executive must keep a register of notices required to be given to the chief executive under an accepted development vegetation clearing code.
- (2) The register must include details of each notice the chief executive considers appropriate.
- (3) The publicly available part of the register must not contain the name of the person giving the notice.

- (4) The chief executive must publish the real property description of the land the subject of the notification in the publicly available part of the register on the department's website.

## **Division 5AA      Vegetation management maps**

### **20A      What is the *regulated vegetation management map***

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

*Note—*

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

### **20AA    What is the *vegetation management wetlands map***

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

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

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

*Note—*

The map consists of the following documents—

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

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## **20AC What is the *essential habitat map***

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

## **20AH Deciding to show particular areas as category B areas**

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

- (a) a development approval for the area has been given for—
  - (i) fodder harvesting; or
  - (ii) thinning; or
  - (iii) clearing of encroachment; or
  - (iv) control of non-native plants or declared pests; or

- (v) necessary environmental clearing; or
- (b) the area is a declared area, offset area or exchange area;  
or
- (c) the area—
  - (i) has been subject to a native forest practice on a category B area; or
  - (ii) has been subject to clearing of vegetation, or conducting a native forest practice, under an accepted development vegetation clearing code on a category B area; or
- (d) the area contains forest products under the *Forestry Act 1959* and—
  - (i) has been defined by agreement with the FA chief executive as an area in which the State has an interest in commercial timber; or
  - (ii) is an area in which the State has carried out harvesting of commercial timber; or
  - (iii) has been cleared under section 70A; or
- (e) the chief executive has made a PMAV for the area under section 20B(1)(e), (g) or (h); or
- (f) the area has been unlawfully cleared; or
- (g) the area has been cleared of native vegetation and in relation to the clearing a person has been found guilty by a court, whether or not a conviction has been recorded, of a clearing offence; or
- (h) the area is a regional ecosystem that—
  - (i) has a predominant canopy not dominated by woody vegetation; and
  - (ii) has not been cultivated for 15 years; and
  - (iii) contains native species normally found in the regional ecosystem; and

- (iv) is not dominated by non-native perennial species;  
or
- (i) an area management plan has been made or approved for the area and the area has been subject to clearing vegetation under the plan and the clearing was for—
  - (i) fodder harvesting; or
  - (ii) thinning; or
  - (iii) clearing of encroachment; or
  - (iv) controlling non-native plants or declared pests; or
  - (v) necessary environmental clearing.

## **20AI Deciding to show particular areas as category C areas**

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

- (a) the area is a category C area and has been subject to clearing vegetation under an accepted development vegetation clearing code and the clearing was for—
  - (i) thinning; or
  - (ii) clearing of encroachment; or
  - (iii) controlling non-native plants or declared pests; or
  - (iv) necessary environmental clearing that is not the diverting of existing natural channels in a way that replicates the existing form of the natural channels;  
or
- (b) the area is an exchange area; or
- (c) the area contains forest products under the *Forestry Act 1959* that are regulated regrowth vegetation and—
  - (i) has been defined by agreement with the FA chief executive as an area in which the State has an interest in commercial timber; or

- (ii) is an area in which the State has carried out harvesting of commercial timber; or
- (iii) has been cleared under section 70A; or
- (d) the chief executive has made a PMAV for the area under section 20B(1)(e), (g) or (h); or
- (e) the area has been unlawfully cleared; or
- (f) the area has been cleared of native vegetation and in relation to the clearing a person has been found guilty by a court, whether or not a conviction has been recorded, of a clearing offence.

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

If an owner of land in an area wants the chief executive to amend the regulated vegetation management map, the owner must apply to the chief executive under section 20C to make a PMAV for the area.

*Note—*

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

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

- (1) A *property map of assessable vegetation* (or *PMAV*) is a map certified by the chief executive as a PMAV for an area and showing the vegetation category area for the area.
- (2) The map may also show for the area the location of the boundaries of, and the regional ecosystem number for, each regional ecosystem in the area.

## **20AKA What is a *vegetation category area***

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



*Note—*

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

## **20AL What is a *category A area***

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

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

## **20AM What is a *category B area***

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

- (a) contains remnant vegetation; or

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

*Note—*

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

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

## **20AN What is a *category C area***

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

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

*Note—*

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

## **20ANA What is a *category R area***

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

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**20AO What is a *category X area***

- (1) A *category X area* is an area, other than a category A area, category B area, category C area or category R area, shown on the regulated vegetation management map as a category X area.
- (2) However, an area is not a *category X area* if the chief executive decides under section 20CA the area is not a category X area.

**20B When chief executive may make PMAV**

- (1) The chief executive may make a PMAV for an area if—
  - (a) the area becomes a declared area; or
  - (b) the area becomes an offset area; or
  - (c) the area becomes an exchange area; or
  - (d) the area has been unlawfully cleared; or
  - (e) the area is subject to—
    - (i) a restoration notice; or
    - (ii) an enforcement notice under the Planning Act containing conditions about restoration of vegetation; or
  - (f) the area has been cleared of native vegetation and in relation to the clearing a person has been found guilty by a court, whether or not a conviction has been recorded, of a clearing offence; or
  - (g) the chief executive reasonably believes—
    - (i) a person has committed a vegetation clearing offence in relation to the area, whether before or after the commencement of this section, or a vegetation clearing offence is being committed in relation to the area; or
    - (ii) the area was cleared of vegetation in contravention of a tree clearing provision under the *Land Act 1994* as in force before the commencement of the

*Vegetation Management and Other Legislation Amendment Act 2004*, section 3; or

- (iii) prohibited development under the repealed Moratorium Act, part 5 was carried out in relation to the area; or
  - (h) the area is a Land Act tenure that is to be converted under the *Land Act 1994* to another form of tenure; or
  - (i) the chief executive reasonably believes there is an error in the part of the regulated vegetation management map for the area.
- (2) The chief executive must give each owner of land to be included in the PMAV an information notice about the decision to make the PMAV.

## **20BA Chief executive may make decision about category A area**

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

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

## **20C When owner may apply for PMAV**

- (1) An owner of land may apply to the chief executive for the making of a PMAV for the land or part of the land.
- (2) The application must—
  - (a) be in the approved form; and

- (b) state the information prescribed under a regulation; and
  - (c) be accompanied by the fee prescribed under a regulation.
- (3) If the owner of the land and the chief executive agree to the making of the PMAV, the chief executive must make the PMAV.
  - (4) The chief executive may waive the prescribed fee for the making of a PMAV if it is in the interests of the State and the owner.
  - (5) If the chief executive refuses to make a PMAV for the area, the chief executive must give the owner an information notice about the decision.

## **20CA Process before making PMAV**

- (1) This section applies if—
  - (a) an owner of land applies under section 20C for the making of a PMAV for the land or part of the land; and
  - (b) the owner proposes that the land or part of the land (the *relevant area*) be a category X area on the PMAV.
- (2) The chief executive can not make the relevant area a category X area on the PMAV if any of the circumstances mentioned in section 20AH or 20AI for the area have happened unless the area has later been cleared and—
  - (a) when the area was cleared of vegetation, the clearing did not require a development permit under the Planning Act; or
  - (b) the clearing of vegetation has been carried out under a moratorium exemption; or
  - (c) the clearing of vegetation has been carried out under a development approval other than a development approval for—
    - (i) fodder harvesting; or
    - (ii) thinning; or

- (iii) clearing of encroachment; or
  - (iv) control of non-native plants or declared pests; or
  - (v) necessary environmental clearing; or
- (d) the chief executive has, under an accepted development vegetation clearing code, been given a notice relating to clearing vegetation other than for—
  - (i) thinning; or
  - (ii) clearing of encroachment; or
  - (iii) controlling non-native plants or declared pests; or
  - (iv) necessary environmental clearing that is not the diverting of existing natural channels in a way that replicates the existing form of the natural channels; or
- (e) the chief executive has received a notice under an area management plan for the area and the purpose of clearing was other than clearing vegetation in the area for—
  - (i) fodder harvesting; or
  - (ii) thinning; or
  - (iii) clearing of encroachment; or
  - (iv) control of non-native plants or declared pests.
- (3) Also, the chief executive can not make the relevant area a category X area on the PMAV if vegetation in the area is not remnant vegetation because of clearing that happened because of burning, flooding or natural causes.
- (4) If the chief executive considers the relevant area can not be made a category X area because of subsection (2) or (3), the chief executive must, before making the PMAV, give the owner of the land a notice inviting the owner to show why the relevant area should be a category X area.
- (5) The notice must state the following—

- (a) the grounds for the proposed decision that the relevant area is not a category X area;
  - (b) the facts and circumstances forming the basis for the grounds;
  - (c) the proposed boundaries of the vegetation category areas for the PMAV;
  - (d) that the owner may make submissions about the proposed decision;
  - (e) how to make a properly made submission;
  - (f) where the submission may be made or sent;
  - (g) a period within which the submission must be made.
- (6) The stated period must be at least 15 business days after the notice is given.
- (7) If, after considering any properly made submission by the owner, the chief executive still considers the relevant area is not a category X area, the chief executive may make the relevant area other than a category X area on the PMAV.
- (8) The chief executive must give the owner an information notice about the decision to make the relevant area other than a category X area.
- (9) In this section—

***properly made submission*** means a submission that—

- (a) is written; and
- (b) is signed by each person (a ***signatory***) who made the submission; and
- (c) states the name and address of each signatory; and
- (d) states the grounds of the submission and the facts and circumstances relied on in support of the grounds; and
- (e) is made to the person stated in the notice inviting the submission; and
- (f) is received on or before the last day for the making of the submission.

## **20D When PMAV may be replaced**

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

*Editor's note—*

A change may only be made by amending the *Vegetation Management Regulation 2012*.

  - (c) for a matter other than a matter mentioned in paragraph (a) or (b), if each of the affected owners agrees to the replacement.
- (3A) Despite subsection (3), the chief executive may replace a PMAV for an area if—
  - (a) for a PMAV made under section 20B(1)(a) for a declared area under division 4, subdivision 2—the declaration for the area ends; or
  - (b) for a PMAV made under section 20B(1)(b)—the offset in relation to the offset area ends; or
  - (c) for a PMAV made under section 20B(1)(c)—the exchange area is no longer an exchange area required under an accepted development vegetation clearing code; or
  - (d) for a PMAV made under section 20B(1)(d), (e), (f) or (g)—
    - (i) the area contains remnant vegetation; or



- (ii) the person the subject of a restoration notice, an enforcement notice under the Planning Act or a court order has complied with the conditions of the restoration notice or enforcement notice or order;  
or
  - (e) for a PMAV made under section 20B(1)(h)—the Land Act tenure over the area is not converted to another form of tenure; or
  - (f) for a PMAV made under section 20B(1)(i)—the regulated vegetation management map is amended to correct the error.
- (4) A reference to a PMAV made under section 20B or 20C is taken to include its replacement under this section.
- (5) In this section—  
*affected owner* means an owner of land proposed to be included in a new PMAV if any of the following apply—
  - (a) the owner applied under section 20C for the making of the new PMAV;
  - (b) there was not a PMAV for the land or part of the land;
  - (c) the land, or part of the land, will be affected by a change to the boundary of a vegetation category area in the new PMAV.

## **20F Copies of PMAV given to owners**

- (1) If a PMAV is made or replaced, a copy must be given, free of charge, to each affected owner of land that is included in the PMAV.
- (2) However, if there are 2 or more affected owners who reside at the same address, a copy of the PMAV may be sent to the owners jointly.
- (3) In this section—  
*affected owner*, of land included in a PMAV, means an owner of the land if all, or a part of, the land will be affected by a

change to the boundary of a vegetation category area in the PMAV.

## **20H PMAV boundaries prevail**

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

## **20HA Certifying vegetation management map**

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

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

## **20HB Amending vegetation management map**

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

## **20HC When vegetation management map takes effect**

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

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## Division 5B            Area management plans

### Subdivision 1        Preliminary

#### 20I       Definitions for div 5B

In this division—

***accredited existing planning document*** means an existing planning document accredited under section 20O(3)(a).

***approved draft plan*** means a draft plan approved under section 20O(1)(a).

***area management plan*** see section 20J.

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

***existing planning document*** see section 20K.

***owner***, of land, includes—

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

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

***proposed area***—

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

***restricted (fodder harvesting) land*** see section 20L.

## **20J What is an *area management plan***

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

## **20K What is an *existing planning document***

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

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

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

- (1) *Restricted (fodder harvesting) land* is—
- (a) a State-controlled road under the *Transport Infrastructure Act 1994*; or
  - (b) a road controlled by a local government under the *Local Government Act 2009*; or
  - (c) trust land under the *Land Act 1994*.
- (2) However, *restricted (fodder harvesting) land* does not include indigenous land.

**Subdivision 2 Approval of plans and accreditation of planning documents**

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

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

*Examples of entities who may apply—*

- an owner, or a group of owners, of land in the area
  - an organisation whose main function involves managing land in the area
- (2) The application must—
- (a) be in the approved form; and
  - (b) be signed by—
    - (i) the applicant; or
    - (ii) if there are 2 or more applicants, at least 1 applicant; and
  - (c) relate to an area or areas that—
    - (i) have the same or similar vegetation types and characteristics; or

- (ii) will be subject to the same or similar management intent and management outcomes for vegetation management in the area or areas; and
- (d) show that the applicant has given, or taken reasonable steps to give, notice of the application to each owner of land in the area.
- (3) The application must also be accompanied by—
  - (a) either—
    - (i) the draft area management plan (the *draft plan*); or
    - (ii) a copy of the existing planning document; and
  - (b) the fee prescribed under a regulation.
- (4) However, the chief executive may waive the fee if the chief executive considers the waiver is in the interest of the State.

## **20N Further information or documents for application**

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

## **20O Deciding applications**

- (1) The chief executive must decide an application for approval of a draft plan by—

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

## **20P Criteria for approving draft plan or accrediting planning document**

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

- (a) the application for approval of the plan or accreditation of the document is properly made under section 20M; and
- (b) the plan or document includes enough information to allow the chief executive to map the boundary of—
  - (i) the proposed area; and
  - (ii) if the conditions for clearing vegetation relate to different zones within the proposed area—each of the zones; and
- (c) the plan or document states—

- (i) the management intent and management outcomes for vegetation management in the proposed area; and
  - (ii) the conditions for clearing vegetation in the proposed area to achieve the management outcomes; and
- (d) the plan or document provides for, or allows, clearing of vegetation for 1 or more of the following—
  - (i) controlling non-native plants or declared pests;
  - (ii) ensuring public safety;
  - (iii) relevant infrastructure activities;
  - (iv) clearing of encroachment;
  - (v) thinning;
  - (vi) fodder harvesting, other than on a part of the area that is restricted (fodder harvesting) land;
  - (vii) necessary environmental clearing; and
- (e) the plan or document is not inconsistent with the following—
  - (i) the State policy;
  - (ii) assessment benchmarks (the ***clearing assessment benchmark***) that the planning chief executive must, under the Planning Act, assess development that is the clearing of vegetation against;
  - (iii) a matter (a ***referral matter***) that a referral agency must or may assess a development application for the clearing of vegetation against, or having regard to.

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

- (1) The chief executive may only approve a draft plan or accredit an existing planning document as an area management plan



subject to the conditions (each a *mandatory condition*) under subsections (2) and (3).

- (2) If the draft plan or existing planning document provides for, or allows, clearing of vegetation for relevant infrastructure activities, the condition is that the clearing can not reasonably be avoided or minimised.
- (3) If the plan area includes restricted (fodder harvesting) land, the condition is that vegetation on the land can not be cleared for fodder harvesting.

## **20R Imposing additional condition on approval of draft plan**

- (1) This section applies to the chief executive for approving a draft plan as an area management plan.
- (2) The chief executive may impose an additional condition on the area management plan if the chief executive considers the condition is necessary or appropriate—
  - (a) to manage vegetation in a way that achieves the purposes of the Act; or
  - (b) to avoid inconsistency with—
    - (i) the State policy; or
    - (ii) the clearing assessment benchmarks; or
    - (iii) a referral matter.
- (3) In this section—

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

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

## **20S Other requirements for approving draft plan**

- (1) If the chief executive approves a draft plan as an area management plan, the chief executive must—
  - (a) decide the period, of no longer than 10 years, for which the area management plan will be in force (the *plan period*); and
  - (b) ensure the following is stated on the area management plan—
    - (i) the plan period;
    - (ii) each relevant mandatory condition; and
  - (c) give the applicant—
    - (i) a copy of the area management plan; and
    - (ii) if the plan period is not 10 years—an information notice about the decision under paragraph (a).
- (2) If the chief executive decides to approve the draft plan for only part of the proposed area, the chief executive must also—
  - (a) ensure the part of the area is accurately shown in the area management plan; and
  - (b) give the applicant an information notice about the decision.
- (3) If the chief executive decides to impose an additional condition on the area management plan under section 20R, the chief executive must also—
  - (a) ensure the condition is stated on or reflected in the plan; and
  - (b) give the applicant an information notice about the decision.

## **20T Other requirements for accrediting existing planning document**

- (1) If the chief executive accredits an existing planning document as an area management plan, the chief executive must—

- (a) give the applicant written notice of the accreditation (the ***accreditation notice***); and
  - (b) ensure the accreditation notice states each relevant mandatory condition.
- (2) The accreditation notice forms part of the area management plan.

## **20U Refusing to approve draft plan or accredit planning document**

- (1) Without limiting section 20O(1)(b) or (3)(b), the chief executive may refuse to approve a draft plan or accredit an existing planning document if—
- (a) the chief executive has asked the applicant for information or a document under section 20N(1) and the applicant has not given the chief executive the information or document within the period mentioned in section 20N(2)(a); or
  - (b) the chief executive considers that approving the draft plan or accrediting the existing planning document is not in the interests of the State, having regard to the public interest.
- (2) If the chief executive decides to refuse to approve a draft plan or accredit an existing planning document, the chief executive must give the applicant an information notice about the decision.

## **Subdivision 2A Plans made by chief executive**

### **20UA Chief executive may make area management plans**

- (1) The chief executive may make an area management plan for an area (an ***area plan (chief executive)***) that provides for any matter about clearing vegetation the chief executive considers necessary or desirable for achieving the purpose of this Act.
- (2) An area plan (chief executive) must—

- (a) include enough information to allow the chief executive to map the boundary of—
    - (i) the plan area; and
    - (ii) if the conditions for clearing vegetation relate to different zones within the plan area—each of the zones; and
  - (b) state—
    - (i) the management intent and management outcomes for vegetation management in the plan area; and
    - (ii) the conditions for clearing vegetation or restricting clearing in the area to achieve the management intent and management outcomes; and
  - (c) provide for, or allow, clearing of vegetation for 1 or more of the purposes mentioned in section 20P(d); and
  - (d) not be inconsistent with the following—
    - (i) the State policy;
    - (ii) the clearing assessment benchmarks;
    - (iii) a referral matter.
- (3) An area plan (chief executive) is not subordinate legislation.

## **20UB Plan period for area management plan**

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

## **20UC Mandatory conditions for area management plan**

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

- (3) If the plan area includes restricted (fodder harvesting) land, the condition is that vegetation on the land can not be cleared for fodder harvesting.

## **Subdivision 3      Keeping plans**

### **20V      Register of area management plans**

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

## **Subdivision 5      Duration of plans**

### **20Z      When area management plan ends**

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

## **Subdivision 6      Amending particular plans**

### **20ZA    Application of sdiv 6**

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

### **20ZB    Amendment by chief executive**

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

*Examples—*

- 1 An area management plan becomes inconsistent with the clearing assessment benchmarks because of a change to the clearing assessment benchmarks.
  - 2 An existing planning document accredited as an area management plan becomes inconsistent with the clearing assessment benchmarks because of an amendment of the document.
- (c) for an area management plan consisting of an accredited existing planning document—
- (i) the document has been, or is expected to be, amended; and
  - (ii) the chief executive considers that, because of the amendment, the document no longer satisfies or

will no longer satisfy a criterion under section 20P(b) to (d).

- (2) However, the amendment of an area management plan consisting of an accredited existing planning document may relate only to a criterion under section 20P(b) to (e) for vegetation management or clearing vegetation under the plan.
- (3) If the chief executive amends an area management plan under subsection (1), the chief executive must ensure the amendment is clearly shown on—
  - (a) for an area management plan consisting of an approved draft plan—the area management plan; or
  - (b) for an area management plan consisting of an accredited existing planning document—the accreditation notice for the plan.
- (4) If the chief executive amends an area management plan under subsection (1)(a), the chief executive must give the applicant written notice of the amendment.
- (5) If the chief executive decides to amend an area management plan under subsection (1)(b) or (c), the chief executive must give the applicant—
  - (a) a copy of the amended area management plan or amended accreditation notice; and
  - (b) an information notice about the decision.
- (6) In this section—

***applicant*** means—

  - (a) for an area management plan consisting of an approved draft plan—the person who applied for the approval; or
  - (b) for an area management plan consisting of an accredited existing planning document—the person who applied for the accreditation.

## **20ZC Amendment application for particular plans**

- (1) This section applies to an area management plan consisting of an approved draft plan if—

- (a) a change in circumstances significantly affects, or could significantly affect, the operation of the plan; or

*Example—*

The applicant for an area management plan wants to use a new and improved method for clearing vegetation that has become available since the plan was approved but is not provided for, or allowed, under the plan.

- (b) an owner of land applies under this section to include the land in the plan area of the plan.

- (2) The applicant may apply to the chief executive to approve an amendment of the area management plan.

- (3) However, the applicant can not apply for an approval of an amendment of—

- (a) the plan period for the plan; or  
(b) a mandatory condition.

- (3A) Also, if the applicant is an owner of land whose land is not included in the plan area of the plan, the application can only be to include the applicant's land or a part of the land in the plan area.

- (4) The application (the ***amendment application***) must be accompanied by—

- (a) a draft amended management plan (the ***draft amended plan***) that clearly shows the amendment; and  
(b) the fee prescribed under a regulation.

- (5) However, the chief executive may waive the fee if the chief executive considers the waiver is in the interest of the State.

- (6) Sections 20M(2), 20N, 20O(1) and (2), 20P, 20Q, 20R, 20S(1)(c)(i), (2) and (3) and 20U (the ***applied provisions***) apply to the amendment application and draft amended plan as if—



- (a) a reference in the applied provisions to the application were a reference to the amendment application; and
  - (b) a reference in the applied provisions to the applicant were a reference to the applicant for the amendment application; and
  - (c) a reference in the applied provisions to the draft plan were a reference to the draft amended plan.
- (7) However, the chief executive may approve the amendment of the area management plan only if—
- (a) subject to paragraph (c), the chief executive considers the draft amended plan is consistent with the management intent and management outcomes stated in the area management plan (the ***original plan***) to which the amendment application relates; and
  - (b) the draft amended plan does not remove or further restrict a condition on clearing vegetation stated in the original plan; and
  - (c) for a draft amended plan that amends the original plan by enlarging the plan area, the enlargement is no more than 10% of the plan area; and
  - (d) if the applicant is the owner of land whose land is not already included in the approved draft plan, the chief executive is satisfied—
    - (i) the original applicant has given consent to the amendment application; and
    - (ii) the land is appropriate for inclusion in the plan.

*Example—*

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

- (8) In this section—

***applicant*** means—

- (a) the original applicant; or

- (b) the owner of land whose land is not included in the approved draft plan.

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

## **Division 6                      Relationship with Planning Act**

### **Subdivision 1              Relevant purposes**

#### **22A      Particular vegetation clearing applications may be assessed**

- (1) This section provides for when a vegetation clearing application is for a relevant purpose.
- (2) A vegetation clearing application is for a relevant purpose under this section if the applicant satisfies the chief executive that the development applied for is—
  - (a) a project declared to be a coordinated project under the *State Development and Public Works Organisation Act 1971*, section 26; or
  - (b) necessary to control non-native plants or declared pests; or
  - (c) to ensure public safety; or
  - (d) for relevant infrastructure activities and the clearing can not reasonably be avoided or minimised; or
  - (e) a natural and ordinary consequence of other assessable development for which a development approval was given under the repealed *Integrated Planning Act 1997*, or a development application was made under that Act, before 16 May 2003; or
  - (f) for fodder harvesting; or
  - (g) for thinning; or
  - (h) for clearing of encroachment; or

- (i) for an extractive industry; or
  - (j) for necessary environmental clearing; or
  - (k) for high value agriculture clearing; or
  - (l) for irrigated high value agriculture clearing.
- (2AA) Also, a vegetation clearing application is for a relevant purpose under this section if, under the CYPH Act, the Minister is satisfied the development applied for is for a special indigenous purpose.
- (2B) However, a vegetation clearing application is not for a relevant purpose under this section if the development applied for is—
- (a) clearing in a category C area; or
  - (b) clearing in a category R area if the land the subject of the application is freehold land, indigenous land or a lease issued under the *Land Act 1994* for agriculture or grazing purposes; or
  - (c) mentioned in subsection (2)(e), (f) or (i) or (2AA) and the land the subject of the application is an area declared to be a declared area under division 4, subdivision 2.

## **Subdivision 1A Particular vegetation clearing applications**

### **22DAA Application of subdivision**

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

### **22DAB Requirements for making application**

- (1) The application must be accompanied by a development plan (the *development plan*).
- (2) The development plan must include the following—
  - (a) the extent and location of the proposed clearing;

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