

## **Temporary Local Planning Instrument**

Gladstone Regional Council Planning Scheme  
Temporary Local Planning Instrument 01/2024  
Operational Work in Biodiversity Overlay

# **Gladstone Regional Council Planning Scheme Temporary Local Planning Instrument 01/2024 Operational Work in Biodiversity Overlay**

## **Part 1 – Preliminary**

### **1. Short title**

This temporary local planning instrument may be cited as Gladstone Regional Council Planning Scheme Temporary Local Planning Instrument 01/2024 Operational Work in Biodiversity Overlay.

### **2. Objective**

The objective of this temporary local planning instrument is to:

- a) Ensure that Operational Work involving vegetation clearing is more clearly defined in the Biodiversity Overlay Assessment Tables;
- b) Prevent clearing of vegetation within the Biodiversity Overlay without a suitable Development Permit; and
- c) Ensure that biodiversity values are able to be considered as part of the appropriate development permit in their current form, minimising the need for rehabilitation works.

### **3. Definitions**

The definitions in Schedule 1 defines particular words used in this temporary local planning instrument.

### **4. Interpretation**

Where a term used in this temporary local planning instrument is not defined under Schedule 1, the term shall, unless the context otherwise indicates or requires, have the meaning assigned to it by—

- (a) The Planning Act 2016;
- (b) The Gladstone Regional Council Planning Scheme, where the term is not defined in the Planning Act 2016.

### **5. Duration of temporary local planning instrument**

This temporary local planning instrument will have effect in accordance with section 23(6) of the Planning Act 2016 for a period not exceeding two years from the commencement of this temporary local planning instrument.

The commencement date of this temporary local planning instrument is: 24 January 2025.

## **Part 2 – Application of the temporary local planning instrument**

### **6. Area to which temporary local planning instrument applies**

This temporary local planning instrument applies to the entire area of the Gladstone Region effected by the Biodiversity Overlay.

### **7. Relationship with Gladstone Regional Council Planning Scheme**

If the Planning Scheme is inconsistent with this temporary local planning instrument, this temporary local planning instrument—

- (a) prevails to the extent of the inconsistency; and
- (b) has effect in place of the Planning Scheme, but only to the extent of the inconsistency.

## **8. Application of temporary local planning instrument**

This temporary local planning instrument applies to development applications in respect of land or premises in the Gladstone Region local government area subject to the Biodiversity Overlay.

## **Part 3 – Effect on the Gladstone Regional Council Planning Scheme**

### **9. Affected provisions of the Gladstone Regional Council Planning Scheme**

This temporary local planning instrument affects the operation of current Planning Scheme by:

- Table 5.10.1—Assessment benchmarks for overlays. Operational Works categories of development and assessment.
- Definitions – ‘Exempt Vegetation Clearing’ and ‘Vegetation Clearing’ definitions.

The TLPI is detailed as follows:

## 5.10 Categories of development and assessment—Overlays

The following table identifies where an overlay changes the category of development and assessment from that stated in a zone or local plan and the relevant assessment benchmarks.

**Table 5.10.1—Assessment benchmarks for overlays**

Development	Categories of development and assessment	Assessment benchmarks for assessable development and requirements for accepted development
<b>Biodiversity overlay code</b>		
Material change of use	Code assessable, if provisionally made accepted development or accepted development subject to requirements by another table of assessment where located on land within: (a) wetland/wetland protection area (b) protected area (c) wildlife habitat area (d) turtle nesting sites, or (e) high ecological value waterway. Otherwise no change to assessment category.	Biodiversity overlay code
Reconfiguring a lot	No change to assessment category.	Biodiversity overlay code
All operational works involving; <ul style="list-style-type: none"> <li>• Filling and excavation exceeding 100m<sup>3</sup>; and/or</li> <li>• Vegetation clearing.</li> </ul> <p>Note: Exempt clearing as per Definitions, is excluded.</p>	Code assessable	Biodiversity overlay code

## Schedule 1 Definitions

<b>Exempt vegetation clearing</b>	<p>Vegetation clearing under the following circumstances:-</p> <ul style="list-style-type: none"><li>(a) vegetation clearing undertaken by a statutory authority on land other than freehold land;</li><li>(b) vegetation clearing undertaken by the Council in the exercise of its power under the Local Government Act 2009;</li><li>(c) vegetation clearing undertaken by or on behalf of the Council on Council owned or controlled land included within the Community facilities zone, Sport and recreation zone or Open space zone;</li><li>(d) clearing of:-<ul style="list-style-type: none"><li>(i) a plant declared as a pest pursuant to the Biosecurity Act 2014; or</li><li>(ii) a plant which is otherwise an exotic species;</li></ul>provided that the clearing:-<ul style="list-style-type: none"><li>(i) is consistent with any current development approval that attaches to the land;</li><li>(ii) does not involve the removal of vegetation on a local heritage place;</li><li>(iii) does not involve the removal of vegetation identified as character vegetation in a local plan;</li></ul></li><li>(e) vegetation clearing in the Rural zone that is reasonably necessary for property maintenance;</li><li>(f) vegetation clearing that is:-<ul style="list-style-type: none"><li>(i) authorised or required under legislation or a local law; or</li><li>(ii) specified in a notice served by Council or another regulatory authority;</li></ul></li><li>(g) vegetation clearing in accordance with a current development approval:-<ul style="list-style-type: none"><li>(i) for material change of use, reconfiguring a lot or other operational work;</li><li>or</li><li>(ii) for building work associated with a dwelling house;</li></ul></li><li>(h) vegetation clearing in accordance with an approved Property Vegetation Management Plan, current permit or other approved plan granted under a local law;</li><li>(i) vegetation clearing required for emergency works, where:-<ul style="list-style-type: none"><li>(i) a person honestly and reasonably believes that an immediate threat exists to life or property;</li><li>(ii) no other lawful action is reasonably available to the person to avoid the immediate threat to life or property;</li><li>(iii) no reasonable opportunity exists for an application to be made to clear the vegetation; and</li><li>(iv) Council is advised in writing as soon as practicable after the action has been taken;</li></ul></li><li>(j) vegetation clearing involving the harvesting of timber in a lawfully established plantation;</li></ul>
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	<p>(k) vegetation clearing within 3 metres of a lawful building or structure, unless the vegetation is otherwise required to be retained in accordance with a development approval;</p> <p>(l) vegetation clearing on a lot not exceeding 1,000m<sup>2</sup> in area provided that such vegetation clearing:-</p> <ul style="list-style-type: none"> <li>(i) is consistent with any current development approval that attaches to the land;</li> <li>(ii) is not located in an area subject to a vegetation protection order, registrable covenant, easement or similar legally binding mechanism that seeks to protect the values and functions of recognised significant vegetation;</li> <li>(iii) is not located on land adjacent to land included within the Environmental management and conservation zone;</li> <li>(iv) does not involve the removal of vegetation on a local heritage place;</li> </ul> <p>(m) vegetation clearing on a lot exceeding 1,000m<sup>2</sup> in area provided that such vegetation clearing:-</p> <ul style="list-style-type: none"> <li>(i) is not located within the Biodiversity Overlay Map;</li> <li>(ii) is consistent with any current development approval that includes vegetation clearing and attaches to the subject land;</li> <li>(iii) is not located in an area subject to a vegetation protection order, registrable covenant, easement or similar legally binding mechanism that seeks to protect the values and functions of recognised significant vegetation;</li> <li>(iv) is not located in or within 10 metres of the high bank of a natural waterway or wetland, other than a waterway with a revetment wall;</li> <li>(v) is not located on land identified on the Steep Land Overlay Map;</li> <li>(vi) does not involve the removal of vegetation on a local heritage place.</li> </ul> <p><i>Editor's note—vegetation clearing which is defined as exempt vegetation clearing for the purposes of the planning scheme may be subject to assessment under State and/or Federal legislation.</i></p> <p><i>Editor's note - Section 20A of Schedule 6 of the Planning Regulation 2017 provides exemptions for firebreaks or fire management lines. Operational works for necessary firebreaks or fire management lines is accepted development, subject to requirements specified in Section 20A.</i></p>
<p><b>Vegetation clearing</b></p>	<p>Vegetation clearing means destruction of vegetation or interference with its natural growth, by—</p> <ol style="list-style-type: none"> <li>1. cutting down, or</li> <li>2. cutting or tearing branches, stems or roots, topping, pruning or lopping as per Australian Standard AS 4373-2007 - Pruning or Amenity Trees; or</li> <li>3. poisoning, including contamination; or</li> </ol>

	<ol style="list-style-type: none"><li>4. releasing oil, petroleum, paint, cement, mortar or other deleterious substances to a root zone; or</li><li>5. ringbarking; or</li><li>6. scar barking; or</li><li>7. fixing any object into living tissue or surrounding trunk or branches that may destroy or seriously affect the vegetation; or</li><li>8. using any tree climbing spikes in healthy trees that may destroy or seriously affect the vegetation, other than in accordance with AS 4373-1996; or</li><li>9. damaging a root zone by compaction, excavation or filling in a way that may destroy or seriously affect the vegetation; or</li><li>10. attaching guy rope, cable or other contrivances that may destroy or seriously affect the vegetation; or</li><li>11. uprooting or displacing that may destroy or seriously affect the vegetation but not including destroying standing vegetation by stock.</li></ol>
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