

Information Sheet – Planning Regulation 2017

Exempted development in koala habitat areas on land subject to a licence or permit under the *Land Act 1994*

This information sheet is part of a series of information sheets that outline development, activities and clearing that can be carried out in a koala habitat area as exempted development. This particular information sheet provides types of exempted development that apply to land subject to a licence or permit under the Land Act 1994.

1 Background

On 7 February 2020, the Queensland Government introduced new planning controls to the Planning Regulation 2017 to strengthen the protection of koala habitat in South East Queensland. More information on these planning controls can be found in the following information sheets:

- *Information sheet - Development in koala priority areas;*
- *Information sheet - Development in koala habitat areas outside koala priority areas;*
- *Information sheet - Extractive industries in koala habitat areas within key resource areas; and*
- *Information sheet - Development in identified koala broad-hectare areas.*

As a high-level summary, the new planning controls make:

- development that involves interfering with koala habitat¹ in an area that is a koala habitat area within a koala priority area, prohibited development (i.e. development for which a development application cannot be made);
- development that involves interfering with koala habitat in an area that is a koala habitat area outside a koala priority area, assessable development (i.e. development for which development approval is required); and
- development for extractive industries in a key resource area that involves interfering with koala habitat in an area that is a koala habitat area, assessable development (i.e. development for which development approval is required).

However, these planning controls do not apply if the development is exempted development as defined in Schedule 24 of the Planning Regulation 2017.

¹ Interfering with koala habitat:

- (a) means removing, cutting down, ringbarking, pushing over, poisoning or destroying in any way, including by burning, flooding or draining, native vegetation in a koala habitat area; but
- (b) does not include destroying standing vegetation by stock, or lopping a tree.



2 Purpose

The purpose of this information sheet is to provide simplified explanations of the items of the exempted development definition in Schedule 24 of the Planning Regulation 2017 that apply specifically to land subject to a licence or permit under the *Land Act 1994*. There are additional items of the exempted development definition in Schedule 24 of the Planning Regulation 2017 that apply to all land tenures and to other specific land tenures. These are explained in the following information sheets:

- *Exempted development in koala habitat areas – all land tenures;*
- *Exempted development in koala habitat areas - freehold land;*
- *Exempted development in koala habitat areas – indigenous land;*
- *Exempted development in koala habitat areas - land leased under the Land Act 1994 for agriculture or grazing purposes;*
- *Exempted development in koala habitat areas - land leased under the Land Act 1994 other than for agriculture or grazing purposes;*
- *Exempted development in koala habitat areas - trust land under the Land Act 1994, other than indigenous land;*
- *Exempted development in koala habitat areas - unallocated State land; and*
- *Exempted development in koala habitat areas - land dedicated as a road under the Land Act 1994.*

Landholders and project proponents can use this series of exempted development information sheets to assist in determining whether proposed development, activities and/or clearing in koala habitat areas are exempted development and therefore can be undertaken legally and without State Government approval under Schedule 10, Part 10 of the Planning Regulation 2017 (i.e. development that involves interfering with koala habitat in koala habitat areas).

For the entirety of the proposed activity to be considered exempted development, all aspects of the proposed activity must be exempted development (either as a single activity or purpose that includes the entire proposed activity or multiple activities and/or purposes that include the entire proposed activity). If part of the proposed activity is not considered exempted development, the planning controls in Schedule 10, Part 10 of the Planning Regulation 2017 (as summarised above) will be applicable to that component of the development. If the proposed activity is not considered exempted development, the planning controls in Schedule 10, Part 10 of the Planning Regulation 2017 (as summarised above) development.

IMPORTANT:

Development that is considered to be exempted development may be prohibited or assessable development under another part of the Planning Regulation 2017 or a local government planning scheme, or may require approval under another Act or a local law. For this reason, landholders and project proponents are encouraged to familiarise themselves with the Acts and regulations relevant to their operations.

It is advised that advice is sought from local government and the State Assessment Referral Agency (SARA). Contact details for the regional SARA offices can be found here:

<https://planning.dsdmip.qld.gov.au/planning/resources/regional-contacts>.

The clearing requirements prescribed in the Nature Conservation (Koala) Conservation Plan 2017 still apply to clearing that is exempted development. More information on these clearing requirements can be found in the *Information sheet – Koala Conservation Plan clearing requirements*.

3 Exempted development in koala habitat areas on land subject to a licence or permit under the *Land Act 1994*

Development mentioned in the table below are the items of the exempted development definition in Schedule 24 of the Planning Regulation 2017 that are applicable to land subject to a licence or permit under the *Land Act 1994*. You do not need permission from the Department of Environment and Science's Koala Assessment and Compliance Team to carry out exempted development. You may however require approval/permission from another State agency or local government.

Item of exempted development definition	Exempted development	Plain English explanation
(n)(vii)	Development that is or involves operational work that is the clearing of native vegetation in a koala habitat area if the clearing is necessary for essential management and is qualifying clearing	<p>Essential management - firebreaks</p> <p>On land subject to a licence or permit under the <i>Land Act 1994</i>, clearing native vegetation is exempted development if:</p> <ul style="list-style-type: none"> • the clearing is for establishing or maintaining a necessary firebreak to protect a building or other structure (other than a fence, road or vehicular track); and • the maximum width of the firebreak is 20m or 1.5 times the height of the tallest vegetation next to the infrastructure, whichever is the wider; and • the clearing is carried out by the licensee or permittee. <p>Firebreaks are low-fuel areas located immediately adjacent to existing infrastructure (including a building, or other structure, built or used for any purpose) that are cleared and maintained to slow or stop the progress of a fire, or to perform back-burning.</p> <p>Please note this only applies to a <u>necessary</u> firebreak (i.e. this exemption only applies if a suitably qualified person such as a Fire Warden or bushfire specialist has advised a firebreak is necessary to protect the infrastructure from fire risks). These are the maximum limits. If the suitably qualified person advises that a smaller firebreak is necessary to protect the infrastructure from fire risks, the width provided by the suitably qualified person should be implemented.</p>

<p>(n)(vii)</p>	<p>Development that is or involves operational work that is the clearing of native vegetation in a koala habitat area if the clearing is necessary for essential management and is qualifying clearing</p>	<p>Essential management – fire management lines</p> <p>On land subject to a licence or permit under the <i>Land Act 1994</i>, clearing native vegetation is exempted development if:</p> <ul style="list-style-type: none"> • the clearing is for a necessary fire management line; and • the maximum width of the clearing for the fire management line is no more than 10m; and • the clearing is carried out by the licensee or permittee. <p>Fire management lines are roads, fence line clearings or tracks (including existing property tracks) used to access water for firefighting or divide the property for fuel reduction burning or back-burning.</p> <p>Please note this only applies to a <u>necessary</u> fire management line (i.e. this exemption only applies if a suitably qualified person such as a Fire Warden of bushfire specialist has advised a fire management line is necessary to water for firefighting or divide the property for fuel reduction/back burning). These are the maximum limits. If the suitably qualified person advises that a smaller fire management line is necessary, the width provided by the suitably qualified person should be implemented.</p>
		<p>Essential management - safety</p> <p>On land subject to a licence or permit under the <i>Land Act 1994</i>, clearing native vegetation is exempted development if:</p> <ul style="list-style-type: none"> • the clearing is necessary to remove or reduce the imminent risk that the vegetation poses of serious personal injury or damage to infrastructure; and • the clearing is carried out by the licensee or permittee.
		<p>Essential management – reducing hazardous fuel loads by fire</p> <p>On land subject to a licence or permit under the <i>Land Act 1994</i>, clearing native vegetation is exempted development if:</p> <ul style="list-style-type: none"> • the clearing is by fire to reduce hazardous fuel load under the <i>Fire and Emergency Services Act 1990</i>; and • the clearing is carried out by the licensee or permittee. <p>To undertake a fuel reduction burn, you will need to acquire a permit issued by your local fire warden. Please contact your local fire warden for more information.</p>

		<p>Essential management – maintaining a garden or orchard</p> <p>On land subject to a licence or permit under the <i>Land Act 1994</i>, clearing native vegetation is exempted development if:</p> <ul style="list-style-type: none"> the clearing is for maintaining a garden or orchard (other than clearing predominant canopy trees to maintain under plantings established within remnant vegetation); and the clearing is carried out by the licensee or permittee. <hr/> <p>Essential management – maintaining infrastructure</p> <p>On land subject to a licence or permit under the <i>Land Act 1994</i>, clearing native vegetation is exempted development if:</p> <ul style="list-style-type: none"> the clearing is necessary to maintain a building or other structure (including core airport infrastructure, buildings, fences, helipads, roads, stockyards, vehicular tracks, watering facilities and constructed drains, other than contour banks); and the clearing is not for sourcing construction material; and the clearing is carried out by the licensee or permittee.
(o)	<p>Development on a lot that is or involves operational work that is the clearing of native vegetation in a koala habitat area if—</p> <p>(i) the clearing is necessary to establish a necessary fence, road or vehicular track on an existing lot; and</p> <p>(ii) the clearing is qualifying clearing; and</p> <p>(iii) the vegetation is regulated regrowth vegetation or a least concern regional ecosystem in a category B area; and</p> <p>(iv) the maximum width of the clearing for the fence, road or track is—</p> <p>(A) for a lot that is 5ha or less—5m; or</p> <p>(B) for a lot that is more than 5ha— 10m</p>	<p>Clearing to establish a necessary fence, road or vehicular track</p> <p>On land subject to a licence or permit under the <i>Land Act 1994</i>, clearing native vegetation is exempted development if:</p> <ul style="list-style-type: none"> the clearing is necessary to establish a necessary fence, road or vehicular track on an existing lot; and the vegetation being cleared is regulated regrowth vegetation or a least concern regional ecosystem in a category B area; and the maximum width of the clearing for the fence, road or track is: <ul style="list-style-type: none"> -5m for a lot that is 5ha or less; or -10m for a lot that is more than 5ha; and the clearing is carried out by the licensee or permittee. <p>The category of the vegetation (i.e. A, B, C, R or X) and the status of a regional ecosystem (i.e. endangered, of concern or least concern) can be viewed spatially here: https://dams.dsdip.esriaustraliaonline.com.au/damappingsystem/?accordions=SARA%20DA%20Mapping (under Native Vegetation Clearing) or by requesting a vegetation management property report here:</p>

		<p>https://www.dnrme.qld.gov.au/qld/environment/land/vegetation/vegetation-map-request-form.</p>
(p)	<p>Development that is or involves operational work that is the clearing of native vegetation in an area shown on a Property Map of Assessable Vegetation (PMAV) as a category X area if—</p> <p>(i) an application for the PMAV under the <i>Vegetation Management Act 1999</i>, section 20C was made before 7 February 2020; and</p> <p>(ii) the clearing—</p> <p>(A) is qualifying clearing; or</p> <p>(B) is on land dedicated as a road under the <i>Land Act 1994</i> and is carried out by a local government, or by or for the chief executive (transport).</p>	<p>Category X PMAV</p> <p>On land subject to a licence or permit under the <i>Land Act 1994</i>, clearing native vegetation is exempted development if:</p> <ul style="list-style-type: none"> • the clearing is in an area shown on a PMAV as a category X area; • the application for the PMAV was made before 7 February 2020; and • the clearing is carried out by the licensee or permittee.

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