

Vegetation Management Regulation 2023

Explanatory notes for SL 2023 No. 165

made under the

Environmental Offsets Act 2014
Vegetation Management Act 1999

General Outline

Short title

Vegetation Management Regulation 2023.

Authorising law

Section 93 of the *Environmental Offsets Act 2014*.
Section 72 of the *Vegetation Management Act 1999*.

Policy objectives and the reasons for them

The objectives of the *Vegetation Management Regulation 2023* (the new regulation) are to:

1. support the vegetation management framework (the framework) in regulating the clearing of native vegetation in a way that conserves vegetation, allows for sustainable land use, prevents the loss of biodiversity, maintains ecological processes, manages environmental effects of regulated clearing, reduces greenhouse gas emissions, and ensures that clearing does not cause land degradation;
2. replace the *Vegetation Management Regulation 2012*;
3. make minor amendments to improve the efficiency and effectiveness of the 2012 regulation; and
4. implement consequential amendments authorised under the *Land and Other Legislation Amendment Act 2023* (LOLA Act).

The *Vegetation Management Act 1999* (VMA) is the primary statute for regulating the clearing of native vegetation in Queensland, implemented through a decision-making framework. This framework allows the clearing of remnant vegetation and regulated regrowth vegetation by way of exemptions (small scale clearing or clearing regulated under other frameworks), codes or management plans (low ecological risk clearing), and development approvals for particular purposes. A regulation is necessary to provide operational effect to provisions under the VMA.

Section 54 of the *Statutory Instruments Act 1992* provides that subordinate legislation expires 10 years after its making unless a regulation is made exempting it from expiry. The *Vegetation Management Regulation 2012* came into effect in 2012 and is due to expire on 31 August 2024. Most provisions contained in the *Vegetation Management Regulation 2012* remain necessary for the continued effective operation of the VMA.

The new Regulation will also implement consequential amendments that are necessary to remove the prescription of Regional Ecosystems from a regulation to a more effective and efficient certified database process established under the LOLA Act called the Vegetation Management Regional Ecosystem Description Database (VM REDD).

Achievement of policy objectives

The new Regulation will replace the expiring *Vegetation Management Regulation 2012*, which replaced the preceding *Vegetation Management Regulation 2000*. Since the commencement of the *Vegetation Management Regulation 2000*, the regulation has been reviewed and amended a number of times to give effect to relevant provisions of its authorising Act, and to ensure that the framework for the regulation of clearing is based on best available science. Consequently, the new Regulation simply replaces the existing *Vegetation Management Regulation 2012* while taking the opportunity to remove redundant provisions and update some existing provisions with the most current information and in line with contemporary legislative practice, to ensure the framework operates efficiently.

These updates include:

1. *Minor changes to Accepted Development Vegetation Clearing Codes*

These amendments change the as-made date of the codes and clarify policy intent. There will be no effect on the operation of the framework or on the regulatory burden. Minor amendments to regional ecosystems prescribed within three codes are made to reflect the latest scientific advice from the Queensland Herbarium, coinciding with the annual scientific review and certification of vegetation management maps by the chief executive. These amendments will not have a significant impact on landholders, and, result in a net increase in areas of which landowners can responsibly undertake low ecological risk clearing with no application cost.

2. *Repeal of Schedules 1-5 relating to the prescription of Regional Ecosystems*

These amendments are necessary to effect the consequential amendments resulting from the LOLA Act. The prescription of Regional Ecosystems within the new Regulation is no longer necessary due to the certified database process now established under the VMA to reduce regulatory burden, maintain parliamentary oversight, and ensure future changes reflect the best available science. The amendment simply changes the mechanism for prescribing the Regional Ecosystems and therefore has no practical effect on the operation of the framework.

3. *Repeal of requirements for Property Map of Assessable Vegetation (PMAV) applications*

Prescribed information requirements for making PMAV applications are already contained within an approved form used by landholders. Consistent with other contemporary Queensland legislation, there is no need for a regulation to prescribe these requirements. The amendments will not change or affect the legislative requirements or considerations for assessing or deciding PMAV applications under the VMA.

4. *Removal of unnecessary terms from the Schedule 8 Dictionary*

The removal of unnecessary terms both aligns with the proposed amendments and removes redundant wording, accordingly there is no impact on the operation of the framework or on the regulatory burden.

5. *Amendment of Environmental Offsets Regulation 2014*

A consequential amendment to the term 'prescribed regional ecosystem' within the *Environmental Offsets Regulation 2014* is necessary to ensure that the prescribed environmental matters for regulated vegetation also reflect changes resulting from the LOLA Act. The term identified regional ecosystems with a now obsolete reference to the previous *Vegetation Management Regulation* (schedule), and is corrected to reflect the implementation of the new certified database VM REDD. The change is therefore mechanical and has no practical effect on the operation of the framework.

Consistency with policy objectives of authorising law

The new Regulation supports the implementation of the framework by giving effect to the statutory codes, prescribing fees, and prescribing species to inform clearing provisions related to the *Forestry Act 1959*. This regulation ensures that the framework continues to achieve natural resource and environmental gains through managing native vegetation clearing.

Inconsistency with policy objectives of other legislation

The new Regulation is consistent with policy objectives of other legislation.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives. The regulation under the VMA has worked effectively since 2000, and since that time it has been amended where appropriate and necessary to improve its efficiency and ensure it is fit for purpose.

Amendments have previously been made to remove redundant policies related to the formation of the State Assessment and Referral Agency, remove maps to a monthly map certification process under the VMA, and to introduce new, and remake, codes for low ecological risk clearing.

The new Regulation ensures that the statutory instruments used to administer the framework are contemporary and have a clear date of when those versions of the instruments took effect.

Benefits and costs of implementation

There are no additional resource or implementation implications beyond current budget allocations, as the new Regulation continues the existing implementation of the framework. Any administrative costs associated with implementation of a new VM REDD introduced by the LOLA Act are absorbed in existing budget allocations.

Consistency with fundamental legislative principles

The new Regulation is consistent with the fundamental legislative principles. It complies with relevant requirements of section 4(5) of the *Legislative Standards Act 1992*.

The regulatory impact of the making of the new Regulation is considered to be excluded from further assessment. An Impact Analysis Statement has been prepared and determines that the proposal does not require further impact analysis under *The Queensland Government Better Regulation Policy* (September 2023) as it is unlikely to have significant adverse impacts.

Consultation

Consultation was undertaken on the proposed new VM REDD through the Transport and Resources parliamentary committee during consideration of the Land and Other Legislation Amendment Bill 2022.

Concerns relating to transparency and rigor of changes to the descriptions and class of Regional Ecosystems were addressed by introducing a tabling process in the Legislative Assembly where it can be subject to disallowance.

The scientific criteria used to identify the appropriate classification for Regional Ecosystems will continue to be specified in the VMA, and certification of the database will only occur where the Minister is satisfied the Regional Ecosystems have been assigned the correct class outlined in the VMA.

This new process will streamline the current annual updating of Regional Ecosystems by means of a similar process to the updating of Vegetation Management maps, using scientific information provided by the Department of Environment and Science.

The database will be certified annually by the Chief Executive under the VMA and will be made publicly available on the Department of Resources website. The certified database will be required to be tabled in the Legislative Assembly within 14 sitting days after certification otherwise it has no effect. In this event, transitional provisions ensure the effective operation of the framework.

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

©The State of Queensland 2023