

I hereby certify that this PUBLIC BILL has finally passed the
Legislative Assembly of Queensland.



Legislative Assembly Chamber, *The Clerk of the Parliament.*

Brisbane,

23 May 2013

In the name and on behalf of the Queen, I assent to this Bill.

Penelope Wemyss

Government House,

Brisbane, *23rd May,* 2013



Queensland

No. *24* of 2013
A BILL for

An Act to amend the Vegetation Management Act 1999, the Land Act 1994,
the Nature Conservation Act 1992, the Sustainable Planning Act 2009 and
the Wild Rivers Act 2005 for particular purposes



Queensland

Vegetation Management Framework Amendment Bill 2013

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2013

A Bill

for

An Act to amend the *Vegetation Management Act 1999*, the *Land Act 1994*, the *Nature Conservation Act 1992*, the *Sustainable Planning Act 2009* and the *Wild Rivers Act 2005* for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Vegetation Management Framework Amendment Act 2013*.

2 Commencement

The following provisions commence on a day to be fixed by proclamation—

- (a) sections 5, 7, 10 to 32, 35, 36, 40, 46 to 49, 57 to 61, 65, and 76;
- (b) section 64, to the extent it inserts new sections 111, 112, 114 to 120;
- (c) part 4.

Part 2 Amendment of Vegetation Management Act 1999

3 Act amended

This part amends the *Vegetation Management Act 1999*.

4 Amendment of s 3 (Purpose of Act)

Section 3(1)—

insert—

- (h) allows for sustainable land use.

5 Amendment of s 11 (Minister must make regional vegetation management codes)

Section 11(2)(a), ‘, vulnerable or near threatened’—

omit, insert—

or vulnerable

6 Amendment of s 16 (Preparing declaration)

Section 16(8)—

omit.

7 Amendment of pt 2, div 4 hdg (Declaration of areas of high nature conservation value and areas vulnerable to land degradation)

Part 2, division 4, heading—

omit, insert—

Division 4 Declaration of particular areas

8 Amendment of s 17 (Making declaration)

Section 17(1A), (2A) and (4)—

omit.

9 Omission of s 19D (Application of ss 19A–19C to wild rivers code)

Section 19D—

omit.

11 Replacement of pt 2, divs 4B and 4C

Part 2, divisions 4B and 4C—

omit, insert—

Division 4B Self-assessable codes

190 Self-assessable vegetation clearing code

- (1) The Minister must make a code (a *self-assessable vegetation clearing code*) for—
 - (a) clearing vegetation for the following—
 - (i) controlling non-native plants or declared pests; and
 - (ii) relevant infrastructure activities for which the clearing can not reasonably be avoided or minimised; and
 - (iii) fodder harvesting; and
 - (iv) thinning; and
 - (v) clearing of encroachment; and
 - (vi) an extractive industry; and
 - (vii) necessary environmental clearing; and
 - (viii) in a category C area; and
 - (ix) in a category R area; and
 - (b) conducting a native forest practice.
- (2) Also, the Minister may make a code (also a *self-assessable vegetation clearing code*) for any other matter about clearing vegetation the Minister considers is necessary or desirable for achieving the purpose of this Act.
- (3) A self-assessable vegetation clearing code may provide for all or any of the following—
 - (a) clearing for 1 or more relevant purposes under section 22A;
 - (b) clearing that is subject to another code under this Act;
 - (c) clearing a particular area;

- (d) clearing a particular type of vegetation;
 - (e) required outcomes and practices, and voluntary best practices, for clearing vegetation;
 - (f) restrictions on clearing commercial timber on State land;
 - (g) the protection of habitat for protected wildlife;
 - (h) the circumstance in which an exchange area must be provided;
 - (i) giving notice to the chief executive of the intended clearing or native forest practice to be conducted under the code.
- (4) A self-assessable vegetation clearing code must not be inconsistent with this Act or the State policy.

19P When self-assessable vegetation clearing code takes effect

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

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

- (1) This section applies if a self-assessable vegetation clearing code applies to the clearing of vegetation or the conduct of a native forest practice (the *activity*).
- (2) For the Planning Act, the activity is self-assessable development but only if it is carried out in compliance with the code.

[s 12]

Note—

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

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

19R Register of self-assessable notices given under code

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

12 Replacement of ss 20A–20AB

Sections 20A to 20AB—

omit, insert—

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 map*

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

Note—

The map consists of the following documents—

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

13 Amendment of s 20AC (What is the *essential habitat map*)

(1) Section 20AC, ‘means’—

omit, insert—

is

(2) Section 20AC(1), ‘or essential regrowth habitat’—

omit.

[s 14]

- (3) Section 20AC(2), ‘an area of vegetation shown on the regional ecosystem map or remnant map as remnant vegetation’—

omit, insert—

a category A area, a category B area or category C area shown on the regulated vegetation management map

- (4) Section 20AC(5) and (6)—

omit.

14 Omission of ss 20AD to 20AG

Section 20AD to section 20AG—

omit.

15 Amendment of s 20AH (Deciding to show particular areas as remnant vegetation)

- (1) Section 20AH, heading, ‘remnant vegetation’—

omit, insert—

category B areas

- (2) Section 20AH, ‘regional ecosystem map or remnant map,’—

omit, insert—

regulated vegetation management map,

- (3) Section 20AH, ‘remnant vegetation if’—

omit, insert—

a category B area if

- (4) Section 20AH(a)—

insert—

(v) necessary environmental clearing; or

- (5) Section 20AH(b), ‘or offset area’—

omit, insert—

, offset area or exchange area

(6) Section 20AH(c)—

omit, insert—

(c) the area—

- (i) has been subject to a native forest practice on a category B area; or
- (ii) has been subject to clearing vegetation or conducting a native forest practice under a self-assessable vegetation clearing code on a category B area; or

(7) Section 20AH(d), ‘the vegetation in the area is shown on the regional ecosystem map or remnant map as remnant vegetation and’—

omit.

(8) Section 20AH(i)—

omit, insert—

- (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.

16 Amendment of s 20AI (Deciding to show particular areas as high value regrowth vegetation)

(1) Section 20AI, heading, ‘high value regrowth vegetation’—

omit, insert—

[s 17]

category C areas

- (2) Section 20AI, ‘regrowth vegetation map’—
omit, insert—
regulated vegetation management map
- (3) Section 20AI, ‘high value regrowth vegetation’—
omit, insert—
a category C area
- (4) Section 20AI(a)—’
omit, insert—
- (a) the area is a category C area and has been subject to clearing vegetation under a self-assessable vegetation clearing code and the clearing was for—
 - (i) thinning; or
 - (ii) clearing of encroachment; or
 - (iii) controlling non-native plants or declared pests; or
 - (iv) necessary environmental clearing that is not the diverting of existing natural channels in a way that replicates the existing form of the natural channels; or
- (5) Section 20AI(f)—
omit.
- (6) Section 20AI(g)—
renumber as section 20AI(f).

17 Replacement of s 20AJ (Application to make PMAV before amending particular vegetation management maps)

Section 20AJ—

omit, insert—

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.

18 Omission of pt 2, div 5A, hdg (Property map of assessable vegetation)

Part 2, division 5A, heading—

omit.

19 Amendment of s 20AK (What is a *property map of assessable vegetation* (or PMAV))

(1) Section 20AK(1)—

omit, insert—

(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) Section 20AK(3) and (4)—

omit.

20 Insertion of new s 20AKA

After section 20AK—

insert—

[s 21]

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.

21 Amendment of s 20AL (What is a *category A area*)

Section 20AL, ‘is an area that’—

omit, insert—

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

22 Replacement of s 20AM (What is a *category B area*)

Section 20AM—

omit, insert—

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.

23 Replacement of s 20AN (What is a *category C area*)

Section 20AN—

omit, insert—

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.

24 Insertion of new s 20ANA

After section 20AN—

[s 25]

insert—

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 area.

25 Amendment of s 20AO (What is a *category X area*)

Section 20AO(1)—

omit, insert—

- (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.

26 Amendment of s 20B (When chief executive may make PMAV)

Section 20B(1)(i), ‘regrowth vegetation’—

omit, insert—

regulated vegetation management

27 Amendment of s 20CA (Process before making PMAV)

- (1) Section 20CA(2)(c)—

insert—

(v) necessary environmental clearing; or

- (2) Section 20CA(2)(d)—

omit, insert—

(d) the chief executive has, under a self-assessable vegetation clearing code,

been given a notice relating to clearing vegetation other than for—

- (i) thinning; or
- (ii) clearing of encroachment; or
- (iii) controlling non-native plants or declared pests; or
- (iv) necessary environmental clearing that is not the diverting of existing natural channels in a way that replicates the existing form of the natural channels; or

- (3) Section 20CA(2)(e), ‘an area management clearing notification for the area has been received’—

omit, insert—

the chief executive has received a notice under an area management plan for the area

- (4) Section 20CA(3)—

omit, insert—

- (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.

28 Amendment of s 20D (When PMAV may be replaced)

Section 20D—

insert—

- (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

[s 29]

- (b) for a PMAV made under section 20B(1)(b)—the offset in relation to the offset area ends; or
- (c) for a PMAV made under section 20B(1)(c)—the exchange area is no longer an exchange area required under a self-assessable vegetation clearing code; or
- (d) for a PMAV made under section 20B(1)(d), (e), (f) or (g)—
 - (i) the area contains remnant vegetation; or
 - (ii) the person the subject of a restoration notice, an enforcement notice under the Planning Act or a court order has complied with the conditions of the restoration notice or enforcement notice or order; or
- (e) for a PMAV made under section 20B(1)(h)—the Land Act tenure over the area is not converted to another form of tenure; or
- (f) for a PMAV made under section 20B(1)(i)—the regulated vegetation management map is amended to correct the error.

29 Omission of s 20E (When PMAV may be revoked)

Section 20E—

omit.

30 Omission of s 20G (Owners to be advised of revocation of PMAV)

Section 20G—

omit.

31 Replacement of s 20H (Inconsistency between PMAV and particular vegetation management maps)

Section 20H—

omit, insert—

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.

32 Insertion of new ss 20HA to 20HC

Part 2, division 5A, after section 20H—

insert—

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.

[s 33]

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.

33 Amendment of s 20J (What is an *area management plan*)

Section 20J(1)—

insert—

- (c) an area management plan made by the chief executive under subdivision 2A.

34 Amendment of s 20M (Application for approval of draft plan or accreditation of planning document)

Section 20M(2)(c)—

omit, insert—

- (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

35 Amendment of s 20P (Criteria for approving draft plan or accrediting planning document)

Section 20P(d)—

omit, insert—

- (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

36 Amendment of s 20Q (Mandatory condition on approval of draft plan or accreditation of planning document)

Section 20Q(2)—

omit, insert—

- (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.

37 Amendment of s 20R (Imposing additional condition on approval of draft plan)

Section 20R(3), definition *condition*—

insert—

- (d) giving notice to the chief executive of intended clearing.

38 Insertion of new pt 2, div 5B, sdiv 2A

Part 2, division 5B—

insert—

Subdivision 2A Plans made by chief executive

20UA Chief executive may make area management plans

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

- (3) An area plan (chief executive) is not subordinate legislation.

20UB Plan period for area management plan

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

20UC Mandatory conditions for area management plan

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

39 Replacement of s 20V (Register of area management plans)

Section 20V—

omit, insert—

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.

[s 40]

- (2) The register must include details of each notice the chief executive considers appropriate.

40 Omission of pt 2, div 5B, sdiv 4 (Notifying clearing under plans)

Part 2, division 5B, subdivision 4—
omit.

41 Amendment of s 20Z (When an area management plan ends)

Section 20Z(1), after ‘draft plan’—
insert—

, or an area plan (chief executive),

42 Amendment of pt 2, div 5B, sdiv 6 hdg (Amending plans)

Part 2, division 5B, subdivision 6, heading, after ‘Amending’—
insert—

particular

43 Replacement of s 20ZA (Definition for sdiv 6)

Section 20ZA—
omit, insert—

20ZA Application of sdiv 6

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

44 Amendment of s 20ZB (Amendment by chief executive)

Section 20ZB—
insert—

- (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.

45 Amendment of s 20ZC (Amendment application for particular plans)

(1) Section 20ZC(1)—

omit, insert—

- (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) Section 20ZC—

insert—

- (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.

[s 46]

(3) Section 20ZC(7)—

insert—

- (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.

(4) Section 20ZC—

insert—

(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.

46 Amendment of s 22A (Particular vegetation clearing applications may be assessed)

(1) Section 22A(2)(d)—

omit, insert—

- (d) for relevant infrastructure activities and the clearing can not reasonably be avoided or minimised; or

(2) Section 22A(2)(j)—

omit, insert—

- (j) for necessary environmental clearing; or
- (k) for high value agriculture clearing; or
- (l) for irrigated high value agriculture clearing.

(3) Section 22A(2A)—

omit.

(4) Section 22A(2B)—

omit, insert—

(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.

(5) Section 22A(2C), ‘In addition’—

omit, insert—

Also

(6) Section 22A(3)—

omit.

47 Insertion of new pt 2, div 6, sdiv 1A

After section 22D—

insert—

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 about how adverse impacts of the clearing will be minimised or mitigated;
 - (e) details of a business plan, for activities related to the clearing, showing information about the viability of the activities;
 - (f) 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;
- (g) evidence that the clearing will comply with all restrictions prescribed under a regulation and relevant to the clearing;
 - (h) evidence that the application does not involve the clearing of native vegetation to plant a high risk species.
- (3) Also, if the application involves the clearing of native vegetation in an endangered regional ecosystem or in an of concern regional ecosystem, the plan must show the nature and extent of any thing proposed to be done as well as the clearing that will have a significant beneficial impact on the biodiversity values of the land.
- (4) For subsection (2)(g), a regulation may prescribe restrictions on any or all of the following for high value agriculture clearing or irrigated high value agriculture clearing—
- (a) the type of crops for which the clearing is to be carried out;
 - (b) the size of land that can be subject to a vegetation clearing application;
 - (c) for an area of the State—the total amount of land that may be cleared in the area.

22DAC Matters for deciding application

- (1) The chief executive may be satisfied that, having regard to the development plan, the vegetation clearing application is for high value agriculture clearing or irrigated high value agriculture clearing only if—

[s 47]

- (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) adverse impacts of the clearing will be minimised or mitigated; and
- (f) the clearing will comply with all restrictions prescribed under section 22DAB(2)(g) and relevant to the clearing; and
- (g) the application does not involve the clearing of native vegetation to plant a high risk species; and
- (h) 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; and
- (i) if section 22DAB(3) applies, the nature and extent of any thing proposed to be done as well as the clearing will have a significant beneficial impact on the biodiversity values of the land.

(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—

- (i) 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.

- (ii) in a process included in a wild river declaration under the *Wild Rivers Act 2005*; or

Note—

A wild river declaration may include a process for granting, reserving or otherwise dealing with unallocated water in the wild river area.

- (e) is a customer of a water service provider under the *Water Supply (Safety and Reliability) Act 2008*; or
- (f) holds an approval under the *Waste Reduction and Recycling Act 2011*, chapter 8 and the resource to which the 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

[s 48]

(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.

48 Amendment of s 22DA (Requirement for property vegetation management plan)

Section 22DA, ‘section 3.3.3(1)’—

omit, insert—

section 272(1)

49 Amendment of s 22DC (Refusal of particular concurrence agency application)

Section 22DC(1)(a), ‘revoked’—

omit, insert—

replaced

50 Amendment of s 22DF (Clearing vegetation on adjoining lot for firebreaks and fire management lines)

(1) Section 22DF(1), from ‘land’—

omit, insert—

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

Note—

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

(2) Section 22DF(3), ‘section 3.3.15 and chapter 3’—

omit, insert—

section 282 and chapter 6

51 Amendment of s 30 (Power to enter places)

Section 30(1)(f),(g) and (h)—

omit.

52 Amendment of s 51 (Power to require information)

(1) Section 51(4)—

omit, insert—

(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.

(2) Section 51(5)—

omit.

(3) Section 51(6)—

renumber as section 51(5).

53 Amendment of s 53 (Failure to certify copy of document)

Section 53—

insert—

(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 Amendment of s 54 (Failure to produce document)

(1) Section 54(2)—

omit, insert—

[s 55]

(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.

(2) Section 54(3)—

omit.

(3) Section 54(4)—

renumber as section 54(3).

55 Omission of s 60B (Guide for deciding penalty for vegetation clearing offence)

Section 60B—

omit.

56 Omission of s 67A and pt 4, div 2A

Section 67A and part 4, division 2A—

omit.

57 Replacement of s 68CA (Definitions for div 4)

Section 68CA—

omit, insert—

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.

58 Replacement of s 68CB (Non-application of Judicial Review Act 1991)

Section 68CB—

omit, insert—

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.

[s 59]

59 Omission of s 68CC (No appeals about relevant vegetation maps and particular PMAV applications)

Section 68CC—

omit.

60 Amendment of s 70AA (Copies of vegetation management maps and PMAVs to be available for inspection and purchase)

(1) Section 70AA, heading ‘and PMAVs’—

omit.

(2) Section 70AA(1)—

omit, insert—

(1) This section applies to vegetation management maps.

(3) Section 70AA(2), editor’s note, from ‘The department’s’ to ‘<www.derm.qld.gov.au>.’—

omit, insert—

The department’s website is located at <www.dnrm.qld.gov.au>.

61 Amendment of s 70A (Application of development approvals and exemptions for Forestry Act)

(1) Section 70A(3), ‘regional ecosystem map or remnant map as remnant vegetation’—

omit, insert—

regulated vegetation management map as a category B area

(2) Section 70A(4), ‘regional ecosystem map or remnant map as other than remnant vegetation’—

omit, insert—

regulated vegetation management map as other than a category B area

62 Amendment of s 70B (Record of particular matters in land registry)

(1) Section 70B(1)(b)—

omit, insert—

(b) a PMAV is made and it contains a category A area.

(2) Section 70B(5), ‘or revoked’—

omit.

(3) Section 70B—

insert—

(5A) Also, the chief executive may, by written notice, ask the registrar to remove the particulars of the approval or PMAV from the registrar’s records if the chief executive considers it is necessary or desirable to remove the particulars—

(a) to achieve the purposes of this Act: or

(b) because the particulars are no longer relevant for the land the subject of the approval or PMAV.

(4) Section 70B(6), ‘the notice’—

omit, insert—

a notice under subsection (5) or (5A)

63 Amendment of s 72 (Regulation-making power)

Section 72—

insert—

(2) A regulation may prescribe the fees that are payable—

[s 64]

- (a) under this Act; or
- (b) to the chief executive in relation to the chief executive's functions, under the Planning Act, as assessment manager or a concurrence agency.

64 Insertion of new pt 6, div 9

Part 6—

insert—

Division 9 Transitional provisions for Vegetation Management Framework Amendment Act 2013

110 Definitions for div 9

In this division—

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

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

existing PMAV means a PMAV made before the commencement.

notice means—

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

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

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

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

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

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

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

112 Particular PMAV applications

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

113 Revocation of particular PMAVs over wild river high preservation areas

- (1) This section applies to a PMAV, in effect immediately before this section commences, if—

[s 64]

- (a) the PMAV is for an area that includes land in a wild rivers high preservation area; and
 - (b) the chief executive made the PMAV under section 20B(1)(a) because the area became a declared area; and
 - (c) the area became a declared area under section 17(1A) of the unamended Act.
- (2) On the commencement, the PMAV is revoked to the extent it includes the land in the wild river high preservation area.
 - (3) In this section—
wild river high preservation area means a high preservation area under the *Wild Rivers Act 2005*.

114 Vegetation category areas on existing PMAVs

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

115 Information on register of clearing notifications

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

116 Particular notices

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

117 Compliance with codes

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

118 Existing development approvals

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

119 Reference to particular maps

- (1) This section applies if, before this section commences, a document makes reference to—
 - (a) the regional ecosystem map; or
 - (b) the regrowth vegetation map; or
 - (b) the remnant map; or
 - (c) the registered area of agriculture map.
- (2) Subject to section 118, from the commencement, if the context permits, the reference in the document is taken to be a reference to the regulated vegetation management map.

120 Reference to relevant codes

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

121 Applying guide for deciding penalty

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

65 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *applicant, area management clearing notification, clearing area, clearing notification, essential regrowth habitat, exchange area, mandatory condition, native forest practice code, plan period, regional ecosystem map, registered area of agriculture map, regrowth clearing authorisation, regrowth vegetation code, regrowth vegetation map, regulated regrowth vegetation, relevant entity, relevant vegetation map, remnant map, remnant vegetation, vegetation category area, vegetation management map, vegetation management watercourse map, wild river area, wild river declaration and wild river high preservation area*—

omit.

- (2) Schedule—

insert—

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

category R area see section 20ANA.

clearing area see section 20W(2)(c).

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

crops means all or any of the following—

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

development plan see section 22DAB(1).

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

extractive industry—

[s 65]

- (a) means 1 or more of the following—
 - (i) dredging material from the bed of any waters;
 - (ii) extracting, from a pit or quarry, rock, sand, clay, gravel, loam or other material;
 - (iii) screening, washing, grinding, milling, sizing or separating material extracted from a pit or quarry; and
- (b) includes carrying out work that is the natural and ordinary consequence of carrying out the work mentioned in paragraph (a).

Example—

constructing roads, buildings and other infrastructure

high risk species means—

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

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

high value regrowth vegetation means vegetation located—

- (a) on a lease issued under the *Land Act 1994* for agriculture or grazing purposes; and
- (b) in an area that has not been cleared since 31 December 1989 that is—
 - (i) an endangered regional ecosystem; or

- (ii) an of concern regional ecosystem; or
- (iii) a least concern regional ecosystem.

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

mandatory condition—

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

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

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

Example—

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

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

Example—

removal of silt to mitigate flooding

- (d) remove contaminants from land.

plan period—

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

[s 65]

- (b) for an area plan (chief executive)—see section 20UB.

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

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

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

regulated vegetation management map see section 20A.

relevant infrastructure activities means—

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

remnant vegetation means vegetation—

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

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

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

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

vegetation category area see section 20AKA.

vegetation management map means—

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

vegetation management watercourse map see section 20AB.

vegetation management wetlands map see section 20AA.

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

- (2A) Schedule, definition *forest practice*, paragraph 1(b)(i), ‘native forest practice code’—

omit, insert—

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

69 Amendment of sch 2 (Original decisions)

Schedule 2, entry for section 240C—

omit.

70 Amendment of sch 6 (Dictionary)

Schedule 6, definition *show cause period*—

omit.

71 Insertion of new ch 9, pt 1L

After section 521ZI—

insert—

**Part 1L Transitional provision
for Vegetation
Management
Framework
Amendment Act 2013**

521ZJ Particular existing forfeiture procedures

- (1) This section applies to a proceeding commenced before the commencement of this section for the forfeiture of a lease under chapter 5, part 4, division 3, as in force immediately before the commencement of this section.
- (2) This Act, as in force immediately before the commencement of this section, continues to apply to the proceeding as if the *Vegetation Management Framework Amendment Act 2013*, part 3 had not been enacted.

- (e) Nairana National Park;
- (f) Nairana National Park (Recovery).

Part 4 Amendment of Sustainable Planning Act 2009

72 Act Amended

This part amends the *Sustainable Planning Act 2009*.

73 Amendment of sch 3 (Dictionary)

Schedule 3, definition *native forest practice code*—
omit, insert—

native forest practice code means a self-assessable vegetation clearing code under the Vegetation Management Act, section 19O(1) applying to conducting a native forest practice.

Part 5 Amendment of Wild Rivers Act 2005

74 Act amended

This part amends the *Wild Rivers Act 2005*.

75 Amendment of s 10 (Application of moratorium)

Section 10(3)—
omit.

[s 76]

76 Amendment of schedule (Dictionary)

Schedule definition *agricultural activities* paragraph 2(h), ‘a
PMAV’—

omit, insert—

the regulated vegetation management map

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