

Economic Development (Vegetation Management) By-law 2023

Explanatory notes for SL 2023 No. 108

made under the

Economic Development Act 2012
State Penalties Enforcement Act 1999

General Outline

Short title

Economic Development (Vegetation Management) By-law 2023

Authorising law

Section 54 and 176 of the *Economic Development Act 2012* (ED Act)
Section 165 of the *State Penalties Enforcement Act 1999*

Policy objectives and the reasons for them

The objective of the *Economic Development (Vegetation Management) By-law 2023* (By-law 2023) is to continue the effect under the ED Act of the existing *Economic Development (Vegetation Management) By-law 2013* (By-law 2013).

Achievement of policy objectives

The making of the *Economic Development (Vegetation Management) By-law 2023*. The By-law 2023 carries forward the policy objectives established by the By-law 2013 with necessary and convenient amendments to provide for its continued operation.

Consistency with policy objectives of authorising law

The By-law 2023 is consistent with the powers assigned under section 54 of the ED Act that allows for the making of By-laws, to regulate interference with vegetation in priority development areas in the local government area of Brisbane.

Consequential amendments are also made to the *State Penalties Enforcement Regulation 2014* to replace references to the expired By-law 2013 with the replacement By-law 2023. There are no changes to the infringements specified or the number of penalty units.

Inconsistency with policy objectives of other legislation

The By-law 2023 is consistent with policy objectives of other legislation.

Alternative ways of achieving policy objectives

As part of the sunset review of the By-law an assessment of alternative ways of achieving policy objectives was undertaken. The review found if replacement subordinate legislation is not made, interference with protected vegetation in any of the Brisbane PDAs would be regulated by Brisbane City Council (the council) in accordance with their Natural Assets Local Law 2003. This would result in a fragmented system where vegetation clearing would be managed by the Minister of Economic Development Queensland and interference with vegetation would be dealt with by the council causing confusion for industry. This would increase the regulatory burden, could create delays in the delivery of development of the PDAs and adversely impact on the development industry in terms of costs.

Benefits and costs of implementation

By-law 2023 continues the effect of the existing By-law 2013, that would otherwise expire on 1 September 2023, and had previously transitioned the *Urban Land Development Authority (Vegetation Management) By-law 2009*. Accordingly, there are no additional costs to government in terms of resources, training of staff, inspection or compliance as By-law 2023 is effectively maintaining the status quo established in 2009.

Consistency with fundamental legislative principles

By-law 2023 is generally consistent with fundamental legislative principles set out in the *Legislative Standards Act 1992*. Potential breaches of fundamental legislative principles are addressed below.

Clause 9 of By-law 2023 incorporates a reference to an Australian Standard. It is noted incorporating standards into legislation may raise issues with fundamental legislative principles, however, in this regard the Australian Standard:

- is available to the public;
- is limited in scope to the pruning of amenity trees;
- has successfully been implemented as part of the By-law since 2009;
- is recognised as a standard approach in the planning and development industry; and
- is similarly referenced and applied in Brisbane City Council's equivalent local law, therefore is consistent with, and brings uniformity to management of, practices outside priority development areas in the local government area of Brisbane.

Accordingly, sufficient regard has been given to fundamental legislative principles.

Consultation

There has been no consultation undertaken specifically about this regulation as it transitions the existing By-law 2013, that had previously transitioned from the *Urban Land Development Authority (Vegetation Management) By-law 2009*.

The Office of Best Practice Regulation advised that no further regulatory impact analysis is required and the requirements of the sunset review have been met.