



Queensland

Vegetation Management and Other Legislation Amendment Act 2009

Act No. 43 of 2009



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Queensland

Vegetation Management and Other Legislation Amendment Act 2009

Act No. 43 of 2009

An Act to amend for particular purposes the Land Act 1994, the Land Title Act 1994 and the Vegetation Management Act 1999, to repeal the Vegetation Management (Regrowth Clearing Moratorium) Act 2009 and to make consequential and minor amendments to the Integrated Planning Act 1997, the Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009, the State Development and Public Works Organisation Act 1971 and the Sustainable Planning Act 2009

[Assented to 3 November 2009]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Vegetation Management and Other Legislation Amendment Act 2009*.

2 Commencement

This Act, other than the following provisions, is taken to have commenced on 8 October 2009—

- sections 31, 39, 40(2) and (3) and 47
- parts 4 to 7
- schedule, amendment of the *Land Act 1994*
- schedule, amendment of the *Vegetation Management Act 1999*, amendments 1, 2, 11 and 15.

Part 2 Amendment of Vegetation Management Act 1999

3 Act amended in pt 2 and schedule

This part and the schedule amend the *Vegetation Management Act 1999*.

4 Amendment of s 3 (Purpose of Act)

- (1) Section 3(1)(a)—
omit, insert—

-
- ‘(a) conserves remnant vegetation that is—
- (i) an endangered regional ecosystem; or
 - (ii) an of concern regional ecosystem; or
 - (iii) a least concern regional ecosystem; and’.
- (2) Section 3(2)—
- insert—*
- ‘(f) the regulation of particular regrowth vegetation.’.

5 **Amendment of s 10 (State policy for vegetation management)**

- (1) Section 10(2), from ‘state’—
- omit, insert—*
- ‘state—
- (a) outcomes for vegetation management and actions proposed to achieve the outcomes; and
 - (b) special considerations for significant community projects.’.
- (2) Section 10(4) to (6)—
- omit.*
- (3) Section 10(7)—
- renumber* as section 10(4).
- (4) Section 10—
- insert—*
- ‘(5) In this section—
- significant community projects*** means projects the chief executive considers have an aesthetic, conservation, cultural or economic benefit to a local or regional community or the State, including—
- (a) a project that serves an essential need of the community; and

[s 6]

Examples—

essential infrastructure, school

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

Examples—

hospital, State or local government library or museum'.

6 Insertion of new pt 2, div 2A

Part 2—

insert—

'Division 2A Other policies for vegetation management

'Subdivision 1 Concurrence agency policies

'10A Types of concurrence agency policies

- '(1) The *MCU policy* is the document called 'Concurrence Agency Policy for Material Change of Use (MCU)' made by the chief executive on 23 August 2007, as amended or replaced from time to time under this section.
- '(2) The *RaL policy* is the document called 'Concurrence Agency Policy for Reconfiguring a Lot (RaL)' made by the chief executive on 23 August 2007, as amended or replaced from time to time under this section.
- '(3) Each of the MCU policy and the RaL policy is called a *concurrence agency policy*.
- '(4) The chief executive may amend or replace the document mentioned in subsection (1) or (2) or any amendment or replacement of it.
- '(5) However, the amendment or replacement does not take effect until it is approved under a regulation.

-
- ‘(6) A reference to a concurrence agency policy is taken to include any amendment or replacement under subsection (4) that has taken effect.

‘10B Content of concurrence agency policy

- ‘(1) A concurrence agency policy may provide for any matter about assessing and responding as a concurrence agency to the part of a concurrence agency application giving rise to the referral that the chief executive considers is necessary or desirable for achieving the purpose of this Act.
- ‘(2) A concurrence agency policy may—
- (a) provide criteria for assessing the part of a concurrence agency application giving rise to the referral, including the clearing of native vegetation—
 - (i) made assessable under the Planning Act; or
 - (ii) that becomes exempt development under the Planning Act if the application is approved; or
 - (b) state the circumstances in which the chief executive must in its referral agency’s response to a concurrence agency application tell the assessment manager to refuse the application.
- ‘(3) A concurrence agency policy must not be inconsistent with the State policy.

‘Subdivision 2 Offsets policy

‘10C What is the *offsets policy*

- ‘(1) The *offsets policy* is the document called ‘Policy for Vegetation Management Offsets’ made by the chief executive on 28 September 2007, as amended or replaced from time to time under this section.

[s 6]

- ‘(2) The chief executive may amend or replace the document mentioned in subsection (1) or any amendment or replacement of it.
- ‘(3) However, the amendment or replacement does not take effect until it is approved under a regulation.
- ‘(4) A reference to the offsets policy is taken to include any amendment or replacement under subsection (2) that has taken effect.

‘10D Content of offsets policy

- ‘(1) The offsets policy may provide for any matter about the requirements for an offset as a condition of a development approval that the chief executive considers is necessary or desirable for achieving the purpose of this Act.
- ‘(2) The offsets policy may—
 - (a) set out the characteristics of a suitable offset area for the offset, including the following—
 - (i) remnant status or current level of protection of the vegetation in the offset area;
 - (ii) the location and size of the offset area;
 - (iii) the ecological equivalence of the vegetation in the offset area to the vegetation in the area to be cleared; and
 - (b) provide for on-going management and monitoring of the vegetation in the offset area; and
 - (c) require reporting about the management and monitoring of the vegetation in the offset area; and
 - (d) provide for a range of ways to legally secure an offset area; and

Examples—

- a covenant under the *Land Title Act 1994*
- a declaration under part 2, division 4

-
- (e) provide the circumstances when the chief executive may enter into an agreement with the applicant for the development approval or a third party to provide an offset area; and
 - (f) provide the circumstances when the applicant for the development approval may provide an offset area and the period within which the offset area is provided.
- ‘(3) The offsets policy must not be inconsistent with the State policy.
- ‘(4) In this section—
- development approval*** means a development approval under the Planning Act for—
- (a) a concurrence agency application; or
 - (b) a vegetation clearing application.’.

7 **Amendment of s 11 (Minister must approve regional vegetation management codes)**

- (1) Section 11, ‘approve’—
omit, insert—
‘make’.
 - (2) Section 11(2)—
renumber as section 11(4).
 - (3) Section 11—
insert—
- ‘(2) A regional vegetation management code may provide for the protection of the habitat of native wildlife prescribed under the Nature Conservation Act as endangered, vulnerable, rare or near threatened wildlife (***protected wildlife***).
- ‘(3) For subsection (2), the code may refer to an essential habitat map for the area of habitat in which the protected wildlife is protected.’.

[s 8]

8 Amendment of s 12 (Preparing codes)

Section 12, ‘approving’—

omit, insert—

‘making’.

9 Amendment of s 13 (Minister must consider all properly made submissions)

Section 13, ‘approving’—

omit, insert—

‘making’.

10 Replacement of s 14 (Publication of codes)

Section 14—

omit, insert—

‘14 When regional vegetation management code takes effect

‘(1) A regional vegetation management code, or an amendment or replacement of a regional vegetation management code, does not take effect until it has been approved under a regulation.

‘(2) A reference to a regional vegetation management code is taken to include any amendment or replacement under subsection (1) that has taken effect.’.

11 Amendment of s 15 (Minor or stated amendments of regional vegetation management code)

(1) Section 15, heading, ‘or stated’—

omit, insert—

‘, **stated or permitted**’.

(2) Section 15, ‘sections 11 to 14’—

omit, insert—

‘sections 12 and 13’.

(3) Section 15—

insert—

‘(c) the amendment is a permitted amendment of the code.’.

(4) Section 15—

insert—

‘(2) In this section—

permitted amendment, of a regional vegetation management code, means an amendment of—

- (a) a provision of the code about a suggested way of achieving a required outcome under the code; or
- (b) a provision of the code to make it consistent with the State policy.’.

12 Amendment of s 17 (Making declaration)

(1) Section 17(3) to (5)—

omit.

(2) Section 17(6)—

renumber as section 17(3).

13 Amendment of s 19B (Approving amendment of declared area code)

(1) Section 19B(2) to (4)—

omit.

(2) Section 19B(5)—

renumber as section 19B(2).

[s 14]

14 Omission of s 19M (Information to be available for inspection)

Section 19M—

omit.

15 Insertion of new pt 2, divs 4B and 4C

Part 2—

insert—

‘Division 4B Other codes for vegetation management

‘Subdivision 1 Conducting a native forest practice

‘19O Native forest practice code

- ‘(1) The *native forest practice code* is the document called ‘The Code applying to a Native Forest Practice on Freehold Land’ approved by the Minister, as amended or replaced from time to time under this section.
- ‘(2) The Minister may amend or replace the document mentioned in subsection (1) or any amendment or replacement of it.
- ‘(3) However, the amendment or replacement does not take effect until it is approved under a regulation.
- ‘(4) A reference to the native forest practice code is taken to include any amendment or replacement under subsection (2) that has taken effect.

‘19P Content of native forest practice code

- ‘(1) The native forest practice code may provide for any matter about conducting a native forest practice the Minister considers is necessary or desirable for achieving the purpose of this Act.

- ‘(2) The native forest practice code may provide for required outcomes and practices for producing, managing and removing commercial timber in native forests.
- ‘(3) The native forest practice code must not be inconsistent with the State policy.

‘19Q Offence to conduct native forest practice without giving notice

‘A person must not conduct a native forest practice in an area of remnant vegetation or regulated regrowth vegetation unless the person has given the chief executive a notice in the approved form stating the location of the proposed conducting of the practice.

Maximum penalty—50 penalty units.

‘19R Offence to conduct particular native forest practice other than under native forest practice code

‘If the native forest practice code applies to a native forest practice, the native forest practice must be conducted in a way that complies with the code.

Note—

See the Planning Act, section 4.3.1, schedule 8, part 1, table 4, item 1A and schedule 10, definition *forest practice* for the penalty for carrying out a native forest practice other than under the code.

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

‘19S Making regrowth vegetation code

- ‘(1) The Minister may make a code for clearing regulated regrowth vegetation (the *regrowth vegetation code*).

[s 15]

- ‘(2) The regrowth vegetation code may provide for any matter about clearing regulated regrowth vegetation the Minister considers is necessary or desirable for achieving the purpose of this Act.
- ‘(3) The regrowth vegetation code may provide for the following—
 - (a) required outcomes and practices, and voluntary best practice activities, for clearing regulated regrowth vegetation;
 - (b) the protection of habitat for protected wildlife;
 - (c) the restriction on clearing commercial timber on State land;
 - (d) the circumstance in which an exchange area must be provided.
- ‘(4) For subsection (3)(b), the code may refer to an essential habitat map for the area of habitat in which the protected wildlife is protected.
- ‘(5) The regrowth vegetation code must not be inconsistent with the State policy.

‘19T When regrowth vegetation code takes effect

‘The regrowth vegetation code, or an amendment or replacement of the regrowth vegetation code, does not take effect until it has been approved under a regulation.

‘19U Requirement and process for giving notice of clearing regulated regrowth vegetation

- ‘(1) This section applies if a person proposes clearing regulated regrowth vegetation under the regrowth vegetation code on land (a *clearing area*).
- ‘(2) The person must give the chief executive notice in the approved form (a *clearing notification*) stating—
 - (a) the real property description of the land; and

- (b) the location and extent of—
 - (i) the clearing area; and
 - (ii) any exchange area; and
 - (c) the purpose of clearing the regulated regrowth vegetation.
- ‘(3) The chief executive must, within 5 business days after receiving the clearing notification—
- (a) give the person notice that the notification was received and information included in the notification is enough to identify the location and extent of the clearing area and any exchange area; or
 - (b) ask the person to give the chief executive further reasonable information or documents about the location or extent of the clearing area or any exchange area within a stated period.
- ‘(4) A notice or request under subsection (3) may be given orally or by written notice.
- ‘(5) However, if the notice or request is given orally, the chief executive must, within 5 business days after giving the notice or request, confirm the notice or request by written notice given to the person.
- ‘(6) The stated period mentioned in subsection (3)(b) must be at least 10 business days after the chief executive gives the person written notice of the request.
- ‘(7) The notice given under subsection (2) is taken to be a clearing notification whether or not the chief executive acts under subsection (3) in relation to the notice.

[s 15]

‘19V Offence to clear regulated regrowth vegetation under regrowth vegetation code without clearing notification

‘A person must not clear regulated regrowth vegetation under the regrowth vegetation code unless the person has given the chief executive a clearing notification for the clearing.

Maximum penalty—50 penalty units.

‘19W Offence to clear regulated regrowth vegetation other than under regrowth vegetation code

‘Subject to section 19ZF, regulated regrowth vegetation may be cleared only in a way that complies with the regrowth vegetation code.

Note—

See the Planning Act, section 4.3.1 and schedule 8, part 1, table 4, items 1A and 1B for the penalty for clearing regulated regrowth vegetation other than under the regrowth vegetation code or a regrowth clearing authorisation.

‘19X Register of clearing notifications

- ‘(1) The chief executive must keep a register of clearing notifications.
- ‘(2) The register must include, for each clearing notification—
- (a) the person’s name; and
 - (b) the real property description of the land the subject of the notification; and
 - (c) the location and extent of—
 - (i) the clearing area; and
 - (ii) any exchange area; and
 - (d) the purpose of clearing the regulated regrowth vegetation; and
 - (e) the day the chief executive received the notification.

-
- ‘(3) The chief executive may also keep in the register other information about a clearing notification given to the chief executive under section 19U.
 - ‘(4) The person’s name for each clearing notification must not be contained in the publicly available part of the register.
 - ‘(5) The chief executive must publish details in the publicly available part of the register on the department’s website.

‘Division 4C **Authorisation to clear regulated regrowth vegetation other than under regrowth vegetation code**

‘19Y **Definitions for div 4C**

‘In this division—

primary producer means an individual who spends the majority of the individual’s labour on, and derives the majority of the individual’s income from, a primary production business.

primary production business means a business carried on within the State in a primary production industry, including the agricultural, apicultural, aquacultural, horticultural and pastoral industries.

primary production entity means a partnership, proprietary company, or trust that is solely or mainly engaged in a primary production business.

relevant entity means—

- (a) a primary producer; or
- (b) a primary production entity in which a primary producer is—
 - (i) if the entity is a partnership—a partner in the partnership; or

[s 15]

- (ii) if the entity is a proprietary company—a person who holds shares in the company; or
- (iii) if the entity is a trust—a trustee of the trust.

‘19Z Application of div 4C

‘This division applies to a relevant entity if—

- (a) the relevant entity is carrying on a primary production business on 8 October 2009; and
- (b) the relevant entity proposes clearing regulated regrowth vegetation for the purpose of carrying on the business; and
- (c) clearing the regulated regrowth vegetation in compliance with the regrowth vegetation code would cause the relevant entity financial hardship to an extent that would stop the business from operating.

‘19ZA Applying for authorisation

- ‘(1) The relevant entity may in the application period apply to the chief executive for an authorisation (a *regrowth clearing authorisation*) to clear the regulated regrowth vegetation in a way other than in compliance with the regrowth vegetation code.
- ‘(2) The application must—
 - (a) be made in the approved form; and
 - (b) state the real property description of the land on which the proposed clearing is to take place; and
 - (c) state the location and extent of the area proposed to be cleared under the regrowth clearing authorisation; and
 - (d) be accompanied by evidence satisfactory to the chief executive to show—
 - (i) the relevant entity is carrying on a primary production business; and

-
- (ii) the purpose of the proposed clearing; and
 - (iii) that clearing the regulated regrowth vegetation in compliance with the regrowth vegetation code would cause the relevant entity financial hardship to an extent that would stop the relevant entity's primary production business from operating.
- '(3) In this section—
- application period* means the period—
- (a) starting on 8 October 2009; and
 - (b) ending immediately before 8 October 2011.

'19ZB Chief executive to consider application

- '(1) The chief executive must consider the application and decide to grant or refuse to grant the application.
- '(2) In considering the application, the chief executive may consult with QRAA.
- '(3) A function of QRAA is to give the chief executive advice about whether clearing the regulated regrowth vegetation in compliance with the regrowth vegetation code would cause the relevant entity financial hardship.
- '(4) In this section—
QRAA means the authority established under the *Rural and Regional Adjustment Act 1994*, section 5.

'19ZC Criteria for granting the application

- 'The chief executive may grant the application only if satisfied—
- (a) the relevant entity is carrying on a primary production business; and
 - (b) the proposed clearing is for the purpose of the business; and

[s 15]

- (c) clearing the regulated regrowth vegetation in compliance with the regrowth vegetation code would cause the relevant entity financial hardship to an extent that would stop the business from operating.

‘19ZD Deciding application

- ‘(1) If the chief executive decides to grant the application, the chief executive must give the relevant entity a regrowth clearing authorisation for the proposed clearing.
- ‘(2) The chief executive may impose conditions on the regrowth clearing authorisation, including conditions about how and where the relevant entity may clear the regulated regrowth vegetation under the authorisation and when the authorisation expires.
- ‘(3) If the chief executive decides to refuse to grant the application or grant the application on conditions, the chief executive must give the relevant entity an information notice about the decision.

‘19ZE Expiry of regrowth clearing authorisation on transfer of land

- ‘(1) If land the subject of a regrowth clearing authorisation is transferred from the relevant entity to another entity, the authorisation expires on the day the land is transferred.
- ‘(2) This section applies despite any condition imposed on the regrowth clearing authorisation stating the day the authorisation expires.

‘19ZF Clearing regulated regrowth vegetation under authorisation

- ‘(1) This section applies if the relevant entity is given a regrowth clearing authorisation for the proposed clearing.

-
- ‘(2) Regulated regrowth vegetation may be cleared under the regrowth clearing authorisation only in a way that complies with the authorisation.

‘19ZG Register of regrowth clearing authorisations

- ‘(1) The chief executive must keep a register of regrowth clearing authorisations.
- ‘(2) The register must include, for each regrowth clearing authorisation—
- (a) the relevant entity’s name; and
 - (b) the real property description of the land the subject of the authorisation; and
 - (c) the location and extent of the clearing area; and
 - (d) the purpose of clearing the regulated regrowth vegetation; and
 - (e) the day the chief executive grants the authorisation; and
 - (f) the day the authorisation expires.
- ‘(3) The register must not be publicly available.’.

16 Replacement of s 20A (Forest practice codes)

Section 20A—

omit, insert—

‘Division 5AA Vegetation management maps

‘20A What is the *regional ecosystem map*

‘The *regional ecosystem map* is a map certified by the chief executive as the regional ecosystem map for a part of the State and showing for the part—

- (a) areas of remnant vegetation that are—
 - (i) an endangered regional ecosystem; or

[s 16]

- (ii) an of concern regional ecosystem; or
- (iii) a least concern regional ecosystem; and
- (b) the regional ecosystem number for each of the regional ecosystems mentioned in paragraph (a); and
- (c) areas the chief executive decides under section 20AH to show on the map as remnant vegetation.

Note—

The chief executive may decide under section 20AH to show an area on the regional ecosystem map as remnant vegetation even though the vegetation is not remnant vegetation.

‘20AA What is the *remnant map*

‘The *remnant map* is a map certified by the chief executive as the remnant map for the part of the State to which the regional ecosystem map does not apply and showing for the part—

- (a) areas of remnant vegetation; and
- (b) areas the chief executive decides under section 20AH to show on the map as remnant vegetation.

Note—

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

‘20AB What is the *regrowth vegetation map*

‘The *regrowth vegetation map* is a map certified by the chief executive as the regrowth vegetation map for the State and showing for the State—

- (a) areas of regrowth vegetation, identified on the map as high value regrowth vegetation, that—
 - (i) are any of the following—
 - (A) an endangered regional ecosystem;
 - (B) an of concern regional ecosystem;

-
- (C) a least concern regional ecosystem; and
 - (ii) have not been cleared since 31 December 1989; and
 - (b) particular watercourses in the Burdekin, Mackay Whitsunday and Wet Tropics catchments, identified on the map as regrowth watercourses; and

Editor's note—

At the date of assent, a map showing the Burdekin, Mackay Whitsunday and Wet Tropics catchments can be inspected on the department's website at <www.derm.qld.gov.au>.

- (c) areas the chief executive decides under section 20AI to show on the map as high value regrowth vegetation.

Note—

The chief executive may decide under section 20AI to show an area on the regrowth vegetation map as high value regrowth vegetation even though the vegetation is not regrowth vegetation that satisfies paragraph (a).

'20AC What is the *essential habitat map*

- '(1) The *essential habitat map* is a map certified by the chief executive as the essential habitat map for the State and showing, for the State, areas the chief executive reasonably believes are areas of essential habitat or essential regrowth habitat for protected wildlife.
- '(2) *Essential habitat*, for protected wildlife, means an area of vegetation shown on the regional ecosystem map or remnant map as remnant vegetation—
 - (a) that has at least 3 essential habitat factors for the protected wildlife that must include any essential habitat factors that are stated as mandatory for the protected wildlife in the essential habitat database; or
 - (b) in which the protected wildlife, at any stage of its life cycle, is located.

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- ‘(3) *Essential habitat database* means a database, listing essential habitat factors for protected wildlife, certified by the chief executive as an essential habitat database.
- ‘(4) An *essential habitat factor*, for protected wildlife, is a component of the wildlife’s habitat, including, for example, a landform, pollinator, regional ecosystem, soil and water, that is necessary or desirable for the wildlife at any stage of its lifecycle.
- ‘(5) *Essential regrowth habitat*, for protected wildlife, means an area of vegetation shown on the regrowth vegetation map as high value regrowth vegetation—
- (a) that has at least 3 essential habitat factors for the protected wildlife that must include any essential habitat factors that are stated as mandatory for the protected wildlife in the essential regrowth habitat database; or
 - (b) in which the protected wildlife, at any stage of its life cycle, is located.
- ‘(6) *Essential regrowth habitat database* means a database, listing essential habitat factors for protected wildlife, certified by the chief executive as an essential regrowth habitat database.

‘20AD What is a *registered area of agriculture map*

‘A *registered area of agriculture map* is a map certified by the chief executive as a registered area of agriculture map for a wild river area and showing, for the wild river area, registered areas of agriculture.

‘20AE 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.

‘20AF Amending vegetation management map

‘The chief executive may amend a vegetation management map (the *old map*) by—

- (a) replacing the map; and
- (b) certifying a vegetation management map that replaces the old map.

‘20AG When vegetation management map takes effect

- ‘(1) A vegetation management map or a map replacing a vegetation management map does not take effect until a regulation approves the map.
- ‘(2) The regulation must state the day on which the map was certified.
- ‘(3) A reference to a vegetation management map is taken to include any replacement under subsection (1) that has taken effect.

‘20AH Deciding to show particular areas as remnant vegetation

‘In certifying the regional ecosystem map or remnant map, the chief executive may decide to show an area on the map as remnant vegetation if—

- (a) a development approval for the area has been given for—
 - (i) fodder harvesting; or
 - (ii) thinning; or
 - (iii) clearing of encroachment; or
 - (iv) control of non-native plants or declared pests; or
- (b) the area is a declared area or offset area; or
- (c) the chief executive has been notified that the area is subject to a native forest practice; or

[s 16]

- (d) the area contains forest products under the *Forestry Act 1959* and the vegetation in the area is shown on the regional ecosystem map or remnant map as remnant vegetation and—
 - (i) has been defined by agreement with the FA chief executive as an area in which the State has an interest in commercial timber; or
 - (ii) is an area in which the State has carried out harvesting of commercial timber; or
 - (iii) has been cleared under section 70A; or
- (e) the chief executive has made a PMAV for the area under section 20B(1)(e), (g) or (h); or
- (f) the area has been unlawfully cleared; or
- (g) the area has been cleared of native vegetation and in relation to the clearing a person has been found guilty by a court, whether or not a conviction has been recorded, of a clearing offence; or
- (h) the area is a regional ecosystem that—
 - (i) has a predominant canopy not dominated by woody vegetation; and
 - (ii) has not been cultivated for 15 years; and
 - (iii) contains native species normally found in the regional ecosystem; and
 - (iv) is not dominated by non-native perennial species.

‘20AI Deciding to show particular areas as high value regrowth vegetation

‘In certifying the regrowth vegetation map, the chief executive may decide to show an area on the map as high value regrowth vegetation if—

- (a) the chief executive has been given a clearing notification for the area and the purpose of clearing the regulated regrowth vegetation in the area is for—

-
- (i) thinning; or
 - (ii) clearing of encroachment; or
 - (iii) control of non-native plants or declared pests; or
 - (b) the area is an exchange area; or
 - (c) the area contains forest products under the *Forestry Act 1959* that are regulated regrowth vegetation and—
 - (i) has been defined by agreement with the FA chief executive as an area in which the State has an interest in commercial timber; or
 - (ii) is an area in which the State has carried out harvesting of commercial timber; or
 - (iii) has been cleared under section 70A; or
 - (d) the chief executive has made a PMAV for the area under section 20B(1)(e), (g) or (h); or
 - (e) the area has been unlawfully cleared; or
 - (f) the chief executive has been notified that the area is subject to a native forest practice; or
 - (g) the area has been cleared of native vegetation and in relation to the clearing a person has been found guilty by a court, whether or not a conviction has been recorded, of a clearing offence.

‘20AJ Application to make PMAV before amending particular vegetation management maps

- ‘(1) This section applies to the following vegetation management maps—
 - (a) the regional ecosystem map;
 - (b) the remnant map;
 - (c) the regrowth vegetation map.
- ‘(2) If an owner of land in an area wants the chief executive to amend a vegetation management map, the owner must apply

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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 a vegetation management map.’.

17 Insertion of new ss 20AK–20AO

Part 2, division 5A—

insert—

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

- ‘(1) A *property map of assessable vegetation* (or *PMAV*) is a map certified by the chief executive as a PMAV for an area and showing for the area the following—
- (a) category A areas;
 - (b) category B areas;
 - (c) category C areas;
 - (d) category X areas;
 - (e) areas subject to a regional ecosystem map, remnant map or regrowth vegetation map.
- ‘(2) The map may also show for the area the location of the boundaries of, and the regional ecosystem number for, each regional ecosystem in the area.
- ‘(3) Each of category A area, category B area, category C area and category X area is called a *vegetation category 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.

- ‘(4) The chief executive may certify a map as a PMAV by certifying—
- (a) a hard copy of the map; or
 - (b) a digital electronic form of the map.

‘20AL What is a *category A area*

‘A *category A area* is an area that—

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

‘20AM What is a *category B area*

‘A *category B area* is an area, other than a category A area—

- (a) shown on a regional ecosystem map or remnant map as remnant vegetation; or
- (b) that, if section 20AN does not apply to the area, is a Land Act tenure to be converted under the *Land Act 1994* to another form of tenure and is or contains an endangered regional ecosystem, of concern regional ecosystem or a least concern regional ecosystem.

[s 18]

‘20AN What is a *category C area*

‘A *category C area* is an area, other than a category A area, that contains regrowth vegetation that is—

- (a) an endangered regional ecosystem, of concern regional ecosystem or a least concern regional ecosystem that has not been cleared since 31 December 1989; and
- (b) either—
 - (i) shown on a regional ecosystem map or remnant map as remnant vegetation; or
 - (ii) shown on a regrowth vegetation map as high value regrowth vegetation.

‘20AO What is a *category X area*

- ‘(1) A *category X area* is an area, other than a category A area or category C area, in which clearing of vegetation has happened and that, when a PMAV applying to the area was made, did not contain remnant vegetation or vegetation shown on the regional ecosystem map or remnant map as remnant vegetation.
- ‘(2) However, an area is not a *category X area* if the chief executive decides under section 20CA the area is not a category X area.’.

18 Replacement of s 20B (When chief executive may make property map of assessable vegetation)

Section 20B—

omit, insert—

‘20B When chief executive may make PMAV

- ‘(1) The chief executive may make a PMAV for an area if—
 - (a) the area becomes a declared area; or
 - (b) the area becomes an offset area; or
 - (c) the area becomes an exchange area; or

-
- (d) the area has been unlawfully cleared; or
 - (e) the area is subject to—
 - (i) a restoration notice; or
 - (ii) an enforcement notice under the Planning Act containing conditions about restoration of vegetation; or
 - (f) the area has been cleared of native vegetation and in relation to the clearing a person has been found guilty by a court, whether or not a conviction has been recorded, of a clearing offence; or
 - (g) the chief executive reasonably believes—
 - (i) a person has committed a vegetation clearing offence in relation to the area, whether before or after the commencement of this section, or a vegetation clearing offence is being committed in relation to the area; or
 - (ii) the area was cleared of vegetation in contravention of a tree clearing provision under the *Land Act 1994* as in force before the commencement of the *Vegetation Management and Other Legislation Amendment Act 2004*, section 3; or
 - (iii) prohibited development under the repealed Moratorium Act, part 5 was carried out in relation to the area; or
 - (h) the area is a Land Act tenure that is to be converted under the *Land Act 1994* to another form of tenure; or
 - (i) the chief executive reasonably believes there is an error in the part of the regrowth vegetation map for the area.
- ‘(2) The chief executive must give each owner of land to be included in the PMAV an information notice about the decision to make the PMAV.

[s 19]

‘20BA Chief executive may make decision about category A area

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

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

19 Amendment of s 20C (When owner may apply for property map of assessable vegetation)

- (1) Section 20C, ‘property map of assessable vegetation’—

omit, insert—

‘PMAV’.

- (2) Section 20C(3), ‘applicant’—

omit, insert—

‘owner of the land’.

- (3) Section 20C(3), ‘map’—

omit, insert—

‘PMAV’.

- (4) Section 20C—

insert—

- ‘(4) The chief executive may waive the prescribed fee for the making of a PMAV if it is in the interests of the State and the owner.

- ‘(5) If the chief executive refuses to make a PMAV for the area, the chief executive must give the owner an information notice about the decision.’

20 Insertion of new s 20CA

After section 20C—

insert—

‘20CA Process before making PMAV

- ‘(1) This section applies if—
- (a) an owner of land applies under section 20C for the making of a PMAV for the land or part of the land; and
 - (b) the owner proposes that the land or part of the land (the *relevant area*) be a category X area on the PMAV.
- ‘(2) The chief executive can not make the relevant area a category X area on the PMAV if any of the circumstances mentioned in section 20AH or 20AI for the area have happened unless the area has later been cleared and—
- (a) when the area was cleared of vegetation, the clearing was exempt development; or
 - (b) the clearing of vegetation has been carried out under a moratorium exemption; or
 - (c) the clearing of vegetation has been carried out under a development approval other than a development approval for—
 - (i) fodder harvesting; or
 - (ii) thinning; or
 - (iii) clearing of encroachment; or
 - (iv) control of non-native plants or declared pests; or
 - (d) a clearing notification for the area has been received and the purpose of clearing was other than clearing regulated regrowth vegetation in the area for—
 - (i) thinning; or

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- (ii) clearing of encroachment; or
 - (iii) control of non-native plants or declared pests.
- ‘(3) Also, the chief executive can not make the relevant area a category X area on the PMAV if—
 - (a) vegetation in the area is not remnant vegetation because of clearing that happened as a result of burning, flooding or natural causes; or
 - (b) the area is located within 50m of a watercourse identified on the regrowth vegetation map as a regrowth watercourse.
- ‘(4) If the chief executive considers the relevant area can not be made a category X area because of subsection (2) or (3), the chief executive must, before making the PMAV, give the owner of the land a notice inviting the owner to show why the relevant area should be a category X area.
- ‘(5) The notice must state the following—
 - (a) the grounds for the proposed decision that the relevant area is not a category X area;
 - (b) the facts and circumstances forming the basis for the grounds;
 - (c) the proposed boundaries of the vegetation category areas for the PMAV;
 - (d) that the owner may make submissions about the proposed decision;
 - (e) how to make a properly made submission;
 - (f) where the submission may be made or sent;
 - (g) a period within which the submission must be made.
- ‘(6) The stated period must be at least 15 business days after the notice is given.
- ‘(7) If, after considering any properly made submission by the owner, the chief executive still considers the relevant area is not a category X area, the chief executive may make the relevant area other than a category X area on the PMAV.

-
- ‘(8) The chief executive must give the owner an information notice about the decision to make the relevant area other than a category X area.
- ‘(9) In this section—
- properly made submission* means a submission that—
- (a) is written; and
 - (b) is signed by each person (a *signatory*) who made the submission; and
 - (c) states the name and address of each signatory; and
 - (d) states the grounds of the submission and the facts and circumstances relied on in support of the grounds; and
 - (e) is made to the person stated in the notice inviting the submission; and
 - (f) is received on or before the last day for the making of the submission.’.

21 Amendment of s 20D (When maps may be replaced)

- (1) Section 20D, heading, ‘maps’—
omit, insert—
‘PMAV’
- (2) Section 20D(1)—
omit, insert—
- ‘(1) The chief executive may replace a PMAV for an area (the *previous area*) with 1 or more PMAVs (each a *new PMAV*).
- (3) Section 20D(2), ‘The new map’—
omit, insert—
‘A new PMAV’.
- (4) Section 20D(3)(b), ‘not of concern’—
omit, insert—
‘a least concern’.

[s 22]

(5) Section 20D(3)(c)—

omit, insert—

‘(c) for a matter other than a matter mentioned in paragraph (a) or (b), if each of the affected owners agrees to the replacement.’

(6) Section 20D—

insert—

‘(4) A reference to a PMAV made under section 20B or 20C is taken to include its replacement under this section.

‘(5) In this section—

affected owner means an owner of land proposed to be included in a new PMAV if any of the following apply—

- (a) the owner applied under section 20C for the making of the new PMAV;
- (b) there was not a PMAV for the land or part of the land;
- (c) the land, or part of the land, will be affected by a change to the boundary of a vegetation category area in the new PMAV.’

22 Amendment of s 20E (When maps may be revoked)

(1) Section 20E, heading, ‘maps’—

omit, insert—

‘PMAV’

(2) Section 20E(1)—

omit, insert—

‘(1) The chief executive may revoke a PMAV for an area if—

- (a) for a PMAV made under section 20B(1)(a) for a declared area under division 4, subdivision 2—the declaration for the area ends; or
- (b) for a PMAV made under section 20B(1)(b)—the offset in relation to the offset area ends; or

- (c) for a PMAV made under section 20B(1)(c)—the exchange area is no longer an exchange area required under the regrowth vegetation code; or
- (d) for a PMAV made under section 20B(1)(d), (e), (f) or (g)—the area is shown on a regional ecosystem map or remnant map as remnant vegetation; 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 regrowth vegetation map is amended to correct the error.’.

23 Amendment of s 20F (Copies of maps to be available)

- (1) Section 20F, heading, from ‘maps’—
omit, insert—
‘PMAV given to owners’.
- (2) Section 20F(1), ‘property map of assessable vegetation’—
omit, insert—
‘PMAV’.
- (3) Section 20F(1), ‘the map’—
omit, insert—
‘the PMAV’.
- (4) Section 20F(2)—
omit, insert—
‘(2) However, if there are 2 or more owners who reside at the same address, a copy of the PMAV may be sent to the owners jointly.’.

24 Insertion of new s 20H

Part 2, division 5A—

[s 25]

insert—

‘20H Inconsistency between PMAV and particular vegetation management maps

‘If there is an inconsistency in the boundary of an area shown on a PMAV and a boundary of the area shown on any of the following, the boundary of the area shown on the PMAV prevails to the extent of the inconsistency—

- (a) the regional ecosystem map;
- (b) the remnant map;
- (c) the regrowth vegetation map.’.

25 Replacement of pt 2, div 6, hdg (Modifying effect of Planning Act)

Part 2, division 6, heading—

omit, insert—

‘Division 6 Relationship with Planning Act

‘Subdivision 1 Modifying effect of Planning Act’.

26 Amendment of s 22 (Declarations for the Planning Act)

Section 22(3)—

omit, insert—

- ‘(3) The chief executive may—
- (a) refuse the application to the extent the development will affect the commercial timber; or
 - (b) grant the vegetation clearing application but impose conditions on the development approval in relation to the commercial timber.’.

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

- (1) Section 22A(2)(d), ‘if there is no suitable alternative site for the fence, firebreak, road, track or infrastructure’—

omit, insert—

‘(each **relevant infrastructure**) and the clearing for the relevant infrastructure can not reasonably be avoided or minimised’.

- (2) Section 22A(2)(j), (k) and (l)—

omit, insert—

‘(j) for clearing regrowth vegetation on freehold land, indigenous land or leases issued under the *Land Act 1994* for agriculture or grazing purposes, in an area shown as a registered area of agriculture on a registered area of agriculture map in a wild river high preservation area.’.

- (3) Section 22A(2B)—

omit, insert—

‘(2B) Also, a vegetation clearing application is not for a relevant purpose under this section if the development applied for is clearing regulated regrowth vegetation on freehold land, indigenous land or leases issued under the *Land Act 1994* for agriculture or grazing purposes.’.

- (4) Section 22A(2C)(a), ‘subsection (2)(e), (f), (i) or (j)’—

omit, insert—

‘subsection (2)(e), (f) or (i)’.

- (5) Section 22A(3)—

omit, insert—

- ‘(3) In this section—

extractive industry—

- (a) means 1 or more of the following—

(i) dredging material from the bed of any waters;

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- (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’.

28 Insertion of new pt 2, div 6, sdiv 2

Part 2, division 6—

insert—

‘Subdivision 2 Referral agency assessment and responses

‘22DA Requirement for property vegetation management plan

‘The applicant for a concurrence agency application must give the chief executive a property vegetation management plan for the area to which the application relates in addition to the things mentioned in the Planning Act, section 3.3.3(1).

‘22DB Compliance with concurrence agency policy

‘The chief executive must, for assessing and giving its referral agency’s response to a concurrence agency application, comply with—

- (a) the concurrence agency policy applicable to the referral; or
- (b) if both the concurrence agency policies are applicable to the referral—each of the concurrence agency policies.

‘22DC Refusal of particular concurrence agency application

- ‘(1) The chief executive may in its referral agency’s response to a concurrence agency application tell the assessment manager to refuse the application or impose a condition—
- (a) if a PMAV applying to the relevant land or part of the land has been made under section 20B and has not been revoked; or
 - (b) if the relevant land is subject to any of the following—
 - (i) a restoration notice;
 - (ii) a compliance notice given before the commencement of this section containing conditions about the restoration of vegetation;
 - (iii) a Land Act notice;
 - (iv) a trespass notice if the trespass related act under the *Land Act 1994* for the notice is the clearing of vegetation on the relevant land;
 - (v) an enforcement notice under the Planning Act issued for a vegetation clearing offence; or
 - (c) to the extent the development applied for is inconsistent with an offset or another agreement related to an offset.
- ‘(2) In this section—
- relevant land*** means land to which the concurrence agency application relates.

‘22DD Commercial timber on State land

- ‘(1) This section applies if—
- (a) a concurrence agency application is for a material change of use of premises on State land; and
 - (b) the chief executive is satisfied there is commercial timber on the land.
- ‘(2) The chief executive may in its referral agency’s response to the application tell the assessment manager—

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- (a) to refuse the application to the extent the development affects the commercial timber; or
- (b) any conditions in relation to the commercial timber that must attach to the development approval.

'22DE Development not for a relevant purpose under s 22A

- '(1) This section applies if the chief executive is not satisfied the development applied for under a concurrence agency application is for a relevant purpose under section 22A.
- '(2) For applying section 22A, a reference to a vegetation clearing application is taken to be a reference to a concurrence agency application.
- '(3) The chief executive must in its referral agency's response to the application tell the assessment manager to refuse the application to the extent the development is not for a relevant purpose under section 22A other than subsection (2B) of that section.

'22DF Clearing vegetation on adjoining lot for firebreaks and fire management lines

- '(1) This section applies if the location of proposed infrastructure for a concurrence agency application would enable the applicant to clear vegetation on adjoining land under the Planning Act, schedule 10, definition *essential management*, paragraphs (a) or (b).
- '(2) In assessing and responding to the part of the application giving rise to the referral, the chief executive must consider any clearing of vegetation that may be required on the adjoining land for—
 - (a) establishing or maintaining a necessary firebreak to protect the infrastructure; or
 - (b) for establishing a necessary fire management line.

‘(3) Subsection (2) is in addition to, and does not limit, the Planning Act, section 3.3.15 and chapter 3, part 5, division 2.

‘(4) In this section—

infrastructure means infrastructure other than a fence, road or vehicular track.’.

29 Insertion of new pt 2, div 6A

Part 2—

insert—

‘Division 6A Vegetation management offsets

‘Subdivision 1 Preliminary

‘22DG What are *vegetation management offsets* (or *offsets*) and *offset areas*

‘(1) A *vegetation management offset* (or an *offset*) is an agreement to carry out works or activities to conserve, enhance, maintain, monitor or rehabilitate an area of vegetation.

‘(2) The area to be conserved, enhanced, maintained, monitored or rehabilitated is called the *offset area*.

‘Subdivision 2 Imposing offsets

‘22DH Application of sdiv 2

‘(1) This subdivision applies to an application for a development approval if—

(a) the relevant regional vegetation management code is the code for the clearing of vegetation in the area; and

(b) a required outcome under the code is to maintain the current extent of a particular regional ecosystem by—

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- (i) not clearing the regional ecosystem; or
 - (ii) if subparagraph (i) is not reasonably practicable, ensuring the structure and function of the regional ecosystem is maintained; or
 - (iii) if subparagraphs (i) and (ii) are not reasonably practicable, imposing an offset as a condition of the development approval; and
- (c) the applicant proposes an offset to satisfy the required outcome.

‘(2) In this section—

relevant regional vegetation management code means the regional vegetation management code for the region of the State in which the area proposed to be cleared under the application is situated.

‘22DI Compliance with offsets policy

- ‘(1) The chief executive must, for assessing the application, comply with the offsets policy.
- ‘(2) Without limiting subsection (1), the chief executive may impose the offset as a condition of the development approval.

‘22DJ Criteria for decision about offset

‘In deciding whether to impose the proposed offset as a condition of the development approval, the chief executive may refuse to impose the proposed offset as a condition of the development approval to satisfy a required outcome under the code if—

- (a) the applicant has had an offset imposed as a condition of another development approval; and
- (b) the applicant has not complied with the condition.

‘22DK When offset ends

The offset remains in effect until the offset ends under its terms.

‘Subdivision 3 Register of offsets

‘22DL Chief executive must keep register of offsets

- ‘(1) The chief executive must keep a register of offsets.
- ‘(2) The register must include, for each offset imposed as a condition of a development approval—
 - (a) the name of the applicant for the development approval; and
 - (b) the name of the owner of the land in which the offset area is located; and
 - (c) the department’s reference number for the development approval; and
 - (d) the real property description of the land—
 - (i) in which the offset area is located; and
 - (ii) on which the vegetation is cleared under the development approval; and
 - (e) the location and extent of the offset area; and
 - (f) a description of the vegetation in the offset area; and
 - (g) a description of the vegetation cleared under the development approval.
- ‘(3) The chief executive may also keep in the register other information about the development approval the chief executive considers appropriate.
- ‘(4) A person’s name under subsection (2)(a) or (b) must not be contained in the publicly available part of the register.
- ‘(5) The chief executive must publish details in the publicly available part of the register on the department’s website.’.

[s 30]

30 Amendment of s 30 (Power to enter places)

Section 30(1)—

insert—

- ‘(f) a person proposing to conduct a native forest practice at the place has given the chief executive a notice under section 19Q for the place; or
- (g) a person proposing to clear regulated regrowth vegetation under the regrowth vegetation code at the place has given the chief executive a clearing notification for the place.’.

31 Amendment of s 49 (Power to require name and address)

Section 49(1)—

omit, insert—

- ‘(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.’.

32 Insertion of new ss 54A–54C

Part 3, division 1, subdivision 7—

insert—

‘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

[s 32]

- (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.’.

33 Amendment of s 55 (Compliance notice)

- (1) Section 55, heading—

omit, insert—

'55 Transfer of land the subject of restoration notice'.

- (2) Section 55(1) to (6)—

omit.

- (3) Section 55(7), 'For this section, if the person has an interest in the land the subject of the'—

omit, insert—

'If a person has an interest in land the subject of a'.

- (4) Section 55(7) to (10), 'compliance notice'—

omit, insert—

'restoration notice'.

- (5) Section 55(8), example—

omit, insert—

'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.'

- (6) Section 55(10), 'under subsection (2)'—

omit.

- (7) Section 55(11), 'Subsections (7) to (10)'—

omit, insert—

'Subsections (1) to (4)'.

- (8) Section 55(7) to (11)—

renumber as section 55(1) to (5).

[s 34]

34 Amendment of s 55A (Record of compliance notice in land registry)

- (1) Section 55A, heading and subsections (2) to (6), ‘compliance’—
omit, insert—
‘restoration’.
- (2) Section 55A(1)—
omit.
- (3) Section 55A(2), ‘after the’—
omit, insert—
‘after a’
- (4) Section 55A(6), ‘subsection (5)’—
omit, insert—
‘subsection (4)’.
- (5) Section 55A(2) to (6)—
renumber as section 55A(1) to (5).

35 Insertion of new pt 3, div 1, sdiv 8

Part 3, division 1—

insert—

‘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

[s 35]

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.

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‘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.’.

36 Amendment of s 60B (Guide for deciding penalty for vegetation clearing offence)

Section 60B(2)(a) to (c)—

omit, insert—

- ‘(a) for each hectare of vegetation cleared unlawfully in a declared area or offset area or that is an endangered regional ecosystem other than regulated regrowth vegetation—30 penalty units;
- (b) for each hectare of vegetation cleared unlawfully that is an of concern regional ecosystem other than regulated regrowth vegetation—24 penalty units;

- (c) for each hectare of vegetation cleared unlawfully that is a least concern regional ecosystem other than regulated regrowth vegetation—18 penalty units;
- (d) for each hectare of vegetation cleared unlawfully that is regulated regrowth vegetation or an exchange area—12 penalty units.’.

37 Amendment of pt 4, hdg (Appeals and legal proceedings)

Part 4, heading, ‘Appeals’—

omit, insert—

‘**Reviews**’.

38 Replacement of pt 4, div 1 (Appeals)

Part 4, division 1—

omit, insert—

‘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.

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- ‘(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).

‘Division 1A External reviews by QCAT

‘63B Who may apply for external review

‘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.’.

39 Amendment of s 66A (Instruments, equipment and installations)

- (1) Section 66A(2), from ‘, must’—

omit, insert—

‘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.’.

- (2) Section 66A—

insert—

- ‘(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.’.

40 Amendment of s 66B (Certificate or report about remotely sensed image)

- (1) Section 66B(2)(g), after ‘vegetation’—

insert—

‘or regulated regrowth vegetation’.

- (2) Section 66B(3), from ‘at least’—

omit, insert—

‘each other party notice of the party’s intention to adduce relevant evidence at least 20 business days before the evidence is adduced.’.

- (3) Section 66B—

insert—

- ‘(4) The notice must state the grounds on which the party intends to rely to prove that the statement was not correct.’.

[s 41]

41 Amendment of s 67 (Evidentiary aids)

Section 67(1)—

omit, insert—

- ‘(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.’.

42 Amendment of s 68A (Particulars to be stated for complaint for vegetation clearing offence)

Section 68A(2)(c)—

omit, insert—

- ‘(c) a description of the vegetation;

Example—

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

43 Insertion of new pt 4, div 4

Part 4—

insert—

‘Division 4 Restrictions on legal proceedings

‘68CA Definitions for div 4

‘In this division—

decision includes a purported decision.

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 the date of assent.

relevant vegetation map means each of the following—

- (a) regional ecosystem map;
- (b) remnant map;
- (c) regrowth vegetation map.

‘68CB Non-application of Judicial Review Act 1991

‘(1) The *Judicial Review Act 1991* does not apply to the following matters under this Act—

- (a) conduct engaged in for the purpose of making a relevant decision;
- (b) other conduct that relates to the making of a relevant decision;
- (c) the making of a relevant decision or the failure to make a relevant decision;
- (d) a relevant decision.

‘(2) In particular, for subsection (1), the Supreme Court does not have jurisdiction to hear and determine applications made to it

[s 43A]

under the *Judicial Review Act 1991*, parts 3 to 5 in relation to matters mentioned in subsection (1).

‘(3) In this section—

relevant decision means—

- (a) the certifying by the chief executive or the approval of a relevant vegetation map or an amendment or replacement of a relevant vegetation map; or
- (b) a decision to agree to make a PMAV the subject of a relevant PMAV application.

‘68CC No appeals about relevant vegetation maps and particular PMAV applications

‘(1) A person can not appeal under any Act or other law—

- (a) in relation to the chief executive certifying, or the approval of, a relevant vegetation map or an amendment or replacement of a relevant vegetation map; or
- (b) about a delay in the chief executive agreeing to make a PMAV the subject of a relevant PMAV application.

‘(2) In this section—

appeal includes to seek injunctive or any other relief in a proceeding.’.

43A Amendment of s 70A (Application of development approvals and exemptions for Forestry Act)

(1) Section 70(3), ‘of remnant vegetation on forestry land’—

omit, insert—

‘on forestry land of vegetation shown on the regional ecosystem map or remnant map as remnant vegetation’.

(2) Section 70(4), ‘of vegetation, that is not remnant vegetation, on forestry land’—

omit, insert—

‘on forestry land of vegetation shown on the regional ecosystem map or remnant map as other than remnant vegetation’.

44 Insertion of new ss 70AA and 70AB

After section 70—

insert—

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

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

Editor’s note—

The department’s website address at the commencement of this section is <www.derm.qld.gov.au>. The regional offices where the digital electronic form of a relevant map can be inspected are stated on the department’s website.

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

Note—

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

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‘(5) The information held in digital electronic form can be reduced or enlarged to show the details of the boundaries of the areas shown on the map.

‘(6) On payment of a fee, a person may buy—

- (a) a copy of the map or part of the map; or
- (b) information about the boundaries of an area shown on the map.

Note—

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

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

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

‘(1) This section applies to each of the following documents—

- (a) the State policy;
- (b) a policy approved under part 2, division 2A;
- (c) a regional vegetation management code;
- (d) a code approved under part 2, division 4A or 4B;
- (e) a declaration made under section 17;
- (f) an amendment of a declared area code approved under section 19B;
- (g) for each declaration made under section 19F—
 - (i) the notice given to the proponent under section 19F(1); and
 - (ii) the management plan relevant to the declaration; and

(iii) the declared area code, if any, relevant to the declaration.

- ‘(2) The chief executive must—
- (a) keep a copy of the document available for inspection, free of charge, by members of the public at particular regional offices; and
 - (b) publish the document, other than a document mentioned in subsection (1)(g), on the department’s website.

Editor’s note—

The department’s website address at the commencement of this section is <www.derm.qld.gov.au>. The regional offices where the document can be inspected are stated on the department’s website.

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

45 Amendment of s 70B (Record of development approvals and property maps of assessable vegetation in land registry)

- (1) Section 70B, heading, ‘development approvals and property maps of assessable vegetation’—

omit, insert—

‘particular matters’.

- (2) Section 70B(1)(a), after ‘approval’—

insert—

‘, or referral agency development approval.’.

- (3) Section 70B(1)(b), ‘property map of assessable vegetation’—

omit, insert—

‘PMAV’.

- (4) Section 70B(2) to (6), ‘map’—

omit, insert—

[s 46]

‘PMAV’.

- (5) Section 70B(3) and (4), after ‘issued’—

insert—

‘, including, for a referral agency development approval, any concurrence agency conditions for the approval.’.

- (6) Section 70B—

insert—

- ‘(7) In this section—

concurrence agency condition means a concurrence agency condition under the Planning Act.

referral agency development approval means a development approval under the Planning Act for a development application for which the chief executive gives a referral agency’s response under that Act.’.

46 Insertion of new s 70C

After section 70B—

insert—

‘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.’.

47 Amendment of s 74 (Existing development control plans and special facilities zones)

- (1) Section 74(1)(b), (2)(b) and (3)(a), ‘, or like zone,’—
omit.
- (2) Section 74—
insert—
- ‘(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.’.

48 Insertion of new pt 6, div 7

- Part 6—
insert—

[s 48]

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

‘Subdivision 1 Preliminary

‘88 Definitions for div 7

‘In this division—

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

moratorium period see the repealed Moratorium Act, section 7.

retrospective period means the period—

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

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

‘89 References to unamended Act

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

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

**‘Subdivision 2 Transitional provisions for
amendments of Vegetation
Management Act 1999**

**‘90 Existing regional vegetation management codes
approved by the Minister**

- ‘(1) This section applies to a regional vegetation management code for a region of the State—
- (a) either—
- (i) approved by the Minister before 8 October 2009 under the unamended Act, section 11; or
- (ii) approved or purportedly approved under section 75(2); and
- (b) in effect, or taken to have had effect, as the regional vegetation management code for the region.
- ‘(2) From 8 October 2009, the regional vegetation management code is taken to be a code made by the Minister under section 11(1) and approved under a regulation under section 14(1).

Note—

On 8 October 2009, each of the following is the current version of a regional vegetation management code approved under the unamended Act, section 11—

- ‘Regional Vegetation Management Code for Southeast Queensland Bioregion’, dated 20 November 2006
- ‘Regional Vegetation Management Code for Coastal Bioregions’, dated 20 November 2006
- ‘Regional Vegetation Management Code for Brigalow Belt and New England Tablelands Bioregions’, dated 20 November 2006
- ‘Regional Vegetation Management Code for Western Bioregions’, dated 20 November 2006.

‘91 Native forest practice code

- ‘(1) The native forest practice code in force immediately before 8 October 2009 is, from 8 October 2009, taken to be the native

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forest practice code even though the code has not been approved under section 19O.

- ‘(2) To remove any doubt, it is declared that the reference to a code applying to native forest practice in a relevant provision is taken to have always been a reference to the native forest practice code.
- ‘(3) In this section—
relevant provision means—
- (a) the unamended Act, section 20A; or
 - (b) the unamended Act, schedule, definition *forest practice*, paragraph 1(b); or
 - (c) the Planning Act, schedule 10, definition *forest practice*, paragraph 1(b), as in force immediately before 8 October 2009.

‘92 Existing regional ecosystems maps and remnant maps

- ‘(1) Subsection (2) applies to the regional ecosystem maps, each certified by the chief executive as the regional ecosystem map for a particular area and in effect for the area immediately before 8 October 2009.
- ‘(2) The regional ecosystem maps are, from 8 October 2009, taken to be the regional ecosystem map for the part of the State under section 20A even though the map has not been approved under section 20AG.
- ‘(3) Subsection (4) applies to the remnant maps, each certified by the chief executive as the remnant map for a particular area and in effect for the area immediately before 8 October 2009.
- ‘(4) The remnant maps are, from 8 October 2009, taken to be the remnant map for the part of the State to which the regional ecosystem map does not apply under section 20AA even though the map has not been approved under section 20AG.

‘93 Certifying vegetation management maps in retrospective period

‘The chief executive may, in the retrospective period—

- (a) certify a vegetation management map as if part 2, division 5AA had commenced on 8 October 2009; and
- (b) in certifying the regional ecosystem map, remnant map or regrowth vegetation map, decide under section 20AH or 20AI to show an area on the map as remnant vegetation or high value regrowth vegetation.

‘94 Changes to existing vegetation category areas

- ‘(1) An area shown as a particular category 1 area on a PMAV immediately before 8 October 2009 is, from 8 October 2009, taken to be a category A area on the PMAV.
- ‘(2) An area shown as any of the following on a PMAV immediately before 8 October 2009 is, from 8 October 2009, taken to be a category B area on the PMAV—
 - (a) a category 1 area other than a particular category 1 area;
 - (b) a category 2 area;
 - (c) a category 3 area.
- ‘(3) An area shown as a category 4 area on a PMAV immediately before 8 October 2009 is, from 8 October 2009, taken to be a category C area on the PMAV.
- ‘(4) Subsection (5) applies if, before 8 October 2009, a PMAV is in effect for an area (a *previous area*).
- ‘(5) Despite section 20D, the chief executive may replace the PMAV with a new PMAV if—
 - (a) the new PMAV applies only to the previous area; and
 - (b) the vegetation category areas in the PMAV are changed as stated in subsections (1) to (3) from category 1 area, category 2 area, category 3 area or category 4 area to category A area, category B area or category C area in the new PMAV.

[s 48]

‘(6) The new PMAV must not change the location, area or boundary of a previous area.

‘(7) In this section—

category 1 area means the unamended Act, schedule, definition *category 1 area*.

category 2 area means the unamended Act, schedule, definition *category 2 area*.

category 3 area means the unamended Act, schedule, definition *category 3 area*.

category 4 area means the unamended Act, schedule, definition *category 4 area*.

particular category 1 area means an area that is mentioned in the unamended Act, schedule, definition *category 1 area*, paragraphs (d), (e) or (f).

‘95 When particular PMAVs may be revoked

‘(1) This section applies if—

- (a) before 8 October 2009, the chief executive had made a PMAV for an area under the unamended Act, section 20B(a), (c) or (d); and
- (b) immediately before 8 October 2009, the PMAV is in effect for the area.

‘(2) The chief executive may revoke the PMAV from 8 October 2009 if—

- (a) for a map made under the unamended Act, section 20B(a)—the area is shown on the regional ecosystem map or remnant map as remnant vegetation; or
- (b) for a map made under the unamended Act, section 20B(c)—the area is shown on the regional ecosystem map or remnant map as remnant vegetation; or
- (c) for a map made under the unamended Act, section 20B(d)—the area is shown on the regional ecosystem map or remnant map as remnant vegetation.

‘96 Existing compliance notices

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

‘97 Tree clearing provisions under unamended Land Act

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

[s 48]

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

‘98 Existing development approvals and development applications

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

‘99 References to not of concern regional ecosystems

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

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

- ‘(1) The Planning Act, section 4.3.1(1), to the extent the provision relates to unauthorised development, does not apply to a person carrying out unauthorised development.

‘(2) However, if an official reasonably believes a person has carried out unauthorised development, the official may give the person a restoration notice for the development.

‘(3) In this section—

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

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

‘101 Application of s 19Q

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

‘102 Not giving notice in retrospective period not an offence

‘(1) Section 19Q does not apply to a person conducting a native forest practice in an area of remnant vegetation in the retrospective period if—

- (a) the person started the native forest practice before the start of the retrospective period; or
- (b) otherwise—the person gives the chief executive the notice mentioned in section 19Q within 20 business days after the end of the retrospective period.

‘(2) Section 19V does not apply to a person clearing regulated regrowth vegetation in the retrospective period if—

[s 48]

- (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.

‘104 Amendment of Vegetation Management Regulation 2000

‘The amendment of the *Vegetation Management Regulation 2000* by the *Vegetation Management and Other Legislation Amendment Act 2009* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.

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

‘105 Existing applications for moratorium exemption

- ‘(1) This section applies if—
 - (a) in the moratorium period, an application had been made under the repealed Moratorium Act, section 14 for a decision that modified schedule 8 development is exempt development; and
 - (b) immediately before 8 October 2009, the application had not been decided.
- ‘(2) From 8 October 2009—

-
- (a) the application may be decided under the repealed Moratorium Act as if it had not been repealed; and
 - (b) the repealed Moratorium Act, section 16(1) continues to apply and, if the decision is to refuse the moratorium exemption or grant the moratorium exemption on conditions, the notice must be an information notice about the decision; and
 - (c) if the moratorium exemption is granted—
 - (i) the repealed Moratorium Act, section 17(1) continues to apply; and
 - (ii) the development taken to be exempt development under the moratorium exemption continues to be exempt development only if any conditions imposed on the exemption are complied with.
- ‘(3) In this section—
- modified schedule 8 development* see the repealed Moratorium Act, schedule 2.

‘106 Existing PMAV applications

- ‘(1) This section applies to a PMAV application made in the relevant period if the chief executive has not agreed to make the PMAV before 8 October 2009.
- ‘(2) Despite section 20C(3), the chief executive may, from 8 October 2009, agree to make the PMAV only if satisfied doing so is consistent with the purpose of this Act or the repealed Moratorium Act.
- ‘(3) In this section—

PMAV application means an application under the unamended Act, section 20C to make a PMAV for an area.

relevant period means the period—

 - (a) starting on 26 March 2009; and
 - (b) ending immediately before 8 October 2009.

[s 48]

‘107 Existing show cause notices and compliance notices

- ‘(1) Subsection (2) applies if, before 8 October 2009—
- (a) a person was given a show cause notice under the repealed Moratorium Act, section 24 in relation to the carrying out of prohibited development under that Act; and
 - (b) the chief executive has not under the repealed Moratorium Act, section 25 given the person a notice stating that the proposed action will not be taken; and
 - (c) an official has not under the repealed Moratorium Act, section 26(1) given the person a compliance notice.
- ‘(2) From 8 October 2009—
- (a) the repealed Moratorium Act, sections 25 and 26(1) to (4) continue to apply; and
 - (b) a reference to a compliance notice in the provisions is taken to be a reference to a restoration notice; and
 - (c) a reference in the compliance notice to carrying out prohibited development is taken to be a reference to committing a vegetation clearing offence in the restoration notice.
- ‘(3) Subsection (4) applies if a compliance notice was given under the repealed Moratorium Act, section 26 before 8 October 2009 in relation to the carrying out of prohibited development under that Act.
- ‘(4) From 8 October 2009—
- (a) the compliance notice is taken to be a restoration notice; and
 - (b) a reference in the compliance notice to carrying out prohibited development is taken to be a reference to committing a vegetation clearing offence in the restoration notice.
- ‘(5) In this section—

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

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

‘108 Appeals

- ‘(1) This section applies in relation to a decision to refuse a moratorium exemption or grant a moratorium exemption on conditions, made before 8 October 2009, from which a person had a right of appeal under the repealed Moratorium Act, section 29 before 8 October 2009.
- ‘(2) The appeal may be started or continued from 8 October 2009 and, for that purpose, the repealed Moratorium Act, part 6, division 2 continues to apply.’.

49 Amendment of schedule (Dictionary)

- (1) Schedule, definition *category 1 area, category 2 area, category 3 area, category 4 area, category X area, compliance notice, development approval, not of concern regional ecosystem, property map of assessable vegetation, regional ecosystem map, remnant endangered regional ecosystem, remnant map, remnant not of concern regional ecosystem, remnant of concern regional ecosystem* and *remnant vegetation*—

omit.

- (2) Schedule—

insert—

‘approved restoration plan means a restoration plan approved by the chief executive under part 3, division 1, subdivision 8.

category A area see section 20AL.

category B area see section 20AM.

category C area see section 20AN.

category X area see section 20AO.

[s 49]

clearing area see section 19U(1).

clearing notification, for clearing regulated regrowth vegetation under the regrowth vegetation code, see section 19U(2).

clearing offence means an offence under the *Forestry Act 1959*, the Nature Conservation Act or the *Environmental Protection Act 1994*.

concurrence agency application means a development application for a material change of use of premises or reconfiguring a lot for which the chief executive is a concurrence agency.

concurrence agency policy see section 10A(3).

decision, for part 4, division 4, see section 68CA.

development application means a development application under the Planning Act.

development approval—

- 1 Generally, a *development approval* is a development approval under the Planning Act for a vegetation clearing application.
- 2 For part 2, division 6A, the term also includes a development approval under the Planning Act for a concurrence agency application.

essential habitat, for protected wildlife, see section 20AC(2).

essential habitat map see section 20AC(1).

essential regrowth habitat, for protected wildlife, see section 20AC(5).

exchange area means an area of vegetation that must be protected in the way provided under the regrowth vegetation code in exchange for clearing regulated regrowth vegetation.

exempt development means exempt development under the Planning Act.

FA chief executive means the chief executive of the department that administers the *Forestry Act 1959*.

fodder harvesting—

- 1 *Fodder harvesting* is the clearing of vegetation, predominantly consisting of fodder species—
 - (a) necessary to provide fodder for stock; and
 - (b) carried out in a way that—
 - (i) conserves the vegetation in perpetuity; and
 - (ii) conserves the regional ecosystem in which the vegetation is situated; and
 - (iii) results in the woody biomass of the cleared vegetation remaining where it is cleared.
- 2 For paragraph 1, fodder species are any of the following—
 - (a) *Acacia aneura*;
 - (b) *Acacia cibaria* (*Acacia brachystachya*);
 - (c) *Acacia excelsa*;
 - (d) *Acacia pendula*;
 - (e) *Acacia stowardii*;
 - (f) *Alphitonia excelsa*;
 - (g) *Flindersia maculosa*;
 - (h) *Geijera parviflora*.

information notice, about a decision, means a notice stating each of the following—

- (a) the decision, and the reasons for it;
- (b) the rights of review under this Act;
- (c) the period in which any review under this Act must be started;
- (d) how rights of review under this Act are to be exercised.

Land Act notice means a compliance notice given for a tree clearing offence under the *Land Act 1994* as in force

[s 49]

immediately before the commencement of the *Vegetation Management and Other Legislation Act 2004*, section 3.

Land Act tenure means any of the following—

- (a) unallocated State land;
- (b) a road;
- (c) an area subject to a lease under the *Land Act 1994*.

least concern regional ecosystem means a regional ecosystem declared to be a least concern regional ecosystem under section 22LC.

material change of use means a material change of use under the Planning Act.

moratorium exemption means an exemption under the repealed Moratorium Act.

native forest practice code see section 19O.

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

official means—

- (a) the chief executive; or
- (b) an authorised officer.

offset see section 22DG(1).

offset area see section 22DG(2).

offsets policy see section 10C(1).

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

PMAV see section 20AK.

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

primary producer, for part 2, division 4C, see section 19Y.

primary production business, for part 2, division 4C, see section 19Y.

primary production entity, for part 2, division 4C, see section 19Y.

property map of assessable vegetation see section 20AK.

protected wildlife see section 11(2).

reconfiguring a lot means reconfiguring a lot under the Planning Act.

referral agency's response means an advice agency's response or a concurrence agency's response under the Planning Act.

regional ecosystem map see section 20A.

regional ecosystem number, for a regional ecosystem, means the regional ecosystem number that is established under the Regional Ecosystem Description Database.

Note—

The Regional Ecosystem Description Database is a database containing regional ecosystem numbers and descriptions of the regional ecosystems that is maintained by the Queensland Herbarium. The database is available on the department's website at <www.derm.qld.gov.au>.

registered area of agriculture map see section 20AD.

regrowth clearing authorisation see section 19ZA(1).

regrowth vegetation code see section 19S(1).

regrowth vegetation map see section 20AB.

regulated regrowth vegetation—

- 1 *Regulated regrowth vegetation* is vegetation—
 - (a) identified on the regrowth vegetation map as high value regrowth vegetation; or
 - (b) located within 50m of a watercourse identified on the regrowth vegetation map as a regrowth watercourse; or
 - (c) contained in a category C area shown on a PMAV.
- 2 The exact location of a watercourse mentioned in paragraph 1(b) depends upon the location of the watercourse from time to time.

[s 49]

relevant entity, for part 2, division 4C, see section 19Y.

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

relevant vegetation map, for part 4, division 4, see section 68CA.

remnant map see section 20AA.

remnant vegetation means vegetation, part of which forms the predominant canopy of the vegetation—

- (a) covering more than 50% of the undisturbed predominant canopy; and
- (b) averaging more than 70% of the vegetation's undisturbed height; and
- (c) composed of species characteristic of the vegetation's undisturbed predominant canopy.

repealed Moratorium Act means the *Vegetation Management (Regrowth Clearing Moratorium) Act 2009*.

restoration notice see section 54B(2).

restoration plan see section 55AA(b).

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

stop work notice see section 54A(2).

trespass notice means a trespass notice under the *Land Act 1994*, section 406.

vegetation category area see section 20AK(3).

vegetation management map means each of the following—

- (a) regional ecosystem map;
- (b) remnant map;
- (c) regrowth vegetation map;
- (d) essential habitat map;
- (e) registered area of agriculture map.

vegetation management offset see section 22DG(1).'

[s 51]

(2) Schedule 8, part 1, table 4, item 1A(g) to (h)—

omit, insert—

‘(g) for urban purposes in an urban area and the vegetation is—

(i) an of concern regional ecosystem or a least concern regional ecosystem—

(A) shown on a property map of assessable vegetation for the area as a category B area;
or

(B) if there is no property map of assessable vegetation for the area—shown on a regional ecosystem map or remnant map as remnant vegetation; or

(ii) regulated regrowth vegetation; or

(ga) for urban purposes in an urban area in a wild river high preservation area and the vegetation is—

(i) remnant vegetation, shown on a regional ecosystem map or remnant map, that is an of concern regional ecosystem or least concern regional ecosystem; or

(ii) shown on a regional ecosystem map or remnant map as other than remnant vegetation; or

(iii) regulated regrowth vegetation; or

(h) necessary for routine management in an area of the land and the vegetation is—

(i) a least concern regional ecosystem—

(A) shown on a property map of assessable vegetation for the area as a category B area;
or

(B) if there is no property map of assessable vegetation for the area—shown on a regional ecosystem map or remnant map as remnant vegetation; or

-
- (ii) regulated regrowth vegetation; or’.
- (3) Schedule 8, part 1, table 4, item 1A—
insert—
- ‘(m) clearing of regulated regrowth vegetation under the regrowth vegetation code or a regrowth clearing authorisation, other than if the vegetation is shown on a property map of assessable vegetation for an area of the land as a category A area; or
 - (n) for development that is for an extractive industry under VMA, section 22A(3) in a key resource area to the extent it involves clearing regulated regrowth vegetation, other than if the vegetation is shown on a property map of assessable vegetation for an area of the land as a category A area; or
 - (o) for development that is a significant community project to the extent it involves clearing regulated regrowth vegetation, other than if the vegetation is shown on a property map of assessable vegetation for an area of the land as a category A area.’.
- (4) Schedule 8, part 1, table 4, item 1B(e) and (f)—
omit, insert—
- ‘(e) in an area for which there is no property map of assessable vegetation and the vegetation is not—
 - (i) shown on the regional ecosystem map or remnant map as remnant vegetation; or
 - (ii) regulated regrowth vegetation; or
 - (f) clearing of regulated regrowth vegetation under the regrowth vegetation code or a regrowth clearing authorisation, other than if the vegetation is shown on a property map of assessable vegetation for an area of the land as a category A area; or
 - (fa) necessary for routine management in an area of the land and the vegetation is—
 - (i) a least concern regional ecosystem—

[s 51]

- (A) shown on a property map of assessable vegetation for the area as a category B area; or
 - or
 - (B) if there is no property map of assessable vegetation for the area—shown on a regional ecosystem map or remnant map as remnant vegetation; or
 - (ii) regulated regrowth vegetation; or’.
- (5) Schedule 8, part 1, table 4, item 1B—
insert—
- ‘(h) for development that is for an extractive industry under VMA, section 22A(3) in a key resource area to the extent it involves clearing regulated regrowth vegetation, other than if the vegetation is shown on a property map of assessable vegetation for an area of the land as a category A area; or
 - (i) for development that is a significant community project to the extent it involves clearing regulated regrowth vegetation, other than if the vegetation is shown on a property map of assessable vegetation for an area of the land as a category A area.’.
- (6) Schedule 8, part 1, table 4, item 1D(a), after ‘local government’—
insert—
- ‘or the department that administers the *Transport Infrastructure Act 1994*’.
- (7) Schedule 8, part 1, table 4, item 1D(a)(ii)—
omit, insert—
- ‘(ii) in an urban area and the vegetation is—
 - (A) a least concern regional ecosystem shown on a regional ecosystem map or remnant map as remnant vegetation; or

- (B) shown on a regional ecosystem map or a remnant map as other than remnant vegetation; or’.

52 Amendment of sch 10 (Dictionary)

- (1) Schedule 10, definitions *category 2 area*, *category 3 area*, *category 4 area*, *native vegetation*, *remnant endangered regional ecosystem*, *remnant not of concern regional ecosystem*, *remnant of concern regional ecosystem* and *urban area*—

omit.

- (2) Schedule 10—

insert—

‘category A area means a category A area under VMA.

category B area means a category B area under VMA.

category C area means a category C area under VMA.

key resource area means an area identified as a key resource area in the document called ‘State Planning Policy 2/07—Protection of Extractive Resources’, a State planning policy under the Planning Act that took effect on 3 September 2007.

Editor’s note—

At the commencement of this definition, the document can be inspected on the Department of Infrastructure and Planning’s website at <www.dip.qld.gov.au>.

native forest practice code means the native forest practice code under VMA, section 19O(1).

native vegetation means vegetation under VMA.

significant community project means a significant community project under VMA, section 10(5).

regrowth clearing authorisation means a regrowth clearing authorisation under VMA, section 19ZA(1).

regrowth vegetation code means the regrowth vegetation code under VMA, section 19S(1).

[s 52]

regrowth vegetation map means the regrowth vegetation map under VMA, section 20AB.

regulated regrowth vegetation means regulated regrowth vegetation under VMA.

urban area means—

- (a) an area identified in a gazette notice by the chief executive under VMA as an urban area; or
- (b) if no gazette notice has been published—an area identified as an area intended specifically for urban purposes, including future urban purposes (but not rural residential or future rural residential purposes) on a map in a planning scheme that—
 - (i) identifies the areas using cadastral boundaries; and
 - (ii) is used exclusively or primarily to assess development applications.

Example of a map for paragraph (b)—

a zoning map’.

- (3) Schedule, definition *forest practice*, paragraph 1(b)(i), ‘a code applying to a native forest practice’—

omit, insert—

‘the native forest practice code’.

- (4) Schedule, definition *forest practice*, paragraph 1(b)(ii), ‘there is no code’—

omit, insert—

‘the native forest practice code does not apply to the activities’.

- (5) Schedule 10, definition *routine management*—

insert—

‘(ca) by the lessee of land subject to a lease issued under the *Land Act 1994* for agriculture or grazing purposes to source construction timber, other than commercial

timber, for establishing necessary infrastructure on the land if—

- (i) the clearing does not cause land degradation as defined under VMA; and
- (ii) restoration of a similar type, and to the extent of the removed trees, is ensured; or’.

(6) Schedule 10, definition *specified activity*, paragraph (ab)—
omit, insert—

- (ab) clearing an area of vegetation that is less than 0.5ha within a watercourse or lake for an activity (other than an activity relating to a material change of use of premises or the reconfiguring of a lot) that is subject to an approval process and is approved under this or another Act, or is carried out under the document called ‘Guideline—Activities in a watercourse, lake or spring carried out by an entity’ approved by the chief executive of the department that administers the *Water Act 2000*, if the area is—
 - (i) a least concern regional ecosystem—
 - (A) shown on a regional ecosystem map or remnant map as remnant vegetation; or
 - (B) shown on a property map of assessable vegetation as a category B area; or
 - (ii) shown on a property map of assessable vegetation as a category X area; or
 - (iii) shown on a regional ecosystem map or remnant map as other than remnant vegetation; or
- (ac) clearing vegetation in an area declared under VMA, section 19F if the clearing is carried out under the management plan for the area; or
- (ad) clearing vegetation under a land management agreement for a lease under the *Land Act 1994*; or’.

Part 6 **Amendment of Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009**

58 **Act amended**

This part amends the *Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009*.

59 **Omission of ch 6, pt 10 (Amendment of Vegetation Management Act 1999)**

Chapter 6, part 10—

omit.

Note—

The legislation ultimately amended is the *Vegetation Management Act 1999*.

Part 7 **Amendment of Sustainable Planning Act 2009**

60 **Act amended**

This part amends the *Sustainable Planning Act 2009*.

61 **Amendment of sch 3 (Dictionary)**

- (1) Schedule 3, definition *forest practice*, paragraph 1(b)(i), ‘a code applying to a native forest practice’—

omit, insert—

‘the native forest practice code’.

[s 62]

- (2) Schedule 3, definition *forest practice*, paragraph 1(b)(ii), ‘there is no code’—

omit, insert—

‘the native forest practice code does not apply to the activities’.

- (3) Schedule 3, definition *native vegetation*—

omit.

- (4) Schedule 3—

insert—

‘*native forest practice code* means the native forest practice code under the Vegetation Management Act, section 19O(1).

native vegetation means vegetation under the Vegetation Management Act.’.

Part 8 Miscellaneous

62 Act repealed

The Vegetation Management (Regrowth Clearing Moratorium) Act 2009, No. 6 is repealed.

63 Laws amended in the schedule

The schedule amends the laws it mentions.

Schedule **Consequential and minor
amendments**

section 63

Land Act 1994

- 1** **Section 373F, definition *natural resource*, after ‘notice’—**
insert—

‘given for a tree clearing offence under this Act as in force immediately before the commencement of the *Vegetation Management and Other Legislation Act 2004*, section 3’.

**State Development and Public Works Organisation
Act 1971**

- 1** **Section 26(3)(b), from ‘matter’—**
omit, insert—

‘relevant purpose under the *Vegetation Management Act 1999*, section 22A, other than subsection (2)(a) of that section.’.

Vegetation Management Act 1999

- 1** **Section 11(2), ‘for vegetation management mentioned in
section 10’—**
omit.

- 2** **Section 19(1)(e) and (f)—**
renumber as section 19(1)(d) and (e).

- 3 Section 20G, heading, ‘maps’—**
omit, insert—
‘PMAV’.
- 4 Section 20G, ‘property map of assessable vegetation’—**
omit, insert—
‘PMAV’.
- 5 Section 22(4), ‘under the Planning Act’—**
omit.
- 6 Section 22LC, heading, ‘Not of concern’—**
omit, insert—
‘Least concern’.
- 7 Section 22LC(1), ‘not of concern’—**
omit, insert—
‘least concern’.
- 8 Section 25(1)(b)—**
omit, insert—
‘(b) giving stop work notices and restoration notices.’.
- 9 Section 30(1)(c)(i)(C), ‘compliance’—**
omit, insert—
‘stop work notice or restoration’.

-
- 10 Section 30(1)(d), ‘compliance’—**
omit, insert—
‘stop work’.
- 11 Section 30(3), ‘Subsection (1)(ba)’—**
omit, insert—
‘Subsection (1)(c)’.
- 12 Section 36(5), ‘compliance’—**
omit, insert—
‘stop work’.
- 13 Part 3, division 3, heading—**
omit, insert—
‘Division 3 General offences’.
- 14 Schedule, definition *area of high nature conservation value*, from ‘under’—**
omit, insert—
‘under—
(a) a declaration made by the Governor in Council under section 17; or
(b) an interim declaration made by the Minister under section 18; or
(c) a declaration made by the chief executive under section 19F.’.
- 15 Schedule, definition *area vulnerable to land degradation*, from ‘under’—**
omit, insert—

Schedule

‘under—

- (a) a declaration made by the Governor in Council under section 17; or
- (b) an interim declaration made by the Minister under section 18; or
- (c) a declaration made by the chief executive under section 19F.’.

16 Schedule, definition *vegetation clearing application*, ‘as defined under the Planning Act’—

omit.

17 Schedule, definition *vegetation clearing application*, ‘that Act’—

omit, insert—

‘the Planning Act’.

Vegetation Management Regulation 2000

1 After section 3—

insert—

‘3A Approval of regrowth vegetation code—Act, s 19T

‘The document called ‘Regrowth Vegetation Code—On Freehold and indigenous land and leasehold land for agriculture and grazing—version 1’ is approved as the regrowth vegetation code.

Note—

The regrowth vegetation code takes effect on 8 October 2009.

‘3B Approval of particular vegetation management maps—Act, s 20AG

- ‘(1) The map called ‘Regrowth Vegetation Map—version 1’, certified by the chief executive on 8 October 2009, is approved as the regrowth vegetation map.

Note—

The regrowth vegetation map takes effect on 8 October 2009.

- ‘(2) The map called ‘Essential Habitat Map—version 2.1a’, certified by the chief executive on 8 October 2009, is approved as the essential habitat map.

Note—

The essential habitat map takes effect on 8 October 2009.’.

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