

# Impact Analysis Statement

## Summary IAS

### Details

|  |   |
|--|---|
| <b>Lead department</b>                                       | Department of Resources   |
| <b>Name of the proposal</b>                                  | Vegetation Management Regulation 2023 and LOLA proclamation   |
| <b>Submission type</b>                                       | Summary IAS   |
| <b>Title of related legislative or regulatory instrument</b> | <i>Environmental Offsets Regulation 2014</i><br><i>Land and Other Legislation Amendment Act 2023</i><br><i>Vegetation Management Act 1999</i><br><i>Vegetation Management Regulation 2012</i> |
| <b>Date of issue</b>   | 26 October 2023   |

### What is the nature, size and scope of the problem? What are the objectives of government action?

The vegetation management framework commenced in September 2000 and was established to protect native vegetation in Queensland. The vegetation management framework regulates the clearing of native woody vegetation (approximately 141M ha) across the State of Queensland (approximately 173M ha) and determines whether clearing is allowable according to its condition, conservation status, and the presence of other attributes such as essential habitat for threatened species, watercourses and wetlands. It depends on regularly updated statutory and supporting maps made under the *Vegetation Management Act 1999* (VMA), and scientific information provided by the Queensland Herbarium.

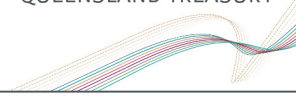
Rural stakeholders have supported changes to the framework which introduced self-assessable clearing codes, and have advocated to remove complexity from, and maintain regulatory stability to, the framework to enable landholders to have a clearer understanding of what and how clearing can be undertaken on their properties.

Monitoring of vegetation clearing is undertaken using the Statewide Landcover and Trees Study (SLATS) which is a scientific monitoring program undertaken yearly by the Department of Environment and Science (Queensland Herbarium (QH)). SLATS uses satellite imagery and field data to monitor and report changes in woody vegetation extent in Queensland. SLATS monitoring has been undertaken since the VMA was passed in 1999.

SLATS analysis indicates a declining trend in total clearing activity under the current vegetation management framework from 680,688ha in 2018-19, to 418,000ha in 2019-20 and 348,000ha in 2020-21. In 2020-21, clearing in category X or unregulated areas accounted for about 83% of total clearing, and about 5% (18,800ha) was cleared under an Accepted Development Vegetation Clearing Code (ADVCC). Government is committed to managing vegetation clearing to protect biodiversity, prevent land degradation and reduce carbon emissions while allowing for sustainable land use.

The Vegetation Management Regulation 2012 (the VM Regulation) provides operational effect to the VMA. It gives legal effect to ADVCCs (allowing low risk clearing activities without requiring a development approval), prescribes regional ecosystems and their class, prescribes information required for Property Map of Assessable Vegetation (PMAV) applications, prescribes species for the application of development approvals and exemptions for *Forestry Act 1959* (Forestry Act), and prescribes fees for PMAV applications and the preparation of a Restoration Plan.

Since the commencement of this regulation in 2012, significant change has occurred to the vegetation management framework. Such changes included the introduction of the State Assessment and Referral Agency (SARA) as sole decision maker for assessment management and concurrence agency responses in 2013, the introduction of self-assessable codes and statewide vegetation management maps in 2013/2014, prohibition of clearing for high value agriculture and high value irrigated agriculture in 2018,



protection of high value regrowth vegetation in 2018, and the introduction of a streamlined assessment process (SARA FastTrack5) for Managing Thickened Vegetation in 2019/2020. Since its commencement in 2012 the regulation has played a critical role in supporting the framework particularly due to its role in prescribing regional ecosystems under the framework, but also giving effect to the self-assessable codes (now ADVCCs).

Importantly, the regulation also identifies the commercial native timber species of interest to the State on State-owned land. Clearing on land subject to a lease for agriculture or grazing purposes to source construction timber for immediate repair of infrastructure on the property, where it is an area on a regulated vegetation management map other than category B (regulated remnant) and is not assessable development under the *Planning Act 2016*, is taken to be authorised under the Forestry Act where it does not involve species listed in Schedule 6 of the Regulation. Prescribing species of interest to the state is important to regulate commercial native timber species, manage ongoing sustainable supply of State-owned resources and associated economic benefits to rural and remote Queensland, and also realise timber royalties from the sale of State-owned forest products.

Under section 54 of the *Statutory Instruments Act 1992*, subordinate legislation expires on 1 September after the 10th anniversary of the day of its making. Accordingly, the VM Regulation was due to expire on 1 September 2022. Two extensions from expiry were granted on the grounds that the VMA was being reviewed with proposed amendments contained in the Land and Other Legislative Amendment Bill 2022 (the Bill).

The Bill was passed earlier this year and while some provisions commenced on assent, some vegetation management provisions are to commence through the proposed proclamation. Those provisions introduce a certified databased called the Vegetation Management Regional Ecosystem Description Database (VM REDD) to prescribe regional ecosystems, their class and grassland structure categories instead of transcribing this information into the VM Regulation. This streamlines administrative process and reduces associated costs whilst maintaining operation of the framework with parliamentary oversight.

The proclamation of the remaining Vegetation Management provisions of the *Land and Other Legislation Amendment Act 2023* (LOLA Act) to enable the operation of VM REDD will require minor and machinery amendments to the VM Regulation and the Environmental Offsets Regulation 2014. These amendments to establish the VM REDD means that the VM Regulation no longer needs to contain schedules of Regional Ecosystem information.

**What options were considered?**

As part of the sunset review of the Regulation, the following options were considered:

1. Allowing the regulation to expire
2. Remaking the regulation ‘as is’
3. Remaking the regulation ‘with minor amendments’

**What are the impacts?**

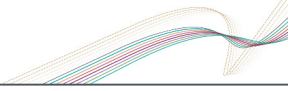
**Proclamation – LOLA Act**

The proclamation and associated consequential legislative amendments across the *Vegetation Management Act 1999*, is minor and machinery in nature, with negligible regulatory costs and ensure correct application of the Vegetation Management framework.

**Remaking of the VM Regulation**

Without proclamation of the remaining vegetation management provisions within the LOLA Act to establish the VM REDD, the expiry of the Regulation would have a fundamental impact on the operation of the vegetation management framework, and prevent its effective operation given it is fundamental to identifying regional ecosystems that currently depend on the VM Regulation to do this work. However, given the intent to simultaneously proclaim the remaining vegetation management provisions within LOLA Act and establish the certified VM REDD, expiry of the schedules within the VM Regulation which list regional ecosystems would be inconsequential. Likewise, making the Vegetation Management Regulation 2023 (new Regulation) omitting the schedules, and making consequential amendments to the Environmental Offsets Regulation 2014, are inconsequential.

Without a new Regulation to prescribe ADVCCs, landholders would be required to apply for a development approval under the *Planning Act 2016* for low-risk clearing activities such as weed management, fodder



harvesting and small-scale infrastructure; and would not be able to effectively manage regulated regrowth vegetation or to undertake a native forest practice on their land as a development approval cannot be applied for these activities. This would impose significant adverse impacts from a cost, time and risk perspective. Development approvals often require the applicant to engage an environmental consultant, payment of application fees, and are subject to assessment timeframes. Conversely, notifying to clear for low-risk activities under an ADVCC can be made easily by the landholder, is instant in most cases, and mitigates risk associated with time delays to people and property (dependant on the clearing purpose). To give effect to ADVCCs without a regulation, a legislative amendment would be required to the VMA to enable self-assessable clearing with parliamentary oversight.

Most ADVCCs have been remade by the Minister with minor amendments to reflect the establishment of the certified database VM REDD, along with other minor cosmetic, clarification or corrective changes that still ensure the codes provide for appropriate, self-assessable, low ecological risk clearing. A review of notifications under most codes revealed the changes would result in negligible impacts, and where impacts are present, can be managed through communication with affected notifiers to assist in ensuring compliance. Giving effect to refreshed codes through a new Regulation therefore represents only a minor impact compared to the current regulation.

A legislative amendment would also be required to mitigate the significant economic risk to rural and remote Queensland and the government by not prescribing commercial native timber species under the Forestry Act. The cost in this regard has not been quantified.

It is also important that a regulation preserves current prescribed fees. While the fee is substantially less than the full cost of Government in assessing and making a PMAV (ranging from 50% full cost for a simple PMAV up to 5% full cost for a large and complex PMAV), the fee subsidy recognises the benefits of incentivising landholders to apply for PMAV to improve the accuracy of property scale mapping. The fee is a fraction of the cost of undertaking clearing in most circumstances and allows some cost recovery without placing a barrier to landholders in obtaining a PMAV.

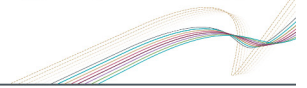
Excluding unnecessary provisions relating to PMAV application requirements (already included in an approved form) and redundant terms within the dictionary would not impose any associated impacts.

In summary, the cost impacts to stakeholders associated with the proposed Vegetation Management Regulation 2023 are minor given:

- The ability for landholders to clear under Accepted Development Vegetation Clearing Codes avoids significant costs associated with preparation of development applications for low-risk activities, engaging consultants, payment of application fees, as well as savings in assessment timeframes and the ability to manage regulated regrowth vegetation.
- The effect of prescribing fees for PMAV applications and the preparation of Restoration Plans simply recoups a part of the cost of these processes prescribed under the VMA (unaffected by the proposed regulation). The costs to landholders for PMAVs and Restoration Plans over the 2021-2022 financial year is shown in the impact assessment summary below.
- The prescribing of commercial species ensures that the harvest of commercial native timber species of interest to the State on State-owned land is able to be regulated by permit under the Forestry Act. Landholders will continue to have an exemption pathway for the removal of timber species not requiring authority to be removed under the Forestry Act.

The new Regulation results in a cost saving to government, given:

- The ability for land holders to undertake self-assessable clearing reduces the regulatory burden on government to assess and issue approvals for reasonable low-risk clearing activities.
- The cost to government in processing PMAV applications and Restoration Plans is borne through the VMA and is therefore not a cost burden associated with the new Regulation.
- The new regulation also continues to allow for a deemed authorisation under the Forestry Act for non-commercial species. This provides for protection and control of commercial timber species owned by the State and importantly ensures continuity of timber supply to industry.



### Who was consulted?

Consultation was undertaken in relation to the LOLA Bill and submissions were examined by the Transport and Resources Parliamentary Committee. Submissions received raised concern with a potential reduction in transparency and rigor from changes to certify regional ecosystems in a database and repeal from Regulation. These concerns were responded to with amendments to the Bill to maintain parliamentary oversight through introducing a tabling procedure to the new database provisions within the VMA. Further detail is available within the Transport and Resources Committee Report No 16, 57th Parliament - Land and Other Legislation Amendment Bill 2022 via the Queensland Parliament website.

Internal government consultation has occurred on provisions within the Regulation as part of its Sunset Review. This included operational teams within the Department of Resources, and related government agencies such as the Queensland Herbarium, Department of Agriculture and Fisheries, Queensland Treasury, Office of Best Practice Regulation, and Department of Premier and Cabinet.

The review was also informed by previous consultation on the Vegetation Management and Other Legislation Amendment Bill 2018, noting strong stakeholder support for the retention of ADVCCs to allow low-risk clearing. Further detail is available through the Natural Resources and Agricultural Industry Development Committee Report No. 6, 56th Parliament State Development, April via the Queensland Parliament website.

Minor amendments introduced through the new Regulation will be communicated with key stakeholders prior to commencement, noting there is no policy shift or practical effect on the operation of the framework resulting from the amendments.

### What is the recommended option and why?

Allowing the Regulation to expire was not considered to be in the best interests of landholders or the State. The Regulation is fundamental to the implementation of the VMA and is particularly important to the vegetation management client base, confirming parliamentary scrutiny on necessary elements of the government's commitment to the sustainable management of native vegetation.

Remaking the VM Regulation 'as is' would mean maintaining status quo and existing provisions would be left untouched. This option was not considered optimal, particularly considering the function of the vegetation management provisions to commence by proclamation under the LOLA Act.

Accordingly remaking the Regulation 'with minor amendments' recognises its role as the most effective and efficient policy tool to support the vegetation management framework while also identifying several minor amendments to improve and/or address issues which justify change. Amendments proposed in the new Regulation are consistent with the current policy framework with minimal impact on stakeholders and reduce the regulatory burden and costs for the State and landholders. The amendments clarify policy intent without a policy shift or practical effect on the operation on the vegetation management framework. Changes also include consequential amendments resulting from the LOLA Act, corrections, and minor updates including the removal of unnecessary provisions and terms.

## Impact assessment

Overall, it is likely that most functions of the new Regulation would provide a cost savings to both stakeholders and government. This is primarily due to the significant role ADVCCs perform in allowing low ecological risk clearing via self-assessment and without the need to undergo a more complex and time consuming development application process.

The continued prescribing of species relevant to the Forestry Act are critical in maintaining the intent of an amendment to the VMA in 2004 to allow the removal of native remnant vegetation on state land for immediate repair of infrastructure on the property, other than commercial species prescribed under a regulation without a further approval under the Forestry Act. This ensures that the state can continue to effectively regulate commercial timber species under the Forestry Act, managing ongoing sustainable supply of state-owned resources to the industry (and the associated economic benefits to rural and remote Queensland), and realise timber royalties from the sale of State-owned forest products. The significance of the contribution made by the regulation in this regard cannot be quantified.

The costs associated with making a PMAV application or requesting a restoration plan are borne through the VMA, meaning that the only cost impact for prescribing associated fees in a regulation is through recouping part of the cost of assessment by government.



Estimated direct costs shown below are therefore only reflected in compliance costs (to stakeholders) resulting from paying a fee for a PMAV application, and are estimated based on the applications made over the 2021-2022 financial year (noting only 1 request for a restoration plan has been received in the financial years between 2017-2022).

|  | First full year | First 10 years         |
|--|-----------------|------------------------|
| <b>Direct costs – Compliance costs</b> |                 |                        |
| • Total PMAV application fees          | 138,795         | 1,387,950 <sup>^</sup> |
| • Total restoration plan fees          | 0               | 0                      |
| <b>Direct costs – Government costs</b> | 0               | 0                      |

<sup>^</sup> Subject to Government indexation

**Signed**

Director-General Department of Resources  
Date: 03/11/2023

Minister for Resources  
Date: 07/11/2023