



Necessary environmental clearing under the *Vegetation Management Act 1999*

A guideline for development applications

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IMPORTANT: As a result of the new *Planning Act 2016*, which commenced on 3 July 2017, there are a number of changes to the vegetation management framework. This includes:

- Self-assessable vegetation clearing codes, which are now known as accepted development vegetation clearing codes; and
- Exemptions, which are now known as exempt clearing work.

For more information, please visit www.dilgp.qld.gov.au



1 Purpose

The vegetation management framework provides range of options to clear native vegetation for environmental or social benefit, which is defined as necessary environmental clearing.

This document provides assistance in determining if a proposed clearing activity will qualify as necessary environmental clearing, and assists with preparing an application for development approval.

2 Rationale

In late 2013, a new clearing purpose was introduced into Queensland's vegetation management framework, allowing the clearing of native vegetation for necessary environmental clearing (referred to in this document as environmental clearing).

This purpose allows clearing for a range of activities, many of which have an environmental and/or social benefit. The vegetation management framework provides a number of options to clear vegetation that is regulated by the *Vegetation Management Act 1999* (VMA) for the purpose of environmental and social benefit. Regulated vegetation is any vegetation shown on the regulated vegetation management map as category A, B, C or R. The clearing options include:

- exempt clearing work
- accepted development vegetation clearing code (ADVCC)
- area management plans (AMPs)
- development permits.

Exempt clearing work is provided for under Schedule 21 of the Planning Regulation 2017. These provisions allow for low impact or necessary clearing to occur for specific purposes without any further authorisation under the vegetation management framework, and allow for limited environmental clearing. Other State or local laws may still apply.

Environmental clearing can be undertaken by notifying the Department of Natural Resources and Mines (DNRM) prior to clearing and complying with the 'Managing necessary environmental works' ADVCC or an ADVCC dealing with category C or R. . No development application is required. Without prior notification, the clearing may be considered unlawful and may be subject to compliance action under the VMA.

The VMA also provides the ability to prepare an AMP for the purpose of environmental clearing. AMPs are useful where environmental clearing is required to address a widespread issue that cannot be addressed as exempt clearing work or clearing under an ADVCC. After the initial AMP application and approval, no further approvals are required. Similar to an ADVCC, clearing can be undertaken within the AMP area after DNRM is notified.

Where the above options do not provide for the necessary environmental clearing, there is the option to apply for a development permit under the *Planning Act 2016*. This guideline focuses on the steps required to obtain a development approval for necessary environment clearing.

More information on the above clearing options and vegetation mapping can be found on the [Queensland Government website](http://www.qld.gov.au) at www.qld.gov.au (search 'vegetation management').

3 Policy

3.1 How to apply

To clear vegetation for an environmental clearing activity that is not provided for under exempt clearing work, an ADVCC or an AMP, you will need to submit a properly made development application¹ through the State Assessment and Referral Agency (SARA) in the Department of Infrastructure, Local Government and Planning (DILGP). A development application for the clearing of native vegetation must be made by using Form 1 under the Integrated Development Assessment System (IDAS).

Applications are assessed against the State Development Assessment Provisions (SDAP) State Code 16: Native vegetation clearing. To support this assessment, applications must provide the mandatory information prescribed in IDAS Form 1 such as evidence to show the relevant sections of SDAP have been addressed.

For further information on SARA, and other options for submitting an application, visit the [DILGP website](http://www.dilgp.qld.gov.au) at www.dilgp.qld.gov.au (search 'development application').

Before an application will be accepted for assessment against the requirements in SDAP State Code 16: Native vegetation clearing, a decision has to be made by DNRM that the proposed clearing activity is genuinely for an environmental clearing purpose (i.e. the application must meet section 22A of the VMA, meaning it is for necessary environmental clearing as per the definition in the Act). This determination must be made prior to the application being considered 'properly made' by SARA. IDAS Form 1 requires that all applications contain '*written confirmation that the chief executive of DNRM is satisfied the proposed clearing is for a relevant purpose under the VMA, s22A*'.

Applications where this is not provided will be considered 'not properly made' and considered prohibited development under *Planning Act 2016*.

DNRM strongly advises that potential applicants initially contact DNRM to discuss the purpose of the clearing, and then arrange a pre-lodgement meeting through SARA to discuss application requirements. Contact details for your local DNRM office can be found on the [DNRM website](http://www.dnr.qld.gov.au). Applicants can request a pre-lodgement meeting through the [DILGP website](http://www.dilgp.qld.gov.au).

¹ A **Properly made development application** has the same meaning as a properly made application under section 51(5) of the *Planning Act 2016*.



3.2 Is environmental clearing necessary

Necessary environmental clearing is defined in the *Vegetation Management Act 1999* (VMA) as clearing that will perform one or more of the following services:

(a) restore the ecological and environmental condition of land

Example — stabilising banks of watercourses, works to rehabilitate eroded areas, works to prevent erosion of land or for ecological fire management

(b) divert existing natural channels in a way that replicates the existing form of the natural channels

(c) prepare for the likelihood of a natural disaster

Example — removal of silt to mitigate flooding

(d) remove contaminants from land.

As each of the aforementioned components (a) to (d) are unique, special considerations are used to determine if a clearing activity is for one of these purposes. These varying considerations, as well as further guidance and examples, are provided below.

3.2.1 Restoring the ecological and environmental condition of land

There are a range of degradation problems affecting land in Queensland, and a range of measures that can be taken to restore the ecological and environmental condition of land (referred to as land restoration). Clearing under this purpose would be for activities that support the improvement of the ecological or environmental land condition, where clearing is a necessary part of undertaking this work.

Clearing under this purpose must lead to an environmental benefit, therefore clearing would generally be low impact and, where necessary, accompanied by rehabilitation of the site to ensure the remnant condition of vegetation is maintained over time.

This purpose may include activities that restore or rehabilitate areas that are in poor condition due to some form of land degradation. Examples of activities that may be applied for include:

- rehabilitating scalded areas (i.e. scalding can occur when wind and water erosion removes the top soil and exposes saline or sodic soils)
- erosion and sediment control works, including rehabilitation of banks and gullies
- rehabilitating degraded areas such as those that have salinity or acid sulphate soils exposed
- ecological fire management, or other activities, to restore regional ecosystems to a more “natural state”, e.g. revegetation or rehabilitation to promote regeneration.



If applying for one of these activities, applicants will need to provide specific information on:

- the nature and scale of the problem (e.g. erosion, poor soil condition, salinization, or other problems affecting the land)
- what is causing the problem
- why clearing is necessary to address the problem
- what will be the benefit of undertaking the activity.

3.2.2 Diverting existing natural channels

This component allows for clearing that is necessary in association with diverting a channel, or the bed of a stream or watercourse, by destroying part of an original channel, and creating a new channel that replicates the natural form of the original channel (referred to as natural channel diversion). The new diverted channel would re-direct the flow of water, until it re-joins with the original channel at some point downstream.

Channel diversion is a high-impact activity, and is designed to accommodate development that needs to alter hydrological flows. This purpose is not intended to apply to diversions that use pipes, concrete, or other built infrastructure unless this infrastructure is required to support the replication of natural features. Where the proposed diversion involves these types of infrastructure and the new channel will not replicate the original channel, the development application should be for the purpose of relevant infrastructure, not environmental clearing. More information on clearing for relevant infrastructure can be found in SDAP State Code 16: Native vegetation clearing.

Replicating the natural form of the original channel requires the new channel to incorporate similar geomorphic, environmental and hydrological features present in the landscape and local watercourses. This includes:

- watercourse width, length and curvature
- riparian vegetation
- surface water and groundwater systems
- sediment transport and water quality.

To meet the requirements of VMA channel diversion, proposed diversions should relate to watercourses regulated under the *Water Act 2000* (Water Act). Approvals may be required under the Water Act for interfering with, or diverting regulated watercourses, which deal with the practical aspects of diverting and constructing a new watercourse. If the diversion is associated with a resource activity under a new or amending environmental authority, the approval may be issued under the EP Act. The vegetation management framework is primarily concerned with impacts of clearing native vegetation associated with diverting a channel.



If applying for this activity, applicants will need to provide specific information on:

- why clearing is necessary for the diversion
- Water Act or EP Act approvals which have been or will be obtained
- how the diversion will replicate the form of the existing natural channel.

For more information on Water Act or EP Act approvals relating to watercourse diversions, visit the [Queensland Government website](http://www.qld.gov.au) at www.qld.gov.au (search 'authorisations in water areas').

3.2.3 Preparing for the likelihood of a natural disaster

Natural disasters affect all areas of Queensland. Measures can be taken at both a property and landscape level to reduce the severity of damage to infrastructure and properties, as well as injury and loss of life. This purpose will allow applicants to clear native vegetation for preparing for the likelihood of a natural disaster (referred to as natural disaster preparation) affecting a particular area.

As the title implies, this purpose relates to preparing for natural disasters, and not disasters caused by human acts or omissions. Disasters are defined by the *Disaster Management Act 2003* as:

“A serious disruption in a community, caused by the impact of a cyclone, flood, storm or storm tide, that requires a significant coordinated response by the State and other entities to help the community recover from the disruption.”

As also implied in the title of this purpose, the natural disaster must have some level of predictability (or likelihood) of occurring.

The vegetation management framework provides for exempt clearing work, which can be used to deal with natural disaster preparation and management, including:

- to prevent imminent risk that the vegetation poses of serious personal injury or damage to infrastructure (i.e. the risk is created by events such as falling trees or limbs, and fire)
- to prevent or minimise threats to safety, property or the environment in an area where a disaster situation declaration has been made by a district disaster coordinator under the *Disaster Management Act 2003*.

This environmental clearing purpose is designed to allow additional clearing beyond the scope of the exempt clearing work . Potential activities that could occur under this clearing purpose may include:

- removing trees in a watercourse that are directly contributing to the accumulation of silt or debris which is leading to flooding
- establishing access tracks to clear debris in a watercourse, where no access track can already be utilised.

If applying for this activity, applicants will need to provide specific information on:

- the likelihood of the natural disaster occurring (such as historical climate information and previous damage caused)
- why clearing is necessary (i.e. is it a 'natural' disaster) and what is the expected benefit of the clearing.

3.2.4 Removing contaminants from land

Contaminants pose a variety of risks to human health and the environment. The intention of the vegetation management framework is to allow the clearing of vegetation where it is necessary to remove contaminants from the land (referred to as contaminants removal). For this purpose, the VMA defines a contaminant as including:

“a gas, liquid, solid or energy source, including radioactivity and electromagnetic radiation”.

This purpose assesses the impact of clearing. The actual requirements for managing and removing contaminants from land, are contained within other Acts and frameworks, such as the EP Act. It is important to be aware that the definition of contaminants under the EP Act also extends to an organism (whether dead or alive), including a virus, as well as odours, but these are not included in the vegetation management definition.

Exempt clearing work is also available for the remediation of contaminated land. This is contained within Schedule 21 of the Planning Regulation 2017, as:

“Clearing vegetation that is necessary to remediate contaminated land recorded in the environmental management register or contaminated land register.”

Where clearing vegetation for the removal of contaminants from land cannot be undertaken in accordance with this exemption, a development application must be submitted for assessment.

Potential activities that may be applied for under this component of environmental clearing may include, but are not limited to:

- clearing appropriate access tracks to the site of the contaminant
- clearing pads for equipment (e.g. excavators) to work safely at the site
- clearing for appropriate fences, bollards, safety barriers and/or signage
- clearing to remove the contaminant from the ground and returning the site to the required profile/condition.

If applying for this activity, applicants will need to provide specific information on:

- what is the contaminant and where it is located
- why clearing is required to clean up the contaminant.



3.3 Assessment requirements

Applications for environmental clearing must demonstrate how a number of performance outcomes and acceptable outcomes in the SDAP will be met, in order for an application to be approved. These requirements are designed to ensure the clearing activity minimises impacts on important environmental values, such as endangered vegetation communities or wetlands and watercourses, as well as to avoid worsening land degradation problems such as salinity and soil erosion.

There is a common approach or hierarchy to how the performance outcomes and acceptable outcomes are applied for necessary environmental clearing. While it is important to be aware of the unique considerations for each of the requirements, the general approach taken is as follows:

1. Clearing is first avoided wherever possible.
2. If clearing cannot be avoided, clearing should be minimised, and limited to the extent which is necessary for conducting the particular activity.
3. Where clearing cannot be avoided, and has been minimised as much as possible, in certain circumstances, the cleared area must be rehabilitated.
4. For natural channel diversion and contaminants removal, in certain circumstances where clearing cannot be avoided, has been minimised, and the cleared area cannot be rehabilitated, an environmental offset must be provided.

The reason that the ability to provide an environmental offset only applies to natural channel diversion and contaminants removal is that these activities are generally higher impact, and in many cases, it is not practical or possible to rehabilitate an area after clearing. For example, if a watercourse requires diversion, the watercourse will be established in the cleared area, and therefore rehabilitating the area to its natural state is not possible. For these reasons, where an important environmental value is cleared an environmental offset should be provided, so that the impacts on site can be counterbalanced by other works or activities at another locality.

Conversely, land restoration, and natural disaster preparation are generally low impact developments designed to provide environmental and social benefits, and once undertaken should not require ongoing works that necessitates the area to remain cleared. Clearing for these activities should be rehabilitated through active management regimes over time so that the relevant vegetation community re-establishes. Further explanation of an environmental clearing management plan, and environmental offsets, is provided in the following sections.



3.4 Environmental clearing management plan

In certain circumstances, when proposing to clear for an environmental clearing activity, you may need to prepare an environmental clearing management plan (referred to as a management plan) to demonstrate how a cleared area will be rehabilitated over time. This management plan may be required to satisfy performance outcomes relating to the following environmental values:

- wetlands
- watercourses and drainage features
- connectivity
- essential habitat
- regional ecosystems.

A management plan is a tool to help consider the short-term and long-term impacts of clearing, including how a cleared site can be managed over time to maintain or restore particular environmental values, and to prevent land degradation from occurring or worsening. A management plan is only required when it can be demonstrated that clearing cannot be avoided, and the extent of clearing has also been minimised.

An environmental clearing management plan outlines management actions that will be undertaken in an area cleared for necessary environmental clearing to rehabilitate the area over time to ensure remnant vegetation, essential habitat and connectivity are maintained, wetlands and watercourses are protected, and the effects of clearing do not result in land degradation.

3.4.1 What to include in an environmental clearing management plan

An environmental clearing management plan must include the following information:

- property ownership details
- description of the area that will be cleared, including a map showing the location and extent
- description of the clearing activity that will be undertaken, including the component of necessary environmental clearing to which the management plan relates
- environmental values (identified as performance outcomes in SDAP State Code 16: Native vegetation clearing) that will be impacted by clearing
- description of the management actions that will be undertaken in the cleared area to:
 - rehabilitate or restore the environmental values impacted by clearing
 - ensure that the effects of clearing do not result in land degradation.

The description should include any applicable details about the location, method, timing, frequency, intended benefits, ongoing maintenance regime, person responsible for undertaking each management action and the estimated length of time the area will be managed.



You may refer to information provided in addressing the performance outcomes for soil erosion, salinity, and acid sulphate soils, when providing these details, such as the sediment and erosion control plan.

Example management actions include fencing, weed control, revegetation and management of fire for conservation.

The level of detail required in a management plan will depend on the nature and scale of the activity being undertaken. For example, clearing an area of vegetation to stabilise an eroding bank may require more detailed management actions compared to clearing an area of vegetation by fire, to restore the ecological condition of the land.

You are required to keep appropriate records detailing the progress and effectiveness of each management action. This will be a condition for any development approval requiring a management plan. These records are not required to be submitted to DNRM, however, they must be made available to DNRM upon request.

3.5 Environmental offsets

In certain circumstances, when clearing for natural channel diversion, or contaminants removal, an environmental offset may need to be provided in accordance with the *Environmental Offset Act 2014* to satisfy particular performance outcomes or acceptable outcomes in the SDAP.

An environmental offset is only required where clearing cannot be reasonably avoided, the extent of clearing has been reasonably minimised, and the cleared area cannot be rehabilitated. An environmental offset may need to be provided for impacts on the following values:

- ‘endangered’ and ‘of concern’ regional ecosystems
- vegetation associated with wetlands
- vegetation associated with watercourses and drainage features
- connectivity
- essential habitat.

Under the *Environmental Offsets Act 2014*, an environmental offset means:

“an activity to counterbalance the significant residual impacts of a prescribed activity on a prescribed environmental matter.”

The *Environmental Offsets Act 2014* is administered by the Department of Environment and Heritage Protection (EHP).

For further information on environmental offsets, refer to SDAP State code 16: Native Vegetation Clearing on the DILGP website, or [EHP website](#) at www.ehp.qld.gov.au (search for ‘environmental offsets’).



3.6 SARA's decision

Once a development application is lodged and assessed, SARA will decide the application. A Decision Notice will then be provided to the applicant.

Where the application is approved, clearing can commence in accordance with permit conditions. Where an environmental offset is involved, clearing may be prohibited until the offset is legally secured in accordance with the *Environmental Offsets Act 2014*.

3.7 Further information

For further information or advice on environmental clearing you may contact your nearest DNRM office. Contact details are provided on the [DNRM website](http://www.dnrm.qld.gov.au) at www.dnrm.qld.gov.au.

For further information on the development assessment process, including a list of regional DILGP offices, and information on requesting a pre-lodgement meeting, visit the DILGP website at www.dilgp.qld.gov.au.

4 Responsibilities

Table 1: general responsibilities of each relevant party to a development application made for necessary environmental clearing

Relevant party	Responsibilities
Applicant	<ul style="list-style-type: none"> • Discuss the necessity of environmental clearing with DNRM. • Seek pre-lodgement advice from SARA (DILGP). • Seek a relevant purpose (s22A) determination from DNRM. • Lodge a properly made development application with SARA. • On request provide any additional information to DILGP and DNRM (or EHP where an environmental offset is required). • On approval of the application, clearing can be undertaken in accordance with conditions.
DNRM	<ul style="list-style-type: none"> • On request, provide advice to potential applicants. • On request, assess the application provide technical advice to SARA to support the application assessment process. • Where required, work with SARA and EHP to assess, negotiate and legally secure an environmental offset (see the voluntary declaration (VDec) process under the VMA). • Undertake compliance activities where necessary.
DILGP	<ul style="list-style-type: none"> • On request, facilitate a pre-lodgement meeting with potential applicants. • Accept and assess properly made development applications. • Refer application to DNRM for assessment (DNRM are a Technical Advice Agency in development assessment process under <i>Planning Act 2016</i>). • Where required, seek EHP advice regarding any environmental offset requirements. • Decide the application (where the decision is to approve the application, condition the application taking into account DNRM and EHP advice). • Provide the applicant and DNRM with a Decision Notice.
EHP	<ul style="list-style-type: none"> • On request, provide advice to the applicant, SARA or DNRM regarding environmental offsets or an environmental authority which contains approval to interfere with a watercourse regulated under the Water Act. • Work with the applicant, SARA and DNRM to ensure any required environmental offsets are legally secured.