Review of the Protected Plants Legislative Framework under the *Nature Conservation Act 1992*

Decision Regulatory Impact Statement

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Executive summary

A review of the legislative framework for protected plants under the *Nature Conservation Act 1992* (NCA) is being undertaken by Department of Environment and Heritage Protection (the department).

Initial consultation on the review was undertaken with interested parties during mid to late 2011, and identified that the existing legislative framework is complicated and burdensome, and difficult for operators to interpret and regulators to effectively implement and administer. These factors have led to a lack of compliance with regulatory requirements and, in turn, poor conservation outcomes for protected plants.

The Decision Regulatory Impact Statement (RIS) presents 3 options for the regulation of protected plants, which were considered as part of the consultation process. This includes 2 reform options, along with an option of retaining the current framework, compared to a baseline position of no state regulation for protected plants. The benefits and options of these options are outlined throughout this document.

An impact assessment of the three options presented identified option 2 as having the greatest net benefit for the community. The impact assessment was updated to reflect feedback received from the public, primarily to clarify costs and assumptions, provide any further detail as required or to address inconsistencies and/or errors in calculations and data provided.

There were 101 submissions received on the Consultation RIS. An analysis of the submissions was undertaken to identify any key issues and determine the preferred regulatory option.

The majority of submissions favoured either option 1 (maintaining the current framework) (39 submissions) or option 2 (greentape reductions and regulatory simplification) (37 submissions). There was limited support for option 3 (co-regulation) (2 submissions).

Preference for a regulatory reform option varied significantly by sector group and was generally dependent on a submitter's particular interest in clearing for land use, using native plants (e.g. harvesting, growing, trading), and/or conservation in general. Generally, respondents that favoured option 1 were from the recreational, conservation and natural resource management interests sector, however some businesses from the native plant industry also supported the option of retaining the current framework. Option 2 was widely supported both by the resources, infrastructure and development sector and the commercial harvest, growing and trade sector, and also had support from a number of unaffiliated individuals and special interest groups.

Key issues raised in response to the options outlined in the Consultation RIS included the following:

- Poor compliance with and implementation of the current framework
- Desire for a framework that ensures biodiversity is preserved
- Classification of high and low risk activities
- Licensing requirements and exemptions for harvesting and growing (some thought exemptions were too broad, while others thought exemptions were too narrow)
- Flora survey requirements and exemptions for clearing (some thought exemptions were too broad, while others thought exemptions were too narrow)
- Feasibility and implementation of proposed integration with the *Environmental Protection Act 1994* for resource activities
- Desire for integration with the *Sustainable Planning Act 2009/Vegetation Management Act 1999*
- Costs associated with proposed new fees
- Business and government cost estimates for each of the 3 options (assumptions were often misinterpreted and therefore some thought costs were overestimated).

Recommendation

The Decision RIS recommends that a revised version of option 2 be implemented, with a number of changes in order to address key issues raised in response to the Consultation RIS. This revised option addresses the majority of significant issues raised during consultation, however—where issues cannot be addressed through amendments to the preferred option—reasoning and justification has been provided in sections 5 and 6 of this document.

This recommendation is based on an analysis of the relevant issues raised by submitters, the high regulatory burden that would be associated with retaining the current framework under option 1, and the results of the impact analysis which show that option 2 will provide the greatest net benefit to the community in the short-medium term.

This option will significantly reduce business and government costs and improve overall compliance, primarily by adopting a risk based approach to regulation. This means that activities which carry the potential to threaten or extinct native plants will be subject to higher levels of regulation, while lower risk activities will be self-assessable or exempt from permitting and licensing requirements.

Contents

Key terms, acronyms and abbreviations used in this paper

Term/acronym/abbreviation	Explanation
Applicable offsets policy	The Biodiversity Offsets Policy or an offsets policy that supersedes the offsets policy and is applicable to protected plants
Special biodiversity area	Areas that are identified by the department (often in response to advice from expert panels) as containing special biodiversity values, such as multiple taxa (including EVNT plants) in a unique ecological and often highly biodiverse environment.
Conservation plan	*Nature Conservation (Protected Plants) Conservation Plan 2000*
EA	Environmental Authority under the EP Act
EP Act	*Environmental Protection Act 1994*
EVNT	Endangered, vulnerable or near threatened
High risk clearing activities	Refer to the 'Options considered' section of this document for the alternate meanings applied to this term in the 'Consultation RIS option 2' and the 'Decision RIS option 2' respectively. The definition of 'high risk clearing activities' in the 'Decision RIS option 2' has been amended in response to consultation.
Known record	A known record for an EVNT plant (under option 2, this will be shown on a map that can be accessed through the department's website)
Low risk clearing activities	Clearing activities that are not high risk clearing activities
Mitigated	The mitigation measures accord with the Protected Plants Assessment Code.
NCA	*Nature Conservation Act 1992*
Offset	An offset that accords with an applicable offsets policy where relevant.
Plant	Under the NCA, plant means any member of the plant or fungus kingdom (whether alive or dead and standing or fallen), and includes— (a) any— (i) flowering plant; or (ii) cycad; or (iii) conifer; or (iv) fern or fern ally; or (v) moss; or (vi) liverwort; or (vii) alga; or (viii) fungus; or

Term/acronym/abbreviation	Explanation
	(ix) lichen; and (b) the whole or any part of the flowers, seeds or genetic or reproductive material of a plant.
Plant parts	Includes stems, phyllodes, foliage, buds, flowers, spores, seeds, fruits, bark, oils, roots, rhizomes, resins, gums, exudates, galls, genetic material, chemicals and any other structural component or constituent of a plant.
Resource activity	A resource activity for the purposes of section 107 of the *Environmental Protection Act 1994*.
Restricted plants	Includes EVNT plants and special least concern plants.
Special least concern plants	Includes least concern plants that are commercially valuable or are known to have sensitive reproductive biology.
Supporting habitat	Includes any plant that forms a fundamental component of the habitat for a threatened plant species and is necessary to the survival of the plant at any stage of its lifecycle. For example, if the removal of a least concern plant could cause harm to or result in the death of a threatened plant, the least concern plant forms part of the supporting habitat.
Timber plantation management activity	An activity undertaken to manage an existing timber plantation area, including: • maintaining, harvesting or re-establishing plantation timber • maintaining previously cleared areas • establishing and maintaining structures, buildings or other improvements such as fences • establishing and maintaining roads or access tracks • fuel reduction burning • establishing and maintaining firebreaks • clearing for other public safety purposes.
Unrestricted least concern plants	Least concern plants that are not 'special least concern plants' and do not form part of supporting habitat for a threatened plant.
Whole plant	Includes a seedling, and, in relation to harvesting, means that no part of the plant which will naturally and readily regrow is left behind. If a person divides certain plants, each resulting viable plant is a whole plant, regardless of whether any viable section of the original plant is left behind after harvesting. Similarly, for a plant that propagates by creeping rhizomes, each continuous piece of rhizome bearing live fronds and any section of joined rhizomes bearing fronds are whole plants.

1 Introduction

The Protected Plants Legislative Framework includes the *Nature Conservation Act 1992* (NCA), the *Nature Conservation (Protected Plants) Conservation Plan 2000,* the *Nature Conservation (Wildlife Management Regulation 2006,* the *Nature Conservation (Administration) Regulation 2006,* and the *Nature Conservation (Protected Plants Harvest Period) Notice 2013.* The framework was introduced a number of years ago to manage threatening processes on native plants outside of protected areas. As with all government legislation, the framework is now due to be reviewed, to ensure the legislation is still current, efficient and effective. The department is also committed to reducing regulatory 'greentape' and removing unnecessary duplication with other legislative processes.

The review of the framework officially commenced in July 2011, however it has gained significant momentum with the new direction of the government.

On 22 February 2013, a Consultation Regulatory Impact Statement (RIS) was released for public consultation for a 30 day consultation period. This document presented 3 options for the regulation of protected plants, including 2 reform options, along with an option of retaining the current framework. This document considers all submissions received throughout the consultation process and forms the Decision RIS for the Queensland Government's consideration. The Decision RIS provides an analysis of the consultation results in sections 6.3 and 6.4 and includes a summary of all of the key issues raised in Attachment 1. The issues relevant to the regulatory analysis are also incorporated into section 7, which provides a summary and analysis of the benefits and costs of each option. The Decision RIS draws extensively on the Consultation RIS in order to establish the basis for recommending a regulatory option for implementation.

2 Issues statement

2.1 Context

Queensland has the most diverse array of native flora in Australia, with more than 12,800 known species. Of these, 198 are listed as endangered, 390 species are vulnerable, 461 are near threatened and 23 are extinct in the wild.

In Queensland, all plants that are indigenous to Australia are protected plants. The current legislative framework for protected plants aims to manage threatening processes and conserve biodiversity, whilst allowing for the sustainable take (clearing and harvest), use (growing) and trade of protected plants. In this regard, activities involving clearing, harvesting, growing or trading protected plants are often subject to permitting and licensing requirements under the framework. These requirements are primarily determined according to the nature and scale of an activity and the conservation category* of the plant(s).

The management of protected plants outside of protected areas is regulated by the NCA and a number of subordinate statutory instruments—including the *Nature Conservation (Protected Plants) Conservation Plan 2000*, which is due for review. This suite of statutory instruments is collectively referred to as the protected plants legislative framework (the framework).

* Based on available information on the population size, health and distribution of a particular species, plants are classified as either: extinct in the wild; endangered, vulnerable, or near threatened (collectively referred to as 'threatened' for the purpose of this document); or least concern (LC).

2.2 Rationale for government intervention

The need for an effective management framework

Native plants are an integral part of Queensland's natural capital and are vital to the health and diversity across the state.

The existing protected plants framework was implemented in response to the overriding need to manage threatening processes which pose a risk to biodiversity. In considering whether this need still exists, it is relevant to note that activities such as clearing and harvesting still have the potential to endanger and extinct native plant species if they are not appropriately managed.

Therefore, in the absence of a framework for protected plants, there would be no protection in place for individual species, and plants that are already identified as endangered, vulnerable and near threatened would be at serious risk of becoming extinct in the wild, while other native flora would face increased threats.

While it is recognised that the clearing, harvest, growing and trade of protected plants can be managed in a way that preserves biodiversity and benefits the community and the economy, ineffective management of these activities has the potential to cause irreversible environmental impacts.

Lack of protection for native plants also has the potential to adversely impact on businesses that rely on the appropriate management of protected plant species. In particular, the general public would be able to source native plants directly from the wild (as opposed to buying plants from licensed suppliers), and populations of commercially valuable species upon which businesses depend would quickly be depleted. This is likely to result in detrimental economic impacts.

Therefore, an effective strategy or framework for managing protected plants without hindering social and economic development is imperative if biodiversity is to be conserved for future generations. In this regard, it can be seen that the purposes of the protected plants legislative framework and the reason for its existence remain relevant in the current context.

Issues with the existing framework

There are several drivers for a comprehensive review of the current protected plants framework. In particular, there are a number of issues surrounding the way protected plants are managed, most of which relate to the complex and burdensome nature of the legislative framework.

These issues are further discussed in the consultation section of this document (refer to section 6).

Who is affected?

Many parties rely on the effective management of native plants, and the existing protected plants legislative framework has relevance to many members of business, government and the general community, given its broad application across the areas of clearing, harvest, growing and trade.

Parties that are affected by the management of protected plants have been identified as follows:

- federal and state governments, including the Department of Environment and Heritage Protection (the department), the Commonwealth Department of Sustainability, Environment, Water, Population and Communities (SEWPaC), and the departments of the Premier and Cabinet; Treasury and Trade; Local Government; State Development, Infrastructure and Planning (DSDIP); Natural Resources and Mines (DNRM); Agriculture, Forestry and Fisheries (DAFF); and Transport and Main Roads (DTMR)
- land developers and infrastructure providers
- landholders and the general public
- conservation groups
- environmental consultants
- natural resource management (NRM) groups
- local government
- resource companies
- plant part/cut flower industry
- plant harvesters, commercial traders and the nursery and garden industry
- recreational plant enthusiasts and conservation groups
- bush food industry
- Aboriginal and Torres Strait Islander people
- universities and other educational and scientific institutions
- industry associations with members who are affected by the management of protected plants.

What are the consequences of not taking action?

Should no action be taken, significant subordinate legislation associated with the framework will expire, compromising the ability for protected plants to be managed. The expiry of subordinate legislation will also impact on businesses that rely on the ability to clear, harvest, grow or trade protected plants such that it would result in detrimental economic impacts.

It should be noted that higher order protections in the NCA are not due to expire and, therefore, the global protection for native plants would remain in place and significantly constrain industry, business and not-for-profit groups across Queensland.

3 Policy objective

The objective of government action in the context of the current review of the protected plants framework is to ensure threatening processes are effectively managed in a manner that:

- maintains or improves the current conservation status of all protected plant species in Queensland
- facilitates the sustainable take, use and trade of protected plants
- is efficient and does not impose a significant regulatory or administrative burden on business, government or the community.

It should be noted that the ability to achieve this objective is constrained by a number of factors, including but not limited to:

- the existing knowledge gaps surrounding the location and distribution of threatened plant populations across Queensland and the challenge of filling these gaps without incurring significant costs
- the difficulty in monitoring changes to threatening processes, determining and responding to pressures on particular plant species, and maintaining accurate records without imposing a significant burden on business and government
- the uncertainty surrounding the extent to which a changing climate will threaten protected plant species and the challenge of managing such impacts.

4 Options considered

Three options were considered as part of the review. The options were established by reviewing the current framework and its operation, and by considering the reasons for managing protected plants and the feedback received from business and government during initial public consultation.

As per the guidelines for preparing regulatory impact statements, these options have been assessed in comparison to a baseline position of taking no action. For the purposes of the RIS, the baseline position assumes that the entirety of the existing framework would expire and there would be no regulation of protected plants, even though it is acknowledged that all of the NCA provisions (other than those contained in the *Nature Conservation (Protected Plants) Conservation Plan 2000*) would remain in force if no action is taken.

A summary of the 3 options is provided below.

4.1 Option 1—maintaining the current framework

Option 1 proposes to retain the existing levels of protection and regulation by maintaining the existing framework. This option is not the preferred approach, as it fails to address the policy objective set out for the review of the framework. Importantly, if the framework is not reformed, it will continue to impose a heavy regulatory and administrative burden and expense on business and government as outlined in section 1.

4.1.1 Key features of option 1

Under this option:

- the conservation plan will be remade in its current state
- amendments will not be made to the NCA or any other statutory instruments that constitute the protected plants legislative framework
- the issues that have been raised in respect to the current framework (summarised in section 6 of this document) will remain.

Maintaining the existing framework under option 1 will generally mean that:

For **clearing**:

- A flora survey is required to identify threatened plants before undertaking any clearing activity, on any area of land, unless the clearing is for public safety or fire management.
- A clearing permit is required for any clearing of threatened plants, unless the clearing is for a specified public safety or fire management activity.
- A clearing permit or other authority is required for specified large scale clearing activities that will impact on least concern plants.

For **harvesting** and **growing**:

- Licences are required for the majority of harvesting activities, including harvesting of unrestricted least concern plants.
- Whole plant harvesting is generally not permitted, except where the plants will otherwise be cleared for development or mining activities.
- Authorities are required for parties who wish to grow plants from seed or other propagating material or intensively manage whole plants for the purpose of producing more individuals, propagating material or parts for sale and trade.
- There are a total of 11 licences, permits and authorities for harvest and growing:
  - commercial wildlife harvesting licence

- commercial wildlife licence
- recreational wildlife harvesting licence
- recreational wildlife licence
- herbarium licence
- scientific purposes permit
- educational purposes permit
- aboriginal tradition authority
- island custom authority
- authorised propagator
- authorised cultivator.

For **trade**:

- A commercial or recreational wildlife harvesting licence is generally required to sell or purchase restricted plants for commercial or recreational purposes.
- Official record keeping books are required.
- Buyers and sellers are required to verify the identity of who they are selling to/buying from and keep records of certain information.
- Tags required for commercial trade of certain species whole plants.

Further detail on option 1 can be found in Attachment 1, where a detailed analysis of option 2 is provided in comparison to the current framework.

Fees

Permit and licence fees under option 1 are the same as those fees that currently apply. These fees are listed in the below table.

Licence/permit/authority	**Applicable fee per application under option 1** (as per the current framework)
Clearing	
Clearing permit	Nil
Damage mitigation permit	Nil
Harvest	
Commercial Wildlife Harvesting Licence	$281.90
Recreational Wildlife Harvesting Licence	$63.35
Aboriginal tradition authority	Nil
Island custom authority	Nil
Scientific Purposes Permit	Nil
Educational Purposes Permit	Nil
Herbarium Licence	Nil

Trade	
Commercial Wildlife Licence	$562*
Recreational Wildlife Licence	$66.25
Growing	
Propagators Authority	Nil
Cultivators Authority	Nil

* if for more than 1 year, licence costs $1602.

4.2 Consultation RIS option 2—Greentape reduction and regulatory simplification

Option 2 seeks to achieve the policy objective set out for the review by providing a simplified legislative framework for managing protected plants without imposing a significant burden on government or business. Specifically, option 2 will exempt all low risk clearing and harvesting activities—for example, permits and licences will not be required for trading protected plants, or for undertaking any activity involving unrestricted least concern plants. Option 2 will also provide exemptions from clearing permit requirements in instances where impacts on protected plants have been approved as part of another assessment process. In particular, it proposes amendments to the *Environmental Protection Act 1994* (EP Act) to ensure protected plant impacts are considered as part of existing assessment processes for mining and petroleum activities. Option 2 does not propose full integration with all planning and assessment processes under other statutes, as this type of reform is not feasible at this point in time.

Under this option, feedback was sought on the classification of high risk activities, and specifically whether a size threshold and cumulative impact of total area cleared should be applied to trigger a high risk clearing activity and a flora survey. Feedback was also sought on additional exemptions that should be applied to small scale clearing in a known record area, harvesting licences and, and whether it is necessary to maintain licencing requirements for growers (propagators and cultivators).

4.2.1 Key features of option 2

Option 2 will achieve biodiversity outcomes for protected plants without imposing a significant regulatory burden on business or government, by:

- establishing an effective, concise and transparent legislative framework with clear heads of power and provisions, and robust decision-making frameworks for granting permits
- adopting a risk-based approach to regulation so that resources are directed towards activities that pose a high risk to plant biodiversity
- exempting least concern plants from permitting and licensing requirements in most circumstances
- providing opportunities for integration into other development assessment frameworks for clearing activities
- focusing regulation on the sustainability of harvest, use and trade activities, rather than the purpose of the activity or the end use of the plants
- filling knowledge gaps by improving use of data provided by proponents
- introducing a broad and flexible range of offences and compliance tools in order to allow more efficient and outcome driven compliance against the simplified framework. This will include, for example, penalty infringement notices and warnings for less significant non-compliance incidences
- providing for flexibility in terms of the currency periods that are applied to permits and licences
- introducing fees that are relative to the departmental resources required to assess a permit or licence application (refer to fees subsection below)

In addition to these, reforms specific to the clearing, harvest, use and trade of protected plants are also proposed.

For **clearing** in particular:

- All low risk clearing activities will be exempted from flora survey and permitting and requirements, as outlined below:
    - Permits will not be required for clearing unrestricted least concern plants (i.e. plants that are not designated as 'special least concern plants' and do not form part of the immediate habitat of a threatened plant).
    - Flora surveys will only be required for high risk clearing activities.
    - Permits will only be required for high risk clearing activities that will result in clearing of threatened plants and/or their supporting habitat.

      (Note: this means that all low risk clearing (i.e. small-medium scale clearing that does not occur in an area where there is a known record of a threatened plant or a special least concern plant) will be exempt from permitting requirements and will not require a flora survey, even if the clearing might inadvertently result in the removal of threatened plants.
- Appropriate fees for permits to clear protected plants will be implemented, in order to recover costs associated with assessing clearing permit applications.
- Application requirements, flora survey requirements and criteria for clearing approvals will be clear, in order to minimise the potential for delays associated with information requests and permitting processes.
- The maximum allowable currency period for clearing permits issued under the NCA will be 2 years.
- A general exemption from permit requirements will apply where clearing of protected plants is to be mitigated and/or offset as part of another process.
- There will be no NCA clearing permit requirements for petroleum and mining activities, where the clearing of protected plants is undertaken in accordance with the conditions of an Environmental Authority (EA) issued under the EP Act.

High risk activities include:

- Clearing activities undertaken in an area where there is a known record of an EVNT plant or a special least concern plant. (Note: A proponent must conduct a search of the relevant database or obtain advice from the department to ascertain whether there are any known records of EVNT plants or special least concern plants in the impact area); or
- An activity, where the cumulative impact (area to be developed, built on or cleared) will exceed a certain size over the life of the project/activity and the project involves the clearing of native vegetation.
    - this means activities likely to have a large footprint and activities which, by their nature, could potentially have a significant impact on threatened and near threatened plant populations, these being, for example:
        - a coordinated project declared under the *State Development and Public Works Organisation Act 1971*.
        - mining and petroleum activities requiring approval/authority under the EP Act
        - mining and petroleum activities that do not require approval/authority under the EP Act but will have a cumulative clearing impact which exceeds a certain size
        - built infrastructure that will have a cumulative clearing impact which exceeds a certain size
        - clearing that will have a cumulative impact which exceeds a certain size (including linear clearing)
        - broadscale clearing
        - material change of use (MCU) where the development footprint is over a certain size and the clearing will be required to facilitate the change of use
        - reconfiguring a lot (RaL) where the site is over a certain size, if the size of any lot created is 25ha or smaller and the site contains vegetation that will be cleared as a result of the RaL**.**

For **harvest and use** in particular:

- There will only be 2 licences for harvest and use, these being:
    - a Protected Plant Harvesting Licence
    - a Grower's Licence.
- The maximum allowable currency period for all harvesting and growing licences will be 5 years.
- The harvest and use of least concern whole plants and plant parts, excluding restricted least concern plants, will

be exempt in all circumstances.

- There will be no barriers to whole plant and plant part harvesting operations in non-salvage situations—regardless of the purpose of the harvest—where long-term sustainability or conservation gains can be demonstrated.
- Purpose will, however, be relevant in some circumstances, for example:
    - where the long-term sustainability of the harvest cannot be demonstrated, harvest of an endangered plant may be permitted for a scientific or conservation purpose, where it would not be permitted for any other purpose.
- Record keeping and tagging requirements will apply in some circumstances.
- The Vegetation Management Act will be amended so that the ability to harvest sandalwood on freehold land is only regulated under the NCA.

For **trade** in particular:

- Licensing requirements will not apply, provided activities comply with an applicable code of practice.
- The code of practice will include line-of-evidence record-keeping and tagging requirements for plants taken from the wild.
- Processes will aim to facilitate industry self-regulation by linking in with industry bodies and existing record keeping processes, such as those for biosecurity.
- This system will be supported by auditing processes, offence provisions and penalties in order to minimise the potential for illegally harvested plant material to enter trade.

Fees

Option 2 proposes to introduce standard fees for each of the 3 permits and licences, while offering concessional fees (25% of the standard fee), or in some cases fee exemptions for applications made for scientific, cultural, educational or conservation-related purposes.

The fees have been determined with a view to recovering some of the assessment costs incurred by the department.

The rationale behind charging appropriate fees for permits and licences, in order to recover some assessment costs, is for the associated revenue to be redirected back into the administration of the framework. This will be used to increase compliance with the framework and reduce application processing times, thereby minimising delay costs to business.

The fees proposed under option 2 are listed in the below table. Clearing permit fees are proposed to be higher than the other permit types because of the longer assessment times that are associated with these applications.

Licence/permit/authority	**Applicable fee per application under option 2**
Clearing	
Clearing permit	$2500
Fee concession	$625
Harvest	
Protected plant harvesting licence	$1000
Fee concession	$250
Growing	
Grower’s licence	$500

Fee concession	$125
Trade	
N/A—licence not required	N/A

Refer to Attachment 1 for further detail on option 2.

4.3 Decision RIS option 2—Greentape reduction and regulatory simplification

As it is recognised that support for option 2 is largely dependent on a number of key issues being addressed, a revised version of option 2 has been developed in response to the relevant issues raised by submitters during the consultation period for the Consultation RIS. However, generally, the overall aim and key objectives of option 2 remain unchanged. Minor amendments have been made to clarify the intent of the proposed changes, overcome any unintended issues and to facilitate more effective implementation outcomes.

Details on the department's response to key issues raised by submitters is provided in sections 6.3 and 6.4 of this document and in Attachment 1 ('Summary of Key Issues').

A summary of the proposed amendments to option 2 that have been made in response to feedback received during consultation is provided below.

4.3.1 Key features of option 2

Decision RIS option 2 will be largely consistent with the Consultation RIS option 2, with the exception of the points outlined below.

'High risk areas' and 'high risk clearing activities'

Under the Decision RIS option 2, high risk clearing activities will include both clearing undertaken in an area where there is a known record of an EVNT plant and clearing undertaken in a mapped special biodiversity area. These areas will be collectively defined as 'high risk areas'.

A high risk clearing activity will no longer be defined by reference to the size of an impact area or the scale of a clearing activity.

This amendment is consistent with the risk based approach adopted by this option and will ensure that the classification of a high risk clearing activity is based on ecological criteria and environmental context.

The following definitions are therefore applicable under option 2:

A *'high risk area'* is an area that contains either a known record of an EVNT plant or a mapped special biodiversity area.

A 'high risk clearing activity' is:

- A clearing activity undertaken in an area where there is a known record of an EVNT plant; or
- A clearing activity undertaken in an area where there is a mapped special biodiversity area.

Special biodiversity areas

Areas that are identified by the department (often in response to advice from expert panels) as containing special biodiversity values, such as multiple taxa (including EVNT plants) in a unique ecological and often highly biodiverse environment.

Clearing permit exemptions

Although high risk areas will include both known records and special biodiversity areas, there will be a much broader range of clearing activities that will be exempt in special biodiversity areas, as opposed to known records.

At this stage, the following clearing exemptions are proposed:

(1) Clearing protected plants, if the clearing is not for a high risk clearing activity.

(2) Clearing protected plants outside of a known record (whether or not the clearing will encroach into an special biodiversity area):

- For public safety purposes.
- To establish essential community infrastructure.
- To maintain existing transport corridors.
- To establish new fence lines.
- To establish or maintain firebreaks.
- In the course of an activity that is authorised under a Land Management Agreement under the *Land Act 1994*.
- In the course of an activity that is undertaken for fodder harvesting, thinning or encroachment purposes, as defined under the VMA, where the clearing is undertaken in accordance with an applicable code under the VMA.
- For weed control purposes, where the clearing is undertaken in accordance with:

  i) an applicable code under the VMA; or

  ii) where the VMA does not apply—the code of practice under the NCA.

(3) Clearing protected plants for a high risk activity, where any of the following applies:

- A survey of the impact area is undertaken in accordance with the applicable survey methodology guideline; and

  i) The survey results demonstrate that EVNT plants are not present in the impact area; and

  ii) The proponent has submitted the results of the flora survey and any supporting evidence to the department to demonstrate that this is the case.
- The area has been surveyed and the department notified (in accordance with the requirements of exemption a) above) within the preceding five years.
- The clearing occurs in the course of a timber plantation management activity, provided:
  - The clearing is undertaken in a timber plantation that has been established under an authority issued under another Act;
  - The area has previously been legally cleared to facilitate the current use of the land.
- The clearing is being undertaken to maintain existing infrastructure and complies with the code of practice.
- The protected plants in the area have previously been legally cleared under an NCA clearing permit issued in the preceding 10 years.
- The protected plants in the area have been legally cleared under an NCA clearing permit and the vegetation in the area has not regrown to a state that meets the definition of remnant vegetation under the *Vegetation Management Act 1999* (i.e. clearing of regrowth).
- The clearing is associated with a 'relevant development activity', and protected plants in the area have been legally cleared in the preceding 10 years.
- The clearing is being undertaken by State or local government, and protected plants in the area have been legally cleared in the preceding 10 years.
- The protected plants will be cleared in accordance with conditions under the *Environmental Protection Regulation 2008*.
- The impacts on protected plants will be mitigated and/or offset in accordance with a condition of an authority issued under another Act.

Additionally, the current framework provides exemptions for clearing all protected plants for public safety purposes, where the clearing is necessary to avoid or reduce an imminent risk of death/serious injury/serious damage to a person/building/other structure/personal property. Clearing that forms a necessary part of a measure that is authorised under a specified exemption of the *Fire and Rescue Service Act 1990* is also exempt.

These exemptions will be retained under the new framework, regardless of whether the clearing encroaches into a 'high risk area'.

Clearing permits

In response to feedback on the Consultation RIS, the revised option 2 will see clearing permits applied to an area, rather than to a particular species. This will mean that situations where proponents would otherwise need to continuously reapply for clearing permits over the same area can be avoided.

EP Act Integration

The revised option 2 seeks to provide an exemption to all resource activities—rather than just to mining and petroleum activities—where protected plant impacts have been addressed through conditions imposed under the EP Act. Amendments to the *Environmental Protection Regulation 1998* (EP Regulation) are proposed, in order to achieve integration with Environmental Authority (EA) processes. The following points are relevant under the Decision RIS option 2.

- Resource activities will only be considered 'high risk' if they encroach into mapped special biodiversity areas or known records and the clearing activity does not fall under another NCA exemption (see above section). Flora surveys will only be required in the 'high risk areas' (known records and special biodiversity areas), and a clearing permit will only be required if EVNT plants are found to be in existence on the ground.
- The department is considering alternative, more flexible approaches to integrating protected plant considerations into the Environmental Authority (EA) process, in order to ensure integration is beneficial to both government and industry and does not further delay environmental approval processes.
- The department acknowledges that EAs are often issued in the absence of data derived from on ground ecological surveys. Therefore, alternative approaches being considered include using standard regulatory conditions under the EP Act to require proponents to avoid mapped 'high risk areas'. Where encroachment into these areas cannot be avoided, proponents would be required to survey the areas and apply under the EP Act to amend the EA if EVNTs are proposed to be cleared.
- The department will seek further input from the resources sector on how protected plant considerations can best be integrated into the EP Act, in a way that streamlines existing approval processes and benefits all parties.

Clearing of special least concern plants

In response to concerns raised by submitters, the revised option 2 will maintain the existing exemption for clearing special least concern plants, while allowing for harvesting to occur in situations where sustainability can be demonstrated. This is consistent with the risk based approach of option 2. This means that a permit will not be required for any clearing of least concern plants under the revised option 2.

Harvesting of special least concern plants

In locations where special LC plants are abundant and/or sustainability of harvest can be demonstrated, a harvesting licence will be issued for a sustainable quantity.

Under the revised option 2, salvage of these plants will be permitted in a broader range of circumstances, where the clearing is legitimately being undertaken to allow for the use of the underlying land, rather than for the use/sale of the plants. The department is considering defining such purposes in the legislation, but it is likely that these would include;

- All 'relevant development activities', as defined under the existing legislation (e.g. resource activities, activities authorised under the under the Electricity Act 1994 or the Transport Infrastructure Act 1994;
- Activities being undertaken by local government;
- Activities approved under the Sustainable Planning Act 2009;
- Forestry plantation management activities.
- Any clearing of protected plants, as approved under the NCA or another Act (this would only apply to EVNT plants, as special LC plants will not require a clearing permit).

Salvage would be exempt where:

- It is undertaken by the holder of any current harvesting licence (regardless of the location or species the licence had been issued for); and

- It is undertaken in accordance with the code of practice (including tagging and record keeping requirements).

Growing

The growing framework will be the same as it was proposed under the Consultation RIS option 2; however the following points of clarification are provided:

- Under the current framework an authority can be given for 'growing' (i.e. propagation and cultivation), provided certain criteria are met. It is intended that the requirements will be carried across to the new framework.
- The primary changes are combining the propagator and cultivator authorities into a grower's licence and charging a fee for the licence.
- As with the authorities, the licence will enable access to seed and propagative material not otherwise available or readily accessible through a harvesting licence (for example, harvest is not limited to a specific location, and the holder of a growers licence may take small quantities of seed of many species without a harvesting licence).
- A harvesting licence will still be required to take whole plants for use as stock plants for propagation and cultivation activities.

The growers licence only applies to propagation and cultivation activities using wild sourced materials. It does not apply to a propagator or cultivator who obtains their seed or propagative material from non-wild sources.

Fees

The revised option 2 will offer concessional fees (25% of the standard fee), or in some cases fee exemptions for harvest or clearing for the purposes of damage mitigation, and clearing to establish essential property infrastructure.

Additionally, based on feedback and the aim to reduce pressures on wild species and encourage greater reliance on cultivated specimens, the department is giving further consideration to circumstances under which fee concessions and exemptions for growing activities will be appropriate. At this stage, fee concessions are proposed to apply where non-commercial quantities of propagative material will be taken from the wild.

Fee concessions, or in some cases fee exemptions are still proposed to apply to harvesting applications made for scientific, cultural, educational or conservation-related purposes.

The rationale behind charging appropriate fees for permits and licences, in order to recover some assessment costs, is for the associated revenue to be redirected back into the administration of the framework. This will be used to increase compliance with the framework and reduce application processing times, thereby minimising delay costs to business.

4.4 Option 3—Co-regulation

Option 3 will facilitate industry co-regulation of clearing, harvest, growing and trade impacts on protected plants. This will be achieved by:

- exempting all activities from permitting and licensing requirements
- developing a 'self-regulatory' code in consultation with relevant industries
- implementing a robust monitoring, reporting and compliance framework in order to ensure co-regulation remains effective.

The option also seeks to minimise regulatory burden by implementing some of the initiatives that are proposed as part of option 2, such as the establishment of a concise and transparent legislative framework with clear heads of power and provisions.

The co-regulation aspects of this option will require extensive consultation with industry to develop an effective and usable self-regulatory framework.

Industry will be solely responsible for managing impacts on protected plants and ensuring that threatened plant species do not become extinct in the wild or further decline in conservation status as a result of their activities.

Government will maintain a robust monitoring, reporting and compliance framework—including protected plant maps

for all properties where clearing or harvesting has either occurred or has been proposed—and will be responsible for auditing industry activities.

Site evaluations will be required in most circumstances for clearing and harvesting activities captured by the framework, and will be undertaken by the department to ensure assessments are impartial and transparent. It is expected that, over time, the department will establish an accreditation process for site evaluations and this body of work will be tendered out to external providers.

Results of site evaluations, including a list of threatened species found, will be made available to the public through online record systems. Site-specific protected plant maps will only be provided to the proponent and/or the landholder.

4.4.1 Key features of option 3

Under option 3:

- a self-regulatory framework will be developed in close consultation with relevant industries
- all activities that are not exempt under the framework will need to be undertaken in accordance with the framework, by an industry signatory to the framework
    - General exemptions will be determined in consultation with industry, however it is likely that all clearing, harvesting and trading activities involving least concern plants will be exempt, along with small scale clearing outside of known records for threatened and special least concern plants.
    - Landholders and proponents will be responsible for signing up to the framework and ensuring that any activity accords with the framework.
    - If requested, the proponent will need to be able to demonstrate that any activities had met the requirements of the framework and code, including activities undertaken by contractors or consultants undertaking work on their behalf.
- it will be an offence under the NCA for an activity that was not otherwise exempt to be undertaken:
    - in contravention of the requirements of the self-regulatory framework
    - by someone who is neither a signatory to the framework, nor acting on behalf of someone who is a signatory to the framework.

Features of option 3 that are specific to clearing or to harvest and trade are outlined below.

Clearing

- Where a person is planning on undertaking a clearing activity that is not exempt under the framework, they will need to apply to the department for a site specific protected plant evaluation.
    - The proponent will need to pay a fee to the department, to cover the cost of departmental staff coming out to their property and undertaking a site evaluation to identify any threatened plants.
        - Fees will be commensurate to the size of the area/property being evaluated and concessions will apply for clearing that is being undertaken for non-commercial purposes (e.g. general property maintenance).
    - The department will develop a site specific protected plant map for the property—or a particular area of the property—and issue the map to the proponent.
        - For large properties, the department could elect to only develop a protected plant map for the area of the property in which clearing was proposed. The map could then be amended at a later date to encompass the rest of their property, if clearing was being proposed in other areas.
- If a protected plant map shows that they are no protected plant issues in an area, all clearing activities will be exempt under the NCA and no further action will be required.

- If a protected plant map indicates that there are protected plant issues in an area, all activities in that area will need to be undertaken in accordance with a self-regulatory framework, by a signatory to the framework or a contractor acting on behalf of a signatory to the framework.

Improved species information obtained from site evaluations undertaken by the department will also be used to better inform the classification of species. While this could result in some plants being moved to a higher conservation status, it is likely that increased knowledge around species distributions would lead to less species being classified as threatened.

Harvest

- When a person is planning on harvesting threatened plants or plants that have a high commercial value, they will need to pay a fee for the department to undertake a site evaluation for the proposed harvesting area(s) to verify and record the number of threatened and special interest species found in the relevant location(s).

- The department will develop a site-specific protected plant map, encompassing only the proposed harvesting locations(s) and issue the map to the proponent.

- Harvesting will only be permitted in the mapped locations and will need to be undertaken in accordance with a self-regulatory framework, by a signatory to the framework.

Growing and trade

Growers and traders will not need the department to perform a site evaluation before they could undertake these activities—they will only need to sign up to the self-regulatory framework and ensure their activities complied with the relevant requirements.

Tagging and record keeping requirements will however apply in some circumstances. If requested, traders and growers will need to be able to provide the appropriate evidence to demonstrate where plants or plant parts have been sourced, grown or purchased from. This will include all threatened plants and plants that have high commercial value.

Fees

Under option 3, fees have been developed with a view to recovering a large proportion of costs that will be associated with the department undertaking site evaluations and producing protected plant maps for clearing and harvesting activities. Therefore, fees will not apply to growing and trading activities, and will only be a one-off cost per property/site to obtain a protected plant map.

Fees will be dependent on the size of the property or the site, with lower fees applying to smaller properties/sites. Concessions will also apply to activities being undertaken for non-commercial purposes (e.g. clearing for general property maintenance, harvesting for scientific purposes).

Higher fees will be imposed on site evaluations for clearing activities, as opposed to site evaluations for harvesting activities, as these evaluations will be more resource intensive.

The fees proposed for protected plant maps under option 3 are outlined below.

Clearing site evaluation fees

Protected plant map (clearing)	**Applicable fee per map under option 3**
Protected plant map for site of up to 5 hectares (ha)	**$2500 (minimum fee payable, where a concession does not apply)**
Concession (25% of full fee)	$625
Fee per additional 1ha thereafter	**$500**
Concession (25% of full fee)	$125

Harvesting site evaluation fees

Protected plant map (harvesting)	Applicable fee per map under option 3
Protected plant map for site of up to 5ha	**$1000 (minimum fee payable)**
Concession (25% of full fee)	$250
Fee per additional 1ha thereafter	**$200**
Concession (25% of full fee)	$50

4.5 Consideration of alternatives

The below sections outline other alternatives that could have been proposed for the review of the protected plants framework, and discuss the reasons that these options were not considered viable.

4.5.1 Allowing the conservation plan to expire

The bulk of the protected plants framework—including exemptions from permit and licensing requirements—are contained within the conservation plan, which is set to expire in August 2013. While one course of action presented in option 1 is to remake the conservation plan in its current form, thereby retaining the current framework (option 1), another option would be allowing the conservation plan to expire. This was not considered to be a viable option as part of this RIS for the following reasons:

- Legislation pertaining to protected plants would be highly restrictive and disjointed if the conservation plan expired, due to the fact that:
    - the protected plants framework is spread across a number of interdependent pieces of legislation under the NCA
    - the majority of provisions that allow for the sustainable clearing, harvest, growing and trade of protected plants are contained within the conservation plan.
- Therefore, in the absence of the conservation plan, there would be limited circumstances in which native plants could be legally taken from the wild, grown or traded. As a result:
    - development involving clearing for land use would be highly restricted
    - businesses in the native plant industry and related industries would be highly constrained
    - blanket exemptions for clearing all protected plants would no longer be available to mining and petroleum and gas companies, and class exemptions could no longer be issued
    - the community could not lawfully access wild harvested native plants without a permit or licence
    - legislative obligations would not be fulfilled and the object of the NCA could not be achieved in the manner that is intended in the Act.

4.5.2 'No regulation' option (allowing the existing framework to expire)

It is also relevant to note that non-regulatory and full self-regulatory options were considered during the review but were determined to be unviable. This is because non-regulatory and full self-regulatory options would not deliver an appropriate level of protection for threatened plants, and therefore would not be in line with the object of the NCA or the policy objective established for government action in the context of the review of the framework.

Specifically, if no action was taken and the existing framework was to expire, threatening processes such as clearing for land use and harvesting would be unmanaged and could therefore cause irreversible environmental damage. For example, it would be impossible to determine whether clearing or harvesting of threatened plants in one location could cause an extinction of a species, without knowing what was occurring over the rest of the landscape. At present, this is only possible through the existence of a permitting and licensing system which enables the department to assess the potential impact of an activity involving threatened plants before it is

permitted to occur.

The case for regulating threatened wildlife (including native plants) is well established, with regulations and controls being in place in all other States across Australia. With scientific evidence indicating that biodiversity is in decline both nationally and internationally, it is widely accepted that the effective management and regulation of wildlife is imperative to the maintenance and enhancement of biodiversity for future generations.

In Queensland, unique plant species would quickly become threatened if restrictions and monitoring systems were removed, and it is likely that over 1000 species that are currently listed as endangered, vulnerable or near threatened would eventually become extinct in the wild.

It is also relevant to note that non-regulatory and full self-regulatory options would likely result in a range of economic and social consequences, including:

- Other jurisdictions would have difficulty regulating their native wildlife, as it would be hard to track the origin of native plants being sold or used in other States, and to determine whether or not these had been legally obtained.

- Queensland-based businesses currently in or dependent on the native plant industry could be significantly disadvantaged, due to the exploitation of native plant supplies as a result of:

    - businesses from other States travelling to Queensland to obtain native plants, due to the supply in their home State being restricted or licensed (and the plants therefore being more difficult and/or costly to obtain)

    - the public no longer needing to buy native plants from authorised sellers (they could take the plants directly from the wild)

    - the eventual extinction of commercially valuable plants upon which a number of businesses are dependent.

- Legislative obligations would not be fulfilled and the object of the NCA could not be achieved in the manner that is intended in the Act.

- Queensland would be perceived as out of step with internationally and nationally recognised practices and standards.

- The native plant export industry would become subject to direct Commonwealth regulation and approval, because there would no longer be an accredited Queensland wildlife trade management plan for native plants, As a result, export of native plants could be heavily restricted.

While this is not considered to be an acceptable option, it has been used to formulate the baseline position for the RIS, in accordance with the Queensland Government's guidelines for preparing regulatory impact statements[1].

[1] The 'Regulatory Assessment Statement System Guidelines' apply to the preparation of regulatory impact statements and can be found at www.treasury.qld.gov.au

5 Impact assessment

Where possible, costs and benefits of each of the proposed options have been quantified, to help identify which option will provide the greatest net benefit to the community.

Where costs and benefits are not easily quantifiable, these have been expressed in qualitative terms. In this regard, there are a number of costs and benefits associated with each option that cannot be expressed in monetary cost savings or increases, but are relevant factors in determining the most beneficial option for government, business and the community. In addition, where appropriate, costs and benefits have been updated to reflect feedback received on the Consultation RIS.

The costs associated with the current framework (presented in option 1) have been determined by reviewing departmental records, as well as information obtained during consultation with assessment officers, regional staff, industry representatives, permit and licence holders, and other parties operating under the framework. These figures were extrapolated in order to estimate the costs of reform under options 2 and 3.

It is important to note that, where departmental records are not available to determine the cost of compliance with the existing regulatory regime, the department has used the best available data to estimate the cost of compliance with the framework. This is particularly the case for the flora surveys, where the only way to estimate the cost of flora survey requirements is to determine how many flora surveys would be undertaken if all native vegetation clearing was being undertaken in compliance with the current framework. Therefore, it is recognised that the estimated costs incurred by business and landholders under the current framework would possibly be lower if the full extent of non-compliance was known and accounted for.

However, as it is not possible to know the extent of non-compliance under the current framework, the method of estimating these costs on the assumption of full compliance with the regulatory regime is thought to be adequate for the purpose of the RIS. This is consistent with the purpose of undertaking an impact assessment as part of a RIS, being to ascertain what the full cost of a regulatory option is, and what impact regulatory requirements would have on business, government and the community.

As data and figures used to estimate costs of option 1 were extrapolated in order to estimate the costs options 2 and 3, the estimated costs for all 3 options are relative and proportionate to one another (i.e. the method of estimated costs has not created a bias to any particular option).

A summary of costs is provided in Attachment 2.

As per the Queensland Government's guidelines for preparing regulatory impact statements, the costs and benefits of all 3 options were then assessed against the baseline position of 'no regulation'.

The key costs and benefits for the three options being considered are outlined in the below sections. Each section includes a summary of the assumptions used when estimating the costs and benefits of the relevant option.

5.1 Impact assessment for option 1—retaining the current framework

The protected plants legislative framework in its current form imposes a significant regulatory burden on business and government. The total annual cost of the current framework has been estimated at $53.500 million, based on the estimated cost of full compliance with flora survey requirements, and the current level of compliance with all other regulatory requirements. Businesses and landholders incur the majority of the costs (estimated at $52.795 million or 99% of the total cost), while government incurs an estimated $705,000 a year (only 1% of the total cost).

5.1.1 Benefits

Businesses and landholders

The primary benefit of option 1 is that it provides for the ongoing viability of businesses operating under it—such as those in the nursery, horticultural and plant trade industries—without potential disruptions associated with either the removal of regulation or the implementation of a new legislative framework. Assuming that the majority of operators are accustomed to the requirements of the current framework (whether or not they comply), remaking the current framework will allow them to continue to operate within a familiar regulatory environment, without being exposed to new risks such as increased competition and additional pressure on native plant supplies, both of which would be associated with de-regulation. Business will also avoid the need to spend time, energy and resources on adjusting to any new arrangements. Therefore, under this option it is assumed that the economic benefits of the framework and the viability of the native plant industry will continue at the current level. The scope and scale of businesses that make up the native plant industry and which will benefit from maintaining the regulatory framework predominantly include those businesses that have already expended the time and effort to comply with the numerous permitting and licencing requirements.

The native plant industry encompasses a large number of businesses, many of them small businesses, and provides a significant contribution to the economy. These include:

- Recreational and commercial growers (propagators and cultivators) and harvesters of native plants, including native plant nurseries, horticulturists, professional and amateur gardeners, plant enthusiasts and hobbyists, conservation and landcare groups, community groups, native bush food organisations, researchers and scientific organisations.
- Buyers of native plants, including wholesale and retail nurseries/garden centres, landscape architects / landscaping services, professional and amateur gardeners, hobbyists, conservation and landcare groups, revegetation and environment restoration companies, environmental offset companies, local, state and federal government jurisdictions and the general public.
- Recreational and commercial sellers and traders including the native plant export industry, wholesale and retail nurseries / garden centres, professional and amateur gardeners, hobbyists, conservation and landcare groups.

There are also a range of other businesses that indirectly benefit from the protection of native flora and this includes tourism (particularly eco-tourism and science tourism), research and development, including scientific discovery, and educational institutions.

Another benefit of option 1 for business is that it will avoid the introduction of any new fees for permits and licences, however this benefit is offset by some costs (outlined in the costs sections).

Government

Maintaining the current framework provides little long-term benefit for government. However, in comparison to the baseline position of having no regulation of protected plants, the advantage of option 1 is that it does provide some protection for native plants, and goes some way to meeting legislative obligations under the NCA. For example, the maintenance of a regulatory framework also helps to minimise the potential for plants to be illegally harvested, cleared and traded, thereby reducing the potential for species extinctions.

Community and environment

In comparison to the baseline position of not regulating protected plants, benefits to the community and the environment under option 1 have been identified as follows:

- Some level of protection will be maintained for protected plants.
- If full compliance was achieved, the framework would provide a high level of protection to threatened plants.
    - Even though there are issues surrounding non-compliance with the current framework, biodiversity is more likely to be maintained for future generations if there is a legislative framework in place to manage threatening processes.
    - Flora surveys are generally undertaken prior to any clearing activity, which would theoretically mean that all known and unknown threatened plants are adequately assessed, avoided, mitigated and/or offset before clearing is undertaken, thereby providing a high level of protection.

- However, it should be noted that the ability to enforce this requirement for protected plants is limited, as there is no requirement to provide flora survey information to the department. For example, once clearing has occurred (and the plant has been removed), it is almost impossible to prove that it existed - unless there is a known record of that plant. As such it is difficult to quantify what benefit that this requirement has on improving existing knowledge and data and therefore providing improved conservation outcomes.

- Feedback from the community raised concerns that the benefits of option 1 do not adequately recognise the value of protecting biodiversity, and the potential cost to the community should native plants become extinct in the wild.

5.1.2 Costs

Businesses and landholders

Compliance with the current framework is estimated to cost business $52.795 million per annum, the majority of which can be attributed to the regulatory requirement for a flora survey to be undertaken before any clearing can occur ($50.469 million). A significant proportion of these costs are borne by developers, resources sector (including petroleum and gas), electricity and infrastructure providers, however there are a range of other businesses and landholders that also bear significant costs, including rural landholders, and the agriculture and horticulture sector.

The costs of preparing applications under the clearing framework are estimated at $1.074 million per year. The preparation of least concern clearing permit applications forms the majority of the total business cost associated with clearing permits, estimated at $649,000.

Additional costs associated with clearing permits can be attributed to:

- lack of integration with other assessment processes
- the short currency period for clearing permits
- business delay costs as a result of slow assessment processes.

Businesses have advised that there are significant delay costs as a result of the existing framework, particularly in relation to petroleum and gas projects such as coal seam gas. However, no specific figures were provided and, as such, were not able to be reflected in the above estimates.

The harvest and growing framework costs business significantly less than the clearing framework, at approximately $234,000 a year, and the cost of trading activities for business is less again, at approximately $30,200. Almost all of these expenses are associated with the application process for obtaining a permit, licence or authority to allow for the harvesting, growing or trading protected plants.

However, feedback on the Consultation RIS suggests that the complexity of the existing permitting and licencing system, and the restrictions on least concern and special least concern plants, has acted as a deterrent to smaller retailers and growers of these plants. This has resulted in many businesses no longer operating or trading in Queensland native plants and therefore not applying for permits or licences.

Government

The current framework imposes substantial costs of $705,000 on government, and contributes very little in the way of revenue ($31,000 per annum). The majority of costs ($478,000) can be attributed to the assessment of permit/licence/authority applications. Other costs include the administrative and policy functions required to support of the framework (for example, the cost of processing applications, providing policy advice and undertaking compliance and enforcement activities).

These costs highlight that there is a significant administrative burden associated with the current framework. It is relevant to note that the department currently administers twelve different permits, licences and authorities[2] for taking

[2] The 12 permit, licence and authority types under the framework include: clearing permit, damage mitigation permit, scientific purposes permit (protected plants component only), educational purposes permit (protected plants component only), commercial wildlife harvesting licence,

and using protected plants. In this regard, a number of permit and licence requirements under the current framework pertain to activities that are of a low risk nature and do not necessarily warrant assessment by government. As well as imposing costs on government, the maintenance of onerous requirements for low risk activities is likely to perpetuate high levels of non-compliance across the industry, posing a greater risk to threatened plants. It is primarily for this reason that the current framework is widely believed to be unsatisfactory in terms of environmental outcomes.

Sources of other government costs associated with maintaining the current framework are outlined below.

- Assessment officers are required to assess the same application more than once in some instances due to short currency periods.
- Unnecessary duplication of assessment processes for clearing protected plants.
- Harvest and trade regulation restricts the entry and supply of native species to nurseries and the public, leading to a decrease in the sale of native species.

Community and environment

Costs to the community and the environment under option 1 have been identified as follows:

- There will continue to be unnecessary duplication of assessment processes for clearing protected plants.
- It is likely that unsustainable and illegal practices resulting from non-compliance will continue to pose a significant threat to the survival of threatened plant species in the wild.
- The supply of native species to nurseries and the public will continue to be restricted through the over-regulation of trade activities.

Lack of compliance and ability to enforce the framework is also identified as a significant cost to the community and environment. The current regulatory regime requires proponents to demonstrate that reasonable attempts were made to avoid clearing EVNTs without a relevant authority or exemption and to determine where a clearing permit is required. This has generally meant that a flora survey is required for all clearing activities. It is assumed that this approach was adopted largely on the rationale that existing knowledge of protected plants was poor and therefore it was the applicant's responsibility to be able to demonstrate that no EVNT plants exist in the area proposed to be cleared. However, there is no requirement to provide the government with results of flora surveys, so in the absence of a known record, it is difficult to prove whether the plant was there prior to the area being cleared.

While this option provides a perceived high level of protection of EVNT plants, in reality it is very difficult to monitor and enforce. Therefore it does not effectively manage the threats that clearing, harvest and trade activities pose to protected plants, resulting in poor conservation outcomes. This will continue to be an issue if the framework is not reformed.

5.1.3 Summary of significant business and government benefits and costs for option 1

A summary of the main benefits and costs identified for option 1 is provided in the following table.

Benefits	Costs
Businesses and landholders	
• Provides for the ongoing viability of diversity of businesses that make up the native plant industry, without potential disruptions.	• Business will continue to incur total annual costs of around $52.795 million a year, the majority of which are associated with flora survey requirements.

recreational wildlife harvesting licence, commercial wildlife licence, recreational wildlife licence, herbarium licence, Aboriginal and Torres Strait Islander authority, propagator authority and cultivator authority.

Benefits	Costs
• No exposure to new risks such as increased competition and additional pressure on native plant supplies, both of which would be associated with de-regulation.	○ Costs associated with hiring a botanist to undertake a flora survey before carrying out any clearing activity (estimated at $50.469 million per year). ○ Costs of obtaining the necessary clearing permits ($1.074 million) and protected plant harvest and growing licences ($234,000) (excluding initial flora survey costs). – Lack of integration with other assessment processes for clearing and restrictive currency periods contribute to these costs.
Government	
• A regulatory framework for the managing the impact of clearing, harvesting and trade activities on protected plants is maintained.	• Government will continue to incur annual costs of around $705,000, while receiving only $31,000 in revenue per year. ○ Around $478,000 of these costs are associated with assessing and processing permit and licence applications. ○ Lack of integration with other assessment frameworks for clearing and restrictive currency periods contribute to these costs.
Community and environment	
• Plant biodiversity is more likely to be maintained if there is a legislative framework in place to manage threatening processes.	• Continued costs to the community and the environment as a result of: ○ Unnecessary duplication of assessment processes for clearing protected plants. ○ High levels of regulation that result in non-compliance and, therefore, poor conservation outcomes. ○ Restriction of the supply of native species to nurseries and the public.

5.1.4 Assumptions for cost calculations

In order to calculate costs of the existing framework, a number of assumptions were made. These are outlined below.

- Based on advice from industry consultants, the average cost of a flora survey was determined to be approximately $5,000. This was assumed to cover the cost of surveying a land area of up to 10ha. Concerns have been raised by some business and conservation groups that this figure may not reflect the true cost of undertaking a flora survey. However, no alternative data or quantitative information was provided by respondents during the consultation process. It is known that costs are highly variable and depend on a range of factors including site location, topography, existing data (etc.). Therefore, the average cost of $5000, which based on advice from flora consultants, was concluded to be the best estimate that could be used to determine total cost to industry to undertake flora surveys.
- As it is not currently a requirement to notify the department when a flora survey has been undertaken, it has

been assumed (for the purposes of this impact assessment) that a flora survey is carried out before an area of vegetation is cleared, as per current regulatory requirements. Therefore, the average number of flora surveys that would legally need to be undertaken over a 1 year period was estimated at 9,994. This is based on data provided in the latest Statewide Landcover and Trees Study Report (Land cover change in Queensland 2008–09, DERM 2010), which estimates that the total area of woody vegetation cleared in Queensland in the 2008-09 period was 99,940 hectares[3]. This period was selected as this is the most recent data available on woody vegetation cleared in Queensland. The amount of woody vegetation cleared per year in Queensland has been decreasing annually since 1999/2000. Therefore, an average annualised figure of woody vegetation cleared (calculated from previous years) was not considered an accurate measure as this would over-estimate the area of land cleared and the number of flora surveys required. It is also not known whether this downward trend of clearing will continue, or if this has now plateaued. For this reason, the latest vegetation data released by the Government was considered the most accurate measure for determining the number of flora surveys that would be required. The total cost of complying with flora survey requirements conservatively assumes that a flora survey would be undertaken for every 10 hectares, at a cost of approximately $5,000 per survey, as per note above.

- Standard labour costs for government and business assumed an hourly rate of $67.93/hour to account for all overheads and indirect costs, except where consultant rates would apply. Consultant rates assumed an average hourly rate of $150/hour.
- The costs of business preparing permit/licence/authority applications for clearing, harvest, growing or trade of protected plants were based on industry estimates, derived from extensive consultation with industry in 2011/12. These estimates were used to determine an average cost per application, by application type, which were then multiplied by the average number of permits/licences/authorities received and assessed by the department in a 1 year period (based on permit/licence/authority numbers in 2010/11 and 2011/12).
- The costs of assessing permit/licence/authority applications for clearing, harvest, trade or growing of protected plants were based on internal advice from departmental assessment officers, which was used to determine an average of assessment time per application. This was then multiplied by the relevant number of permits/licences/authorities received and assessed in a 1 year period.
- On average, the number of permits/licences/authorities for protected plants received and assessed under the current framework in a 1 year period (based on permit/licence/authority numbers in 2010/11 and 2011/12) was approximately 650. This includes approximately 280 clearing permits/authorities, 200 harvesting licences/permits/authorities, 30 trade licences and 142 growing authorities.
- Where departmental records were not available to estimate the cost of complying with a regulatory requirement, costs were calculated on the assumption of full compliance with the legislation (as per points above).

5.2 Impact assessment for option 2—Greentape reduction and regulatory simplification

This option proposes a risk-based approach to regulation, which focuses on regulating high risk activities while exempting activities that pose a low risk to plant biodiversity. The total annual cost of this option has been estimated at $3.018 million. Businesses and landholders will incur costs of $2.638 million, while government costs are estimated at $381,000 a year. The proposed framework will provide many benefits and savings for industry and government over the long term, as outlined below.

5.2.1 Benefits

Businesses and landholders

The scope and scale of businesses that will benefit from reforming the existing regulatory framework is significant, due to the diversity of businesses and activities that are captured, as identified in section 5.1.1.

The native plant industry, particularly native plant growers, harvesters and buyers and sellers such as native plant nurseries, horticulturists and gardeners, will benefit significantly from the reforms proposed in option 2, because it will ensure populations of threatened and commercially valuable plants are not depleted (as they would be in the

[3] This annual report and previous annual reports are available from http://www.derm.qld.gov.au/slats/index.html.

absence of any regulation), while allowing these plants to be harvested and grown in a sustainable manner. Trade will be largely de-regulated, with the new framework focussing on the sustainability of harvesting operations, rather than the end use of the plants.

Savings to business have been calculated by comparing the costs of compliance against the existing regulatory framework and projected costs of reform under option 2. This analysis shows that by reforming the current framework to achieve greentape reduction and regulatory simplification, this will achieve a benefit to business of approximately $50 million per annum. This saving is largely as a result of removing the flora survey requirement for all but high risk clearing activities, which will particularly benefit developers, the resources sector (including petroleum and gas), electricity and infrastructure providers, in addition to rural landholders, agriculture and horticulture sector. This is further summarised under section 5.2.2 and Attachment 2. Due to reduced costs, these industries will have more money to invest in additional economic activities, which will facilitate improved economic growth.

In accordance with the risk-based approach under option 2, all low risk activities (e.g. harvesting, trading, growing and clearing unrestricted least concern plants) will be exempt from permitting and licensing requirements. In this regard—and in combination with the provision of fee exemptions and fee concessions for certain activities—the proposed approach and associated fees are unlikely to burden groups or businesses that take or use protected plants for non-commercial, educational, scientific or conservation/revegetation purposes, or landholders who need to clear protected plants to use their own land. In addition, businesses undertaking low risk activities will likely be smaller businesses or individuals, and as such costs to small business will be kept low and support ongoing viability of the native plant industry.

Additionally, option 2 will introduce a clear framework with only 3 permit/licence types, and will facilitate integration with other assessment processes for clearing activities. Feedback suggests that the complexity of the existing framework has also acted as a deterrent to harvesters, propagators and cultivators of native plants, and as such, the simplification of the licencing system, coupled with the new exemptions for least concern plants and other low risk activities should encourage further growth in these industries. This is likely to result in positive flow on impacts for traders and exporters of native plants, in addition to the improved preservation and propagation of protected plants.

In terms of fees, the adoption of a cost recovery approach will enable government to adequately resource the framework and ensure application processing times are not unnecessarily delayed. However some concerns have been raised on the increase in fees proposed, and therefore additional exemptions will be provided for property management and non-commercial activities.

Integration with other assessment processes, including the EP Act, will also provide for reduced delay costs for business and landholders undertaking resource activities, as applicants will only be required to come to government once for assessment.

Government

The framework proposed under option 2 will ensure government is able to achieve its legislative obligations under the NCA, and can be accountable to the community in terms of threatened species outcomes. The framework will also be easy for regulators to understand and administer effectively and efficiently.

The risk-based framework—in combination with a cost recovery approach to setting fees— will mean that government is able to focus its attention on activities that pose a real risk to plant biodiversity, rather than directing effort into managing onerous administrative and regulatory processes.

Under this option, government will not be attempting to comprehensively protect every plant, everywhere, which is clearly not feasible or enforceable. Rather, the government will be able to redirect resources to improve existing knowledge of protected plants and more effectively monitor emerging threats to protected plants. In addition the application process will be simplified, and a new assessment guideline will be provided to assessment officers to provide a consistent approach for how applications should be considered. This assessment guideline will also be publically available so that potential applicants are provided with clear and consistent information as to how their application will be assessed.

As such, enforcement under option 2 will be improved, because the parameters under which government and stakeholders are required to operate are clearer and therefore easier to comply with and enforce. In addition, the new revenue resulting from the introduction of new fees for clearing permits will be used to adequately resource assessment, and therefore, resources will be able to be redirected to support compliance and enforcement.

Community and environment

Option 2 is expected to provide conservation gains for threatened plants, as it will provide clear requirements for high risk clearing activities and establish adequate enforcement tools. High risk areas will be protected, and any activity that may impact on the area of a known record of an EVNT plant and special biodiversity area will be required to undertake a flora survey. Results of flora surveys will be now required to be provided to the department for verification, and any impacts on any EVNT species in this identified area that cannot be avoided will be assessed to determine mitigation and offset requirements. In addition, flora surveys will need to be undertaken in accordance with departmental guidelines. Applicants will also be given clear and consistent information as to how impacts on EVNT plants will be assessed, and how impacts on EVNT plants can be avoided. Option 2 will also require applicants to provide results of flora surveys to assessment officers, so that the department will now be able to capture this data to update and verify existing records. This is expected to improve knowledge of location and distribution of EVNT plants. Additionally, communities will be encouraged to submit records of threatened plant populations to the Department of Science, Information Technology, Innovation and the Arts; so that this information can be incorporated into species databases and these plants can be afforded protection under the framework..

In terms of harvesting native species, the introduction of performance-based regulatory measures may encourage innovation and the use of best practice measures to achieve sustainable outcomes.

Concessions and fee exemptions for permits and licences will be available for conservation purposes; in order to encourage voluntary and non-profit groups to participate in conservation activities that supports the ongoing viability and preservation of threatened species.

5.2.2 Costs

Businesses and landholders

Option 2 will cost businesses and landholders an estimated $2.638 million per annum. The majority of business costs are associated with flora survey requirements, which are necessary for clearing activities because of the poor knowledge surrounding threatened plant locations.

Some costs associated with option 2 for industry can also be attributed to the time, effort and expense associated with adjusting to a new framework. However, these impacts are only likely to be experienced during the first few years of the new framework and the long term benefits of the framework are anticipated to outweigh the costs.

Additionally—as it is not considered viable to fully integrate clearing assessment processes with development assessment processes under the *Sustainable Planning Act 2009* (SPA) at this point in time—applicants who obtain development approvals for clearing (i.e. through local councils or for clearing under the *Vegetation Management Act 1999*) will still bear the costs of obtaining separate protected plant clearing permits in many circumstances.

While fees charged for individual permits will be higher than those charged under the current framework, the smaller number of activities that will require licensing/permitting under the reformed framework—and the extended currency periods proposed for permits and licences under option 2—means the overall cost to industry will be less.

Fees have been set on the basis of cost recovery, which is in line with Queensland Government guidelines, however some concerns have been raised by business and landholders regarding the increase in fees under this option. Fee concessions and exemptions will be available where an overall conservation gain can be demonstrated. In addition—and in response to submitter concerns—fee concessions and exemptions will also be made available for clearing for essential property infrastructure, clearing or harvesting for damage mitigation purposes and non-commercial activities i.e. harvesting under a certain quantity of plants / plant parts.

Government

The main cost of option 2 is the cost of establishing the new framework, which is estimated at $757,000 (one-off start-up cost), or approximately $75,700 per year when averaged over a ten year period. This includes developing materials to support the framework, conducting training and establishing new systems and databases. However, where the projected costs of the framework (including start up and on-going costs) are averaged over a 10-year period, it can be seen that option 2 will only cost government an estimated $381,000 per annum. The majority of which will be assessment costs of approximately $280,000 per annum.

The proposed integration with the EP Act may result in changes to the current Environmental Authority process, which has been accounted for in the total costs of assessment to government (above). The intention of this integration is to reduce duplication and streamline assessment processes, so that applicants only need to come to

the department once. The detail of how this is best achieved will be further considered during the legislation drafting process, and will be subject to further consultation internally and externally with relevant interest groups.

It is not anticipated that amendments to fee exemptions and concessions will impact on the total revenue forecast and overall costs to government. Fee concessions have been costed and accounted for, and the amendments have been made to provide clarification for the types of activities that would be eligible.

Community and environment

While a high level of protection will be afforded to threatened plants under option 2, it is relevant to note that:

- least concern plants will not be regulated in the majority of circumstances (licences will only be required for harvesting special least concern plants)
- permits will not be required for clearing outside of known threatened plant locations or mapped special biodiversity areas, even if the clearing inadvertently results in the clearing of a threatened plant.

However, as a result, government will be able to redirect its resources to activities that pose the greatest environmental risks.

All costs associated with applying for permits and licences have been included in business and landholder costs (above). The general community (excluding permit and licence applicants) and the environment are not expected to incur any costs, because option 2 will provide a net benefit overall, and will facilitate compliance with the framework and therefore good conservation outcomes.

Removing the requirement for flora surveys for all but high risk activities does mean that there may be areas of the landscape where EVNT plants exist but have not yet been identified or discovered. Under the current framework flora surveys may find EVNT plants in places where they have not previously been known to exist. However, there is no requirement under the current framework to provide results of flora surveys to Government, and as such the Government has not had the ability to use data obtained from flora surveys to improve its own data and knowledge of location and distribution of species.

5.2.3 Summary of significant business and government benefits and costs for option 2

A summary of the main benefits and costs identified for option 2 is provided in the below table.

Benefits	Costs
Businesses and landholders	
• Option 2 will ensure populations of threatened and commercially valuable plants are not depleted (as they would be in the absence of any regulation), and will therefore provide for the ongoing viability of businesses in the native plant industry. • The regulatory and administrative burden associated with the framework will be low, as it will employ a risk-based approach (i.e. activities will only be regulated if they pose a high risk to threatened plants).	• Total annual cost of $2.638 million, including: o flora survey costs for high risk activities, estimated at $1.742 million per annum o costs associated with new fees, estimated at $246,000 per annum o short-term costs in terms of time, effort and money during the first few years as industry and government adjust to the new framework
Government	
• A targeted framework that employs a cost recovery approach to permit and licence fees	• Total annual cost of $381,000

will allow government to focus on managing protected plant species, and achieving high levels of compliance with the framework. • Fees based on cost recovery, enabling government to redirect resources to activities that pose the greatest threats.	including: o initial start-up costs required to establish the foundations for option 2 are estimated at $757,000 (which equates to $75,700 per annum when averaged over a ten year period) o short-term costs in terms of time and reduced efficiency as government adjusts to the new framework o around $280,000 of these costs are associated with assessing and processing permit and licence applications
Community and environment	
• Option 2 will encourage compliance and achieve conservation outcomes by introducing effective offence provisions and enforcement tools, and ensuring government resources can be allocated to managing activities that pose real risk to protected plants. • Option 2 will encourage the trade of native plants and increase the number available for sale, presenting more alternatives to cultivar or exotic species.	The general community (excluding permit and licence applicants) and the environment are not expected to incur any costs, because option 2 will provide a net benefit overall, and will facilitate compliance with the framework and therefore good conservation outcomes.

5.2.4 Assumptions for cost calculations

In order to calculate costs of the reform option 2, a number of assumptions were made. These are outlined below.

- The average cost of a flora survey was assumed to be the same as option 1.
- The number of flora surveys undertaken was based on the proportion of total area of land cleared in Queensland in 2009/10 that falls within a buffered record of a threatened plant[4]. Land area covered by threatened plant records is approximately 3.2% of the state. Using the same data as option 1, the proportion of land cleared in 2009/10 with a threatened plant record is estimated at 3,198 hectares (3.2% of 99,940 hectares). This equates to approximately 320 flora surveys, as it is assumed that a flora survey is undertaken every 10 hectares.
- Labour costs (including consultant rates) assumed the same hourly rate as option 1.
- There will be a reduction in the number of permits and licences required under this option due to exempted low risk activities, including the majority of activities involving least concern plants. Therefore, the number of clearing permits under option 2 is based on the number of clearing permit applications involving threatened plants under option 1 (i.e. least concern clearing permit figures have not been included). The number of harvesting licence applications received has assumed a 50% reduction to 100 applications due to the new exemptions for low risk activities under this option.
- Time spent by business preparing applications for threatened plant clearing permits is the same as option 1. Time spent preparing applications for harvesting activities was extrapolated from option 1, to account for the

[4] A 1-2 kilometre buffer area was applied to each record of an endangered, vulnerable and near threatened (EVNT) plant location, in order to capture land that falls in and within the immediate vicinity of the record (for the purposes of estimating the number of flora surveys that will be required under option 2).

reduced number of licence types and the assumption that higher risk activities will take the maximum time to prepare (applications will not be required for low risk activities under this option) . Growing applications will be simplified, so time required to prepare an application was reduced by 50%.

- Time spent by assessment officers in the department to assess threatened plant clearing permits is the same as option 1. Time spent to assess all other applications has been extrapolated from data in option1, to account for the new simplified system proposed under option 2.

5.3 Impact assessment for option 3—co-regulation

Option 3 seeks to move towards a system where the government has a limited role in regulating activities that impact on protected plants. Under this option, it is intended that the responsibility of regulation and ensuring the ongoing viability of protected plants will rest with industry. However—for this to be achievable and effective in the longer term—government will need to have a role in identifying at-risk threatened plant populations before clearing and harvesting activities could occur. Although it is anticipated that this role could be outsourced in the future, government involvement will be necessary while the framework is in its early stages and knowledge gaps surrounding threatened plants and are still significant.

This option will require significant investments from government and industry in the short to medium term, to enable the identification of threatened plant populations and the establishment of a 'self-regulatory' framework. However, option 3 will see conservation gains, due to an improvement in information around the distribution of threatened plant species and, therefore, an increased ability to make evidence-based decisions.

The total annual cost of this option has been estimated at $3.726 million. Businesses and landholders will incur costs of $3.592 million, while government costs are estimated $135,000 a year. This is further outlined below.

5.3.1 Benefits

Business and landholders

Option 3 is the only option presented that will rectify the problems that exist as a result of significant knowledge gaps surrounding the distribution of protected plant populations across the State. Specifically, the department will fill existing knowledge gaps by identifying and verifying the location of threatened and special interest plants by undertaking site evaluations as required (i.e. upon landholder application or when a clearing or harvesting activity is proposed). This information will then be used to develop property or site specific maps, which will enable industry and landholders to manage their own impacts on protected plants.

Co-regulation through self-assessment will mean that businesses and landholders wanting to clear, harvest or trade in protected plants will not need to apply to government and wait for approvals, however there will still be a framework under which protected plants are managed.

The framework will also provide for business opportunities within the private sector, due to the requirement for any clearing and harvesting to comply with the provisions of the self-regulatory framework. Specifically, it is likely that some businesses and landholders undertaking higher risk activities (e.g. harvesting or clearing endangered plants) will require specialist advice from industry representatives or environmental consultants on how relevant requirements could be met.

Additionally, the framework will enable skilled operators in both the native plant industry, agricultural and horticultural sector—for example, farmers, harvesters and growers who already have the knowledge to undertake activities sustainably—to self-assess their impacts on protected plants at little to no additional cost to their usual business operations.

Government

High levels of certainty around the distribution of threatened and special interest plants throughout the state will enable the government to have only a limited role and involvement in the regulation and management of protected plants, which can be reduced and largely phased out over time. Extensive mapping will be undertaken across the State on a cost neutral basis, as time and resources spent will be recovered by government through site evaluation fees.

Community and environment

Although the reforms under option 3 are not critical, they will achieve long-term improvements—particularly with regard to filling knowledge gaps.

Higher levels of certainty around the distribution of threatened and special interest plants throughout the state will mean that:

- an effective co-regulation approach could be implemented. It is considered likely that the co-regulation approach will lead to improved biodiversity outcomes for protected plants in the long term, with landholders taking responsibility for identifying and managing threatened plants and special interest plants on their own land

- the improved knowledge base could be taken into account as part of future updates to the framework. As a result, requirements will be underpinned by robust evidence and scientific data relating to species biology and distribution across the landscape, and impacts on threatened plants could be better managed.

- the location of viable threatened plant populations could be taken into account in regional and local planning processes, potentially reducing the likelihood of areas with ecologically significant threatened plant populations being zoned as urban.

Results of site evaluations can be published online. This will enable the community to report issues of non-compliance more easily.

5.3.2 Costs

Businesses and landholders

The cost of option 3 for businesses and landholders is estimated at $3.592 million. The main costs of option 3 are those which are associated establishing the new framework, and will be incurred by business. Establishment costs—including the cost of industry representatives attending workshops to assist in the development of a self-regulatory framework and attending training sessions—are estimated $1.486 million (one-off start-up costs), which is approximately $149,000 per annum when averaged over a 10 year period. This cost is largely attributed to the time and resources incurred by industry to develop a self-regulatory framework in agreement with all relevant sector groups.

It should be noted that a calculation error led to start-up costs being incorrectly identified as $19.063 million in the Consultation RIS. This has now been corrected.

The largest cost attributed to this option is the site evaluations and assessments of approximately $1.084 million per annum ($944,000 for clearing and $140,000 for harvesting) and compliance monitoring, review and reporting by industry on the framework of $1.757 million per annum.

Additionally, parties wishing to undertake clearing and harvesting activities that are not otherwise exempt will need to pay for the department to undertake a site evaluation and produce a protected plant map.

It should also be noted that some disadvantages associated with businesses and landholders taking responsibility for managing their own impacts on protected plants. In particular, this means that businesses and landholders will be solely accountable for protected plant outcomes, and will be subject to penalties if their actions lead to plants becoming endangered or extinct.

Option 3 will also require a long implementation period, as it will require a significant amount of resources and improved data management systems. Additionally, it would require various industry groups, often with competing interests, to agree and collaborate on an approved self-regulatory framework.

Thus, through this transitional period, businesses will be required to continue to meet the regulatory requirements of the current framework until option 3 can be fully implemented.

Government

The cost of option 3 for government is very low, being estimated at $135,000, as the biggest costs associated with this option for undertaking site evaluations will largely be recovered through site evaluation fees. However, despite the many benefits associated with the reforms proposed as part of option 3, the work involved with implementing these reforms during the first few years will be significant. For example, establishing a co-regulation framework will require upgrades to existing mapping systems, and training existing staff or acquiring additional staff to undertake site evaluations throughout the state will be time consuming, resource intensive and costly in the short term.

Additionally, the initial start-up costs required to establish the foundations for option 3 are $1.346 million. Therefore, this option imposes a significant upfront investment on government before any benefit can be achieved.

Community and environment

Under option 3, it will be solely the responsibility of proponents to ensure their actions do not threaten the viability of plant species in the wild. Therefore, if operators do not adequately manage their impacts on protected plants in accordance with the self-regulatory framework, extinctions could occur, similar to if there was no regulation at all (as

per the baseline position).

In terms of quantitative impacts on the community, all relevant costs have been accounted for in the business and landholder costs section (above).

5.3.3 Summary of significant business and government benefits and costs for option 3

A summary of the main benefits and costs identified for option 3 is provided in the below table.

Benefits	Costs
Businesses and landholders	
• The co-regulation framework will: o enable protected plants to be managed under a system that does not impose permit and licensing requirements and associated fees for signatories to the self-regulatory framework. o enable professional harvesters, growers and traders to self-assess their own activities against the code. o ensure a greater degree of accuracy in regard to information that is used to determine the conservation status of plants. o encourage industry to innovate, use best practices and meet high ethical and technical standards. o aim to achieve effective management of protected plants with minimal government intervention.	• An estimated $3.592 million in annual costs, primarily associated with: o initial start-up costs of $1.486 million to develop an approved self-regulatory framework. This will rely on effective and timely collaboration and negotiation between industry representatives, to gain agreement on a standardised code (this equates to $149,000 per annum when averaged over a 10 year period) liaising with government to develop a self-regulatory framework and implement co-regulation o overseeing the effectiveness of the framework o adjusting to the new framework paying for government to undertake site evaluations with costs of $1.084 million per annum o monitoring, compliance and reporting costs of $1.757 million per annum o paying consultants for advice (where required) on how compliance with the self-regulatory framework can be achieved • Businesses and landholders will be solely accountable for protected plant outcomes, and will be subject to penalties if their actions lead to plants becoming endangered or extinct.
Government	
• Option 3 will: o ensure knowledge gaps surrounding protected plants are filled over time. o limit the state's role in the management and regulation of protected plants	• The necessary transitional period means that government will continue to resource the current framework until option 3 can be fully implemented. • Annual costs of $135,000 (averaged over a 10-year period), including $1.346 million in initial start-up costs

Benefits	Costs
	required to establish the foundations for option 3. This option will require significant short-term investment from government to: o set up the operation of the program (i.e. scoping, planning and development) o conduct consultation on the proposed program o conduct workshops to develop the self-regulatory framework o conduct training o establish a robust monitoring, reporting and compliance framework to support the program o develop materials and web content to support the program.
Community and environment	
• Improved biodiversity outcomes for protected plants in the long term, as: o landholders will need to take responsibility for identifying and managing threatened plants and special interest plants on their own land. o higher levels of certainty around the distribution of threatened and special interest plants will mean that they can be better managed.	• There will still be some environmental risks, because it will be solely the responsibility of proponents to ensure their actions do not threaten the viability of plant species in the wild. • All relevant quantitative costs have been accounted for in the business and landholder costs section (above).

5.3.4 Assumptions for cost calculations

In order to calculate costs of the reform option 3, a number of assumptions were made. These are outlined below.

- The number of site evaluations undertaken by government officers each year for clearing activities has used the same methodology as that which was used under option 2 to calculate the number of flora surveys required. Therefore, based on the proportion of land cleared that falls within a threatened plant record, it is assumed there will be 320 site evaluations undertaken per year.
- The number of industry groups that will be involved in the development and establishment of the self-regulatory framework is estimated at 150 industry groups. This is assumed to encompass all interested parties including resources and extractive industry, agriculture, horticulture, development and property industry, energy sector including electricity providers, transport and community infrastructure providers, forestry and timber, native plant nurseries, natural resource management groups, landholders, conservation groups, special interest plant groups, landcare groups, and individual authority holders.
- The number of site assessments required for harvesting activities is based on the current number of harvesting related applications that are received by the department (approximately 200).
- Labour costs (including consultant rates) assumed the same hourly rates as option 1.
- Time spent by business in becoming a signatory to the code of practice and complying with the code of practice for clearing activities has assumed the same amount of time business spends preparing threatened plant clearing permit applications under option 1.
- Time spent by business in becoming a signatory to the code of practice and complying with the code of practice for harvesting activities has assumed the same amount of time business spends preparing threatened

plant harvesting licence applications under option 2.

- The number of clearing and harvesting activities required to be undertaken by a signatory to the code is assumed to be the same as the number of permitted/licensed activities under option 2.
- All system upgrade and maintenance costs have been based on internal advice for purposes of assessment only.

6 Consultation

6.1 Preliminary consultation

The department began consultation on the review in July 2011, when a public notice announcing the review of the conservation plan was published on the website of the former Department of Environment and Resource Management, in the Queensland Courier Mail, major regional newspapers and Queensland Country Life. The notice invited submissions from interested persons on the operation of the current conservation plan and proposed review of the protected plants legislative framework. In addition to the public notice, letters were sent to interested parties potentially affected by the review, including the federal government, permit and licence holders, and key industry representatives. The submission period was 10 weeks.

At the completion of the consultation period, 27 formal submissions were received by the department. Interested parties who supplied responses included members of the general public, business, industry, special interest groups, conservation groups, natural resource management bodies, and representatives from local, state and federal governments.

Outside of this official consultation period, the department engaged in on-going informal consultation with interested parties where necessary, to obtain further information on the operation of the existing framework and gather necessary data for estimating the impacts of any reforms.

Feedback obtained during consultation indicated overwhelming public support for a review of the existing framework, suggesting that the need for major reform of the existing framework is timely and long overdue. The key issues raised during consultation are summarised below:

- Regulatory and administrative requirements are onerous and are not reflective of a risk-based approach, placing a significant burden on government and industry.
- The complex and burdensome nature of the framework leads to non-compliance and poor conservation outcomes.
- The framework contributes to duplication of environmental assessment processes, as a clearing permit is required regardless of whether the impacts on protected plants have been assessed under another Act.

All matters raised during consultation with interested parties were considered when developing future policy directions for the review and, where possible, addressed as part of the proposed options for reform of the framework. The proposed reform options were therefore developed with a view to providing the greatest net benefit to business, government and the general community.

6.2 RIS consultation process

Further consultation with interested parties was undertaken following the release of the Consultation RIS, with feedback being sought on the proposed options outlined in this document.

The Consultation RIS was released for a period of 30 days for public consultation. Notification emails and/or letters were sent to all interested parties, including all current permit and licence holders, businesses, industry bodies, interest groups and the Federal government.

In addition, public notification of the RIS release was aided by:

- A public notice of the release of the Consultation RIS being published in the Queensland Government gazette
- Providing an electronic copy of the document for download from the Department of Environment and Heritage Protection website and the Queensland Government Get Involved website, with electronic and hard copies being provided to interested parties upon request
- Providing details of the RIS release to ABC radio station, to enable an announcement to be made to the community.
- A hard copy of the RIS being provided to the State Library for members of the public's inspection
- Public announcements regarding the RIS being included in the Threatened Species Information Flyer

- Sending an information flyer to all stakeholder groups for inclusion on public noticeboards and websites
- Dissemination of information by interest groups and industry bodies to over 4,000 members and interested parties.

6.3 RIS consultation results

6.3.1 Breakdown of preferred option by sector

Submissions were analysed by identifying option preferences, specific areas of interest and key issues and comments. Common themes and issues were discerned from this initial analysis and further evaluated in relation to the proposed options and identified issues. Submissions were grouped by area of interest and focus of activity into six broad sectors:

- Recreational, conservation and natural resource management interests: includes conservation groups, environmental consultants, university representatives, natural resource management groups, special interest groups representing propagators and native plant enthusiasts, recreational propagators and individuals. Some individuals expressed an affiliation with a particular group or activity, others did not. All submission placed into this category focused on conservation, natural resource management and small-scale use and appreciation of native plant diversity.
- Commercial harvest, growing and trade: includes nursery, harvesting and native plant trading and export businesses, other businesses with an interest in harvesting, and commercial propagators and industry groups representing these industries;
- Resources, infrastructure and development: includes businesses and industry groups from the resources sector (mining, petroleum and gas, extractive industries), energy sector (electricity providers), other infrastructure providers (e.g. transport) and the urban development industry;
- Local Government: includes regional councils and a representative body;
- Agriculture and primary production: includes the businesses and industry groups from the agricultural sector, timber plantation industry and commercial and recreational apiary industry; and
- Federal Government.

A breakdown of preferred options by sector is provided in the following table. A more detailed breakdown of preferences by sector and area of interest is provided in Attachment 2.

Breakdown of preferred options by sector

Sector	Option preference						Total
	Option 1	Option 2	Option 1/ Option 2	Option 3	Not specified	None supported	
Recreational, conservation and natural resource management interests	36	14	3	0	12	3	**68**
Commercial harvest, growing and trade	3	6	0	1	1	0	**11**
Resources, infrastructure and development	0	9	0	1	0	1	**11**
Local Government	0	5	1	0	0	0	**6**
Agriculture and primary production	0	3	0	0	1	1	**5**
Federal Government	0	0	0	0	1	0	**1**
Total	**39**	**37**	**4**	**2**	**15**	**5**	**102**

6.3.2 Overview of submissions

A summary of all of the key issues raised in submissions received on the Consultation RIS is provided at

Attachment 1. A total of 101 formal submissions were received on the options put forward in the Consultation RIS. Submissions were received from a broad spectrum of areas including individuals, conservation groups, special interest groups, local government, industry groups and businesses. The majority of submissions favoured either Option 1 (maintaining the current framework) or option 2 (greentape reductions and regulatory simplification). There was limited support for option 3 (co-regulation). There was a small amount of support for a combination of options 1 and 2. A number of submissions did not specify a preferred option and a smaller portion specifically rejected all three options.

The greatest overall number of submissions (68) were received from the recreational, conservation and natural resource management interests sector. This includes 35 submissions received from individuals, some of whom specified an affiliation with particular special interest or conservation groups and several of whom did not. An equal number of submissions, 11 each, were received from the commercial harvest, growing and trade sector and from the Resources, infrastructure and development sector. A smaller number of submissions were received from the remaining sectors.

6.3.3 Summary of feedback on the different the options

Option 1

Most support for option 1 came from the recreational, conservation and natural resource management interests sector. The majority of supporters were individuals, many of whom expressed concerns about conservation and environmental issues. A number of conservation groups also featured strongly in support of option 1. A much smaller number of environmental consultants, recreational harvesters and growers and university representatives also preferred option 1. None of the submissions from the resources, infrastructure and development sector, Agriculture and primary production sector or local or federal governments supported option 1.

Despite acknowledging the complexities and restrictive nature of the current framework, many submissions favoured option 1 as providing better protection for Queensland's native plants and the environment than the other options. It was also felt that option 1, through the more extensive requirement for flora surveys, would most effectively contribute to increasing the knowledge of native plants in Queensland.

One of the primary reasons stated for preferring the current framework was the paucity of knowledge on the distribution and habitat requirements of Queensland's native plants. A high level of concern was expressed over the focus of option 2 on known records of the presence of protected plants and fears of the loss of undiscovered populations and species through the reduced survey requirements proposed in option 2.

A small number of submissions interpreted one or two elements of option 2 as specifically hindering their current activities and consequently preferred the current framework. As such, some submissions supported option 1 because they felt that any changes to the current framework would impact on their competitiveness.

Complexity, unreasonable or undue burden and enforcement difficulties were the primary reasons cited for not supporting option 1. Overly restricted constraints on harvest and general enforcement failures were other reasons for supporting a different option.

Option 2

As with option 1, most support for option 2 also came from the recreational, conservation and natural resource management interests sector and the majority of this support was again from individuals. The majority of submissions received from special interest groups also supported option 2. Industries associated with clearing and land use, including both the resources, infrastructure and development sector and the agriculture and primary production sector strongly supported option 2. All submissions from businesses in these sectors supported option 2; however 2 industry groups representing businesses and landholders did not support any of the options. There was a relatively high level of support from the commercial harvesting and growing sector and in responses from local government for this option.

Submissions preferring option 2 welcomed changes to address the complexity and undue burden of the current framework. Option 2 was also considered to be a pragmatic approach that balanced biodiversity protection with simplification and practical solutions. Option 2 was generally supported for providing increased support for sustainable activities. However, a few submissions also rejected option 2 as negatively affecting the competiveness of their area of interest.

While the general principles of option 2—in particular reduced regulatory burden and a risk-based approach to managing threats—were supported, opinion was also strongly divided, with many elements of option 2 considered to be alternatively detrimental and beneficial by related industries and fields of interest. Many submissions also qualified their preference for option 2 with the proviso that particular concerns were addressed or modifications made according to the requirements of their particular industry or field of interest.

Proposed changes to the regulation of harvest, growing and trade were generally supported. However as with

clearing permits, some concerns were raised about fees, enforcement and monitoring of emerging threats to native plants.

There was general consensus that the definition of high risk clearing activities and the trigger for flora surveys required further clarification and explanation. However, very few submissions actually responded to the request in the Consultation RIS to provide feedback on what they thought constituted a high risk activity. While many felt that the proposed approach for high risk activities was too broad and captured too much clearing, many others felt that it was not broad enough and that not enough clearing was captured.

Deficiencies in knowledge of species distribution, habitat requirements and protected plants data in general were the main reasons cited for opposing option 2. The majority of reasons for not supporting option 2 related to concerns about this paucity of data, the proposed flora survey trigger and definitions of low and high risk activities.

Primarily, the current level of data on the location of protected plants was considered to be insufficient to effectively support the proposed approach and would result in increased threats to Queensland native plants and biodiversity. Objections also included that option 2 did not actually provide improved outcomes for native plants and instead posed a significant increase in threats. A number of submissions expressed concerns that there was inadequate consideration or protection for cryptic species or species that are only present during certain conditions and that previously undiscovered populations and species would be lost before their biodiversity value or economic potential could be known.

Combination of option 1 and option 2

There was a very small amount of support for combining elements of option 1 and option 2: four in total, including two individuals and one recreational harvester and grower from the recreational, conservation and natural resource management interests sector and one regional council. These submissions came from the perspective that there was definite scope to simplify and improve on option 1 but that option 2 went too far with respect to proposed changes and imposed significant risks to native plants. General issues were otherwise the same as those raised by both supporters and opponents of options 1 and 2.

Option 3

Two submissions preferred option 3, one a business from the commercial harvest, growing and trade sector, the other an industry association from the resources, infrastructure and development sector. These submitters strongly agreed with the idea of co-operating with industry, but questioned the government's ability and access to resources to effectively implement and manage a self-regulatory framework.

Conversely, a lot of the criticism of option 3 stemmed from concerns about compliance, how industry could be kept accountable and deficits in industry knowledge or candour managed. Concerns about potential costs to industry and risks to native plants and habitats were also cited as reasons for not supporting this option.

While some concerns were raised over the veracity of data and the cost assumptions used in the cost analysis for all options, these were most particularly directed towards option 3. Generally, the co-regulatory approach proposed for option 3 was poorly understood, particularly with respect to how this differed from the current framework (option 1) and from option 2. For the purposes of clarification, option 3 was not proposing a "self-assessable" code, in which industry is responsible for assessing their activities under the Nature Conservation Act. Rather, option 3 proposed a self-regulatory code in which industry is responsible for developing its own regulatory framework in consultation with the department. However, as this description of a self-regulatory code under option 3 may have been misleading, this has been replaced with the term self-regulatory framework.

It should be noted that an administrative error led to start-up costs for option 3 being incorrectly identified as $19.063 million in the Consultation RIS, which may have impacted on support for this option. This has now been corrected.

No specified preference

Fifteen of the submissions received did not specify a preference for a particular option. The majority (12) of these were from individuals, under the recreational, conservation and natural resource management interests sector. While varying in their commendation and concerns, these submissions generally supported some attempt to simplify the framework and reduce complexity but also expressed general concerns about sustainability, conservation risks, management of threats and the loss of species and habitats.

All unsupported

A total of five submissions explicitly stated that they did not support any of the options proposed in the Consultation RIS. These included three from the recreational, conservation and natural resource management interests sector (an environmental consultant, conservation group and NRM group), one industry group from the resources, infrastructure and development sector, and one industry group from the agriculture and primary production sector.

The reasons for rejecting all three options were widely varied. Key reasons were that there was not enough

information to make an informed decision; all options placed an unreasonable burden on landholders; all options costed too much; or they focused too heavily on economy and industry and did not adequately protect plants, biodiversity, ecosystems and habitats.

6.4 Analysis and response to key issues

Many of the submissions only conditionally supported a particular option, with support on that option being dependent on key issues being addressed. For example, many supporters of option 1 conceded that compliance would need to be improved in order for the framework to be effective, while a number of submitters supported option 2 on the condition that flora survey and clearing permit triggers be amended and fees be waived or reduced for certain activities.

Generally, preferences for a regulatory option were fairly evenly divided across option 1 and option 2. While it is acknowledged that a large portion of submissions favoured option 1, the vast majority of these submissions were made by individuals (including environmental consultants, university researchers and propagators) and conservation groups, due to concerns about environmental controls being reduced under option 2. In this regard, it must be recognised that these groups are not burdened by the framework in the same way as those parties who need to clear plants in the course of their business activities, and therefore do not incur significant costs under the current framework.

A number of these submissions also recognise that the framework under option 1 is poorly complied with. In part, this lack of compliance can be attributed to the fact that the current framework attempts to regulate the entire landscape, which is not feasible for industry or landholders, and is not enforceable. As a result, option 1 does not achieve the high level of environmental protection which a number of submitters favour it for.

On the other hand, submitters who support option 2 include individuals, nursery businesses, local government, government owned corporations and various companies and industry groups, the majority of whom operate under the current framework and recognise the significant burden that would be associated with retaining the status quo under option 1. However, a large proportion of these submitters supported option 2 in principle, but sought amendments to the option to address a number of issues.

Option 3 was generally not supported by the community and was not preferred by government – however it is acknowledged that further consideration should be given to this option when time and resources permit.

Therefore—while some concerns have been raised over option 2, and it was not favoured by all sections of the community—on balance, this is still considered to provide the greatest net gain to the community. However, amendments have been made to option 2 to overcome some of the issues raised by industry and community through the consultation process.

A summary of the key issues that are relevant to the regulatory option analysis is provided in Attachment 1.

7 Preferred option

Following an analysis of the benefits and costs of each option—and an analysis of submissions received in response to the Consultation RIS—the Decision RIS option 2 was identified as being the preferred option.

Businesses and landholders:

- Industry will benefit significantly from the reforms proposed in option 2, with estimated savings of up to $50.157 million.
    - The most significant cost reduction is associated with scaling back flora survey requirements. While a flora survey is required before any clearing can be carried out under option 1, flora surveys will only be required for high risk clearing activities (clearing in known records for EVNT plants and special biodiversity areas) under option 2.
- Additional savings will occur through the introduction of new exemptions for low risk activities (e.g. for clearing of all least concern plants) and the simplification of administrative processes and permit and licence types. Integration with other assessment processes for clearing activities will also reduce regulatory burden and eliminate duplicative approval processes.
- Lower levels of regulation under option 2 will benefit businesses in the native plant industry, by eliminating the need to obtain licences for low risk harvesting activities (for example, harvesting and trading least concern plants will be exempt in most circumstances), and by removing licensing requirements for trading protected plants.
- Adopting a cost recovery approach will enable government to adequately resource the framework and expedite application processing times. This will result in reduced delay costs to business, most significantly for clearing permit applications.
- Option 2 will provide a much simpler framework by consolidating and clarifying legislative provisions, streamlining application processes, and reducing the number of permit/licence types from 12 to 3.

Government:

- The benefits for government as a whole are also substantial, with estimated savings of $324,000 a year.
    - The most significant benefit for government is a reduction in administrative burden and expense associated with the high level of regulation across the current framework. The simplified framework will also be easier for regulators to understand and administer effectively and efficiently.
- Under this option, government will no longer be attempting to comprehensively protect every plant, everywhere, which is clearly not feasible or enforceable.
    - For example, in the majority of circumstances, permits and licences will not be required for activities involving least concern plants. This means that government will no longer be required to assess these applications, and will be able to focus on applications involving plants that are at a greater risk of extinction.

Community and environment:

- Option 2 is expected to provide conservation gains for threatened plants, as it will close loopholes and improve compliance with the clearing framework.
    - This will primarily be achieved by clarifying requirements for high risk clearing activities and establishing better enforcement tools.
- Another conservation gain under option 2 is associated with the de-regulation of trading activities and implementation of an enforceable, recording and auditable records system.
    - Under option 1, traders are required to comply with onerous and time-consuming regulatory requirements. These restrictive requirements discourage the harvest and trade of true natives and encourage the sale and distribution of cultivar and exotic species. The changes proposed in option 2 will remove many of these barriers, thereby increasing the availability and encouraging the trade of true native species in preference to cultivars and exotic species.

On the other hand, option 1 would:

- continue to over-regulate and impose an overly burdensome regulatory framework on industry and regulators, with costs of full compliance with the legislation estimated at $53.500 million
- not address the issues and calls for reform identified during consultation
- continue to be restrictive for industry by limiting flexibility and innovation
- not address non-compliance resulting from over-regulation, and a lack of offence provisions and appropriate enforcement tools
- not address large knowledge gaps and loopholes in regulatory framework
- not achieve the policy objectives set out for the review of the framework
- provide a complex and ambiguous framework, which would likely result in continued issues surrounding effective implementation, correct interpretation of legislative provisions and compliance.

Importantly, option 2 addresses the policy objective set out for the review and almost all of the issues raised during consultation with interested parties, including businesses and industry representatives operating under the framework.

Both reform options proposed will provide a significantly greater net benefit for business, government and the general community over business as usual. However, option 2 is preferred over option 3 because there were very low levels of support for option 3 and:

- although option 3 provides a number of long term benefits to business, government and the environment, the costs to business are estimated at $955,000 more than those under option 2. Additionally, option 3 will require $2.831 million in start-up costs (business and government), in comparison to the $757,000 in start-up costs required by option 2.
- the timeframes associated with option 3 will exceed the expiry date of the current conservation plan, whereas option 2 can be implemented in a timely and efficient manner. Therefore, industry will continue to bear high costs associated with high regulatory burden during the transition, unlike option 2 which can be implemented with immediate effect
- the initiatives forming part of option 3 are not critical to the operation of the framework and can be considered separately at a later date if time and resources permit
- option 2 achieves regulatory simplification in the short to medium term, and will not prevent government implementing option 3 as part of future reforms when government and industry are in an improved regulatory position.

The following tables provide a summary of the benefits and costs of each of the 3 options.

Summary of benefits to <u>businesses and landholders</u> for each option

Option 1	• No exposure to new risks such as increased competition and additional pressure on native plant supplies, both of which would be associated with de-regulation.
Option 2	• Activities will only be regulated if they carry the potential to threaten or extinct native plants. • However, option 2 will provide for the ongoing viability of businesses in the native plant industry because threatened and commercially valuable plants will be protected from unsustainable activities.
Option 3	• Will enable protected plants impacts to be self-managed under a system that does not impose permit and licensing requirements and associated fees.

Summary of costs to businesses and landholders for each option

Option 1	• Business will continue to incur annual costs of up to $52.795 million a year, the majority of which are associated with flora survey requirements o costs of flora survey requirements - $50.469 million per year o costs of obtaining the necessary protected plant permits and licences ($1.074 million, excluding initial flora survey costs).
Option 2	• An estimated $2.638 million in annual costs (averaged over a 10-year period) o businesses will incur flora survey costs for high risk activities, estimated at $1.742 million per annum o costs associated with new fees, estimated at $246,000 per annum
Option 3	• An estimated $3.592 million in annual costs (averaged over a 10-year period), primarily associated with implementing and maintaining the co-regulation framework o high establishment costs, estimated at $1.486 million (which equates to approximately $149,000 per year when averaged over a 10-year period) o costs of site assessments (replacing flora surveys) for clearing activities $944,000 and harvesting activities $140,000.

Summary of benefits to government for each option

Option 1	• A regulatory framework for the managing the impact of clearing, harvesting and trade activities on protected plants is maintained.
Option 2	• A targeted framework that employs a cost recovery approach to permit and licence fees will allow government to focus on managing protected plant species, and achieving high levels of compliance with the framework.
Option 3	• Knowledge gaps surrounding protected plants will be filled over time. • The state's role in the management and regulation of protected plants will be limited.

Summary of costs to government for each option

Option 1	• Government will incur annual costs of around $705,000. The lack of adequate fees for permits and licences also means that government will bear the majority of these costs, receiving only $31,000 in revenue per year. • Costs to the community and the environment as a result of, primarily due to over-regulation.

Option 2	• Government will incur annual costs of $381,000 (averaged over a 10-year period), o medium initial start-up costs of $757,000 (which equates to $75,700 per annum when averaged over a 10-year period) o permit and licence assessment costs of $280,000
Option 3	• Government will incur annual costs of $135,000 (averaged over a 10-year period), o high initial start-up costs of $1.345 million (which equates to $134,000 when averaged over a 10-year period).

Summary of benefits to the community and environment for each option

Option 1	• Some level of protection will be maintained for protected plants. • Comprehensive flora surveys required before clearing is undertaken (even if the requirement is not widely enforced). • If full compliance was achieved, the framework would provide a high level of protection to threatened plants.
Option 2	• Option 2 will achieve good conservation outcomes by closing loopholes, introducing offence provisions and enforcement tools, and ensuring government resources can be allocated to managing activities that pose real risk to protected plants.
Option 3	• Potential for improved biodiversity outcomes for protected plants in the long term, as: o landholders will need to take responsibility for identifying and managing threatened plants and special interest plants on their own land o higher levels of certainty around the distribution of threatened and special interest plants will mean that they can be better managed.

Summary of costs to the community and environment for each option

Option 1	• High levels of regulation that result in poor conservation outcomes. • The supply of native species to nurseries and the public will continue to be restricted through the over-regulation of trade activities.
Option 2	• Least concern plants will not be protected in the majority of circumstances, which may lead to additional pressures on some species.
Option 3	• This option will still pose some environmental risks, because it will be solely the responsibility of proponents to ensure their actions do not threaten the viability of plant species in the wild.

7.1 Recommendation

The Decision RIS recommends the implementation of a revised version of option 2 ('Decision RIS option 2'), which includes a number of changes in order to address key issues raised in response to the Consultation RIS. This revised option addresses the majority of significant issues raised during consultation, however—where issues

could not be addressed through amendments to the preferred option—reasoning and justification has been provided in sections 5 and 6 of this document.

This recommendation is based on an analysis of the relevant issues raised by submitters, the high regulatory burden that would be associated with retaining the current framework under option 1, and the results of the impact analysis which show that option 2 will provide the greatest net benefit to the community in the short-medium term.

This option will significantly reduce business and government costs and improve overall compliance, primarily by adopting a risk based approach to regulation. This means that activities which carry the potential to threaten or extinct native plants will be subject to higher levels of regulation, while lower risk activities will be self-assessable or exempt from permitting and licensing requirements.

8 Consistency with other policies and regulation

8.1 Competition principles agreement

The protected plants legislative framework proposal reforms existing regulation to the benefit of business as a whole and has consistent application across the industry. These reforms are not intended to restrict competition in any way and, as such, they are consistent with clause 5 of the Commonwealth of Australian Governments' Competition Principles Agreement.

The proposed initiatives will not have a disproportionate impact on any 1 business sector. By reducing the burden for businesses operating beneath the framework, there should be an increase in competition as regulatory requirements will reduce or eliminate barriers to entry.

8.2 Fundamental legislative principles

The fundamental legislative principles (FLPs) under the *Legislative Standards Act 1992* have been considered in the policy development for the protected plants legislative framework review. The proposed policy approach is a reformation of an existing regulatory framework and, as a result, it aims to avoid the creation of inconsistencies with maintenance of 'the rights and liberties of individuals, and the institution of parliament' as laid out in the FLPs. This will be considered in further detail during the drafting of the relevant legislation.

9 Implementation, evaluation and compliance support strategy

9.1 Implementation

Implementation of the regulatory framework to support the new protected plants legislative framework is proposed to commence in early 2014. Implementation will focus around 3 key areas:

- a communication and education strategy that involves the dissemination of information and training for industry, departmental assessment officers and the general public
- the development of new forms and the implementation of system changes to licensing and permitting systems and mapping systems and databases
- the development of interpretive and support material such as information sheets, codes of practice, assessment codes and standard operating procedures.

Due to the reduced levels of regulation, monitoring, auditing and enforcement activities will need to be boosted to ensure compliance with requirements is still occurring for activities that no longer require a permit or a licence. These increased costs for compliance and enforcement have been accounted for in the impact assessment for reform options 2 and 3.

9.2 Evaluation

The impact and effectiveness of the implemented option will be evaluated as follows:

- Threatening processes are managed effectively and biodiversity is conserved.
- The take, use and trade of protected plants is sustainable and does not threaten the viability of plants in the wild.
- The regulatory and administrative burden on business, government and the community is not onerous and or overly restrictive.
- The conservation status of protected plants is maintained or enhanced.
- The number of information requests issued in respect to permit and licence applications is reduced.
- The number of clearing notifications received is relative to the extent of large-scale development that is occurring throughout the state.
- All permit and licence applications are assessed and completed within 40 days of receipt.
- Qualitative feedback from regional assessment staff and applicants indicates that, overall, the new framework is clearer and easier to understand.
- The department will report annually to the director-general on the number of permit and licence applications received, processing times and any issues of compliance.
- Monitoring and auditing activities undertaken by compliance and enforcement staff indicate that, 2 years following implementation, there are adequate levels of compliance with the framework.

9.3 Compliance

Compliance, auditing and enforcement activities will be increased over the first 2 years following implementation of the preferred option, in order to heighten awareness of the new requirements. However, it is intended that the majority of activities undertaken in the first 6 months will be focussed on monitoring and auditing operations and issuing warnings as necessary, rather than issuing penalties. This will give business a grace period in which to adjust to the new framework.

The overall level of compliance with the framework will be determined by:

- monitoring permitted clearing activities to ensure that clearing of protected plants is occurring in accordance with conditions of the relevant permit

- monitoring licensed harvesting activities to ensure that conditions have been complied with
- auditing unpermitted and unlicensed clearing and harvesting activities to ensure that those for which a permit/licence has not been issued are exempt under the framework
- auditing traders and wholesalers to ensure adequate records are being maintained and protected plants are being purchased from a licenced harvester, propagator or cultivator
- auditing retailers to ensure plants that have been harvested from the wild are appropriately tagged.

Attachment 1 - Summary of key issues

Issues raised by the resources sector (mining, petroleum and gas, extractive industry), energy sector (electricity providers), other infrastructure providers (e.g. transport) and the property and development sector

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
Preferred option	
Option 1 • None of the submitters supported option 1.	• No change – current proposal for Option 2 addresses these issues.
Option 2 • The majority of submitters from these sectors supported option 2, some with amendments.	• No change resulting – option 2 remains the preferred option and has been revised to address key issues raised by submitters.
Option 3 • 1 submitter (resources sector industry group) preferred option 3, with significant amendments	• No change resulting – option 2 remains the preferred option. In this case, support for option 3 was based on a misunderstanding of the key premises of the option.
No option supported • One submission (urban development/property industry groups) did not support any of the options and contended that there was not enough information to make an informed decision.	• No change resulting – option 2 remains the preferred option. The Consultation RIS was a consultation document only and was not intended to contain comprehensive details of a proposed legislative framework. The purpose of the RIS was to outline a number of policy options and seek feedback from industry and the community as to their recommendations for the proposed reform of the framework.
General comments • Interested in a revised legislative framework that maintains the current conservation status of plant species, facilitates sustainable take and does not impose any significant financial or administrative burden. In essence, no worsening of the regulation beyond that provided by class exemptions. • Support the assertion that the current framework is onerous, unrealistic and burdensome. • Option 2 will provide the most appropriate framework to deliver real conservation outcomes for Queensland. • Further consultation on Option 3 required in regards to cost calculations and what the appetite is to wear the cost to develop option 3 in the short term when it will lead to medium and long term cost reductions	• No change made – option 2 remains the preferred option and addresses the relevant issues.
Exemptions under option 2	
Exemptions for mining and petroleum activities • Recurring issue throughout the submission is that option 2 removes the existing exemption	• Changes to the revised Option 2 seek to provide an exemption to all resource activities—rather than just to mining and petroleum activities—where protected plant

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
for mining and petroleum leases which is not supported. • Argue that existing exemption needs to be maintained, and extended to capture all petroleum activities under the 2004 Petroleum Act - significant increase in regulatory burden if the exemption is removed. • Contend that protected plant matters are adequately assessed under the EPBC legislation and should not be separately assessed under NCA. • The assessment of clearing activities should be on a case by case basis. • Assessment should be limited to the petroleum activity and not cumulative impact (or potential future impact). • Contends that if clearing for related petroleum leases is always considered a high risk, this will result in greater regulatory imposition than the current regulatory system.	impacts have been addressed through conditions imposed under the EP Act. • Resource activities will only be considered 'high risk' if they encroach into mapped special biodiversity areas or known EVNT plant records. • The department is considering alternative, more flexible approaches to integrating protected plant considerations into the Environmental Authority (EA) process, in order to ensure integration is beneficial to both government and industry and does not further delay environmental approval processes. • The department acknowledges that EAs are often issued in the absence of data derived from on ground ecological surveys. Therefore, alternative approaches being considered include using standard regulatory conditions under the EP Act to require proponents to avoid mapped 'high risk areas'. Where encroachment into these areas cannot be avoided, proponents would be required to survey the areas and apply under the EP Act to amend the EA if EVNTs are proposed to be cleared. • The department will seek further input from the resources sector on how protected plant considerations can best be integrated into the EP Act, in a way that streamlines existing approval processes and benefits all parties.
Support exemption of low risk clearing activities • The removal of permitting requirements for low risk clearing is strongly supported to reduce the current regulatory burden on companies for unrestricted least concern species.	• Change to further reduce regulatory burden – clearing of all least concern plants (including special interest least concern plants) will be exempt under the revised option 2.
Clearing EVNT regrowth • The various exemptions are supported, however do not agree that that previously legally cleared threshold of 5 years is appropriate in all circumstances - how does this address vegetation that may not require "maintenance clearing" within a 5 year period due to slow growth habitat etc.?	• Change to extend EVNT regrowth clearing exemption to areas that have been legally cleared under a permit in the preceding 10 years. • Changes will be made to ensure further exemptions will also be provided for: o Clearing associated with 'relevant development activities' in areas that have previously been legally cleared (e.g. resource activities, activities authorised under the under the *Electricity Act 1994* or the *Transport Infrastructure Act 1994*). o Clearing being undertaken by local or State government in areas that have previously been legally cleared.
Clearing to establish or maintain electricity infrastructure	• Refer above. • The department will consider introducing

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
• Support exemption from survey and permit requirements if clearing to maintain existing infrastructure. • Clearing activities necessary for the development of electrical infrastructure that have been approved as part of other assessment processes should be exempt from permitting and flora survey activities. • That further consultation occur with the electrical entities and linear infrastructure providers regarding the development of the draft legislation and any associated codes. • Any new legislation should recognise: o that electricity entities are essential community infrastructure providers; and o the low impact of clearing for linear infrastructure • Request that the Government consider a definition for "low risk clearing activities for electrical infrastructure" that excludes from permit requirements a range of clearing associated with the supply of electricity and including areas identified under the VMA as non-remnant or category X on a PMAV.	exemptions for essential community infrastructure outside of known records of EVNT plants.
Special least concern plants	
• Concerned about increased burden due to requirement for surveys/permits for special least concern plants (e.g. grasstrees). • Recommend exemptions for clearing activities.	• In response to concerns raised by submitters, the revised option 2 will maintain the existing exemption for clearing these plants, while allowing for harvesting to occur in situations where sustainability can be demonstrated. This is consistent with the risk based approach of option 2. • Salvage of these plants will be permitted in a broader range of circumstances, where the clearing is legitimately being undertaken to allow for the use of the underlying land, rather than for the use/sale of the plants. The department is considering defining such purposes in the legislation, but it is likely that these would include; o All 'relevant development activities', as defined under the existing legislation (e.g. resource activities, activities authorised under the under the *Electricity Act 1994* or the *Transport Infrastructure Act 1994*; o Activities being undertaken by local government; o Activities approved under the *Sustainable Planning Act 2009*; o Forestry plantation management activities. o Any clearing of protected plants, as approved under the NCA or another Act

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
	(this would only apply to EVNT plants, as special LC plants will not require a clearing permit). Salvage would be exempt where: • It is undertaken by the holder of any current harvesting licence (regardless of the location or species the licence had been issued for); and • It is undertaken in accordance with the code of practice (including tagging and record keeping requirements).
Risk based approach to the regulation of clearing under option 2	
• Support the adoption of a risk based approach and defining activities as low or high risk, and deregulating low risk activities.	No change resulting – option 2 remains the preferred option.
Classification of high and low risk activities under option 2	
• The definition of high and low risk activities needs to be clarified. 'High risk activities' is too broad and should not immediately capture all petroleum and mining activities.	• Changes will ensure that these comments are taken into account. • The classification of high and low risk activities is still under consideration. • The revised option 2 will remove the size threshold described in the consultation version of option 2 and replace it with an alternative 'high risk trigger'. • Specifically, the revised option 2 proposes to trigger a flora survey where clearing will occur in: o A known record for a restricted plant o A special biodiversity area. • These clearing activities will be defined as 'high risk clearing activities'. A broad range of routine clearing activities will apply in special biodiversity areas. • This amendment is consistent with the risk based approach adopted by this option and will ensure that the classification of a high risk clearing activity is based on ecological criteria and environmental context. • No effective size limit could be established and size of development is not necessarily a reflection of risk. Biodiversity significance will address issues such as remnant status of vegetation, habitat and bioregional differences. • The department will further consider what the exact flora survey requirements and criteria will be, and will consult with interested parties and experts in the field to determine appropriate legislative provisions.
Guidance on flora survey requirements	

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
• Government to prepare a guideline regarding their expectations of proof of non-existence, based on a risk assessment methodology. • Raised issues around how to deal with isolated protected plants that may appear after assessment – proof of non-existence also an issue.	• Changes made to Option 2 in response to feedback received on the Consultation RIS will ensure that flora survey criteria are clearly outlined in the legislation or the code of practice.
Integration with the EP Act (only relevant to the resources sector)	
• Integration will increase regulatory burden for mining and petroleum activities, as this has previously never been a requirement. • Issues around adding new conditions on EAs. • Would support if proponent could opt out of integrated process, and continue to use existing permitting process under the NCA.	• Changes to the revised Option 2 seek to provide an exemption to all resource activities—rather than just to mining and petroleum activities—where protected plant impacts have been addressed through conditions imposed under the EP Act. • Resource activities will only be considered 'high risk' if they encroach into mapped special biodiversity areas or known EVNT plant records. • The department is considering alternative, more flexible approaches to integrating protected plant considerations into the Environmental Authority (EA) process, in order to ensure integration is beneficial to both government and industry and does not further delay environmental approval processes. • The department acknowledges that EAs are often issued in the absence of data derived from on ground ecological surveys. Therefore, alternative approaches being considered include using standard regulatory conditions under the EP Act to require proponents to avoid mapped 'high risk areas'. Where encroachment into these areas cannot be avoided, proponents would be required to survey the areas and apply under the EP Act to amend the EA if EVNTs are proposed to be cleared. • The department will seek further input from the resources sector on how protected plant considerations can best be integrated into the EP Act, in a way that streamlines existing approval processes and benefits all parties.
Clearing permit requirements	
Clearing permit particulars • Permits should apply to an area, rather than specific species, to avoid unnecessary delays. • Current permit timeframe too short. • Support extension of currency period for clearing permits to 2 years.	• In response to feedback on the Consultation RIS, the revised option 2 will see clearing permits being applied to an area, rather than to particular species. This will mean that situations where proponents would otherwise need to continuously reapply for clearing permits over the same area can be avoided. • No change to currency periods required – maximum currency periods for clearing

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
	permits will be extended to two years.
Supporting habitat • Strongly contend that least concern plants should be exempt from permitting and licensing requirements in all circumstances – including where they may form the supporting habitat of an EVNT.	• No change - these requirements will only apply to clearing permit assessments, and retention of supporting habitat will only be required where its removal would otherwise cause harm to or death of an EVNT plant.
Integration with Planning and development legislation (only relevant to extractive industry, energy sector (electricity providers), and other infrastructure providers (e.g. transport)	
• Recommend integration with the *Sustainable Planning Act 2009* (SPA)	• No change as integration with SPA and the VMA is not supported across government at this time and is thus out of scope.
Additional comments regarding option 3	
• Further consultation on Option 3 required in regards to cost calculations and what the appetite is to wear the cost to develop option 3 in the short term when it will lead to medium and long term cost reductions. • Survey model for option 3 is not sensible or workable. • The proposed clearing site evaluation fees will likely give rise to significant costs and unreasonable time delays for site evaluation, which exceed the amount currently paid for similar surveys by consultant ecologists. • Government would need to employ an appropriate number of ecologists to address the likely quantum of work—this aspect of resourcing is not addressed in the RIS. • Strongly argue that cost calculations for option 3 have been skewed to favour option 2 - and do not accurately reflect true costs to industry. • Recommend costs are recalculated for option 3 before proceeding any further. • Contend that cost estimates provided for flora surveys do not adequately reflect costs. Did not provide a figure or advice regarding actual costs. • Compliance and monitoring costs should not be considered a new cost, as this has been already identified in the regulatory strategy.	• No change as Option 3 is not the preferred option due to very low levels of support.

Issues raised by individuals and groups with recreational, conservation and/or natural resource management interests

This includes:
- conservation groups,
- environmental consultants (including related businesses and industry representative groups),
- University representatives,
- Natural Resource Management (NRM) groups,
- individuals (including unaffiliated individuals as well as small scale/recreational propagators), and
- interest groups representing recreational propagators.

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
Preferred option	
Option 1 The majority of these submitters preferred option 1. Comments included the following: • Current legislation is adequate • Though burdensome and complex, it offers better environmental protection than other options. • Believe option 1 is the only way to ensure the continued survival of native flora. • Option 1 will ensure that our collective knowledge of the flora of Queensland will increase as a result of flora surveys for any development activity. • Urge the department to take a hard stance to ensure the best possible outcomes which would see Queensland as a leader in plant conservancy. • To relax laws protecting native vegetation from would be a massive step backwards for Queensland's sustainable development.	• No change – option 2 remains the preferred option. • Whilst current legislation provides a higher perceived level of protection it is poorly complied with and difficult to enforce and therefore does not result in better conservation outcomes.
Option 2 The second most popular option was option 2. A number of individuals and special interest groups supported this option.	• No change – option 2 remains the preferred option.
Combination of options 1 and 2 A few submitters supported a combination of options 2 and 3. Comments included the following: • There is a middle ground between option 1 and option 2 that could achieve the benefits outlined in option 2 while not imposing a significant risk to threatened plants by extensive exemptions. • Introduction of fees for permits and extending the currency periods would solve some of the cost issues with option 1 and reducing duplication can be achieved by introducing minimal exemptions for least concern plants only where other permits are required. • Suggests that a viable alternative would be to streamline the administrative requirements of the existing approach to protected plant	• No change made – agency view that Option 2 achieves these outcomes.

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
regulation in order to achieve the second and third policy objectives in the ways described, particularly with respect to harmonisation with other regulatory requirements.	
Issues with options 2 and 3 None of the submitters in this group supported option 3 and, despite some support for option 2, a number of submitters were concerned with the potential implications of both of these options. Comments included the following: • Option 2 is not in the public interest, environmentally, socially or economically. • Doesn't do enough to protect native plants • No improved outcomes from opt 2 or 3 for native plants • It is important to continue the existing level of plant legislation. • Concerned that if Options 2 or 3 were enacted, too many of Queensland's unique and threatened flora would be damaged. • options 2 & 3 equate to environmental vandalism • Option 2 has too many risks inherent in it leading to the loss of biodiversity • Protecting the environment warrants placing some burden on business and government. • Places social and economic development over protection of biodiversity • In relation to option 3, industry self-regulation with regard to protecting biodiversity is a dangerous path to go down. • Without adequate governmental auditing, Option 3 will fail the policy objective to "maintain or improve the current conservation status of all protected plant species in Queensland". • Self-assessment is ineffective and will result in loss of biodiversity. • Supports the concept of option 3 but questions the expertise of the Department and the timeliness of delivery of survey and mapping. • Option 3 not supported because of the suggested costs. • The proposed directions—particularly broadscale clearing, self-regulation by industry, and only protecting threatened species—will lead to even more serious environmental degradation, greater threats to viability of native species, more threatened or of concern species through over clearing and loss of biodiversity, and increase the contribution to greenhouse gas emissions. General concerns regarding: • setting a policy objective of reducing regulatory burden	No change – option 2 remains the preferred option. Justification is as follows: **Unrestricted least concern plants** • The majority of activities involving the clearing of least concern plants are already exempt under the current framework. The only exception to this is where certain activities that involve clearing of least concern plants on State land also require approval under the *Sustainable Planning Act 2009*. • This means that all clearing of least concern plants on private land is already exempt, along with most activities on State land. • In the small number of circumstances where a permit is required for clearing least concern plants, there are no grounds to refuse such an application under option 1. • Option 2 merely makes the least concern plant exemption consistent across the board, by also exempting harvesting and growing activities. • This provides for equality amongst developers, harvesters and growers. **Supporting habitat** Option 2 will also provide protection to least concern plants that form part of the immediate supporting habitat for EVNT plants. This type of protection is not provided under the current framework. • No change – there is expected to be little significant impact on EVNT species status due to the requirements to avoid, mitigate or offset impacts on known records of the species.

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
• how any changes will intersect with the EPBC Act and the VMA, and how they will relate to the State's broader responsibility to protect plants • dilution of the purpose of the legislation • whether the review has considered impacts on habitat for animals	
Conservation outcomes	
Newly discovered and rediscovered plant populations • The document does not give recognition to newly discovered plant species. In many cases, newly discovered species are given a provisional conservation status, but this can take a long time to be formally recognised in the Nature Conservation (Wildlife) Regulation. Where new discoveries are formally published and recognised by the scientific community, a risk-based approach to their conservation needs to be taken and permits to clear need to take into account their provisional conservation status. • The document does not give recognition to rediscovered populations of extinct species. Such rediscoveries are rare and exciting occurrences, and populations must be given immediate protection.	• No change – newly species listings policy is covered by the Act more broadly and is not within the scope of this review.
• Introduce a data deficient category as per the IUCN red list for least concern plants that require survey and guidelines for other circumstances where least concern plants should be surveyed such as those species that are locally endemic, disjunct or at their species limits.	• No change – relevant to operations of the act more broadly and methods for listing species generally, not relevant to the protected plant framework.
Exemptions under option 2	
Removal of permit requirements for unrestricted least concern plants • Many environmental consultants and some individuals agree that permitting requirements for least concern plants are overly restrictive and could be streamlined. • Conservation groups generally do not support exemptions for least concern plants. • Some individuals also object to exemptions for least concern plants. Specific comments made in submissions included the following: • Current permitting requirements for least concern plants are overly restrictive. • Support the reduction of data collection requirements for least concern plants (except where those species are of conservation	• Change to further reduce regulatory burden – clearing of all least concern plants (including special interest least concern plants) will be exempt under the revised option 2. Justification as follows • The majority of activities involving the clearing of least concern plants are already exempt under the current framework. The only exception to this is where certain activities that involve clearing of least concern plants on State land also require approval under the *Sustainable Planning Act 2009*. • This means that all clearing of least concern plants on private land is already exempt, along with most activities on State land. • In the small number of circumstances where a permit is required for clearing least concern

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
concern or significance), but need to ensure that no least concern species becomes threatened or near threatened as a result of individual or cumulative impacts. • Removing permits for the clearing of least concern plants dispenses with the precautionary principle with potentially dire consequences. • For example, failure to survey some areas will result in a failure to identify known or new weed species, the knowledge and prompt management of which could save the State Government and landholders millions of dollars in land management costs. • As threatening processes, habitat loss and climate change take their toll, some plants thought to be common may become less so.	plants, there are no grounds to refuse such an application under option 1. • Option 2 merely makes the least concern plant exemption consistent across the board, by also exempting harvesting and growing activities. • This provides for equality amongst developers, harvesters and growers.
Cumulative impacts • Cumulative impacts needs to be assessed/managed effectively and provided for in the legislation. • Uncertainty regarding how the issue of incremental loss of EVNT/special LC species and their habitat is addressed in any of the options. • Must take into account cumulative impacts of all activities in a region o Should implement legal mechanisms, by which EHP can assess development projects against the region's cumulative upper and lower limits for changes to natural resource asset condition and function, within defined zones and timeframes • EHP to consider the framework against determined thresholds and threshold limits for the region's natural resources, in order to identify whether the proposed framework will be able to maintain the viability and integrity of the region's resources. • If proponents cannot avoid, manage or mitigate all of the adverse impacts on the natural resource assets and local communities, they should not be permitted to proceed with their projects.	• No change – there is expected to be little significant impact on EVNT species status due to the requirements to avoid, mitigate or offset impacts on known records of the species. • Incremental loss of EVNT plants will be monitored through clearing permit processes, with all clearing of these species being required to be mitigated and/or offset. This will ensure a 'no net loss' outcome is achieved for all EVNT species.
Habitat	
Supporting habitat • Supporting habitat term is confusing	• Change – will ensure term is adequately defined in definitions section
Habitat function of plants • Habitat loss (for plants and animals) will increase under options 2 & 3 • Destroying habitat before equivalent habitat has been restored increases the risk of	• No change – whilst current legislation provides a higher perceived level of protection it is poorly complied with and difficult to enforce and therefore does not result in better conservation outcomes.

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
species extinction. • The framework fails to respond adequately to the complexities in the ways in which threats affect ecological processes and regional ecosystems, will likely perpetuate the continuing decline in biodiversity. • The singular and exclusive focus on "threatened" plants ignores the role of "least concern" species in conferring ecosystem resilience.	
Consideration of habitat factors in classification of high risk activities and in assessment • Importance of a habitat based approach • Limitations of a species approach • An area should be considered 'high risk' not only if there is a known record of an EVNT or special LC plant present but also if suitable habitat for such species is present. • Assessment of clearing activities should consider habitat factors and impacts on the wider ecosystem. • The absence of EVNT but the presence of potentially suitable habitat should warrant a flora survey to determine whether an EVNT plant population is present. • clarify and define "immediate habitat" e.g. distance to species records	• Changes will ensure that these comments have been taken into account in part. The proposed Option 2 will remove size thresholds described in the consultation version of Option 2 and replace it with an alternative 'high risk trigger'. • Specifically, the revised option 2 proposes to trigger a flora survey where clearing will occur in: o A known record for a restricted plant o A special biodiversity area. • These clearing activities will be defined as 'high risk clearing activities'. Exemptions for small scale development and routine activities will apply in special biodiversity areas. • This amendment is consistent with the risk based approach adopted by this option and will ensure that the classification of a high risk clearing activity is based on ecological criteria and environmental context. • No effective size limit could be established and size of development is not necessarily a reflection of risk. Biodiversity significance will address issues such as remnant status of vegetation, habitat and bioregional differences.
Risk based approach to the regulation of clearing under option 2	
General concerns • The "risk-based approach" makes a presumption that the information regarding plant distribution and discovery is already known. • Site and risk evaluation should consider existing environmental context • Option 2 should be given further consideration in terms of flora survey effort for activities defined as low risk. Defining a clearing activity as low risk solely in terms of area proposed to be impacted (if no EVNT record exists for the site) may be inadequate in many instances. o Unless this is addressed, threatening processes will not be effectively	• Changes will ensure that these comments are taken into account. The proposed Option 2 will remove size thresholds described in the consultation version of Option 2 and replace it with an alternative 'high risk trigger'. • Specifically, the revised option 2 proposes to trigger a flora survey where clearing will occur in: o A known record for a restricted plant o A special biodiversity area. • These clearing activities will be defined as 'high risk clearing activities'. Exemptions for small scale development and routine activities will apply in special biodiversity areas. • This amendment is consistent with the risk based approach adopted by this option and

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
managed in a manner that maintains the current conservation status of all protected plant species. • Support option 2 and agree that it should reduce the compliance burden on horticultural producers. In particular, the exemption of low-risk activities from permit and licence requirements is very welcome.	will ensure that the classification of a high risk clearing activity is based on ecological criteria and environmental context.
Potential impacts of 'low-medium' scale activities • Concerned about the potential negative impacts on native flora of small – medium scale activities • Current record data is widely spaced across the State (e.g. average one record for every 2,198 km^2 in north-west Qld) and many threatened plants are likely to be missed (and cleared) if the proposed 'high risk' definition is adopted. • Thresholds for low risk activities need to be well thought out and be relevant to context to ensure threatened species populations are not put at risk by newly created exemptions.	• Refer above.
Databases and knowledge gaps • Current known records data is insufficient and this would pose too high a risk • Not enough is known at present about the distribution of species • There are species we still don't know about • Many current records are old and broad • Question why higher levels of certainty around the distribution of plants does not presently occur as a result of current flora surveys. • Need better knowledge base to inform decision making • Many findings/locations are not officially recorded from surveys currently because there is no legal requirement to do so • The herbarium requires specimen samples to make a record, not just survey results • Many species that may be threatened that are still classified as least concern • For a large proportion of the State, no detailed botanical assessments have been undertaken or if surveys have been undertaken they are not of a standard necessary to detect certain species • Many species are highly cryptic and/or only detectable during certain conditions.	• Changes to option 2 will ensure that: o Extensive searches to obtain reliable data to inform species records will be carried out. o Systems and databases will be improved over time. o A publicly accessible spatial database will be introduced. o Reliable data provided by suitably qualified professionals will be incorporated into publicly accessible databases in a timely manner. o The department is also amending option 2 to use mapped special biodiversity areas as a flora survey trigger, to further allay concerns regarding reliance on deficient data.
Scaling back flora survey and clearing permit requirements • If a location has not been surveyed then it is impossible to know whether or not the activity	• Whilst current legislation provides a higher perceived level of protection and survey it is poorly complied with and difficult to enforce and therefore does not result in better

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
poses a high risk to biodiversity. • Current data on plant distributions are not detailed enough to rely on as a trigger for flora surveys and clearing permits. • Destruction without knowing what is being destroyed is not sustainable management • Don't support limiting flora surveys to certain activities and localities • Limiting survey requirements will stagnate knowledge • Where flora surveys are undertaken, EVNTs are often found • Flora surveys are essential to contribute to our knowledge base and to reduce risk of biodiversity loss • Focusing surveys primarily on existing known locations would stagnate the improvement of knowledge on our plant species • Scaling back these requirements represents a retrograde step and will endanger flora only to benefit developers. • Scaling back flora survey and clearing permit triggers will have an impact on private consulting interests who currently undertake flora surveys/impact assessments related to clearing activities. • Under reduced survey requirements of, important populations of threatened species and undescribed species are likely to be destroyed before we even discover their existence. • Allowing the clearing of land, without formal botanical surveys, risks the loss of new plant species and all that that implies - loss of new pharmaceutical discoveries, loss of potential endangered or vulnerable species, and a compounding failure to add to the floristic diversity of Queensland. • For this very reason, Option 2 will not ensure that populations of threatened and commercially valuable plants are not depleted. • Relying on members of the community to provide information and records of threatened plant species, rather than using trained professionals, is risking Queensland's biodiversity. • Relaxing the requirements for threatened plant surveys as proposed in Options 2 and 3 is considered to be an unacceptable risk. • Should be using the Precautionary Principle, rather than relying on conservation status and known records. • Model of inaction until "higher" listing status is reached has already been a real factor in the destruction of ecosystems across the Queensland landscape. • Cost of providing flora surveys before clearing is consistent with due diligence, duty of care	conservation or information outcomes. Option 2 directs regulatory attention to where risks are known and a community education program will be run that encourages the vouchering and reporting of plants to add to the known records thus increasing the information base.

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
and stewardship of the land. • A policy that doesn't allow for any further discoveries of locations of threatened plant species or for the discovery of a new plant species serves no conservation or ecologically sustainable aim. • The proposals to remove 'green tape' are also cost saving exercises but any likelihood of reducing protection of EVNT species or remnant, relatively intact regional ecosystems, outside of protected areas, should be avoided. • While the reduction in flora survey requirements will provide significant savings to industry, it will have also have a negative impact on small to medium consultancies that undertake these flora assessments.	
Classification of high and low risk activities under option 2	
• Flora survey trigger should be based on ecological criteria. • Clearing being undertaken outside of a known record should be considered a high risk activity when one of the below conditions apply: • The area is adjacent to a known record area for a threatened or special least concern plant • The area is in a bioregion that has another area of the same bioregion with a known record for a threatened or special least concern plant. • Permits should still be required for all large scale clearing upwards from 2ha in size including areas with plants of least concern so that the information can be collected and used by a government body to keep a check of how much clearing is occurring to monitor whether our natural areas are being over depleted, wildlife corridors are being maintained and natural habitat areas are retained.	Refer above.
Guidance on flora survey requirements	
• The proposed amendments to the framework should clearly stipulate the need for field survey, the skill of the surveyor/botanist involved and the required approach and survey effort. • Flora survey requirements should be legislated.	• Changes made to Option 2 in response to feedback received on the Consultation RIS will ensure that flora survey criteria are clearly outlined in the legislation or the code of practice. • The department will further consider what the exact flora survey requirements and criteria will be, and will consult with interested parties and experts in the field to determine appropriate legislative provisions.
Integration with the EP Act	

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
• Concerned that mining not adequately dealing with protected plants. Contends there is already too much destruction caused by the mining industry.	• The revised option 2 will ensure protected plant impacts are avoided, mitigated and/or offset through existing EA processes under the EP Act.
Clearing permits	
Currency period • A currency period of 2 years is too long, needs to be 1 year maximum with an extension for one more year only if it can be demonstrated to be appropriate	•
Integration with Planning and development legislation	
• Support integration with development assessment processes under other Acts	• No change as integration with SPA and the VMA is not supported across government at this time and is thus out of scope.
Special least concern plants	
Special least concern plants • Restrictions currently applied to species listed in s 11(1)(a), (b) and (d) in the Nature Conservation (Protected Plants) Conservation Plan 2000 must remain unchanged. In other words restrictions must remain on 'special least concern plants' that may be desirable for harvest and trade such as cycads and tree ferns, and the definition of what constitutes a 'special least concern plant' must not be altered except upon recommendation of an expert scientific panel.	• Special least concern plants include least concern plants that are commercially valuable or are known to have sensitive reproductive biology. Harvesting of these plants is highly restricted under the current framework, while clearing of the same plants is exempt. This is because commercial demand for these species has the potentially to pose significant threats to the survival of plants in the wild, if harvesting is not regulated. • In response to concerns raised by submitters, the revised option 2 will maintain the existing exemption for clearing these plants, while allowing for harvesting to occur in situations where sustainability can be demonstrated. This is consistent with the risk based approach of option 2. • Salvage of these plants will be permitted in a broader range of circumstances, where the clearing is legitimately being undertaken to allow for the use of the underlying land, rather than for the use/sale of the plants. The department is considering defining such purposes in the legislation, but it is likely that these would include; o All 'relevant development activities', as defined under the existing legislation (e.g. resource activities, activities authorised under the under the *Electricity Act 1994* or the *Transport Infrastructure Act 1994*; o Activities being undertaken by local government; o Activities approved under the *Sustainable Planning Act 2009*;

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
	○ Forestry plantation management activities. ○ Any clearing of protected plants, as approved under the NCA or another Act (this would only apply to EVNT plants, as special LC plants will not require a clearing permit). Salvage would be exempt where: • It is undertaken by the holder of any current harvesting licence (regardless of the location or species the licence had been issued for); and • It is undertaken in accordance with the code of practice (including tagging and record keeping requirements).
Permitting requirements for special LC species • Concerned about increased burden due to requirement for surveys/permits for special least concern plants (e.g. grasstrees). • Transplanting Type A plants is costly, is not always successful and has little conservation gain. • Given many of these plants are otherwise common and are regulated owing to their commercial value, the effort and finances directed to their transplanting would be better directed to projects offering real conservation outcomes such as restoration of threatened plant habitat or improving the knowledge about the distribution of a species.	• Refer above
Plants that provide critical habitat for fauna • Special least concern plants should also include species that provide critical habitat to significant fauna.	• No change – outside scope of review.
Terminology • Having different categories of LC plants is confusing.	• No change resulting – option 2 remains the preferred option. In regard to different categories of Least Concern plants being confusing, it is considered less confusing than the current regime of Restricted Type A and B and other scheduled plants.
Harvest and growing	
Sustainability of harvest • Current harvest not sustainable (e.g. orchids) • Plants should remain in the wild for everyone's enjoyment and not taken for one person's profit. • Provide some additional exemptions and allowances for universities, herbariums, and for collection of propagation material • Contends that most whole plants (slow growing) cannot be sustainably harvested – how can sustainability be demonstrated and	• No change – consider Option 2 addresses these issues where relevant to conservation issues. • No change – consider that the capacity to list species as special least concern plants to provide control on harvest will address this issue in the proposed Option 2.

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
unclear who has the expertise to do this? • Whole plant harvesting under any circumstances (including salvage) will lead to further loss of species. • Questions the purpose for tagging requirement if salvage is not licenced and no site assessment is to be undertaken. • Whole plant harvesting should not be exempt under option 2 and should be regulated with administrative changes. • Unclear which businesses would actually benefit from this change to whole plant harvesting. Unclear what consideration has been given to federal laws and export regulations. • Concerned about whole and plant part harvesting of LC species (e.g. boronia for cut flower industry).	
Salvage • Current requirements can be too strict • Need to ensure plants, such as orchids, can be removed before development takes place. • Current assessment processes around harvesting licences need to be simplified. • When large scale clearing is approved on any type of vegetation, it should be a requirement that – before clearing commences – environmental groups and/or those with a commercial interest should be given the opportunity of collecting seeds, plant parts and whole plants to preserve the local providence for future restoration in the local area. • Would like to be able to salvage plants such as grass trees that would otherwise be cleared for agricultural purposes. • Better controls for 'salvage', where primary purpose of clearing is to harvest the plants	• In response to concerns raised by submitters, the revised option 2 will maintain the existing exemption for clearing these plants, while allowing for harvesting to occur in situations where sustainability can be demonstrated. • Salvage of these plants will be permitted in a broader range of circumstances, where: o The plants will be destroyed as part of a defined 'legitimate clearing activity', with the primary purpose being to allow for the use of the underlying land, rather than for the use/sale of the plants. o It is undertaken by the holder of any current harvesting licence (regardless of the location or species the licence has been issued for); and o It is undertaken in accordance with the code of practice (including tagging requirements for whole plants and record keeping requirements). o Tagging of whole, wild harvested plants is necessary to help verify the origin of these plants and limit opportunities for the 'disposal' of unlawfully harvested species • The department is considering defining such 'legitimate clearing activities' in the legislation, but it is likely that these would include; o All 'relevant development activities', as defined under the existing legislation (e.g. resource activities, activities authorised under the under the *Electricity Act 1994* or the *Transport Infrastructure Act 1994*; o Activities being undertaken by local government; o Activities approved under the *Sustainable*

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
	Planning Act 2009; o Forestry plantation management activities. • There may still be circumstances where whole commercially plants will be destroyed and not be available for harvest under salvage. Further consideration is being given to ways to effectively manage the needs of harvester, clearing activities and threats to commercially valuable species.
More lenient requirements for sustainable operators • Relax harvesting and growing requirements for businesses that operate sustainably, provided there is effective monitoring and regulatory oversight of these industries.	• No change – department view is that Option 2 already provides this.
Licensing of growers and exemptions for growers • Necessary to maintain licencing requirements for growers to have some control over people operating in a manner adverse to the Code of Practice for Harvesting, Growing and Trading. • Harvesting of recently germinated seedlings should be allowed. Collecting a few seedlings from mass germinations would have no effect whatsoever on the species. • Current system for propagators is adequate.	• No change – consider Option 2 will maintain licensing requirements for growers . • Change – revised option 2 will consider feedback on exemptions for growers.
Trade	•
Encouraging the trade of native plants • The best way to *encourage* the trade of native plants and increase the number available for sale is to educate the public about the role and value of native plants, and to restrict the number of exotic species available for purchase. •	• No change - outside the scope of the review.
Fees	
General • Significant fees could increase non-compliance. • Support the fee structure proposed for Option 2. • User pays principle should be applied and the costs to business should be accepted if they want to undertake that activity.	• The proposed fee increase reflects current cost recovery requirements and brings the requirements in line with other similar permits. • Change to provide fee concessions for essential property infrastructure and harvest or clearing for the purpose of damage mitigation.
Growing • Increasing licence fees for growing of restricted plants will not help encourage and support use of cultivated protected plants, and take pressure off wild populations –	• Regulation of growing (propagation and cultivation) only applies to harvest of seeds and propagative material from the wild. The licence is not intended to apply to the growing where seeds or propagative materials have

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
particularly if the restricted list is not amended to exclude interstate species and cultivars and hybrids • Do not support fees being applied to a grower's licence. • Grower's licence fee could make it unviable for some propagators to continue growing and selling native plants to the public. **Specific comments made by individuals** • Propagators and cultivators who do not collect from the bush should only have a one off fee with a thorough inspection to make sure they have the facility and the knowledge to carry on their business. • Fees should apply to those who clear land, or take plants from the bush; not to those who only ever propagate plants that have been in cultivation for decades • Commercial development of native plants (for horticulture) is a legitimate commercial exercise and should not be treated the same way under the NCA. • Commercial development of plants enhance protection of wild plants and are outside the jurisdiction of environmental protection • Contends that native plants two propagation generations or more removed from wild collected material should be outside the jurisdiction of protection legislation • Rare, endangered, near threatened plants should not be locked up by inaccessibility. • The department develop a system of access to plants for cultivation purposes, in consultation with recognised propagation expertise. • Cultivated plants to be accessible to interested parties for further propagation or research.	been obtained from non-wild sources. The policy will be amended to make this distinction clearer. • Based on feedback and the aim to reduce pressures on wild species and encourage greater reliance on cultivated specimens, the department is giving further consideration to circumstances under which fee concessions and exemptions for growing activities will be appropriate. At this stage, fee concessions are proposed to apply where non-commercial quantities of propagative material will be taken from the wild.
Compliance	•
General • Non-compliance with existing framework is an issue • Support more effective compliance proposed for Option 2 **Specific issues raised by individuals** • Issue with plants sold at weekend markets and lack of enforcement as to lawful origin • Problems with illegal harvest (e.g. orchids) • Methods for monitoring compliance are not well implemented; and, despite some progress, non-compliance mechanisms still appear too weak, especially where industries have the liberty to police their own practices.	No change resulting – current proposal for Option 2 addresses these issues. **Clearing** • A range of methods will be employed to monitor clearing and identify incidences of potential unlawful clearing. These could include, for example, comparing various spatial data of vegetation extent and protected plants records over various years to identify clearing and cross referencing to flora survey notifications and clearing licences. Information from the public and targeted desk-top and on-ground assessments of clearing 'hot spots' are other options that could be utilised. **Trade** • Similar methods as those for clearing may, in

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
	some circumstances, also be applied to monitoring of harvest activities. • Rather than being managed through the regulation of trade, natural stock levels will be protected through the sustainability requirements associated with obtaining a harvesting licence. The focus of regulations under Option 2 is on the sustainability of harvest rather than on the end use of the plant or plant part. • Trade will be monitored through the use of labels for wild harvested plants and the requirement for those involved in trade to keep records of transactions and exchanges of restricted protected plants. The onus is on the buyer and seller to verify the origin of plants or plant materials changing hands and records will need to be kept to prove that they made all reasonable attempts to verify the legal origin of species. In combination, these requirements will enable an auditor to track and verify the change of hands and origin of plants.
Compliance costs	
Flora survey costs • Estimated survey costs under option 2 do not currently occur, are therefore incorrect and bias the review. • The premise used to determine survey costs under the current framework is incorrect, unrealistic and grossly overestimated.	• No change – these costs were calculated based on a number of assumptions, all of which are outlined in the RIS document. The purpose was to calculate what these costs would be, based on full compliance with the law as it currently stands.
Economic and social factors	
Economic considerations • History shows us that the cost of repairing natural ecosystems is far greater than preserving and protecting them. • Loss of native vegetation endangers the quality of air, environment and potential for the future. • Importance of biodiversity to the community and the economy.	• No change – general comment.
Prioritisation of economy over environment • Current economic development drive often undermines international plant protection directives. • Economic matters should not be the main factor which determines action. • Concerned that changes to legislation do not just provide efficiency for business, but may lessen conservation outcomes for native plants.	• No change – whilst current legislation provides a higher perceived level of protection it is poorly complied with and difficult to enforce and therefore does not result in better conservation outcomes.
Impacts on environmental consultants • Existing framework including survey and EIS	• No change – not relevant. The framework's primary consideration is the conservation of

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
requirements create jobs for consultants and ecologists.	protected plants in a manner that does not provide overly burdensome or duplicative red tape to industry.

Issues raised by nursery businesses, harvest and trading businesses, other businesses with an interest in harvesting, and commercial propagators (including industry groups representing commercial propagators)

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
Preferred option	
Option 1 The option preferred after option 2 was option 1. Comments regarding option 1 included the following: • Current framework is an unworkable impost on business and government and is impossible to enforce. • No issues with requirements imposed on nurseries. • Could tolerate option 1, but prefer option 2.	• No change – option 2 remains the preferred option. • Whilst current legislation provides a higher perceived level of protection it is poorly complied with and difficult to enforce and therefore does not result in better conservation outcomes. • Consultation resulted in more support for relaxing the current system
Option 2 The majority of submitters from these groups supported option 2. Comments included the following: • Option 2 is a pragmatic approach to the implementation of the government's stated aims to reduce greentape. • Generally supportive of option 2 with the provision that: o Restricted species list requires refinement. o Plant parts including flowers and foliage should be exempt. • No improved outcomes for native plants. • Poses a high a risk to biodiversity.	No change – option 2 remains the preferred option. Justification is as follows: **Unrestricted least concern plants** • The majority of activities involving the clearing of least concern plants are already exempt under the current framework. The only exception to this is where certain activities that involve clearing of least concern plants on State land also require approval under the *Sustainable Planning Act 2009*. • This means that all clearing of least concern plants on private land is already exempt, along with most activities on State land. • In the small number of circumstances where a permit is required for clearing least concern plants, there are no grounds to refuse such an application under option 1. • Option 2 merely makes the least concern plant exemption consistent across the board, by also exempting harvesting and growing activities. • This provides for equality amongst developers, harvesters and growers. **Supporting habitat** Option 2 will also provide protection to least concern plants that form part of the immediate supporting habitat for EVNT plants. This type of protection is not provided under the current framework.
Option 3 Only one submitter from this group supported option 3. Comments regarding option 3 included the following: • Do not support Option 3 (Co-regulation) because of the suggested costs. • Co-operation with industry is the best option (with appropriate laws to manage serious	• No change – majority of comments support proposed Option 2.

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
breaches). • Concerned about impacts of exemptions on other flora and fauna. • No improved outcomes for native plants. • Poses a high a risk to biodiversity.	
Conservation outcomes	
Preventing species from becoming threatened • Waiting for species to become threatened is not acceptable.	• No change – no option recommends this approach and species listings policy is covered by the Act more broadly and is not within the scope of this review.
Key terms	
Protected plants • This review should re-define what a "Protected Plant" is in Queensland. Specifically recommend the removal of "all Australian natives" under the definition of Protected Plants with the plan.	• No change – department considers that the current definition is adequate.
Conservation statuses and categories	
Refinement of restricted species list • Restricted species list requires refinement - review Type A species rather than just including the list as is. • Need to explicitly exclude species not native to Queensland and in cultivation in other states • Well known cultivars and hybrids should be excluded • Continue the exemptions (from current framework) for Plant Breeders Rights varieties and tissue cultures.	• Changes to option 2 will ensure that the list of special LC species will be reviewed prior to the implementation of the new framework. • Feedback will be sought from the Queensland Herbarium and other key groups and individuals with knowledge of and/or interest in harvesting of protected plants.
Habitat	
Habitat function of plants • Concerned about loss of habitat in general.	• No change – whilst current legislation provides a higher perceived level of protection it is poorly complied with and difficult to enforce and therefore does not result in better conservation outcomes.
Risk based approach to the regulation of clearing under option 2	
Databases and knowledge gaps • Current known records data is insufficient and this would pose too high a risk.	• Changes to option 2 will ensure that: o Extensive searches to obtain reliable data to inform species records will be carried out. o Systems and databases will be improved over time. o A publicly accessible spatial database will be introduced. o Reliable data provided by suitably qualified professionals will be

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
	incorporated into publicly accessible databases in a timely manner. o The department is also amending option 2 to use mapped special biodiversity areas as a flora survey trigger, to further allay concerns regarding reliance on deficient data.
Scaling back flora survey and clearing permit requirements • Under option 2, our knowledge of Queensland's threatened flora distributions would likely stagnate, because the trigger for additional surveys would typically be based on existing known locations.	• Whilst current legislation provides a higher perceived level of protection and survey it is poorly complied with and difficult to enforce and therefore does not result in better conservation or information outcomes. Option 2 directs regulatory attention to where risks are known and a community education program will be run that encourages the vouchering and reporting of plants to add to the known records thus increasing the information base.
Harvest and growing	
Public listing • Support public listing of licensed harvesters and growers on EHP website provided only the company or individual name, species, parts, quantities and duration of the licence are listed.	• The revised option 2 will ensure this occurs.
Scaling back harvesting requirements • A permit should always be required for both whole plant and plant part harvesting. • Whole plant harvesting needs to be strictly controlled to protect biodiversity	• No change – consider that restriction on unrestricted least concern plants is overly burdensome as there is no conservation issue to be addressed. • The department considers that the capacity to list species as special least concern plants to provide control on harvest will address any issues relating to the sustainability of exempting all unrestricted least concern plants from licensing requirements under proposed Option 2.
Harvesting licence particulars • The current system of granting one harvesting licence for multiple species harvested from multiple locations makes for administrative efficiency and should continue under a Protected Plant Harvesting Licence. • The current system of allowing applications to amend a harvesting licence during its life either to add or remove a species and/or a location ensures licence accuracy and should continue under a Protected Plant Harvesting Licence. • Licences could be renewable on review (e.g. where harvesters/propagators have demonstrated they operate sustainably). • An existing Commercial Wildlife Harvesting Licence covering a restricted species should	• Changes to the proposed Option 2 will include consideration of assessment times associated with multiple species applications, the nature of proposed amendments and any additional assessment that may be required as part of a request to amend an licence. • Changes to address this issue are the consideration of the distinction between a licence renewal and a new licence. Renewals may be appropriate where harvest under a sustainable harvest plan has proven to be sustainable and sustainability of harvest beyond the initial licence expiry can be demonstrated. • In general, the requirements for obtaining a harvesting licence will be carried over to the new licensing regime. For example, factors

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
be converted to a Protected Plants Harvesting Licences for 12 months at no extra cost. This will give DEHP time to develop and communicate the new requirements to licensees who will then have to meet the new requirements by the time the licence expires.	such as sustainability, threats of environmental damage, and the impact of proposed activities are relevant considerations in the application and assessment process under the current framework, and will continue to be relevant under the Option 2. Therefore, there will be no need to extend existing licences beyond their expiry date.
Harvesting whole plants from the wild • Make harvesting and re-location of bottle trees easier • Do not allow export of any bottle trees outside of Australia • Only give permits to harvest and re-locate bottle trees to experienced people/business, not to landholders (as this can compromise the survival rate of trees)	• No change – consider Option 2 addresses these issues where relevant to conservation issues. • Where special LC plants are abundant and/or sustainability of harvest can be demonstrated, a harvesting licence will be issued for a sustainable quantity.
Harvesting special LC species • Should be able to harvest limited quantities of special LC plants, in exchange for the protection/retention of plants in other areas. • Problems with Macrozemia Moorei poisoning cattle. • Should be able to harvest limited quantities of these plants, in exchange for the protection/retention of plants in other areas. • Issue with current salvage restrictions -any plant in danger of being destroyed should be rescued with the chance to survive in the ornamental plant market. • It is imperative that licences are only issued to operators who can guarantee that such plants are only harvested in areas where sustainability of the species is an absolute priority.	• In response to concerns raised by submitters, the revised option 2 will maintain the existing exemption for clearing these plants, while allowing for harvesting to occur in situations where sustainability can be demonstrated. This is consistent with the risk based approach of option 2. • Salvage of these plants will be permitted in a broader range of circumstances, where the clearing is legitimately being undertaken to allow for the use of the underlying land, rather than for the use/sale of the plants. The department is considering defining such purposes in the legislation, but it is likely that these would include; o All 'relevant development activities', as defined under the existing legislation (e.g. resource activities, activities authorised under the under the *Electricity Act 1994* or the *Transport Infrastructure Act 1994*; o Activities being undertaken by local government; o Activities approved under the *Sustainable Planning Act 2009*; o Forestry plantation management activities. o Any clearing of protected plants, as approved under the NCA or another Act (this would only apply to EVNT plants, as special LC plants will not require a clearing permit). Salvage would be exempt where: • It is undertaken by the holder of any current harvesting licence (regardless of the location or species the licence had been issued for); and

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
	• It is undertaken in accordance with the code of practice (including tagging and record keeping requirements).
Removal of permitting and licensing requirements for harvest of least concern plants • Strongly endorse the removal of harvesting licences for plants that are considered to be of least concern. • Administrative burden associated with Option 1 to harvest unrestricted least concern plants for koala fodder is not proportional to the level of risk associated.	• No change – option 2 achieves this and remains the preferred option.
Harvesting sandalwood • All comments relate to the reclassification of Sandalwood to a Special Least Concern plant, the removal of the artefact exemption and the restrictions that will now apply. • Strongly opposes any change to classification of Sandalwood and accuses DAFF of protecting its own supply and acting uncompetitively. • Contends that change to classification is an attack on property rights. • Contends that illegal harvesting of Sandalwood will not threaten the viability of the species in the wild. The limit of 50 tonnes on Sandalwood on freehold land should be increased to match that of State land.	• No change – departmental position is that Sandalwood should be treated like any other protected plant with the potential for overharvest.
Salvage • Current requirements can be too strict • Current assessment processes around harvesting licences need to be simplified. • Would like to be able to salvage plants such as grass trees that would otherwise be cleared.	• In response to concerns raised by submitters, the revised option 2 will maintain the existing exemption for clearing these plants, while allowing for harvesting to occur in situations where sustainability can be demonstrated. • Salvage of these plants will be permitted in a broader range of circumstances, where: o The plants will be destroyed as part of a defined 'legitimate clearing activity', with the primary purpose being to allow for the use of the underlying land, rather than for the use/sale of the plants. o It is undertaken by the holder of any current harvesting licence (regardless of the location or species the licence has been issued for); and o It is undertaken in accordance with the code of practice (including tagging requirements for whole plants and record keeping requirements). o Tagging of whole, wild harvested plants is necessary to help verify the origin of these plants and limit opportunities for

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
	the 'disposal' of unlawfully harvested species • The department is considering defining such 'legitimate clearing activities' in the legislation, but it is likely that these would include; o All 'relevant development activities', as defined under the existing legislation (e.g. resource activities, activities authorised under the under the *Electricity Act 1994* or the *Transport Infrastructure Act 1994*; o Activities being undertaken by local government; o Activities approved under the *Sustainable Planning Act 2009*; o Forestry plantation management activities. • There may still be circumstances where whole commercially plants will be destroyed and not be available for harvest under salvage. Further consideration is being given to ways to effectively manage the needs of harvester, clearing activities and threats to commercially valuable species.
Plant part harvesting • Plant parts including flowers and foliage should be exempt. • Support proposed exemption (opt 2) for harvesting biologically insignificant quantities of plant parts • Low risk activities should include: o Collecting propagation material (i.e. seed, cuttings, seedlings) for private and nursery use o Collecting botanical specimens for identification and for all scientific institutions (i.e. Herbariums, Universities and research institutions). Alternatively, a permit should be a letter of authorisation for the head of the Herbarium or University and the authorisation should remain valid until cancelled by the head of such institution o All universities (including students as required for their studies) should be able to collect any botanical specimens from Crown land without a licence. • There should be no restrictions on collecting seeds except by commercial seed collectors o Commercial seed collecting (i.e. to sell the seed) needs to be controlled as huge volumes are sometimes required o Collecting for propagation is different	Changes to address these concerns are as follows: • Further consideration is being given to the circumstances under which an exemption from a harvesting licence would be appropriate, including suitable plant part quantities. • A grower's licence will enable access to small quantities of seeds and propagative materials not otherwise accessible under an exemption or harvesting licence. • Harvest of large quantities of seeds of restricted species, irrespective of the purpose will, in general require a harvesting licence and demonstration that the proposed level of harvest is sustainable. •

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
and requires much smaller quantities and, in most cases, has no impact on the viability of species	
More lenient requirements for sustainable operators • Relax harvesting and growing requirements for businesses that operate sustainably.	• No change – department view is that Option 2 already provides this.

Licensing of growers and exemptions for growers
• Proposal is too onerous:
  o creates disincentive to grow and promote native plants
  o fee costs will force nurseries not to stock native plants listed under the legislation
• Suggest a register for production nurseries propagating native plants.
• Provided detail in submission on definition of small quantities of propagation material.
• Recommend that growers are not required to hold a licence provided they hold a harvesting licence or have legal access to propagating material, - ex horticulture for example.
• Like the suggestion of growers only requiring a licence if they want to harvest whole plants or high quantities of propagative material from restricted plants, provided Commonwealth export approval can still be obtained (either Wildlife Trade Management Plan or Artificial Propagation Program).
• Collecting propagating material for use in our native plant nursery does not have any environmental impact and does not impact on the conservation status of native plants across all protected categories, for shrubs and trees. Consequently our activities should not require any permits.
	No change, justification as follows:
	• There will be exemptions for harvesting minimal quantities of propagating material, and harvesting unrestricted least concern plants will be exempt altogether.
	• Under the current framework an authority can be given for 'growing' (i.e. propagation and cultivation), provided certain criteria are met. It is intended that the requirements will be carried across to the new framework.
	• The primary changes are combing the propagator and cultivator authorities into a grower's licence and charging a fee for the licence.
	• As with the authorities, the licence will enable access to seed and propagative material not otherwise available or so readily accessible through a harvesting licence (for example, harvest is not limited to a specific location, and the holder of a growers licence may take small quantities of seed of many species without a harvesting licence)
	• A harvesting licence will still be required to take whole plants for use as stock plants for propagation and cultivation activities.
	• The growers licence only applies to propagation and cultivation activities using wild sourced materials. It does not apply to a propagator or cultivator who obtains their seed or propagative material from non-wild sources.
	• The revised option 2 will further consider feedback on exemptions for growers.

Recordkeeping	•
• Existing requirement arduous. • Like idea of production (propagation) nursery record keeping record (as per business normal practice) of source of plant material and paper trail of transactions (purchases, sales, etc) as per ATO record keeping requirements. • Supportive of the requirement to keep records of all harvesting activities.	• No change resulting – current proposal for Option 2 addresses these issues.
Trade	•
Removal of licensing requirements • Strongly support the abolition of licensing for	• No change – supports the proposed Option 2.

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
traders. We understand traders will be exempt provided they comply with the code of practice including line-of-evidence recordkeeping and verification obligations as seller or buyer. This will bring Queensland in line with NSW and WA, the only other major native flower and foliage producers with Commonwealth Approved Wildlife Trade Management Plans. • We support the public listing of licensed harvesters and growers on the DEHP website provided no more than the company or individual name, species, parts, quantities and duration of the licence is listed. The register should not identify harvest locations in order to minimise the risk of illegal harvesting (poaching). • Supportive of requirement for compliance with code of practice and line-of-evidence record-keeping and buyer-seller verification obligations	
Fees	
General • Fees in Option 2 are much higher and may contribute to non-compliance. • clarify what constitutes a "conservation related purpose" • Option 2 may be workable, but would fail a cost benefit test when business costs (such an inspection fees) and government policy is applied to weekend markets and small retailers. • It is only industry involved in clearing – such as developers, mining etc. that will significantly benefit from cost savings. Harvesters and growers won't see significant cost savings. • Funding should be given to the Qld Herbarium under Option 2 to undertake surveys to ensure knowledge gaps are addressed. •	• The proposed fee increase reflects current cost recovery requirements and brings the requirements in line with other similar permits. • Change to provide fee concessions for essential property infrastructure and harvest or clearing for the purpose of damage mitigation.
Harvesting • Support increased fees (for more permits) to cover management costs • $2000 for a harvesting licence, plus $1 per plant tag • The proposed $1000 fee for a harvesting licence is ok for a large scale operator, but seems excessive for small scale operations.	• No change - fee concessions, or in some cases fee exemptions are still proposed to apply to harvesting applications made for scientific, cultural, educational or conservation-related purposes.
Growing • Fees are overly burdensome for growers and create a disincentive to grow native plants.	• Regulation of growing (propagation and cultivation) only applies to harvest of seeds and propagative material from the wild. The licence is not intended to apply to the growing where seeds or propagative materials have been obtained from non-wild sources. The

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
	policy will be amended to make this distinction clearer. • Based on feedback and the aim to reduce pressures on wild species and encourage greater reliance on cultivated specimens, the department is giving further consideration to circumstances under which fee concessions and exemptions for growing activities will be appropriate. At this stage, fee concessions are proposed to apply where non-commercial quantities of propagative material will be taken from the wild.
Compliance	•
• Non-compliance with existing framework is an issue • Methods for monitoring compliance are not well implemented.	• No change resulting – current proposal for Option 2 addresses these issues. Justification as follows: o Rather than being managed through the regulation of trade, natural stock levels will be protected through the sustainability requirements associated with obtaining a harvesting licence. The focus of regulations under Option 2 is on the sustainability of harvest rather than on the end use of the plant or plant part. o Trade will be monitored through the use of labels for wild harvested plants and the requirement for those involved in trade to keep records of transactions and exchanges of restricted protected plants. The onus is on the buyer and seller to verify the origin of plants or plant materials changing hands and records will need to be kept to prove that they made all reasonable attempts to verify the legal origin of species. In combination, these requirements will enable an auditor to track and verify the change of hands and origin of plants.

Issues raised by the agricultural and horticultural sectors, the timber plantation industry and the commercial and recreational apiary industry

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
Preferred option	
Option 1 Options 1 was not supported. In general, submitters in this group disagreed strongly with option 1.	• No change – option 2 remains the preferred option. • Whilst current legislation provides a higher perceived level of protection it is poorly complied with and difficult to enforce and therefore does not result in better conservation outcomes. • Consultation resulted in more support for relaxing the current system
Option 2 The majority of submitters in this group supported option 2. One submitter (apiary industry group) did not specify which option was supported but their issues are all addressed in the revised option 2. Comments regarding option 2 included the following: • QFF is supportive of the intention of option 2 in principle and with some qualifications. • Growcom supports option 2 and agrees that it should reduce the compliance burden on horticultural producers. In particular, the exemption of low-risk activities from permit and licence requirements is very welcome. • HQ Plantations supports option 2, with amendments to exclude routine plantation management operations from the definition of high risk clearing activities. • Agforce not supportive of option 2: o Significant costs to agriculture o Permit time frame too short • Agforce believes that this option is burdensome but agrees that it is an improvement in comparison to option 1.	• The revised option 2 addresses these issues where practicable, and significantly reduces regulatory burden in comparison to option 1. Protected plant requirements will only apply in known records for EVNT plants and in special biodiversity areas. In known records, exemptions will be provided for establishing and maintaining existing infrastructure, for re-clearing EVNT plants, and for plantation management activities undertaken in established timber plantations. A broader range of exemptions will also apply in special biodiversity areas.
Option 3 Option 3 was not supported. Comments are summarised below. QFF comments: • Significant costs to agriculture • Option 3 not supported because of the suggested costs. • Do not support broadscale survey for protected plants on agricultural land. • Encourage the government to further investigate strategies as identified in Option 3 in relation to vegetation clearing such as co-regulation and a self-assessable code in more detail in order to build on existing industry frameworks to reduce compliance costs for both industry and Government whilst	• No change as Option 3 not the preferred option due to very low levels of support. Reforms proposed as part of option 3 may be further considered at a later date.

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
maintaining robust environmental outcomes. • Growcom recommends further investigation of Option 3, particularly on efforts to reduce costs, and a reassessment of the relative costs and benefits of these two options. • Agforce does not support option 3 fully: o Significant costs to agriculture o Permit time frame too short. o Do not support broadscale survey for protected plants on agricultural land.	
No option supported One submitter did not support any option but agreed that option 2 was preferable to option 1.	•
Exemptions under option 2	
Exemption of low-risk activities • The exemption of low-risk activities from permit and licence requirements in respect to vegetation clearing is very welcome. • The permit system in place is onerous (even for least concern plants).	• Change to further reduce regulatory burden – clearing of all least concern plants (including special interest least concern plants) will be exempt under the revised option 2. Justification as follows • The majority of activities involving the clearing of least concern plants are already exempt under the current framework. The only exception to this is where certain activities that involve clearing of least concern plants on State land also require approval under the *Sustainable Planning Act 2009*. • This means that all clearing of least concern plants on private land is already exempt, along with most activities on State land. • In the small number of circumstances where a permit is required for clearing least concern plants, there are no grounds to refuse such an application under option 1. • Option 2 merely makes the least concern plant exemption consistent across the board, by also exempting harvesting and growing activities. • This provides for equality amongst clearers, harvesters and growers.
Clearing of EVNT regrowth for timber plantation management and beekeeping activities • Concerned that plantation management activities and timber harvesting could be classed as high risk. • Contend that these activities should be classed as 'low risk' (i.e. exempt). • Contend that definition of clearing should	• Changes to Option 2 will ensure that exemptions will be provided for clearing associated with timber plantation management activities in previously cleared areas. • It is proposed that a 'timber plantation management' activity be defined as follows:

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
exclude harvesting of timber plantation and re-establishment and maintenance of plantation timber. • Contend that plantation licence areas and all previously cleared areas in State Forest should be excluded from "high risk/survey trigger" map • Outside of mapping, high risk activities should be limited to clearing proposed in remnant vegetation or vegetation that has not been previously cleared – all other areas and scales of clearing (including within existing timber plantations) should be excluded	*An activity undertaken to manage an existing timber plantation area, including:* • *maintaining, harvesting or re-establishing plantation timber* • *maintaining previously cleared areas* • *establishing and maintaining structures, buildings or other improvements such as fences* • *establishing and maintaining roads or access tracks* • *fuel reduction burning* • *establishing and maintaining firebreaks* • *clearing for other public safety purposes.*
Clearing of EVNT regrowth for beekeeping activities • Need exemption for re-clearing that may impact on EVNT species. • Concerned about having to get a permit for regrowth in previously cleared/disturbed areas (i.e. in the understorey of areas on which plantations are established; in other cleared areas such as firebreaks) • Concerned about having to get a permit for regrowth in previously cleared/disturbed areas (i.e. in the understorey of areas on which plantations are established; in other cleared areas such as firebreaks)	• Change to extend EVNT regrowth clearing exemption to areas that have been legally cleared under a permit in the preceding 10 years. • Changes will be made to ensure further exemptions will also be provided for: o Clearing associated with timber plantation management activities in areas that have previously been legally cleared. o Clearing associated with 'relevant development activities' in areas that have previously been legally cleared (e.g. resource activities, activities authorised under the under the *Electricity Act 1994* or the *Transport Infrastructure Act 1994*). o Clearing being undertaken by local or State government in areas that have previously been legally cleared.
Risk based approach to the regulation of clearing under option 2	
• QFF is supportive of the goal of the review; to reduce business and government costs, and improve environmental outcomes by adopting a risk based approach to regulation where low risk or usual activities will be either self-assessable or exempt from permitting or licensing requirements. • Agforce is supportive of the aim to streamline regulation and reduce red tape.	• No change – it is the department's view that the revised option 2 achieves this.
Flora survey requirements	
• Requirements to conduct flora surveys on broadacre properties is costly and time consuming.	• Changes will ensure that these comments are taken into account. • The classification of high and low risk

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
• The costs of completing a flora survey on a broadscale property (of an average size of approximately 8,000ha) given that most activities would be classified as high risk activities would be prohibitive to any form of compliance.	activities is still under consideration. • The revised option 2 will remove the size threshold described in the consultation version of option 2 and replace it with an alternative 'high risk trigger'. • Specifically, the revised option 2 proposes to trigger a flora survey where clearing will occur in: o A known record for a restricted plant o A special biodiversity area. • These clearing activities will be defined as 'high risk clearing activities'. A broad range of routine clearing activities will apply in special biodiversity areas. • This amendment is consistent with the risk based approach adopted by this option and will ensure that the classification of a high risk clearing activity is based on ecological criteria and environmental context. • No effective size limit could be established and size of development is not necessarily a reflection of risk. Biodiversity significance will address issues such as remnant status of vegetation, habitat and bioregional differences. • The department will further consider what the exact flora survey requirements and criteria will be, and will consult with interested parties and experts in the field to determine appropriate legislative provisions.
Clearing permits	
Clearing permit particulars • Permits should apply to an area, rather than specific species, to avoid unnecessary delays. • Extension of currency period for clearing permits is supported, however this is still not long enough to ensure sustainable land use outcomes on agricultural properties. A short (under five years) permit time can lead to negative environmental outcomes just to meet permit timelines. • The recent proposal from the Department of Natural Resources and Mines (DNRM) has been to develop a set of self-assessable codes for landholders to follow and abide by for sustainable land practices. These codes could foreseeably include a section on protected plants in order to better inform landholders of their obligations and assist in a compliance regime.	• In response to feedback on the Consultation RIS, the revised option 2 will: o Extend EVNT regrowth clearing exemption to areas that have been legally cleared under a permit in the preceding 10 years. o See clearing permits being applied to an area, rather than to particular species. This will mean that situations where proponents would otherwise need to continuously reapply for clearing permits over the same area can be avoided. o Only trigger protected plant requirements in known records and special biodiversity areas, where another exemption does not apply. A number of exemptions will apply in special biodiversity areas, including clearing for fodder harvesting, encroachment and thinning purposes, where the clearing is self-assessed under a VMA code.
Integration with Planning and development legislation	

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
• Recommend integration with the Sustainable Planning Act 2009 (SPA). • Integration with other assessment processes (especially the Vegetation Management Act) is essential and must be pursued as a matter of priority. • The opportunity to integrate the NCA with the VMA is now as the VMA is currently under review which presents the opportunity to align the compliance requirements of the Acts and to present a single compliance framework for vegetation management which will enhance regulatory consistency across the state.	• No change as integration with SPA and the VMA is not supported across government at this time and is thus out of scope.
Harvesting and growing	
Exemptions Do not support: • The holistic exemptions to harvesting license requirements (all harvesters must be licensed); • The requirement for a grower license (no license once plants/plant parts are in trade); • The tagging of high risk plants (increase harvester licensing requirements and use business records for tracing).	•
Fees	
General • Acknowledge that relevance of fees to the provision of resources and application processing times but feel that the leap from $0 to $2500 is a significant increase that will have an additional financial burden. • $2,500 for a clearing permit is expensive and does not take into account differentiations in property size. By comparison, vegetation permits under the VMA are on average substantially less but is scaled. • Contend that these are excessive and a big increase than previously charged. • Contend that there should be exemptions for landholders who have already had to go through VMA and PMAV etc. Concessions should be applied when detailed management plans have been developed.	• The proposed fee increase reflects current cost recovery requirements and brings the requirements in line with other similar permits. • Change to provide fee concessions for essential property infrastructure and harvest or clearing for the purpose of damage mitigation.
Compliance	
Communication and extension of compliance requirements • There is a concern amongst intensive agricultural industries that the communication and extension of compliance requirements has been less than adequate and must be improved, particularly in relation to the	• No change resulting – current proposal for Option 2 addresses these issues.

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
interactions between this framework and other legislation relevant to plant protection. • Communication and extension of compliance requirements must be improved.	

Issues raised by the Federal government

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
General comments	
• Option 2 may present some difficulties – Under the EPBC Act, the Minister must not issue a permit unless satisfied the permit would not involve contravention of and Commonwealth, State or Territory law. May be difficult to prove up that plants have a lawful origin. • SEWPaC does have the capacity to exempt specimens from the requirement for export regulation through the listing of specimens on the List of Exempt Native Specimens. A review of this list s currently occurring. For this reason it might be advantageous for Queensland to identify the species of 'least concern' particularly those most likely to be traded. • Recommends that the highly commercial least concern plants be listed in the 'special least concern' category which will then provide for the department to meet its export permission obligations under the EPBC Act. • AG not able to support option 3 as it is doubtful it would be able to satisfy the requirements of a WTMP under the EPBC.	• Changes made to proposed Option 2 to ensure export approval can be maintained for protected plant traders: • The department will work to identify all least concern plant species, particularly those that are most likely to be traded, and request that these be added to the Federal government's List of Exempt Native Specimens. • All highly commercial least concern plants will be listed in the 'special least concern' category. • Option 3 is not the preferred option due to very low levels of support.

Issues raised by local government

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
Preferred option	
Option 1 Option 1 was not supported by local governments. Comments included the following: • Option 1 is beneficial from a biodiversity perspective but does not achieve any reduction in the current administrative burden and duplication of processes.	• No change – option 2 remains the preferred option.
Option 2 The majority of submissions from local governments supported option 2. Comments included the following: • Option 2 balances protection of biodiversity outcomes and simplification of the legislative framework. • Option 2 provides an appropriate balance between resourcing/administration efficiency and environmental protection outcomes	• No change – option 2 remains the preferred option.
Combination of options 1 and 2 One local government recommended a combination of options 1 and 2.	• No change – option 2 remains the preferred option.
Option 3 This option was not supported. Comments included the following: • Confers a heavy responsibility on proponents and significant burden on industry who may not have the knowledge or candour to act and ensure threatened plants do not decline as a result of their activities. • It is unclear whether the State Government has the necessary resources for compliance, auditing and site evaluations. • Concerns that current databases available to Local Government (such as HerbRecs and WildNet) are out of date and it is not clear how the proposed database will be kept up-to-date and reliable. • The cost to State Government of maintaining a necessarily robust monitoring, reporting and compliance framework may be prohibitive. • Costs to Local Government to update their own mapping more frequently could be prohibitive.	No change – majority of comments support proposed Option 2.
Exemptions under option 2	
Clearing • Need to clarify clearing exemptions.	• Changes will be made to ensure further exemptions will also be provided for: o Clearing associated with timber plantation management activities in

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
	areas that have previously been legally cleared. o Clearing associated with 'relevant development activities' in areas that have previously been legally cleared (e.g. resource activities, activities authorised under the under the *Electricity Act 1994* or the *Transport Infrastructure Act 1994*). o Clearing being undertaken by local government in areas that have previously been legally cleared.
Harvesting and growing • Seed harvesting for commercial propagation purposes requires limits	Changes to address these concerns are as follows: • Further consideration is being given to the circumstances under which an exemption from a harvesting licence would be appropriate, including suitable plant part quantities. • A grower's licence will enable access to small quantities of seeds and propagative materials not otherwise accessible under an exemption or harvesting licence. • Harvest of large quantities of seeds of restricted species, irrespective of the purpose will, in general require a harvesting licence and demonstration that the proposed level of harvest is sustainable.
Special least concern plants	
• Concerned about increased burden due to requirement for surveys/permits for special least concern plants (e.g. grasstrees) • Recommend exemption for clearing to install or maintain linear infrastructure and fire breaks in areas with special least concern plants.	• Special least concern plants include least concern plants that are commercially valuable or are known to have sensitive reproductive biology. Harvesting of these plants is highly restricted under the current framework, while clearing of the same plants is exempt. This is because commercial demand for these species has the potentially to pose significant threats to the survival of plants in the wild, if harvesting is not regulated. • In response to concerns raised by submitters, the revised option 2 will maintain the existing exemption for clearing these plants, while allowing for harvesting to occur in situations where sustainability can be demonstrated. This is consistent with the risk based approach of option 2. • Salvage of these plants will be permitted in a broader range of circumstances, where the clearing is legitimately being undertaken to allow for the use of the underlying land, rather than for the use/sale of the plants. The department is considering defining such

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
	purposes in the legislation, but it is likely that these would include; o All 'relevant development activities', as defined under the existing legislation (e.g. resource activities, activities authorised under the under the *Electricity Act 1994* or the *Transport Infrastructure Act 1994*; o Activities being undertaken by local government; o Activities approved under the *Sustainable Planning Act 2009*; o Forestry plantation management activities. o Any clearing of protected plants, as approved under the NCA or another Act (this would only apply to EVNT plants, as special LC plants will not require a clearing permit). Salvage would be exempt where: • It is undertaken by the holder of any current harvesting licence (regardless of the location or species the licence had been issued for); and • It is undertaken in accordance with the code of practice (including tagging and record keeping requirements).
Risk based approach to the regulation of clearing under option 2	
• How can a risk based approach work when, due to significant knowledge gaps, the site specific risks to biodiversity are not known? • Given the acknowledged 'significant knowledge gaps', the policy approach for flora survey requirements under option 2 presents a relatively high risk to protected species. • Concerned about the potential negative impacts on native flora of 'small – medium' scale activities. • Reducing flora survey requirements will mean that we miss out on opportunities to increase our knowledge and improve our records.	• The proposed Option 2 will remove size thresholds described in the consultation version of Option 2 and replace it with an alternative 'high risk trigger'. • Specifically, the revised option 2 proposes to trigger a flora survey where clearing will occur in: o A known record for a restricted plant o A special biodiversity area. • These clearing activities will be defined as 'high risk clearing activities'. Exemptions for small scale development and routine activities will apply in special biodiversity areas. • This amendment is consistent with the risk based approach adopted by this option and will ensure that the classification of a high risk clearing activity is based on ecological criteria and environmental context. • No effective size limit could be established and size of development is not necessarily a reflection of risk. Biodiversity significance will address issues such as remnant status of vegetation, habitat and bioregional differences.
Classification of high and low risk activities under option 2	

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
• Site and risk evaluation should consider existing environmental context and habitat factors. • Flora survey trigger should be based on ecological criteria. • Suggest creating a simplistic habitat modelling tool through RE mapping.	Refer above.
Guidance on flora survey requirements	
• Clarity should be provided about the requirements for flora surveys for high risk activities.	• Changes made to Option 2 in response to feedback received on the Consultation RIS will ensure that flora survey criteria are clearly outlined in the legislation or the code of practice. • The department will further consider what the exact flora survey requirements and criteria will be, and will consult with interested parties and experts in the field to determine appropriate legislative provisions.
Databases	
• Importance of making data available and consolidating and simplifying existing databases. • Databases are incomplete and/or records are not vetted. • The State must invest significant resources to maintain databases, review the information being entered and ensure transparency. • Concerns about how the database will be managed, kept up-to-date and maintained, frequency of updates, currency of information, use of data sources.	Changes to option 2 will ensure that: • Extensive searches to obtain reliable data to inform species records will be carried out. • Systems and databases will be improved over time. • A publicly accessible spatial database will be introduced. • Reliable data provided by suitably qualified professionals will be incorporated into publicly accessible databases in a timely manner. • The department is also amending option 2 to use mapped special biodiversity areas as a flora survey trigger, to further allay concerns regarding reliance on deficient data.
Integration with the EP Act (only relevant to the resources sector)	
• The outcome is not locally beneficial as the EA conditions are linked with the State offsets policy, which allows for replanting of vegetation outside of the local area, region and even ecosystem, in which it was cleared. This does not replace the biodiversity lost from the local area.	• Where EVNT plants are present on a site, the proponent will first need to avoid and mitigate impacts. Offsets will only be required where avoidance and mitigation of impacts is not practicable.
Integration with Planning and development legislation	
• Recommend integration with the Sustainable Planning Act 2009 (SPA).	• No change as integration with SPA and the VMA is not supported across government at this time and is thus out of scope.
Fees	
• Considerations of the costs to Local	• The proposed fee increase reflects current

Comments and issues raised	Department's response and resulting changes to option 2 (where applicable)
Government where fee exemptions do not apply and clearing permits are required. It is not clear in the RIS who the fee concession applies to. • Clarify what constitutes a "conservation related purpose"	cost recovery requirements and brings the requirements in line with other similar permits. • Change to provide fee concessions for essential property infrastructure and harvest or clearing for the purpose of damage mitigation.
Compliance	•
• In relation to clearing, it is not clear how due diligence in 'low risk' areas will be tracked and monitored • In relation to trade, it is not clear what monitoring mechanism will be in place to ensure natural stock levels are not depleted, nor how plant stock will be managed and monitored, and how records will be substantiated.	**Clearing** • A range of methods will be employed to monitor clearing and identify incidences of potential unlawful clearing. These could include, for example, comparing various spatial data of vegetation extent and protected plants records over various years to identify clearing and cross referencing to flora survey notifications and clearing licences. Information from the public and targeted desk-top and on-ground assessments of clearing 'hot spots' are other options that could be utilised. **Trade** • Similar methods as those for clearing may, in some circumstances, also be applied to monitoring of harvest activities. • Rather than being managed through the regulation of trade, natural stock levels will be protected through the sustainability requirements associated with obtaining a harvesting licence. The focus of regulations under Option 2 is on the sustainability of harvest rather than on the end use of the plant or plant part. • Trade will be monitored through the use of labels for wild harvested plants and the requirement for those involved in trade to keep records of transactions and exchanges of restricted protected plants. The onus is on the buyer and seller to verify the origin of plants or plant materials changing hands and records will need to be kept to prove that they made all reasonable attempts to verify the legal origin of species. In combination, these requirements will enable an auditor to track and verify the change of hands and origin of plants.
Economic and social factors	
Impacts on environmental consultants • Existing framework including survey and EIS requirements create jobs for consultants and ecologists.	• No change – not relevant. The framework's primary consideration is the conservation of protected plants in a manner that does not provide overly burdensome or duplicative red tape to industry.

Issues raised that were outside the scope of the review

General comments (not specific to any one option)	Raised by	Department's response
Climate change • Concerns about impacts of clearing on climate change • The role of plants in carbon sequestration	• Individual • NRM group • Conservation group	• No change – refers more to broadscale vegetation clearing.
Use of native plants in urban areas • Need more support for use of native plants (particularly threatened species) in urban environments, parks and landscaping.	• Business – nursery	• No change – outside the scope of the review.
Logging in State Forests • Should not be allowed • Concerns regarding impacts of logging in State forests on threatened plants. • Uncertainty around how threatened plant species and associated threatened and endemic fauna species will be protected in some of the oldest forests in Australia.	• Individual • Conservation Group	• No change – outside the scope of the framework.

Attachment 2 – Breakdown of option preference by sector group

Sector	Preference						Sub total	Total
	Opt1	Opt 2	Comb Opt 1 & Opt 2	Opt 3	Not specified	None supported		
Recreational, conservation and natural resource management interests	36	14	3	0	12	3		68
• Individuals	17	9	2	0	7	0	35	
• Recreational harvesting & growing	2	1	1	0	1	0	5	
• Special interest groups	1	3	0	0	0	0	4	
• University representatives	2	0	0	0	1	0	3	
• Environmental consultants	3	1	0	0	1	1	6	
• Conservation groups	9	0	0	0	2	1	12	
• NRM groups	1	0	0	0	0	1	2	
• Community Association	1	0	0	0	0	0	1	
Commercial harvest, growing and trade	3	6	0	1	1	0		11
• Businesses	3	3	0	1	1	0	8	
• Industry Associations	0	3	0	0	0	0	3	
Resources, infrastructure and development	0	9	0	1	0	1		11
• Businesses	0	8	0	0	0	0	8	
• Industry Associations	0	1	0	1	0	1	3	
Local Government	0	5	1	0	0	0		6
• Regional Councils	0	4	1	0	0	0	5	
• Government Associations	0	1	0	0	0	0	1	
Agriculture and primary production	0	3	0	0	1	1		5
• Businesses	0	1	0	0	0	0	1	
• Industry associations	0	2	0	0	1	1	4	
Federal Government	0	0	0	0	1	0		1
Total	39	37	4	2	15	5		102

Attachment 3 - Detailed breakdown of costs

Detailed breakdown of government compliance costs for each option - calculated over a ten year period

Assessment Costs	Option 1	Option 2	Option 3
Clearing	$2,239,312.45	$1,237,005.30	$5,325,712.00
Harvest	$1,740,706.25	$781,195.00	$1,664,285.00
Growing	$749,947.20	$771,684.80	$0.00
Trade	$52,985.40	$0.00	$0.00
Sub-total	**$4,782,951.30**	**$2,789,885.10**	**$6,989,997.00**
All other costs			
Start up costs	$0.00	$757,024.46	$1,345,590.99
Policy support	$1,009,372.00	$1,009,372.00	$1,009,372.00
Compliance or enforcement activities	$113,998.30	$455,993.20	$2,149,355.00
Maintenance costs (IT costs, system costs)	$500,000.00	$700,000.00	$700,000.00
Miscellaneous	$933,169.63	$537,483.00	$10,189.50
Tag production	$19,474.40	$19,474.40	$19,474.40
Sub-total	**$2,576,014.33**	**$3,479,347.06**	**$5,233,981.89**
Revenue			
Permits/licences/ authorities or site assessment/evaluation	$275,261.00	$2,425,000.00	$10,840,000.00
Tags	$37,178.40	$37,178.40	$37,178.40
Sub-total	**$312,439.40**	**$2,462,178.40**	**$10,877,178.40**
Total (Costs - Revenue)	**$7,046,526.23**	**$3,807,053.76**	**$1,346,800.49**
Annualised Total	**$704,652.62**	**$380,705.38**	**$134,680.05**

Detailed breakdown of business compliance costs for each option - calculated over a ten year period

Flora survey costs	Option 1	Option 2	Option 3
Clearing	$504,697,000.00	$17,429,000.00	$0.00
Sub-total	**$504,697,000.00**	**$17,429,000.00**	**$0.00**
Application/self assessment costs			
Clearing (including delay costs)	$20,613,727.10	$5,132,555.35	$3,290,000.00
Harvest and growing	$2,228,783.30	$1,347,731.20	$2,676,000.00
Trade	$101,895.00	$10,189.50	$10,189.50
Sub-total	**$22,944,405.40**	**$6,490,476.05**	**$5,976,189.50**
Other costs			
Start up costs (developing self-regulatory framework)	$0.00	$0.00	$1,486,433.75
Compliance and reporting costs	$0.00	$0.00	$17,576,887.50
Sub-total	**$0.00**	**$0.00**	**$19,063,321.25**
Fees			
Permit/licence/authority or site assessment/evaluation fees	$275,261.00	$2,425,000.00	$10,840,000.00
Tags	$37,178.40	$37,178.40	$37,178.40
Sub-total	**$312,439.40**	**$2,462,178.40**	**$10,877,178.40**
Total costs	**$527,953,844.80**	**$26,381,654.45**	**$35,916,689.15**
Annualised Total	**$52,795,384.48**	**$2,638,165.45**	**$3,591,668.92**