

# Information sheet

Planning Regulation 2017

## Exempted development in koala habitat areas on land dedicated as a road under the *Land Act 1994*

*This information sheet provides a plain English explanation of the items of the exempted development definition in Schedule 24 of the Planning Regulation 2017 that are relevant specifically to land dedicated as a road under the Land Act 1994.*

### 1 Background

On 7 February 2020, the Queensland Government introduced new planning controls to the Planning Regulation 2017 (Planning Regulation) 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*
- *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 habitat<sup>1</sup> 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)
- 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.

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<sup>1</sup> 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.

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### 2 Purpose

The purpose of this information sheet is to provide a plain English explanation of the items of the exempted development definition in Schedule 24 of the Planning Regulation 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 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*
- *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 (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 (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 (as summarised above) will be applicable to the development.

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**IMPORTANT:**

Development that is considered to be exempted development may be prohibited or assessable development under another part of the Planning Regulation 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*.

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**3 Exempted development in koala habitat areas on land dedicated as a road 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 that are applicable to land dedicated as a road under the *Land Act 1994*. You do not need permission from the Department of Environment, Science and Innovation’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)(iv)	Development that is or involves operational work that is the clearing of native vegetation in a koala habitat area if the clearing is on land dedicated as a road under the <i>Land Act 1994</i> and is stated in schedule 21, part 2, section 5(a)(i)	<p><b>Construction or maintenance of a road</b></p> <p>For land that is dedicated as a road under the <i>Land Act 1994</i>, clearing vegetation that is carried out by a local government, or by or for the chief executive (transport), is exempted development if the clearing is necessary to construct or maintain road transport infrastructure or to source construction material for roads.</p>
	Development that is or involves operational work that is the clearing of native vegetation in a koala habitat area if the clearing is on land dedicated as a road under the <i>Land Act 1994</i> and is stated in schedule 21, part 2, section 5(b)	<p><b>Removing non-native vegetation</b></p> <p>For land that is dedicated as a road under the <i>Land Act 1994</i>, clearing vegetation that is carried out by a local government is exempted development if the clearing is to remove vegetation:</p> <ul style="list-style-type: none"> <li>• that is not native vegetation</li> </ul> <p>or</p> <ul style="list-style-type: none"> <li>• in accordance with a biosecurity plan made by the local government under the <i>Biosecurity Act 2014</i>.</li> </ul>

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Development that is or involves operational work that is the clearing of native vegetation in a koala habitat area if the clearing is on land dedicated as a road under the <i>Land Act 1994</i> and is stated in schedule 21, part 2, section 5(c)	<p><b>Safety</b></p> <p>For land that is dedicated as a road under the <i>Land Act 1994</i>, clearing vegetation that is necessary to remove or reduce the imminent risk that the vegetation poses of serious personal injury or damage to infrastructure is exempted development.</p>
Development that is or involves operational work that is the clearing of native vegetation in a koala habitat area if the clearing is on land dedicated as a road under the <i>Land Act 1994</i> and is stated in schedule 21, part 2, section 5(d)	<p><b>Reducing hazardous fuel loads by fire</b></p> <p>For land that is dedicated as a road under the <i>Land Act 1994</i>, clearing vegetation by fire under the <i>Fire and Emergency Services Act 1990</i> to reduce hazardous fuel loads is exempted development.</p>
Development that is or involves operational work that is the clearing of native vegetation in a koala habitat area if the clearing is on land dedicated as a road under the <i>Land Act 1994</i> and is stated in schedule 21, part 2, section 5(e)	<p><b>Maintaining infrastructure</b></p> <p>For land that is dedicated as a road under the <i>Land Act 1994</i>, clearing vegetation that is necessary to maintain infrastructure on the road (other than fences) is exempted development.</p>
Development that is or involves operational work that is the clearing of native vegetation in a koala habitat area if the clearing is on land dedicated as a road under the <i>Land Act 1994</i> and is stated in schedule 21, part 2, section 5(f)	<p><b>Maintaining a boundary fence</b></p> <p>For land that is dedicated as a road under the <i>Land Act 1994</i>, clearing vegetation that is necessary to maintain a boundary fence to the maximum width of 3m is exempted development.</p>
Development that is or involves operational work that is the clearing of native vegetation in a koala habitat area if the clearing is on land dedicated as a road under the <i>Land Act 1994</i> and is stated in schedule 21, part 2, section 5(g)	<p><b>Reasonable access</b></p> <p>For land that is dedicated as a road under the <i>Land Act 1994</i>, clearing vegetation that is necessary for reasonable access to adjoining land from the formed road is exempted development if the maximum width of the clearing is 10m.</p>

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	<p>Development that is or involves operational work that is the clearing of native vegetation in a koala habitat area if the clearing is on land dedicated as a road under the <i>Land Act 1994</i> and is stated in schedule 21, part 2, section 5(h)</p>	<p><b>Maintaining a firebreak or garden</b></p> <p>For land that is dedicated as a road under the <i>Land Act 1994</i>, clearing vegetation that is necessary to maintain a firebreak or garden on the road is exempted development.</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><b>Category X PMAV</b></p> <p>For land that is dedicated as a road under the <i>Land Act 1994</i>, clearing native vegetation is exempted development if all the below criteria are met:</p> <ul style="list-style-type: none"> <li>• the clearing is in an area shown on a PMAV as a category X area</li> <li>• the application for the PMAV was made before 7 February 2020</li> <li>• the clearing is carried out by a local government or by, or for, the chief executive (transport).</li> </ul>

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**Human Rights Act 2019 compatibility**

The department is committed to respecting, protecting and promoting human rights. Under the [Human Rights Act 2019](#), the department has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights. When acting or making a decision under this information sheet, officers must comply with that obligation (refer to [Comply with Human Rights Act](#)).

**Disclaimer**

While this document has been prepared with care it contains general information and does not profess to offer legal, professional or commercial advice. The Queensland Government accepts no liability for any external decisions or actions taken on the basis of this document. Persons external to the Department of Environment, Science and Innovation should satisfy themselves independently and by consulting their own professional advisors before embarking on any proposed course of action.

**Approved By**

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Signature

30/11/2023

Date

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