

Comparisons between the Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016 and the Vegetation Management and Other Legislation Amendment Bill 2018

Prepared by the Department of Natural Resources Mines and Energy for the State Development, Natural Resources and Agricultural Industry Development Committee

A. Amendments to VMA			
2016 Reinforcement Bill	2016 Bill Clause	2018 Bill	2018 Bill Clause
Not included.	N/A	<b>Accepted development vegetation clearing codes:</b> <ul style="list-style-type: none"> <li>Removes the mandatory requirement on Minister to make certain accepted development vegetation clearing codes; and</li> <li>replaces specific activities with references to broad clearing purposes and activities.</li> </ul>	Clause 4
Not included.	N/A	<b>Amendment to section 19Q of the VMA (when clearing under an accepted development clearing code is compliant)</b> –aligning terminology with the <i>Planning Act 2016</i> .	Clause 5
Not included.	N/A	<b>When notice given under an accepted development vegetation clearing code ends</b> – ensures that when an accepted development clearing code is revoked or replaced, a notice made under the replaced or revoked ceases to have effect, and no further clearing can be carried out under the replaced or revoked code.	Clause 6
Not included.	N/A	<b>Amendments to section 20AH, 20AI, 20CA</b> - to correct inconsistencies in terminology between sections 20AH, 20AI and 20CA of the VMA.	Clauses 7, 8 and 12
Not included.	N/A	<b>What is a category A area</b> – allows for an area containing remnant vegetation or high value regrowth vegetation to be mapped as a category A area on a PMAV by agreement with the landholder.	Clause 9
Not included.	N/A	<b>What is a category X area</b> – confirms an area cannot be made a category X area on a PMAV unless the area has been previously cleared.	Clause 10

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Not included.	N/A	<b>When the chief executive may make a PMAV</b> – confirms the chief executive can make a PMAV for multiple purposes over the same area or a different areas.	Clause 11
Not included.	N/A	<b>Amendments to section 20CA of the VMA (Process before making PMAV)</b> : clarifies an area cannot be made a category X area on a PMAV if the area was not cleared lawfully.	Clause 12
Not included.	N/A	<b>When PMAV may be replaced</b> – includes a new provision to allow a category A area on a PMAV made by agreement with the landholder (ie under Clause 9) to be remade to another category. (Note: it can only be made a particular Category if it meets the criteria for that Category including under clause 10 and 12 above)	Clause 13
Not included.	N/A	<b>Removal of ability for landholders / entities to apply for an area management plan.</b> (Note: the ability for the chief executive to make an area management plan is retained.)	Clause 14
<b>Amendments to section 22A of the VMA (Relevant Purpose):</b> <ul style="list-style-type: none"> <li>to remove high value agriculture and irrigated high value agriculture as a relevant purposes for clearing;</li> <li>to apply category C areas to freehold and Indigenous land; and</li> <li>to align terminology with the <i>Planning Act 2016</i>.</li> </ul>	Clause 4, clause 5	<b>Amendments to section 22A of the VMA (Relevant Purpose):</b> <ul style="list-style-type: none"> <li>to remove high value agriculture and irrigated high value agriculture as a relevant purposes for clearing;</li> <li>to apply category C areas to freehold and Indigenous land;</li> <li>to apply category C areas to a new tenure (land subject to an occupational licence under the <i>Land Act 1994</i>);</li> <li>change term “thinning” to “managing thickened vegetation”; and</li> <li>to align terminology with the <i>Planning Act 2016</i>.</li> </ul>	Clause 15, 16,18

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Not included.	N/A	<b>Relevant purpose determination requirements for managing thickened vegetation</b> – a new section in the VMA that provides the requirements for applications to manage thickened vegetation.	Clause 17
<b>Requirements for making application</b> – removing the section that provides requirements for applications for high value agriculture or irrigated high value agriculture	Clause 5	<b>Requirements for making application</b> – removing the section that provides requirements for applications for high value agriculture or irrigated high value agriculture	Clause 18
Not included.		<p><b>Alignment of penalties:</b> amendments that increase the penalties for offences to align with Water Act and Planning Act:</p> <ul style="list-style-type: none"> <li>- failure to return identify card</li> <li>- failure to help authorised officer</li> <li>- failure to give information</li> <li>- power to require information</li> <li>- failure to certify copy of document</li> <li>- failure to produce document</li> <li>- restoration notice</li> <li>- false or misleading statement</li> <li>- impersonation of authorised officer</li> <li>- obstructing an authorised officer</li> </ul>	19, 22, 23, 25,26,27,29, 30, 31, 32, 33
Not included.		<p><b>Power to enter places:</b></p> <ul style="list-style-type: none"> <li>- extending the power of entry to apply where there is an enforceable undertaking or a notification under a code or area management plan</li> <li>- creating a power to enter without a warrant or consent by giving 24 hours' notice, where there is a reasonable belief an offence is happening or has happened, with corresponding ability to seize evidence</li> </ul>	20, 21, 24

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Not included.		<b>Review decisions:</b> a minor change to the process for review decisions	34
Not included.		<b>Enforceable undertakings:</b> creating the instrument of enforceable undertakings which a person can make voluntarily in relation to a clearing offence or alleged clearing offence by the person of the VMA or the Planning Act.	35
<b>Mistake of fact</b> - section 24 of the Criminal Code 1899 to not apply for proceedings against a person for a vegetation clearing offence.	Clause 6	Not included.	N/A
<b>Reverse onus of proof</b> – clearing of vegetation on land in contravention of a vegetation clearing provision is taken to have been done by the occupier of the land in the absence of evidence to the contrary.	Clause 6	Not included.	N/A
<b>Transitional provisions</b> for: <ul style="list-style-type: none"> <li>• Landholder PMAV applications;</li> <li>• Proposed regulated vegetation management map (proposed category C areas and proposed category R areas);</li> <li>• Application of ‘Managing category C regrowth vegetation’ to apply to proposed category C areas;</li> <li>• Application of ‘Managing category R regrowth vegetation’ to apply to proposed category R areas;</li> <li>• Unlawful clearing during the interim period – the chief executive must give the person a restoration notice; and</li> </ul>	Clause 7	<b>Transitional provisions</b> for: <ul style="list-style-type: none"> <li>• Landholder PMAV applications;</li> <li>• Proposed regulated vegetation management map (proposed category C areas and proposed category R areas);</li> <li>• Application of ‘Managing category C regrowth vegetation’ to apply to proposed category C areas;</li> <li>• Application of ‘Managing category R regrowth vegetation’ to apply to proposed category R areas;</li> <li>• Unlawful clearing during the interim period – the chief executive may give the person a restoration notice;</li> </ul>	Clause 37

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<ul style="list-style-type: none"> <li>• No compensation payable in connection with these transitional provisions under the Bill in relation to the interim period.</li> </ul>		<ul style="list-style-type: none"> <li>• No compensation payable in connection with these transitional provisions under the Bill in relation to the interim period;</li> <li>• Area Management Plans that remain in force for 2 years (encroachment, thinning and fodder harvesting);</li> <li>• Revocation of the 'Managing fodder harvesting Mulga Lands Fodder Area Management Plan'</li> <li>• Application of proposed essential habitat during the interim period;</li> <li>• Application of instruments under the Environmental Offsets Act during the transitional period;</li> <li>• Accounting for thinning on the regulated vegetation management map</li> </ul>	
<p><b>Amendment of the Dictionary</b></p> <p>Including:</p> <ul style="list-style-type: none"> <li>• High value regrowth is extended to apply to freehold land and indigenous land</li> <li>• regrowth water course and drainage feature area (for Category R) – to include Burnett-Mary, Eastern Cape York, and Fitzroy catchments</li> </ul>	<p>Clause 8</p>	<p><b>Amendment of the Dictionary:</b></p> <p>Including:</p> <ul style="list-style-type: none"> <li>• High value regrowth is extended to apply to freehold land, indigenous land and occupational licences</li> <li>• High value regrowth applies to areas not cleared for 15 years</li> <li>• regrowth water course and drainage feature area (for Category R) – to include Burnett-Mary, Eastern Cape York, and Fitzroy catchments</li> <li>• Managing thickened vegetation (previously "thinning")</li> <li>• Changes to fodder harvesting and forest practice</li> <li>• Protected wildlife: to include near threatened wildlife</li> </ul>	<p>Clause 38</p>

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<b>B. Amendments to Planning Act</b>			
<b>2016 Reinforcement Bill</b>	<b>2016 Bill Clause</b>	<b>2018 Bill</b>	<b>2018 Bill Clause</b>
Not included.		Renumbering of sections	Clause s 39 - 44
<b>Transitional provisions for:</b> <ul style="list-style-type: none"> <li>Development applications made for high value agriculture or irrigated high value agriculture made or decided before introduction</li> <li>Unlawful clearing in the interim period (not an offence)</li> <li>Development applications made for high value agriculture or irrigated high value agriculture made after introduction</li> </ul>	Clause 9,10	<b>Transitional provisions for:</b> <ul style="list-style-type: none"> <li>Development applications made for high value agriculture or irrigated high value agriculture made or decided before introduction</li> <li>Unlawful clearing in the interim period (not an offence)</li> <li>Development applications made for high value agriculture or irrigated high value agriculture made after introduction</li> <li>Consequential changes to the Planning regulation</li> </ul>	Clause 45 - 48
<b>C. Amendments to Water Act</b>			
<b>2016 Reinforcement Bill</b>	<b>2016 Bill Clause</b>	<b>2018 Bill</b>	<b>2018 Bill Clause</b>
Inclusion of destroying vegetation within the scope of activities requiring approval by a Riparian Protection Permit, including: <ul style="list-style-type: none"> <li>Providing criteria for deciding an application</li> <li>Allowing power of entry to monitor compliance</li> <li>Penalties for destroying vegetation without a permit</li> </ul>	Clause 12 - 19	Inclusion of destroying vegetation within the scope of activities requiring approval by a Riparian Protection Permit, including: <ul style="list-style-type: none"> <li>Providing criteria for deciding an application</li> <li>Allowing power of entry to monitor compliance</li> <li>Penalties for destroying vegetation without a permit</li> </ul>	Clauses 49 - 56

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• Exemptions for destroying vegetation necessary or permitted under other Acts		• Exemptions for destroying vegetation necessary or permitted under other Acts with the addition of the maintenance of government supported transport infrastructure under the <i>Transport Infrastructure Act 1994</i>	
<b>D. Amendments to Environmental Offsets Act</b>			
2016 Reinstatement Bill	2016 Bill Clause	2018 Bill	2018 Bill Clause
Amendments to the Environmental Offsets Act to: <ul style="list-style-type: none"><li>• require offsets for any residual impact on prescribed environmental matters rather than only significant residual impacts; and</li><li>• provide an ability to legally secure offset areas and make payments into Queensland's offset account for conditions required under Australian Government approvals.</li></ul>		Not included.	