

# Valuation of Land (Fee Exemption) Amendment Regulation 2022

Explanatory notes for SL 2022 No. 157

made under the

*Land Valuation Act 2010*

## General Outline

### Short title

*Valuation of Land (Fee Exemption) Amendment Regulation 2022*

### Authorising law

Section 265 of the *Land Valuation Act 2010* (Land Valuation Act)

### Policy objectives and the reasons for them

The *Valuation of Land (Fee Exemption) Amendment Regulation 2022* (Amendment Regulation) amends the *Valuation of Land Regulation 2003* (Valuation of Land Regulation), which is subordinate legislation to the Land Valuation Act.

The Land Valuation Act provides a framework for making, issuing and storing valuations of land. This statute also provides the valuer-general with certain obligations, including deciding the value of land for processes under particular other Acts, and maintaining a valuation roll for each local government area. A valuation roll is a record which must contain specific information derived from the statutory valuation process. This information can be accessed by any member of the public for a fee.

Section 265 of the Land Valuation Act provides the Governor in Council with regulation-making power. This provision includes the power to make regulations regarding the fees payable under the Act.

The valuer-general must provide valuation information to the public only upon receiving payment of the fee prescribed in Schedule 2 of the Valuation of Land Regulation.

When making an indigenous land use agreement with a native title holder, this agreement may cover matters including compensation for any past act, intermediate period act, or future act attributable to the State or Commonwealth, which has extinguished or impaired their native title rights or interests. To calculate the compensation payable, it is necessary to determine the economic loss sustained by the native title holders due to the act. For the calculation of this economic loss, the use of statutory valuation information provides a method which is both efficient and cost-effective.

Valuation roll information can be used to facilitate other processes under the *Native Title Act 1993* (Cwlth) (Native Title Act), such as negotiations under Part 2, Division 3, Subdivision P of the Native Title Act, or applications made to the Federal Court for the determination of compensation payable under the Native Title Act.

In the above circumstances, statutory valuation information cannot be supplied unless the prescribed fee has been paid. This imposes a cost barrier upon native title parties pursuing their entitlements under the Native Title Act. Furthermore, it prevents the State from conducting or facilitating such processes cost effectively and in good faith, for all parties.

The objective of the Amendment Regulation is to enable the valuer-general to provide valuation information to eligible persons without cost if the entry on the valuation roll relates to a prescribed matter. In achieving this objective, the present cost barrier which impedes eligible persons from pursuing entitlements under the Native Title Act will be removed.

## **Achievement of policy objectives**

Section 30B of the *Statutory Instruments Act 1992* states that if a power is conferred under a law to prescribe a fee, the power includes a power to exempt any person or matter from the payment of the fee. As the Governor in Council possesses the regulation-making power to prescribe the fees payable under the Land Valuation Act, the Governor in Council also possesses a power to exempt persons from this payment.

The Amendment Regulation achieves its policy objectives as it amends the Valuation of Land Regulation to enable the valuer-general to supply specific items under Schedule 2 of the Regulation to eligible persons, which require the information for a purpose relating to a prescribed matter under the Native Title Act without cost.

### Eligible persons

Under the Amendment Regulation, persons eligible for the exemption include:

1. Common law holders under section 56 of the Native Title Act;
2. A person in a compensation claim group who, under section 251B of the Native Title Act, is authorised by all the other persons in the group to make a compensation application;

3. A registered native title body corporate under section 253 of the Native Title Act;
4. A registered native title claimant under section 253 of the Native Title Act; and
5. A representative Aboriginal/Torres Strait Islander body under section 253 of the Native Title Act.

#### Matters eligible for exemption

In addition to being one of the eligible persons, to be supplied the valuation roll without charge, the entry on the valuation roll must relate to a matter under the Native Title Act:

1. Land that will be affected by a future act and in relation to which the person is a native title party. This will encompass negotiations under Part 2, Division 4, Subdivision P of the Native Title Act if native title holders are notified of an impending future act;
2. Land that is, or is proposed to be, the subject of an indigenous land use agreement to which the person is, or proposes to be, a party. This will encompass indigenous land use agreements under Subdivisions B, C and D of the Native Title Act, including negotiations in accordance with the Framework; or
3. Land the subject of a compensation application that has been made by or for the person. This relates to applications made to the Federal Court section 50(2) of the Native Title Act for the determination of compensation.

#### Items subject to exemption

If required by an eligible person for a prescribed matter, the following items under Schedule 2 of the Amendment Regulation are subject to the exemption:

1. 2(a) - an extract of an entry on a valuation roll;
2. 4(c) - an entry on a valuation roll, other than the current valuation roll;
3. 4(e) - an entry on a valuation roll, supplied in the form of a computer listing.

### **Consistency with policy objectives of authorising law**

The Amendment Regulation is consistent with the objectives of the Land Valuation Act.

### **Inconsistency with policy objectives of other legislation**

No inconsistencies with the policy objectives of other legislation have been identified.

### **Alternative ways of achieving policy objectives**

No alternative ways of achieving policy objectives have been identified.

## **Benefits and costs of implementation**

The Queensland Government is committed to achieving agreement between the State and native title parties for compensation entitled under the Native Title Act via face-to-face negotiations. The Amendment Regulation will support this, allowing such negotiations to occur in good faith and ensuring cost is minimised for all parties.

On 16 August 2022 Queensland Government, First Nations people and non-Indigenous Queenslanders participated in the signing of Queensland's Path to Treaty Commitment (Commitment). The Commitment signifies a collective pledge to be courageous and curious, to be open to hearing the truth of our State's history and to collaborate in readiness for negotiating treaties. The Amendment Regulation supports this commitment, allowing further collaboration between native title holders and the State.

Queensland Treasury advised that the Amendment Regulation is likely to have minimal impact on cost recovery revenues.

## **Consistency with fundamental legislative principles**

The Amendment Regulation is consistent with fundamental legislative principles.

## **Consultation**

In accordance with the *Queensland Government Guide to Better Regulation* (the guidelines), the Office of Best Practice Regulation (OBPR) was consulted regarding whether further regulatory impact analysis was required. The OBPR advised that the proposal is unlikely to result in significant adverse impacts and that no further regulatory impact analysis is required under the guidelines.

The valuer-general was consulted and supports the Amendment Regulation.