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## New vegetation management laws passed by Queensland Parliament will make you think twice about clearing

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On 3 May 2018, the Queensland Parliament passed the *Vegetation Management and Other Legislation Amendment Act 2018* (QLD) (**Act**) amending the *Vegetation Management Act 1999* (QLD) (**VMA**), *Planning Act 2016* (QLD), *Planning Regulation 2017* (QLD) and *Water Act 2000* (QLD).

The Act is taken to have commenced on 8 March 2018 and largely reinstates vegetation management controls repealed in 2013 by increasing protection for high-value regrowth and remnant vegetation, and essential habitats such as waterways leading to the Great Barrier Reef.

The key changes under the Act are:

- Revised vegetation maps have been released in the first major update to vegetation and ecosystem mapping in over five years. The new mapping includes some previously unregulated areas of vegetation (Not Remnant Vegetation: Category X) to regulated areas (Regrowth Vegetation: Category C and Regrowth Watercourse Areas: Category R).
- The definition of 'high value regrowth vegetation' has changed to include:
  - vegetation in an area that has not been cleared for at least 15 years, rather than since 31 December 1989;
  - regrowth vegetation located on freehold land, indigenous land and land the subject of an occupational licence, in addition to to leasehold land for agriculture and grazing.
- Protection of Regrowth Watercourse Areas (Category R) has also been extended to the remaining Great Barrier Reef Catchments (Burnett-Mary, Eastern Cape York and Fitzroy). This means that clearing of native vegetation is prohibited within 50 metres of a watercourse in a Great Barrier Reef catchment.

- Prior to 8 March 2018, clearing of native vegetation for cropping (high value agricultural) or irrigation (high value irrigated agriculture) could be authorised under the VMA. Clearing for these purposes is now prohibited through the removal of these purposes from s 22A of the VMA and being specifically prohibited under the *Planning Act 2016* (QLD).
- Self assessable clearing in Category C areas can still be carried out provided the requirements of the new Code which commenced on 8 March 2018 are met. The Code requires the Department of Natural Resources, Mines and Energy (**DNRME**) to be notified of proposed clearing of Category C areas prior to commencing, regardless of any prior notifications. Clearing is prohibited in Category C areas without DNRME's written confirmation that the notification has been made.
- Restrictions now apply to clearing native vegetation that is '*essential habitat*' for protected wildlife that is '*near threatened*', not just endangered and vulnerable.
- The ability to apply for an Area Management Plan which provided a mechanism for low-risk clearing has been removed and the Act now relies on the accepted development vegetation clearing codes as the primary mechanism for undertaking low-risk clearing activities.
- The requirement to obtain a Riverine Protection Permit for clearing native vegetation within a watercourse under the *Water Act 2016* (QLD) has been reinstated.
- Penalty units for enforcement and investigation offences have been increased, and enforceable undertakings have been introduced as an alternative compliance tool.
- If you have a certified Property Map of Assessable Vegetation (**PMAV**), it will not be affected by the new laws. The Act also does not affect an application for a PMAV that was made to the chief executive before 8 March 2018.

- Similarly, development approvals in effect before 8 March 2018 or applications that were '*properly made*' before 8 March 2018 will continue to be assessed under the previous regime.

## What to do before clearing

- Check the new mapping currently available on Queensland Globe to ascertain whether the categorisation of native vegetation has changed.
- Reconsider whether your land clearing activities are authorised in light of the recent changes to the legislation, particularly if your land is located within a Great Barrier Reef catchment or your property is freehold and therefore was not mapped as Category C prior to 8 March 2018.
- Be aware that high value agriculture exemptions for land clearing are no longer available. This has the potential to sterilise previously planned agricultural or irrigation projects.

For information or a discussion on how the changes to the vegetation management laws and associated mapping affect your proposed clearing activities, please do not hesitate to contact us.

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