

Scenarios to measure regulatory settings relating to natural hazard risk management across Australian States and Territories

Notice to Give NTG-HB2-041

Response by the State of Queensland

Scenario 1: H the Homeowner

Physical/Environmental: Person H is a homeowner in a rural-urban interface area. H's property of 2000m² borders a forested bushland area. The property contains a single-level house of 200m² which was built in the 1970s and has not been assessed for natural hazard resilience. The property has a number of native plants and trees present between H's house and the edge of the property, to within 5m of the house.

Known development controls (e.g. overlays): The property is identified under a bushfire risk overlay.

Additional factors: One edge of the property borders a state forest. Another edge borders bushland of the same type on a private property.

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1. Describe, including with reference to relevant sections and provisions, the planning and environment laws and regulations that apply to the activities (excluding those that do not relate to natural hazard	No applicable regulatory instruments. H does not plan making further developments or building new developments. In such circumstances, the bushfire risk overlay does not oblige H to take further action.	The <i>Planning Act</i> and the <i>Building Act</i> apply. The development may require a planning approval and a building approval. Under a local categorising instrument such as a planning scheme, development within a bushfire overlay is generally made assessable, triggering the need for a development application, as well as assessment against a bushfire	Queensland has adopted AS 3959 'Construction of Buildings in Bushfire-prone Areas'. AS 3959 is referenced in the BCA and was adopted by Queensland from 1 May 2010 by its incorporation into the Queensland Development Code (which code had commenced earlier: on 1 October 2009). Section 12 of the <i>Building Regulation</i> 2006 made under the <i>Building Act</i> permits (but does not compel) local planning schemes to	Whether H is <i>required</i> to comply with AS 3959 will depend upon whether H's home is within an area designated as bushfire-prone by the local council. If the area is so designated, then the applicable standard will be AS 3959 (as adopted by the BCA). If the relevant local planning scheme has an older Bushfire hazard overlay prepared under	Schedule 21 of the <i>Planning Regulation</i> 2017 contains a list of 'exempt clearing work', for which no development permit is required. Section 261ZD of the <i>Nature Conservation (Wildlife Management) Regulation</i> 2006 similarly exempts clearing of protected plants for establishing or maintaining a firebreak or fire management line.

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risk management)?		<p>overlay code within the local planning scheme.</p> <p>However, whether H's extension will, in fact, require development approval will depend on the specific local planning instrument that applies.</p> <p>A 50m² extension will generally require a building permit (only). These are issued by building certifiers under the <i>Building Act</i>. For work in a bushfire prone area where the local government has called up the requirements of the BCA, the certifier decides whether it is reasonable and practical to require the extension to comply with the requirements of AS 3959. If, for example, the extension included a decking area that significantly increased the vulnerability of the building to ember attack, the Building Certifier could require the deck to comply with AS 3959.</p>	designate 'bushfire-prone' areas for the purposes of applying the BCA.	State Planning Policy 1/03, then the Designated bushfire prone area may incorporate a 50m wide potential impact buffer for medium bushfire potential area. In that particular case, building works within 50m to 100m of hazardous vegetation may not require construction to AS 3959.	
2. Are there thresholds at which the activity does not trigger	Not applicable – no activity planned.	Sections 61 and 81 of the <i>Building Act</i> may trigger AS 3959.	Building work necessary to comply with AS 3959 for a flame zone	Possibly. It is unclear what the purpose of the upgrade or rebuild involves. It is assumed the purpose does not include	The proposed activity will not trigger regulatory requirements

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regulatory requirements or at which requirements vary?		Schedule 6, Part 2 (2) of the <i>Planning Regulation 2017</i> is relevant to premises 1,999m ² and under involving a material change of use for a residential dwelling. If the requirements of this section are engaged, a local government's categorising instrument cannot regulate the development.	<p>Bushfire Attack Level is likely to include:</p> <ul style="list-style-type: none"> Removal of roofing, fitting fire resistant sarking, and battens and sealing all gaps greater than 2mm across roof structure Sealing guttering and replacing combustible soffits, and fascia Replacing combustible cladding and wall framing. <p>This extent of work will likely trigger the need for a building permit, and for compliance with AS 3959.</p>	<p>making the building more resilient to bushfires – i.e. the purpose is an extensive renovation for 'lifestyle and amenity'.</p> <p>Where the work involves more than half the total volume of the existing building or structure, the certifier may require the entire structure to comply with the current requirements of the BCA.</p> <p>In light of the risk posed by bushfire, the certifier could require the entire building to comply with AS 3959. This will apply to both any additions and the original structure.¹</p>	<p>unless the property contains regulated native vegetation.²</p> <p>In the unlikely event that a property of this size and location includes regulated native vegetation, the proposed fire break is likely 'exempt clearing work' under the <i>Planning Regulation</i> and does not require approval because it is necessary to protect buildings and other structures, and the area to be cleared is up to a width of up to 1.5 times the height of the tallest vegetation next to the infrastructure or 20m (whichever is wider). A 10m fire management line could also be cleared around the perimeter of the property without requiring approval.</p> <p>Local Councils may have their own requirements, which are not covered here.</p>
3. Which organisations or people will the person or	Not applicable – no activity planned.	H's local council, for development approval (if required).	H's local council, for development approval (if required). Otherwise, building certifier only.	H's local council, for development approval.	As clearing is likely exempt, no contact with any organisation is required.

¹ See *Building Act 1975* (Qld), s 81.

² 'Regulated native vegetation' is woody vegetation shown as Category A, B, C, or R on a Regulated Vegetation Management Map. Landholders may obtain vegetation maps of their property free of charge at <https://www.qld.gov.au/environment/land/management/vegetation/maps/map-request>

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business be required to contact during these processes?		A building permit will be required for an extension of this size. Applications for permits are made to either a private building certifier or the relevant local government.		Otherwise, building certifier only.	
4. What prescribed form/s need to be completed during any of these processes?	Not applicable – no activity planned.	Applicants use the State's development assessment forms (DA forms) for both a development approval and a building approval. ³ The local government may have additional forms. Building work is 'development' under the <i>Planning Act</i> . Applications for a building permit are made under that Act and will generally involve a Form 1 with sufficient supporting documentation to establish that the proposed work will meet the requirements of the BCA.	As for Activity B.	As for Activity B.	No form is required for exempt clearing work.
5. What is the prescribed timeframe for providing decisions for the activity, where applicable?	Not applicable – no planned activity.	Development assessment: The statutory timeframes for development assessment will depend on whether the development triggers local government assessment against the local planning	As per Activity B.	As per Activity B.	No decision is required.

³ The forms can be found at: <https://planning.dsdmip.qld.gov.au/planning/better-development/application-forms-and-templates>

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(Together with average processing times/possible ranges (shortest to longest) in practice)		<p>scheme. The level of assessment, depending on the development, may trigger either code or impact assessment. Timeframes for code assessable applications range from 45-75 business days and impact assessable applications range from 60-100 business days. A range of factors determine the assessment timeframes (e.g. if the application triggers any referrals, information requests and/or public notification).</p> <p>Building permit: Generally, assessment managers under the <i>Planning Act</i>, which include building certifiers, have 20 business days to assess an application. This can be extended for a further period of 20 business days where there is a request for further information to support an application.</p>			
6. What costs will be incurred by the person or business in	Not applicable – no planned activity.	<p>Application fees are determined by relevant local government.</p> <p>Private building certifiers set the fees to assess applications</p>	As per Activity B.	As per Activity B.	<p>H will incur the costs of carrying out the clearing.</p> <p>No fee applies.</p>

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completing these processes?		for building permits and to inspect work.			
7. What are the costs and/or legal ramifications of non-compliance or mistakes?	Not applicable – no planned activity.	<p>It is an offence to:</p> <ul style="list-style-type: none"> undertake assessable development without a development permit: <i>Planning Act</i> s 163. fail to comply with the requirements of a development approval: <i>Planning Act</i> s 164. Here this will include compliance with AS 3959. <p>The maximum penalty for these offences is 4,500 penalty units (\$600,525).</p> <p>Where building work does not comply with the BCA, local governments also have enforcement notice and show cause powers to require owners to make building work compliant.</p>	<p>There is no cost or sanction in not making the upgrade or rebuild. Any upgrade or rebuild must be in accordance with the approval and the BCA and any imposed conditions.</p> <p>It is an offence to:</p> <ul style="list-style-type: none"> undertake assessable development without a development permit: <i>Planning Act</i> s 163. fail to comply with the requirements of a development approval: <i>Planning Act</i> s 164. Here this will include compliance with AS 3959. <p>The maximum penalty is 4,500 penalty units (\$600,525).</p> <p>Where building work does not comply with the BCA, local governments have enforcement notice and show cause powers to require owners to make building work compliant.</p>	As per Activity C.	No compliance is required with respect to exempt development.

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8. What guidance or other assistance is available to help navigate these processes?	Not applicable – no planned activity.	Information and supporting resources relating to the planning framework are available on the Queensland Government website. ⁴	As per Activity B.	As per Activity B.	<p>Easy-to-follow assistance appears on the Queensland Government website.⁵</p> <p>DNRME can also be contacted directly by calling 135 VEG (135 834) or emailing vegetation@dnrme.qld.gov.au. Emails are normally answered the same or following day. All emails are answered within 5 days.</p> <p>For protected plant matters, information is available on the DES website⁶. Proponents can contact DES for advice.</p>

Scenario 2: F the Farmer

Physical/Environmental: Person F is a farmer in a rural area. F's property of 4,000 hectares is mainly grassland used for farming purposes, but also contains forested bushland. The property contains a multi-level farmhouse with some natural hazard mitigation measures (for example, sprinklers on the roof) that have not been built in consultation with any regulatory processes, and a number of sheds, fences and dams. The property does not have access to mains water. The area around the built assets, excluding the fencing, is well cleared.

Known development controls (e.g. overlays): The property is identified under both a bushfire risk overlay and a flood risk overlay.

Additional factors: Threatened flora and fauna is present on parts of the property. The property borders a national park on one side.

⁴ <https://planning.dsdmip.qld.gov.au/planning/our-planning-system>

⁵ <https://www.qld.gov.au/environment/land/management/vegetation/clearing-codes/notification>

⁶ <https://www.qld.gov.au/environment/plants-animals/plants/protected-plants/clearing>

Question	Activity A: F is not planning on altering their property. (I.e. are there any obligations on an individual in the absence of them making any changes to their property?)	Activity B: F would like to undertake hazard reduction burns on their property to minimise their bushfire risk.	Activity C: F would like to undertake mechanical clearing on their property and in the bordering national park to minimise bushfire risk.	Activity D: F would like to graze their livestock in the bordering national park, stating an intention to minimise bushfire risk.
1. Describe, including with reference to relevant sections and provisions, the planning and environment laws and regulations that apply to the activities (excluding those that do not relate to natural hazard risk management)?	No applicable regulatory instruments. F does not plan on making further developments or building new developments, so the bushfire risk overlay or flood mapping overlay do not oblige F to take any further action.	<p>Undertaking a hazard reduction burn to reduce excess fuel load constitutes exempt clearing under the <i>Planning Regulation</i> 2017.</p> <p>Hazard reduction burning on private property may be carried out if the landholder obtains a Permit to Light Fire from their local RFS Fire Warden.</p> <p>Section 65 of the <i>Fire and Emergency Services Act</i> allows a person to apply to the Commissioner for a permit to light a fire on any land.</p> <p>A fire ban or State of Fire Emergency may prohibit hazard reduction burning even if a Permit to Light Fire has been granted.⁷</p> <p>A local government may also impose a local law which restricts or prohibits the lighting of a fire in all or part of a local government area.</p>	<p>The proposed mechanical clearing on F's property:</p> <ul style="list-style-type: none"> will not trigger regulatory requirements unless it is regulated native vegetation if clearing of regulated native vegetation is involved, will not require approval if it falls within 'exempt clearing work' under the <i>Planning Regulation</i> 2017. In some cases, clearing of regulated native vegetation could be undertaken using a self-assessable code. <p>Clearing of regulated native vegetation beyond that permitted by the exemptions and a code would require development approval.</p> <p>Section 261ZD of the <i>Nature Conservation (Wildlife Management) Regulation</i> 2006 similarly creates an exemption for the removal of protected plants. If the exemption does not apply, then the landowner is required to comply with the protected plants clearing framework.</p> <p>Where private property neighbours a national park, DES's 'good neighbour' policy describes how DES will engage and cooperate with neighbours in the management of fire across boundaries. This ordinarily works by the landholder and DES representatives establishing and maintaining fire lines on their respective side of the boundary line</p>	<p>Grazing in a national park can be permitted by DES where scientifically proven to be the only practicable mechanism to protect or restore natural or cultural values, such as where it is being used to control weeds in fire sensitive ecological communities. However, there are methods which are, generally speaking, more effective to manage fuel loads in national parks.</p> <p>Where grazing is being undertaken in this manner, a Special Management Area (controlled action) is declared under section 42A of the <i>Nature Conservation Act</i>.</p>

⁷*Fire and Emergency Services Act* 1990 (Qld), s 86E and s 87.

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			<p>where practicable. Within the National Park, DES has responsibility for undertaking any such work but may authorise the neighbour to do this work in line with its Good Neighbour Policy.</p> <p>F can liaise with DES to request a cooperative approach to hazard reduction activities in the National Park.</p> <p>It is unlawful to undertake clearing on a national park without prior approval from DES under the <i>Nature Conservation Act</i>, including to minimise bushfire risk.</p>	
2. Are there thresholds at which the activity does not trigger regulatory requirements or at which requirements vary?	Not applicable – no planned activity.	There are exemptions for minor matters, eg fires not exceeding 2 metres in dimension.	<p>Vegetation which is not regulated native vegetation may be cleared without approval.</p> <p>For mechanical clearing of regulated native vegetation on F's property:</p> <ul style="list-style-type: none"> F could clear fire breaks necessary to protect buildings and other structures, and the area to be cleared is up to a width of up to 1.5 times the height of the tallest vegetation next to the infrastructure, or 20m (whichever is wider). A 10m fire management line could also be cleared around the perimeter of the property where necessary as exempt clearing work. Clearing firebreaks up to 30m may be permitted by simply giving notice under the Accepted development vegetation clearing code.⁸ 	No.

⁸ The Code applies to remnant vegetation (Category B areas) and regulated regrowth vegetation (Category C and R areas).

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			<p>Clearing for a firebreak under the code is permitted if it is located on a non-coastal lot, and the firebreak does not exceed 30m.</p> <ul style="list-style-type: none"> Clearing beyond this will require development approval and may also require a Protected Plant Clearing Permit.⁹ <p>For mechanical clearing in the National Park, no exemptions apply. However DES may authorise the neighbour to maintain a fireline on the National Park consistent with its good neighbour policy.</p>	
3. Which organisations or people will the person or business be required to contact during these processes?	Not applicable – no planned activity.	<p>Fire Warden for F's local district.</p> <p>Before an application for a Permit to Light Fire can be made, F must take reasonable steps to notify every occupier of adjoining land of the permit application and give them a reasonable opportunity to object.¹⁰</p> <p>Unless F's Permit to Light Fire exempts F from doing so, F must contact the local QFES Fire Communications Centre and local Rural Fire Brigade just prior to lighting the fire, so that they avoid unnecessary emergency responses.</p>	<p>In relation to clearing on F's property, exempt clearing work and notifications do not require any contact with a department.</p> <p>Development applications for clearing regulated native vegetation are managed by the State Assessment and Referral Agency (SARA). Protected Plant Clearing Permits are managed by DES.</p> <p>For clearing on a National Park, landholders in F's position liaise with DES by direct contact. This is by a regional approach in which rangers work with park neighbours through management strategies. This is to identify need for hazard mitigation measures. DES works with its neighbours to do this together.</p>	DES, as the land manager of the National Park (through Queensland Parks and Wildlife Service (QPWS)).

⁹ See <https://www.qld.gov.au/environment/plants-animals/plants/protected-plants/clearing#pp-clearing-permits>

¹⁰ Fire and Emergency Services Act 1990 (Qld), s 65(3).

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		F's Permit to Light Fire may specify additional people who must be notified when F intends to light the fire.		
4. What prescribed form/s need to be completed during any of these processes?	Not applicable – no planned activity.	An Application for Permit to Light Fire is made. The form is available on the Rural Fire Service website. ¹¹ It can also be made orally. Fire Wardens have the discretion to be flexible about how they receive a permit application.	No form is required for exempt clearing work. Notification under the Accepted development vegetation clearing code may be given online or using a hard-copy form. ¹² Development applications are made using the relevant prescribed form. The Application for a Protected Plant Clearing Permit is available on the DES website. ¹³ In relation to clearing on a National Park, the process described in response to Question 3 above is structured but not formalised. The DES website contains information about this, as well as how protection strategies are negotiated.	There are no prescribed forms.
5. What is the prescribed timeframe for providing decisions for the activity, where applicable? (Together with average processing times/possible ranges)	Not applicable – no planned activity.	Permit applications are usually decided very quickly. There is no prescribed timeframe. The time taken to decide a Permit to Light Fire application will vary depending on the region, including the prevailing fire conditions, the volume of applications and	Notification under the Accepted development vegetation clearing code is given (and acknowledged) virtually instantaneously. Development approvals follow statutory timeframes and must be made within 20-35 business days. An Application for a Protected Plant Clearing Permit is to be decided within 40 business days, although	There are no prescribed or ordinary timeframes. Requests for grazing on National Parks are considered on an individual basis. The decision to declare a Special Management Area over a National Park to

¹¹ https://www.ruralfire.qld.gov.au/Using_Fire_Outdoors/Documents/CSO-010-ExplanatoryNotes.pdf

¹² <https://www.qld.gov.au/environment/land/management/vegetation/clearing-codes/notification>

¹³ <https://www.qld.gov.au/environment/land/management/vegetation/clearing-codes/notification>

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(shortest to longest) in practice)		whether the application is accompanied by sufficient supporting information.	this timeframe may be extended if additional information is required. The average decision time is 31.8 days.	allow grazing is generally one made by DES (through QPWS). In some circumstances, DES will invite a grazier to apply through an expression of interest process.
6. What costs will be incurred by the person or business in completing these processes?	Not applicable – no planned activity.	F will incur the costs (labour and equipment) of carrying out the hazard reduction burning. There are no charges for Permits to Light Fire.	F will incur the costs of carrying out the clearing. There is no fee for exempt clearing work. There is no fee incurred to notify clearing under an Accepted development vegetation clearing code and the process is simple, so does not require professional assistance. Development approvals and Protected Plant Clearing Permits have prescribed fees. Under the DES Good Neighbour Policy, the cost of establishing and managing boundary infrastructure such as fences and fire lines are negotiated between DES and the respective neighbour. These costs are generally shared.	F will incur any costs associated with carrying out the grazing.
7. What are the costs and/or legal ramifications of non-compliance or mistakes?	Not applicable – no planned activity.	If F does not obtain a Permit to Light Fire before conducting the burn, F commits an offence against the <i>Fire and Emergency Services Act</i> . ¹⁴ The maximum penalty is 50 penalty units (currently \$6,672.50) or 6 months imprisonment.	It may be an offence to clear regulated native vegetation that is not consistent with an exemption, with the Accepted development vegetation clearing code or a development approval: <i>Planning Act</i> s 163.	Grazing carried on without a permit, or not in compliance with the conditions of the permit, risks damage to the National Park. In addition, fuel load management may be less effective.

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		<p>Likewise, if F does not comply with any conditions contained in that Permit, F will also commit an offence, which carries the same penalty.¹⁵</p> <p>By s 74 of the <i>Fire and Emergency Services Act</i>, if the hazard reduction burn is under a permit and is undertaken in accordance with the conditions, the holder is not be liable for damages if the fire escapes.</p> <p>If F loses control of the planned burn, there can be damage to property and infrastructure (which can at times be extensive) from a failure to control the burning. (This is what is suspected to have caused the Cooroibah fire in November 2019).</p>	<p>Non-compliance can result in a cost to the environment by the loss of biodiversity values.</p> <p>Taking, keeping, using and/or interfering with the natural and cultural resources of a national park without authority is an offence under section 62 of the <i>Nature Conservation Act</i>.</p> <p>Likewise, the unauthorised taking of protected plants is an offence under s 89 of the <i>Nature Conservation Act</i>. Penalties depend upon the severity of the offence.</p>	<p>Taking, keeping, using and/or interfering with the natural and cultural resources of a National Park without authority is an offence under section 62 of the <i>Nature Conservation Act</i>.</p>
8. What guidance or other assistance is available to help navigate these processes?	Not applicable – no planned activity.	Information is available on the Rural Fire Service website. ¹⁶	<p>For the Accepted development vegetation clearing code, plain language, easy-to-follow assistance appears on the Queensland Government website.¹⁷</p> <p>DNRME can also be contacted directly by calling 135 VEG (135 834) or emailing vegetation@dnrme.qld.gov.au. Emails are normally</p>	Information is available on the DES website. ¹⁹ That information is easy to follow and in plain language.

¹⁵ *Fire and Emergency Services Act 1990* (Qld), s 72.

¹⁶ https://www.ruralfire.qld.gov.au/Using_Fire_Outdoors/Pages/Obtaining-a-Permit-to-Light-Fire.aspx

¹⁷ <https://www.qld.gov.au/environment/land/management/vegetation/clearing-codes/notification>

¹⁹ https://parks.des.qld.gov.au/managing/commercial-activities/grazing_on_qpws_estate.html

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			<p>answered the same or following day. All emails are answered within 5 days.</p> <p>For protected plant matters, information is available on the DES website¹⁸. Also, proponents can contact DES for advice or request a pre-lodgement meeting.</p>	

Scenario 3: D the Property Developer

Physical/Environmental: Company D is a property developer which has purchased former farmland totalling 400 hectares on the rural-urban interface, with the intention of building a residential development of up to 500 houses. The land is mainly grassland, with some forested bushland and a small area of wetlands. There are around 10 existing buildings on the property that the developer plans on demolishing.

Known development controls (e.g. overlays): Part of the land area is within a bushfire overlay, and part is within a flood overlay. These overlays do not overlap.

Additional factors: The wetlands area borders a nationally threatened ecological community. Threatened fauna also cross from this area into the privately owned wetlands.

Question	Activity A: D would like to build up to 500 houses to comply with the minimum requirements relating to natural hazard risk.	Activity B: D would like to build up to 500 houses to comply with best practice relating to managing natural hazard risk.
<p>1. Describe, including with reference to relevant sections and provisions, the planning and environment laws and regulations that apply to the activities (excluding those that do not relate to natural hazard risk management)?</p>	<p>The <i>Planning Act</i> will likely apply to the development.</p> <p>If the zoning and any relevant regional plans permit, the change from rural to urban would require a development application for a material change of use, reconfiguration of a lot and operational work. This would be assessed under the applicable local planning scheme. Local councils may seek advice from QFES in deciding whether to grant approval and, if so, what conditions ought to attach to the decision notice.</p> <p>Local government assessment of the development application would need to have regard to the relevant assessment benchmarks within the local planning scheme. If the local planning scheme has not appropriately integrated the State Planning Policy, then the SPP prevails to the extent of any inconsistency and the local government must assess the application against the relevant policies and assessment benchmarks in the SPP. This applies to both code and impact assessment, to the extent of any inconsistency.</p> <p>If there exists a matter of State interest (for example with respect to natural hazards, risk and resilience – bushfire or flood) , then the State Planning Policy requires that the assessment manager or referral agency have regard to the SPP when considering the development application.</p> <p>These requirements apply in addition to any other assessment benchmarks for the development, including in a local planning instrument. State interest policies and the assessment benchmarks, contained in Part E of the SPP, are expressed as performance outcomes for the purpose of development assessment.</p>	<p>As for Activity A. In Queensland, minimum requirements are consistent with best practice and no distinction is made between the two.</p> <p>The BCA is a performance document. The building certifier will consider whether the proposed ‘best practice’ solutions provide an equivalent or higher level of resilience to bushfire attack than is achieved under AS 3959. The certifier will need to be given sufficient evidence, including engineering analysis. If the certifier is satisfied of equivalency with AS 3959, then a ‘best practice’ outcome will be approved.</p>

Question	Activity A: D would like to build up to 500 houses to comply with the minimum requirements relating to natural hazard risk.	Activity B: D would like to build up to 500 houses to comply with best practice relating to managing natural hazard risk.
	<p>The development may also trigger assessment for any clearing of regulated native vegetation or clearing as a result of the material change of use: <i>Planning Regulation 2017</i>, Schedule 10, Part 3, Division 4, Table 3 .</p> <p>Approval under the <i>Environmental Protection Biodiversity Conservation Act 1999</i> (Cth) (EPBC Act) may also be required if a matter of national environmental significance is identified on the property.</p> <p>Subject to the relevant local government having declared bushfire prone areas for the purpose of the BCA, all construction of 'new' housing will need to meet the requirements of AS 3959. These requirements will be assessed by the building certifier who will ensure that the design and construction comply with the relevant requirements.</p> <p>Note: Current land use planning arrangements may limit the subdivision and development of rural lands outside the urban footprint in South East Queensland.²⁰</p>	
2. Are there thresholds at which the activity does not trigger regulatory requirements or at which requirements vary?	<p>No – this would require development approval and building approval.</p> <p>Engagement of the EPBC Act requires the existence of a matter of national environmental significance.</p>	As for Activity A.
3. Which organisations or people will the person or business be required to contact during these processes?	<p>Local Council for development permit.</p> <p>For EPBC Act approval, the Commonwealth Department of Agriculture, Water and Environment.</p> <p>For building approvals – private building certifier or local government.</p>	As for Activity A.
4. What prescribed form/s need to be completed during any of these processes?	<p>Forms are approved under section 282 of the <i>Planning Act</i> and must be completed as part of making a development application under section 51 of that Act. Easy to understand guides are made available to assist.</p> <p>EPBC Act forms are a Commonwealth matter.</p>	As for Activity A.

²⁰ For information in relation to the South East Queensland Regional Plan – *ShapingSEQ* refer to <https://dilgpprd.blob.core.windows.net/general/shapingseq.pdf>. For information in relation to the regulatory provisions that may apply, refer to the *Planning Regulation 2017* (Qld).

Question	Activity A: D would like to build up to 500 houses to comply with the minimum requirements relating to natural hazard risk.	Activity B: D would like to build up to 500 houses to comply with best practice relating to managing natural hazard risk.
5. What is the prescribed timeframe for providing decisions for the activity, where applicable? (Together with average processing times/possible ranges (shortest to longest) in practice)	<p>Development assessment: The statutory timeframes for development assessment will depend on whether the development triggers local government assessment against the local planning scheme. The level of assessment, depending on the development, may trigger either code or impact assessment. Timeframes for code assessable applications can range from 45-75 business days and impact assessable applications can range from 60-100 business days. There are a range of factors that determine the assessment timeframes (e.g. if the application triggers any referrals, information requests and/or public notification).</p> <p>Building permit: Generally, assessment managers under the Planning Act, which include building certifiers, have 20 business days to assess an application. This can be extended for a period of 20 business days where there is a request for further information to support an application.</p> <p>EPBC Act timeframes are a Commonwealth matter.</p>	<p>As for Activity A.</p>
6. What costs will be incurred by the person or business in completing these processes?	<p>Relevant application fees are determined by relevant local government.</p> <p>Private building certifiers set the fees to assess applications for building permits and to inspect the work.</p> <p>EPBC Act costs are a Commonwealth matter.</p>	<p>As for Activity A.</p>
7. What are the costs and/or legal ramifications of non-compliance or mistakes?	<p>It is an offence to:</p> <ul style="list-style-type: none"> undertake assessable development without a development permit: <i>Planning Act</i> s 163. fail to comply with the requirements of a development approval: <i>Planning Act</i> s 164. In this scenario will include compliance with AS 3959. <p>The maximum penalty is 4,500 penalty units (\$600,525).</p> <p>Where building work does not comply with the BCA, local governments also have enforcement notice and show cause powers to require owners to make building work compliant.</p> <p>EPBC Act costs are a Commonwealth matter.</p>	<p>As for Activity A.</p>

Question	Activity A: D would like to build up to 500 houses to comply with the minimum requirements relating to natural hazard risk.	Activity B: D would like to build up to 500 houses to comply with best practice relating to managing natural hazard risk.
8. What guidance or other assistance is available to help navigate these processes?	<p>An easy to understand, step by step guide to the development approval process and Queensland's planning system is available online.²¹</p> <p>EPBC Act guidance and assistance are Commonwealth matters.</p>	As for Activity A.

²¹ <https://planning.dsdmip.qld.gov.au/planning/our-planning-system>

Scenario 4: P the Public Infrastructure Agency

Physical/Environmental: Department P has been tasked to build public telecommunications infrastructure in a rural area. The site they are building is within forested bushland. There is currently no road access to this location and a road will have to be constructed.

Known development controls (e.g. overlays): Part of the land area is within a bushfire overlay.

Additional factors: The land is within a national park.

Question	Activity A: P seeks to comply with the minimum requirements relating to natural hazard risk.	Activity B: P seeks to comply with the best practice relating to managing natural hazard risk.
1. Describe, including with reference to relevant sections and provisions, the planning and environment laws and regulations that apply to the activities (excluding those that do not relate to natural hazard risk management)?	<p>Departments ordinarily do not build public telecommunications infrastructure in Queensland.</p> <p>The <i>Telecommunications Act</i> 1997 (Cth) provides extensive powers to override state legislation for the provision of public telecommunications infrastructure.</p> <p>Service facilities, including telecommunications facilities and associated roads, can only be constructed and operated in a National Park under an authority from the Director General under section 35 of the <i>Nature Conservation Act</i>, and where the use is prescribed as permitted in Schedule 3 of the <i>Nature Conservation (Protected Areas Management) Regulation</i> 2017.</p> <p>Natural hazard risks are identified and addressed through standard authority conditions, and an individual Environmental Management Plan (EMP) developed for each site/facility. Compliance with the approved EMP for the site is a requirement of the authorities granted for service facilities.</p> <p>Local Councils may also have their own requirements, which are not dealt with here.</p>	The regulatory requirements identified in Activity A apply to both minimum requirements, and best practice.
2. Are there thresholds at which the activity does not trigger regulatory requirements or at which requirements vary?	No.	As for Activity A.
3. Which organisations or people will the person or business be required to contact during these processes?	DES – Queensland Parks and Wildlife Service & Partnerships Division.	As for Activity A.

Question	Activity A: P seeks to comply with the minimum requirements relating to natural hazard risk.	Activity B: P seeks to comply with the best practice relating to managing natural hazard risk.
4. What prescribed form/s need to be completed during any of these processes?	There are no prescribed forms. An application must be lodged, including supporting information, and further information (if requested). An EMP must be developed by the applicant, and approved by QPWS before grant of the authority.	As for Activity A.
5. What is the prescribed timeframe for providing decisions for the activity, where applicable? (Together with average processing times/possible ranges (shortest to longest) in practice)	<p>There are no prescribed timeframes in the <i>Nature Conservation Act</i>.</p> <p>Several steps are required prior to an authority being granted: a) the proposed use must be assessed (including a native title assessment); b) an EMP approved; c) terms and conditions negotiated; d) in principle approval provided; and e) regulatory amendment made to list the use as a permitted use in the <i>Nature Conservation (Protected Areas Management) Regulation 2017</i>.</p> <p>In practice, average timeframes are in the order of 12-24 months from application to grant.</p>	As for Activity A.
6. What costs will be incurred by the person or business in completing these processes?	<p>No application fee is payable.</p> <p>Costs may include those incurred in preparing the application material and EMP, legal costs associated with negotiating terms of an authority (if required) and payment of a Protected Area Offset (if applied).</p> <p>If P were not a Department, it may also incur annual rentals for the site, and any costs associated with activities they are required to carry out as detailed in the EMP (ie treatment of removed vegetation, maintenance of site etc).</p>	As for Activity A.
7. What are the costs and/or legal ramifications of non-compliance or mistakes?	<p>Taking, keeping, using and/or interfering with the natural and cultural resources of a national park without authority is an offence under section 62 of the <i>Nature Conservation Act</i>. Maximum penalties are 3,000 penalty units (currently equivalent to \$133.45 x 3000 = \$400,350) or 2 years imprisonment.</p> <p>It is also an offence under section 114 of the <i>Nature Conservation (Protected Areas Management) Regulation 2017</i> to erect unauthorised structures or carry out unauthorised works on a national park. Maximum penalty is 165 penalty units (currently \$22, 019).</p>	As for Activity A.

Question	Activity A: P seeks to comply with the minimum requirements relating to natural hazard risk.	Activity B: P seeks to comply with the best practice relating to managing natural hazard risk.
	Non-compliance with the conditions of an authority issued for a service facility trigger show cause, breach and termination actions. Authorities can also be suspended when there is imminent risk to public safety, or of environmental harm.	
8. What guidance or other assistance is available to help navigate these processes?	DES/QPWS officers provide project-specific assistance to service providers proposing to construct facilities on a national park. Assistance includes pre-lodgement meetings, and provision of relevant Departmental policies and guidelines, including guidelines for the preparation of an EMP.	As for Activity A.

Scenario 5: Roadside verges

Physical/Environmental: Person D is a land owner and has noticed vegetation growing up to the edge of a public road that runs through D's property, which has not been cleared for some time and D considers to be a bushfire risk.

Question	Activity A: D wishes to himself remove the vegetation growing up to the edge of the road, to address the bushfire risk.
1. Describe, including with reference to relevant sections and provisions, the planning and environment laws and regulations that apply to the activities (excluding those that do not relate to natural hazard risk management)?	<p>The vegetation clearing exemptions referred to in Scenario 2, Activity C, Question 1 apply to vegetation on D's own land. Clearing of regulated native vegetation that is not consistent with an exemption, or an Accepted development vegetation clearing code, may require a development approval for operational works that is the clearing of native vegetation.²² If D wishes to remove the vegetation through a hazard reduction burn, then the Permit to Light Fire provisions referred to in Scenario 2, Activity B would apply.</p> <p>The <i>Transport Infrastructure Act</i> governs state-controlled roads. The <i>Local Government Act</i> governs roads within the control of local councils.</p> <p>Where the vegetation is located within the road reserve, hazard mitigation activities are the responsibility of the road manager. The road manager will be either the local council (in the case of a local road), or the Department of Transport and Main Roads (DTMR) (in the case of a state-controlled road).</p> <p>DTMR has a Fire Risk Management Program which manages road vegetation within a state-controlled road corridor.</p> <p>In either case, D can liaise with the road manager to request hazard reduction activities be conducted by that manager.</p> <p>Alternatively, in the case of a state-controlled road, D may apply for a road corridor permit under s 50 of the <i>Transport Infrastructure Act</i> to undertake certain activities on the state-controlled road (including to construct or maintain a fire break and to clear or burn-off).</p>
2. Are there thresholds at which the activity does not trigger regulatory requirements or at which requirements vary?	<p>For vegetation clearing on D's own land, see the response to Scenario 2, Activity C, Question 2.</p> <p>For vegetation clearing on road reserve land there are no relevant thresholds.</p>
3. Which organisations or people will the person or business be required to contact during these processes?	<p>For vegetation clearing on D's own land, see the response to Scenario 2, Activity C, Question 3.</p> <p>For vegetation clearing on road reserve land, D will need to contact the relevant road manager – either the local council (for local roads) or DTMR (for state-controlled roads).</p>
4. What prescribed form/s need to be completed during any of these processes?	<p>For vegetation clearing on D's own land, see the response to Scenario 2, Activity C, Question 4.</p> <p>A road corridor permit from DTMR can be obtained online²³ or from a DTMR office.</p>

²² Under section 261ZC of the Wildlife Regulation, a clearing exemption is provided for routine maintenance necessary to maintain existing transport infrastructure within the meaning of the *Transport Infrastructure Act* 1994.

²³ [https://www.support.transport.qld.gov.au/qt/formsdat.nsf/forms/M2373/\\$file/M2373_CFD.pdf](https://www.support.transport.qld.gov.au/qt/formsdat.nsf/forms/M2373/$file/M2373_CFD.pdf)

Question	Activity A: D wishes to himself remove the vegetation growing up to the edge of the road, to address the bushfire risk.
5. What is the prescribed timeframe for providing decisions for the activity, where applicable? (Together with average processing times/possible ranges (shortest to longest) in practice)	<p>For vegetation clearing on D's own land, see the response to Scenario 2, Activity C, Question 5.</p> <p>For vegetation clearing on road reserve land, there are no prescribed timeframes as it is the responsibility of the road manager to undertake vegetation clearing on a road reserve.</p> <p>DTMR recommends that an application for a road corridor permit be submitted at least 4 weeks before the date the permit is required.</p>
6. What costs will be incurred by the person or business in completing these processes?	<p>For vegetation clearing on D's own land, see the response to Scenario 2, Activity C, Question 6.</p> <p>No fee is payable for a road corridor permit. The proponent must hold public liability insurance for at least \$20m.</p>
7. What are the costs and/or legal ramifications of non-compliance or mistakes?	<p>For vegetation clearing on D's own land, see the response to Scenario 2, Activity C, Question 7.</p> <p>For vegetation clearing on state-controlled roads, it is an offence to remove or interfere with naturally occurring material on a state-controlled road without lawful excuse, under section 47 of the <i>Transport Infrastructure Act</i>. The maximum penalty is 200 penalty units (\$26,690).</p> <p>For vegetation clearing on local road reserves, s 75 of the <i>Local Government Act</i> makes it an offence to interfere with a road or its operation without lawful excuse. The maximum penalty is 200 penalty units (\$26,690).</p>
8. What guidance or other assistance is available to help navigate these processes?	<p>For vegetation clearing on D's own land, see the response to Scenario 2, Activity C, Question 8.</p> <p>The DTMR website contains an easy-to-follow plain language guide on obtaining road corridor permits.²⁴ Local roads offices receive and consider such permits.</p>

²⁴
<https://www.tmr.qld.gov.au/Community-and-environment/Planning-and-development/Other-matters-requiring-approval/Road-Corridor-Permit>

Abbreviations used in this document

BCA	Building Code of Australia
DES	Department of Environment and Science
DTMR	Department of Transport and Main Roads
EMP	Environmental Management Plan
QPWS	Queensland Parks and Wildlife Service

List of Legislation referred to

Building Act 1975 (Qld)

Building Regulation 2006 (Qld)

Environmental Protection Biodiversity Conservation Act 1999 (Cth)

Fire and Emergency Services Act 1990 (Qld)

Local Government Act 2009 (Qld)

Nature Conservation (Protected Areas Management) Regulation 2017 (Qld)

Nature Conservation (Wildlife Management) Regulation 2006 (Qld)

Nature Conservation Act 1992 (Qld)

Planning Act 2016 (Qld)

Planning Regulation 2017 (Qld)

Telecommunications Act 1997 (Cth)

Transport Infrastructure Act 1994 (Qld)