

GUIDE TO USING THE IDAS DEVELOPMENT APPLICATION FORMS

*Guide 12***Vegetation clearing made assessable under schedule 8 of the *Integrated Planning Act 1997***

This guide is designed to help determine if an application for vegetation clearing is able to be made and whether the application should be lodged directly to the Queensland Department of Natural Resources and Water (NRW) as assessment manager. It will also assist in determining whether certain applications, regardless of whether vegetation clearing is proposed or not, will trigger referral to NRW for assessment as a concurrence agency.

The *Vegetation Management Act 1999* (VMA), as amended by the *Vegetation Management and Other Legislation Amendment Act 2004* (VMOLA), commenced on 21 May 2004. The VMOLA amended the VMA, the *Integrated Planning Act 1997* (IPA) and the *Land Act 1994* to provide a single regulatory framework for clearing of native vegetation on freehold land and most State land tenures. The VMOLA also implements the Queensland Government's commitment to phase out broadscale clearing by the end of 2006.

NRW is the lead agency for implementation of the vegetation management framework and, in both its capacity as assessment manager and concurrence agency, is responsible for the assessment of development applications for clearing native vegetation. Due to the IPA amendments in October 2004, NRW is also a concurrence agency for certain material change of use (MCU) and reconfiguration of a lot (ROL) applications where there is potential for impacts on remnant vegetation, regardless of whether vegetation clearing is proposed or not.

How is vegetation clearing made assessable under IPA?

Clearing vegetation to which the VMA applies is operational work within the definition of development in IPA (*ref section 1.3.5 "operational works", item 1(f) of IPA*).

The VMA does not apply to clearing of vegetation on-

- (a) a forest reserve under the *Nature Conservation Act 1992*;
- (b) a protected area under the *Nature Conservation Act 1992*, section 28; or
- (c) an area declared as a state forest or timber reserve under the *Forestry Act 1959*; or
- (d) a forest entitlement area under the *Land Act 1994*.

Vegetation on these areas is excluded from regulation under the VMA because it is adequately regulated and protected under the relevant Acts mentioned.

Note: The VMA does not apply to vegetation that is mangroves, grass or non-woody vegetation, or certain grassland regional ecosystems listed in Schedule 5 of the *Vegetation Management Regulation 2000*.

Carrying out operational work that is the clearing of **native** vegetation is assessable development under schedule 8, part 1, table 4, items 1A to 1G of the IPA on the following land tenures, *unless* the clearing is of a type or for a purpose specified in these items -

- Item 1A – freehold land and indigenous land;
- Item 1B – land subject to a lease issued under the *Land Act 1994* for agriculture or grazing purposes;
- Item 1C – land subject to a lease under the *Land Act 1994*, other than a lease issued for agriculture or grazing purposes;
- Item 1D – a road under the *Land Act 1994*;
- Item 1E – trust land under the *Land Act 1994*, other than indigenous land;
- Item 1F – unallocated State land;
- Item 1G – land that is subject to a licence or permit under the *Land Act 1994*.

When is clearing vegetation not assessable development?

Clearing of native vegetation is assessable development under schedule 8, part 1, table 4, items 1A to 1G unless the clearing is of a type or for a purpose specified in these items. These purpose specific activities are generally referred to as "exemptions".

What activities are exempt?

The exemptions that apply for clearing vegetation differ according to land tenure. To work out if an exemption applies, confirm the land tenure and then refer to the applicable item (items 1A to 1G of schedule 8, part 1, table 4) to see whether the clearing falls within an exemption listed in the item.

Note: It must be noted that other Acts regulate or have implications for vegetation clearing. Clearing that is approved or exempted under the IPA may require further approvals under other Acts to be lawful. Local governments may also make clearing vegetation assessable under planning schemes and can have local laws that regulate the clearing of vegetation.

Other Acts and laws that may have implications for vegetation clearing include -

- The *Coastal Protection and Management Act 1995*;
- The *Aboriginal Cultural Heritage Act 2003* and the *Torres Strait Islander Cultural Heritage Act 2003*;
- The *Environmental Protection Act 1994*, which regulates environmentally relevant activities;
- The Commonwealth Government's *Environment Protection and Biodiversity Conservation Act 1999* regarding the protection of listed threatened species and ecological communities;
- The *Fisheries Act 1994* regarding the management of marine plants including mangroves;
- Local laws established by local governments under the *Local Government Act 1993*;
- The *Nature Conservation Act 1992* regarding the regulation of protected plants, and vegetation clearing in a koala conservation area or koala sustainability area;
- The *Forestry Act 1959* regarding ownership of and the taking of forest products and quarry material;
- The *Soil Conservation Act 1986*;
- The *Water Act 2000* regarding the removal of vegetation from the bed and banks of a watercourse;
- The *Wild Rivers Act 2005* regarding requirements for vegetation clearing in declared wild river areas.

Note: Some Acts authorise or require clearing of vegetation (eg *Fire and Rescue Services Act 1990*) however this does not automatically give an exemption from the need for a permit under the IPA. Only Acts listed in the definition of a "specified activity" in Schedule 10 of the IPA, provide an exemption under the IPA.

Part J of Form 1 Development Application

A development application for clearing native vegetation that is assessable development under schedule 8, part 1, table 4, items 1A to 1G, or that is for certain MCU or ROL applications that involve remnant vegetation, is made on Development Application Form 1, Parts A and J.

Part A must be completed for all applications and provides the name, address and contact details of the applicant, and details of the premises that are the subject of the application. Part J is relevant only to applications for clearing native vegetation and for referral of MCU and ROL applications to NRW which meet the referral triggers. Part J also requires an applicant to specify whether the application is for operational work or an application for a MCU or ROL.

In addition to Parts A and J, Part D is required for MCU applications and Part F for ROL applications. The IDAS Assessment Checklist must also be completed and attached to all applications.

What is an ongoing application?

An ongoing application is a development application for clearing native vegetation that is assessable

development under schedule 8, part 1, table 4, items 1A to 1G that is for a relevant purpose under section 22A of the VMA. An ongoing application may be made at any time, provided the chief executive of NRW is satisfied the proposed clearing is for a relevant purpose mentioned under section 22A of the VMA.

An ongoing application can be made for the following relevant purposes under section 22A of the VMA:

- (a) a project declared to be a significant project under the *State Development and Public Works Organisation Act 1971*, section 26; or
- (b) necessary to control non-native plants or declared pests; or
- (c) to ensure public safety; or
- (d) for establishing a necessary fence, firebreak, road or other built infrastructure, if there is no suitable alternative site for the fence, firebreak, road or infrastructure; or
- (e) a natural and ordinary consequence of other assessable development for which a development approval as defined under the Planning Act was given, or a development application as defined under the Planning Act was made, before 16 May 2003; or
- (f) for fodder harvesting; or
- (g) for thinning; or
- (h) for clearing of encroachment; or
- (i) for an extractive industry; or
- (j) for clearing regrowth on leases issued under the *Land Act 1994* for agriculture or grazing purposes.

When is referral to NRW required for a material change of use or a reconfiguration of a lot application?

Under the IPA, a permit is needed for a MCU or ROL where these activities are made assessable by a local government's planning scheme, or by schedule 8, part 1 of the IPA. Applications for MCU and ROL are generally made to the local government in which the development is proposed, and are assessed by the local government using its planning scheme. In some cases, these applications need to be referred to another agency for assessment of issues over which they have responsibility under legislation.

The purpose of NRW taking on concurrence agency status for MCU and ROL applications is to undertake an assessment of impacts on remnant vegetation, regardless of whether clearing is proposed or not, and for "upstream" assessment of clearing that is a consequence of an MCU or ROL that would normally be assessed at the operational works stage, **or that becomes exempt as a result of the MCU or ROL approval.**

Where an approval is given for a MCU or ROL application that was referred to NRW, any clearing carried out under that approval is an exempt activity, provided that the clearing complies with any conditions within the approval.

The exemption is given under the definition of a "specified activity" under schedule 10 of the IPA.

MCU applications must be referred to NRW for assessment if-

- a) the lot contains -
 - i) a category 1 area, a category 2 area or a category 3 area shown on a property map of assessable vegetation; or
 - ii) if there is no property map of assessable vegetation for the lot - remnant vegetation; and
- b) the existing use is a rural or environmental use¹; and
- c) the size of the land is 2 ha, or larger.

ROL applications must be referred to NRW, if -

- (a) the lot contains -
 - (i) a category 1 area, a category 2 area or a category 3 area shown on a property map of assessable vegetation; or
 - (ii) if there is no property map of assessable vegetation for the lot - remnant vegetation; and
- (b) the size of the lot before the reconfiguration is 2 ha, or larger; and
- (c) 2 or more lots are created; and
- (d) the size of any lot created is 25 ha, or smaller.

When is an application made direct to NRW as the assessment manager?

A development application is made to NRW as the assessment manager if the application is for clearing native vegetation that is assessable development under schedule 8, part 1, table 4, items 1A to 1G and no other assessable development is included in the application.

However, a combined application for operational works for clearing vegetation and for taking and interfering with water under the *Water Act 2000* is made directly to NRW, as NRW is also responsible for assessing works under the *Water Act 2000*.

When is an application referred to NRW as the concurrence agency?

A development application is referred to NRW as the concurrence agency in the following two circumstances:

1. When a development application for clearing includes other assessable development for which NRW is not the assessment manager. An example of this is where an applicant applies for a building permit and for clearing native vegetation in the one application. In such cases, it is usually a local government that is the assessment manager; and
2. When an MCU or ROL application meets the referral criteria outlined above, regardless of whether vegetation clearing is proposed or not.

¹ Under DNRW's [Concurrence Agency Policy for Material Change of Use](#), 23 August 2007, an 'environmental use' is taken to include conservation, natural and wilderness uses, and includes areas of remnant vegetation on an undeveloped or partially developed site, eg, vacant land, and land used as an environmental buffer regardless of whether the land is an urban or non-urban area. A 'rural use' is taken to include any use that is not an urban purpose, as defined in the IPA, or an environmental use.

However, in relation to point 1 above, an assessment manager cannot accept a combined application unless the chief executive of NRW is satisfied the clearing fits one of the relevant purposes under section 22A of the VMA.

Anyone wishing to submit a combined application should first seek confirmation from NRW that the proposed vegetation clearing complies with one of these relevant purposes. Once this is done, the application can be lodged with the assessment manager accompanied by the NRW confirmation that it can be accepted.

Lodgement of a property vegetation management plan?

A property vegetation management plan (PVMP) must accompany all applications for clearing native vegetation that is assessable development under schedule 8, part 1, table 4, items 1A to 1G. A PVMP should also accompany MCU and ROL applications when referred to NRW.

A PVMP must include -

- the location and extent of the area proposed to be cleared shown by -
 - (i) a map showing -
 - the boundary of the area on an image base; and
 - 5 or more points visible in the image base that correspond to identifiable fixed features; and
 - the Map Grid of Australia 1994 coordinates and zone references for each point, acquired by GPS or similar system of satellites that receives and processes information; and
 - a description of the feature that each point represents; *or*
 - (ii) a description of the boundary of the area by reference to Map Grid of Australia 1994 coordinates and zone references for the area; and
- the purpose of the clearing; and
- details of the way the proposed clearing meets the performance requirements of the regional vegetation management code for the area or the MCU or ROL policies. The regional codes and MCU and ROL policies are available on the NRW website at www.nrw.qld.gov.au/vegetation/index.html.

A property vegetation management plan may include any other information the applicant considers may assist in the assessment of the application.

Contact NRW

Determining whether a clearing proposal requires a permit or whether an exemption applies can be complex and relies on access to current maps – remnant maps, regional ecosystem maps and property maps of assessable vegetation. Anyone proposing to clear native vegetation should first contact NRW for advice.

Phone **1800 999 367** to register an enquiry or contact the relevant NRW regional office (see contact list for referral agencies at www.ipa.qld.gov.au/idas/idasAgencies.asp).