
22DAC Matters for deciding application

- (1) The chief executive may be satisfied that, having regard to the development plan, the vegetation clearing application is for high value agriculture clearing or irrigated high value agriculture clearing only if—
 - (a) the clearing is likely to be economically viable; and
 - (b) the clearing is limited to the extent necessary to establish and cultivate the crops to which the clearing relates; and
 - (c) the land is suitable for establishing, cultivating and harvesting the crops to which the clearing relates; and
 - (d) there is no suitable alternative site for establishing, cultivating and harvesting crops on the land that is reasonably available and would not require the clearing of native vegetation; and
 - (e) the clearing will comply with all restrictions prescribed under section 22DAB(2)(f) and relevant to the clearing; and
 - (f) the application does not involve the clearing of native vegetation to plant a high risk species; and
 - (g) if the clearing is for irrigated high value agriculture clearing, the volume of water the eligible owner is, or may be, able to access is enough for establishing, cultivating and harvesting the crops to which the clearing relates.
- (2) In this section—

eligible owner means an owner of land who—

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

- (d) was, when the application was made, eligible to participate in a process for a water entitlement; or

Note—

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

- (e) is a customer of a water service provider under the *Water Supply (Safety and Reliability) Act 2008*; or
- (f) is a registered resource producer, or holds an end of waste approval, under the *Waste Reduction and Recycling Act 2011*, chapter 8 and the resource to which the code or approval relates is water; or
- (g) has applied for a water licence under the *Water Act 2000*, section 206; or
- (h) holds, or has a right to be supplied water under, an environmental authority under the *Environmental Protection Act 1994*; or
- (i) is authorised to take water under a law of another State or Territory in compliance with an authorisation declared under the *Water Act 2000*, section 808(1)(b).

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

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

Division 7A Classes of regional ecosystems

22LA Endangered regional ecosystems

- (1) A regulation may declare a stated regional ecosystem to be an endangered regional ecosystem.
- (2) The Minister must not recommend to the Governor in Council the making of a regulation under subsection (1) unless the Minister is satisfied—

- (a) the area of remnant vegetation for the regional ecosystem is less than 10% of the pre-clearing extent of the regional ecosystem; or
- (b) the area of remnant vegetation for the regional ecosystem is—
 - (i) 10% to 30% of the pre-clearing extent of the regional ecosystem; and
 - (ii) less than 10,000ha.
- (3) However, failure to comply with subsection (2) in relation to a regulation does not affect the regulation's validity.

22LB Of concern regional ecosystems

- (1) A regulation may declare a stated regional ecosystem to be an of concern regional ecosystem.
- (2) The Minister must not recommend to the Governor in Council the making of a regulation under subsection (1) unless the Minister is satisfied—
 - (a) the area of remnant vegetation for the regional ecosystem is 10% to 30% of the pre-clearing extent of the regional ecosystem; or
 - (b) the area of remnant vegetation for the regional ecosystem is—
 - (i) more than 30% of the pre-clearing extent of the regional ecosystem; and
 - (ii) less than 10,000ha.
- (3) However, failure to comply with subsection (2) in relation to a regulation does not affect the regulation's validity.

22LC Least concern regional ecosystems

- (1) A regulation may declare a stated regional ecosystem to be a least concern regional ecosystem.

- (2) The Minister must not recommend to the Governor in Council the making of a regulation under subsection (1) unless the Minister is satisfied the area of remnant vegetation for the regional ecosystem is—
 - (a) more than 30% of the pre-clearing extent of the regional ecosystem; and
 - (b) more than 10,000ha.
- (3) However, failure to comply with subsection (2) in relation to a regulation does not affect the regulation's validity.

Part 3 Enforcement, investigations and offences

Division 1 Enforcement and investigations

Subdivision 1 Authorised officers

24 Appointment and qualifications of authorised officers

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

25 Functions and powers of authorised officers

- (1) An authorised officer has the functions of—
 - (a) conducting investigations and inspections to monitor and enforce compliance with—
 - (i) this Act; and
 - (ii) a vegetation clearing provision; and

- (b) giving stop work notices and restoration notices.
- (2) An authorised officer has the powers given under this or another Act.
- (3) An authorised officer is subject to the directions of the chief executive in exercising the powers.
- (4) The powers of an authorised officer may be limited—
 - (a) under a regulation; or
 - (b) under a condition of appointment; or
 - (c) by notice of the chief executive given to the authorised officer.

26 Conditions of appointment of authorised officers

- (1) An authorised officer holds office on the conditions stated in the officer's instrument of appointment.
- (2) An authorised officer—
 - (a) if the appointment provides for a term of appointment—ceases to hold office at the end of the term; and
 - (b) may resign by signed notice of resignation given to the chief executive.

27 Authorised officer's identity card

- (1) The chief executive must give each authorised officer an identity card.
- (2) The identity card must—
 - (a) contain a recent photograph of the authorised officer; and
 - (b) be signed by the authorised officer; and
 - (c) identify the person as an authorised officer under this Act.

- (3) This section does not prevent the giving of a single identity card to a person for this Act and other Acts.

28 Failure to return identity card

A person who ceases to be an authorised officer must return the person's identity card to the chief executive as soon as practicable, but within 15 business days, after ceasing to be an authorised officer, unless the person has a reasonable excuse for not returning it.

Maximum penalty—10 penalty units.

29 Production or display of identity card

- (1) An authorised officer may exercise a power under this Act in relation to someone else only if the authorised officer—
- (a) first produces his or her identity card for the person's inspection; or
 - (b) has the identity card displayed so it is clearly visible to the person.
- (2) If it is not practicable to comply with subsection (1), the authorised officer must produce the identity card for the person's inspection at the first reasonable opportunity.

Subdivision 2 Power to enter places

30 Power to enter places

- (1) An authorised officer may enter a place if—
- (a) an occupier of the place consents to the entry; or
 - (b) it is a public place and the entry is made when it is open to the public; or
 - (c) the place is—
 - (i) the subject of—

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- (A) a development approval; or
 - (B) a lease, licence or permit under the *Land Act 1994*; or
 - (C) a stop work notice or restoration notice; or
 - (D) an enforcement notice under the Planning Act relating to the contravention of a vegetation clearing provision; and
- (ii) entered during daylight hours; or
 - (d) the entry is for the purpose of giving an occupier a stop work notice requiring the occupier to immediately stop committing a vegetation clearing offence; or
 - (e) the entry is authorised by a warrant.
- (2) For the purpose of asking the occupier of a place for consent to enter, an authorised officer may, without the occupier's consent or a warrant—
 - (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
 - (b) enter part of the place the authorised officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.
 - (3) Subsection (1)(c) does not apply to a part of a place where a person resides.

Subdivision 3 Procedure for entry

31 Entry with consent

- (1) This section applies if an authorised officer intends to ask an occupier of a place to consent to the authorised officer or another authorised officer entering the place under section 30(1)(a).
- (2) Before asking for the consent, the authorised officer must tell the occupier—

- (a) the purpose of the entry; and
 - (b) that the occupier is not required to consent.
- (3) If the consent is given, the authorised officer may ask the occupier to sign an acknowledgement of the consent.
- (4) The acknowledgement must state—
 - (a) the occupier has been told—
 - (i) the purpose of the entry; and
 - (ii) that the occupier is not required to consent; and
 - (b) the purpose of the entry; and
 - (c) the occupier gives the authorised officer consent to enter the place and exercise powers under this division; and
 - (d) the time and date the consent was given.
- (5) If the occupier signs the acknowledgement, the authorised officer must immediately give a copy to the occupier.
- (6) A court must find the occupier of a place did not consent to an authorised officer entering the place under this division if—
 - (a) an issue arises in a proceeding before the court whether the occupier of the place consented to the entry under section 30(1)(a); and
 - (b) an acknowledgement mentioned in subsection (4) is not produced in evidence for the entry; and
 - (c) it is not proved by the person relying on the lawfulness of the entry that the occupier consented to the entry.

32 Application for warrant

- (1) An authorised officer may apply to a magistrate for a warrant for a place.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the authorised officer gives the magistrate all the information the

magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

33 Issue of warrant

- (1) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—
 - (a) there is a particular thing or activity (the *evidence*) that may provide evidence of a vegetation clearing offence; and
 - (b) the evidence is at the place, or, within the next 7 days, may be at the place.
- (2) The warrant must state—
 - (a) that any authorised officer or stated authorised officer may, with necessary and reasonable help and force—
 - (i) enter the place and any other place necessary for the entry; and
 - (ii) exercise the authorised officer's powers under this division; and
 - (b) the offence for which the warrant is sought; and
 - (c) the evidence that may be seized under the warrant; and
 - (d) the hours of the day or night when the place may be entered; and
 - (e) the date, within 14 days after the warrant's issue, the warrant ends.
- (3) The warrant may, as well as authorising entry of the place, authorise re-entry by stating it on the warrant.
- (4) A provision of this part applying to entry authorised under a warrant is taken also to apply to any re-entry authorised under the warrant.

34 Special warrants

- (1) An authorised officer may apply for a warrant (a *special warrant*) by phone, fax, radio or another form of communication if the authorised officer considers it necessary because of—
 - (a) urgent circumstances; or
 - (b) other special circumstances, including, for example, the authorised officer's remote location.
- (2) Before applying for the special warrant, the authorised officer must prepare an application stating the grounds on which the warrant is sought.
- (3) The authorised officer may apply for the special warrant before the application is sworn.
- (4) After issuing the special warrant, the magistrate must promptly fax a copy (a *facsimile warrant*) to the authorised officer if it is reasonably practicable to fax the copy.
- (5) If it is not reasonably practicable to fax a copy to the authorised officer—
 - (a) the magistrate must tell the authorised officer—
 - (i) what the terms of the special warrant are; and
 - (ii) the date and time the special warrant is issued; and
 - (b) the authorised officer must complete a form of warrant (a *warrant form*) and write on it—
 - (i) the magistrate's name; and
 - (ii) the date and time the magistrate issued the special warrant; and
 - (iii) the terms of the special warrant.
- (6) The facsimile warrant, or the warrant form properly completed by the authorised officer, authorises the entry and the exercise of the other powers stated in the special warrant issued.

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- (7) The authorised officer must, at the first reasonable opportunity, send to the magistrate—
 - (a) the sworn application; and
 - (b) if the authorised officer completed a warrant form—the completed warrant form.
 - (8) On receiving the documents, the magistrate must attach them to the special warrant.
 - (9) A court must find the exercise of the power by an authorised officer was not authorised by a special warrant if—
 - (a) an issue arises in a proceeding before the court whether the exercise of the power was authorised by a special warrant mentioned in subsection (1); and
 - (b) the special warrant is not produced in evidence; and
 - (c) it is not proved by the person relying on the lawfulness of the entry that the authorised officer obtained the special warrant.

35 Warrants—procedure before entry

- (1) This section applies if an authorised officer is intending to enter a place under a warrant issued under this division.
- (2) Before entering the place, the authorised officer must do or make a reasonable attempt to do the following things—
 - (a) identify himself or herself to a person present at the place who is an occupier of the place by producing the authorised officer's identity card or a copy of another document evidencing the authorised officer's appointment;
 - (b) give the person a copy of the warrant or, if the entry is authorised by a facsimile warrant or warrant form mentioned in section 34(6), a copy of the facsimile warrant or warrant form;
 - (c) tell the person the authorised officer is permitted by the warrant to enter the place;

- (d) give the person an opportunity to allow the authorised officer immediate entry to the place without using force.
- (3) However, the authorised officer need not comply with subsection (2) if the authorised officer reasonably believes that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.
- (4) If there is no person present at the place who is an occupier of the place, or it is vacant land, it is sufficient compliance with subsection (2) for the officer, before entering the place, to do or make a reasonable attempt to do the following things—
 - (a) contact an owner or occupier of the place;
 - (b) tell the owner or occupier the authorised officer is permitted by the warrant to enter the place;
 - (c) give the owner or occupier an opportunity to allow the authorised officer immediate entry to the place without using force.

Subdivision 4 Powers after entering a place

36 General powers after entering places

- (1) This section applies to an authorised officer who enters a place.
- (2) However, if an authorised officer enters a place to get the occupier's consent to enter the place, this section applies to the authorised officer only if the consent is given or the entry is otherwise authorised.
- (3) For monitoring or enforcing compliance with this Act or a vegetation clearing provision, the authorised officer may, subject to subsection (5)—
 - (a) search any part of the place; or
 - (b) inspect, measure, test, photograph or film any part of the place or anything at the place; or

- (c) take a thing, or a sample of or from a thing, at the place for analysis or testing; or
 - (d) copy a document at the place; or
 - (e) take into or onto the place any person, equipment and materials the authorised officer reasonably requires for the exercise of a power under this division; or
 - (f) require an occupier of the place, or a person at the place, to give the authorised officer reasonable help to exercise the authorised officer's powers under paragraphs (a) to (e); or
 - (g) require an occupier of a place, or a person at the place, to give the authorised officer information to help the authorised officer ascertain whether the Act or a vegetation clearing provision is being complied with.
- (4) When making a requirement mentioned in subsection (3)(f) or (g), the authorised officer must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.
- (5) If the authorised officer enters the place under section 30(1)(d) for the purpose of giving an occupier a stop work notice, the authorised officer may only—
- (a) give the occupier the stop work notice; and
 - (b) take into or onto the place any person the authorised officer reasonably requires for giving the notice.

37 Failure to help authorised officer

- (1) A person required to give reasonable help under section 36(3)(f) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) If the requirement is to be complied with by an individual giving information, or producing a document, it is a reasonable excuse for the individual not to comply with the

requirement that complying with the requirement may tend to incriminate the individual.

38 Failure to give information

- (1) A person of whom a requirement is made under section 36(3)(g) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) It is a reasonable excuse for an individual not to comply with the requirement that complying with the requirement may tend to incriminate the individual.

Subdivision 5 Power to seize evidence

39 Seizing evidence

- (1) This section applies if, under this division, an authorised officer enters a place after obtaining the consent of an occupier or under a warrant.
- (2) If the authorised officer enters the place with the occupier's consent, the authorised officer may seize a thing at the place if—
 - (a) the authorised officer reasonably believes the thing is evidence of a vegetation clearing offence; and
 - (b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.
- (3) If the authorised officer enters the place with a warrant, the authorised officer may seize the evidence for which the warrant was issued.
- (4) The authorised officer may seize anything else at the place if the authorised officer reasonably believes—
 - (a) the thing is evidence of a vegetation clearing offence; and

- (b) the seizure is necessary to prevent the thing being—
 - (i) hidden, lost or destroyed; or
 - (ii) used to continue, or repeat, the offence.
- (5) Also, the authorised officer may seize a thing at the place if the authorised officer reasonably believes it has just been used in committing a vegetation clearing offence.

40 Securing seized things

Having seized a thing, an authorised officer may—

- (a) move the thing from the place where it was seized (the *place of seizure*); or
- (b) leave the thing at the place of seizure but take reasonable action to restrict access to it; or

Examples of restricting access to a thing—

- 1 sealing a thing and marking it to show access to it is restricted
 - 2 sealing the entrance to a place where the thing is situated and marking it to show access to it is restricted
- (c) if the thing is equipment—make it inoperable.

Example of making equipment inoperable—

dismantling equipment or removing a component of equipment without which the equipment is not capable of being used

41 Tampering with seized things

- (1) If an authorised officer restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing, or something restricting access to the thing, without an authorised officer's approval.

Maximum penalty—100 penalty units.

- (2) If an authorised officer makes seized equipment inoperable, a person must not tamper, or attempt to tamper, with the equipment, without an authorised officer's approval.

Maximum penalty—100 penalty units.

42 Powers to support seizure

- (1) To enable a thing to be seized, an authorised officer may require the person in control of it—
 - (a) to take it to a stated reasonable place by a stated reasonable time; and
 - (b) if necessary, to remain in control of it at the stated place for a stated reasonable period.
- (2) The requirement—
 - (a) must be made by notice in the approved form; or
 - (b) if for any reason it is not practicable to give the notice, may be made orally and confirmed by a notice in the approved form as soon as practicable.
- (3) A further requirement may be made under this section about the thing if it is necessary and reasonable to make the further requirement.
- (4) A person of whom a requirement is made under subsection (1) or (3) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty for subsection (4)—50 penalty units.

43 Receipts for seized things

- (1) As soon as practicable after an authorised officer seizes a thing, the authorised officer must give a receipt for it to the person from whom it was seized.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the authorised officer must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.
- (3) The receipt must describe generally each thing seized and its condition.

- (4) This section does not apply to a thing if it is impracticable, or would be unreasonable, to give the receipt, having regard to the thing's nature, condition and value.

44 Forfeiture by authorised officer

- (1) A thing that has been seized under this subdivision is forfeited to the State if the authorised officer who seized the thing—
- (a) can not find its owner, after making reasonable inquiries; or
 - (b) can not return it to its owner, after making reasonable efforts.
- (2) In applying subsection (1)—
- (a) subsection (1)(a) does not require the authorised officer to make inquiries if it would be unreasonable to make inquiries to find the owner; and
 - (b) subsection (1)(b) does not require the authorised officer to make efforts if it would be unreasonable to make efforts to return the thing to its owner.

Example for paragraph (b)—

the owner of the thing has migrated to another country

- (3) Regard must be had to a thing's nature, condition and value in deciding—
- (a) whether it is reasonable to make inquiries or efforts; and
 - (b) if making inquiries or efforts—what inquiries or efforts, including the period over which they are made, are reasonable.

45 Forfeiture on conviction

- (1) On conviction of a person for a vegetation clearing offence, the court may order the forfeiture to the State of anything owned by the person and seized under this subdivision.
- (2) The court may make any order to enforce the forfeiture it considers appropriate.

- (3) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

46 Dealing with forfeited things

- (1) On forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with by the chief executive as the chief executive considers appropriate.
- (2) Without limiting subsection (1), the chief executive may destroy or dispose of the thing.

47 Return of seized things

- (1) If a seized thing is not forfeited, the authorised officer must return it to its owner—
- (a) at the end of 6 months; or
 - (b) if a proceeding for a vegetation clearing offence involving the thing is started within 6 months—at the end of the proceeding and any appeal from the proceeding.
- (2) Despite subsection (1), unless the thing is forfeited, the authorised officer must immediately return a thing seized to its owner if the authorised officer stops being satisfied—
- (a) its continued retention as evidence is necessary; or
 - (b) its continued retention is necessary to prevent the thing being used to continue, or repeat, the offence.

48 Access to seized things

- (1) Until a seized thing is forfeited or returned, an authorised officer must allow its owner to inspect it and, if it is a document, to copy it.
- (2) Subsection (1) does not apply if it is impracticable, or would be unreasonable, to allow the inspection or copying.

Subdivision 6 Power to obtain information

49 Power to require name and address

- (1) This section applies if an authorised officer—
 - (a) finds a person committing a vegetation clearing offence;
or
 - (b) finds a person in circumstances that lead the authorised officer reasonably to suspect the person has just committed a vegetation clearing offence; or
 - (c) has information that leads the authorised officer reasonably to suspect a person has just committed a vegetation clearing offence.
- (2) The authorised officer may require the person to state the person's name and residential address.
- (3) When making the requirement, the authorised officer must warn the person it is an offence to fail to state the person's name or residential address, unless the person has a reasonable excuse.
- (4) The authorised officer may require the person to give evidence of the correctness of the stated name or residential address if the authorised officer reasonably suspects the stated name or address to be false.

50 Failure to give name or address

- (1) A person of whom a requirement is made under section 49 must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) A person does not commit an offence against subsection (1) if—
 - (a) the person was required to state the person's name and residential address by an authorised officer who

suspected the person had committed a vegetation clearing offence; and

- (b) the person is not proved to have committed the offence.

51 Power to require information

- (1) This section applies if an authorised officer reasonably believes—
- (a) a vegetation clearing offence has been committed; and
- (b) a person may be able to give information about the offence.
- (2) The authorised officer may, by notice given to the person, require the person to give information about the offence to the authorised officer at a stated reasonable place and at a stated reasonable time.
- (3) The person must comply with a requirement under subsection (2), unless the person has a reasonable excuse.
- Maximum penalty—50 penalty units.
- (4) It is a reasonable excuse for an individual not to comply if doing so might tend to incriminate the individual or expose the individual to a penalty.
- (5) If a person is convicted of an offence against subsection (3), the court may, as well as imposing a penalty for the offence, order the person to comply with the requirement.

52 Power to require production of documents

- (1) An authorised officer may require a person to make available for inspection by an authorised officer, or produce to the authorised officer for inspection, at a reasonable time and place nominated by the authorised officer, a document relating to the clearing of vegetation.
- (2) The authorised officer may keep the document to copy it.
- (3) If the authorised officer copies a document mentioned in subsection (1), or an entry in the document, the authorised

officer may require the person responsible for keeping the document to certify the copy as a true copy of the document or entry.

- (4) The authorised officer must return the document to the person as soon as practicable after copying it.
- (5) However, if a requirement (a *document certification requirement*) is made of a person under subsection (3), the authorised officer may keep the document until the person complies with the requirement.
- (6) A requirement under subsection (1) is a *document production requirement*.

53 Failure to certify copy of document

- (1) A person of whom a document certification requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

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

54 Failure to produce document

- (1) A person of whom a document production requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) It is a reasonable excuse for an individual not to comply if doing so might tend to incriminate the individual or expose the individual to a penalty.
- (3) If a person is convicted of an offence against subsection (1), the court may, as well as imposing a penalty for the offence, order the person to comply with the requirement.

Subdivision 7 Power to require compliance

54A Stop work notice

- (1) This section applies if an official reasonably believes a person is committing a vegetation clearing offence.
- (2) The official may give the person a notice (a *stop work notice*) requiring the person to stop committing the offence or not to commit that type of offence again.
- (3) The stop work notice must state—
 - (a) that the official believes the person is committing a vegetation clearing offence; and
 - (b) the vegetation clearing offence the official believes is being committed; and
 - (c) briefly, how it is believed the offence is being committed.
- (4) The stop work notice must be accompanied by or include an information notice about the decision to give the notice.
- (5) The person must comply with the stop work notice unless the person has a reasonable excuse.

Maximum penalty for subsection (5)—1665 penalty units.

54B Restoration notice

- (1) This section applies if an official reasonably believes—
 - (a) a person has committed a vegetation clearing offence, whether before or after the commencement of this section; and
 - (b) the matter is capable of being rectified.
- (2) The official may give the person a notice (a *restoration notice*) requiring the person to rectify the matter.
- (3) The restoration notice must state—

-
- (a) that the official believes the person has committed a vegetation clearing offence; and
 - (b) the vegetation clearing offence the official believes has been committed; and
 - (c) briefly, how it is believed the offence has been committed; and
 - (d) the matter the official believes is reasonably capable of being rectified; and
 - (e) the reasonable steps the person must take to rectify the matter; and
 - (f) the stated reasonable period in which the person must take the steps.
- (4) The restoration notice must be accompanied by or include an information notice about the decision to give the notice.
 - (5) The person must comply with the restoration notice unless the person has a reasonable excuse.

Maximum penalty—1665 penalty units.

- (6) In this section—

step includes any action or other measure the official believes is necessary to rectify the matter.

Examples—

- giving a proposed restoration plan under section 55AB(1) or making a request under section 55AB(3)
- setting objectives and timeframes for restoring the vegetation
- giving the chief executive a progress report about whether the steps taken within a particular period to rectify the matter have satisfied a stated objective

54C Contravention of stop work notices and restoration notices

- (1) This section applies to a person who is given a stop work notice or a restoration notice.

- (2) If the person does an act, or makes an omission, in contravention of the stop work notice or restoration notice, an official may use reasonable force and take any other reasonable action to stop the contravention.
- (3) Any reasonable cost or expense incurred by the official in doing anything under subsection (2) may be recovered as a debt owing to the State by the person.

55 Transfer of land the subject of restoration notice

- (1) If a person has an interest in land the subject of a restoration notice and all or part of the interest, to the extent it is the subject of the restoration notice, is transferred, in any way, to another person (the *transferee*), on the transfer—
 - (a) a reference in the restoration notice to the person is taken to be a reference to the transferee; and
 - (b) the restoration notice is taken to have been given to the transferee on the transfer of the interest; and
 - (c) any outstanding liability, other than criminal liability, of the person becomes a liability of the transferee.
- (2) If the restoration notice requires a matter to be rectified by a stated day or within a stated period and it is not reasonably practical for the transferee to comply with the notice by the stated day or within the stated period, the transferee may ask the chief executive to extend the time for compliance with the notice.

Example—

A is given a restoration notice on 1 January 2010 requiring A to rectify a matter by 30 June 2010. In May 2010, A transfers the land the subject of the restoration notice to B.

- (3) If the chief executive, by written notice given to the transferee, extends the time for compliance with the restoration notice, the restoration notice is taken to require the matter to be rectified within the extended time for compliance stated in the chief executive's written notice.

- (4) To remove any doubt, it is declared that on the transfer of the interest, the person to whom the restoration notice was given is not criminally liable for any contravention of the restoration notice that happens on or after the transfer of the interest.
- (5) Subsections (1) to (4) have effect in relation to each successor in title to the transferee's interest in the same way the subsections had effect in relation to the transferee.

55A Record of restoration notice in land registry

- (1) As soon as practicable after a restoration notice is given, the chief executive must give the registrar of titles written notice of the giving of the restoration notice.
- (2) The registrar must keep records showing the restoration notice has been given.
- (3) The registrar must keep the records in a way that a search of the register kept by the registrar under any Act relating to title to the land the subject of the restoration notice will show the notice has been given.
- (4) As soon as practicable after the restoration notice has been complied with, withdrawn or in any other way terminated, the chief executive must give written notice of the fact to the registrar.
- (5) As soon as practicable after receiving a notice under subsection (4), the registrar must remove the particulars of the restoration notice from the registrar's records.

Subdivision 8 Restoration plans

55AA Application of sdiv 8

This subdivision applies if—

- (a) an official gives a person a restoration notice in relation to the committing of a vegetation clearing offence on land; and

- (b) the notice requires the person to prepare a plan (a **restoration plan**) to rectify the matter by restoring vegetation on the land.

55AB Preparing restoration plan

- (1) The person must, within the reasonable period stated in the restoration notice, prepare and give the chief executive a proposed restoration plan for the land.
- (2) The restoration plan must include the matters stated for the plan in the restoration notice.
- (3) However, the person may, within 20 business days after the restoration notice is given, ask the chief executive to prepare a restoration plan for the land.
- (4) The fee payable to the chief executive for preparing the plan must not be more than the fee prescribed under a regulation.

55AC Approving restoration plan

- (1) The chief executive must review a proposed restoration plan given to the chief executive under section 55AB(1) and—
 - (a) approve the plan; or
 - (b) if the chief executive considers the plan does not adequately rectify the matter, ask the person—
 - (i) to consider or further consider any matter; and
 - (ii) to amend the plan in the light of the person's consideration or further consideration; and
 - (iii) to give the amended plan to the chief executive for approval; or
 - (c) ask the person to make stated changes to the plan and give the amended plan to the chief executive for approval.
- (2) The person must give the amended restoration plan to the chief executive within 20 business days after the chief executive makes a request under subsection (1)(b) or (c).

- (3) The chief executive must review the amended restoration plan and approve the plan or refuse to approve the plan.
- (4) If the chief executive approves the restoration plan under subsection (1)(a) or (3), the chief executive must give the person notice that the plan or amended plan is the approved restoration plan.
- (5) If the chief executive refuses to approve the amended restoration plan, the chief executive must give the person—
 - (a) notice of the refusal; and
 - (b) an information notice about the decision to refuse to approve the plan.
- (6) If the person asks the chief executive to prepare the restoration plan under section 55AB(3), the plan prepared by the chief executive is the approved restoration plan.

55AD Chief executive may amend approved restoration plan

- (1) The chief executive may amend the approved restoration plan at any time.
- (2) Before amending the approved restoration plan, the chief executive must give the person a written notice inviting the person to show why the plan should not be amended.
- (3) The notice must state each of the following—
 - (a) the grounds for the proposed amendment of the plan;
 - (b) the facts and circumstances forming the basis for the grounds;
 - (c) the proposed amendment of the plan;
 - (d) that the person may make submissions about the proposed amendment;
 - (e) how to make a properly made submission;
 - (f) where the submission may be made or sent;
 - (g) a period within which the submission must be made.

- (4) The stated period must be at least 20 business days after the notice is given.
- (5) If, after considering any properly made submission by the person, the chief executive still considers the approved restoration plan should be amended, the chief executive may amend the plan.
- (6) In this section—
properly made submission means a submission that—
 - (a) is written; and
 - (b) is signed by each person (a *signatory*) who made the submission; and
 - (c) states the name and address of each signatory; and
 - (d) states the grounds of the submission and the facts and circumstances relied on in support of the grounds; and
 - (e) is made to the person stated in the notice inviting the submission; and
 - (f) is received on or before the last day for the making of the submission.

55AE Steps after, and taking effect of, decision

- (1) If the chief executive decides to amend the approved restoration plan—
 - (a) the chief executive must give the person an information notice about the decision; and
 - (b) the amendment does not take effect until the end of the review period for the decision; and
 - (c) the plan, as amended, becomes the approved restoration plan for the land.
- (2) If the chief executive decides not to amend the approved plan, the chief executive must give the person notice of the decision.
- (3) In this section—

review period, for a decision, means the period provided for under section 63 for applying for an internal review of the decision.

55AF Failure to comply with restoration notice

- (1) The person is taken not to have complied with the restoration notice if—
 - (a) the person fails to give the chief executive a proposed restoration plan within the period stated in the restoration notice; or
 - (b) for a restoration plan not approved under section 55AC(1)(a)—
 - (i) the person fails to comply with section 55AC(2); or
 - (ii) the chief executive refuses to approve the restoration plan under section 55AC(5).
- (2) Also, the person is taken not to have complied with the restoration notice if the person fails to comply with the approved restoration plan.

Note—

For the effect of a failure to comply with a restoration notice, see section 54B(5).

- (3) Subsection (1) does not apply if the person has under section 55AB(3) asked the chief executive to prepare a restoration plan for the land.

Division 2 Other enforcement provisions

Subdivision 1 Obtaining criminal history reports

55B Purpose of sdiv 1

The purpose of this subdivision is to help an authorised officer to decide whether the authorised officer's unaccompanied entry of a place under division 1 would create an unacceptable level of risk to the authorised officer's safety.

55C Chief executive's power to obtain criminal history report

- (1) The chief executive may ask the commissioner of the police service for a written report about the criminal history of a person if the authorised officer reasonably suspects the person may be present at the place when the authorised officer enters the place under division 1.
- (2) The commissioner must give the report to the chief executive.
- (3) However, the report is required to contain only criminal history that is in the commissioner's possession or to which the commissioner has access.
- (4) The chief executive must examine the report and identify, to the extent it is reasonably practicable to do so, offences involving the use of a weapon or violence against a person.
- (5) The chief executive may give the authorised officer information in the report about the offences identified under subsection (4).

55D Criminal history is confidential document

- (1) A person must not, directly or indirectly, disclose to anyone else a report about a person's criminal history, or information contained in the report, given under section 55C.

Maximum penalty—100 penalty units.

- (2) However, the person does not contravene subsection (1) if—
 - (a) the disclosure is for the purpose of the other person performing a function under or in relation to this Act; or
 - (b) the disclosure is otherwise required or permitted by law.
- (3) The chief executive or an authorised officer to whom the report or written information in the report is provided must destroy the report or information as soon as practicable after the authorised officer considers the risk mentioned in section 55B.

Subdivision 2 **Notice of damage and compensation**

56 Notice of damage

- (1) This section applies if—
 - (a) an authorised officer damages property when exercising or purporting to exercise a power; or
 - (b) a person (the *other person*) acting under the direction or authority of an authorised officer damages property.
- (2) The authorised officer must immediately give notice of particulars of the damage to the person who appears to the authorised officer to be the owner of the property.
- (3) If the authorised officer believes the damage was caused by a latent defect in the property or circumstances beyond the authorised officer's, or other person's, control, the authorised officer may state the belief in the notice.
- (4) If, for any reason, it is impracticable to comply with subsection (2), the authorised officer must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.
- (5) This section does not apply to damage the authorised officer reasonably believes is trivial.
- (6) In this section—

owner, of property, includes the person in possession or control of it.

57 Compensation

- (1) A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under division 1, subdivision 2, 4 or 5.
- (2) Without limiting subsection (1), compensation may be claimed for loss or expense incurred in complying with a requirement made of the person under the subdivision.
- (3) Compensation may be claimed and ordered to be paid in a proceeding—
 - (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or
 - (b) for a vegetation clearing offence brought against the person claiming compensation.
- (4) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.

Division 3 General offences

58 False or misleading statements

- (1) A person must not state anything to an authorised officer that the person knows is false or misleading in a material particular.
Maximum penalty—50 penalty units.
- (2) In a proceeding for an offence against subsection (1), it is enough to state that the statement made was, without specifying which, false or misleading.

59 False or misleading documents

- (1) A person must not give an authorised officer a document containing information that the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

- (2) Subsection (1) does not apply to a person if the person, when giving the document—
- (a) tells the authorised officer, to the best of the person's ability, how it is false or misleading; and
 - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.
- (3) In a proceeding for an offence against subsection (1), it is enough to state that the document was, without specifying which, false or misleading.

59A Impersonation of authorised officer

A person must not pretend to be an authorised officer.

Maximum penalty—50 penalty units.

60 Obstructing an authorised officer

- (1) A person must not obstruct an authorised officer in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) If a person has obstructed an authorised officer and the authorised officer decides to proceed with the exercise of the power, the authorised officer must warn the person that—
- (a) it is an offence to obstruct the authorised officer, unless the person has a reasonable excuse; and
 - (b) the authorised officer considers the person's conduct an obstruction.
- (3) In this section—

obstruct includes assault, hinder and threaten, and attempt to obstruct.

60A Executive officers must ensure corporation complies with Act

- (1) The executive officers of a corporation must ensure the corporation complies with this Act.
- (2) If a corporation commits an offence against a provision of this Act, each of the corporation's executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.

Maximum penalty for subsection (2)—the penalty for the contravention of the provision by an individual.

- (3) Evidence that the corporation has been convicted of an offence against a provision of this Act is evidence that each of the executive officers committed the offence of failing to ensure the corporation complies with the provision.
- (4) However, it is a defence for an executive officer to prove—
 - (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the provision; or
 - (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.
- (5) In this section—

executive officer, of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.

61 Ability to prosecute under other Acts

Nothing in this Act prevents a person from being prosecuted for any of the following offences in relation to the clearing of vegetation—

- (a) a development offence under the Planning Act or the repealed *Sustainable Planning Act 2009*;
- (b) an offence against a following provision of the *Environmental Protection Act 1994*—
 - section 437(1)
 - section 437(2)
 - section 438(1)
 - section 438(2).

Note—

Under the *Environmental Protection Act 1994*, the maximum penalties are—

- for section 437(1)—4165 penalty units or 5 years imprisonment
- for section 437(2)—1665 penalty units
- for section 438(1)—1665 penalty units or 2 years imprisonment
- for section 438(2)—835 penalty units.

Part 4 Reviews and legal proceedings

Division 1 Internal reviews by chief executive

62 Internal review process before external review

Every review of an original decision must be, in the first instance, by way of an application for an internal review of the decision.

63 How to apply for internal review

- (1) A person who is given, or is entitled to be given, an information notice about a decision made under this Act may apply for an internal review of the decision.

- (2) An application for internal review of a decision must be—
 - (a) in the approved form; and
 - (b) made to the chief executive; and
 - (c) supported by enough information to enable the chief executive to decide the application.
- (3) The application must be made within 20 business days after—
 - (a) the day the person is given the information notice about the decision; or
 - (b) if paragraph (a) does not apply—the day the person otherwise becomes aware of the decision.
- (4) The chief executive may extend the time for applying for the internal review.
- (5) The application does not stay the decision.

63A Review decision

- (1) The chief executive must, within 30 business days after receiving the application—
 - (a) review the decision (the *original decision*); and
 - (b) make a decision (the *review decision*) to—
 - (i) confirm the original decision; or
 - (ii) amend the original decision; or
 - (iii) substitute another decision for the original decision; and
 - (c) give the applicant notice (the *review notice*) of the review decision.
- (2) If the review decision is not the decision sought by the applicant, the review notice must comply with the QCAT Act, section 157(2).
- (3) However, subsection (2) does not apply if the review decision relates to an original decision under—

- (a) section 20O(1)(b) or (2)(b) or (c), 20R(2) or the provisions as applied under section 20ZC(6); or
- (b) section 20O(3)(b), 20S(1)(a) or 20ZB(1)(b) or (c).

Division 1A External reviews by QCAT

63B Who may apply for external review

- (1) A person who is dissatisfied with a review decision may apply, as provided under the QCAT Act, to QCAT for a review of the review decision.
- (2) However, subsection (1) does not apply if the review decision relates to an original decision mentioned in section 63A(3).

Division 2 Evidence

64 Application of div 2

This division applies to a proceeding under this Act.

65 Appointments and authority

It is not necessary to prove—

- (a) the chief executive's appointment; or
- (b) an authorised officer's appointment; or
- (c) the authority of the chief executive or an authorised officer to do anything under this Act.

66 Signatures

A signature purporting to be the signature of the chief executive or an authorised officer is evidence of the signature it purports to be.

66A Instruments, equipment and installations

- (1) An instrument, equipment or installation prescribed under a regulation that is used in accordance with any conditions prescribed under a regulation is taken, in the absence of evidence to the contrary—
 - (a) to be accurate and precise; and
 - (b) to have been used by an appropriately qualified person.
- (2) A party to the proceeding intending to challenge a matter mentioned in subsection (1)(a) or (b) must give each other party notice of the party's intention to adduce relevant evidence at least 20 business days before the evidence is adduced.
- (3) The notice must state the grounds on which the party intends to rely to prove that the instrument, equipment or installation—
 - (a) was not accurate or precise; or
 - (b) was not used by an appropriately qualified person.

66B Certificate or report about remotely sensed image

- (1) A signature on a certificate or report purporting to be the signature of an appropriately qualified person who gave the certificate or report is evidence of the signature it purports to be.
- (2) A statement of any of the following matters in the certificate or report is evidence of the matters stated in the absence of evidence to the contrary—
 - (a) the person's qualifications;
 - (b) a stated document is a remotely sensed image, or a copy of a remotely sensed image, of a stated area;
 - (c) the date on which a stated remotely sensed image was produced;
 - (d) the person's stated conclusions drawn from a stated remotely sensed image;

- (e) the location of a stated area;
 - (f) whether vegetation in a stated area has been cleared;
 - (g) whether a stated area is or is likely to be an area of remnant vegetation or regulated regrowth vegetation.
- (3) A party to the proceeding intending to challenge the statement must give each other party notice of the party's intention to adduce relevant evidence at least 20 business days before the evidence is adduced.
- (4) The notice must state the grounds on which the party intends to rely to prove that the statement was not correct.

67 Evidentiary aids

- (1) A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—
- (a) a stated document is one of the following things made, certified, maintained, given or issued under this Act or the Planning Act—
 - (i) an appointment, approval or decision;
 - (ii) a direction, notice or requirement;
 - (iii) a code, plan or policy;
 - (iv) a map;
 - (b) a stated document is another document kept under this Act or the Planning Act;
 - (c) a stated document is a copy of, or an extract from or part of, a thing mentioned in paragraph (a) or (b);
 - (d) on a stated day—
 - (i) a stated person was given a stated decision, direction or notice under this Act; or
 - (ii) a stated requirement under this Act was made of a stated person.

- (2) A statement in a complaint for an offence against this Act that the matter of the complaint came to the knowledge of the complainant on a stated day is evidence of the matter stated.

Division 3 Proceedings

68 Summary proceedings for offences

- (1) A proceeding for an offence against this Act, or for a vegetation clearing offence, must be taken in a summary way under the *Justices Act 1886*.
- (2) Subject to subsection (4), a proceeding for an offence against this Act must start—
 - (a) within 1 year after the commission of the offence; or
 - (b) within 1 year after the offence comes to the complainant's knowledge, but within 5 years after the offence is committed.
- (3) Despite the Planning Act, and subject to subsection (4), a proceeding for a vegetation clearing offence must start—
 - (a) within 1 year after the commission of the offence; or
 - (b) within 1 year after the offence comes to the complainant's knowledge, but within 5 years after the offence is committed.
- (4) If a Magistrates Court considers it just and equitable in the circumstances, the court may, at any time, extend a time set under this section.
- (5) Subsection (4)—
 - (a) applies to an offence regardless of whether it was committed before or after the commencement of the subsection; and
 - (b) does not apply to an offence if the time for starting a proceeding for the offence had expired before the commencement of the subsection.

- (6) A vegetation clearing offence does not come to the complainant's knowledge merely because the complainant receives a remotely sensed image that may provide evidence of the offence.

68A Particulars to be stated for complaint for vegetation clearing offence

- (1) This section applies to a complaint for a proceeding for a vegetation clearing offence.
- (2) It is enough, for identifying the vegetation cleared and the place where the vegetation was cleared, for the particulars for the complaint to state the following—
- (a) the number of hectares of vegetation that have been cleared unlawfully;
 - (b) the location where the vegetation was cleared;
 - (c) a description of the vegetation;

Example—

remnant vegetation that is an endangered regional ecosystem and essential habitat for protected wildlife

- (d) whether the vegetation was in—
 - (i) an area of high nature conservation value; or
 - (ii) an area vulnerable to land degradation.

68B Representation of departmental officer in court

- (1) Any departmental officer may appear for and represent another departmental officer in a Magistrates Court in a proceeding brought by the other officer under this Act or for a vegetation clearing offence.
- (2) In this section—

departmental officer means a public service officer employed in the department.

68C Recovery of costs of investigation

- (1) If a court convicts a person of an offence against this Act or a vegetation clearing offence, the court may order the person to pay the department's reasonable costs of investigating the offence, including reasonable costs of preparing for the prosecution of the offence.

Examples of reasonable costs—

- 1 obtaining and analysing remotely sensed images
 - 2 costs of travelling for departmental officers and experts
- (2) Subsection (1) does not limit the orders for costs the court may make.

Division 4 Restrictions on legal proceedings

68CA Definitions for div 4

In this division—

decision means—

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

PMAV application means an application under section 20C to make a PMAV for an area.

relevant PMAV application means a PMAV application made on or after 8 October 2009 and before 3 November 2009.

68CB Limitation of review and appeal

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

Part 5 Miscellaneous

68D Approved forms

The chief executive may approve forms for use under this Act.

69 Advisory committees

- (1) The Minister may establish advisory committees to advise the Minister about vegetation management.
- (2) The Minister may decide—
 - (a) the functions or terms of reference of a committee; and
 - (b) the membership of a committee; and
 - (c) how a committee is to operate.
- (3) A committee member is entitled to be paid the fees and allowances decided by the Governor in Council.

70 Regional vegetation management committees

- (1) The Minister may establish regional vegetation management committees to advise the Minister about vegetation management.
- (2) The Minister may decide—
 - (a) the functions or terms of reference of a committee; and
 - (b) the membership of a committee; and
 - (c) how a committee is to operate.
- (3) A committee member is entitled to be paid the fees and allowances decided by the Governor in Council.

70AA Copies of vegetation management maps to be available for inspection and purchase

- (1) This section applies to vegetation management maps.
- (2) The chief executive must—
 - (a) keep the digital electronic form of the map available for inspection, free of charge, by members of the public at particular regional offices; and
 - (b) publish the digital electronic form of the map on the department's website.

Editor's note—

The regional offices where the digital electronic form of a relevant map can be inspected are stated on the department's website.

- (3) The chief executive may publish 2 or more maps as a single map in digital electronic form on the department's website.
- (4) The exact location of the boundary of each of the areas shown on the map is held in digital electronic form by the department.

Note—

The department uses a geographic information system for capturing, managing, analysing and displaying the data for a map for an area.

- (5) The information held in digital electronic form can be reduced or enlarged to show the details of the boundaries of the areas shown on the map.
- (6) On payment of a fee, a person may buy—
 - (a) a copy of the map or part of the map; or
 - (b) information about the boundaries of an area shown on the map.

Note—

The information about the boundaries of an area, taken from the geographic information system, would include the coordinates of the corners and bends of the area.

- (7) The fee for the copy of the map, or part of the map, or the information about the boundaries of an area must not be more than the reasonable cost of publishing the copy or giving the information.

70AB Copies of documents to be available for inspection and purchase

- (1) This section applies to each of the following documents—
 - (a) the State policy;
 - (b) an accepted development vegetation clearing code;
 - (c) a declaration made under section 17;
 - (d) for each declaration made under section 19F—
 - (i) the notice given to the proponent under section 19F(1); and
 - (ii) the management plan relevant to the declaration;
 - (e) an area management plan.
- (2) The chief executive must—
 - (a) keep a copy of the document available for inspection, free of charge, by members of the public at particular regional offices; and

- (b) publish the document, other than a document mentioned in subsection (1)(d), on the department's website.

Editor's note—

The regional offices where the document can be inspected are stated on the department's website.

- (3) On payment of a fee, a person may buy a copy of the document.
- (4) The fee for the copy of the document must not be more than the reasonable cost of publishing the copy.

70A Application of development approvals and exemptions for Forestry Act

- (1) If a development approval is given in relation to a forest product on forestry land, the approval is taken to be, for the *Forestry Act 1959*, section 53, a permit, lease, licence, agreement or contract required under that section.
- (2) If a development approval is given in relation to a forest product on forestry land, the approval is taken to be, for the *Forestry Act 1959*, section 54, the authority of another Act.
- (3) If the clearing on forestry land of vegetation shown on the regulated vegetation management map as a category B area does not involve the removal of a species prescribed under a regulation and the clearing is not, the clearing is taken to be authorised under the *Forestry Act 1959*, section 53 or 54.
- (4) If the clearing on forestry land of vegetation shown on the regulated vegetation management map as other than a category B area is not, the clearing is taken to be authorised under the *Forestry Act 1959*, section 53 or 54.
- (5) To remove doubt, it is declared that subsections (3) and (4) only authorise the use of a forest product cleared if the clearing is—
 - (a) on land subject to a lease issued under the *Land Act 1994* for agriculture or grazing purposes; and
 - (b) to source construction timber to repair existing infrastructure on the land, if—

- (i) the infrastructure is in need of immediate repair; and
 - (ii) the clearing does not cause land degradation; and
 - (iii) restoration of a similar type, and to the extent of the removed trees, is ensured.
- (6) In this section—
forestry land means land to which the *Forestry Act 1959*, section 53 or 54 applies.

70B Record of particular matters in land registry

- (1) This section applies if a PMAV is made and contains a category A area.
- (2) As soon as practicable after the PMAV is made, the chief executive must give the registrar of titles written notice that the PMAV has been made.
- (3) The registrar must keep records showing the PMAV has been made.
- (4) The registrar must keep the records in a way that a search of the register kept by the registrar under any Act relating to title to the land the subject of the PMAV will show the PMAV has been made.
- (5) If the PMAV is replaced, the chief executive must give written notice of the fact to the registrar.
- (5A) Also, the chief executive may, by written notice, ask the registrar to remove the particulars of the PMAV from the registrar's records if the chief executive considers it is necessary or desirable to remove the particulars—
 - (a) to achieve the purposes of this Act: or
 - (b) because the particulars are no longer relevant for the land the subject of the PMAV.
- (6) As soon as practicable after receiving a notice under subsection (5) or (5A), the registrar must adjust or remove the particulars of the PMAV from the registrar's records.

70C Particular vegetation not natural resource owned by person as improvement on leasehold land

- (1) Subsection (2) applies if—
 - (a) a person—
 - (i) is given a restoration notice in relation to land; or
 - (ii) was or is given a trespass notice if the trespass related act under the *Land Act 1994* for the notice is the clearing of vegetation on the land; or
 - (iii) was given before the commencement of this section a compliance notice in relation to land; and
 - (b) the land is subject to a lease under the *Land Act 1994*; and
 - (c) the person is required under the notice to plant vegetation on the land; and
 - (d) the person complies with the notice.
- (2) The vegetation is not a natural resource owned by the person as an improvement.
- (3) Subsection (4) applies if vegetation is or was planted on land subject to a lease to comply with a Land Act notice.
- (4) To remove any doubt, it is declared that the vegetation is not and never has been a natural resource owned by the lessee of the land as an improvement.

71 Protecting officials from civil liability

- (1) An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents civil liability attaching to an official, the liability attaches instead to the State.
- (3) In this section—

official means—

 - (a) the Minister; or

- (b) the chief executive; or
- (c) an authorised officer; or
- (d) a person acting under the direction of an authorised officer.

72 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may prescribe the fees that are payable under this Act.

Part 6 Transitional and declaratory provisions

Division 1 Transitional provisions for Act No. 90 of 1999

73 Existing development approvals and applications for development approvals under the repealed Integrated Planning Act 1997

- (1) Subsection (2) applies to a development approval under the repealed *Integrated Planning Act 1997* involving the clearing of vegetation in force immediately before the commencement of this section.
- (2) The approval has effect as if this Act had not been enacted.
- (3) Subsection (4) applies to a development application under the repealed *Integrated Planning Act 1997* involving the clearing of vegetation made to the assessment manager that—
 - (a) has not been decided before the commencement of this section; or
 - (b) has been decided, but is the subject of an appeal under the repealed *Integrated Planning Act 1997* and the

appeal has not been decided before the commencement of this section.

- (4) The application may be decided as if this Act had not been enacted and, if a development approval is given for the application, the approval has effect as if this Act had not been enacted.

74 Existing development control plans and special facilities zones

- (1) Nothing in this Act affects the clearing of vegetation—
 - (a) under a development control plan mentioned in the repealed *Integrated Planning Act 1997*, section 6.1.45A; or
 - (b) in an area designated, immediately before the commencement of this section, as a special facilities zone under a planning scheme under the repealed *Integrated Planning Act 1997*.
- (2) Subsection (1)(b) applies to an area only if—
 - (a) the area continues to be designated as a special facilities zone, or like zone, under the scheme; or
 - (b) the current planning scheme for the area no longer designates the area as a special facilities zone but there is, for the area and in relation to the zone—
 - (i) a development permit that—
 - (A) was given before the designation ceased; and
 - (B) has not lapsed; and
 - (C) is for building work or operational work under the Planning Act; or
 - (ii) an acknowledgement notice mentioned in the repealed *Integrated Planning Act 1997*, section 3.2.5(1); or
 - (iii) a request made under the repealed *Sustainable Planning Act 2009*, section 95(1), or the Planning

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- Act, section 29(4)(b), that has been agreed to, or is taken to have been agreed to, by the local government; or
- (iv) a development permit given for a development application (superseded planning scheme) under the repealed *Sustainable Planning Act 2009*; or
 - (v) a development permit given for a superseded planning scheme request under the Planning Act.
- (3) However, subsection (1)(b) also applies to an area if—
- (a) the current planning scheme for the area no longer designates the area as a special facilities zone but the development rights conferred by the earlier designation have been preserved under the scheme; and
 - (b) the clearing of vegetation is in relation to the development rights.
- (4) In this section—
- special facilities zone*** means a zone under the repealed *Local Government (Planning and Environment) Act 1990*—
- (a) for which the permitted use is special facilities, whether or not the zone has been designated under the planning scheme by the name ‘special facilities zone’; and
 - (b) in which development of a particular type may be carried out without a development approval.

Division 2 Transitional provisions for Vegetation Management and Other Legislation Amendment Act 2004

79 When the Land Act 1994 continues to apply

- (1) The *Land Act 1994*, as in force immediately before the commencement of the *Vegetation Management and Other Legislation Amendment Act 2004*, section 3, continues to apply for tree clearing permits issued under the *Land Act 1994*

or as a result of an application dealt with under section 77 or 78.

- (2) The *Land Act 1994*, as in force immediately before the commencement of the *Vegetation Management and Other Legislation Amendment Act 2004*, section 3, continues to apply for monitoring, enforcing compliance with or the prosecution of an offence against a tree clearing provision under the *Land Act 1994*, as in force immediately before the commencement.

Division 3 Transitional provisions for Vegetation Management and Other Legislation Amendment Act 2005

81 Effect on existing riverine protection permits

- (1) This section applies to the clearing of vegetation carried out—
 - (a) after the commencement of this section; and
 - (b) under the authority of a permit—
 - (i) issued under the *Water Act 2000*, section 269; and
 - (ii) in force immediately before the commencement of this section; and
 - (c) in a watercourse or lake; and
 - (d) on land other than freehold land.
- (2) The clearing is taken to be lawfully carried out under this Act and the Planning Act even if there is, for the clearing, no development permit given for operational work as defined under that Act that is—
 - (a) the clearing of vegetation; and
 - (b) categorised as assessable development under a regulation made under the Planning Act.

82 Validation of particular clearing

- (1) This section applies to the clearing of vegetation carried out—
 - (a) after 20 May 2004 but before the commencement of this section; and
 - (b) to the extent necessary for an activity approved under another Act; and
 - (c) in a watercourse or lake; and
 - (d) on land other than freehold land.
- (2) The clearing is taken to have been lawfully carried out under this Act and the repealed *Integrated Planning Act 1997* even if there was, for the clearing, no development permit given for operational work under the repealed *Integrated Planning Act 1997*, schedule 8, part 1, table 4, items 1A to 1G.
- (3) In this section—

activity does not include an activity relating to a development approval under the repealed *Integrated Planning Act 1997* given for a material change of use of premises or the reconfiguration of a lot.

Division 4 Transitional provision for Land and Other Legislation Amendment Act 2007

84 Existing appeals under s 22C

- (1) Subsection (2) applies if, before the commencement—
 - (a) a person has appealed to a tribunal under the repealed *Integrated Planning Act 1997*, section 4.2.9, about an application for which section 22C as in force before the commencement applied; and
 - (b) the appeal has not been decided.

- (2) The tribunal may hear, or continue to hear, and decide the appeal as if the *Land and Other Legislation Amendment Act 2007*, part 9, had not commenced.
- (3) In this section—
commencement means the day this section commences.

Division 5 Declaratory and transitional provisions for Vegetation Management Amendment Act 2008

85 Declaration about types of regional ecosystems

- (1) It is declared that—
 - (a) if, for any period before the commencement day, the regulation stated that a regional ecosystem was an endangered regional ecosystem for the definition *endangered regional ecosystem* in this Act, the regional ecosystem was an endangered regional ecosystem for the period; and
 - (b) if, for any period before the commencement day, the regulation stated that a regional ecosystem was a not of concern regional ecosystem for the definition *not of concern regional ecosystem* in this Act, the regional ecosystem was a not of concern regional ecosystem for the period; and
 - (c) if, for any period before the commencement day, the regulation stated that a regional ecosystem was an of concern regional ecosystem for the definition *of concern regional ecosystem* in this Act, the regional ecosystem was an of concern regional ecosystem for the period.
- (2) Subsection (1) applies despite any provision of the Act in force before the commencement day including the definitions *endangered regional ecosystem*, *not of concern regional ecosystem* and *of concern regional ecosystem*.

- (3) Subsection (1) applies for all purposes, including a civil or criminal proceeding decided before, or started before or after, the commencement day.

- (4) In this section—

commencement day means the day this section commences.

regulation means the *Vegetation Management Regulation 2000*.

Division 7 Transitional provisions for Vegetation Management and Other Legislation Amendment Act 2009

Subdivision 1 Preliminary

88 Definitions for div 7

In this division—

amending Act means the *Vegetation Management and Other Legislation Amendment Act 2009*.

moratorium period see the repealed Moratorium Act, section 7.

retrospective period means the period—

- (a) starting on 8 October 2009; and
- (b) ending immediately before the date of assent of the amending Act.

unamended Act means this Act as in force immediately before 8 October 2009.

89 References to unamended Act

If this division states that a provision of the unamended Act continues to apply—

- (a) the provision applies as if the amending Act had not been enacted; and
- (b) any other provision referred to in the provision continues to apply.

Subdivision 2 Transitional provisions for amendments of Vegetation Management Act 1999

96 Existing compliance notices

- (1) If an existing compliance notice requires the person given the notice to stop committing the offence, the compliance notice is, from 8 October 2009, taken to be a stop work notice.
- (2) If an existing compliance notice requires the person given the notice to stop committing the offence and to rectify the matter the subject of the compliance notice, the person is, from 8 October 2009, taken to have been given a stop work notice and a restoration notice.
- (3) If an existing compliance notice requires the person to rectify the matter the subject of the compliance notice, the compliance notice is, from 8 October 2009, taken to be a restoration notice.
- (4) This section applies despite section 54A(3) or (4) or 54B(3) or (4).
- (5) In this section—
existing compliance notice means—
 - (a) a compliance notice for a vegetation clearing offence in force immediately before 8 October 2009; or
 - (b) a Land Act notice.

97 Tree clearing provisions under unamended Land Act

- (1) From 8 October 2009, section 79(2) continues to apply in relation to an offence against a tree clearing provision under the unamended Land Act except that—
 - (a) a reference to a compliance notice under the unamended Land Act to stop committing the offence is, from 8 October 2009, taken to be a reference to a stop work notice; and
 - (b) a reference to a compliance notice under the unamended Land Act to rectify the matter is, from 8 October 2009, taken to be a restoration notice.
- (2) In this section—

unamended Land Act means the *Land Act 1994* as in force immediately before the commencement of the *Vegetation Management and Other Legislation Amendment Act 2004*, section 3.

98 Existing development approvals and development applications

- (1) A development approval under the Planning Act that is in force immediately before 8 October 2009 has effect as if the amending Act had not been enacted.
- (2) Subsection (3) applies if, immediately before 8 October 2009—
 - (a) a development application had been made; and
 - (b) clearing regulated regrowth vegetation is a natural and ordinary consequence of the development the subject of the application; and
 - (c) the application was a properly made application and had not lapsed under the Planning Act; and
 - (d) the application had not been decided.
- (3) If a development approval under the Planning Act is given for the development, the regulated regrowth vegetation may be

cleared under the development approval as if the amending Act had not been enacted.

99 References to not of concern regional ecosystems

From 8 October 2009, a reference in an Act or document to a not of concern regional ecosystem is, if the context permits, taken to be a reference to a least concern regional ecosystem.

100 Clearing of regulated regrowth vegetation in retrospective period not an offence

- (1) The repealed *Integrated Planning Act 1997*, section 4.3.1(1), to the extent the provision relates to unauthorised development, does not apply to a person carrying out unauthorised development.
- (2) However, if an official reasonably believes a person has carried out unauthorised development, the official may give the person a restoration notice for the development.
- (3) In this section—

unauthorised development means development that is the clearing of regulated regrowth vegetation if—

- (a) any of the following apply—
 - (i) the clearing does not comply with the regrowth vegetation code;
 - (ii) there is no moratorium exemption in force for the development;
 - (iii) the clearing is exempt development; and
- (b) the clearing was carried out in the retrospective period.

101 Application of s 19Q

Section 19Q does not apply to a person conducting a native forest practice in an area of regulated regrowth vegetation until 1 year after 8 October 2009.

102 Not giving notice in retrospective period not an offence

- (1) Section 19Q does not apply to a person conducting a native forest practice in an area of remnant vegetation in the retrospective period if—
 - (a) the person started the native forest practice before the start of the retrospective period; or
 - (b) otherwise—the person gives the chief executive the notice mentioned in section 19Q within 20 business days after the end of the retrospective period.
- (2) Section 19V does not apply to a person clearing regulated regrowth vegetation in the retrospective period if—
 - (a) the person started the clearing before the start of the retrospective period; or
 - (b) otherwise—the person gives the chief executive the clearing notification mentioned in section 19V within 20 business days after the end of the retrospective period.

103 Delayed applications to QCAT

If a person may apply to QCAT under section 63B before QCAT comes into existence, the person may apply to QCAT within 20 business days after QCAT comes into existence.

Subdivision 3 Transitional provisions for repeal of Vegetation Management (Regrowth Clearing Moratorium) Act 2009

107 Existing show cause notices and compliance notices

- (1) Subsection (2) applies if, before 8 October 2009—
 - (a) a person was given a show cause notice under the repealed Moratorium Act, section 24 in relation to the carrying out of prohibited development under that Act; and

- (b) the chief executive has not under the repealed Moratorium Act, section 25 given the person a notice stating that the proposed action will not be taken; and
 - (c) an official has not under the repealed Moratorium Act, section 26(1) given the person a compliance notice.
- (2) From 8 October 2009—
 - (a) the repealed Moratorium Act, sections 25 and 26(1) to (4) continue to apply; and
 - (b) a reference to a compliance notice in the provisions is taken to be a reference to a restoration notice; and
 - (c) a reference in the compliance notice to carrying out prohibited development is taken to be a reference to committing a vegetation clearing offence in the restoration notice.
- (3) Subsection (4) applies if a compliance notice was given under the repealed Moratorium Act, section 26 before 8 October 2009 in relation to the carrying out of prohibited development under that Act.
- (4) From 8 October 2009—
 - (a) the compliance notice is taken to be a restoration notice; and
 - (b) a reference in the compliance notice to carrying out prohibited development is taken to be a reference to committing a vegetation clearing offence in the restoration notice.
- (5) In this section—

compliance notice see the repealed Moratorium Act, section 24(2).

show cause notice means a notice that complies with the Moratorium Act, section 24(3).