

Amendments to the Protected
Plants Legislative Framework
under the *Nature Conservation
Act 1992*

Protected plants overview:

- Protected plants are regulated under the Nature Conservation Act 1992 and subordinate legislation
- The legislative framework regulates the clearing, harvesting, growing and trade activities of protected plants
- Amendments to the framework came into effect on 31 March 2014.
- Some implementation and supporting material are still being developed

Key changes

- A risk-based approach adopted – regulating activities that pose a risk to endangered, vulnerable and near threatened plants (EVNT's)
- Simplified permit and licensing system
- Removed unnecessary red tape
- Consolidation and simplification of the Act and its subordinate legislation
 - Repeal of the Conservation Plan and Harvest Period Notice
 - Co-locating regulatory provisions
 - Streamlined processes

- Permits and licences reduced from 11 to 3
- Trade de-regulated
- Removal of return of operations
- Currency for permits and licences extended
 - Clearing from 6 months to 2 years
 - Harvesting and growing up to 5 years
- New fees to partially recover costs of assessment

Clearing – new requirements

- Regulatory effort focussed on clearing in high risk areas only
 - High risk areas identified on the flora survey trigger map
- Clearing in low risk areas generally exempt
- Cannot knowingly clear an EVNT in any area
- Flora surveys will need to be undertaken in accordance with the new flora survey guideline

Key steps...

- Determine if any exemptions apply to the clearing
- Check the flora survey trigger map
- Clearing within an area not identified as high risk
 - Activity is exempt unless person knows of EVNT presence.
- Clearing is within a high risk area
 - Flora survey required for any clearing proposed to identify presence of EVNT's, in accordance with the flora survey guideline.
 - A clearing permit will only be required where the clearing of EVNT's and/or their supporting habitat cannot be avoided
 - Applicant to submit application for protected plant clearing permit or an exempt clearing notification as required, with the flora survey report

Changes to clearing permit exemptions

- Exemptions have been moved out of the Act and placed with other exemptions in the regulations to make the structure of the protected plants legislation consistent with the structure of the Act and its other subordinate legislation.
- Exemptions are contained in Division 5 of WMR, starting at section 261X
- Exemptions that are no longer relevant or no longer required have been removed. Including:
 - Section 89 (1) (f)–(g) of the NCA
 - Section 41 of the Conservation Plan

Note: The taking of plants authorised under an exemption that was in force before the commencement of the new framework will continue.

New clearing permit exemptions

- If clearing is not in a high risk area and the person is not aware of the presence of EVNT plant species in the area to be cleared (s261Z).
 - A copy of the flora survey trigger map to be retained – 5 years
- When the flora survey demonstrates that EVNT species or their supporting habitat are not present in a high risk area, or can be avoided (s261ZA).
 - Flora survey report to be submitted to the department as part of an exempt clearing notification form.
- When re-clearing an area where the plants have already been legally cleared under a protected plants clearing permit or a specific exemption, and is no more than 10 years from the grant of the permit or authority (s261ZB).
- When the clearing is part of routine maintenance of existing infrastructure (s261ZC).

- When it is necessary to remove imminent risk to person or public property, or establish a fire break or fire management line (s261ZD).
- Clearing for thinning, weed control or encroachment that is authorised under the *Vegetation Management Act 1999* under a self assessable clearing code (s261ZE).
- When clearing has been authorised under another Act or law (s261ZF).
- Clearing for conservation purposes (s261ZG).

Changes to clearing permits

- Authorises clearing of an area of land rather than the number of individual species to be cleared.
- Currency period 2 years – reducing the need to reapply for permits where there are delays in clearing.
- A new permit fee (\$2500) has been put in place to partially recover the costs of administering the assessment process.

Fee concessions

A concession of 25% of the permit fee (\$625) is available for:

- Educational purpose
- Scientific purpose
- An activity directed at conservation
- Clearing to establish necessary property infrastructure
 - A fence
 - A firebreak
 - A road or vehicular track
- A traditional owner activity

Flora survey trigger map

- Shows high risk areas where flora surveys will need to be conducted before clearing can be permitted.
- To be reviewed at least every 12 months.
- Must be checked before any clearing activity to determine if any part of the area to be cleared is within a high risk area.
- Copy of map is valid for 12 months from date person obtains copy, except if obtained as part of an EIS.


High risk area: where plants that are endangered, vulnerable or near threatened wildlife are present or likely to be present.

EIS requirements (s261Z)

- Where a project is subject to an EIS approval, copy of flora survey trigger map valid for 5 years from the date Terms of Reference are published, obtained on or after that date
- Clearing must happen within 5 years from the ToR date
- Copy of the map must be retained for 5 years from the day the clearing started

Flora survey trigger map – web interface

<http://www.ehp.qld.gov.au/licences-permits/plants-animals/protected-plants/map-request.php>


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...strong environmental management supporting sustainable economic development.

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Protected Plants Flora Survey Trigger Map

The Protected Plants Flora Survey Trigger Map shows high risk areas for protected plants and is used to help determine flora survey and clearing permit requirements for a particular location. Areas shown on the map as high risk are subject to particular requirements under legislation.

Maps will be sent as PDF files to the email you nominate in the request form below. The scale of the maps will vary according to the size of the property or area requested. To maintain the correct scale, maps should be printed at A4.

If you have any problems using this service, please email_palm@ehp.qld.gov.au.

Find location by

Lot on Plan

Street address

Central coordinates (latitude and longitude)

Send map to


Email address

The information you enter is used to process your request and is logged for quality assurances purposes only.

About the Protected Plants Flora Survey Trigger Map

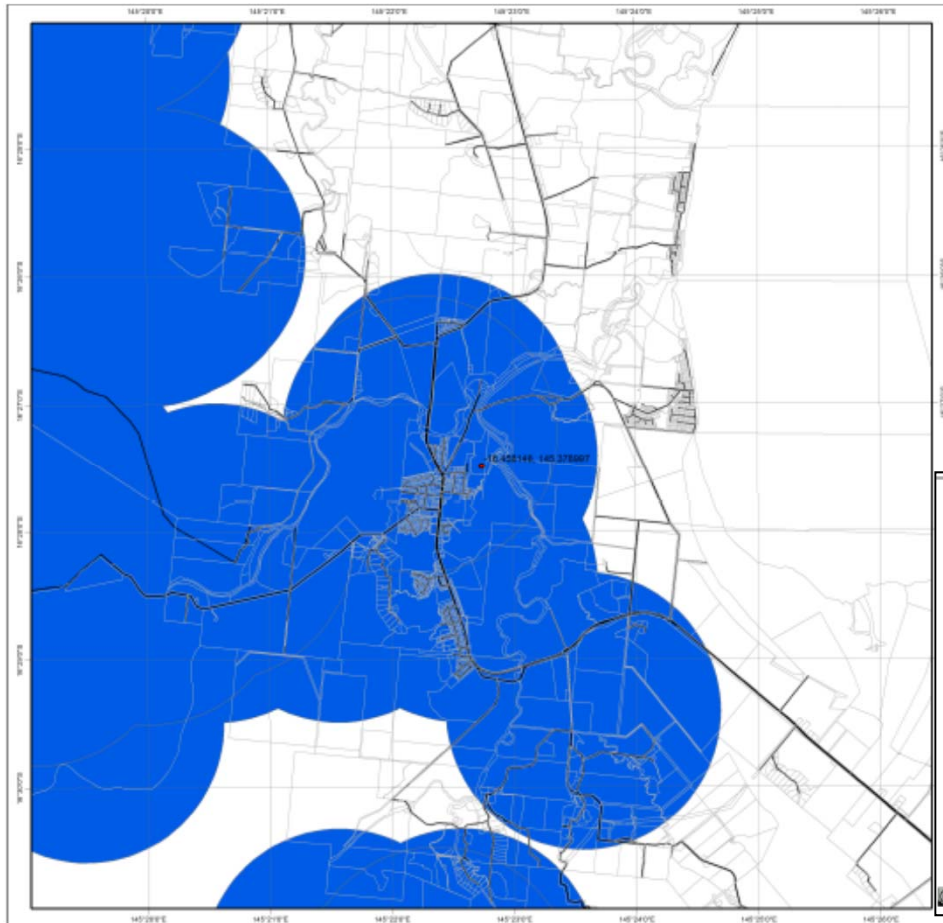
The Protected Plants Flora Survey Trigger Map shows high risk areas for protected plants and is to be used to help

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FLORA SURVEY TRIGGER MAP - MAP EXAMPLE -



Protected Plants Flora Survey Trigger Map

Legend

- Coordinates
- High risk area
- Cadastral line
Property boundaries shown are provided as a locational aid only
- Freeways / motorways / highways
- Secondary roads / streets




This map shows areas where particular provisions of the Nature Conservation Act 1992 apply to the clearing of protected plants.

This map is produced at a scale relevant to the size of the area selected and should be printed as A4 size in portrait orientation.


For further information or assistance with interpretation of this product, please contact the Department of Environment and Heritage Protection at palm@ehp.qld.gov.au

Disclaimer:
While every care is taken to ensure the accuracy of the data used to generate this product, the Queensland Government makes no representations or warranties about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damages) and costs which might be incurred as a consequence of reliance on the data, or as a result of the data being inaccurate or incomplete in any way and for any reason.



LOCALITY (DAGBAM)

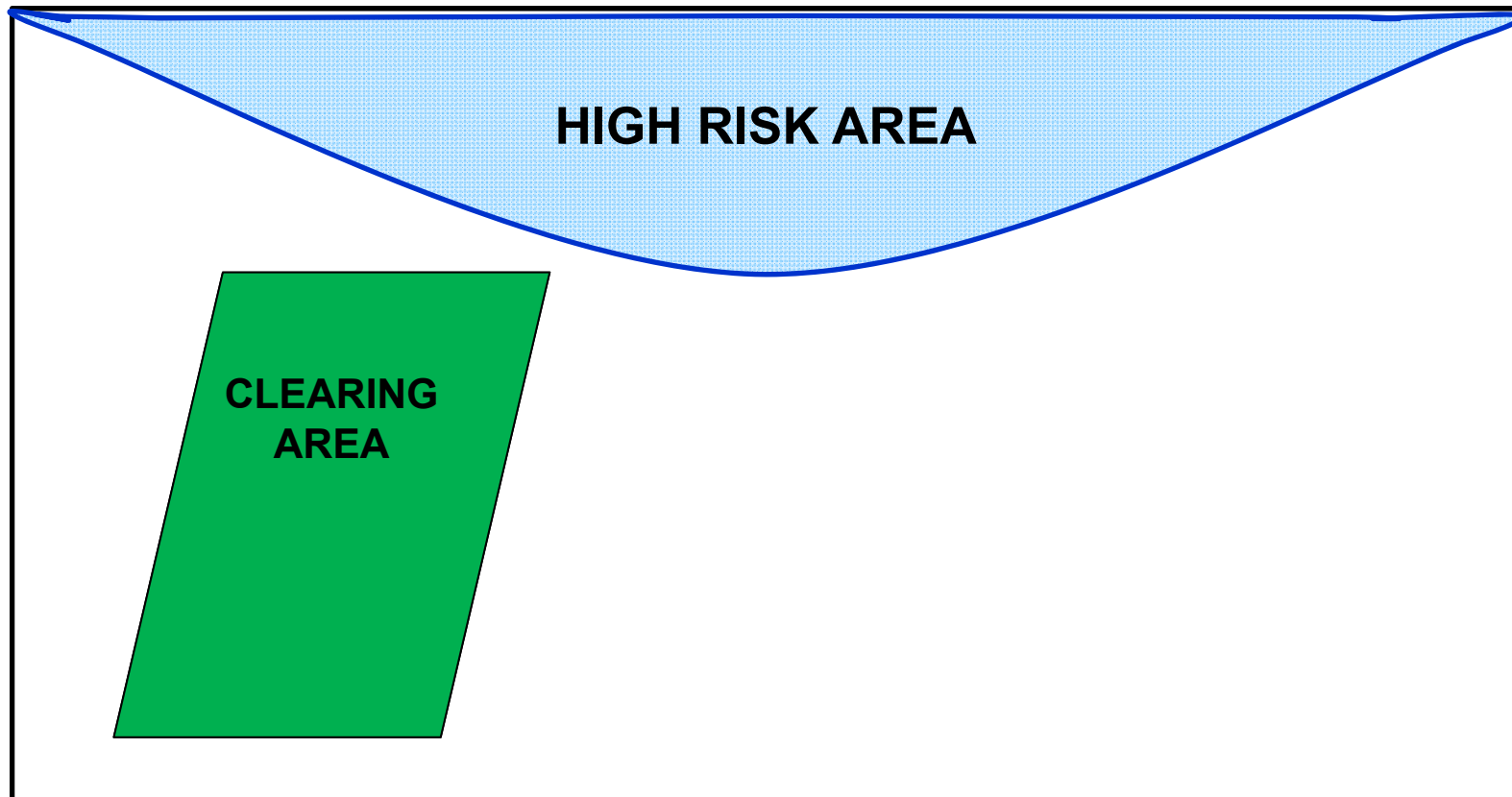
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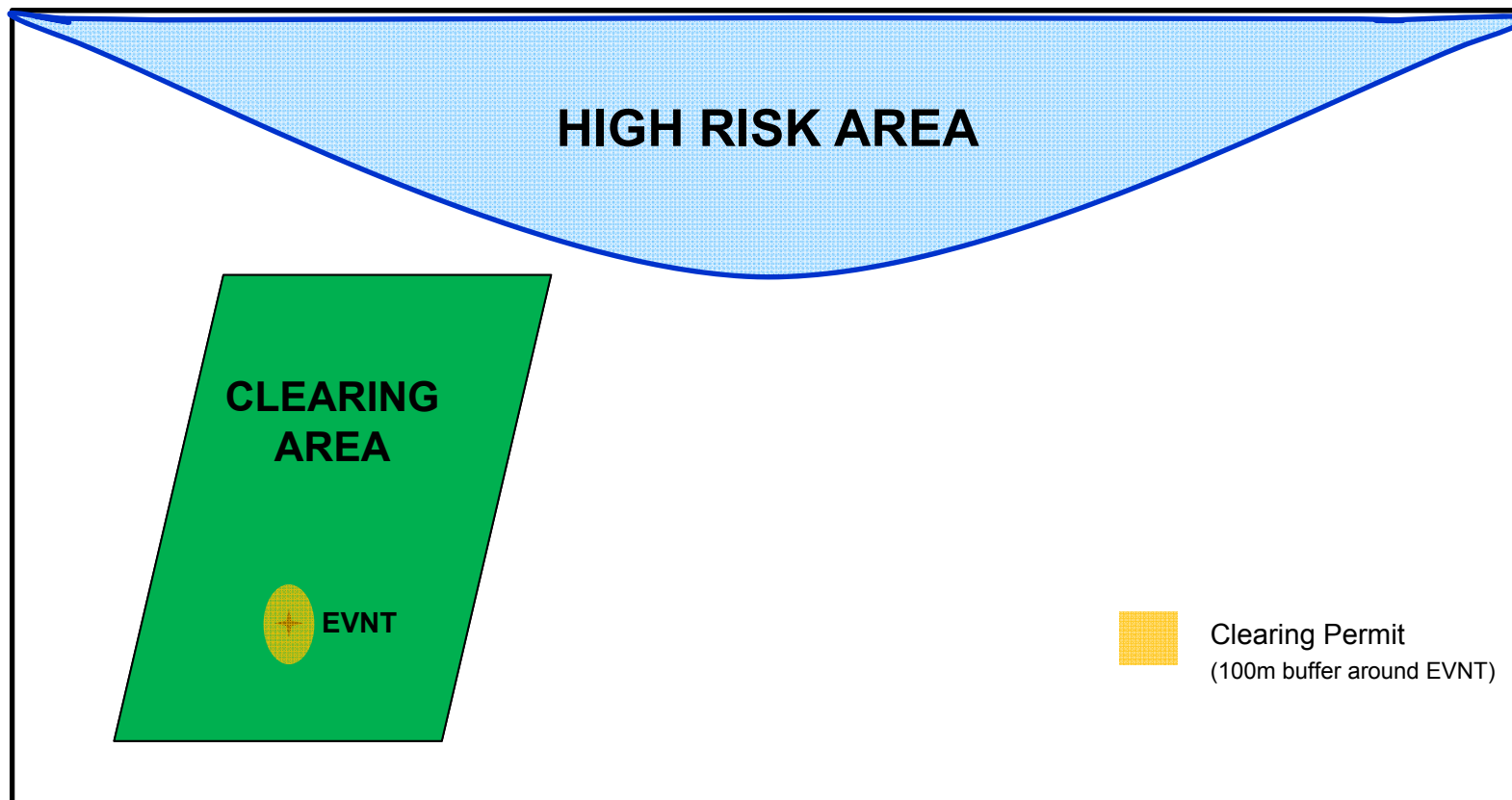
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NO FLORA SURVEY REQUIRED
NO CLEARING PERMIT REQUIRED



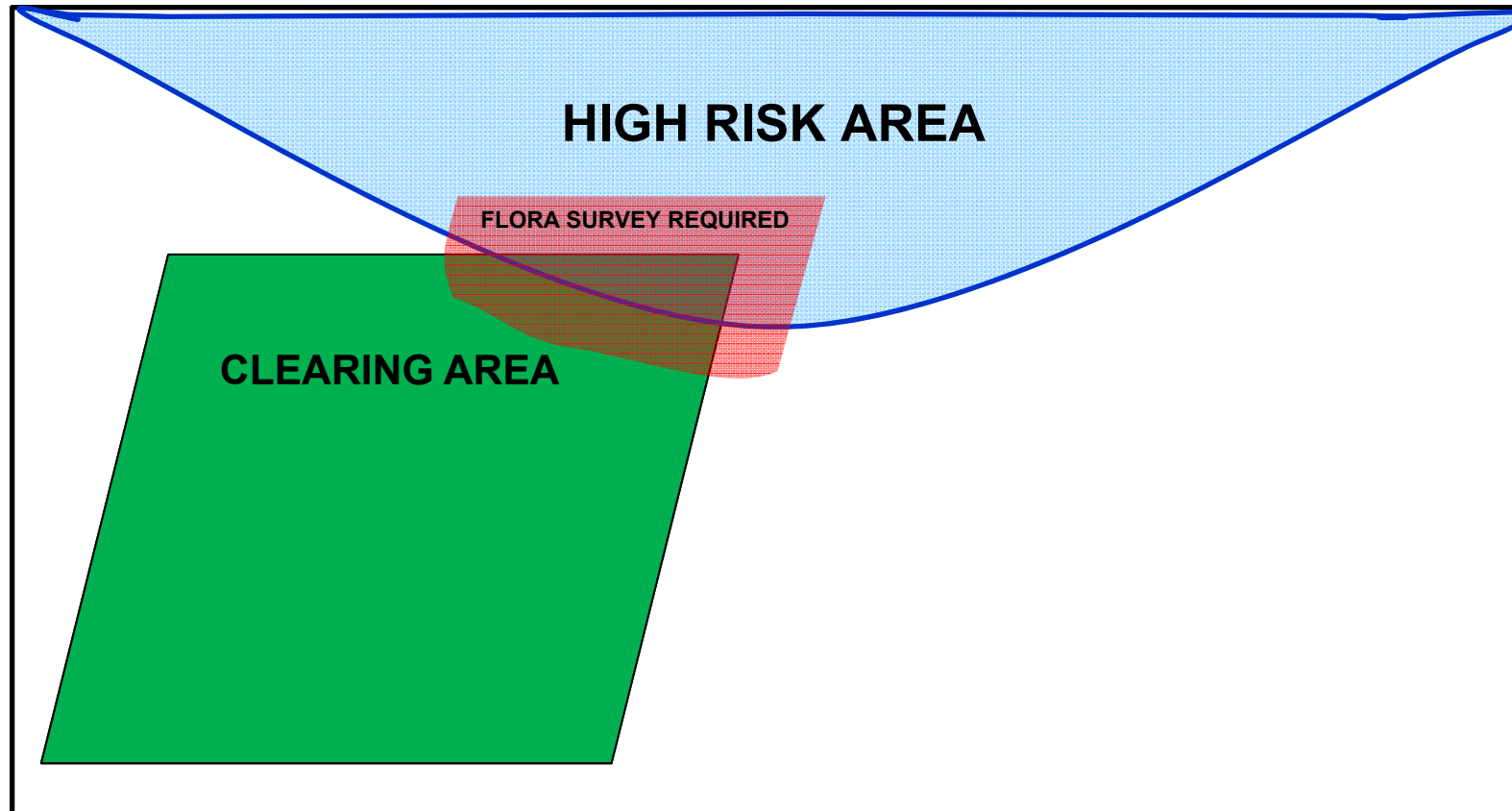
NO FLORA SURVEY REQUIRED

CLEARING PERMIT REQUIRED



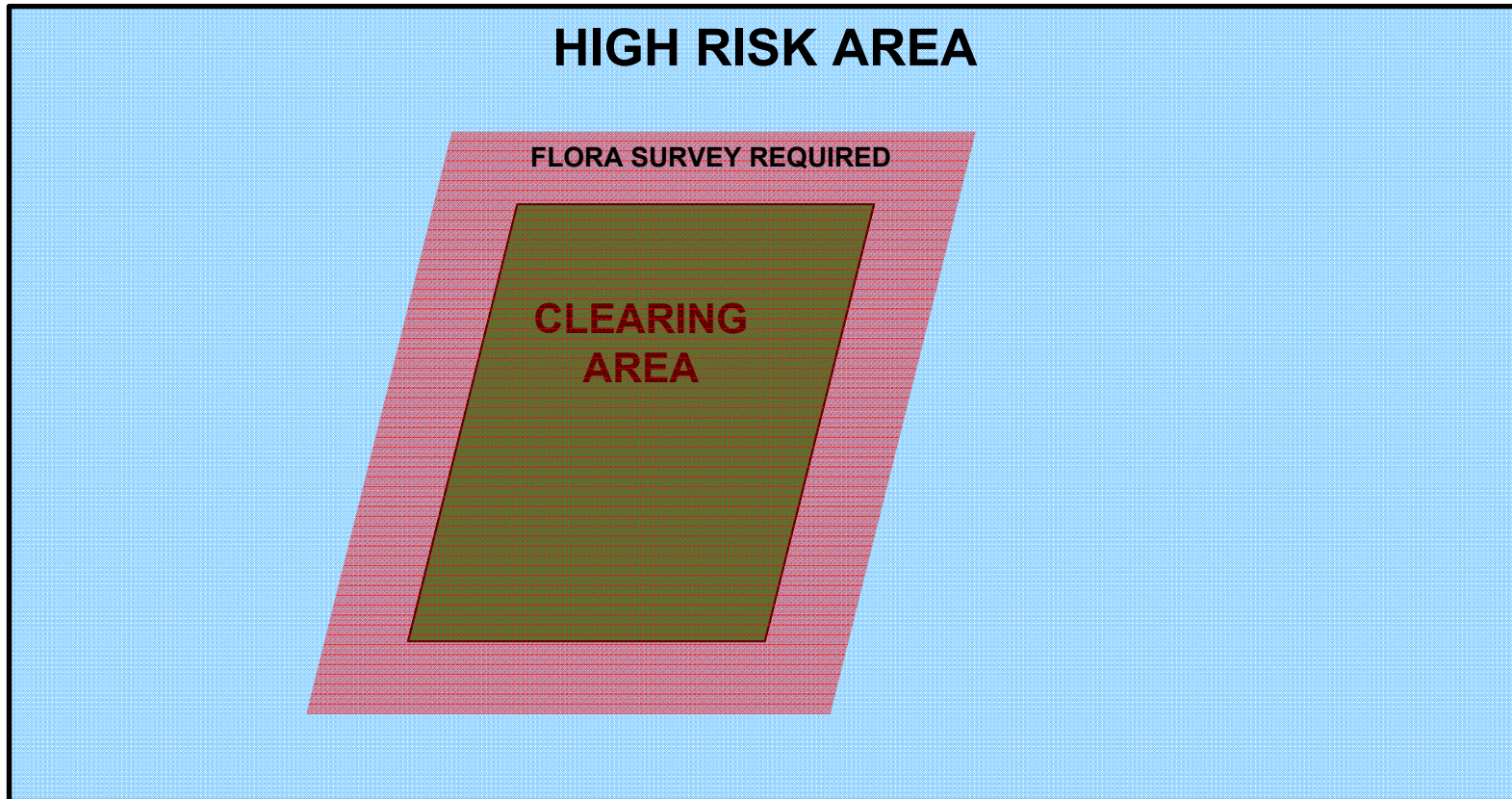
FLORA SURVEY REQUIRED

CLEARING PERMIT MAYBE REQUIRED



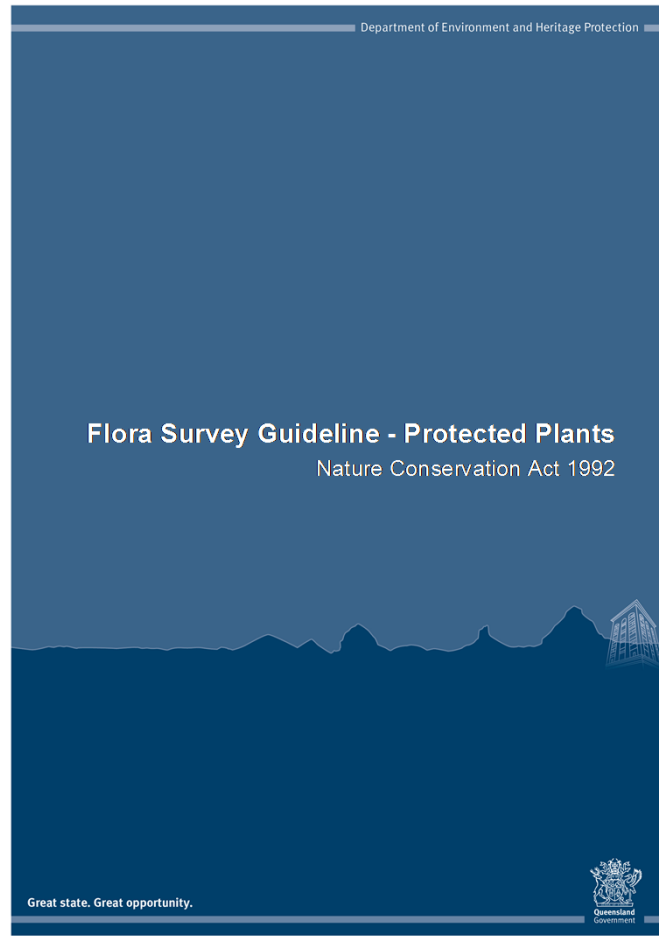
FLORA SURVEY REQUIRED

CLEARING PERMIT MAYBE REQUIRED



Flora survey guidelines

<http://www.ehp.qld.gov.au/licences-permits/plants-animals/documents/flora-survey-guidelines.pdf>



Section 253

- The flora survey guidelines contain requirements or provisions about the following
 - Who may conduct a flora survey
 - Extent of the area to be surveyed
 - Information to be included in a flora survey report, including, for example, a map or plan showing the clearing impact area.

Section 257

- Flora survey and report must comply with the flora survey guidelines or an alternative survey methodology agreed to be the chief executive

Use of alternative flora survey or buffer zone

- An applicant may apply to the department to use an alternative flora survey method, if it is suitable for identifying EVNT plants.
 - Refer to section 257 of the *Nature Conservation (Wildlife Management) Regulation 2006*.
- An applicant may also apply to the department to use a reduced buffer zone.
 - Where it is not reasonably practicable for a flora survey to be undertaken of a buffer zone that is 100m in width around the clearing.
 - The reduction in the width is consistent with the requirements of the flora survey guideline
 - Example: The applicant was unable to receive permission of the landholder to survey the buffer.*
 - Refer to section 249 of the *Nature Conservation (Wildlife Management) Regulation 2006*.

Use of alternative flora survey or buffer zone

How to apply?

- Apply to the department in writing, via Permit and Licence Management (PaLM) or by email to palm@ehp.qld.gov.au

Transitional requirements for flora surveys

- The Flora Survey Guideline provides a transitional ability to use an alternative flora survey and buffer zone.
- This applies when a flora survey was undertaken for the purposes of the Nature Conservation Act 1992, during the period of 31 March 2013 – 31 March 2014.
- The survey is taken to be valid and compliant with the purposes of the protected plants legislative framework, and will remain so for the period to 31 March 2015.

Impact management

- Impact management refers to the range of actions that reduce the level of impacts of clearing on the natural environment.
- Where an impact to protected plants is identified, an impact management plan must include:
 - Attempts to avoid and minimise impact
 - Description of the nature of impact
 - Proposed management of the impact
 - Justification for management of the impact
 - Survival of the plant in the wild

Offsets

- Offsets should be clearly distinguished from other impact management activities
- An offset compensates for residual impacts, after impact management requirements of the assessment guideline have been met.
- Will be assessed against the current government offset policy in place at the time.

Clearing permit application form

Department of Environment and Heritage Protection

Application form

Section 15 – Nature Conservation (Administration) Regulation 2006

Clearing permit (protected plants)

OFFICIAL USE ONLY

DATE RECEIVED

FILE NO

PROJECT REF

COMPLETE FORM? CORRECT AA?

COMPLETE FEE?

ADMINISTRATIVE DISTRICT

SIGNED BY (SIGNATURE)

DATE

Important information for applicants

This form is to be used to apply for a clearing permit. You need a clearing permit if your proposed activity involves the legitimate taking or destruction of protected plants in the wild, except where an exemption applies. Information requested will enable your application to be processed as prescribed by the *Nature Conservation Act 1992*. Your application must be assessed and a permit granted by the chief executive before you can proceed with the proposed activity. Your application may take up to 40 days to process.

Before completing your application please read the information materials included with your application kit. Before lodging this application you should be familiar with the requirements of the *Nature Conservation Act* available on the Office of the Queensland Parliamentary Counsel website <http://www.legislation.qld.gov.au>. If you have queries about how to complete this form correctly or need guidance contact Permit and Licence Management on 1300 130372.

Applicant information

A permit may only be granted to an individual or corporation. Please tick the appropriate box:

AN INDIVIDUAL → Complete Section 1 applicant details — then complete sections 3 to 9

A CORPORATION → Complete Section 2 applicant details — then complete sections 3 to 9

1. Applicant details for an individual

APPLICANT'S FAMILY NAME		TITLE
APPLICANT'S GIVEN NAMES		DATE OF BIRTH
RESIDENTIAL ADDRESS (NOT A PO BOX OFFICE BOX)		POST CODE
TELEPHONE (BUSINESS HOURS)	MOBILE	FACSIMILE
TELEPHONE (AFTER HOURS)	EMAIL	

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Applicant checklist

- Application form completed and signed
- Fees paid or enclosed
- Supporting information including:
 - Flora survey trigger map
 - Flora survey report (if applicable)
 - Report of known EVNT presence (if applicable)
 - Justification of alternative flora survey methodology (if applicable)
- Impact management plan

Harvest and use of protected plants

- The focus of regulating protected plant harvest is on sustainability rather than the purpose of the harvest.
- The blanket restriction on whole plant harvest of EVNT species and particular least concern species has been removed, creating new harvesting opportunities.
- A new category of special least concern has been introduced for least concern plants that were restricted under the previous framework because of their high commercial value or their specific biological traits that make them susceptible to unrestricted harvesting. Sandalwood has been added to this list.

Trade

- Trade of protected plants will be deregulated - a licence will no longer be required subject to meeting the code of practice.
- Record keeping and labelling requirements for EVNT and special least concern plants to provide evidence of plant sale or purchase and harvest.
- Tagging requirements for whole plant EVNT and special least concern plants will continue to apply.
- Trade of least concern plants, other than special least concern, will be exempt from all requirements.
- Export of plants will still managed through the Wildlife Trade Management Plan

Transitional arrangements – permits and exemptions

- Two year transitional period for existing holders of class exemption (if they wish to)
- Existing authorities will continue to be in force for the term provided for and are taken to be the equivalent authority under the new framework
- A discontinued authority will cease to have effect

Further advice and inquiries

All enquiries should be directed through Permit and Licence Management EHP at PALM@ehp.qld.gov.au