
Frequently Asked Questions - Changes to the *Vegetation Management Act 1999*

The Queensland Government has amended the *Vegetation Management Act 1999* with the aim to improve environmental outcomes.

The LGAQ's submission to the State Development, Natural Resources and Agricultural Industry Development Committee can be found here: <http://bit.ly/2HJAEjY>

These FAQs aim to provide clarity for local governments regarding the recent legislative changes to the *Vegetation Management Act 1999* (VMA) and the *Planning Regulation 2017* (*Planning Regulation*).

1. What are the key changes to the Qld Vegetation Management Framework?

New in 2018

- The definition of high-value regrowth vegetation has changed – this term now applies to vegetation not cleared in the last 15 years.
- Clearing for high-value agriculture and irrigated high-value agriculture is now prohibited.
- Regrowth along waterways in all 6 Great Barrier Reef catchments is regulated.

Return to pre-2013 legislation

- Regrowth on freehold land, Indigenous land and occupational licences in addition to leasehold land for agriculture and grazing is regulated.
- The protection of high-value regrowth vegetation on leasehold, freehold and Indigenous land has been reinstated and expanded.
- The protection of habitat for near threatened species associated with both remnant and high-value regrowth vegetation have been reinstated.
- A riverine protection permit is required before removing vegetation in a watercourse.

2. How does the Queensland Vegetation Management Framework operate?

The vegetation management framework regulates native vegetation clearing through the VMA and the *Planning Act 2016*. Under the framework there are three primary pathways to undertake clearing of regulated native vegetation:

- **exempt clearing work** under the *Planning Regulation* (schedule 21) – e.g. clearing activities such as routine and important property management purposes or clearing in accordance with an area management plan under the VMA;
- **accepted development** under the *Planning Regulation* (schedule 7, part 3, section 12) e.g. select low-impact activities such as fodder harvesting and weed control clearing can occur under an accepted development vegetation clearing code;

- **assessable development** under the *Planning Regulation* or local planning instrument - in the event that a vegetation clearing activity for a relevant purpose (VMA, section 22A) cannot be undertaken as exempt clearing work or accepted development, a landholder may, for certain prescribed purposes, be required to apply for a development approval from either State or local government under the *Planning Act 2016*. This is a two-step process. The first step requires the applicant to demonstrate that the clearing is for a relevant purpose under section 22A of the VMA <https://bit.ly/2zblchB>. If successful, applicants can then apply for a development approval under the *Planning Act 2016*. The application must meet the requirements of State Code 16: Native vegetation clearing of the State Development Assessment Provisions.

Under the *Planning Regulation 2017* (schedule 10), clearing of native vegetation on certain premises is prohibited if the development is:

- not for a relevant purpose under the VMA; and
- is not exempt clearing work; and
- is not accepted development under schedule 7, part 3, section 12 of the *Planning Regulation*.

3. What mapping is available to support the vegetation management framework?

The framework is supported by a regulated vegetation management map established under the VMA, which identifies an area as either:

- Category A - areas that have been provided as either an offset or protected under a voluntary declaration or areas subject to a compliance action;
- Category B - areas of regulated remnant vegetation;
- Category C - areas of regulated high-value regrowth vegetation;
- Category R - areas of regulated regrowth vegetation along watercourses and drainage features in nominated reef catchments; and
- Category X - areas in which vegetation clearing is not regulated. Landholders may opt to obtain a property map of assessable vegetation (PMAV) which confirms the vegetation category types for their property. PMAVs are an important tool to show landholders where vegetation on their property is regulated, with areas denoted as category X being able to be cleared without restriction under the state's vegetation management framework.

The State Planning Policy (SPP) Interactive Mapping System (IMS) and the Development Assessment Mapping System (DAMS) reflect the components of the regulated vegetation management map as Matters of State Environmental Significance (MSES) to align with the requirements of the SPP July 2017 and the State Development Assessment Provisions.

4. Has mapping changed as a result of the changes to the vegetation management framework and what does this mean for councils?

The regulated vegetation management map has been updated to reflect policy changes made to the vegetation management framework. The new vegetation management laws will change some unregulated areas of vegetation (Category X on the regulated vegetation management map) to regulated areas (Category C and Category R). In addition, mapping of Essential Habitat has been expanded to include mapping for near threatened species.

These updates also affect the mapping of MSES contained in the SPP IMS and the DAMS. However, Category C (high-value regrowth vegetation) has not been included as MSES under the Environmental Offsets Regulation 2014 (schedule 2).

Local governments should contact the Department of State Development, Manufacturing, Infrastructure and Planning to determine the implications of the changes in MSES mapping on their local government planning scheme, including the mapping of any matters of local environmental significance.

5. Can I still apply for a development approval for a high-value agriculture or irrigated high-value agriculture project?

Recent changes to the VMA prevent landholders applying for high-value agriculture or irrigated high-value agriculture projects as these activities are no longer considered a relevant purpose under the VMA. This means clearing for high-value agriculture or irrigated high-value agriculture is prohibited development and a development approval cannot be sought.

6. How do I identify if there have been changes within my local government area and which category of vegetation I am dealing with?

The first step in identifying the vegetation management requirements that apply to an area is to obtain a regulated vegetation management map from DNRME. These maps are included in a vegetation management report that can be accessed online at no charge.

When requesting a property report for a specific area, supporting information will be provided including relevant property information and maps, and will outline the requirements for clearing vegetation on the land.

7. How do I decide on an appropriate clearing option?

Once information to a specific property has been obtained, check the options below to see which applies to the proposed clearing activity:

- Exempt clearing work applies to a range of routine property management activities. These activities were previously known as exemptions and do not require any approval or notifications.
- Accepted development vegetation clearing codes apply to a range of activities such as fodder harvesting and weed control. When using an accepted development vegetation clearing code, practices listed in the code must be followed and DNRME must be notified before clearing begins.

- Assessable development – Development approvals may be required if the following cannot be performed: clearing under exempt clearing work, an accepted development vegetation clearing code, or an area management plan.

8. What has changed in relation to Category C?

The VMA now regulates high-value regrowth on freehold and Indigenous land and the definition of high-value regrowth vegetation has changed from 'vegetation not cleared since 1989' to 'vegetation that has not been cleared in the previous 15 years'. The category C accepted development code has been revised as an interim measure whilst DNRME conducts consultation with stakeholders in relation to this accepted development code.

9. What has changed in relation to Category R?

Existing regulation of vegetation along watercourses and drainage lines has been broadened to include all six of the reef catchment areas by regulating any native regrowth within 50 metres of mapped watercourses and drainage lines in the Burnett-Mary, Fitzroy and eastern Cape York. The category R regrowth accepted development vegetation clearing code now applies in all reef catchments. This code allows low-impact clearing of native vegetation in line with defined limits.

10. What has changed in relation to Category X?

Category X includes areas where vegetation clearing is not regulated by the State Government. The new vegetation management laws have changed some unregulated areas of vegetation (category X) to regulated areas (category C or R).

Generally, clearing of category X vegetation is exempt clearing work under the *Planning Regulation*. However, a local government may still regulate the clearing of category X vegetation under its planning scheme, as a matter of local environmental significance.

A local government may also regulate vegetation clearing through local laws, which must be considered in addition to the *Planning Regulation* and a planning scheme.

For landholders, this means firstly checking with the relevant local government prior to undertaking any vegetation clearing work (including landholders with a PMAV) to ensure clearing of category X vegetation is permitted under the planning scheme and/or any relevant local law despite state legislative exemptions.

11. What has changed in relation to the *Water Act 2000*?

There have been changes made to the *Water Act 2000* to reinstate the application of riverine protection provisions to the destruction of native vegetation in a watercourse, lake or spring. This allows for the assessment of impacts and the management of risks associated with such activities. These changes mean that if councils need to manage

vegetation in a water course, lake or spring, a riverine protection permit will need to be sought.

12. Have the Accepted Development Vegetation Clearing Codes changed?

The accepted development codes for fodder harvesting and managing Category C vegetation have been updated. All remaining clearing codes will be updated in consultation with stakeholders including:

- Managing Category R regrowth vegetation
- Managing necessary environmental works
- Managing clearing for necessary property infrastructure
- Managing weeds
- Managing encroachment
- Managing clearing for an extractive industry
- Managing clearing to improve the operational efficiency of existing agriculture
- Managing a native forest practice

DNRME is commencing a program of scientific review and stakeholder consultation which should be completed this year. The LGAQ has requested that DNRME consult with local governments during the review process.

13. What is considered Exempt Clearing Work?

A number of activities are considered exempt clearing work under the *Planning Regulation 2017* (schedule 21). A full list of exempt clearing work activities can also be located at: <http://bit.ly/2sTcfng>

14. Can I clear vegetation to maintain a fenceline?

Clearing which is necessary to maintain infrastructure such as a fence on freehold or indigenous land, or leasehold land for agriculture or grazing is generally considered exempt clearing work for categories B, C and R. Clearing of Category A to maintain a fence line is also considered exempt clearing work unless stipulated by DNRME in a notice under the VMA or the *Planning Act 2016*. Establishing a necessary fence, road or vehicle track up to 10m wide on categories B, C and R is also considered exempt clearing work.

If the clearing to maintain or establish a fence goes beyond the thresholds outlined in the list of exempt clearing activities, refer to the 'Managing Clearing for Necessary Property Infrastructure' Code.

If you wish to clear vegetation for necessary property infrastructure using a method or in a location that is not allowed or is beyond the scope of this code, you may apply for a development approval under the *Planning Act 2016*.

15. Can I clear vegetation to maintain a firebreak?

Clearing to establish or maintain a necessary firebreak to protect infrastructure on freehold or indigenous land, or leasehold land for agriculture or grazing is generally considered exempt clearing work for categories B, C and R if the maximum width of the firebreak is 1.5 times the height of the tallest vegetation next to the infrastructure, or 20m, whichever is wider. Clearing of Category A is also considered exempt clearing work unless stipulated by DNRME in a notice under the VMA or the *Planning Act 2016*.

If the clearing to establish or maintain a firebreak goes beyond the thresholds outlined in the list of exempt clearing activities, refer to the 'Managing Clearing for Necessary Property Infrastructure' Code.

16. Can I still undertake the clearing of weeds?

Clearing vegetation for the purpose of controlling non-native plants or declared pests as per Section 22A of the VMA is generally considered exempt clearing in categories B, C and R and category A unless stipulated by DNRME in a notice under the VMA or the *Planning Act 2016*.

Weeds can also be managed under the VMA in compliance with the accepted development vegetation clearing codes. Prior to conducting any clearing for weed control, DNRME must be notified and will then issue a receipt of notification.

'Managing weeds – a self-assessable vegetation clearing code' applies to the clearing of vegetation to control weeds in Category B areas shown on the regulated vegetation management map. All clearing of weeds in grassland regional ecosystems (as listed in Appendix 2 of the code) is not regulated by the VMA and clearing for any purpose may be carried out without a permit or notification from DNRME. Where extensive or isolated infestations of weeds threaten to destroy remnant vegetation or pose an ongoing threat to downstream areas, methods beyond the scope of this code may be needed.

Any landholders wanting to manage weeds in regrowth vegetation should refer to the Category R or Category C self-assessable vegetation clearing codes.

17. What changes have been made to the definition of Essential Habitat?

The definition (and mapping) of Essential Habitat has been amended to include habitat for near-threatened species. Clearing of essential habitat is not a trigger for development assessment by the State, but where remnant vegetation is mapped as Essential Habitat, the State Development Assessment Provisions (SDAP) places higher requirements on it. For example, clearing may require an offset.

If an application for vegetation clearing triggers assessment or referral to the State Assessment and Referral Agency (SARA) under the *Planning Regulation 2017*, then it will

be referred to the State as usual. Where clearing of Category B areas is referred to SARA, DNRME will use the new map when assessing it against the SDAP and providing its advice to SARA. There is no requirement for council to assess against the SDAP. Council will continue to assess applications against their planning scheme as currently in effect.

18. How does the change in definition of Essential Habitat (and associated mapping) impact on council planning schemes?

The VMA partially reinstates offset requirements for Essential Habitat for near threatened species, by making amendments to the *Environmental Offsets Regulation 2014* and the Queensland Environmental Offsets Policy 2014.

This change also affects the mapping of MSES contained in the SPP IMS and the DAMS, to include mapping of Essential Habitat for near threatened species and may have implications for the mapping contained in local government planning schemes.

Local governments should contact the Department of State Development, Manufacturing, Infrastructure and Planning to determine the implications of the changes in Essential Habitat mapping and MSES on their local government planning scheme, including the mapping of any matters of local environmental significance

19. Will High Value Regrowth now be considered a Matter of State Environmental Significance?

No. Schedule 2 of the *Environmental Offsets Regulation 2014* will not be amended by the VMA to include High Value Regrowth as a MSES.

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