



Native Vegetation Clearing Laws in Queensland

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While every effort has been made to ensure the information is accurate, the EDO does not accept any responsibility for any loss or damage resulting from any error in this factsheet or use of this work.

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What is this factsheet about?

This factsheet provides an overview of the laws that regulate vegetation clearing outside of the urban footprint, particularly under the [Vegetation Management Act 1999 \(Qld\)](#) (VMA), as well as a snapshot of recent amendments to this Act.

Key Points

- Only native vegetation clearing is regulated in Queensland, except with minor exceptions e.g. trees protected as cultural heritage
- Vegetation can be cleared legally if the clearing is exempt, under a development permit, or under an accepted development code and where it has all other necessary approvals
- The [VMA](#) and the [Planning Act 2016 \(Qld\)](#) are the main Acts that regulate clearing in Queensland, but other Acts may also apply, including the [Nature Conservation Act 1992 \(Qld\)](#) and the federal [Environment Protection and Biodiversity Conservation Act 1999 \(Cth\)](#)
- Amendments passed in 2018 reintroduced most of the laws removed under the Newman Government

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What can I do if I think clearing is illegal?

ACT QUICKLY!

- Take photos – document the alleged clearing
- Let your local government know ASAP
- Let State Government departments know ASAP

Visit: The QLD Department of Resources [website](#) for more information, in particular – submit an online enquiry about [Vegetation management](#) or call **13 58 34**

Visit: The QLD Department of State Development, Infrastructure, Local Government and Planning's [Contact us](#) page

You may have legal rights to seek an injunction to stop the clearing, or to seek enforcement orders – seek legal advice. EDO may be able to help you, so [get in touch](#).

How do I know whether vegetation clearing is legal?

The following information is needed to investigate the legality of clearing for yourself:

- Which law applies to the clearing?
- Is the clearing of these trees regulated?
- When can tree clearing occur legally?

Which law applies to the clearing?

The primary legislation regulating vegetation clearing in Queensland is the [Vegetation Management Act 1999 \(Qld\)](#) (**VMA**). However, tree clearing might be regulated under a number of other laws, including:

Planning Act 2016 (QLD) (Planning Act)	Applies to clearing for urban development
Water Act 2000 (QLD)	Applies to clearing of riparian vegetation
Nature Conservation Act 1992 (QLD)	Applies to clearing impacting protected flora or fauna
Environmental Protection Act 1994 (QLD) (EP Act)	Applies to clearing for some environmentally-relevant activities such as mining and gas activities
Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act)	The Federal Government's main environmental legislation may be relevant where proposed clearing could have a 'significant impact' on 'matters of national environmental significance' (MNES)

The [VMA](#) is the state-wide law regulating the clearing of native vegetation in Queensland. It is administered by the QLD Department of Resources (**DoR**), and applies to all land tenures – private (freehold) land, as well as leasehold and unallocated State land.

The VMA interacts with the [Planning Act](#) and the [Planning Regulation 2017 \(Qld\)](#) (**Planning Regulation**), to regulate the clearing of native vegetation on both freehold and leasehold land and certain other tenures in Queensland.

Read: [EDO Factsheet on Enforcement of Environmental Offences under the Environmental Protection Act 1994 \(QLD\)](#) for more information on the EP Act

Visit: [The Department of Agriculture, Water and the Environment's EPBC Act publications and resources page](#) to download and read [1.1 Significant impact guidelines - matters of national environmental significance](#) for more on 'significant impact' and MNES

Is the clearing of these trees regulated?

Only native vegetation is protected. However non-native trees can also be protected for cultural or heritage purposes.

'Vegetation' is defined under the [VMA](#) (s 8) as a native tree or plant other than the following–

- grass or non-woody herbage;
- a plant within a grassland regional ecosystem prescribed under a regulation; or
- a mangrove.

The excluded vegetation listed above may be regulated under other laws; for instance the clearing of mangroves is regulated under the [Fisheries Act 1994 \(Qld\)](#) and possibly the [Water Act 2000 \(QLD\)](#). Species listed as threatened and protected species have more protection.

To 'clear' vegetation under the [VMA](#) means to remove, cut down, ringbark, push over, poison or destroy in any way, including by burning, flooding or draining. However, does not include destroying standing vegetation by stock, or lopping a tree.

Under the [VMA](#), vegetation is classified into various categories, which determine the regulation that applies to clearing of the vegetation:

Category A

Vegetation that is in an offset or exchange area, has been illegally cleared and must be restored, or is in a declared area under the VMA.

Category B

Remnant vegetation, or it is not high value regrowth and is a Land Act tenure to be converted under the Land Act 1994 to another form of tenure; and contains an endangered regional ecosystem; or an of concern regional ecosystem; or a least concern regional ecosystem.

Category C

High value regrowth vegetation on freehold land, Indigenous land, or land subject of a lease issued under the Land Act 1994 for agriculture or grazing purposes or an occupation licence under that Act; and in an area that has not been cleared (other than for relevant clearing activities) for at least 15 years, if the area is an endangered regional ecosystem; or an of concern regional ecosystem; or a least concern regional ecosystem.

Category R

An area which is a regrowth watercourse and drainage feature area located within 50 metres of a watercourse located in the Burdekin, Burnett–Mary, Eastern Cape York, Fitzroy, Mackay–Whitsunday or Wet Tropics catchments.

Category X

All areas other than Category A, B, C and R areas, 'exempt areas' that are not covered by the VMA.

These categories are recorded on the DoR-certified 'regulated vegetation management map'.¹

¹ [Vegetation Management Act 1999 \(Qld\)](#) s 20A ('VMA').

Visit: [The QLD Government's Request a vegetation map or property report page](#)

Visit: [Your local planning scheme online e.g. Brisbane City Plan](#)

Property maps of assessable vegetation (PMAVs)

A PMAV is a property-scale map certified by the chief executive (the Director General of DoR) which shows the boundaries of vegetation category areas on that property.² A landholder may apply to DoR for a PMAV to correct errors on the regulated vegetation management map. A PMAV is made through an agreement with the Queensland Government and the landholder. Once the PMAV is certified, it replaces the regulation vegetation management map for the location.³

A PMAV 'locks in' the vegetation categories that applied at the time it was created. So, if a party seeks to clear land under a PMAV that existed prior to the recently amended [VMA](#), the newly amended laws do not apply to that clearing. If a party seeks to clear land and has lodged a PMAV application on or after 8 March 2018, the new laws may have an effect where the application involves re-mapping category X areas into category C or category R areas. DoR will assess the application and certify a PMAV in accordance with the new laws.

Area management plans (AMPs)

An AMP is a plan made by the chief executive providing for any matter about clearing vegetation, which enables landholders to undertake management activities under a self-assessable framework.⁴ Under the 2018 amendments to the [VMA](#), a landholder can no longer apply for an AMP. However, the AMP self-assessable model is similar to that under the accepted development clearing codes.

The chief executive may still declare an AMP to provide for any matter about clearing vegetation they consider necessary or desirable for achieving the purpose of the [VMA](#).⁵ This allows the DoR to address any low scale vegetation management issues outside the scope of an accepted development vegetation clearing code to be addressed in a self-assessable framework.⁶

Existing AMPs (except the Mulga Lands AMP) which relate to thinning, fodder and encroachment will remain valid until 8 March 2020 (unless land is subject to the essential habitat map). Other AMPs which relate to other clearing activities are not affected. The Mulga Lands AMP was repealed on 8 March 2018 and activities can no longer be purported to be carried out under it.

² VMA s 20AK.

³ Queensland Government, *Confirm or correct a vegetation map* (10 May 2018) <<https://www.qld.gov.au/environment/land/management/vegetation/maps/map-correction>>

⁴ VMA Explanatory Note, 13.

⁵ VMs 21B

⁶ VMA Explanatory Note, 13.

When can tree clearing occur legally?

Clearing vegetation is specifically prohibited under the [Planning Regulation](#)⁷ unless:

- It is exempt from needing approval (see Schedule 21 of [Planning Act](#)) , e.g. clearing certain vegetation from an ‘urban purpose’ in an ‘urban area’ on freehold land, residential clearing (e.g. for building a single dwelling) on freehold land, clearing Category X vegetation on freehold land (see [VMA](#) s 20AO).
- It is approved under a development permit for a relevant purpose (see s 49(3) PA and s22A VMA).
- It is under an accepted development code. Note: These are currently being reviewed by the Qld Government and may change.
- and if other necessary approvals are obtained (e.g. under the [Nature Conservation Act 1992 \(QLD\)](#) or [EPBC Act](#)).

It is a serious offence under the [Planning Act](#) to carry out development that is prohibited development,⁸ or to carry out assessable development without a development permit;⁹ high penalties apply.

When is tree clearing ‘exempt’ from regulation under the VMA and Planning Act?

Schedule 21 of the [Planning Regulation](#) lists various exemptions for the purposes of the [VMA](#), either with or without reference to the land tenure of the site to be cleared (see parts 1 and 2). If an exemption applies then the clearing of that native vegetation is not assessable development under the Planning Regulation and therefore a development permit is not required under the [Planning Act](#). However, other approvals may still be required under local government, state, or Commonwealth laws to clear the vegetation, even where an exemption applies.

Urban Purpose Urban Area Exemption

The terms ‘urban area’ and ‘urban purposes’ are defined in the [Planning Regulation](#).

‘Urban area’

means –

- (i) an area identified in the gazette notice by the chief executive as an urban area. Such gazette notice has been issued by the chief executive from time to time; or
- (ii) if no gazette notice has been published, an area identified as an area specifically for urban purposes, including future urban purposes (but not rural residential or future rural residential purposes) on a map in a planning scheme that – identifies

⁷ [Planning Regulation 2017 \(Qld\)](#) Sch 10 Part 3 Div 1 (‘**Planning Regulation**’).

⁸ [Planning Act 2016 \(QLD\)](#) s 162 (‘**Planning Act**’).

⁹ *Ibid* s 163.

the areas using cadastral boundaries; and is used exclusively or primarily to assess development applications.

Generally most local government planning schemes satisfy the requirements of (i) and (ii).

'Urban purposes'

means – purposes for which land is used in cities or towns, including residential, industrial, sporting, recreation and commercial purposes, but not including environmental, conservation, rural, natural or wilderness area purposes.

This is a fairly broad definition.

N.B. The urban purpose, urban area exemption does not apply to Category A areas under the [VMA](#).

Priority Development Area (PDA)-related development areas exemption

The PDA-related development areas exemption is another broad exemption that applies to a number of the land tenures set out Part 2 Schedule 21 of the [Planning Regulation](#).

'PDA-related development' is defined in the [Planning Regulation](#) to mean –

Even if this exemption applies, other laws may need to be complied with

E.g. In Brisbane, PDA-related development must also comply with the [Economic Development \(Vegetation Management\) By-Law 2013](#), which applies specifically to the local government area of Brisbane.

When is a development permit needed for vegetation clearing?

Clearing vegetation is defined as 'assessable development',¹⁰ and specifically 'operational works' under the [Planning Act](#).¹¹ A development permit is therefore required, unless it is exempt or accepted development.¹² The application to clear must be for a "relevant purpose" under s 22A of the [VMA](#).

An application to clear native vegetation is called a vegetation clearing application for operational works. It can be made as a stand-alone vegetation clearing application, or could be made in conjunction with an application that includes other assessable development.

¹⁰ Planning Regulation Sch 10 Div 2.

¹¹ Planning Act Sch 2.

¹² Ibid Sch 8, s 21, table 4, item 3.

Development application for only clearing vegetation

If the application is a stand-alone application to clear native vegetation, then the Chief Executive administering the [Planning Act](#) will be the assessment manager, effectively through the unit known as the State Assessment and Referral Agency (**SARA**) under the Department of State Development, Infrastructure, Local Government and Planning.¹³ The assessment of the application for the clearing of native vegetation will be conducted by the assessment manager or the referral agency in accordance with the State Development Assessment Provisions (**SDAP**) by reason of Schedule 10 of the [Planning Regulation](#).

Visit [The QLD Department of State Development, Infrastructure, Local Government and Planning's page on SDAP](#) to learn more about the SDAP and SARA

Development application involving multiple activities including clearing

If the development application includes both an application to clear native vegetation and other aspects of assessable development, then Schedule 8 of the [Planning Regulation](#) will determine the relevant assessment manager (e.g. perhaps the local government) and SARA will be a referral agency.¹⁴ Commonly, applications for development, including those involving vegetation clearing, are assessable against a local government planning scheme. In those circumstances, the relevant local government will be the assessment manager and SARA will be a referral agency exercising concurrence agency powers under the [Planning Act](#).

When can clearing occur under an accepted development code?

Accepted development (or previously known 'self-assessable') clearing codes provide a right to clear in accordance with the code, without needing a permit. The clearer simply needs to:

- notify DoR prior to undertaking the clearing; and
- ensure that clearing is in accordance with the code.

One or more of these codes are commonly relied upon by proponents who are wishing to clear vegetation regulated by the [VMA](#).

The Minister administering the [VMA](#) may make accepted development codes for a range of activities, including:

- controlling non-native plants or declared pests;
- relevant infrastructure activities for which the clearing cannot be reasonably be avoided or minimised;
- fodder harvesting;

¹³ Planning Regulation Sch 6 Table 3.

¹⁴ Ibid Sch 10.

- clearing of an encroachment;
- an extractive industry; or
- necessary environmental clearing.

Visit [The QLD Government page on Accepted development vegetation clearing codes for a full list of clearing codes in effect](#)

If the applicable code is not complied with, the activity becomes ‘assessable development’ and therefore it would be an offence, under section 578, to carry out the activity without a development permit, unless an exemption applies.

DoR is required to keep a register of the notices given in respect of clearing under an accepted development clearing code.

Other laws may apply to clearing activities

Even where the [VMA](#) and PA do not apply, for example where the clearing is exempt, there may be other legislation that regulates clearing, such as a local government planning schemes. The [EP Act](#) regulates clearing impacts for environmentally relevant activities that require an environmental authority, such as mining and gas projects.

The vegetation clearing laws under the [VMA](#) may not apply in areas that are protected by certain other pieces of legislation, or these Acts will apply in addition to the VMA. For example, areas which are protected by the [Nature Conservation Act 1992 \(QLD\)](#) (such as national parks) or in state forests or timber reserves governed by the [Forestry Act 1959 \(Qld\)](#) are not regulated under the VMA. However, the [Nature Conservation Act 1992 \(QLD\)](#) and/or the [EPBC Act](#) may apply where there are listed protected species on the site that the clearing may impact.

Other State laws can regulate vegetation clearing as well, such as the [Water Act 2000 \(QLD\)](#) (which covers clearing vegetation in the beds or banks of rivers). The [Neighbourhood Disputes \(Dividing Fences and Trees\) Act 2011 \(Qld\)](#) may also apply. This Act details the legal responsibilities and rights in relation to trees that are situated along dividing fences between properties, with the purpose of reducing neighbour disputes arising in relation to tree management.

An entity may require permits under these other laws as well as the [VMA](#), to lawfully clear vegetation.

Local government laws/planning schemes

Local government planning instruments and/or local laws frequently impose requirements on the clearing of vegetation in the applicable local government area.¹⁵ These laws apply in addition to laws under the [VMA](#). An example is the Brisbane City Council Natural Assets Local Law 2003, which includes a range of matters, including (amongst other things) protecting various types of protected vegetation, the issuing of vegetation protection orders, and the application and approval or refusal of permits to clear certain types of protected vegetation under that local law.

Nature Conservation Act 1992 (QLD)

Section 14 of the [Nature Conservation Act 1992 \(QLD\)](#) (**NC Act**) protects classes of areas from unauthorised clearing. The permit, licence etc. which relates to a protected area must be consistent with:

- the management principles for the area;¹⁶ and
- if a management plan has been approved for the area,¹⁷ the management plan.¹⁸

The [NC Act](#) also inadvertently manages clearing in order to promote wildlife and habitat conservation through managing protected wildlife. Classes of wildlife that are protected by the NC Act are identified in s 71. Protection of wildlife habitat is carried out by the management principles under s 73, for example identifying, reducing or removing the effects of threatening processes¹⁹ (such as clearing) and locating critical habitat and conserving it to the greatest extent possible.²⁰

There are particularly regulations for clearing habitat of koalas under the [NC Act](#) and [Planning Regulation](#).

EPBC Act

The federal [EPBC Act](#) may also apply if the clearing may have a *significant impact* on a matter of national environmental significance (**MNES**).

MNES include (but are not limited to):

- listed threatened species or communities (such as the koala in Queensland);
- the Great Barrier Reef; and
- World Heritage Areas.

¹⁵ VMA s 7.

¹⁶ [Nature Conservation Act 1992 \(QLD\)](#) Div 1, ss16-26 ('**NC Act**').

¹⁷ Ibid Part 7.

¹⁸ Ibid s 34.

¹⁹ Ibid s 73(a)(iii).

²⁰ Ibid s 73.

Read: EDO Factsheet on **Enforcement of Environmental Offences under the Environmental Protection Act 1994 (QLD)** for more information on MNES

Visit: The Department of Agriculture, Water and the Environment's [EPBC Act publications and resources](#) page to download and read [1.1 Significant impact guidelines - matters of national environmental significance](#) for more on 'significant impact' and MNES

Your rights to be involved in land clearing decisions

Development permits

You only have legal rights to be involved in decisions around development permits for impact assessable development, for which the community can make a submission, and those who make a properly made submission gain the right to appeal the decision.

Code assessable development does not have a requirement for public notification unlike impact assessable development (see section 53 of the [Planning Act](#)). Therefore, public submissions do not apply to code assessable development. However, you can still have your say informally by contacting Council or the QLD Department of Natural Resources, Mines and Energy.

Read: EDO Factsheet on **Code or Impact Assessable Developments in Queensland**

Read: EDO Factsheet on **Community Rights to be Involved in Development Assessment**

If the development should have been assessed but was not, or breaches a condition, you can seek in the QLD Planning and Environment Court (**P&E Court**) a:

- Declaration that the clearing was illegal; or
- Enforcement order.

N.B. Always notify Council/DoR first! They have the resources and better ability to gain evidence than most people in the community (and it's their role to enforce the law!).

For clearing under other frameworks, such as the [EP Act](#), there may be other submission and Court review rights that apply to have your concerns around clearing impacts and appropriateness heard by the decision makers.

Read EDO Factsheet on **Enforcement of Environmental Offences under the Environmental Protection Act 1994 (QLD)** for more information on clearing under the EP Act.

Do I have any power to take enforcement action?

Declarations

You may start proceedings for a declaration about the lawfulness of development (land clearing) under the [Planning Act](#).²¹ This type of action is normally undertaken via enforcement orders.

Enforcement orders

- Development breaches: you may bring a proceeding for enforcement orders in the P&E Court where a development offence has been committed or will be committed under the [Planning Act](#).²²
- Under the [NC Act](#),²³ you may bring a proceeding in the P&E Court for an order to remedy or restrain the commission of a nominated offence. This applies only to land clearing within the classes of protected areas identified in s 14 of the NC ACT.
- Under the [EP Act](#), a public interest litigant may apply to the court under s 505 to remedy or restrain an offence against that Act.

An injunction to stop clearing

Under s 67A of the [EPBC Act](#), prohibition on taking controlled action without approval allows for an injunction to be sought under s 475. This applies only if the clearing may have a significant impact on a matter of environmental significance.

Case study²⁴

In November 2016, Michael Vincent Baker of Eidsvold was found guilty in the Brisbane Magistrates Court for a number of offences under the *Vegetation Management Act 1999* (Qld) and *Forestry Act 1959* (Qld). He was fined \$276,000 and was ordered to pay more than \$720,000 dollars in prosecution and investigation costs. Mr Baker cleared around 350 hectares of land between May 2011 and March 2014, which he argued, was a fire break allowed under the self-assessable codes.

Mr Baker had contacted the Department of Natural Resources, Mines and Energy about his activities but continued to illegally clear vegetation without a permit, despite being given information about his obligations. This case demonstrates the importance of ensuring compliance with the legislation.

²¹ [Planning and Development Court Act 2016 \(QLD\)](#) s 11.

²² [Planning Act](#) s 180(3)-(5).

²³ [NC Act](#) s 173D-G.

²⁴ See <<http://www.abc.net.au/news/rural/2017-03-23/grazier-appeals-land-clearing-fine/8380024>>

Read EDO Factsheet on **Appealing, Enforcing Development Applications and Seeking Declarations** for more information on actions you can take under the [Planning Act](#).

Overview of the amendments to the VMA

The *Vegetation and Management and Other Legislation Amendment Act 2018* (Qld) (**Amendment Act**) passed in May 2018 amends the VMA, [Planning Act](#), [Planning Regulation](#) and [Water Act 2000 \(QLD\)](#), mainly to re-introduce laws weakened and removed by the Newman Government in Queensland.

When did the amended laws take effect?

The majority of the provisions introduced by the Amendment Act took effect from 9 May 2018. However, a number of provisions took effect from 8 March 2018 to limit pre-emptive clearing by landholders.²⁵ For example, a development application (or amendment to an application) made by a landholder on or after 8 March 2018 is subject to the new laws.

Overview of amendments

The Amendment Act has reintroduced or improved protections for the following vegetation areas that were deregulated under the weakened laws, for example:

- The definition of high-value regrowth vegetation has been expanded to include vegetation that is 15 years old or over rather than that which has been uncleared since 31 December 1989 and this regrowth vegetation is now again regulated on freehold land, Indigenous land and occupational licences in addition to leasehold land for agriculture and grazing;
- Extending regulation of regrowth vegetation in Reef catchments within 50m of watercourse in the Burnett-Mary, Eastern Cape York and the Fitzroy catchments, ensuring this clearing in all Reef catchments are now regulated;
- High value agriculture and high value irrigated agriculture are no longer ‘relevant purposes’ so clearing can no longer be applied for under the VMA for these broadly defined and poorly regulated activities;
- Remnant vegetation and high value regrowth vegetation will be regulated if it is in an area that falls into the essential habitat map²⁶ (which may be a category A area, category B area or category C area) for near-threatened species; and
- Reintroducing the need for a Riparian Protection Permit to clear within watercourses across Queensland.

²⁵ VMA ss 6, 14, 16(11) and 37.

²⁶ Ibid s 20AC.

Areas locked into ‘property maps of assessable vegetation’ will be under law at time of making map

Where the landholder has obtained a property map of assessable vegetation (**PMAV**), the categorisations documented under the PMAV are locked in in perpetuity and are not affected by these regulatory amendments. For example, areas shown as Category X on a PMAV under the weakened laws will continue to be exempt from the regulatory framework. However, under the new [VMA](#) amendments, a Category X area may be converted to a Category A area voluntarily by the landholder, for example to revegetate the area as a carbon offset.

Which laws apply during transition period?

For parties who are clearing lands under an existing development approval, or who have made a development application to clear land before 8 March 2018, the new laws will have no effect.

For parties seeking to clear land via a development application under the [Planning Act](#) on or after 8 March 2018, the new laws may have effect depending on the type of vegetation being removed.

Review of accepted development codes

As part of these reforms the government committed to reviewing the accepted development codes. DoR is currently in the process of reviewing these codes. As part of this, the thinning/ managing thickened vegetation code has now been removed. Thinning may still be undertaken where allowed under other codes. Any proposal for managing thickened vegetation will now be assessed under the [VMA](#) to confirm that thickening has occurred. It will then require a development approval under the [Planning Act](#). Thinning notifications made under the code prior to 18 May 2018 are now invalid.

Visit [The QLD Government page on Accepted development vegetation clearing codes](#) for a full list of clearing codes in effect

Where can I find more information?

- Read EDO Factsheet on **Code or Impact Assessable Developments in Queensland**
- Read EDO Factsheet on **Community Rights to be Involved in Development Assessment**
- Read EDO Factsheet on **Enforcement of Environmental Offences under the Environmental Protection Act 1994 (QLD)** more information on the EP Act
- Visit the EDO [website](#) to read related factsheets, submissions and publications on this topic
- Visit the Department of Agriculture, Water and the Environment's [EPBC Act publications and resources](#) page to download and read [1.1 Significant impact guidelines - matters of national environmental significance](#) for more on 'significant impact' and MNES
- Visit the QLD Department of Resources [website](#) for more information, in particular – submit an online enquiry about [Vegetation management](#) or call **13 58 34**
- Visit the QLD Department of State Development, Infrastructure, Local Government and Planning's [Contact us](#) page
- Visit the QLD Department of State Development, Infrastructure, Local Government and Planning's page on [SDAP](#) to learn more about the SDAP and SARA
- Visit the QLD Government's [Request a vegetation map or property report](#) page