Parliamentary Committees

Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016

Report No. 19, 55th Parliament
Agriculture and Environment Committee
June 2016

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Acknowledgements

The committee acknowledges the briefings and assistance provided by the Department of Natural Resources and Mines, the Department of Environment and Heritage Protection and the Queensland Herbarium at the Department of Science, Information Technology and Innovation.

The committee would also like to thank all of the witnesses that appeared at the public hearings in relation to this inquiry and the landholders who accommodated the committee on its site visits.

[1] On 11 May 2016, the Member for Gympie was appointed as the Deputy Chair of the committee. The Member for Burnett was the Deputy Chair from 27 March 2015 to 10 May 2016.

Contents

Abbreviations and Glossary

ACF	Australian Conservation Foundation
AgForce	AgForce Queensland Industrial Union of Employers
Committee	Agriculture and Environment Committee
Category A area	An area which is: a declared area; an offset area, an exchange area, an area that has been subject to unlawful clearing or an enforcement notice; an area subject to clearing as a result of a clearing offence; or an area that the chief executive determines to be Category A Category A areas are colour coded red on the regulated vegetation management map
Category B area	An area which is remnant vegetation or an area the chief executive determines to be Category B Category B areas are colour coded dark blue on the regulated vegetation management map
Category C area	An area which is high value regrowth vegetation on leasehold land, being an area that has not been cleared since 31 December 1989 which is also an endangered, of concern, or least concern regional ecosystem. Category C areas may also be vegetation which the chief executive decides to show as Category C Category C areas are colour coded light blue on the regulated vegetation management map
Category R area	An area which is a regrowth watercourse and drainage feature area located within 50 metres of a watercourse located in the Burdekin, Mackay Whitsundays or Wet Tropics catchments identified on the vegetation management watercourse and drainage feature map Category R areas are colour coded yellow on the regulated vegetation management map
Category X area	All areas other than Category A, B, C and R areas. Some Category X areas are also identified on a property map of assessable vegetation (PMAV) as 'locked in'. Activity in Category X areas is not regulated by the *Vegetation Management Act 1999* Category X areas are coloured coded white on the regulated vegetation management map
CCAA	Cement Concrete and Aggregates Australia
Clear (Vegetation)	To remove, cut down, ringbark, push over, poison or destroy in any way including by burning, flooding or draining; but does not include destroying standing vegetation by stock, or lopping a tree – *Vegetation Management Act 1999*, schedule
CYLCAC	Cape York Land Council Aboriginal Corporation
DEHP	Department of Environment and Heritage Protection
DNRM	Department of Natural Resources and Mines
DSITI	Department of Science, Information Technology and Innovation
EDO	Environmental Defenders Office Queensland

EO Act	*Environmental Offsets Act 2014*
Environmental offset	An environmental offset involves compensating for impacts on the environment or biodiversity at one site through activities at another site. Environmental offsets provide the flexibility to approve development in one place on the basis of a requirement to make an equivalent environmental gain in another place where there is not the same value to industry
FLP	Fundamental legislative principles – *Legislative Standards Act 1992*
FNQROC	Far North Queensland Regional Organisation of Councils
FPC	Foliage Projective Cover – the area of the ground that the leaves of a tree cover
High value agriculture (HVA) clearing	Clearing carried out to establish, cultivate and harvest crops, other than clearing for grazing activities or plantation forestry
High value regrowth vegetation	Vegetation located on a lease issued under the *Land Act 1994* for agriculture or grazing purposes and in an area that has not been cleared since 31 December 1989 that is: (i) an endangered regional ecosystem (ii) an of concern regional ecosystem, or (iii) a least concern regional ecosystem
Irrigated high value agriculture (IHVA) clearing	Clearing carried out to establish, cultivate and harvest crops, or pasture, other than clearing for plantation forestry, that will be supplied with water by artificial means
Indigenous land	In relation to the regulation of the clearing of vegetation, means land held under the *Aboriginal Land Act 1991*, *Torres Strait Islander Land Act 1991* or the *Land Act 1994* on behalf of, or for the benefit of, Aboriginal or Torres Strait Islander inhabitants or purposes
Interim period	The period starting on 17 March 2016 (day the Bill was introduced) and ending immediately before the date of assent of the Bill
LGAQ	Local Government Association of Queensland
MCU	Material change of use
NQCC	North Queensland Conservation Council
PCA	Property Council of Australia
PMAV	Property map of assessable vegetation - certified by the chief executive as a PMAV for an area and showing the vegetation category areas (e.g Category C area) for the area
PRA	Property Rights Australia
Proposed Category C area	An area which is high value regrowth on freehold and indigenous land, being an area that has not been cleared since 31 December 1989 which is also an endangered, of concern, or least concern regional ecosystem Proposed Category C areas are colour coded orange on the proposed regulated vegetation management map

Proposed Category R area	An area which is a regrowth watercourse and drainage feature area located within 50 metres of a watercourse in the Burnett-Mary, Eastern Cape York and Fitzroy catchments identified on the vegetation management watercourse and drainage feature map Proposed Category R areas are colour coded pink on the proposed regulated vegetation management map
Proposed regulated vegetation management map	A map published by the chief executive during the interim period showing the proposed Category C areas and proposed Category R areas
QCAT	Queensland Civil and Administrative Tribunal
QCC	Queensland Conservation Council
QFF	Queensland Farmers' Federation
QLS	Queensland Law Society
QRC	Queensland Resources Council
Regrowth watercourse and drainage feature area	An area located within 50m of a watercourse or drainage feature located in the Burdekin, Mackay Whitsunday or Wet Tropics catchments identified on the vegetation management watercourse and drainage feature map The Bill proposes to add the catchment areas of: Burnett-Mary; the eastern Cape York; and the Fitzroy
Regulated vegetation management map	Show vegetation categories (e.g. Categories C, R and X) which determine the applicable clearing requirements
Remnant vegetation	Vegetation that: • is an endangered, of concern or least concern regional ecosystem, and • forms the predominant canopy of the vegetation covering more than 50 per cent of the undisturbed predominant canopy; averaging more than 70 per cent of the vegetation's undisturbed height; and composed of species characteristic of the vegetation's undisturbed predominant canopy
Riparian vegetation	Stream or river banks are riparian areas, and the plants that grow there are called riparian vegetation
Riverine	Relating to or situated on a river or riverbank
SLATS	Statewide Landcover and Trees Study (SLATS) is a vegetation monitoring initiative of the Queensland Government. The primary objectives of the SLATS is to assess the extent of wooded vegetation in Queensland and assess all woody vegetation change in Queensland
SP Act	*Sustainable Planning Act 2009*
UDIA	Urban Development Institute of Australia - Queensland
VM Act	*Vegetation Management Act 1999*

Vegetation management and drainage feature map	A map certified by the chief executive as the vegetation management watercourse and drainage feature map showing particular watercourses and drainage features for the State
Vegetation management supporting map	A map which supports the regulated vegetation management map and provides further information including about the regional ecosystems and vegetation status
Water Act	*Water Act 2000*
WPSQ	Wildlife Preservation Society of Queensland

Chair's foreword

This Report presents a summary of the Agriculture and Environment Committee's examination of the Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016.

The committee's task was to consider the policy outcomes to be achieved by the legislation, as well as the application of fundamental legislative principles – that is, to consider whether the Bill had sufficient regard to the rights and liberties of individuals, and to the institution of Parliament.

The Bill amends the vegetation management framework to reinstate many of the provisions which were in the *Vegetation Management Act 1999* prior to the changes made by the former Government in 2013.

The Bill prohibits clearing for high value agriculture and irrigated high value agriculture, reinstates protections for high value regrowth to freehold and indigenous land, extends the existing protections for regrowth vegetation in watercourses to the Burnett-Mary, Eastern Cape York and Fitzroy Great Barrier Reef catchments, reinstates parts of the riverine protection framework under the *Water Act 2000* and reinstates the reverse onus of proof and removes the mistake of fact defence for vegetation clearing offences. The Bill also makes amendments to the *Environmental Offsets Act 2014*.

The Bill attracted siginificant interest, with the committee receiving over 680 submissions and over 870 form submissions. Given the contentious nature of the subject and the level of interest, the committee consulted widely, including holding regional public hearings in Cairns, Townsville, Emerald, Bundaberg, Gympie, Charleville and Roma, concluding with a full day hearing in Brisbane. In total, the committee heard from over 140 witnesses.

The Bill polarised views among submitters - with environmental and conservationist groups supporting the Bill, while landholders and their peak bodies strongly opposed the Bill. The committee also heard differing views from members of the public on the Bill.

On behalf of the committee, I thank those individuals and organisations who lodged written submissions, and those peak bodies and individuals who took the time to share their views with the committee at its public hearings. I also thank the landholders who kindly accommodated the committee on its site visits, the committee benefitted greatly from hearing firsthand the issues landholders are facing and to see, on the ground, examples of the issues they tackle on a daily basis.

I also thank committee members for their work on the Bill. Throughout the inquiry members engaged passionately on the many issues raised and discussed by submitters. In the interests of agreeing to a report, the committee has taken the approach of including separate government and non-government members' comments in the report, where there was disagreement.

While not being able to agree to recommend that the Bill be passed, the committee was able to agree to a number of sensible recommendations to improve the Bill and seek further information from the responsible Ministers for the benefit of the House.

I commend this Report to the House.

Glenn Butcher MP
Chair

Recommendations

The committee was unable to reach a majority decision as to whether the Bill be passed. The committee did, however, agree unanimously with the recommendations outlined in this report.

Recommendation 1 **14**

The committee recommends that the Minister for State Development and Minister for Natural Resources and Mines explains to the House, during the second reading debate on the Bill, the consultation process that will be undertaken on the updated self-assessable codes, including details of who will be consulted.

Recommendation 2 **21**

The committee recommends that the Minister for State Development and Minister for Natural Resources and Mines provides an update, during the second reading debate on the Bill, on the steps, including the associated timescales, that will be taken:

- to improve the accuracy of vegetation mapping, and

- to proactively engage with landholders to provide them with updated property maps of assessable vegetation which correct any inaccuracies.

Recommendation 3 **23**

The committee recommends that the element of clause 6 of the Bill, which inserts new section 67A into the *Vegetation Management Act 1999* to reverse the onus of proof in relation to vegetation clearing offences, be omitted.

Recommendation 4 **34**

The committee recommends that the Department of Environment and Heritage Protection engage with the property, resources and development sectors to assess and establish the full impact of the proposed amendments to the environmental offsets regime in Queensland.

Recommendation 5 **34**

The committee recommends that the Minister for Environment and Heritage Protection and Minister for National Parks and the Great Barrier Reef informs the House, during the second reading debate on the Bill, of the outcome of the assessment of the impacts, including potential costs, of the proposed amendments to the environmental offset regime and if any actions will be taken.

1. Introduction

Role of the committee

The Agriculture and Environment Committee (the committee) is a portfolio committee appointed by resolution of the Legislative Assembly on 27 March 2015.[2] The committee's primary areas of responsibility are:

- Agriculture and Fisheries
- Environment and Heritage Protection, and
- National Parks and the Great Barrier Reef.[3]

The committee is responsible for examining each Bill in its portfolio area to consider:

- the policy to be given effect by the legislation, and
- the application of the fundamental legislative principles.[4]

Further information about the work of the committee can be found on its webpage.

Referral and committee's processes

On 17 March 2016, the Legislative Assembly referred the Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016 (the Bill) to the committee for examination. The committee was required to report by 30 June 2016.

During its examination of the Bill, the committee:

- invited submissions from stakeholders and the public. A list of the 688 submitters received by the committee is at **Appendix A.** The committee also received 871 form submissions
- held public briefings on 22 March 2016 and 25 May 2016 attended by officers from the Department of Natural Resources and Mines (DNRM), Department of Environment and Heritage Protection (DEHP) and Department of Science, Information Technology and Innovation (DSITI). A list of officers who appeared at the briefings is at **Appendix B**
- held public hearings in Cairns (17 May 2016), Townsville (18 May 2016), Emerald (19 May 2016), Bundaberg (1 June 2016), Gympie (1 June 2016), Charleville (2 June 2016), Roma (2 June 2016) and Brisbane (3 June 2016). A list of witnesses who appeared at the hearings is at **Appendix B**, and
- undertook site visits at Olive Vale Station (Laura), Burdekin Downs Station (near Charters Towers) and Glenlea Downs Station (near Clermont).

Copies of the material published in relation to this inquiry, including transcripts of the public briefings and hearings and submissions, are available on the committee's webpage.

Policy objectives of the Bill

The Explanatory Notes state that the Queensland Government made several commitments to protect the Great Barrier Reef during the 2015 election campaign, in representations to the UNESCO World Heritage Committee and in the *Reef 2050 Long-Term Sustainability Plan* (Reef 2050 Plan). The Bill's policy objectives are to:

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2 *Parliament of Queensland Act 2001*, section 88 and Standing Rules and Orders of the Legislative Assembly, Standing Order 194

3 Standing Rules and Orders of the Legislative Assembly, Schedule 6

4 *Parliament of Queensland Act 2001*, section 93

- reinstate a responsible vegetation management framework to more effectively manage vegetation clearing in Queensland thereby reducing clearing rates and consequential carbon emissions
- guard against excessive clearing of riparian vegetation, especially in the Great Barrier Reef catchments
- amend the *Water Act 2000* (Water Act) to reinstate the application of the riverine protection permit framework to the destruction of vegetation in a watercourse, lake or spring, and
- amend the *Environmental Offsets Act 2014* (EO Act) to reinstate environmental offset requirements that ensure adequate conservation outcomes for prescribed environmental matters.[5]

Consultation on the Bill

The Explanatory Notes state that limited consultation was undertaken in the development of the Bill, and no consultation was undertaken in relation to the changes to the EO Act.[6] A significant number of submitters raised concerns about the lack of consultation on the Bill.[7]

At the public briefing on 22 March 2016, DNRM advised that:

> *On 13 July 2015, DNRM held a stakeholder round-table meeting on the future of vegetation management with participants from AgForce, the Queensland Farmers' Federation, Canegrowers, WWF, the Wilderness Society, the EDO and the Wildlife Preservation Society of Queensland.*
>
> *Following that meeting, DNRM engaged Professor Alan Dale of James Cook University to liaise with key stakeholders to build consensus on the best possible approach for the government to meet its election commitment in relation to vegetation management.*
>
> *In late 2015, it became clear to the government that the process being facilitated by Professor Dale was not going to meet consensus and that urgent action was required to deliver on the government's election commitments.*[8]

The DNRM also stated that since November 2015, the Deputy Premier had engaged in "extensive consultation on the Governments plans to reinstate vegetation protections", including with QFF, AgForce Queensland Industrial Union of Employers (AgForce), Canegrowers, WWF - Australia, The Wilderness Society and Environmental Defenders Office.[9]

Government members' comments

Government members of the committee acknowledged the concerns raised by submitters about the limited consultation undertaken by the Government on the Bill, particularly given the potentially significant impacts the amendments may have on landholders and the agricultural, resources and development industries more widely.

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5 Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016, Explanatory Notes (Explanatory Notes), p.1

6 Explanatory Notes, p.6

7 See, for example, submissions 160, 228, 235, 281, 283, 291, 208, 346, 386, 508, 598, 283, 691 and 647

8 Sue Ryan, Deputy Director-General, Policy and Program Support, Department of Natural Resources and Mines (DNRM), *Public Briefing Transcript*, 22 March 2016, p.10

9 DNRM, Department of Environment and Heritage Protection (DEHP) and Department of Science, Information Technology and Innovation (DSITI), *Departmental Response to Submissions*, 2 June 2016, p.6

Non-government members' comments

Non-government members of the committee had significant concerns about the lack of consultation on the Bill, and noted the Government's original intention was for the committee to report to the House on the Bill by 15 April 2016 – only 19 working days, including the Easter and school holiday period.

Non-government members noted that the Government's motion failed; however, had it been successful, the Government would have further restricted public consultation and debate on this important Bill.

Outcome of committee consideration

As required by Standing Order 132(1), the committee has considered whether or not to recommend the Bill be passed.

The committee was unable to reach a majority decision as to whether the Bill be passed. The committee did, however, agree unanimously with the recommendations outlined in this report.

2. Current vegetation management framework

The *Vegetation Management Act 1999* (VM Act) and *Sustainable Planning Act 2009* (SP Act) and associated codes, policies and guidelines regulate the clearing of native vegetation in Queensland – the vegetation management framework.

The vegetation management framework does not apply to State forests, national parks and forest reserves. It also does not apply to mangroves, grasses, non-woody vegetation, or plants within some grassland ecosystems.[10]

The vegetation management framework uses a number of maps, principally the regulated vegetation management map, the vegetation management supporting map, and property maps of assessable vegetation (PMAVs), to identify which vegetation is regulated under the VM Act. The regulated vegetation management map identifies vegetation category areas as:

- **Category A** areas provided as an environmental offset or protected under a voluntary declaration or areas subject to compliance action
- **Category B** areas of regulated remnant vegetation
- **Category C** areas of regulated high value regrowth vegetation on leasehold land for agricultural and grazing purposes
- **Category R** areas of regulated regrowth along watercourses and drainage features in the Burdekin, Mackay, Whitsunday and Wet Tropics Great Barrier Reef catchments, and
- **Category X** areas of vegetation where clearing is not regulated.[11]

Landholders are able to apply to DNRM for a PMAV to 'lock-in' vegetation categories as per the regulated vegetation management map, in particular, Category X areas of unregulated vegetation. The PMAV process is also used to correct any inaccuracies in vegetation mapping.[12] Further information about vegetation mapping can be found on pages 18 to 21.

The vegetation management framework provides that regulated vegetation may be cleared under:

- **clearing exemptions** under the SP Act - for routine and essential property management purposes, such as roads, vehicle tracks, fence lines, firebreaks and necessary built infrastructure – such clearing does not require any approvals[13]
- **self-assessable codes** – permit clearing for certain prescribed purposes under the VM Act, including thinning of regrowth, grazing, control of non-native plants and declared pests and certain fodder harvesting – landholders must follow the practices listed in the code and notify DNRM before starting to clear vegetation[14]
- **area management plans** (AMP) – plans prepared by landholders or rural organisations which apply to certain clearing activities. If a property is covered by an AMP, a landholder may clear vegetation after notifying DNRM and the requirements of the AMP must be followed, and
- **development approvals** under the SP Act, if clearing is not permitted via the above pathways.

Unlawful vegetation clearing may attract significant penalties. For example, an offence relating to the clearing of vegetation which is deemed to have caused serious environmental harm attracts a maximum penalty of 6250 penalty units ($736,250) or five years imprisonment.[15]

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10 *Vegetation Management Act 1999*, sections 7 and 8

11 Sue Ryan, Deputy Director-General, Policy and Program Support, DNRM, *Public Briefing Transcript*, 22 March 2016, p.2

12 DNRM, PowerPoint Presentation, *Public Briefing*, 25 May 2016

13 DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, p.6

14 DNRM, *Managing Category C regrowth vegetation – A self-assessable vegetation clearing code*, Effective from 2 December 2013, p.3

15 *Environmental Protection Act 1994*, section 437(1)

3. Examination of the Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016

The following sections discuss the key provisions of the Bill, the issues and views expressed by submitters and witnesses at public hearings and information provided by DNRM, DEHP and DSITI.

The committee consulted widely during its inquiry, including holding regional public hearings in Cairns, Townsville, Emerald, Bundaberg, Gympie, Charleville and Roma, and heard views both in favour of, and against, the Bill. The committee also heard differing views about the extent of vegetation clearing in Queensland and the scientific basis for the proposed amendments.

In essence, environmental and conservationist peak bodies supported the Bill, as they considered it will help address the adverse impacts that native vegetation clearing has on biodiversity, hydrology and native wildlife and their habitats. Such submitters also considered that the Bill would help to reduce carbon pollution levels, land degradation, droughts and soil erosion and runoff which ultimately impact on the Great Barrier Reef.[16] Submitters, such as the Environmental Defenders Office (EDO), highlighted that the Bill simply reinstates the position pre-2012 and the Wilderness Society considered that the Bill represents a cautious and sensible approach to regulating vegetation clearing.[17]

Agricultural, resources and development industry peak bodies opposed the Bill and supported the retention of the current vegetation management framework[18] Such submitters considered that it was inappropriate to have a "one-size fits all" approach to vegetation management across Queensland.[19]

Agriculture and development peak bodies considered that constant changes to the vegetation management framework created uncertainty, were detrimental to investment and created mistrust between landholders and the government.[20] AgForce Queensland Industrial Union of Employers (AgForce) and the Queensland Farmers' Federation (QFF), and other submitters, sought open and constructive consultation with the Government on the vegetation management framework to achieve long-term stability and certainty for the agricultural industry.[21] Submitters also highlighted the negative impact frequent changes to, and the enforcement of, the vegetation management framework has had on the social well-being of landholders.[22]

The committee also heard a wide range of views from individual landholders, academics and interested members of the public.

Submitters' views about specific elements of the Bill are discussed in the following sections of this report. The summary of submissions at **Appendix C** summarises the issues raised by submitters and the advice provided by DNRM, DEHP and DSITI in response.

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16 See, for example, Dr Tim Seelig, Wilderness Society, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.5; Kirsten Macey, Queensland Conservation Council (QCC), *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.16 and submissions 506, 517, 568, 580, 592, 597, 674 and Form Submission 688

17 Revel Pointon, Environmental Defenders Office (EDO), *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.1; Wilderness Society, submission 674

18 See, for example, submissions 182, 228, 291, 283, 346, 598 and 654

19 See, for example, Travis Sydes, Far North Queensland Regional Organisation of Councils (FNQROC), *Public Hearing Transcript*, 17 May 2016 (Cairns), p.6; Kathy Hughes, Cape York Sustainable Futures, *Public Hearing Transcript*, 17 May 2016 (Cairns), p.18

20 See, for example, submissions 386, 507, 570 and 598; Kathy Hughes, Cape York Sustainable Futures, *Public Hearing Transcript*, 17 May 2016 (Cairns), p.18; Wayne Smith, Canegrowers, *Public Hearing Transcript*, 18 May 2016 (Townsville), p.12

21 AgForce Queensland Industrial Union of Employers (AgForce), submission 598 and Queensland Farmers' Federation (QFF), submission 346

22 AgForce, submission 598

Committee comment

The committee shared submitters' concerns about the negative impact that frequent changes to the vegetation management framework may have on landholders and the wider agricultural sector, including the potential adverse impacts on investment and development opportunities and landholders' ability to plan long-term for the future of their businesses.

Clauses 4, 5, 8 and 11 - Prohibition on clearing for high value agriculture and irrigated high value agriculture

The VM Act and SP Act permit clearing applications to be made for high value agriculture (HVA) and irrigated high value agriculture (IHVA).[23] Currently, HVA and IHVA applications must meet defined criteria outlined in the VM Act, including land suitability, economic viability and, for IHVA applications, access to water, prior to the landholder applying for a development approval under the SP Act.[24]

The term *high value agriculture clearing* is defined as clearing of native vegetation carried out to establish, cultivate and harvest crops, such as wheat, barley, oats and sorghum, other than clearing for grazing activities or plantation forestry.[25] The term *irrigated high value agriculture clearing* means clearing of native vegetation carried out to establish, cultivate and harvest crops, or pasture, other than clearing for plantation forestry, that will be supplied with water by artificial means.[26]

The DNRM advised that "approximately 112,400 hectares of clearing has been approved for high-value agriculture and irrigated high-value agriculture".[27]

The Bill makes a number of amendments to the VM Act and SP Act which would prohibit the clearing of vegetation for HVA and IHVA.[28]

Submitters' views

Submitters, including AgForce, QFF and the Cape York Land Council Aboriginal Corporation (CYLCAC), opposed the amendments and supported the retention of the current assessment scheme for clearing for HVA and IHVA.[29] These submitters considered that the amendments would:

- stifle rural and agricultural development, accelerate 'urban drift' and reduce local employment opportunities, including in those areas suffering from a downturn in the resources sector[30]
- adversely impact on indigenous development, including traditional owners' rights to develop their land, particularly in Cape York[31]

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23 These clearing purposes were introduced into the *Vegetation Management Act 1999* by the *Vegetation Management Framework Amendment Act 2013*

24 DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, p.2

25 *Vegetation Management Act 1999*, Schedule

26 *Vegetation Management Act 1999*, Schedule

27 Sue Ryan, Deputy Director-General, Policy and Program Support, DNRM, *Public Briefing Transcript*, 22 March 2016, p.2

28 Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016, clauses 4, 5, 8 and 11

29 See, for example, submissions 122 to 125, 148, 160, 228 to 238, 281, 346, 383 to 386, 507, 598, 601 to 607, 628, 647 and 654

30 Charters Towers Regional Council, submission 570, AgForce, submission 598, Queensland Dairyfarmers' Organisation, submission 281, Property Rights Australia (PRA), submission 654 and Michael Murray, Cotton Australia, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.23

31 Cook Shire Council, submission 308; Hope Vale Aboriginal Shire Council, submission 390; Cape York Sustainable Futures, submission 604; Cape York Land Council Aboriginal Corporation (CYLCAC), submission 628; AgForce, submission 598

- decrease the availability of highly productive land in the State[32] and impact on the viability and profitability of farms[33]
- diminish farmers' ability to drought proof properties, via growing fodder crops[34], stabilise production and income and improve continuity of food supply to meet international markets[35]
- contradict the Federal Government's proposals to invest in the development of northern Australia,[36] and the decision to make available over 300,000 megalitres of additional irrigation water entitlements for development[37]
- restrict development on some of Queensland's most productive areas and prevent rehabilitation of degraded landscapes, which are eroding, leading to run off into Great Barrier Reef Catchments[38], and
- mean that the voluntary retiring of marginal land from production, as recommended in the Great Barrier Reef Water Science Taskforce report, cannot occur as there would be no viable options to open up alternative and sustainable agricultural land.[39]

The CYLCAC, Far North Queensland Regional Organisation of Councils (FNQROC) and Cotton Australia suggested that stricter assessment criteria and conditions be introduced for HVA and IHVA applications, rather than a total prohibition.[40] The CYLCAC also recommended the establishment of a 10 per cent allocation quota for the clearing of Aboriginal freehold land on Cape York for agriculture.[41]

The Property Council of Australia (PCA), Urban Development Institute of Australia (UDIA) and Cement, Concrete Aggregates Australia (CCAA) raised concerns about the amendment to the definition of prohibited development in the SP Act at clause 11.[42] UDIA considered the amendment would restrict all development applications on land containing Category B (remnant vegetation), even where vegetation is not to be cleared.[43] CCAA sought clarification as to whether the amendment would prohibit any material change of use (MCU) that involved clearing in Category C areas.[44]

Environmental groups, and others, supported the amendments because of the environmental benefits that they considered would be achieved[45], including:

- protection of remnant woodlands and vegetation

32 QFF, submission 346; Cotton Australia, submission 160

33 AgForce, submission 598; Institute of Public Affairs, submission 462

34 AgForce, submission 598

35 See, for example, submissions 40, 42, 49, 55, 66, 72, 86, 91 and 97

36 See, for example, AgForce, submission 598; Cllr Bronwyn Voyce, Tablelands Futures Corporations, *Public Hearing Transcript*, 17 May 2016 (Cairns), p.10; Tim Cronin, Chief Executive Officer, Cook Shire Council, *Public Hearing Transcript*, 17 May 2016 (Cairns), p.18

37 QFF, submission 346; Cotton Australia, submission 160

38 AgForce, submission 598

39 QFF, submission 346

40 Shannon Burns, CYLCAC, *Public Hearing Transcript*, 17 May 2016 (Cairns), p.3; Travis Sydes, FNQROC, *Public Hearing Transcript*, 17 May 2016 (Cairns), p.7 and Michael Murray, Cotton Australia, *Public Hearing Transcript,* 3 June 2016 (Brisbane), p.21

41 CYLCAC, submission 628

42 Property Council of Australia (PCA), submission 228; Urban Development Institute of Australia (UDIA), submission 283

43 UDIA, submission 283

44 Cement, Concrete and Aggregates Australia (CCAA), submission 400

45 See, for example, submissions 1, 6, 7, 8, 9, 10, 11, 12, 15, 18, 21, 22, 24, 25, 26, 506, 517, 568, 580, 597, 674 and Form Submission 688

- improved water quality in Great Barrier Reef catchments[46]
- enhanced Queensland biodiversity and maintenance of natural habitats[47], and
- reduced carbon emissions.[48]

WWF-Australia noted that only about half of the 22 million hectares that are mapped as exempt vegetation (Category X) on PMAVs have been converted to sown pastures, crops, buildings, roads et cetera. WWF-Australia stated that "In other words, we have a very substantial area of Queensland … which is totally exempt" and "could be cleared at any time".[49] Professor Dr Hugh Possingham, and others, noted that clearing may actually be a threat to agricultural profitability, as international and domestic markets increasingly want food that has been produced in a sustainable way.[50]

Department's response

The DNRM advised that:

> *… there are strongly divergent views on the provisions of the bill that entail removing high-value agriculture and irrigated high-value agriculture as purposes for which clearing of regulated vegetation can occur. Removing the HVA and IHVA clearing purposes is a key component of meeting the government's election commitment to reduce carbon emissions by reinstating the nation-leading vegetation protection laws repealed by the previous government. This is the policy basis for the provisions contained in the reinstatement bill.*
>
> *I would also like to clarify that a range of options will remain for landholders to undertake or expand agriculture including clearing in areas identified as category X, clearing in accordance with the category C or category R self-assessable codes, and clearing remnant vegetation consistent with the self-assessable code for improving operational efficiency of existing agriculture.*
>
> *Larger scale agriculture activities may also continue to take place under the State Development and Public Works Organisation Act 1971 where designated as a coordinated project or on Aboriginal land on Cape York Peninsula under the Cape York Peninsula Heritage Act 2007. These acts are unaffected by the reinstatement bill.*[51]

In response to concerns raised by development peak bodies, the DNRM stated:

> *The Reinstatement Bill is removing high value agriculture (HVA) and Irrigated High Value Agriculture (IHVA) as relevant purposes for which clearing can occur.*
>
> *Essentially clearing for these purposes will be prohibited development through Schedule 1, item 3 of Sustainable Planning Act as it relates to operational work, which is an existing prohibition.*
>
> *However, development applications for agricultural development are also triggered through planning schemes for material change of use assessment.*

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46 Des Boyland, Wildlife Preservation Society of Queensland (WPSQ), *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.11

47 Kirsten Macey, QCC, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.14; Dr Martin Taylor, WWF-Australia, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.18; Form Submission 688

48 Kirsten Macey, QCC, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.14

49 Dr Martin Taylor, WWF-Australia, *Public Hearing Transcript*, 3 June 2016 (Brisbane), pp.19 to 20

50 Professor Dr Hugh Possingham, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.37; Andrew Picone, Australian Conservation Foundation (ACF), *Public Hearing Transcript*, 17 May 2016 (Cairns), p.16; WWF-Australia, submission 568

51 Sue Ryan, Deputy Director-General, Policy and Program Support, DNRM, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.51

> *To support the Government's commitment to remove HVA and IHVA as purposes for which clearing can occur, the Reinstatement Bill implements a provision that sees material change of use applications that are not for a relevant purpose under section 22A be deemed prohibited development. Currently material change of use applications, regardless of the purpose, are not required to be for a relevant purpose.*
>
> *Prior to the implementation of the State Assessment and Referral Agency (SARA) it was a requirement that material change of use applications that were clearing native vegetation regulated by the State be for a relevant purpose under section 22A of the VMA. When SARA was implemented, the requirement which was outlined in the VMA, was inadvertently disconnected as all assessment requirement for the SARA model are only delivered through the Planning Act.*
>
> *The Reinstatement Bill is not removing any other relevant purposes from section 22A of the VMA other than HVA and IHVA.*
>
> *The intent of the VMA is to allow clearing that is consistent with the purposes outlined in section 22A. In the Department's experience in assessing development applications for clearing, referred urban development largely establish infrastructure that is associated with subdivisions (eg material change of use from vacant land to residential, reconfiguring a lot from 1 into 20). Section 22A(d) largely provides for this under the relevant infrastructure activities purpose. Relevant infrastructure is defined as – establishing and maintaining a necessary fence, firebreak, road or vehicular track; or constructing and maintaining necessary built infrastructure.*
>
> *Coupled with the existing exemptions for clearing in urban areas for urban purposes the MCU prohibition will not have wide reaching ramifications for urban development as urban activities will be assessed through the retained relevant purposes under section 22A of the VMA.*[52]

The DNRM also noted the issue raised by CCAA about the potential prohibition of all MCU clearing in Category C areas. The DNRM stated "This is not the intended outcome for this provision and the Department will investigate this issue further".[53]

Government members' comments

Government members of the committee supported the proposed prohibition of clearing for HVA and IHVA. In reaching this view, government members noted submitters' comments that the amendments would help protect remnant vegetation, improve water quality in the Great Barrier Reef, enhance biodiversity and reduce carbon emissions. Government members also understand that larger scale agriculture activities may still continue under the *State Development and Public Works Organisation Act 1971* or on Aboriginal land on Cape York Peninsula under the *Cape York Peninsula Heritage Act 2007*.

Non-government members' comments

Non-government members of the committee did not support the proposed prohibition of clearing for HVA and IHVA.

Non-government members shared submitters' concerns that the amendments would impact on the profitability of farms, stifle rural and agriculture development and reduce local employment opportunities and adversely impact on Indigenous development.

52 DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, p.8

53 DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, p.8

Non-government members also considered that the amendments would prevent landholders from taking steps to drought proof their properties by growing fodder crops for their livestock and are inconsistent with the drive to produce food for international markets.

Non-government members considered that the existing provisions which allow landholders to apply to clear for HVA and IHVA, are working and should not be removed.

Clauses 4, 7 and 8 - High value regrowth on freehold and indigenous land

The Bill would reinstate protections for high value regrowth on freehold and indigenous land, and extend the Category C self-assessable codes to clearing on freehold and indigenous land.[54]

The Bill amends the definition of *high value regrowth vegetation* to include vegetation located on freehold land, indigenous land or a lease issued under the *Land Act 1994* for agriculture or grazing purposes in an area that has not been cleared since 31 December 1989 that is an endangered regional ecosystem, an of concern regional ecosystem or a least concern regional ecosystem.[55]

During the *interim period* (17 March 2016 to the Royal Assent of the Bill), freehold and indigenous land containing high value regrowth would be categorised as proposed Category C and colour coded on the proposed regulated vegetation management map in orange – an example of a proposed regulated vegetation management map can be found at **Appendix D**.[56]

Landholders may clear vegetation in Category C, or proposed Category C, areas in line with the self-assessable codes, after first notifying the DNRM or under an exemption under the Sustainable Planning Regulation 2009.

The DNRM advised that the proposed provisions will not apply to areas that are currently mapped as Category X (unregulated vegetation) on PMAVs.[57]

Submitters' views

Regulation of high value regrowth

A significant number of submitters, including AgForce, QFF and individual landholders, opposed the reinstatement of the regulation of high value regrowth on freehold and indigenous land. These submitters raised concerns that the amendments were not based on reliable science,[58] and would:

- significantly devalue the land and assets of freehold owners and indigenous landowners without any compensation[59]
- restrict carbon income opportunities which would deliver vegetation retention outcomes[60]
- result in a loss of pasture and landholders having to stock remaining land more intensively[61]
- limit future property improvements and developments[62] which may have led to job opportunities and economic activities in local towns[63]

54 Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016, clauses 4 and 8

55 Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016, clause 8 amends *Vegetation Management Act 1999*, Schedule

56 Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016, clause 7 inserts new sections 128 and 129 into the *Vegetation Management Act 1999*

57 Sue Ryan, Deputy Director-General, Policy and Program Support, DNRM, *Public Briefing Transcript*, 22 March 2016, p.2

58 See, for example, submissions 40, 42, 49, 53, 55, 56, 66, 72, 73, 83, 86, 91, 97, 308, 507, 598 and 654

59 See, for example, Brad Newton, *Public Hearing Transcript*, 1 June 2016 (Bundaberg), p.9; Kenton Peart, *Public Hearing Transcript*, 2 June 2016 (Charleville), p.10

60 AgForce, submission 598

61 John Baker, *Public Hearing Transcript*, 19 May 2016 (Emerald), pp.5 and 11

62 AgForce, submission 598

63 Shannon Burns, CYLCAC, *Public Hearing Transcript*, 17 May 2016 (Cairns), p.3; AgForce, submission 598

- further limit the supply of offsets for industry and reduce the offset-related income for Indigenous communities[64],and
- restrict landholders' ability to manage their land, for example, manage weeds such as rubber vine, giant rat's tail and lantana and feral animals which would lead to thickening, loss of pasture, land degradation, soil erosion, and loss of natural habitats for native species.[65]

The PCA considered that the regulation of proposed Category C areas is poorly suited to operations in or near urban areas and is unnecessary given local government planning and environmental controls.[66] The UDIA recommended that all clearing in the urban footprint in South East Queensland or within urban zones in the rest of Queensland should be exempt from the regulation of high value regrowth.[67]

Environmental peak bodies and their members supported the amendments.[68] WWF-Australia, for example, considered that the amendments would provide major biodiversity benefits[69], while the Queensland Conservation Council (QCC) noted that bushland that has not been cleared since 1989 is now 27 years old and would embody a wide range of environmental values and should be protected.[70] In addition, the Koala Action Group commented on the value of regrowth for koalas.[71]

The Environment Institute of Australia and New Zealand, Dr Robert Taylor, environmental researchers from the Centre for Biodiversity and Conservation Science at the University of Queensland, WWF-Australia and the Wilderness Society considered that the definition of high value regrowth should refer to vegetation that has not been cleared for 15 or 20 years, rather than a reference to 31 December 1989.[72]

The North Queensland Conservation Council (NQCC) considered that the Bill would not affect landholders' ability to manage encroachment or thickening, as those activities are permissible under self-assessable codes.[73]

FNQROC and AgForce considered that the amendments would be supported by more accessible stewardship incentives or economic imperatives for landholders to retain or suitably manage high value regrowth on their land.[74] Other submitters, including the Koala Action Group and the Mary River Catchment Coordinating Committee, supported the concept of incentives or annual payments being provided to landholders to protect and maintain high value regrowth areas.[75]

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64 See, for example, PCA, submission 228; UDIA, submission 283 and CYLCAC, submission 628

65 See, for example, Stuart Leahy, *Public Hearing Transcript*, 19 May 2016 (Emerald), p.3; John Baker, *Public Hearing Transcript*, 19 May 2016 (Emerald), pp.4-5; Janeice Anderson, *Public Hearing Transcript*, 19 May 2016 (Emerald), p.5; Brad Newton, *Public Hearing Transcript*, 1 June 2016 (Bundaberg), p.9; Tricia Agar, *Public Hearing Transcript*, 2 June 2016 (Charleville), p.1; Peter Joliffe, *Public Hearing Transcript*, 2 June 2016 (Roma), p.11

66 PCA, submission 228

67 UDIA, Submission 283

68 See, for example, submissions 1, 5 to 12, 15, 18, 20 to 27, 405, 426, 506, 568, 580, 592, 597 and Form Submission 688

69 WWF-Australia, submission 568

70 QCC, submission 580

71 Michelle Daly, Coordinator, Koala Action Group, *Public Hearing Transcript*, 1 June 2016 (Gympie), p.2

72 Environment Institute of Australia and New Zealand, submission 506, Dr Robert Taylor, submission 106 and Wilderness Society, submission 674; Centre for Biodiversity and Conservation Science, University of Queensland, submission 535; WWF-Australia, submission 568

73 North Queensland Conservation Council (NQCC), *Response to Question on Notice*, 3 June 2016, p.2

74 FNQROC, submission 386; Tracy Finnegan, AgForce, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.28

75 Michelle Daly, Coordinator, Koala Action Group, *Public Hearing Transcript*, 1 June 2016 (Gympie), p.3; Ian Mackay, Mary River Catchment Coordinating Committee, *Public Hearing Transcript*, 1 June 2016 (Gympie), p.7

Self-assessable codes

During its inquiry, the committee heard differing views about the appropriateness and effectiveness of the existing self-assessable codes for clearing vegetation.

Submitters, such as FNQROC and regional representatives from AgForce, supported the retention of the self-assessable codes as a practical way to deal with operational and land management considerations for councils and landholders.[76]

However, Tim Marland stated that the self-assessable codes have a high level of detail and complexity and need to have a certain level of reasonableness to be able to apply them on the ground.[77] Other submitters supported the view that the self-assessable codes were too complex and difficult to understand.[78]

Submitters, including the Environmental Defenders Office (EDO), Wildlife Preservation Society of Queensland (WPSQ), the Wilderness Society, WWF-Australia and the Australian Conservation Foundation (ACF), considered that the self-assessable codes are too simple to deal with complex problems, too vaguely defined and allow for broadscale clearing.[79] Such submitters considered that the current self-assessable codes should be replaced with a permit scheme or updated to restrict clearing to circumstances where there are genuinely low ecological risk levels.[80] The ACF referred to an independent review of self-assessable codes in 2015, which it stated found that "the self-assessable codes, particularly in relation to thinning, were not likely to meet the purposes of the VMA".[81]

Department's response

In response to the issues raised in submissions, DNRM stated that:

> *The regulation of high value regrowth is also important in fulfilling the government's election commitments. Strengthening the vegetation management legislation to protect remnant and high value regrowth native vegetation … .*[82]
>
> *Regrowth vegetation provides a range of environmental and ecological values. It assists in managing erosion and reducing the amount of sediment and nutrients entering waterways; provides shelter for domestic stock; and provides habitat, including food resources, for fauna which also assists in managing pests. Vegetation provides habitat through the provision of hollows, logs and debris on the ground. Regrowth can also be valuable in providing wildlife corridors within the landscape.*[83]

The DNRM also noted that landholders will still be able clear vegetation in Category C high value regrowth areas in line with the self-assessable codes and the exemptions provided for in the Sustainable Planning Regulation 2009, including for fence lines, fire management lines and roads.[84]

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76 Travis Sydes, FNQROC, *Public Hearing Transcript*, 17 May 2016 (Cairns), p.7; Janeice Anderson, *Public Hearing Transcript*, 19 May 2016 (Emerald), p.6; Leo Neill-Ballantine, *Public Hearing Transcript*, 1 June 2016 (Bundaberg), p.15; Vicki Franklin, *Public Hearing Transcript*, 2 June 2016 (Charleville), p.21; Grant Maudsley, AgForce, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.26

77 Tim Marland, Marland Law, *Public Hearing Transcript*, 1 June 2016 (Bundaberg), p.3

78 Matthew Leighton, *Public Hearing Transcript*, 1 June 2016 (Bundaberg), p.19; Gordon Banks, *Public Hearing Transcript*, 1 June 2016 (Gympie), p.24

79 Ian Gorrie, *Public Hearing Transcript*, 1 June 2016 (Bundaberg), p.10; Des Boyland, WPSQ, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.11; Dr Martin Taylor, WWF-Australia, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.18; EDO, submission 592; Wilderness Society, submission 674

80 Revel Pointon, EDO, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.3; Des Boyland, WPSQ, *Public Hearing Transcript*, 3 June 2016 (Brisbane), pp.11-12; WWF-Australia, submission 568

81 ACF, *Response to Question on Notice*, 19 May 2016, p.1

82 DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, p.2

83 DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, p.3

84 DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, p.3

In response to concerns raised about the definition of high value regrowth, the DNRM stated that:

> *Under the current definition of high value regrowth, vegetation older than 20 years may be classified as high value regrowth however when assessed on the ground, the vegetation may comply with the VMA's definition of remnant vegetation. The incongruence between the definition and what is on the ground will increase over time.*[85]

In relation to concerns raised about impacts on urban development, the DNRM stated that:

> *… the framework currently provides exemptions for clearing all category C vegetation and category R vegetation, and category B areas (remnant vegetation) that are of concern or least concern regional ecosystems in urban areas for urban purposes.*
>
> *Clearing of category C areas is regulated through a self-assessable code, which does not require assessment by the state, further reducing the regulatory burden for urban development.*
>
> *Implementing a blanket exemption based on the urban footprint will see clearing impacts on … small remaining areas of highly fragmented endangered remnant vegetation unregulated and potentially cleared completely over time.*[86]

In response to concerns that the amendments would further limit the offsets supply for industry and reduce income for Indigenous communities, the DEHP advised:

> *Offsets can be delivered in regrowth vegetation where the landholder and persons with an interest in the land choose to use the land for offset purposes rather than clear land for other permitted purposes. This has always been the case and the Bill will not alter this situation.*
>
> *The Department of Environment and Heritage Protection notes that an offset involving regrowth vegetation may achieve a greater conservation outcome than offsets in remnant vegetation.*[87]

Self-assessable codes

With regards to self-assessable codes, the DNRM stated that:

> *In 2015, the Minister for Natural Resources and Mines commissioned an independent technical review of the self-assessable codes to ensure the codes are achieving their intended objectives under the Vegetation Management Act, and to recommend improvements …*
>
> *The Cardno Chenoweth report found:*
>
> - *The review indicated that many practices in the SACs meet the purposes of the VMA.*
> - *There is, however, potential for the practices and guidelines to result in clearing activities that could be in conflict with the purposes of the Act.*
> - *Further scientific research is needed in order to effectively implement SACs for certain types of clearing activities.*

85 DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, p.3

86 DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, pp.6-7

87 DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, p.11

- *In regards to the thinning SACs, the review identified that further research, and potential changes may be required to align with the latest scientific information.*[88]

The DNRM advised that "Updated self-assessable codes are planned to be consulted on and released later this year".[89]

Government members' comments

Government members of the committee supported the reinstatement of the regulation of high value regrowth on freehold and indigenous land. Government members shared submitters' views that the amendments would provide major biodiversity benefits and that landholders may continue to manage and use their land where it is identified as proposed Category C, including the thinning of regrowth and grazing, under the self-assessable codes.

Non-government members' comments

Non-government members of the committee did not support the regulation of high value regrowth on freehold and indigenous land. The non-government members considered that the amendment would have a significant, detrimental impact on the value of the land and assets of landholders - with landholders faced with losing hundreds of thousands of dollars off the value of their property, and would limit development and investment in agriculture which will have a knock on effect to local towns and businesses.

In addition, non-government members opposed the amendments, as they would 'lock up' the land and prevent landholders from managing their properties in a sustainable way. This will lead to greater thickening and encroachment of weeds, such as rubber vine, lantana and giant rat's tail, more feral animals, land degradation, soil erosion and run off on to the Great Barrier Reef. Non-government members also shared submitters' concerns about the loss of carbon income opportunities for landholders if the Bill passed.

Committee comment

The committee notes that an independent review of the self-assessable codes was undertaken in 2015, and that DNRM intends to consult on updated self-assessable codes later this year. Given their importance, the committee recommends that DNRM undertakes extensive consultation prior to updating the self-assessable codes, in particular with landholders and affected peak bodies.

The committee considers that the updated self-assessable clearing codes should take into account the issues raised in submissions to the inquiry and be simplified to make it easier for landholders to comply with vegetation clearing laws in Queensland.

Recommendation 1

The committee recommends that the Minister for State Development and Minister for Natural Resources and Mines explains to the House, during the second reading debate on the Bill, the consultation process that will be undertaken on the updated self-assessable codes, including details of who will be consulted.

88 DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, p.10

89 DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, p.10

Clauses 7 and 8 - Protection of regrowth vegetation in watercourse areas in Great Barrier Reef catchments

The VM Act currently protects regrowth vegetation on freehold, indigenous and leasehold land granted for agriculture or grazing purposes, located within 50 metres of a watercourse in the Burdekin, Mackay, Whitsunday and Wet Tropics Great Barrier Reef catchments. These areas of land are defined as *regrowth watercourse and drainage feature area* and are classified as Category R areas.[90] Category R areas are shown on the regulated vegetation management map in yellow.

The Bill broadens the protection of regrowth vegetation in watercourse areas to the Burnett-Mary, Eastern Cape York and Fitzroy Great Barrier Reef catchments by amending the definition of *regrowth watercourse and drainage features area*.[91]

During the interim period (17 March 2016 to Royal Assent of the Bill), watercourse areas in the Burnett-Mary, Eastern Cape York and Fitzroy Great Barrier Reef catchments will be categorised as proposed Category R areas and colour coded in pink on the proposed regulated vegetation management map – see **Appendix D**.[92]

The Explanatory Notes state that "This amendment gives effect to the policy objective of broadening protection of regrowth vegetation in watercourse areas to these additional Great Barrier Reef catchments".[93]

Landholders may clear vegetation in Category R, or proposed Category R, areas in line with the self-assessable codes, after first notifying the DNRM or under an exemption under the Sustainable Planning Regulation 2009.[94]

Submitters' views

Environmental groups, and other submitters, supported the proposed expansion of the protection of regrowth vegetation in watercourse areas in the Great Barrier Reef catchment.[95] Such submitters considered that the amendments would:

- regulate the vegetation in prime areas, and minimise erosion and sediment runoff, ensuring that the stated purpose of the Act, i.e., that it does not cause land degradation, is met[96], and
- further reduce impacts from tree clearing on the Great Barrier Reef and have a positive effect on climate change by preventing the release of carbon dioxide.[97]

90 *Vegetation Management Act 1999*, section 20ANA and Schedule

91 Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016, clause 8; Explanatory Notes, p.2

92 Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016, clause 7 inserts new sections 128 and 130 into the *Vegetation Management Act 1999*

93 Explanatory Notes, p.13

94 DNRM, *Managing Category R regrowth vegetation – A self-assessable vegetation clearing code*, Effective from 2 December 2013, p.3; DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, p.2

95 See, for example, submissions 1, 6 to 10, 21 to 27, 30 to 32, 62 to 64, 405, 506, 674 and Form Submission 688

96 Environment Institute of Australia and New Zealand, submission 506, p.2

97 See, for example, submissions 7, 29 to 32, 58 to 71, 77 to 82, 106, 114 to 119, 405, 432 to 436, 579 to 585 and 656 to 660

Some submitters considered that the Bill did not go far enough, and recommended that the 50 metre buffer zone should be extended.[98] While other submitters suggested that there should be a variable buffer zone which relates to the order of magnitude of the watercourse and soil type.[99]

Submitters, including AgForce and QFF, opposed the amendments, as they consider the provisions:

- would restrict development in northern Queensland[100] and "lock out" Queensland's most productive country[101]
- are not based on science[102] or are based on a "gross misuse of available science"[103] and there is no evidence that the regulation of existing Great Barrier Reef Catchment areas has reduced sediment and run-off[104]
- would impact on landholders' ability to actively manage watercourse buffer zones, including voluntary fencing projects and land management[105]
- would reduce farm income which may result in inadequate land management and ultimately greater sediment and run-off into watercourses[106]
- would have a significant impact on farmers in the Burnett-Mary, Eastern Cape York and Fitzroy Great Barrier Reef catchments and may make some dairy farms and sugar mills unviable, and[107]
- would regulate land on which little water flows.[108]

Submitters, including Cape York Sustainable Futures, AgForce and Property Rights Australia (PRA), contended that growing trees does not prevent soil erosion and that the best ground cover is pastoral or agricultural product, such as grass or sorghum.[109]

NQCC disagreed with this position, highlighting that the cultivation of crops in a riparian zone would normally involve a lot of nutrient addition to the detriment of the watercourse.[110] The Wilderness Society considered that "… it is preposterous to argue that crops on riparian areas are a better way of protecting sedimentation and soil runoff than established riparian woodlands".[111]

Departments' response

In response to issues raised by submitters, DEHP advised that:

98 See, for example, Gail Hamilton, NQCC, *Public Hearing Transcript*, 18 May 2016 (Townsville), p.9 and Des Boyland, WPSQ, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.13

99 Ian Mackay, Mary River Catchment Coordinating Committee, *Public Hearing Transcript*, 1 June 2016 (Gympie), p.6; Cam MacAulay, *Public Hearing Transcript*, 1 June 2016 (Gympie), p.15

100 See, for example, submissions 40, 42, 49, 55, 72, 86, 91, 97, 453, 570 and 598

101 AgForce, submission 598

102 See, for example, submissions 40, 42, 49, 55, 66, 72, 86, 91, 346, 453, 507, 570 and 598

103 PRA, submission 654, p.8

104 John te Kloot, *Public Hearing Transcript*, 2 June 2016 (Charleville), p.13

105 Grant Maudsley, AgForce, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.26

106 AgForce, submission 598

107 Queensland Dairyfarmers' Organisation, submission 281; Matt Kealley, Canegrowers, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.23

108 Cam Macaulay, *Public Hearing Transcript*, 1 June 2016 (Gympie), p.15

109 Kathy Hughes, Cape York Sustainable Futures, *Public Hearing Transcript*, 17 May 2016 (Cairns), p.20; Peter Spies, *Public Hearing Transcript*, 17 May 2016 (Cairns), p.25; Ivan Naggs, *Public Hearing Transcript*, 1 June 2016 (Gympie), p.9; Greg Edwards, *Public Hearing Transcript*, 1 June 2016 (Gympie), p.16; Nikki Cameron, *Public Hearing Transcript*, 2 June 2016 (Roma), p.8; Pat Sheehan, *Public Hearing Transcript*, 2 June 2016 (Roma), p.9; and submissions 598 and 654

110 Gail Hamilton, NQCC, *Public Hearing Transcript*, 18 May 2016 (Townsville), p.9

111 Dr Tim Seelig, Wilderness Society, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.6

> *Riparian vegetation is very important for reef water quality. It is a sediment capture. Some recent scientific studies indicate that nutrients are often captured where there are really good riparian buffer zones as well. From a reef water quality perspective that riparian buffer is really important.*[112]

The DNRM and DEHP also stated that:

> *The final report of the Great Barrier Reef Water Science Taskforce: May 2016, states that agricultural land uses are the main source of nitrogen, sediment and pesticides entering the reef and its ecosystems, and contains recommendations to extend regulations to protect riparian areas and natural wetlands to all reef regions.*[113]

With respect to the suggestion of a variable buffer zone, the DNRM advised:

> *With the category R areas there are a few points to make here. Firstly, that 50-metre buffer either side or the 50-metre zone is like a trigger area. That is the area where you can apply the self-assessable code. The first point is that if there is crops there now or if there is no native vegetation, then there is no effect on activities. There are some perceptions out there that it is a lockup of that area and we have to replant that area, but that is not the case. It is about if you have, as I said, native woody vegetation in there then you can apply the self-assessable code. That code has then, when you apply it, different areas and differ buffer zones that you can clear within depending on the size of the watercourse, so that is already built in to the self-assessable code.*[114]

Government members' comments

Government members of the committee supported the expansion of the current protections for regrowth vegetation in watercourse areas to the Burnett-Mary, Eastern Cape York and Fitzroy Great Barrier Reef catchments. Government members considered that the amendments would help minimise soil erosion and run off into the Great Barrier Reef catchment areas and are in line with the recommendations of the Great Barrier Reef Water Science Taskforce's report.

Government members also noted that the amendments would not prevent landholders from managing land which falls within the 50 metre buffer zone for proposed Category R, in line with the self-assessable codes, or cultivating crops that are already growing in those areas.

Non-government members' comments

Non-government members of the committee opposed the 'one-size-fits-all' approach taken in the Bill in relation to the protection of regrowth vegetation in watercourse areas. In particular, non-government members questioned why areas in the proposed 100 metre buffer zone, which are currently cultivated, should be regulated and included as proposed Category R areas on the proposed regulated vegetation management map.

Non-government members considered that the 100 metre buffer zone was arbitrary, and called for the DNRM to take a more a nuanced approach to the regulation of regrowth vegetation in watercourses which recognised important factors, such as soil type, prevalent vegetation and the size and magnitude of the watercourse.

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112 Elisa Nichols, Executive Director, Office of the Great Barrier Reef, DEHP, *Public Briefing Transcript*, 22 March 2016, p.6

113 DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, p.4

114 Peter Lazzarini, Director, Land and Mines Policy, DNRM, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.55

Vegetation mapping and availability of resources and information

At its regional hearings, the committee heard of numerous examples of inaccurate vegetation mapping and the adverse effect such inaccuracies have on landholders and their ability to manage their land. [115] For example, one AgForce representative stated that:

> *This mapping is all incorrect. Photo 9 is the satellite view and overlay. All this country has been mapped as proposed C high-value regrowth. It is in fact lantana encroachment.*[116]

Cotton Australia, and others, described vegetation maps that incorrectly identified Category R areas running through the middle of irrigation fields or pastures.[117]

The CYLCAC provided the following examples of errors in vegetation mapping "areas which have previously been cleared have been identified as remnant, areas which are still cleared and a pasture they are identified as being regrowth areas".[118] The CYLCAC stated that the State must invest in more reliable information gathering and ground truthing of vegetation categories before the Bill could be further progressed.[119]

Landholders also stated that getting changes to the vegetation mapping is a significant and costly process.[120] Such landholders considered that it was inappropriate to expect landholders to bear the cost of disproving the accuracy of maps and the cost should be borne by the State.[121]

Other submitters stated that DNRM needs adequate funds and resources for mapping, ground truthing, monitoring and enforcement. A significant number of witnesses at the committee's regional hearing also raised concerns about the lack of regional DNRM officers, on the ground, to provide advice to landholders and information about the proposed changes in the Bill.[122]

The Wilderness Society recommended that legislative reform should be accompanied by regular publishing and updating of regulatory maps and public registers for associated self-assessable codes and development approvals.[123] Other submitters raised the importance of a well-resourced campaign to promote awareness of the changes to the VM Act.[124]

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115 See, for example, Leo Neill-Ballantine, *Public Hearing Transcript*, 1 June 2016 (Bundaberg), p.15; Georgie Somerset, *Public Hearing Transcript*, 1 June 2016 (Bundaberg), p.16; Raymond Duffy, *Public Hearing Transcript*, 1 June 2016 (Bundaberg), p.22; Barry Hoare, *Public Hearing Transcript*, 19 May 2016 (Emerald), p.2; Cynthia Cybag, *Public Hearing Transcript*, 17 May 2016 (Cairns), p.28

116 Mr Stuart Leahy, *Public Hearing Transcript*, 19 May 2016 (Emerald), p.3

117 Michael Murray, Cotton Australia, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.22; Barry Hoare, *Public Hearing Transcript*, 19 May 2016 (Emerald), p.2

118 Shannon Burns, CYLCAC, *Public Hearing Transcript*, 17 May 2016 (Cairns), p.2

119 CYLCAC, submission 628

120 See, for example, Stuart Leahy, *Public Hearing Transcript*, 19 May 2016 (Emerald), p.8; Myriam Dale, *Public Hearing Transcript*, 2 June 2016 (Roma), p.13; Justin MacDonnell, *Public Hearing Transcript*, 2 June 2016 (Roma), p.17

121 Tracy Finnegan, *Correspondence*, 2 June 2016, p.3

122 See, for example, Stuart Leahy, *Public Hearing Transcript*, 19 May 2016 (Emerald), p.8; Jim Viner, President, Gympie Beef Liaison Group, *Public Hearing Transcript*, 1 June 2016 (Gympie), p.12; Richard Bucknell, *Public Hearing Transcript*, 2 June 2016 (Roma), p.3; Tracy Finnegan, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.27

123 Wilderness Society, submission 674

124 Ian Gorrie, *Public Hearing Document*, 1 June 2016 (Gympie), attachment; Ivan Nagg, *Public Hearing Transcript*, 1 June 2016 (Gympie), p.9; Richard Bucknell, *Public Hearing Transcript*, 2 June 2016 (Roma), p.3

Department's response

At the public briefing on 25 May 2016, DNRM advised that "the way the vegetation management framework operates is that the map and the law work together in applying how that framework should work".[125]

Accuracy of mapping and correcting errors

The DNRM accepted that inaccuracies occur with vegetation mapping, and stated that:

> *There are a number of errors that can occur in mapping. These are the common ones that we see. Firstly, there may be scale errors. Because the mapping is done at that larger scale, when you zoom into the property you may get some line work differences. The actual boundary of the remnant vegetation may be in error at times. Sometimes those regional ecosystem numbers are not correctly identified for particular areas. These are obvious errors that occur on the map. These are generally in relation to the proposed category C and category C areas, and particularly red-soil areas that have high-moisture content can be reflected as category C as well on the satellite imagery. There are some areas of vegetation that, because it meets the criteria of being greater than 11 per cent FPC and has not be cleared since December 1989 – occasionally we can map in orchards and pine and hardwood plantations.*[126]

The DNRM explained that:

> *… the key thing to remember with those obvious errors is that if there is no native woody vegetation present then it does not affect activities. There is no total prohibition in those areas. There are things that people can do, activities that can be done in a number of ways … If there is no native woody vegetation there then there is no effect on what someone wants to do in that area.*[127]

The DNRM advised that inaccuracies in the regulated vegetation management map or the proposed vegetation management map may be addressed through the PMAV process. DNRM stated that "If there are obvious errors, for example pasture is shown as high value regrowth, they can be fixed free of charge".[128]

The DNRM also explained that an applicant who disagrees with a PMAV may apply, free of charge, to DNRM for an internal review of the decision. If the applicant is dissatisfied with the result of the internal review, they can apply to the Queensland Civil and Administrative Tribunal (QCAT) for an external review.[129]

Improvements

The committee understands that DNRM is working with DSITI to minimise misclassifications in vegetation maps using information obtained from other remote sensing data such as airborne LiDAR and space-borne radar. The DNRM advised that these data sets provide information about the structure of the vegetation, as well as the cover and density, and can help separate trees and shrubs

125 Peter Lazzarini, Director, Land and Mines Policy, DNRM, *Public Briefing Transcript*, 25 May 2016, p.3

126 Peter Lazzarini, Director, Land and Mines Policy, DNRM, *Public Briefing Transcript*, 25 May 2016, p.7

127 Peter Lazzarini, Director, Land and Mines Policy, DNRM, *Public Briefing Transcript*, 25 May 2016, p.7

128 Peter Lazzarini, Director, Land and Mines Policy, DNRM, *Public Briefing Transcript*, 25 May 2016, p.9

129 Peter Lazzarini, Director, Land and Mines Policy, DNRM, *Public Briefing Transcript*, 25 May 2016, p.9; DNRM, *Response to Question on Notice*, 31 May 2016, p.1

from open pasture and other low, herbaceous ground cover. The DNRM stated that this will be used to help refine the proposed regulated vegetation management map.[130]

Availability of resources and information

In response to concerns about the availability of resources and information, the DNRM stated that:

> *Our website materials are very, very accessible, but I take the member's point that not every person out there is internet savvy. We use the internet as just one of the mechanisms by which people can get information. They can ring up our 135 VEG number. They can make arrangements to talk to one of our vegetation management officers, either on their property or they can come into one of our service centres. We can send copies of maps to them in hard copy form.*[131]

The DNRM also advised that it has taken the following steps to ensure public awareness of the proposed changes to the vegetation management framework:

- web content which explains the proposed amendments
- the proposed regulated vegetation management map which shows proposed Category C and R areas, and
- a public notice about the Bill which has been published in 26 newspapers across the State.

In addition, the DNRM stated that "There has been over 11,000 downloads of regulated maps since introduction of the Bill, over 12,000 website hits and seven social media posts reaching 9,500 people". The DNRM has also received over 900 calls since the introduction of the Bill assisting landholders to identify if their property is affected by the proposed changes and the possible implications of the Bill on their activities.[132]

Government members' comments

Government members of the committee noted the significant concerns raised by submitters about the accuracy of the maps used as part of the vegetation management framework, and the impact such inaccuracies have on landholders' ability to manage their land and comply with vegetation management legislation.

Non-government members' comments

Non-government members of the committee considered that the accuracy of the vegetation mapping was vitally important, as the maps inform the entire vegetation management framework and of the underpinning legislation. Non-government members were also concerned that inaccuracies in the mapping may have unintended consequences across the entire vegetation management framework, including landholders not clearing vegetation which could be lawfully cleared, due to fears of prosecution on the basis of an inaccurate map.

Non-government members shared submitters' views that the Bill should not proceed until the inaccuracies in the vegetation mapping have been resolved in consultation with landholders.

Non-government members considered that the Government should provide additional resources and funding to DNRM, above and beyond existing allocations, to ensure that the errors in mapping are rectified as soon as possible. In this regard, non-government members noted the Government's recent

130 DNRM, *Answers to Questions asked by the Agriculture and Environment Committee in relation to vegetation mapping that underpins the vegetation management framework*, 25 May 2016, p.2

131 Lyall Hinrichsen, Executive Director, Land and Mines Policy, DNRM, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.57

132 DNRM, *Correspondence*, 22 June 2016, pp.3-4

allocation of $7.8 million over four years and ongoing funding of $1.5 million per annum to support aerial and satellite imagery to assist vegetation management compliance.

Committee comment

The committee understands that DNRM is currently working with DSITI to minimise inaccuracies in vegetation mapping. Given the significant impact inaccurate mapping may have on landholders, the committee recommends that the departments prioritise this work and that the Minister provides an update on progress during the second reading debate.

The committee also acknowledges the difficulties landholders experience, particularly in remote areas such as Cape York where internet access is often unreliable and expensive, in obtaining information about the vegetation management framework, including maps and guidelines. Accordingly, the committee encourages the DNRM to investigate methods for ensuring that information about the vegetation management framework is available to all landholders and interested parties.

Recommendation 2

The committee recommends that the Minister for State Development and Minister for Natural Resources and Mines provides an update, during the second reading debate on the Bill, on the steps, including the associated timescales, that will be taken:

- to improve the accuracy of vegetation mapping, and

- to proactively engage with landholders to provide them with updated property maps of assessable vegetation which correct any inaccuracies.

Clause 6 – Reverse onus of proof

The Bill provides that the clearing of vegetation in contravention of vegetation clearance provisions is taken to have been done by the *occupier of the land*[133] in the absence of evidence to the contrary.[134] In effect, this new provision would reverse "the onus of proof for determining who is responsible for unauthorised clearing activity".[135]

The Explanatory Notes acknowledge that the reversal of the onus of proof raises potential fundamental legislative principles (FLP) issues. The DNRM, however, consider that the amendments are justified for the following reasons:

- unlawful clearing often occurs in remote areas, meaning that in many cases there is a lack of evidence available to the government (e.g. direct witnesses, copies of contracts as they are commercial in confidence), to establish who undertook the clearing
- due to the expense of clearing, it is highly unlikely that an unknown third party would undertake clearing on someone else's property without the occupier's invitation or consent
- the landholder may still provide evidence to prove their innocence, using evidence that would be readily accessible to the landholder but not the government (e.g. where a contract may be commercial in confidence the contract does not need to be disclosed to government during its investigation), and

133 Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016, clause 6 defines *occupier of land* as: for freehold – the registered owner; for a lease, license or permit under the *Land Act 1994* – the lessee, licensee or permitee; for indigenous land – the holder of title to the land; or for any tenure under any other Act – the holder of the tenure

134 Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016, clause 6 inserts new section 67A into the *Vegetation Management Act 1999*

135 Explanatory Notes, p.9

- the State is still responsible for establishing and proving that a vegetation clearing offence has occurred.[136]

The Explanatory Notes also state that there is precedent for the reverse onus of proof under the *Forestry Act 1959* and for red light and speed camera offences.[137]

The potential FLP issues raised by this provision are discussed further in the FLP section on page 39.

Submitters' views

In general, environmental bodies supported the proposed reinstatement of the reverse onus of proof, which they noted had existed prior to the 2013 legislative amendment to the VM Act.[138]

Such submitters supported the Government's view that it would be highly improbable that any clearing of land would be undertaken without the consent of the occupier or owner of the land because of the cost and effort involved. If this were to occur, environmental groups argued the State would still be required to prove that an offence had occurred and the landholder's right to natural justice would ensure that they had an opportunity to provide evidence to prove their innocence.[139] The EDO of Northern Queensland considered that "Any skerrick of evidence that the occupier is not responsible for the clearing will automatically displace the presumption [of guilt]".[140]

A number of other submitters, including councils and agricultural peak bodies, opposed the amendments[141], as they considered that:

- the amendments would remove landholders' right to silence, as landholders would need to actively prove that they did not clear vegetation[142], and landholders would potentially be subject to legal proceedings and related costs at no fault of their own[143]
- inaccurate vegetation maps cannot be used as the basis of prosecution[144]
- the provision is unfair because data limits and internet issues prevent some landholders from accessing information, particularly across regional Queensland which has the potential to restrict their ability to access websites and download maps[145]
- the amendments are discriminatory, as only some landholders have the ability to use GPS technology and match on-ground features with vegetation mapping[146]

136 Explanatory Notes, p.5

137 Explanatory Notes, p.5

138 See, for example, submissions 506, 517, 568, 580, 597 and 674

139 Environmental Institute of Australia and New Zealand, submission 506; QCC, submission 580 and Tanya Heber, EDO of Northern Queensland, *Public Hearing Transcript*, 17 May 2016 (Cairns), p.12; Revel Pointon, EDO, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.2

140 Tanya Heber, EDO of Northern Queensland, *Public Hearing Transcript*, 17 May 2016 (Cairns), p.12

141 See, for example, Cllr Bronwyn Voice, Tablelands Futures Corporation, *Public Hearing Transcript*, 17 May 2016 (Cairns), p.10; David Kempton, *Public Hearing Transcript*, 17 May 2016 (Cairns), p.26; Barry Hoare, *Public Hearing Transcript*, 19 May 2016 (Emerald), p.2; John Baker, *Public Hearing Transcript*, 19 May 2016 (Emerald), p.4; Janeice Anderson, *Public Hearing Transcript*, 19 May 2016 (Emerald), p.6; Tim Marland, Marland Law, *Public Hearing Transcript*, 1 June 2016 (Bundaberg), p.2; Ivan Naggs, *Public Hearing Transcript*, 1 June 2016 (Gympie), p.9; John Sommerfield, *Public Hearing Transcript*, 2 June 2016 (Charleville), p.3

142 Golden Grazing, submission 42

143 Queensland Dairyfarmers' Organisation, submission 281; QFF, submission 346; CYLCAC, submission 628; Jan Scriven, *Public Hearing Transcript*, 2 June 2016 (Roma), p.10

144 Shannon Burns, CYLCAC, *Public Hearing Transcript*, 17 May 2016 (Cairns), p.4

145 AgForce, submission 598

146 AgForce, submission 598

- the amendments would also be applicable to urban landowners who could become responsible for the acts or omissions of a trespasser, neighbour, tenant or developer[147], and
- councils are vulnerable to unlawful clearing on council land by third parties, particularly councils with large geographical areas, and consideration should be given to exemptions for local government.[148]

Submitters, such as the Queensland Law Society (QLS), PRA and the Institute of Public Affairs, considered that the Government's justifications for the amendments were insufficient for such a serious breach of FLPs.[149]

The QLS stated that "administrative convenience or prosecutorial efficiency … does not justify erosion of the principle that a person is presumed innocent of an offence until they are proven guilty".[150] The Institute of Public Affairs stated that "the quality of a legal system should not be assessed by the ease with which the state can enforce the law, but rather whether the system produces just outcomes".[151]

The QLS and PRA cautioned against comparing vegetation clearing offences with red light and speed camera offences.[152] The QLS highlighted that red light and speed cameras attract relatively small fines, while the maximum penalty for vegetation clearing offences is five years' imprisonment or significant fines "around about $736,000".[153] The QLS suggested that a more appropriate response to any issues in prosecuting offences would be a greater use of satellite imagery, ensuring prosecutors are properly funded and resourced and providing enhanced investigation enforcement powers.[154]

The committee notes that the Government has recently allocated $7.8 million over four years and ongoing funding of $1.5 million per annum to support aerial and satellite imagery to assist vegetation management compliance.[155]

Committee comment

In light of the significant concerns raised by submitters about the proposal at clause 6 to reverse the onus of proof in relation to vegetation clearing offences, and the potentially significant fundamental legislative principles issues raised by the amendment, the committee recommends that the element of clause 6 of the Bill, which inserts new section 67A into the *Vegetation Management Act 1999* to reverse the onus of proof in relation to vegetation clearing offences, be omitted.

Recommendation 3

The committee recommends that the element of clause 6 of the Bill, which inserts new section 67A into the *Vegetation Management Act 1999* to reverse the onus of proof in relation to vegetation clearing offences, be omitted.

147 PCA, submission 228

148 See, for example, submissions 235, 386 and 621

149 See, for example, Queensland Law Society (QLS), submission 625; PRA, submission 654; Institute of Public Affairs, submission 462; Tim Marland, Marland Law – Agribusiness and Advisory, *Tabled Document*, 1 June 2016, p.1

150 Bill Potts, President, QLS, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.43

151 Institute of Public Affairs, submission 462, p.7

152 PRA, submission 654; QLS, submission 625

153 Bill Potts, President, QLS, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.42

154 Bill Potts, President, QLS, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.43

155 Queensland Government, *Budget Measures 2016-17 – Budget Paper No.4*, June 2016, p.78

Clause 6 - Mistake of fact defence

The Bill provides that section 24 of the *Criminal Code* – the mistake of fact defence – does not apply in relation to proceedings for a vegetation clearing offence.[156]

The Explanatory Notes state that "This means that a person cannot avoid responsibility for unlawfully clearing vegetation by stating that they were operating under a reasonable and honest belief that the clearing activity was lawful".[157]

The Explanatory Notes provide the following justification for the potential FLP issues raised by the amendments:

- this mistake of fact defence often arises in prosecutions, such as mistakes in map interpretation, or in identifying the conservation status of vegetation. While such a defence is easy to raise, because it involves the state of mind of the defendant, it is very difficult to negate conclusively; presenting difficulties for the investigation of clearing offences
- unlawful clearing has the potential for significant environmental impacts, and having the mistake of fact defence, may discourage a landholder or developer from exercising due diligence before undertaking a clearing activity, and
- the DNRM has made widely available, at no, or little charge, all the information required by landholders to ensure they clear in accordance with vegetation management laws. New tools and products are also being developed to further assist landholders in applying the laws correctly.[158]

In addition, the Explanatory Notes stated that:

> *… the vegetation management framework has been in place for over fifteen years with minimal procedural amendments that have altered an individual's responsibilities. Therefore, the likelihood of an honest mistake resulting in unlawful clearing occurring has been mitigated, effectively nullifying the defence.*[159]

The potential FLP issues raised by this provision are discussed in the FLP section on page 40.

Submitters' views

Submitters' views were divided along similar lines to those positions taken relating to the reinstatement of the reverse onus of proof provision.

Some submitters, such as the WPSQ, supported the amendment, as they considered that:[160]

- under the current provisions landholders have evaded fines[161]
- no honest mistake of fact should arise given the access landholders have to information and assistance in relation to vegetation on their land, including access to online vegetation mapping and ground proofing of vegetation by DNRM through the provision of PMAVs[162]

156 Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016, clause 6 inserts new section 67B into the *Vegetation Management Act 1999*

157 Explanatory Notes, p.10

158 Explanatory Notes, p.6

159 Explanatory Notes, p.6

160 See, for example, submissions 1, 4, 5, 6, 22 to 27, 35 to 38, 60, 62, 506 and Form Submission 688

161 Julie Kearney, submission 4

162 EDO of Northern Queensland, submission 517

- each land occupier should be responsible for carefully checking boundaries and the conservation status of any vegetation prior to clearing, as unlawful clearing has significant environmental impacts[163], and
- the removal of the honest mistake of fact defence would remove unnecessary impediments to effective prosecution of illegal clearing.[164]

The EDO contended that "even if a landholder was relying on a map that was incorrect that they had not verified with the department, on my interpretation of the law, they would not be able to rely on the defence of mistake of fact if it did apply, because this is a mistake of law".[165]

In contrast, other stakeholders argued that the amendments were a direct affront to the rights and liberties of landholders.[166] Such submitters considered that the amendments would:

- mean landholders are not provided with the same civil and constitutional rights and access to common justice as other members of society, including criminals[167]
- result in landholders being refused the possibility of making a mistake[168]
- make landholders more apprehensive when using the self-assessable codes to manage their land[169], and
- result in landholders being prosecuted due to inadequacies or changes in vegetation mapping.[170]

PRA and Queensland Dairyfarmers Organisation noted that the information provided by departmental officers has often been found to be incorrect, and that the law and associated regulations are often contradicted by departmental advice.[171] In light of this, PRA considered that removing the defence would be unjust.[172] Similarly, PCA stated that removing the mistake of fact defence is unjustified given the complex legislative framework surrounding the vegetation clearing that has the potential to be confusing, including various difficult-to-comprehend exemptions.[173]

The QLS considered that "Given the significant penalties and the standard of proof imposed, it is inappropriate to exclude the defence [of mistake of fact] for the convenience of prosecution, as the defence only operates in circumstances of honest and reasonably mistaken belief of a fact".[174]

Government members' comments

Government members of the committee noted the concerns raised by submitters about the proposal at clause 6 to clarify that the defence of mistake of fact, established under section 24 of the *Criminal Code*, does not apply to the VM Act.

163 QCC, submission 580

164 WWF – Australia, submission 568

165 Revel Pointon, EDO, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.2

166 See, for example, submissions 40, 42, 49, 53, 57, 66, 76, 86, 91, 97 and 598 and Tim Marland, Marland Law, *Public Hearing Transcript*, 1 June 2016 (Bundaberg), p.2

167 See, for example, 40, 42, 49, 53, 55, 66, 76, 86, 91, 97 and 281

168 Charters Towers Regional Council, submission 570; Etheridge Shire Council, submission 647; AgForce, submission 598

169 Kenton Peart, *Public Hearing Transcript*, 2 June 2016 (Charleville), p.10

170 QFF, submission 346; Cotton Australia, submission 160; Ashley McKay, *Public Hearing Transcript*, 2 June 2016 (Charleville), p.6; John te Kloot, *Public Hearing Transcript*, 2 June 2016 (Charleville), p.12; PRA, submission 654; Queensland Dairyfarmers Organisation, submission 281

171 PRA, submission 654; Queensland Dairyfarmers Organisation, submission 281

172 PRA, submission 654

173 PCA, submission 228

174 QLS, Submission 625, p.2

Government members noted DNRM's comments that procedural fairness and natural justice for landholders is maintained with the removal of the mistake of fact defence provision due to the extensive information freely available to assist landholders to determine where they can or cannot clear and the rules they must follow.

Government members considered that the committee's Recommendation 2 in relation to steps to ensure the accuracy of vegetation mapping is necessary to ensure that procedural fairness and natural justice for landholders is maintained with the removal of the mistake of fact defence.

Non-government members' comments

Non-government members of the committee opposed the removal of the mistake of fact defence. Non-government members shared submitters' views that the removal of the defence is an affront to the rights and liberties of landholders and would mean that they were treated worse than criminals.

Non-government members considered that it is unacceptable to remove the mistake of fact defence, while vegetation mapping is still inaccurate and in light of reports of inconsistent or incorrect advice being given by departmental officers. Non-government members also noted the significant penalties which could be imposed on landholders just for making a reasonable and honest mistake.

Clauses 12 to 19 – Amendments to *Water Act 2000* - extension of riverine protection framework

The Bill amends the *Water Act 2000* (the Water Act) to reinstate the application of the riverine protection framework, including the issuing of riverine protection permits, to the destruction of vegetation in a watercourse, lake or spring.[175]

The Bill also makes provision for authorised officers to monitor compliance and investigate unauthorised destruction of vegetation.[176] A person who destroys vegetation in a watercourse, lake or spring, without a riverine protection permit, would commit an offence attracting a maximum penalty of 1665 penalty units ($196,137).[177] The DNRM stated that:

> *Reinstating the application of the riverine protection permit framework to the destruction of vegetation will allow the assessment of environmental impacts and management of risks associated with such activities carried out in a watercourse, lake or spring.*[178]

Submitters' views

A number of submitters supported the amendments to the Water Act.[179] Other submitters, including the Queensland Resources Council (QRC), Local Government Association of Queensland (LGAQ) and individual councils, and AgForce opposed the amendments[180], as they considered the provisions would:

- impact on local government management and the development of essential community infrastructure and the safety of residents[181]

175 Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016, clauses 13 to 19

176 Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016, clauses 16, 17 and 19

177 Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016, clause 18

178 Sue Ryan, Deputy Director-General, Policy and Program Support, DNRM, *Public Briefing Transcript*, 22 March 2016, p.3

179 See, for example, submission 140, 517, 568, 580, 597, 674; Rose Adams, Gecko, *Public Hearing Transcript*, 3 June 2015 (Brisbane), p.16; Kirsten Macey, QCC, *Public Hearing Transcript*, 3 June 2015 (Brisbane), p.15

180 See, for example, 235, 291, 298, 308, 386 and 598

181 FNQROC, submission 386

- increase site inspection and vegetation survey requirements prior to routine operations, which may be better supported through self-assessable codes and best management practice guidelines and capacity building; or by more detailed mapping of specific areas of activity, e.g. road easements and sensitive sites[182]
- constrain mining proponents from undertaking vegetation clearing in a watercourse, lake or spring[183]
- add an additional layer of technical and procedural complexity to the development application process[184]
- increase red tape for both development proponents and the Government without providing additional environmental benefit[185], and
- undermine the Government's commitment to ensuring a whole-of-government approach to planning and development assessment.[186]

Several submitters identified potentially incorrect numbering of sections in the Water Act.[187]

The QRC recommended that the exemption guideline be amended to include vegetation clearing as an exempt activity, as proponents would be exempt from needing a riverine protection permit for excavation and fill but would need one for the clearing of vegetation to be consistent with the pre-2013 exemptions for all three activities.[188] Cook Shire Council sought clarification about whether all council activities would be exempt from requiring a riverine protection permit and further advice about the size and extent of vegetation that may be cleared under the exemption.[189]

Department's response

In response to the issues raised in submissions, the DNRM stated that:

> *This [the amendment] is consistent with the Government's election commitment to 'reintroduce riverine protection permits to guard against excessive clearing of riparian vegetation'.*
>
> *The department will be looking into reviewing and updating the Water Regulation and any necessary forms and documentations, including exemption documents, to support the new legislative framework.*
>
> *The Water Act sections referred to in the Bill reflect the new section numbering after commencement of the WROLA Act (upon proclamation and prior to commencement of the Water Act amendments contained in the Bill).*
>
> *The Bill retains an exemption in the Sustainable Planning Regulation 2009 that exempts a person from requiring a development permit for clearing vegetation within a watercourse or lake if the clearing is authorised, or a consequence of an activity authorised, under the riverine protection framework under the Water Act. As such, there will be no potential for overlap, whereby a person will be required to obtain multiple authorisations for the same vegetation clearing activity, as a result of the reinstatement.*

182 FNQROC, submission 386

183 QRC, submission 291

184 CYLCAC, submission 628

185 PCA, submission 228

186 PCA, submission 228

187 Local Government Association of Queensland, submission 235; Cairns Regional Council, submission 298

188 QRC, submission 291

189 Cook Shire Council, submission 308

Riverine activities, including the destruction of riparian vegetation, can have adverse impacts on watercourse integrity, the environment, infrastructure and agriculture if not properly managed.

Reinstating the application of the riverine protection permit framework to the destruction of vegetation ensures:

a) the proper consideration and management of risks associated with such activities carried out in a watercourse, lake or spring;

b) impacts from works on the long-term sustainable use of the watercourse or lake or spring are avoided; and

c) the physical integrity of lakes, springs and watercourses is maintained, as well as maintaining the stability of beds and banks of watercourses and the condition and natural functions of water bodies.

The reinstatement of proper vegetation protections also forms part of a broader suite of reforms which is important to protecting the reef, conserving biodiversity and reducing Queensland's carbon emissions.[190]

Government members' comments

Government members of the committee supported the reinstatement of the riverine protection framework, including the issuing of riverine protection permits, to the destruction of vegetation in a watercourse, lake or spring. The Government members noted DNRM's advice that it would be reviewing and updating the relevant Water Regulations and associated forms and guidelines, including exemptions from the riverine protection framework. Government members encourage DNRM to take into account the issues raised by submitters, as part of its review.

Non-government members' comments

Non-government members of the committee opposed the amendments to the Water Act to reinstate the application of the riverine protection framework to the destruction of vegetation in a watercourse, lake or spring.

Non-government members noted the concerns raised by the LGAQ and the resources sector. Non-government members agreed that the amendments would add duplication, unnecessarily constrain mining proponents for undertaking vegetation clearing, add complexity and costs to the development application process and increase requirements for site inspections and surveys.

190 DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, pp 10-11.

Clauses 20 to 35 - Amendments to *Environmental Offsets Act 2014*

The Bill amends the *Environmental Offsets Act 2014* (EO Act) to:

- require offsets for any residual impact on prescribed environmental matters, rather than only significant residual impacts, and
- provide an ability to legally secure offset areas and make payments into Queensland's offset account for conditions required under Commonwealth Government approvals.[191]

The Explanatory Notes state that the Bill reinstatements environmental offset requirements to ensure adequate conservation outcomes for prescribed environmental matters.[192]

Offsets for residual impact

The Bill amends the EO Act to require offsets for any residual impact on prescribed environmental matters, rather than imposing offsets only on significant residual impacts.[193]

The DEHP advised that the proposed changes would return the requirements of this element of the framework to the arrangements that existed prior to the introduction of the EO Act.[194] The DEHP further explained:

> *… the requirement to offset all residual impacts of development—aims to ensure adequate conservation outcomes for all impacts on the state's significant environmental values. The objective of the change is that, in so far as possible, impacted matters are replaced elsewhere in the landscape to ensure the preservation of biodiversity and habitat quality. This requirement for offsets has been an accepted requirement of vegetation management practices since 2008 and for other development activities, such as mining, since 2011.*[195]

The DEHP explained that one of the purposes for the amendment was to "simplify assessment, avoid inconsistent interpretation, and improve conservation outcomes for prescribed matters".[196]

Commonwealth offsets conditions

The Bill proposes to clarify how the EO Act applies to Commonwealth offset conditions to enable:

- an amount, as a financial settlement offset for a Commonwealth offset condition (a condition imposed by the Commonwealth that requires an environmental offset), to be paid into the State's offset account, and
- the establishment, management and use of legally secured offset areas relating to Commonwealth offset conditions.[197]

The Bill provides that the EO Act applies to a Commonwealth offset condition with the following changes:

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191 Explanatory Notes, p.3

192 Explanatory Notes, p.1

193 Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016, clauses 21 to 30 and 35 make various definitional amendments amending 'significant residual impact' to 'residual impact'

194 Nick Weinert, Acting Director, Strategic Environmental Projects, Conservation and Sustainable Policy, DEHP, *Public Briefing Transcript*, 22 March 2016, p.3

195 Nick Weinert, Acting Director, Strategic Environmental Projects, Conservation and Sustainable Policy, DEHP, *Public Briefing Transcript*, 22 March 2016, p.3

196 DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, p.11

197 Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016, clause 31 inserts new sections 89A and 89B into the *Environmental Offsets Act 2014*; Explanatory Notes, pp.17-18

- a conservation outcome under the EO Act is taken to be achieved, by an environmental offset for a Commonwealth prescribed activity for a prescribed environmental matter, if the offset is selected, designed and managed to maintain the viability of the matter
- an environmental offset under the EO Act is taken to include an activity undertaken to counterbalance a residual impact of a Commonwealth prescribed activity on a prescribed environmental matter
- a financial settlement offset under the EO Act is taken to include a payment for delivering a Commonwealth offset condition for a Commonwealth prescribed activity
- an offset condition under the EO Act is taken to include a Commonwealth offset condition
- an offset delivery plan under the EO Act is taken to include a plan or agreement about the way an environmental offset for a Commonwealth prescribed activity for a prescribed environmental matter will be undertaken
- a prescribed activity under the EO Act is taken to include a Commonwealth prescribed activity, and
- a reference in section 7(1) (What is an offset condition and an environmental offset), section 8(4)(a) (What is a residual impact) or section 29(1)(b) and (3A) (What is a legally secured offset area) of the EO Act to another Act is taken to include a reference to a relevant Commonwealth Act.[198]

In addition, the Bill provides that the State must not accept a payment in relation to a Commonwealth offset condition in the following circumstances:

- the chief executive considers the amount is not likely to adequately deliver an environmental offset that achieves a conservation outcome, or
- the proposed payment cannot be made because of a regulation.[199]

The Explanatory Notes state that new sections 89D(1) and (2) of the EO Act will enable the State Government to control what payments it will accept in relation to Commonwealth offset conditions.[200]

The Bill also makes transitional provisions for the proposed amendments, which provide that if an application, which may involve the imposition on an offset condition, has not been decided before commencement of the Bill, the application must be dealt with under the existing EO Act.[201]

Submitters' views

Offsets for residual impact

A number of submitters supported the removal of the term 'significant' from the definition of a *significant residual impact*.[202] As the Wide Bay Burnett Environmental Council summarised:

> *The removal of the term 'significant' from the definition of a 'Significant Residual Impact' in the Environmental Offsets Act 2014 will improve environmental outcomes via Offsets because any 'residual matter' (as opposed to only a 'significant residual matter) to a Matter of Environmental Significance, will trigger the Act.*[203]

198 Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016, clause 31 inserts new section 89C into the *Environmental Offsets Act 2014*; Explanatory Notes, p.18

199 Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016, clause 31 inserts new section 89D into the *Environmental Offsets Act 2014*

200 Explanatory Notes, p.18

201 Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016, clause 34 inserts new section 96 into the *Environmental Offsets Act 2014*; Explanatory Notes, p.19

202 See for example, submissions 106, 116, 140, 208, 270, 309, 331, 350, 353, 461, 506, 517, 526, 568, 597, 610, 642, 652 and 674

203 Wide Bay Burnett Environmental Council, submission 426, p.2

The WPSQ – Townsville considered that:

> *The existing requirements are clearly inadequate, having resulted in only a single offset registered since 2014, and the qualification of the term "significant" allows for loose interpretation, creating an unfortunate loophole in the legislation. Environmental offset requirements are designed to compensate for what is lost when clearing takes place; they can also act as an inducement to the landholder to avoid unnecessary damage when undertaking such action.*[204]

Several submitters sought further consideration of the specific environmental outcomes achieved through an offsets approach to vegetation management.[205] Dr Joan Vickers commented that the issue needs to be considered further as "[t]here is abundant evidence that offsetting does not work, in many situations".[206] The QCC stated that it "would like to see an investigation into the environmental outcomes of the offsets undertaken to ensure that they are more meaningful".[207]

Other submitters, including landholders and the property, development and resources sectors, opposed the amendments.[208] Their key concerns were:

- the amendment to remove the term 'significant', would mean that an offset would be required for all residual impacts, and there has been no assessment of the critical impact this may have on the assessment and delivery of offsets for industry[209]
- a lack of consultation and assessment of the impacts arising from the proposed amendments[210]
- the proposed amendment would increase compliance costs[211] and adversely affect the development industry and housing affordability[212]
- the proposed amendment is inconsistent with the Commonwealth offsets regime which uses the term significant residual impact[213]
- continual changes to offset-related legislation makes it difficult for the average person to understand and adhere to the legislation[214]
- that the amendments will not provide better environmental outcomes, as through capturing additional smaller projects, the amendments will perpetuate the provision of small, piecemeal offsets that do not deliver meaningful environmental outcomes[215], and
- uncertainty about how the 'residual impact' threshold, which would replace the 'significant' threshold, will be defined in a statutory guideline[216]

The PCA stated that "the removal … of the threshold to determine significance of an impact threatens to add exorbitant costs to the delivery of new housing" and provided an example where costs may add

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204 WPSQ – Townsville, submission 270, pp.5-6

205 Dr Joan Vickers, submission 329; QCC, submission 580; Moreton Bay Regional Council, submission 621

206 Dr Joan Vickers, submission 329, p.2

207 QCC, submission 580, p.4

208 See, for example, submissions 228, 283, 291, 308, 318, 400, 508, 628, 654 and 661

209 QRC, submission 291; Origin Energy, submission 661; PCA, submission 228; UDIA, submission 283

210 See for example, submissions 283, 291, 508 and 639; Frances Hayter, QRC, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.47

211 Australian Petroleum Production & Exploration Association, submission 508

212 PCA, submission 228

213 Origin Energy, submission 661; UDIA, submission 283

214 Peter and Annette Marriott, submission 398

215 PCA, submission 228

216 See, for example, 228, 283, 291, 398, 400, and 508

"$197,000 to each dwelling".[217] UDIA stated that the removal of the term 'significant' may "add between $10,000 to $197,000 as an additional cost to each house".[218]

The QRC also raised concerns about the transitional provisions and requested to be consulted to develop more appropriate provisions.[219]

Commonwealth offsets conditions

Some submitters expressed concerns about the proposed amendments to the Commonwealth offsets conditions, including:

- that the financial settlement offsets may not deliver the necessary environmental outcomes
- confusion around the content of the Commonwealth offsets conditions amendments, including the removal of restrictions on duplication of State and Commonwealth offset conditions under section 15 of the EO Act and the ability for the State Government to determine or increase the costs required for Commonwealth offsets[220]
- a lack of consultation with the Commonwealth on the proposed amendments[221]
- that the amendments could attempt "to deem Commonwealth conditions to be included as part of State conditions, causing potentially unintended consequences for compliance and interpretation"[222], and
- that the amendments would allow the State Government to 'double-dip' on environmental offset requirements for the same matters as the Commonwealth Government, leading to added complexity, uncertainty and significant costs to the delivery of new communities.[223]

Department's response

Offsets for residual impact

In relation to concerns about the removal of the term 'significant', the DEPH advised that the aim of the amendment was:

> *... to ensure adequate conservation outcomes for all impacts on the state's significant environmental values. The objective of the change is that, in so far as possible, impacted matters are replaced elsewhere in the landscape to ensure the preservation of biodiversity and habitat quality.*[224]

The DEHP described the policy position of the Government was "that the vegetation management framework was to be returned to a previous state, that is, the state that existed a couple of years ago pre-2012 … and the guidelines around how that will be assessed will likewise be returned to that point in time".[225] The DEHP advised that stakeholders would be "provided with a copy of a draft residual impact guideline for consultation before debate on the Bill."[226]

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217 Jen Williams, PCA, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.32

218 Kirsty Chessher-Brown, UDIA, *Public Hearing Transcript,* 3 June 2016 (Brisbane), p.49

219 QRC, submission 291

220 See, for example, PCA, submission 228; QRC, submission 291

221 See, for example, QRC, submission 291

222 PCA, submission 228, p.11

223 UDIA, submission 283

224 Nick Weinert, Acting Director, Strategic Environmental Projects, Conservation and Sustainable Policy, DEHP, *Public Briefing Transcript*, 22 March 2016, p.3

225 Nick Weinert, Acting Director, Strategic Environmental Projects, Conservation and Sustainable Policy, DEHP, *Public Hearing Transcript,* 3 June 2016 (Brisbane), p.57

226 DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, p.13

The DEHP advised that it is also currently considering whether additional transitional arrangements are required to ensure that the amendments are not retrospective.[227]

Commonwealth offset conditions

The DEHP advised that the Bill would provide for the first time "an ability to legally secure both state and Commonwealth offset areas using a single mechanism under the act and enable Commonwealth financial settlement offsets to be paid into the state's offset account".[228]

The DEHP considered that the amendment would have the following impacts:

> *This change has the capacity to result in streamlining benefits for developments which affect both matters of national environmental significance and state environmental significance. For example, payment of both state and Commonwealth offsets into a single account may be simpler for some proponents.*
>
> *These changes also serve to promote better environmental outcomes as they enable placement of both state and Commonwealth financial settlement offsets into the state's offset account. One benefit of this is it enables integrated conservation outcomes to be achieved in Queensland through the pooling of resources.*[229]

The DEHP advised the following in response to submitters' concerns regarding the amounts associated with Commonwealth offset conditions to be paid to the State's offset account:

> *Restrictions preventing duplication of State and Commonwealth offsets are not altered by the amendments in the Bill.*
>
> *The Bill does not allow the State to require payments in addition to those required by the Commonwealth or impose separate conditions where the Commonwealth has finalised its impact assessment.*
>
> *Restrictions on the use of the account for Commonwealth purposes are necessary to ensure that the objects of the Environmental Offsets Act are delivered and receipt of payments associated with Commonwealth offset conditions is in the best interest of Queensland.*
>
> *The department is considering what amendments may be required to improve the clarity of existing provisions.*[230]

In response to PCA's concerns regarding whether the amendments would deem Commonwealth conditions to be included as part of State conditions, which could potentially cause unintended consequences for compliance and interpretation, the DEHP advised:

> *The Bill allows for Commonwealth offsets to be legally secured under the State offsets framework.*
>
> *Use of the legal security options for this purpose will be voluntary for both proponents and Commonwealth decision makers and subject to approval of the entity that declares and administers the mechanism under the relevant Act (e.g. declaration of a protected area under the Nature Conservation Act requires a regulation to be made by the Governor in Council).*

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227 DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, pp.13-14

228 Nick Weinert, Acting Director, Strategic Environmental Projects, Conservation and Sustainable Policy, DEHP, *Public Briefing Transcript*, 22 March 2016, p.4

229 Nick Weinert, Acting Director, Strategic Environmental Projects, Conservation and Sustainable Policy, DEHP, *Public Briefing Transcript*, 22 March 2016, p.4

230 DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, p.13

Where a Commonwealth offset area is legally secured using a mechanism supported under the Environmental Offsets Act, the deemed condition under section 25 of the Act will apply requiring removal of the legal security over the offset site and approval of an offset for the area before future prescribed development (under Schedule 1 of the Environmental Offsets Regulation) can commence.[231]

Government members' comments

Government members of the committee noted the concerns raised about the impact the proposal to require offsets for any residual impact on prescribed environmental matters may have on the housing, resources and development sectors.

Government members noted DEHP's comment that stakeholders would be provided with a copy of a draft residual impact guideline, which will define the term residual impact, for consultation prior to the second reading debate on the Bill.

Non-government members' comments

Non-government members of the committee opposed the proposed amendments to the EO Act. In particular, non-government members opposed the removal of the term 'significant' from the definition of significant residual impact.

Non-governments noted submitters' comments that they had not been consulted by the Government on the changes prior to the Bill's introduction into Parliament.

Non-government members considered that this was unacceptable, given the potential for the amendments to add significantly to the cost of new residential land development in Queensland and to impact adversely on the resources sector.

Recommendation 4

The committee recommends that the Department of Environment and Heritage Protection engage with the property, resources and development sectors to assess and establish the full impact of the proposed amendments to the environmental offsets regime in Queensland.

Recommendation 5

The committee recommends that the Minister for Environment and Heritage Protection and Minister for National Parks and the Great Barrier Reef informs the House, during the second reading debate on the Bill, of the outcome of the assessment of the impacts, including potential costs, of the proposed amendments to the environmental offset regime and if any actions will be taken.

Clauses 2, 7 and 10 - Retrospectivity, transitional provisions and compensation

The following provisions of the Bill would commence retrospectively on 17 March 2016 (the date the Bill was introduced into the House):

- protection of high value regrowth vegetation on freehold and indigenous land
- prohibition on clearing for HVA and IHVA, and
- broadening of the protection of regrowth vegetation in watercourse areas to the Burnett-Mary, Eastern Cape York and Fitzroy Great Barrier Reef catchment areas.

The other Bill provisions commence on a day to be fixed by proclamation.[232]

231 DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, p.13

232 Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016, clause 2

The potential FLP issues raised by the retrospective commencement of certain provisions are discussed in the FLP section on page 41.

The Bill also makes a number of transitional provisions which would apply during the interim period (between 17 March 2016 and Royal Assent of the Bill).

In relation to the amendments to the VM Act, the transitional provisions provide that:

- the chief executive must deal with an application for a PMAV received and not decided before 17 March 2016 under the current provisions of the VM Act, and not the Bill provisions
- any decision by the chief executive during the interim period to show an area as a Category X area on a PMAV, which subsequently becomes a Category C or R area under the Bill, is taken to have no effect
- during the interim period the chief executive must publish a proposed regulated vegetation map showing proposed Category C areas and Category R areas. The proposed regulated vegetation map is to be taken to be the regulated vegetation map on commencement
- during the interim period the definition of high value regrowth vegetation and Category C areas includes a reference to freehold land and indigenous land. The self-assessable clearing codes for Category C areas also apply during the interim period
- during the interim period the definition of regrowth watercourse and drainage feature area and Category R areas applies to an area located within 50 metres of a watercourse or drainage feature located in the Burnett-Mary, Eastern Cape York and Fitzroy catchments. The self-assessable clearing codes for Category R areas also apply during the interim period, and
- if, during the interim period, a person undertakes clearing which becomes prohibited on enactment of the provisions in the Bill, the chief executive must give the person a restoration notice.[233]

The transitional provisions for the amendments to the SP Act provide that:

- a development application for HVA or IHVA clearing which is properly made, but not decided, before 17 March 2016 would continue to be dealt with under the current provisions of the SP Act, and not the amendments proposed in the Bill
- the prohibition on HVA and IHVA clearing would not apply to existing development approvals for clearing in effect immediately before 17 March 2016
- the offence for a person carrying out clearing which would be unlawful, once the prohibition on the clearing of HVA and IHVA takes effect, does not apply during the interim period, the chief executive must instead issue a restoration notice
- any application, or decision about an application, made during the interim period for operational work that involves the clearing of HVA and IHVA would have no effect, and
- any application, made during the interim period, for a material change of use that involves clearing for HVA or IHVA clearing where the chief executive would be a concurrence agency is taken not to have been made and any decision on the application has no effect.[234]

No compensation is payable by the State to any person for or in connection with the transitional provisions that apply during the interim period.[235]

Submitters' views

Retrospectivity and transitional provisions

233 Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016, clause 7

234 Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016, clause 10

235 Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016, clauses 7 and 10

A number of submitters supported the retrospective commencement of Bill provisions. Such submitters considered that this approach would help to prevent "panic clearing" and "panic applications" to clear vegetation, and lessen the risk of large scale woodland clearing.[236]

Other submitters, including AgForce, QLS, PCA and PRA, opposed the retrospective commencement of certain provisions. They considered that the retrospective elements of the Bill were overly punitive and contrary to the principles of natural justice and to fundamental legislative principles.[237]

Submitters also raised concerns about the Bill's transitional provisions, including their impact on existing development applications made prior to 17 March 2016.[238] The PCA considered that the retrospective provisions would also cause uncertainty for landholders.[239]

In addition, submitters opposed the proposed issuing of restoration notices to those landholders deemed to have cleared land contrary to the provisions of the Bill during the interim period.[240] The PRA considered that the provision would allow a restoration notice to be issued on the reasonable belief of an authorised officer, with no trial or finding of guilt.[241]

Compensation

A number of submitters raised concerns about the lack of compensation for landholders who are affected by the proposed amendments. In particular, concerns were raised about the lack of compensation to freehold owners of land for lost opportunity costs, lost development potential and economic loss.[242] Submitters considered that landholders should be provided with incentives or compensated to preserve existing vegetation and rehabilitate areas.[243]

Other submitters, such as the Wilderness Society and WWF-Australia were not in favour of providing compensation because in their view adequate compensation was paid in the mid-2000s.[244] The Wilderness Society, stated that "when the Vegetation Management Act was amended in the mid-2000s, compensation was paid – effectively, compensation – to landholders. It was about $150 million".[245]

236 See, for example, submissions 1, 5, 6, 8, 9, 10, 11, 15, 18, 21, 22, 23, 25, 26, 29, 30, 31, 36, 37, 38, 44, 52, 54, 59, 60, 62, 63, 65, 68, 70, 74, 78, 87, 88, 89, 94, 98, 106, 110, 112, 113, 114 and Form Submission 688

237 See, for example, submissions 16, 33, 40, 48, 49, 51, 55 to 57, 66, 72, 73, 76, 83, 86, 91, 97, 598 and 654

238 See, for example, submissions 100, 102, 107, 111, 120, 122 to 125, 129, 130, 134, 136, 139, 143 and 144

239 PCA, submission 228

240 See, for example, submissions 228, 598, 621 and 654

241 PRA, submission 654

242 See, for example, submissions 16, 33, 40, 42, 48, 72, 73, 76, 83, 86, 91, 97, 100, 102, 107, 167, 169, 172, 228, 281, 283 to 285, 287, 290 to 293, 382 to 386, 469 to 476, 478 to 496, 507, 508, 570, 598, 599, 601 to 607, 609, 647, 654 and 681; Matthew Peart, *Public Hearing Transcript*, 2 June 2016 (Roma), p.24

243 See, for example, submissions 8, 9, 308, 405 and 598; Travis Sydes, FNQROC, *Public Hearing Transcript*, 17 May 2016 (Cairns), p.7; Selwyn Read, *Public Hearing Transcript*, 1 June 2016 (Bundaberg), p.21; Ian Mackay, Mary River Catchment Coordinating Committee, *Public Hearing Transcript*, 1 June 2016 (Gympie), p.7; Billy Winks, *Public Hearing Transcript*, 2 June 2016 (Roma), p.7; Don Perkin, *Public Hearing Transcript*, 2 June 2016 (Roma), p.21

244 Dr Tim Seelig, Wilderness Society, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.6; Dr Martin Taylor, WWF-Australia, *Public hearing Transcript*, 3 June 2016 (Brisbane), p.19

245 Dr Tim Seelig, Wilderness Society, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.6

Department's response

The DNRM advised that:

> *Previous amendments to the vegetation management framework have shown that any suggestion of change to the framework sees pre-emptive clearing and a rush of PMAV applications to lock in area of category X before the law changes. The nature of the current commitment made by the Government would also more than likely have seen a rush of development applications made to clear for high value and irrigated high value agriculture. Should this occur, achieving the Government's commitment would be less effective because the extent of vegetation the Reinstatement Bill moves to protect would be reduced.*[246]

In addition, the DNRM advised that the retrospective commencement of Bill provisions will not affect:

- development approvals for HVA or IHVA decided prior to 17 March 2016
- development applications for HVA or IHVA properly made prior to 17 March 2016
- Category X areas on PMAV made prior to 17 March 2016, and
- PMAV decisions not affected by proposed new Category R and Category C areas.[247]

In response to the development sector's concerns about uncertainty during the interim period, the DNRM stated that the:

> *… Bill contains provisions that allow areas of proposed category C and R on freehold and indigenous land to apply the self-assessable vegetation clearing codes for category C and R areas during the retrospective period.*
>
> *This means that development can follow the requirements of the applicable self-assessable clearing code if clearing proposed category C and R during the retrospective period. On this basis, the lodging of development applications can still proceed*.[248]

The DNRM acknowledged that the Bill will mean that any decision to make proposed Category C and R areas into Category X, via the PMAV application process, during the retrospective period, will have no effect.

The DNRM stated, however, that the Bill "… does not prevent PMAV applications from being submitted and decided during the retrospective period" and "not all areas that are made Category X during this period will be of no effect on commencement of the Reinstatement Bill".[249] For example, Category X areas made during the retrospective period that do not meet the criteria for proposed Category C and R areas (for example, clearing has occurred after 31 December 1989 for Category C) will be retained as Category X on commencement of the Bill.[250]

In relation to concerns about restoration notices, the DNRM clarified that clause 10 provides that unlawful clearing during the interim period is not an offence and, therefore, a conviction would not be recorded, nor a penalty infringement notice issued.

The DNRM advised that any restoration notice issued must follow the existing requirements and procedures in the VM Act which, in essence, require that the chief executive must determine whether a restoration notice is necessary or reasonable. In addition, DNRM confirmed that a person who receives a restoration notice may request an internal review or a review by QCAT.[251]

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246 DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, p.7

247 Sue Ryan, Deputy Director-General, Policy and Program Support, DNRM, *Public Briefing Transcript*, 22 March 2016, p.3

248 DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, p.7

249 DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, p.7

250 DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, p.7

251 DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, p.8

The DNRM advised that compensation associated with impacts from the broader vegetation management framework is 'a matter for Government.' The DNRM noted that:

> *In 2004, the Beattie Government provided a $150 million structural adjustment package to landholders and business affected by the ending of broadscale clearing. 1466 landholders were provided up to $100,000 in enterprise assistance to assist affected landholders to improve productivity and viability of their farming business.*
>
> *The right to broadscale clear for agriculture has only been available since December 2013, and only allows this clearing to occur for agriculture that is high value, not all agriculture.*
>
> *The regulation of regrowth clearing in 2009 included provisions to allow primary producers who experienced financial hardship as a result of the new regulations to be able to apply to clear otherwise protect[ed] regrowth. No applications were received.*[252]

Government members' comments

Government members of the committee supported the retrospective commencement of certain provisions of the Bill and the associated transitional provisions. Government members considered that the provisions were necessary to deter what some submitters have referred to as panic clearing while the Bill is being considered by Parliament.

Government members noted DNRM's advice about the assistance packages previously provided to landholders in relation to earlier changes to the vegetation management framework.

Non-government members' comments

Non-government members of the committee opposed the proposed retrospective commencement of Bill provisions. Non-government members shared the views of submitters, such as AgForce, QFF and the QLS that the amendments breach the fundamental legislative principles, as they would adversely impact on the rights and liberties of landholders. Non-government members also considered that the retrospective nature of the provisions would create uncertainty for landholders and put on hold their plans for future development.

In relation to the lack of compensation from the Government, non-government members considered that as landholders were being expected to maintain their land for the public good, they should be compensated by the Government for doing so. Non-government members noted that while some landholders may have received compensation in relation to previous amendments to the VM Act, the further restrictions in the Bill, which would adversely impact on the viability of landholders' land, warranted the payment of further compensation to landholders.

252 DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, p 6.

4. Fundamental legislative principles and explanatory notes

Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* states that the fundamental legislative principles (FLPs) are the "principles relating to legislation that underlie a parliamentary democracy based on the rule of law". The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of Parliament.

The committee has examined the application of FLPs to the Bill. The committee brings the following provisions to the attention of the House.

Rights and liberties of individuals

Clause 6 – reverse onus of proof

Clause 6 inserts new section 67A into the VM Act to provide that the clearing of vegetation on land in contravention of a vegetation clearing provision is taken to have been done by the occupier of the land in the absence of evidence to the contrary – in effect, reversing the onus of proof.

Section 4(3)(d) of the *Legislative Standards Act 1992* provides that legislation should not reverse the onus of proof in criminal proceedings without adequate justification.

The committee notes the justification provided in the Explanatory Notes, including: a lack of available evidence due to clearing occurring in remote areas; the improbability of clearing by a third party due to the associated costs; and the landholder's ability to provide evidence to prove their innocence – see pages 21 to 23 for further detail.

Request for advice

The committee requested further advice from the DNRM in relation to the proposed amendment including what other options were considered to help secure successful prosecutions. In response, the DNRM stated:

> *Reinstating the reverse onus of proof constitutes part of the Government's election commitment to reinstate vegetation management provisions repealed by the previous Government. Given this commitment, alternative options were not considered.*
>
> *As a model litigant, the State will always follow due process when investigating vegetation clearing offences, and a landholder is able to provide evidence to prove that another person undertook the clearing on their property without their knowledge or consent. The State also remains responsible for establishing and proving that a vegetation clearing offence has occurred.*
>
> *The proposal to reinstate the reverse onus of proof is not simply to make prosecutions easier, or for administrative convenience, but is necessary in the circumstances where there is no conclusive evidence of who undertook the clearing on the landholder's property. Satellite imagery may establish that clearing has taken place, but not necessarily who undertook the clearing.*
>
> *An increase in resources of compliance officers would not necessarily resolve these issues, as given the size of Queensland, and isolated regions in which much clearing takes place, satellite imagery would still largely need to be relied upon, even if additional compliance staff were on the ground.*[253]

[253] DNRM, *Correspondence*, 22 June 2016, pp.1-2

Committee comment

The committee notes the additional advice provided by the DNRM and the justifications provided in the Explanatory Notes for the FLP issues raised by the proposed amendment.

The committee considers that, on balance, the provision at clause 6 of the Bill which reverses the onus of proof in relation to potentially unlawful clearing does not have sufficient regard to the rights and liberties of landholders. The committee, therefore, recommends that the provision be omitted from the Bill – see Recommendation 3.

Clause 6 – removal of mistake of fact defence

Clause 6 inserts new section 67B into the VM Act to provide that section 24 of the *Criminal Code* (Mistake of Fact) does not apply to proceedings against a person for a vegetation clearing offence.

The removal of the defence of mistake of fact arguably negates due process and thereby may not have sufficient regard to the rights and liberties of individuals pursuant to section 4(2)(a) of the *Legislative Standards Act 1992*.

The committee notes the justification provided in the Explanatory Notes, including: the difficulties in negating the defence of a mistake of fact to secure prosecutions; the significant environmental impact of clearing; the available information on the vegetation management framework and the fact that the framework has been in place for 15 years with limited procedural amendments – see page 24 for further details.

Request for advice

The committee requested further advice from the DNRM about the proposed amendments, including how natural justice for landholders would be maintained in the absence of the defence of mistake of fact. In response, the DNRM stated:

> *For any investigation of unexplained clearing, the department always follows procedural fairness requirements established by the Judicial Review Act 1991, Public Services Act 2008 and the Code of Conduct for the Queensland Public Service. Where unexplained clearing is identified, landholders are provided a right of reply before any action may be taken.*
>
> *Should the department issue a decision in relation to clearing being unlawful, and require restoration of the vegetation cleared, a landholder has a further right of reply through the Queensland Civil and Administrative Tribunal (QCAT) in relation to the restoration. Similarly, landholders can challenge a prosecution or fine relating to unlawful clearing through the Magistrates Court.*
>
> *DNRM also undertakes a proactive approach to education and compliance. DNRM has made extensive information freely available to assist landholders to determine what vegetation is mapped on their property and the requirements that apply. In addition, Departmental officers are available by telephone or in person to assist landholders in interpreting the vegetation management laws if they are unsure how they apply to their property.*
>
> *Landholders can also request a Property Map of Assessable Vegetation (PMAV) to ensure the accuracy of vegetation boundaries on their property. The PMAV process provides for the internal review of decisions made under the Act, and where dissatisfied with the review decision, the applicant may also apply for external review by the QCAT.*
>
> *Landholders can undertake clearing of Category X areas shown on the Regulated Vegetation Management Map or PMAVs without any approvals under the vegetation management framework. If landholders are uncertain about clearing within regulated areas, they can contact DNRM for assistance and clarification.*

> *Despite these available avenues that provide certainty for landholders, it is important to note that during an investigation of potential unlawful clearing of regulated vegetation the accuracy of the mapping would be a key factor that is checked by the department, in determining whether clearing was unlawful, or not.*[254]

The DNRM also advised that the mistake of fact defence has been removed as a defence under a number of pieces of legislation, including the *Heavy Vehicle National Law Act 2012*, *Work Health and Safety Act 2011* and *Safety in Recreational Activities Act 2011*.[255]

Committee comment

The committee notes the additional advice provided by the DNRM. Government and non-government members' comments on this provision can be found at page 26.

Clauses 2, 7 and 10 – retrospective commencement of provisions

Clauses 2, 7 and 10 provide that a number of provisions are to commence retrospectively on 17 March 2016 - see page 34 for further details.

Section 4(3)(g) of the *Legislative Standards Act 1992* provides that legislation should not adversely affect rights and liberties, or impose obligations, retrospectively. The committee notes that strong argument is required to justify an adverse effect on rights and liberties, or imposition of obligations, retrospectively.

The committee notes that the retrospective commencement may impact on landholders' rights, including the right to:

- clear particular vegetation between 17 March 2016 and date of Royal Assent, and
- have certain applications considered or amended.

The Explanatory Notes state that "retrospectivity is necessary to ensure pre-emptive clearing and increases in certain applications do not render the reforms less effective".[256] The Explanatory Notes also stated that while "There may be some detrimental effects on individual rights in relation to these applications … individual rights are outweighed by the public interest to protect the long-term health of our biologically diverse state and our world heritage listed Great Barrier Reef, and to reduce carbon emissions from vegetation clearing".[257]

In addition, the DNRM also advised that in order to support public understanding of the impact of the retrospective provisions it has published web content and published proposed regulated vegetation management maps which identify proposed Category C and proposed Category R areas.[258]

Request for advice

The committee requested further advice from the DNRM in relation to the proposed amendments. In response, the DNRM stated:

> *The risk of pre-emptive clearing and applications has been demonstrated in 1999 and in 2009.*
>
> *The Vegetation Management Bill 1999 was introduced into Parliament in December 1999 but not debated and passed until September 2000. The Statewide Landcover and Trees Study (SLATS) reported clearing rates for the 1997-1999 periods (prior to the introduction of the Bill) were 425,350 hectares per year. Clearing rates during the 1999-*

254 DNRM, *Correspondence*, 22 June 2016, pp.2-3

255 DNRM, *Correspondence*, 22 June 2016, p.3

256 Explanatory Notes, p.5

257 Explanatory Notes, p.5

258 DNRM, DEHP and DSITI, *Departmental Response to Submissions*, 2 June 2016, p.7

> *2000 period increased to 757,790 hectares per year then reduced to 380,160 hectares per year during 2000-2001.*
>
> *Landholder PMAV applications also demonstrated an increase in response to the moratorium on regrowth clearing that was introduced in April 2009. The increased rate continued until the new regrowth regulations came into effect in October 2009.*[259]

The DNRM also advised that it has identified one unexplained clearing event of vegetation proposed to be regulated by the Bill which requires further investigation.[260]

Committee comment

The committee notes the additional advice provided by the DNRM. Government and non-government members' comments on these provisions can be found at page 38.

Institution of Parliament

Clause 31 – application of *Environmental Offsets Act 2014* to Commonwealth offset conditions

Clause 31 inserts new section 89D(2) into the EO Act to provide that a regulation may prescribe the circumstances under which a proposed payment of an amount as a financial settlement offset for a Commonwealth offset condition cannot be made into the State offset account.

Section 4(4)(c) of the *Legislative Standards Act 1992* provides that whether a Bill has sufficient regard to the institution of Parliament depends on whether the Bill authorises the amendment of an Act only by another Act.

A clause in an Act, which enables the Act to be expressly or impliedly amended by subordinate legislation or executive action is sometimes referred to as a Henry VIII clause. The former Scrutiny of Legislation Committee considered the possible use of Henry VIII clauses in the following limited circumstances:

- to facilitate immediate executive action
- to facilitate the effective application of innovation legislation
- to facilitate transitional arrangements, or
- to facilitate the application of national scheme legislation.[261]

The Explanatory Notes acknowledge the potential FLP issues raised by the amendments and provide the following justification:

> *The inclusion of this power raises the issue of whether the Bill has sufficient regard to the institution of the Parliament.*
>
> *It is possible that unanticipated matters may arise given the innovative nature of this new arrangement. The regulations will provide an ability to ensure that the delivery of offsets by the state is consistent with the purpose of the Act and in the best interest of the state.*
>
> *Under the Statutory Instruments Act 1992, any regulation made under the proposed new power must be tabled in the Legislative Assembly and will be subject to potential disallowance.*[262]

259 DNRM, *Correspondence*, 22 June 2016, p.4

260 DNRM, *Correspondence*, 22 June 2016, p.5

261 Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: *The OQPC Notebook*, p.159

262 Explanatory Notes, p.6

Explanatory notes

Part 4 of the *Legislative Standards Act 1992* relates to Explanatory Notes. It requires that an Explanatory Note be circulated when a Bill is introduced into the Legislative Assembly, and sets out the information an Explanatory Note should contain. The committee notes that Explanatory Notes were tabled with the Bill on its introduction in the Legislative Assembly.

Committee comment

The committee considers that the Explanatory Notes are fairly detailed and contain the majority of the information required by the *Legislative Standards Act 1992*, as well as a reasonable level of background information and commentary to facilitate understanding of the Bill's aims and origins.

Appendix A: List of submitters

Sub No.	Submitter		
1	Robin Ellis	36	Perth Burrin
2	Alex Thomas	37	Elaine Bayes
3	Alan Carpenter	38	Kris Schmah
4	Julie Kearney	39	Peter Campion
5	Erica Siegel	40	Daniel Howe
6	Jacquie Sheils	41	Rory Chapple
7	Lisa Ackerman	42	Golden Grazing Pty Ltd
8	Elizabeth Hobson	43	Edwin Lecons
9	Wildlife Preservation Society of Queensland, Logan Branch Inc.	44	Peter Nicholas
10	Stuart Cooke	45	Siobhan Paget
11	Lynda Staker	46	Roy Swan
12	Carol Collins	47	Yvonne Fessler
13	Phillipa Rooke	48	Margaret and Ashley House
14	Bernadette Duffy	49	Dale Smith
15	Jan Mitchell	50	Apostolis Hadoulis
16	Eddie Burchill	51	Ewen Hendren Dozer Hire Pty Ltd
17	Anthony Montapert	52	Karen Toms
18	Koala Action Inc.	53	Pinnacle Pocket Consulting
19	Noel Waterman	54	Dereka Ogden
20	Derek Robertson	55	Victoria Downs Pastoral Pty Ltd
21	Douglas Stetner	56	Blair and Josie Angus
22	Sue Ogilvie	57	Robert and Melinee Leather
23	Sally Wylie	58	Tiaro Motorcycle Wreckers
24	Shannon O'Grady	59	Helen Ampt
25	Julian Beaman	60	Robert Rutkowski
26	Lisa Sawtell	61	Dr John Iser
27	Julie O'Neill	62	Dick Clarke
28	Greg Baxter	63	Anna Rose
29	Dr Fiona McAllan	64	Peter Young
30	Angus Macqueen	65	Paul Loney
31	Adrian Cooke	66	Bassett Cattle Co
32	Holly Nath	67	Mal Anderson
33	Robert Byrnes	68	Sylvia Cooper
34	Nicole Bannister	69	Lizz Hills
35	Claire Law	70	Marita Macrae

71	Louise Annett
72	Alan and Louise Travers
73	Paul Eadleston
74	Mitzi Frank
75	Confidential
76	Peter Williams
77	Julian Hinton
78	Lisa Mikolich
79	Sue Collings
80	Jonathan Peter
81	Tony Slater
82	Cheryl Kneipp
83	Steven Van Ballegooyen
84	Continuum Landscapes
85	Sarah Buckley
86	Dolores Sparrow
87	Kirsty MacPherson
88	Jan Massey
89	Mark Jones
90	Luke and Jean Daglish
91	T and C Austin
92	Petra and John Jones
93	Rochelle Wood
94	Katharine Cordner Hunt
95	Rachael Lee
96	Michael Smalley
97	David Torrisi
98	Bronwyn Evans
99	Caroline Kohl
100	Cameron Summerville
101	Margaret Schofield
102	Peter Wilson
103	Wildlife Rescue Inc.
104	Return to the Wild Inc.
105	Dita Skalic
106	Dr Rob Taylor
107	Roger Landsberg
108	Mary Maher
109	Ali Roush
110	Kylie Jones
111	Selwyn Russell
112	Helen Sturmey and Brian McCarthy
113	Christine Bennett
114	Kylie Jones
115	Roslyn Rhodes
116	Dr Anna Sri
117	Sheryn Ryan-Raison
118	Helen Taylor
119	Victoria and Doug Fitzpatrick
120	John and Barbara Black
121	John van Grieken
122	Argyle Pastoral Company (Qld) Pty Ltd
123	G C Raymond
124	Henriette Hurley
125	Trinidad Pastoral Company
126	SEQ Catchments Ltd
127	Robert Dickinson
128	Sharon Northage
129	Western Rural Services
130	Bruce Paulsen
131	Emma Henderson
132	Rachel Potter
133	Anita Gluyas
134	D R and A Y and D A Nowland
135	Jill Fechner
136	Callistemon Cattle Company
137	Seqwater
138	Michael Peel
139	Graham and Sandra Turner
140	Great Barrier Reef Marine Park Authority
141	Environment and Health Committee
142	Christian Perrin
143	Owen and Hazel Anderson
144	Charlene Rowe
145	Janelle Vaughan and Allan Coppin
146	P B and I N Elmes
147	Confidential
148	WWB Environmental

149	Bruce Collins	184	Catherine Laurence
150	Wildlife Queensland, Cassowary Coast – Hinchinbrook Branch	185	Heather Albrecht
151	Clinton and Andrew Gale	186	Lisa Quinn
152	Susan Glasson	187	Confidential
153	D F and N M Penna Trustees	188	B T B Pastoral Pty Ltd
154	John Simpson	189	L and J M Martin
155	Slatey Creek Partnership	190	Mungarru Lodge Sanctuary
156	John and Carol Pocock	191	Leon Blank
157	Carl Warner	192	DWAJ Pty Ltd
158	Ergon Energy	193	Confidential
159	Taryn Haynes	194	Confidential
160	Cotton Australia	195	B and J Brose
161	Kathleen O'Donnell	196	Dennis Nowland
162	Samuel and Emma Parker	197	McWaters Pastoral
163	R M Pegler Family Trust and S and J Pegler Pastoral Trust	198	Redback Grazing
164	Birds Queensland	199	Myles Jefferson
165	Larissa Roberts	200	Tarko Past Co
166	Richard Ball	201	Peter Vanderduys
167	Barry Hoare	202	Naomi Wheatley
168	Paul Hutchins	203	Norm Morwood
169	P and C Sabag	204	Ian Warway and Regina Bos
170	Rachel Cassidy	205	Kuranda Conservation Community Nursery Inc.
171	Yvonne and Bret Dalziel	206	G E and J A Elmes
172	Cameron Miller	207	Confidential
173	Tony van Kampen	208	Christine Fraser
174	Wildlife Queensland, Sunshine Coast and Hinterland Inc.	209	Geoff Moffatt
175	Maxine Godley	210	Rowan Silva
176	Geoffrey and Kate Swanson	211	Birdlife Capricornia
177	Craig and Trudy Hampson	212	Kate Chapman
178	Wildlife Preservation Society of Queensland Fraser Coast Branch Inc.	213	Jack Wilkie-Jans
179	R K and R H Jeremy	214	Dr Bill Burrows
180	Helen Chapman	215	Confidential
181	Bruce Chapman	216	Kimorey Cattle Company
182	Tableland Canegrowers	217	A L Nuhn
183	Patricia and Stuart Leahy	218	Alison Darley

219	Amy-Rose West
220	Bellroy Pastoral Company
221	Des Hoban
222	John Buckley
223	Julie Kruckow
224	K and W Findlay
225	Michael Kruckow
226	Peter Williams
227	Richard Koerner
228	Property Council of Australia
229	Malanbar Grazing
230	Heather Britten
231	Bruce Wagner
232	Glencoe Stock Company
233	John Giese
234	S L D and P and D S L and L Winten
235	Local Government Association of Queensland
236	Peter Schmidt
237	Peter Burke
238	E A Turner
239	Audrey Warner
240	Chesalon Grazing Company
241	S J & S D Torrisi
242	Confidential
243	Confidential
244	Coolum Residents Association
245	Warren and Gail Jonsson
246	Diana Tomkins
247	Jan Aldenhoven
248	Randi Dissanayake
249	Booroondarra Pastoral Company
250	Vicki Johnson
251	Biddenham Pastoral Co Pty Ltd
252	Leslie Midson
253	Lyn Wallace
254	Bimblebox Nature Refuge
255	Kerry Sutherland
256	Dr Geoff Stocker
257	Emma White
258	Robert Dalglish
259	Nathan Laurent
260	Arrabury Pastoral Company Pty Ltd
261	Kim Hudson
262	Adriana Bauer
263	Confidential
264	M J Peterson
265	Stuart Crichton
266	Dr Myjenta Winter
267	Alison Warner
268	Consumer Rights and No Tolls
269	Richard Ledgar
270	Wildlife Preservation Society of Queensland – Townsville
271	Rosario Puglisi
272	Julie Pratt
273	Bulimba Creek Catchment Coordinating Committee
274	High Country Pastoral Pty Ltd
275	Alan and Penelope Wallace
276	WPSQ – Logan
277	Michael and Judy Treloar
278	William and Sasha Treloar
279	MSF Sugar Limited
280	Kym McMahon
281	Queensland Dairyfarmers' Organisation Ltd
282	Mahogany Glider Recovery Group
283	Urban Development Institute of Australia
284	Abbieglassie Grazing Co
285	Alice Downs Partners
286	David Odling-Smee
287	Stewart and Kerry Wallace
288	Ian Gorrie
289	Whitsunday Residents Against Dumping
290	John and Diana Schutt

291	Queensland Resources Council	328	Ian Burnett
292	Kenneth Stevens	329	Dr Joan Vickers
293	N A and N G Angus	330	Charles Nason
294	Gemma Wright	331	Caroline Rentel
295	Phillip and Kathy Dodge	332	William Crichton
296	Great Barrier Reef Divers	333	Jennifer Crichton
297	Mackay Conservation Group	334	Dean Steinhardt
298	Cairns Regional Council	335	Birdlife Mackay
299	Simon and Myriam Daley	336	Dora Aitken
300	Cathi Zanevra	337	Jenny Moore
301	Pacific Century Production Pty Ltd	338	Ken Aberdeen
302	TJ & HL Jones and Dale Jones	339	David Paynter
303	Cornford Grazing Company	340	Confidential
304	Denise Seabright	341	Confidential
305	Confidential	342	Confidential
306	Robyn Cox	343	Confidential
307	Ann Palmer	344	Confidential
308	Cook Shire Council	345	Surfrider Foundation Australia
309	Julie Tasker	346	Queensland Farmers' Federation
310	Peter Cook	347	Pamela Ison
311	Joan Bruce	348	Nicoll Beattie
312	Jennifer Warner	349	Gary and Evelien Parker
313	Karen Moores	350	Koala Action Group/Queensland Koala Crusaders
314	A.H. Pastoral Co	351	Mareeba Shire Council
315	Thomas C Fletcher	352	Magnetic Island Community Development Association Inc.
316	Bernard Jean	353	Gecko
317	Waroona Pastoral Co	354	Peter Shooter
318	L D Gnech and A Nuhn	355	Sheila Davis
319	Julia Caroline Ross	356	Confidential
320	Lucy Wallace	357	Julian Tomlinson
321	Alliance to Save Hinchinbrook	358	Ishara Udawela
322	P J and D L Verri	359	Alex MacPherson
323	Steven Nowakowski	360	Glen Fearby
324	Rhonda Green	361	Dr Sandra Taylor
325	Christin Plint	362	Confidential
326	Amelia Gebhardt	363	Margaret Ferguson
327	Joanna Swida	364	RH and RJ Simmons

365	Shananther Wong	400	Cement Concrete and Aggregates Australia
366	Des Edmonds	401	Cobb Cattle Co
367	North Queensland Wildlife Care Inc.	402	Bryant Family Grazing
368	C W Slack	403	Brett Kinnon
369	Cracow Station Pty Ltd	404	Ariana Magini
370	Janette Asche	405	Queensland Greens
371	Dr Sue Schofield	406	Mike Downes
372	Thomas Cramer	407	Confidential
373	Dr Harry Asche	408	Trevor Bacon
374	Frog Safe Inc.	409	Bruce Currie
375	Confidential	410	Corey Back
376	Eve Plant	411	Julia Hazel
377	Jarad Kornfeld	412	Pippa Kern
378	Mary River Catchment Coordinating Committee	413	Richard Frederick Williams
379	Noel Bird	414	Theresa Babcock
380	Confidential	415	Margy Gaynor
381	RL and NJ Clem and Pocknee and Clem Optometrists Pty Ltd	416	Mt Spencer Pastoral Company
382	Charlton Doblo	417	Lesley Keegan
383	Andrew Rea	418	Dr Rodney Jones
384	Mareeba District Fruit and Vegetable Growers Association Inc.	419	Tanya Golitschenko
385	P R and J Kahler	420	Anne and Lawrie Martin
386	Far North Queensland Regional Organisation of Councils	421	Belahna Cattle Co
387	Honey Newman	422	Koala Action Group Gympie Region
388	Eden Palms Enterprises	423	Banana Station and Barranga Grazing
389	Col and Bern Thompson	424	Monique and Graham Bond
390	Hope Vale Aboriginal Shire Council	425	Bonny Cumming
391	Vivien Griffin	426	Wide Bay Burnett Environment Council
392	Carly Baque	427	Latrobe Partnership
393	Ian Johnson	428	Ian and Sue Harrison
394	Kathy Turner	429	Confidential
395	Sue O'Brien	430	Kendall River Station
396	Paul May	431	Lionel and Angela Smith
397	Suzette Pelt	432	Kathy McDonald
398	Peter and Annette Marriott	433	Jarlath Reidy
399	Leonie Curran	434	Peter Maslen

435	Frank Pagram
436	Frank Box
437	Springvale Grazing
438	Pocock Partners
439	Canegrowers
440	Merriel Hume
441	Australian Conservation Foundation
442	Wilstone Grange Business Community
443	Di Glynn
444	Donald E Gilbert
445	Australian Sugar Milling Council
446	Keirin Shawn
447	Nick Wriede
448	Michelle Finger
449	Barrett and Company
450	North Gulf Resource Management Group
451	Andrew Cameron
452	Olkola Aboriginal Corporation
453	Tablelands Futures Corporation
454	Allen and Barbara Clark
455	Sandy McCathie
456	Cassowary Coast Alliance
457	Tamborine Mt Natural History Association
458	Nadia O'Carroll
459	Kerry O'Carroll
460	F S & W P Holmes
461	Glenda Orr
462	Institute of Public Affairs
463	Allan Goody
464	Lynette Bosworth
465	Joel Kirk
466	Rob Williams
467	Confidential
468	Meripah
469	Aremis Cattle Co
470	David Rutherford
471	Michael Ross
472	David Liddy
473	Barry J Port
474	Col Burns
475	Gummi Jungait Corporation
476	Tim McGreen
477	Confidential
478	R G and K R Robertson
479	Cameron Maclean
480	M and V Inverardi
481	R G and A M Raymond
482	G C and S M Shephard
483	David and Allison Woodside
484	Ashleigh Hatfield
485	Astrea Station
486	Michelle Innes
487	Kathleen Colless Superannuation Fund
488	Barry Good
489	Bonny Glen Station
490	Alan Wilson
491	Ann Woeller
492	N J and B J Shepard
493	James Creek
494	S G and S Ahlers
495	R V and N E Woods
496	Caloola Station
497	Confidential
498	Kathleen Colless Pty Ltd
499	Confidential
500	Cape York Weeds and Feral Animals
501	Station Creek
502	Confidential
503	Confidential
504	Queensland environmental scientists
505	Protect the Bush Alliance
506	Environment Institute of Australia and New Zealand

507	Sandra Hendren	543	Amy Westman
508	Australian Petroleum Production & Exploration Association Limited	544	Eleanor Hanger
509	Jane Goodall's Roots & Shoots	545	Meredith Stanton
510	Confidential	546	Eprapah Creek Catchment Landcare Association
511	Karina Waterman	547	April Reside, Centre for Biodiversity and Conservation Science, University of Queensland
512	George Chapman	548	Andrew Schmidt
513	Robert John Crichton	549	Carol Stephenson
514	Isaac/Mackenzie River Agforce Branch	550	Colin and Noeleen Ferguson
515	Peter Mahony	551	Nathan Frazier
516	Alex and Anne Stuart	552	Robert Bass
517	Environmental Defenders Office NQ	553	Jude Garlick
518	Deborah Metters	554	Scott Gordon
519	Iain Pritchard	555	Marie Ward
520	Kerry Trapnell	556	Tom Franz
521	David L'Oste-Rolfe	557	Lindy Collins
522	Ellie Bock	558	Georgie Somerset
523	Chuulangun Aboriginal Corporation	559	Robert Somerset
524	Barbara Steiner	560	Mac Somerset
525	Almafi Cattle Company Pty	561	Jennifer Terrey
526	Rosewood District Protection Organisation	562	Kerrie Fraser
527	Olive Vale Pastoral Pty Ltd	563	David Kault
528	Koala Action Group Queensland	564	Tooloombilla Partnership
529	Raine Logan	565	Junee Pastoral Co.
530	Micah Chataway	566	North Queensland Conservation Council
531	Peter Reay	567	Australian Marine Conservation Society
532	Damien Federichs	568	WWF-Australia
533	Michelle Fatur	569	Benjamin Somerset
534	Don Groves	570	Charters Towers Regional Council
535	The School of Biological Sciences – University of Queensland	571	Magnetic Island Nature Care
536	Jane Gray	572	JW BA Connelly
537	Chris Attewell	573	Ceris Ash
538	John te Kloot	574	Womblebank Cattle Co
539	Marni Baker	575	Robert G Chataway
540	Christine McCoy and Michael Kearey	576	Malcolm Mars
541	Nicole Tomsett	577	Stephen Kearney
542	Georgia Stevenson	578	Confidential

579	Kevin Blackman	613	G W and V R Champion
580	Queensland Conservation Council	614	Neville Williams
581	Ruth Lipscombe	615	Greg and Brian Radke
582	Humane Society International	616	R M and P S Favier
583	Cairns and Far North Environment Centre	617	Jackie Lee
584	Kristin Keane	618	MaryAnne Anderson
585	Lynne Porter	619	Barry Lee
586	Rick Gurnett	620	Paul Sharman
587	Darryl George Steinback & Charmain Elizabeth Steinback	621	Moreton Bay Regional Council
588	Ken Fry	622	Confidential
589	Gilbert River Agricultural Precinct	623	Warsdale Grazing Co
590	Patricia Kelly	624	Peter Joliffe
591	School of Agriculture and Food Sciences, University of Queensland	625	Queensland Law Society
592	Environmental Defenders Office QLD	626	Karla Tobin
593	Essemco Pty Ltd	627	Mountain Cottage Pastoral Pty Ltd
594	Glen Carruthers	628	Cape York Land Council Aboriginal Corporation
595	Logan and Albert Conservation Association	629	Kathy Faldt
596	Steven James Hyem	630	Native Plants Queensland
597	Wildlife Preservation Society of QLD	631	Greenpeace Australia Pacific
598	AgForce Queensland Industrial Union of Employers	632	Logan and Albert Conservation Association Inc.
599	Glenorie Grazing Company	633	A F and C R Guilfoyle
600	Confidential	634	M J and V L Franklin
601	Dr Ian Beale	635	Catholic Justice and Peace Commission of Brisbane
602	Scott Harris	636	M W and P J Armstrong
603	Moran Trading Pty Ltd	637	Cape York Scientists
604	Cape York Sustainable Futures	638	Warsdale Grazing Co
605	Greg Williams	639	P and E Law
606	Brent Gadsby	640	Mariko McConnell
607	Taree Grazing Company	641	Warner Partners
608	Wildlife Preservation Society of Queensland – FNQ/Cairns Branch	642	Ian Lambert
609	Bronwynne Barnes	643	Eric Vaderbuys
610	Sue Laird	644	Confidential
611	Rob and Julie Moore	645	Cape York Alliance
612	Anthony Slater	646	D K and K Noon

647	Etheridge Shire Council
648	Gamarard Consulting
649	Mary Kelsey
650	Confidential
651	R G and R H Bendel
652	Animal Liberation Queensland
653	Brisbane Regional Environmental Council
654	Property Rights Australia
655	Dylan Hughes
656	Garry Reed
657	Kay Boulden
658	Biome5 Pty Ltd
659	Paws and Brooks Nature Sanctuary Inc.
660	Quentin Lancrenon
661	Origin Energy
662	Glenda Pickersgill
663	David White
664	Wildlife Queensland Gold Coast and Hinterland Branch
665	Maureen Brannan
666	Jason McLean
667	Heather Reycraft
668	Kateroy Grazing
669	Don Perkins
670	Brigalow Beef Company
671	Elijah Chataway
672	Angas Hopkins
673	E J S and E Windley
674	The Wilderness Society
675	Fiona Ryan
676	David Clark
677	Lyubka Simeonova
678	Tony Brett
679	Michael Cahill
680	Philippa Cutter
681	John Crook-King
682	Lorraine Tacounci
683	Robyn Moore
684	Marilyn Kunde
685	Beverley Weaver
686	Karey Haj
687	Anne Wale
688	Forms Submission A
689	Tablelands Regional Council

Appendix B: Briefing officers and hearing witnesses

Public briefing – 22 March 2016
Lyall Hinrichsen – Executive Director, Land and Mines Policy, Department of Natural Resources and Mines
Graham Nicholas – Director, Land and Mines Policy, Department of Natural Resources and Mines
Elisa Nichols – Executive Director, Office of the Great Barrier Reef, Department of Environment and Heritage Protection
Sue Ryan – Deputy Director-General, Policy and Program Support, Department of Natural Resources and Mines
Nick Weinert – Acting Director, Strategic Environmental Projects, Conservation and Sustainability Policy, Department of Environment and Heritage Protection

Public hearing – Cairns - 17 May 2016
Des Bowen – Cape York Land Council Aboriginal Corporation
Shannon Burns – Policy Officer, Cape York Land Council Aboriginal Corporation
Bernard Charlie - Cape York Land Council Aboriginal Corporation
Harold Ludwig - Cape York Land Council Aboriginal Corporation
Darlene Irvine – Executive Officer, Far North Queensland Regional Organisation of Councils
Travis Sydes – Regional Coordinator, Natural Asset Management and Sustainability, Far North Queensland Regional Organisation of Councils
Clr Bronwyn Voyce – Board Member and Councillor, Tableland Futures Corporation and Tablelands Regional Council
Tanya Heber – Principal Solicitor, Environmental Defenders Office of North Queensland
Andrew Picone – Northern Australia Program Officer, Australian Conservation Foundation
Tim Cronin – Chief Executive Officer, Cook Shire Council
Kathy Hughes – Board Member, Conservation, Cape York Sustainable Futures
Cathy Johnson – Senior Biosecurity Officer, Cook Shire Council
Jack Wilkie-Jans – Board Member, Indigenous Business Development, Cape York Sustainable Futures
Peter Spies – Private Capacity
David Kempton – Private Capacity
Cynthia Sabag – Private Capacity
George Chapman – Private Capacity
Raylee Byrnes – Private Capacity
Peter Nott – Private Capacity

Public hearing – Townsville - 18 May 2016
Leigh Gray – Acting Director, Reef Recovery, Great Barrier Reef Marine Authority
Clare Baldwin – President, North Queensland Wildlife Care Inc.
Margaret Neihoff – Vice-President, North Queensland Wildlife Care Inc.
Gail Hamilton – President, North Queensland Conservation Council
Maree Dibella – Acting Coordinator, North Queensland Conservation Council

Wayne Smith – Manager, Member Services, Canegrowers
Allan Parker – Private Capacity
Geoff Cox - Private Capacity
Noeleen Ferguson - Private Capacity
Patrick Keane - Private Capacity
Cindy Eiritz – Volunteer, Healthy Soils Australia
Ann Rebecca Smith - Private Capacity
Enrico Mio - Private Capacity
Steve Cox - Private Capacity
Frank Hughes - Private Capacity

Public hearing – Emerald - 19 May 2016
AgForce Regional Representatives: Janeice Anderson Paul Anderson John Baker Greg Bennett Barry Hoare Stuart Leahy Peter Mahony
Susan Mortimer - Private Capacity
Ron Bahnisch - Private Capacity
Lachlan Millar MP, Member for Gregory
Hugo Spurner - Private Capacity

Public briefing – 25 May 2016
Simon Conlon – Senior Policy Officer, Land and Mines Policy, Department of Natural Resources and Mines
Lyall Hinrichsen – Executive Director, Land and Mines Policy, Department of Natural Resources and Mines
Peter Lazzarini – Director, Land and Mines Policy, Department of Natural Resources and Mines
Amber Wenck – Principal Policy Officer, Land and Mines Policy, Department of Natural Resources and Mines

Public hearing – Bundaberg – 1 June 2016
Tom Marland – Principal Solicitor, Marland Law
Jane Barratt – Senior Environmental Specialist, WWB Environment
Brad Newton - Private Capacity
Ian Gorrie - Private Capacity
James Collins - Private Capacity
Neville Galloway - Private Capacity
Kathy Hayes - Private Capacity
Hazel Marland OAM - Private Capacity
Leo Neill-Ballantine - Private Capacity

Georgie Somerset - Private Capacity
Barbara Hockey - Private Capacity
Helen Rogers - Private Capacity
Matthew Leighton - Private Capacity
Arthur Dingle - Private Capacity
Selwyn Read – Private Capacity
Raymond Duffy - Private Capacity

Public hearing – Gympie - 1 June 2016
Michelle Daly – Coordinator, Koala Action Group
Ian Mackay – Chair, Mary River Catchment Coordinating Committee
Ivan Naggs – Private Capacity
Jim Viner – President, Gympie Beef Liaison Group
Cam MacAuley – Private Capacity
Greg Edwards – Private Capacity
James Ovens – Private Capacity
John Buckley – Private Capacity
Owen Thompson – Private Capacity
Peter Clifford – Private Capacity
Christine Clifford – Private Capacity
Peter Hunt – Private Capacity
David Clark – Private Capacity
Gordon Banks – Private Capacity
Jan Mulholland – Private Capacity
Kayle Findlay – Private Capacity

Public hearing – Charleville – 2 June 2016
Tricia Agar – Private Capacity
John Sommerfield – Private Capacity
Andrew Schmidt – Private Capacity
Ashley Mckay – Private Capacity
Guy Newell – Private Capacity
Bruce Crichton – Private Capacity
Kenton Peart – Private Capacity
John te Kloot – Private Capacity
Jenny and Robert Crichton – Private Capacity
John Schutt – Private Capacity
Judy Treloar – Private Capacity

Michael Davis – Private Capacity
Rick Garnett – Private Capacity
Dan McDonald – Private Capacity
Ann Leahy MP – Member for Warrego
Vicki Franklin – Private Capacity

Public hearing – Roma - 2 June 2016
Charles Mason – Private Capacity
Richard Bucknell – Private Capacity
Robyn Bryant – Private Capacity
Ron Sevil – Private Capacity
James Stinson – Private Capacity
Billy Winks – Private Capacity
Nikki Cameron – Private Capacity
Pat Sheehan – Private Capacity
Jan Scriven – Private Capacity
Peter Joliffe – Private Capacity
Bim Struss – Private Capacity
Myriam Daley – Private Capacity
Ross Smith – Private Capacity
Peggy Sullivan-Smith – Private Capacity
Justin MacDonnell – Private Capacity
Garrey Sellars – Private Capacity
Don Perkins – Private Capacity
Anthony Dunn – Private Capacity
Madonna Connolly – Private Capacity
Matthew Peart – Private Capacity
Ann Leahy MP – Member for Warrego

Public hearing – Brisbane – 3 June 2016
Revel Pointon – Solicitor, Environmental Defenders Office
Dr Tim Seelig – Queensland Campaign Manager, Wilderness Society
Des Boyland – Policies and Campaign Manager, Wildlife Preservation Society of Queensland
Kirsten Macey – Campaigner, Queensland Conservation Council
Rose Adams – Secretary, Gecko
Dr Martin Taylor – WWF-Australia
Ross Henry – Project Manager, Queensland Farmers' Federation
Matt Kealley – Senior Manager, Environment and Sustainability, Canegrowers

Michael Murray – General Manager, Cotton Australia
Ruth Wade – Consultant, Queensland Farmers' Federation
Tracy Finnegan – Member, Vegetation Management Policy Advisory Committee, AgForce
Dr Greg Leach – Senior Policy Officer, AgForce
Grant Maudsley – President, AgForce
Mark Driscoll – Private Capacity
Jen Williams – Queensland Deputy Executive Director, Property Council of Australia
Professor Stuart Bunn – Director, Australian Rivers Institute, Griffith University
Professor Carla Catterall – Professor of Ecology, School of Environment, Griffith University
Associate Professor Martine Maron – ARC Future Fellow and Associate Professor of Environmental Management, University of Queensland
Professor Dr Hugh Possingham – Director, ARC Centre of Excellence for Environmental Decisions and Director of the NESP Threatened Species Hub and ARC Laureate Fellow, Centre for Biodiversity and Conservation Science, University of Queensland
Dr April Reside, Postdoctoral Research Fellow, Threatened Species Recovery Hub, Centre for Biodiversity and Conservation Science, University of Queensland
Wendy Devine – Policy Solicitor, Queensland Law Society
Matthew Dunn – Government Relations Advisor, Queensland Law Society
Bill Potts – President, Queensland Law Society
Frances Hayter – Director, Environment Policy, Queensland Resources Council
Chelsea Kavanagh – Advisor, Environment Policy, Queensland Resources Council
Kirsty Chessher-Brown – Director of Policy, Research and Sustainability, Urban Development Institute Australia (Queensland)
Sarah Macoun – Chair, Planning and Environment Committee, Urban Development Institute Australia (Queensland)
Dr Gordon Guymer – Director, Queensland Herbarium, Department of Science, Information Technology and Innovation
Lyall Hinrichsen – Executive Director, Land and Mines Policy, Department of Natural Resources and Mines
Peter Lazzarini – Director, Land and Mines Policy, Department of Natural Resources and Mines
Sue Ryan – Deputy Director-General, Policy and Program Support, Department of Natural Resources and Mines
Nick Weinert – Acting Director, Strategic Environmental Projects, Conservation and Sustainability Policy, Department of Environment and Heritage Protection

Appendix C: Summary of issues raised in submissions and departmental response

VEGETATION MANAGEMENT (REINSTATEMENT) AND OTHER LEGISLATION AMENDMENT BILL 2016

Department of Infrastructure, Local Government and Planning and Department of Natural Resources and Mines and Department of Environment and Heritage Protection

Advice to the Agriculture and Environment Committee regarding submissions to inquiry

Date: 2 June 2016

Comments / Response in Clause Order

Sub No.	Submitter	Section / initiative	Key Points	Departments' Response
Table A: Peak Bodies				

160
281
308
346
390
507
526
570
598
604
647
654
	Cotton Australia
	Queensland Diary Farmers Organisation
	Cook Shire Council
	QFF
	Hope Vale Shire Council
	Tablelands Regional Council
	Cape York Land Council
	Charters Towers Regional Council
	Agforce
	Cape York Sustainable Futures
	Etheridge Shire Council
	Property Rights Australia
		Oppose removal of high value agriculture, irrigated high value agriculture (HVA/IHVA)	**Key points**
			• Retain HVA/IHVA as a purpose in the Vegetation Management Framework. (160, 281, 346, 507, 526, 598, 604, 647, 654)
			• Removing HVA/IHVA does not provide a pathway for agricultural expansion, and the opportunity to stimulate economic development and the growth of jobs in rural and regional Queensland. (281, 654)
			• Excludes any opportunities for small businesses to further develop their businesses. Given only coordinated projects will provide the only mechanism for these development opportunities, it provides inequity between small and big business. (281)
			• Urban development and resource industry expansion is reducing productive land. The HVA/IHVA provisions provide a regulated way of ensuring sustainable development of new agricultural land. (160, 346)
			• The Great Barrier Reef – Water Science Taskforce Report – recommends the 'voluntary retirement of marginal land from production'. This cannot occur without viable options to open up alternative and sustainable land. (346)
			• The economic potential of Cape York is yet to be realised. The Bill will impede the opportunities for the people (both indigenous and non-indigenous) of the Cape to attain economic benefits (308, 390, 507, 604, 654), and for Indigenous landowner's rights to develop traditional lands (570).
			• Removing HVA/IHVA conflicts with proposals to develop northern Australia (570, 647).
			• Taking away an applicant's right to have their application determined if it was lodged prior to 17 March 2016 but not properly made (647)
			• Impact of uncertainty on emerging agricultural development in the shire and potential destruction of $4 Billion proposed agricultural development and 1500 jobs from the region which is significantly disadvantaged as compared to the rest of Australia.(647)
				Departments' response
				• The aim of the Bill is to implement the government's election commitment to reduce Queensland's carbon emissions by re-instating the nation-leading vegetation protection laws repealed by the Newman Government.
				• Strengthening the vegetation management legislation to protect remnant and high value regrowth native vegetation, including riparian zones is an action supporting the joint State and Federal Government 'Reef 2050 Long-Term Sustainability Plan'. This is consistent with the Government's election commitment.
				• The Bill will prevent landholders from applying under the *Vegetation Management Act 1999* (VMA) and *Sustainable Planning Act 2009* for HVA/IHVA.
				• As of 17 May 2016 there has been:
				  ◦ 61 approvals for HVA/IHVA have been issued for the clearing of approximately 112 400 hectares (ha);
				  ◦ 41 approvals were issued for agricultural activities in north Queensland; 3 in central Queensland, and 17 in south/south west Queensland;
				  ◦ of the 112 400 ha, approximately 107 400 ha (across 33 approvals) was for HVA, and 5 000 ha (across 28 approvals) was for IHVA; and
				  ◦ approvals to clear approximately 83 800 ha, or 74% of all approved clearing, were given to two north Queensland properties (Strathmore, and Olive Vale Station).
				• A range of options will remain for landholders to undertake or expand agriculture which includes:
				  ◦ on areas identified as category X on the Regulated Vegetation Management Map under which there is no assessment requirements under the VMA –
				  ◦ on exempt grassland areas within the Gulf and north western Queensland which have no assessment requirements under the VMA;
				  ◦ on areas identified as Category C or R (regrowth) on leasehold and freehold/indigenous land consistent with the Category C or Category R self-assessable code;
				  ◦ on areas identified as Category B (remnant) on leasehold and freehold/indigenous land consistent with the Improving Operational Efficiency of Existing Agriculture self-assessable clearing code; and
				  ◦ for larger-scale agricultural activities under the *State Development and Public Works Organisation Act 1971* where designated as a coordinated project; and
				  ◦ on Aboriginal land on Cape York Peninsula under the *Cape York Peninsula Heritage Act 2007*.
				• Analysis by the Department of Natural Resources and Mines (DNRM) of soil suitability mapping shows that there is about one million hectares of Queensland's best agricultural land that is currently being used for grazing which could readily be developed for cropping. Up to 300 000 hectares of this is in northern Australia. All of this land is currently Category X on property maps of assessable vegetation, indicating that no clearing of regulated vegetation is required to significantly expand cropping in Queensland.
				• Clearing for HVA/IHVA is contributing to Queensland's increasing land clearing rates. The Statewide Landcover and Trees Study (SLATS) – which examines clearing trends over time, demonstrated that during the 2012-2014 period, land clearing had increased from 78 378 ha in

386 405 506 517 523 568 580 597	Far North Queensland Regional Organisation of Councils Queensland Greens Environment Institute of Australian and New Zealand Environmental Defenders Office of Northern Queensland Chuulangun Aboriginal Corporation WWF Queensland Conservation Council Wildlife Preservation Society of Queensland	Support removing or amending high value agriculture, irrigated high value agriculture (HVA/IHVA)	**Key points** • Current provisions are too 'broad brush' and contradict the purposes of the VMA, and do not identify the discrete and specific circumstances where the potential for this level of agricultural development is suitable or sustainable (386) • The current provisions pass significant economic risk on to landholders and companies by enabling projects which may fail due to selection of unviable investments; whilst the general public bears the potential future costs of unwarranted environmental degradation. The development or reinstatement of appropriately scaled and consulted intensive agricultural development planning on a regional basis would be a desirable and necessary outcome if these provisions are amended.(386) • Raises a question about whether more emphasis should be placed on future investment in regional instruments which better define nodes for agriculture or other intensive land uses and as such provide a clear path for investment or a more considered and economically viable mandate for stewardship. (386)The existing HVA/IHVA provisions are not supported due to its impact on biodiversity, climate change and the Great Barrier Reef. (405,506, 517, 523, 568,580,	

Sub No.	Submitter	Section / initiative	Key Points	Departments' Response
674 426	The Wilderness Society Wide Bay Burnett Environmental Council		597,674). • Improve assessment processes and approval conditions for applications for vegetation clearing. (426). • The provision for a clearing permit for HVA/IHVA does not include conditions that enable the protection of threatened ecosystems. A thorough assessment of the environmental values of the land must be undertaken to demonstrate that the clearing would not be detrimental of other environmental values of the land. Evaluation must include standard environmental assessment, such as ecological surveys, to verify the ecological values and functions of the subject site. (506) • There is no need to clear to make way for agriculture. For example, the Wide Bay Burnett Environmental Council and WWF have mapped 4000 ha of degraded, pre-cleared land that would be suitable for agricultural expansion in the Wide Bay region. (426, 568)	2009-10 to 266 191 ha in 2012 – 2014, and 296 324 ha in the 2013-2014 period. • For agricultural clearing to be a relevant purpose under the existing VMA, the development must meet defined HVA/IHVA criteria established in the VMA. This criteria includes: Land suitability, economic viability, access to water (where irrigating), and the clearing complies with any restrictions prescribed by Regulation. These restrictions may relate to: type of crops that can be cleared for; size of land that an application can cover; and/or the amount of land that can be cleared for an area of the State. There are currently no restrictions prescribed under a regulation that restrict HVA and IHVA applications. • Once the landowner has satisfied the HVA/IHVA criteria, the landowner can then apply for a development approval under the *Sustainable Planning Act 2009* and assessment against the State Development Assessment Provisions: Module 8 native vegetation clearing (SDAP). SDAP contains assessment requirements in relation to endangered and of concern regional ecosystems, wetlands, watercourses, essential habitat and wildlife corridors. Ecological surveys or further ecological assessments are not a requirement of the SDAP for HVA/IHVA.

308
 	
507
598
654
	Cook Shire Council
	Tablelands Regional Council
	AgForce
	Property Rights Australia
		Oppose regulation of Category C (high value regrowth) areas	**Key points**
			
			• Opposes high value regrowth amendments. (507, 598)
			• Reintroduction of Category C regulation devalues land, and restricts carbon income opportunities into the future, (598), and will have a potential adverse impact for Cook Shire industry. (308)
			• Category C is based on unreliable science, and there is a lack of ground-truthing. (598)
			• Protection of high value regrowth does not imply / infer result in positive environmental outcomes. High value has not been defined, as opposed to high value agriculture which requires assessment. (598)
			• Will deny freehold landholders and indigenous landowners the ability to maintain the worth of their asset without compensation. (654)
			• Enable Queensland landholders to participate in the carbon market (e.g. Emissions Reduction Fund or ideally a Queensland based carbon market) with High Value Regrowth rather than regulating, limiting access to this income source. (598)
				Departments' response
				
				• The regulation of high value regrowth is also important in fulfilling the government's election commitments. Strengthening the vegetation management legislation to protect remnant and high value regrowth native vegetation, including riparian zones is an action supporting the joint State and Federal Government 'Reef 2050 Long-Term Sustainability Plan'.
				• Landholders with proposed Category C (or high value regrowth) can clear vegetation, including during the transitional period, where it is consistent with the Category C Regrowth vegetation self-assessable code for a range of activities such as agriculture and grazing, thinning of thickened regrowth vegetation, encroachment on native grasslands, control of non-native plants and declared pests, and fodder harvesting.
				• Under the self-assessable codes, landholders are not required to lodge an application for a vegetation clearing permit. However they are required to notify DNRM prior to clearing, and clear consistent with the provisions within the self-assessable code.
				• Clearing can also occur in line with existing exemptions under the Sustainable Planning Regulation 2009 for activities such as routine and essential property management which includes clearing for fence lines, fire management lines, road and vehicle tracks and any necessary built infrastructure.
				• High value regrowth is vegetation that has not been cleared since 31 December 1989, and is an endangered, of concern or least concern regional ecosystem. A regional ecosystem is an association of plant species that are consistently associated with a particular combination of ecology, landform and soil.
				• These criteria have been used as this vegetation is most likely to be more mature regrowth with higher ecological value.
				• High value regrowth mapping was developed using an automated process which identified vegetation above 11% foliage projective cover that had not been cleared since 31 December 1989.
				• Additional vetting of the high value regrowth mapping was undertaken prior to its 2016 release to remove:
				  ○ areas which had been subject to clearing identified using the Statewide Landcover and Trees Study;
				  ○ category X areas on property maps of assessable vegetation;
				  ○ areas of pasture, plantation and orchards under the Queensland Land Use Mapping Program (QLUMP); and
				  ○ urban areas based on aggregations of lots sizes less than one hectare.
				• The regulated vegetation map contains 140 million ha of remnant and regional ecosystem mapping produced by the Queensland Herbarium. The DNRM is working with the Queensland Herbarium and Department of Science, Information Technology and Innovation, to apply their expertise to improve the accuracy of the high value regrowth mapping.
				• Where there is an obvious error on the proposed regulated vegetation management map, it can be removed free of charge. An obvious error is one that can be seen from imagery such as Google earth.
				• Where errors require further investigation or ground truthing, landholders can request via a property map of assessable vegetation, to amend the mapping to correctly identify the location of the vegetation, or change the vegetation category where it is shown to be incorrect. Landholders can request the mapping to be amended during the transitional period so it amends the effect of the mapping on commencement. This option has been available to landholders since 2004.

Sub No.	Submitter	Section / initiative	Key Points	Departments' Response
386 405 506 568 580 597 674 426	Far North Queensland Regional Organisation of Councils Queensland Greens Environment Institute of Australian and New Zealand WWF Queensland Conservation Council Wildlife Preservation Society of Queensland The Wilderness Society Wide Bay Burnett Environmental Council	Support regulation of Category C (high value regrowth) areas or accepts reinstatement conditionally with amendments.	**Key points** • Supports the regulation of high value regrowth on freehold, leasehold and indigenous land. (426, 568, 580, 597, 674) • Restoration of regulated regrowth will provide major biodiversity benefits. Repealing protections for 'high value regrowth' in 2013, prevented the eventual recovery of 27 endangered regional ecosystems to less threatened categories, as well as putting at risk habitat for many threatened species. (568) • A key concern relating to the removal of regrowth vegetation is the increased sediment and nutrient loads into the Great Barrier Reef via the Burnett and Mary Catchments. (426) • The Bill should be amended to change the definition of 'high value regrowth vegetation' such that reference is only made to an area that has not been cleared for the previous 15/20 years, rather than since 31 December 1989. (506, 674) • Bushland that has not been cleared since 1989 is now 27 years old; in almost all cases such vegetation would embody a wide range of environmental values and should be protected wherever possible. (580) • The reinstatement would be well supported by more accessible stewardship incentive or economic imperative for landholders to retain or sustainably manage regrowth vegetation. (386) • A significant policy investment with stronger alignment to regionally driven economic development planning may enable this to be presented as an opportunity, rather than a threat to landholders. Direct economic strategies which support landholders with proportionate incentive for personal income to deliver benefit for ecosystem services provided, is an essential component of this. (386) • One size fits all approach for the identification and management of regrowth vegetation is not the most effective approach; or at least one which requires more investment to articulate usefully. They would welcome more regionally scaled, consulted and communicated mapping products to support this. (386)	**Departments' response** • Regrowth vegetation provides a range of environmental and ecological values. It assists in managing erosion and reducing the amount of sediment and nutrients entering waterways; provides shelter for domestic stock; and provides habitat, including food resources, for fauna of which also assists in managing pests. Vegetation provides habitat through the provision of hollows, logs and debris on the ground. Regrowth can also be valuable in providing wildlife corridors within the landscape. • High value regrowth vegetation is defined under the VMA as being an area that has not been cleared since 1989 that is endangered, of concern or least concern; on a lease issued under the *Land Act 1994* for agriculture and grazing purposes. • Some regional ecosystems may reach remnant vegetation status at around 20 years of age. • Under the current definition of high value regrowth, vegetation older than 20 years may be classified as high value regrowth however when assessed on the ground, the vegetation may comply with the VMA's definition of remnant vegetation. The incongruence between the definition and what is on the ground will increase over time. • The legislative approach to defining high value regrowth is inconsistent with the legislative approach taken to defining remnant vegetation. The definition of remnant vegetation in the VMA refers to its conservation status (endangered, of concern and least concern), and forming a predominant canopy of the vegetation – covering more than 50% of the undisturbed predominant canopy; averaging more than 70% of the vegetation's undisturbed high; and composed of species characteristic of the vegetation's undisturbed predominant canopy. • This definitional issue is ameliorated, in part, by: o the independent mapping by the Queensland Herbarium of high value regrowth vegetation as it progresses to remnant vegetation. The Queensland Herbarium's updated mapping may inform the periodic updating of the regulated vegetation management map ; and o the VMA (section 20AH) allows the chief executive to show on the regulated vegetation management map, via a property map of assessable vegetation, an area that may or may not be remnant vegetation as Category B. The use of this provision is not one that would be applied to large areas, or electively applied by DNRM to identify remnant (Category B) areas. The application of these elements may be affected by the policy of the government-of-the-day. For example, government policy may be to not map high value regrowth vegetation which has progressed to remnant vegetation on the regulated vegetation management map despite the Queensland Herbarium having identified the vegetation as remnant.
281 308 507 570 598	Queensland Diary Farmers Organisation Cook Shire Council Tablelands Regional Council Charters Towers Regional Council AgForce	Oppose regulation of Category R (watercourse) areas	**Key points** • Opposed to extension of Category R regulations (507) • Increasing Category R vegetation is punitive and arbitrary, not based on/disputes science. (507, 570, 598). • Loss of income from Category R land amplifies the sediment and runoff control problem. Poverty actually creates perverse environmental outcomes. (598). Concern for potential economic loss and lost production (507). • Increase in Category R provisions is a further restriction on development in Northern Queensland. (598) • The new Category R areas in the Burnett Mary and Fitzroy catchments have the potential to have significant impacts on farmers, and there is potential for the proposed legislation to make some farms unviable. (281). There will be a potential adverse impact on Cook Shire industry (308).	**Departments' response** • Strengthening the vegetation management legislation to protect remnant and high value regrowth native vegetation, including riparian zones is an action supporting the joint State and Federal Government 'Reef 2050 Long-Term Sustainability Plan'. • Landholders can clear, including during the transitional period, within Category R areas for a range of purposes, such as for agriculture, thinning, managing weeds, public safety, and for fences, firebreaks, and other necessary built infrastructure, where it is consistent with the Category R self-assessable code. • Under the self-assessable codes, landholders are not required to lodge an application for a vegetation clearing permit. However they are required to notify DNRM prior to clearing, and clear consistent with the provisions within the self-assessable code. • Clearing can also occur in line with existing exemptions under the Sustainable Planning Regulation 2009 for activities such as routine and essential property management which includes clearing for fence lines, fire management lines, road and vehicle tracks and any necessary built infrastructure. • Riparian areas and vegetation cover plays a number of important ecological roles. Riparian areas dissipate stream energy and slow water flow which decreases soil erosion and flood damage. These areas also filter pollutants that run-off from surrounding land uses reducing sedimentation and pollutants entering waterways. Riparian areas also provide habitat for wildlife in addition to acting as a wildlife corridor within landscapes. • The Great Barrier Reef Report Card 2014, which details progress towards targets in the Reef Water Quality Protection Plan 2013, found that the overall rate of forest loss in riparian areas between 2009 and 2013 was greater than in previous periods. It also states that riparian vegetation and
386 405 506 674	Far North Queensland Regional Organisation of Councils Queensland Greens Environment Institute of Australia and New Zealand The Wilderness Society	Support regulation of Category R (watercourse) areas	**Key points** • Support for amendment. (405, 506, 674) • In principle support for appropriate measures to protect both our terrestrial water resources and the GBR. (386) • According to a 2013 SEQ Catchments 'Healthy Waterways' report commissioned after the January 2013 floods, Queensland's weather events during the 2011 and 2013 caused over $10 billion dollars of flood damage to productive farmland, houses, roads and bridges. Scientific	

Sub No.	Submitter	Section / initiative	Key Points	Departments' Response
			modelling predicts that planting vegetation in the upper catchments can reduce the speed of water by up to 50% therefore protecting roads, bridges and other infrastructure downstream. Conversely, removal of vegetative cover doubles the speed of flood water. (405) • Riparian vegetation plays an important role in reducing sedimentation and nutrient run-off entering waterways. Deteriorating water quality caused by catchment run-off is recognised as a the most immediate risk to the condition of the Great Barrier Reef. (405) • The amendment will regulate the vegetation in prime areas, and minimise erosion and sedimentation runoff, ensuring that the stated purpose of the Act, i.e. that is does not cause land degradation, are met. (506)	ground cover are important to help reduce pollutant flow to waterways and prevent erosion, and have a water quality protection function. • The final report of the Great Barrier Reef Water Science Taskforce: May 2016, states that agricultural land uses are the main source of nitrogen, sediment and pesticides entering the reef and its ecosystems, and contains a recommendation to extend regulations to protect riparian areas and natural wetlands to all reef regions. • It further outlines that: excess nutrients in the marine environment are linked to outbreaks of coral eating crown-of-thorns starfish, excessive algal growth, as well as increased susceptibility of corals to disease; fine sediment discharges reduce light available to seagrass ecosystems and inshore coral reefs; and pesticides inhibit primary production, seagrass and coral growth and at high concentrations, can lead to mortality.
140 506 517 568 580 597 674 405	Great Barrier Reef Marine Park Authority Environment Institute of Australian and New Zealand (SEQ Division) Environmental Defenders Office of Northern Queensland WWF Queensland Conservation Council Wildlife Preservation Society of Queensland The Wilderness Society Queensland Greens	Supports the Bill – environmental impact of clearing	**Key points** • Supportive of Bill given concerns about current rates of vegetation clearing, and the resultant impacts on wildlife habitat and biodiversity, land degradation, pollutant and sediment run-off to the Great Barrier Reef, and carbon dioxide emissions. (140, 506,517,568,580,597,674,405) • Concerns expressed about environmental impacts, and large-scale nature of clearing under a HVA or IHVA permit. (506, 517) • Some groups argued that under the current law the purposes of the Vegetation Management Act are not being fulfilled, as evidenced by the increased rates of clearing. (405, 568) • Several groups expressed concerns about 'exempt' clearing, in particular the right to clear areas mapped as 'Category X' on a Property Map of Assessable Vegetation (405, 568, 580), as well as exemptions which apply in urban areas.	**Departments' response** • The Bill is intended to reduce native vegetation clearing rates in Queensland, which will have multiple environmental benefits, including protection of habitat and biodiversity, reduced carbon dioxide emissions, and reduced impacts on the Great Barrier Reef in particular from sediment and pollution run-off in Great Barrier Reef catchments, consistent with the Government's election commitment • The latest greenhouse gas emissions figures for Queensland, as contained in the 'State and Territory Greenhouse Gas Inventories 2014: Australia's National Greenhouse Accounts' found that Queensland's greenhouse gas emissions from Land Use, Land Use Change, and Forestry (LULUCF) were 18.7 million tonnes of carbon dioxide equivalent, which amounts to 666% of Australia's national emissions from this sector. The LULUCF sector includes both the release of emissions (i.e. from vegetation clearing), and removals or sinks from the establishment of forests. • High value agriculture, and irrigated high value agriculture are proposed to be removed as relevant clearing purposes, meaning that applications will no longer be able to be made for these purposes under the Vegetation Management Act. • The Great Barrier Reef Water Science TaskForce's Current Situation Analysis July 2015 outlines that riparian vegetation helps remove water-borne pollutants and provides stability to stream banks and adjoining areas to reduce sediment loss, and that deteriorating water quality caused by catchment run-off is recognised as the most immediate system wide risk to Great Barrier Reef condition. • This Bill also contributes to actions under the *Reef 2050 Long-Term Sustainability Plan to* reduce impacts on the Great Barrier Reef, in particular by extending the regulation of native vegetation alongside watercourses (riparian vegetation) to all six Great Barrier Reef catchments. Riparian vegetation play an important role in reducing the run-off of excess sediments and nutrients into waterways which enter the Great Barrier Reef, which has been identified a key risk to the condition of the reef. • Re-regulating high value regrowth vegetation on freehold and indigenous land will also make a contribution to reducing clearing rates, and impacts on wildlife habitat and biodiversity. • In regards to concerns that the purposes of the VMA are not currently being met, as evidenced by increased rates of clearing, a key objective of the Bill is to reduce rates of clearing, and hence impacts on biodiversity, ecological processes, greenhouse gas emissions, and so forth, which are also objectives of the VMA. • The Department notes the submitters' concerns about exempt clearing, in particular the right to clear areas mapped as Category X on a Property Map of Assessable Vegetation (PMAV). The policy intent of the Bill is to not affect landholders who have Category X areas on their PMAV prior to 17 March 2016.
507 570	Tablelands Regional Council Charters Towers Regional Council	Opposes the Bill – environmental impact of clearing	**Key points** • Dispute of certain science, including the effects of nutrient runoff on coral bleaching, science behind 50 metre stream buffers, and the importance of groundcover versus woody tree species for protection of land and soil (507, 570).	
160 281 228 346 598 604 400	Cotton Australia Queensland Diary Farmers Organisation Property Council of Australia QFF AgForce Cape York Sustainable Futures Cement, concrete & Aggregates Australia	Opposes reinstatement of compliance provisions • Mistake of fact defence • Reverse onus of proof	**Key points** • The removal of the 'mistake of fact' defence would mean that landholders are not provided with the same civil and constitutional rights that the remainder of our society are provided with – including criminals. • Farmers are refused the possibility of making a mistake (570, 647). • Quality of the vegetation mapping is poor. This may have implications for landholders with the State removing the 'mistake of fact' defence. (160, 346) • It is not just the interpretation of maps by landholders that is often wrong but the vegetation management maps are often inaccurate and they change often. Information given by	**Departments' response** <u>*Mistake of Fact*</u> • In 2003, a provision was inserted into the Vegetation Management Act (s.68B) which removed the mistake of fact defence (s.24 of the Criminal Code) for vegetation clearing offences. This meant that a person must have exercised due diligence before undertaking tree clearing, as it no longer was a defence that a person had a reasonable and honest but mistaken belief that led to the undertaking of the offence. • Prior to the introduction of the 'mistake of fact' exemption provision, this defence was raised in many prosecutions. For vegetation clearing offences, it is difficult to negate such a defence

Sub No.	Submitter	Section / initiative	Key Points	Departments' Response

508
628
654
308
235
570
621
625
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283
386
308
	Australian Petroleum Production and Exploration Association
	Cape York Land Council
	Property Rights Australia
	Cook Shire Council
	Local Government Association of Queensland
	Charters Towers Regional Council
	Moreton Bay Regional Council
	Queensland Law Society
	Etheridge Shire Council
	Urban Development Institute of Australia
	Far North Queensland Regional Organisation of Councils
	Cook Shire Council
			departmental officers has often been found to be incorrect and the law and associated regulations have been so badly written that information given by departmental officers is contradictory. Removing this defence is unjust because of this. (654)
			• The removal of the 'mistake of defence' defence would create a major inequity where the landholder would be forced to take the liability for information provided by the Department, which has the potential to be incorrect. (281)
			• With the reintroduction of the 'reverse onus of proof', landholders may potentially be subjected to legal proceedings and the substantial costs involved, at no fault of their own. (281, 346, 628)
			• 'Reverse onus of proof' inconsistent with the approach taken to other environmental and development offences (625).
			• The 'reverse onus of proof' provision is patently unfair because data limits and internet issues prevent information access across regional Queensland. Telecommunications limitations across many areas in the State restrict farmers' ability to access websites and download maps. (598)
			• The 'reverse onus of proof' provision is aimed at rural clearing, however this also impacts urban landholders. Development and extractive industry often occurs adjacent to urban areas. Occupies may be wrongly accused of unlawful clearing and be prosecuted because they cannot provide positive proof that the unlawful clearing was caused by an unauthorised third party. (228,283)
			• Innocent until proven guilty is a universally recognised right in liberal democracies. Reversal of the onus of proof should always be regarded as a very serious step and not taken lightly or unadvisedly. The explanations given for why this provision is necessary are thin and lacking necessary weight for such a serious breach of fundamental legislative principle. (654).
			• Dispute some of the reasons for the compliance changes, including that remoteness precludes the government accessing evidence for an offence, that third parties are unlikely to clear property, and that a lack of due diligence and wilful blindness are justifiable reasons for removing the mistake of fact defence (625).
			• Local councils are vulnerable to unlawful clearing on council land by third parties. (386, 621), and consideration should be given to exemptions for local government (386).
			• The 'mistake of fact' defence – given the period the VMA has been in place, and the amount of information available, no mistake of fact should arise. (517)
			• Clause 6 – s67(1) and (2) of the VMA pose a risk to council as the occupier and vegetation is cleared by a third party. LGAQ seeks the insertion of a clause that exempts local government from liability. (235, 308)
				conclusively, as it involves the state of mind of the defendant. The impact of the provision is limited to those that engage in unauthorised clearing.
				
				<u>*Reverse Onus of Proof*</u>
				• Also in 2003, a provision was inserted into the VMA (s.67A) that placed the burden on the owner, lessee or title holder to prove that they did not undertake unlawful clearing. The reasoning was that the illegal clearing often occurs in remote areas where remotely sensed images are often the basis of a prosecution, due to a lack of other evidence such as witnesses, contracts or receipts with regard to another person undertaking the clearing.
				• When the provision was inserted, it was also noted that it was unlikely that an unknown third party would undertake clearing without the occupier's invitation or approval due to the high cost of clearing and also the personal benefit any third party would derive from this clearing. The remote sensing images were not a conclusive proof of the fact, the crown still had the onus of proving each element of the offence, and the defendant was also able to provide evidence to challenge the fact.
				• The DNRM has made widely available, at no, or very little charge, all the information required by landholders to ensure they clear in accordance with the vegetation management laws.
				• For example, landholders can obtain a free property report for an individual lot and plan identifying relevant property information, the Regulated Vegetation Management Map and supporting information and maps necessary to determine:
				  ○ if a landholder can clear vegetation under an exemption
				  ○ what self-assessable code may be applicable
				  ○ if clearing may be undertaken under an area management plan
				  ○ if a development approval may be required.
				• Landholders can access information either directly via the internet, or where this option is not available to them, they may contact DNRM via telephone or mail or DNRM will post the required information (maps, guides, forms etc). Landholders can also speak with departmental officers, either via telephone or in person, regarding the mapping and the clearing activities they may wish to undertake.
				• Where DNRM's mapping is incorrect, landholders can request via a property map of assessable vegetation, to amend the mapping to correctly identify the location of the vegetation, or change the vegetation category where it is shown to be incorrect. Landholders can request the mapping to be amended during the transitional period.
				• If the reverse onus of proof provision is reinstated, the landholder is still able to provide evidence to prove that another person undertook the clearing without their knowledge or consent. There are precedents of this approach in the *Forestry Act 1959* and for traffic offences e.g. red light and speed cameras.
				• Despite these changes, the State remains responsible for establishing and proving that a vegetation clearing offence has occurred. Additionally, these changes do not prevent landholders from providing evidence to prove their innocence.

506 517 568 580 597 674 405	Environment Institute of Australian and New Zealand Environmental Defenders Office of Northern Queensland WWF Queensland Conservation Council Wildlife Preservation Society of Queensland The Wilderness Society Queensland Greens	Supports reinstatement of compliance provisions • Mistake of fact defence • Reverse onus of proof	**Key points** • Support the compliance provisions. (506, 517, 568, 580, 597, 674, 405) • The 'reverse onus proof' provision does not change the fundamental principle that a person is innocent until proven guilty, and ensures that the 'proper person' is prosecuted for any alleged offence. It noted also that the prosecutor would still need to prove the offence, and the defendant has the opportunity to show that someone else undertook the clearing. (517)	
160 228 281 346 598	Cotton Australia Property Council of Australia Queensland Diary Farmers Organisation QFF AgForce	Opposes provisions about no compensation/ transitional arrangements	**Key points** • Transitional arrangements – QFF is already seeing impacts on landholders moving from leasehold to freehold. Results in unintended consequences for the long term sustainability of the agricultural sector. (346) • Since the cessation of broadscale land-clearing, compensation for landholders to offset	**Departments' response** • Under the Bill, including during the transitional period, landholders can clear Category C, Category R and Category B areas (agricultural efficiency only) on freehold and indigenous land for a range of purposes, including agriculture, consistent with a relevant self-assessable code. • The Bill does not affect:

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508 654 507 570 621 647	Australian Petroleum Production and Exploration Association Property Rights Australia Tablelands Regional Council Charters Towers Regional Council Moreton Bay Regional Council Etheridge Shire Council		opportunity cost, lost development potential (346) • No compensation despite the lack of consultation on the proposed changes (228). • The proposed laws will have an economic impact on landholders and compensation should be afforded. Reregulating high value regrowth is to deny freehold and indigenous landholders the ability to maintain the worth of their asset without compensation (654). • Assess the need for compensation for landowners and operators (508). • Opposes that there will be no compensation during the transitional arrangements.(507, 570, 647) • No compensation for loss of ability to get profit carbon abatement (ERF). (507, 570, 647) • Concern about the impact on landholders during the interim period given that there is no end date for the interim period. (621) • Suggests limiting the proposed sections 132 of the VMA and s1005 of the SPA similarly to the exemption for council paying compensation in the Sustainable Planning Act (serious environmental harm). (621)	○ property maps of assessable vegetation made prior to 17 March 2016 ○ property maps of assessable vegetation applications lodged prior to 17 March 2016 ○ Any property map of assessable vegetation application not involving areas proposed for regulation ○ Development approvals for HVA and IHVA issued prior to 17 March 2016 ○ Development applications for HVA and IHVA, properly made prior to 17 March 2016 • The Bill establishes that compensation is not payable by the State for or in connection with a provision during the transitional period (17 March to date of introduction of the Bill). • Compensation associated with impacts from the broader vegetation management framework is a matter for Government. • In 2004, the Beattie Government provided a $150 million structural adjustment package to landholders and business affected by the ending of broadscale clearing. 1466 landholders were provided up to $100,000 in enterprise assistance to assist affected landholders to improve productivity and viability of their farming business. • The right to broadscale clear for agriculture has only been available since December 2013, and only allows this clearing to occur for agriculture that is high value, not all agriculture. • The regulation of regrowth clearing in 2009 included provisions to allow primary producers who experienced financial hardship as a result of the new regulations to be able to apply to clear otherwise protect regrowth. No applications were received.
160 281 346 598 283 617 508 691 235 308 386 647	Cotton Australia Queensland Diary Farmers Organisation QFF AgForce Urban Development Institute of Australia Urban Development Institute of Australia (Queensland) Australian Petroleum Production and Exploration Association Queensland Resources Council LGAQ Cook Shire Council Far North Queensland Regional Organisation of Councils Etheridge Shire Council	Lack of consultation	**Key points** • Seek open and constructive consultation on vegetation management to achieve a position that will lead to long term stability. (160, 281, 346, 598) • Conduct further consultation and investigation into the most effective and sustainable inclusion of HVA/IHVA in different Queensland bioregions. (598) • No or limited consultation on the Reinstatement Bill and its contents was undertaken by the relevant Government departments and the Government (283, 617, 308, 386, 647) • Request a detailed RIS and appropriate consultation with relevant stakeholders. (508, 691, 308) • Inadequate time for making submissions to the committee (235, 386) • Requests 3 months consultations with local government (235) • No consultation on changes to offsets requirements.(308) • Seek ongoing consultation on regulation, potential increase in administrative burden, operational complexities and interpretation, long term economic implications (incentives and sustainable agricultural development); operational and strategic impact on councils. (386) • Need for detailed research and consultation prior to legislation passing. (647) • Not widely advertised an not many people aware of the changes.(308) • Advertising was not timely (advertising in local newspaper was almost a month after the cut-off date). (308)	**Departments' response** • The aim of the Bill is to implement the government's election commitments to reinstate a responsible vegetation management framework for Queensland. • The election commitments were announced prior to January 2015 election as outlined in the *Saving the Great Barrier Reef* Policy Paper, and was publically restated by Minister Lynham in the media following Labor's election. Minister Lynham emphasised that the election commitments would be delivered in consultation with stakeholders. • Throughout 2015, DNRM held discussions with key stakeholders including: Queensland Farmers' Federation, AgForce, Canegrowers, WWF, The Wilderness Society and Environmental Defenders Office. • Dr Allan Dale was engaged to identify areas of consensus between the relevant key stakeholders, but this process was overtaken due to the government's commitment to introduce legislation in the first quarter of 2016. • Since November 2015, the Deputy Premier has engaged in extensive stakeholder consultation on the Governments plans to reinstate vegetation protections. The stakeholders consulted included: WWF, The Wilderness Society, Concerned Queensland Scientists, AgForce and Environmental Defenders Office. • The parliamentary committee process is an opportunity for the broader community to provide input into the Bill. The timeframes provided for consultation by the committee is a matter of government.
228 283 617	Property Council of Australia Urban Development Institute of Australia Urban Development Institute of Australia (Queensland)	Opposes Bill – impact on urban development	**Key points** • The Bill has severe consequences for urban development in urban areas and will increase time, cost and resourcing for urban development, particularly proposed category C and R (228). • Regulation of proposed category C is poorly suited to operation in or near urban areas and is unnecessary given local government planning and environment controls. It destabilises the urban land market (228). • Make all clearing in the urban footprint in South East Queensland (SEQ) or within urban zone outside of SEQ exempt (283, 617).	**Departments' response** • The department acknowledges that areas that are currently not regulated (category X areas) will become regulated as proposed category C and R and could require some level of self-assessment. • However the framework currently provides exemptions for clearing all category C vegetation and category R vegetation, and category B areas (remnant vegetation) that are of concern or least concern regional ecosystems in urban areas for urban purposes. These exemptions were in place under the previous government. This was always the case since the introduction of the vegetation management framework. The framework currently identifies urban areas as areas identified as those intended specifically for urban purposes, including future urban purposes, on a map in a planning scheme that is used to primarily assess development applications. This does not include rural residential or future rural residential purposes. • Clearing of category C areas is regulated through a self-assessable code, which does not require assessment by the state, further reducing the regulatory burden for urban development. • Changing the way this is identified by relying on the urban footprint in SEQ Regional Plan makes the assumption that this entire footprint is intended to become urban, which is not the case. • The framework only regulates clearing of endangered remnant regional ecosystems in existing urban areas. This was always the case since the introduction of the vegetation management
517 580 405	Environmental Defenders Office of Northern Queensland Queensland Conservation Council Queensland Greens	Supports Bill – impact on urban development	**Key points** • Stronger laws required to protect remnant vegetation in urban areas as current exemption for urban area leaves important vegetation in urban areas vulnerable to clearing (517, 580, 405)	

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				framework. • Assessment of the endangered clearing that is not exempt is largely driven through planning scheme requirements triggering material change of use or reconfiguring a lot applications that are referred to the state for assessment. Presently these applications are only triggered for assessment by the State if the development includes lots that are 5 hectares or greater. • Analysis has identified in the urban planning zones of eight south-east Queensland local government area (Noosa Shire, Sunshine Coast Regional, Moreton Bay Regional, Brisbane City, Ipswich City, Logan City, Redland City and Gold Coast City) for lots greater than 5 hectares, only 1,225 hectares of endangered remnant vegetation remains. • Implementing a blanket exemption based on the urban footprint will see clearing impacts on these small remaining areas of highly fragmented endangered remnant vegetation unregulated and potentially cleared completely over time.
228 508 654 621 625	Property Council of Australia Australian Petroleum Production and Exploration Association Property Rights Australia Moreton Bay Regional Council Queensland Law Society	Opposes retrospectivity of the Bill	**Key points** • Retrospective aspects of the Bill are harsh and overly punitive and do not align with the principles of natural justice (508 and 654). • The retrospective application of some provisions leaves landholders in a holding pattern until certainty can be provided (228): o Precludes the lodgement of development applications that involve proposed category C and R o All Property Maps of Assessable Vegetation (PMAVs) made during the retrospective period involving Category X will have no effect on commencement • Where an entity has contracted a third party to clear based on mapping obtained just prior to 17 March 2016, it would be unreasonable to expect the landholder to check the mapping every day until the clearing is completed, so the bill should not apply retrospectively in this regard. (621) • Retrospective commencement will create significant complexity for determining clearing activities that are lawfully undertaken and landholder ability to defend prosecution relating to the transitional period. (625)	**Departments' response** • Previous amendments to the vegetation management framework have shown that any suggestion of change to the framework sees pre-emptive clearing and a rush of PMAV applications to lock in area of category X before the law changes. The nature of the current commitment made by the Government would also more than likely have seen a rush of development applications made to clear for high value and irrigated high value agriculture. • Should this occur, achieving the Government's commitment would be less effective because the extent of vegetation the Reinstatement Bill moves to protect would be reduced. • To address this outcome the Reinstatement Bill contains retrospective provisions that move to ensure that pre-emptive clearing and a rush of PMAV and development applications does not occur. • The retrospective provisions may arguably offend section 4(3)(g) of the Legislative Standards Act which provides that legislation have sufficient regard to the rights and liberties of individuals and consequently should not adversely affect rights and liberties, or impose obligations, retrospectively. • There may be some detrimental effects on individual rights in relation to PMAV and development applications; however individual rights are outweighed by the public interest to protect the long term health of this biologically diverse state and the world heritage listed Great Barrier Reef, and to reduce carbon emissions from vegetation clearing. • To support the public to understand the impacts of the retrospective provisions, the Department has web content that moves to explain this information, and the Reinstatement Bill provides for the publishing and re-publishing of a Proposed Regulated Vegetation Management Map. The Proposed Regulated Vegetation Management Map shows the proposed category C and R areas. A public notice about the Reinstatement Bill has also been published in newspapers across the State. • This will assist landholders to identify if/when their property is affected by the proposed changes and consider how activities may be influenced by the retrospective provisions. • The development industry is concerned with the perceived uncertainty for development during the retrospective period. The concern that the retrospective period coupled with the regulation of proposed category C and R precludes lodgement of development applications is not necessarily the case. • The Reinstatement Bill contains provisions that allow areas of proposed category C and R on freehold and indigenous land to apply the self-assessable vegetation clearing codes for category C and R areas during the retrospective period. • This means that development can follow the requirements of the applicable self-assessable vegetation clearing code if clearing proposed category C and R during the retrospective period. On this basis, the lodging of development applications can still proceed. • The Reinstatement Bill does contain retrospective provisions that will see proposed category C and R areas that are made category X during the retrospective period have no effect. • However, the Reinstatement Bill does not prevent PMAV applications from being submitted and decided during the retrospective period and not all areas that are made category X during this period will be of no effect on commencement of the Reinstatement Bill. • Category X areas made during the retrospective period that do not meet the criteria for proposed category C and R (eg clearing has occurred after 31 December 1989 for category C or the category R area surrounds an artificial watercourse) will be retained as category X on commencement of the Reinstatement Bill.

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228 654 621	Property Council of Australia Property Rights Australia Moreton Bay Regional Council	Opposes restoration notice amendments	**Key points** • There is insufficient discretion in the restoration provision under clause 7 as to whether restoration should be required or not (228). • The additional restoration requirements should contain a 'reasonable' requirement like the existing restoration requirements under the *Vegetation Management Act 1999* (VMA) (228). • The issuing of a restoration notice is imposed if an authorised officer has a reasonable belief that an offence has occurred, there is no appeal or court system offered (654). • There is concern that the restoration orders by the Chief executive is a penalty for unlawful clearing (restoration) and will apply to clearing that commences as self-assessable or exempt development before but continue into the interim period. (621) • Concerned that the chief executive's extended powers to impose additional requirements as a penalty should be at the discretion of the courts. (621)	**Departments' response** • The Reinstatement Bill amends offence and restoration requirements for the retrospective period (17 March 2016 to the assent of the Reinstatement Bill). • Clause 10 of the Reinstatement Bill (proposed section 1002) outlines that unlawful clearing is not an offence during the retrospective period. This means that a conviction would not be recorded, nor a penalty infringement notice issued. • As unlawful clearing during this period is not an offence, the only avenue for addressing the unlawful clearing is through requiring the issuing of a restoration notice. • Any restoration notice issued for unlawful clearing relating to the retrospective period must follow the existing restoration notice requirements under section 54B of the VMA, which requires the official to reasonably believe that the matter is capable of being rectified is at the discretion of the chief executive administering the VMA. Essentially, the chief executive would need to think it necessary or reasonable to require additional restoration works. • Prior to issuing a restoration notice, DNRM would undertake an extensive investigation taking into account a range of information and data sources. This would include discussions with the landholder. • A person who is given an information notice that is a restoration notice under section 54B of the VMA may apply to DNRM for an internal review of the notice if they do not agree with it. • Should a person be dissatisfied with an internal review decision made by DNRM, they may apply to QCAT for a review of the notice.
228 283 400 617	Property Council of Australia Urban Development Institute of Australia Cement, Concrete & Aggregates Australia Urban Development Institute of Australia (Queensland)	Opposes amendment - material change of use prohibited development	**Key points** • The new prohibited development will have wide reaching ramifications for urban development as more development will be either prohibited or require referral now (228). • The proposed amendment to schedule 1 of SPA restricts development applications being made outright on land which contains Category B vegetation, even in instances where this vegetation is not being cleared (283. 617). • Proposed drafting of new item for prohibited development under schedule 1, item 4 of SPA potentially makes a material change of use that involves clearing of category C prohibited development as category C is not a relevant purpose under section 22A of the VMA (400).	**Departments' response** • The Reinstatement Bill is removing high value agriculture (HVA) and irrigated high value agriculture (IHVA) as relevant purposes for which clearing can occur. • Essentially clearing for these purposes will be prohibited development through Schedule 1, item 3 of Sustainable Planning Act as it relates to operational work, which is an existing prohibition. • However, development applications for agricultural development are also triggered through planning schemes for material change of use assessment. • To support the Government's commitment to remove HVA and IHVA as purposes for which clearing can occur, the Reinstatement Bill implements a provision that sees material change of use applications that are not for a relevant purpose under section 22A be deemed prohibited development. Currently material change of use applications, regardless of the purpose, are not required to be for a relevant purpose. • Prior to the implementation of the State Assessment and Referral Agency (SARA) it was a requirement that material change of use applications that were clearing native vegetation regulated by the State be for a relevant purpose under section 22A of the VMA. When SARA was implemented, the requirement which was outlined in the VMA, was inadvertently disconnected as all assessment requirement for the SARA model are only delivered through the Planning Act. • The Reinstatement Bill is not removing any other relevant purposes from section 22A of the VMA other than HVA and IHVA. • The intent of the VMA is to allow clearing that is consistent with the purposes outlined in section 22A. In the Department's experience in assessing development applications for clearing, referred urban development largely establishes infrastructure that is associated with subdivisions (eg material change of use from vacant land to residential, reconfiguring a lot from 1 into 20). Section 22A(d) largely provides for this under the relevant infrastructure activities purpose. Relevant infrastructure is defined as – *establishing and maintaining a necessary fence, firebreak, road or vehicular track; or constructing and maintaining necessary built infrastructure*. • Coupled with the existing exemptions for clearing in urban areas for urban purposes the MCU prohibition will not have wide reaching ramification for urban development as urban activities will be assessed through the retained relevant purposes under section 22A of the VMA. • The DNRM notes the issue that Cement, Concrete and Aggregates Australia has highlighted in relation to the material change of use prohibition making all material change of uses clearing category C prohibited development. This is not the intended outcome for this provision and the Department will investigate this issue further.
298 235	Cairns Regional Council Local Government Association of Queensland	Bill drafting unclear	**Key points** <u>*Retrospective application of Clause 10*</u> • The scope and amendment of the proposed s1002 in clause 10 is unclear. (298)	**Departments' response** <u>*Retrospective application of Clause 10*</u> • Proposed s1002 in clause 10 is intended to ensure that people are not held criminally liable for

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			• Commencement provisions of the Bill require clarification, particularly clause 10. (298)
			Clause 11 – MCU Prohibition
			• Clause 11 – Schedule 1, 4 of the Sustainable Planning Act –clarity is sought on wording about prohibiting clearing in high value and irrigated high value agriculture areas and may capture other areas. (235)
			• Prohibited development extending to all types of material change of use. (298)
			  ○ Seek clarification of the intent of clause 11. There is uncertainty about what is prohibited.
			  ○ relevant infrastructure activities cannot be undertaken - necessary built infrastructure.
			• seek clarification of "cannot be reasonably avoided or minimised."
				undertaking development that will become unlawful clearing from 17 March 2016 once the Bill is assented to. The proposed Section 1002 in clause 10 needs to include both s578(1) and s581(1) of SPA to ensure that a person:
				  ○ undertaking development during the interim period that will become assessable development (proposed category C and R); or
				  ○ prohibited development (HVA/ IHVA or MCU involving operation work that is not clearing that are not for a relevant purpose) **t**hat becomes unlawful clearing from 17 March 2016 on assent of the Bill;
				will not be found to have committed an offence under the SPA.
				• Further, during the interim period, clearing of proposed category C and R will be able to continue in accordance with the appropriate self-assessable vegetation clearing code. Clearing of category C and category R can currently only occur in accordance with the self-assessable codes as there is no relevant purpose to apply for development approval to clear category C or R. The Reinstatement Bill does not proposed to change this.
				• Clause 2 is intended to ensure that the provisions in part 1, part 2 (other than section 6) and part 3 will, on assent, be taken to have commenced on 17 March 2016, the date of introduction of the Bill into the house. Clause 10 provides for dealing with new and existing development applications during the interim period given the retrospective effect of the Bill.
				Clause 11 – MCU Prohibition
				• The intent of clause 11 is to ensure that all material change of use involving operational works that is the clearing of vegetation is prohibited development unless the operational works is for a relevant purpose under s22A of the VMA.
				• The Sustainable Planning Regulation triggers refer MCU applications to the state for referral agency response where additional exempt operational work will occur as a result of the MCU or the development involves assessable operational work that is the clearing of vegetation (assessable development).
				• The trigger is intended to ensure that a council does not approve an MCU application that would not get a development approval from the state to undertake operational works that is the clearing of vegetation. The trigger saves applicants having to come to the state for a separate operational works application after council has issued an MCU approval. Instead of two separate processes (an MCU approval and then an operational works application), the assessments occur simultaneously.
				• The clearing (assessable operational works or additional exempt operational works) will become 'necessary' as a result of the approval of the material change of use.
				• The concepts of "reasonably" and "minimised" are defined in common law precedent. Applicants can seek independent advice about these concepts.

386 507 570 598	Far North Queensland Regional Organisation of Councils Tablelands Regional Council Charters Towers Regional Council AgForce	Legislative uncertainty (resulting from further amendments to the framework)	**Key points** • VMA has become a political football. (386) • Acknowledge difficulty of one size fits all framework for vegetation management. (386) • Inability for long term planning for landholders and local government. (507) • Ecological processes work in much longer timeframes and can be severely compromised when mismatching, constantly changing regulations are enforced. (507) • Impacts of uncertainty and drought on landholders/communities. (507) • Changing legislation creates uncertainty for landholders and Council planning (570) • Land grab to meet international treaties. (507, 570) • The Bill represents another variation of the Vegetation Management Framework, which has been amended over 18 times since its introduction in 1999. (598). The stop-start policy environment has done little to enable diversification of land use (386).	**Departments' response** • The Government committed to reinstating vegetation management laws that were removed by the previous Government in December 2013. • The Reinstatement Bill is largely rolling back the law that landholders operated under since 2004 in the most part (regrowth regulation on freehold and indigenous land occurred in 2009). • Expanding category R to three additional Great Barrier Reef catchments (Burnett-Mary, Fitzroy and Eastern Cape York) is an action under the joint State and Federal Government 'Reef 2050 Long-Term Sustainability Plan'. • The Government has however committed to retaining self-assessable codes, which are accepted by landholders are useful tools that reduces regulatory burden, and allows for real time property planning.
405 506 568 580 597 674	Queensland Greens Environment Institute of Australian and New Zealand WWF Queensland Conservation Council Wildlife Preservation Society of Queensland The Wilderness Society	Oppose/ support changes or review of self-assessable codes: environmental impacts	**Key points** • The environmental impacts of clearing under self-assessable codes are too high, and they should be reviewed to lessen impacts, or risks of environmental harm. (405, 506, 568, 580, 597, 674) • The thinning codes singled out as of particular concern in terms of environmental impacts. (506, 568) • Suggestion made that self-assessable codes should not apply in areas of high conservation value such as endangered ecosystems, essential habitat, and stream or wetland buffer zones. (568)	**Departments' response** • The Government has committed to the retention of self-assessable codes (SACs) where they achieve environmental outcomes. • The Reinstatement Bill does not propose removal of SACs. Some consequential updates to existing self-assessable codes will be required as result of other reforms, including the extension of Category R regulations to additional reef catchments, and the reinstatement of high value regrowth regulations on freehold and indigenous land. • In 2015, the Minister for Natural Resources and Mines commissioned an independent technical review of the self-assessable codes to ensure the codes are achieving their intended objectives

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				under the Vegetation Management Act, and to recommend improvements. • The outcomes of this review, conducted by Cardno Chenoweth, were presented to government and stakeholders on 30 November 2015. • The Cardno Chenoweth report found: o The review indicated that many practices in the SACs meet the purposes of the VMA. o There is, however, potential for the practices and guidelines to result in clearing activities that could be in conflict with the purposes of the Act. o Further scientific research is needed in order to effectively implement SACs for certain types of clearing activities. o In regards to the thinning SACs, the review identified that further research, and potential changes may be required to these codes to ensure they meet all of the purposes of the VMA. • The self-assessable vegetation clearing codes will continue to be available to manage low-risk clearing activities and they will be amended to align with the latest scientific information. • Updated self-assessable codes are planned to be consulted on and released later this year.
386	Far North Queensland Regional Organisation of Councils	Support for retention of self-assessable codes	**Key points** • Self-assessable codes are supported for retention. (386)	
386 507 570 647	Far North Queensland Regional Organisation of Councils Tablelands Regional Council Charters Towers Regional Council Etheridge Shire Council	Mapping inaccuracy	**Key points** • Irregularities and errors in the regulated vegetation management map will no doubt be exacerbated by the inclusion of high value regrowth mapping. (386) • Seek support for landholders and local governments. (386) • High value regrowth layer was prepared hastily in 2009 with associated errors including non-native vegetation and bare earth and 2016 accuracy appears no better than in 2009 (570, 647) • Opposes charges for landholders to have the map corrected. (507)	**Departments' response** • Since the introduction of the Bill on 17 March 2016 DNRM has received a number of complaints from landholders, consultants and business owners regarding the errors contained in the proposed high value regrowth mapping. • The proposed regulated vegetation management map shows areas mapped as high value regrowth prior to December 2013. Additional vetting of this data was undertaken to remove areas which had been subject to clearing between 1989 and 2013 or not assessable using: o the Statewide Landcover and Trees Study; o category X areas on property maps of assessable vegetation; o the Queensland Land Use Mapping Program (QLUMP) to remove areas of pasture, plantation and orchard; and o urban areas based on aggregations of lot sizes less than one hectare. • DNRM uses an automated process to map the proposed regrowth areas. • To deal with these errors, DNRM has put in place procedures to amend the proposed regulated vegetation management map for these obvious map errors on a case-by-case basis when identified by landholders. The removal of these obvious errors will be of no charge. • DNRM is working with the Department of Science, Information Technology and Innovation (DSITI) to improve the accuracy of the map. • Where it is not an obvious error which may require a field inspection, landholders can apply for a property map of assessable vegetation (PMAV) that will amend the regulated map once it commences.
598 235 298 308 386 291 628 228	AgForce Local Government Association of Queensland Cairns Regional Council Cook Shire Council Far North Queensland Regional Organisation of Councils Queensland Resources Council Cape York Land Council Property Council of Australia	Opposes *Water Act 2000* amendments	**Key points** • Oppose reinstatement of provisions in the Water Act to regulate the destruction of vegetation in a watercourse, lake or spring under a riverine protection permit (598) • Incorrect numbering of section in the Water Act (235, 298) • Changes require a permit for destroying vegetation in a watercourse, lake or spring. It is unclear whether all of Council's activities will be exempt from requiring a riverine protection permit. This requires clarification, especially the size and extent of vegetation that may be cleared under the exemption.(308) • The proposed amendment has potential impacts on local government management and development of essential community infrastructure and safety. It is likely to increase the requirements in site inspections and vegetation surveyed prior to routine operations which may be better supported through self-assessable codes and best management practice guidelines and capacity building; or by more detailed mapping of specific areas of activity i.e. road easements and sensitive sites.(386) • Concerned that reinstatement of RPP will constrain proponents (mining) from undertaking vegetation clearing in a watercourse lake or spring. (291) • Concerned that Section 50(e) of the Water Regulation refers to the Exemption Guideline (dated 2014) does not include the clearing of vegetation in relation to RPPs. The exemption guideline should include vegetation clearing as an exempt activity. Proponents will be exempt from	**Departments' response** • The *Water Act 2000* currently provides for riverine protection and requires a person to obtain a riverine protection permit to excavate or place fill in a watercourse, lake or spring unless otherwise exempt under the Act. However, prior to legislative amendments in 2013, the Water Act's riverine protection provisions extended to the destruction of vegetation in a watercourse, lake or spring. • The Bill proposes to reinstate this extended application to the destruction of vegetation in a watercourse, lake or spring. This is consistent with the Government's election commitment to 'reintroduce riverine protection permits to guard against excessive clearing of riparian vegetation'. • These provisions are not retrospective and would start upon proclamation. • The department will be looking into reviewing and updating the Water Regulation and any necessary forms and documentations, including exemption documents, to support the new legislative framework. • The Water Act sections referred to in the Bill reflect the new section numbering after commencement of the WROLA Act (upon proclamation and prior to commencement of the Water Act amendments contained in the Bill). • The Bill retains an exemption in the Sustainable Planning Regulation 2009 that exempts a person from requiring a development permit for clearing vegetation within a watercourse or lake if the clearing is authorised, or a consequence of an activity authorised, under the riverine protection framework under the Water Act. As such, there will be no potential for overlap, whereby a person

Sub No.	Submitter	Section / initiative	Key Points	Departments' Response
			needing an RPP for excavation and fill but will need one for destruction of vegetation to be consistent with the previous 2013 ALP government. (291) • Recommend section 50 of the Water Regulation be amended to facilitate vegetation clearing in a watercourse, lake or spring and the exemption guideline should allow mining to clear vegetation in addition to the provisions for excavation and fill of a watercourse lake or spring as per the 2013 guideline. (291) • the proposal to reinstate the requirement to obtain a riverine protection permit to destroy vegetation in watercourses under the Water Act adds an additional layer of technical and procedural complexity to development application process. (628) • The bill amends the Water Act to introduce significant red tape (government resources). The inclusion of 'destroying vegetation' in the Water Act provides no additional environmental benefit. (228) • Qld government commitment to ensuring a WoG approach to planning and development assessment. These changes to Water Act undermine this. (228)	will be required to obtain multiple authorisations for the same vegetation clearing activity, as a result of the reinstatement. • Riverine activities, including the destruction of riparian vegetation, can have adverse impacts on watercourse integrity, the environment, infrastructure and agriculture if not properly managed. . Reinstating the application of the riverine protection permit framework to the destruction of vegetation ensures: a) the proper consideration and management of risks associated with such activities carried out in a watercourse, lake or spring; b) impacts from works on the long-term sustainable use of the watercourse or lake or spring are avoided; and c) the physical integrity of lakes, springs and watercourses is maintained, as well as maintaining the stability of beds and banks of watercourses and the condition and natural functions of water bodies. • The reinstatement of proper vegetation protections also forms part of a broader suite of reforms which is important to protecting the reef, conserving biodiversity and reducing Queensland's carbon emissions.
140 506 517 568 580 597 674	Great Barrier Reef Marine Park Authority Environment Institute of Australian and New Zealand Environmental Defenders Office of Northern Queensland WWF Queensland Conservation Council Wildlife Preservation Society of Queensland The Wilderness Society	Supports Water Act amendments	**Key points** • Supports the reintroduction of riverine protection permits for the destruction of vegetation in a watercourse.(140, 506, 517, 568, 580, 597, 674)	
169 228 283 291 308 318 398 400 508 628 639 654 661	P & C Sabag Property Council of Australia Urban Development Institute of Australia (Queensland) Queensland Resources Council Cook Shire Council Lynne Gnech and Anne Nuhn Peter and Annett Marriott Cement Concrete & Aggregates Australia Australian Petroleum Production & Exploration Association Limited Cape York Land Council P and E Law Property Rights Australia Origin Energy	General opposition to the environmental offset components of the Bill	**Key points** • Provide specific opposition to some offset-related amendments in the Bill outlined below for the Bill. (169, 228, 283, 291, 308, 318, 398, 400, 508, 628, 639, 654, 661). • In addition there was opposition to proposed changes to the regulation of regrowth vegetation on the basis that: ○ Land available for offsets is already limited (e.g. due to forestry interests over large areas of Queensland and large areas of remnant vegetation in Cape York Peninsula); and ○ the supply of offsets for industry will be further limited and further reduce offset-related income for Indigenous communities. (228, 291, 283, 398, 400, 508, 628, 639, 654, 661)	**Departments' response** • Opposition to the offset-related amendments is noted and addressed in more detail in issue-specific rows below. • Offsets can be delivered in regrowth vegetation where the landholder and persons with an interest in the land choose to use the land for offset purposes rather than clear land for other permitted purposes. This has always been the case and the Bill will not alter this situation. • The Department of Environment and Heritage Protection notes that an offset involving regrowth vegetation may achieve a greater conservation outcome than offsets in remnant vegetation.
52 106 116 208 140 276 270 309 329	Karen Toms Dr Rob Taylor Dr Anna Sri Christine Fraser Great Barrier Reef Marine Park Authority (GBRMPA) Wildlife Preservation Society (Logan) Wildlife Preservation of Queensland (Townsville) Julie Tasker Dr Joan Vickers	General support for the environmental offset components of the Bill	**Key points** • Provide general support for the Bill. (52, 140, 389, 406, 517, 523, 568) • Support the removal of the significant impact threshold for triggering offset conditions as it will simplify assessment, avoid inconsistent interpretation, and improve conservation outcomes for prescribed matters. (106, 116, 208, 270, 276, 309, 329, 331, 350, 353, 391, 396, 404, 405, 426, 461, 506, 522, 526, 528, 531, 535, 551, 576, 579, 580, 597, 610, 621, 642, 652, 660, 674)	**Departments' response** • Noted.

Sub No.	Submitter	Section / initiative	Key Points	Departments' Response
331 350 353 389 391 396 404 405 406 426 446 461 506 517 523 526 528 531 535 540 551 522 568 571 576 579 580 584 597 591 592 610 621 642 652 660 674	Caroline Rentel Koala Action Inc. and Queensland Koala Crusaders Inc. Gold Coast and Hinterland Environment Council (Gecko) Col and Bern Thompson Vivien Griffin Paul May Ariana Magini Wide Bay Burnett Environment Council Queensland Greens Mike Downs Wide Bay Burnett Environment Council Glenda Orr Environment Institute of Australia and New Zealand Environmental Defenders Office NQ Chuulangun Aboriginal Corporation Rosewood District Protection Organisation Inc Koala Action Group Qld Inc. Peter Reay The School of Biological Sciences, University of Qld. Christine McCoy and Michael Kearey Nathan Frazier Ellie Bock WFF Australia Magnetic Island Nature Care Malcom Mars Kevin Blackman Queensland Conservation Council (QCC) Kristin Keane Wildlife Preservation Society Qld School of Agriculture and Food Sciences (University of Queensland) Environment Defenders Office QLD Sue Laird Moreton Bay Regional Council Ian Lambert Animal Liberation Queensland Quentin Lancrenon The Wilderness Society			
126 208 270 276 309	SEQ Catchments Ltd Christine Fraser Wildlife Preservation Society (Townsville) Wildlife Preservation Society (Logan) Julie Tasker	Support of Cls. 21-30 and 32-35	**Key points** • Some submitters support the removal of the significant impact threshold for triggering offset conditions. • Support was given on the basis that it will simplify assessment, avoid inconsistent interpretation of offset triggers, and improve conservation outcomes for prescribed environmental matters.	**Departments' response** • Noted.

Sub No.	Submitter	Section / initiative	Key Points	Departments' Response
329 331 350 353 391 396 404 405 426 434 461 506 522 526 528 531 535 540 551 571 576 571 584 591 597 610 621 642 652 660 674	Dr Joan Vickers Caroline Rentel Koala Action Inc. and Queensland Koala Crusaders Gecko Vivien Griffin Paul May Ariana Magini Queensland Greens Wide Bay Burnett Environment Council Peter Maslen Glenda Orr Environment Institute of Australia and New Zealand Ellie Bock Rosewood District Protection Organisation Inc Koala Action Group Qld Inc. Peter Reay The School of Biological Sciences, University of Qld. Christine McCoy and Michael Kearey Nathan Frazier Magnetic Island Nature Care Malcom Mars Kevin Blackman Kristin Keane School of Agriculture and Food Sciences (University of Queensland) Wildlife Preservation Society of Qld Sue Laird Moreton Bay Regional Council Ian Lambert Animal Liberation Queensland Quentin Lancrenon The Wilderness Society			
291 228 283 & 617 398 400 508 654 661	Queensland Resources Council Property Council of Australia Urban Development Institute of Australia (Queensland) Peter and Annett Marriott Cement Concrete & Aggregates Australia Australian Petroleum Production & Exploration Association Limited Property Rights Australia Origin Energy	Oppose Cl. 21-30 and 32-35	**Key points** • Some submitters do not support the removal of the significant impact threshold for triggering offset conditions; some of the reasons given include: ○ it is unclear how 'residual impacts' will be defined (228, 283 & 617, 291, 398, 400, 508); ○ Qld offset trigger does not align with Commonwealth offset trigger (291, 691); ○ there are many instances a project will have impacts on both State and Commonwealth values (661): ○ there needs to be some materiality for impacts that trigger offsets (228); ○ the process to develop the related 'residual impact' guideline is unclear (283 & 617, 291, 398, 508); ○ it will have a far-reaching and unintended consequences on the industry (661): ○ scope of projects requiring offsets, costs and timeframes could potentially increase; ○ add significant cost to industry, including the price of a new dwelling, impacting on housing affordability (all except 398); ○ maps used to calculate offset requirements need to be more accurate (654); ○ improved environmental benefits will not result from the amendment given that small and piecemeal offset areas will increase (228); ○ the amendments may be applied retrospectively (291).	**Departments' response** • The Government acknowledges the removal of the significant residual impact threshold may increase the cost of some development. • Removing the significance threshold is an important part of reinstating a responsible vegetation management framework that adequately compensates for the loss of significant environmental values. It will provide improved habitat protection by reducing the degree of impact on some matters that can occur before an offset is required.. • The government is currently preparing a guideline clarifying which impacts will come within the definition of 'residual impact' with a policy objective of, insofar as possible, reinstating arrangements in place prior to 2012 where offsets were required for adverse impacts of non-trivial size. • This is commensurate with the existing approach where the Act defines significant residual impact which is then further defined under guidelines. • Consideration will be given to the significant impact criteria used by the Commonwealth under the *Environment Protection and Biodiversity Conservation Act 1999* when developing the guideline. • For some matters, such as koala habitat, clearing a single non-juvenile koala habitat tree is considered to be a significant impact under the existing threshold. Removal of the significant residual impact threshold trigger will therefore not affect this value. • Consultation with stakeholders on the draft guideline will occur prior to debate on the Bill. • The department is also currently considering whether additional transitional arrangements are

Sub No.	Submitter	Section / initiative	Key Points	Departments' Response

			• Origin Energy supports the existing regime which encourages industry participants to focus on the provision of quality and strategic offsets for unavoidable, 'significant residual impacts' and is more likely to achieve effective and meaningful conservation outcomes in the long-term (661).
			• The Property Council of Australia does not support the preparation of further guidance and regulations on how to define 'residual impact' on the basis that it will not be able to qualify the express and clear wording of the Act (228).
			• The Property Council of Australia also states that the piecemeal and uncertain approach to offsets perpetuated by the Bill furthers the argument for a strategic assessment of values in South East Queensland (228).
			• QRC further submits that the two existing significant residual impact guidelines be standardised to remove inconsistency associated with offset triggers (291).
			• QRC also submits that transitional arrangements associated with the removal of the significant impact threshold are inadequate:
			  ○ The point at which development will be affected needs to be made clear.
			  ○ Proponents may be forced to revise offsets despite how far progressed the development proposal is (e.g. EIS determined, permit issued) increasing costs for industry and tax payers.
			  ○ The transitional provisions don't adequately apply to proponents with staged offsets (where the Notice of Election is only submitted prior to works being carried out for an upcoming stage),
			  ○ Proponents who have approval for the development should be exempt even if approval for the offset has not yet been sought or other offset-related permits are still required for the same, or substantially the same impact (291).
			• QRC requests that they be consulted to further develop suitable transitional provisions (291).
				required, for example, to ensure the changes are not retrospective.

291 398 508 639 661	Queensland Resources Council Peter and Annett Marriot Australian Petroleum Production & Exploration Association Limited P and E Law Origin Energy	Inadequate consultation on, and assessment of impacts arising from offset amendments	**Key points** • There has been inadequate consultation on, and assessment of impacts arising from the proposed changes to the offset framework. • Continual changes to complex offset-related legislation (e.g. changes to Module 8 (Native Vegetation Clearing) of the State Development Assessment Provisions under the Sustainable Planning Act) make it impossible for the average person to understand and follow the legislation (398).	**Departments' response** • Environmental offsets are also important in fulfilling the government's election commitments. • The Parliamentary Committee process is an opportunity for the broader community to provide input into the Bill. The timeframes provided for consultation by the Committee are a matter for Government. • Since March 2016, government representatives have been meeting with stakeholders to discuss their concerns associated with the Bill. • Stakeholders will be provided with a copy of a draft residual impact guideline for consultation before debate on the Bill.

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	Property Council of Australia
	Urban Development Institute of Australia (Queensland)
	
	Queensland Resources Council
	Queensland Greens
	Moreton Bay Regional Council
		Concern for amounts associated with Commonwealth offset conditions to be paid to State's offset account.	**Key points**
			
			• The style and content of drafted amendments created some confusion and concern. Submissions indicated that additional clarity is required to prevent the following outcomes:
			  ○ removal of restrictions on duplication of State and Commonwealth offset conditions under section 15 of the *Environmental Offsets Act 2014*;
			  ○ ability for the State Government to determine or increase the cost required for Commonwealth offsets.
			• Lack of consultation with the Commonwealth on the amendments. (283, 291)
			• No changes associated with Commonwealth offset conditions should be made until material is available demonstrating how the changes will work in practice. (291)
			• Concerns that financial settlement offsets may not deliver the necessary environmental outcomes. (405)
				Departments' response
				
				• Restrictions preventing duplication of State and Commonwealth offsets are not altered by the amendments in the Bill.
				• The Bill does not allow the State to require payments in addition to those required by the Commonwealth or impose separate conditions where the Commonwealth has finalised its impact assessment.
				• Restrictions on the use of the account for Commonwealth purposes are necessary to ensure that the objects of the Environmental Offsets Act are delivered and receipt of payments associated with Commonwealth offset conditions is in the best interest of Queensland.
				• The department is considering what amendments may be required to improve the clarity of existing provisions.

126 228 283 & 617 291 329 571 576 580	SEQ Catchments Ltd Property Council of Australia Urban Development Institute of Australia (Queensland) Queensland Resources Council Dr Joan Vickers Magnetic Island Nature Care Malcom Mars Queensland Conservation Council	Support for amounts associated with Commonwealth offset conditions to be paid to State's offset account.	**Key points** • Supports amendments allowing amounts associated with Commonwealth offset conditions to be paid to State's offset account. • Queensland Conservation Council submits that an investigation into the environmental outcomes delivered by offsets be undertaken to ensure that they are meaningful.	**Departments' response** • Under the *Environmental Offsets Act 2014*, offsets delivered by the State using payments received from proponents must achieve a conservation outcome for the same environmental value that was impacted. This requirement will also apply to the delivery of offsets using amounts associated with Commonwealth offset conditions. • Management of the Financial Offset Account will be subject to best practice governance policies and a transparent reporting regime. The quarantined offset account will be audited by the Queensland Audit Office at least annually and details of offsets will be entered into the offset register that is available on the Queensland Government website.

Sub No.	Submitter	Section / initiative	Key Points	Departments' Response
674	The Wilderness Society			
228 571 576 580	Property Council of Australia Magnetic Island Nature Care Malcom Mars Queensland Conservation Council (QCC)	Support for allowing Commonwealth offset areas to be legally secured	**Key points** • Support the intent of this change. (228, 580) • Concern that the amendments deem Commonwealth offset conditions to be State conditions resulting in unintended consequences for compliance and interpretation. (228)	**Departments' response** • The Bill allows for Commonwealth offsets to be legally secured under the State offsets framework. • Use of the legal security options for this purpose will be voluntary for both proponents and Commonwealth decision makers and subject to approval of the entity that declares and administers the mechanism under the relevant Act (e.g. declaration of a protected area under the Nature Conservation Act requires a regulation to be made by the Governor in Council). • Where a Commonwealth offset area is legally secured using a mechanism supported under the Environmental Offsets Act, the deemed condition under section 25 of the Act will apply requiring removal of the legal security over the offset site and approval of an offset for the area before future prescribed development (under Schedule 1 of the Environmental Offsets Regulation) can commence.
Matters raised by peak bodies which are not considered by the Bill				

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	Property Council of Australia
	Urban Development Institute of Australia
	AgForce
	Olkola Aboriginal Corporation
	Cape York Sustainable Futures
	Environment Institute of Australian and New Zealand
	WWF
	Environmental Defenders Office of North Queensland
	Queensland Conservation Council
	Wildlife Preservation Society of Queensland
	The Wilderness Society
	Queensland Greens
	Queensland Resources Council
	Cement, Concrete & Aggregates Australia
	Property Rights Australia
	Local Government Association of Queensland
	Cook Shire Council
	Far North Queensland Regional Organisation of Councils
	Etheridge Shire Council
	Chuulangun Aboriginal Corporation
		Matters not considered by the Bill (raised by peak bodies)	**Key points**
			
			<u>Vegetation management framework</u>
			
			• Conduct further inquiry into the wider social and health impacts of punitive and deeply contentious policy and legislative instruments used by Queensland Government to administer the management of vegetation, fundamental environmental and production assets on farms across the State. (598)
			
			<u>Indigenous communities / Cape York</u>
			
			• An urgent review is needed in relation to the current Vegetation Management Act 1999 (VMA) permit assessment and approval provisions, and their intersection with the Aboriginal Cultural Heritage Act 2003 (ACHA). (452)
			• The Bill could go further in legislatively acknowledging the bio-cultural values in forests and in recognising the primary substantive rights of Aboriginal people to set and pursue their own priorities for development, including development of natural resources, as articulated in the United Nations Declaration on the Rights of Indigenous Peoples. (523)
			• The planning and environment legislative frameworks recognise the unique social and cultural values of Cape York and assess impacts on bio-cultural values on land, resources and watercourses; that clan-based mapping, developed in consultation with Indigenous communities, be incorporated into spatial mapping products to inform development proposals and appropriate consultation.(523)
			• The Cape York reform of "Governance and Leadership" continue to be enhanced by strengthening and enabling the cultural legitimacy and authority of Indigenous peoples to establish appropriate mechanisms for integrative engagement and consultation at relevant scales for the development and delivery of government, industry and third party policies, programs, projects and development initiatives. (523)
			• Amend the definition of land "owner" in the Sustainable Planning Act 2009 (Qld) to include registered native title claimants and native title holders who have the benefit of a positive determination of native title. (604)
			• Establish a 10 per cent quota, similar to well-established principles and systems utilised worldwide in fisheries management, for the clearing of Aboriginal freehold land on Cape York for agriculture. (604)
			• Negotiate and settle compensation for the loss of private property (clearing) rights on the remaining 90 per cent of Aboriginal freehold land. (604)
			• Include provisions to conduct land assessments to identify Indigenous land suitable for economic development and provide a simplified development approval process for development of this land. (604)
			• Amend the Cape York Peninsula Heritage Act 2007 (Qld) to improve provisions for Indigenous Community Use Areas, including to redefine these areas as Indigenous Economic Development Zones, and to support Aboriginal land owners to realise development opportunities. (604)
			
			<u>Great Barrier Reef/ Science</u>
				Departments' response
				
				• These matters are outside of the scope of the Bill.
				• However these issues may:
				  ○ be addressed through an alternative government program;
				  ○ be inconsistent with government policy; or
				  ○ require an alternative forum to progress the matter further.

Sub No.	Submitter	Section / initiative	Key Points	Departments' Response

			• Revise mechanisms for improving water quality entering the Great Barrier Reef lagoon. (598)
			• Conduct further inquiry into the role of riparian vegetation in preventing suspended sediment and nutrients from entering the Great Barrier Reef lagoon. (598)
			• Avoid land degradation, particularly soil erosion caused by broad scale vegetation removal adjacent to watercourses in marginal regions. (405)
			• Include further measures to mitigate agricultural and resource extraction impacts on water quality and run-off in Great Barrier Reef catchment areas. (405)
			• Science shows that it is ground cover, through grasses and crop stubble, which determines run off and erosion risk and not tree cover. (654)
			
			<u>Other legislative amendments</u>
			
			• Extend vegetation clearing regulations to include mining projects. (604)
			• Suggestions that the definition of high value regrowth be changed to apply to vegetation that has not been cleared for the past 15 years (506, 568) or 20 years. (674)
			• Seek further changes to the VMA beyond the scope of the Reinstatement Bill, to provide incentives for sustainable land management practices on both freehold land (such as rate rebates) and leasehold land (such as re-introducing Delbessie) outside of protected areas. (517)
			• Suggestion to replace the current 'relevant purpose test' with 'ecological impact statements'. (597)
			• Suggestion to remove 'sustainable land use' from the purposes of the VMA. (674)
			• Provide the Herbarium and EHP with 'concurrence powers in regards to the setting of codes and assessment provisions, and changes to the regulatory map'. (674)
			• Require that greenhouse gas emissions be considered as a relevant factor during the assessment of development applications. (674)
			• Ensure legislative reform is accompanied by regular publishing and updating of regulatory maps and public register. (674)
			• Account for extreme weather events including extended droughts, floods etc. (405)
			• Reviews the range of exemptions for land clearing not covered by the VMROLA Bill 2016. (405)
			• The existing VMA and related provisions in other Acts has become overly complex and unwieldy and a complete overhaul of the legislation in full to ensure it is able to be interpreted by users. (283, 617)
			• Expand exemption provisions for the extractive industry in KRAs to non-KRA areas. (400)
			• Clause 4 – s22A(2)(b) of the VMA (provides a relevant purpose to clear for non-native pests or declared plants) overlooks the occurrence of native invasive animals that are managed by state and local governments. LGAQ suggests the inclusion of wording in (b) "for compliance with a relevant Biosecurity Plan under the Biosecurity Act 2015". (235)
			• Suggested amendment to Schedule 24 Part 2 s5
			  • (a)(ii) Add Category C area. (308)
			• Amend schedule 24 Part 2 s5 (b)(i) Sustainable Planning Regulation – Biosecurity Act 2014 instead of Land Protection (Pest and Stock Route Management) Act 2002
			  • (b)(i) amend to reference Biosecurity Act 2014 instead of Land Protection (Pest and Stock Route Management) Act 2002. (308)
			• Far north Queensland Regional Organisation of Councils submission notes and supports the LGAQ submissions comment about identification of invasive (translocated) native species and alignment with provisions under the Biosecurity Act 2014. (386)
			• The planning and environmental legislative frameworks adopt a 'fit for purpose' approach rather than blanket state wide approaches. The north is different to other parts of the state, and to date blanket approaches have resulted in often damaging and unintended consequences. (523)
			• Suggestion that the Government should be more strategic in dealing with competition between land uses. (580)
			• Consider reinstating DNRM as a concurrency agency for impact assessable development applications. (405)
			• State Development Assessment Provisions (SDAP) v 1.5 AO1.1 and AO 1.2 provided for s22A approval to meet the PO 1. SDAP V1.6 removed section 22A approval as a way to meet PO1. (647)
			• Changes to the PO3 in SDAP v1.5 regarding watercourses with v1.7 included drainage feature.	

Sub No.	Submitter	Section / initiative	Key Points	Departments' Response
			It is impossible to map drainage features on any scale map and DNRM do not have maps. (647) • Concerned about the ability to clear due to drainage features and 100m buffer. (647) • SDAP v1.5 PO5 regarding potential soil erosion required an erosion and sediment control plan for any potential for soil erosion. This provided certainty. PO5 was amended so that proposed clearing could not accelerate erosion and that the sediment and erosion control plan must control measures to ensure rates of soil loss and sediment movement are the same or less than those prior to the proposed development. This made an objective process subjective. This made it impossible to supply a plan in advance of works that can guarantee and outcome. This requires monitoring which are added and unnecessary expenses. (647) • A watercourse if defined in section 5 of the Water Act. (1) A water course is a river creek or other stream, including a stream in the form of an anabranch or a tributary, in which water flows permanently or intermittently, regardless of the frequency of flow events- (a) in a natural channel, whether artificially modified or not; or (b) in an artificial channel that has changed the course of the stream, (2) a watercourse includes any of the following located in it- (a) in-stream islands (b) benches (c) bars. (3) however a watercourse does not include a drainage feature. The effect of the definition is to provide the landholder with some certainty that he could clear vegetation provided he left a buffer around defined watercourses as might be required in the Development Approval. • SDAP version 1.7 was introduced on 23rd November 2015 amending version 1.5. PO3 was amended to include a drainage feature, drainage feature is defined in the Water Act 2000 definitions as a natural landscape feature including a gully drain drainage depression or other erosion feature. It is impracticable if not impossible to map drainage features on any scale and DNRM do not have maps. The effect of this amendment will make it virtually impossible to obtain an approval to clear anything but the flattest country that has no drainage features as a buffer of up to 100 metres each side of any drainage feature will be required.(647) <u>Environmental services and carbon</u> • An economic valuation of ecosystem services be developed to support effective decision making with respect to planning and development. (523) • The various benefits of retaining vegetation, or 'ecosystem services', should be considered, from environmental benefits, to agricultural productivity, and opportunities for Indigenous groups such as carbon farming. (517, 568) • establishment of a formal taskforce to examine how a combination of regulation, market incentives and Federal/State policy initiatives can be used to support further protection of woodlands, higher sequestration of carbon in woodlands, and income streams for landholders through woodland retention, regeneration and revegetation. (674) • Includes measures to balance our carbon emissions by increasing forested and vegetative cover through programs to rehabilitate regions previously destroyed by poor land management practises. (405) • Queensland is a carbon sink and all arguments that we need to reduce tree clearing to meet international greenhouse gas targets are unjustified. (654) • In relation to category R, seeks discussion about the definition of waterway; opportunities from operating in a carbon economy; opportunities for ecosystem services and integrating scientific knowledge. (346) <u>Economic impacts/ compensation</u> • Identify compensation options available for impacted businesses. (598) • Conduct further inquiry into the real financial, environmental and social impacts on farm businesses of the Vegetation Management Framework. (598) • Provides incentives to landholders to preserve existing vegetation and rehabilitate deforested areas. (405) • Suggest providing for stewardship incentive or economic imperative for retaining or sustainably managing regrowth. (308)	

Sub No.	Submitter	Section / initiative	Key Points	Departments' Response
			Offsets • Suggestion that an investigation be undertaken into the environmental outcomes of offsets to ensure they are more meaningful. (580) • Offsets should not be required in identified urban locations as urban development has been identified as highest and best use of this land (228, 283). • The Property Council of Australia also states that financial settlement offsets are not suitable for urban development due to the comparatively high cost of urban land and its use as a multiplier within the offsets calculator. This leads to developers sourcing their own land-based offsets increasing costs to homebuyers (228). Mapping • Inconsistencies in the State vegetation mapping between VM Act, biodiversity status mapping and environmentally sensitive area mapping. (691)	

Sub No.	Submitter	Section / initiative	Key Points	Departments' Response
Table B – Submissions from non-peak bodies				
16, 33, 39, 40, 42, 48, 49, 51, 53, 55, 56, 57, 66, 72, 73,76, 83,86, 91,97,100, 102,107,111,120, 122,123,124,125, 129,130,134,136, 139,143,144,146, 148,149,151,152, 153,154,155,156 160,162,163,167, 169,172,176,177 179,180,181,182 183,188,189,191, 192,195,196,197 198,200,202,206 212,213,214,216 217,218,220,222, 223,224,225,226, 228,229,230,231, 232,233,234,235, 236,238,240,241, 245,249,256,258, 260,264,265,271, 274,275,277,278, 279,281,283,284, 285,287,290,291, 292,293,295,298, 299,301,302,303, 308,314,317,318, 319,322,328,330, 332,333,334,346, 348,349,351,357, 359,360,364,366, 368,369,376,382, 383,384,385,386, 388,390,394,398, 401,402,403,409, 410,413,414,416, 421,423,427,428,	Refer to the Agriculture and Environment Parliamentary Committee website	Opposition to the Bill	**Key points** High value agriculture / Irrigated high value agriculture (HVA/IHVA) • Retain HVA/IHVA as a clearing purpose in the Vegetation Management Framework. • Removing HVA/ IHVA will limit or halt opportunities for agricultural businesses to expand and profitability. • Removing HVA IHVA will remove the opportunity for rural and regional communities to be economically sustainable. • The economic potential of Cape York is yet to be realised. The Bill will impede the opportunities for the people (both indigenous and non-indigenous) of the Cape to attain economic benefits and for Indigenous landowner's rights to develop traditional lands. • Urban development and resource industry expansion is reducing productive land. The HVA/IHVA provisions provide a regulated way of ensuring sustainable development of new agricultural land. (160, 346) • Removing HVA/IHVA conflicts with proposals to develop northern Australia . • Ability to grow crops to feed stock in times of drought. Category C (high value regrowth) • Opposes high value regrowth amendments. • Expansion of regrowth regulation on freehold and indigenous land impedes on landholder's property rights. • Loss of profitability as a result of retaining regrowth vegetation reducing pastures. • Inability to clear regrowth vegetation creates difficulties in removing weeds and pests, maintenance and public safety. • Concerned about the thickening of vegetation. • Reregulation of regrowth on freehold land will decrease property values. • Loss of opportunity for landholders to benefit from the regrowth vegetation (ERF and other carbon income opportunities) • Landholders business loss as a result of tenure conversion processes. • Inaccuracy of the mapping and the quality of the data - irregularities and errors in the RVMM will no doubt be exacerbated by the inclusion of high value regrowth mapping. • Additional regulation is only a land grab to meet international agreements. Category R (reef watercourses) • Opposed to extension of Category R regulation. • Dispute of certain science including the effects of nutrient runoff on coral bleaching, science behind the 50 metre stream buffers, and the importance of groundcover as distinct from	**Departments' response** • Refer to Table A – Peak bodies for general responses to issues raised by submitters who oppose the Bill.

Sub No.	Submitter	Section / initiative	Key Points	Departments' Response
430,431,437,438, 439,445,446,447, 448,449,451,453, 454,460,462,463, 468,469,470,471, 472,473,474,475, 476,478,479,480, 481,482,483,484, 485,486,487,488, 489,490,491,492, 493,494,495,496, 498,500,501,507, 508,509,512,513, 514,515,516,521, 525,527,532,534, 538,539,548,550, 552,558,559,560, 564,565,569,570, 572,574,586,587, 588,589,593,598, 599,601,602,603, 604,605,606,607, 609,611,613,614, 615,616,617,619, 621,623,624,625, 626,627,628,633, 634,636,639,641, 645,646,647,648, 651,654,655,661, 668,669,670,673, 676,679,681			retaining woody tree species for protection of land and soil. • The expansion of regulation into the new catchments may make some agricultural businesses unviable. • Increase in Category R provisions is a further restriction on development in Northern Queensland. <u>Compliance provisions</u> • Opposes the reverse onus of proof and the removal of the mistake of fact defence. • Removing the defence of mistake of fact and reversing the onus of proof is unjust. • Reverse onus of proof treats landholders as less than criminals. • Landholders are refused the possibility of making a mistake. • Inaccuracy of the vegetation mapping, inaccurate information and inability to access information leads landholders to make errors. • Landholders may potentially be subjected to legal proceedings and the substantial costs involved, at no fault of their own. • Occupiers may be unable to provide evidence where a third party has undertaken the clearing. <u>Water Act Amendments</u> • Oppose reinstatement of provisions in the Water Act to regulate the destruction of vegetation in a watercourse, lake or spring under a riverine protection permit. <u>Transitional provisions</u> • Concern about the impact of the amendments on existing development approvals and applications made prior to 17 March 2016. • Landholders are left waiting during the interim period. • Oppose the rehabilitation provisions that will apply to unlawful clearing undertaken during the interim period. <u>Retrospectivity</u> • Opposes retrospective commencement of the Bill <u>General issues about the Bill</u> • Opposes no compensation for landholders (moving from freehold to leasehold; for lost opportunity cost; lost development potential; economic loss during the interim period). • Lack of consultation on the Bill by the Government or the Government departments. • Seek future and ongoing opportunities for consultation that will achieve long term stability and sustainable outcomes • There was no Regulatory Impact Statement undertaken. • Inadequate time provided for making submissions to the committee. • Challenge the accuracy of aspects of the SLATS data. • Another amendment to the VMA creates legislative uncertainty for landholders making it difficult to plan into the future. • The Bill represents another variation of the Vegetation Management Framework, which has been amended over 18 times since its introduction in 1999. Legislative uncertainty brought on by another amendment to the VMA is an additional burden on landholders and communities who are already burdened by drought conditions. • Ecological processes work in much longer timeframes and can be severely compromised when mismatching, constantly changing regulations are enforced. (507) • Support retention of self–assessable vegetation clearing codes. • Oppose charges for landholders to have the mapping corrected.	
1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 34, 35, 36, 37, 38, 41, 43, 44, 45, 46, 47, 50, 52, 54, 58, 59, 60, 61, 62, 63, 64, 65, 67, 68, 69, 70, 71, 74, 77, 78, 79, 80, 81, 82, 84, 85, 87, 88,	Refer to the Agriculture and Environment Parliamentary Committee website	Supports the Bill	**Key points** <u>High value agriculture / Irrigated high value agriculture (HVA/IHVA)</u> • Supports the removal of the relevant purpose for HVA/ IHVA. • Opposes the current provisions allowing HVA/ IHVA due to the impact on biodiversity, climate change and the Great Barrier Reef. • Concerns expressed about environmental impacts, and large-scale nature of clearing under a HVA or IHVA permit. • There is no need to clear to make way for agriculture. Submissions suggests looking at alternatives such as using existing land set aside for agriculture, repurposing existing	**Departments' response** • Refer to Table A – Peak bodies for responses to issues raised by submitters who oppose the Bill.

Sub No.	Submitter	Section / initiative	Key Points	Departments' Response
89, 90, 92, 93, 94, 95, 96, 98, 99, 101, 103,. 104, 105, 106, 108, 109, 110, 112, 113, 114, 115, 116, 117, 118, 119, 121, 126, 127, 128, 131, 132, 133, 135, 137, 138, 140, 141, 142, 145, 150, 157, 159, 161, 164, 165, 166, 168, 170, 173, 174, 175, 178, 184, 185, 186, 190, 201, 203, 204, 205, 208, 209, 210, 211, 219, 221, 227, 237, 239, 244, 246, 247, 248, 250, 251, 252, 253, 254, 255, 257, 259, 261, 262, 266, 267, 268, 269, 270, 272, 273, 276, 280, 282, 286, 288, 289, 294, 296, 297, 300, 304, 306, 307, 309, 310, 311, 312, 313, 315, 316, 320, 321, 323, 324, 325, 326, 327, 329, 331, 335, 336, 337,338, 345, 347, 350, 352, 353, 354, 355, 358, 361, 363, 365, 367, 370, 371, 372, 373, 374, 376, 377, 378, 379, 387, 389, 391, 392, 393, 395, 396, 397, 399, 400, 404, 405, 406, 408, 411, 412, 415, 417, 418, 419, 420, 422, 424, 425, 426, 432, 433, 434, 435, 436, 440, 441, 442, 443, 444, 450, 452, 455, 456, 457, 458, 459, 461, 464, 465, 466, 504, 505, 506, 511, 517, 518, 519, 520, 522, 523, 524, 526, 528, 529, 530, 531, 533, 535, 536, 537, 540, 541, 542, 543, 544, 545, 546, 547, 549, 551, 553, 554, 555, 556, 557, 561, 562, 563, 566, 567, 568, 571, 573, 575, 576, 577, 579, 580, 581, 582, 583, 584, 585, 590, 591, 592, 594, 595, 596, 597, 608, 610, 612, 618, 620, 629,			agricultural areas; allocating specific areas for agriculture. High value regrowth/ Category C • Support the reregulation of protections of high value regrowth on freehold and indigenous land. • Reregulating of regulated regrowth will provide major biodiversity benefits. • The removal of regrowth vegetation increases sediment and nutrient loads into the Great Barrier Reef. Category R (reef watercourses) • Supports the protection of riparian vegetation in additional Great Barrier Reef Catchments. • Riparian vegetation plays an important role in reducing sedimentation and nutrient run-off entering waterways. Deteriorating water quality caused by catchment run-off is recognised as the most immediate risk to the condition of the Great Barrier Reef. Compliance provisions • Support the reinstatement of the reverse onus of proof the removal of the mistake of fact defence. Water Act Amendments • Supports the reinstatement of Riverine protection permits for the destruction of vegetation in a watercourse. Retrospective commencement • Supports retrospective commencement to deter panic clearing and panic applications. General issues about the Bill • Supports the reinstatement of protection of vegetation and limitations on clearing in Queensland and the resultant impacts on wildlife habitat and biodiversity, land degradation, pollutant and sediment run-off to the Great Barrier Reef, and carbon dioxide emissions. • Concern about the effects of broadscale clearing. • Under the current law the purposes of the Vegetation Management Act are not being fulfilled, as evidenced by the increased rates of clearing. • Submitters expressed concerns about 'exempt' clearing, in particular the right to clear areas mapped as 'Category X' on a Property Map of Assessable Vegetation, as well as exemptions which apply in urban areas. Submissions advocated for stronger laws to protect remnant vegetation in urban areas. • The environmental impacts of clearing under self-assessable codes are too high, and they should be reviewed to lessen impacts, or risks of environmental harm. • Concern about the loss of habitat of threatened species like the Koala. • Lack of consideration given to the precautionary principal and requirements for ecologically sustainable development in regulation.	

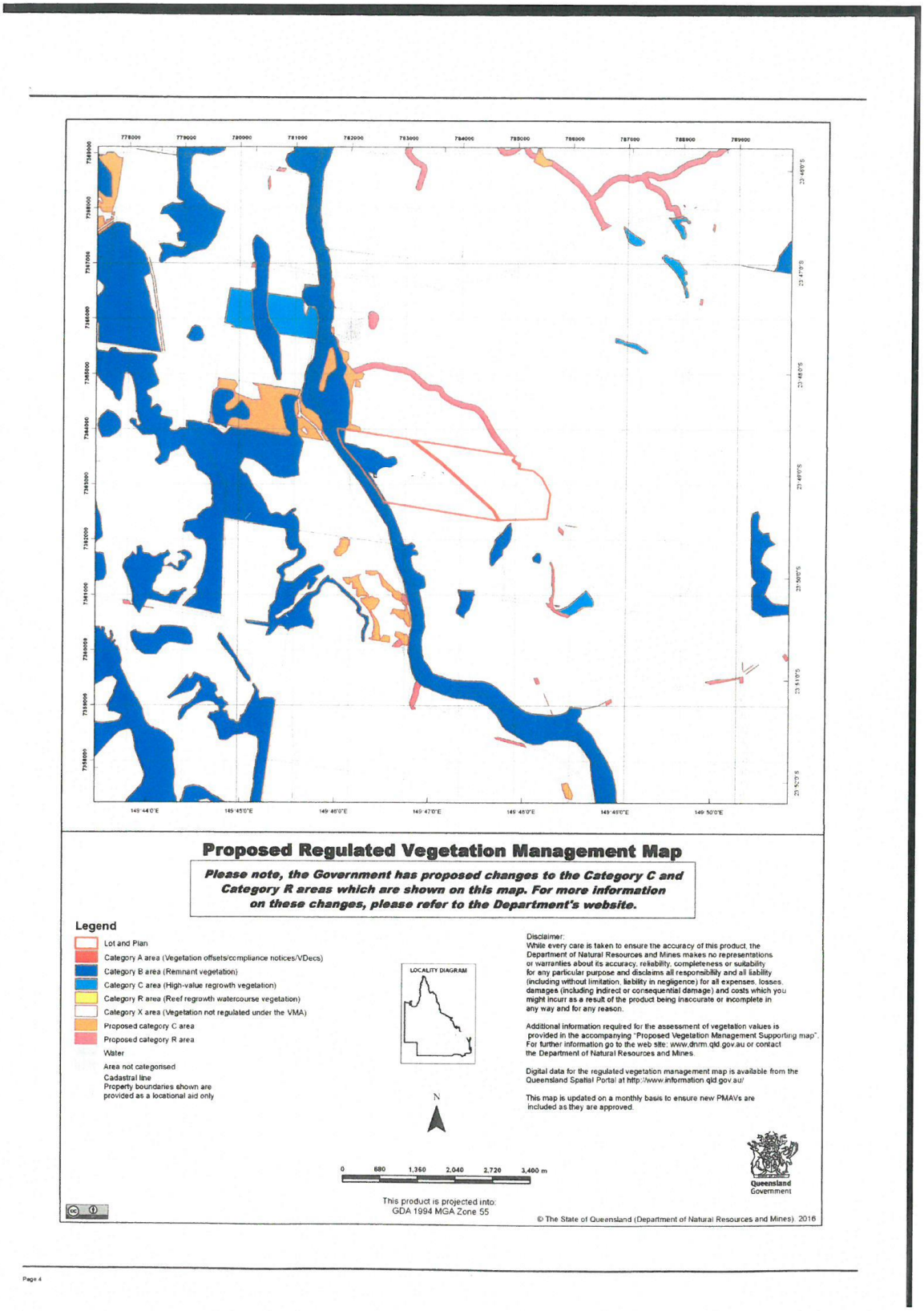
Sub No.	Submitter	Section / initiative	Key Points	Departments' Response
630, 631, 632, 635, 637, 640, 642, 643, 649, 652, 653, 656, 657, 658, 659, 660, 662, 663, 664, 665, 666, 667, 671, 672, 674, 675, 677, 678, 680, 682, 683, 684, 685, 686, 687, 688				
Matters raised by non-peak bodies which are not considered by the Bill				

		Additional matters not considered by the Bill	**Key points**
			
			<u>Vegetation management framework</u>
			
			• SEQ Catchments Ltd submits its concern that the exemption that allows less than 5 hectares of remnant vegetation (including endangered, of-concern, wetland, watercourse and connectivity vegetation) to be cleared without the requirement for a permit will remain and not be replaced by the 2 hectare exemption in place before the Newman Government changes. This minimum permit trigger, combined with exemptions from offsets associated with urban designations, priority development areas and community infrastructure result in a continuing decline in condition and trend of remnant vegetation in South East Queensland.
			• More and better public awareness of the amendment bill is needed.
			• Use declared areas under the VMA.
			• Reintroduce the Delbessie system.
			• School program to educate future generations about Queensland's rich natural heritage
			
			<u>Other legislative amendments</u>
			
			• Suggests the Government should consider introducing new conservation of Biodiversity legislation.
			• Prohibit the destruction of boundary fences along conserved areas by neighbouring landowners or their agents.
			• Suggest the Bill should include provisions to support landholders who voluntarily protect vegetation on their land.
			• Review all of the exemptions for land clearing not covered by the Bill (PMAV, Category X, SACs, Urban areas). Should not be an enduring right to clear areas exempt on a PMAV.
			• Suggest the Bill should protect vegetation from impacts of destructive external influences; regulate impacts on drainage and hydrology; regulate use of pesticides; and place requirements on local governments regarding biodiversity conservation.
			• Management of cycads in Queensland and the whole of Australia is lacking. Suggests, funding, research, mapping, protection, management plans, protected areas, education, and bans on particular clearing to help the species.
			• Impact of vegetation clearing exemptions for mining activities - remove exemption for mining.
			• Conserve koala by providing stronger protection of habitat or legislating to protect Koalas.
			• Category R should include Moreton Bay draining streams.
			• Suggest that 5ha trigger for Material Change of Use/ Reconfiguration of a Lot should be reverted back to 2ha.
			
			<u>Planning framework</u>
			
			• Concern about urban development and resource industry expansion on new agricultural land.
			• Need for great consideration of corridors in town planning/ urban development and for agriculture
			
			<u>Environmental impacts</u>
			• Not supportive of the Flinders River Agricultural Precinct.
			• Look into the logging industry for environmental damage.
			• Concerned about impact of clearing on Hinchinbrook Channel, Missionary Bay, Hinchinbrook Island, Johnstone River and the Mahogany Glider.
			• Concerned about impacts of clearing on Eungella National Park, Eugella Honeyeater and the Clarke Range
				Departments' response
				
				• These matters are outside of the scope of the Bill.
				• However these issues may:
				  ○ be addressed through an alternative government program;
				  ○ be inconsistent with government policy; or
				  ○ require an alternative forum to progress the matter further.

Sub No.	Submitter	Section / initiative	Key Points	Departments' Response

			• Impacts of fire regimes.
			• Impacts of Mining and CSG on clearing.
			
			<u>Environmental services and carbon</u>
			• Support for fodder harvesting in Mulga lands to encourage re-seeding.
			• Suggests rehabilitation programs for balancing carbon emissions.
			• Have an enquiry into carbon and climate change.
			• Suggest Government should be moving towards a plant based protein production system which is more ecologically sustainable.
			
			<u>Economic impacts/ compensation</u>
			• Provide incentive programs to landholders to preserve existing vegetation and rehabilitate deforested/ degraded areas.
			• Suggests a social and economic impact study should be undertaken on the impacts of this Bill on families and communities.
			• Introduce tax incentives for drought measures to make farmers more sustainable
			• Impacts of the Bill on food security and population growth
			
			<u>Offsets</u>
			• Gecko recommends that the following offset requirements removed by the former government should also be reinstated:
			  ◦ values for which offsets were formerly required such as near-threatened species;
			  ◦ Local government ability to impose offsets for matters of state environmental significance;
			  ◦ scale and size of offsets determined by science rather than a cap (no greater than 4:1).
			• Gecko submits that these changes collectively resulted in fewer offsets being triggered for threatened species and ecosystems, constrained local governments in delivering their biodiversity objectives and reduced the ability to achieve no net loss of biodiversity values (the objective of the offset framework). Reinstatement of these aspects will ensure adequate conservation outcomes for prescribed environmental values.
			• Offsets should not be allowed for impacts to threatened species and other high ecological values.	

Appendix D: Example of Proposed Regulated Vegetation Management Map



Statements of Reservation

Tony PERRETT MP
Member for Gympie

Opposition Members' Statement of Reservation

Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016

Opening Comments

Opposition members of the Agriculture and Environment Committee oppose the Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016.

At the outset, Opposition members of the committee would like to thank all of those individuals who made submissions to the inquiry and appeared at the committee's regional hearings on the Bill.

Opposition members also thank the landholders who welcomed the committee on to their properties at Olive Vale, Burdekin Downs and Glenlea Downs. Opposition members greatly appreciated the opportunity to visit these stations, to hear, first-hand the concerns of landholders and to see for themselves, on the ground, examples of the issues faced by landholders if the Bill is passed.

Opposition members note that the Deputy Premier originally intended for the committee to report back to the Parliament on the Bill by 15 April – only 19 working days, including the Easter and school holiday period, after the Bill had been introduced.

The measures in the Bill are considered as extensive and aggressive, will apply a brake on investment and job creation, shut down farm management, and will have a negative impact on the agricultural, resource and property industries which has also warned of significant impacts on urban areas.

The Opposition members see this Bill as directly related to the Deputy Premier's urgent need to appease the activist green movement which is threatening inner city seats and to which the Government is seen as being beholden. Opposition members-view that its content is shaped by green groups and their agenda.

A letter from the Wilderness Society, Queensland Campaign manager, Dr Tim Seelig, to the Premier on 8 September, 2015, raised concerns about the government taking a 'considered and balanced' approach to vegetation management.

> *"While we have no issue with the government discussing the implementation of its land clearing commitments with rural stakeholders, the email's reference to taking a "considered and balanced approach to implementing protections that will promote sustainable agriculture while also addressing ... the long-term health of the Reef" suggests a much broader conversation, which is at odds with what the government has already promised to do."*[1]

Labor made several commitments to green activists in return for preferences at the 2015 state election. Many members relied on green preferences with the Environment Minister only winning the seat of Mount Coot-tha on green preferences after trailing the LNP candidate by 10% on primary votes. Opposition members view this legislation as the Deputy Premier doing the bidding of the greens in

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[1] Tabled paper: Letter, dated 8 September 2015, from the Queensland Campaign Manager, The Wilderness Society, Dr Tim Seelig, to the Premier and Minister for the Arts, Hon. Anastacia Palaszczuk, regarding restoring Queensland's nation-leading land clearing laws [322]

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cabinet by introducing a heavier bureaucratic and regulatory burden on an agricultural industry, which is suffering under the pressure of a crippling drought which brings social and huge financial pressures.

Green activists have sought to shut down consultation with stakeholders; refused to engage in a roundtable organised by the Minister for Resources, Dr Anthony Lynham, and another with the Member for Cook, Billy Gordon; have pressured the Premier to sideline the Minister for Resources, Dr Anthony Lynham, and place the passage of the bill with the Deputy Premier; and then when appearing before the committee have deliberately engaged in incendiary commentary regarding the consultation process.

Originally the Minister for State Development and Minister for Natural Resources and Mines, Dr Anthony Lynham, had responsibility for the Bill.

On June 12, 2015 the Minister for Natural Resources, Dr Lynham, said there would be no rushed changes on vegetation management. *"...it's also integral to landholders, farmers and their business and the jobs they support across the state."* The same article quoted the Minister for the Environment, Dr Stephen Miles, that *"he would prefer to work with farmers on improving water quality."*[2]

The Minister for State Development and Minister for Natural Resources and Mines, Dr Anthony Lynham, repeatedly told the Parliament and the public that no change would be made without extensive consultation and spoke about it at length in Parliament on 19 August, 2015; 15 September, 2015; 27 October, 2015; and 24 February 2016.

Dr Lynham said in the Parliament on 15 September 2015:

> *"I have repeatedly said that a key element of achieving this commitment will be through thorough consultation with a range of stakeholders. As such, a vegetation management community roundtable process will be used to achieve this outcome through participation from representatives from the agricultural and conservation sectors, the natural resource management collective and Indigenous interests. Once I receive the report from the roundtable, the government will carefully consider the recommended actions in the context of our election commitments."*[3]

The Opposition members believe that green activists in the environment movement are driving this legislation and have tried to disrupt any consultation process. On 12 June, 2015, The Wilderness Society, Queensland campaign manager, Dr Tim Selig, said:

> *"It's time the Premier stepped in and told Natural Resources Minister to get a move on. Labor can't hide from this."*[4]

In August, 2015, Dr Seelig launched a major campaign through linked conservation groups around Australia to hammer Government inaction. The email said:

"...we have a stubborn Minister for Natural Resources, who prefers to hang out with the mining and Big Ag sectors rather than listen to the public's views. So, we plan to take the message directly to him

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2 Cairns Post June 12 and The Courier-Mail article by Brian Williams June 12, 2015

3 Tabled paper: Extract from Record of Proceedings, dated 15 September 2015, speech by the Minister for State Development and Minister for Natural Resources and Mines (Dr Lynham) on Infrastructure, Planning and Natural Resources Committee: Report No. 7- 2015-16 Budget Estimates

4 Cairns Post June 12, 2015)

in his electorate of Stafford as well as to Parliament. This week the crew from Queensland and the national campaign team are meeting in Brisbane to strategise and plot our next moves."[5]

In a letter dated 8 September, 2015 to the Premier the Wilderness Society demanded that the preference deal that was agreed between the Labor Party and the Greens be honoured. It claimed that the Government was too slow in introducing the Vegetation Management changes and demanded a moratorium on vegetation management activities.

> *"The Wilderness Society ....is disturbed by the complete lack of governmental action in restoring Queensland's nation-leading land clearing laws.....To date, we have not seen any positive action to either address the situation nor to fulfil your government's commitments.*
>
> *In light of the above, and to be assured of Labor's commitments about vegetation management reform, we ask for a clear statement of intent about your government's delivery this term of the commitment regarding restoring strong tree clearing laws. We also seek swift action to suspend current clearing."*[6]

On 18 September, 2015 Dr Seelig from the Wilderness Society said:

> *"It's way over time for the Government to be moving on this....Why Minister Lynham is out there talking about compromises and softer solutions, and frankly, doing absolutely nothing in the meantime,....beggars understanding."*[7]

In December, 2015 the Premier, Anastacia Palaszczuk, transferred passage for the bill to the Deputy Premier, Jackie Trad. The Opposition members view this as a direct result of pressure from the green movement. In an article by Sarah Elks in The Australian on 29 March, 2016

> *"According to Labor sources, there are also division within the government on this issue. Some in Trad's dominant Left faction want the issue to serve as a lightning rod to appeal to Greens votes. Late last year, Palaszczuk took responsibility for the vegetation management changes away from Natural Resources Minister Anthony Lynham, a senior member of the AWU-led Right faction."*[8]

Cape York Leader Noel Pearson alluded to this saying:

> *"I believe too many decisions are arbitrarily taken in south-east Queensland for considerations other than proper environmental stewardship..... Our opportunities for our future generations to develop have been cut off at the past, so I just think this is an unfortunate agenda that State Government is pursuing here."*[9]

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5 Email forwarded by the Gympie Times to the Premier's media unit and various electorate offices for comment. 25 August, 2015.

6 Tabled paper: Letter, dated 8 September 2015, from the Queensland campaign manager, The Wilderness Society, Dr Tim Seelig, to the Premier and Minister for the Arts, Hon. Anastacia Palaszczuk, regarding restoring Queensland's nation-leading land clearing laws [322]

7 ABC Rural by Marty McCarthy. In article titled Tree clearing debate heats up as Labor accused of softening election promise. http://www.abc.net.au/news/2015-09-16/tree-clearing-heats-up-labor/6780948

8 The Australian 29 March, 2016 by Sarah Elks titled: To clear or not to clear

9 ABC by Marty McCarthy and Kristy Sexton-McGrath March 2016 Tree clearing: Indigenous leaders Noel Pearson hits out at changes to Queensland's Native Vegetation Act http://www.abc.net.au/news/2016-03-09/indigenous-leader-hits-out-at-qld-land-clearing-laws/7230726

On 28 March this year Queensland Greens campaign secretary, Andrew Bartlett, the former Democrats Senator, warned that if Labor failed to follow through with its promise, it would be likely to lose Greens preferences.

> "It's *not a matter of some sort of a deal with the party – it's a matter of a core election promise and a key issue for Greens voters.*
>
> *If Labor backs away from those sorts of things that makes Greens voters much less likely to want to preference Labor..."*[10]

Minister Lynham' s roundtable only met once and failed to reach any consensus about changes needed because the environment groups deliberately refused to engage without guarantees that the legislation would be changed. The consultation process was frozen after just one meeting.

On 17 March, 2016, the Speaker, Peter Wellington, told the Parliament:

> *"...I asked about the roundtable consultation process on vegetation management. I was advised that AgForce was pleased to participate, but that the roundtable process was not able to progress because environmental groups refused to participate unless the government brought in a moratorium on tree clearing. I am disappointed the environmental groups that were invited to take part refused to participate. I do not support or condone what I consider to be blackmail tactics."*[11]

The Wilderness Society failed to attend a roundtable for stakeholders in Mareeba in March this year.

> *"Mr Gordon (Member for Cook) held a roundtable with stakeholders in Mareeba earlier this month...(he) said he was disappointed the Wilderness Society failed to attend his roundtable meeting."*[12]

During the hearings in Brisbane on 3 June the Wilderness Society, Queensland campaign manager, Dr Tim Seelig, used provocative and incendiary language in reference to individual landholders. It demonstrated a complete disregard for the issues facing landholders and claimed that individual landholders had been 'paraded' in front of the committee.

> Dr Seelig:....I noted that a number of individual landholders have been paraded in front of the committee. I guess that is an attempt to try and personalise the effects of the bill.
>
> Mr PERRETT: Excuse me: I dispute the fact that they have been paraded in front of the committee.
>
> Dr Seelig: I say that because of Agforce-
>
> Mr PERRETT: Please explain yourself with regard to that, because that is an insult to every single person who has come before this committee. They have not been paraded. They have come here under their own volition and, in a lot of cases, put a very emotional perspective to what we are doing and what the government is proposing to do. I ask you to withdraw that, please.
>
> Dr Seelig: May I explain why I said that?

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10 Article in The Australian. 29 March, 2016, Titled: Palaszczuk teeters on land-clearing laws

11 Hansard p 922 on 17 March, 2016, re First Reading on Vegetation Management (Reinstatement) and Other Legislation Amendment Bill

12 Article in The Australian. 29 March, 2016, Titled: Palaszczuk teeters on land-clearing laws

Mr Perrett: I ask you to withdraw that, please.

Dr Seelig: I will withdraw the word 'paraded.'[13]

Opposition members view that the Bill is being driven by an interest to appease the green movement, which has indicated that the interests of other stakeholders are to be disregarded, to maintain support for preferences.

Impact of frequent changes to the vegetation management framework

Opposition members note that the Bill represents the 18th time that the vegetation management framework has been amended since the introduction of the *Vegetation Management Act 1999*. AgForce stated that:

> *Since 1999 Queensland primary producers have borne the brunt of 18 major changes and 38 amendments to the vegetation management laws. This has left farmers with a lack of security of tenure and certainty with which to plan for the future. The vast majority of these changes have been made on the back of political promises not on the basis of environmental logic. Yet again, farmers face more changes driven by what the government thinks is good politics rather than good policy.*[14]

Queensland's farmers are the true environmentalists and should be allowed to continue to sustainably manage their land. Witnesses at the regional hearings stated that farmers "livelihoods depend on having healthy ecosystems achieved through proactive maintenance-based management"[15] and "for generations landholders have demonstrated they are responsible custodians of the land".[16] AgForce stated that:

> *Queensland farmers are the true environmentalists. Unlike professional, career-driven environmental lobbyists we live, breathe and work in our environment every day. Queensland's primary producers are directly engaged in conservation activities such as biodiversity projects, nature refuges, tree planting and the voluntary retention of category X vegetation that could be cleared legally. All these direct ecosystem are provided on behalf of and for the people of Queensland with no market reward.*[17]

The Queensland Farmers' Federation (QFF) stated that:

> *I think there is a misconception that there is wide-scale clearing for clearing sake. That is nonsensical. No good business operates on that basis. What we have been talking about is a very strategic approach – that is, where it actually delivers business outcomes, it delivers increased productivity, it increases the opportunity for us to diversify industries into different seasonal environments, water environments or water catchments so that we have year round coverage to supply to our markets.*[18]

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13 Dr Tim Seelig, Wilderness Society, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.7

14 Grant Maudsley, AgForce, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.25

15 Janeice Anderson, *Public Hearing Transcript*, 19 May 2016 (Emerald), p.5

16 Vicki Franklin, *Public Hearing Transcript*, 2 June 2016 (Charleville), p.21

17 Grant Maudsley, AgForce, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.25

18 Ruth Wade, Queensland Farmers' Federation, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.24

Opposition members also consider that the Bill will hamper regional development, including employment opportunities. For example, AgForce stated that:

> *Queensland agriculture has the potential to grow from $17 billion to $30 billion over the next decade, delivering thousands of jobs and opportunities. To grow we need sensible land management laws. The proposed changes in this bill are anything but sensible. The proposed changes will restrict supply, drive up food prices, stifle regional development and make it harder for farmers to grow their businesses.*[19]

Consultation on the Bill

Opposition members have significant concerns about the lack of Government consultation on the Bill. The lack of consultation was raised by a significant number of submitters. For example, the QFF stated that:

> *The government did not consult with the agricultural sector and key stakeholders before the Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016 was tabled and as it stands; QFF asserts that the Queensland Government has not considered critical concerns from the sector.*[20]

One witness at the committee's regional hearing in Townsville stated:

> *Seeking comment on a preferred policy, often late in the legislative process, will raise community expectations and reduce confidence in the integrity of the policy engagement process. We believe this to be the case regarding this proposed bill.*[21]

In addition, the Queensland Resources Council stated that the:

> *... Bill was rushed into the parliament in the absence of proper consultation. Again this has resulted in a missed opportunity for what could have been a sensible approach to address government's intent of creating accountability for agricultural impacts without any unintended consequences for the resources industry.*[22]

Opposition members noted that no consultation was undertaken by the Government on the proposed amendments to the *Environmental Offsets Act 2014*.

Prohibition on clearing for high value agriculture and irrigated high value agriculture

Opposition members shared submitters' opposition to the amendments to prohibit clearing for high value agriculture (HVA) and irrigated high value agriculture (IHVA). AgForce stated that:

> *Removing HVA and IHVA will stifle rural community development, accelerate 'urban drift' of young rural people to the city and stagnate local jobs. The prospect of positive rural development is an essential life-line for rural communities. The biggest cause of environmental degradation is not land clearing, it is poverty.*[23]

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19 Grant Maudsley, AgForce, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.26

20 Queensland Farmers' Federation, submission 346, p.2

21 Noeleen Ferguson, *Public Hearing Transcript*, 18 May 2016 (Townsville), p.19

22 Frances Hayter, Queensland Resources Council, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.47

23 AgForce, submission 598, p.3

> *Omission of HVA/IHVA from the VMA restricts capacity of agricultural industry over much of the State and places it directly at odds with the Federal Government's proposed investments in the development of industry in Northern Australia, including intentions of significantly increasing Indigenous-non-Indigenous prospects. This is particularly unpalatable as the environmental outcomes sought by omitting HVA/IHVA has no proven environmental benefit, nor scientific basis.*[24]

The Bill will also have a disproportionately adverse impact on Indigenous economic development. As noted by the Cape York Land Council Aboriginal Corporation (CYLCAC):

> *Aboriginal people on Cape York are the Queenslanders most in need to actually see their land for economic development so that they can break free of welfare dependence and all Queenslanders should share a more equal responsibility to achieve the environmental outcomes that the bill is seeking to achieve. Because of this unfair burden we do not support the proposals in their current form in the bill. We do not support removal of the option for vegetation clearing for irrigated agriculture and high-value agriculture.*[25]

During its inquiry, the committee also heard of the significant personal financial impacts the prohibition would have on farmers and their plan for the future. For example, the committee heard from a farmer who had spent $30,000 on an application for HVA clearing on 2 per cent of his property, which he would not be refunded, if the Bill passed.

High value regrowth on freehold and indigenous land

Opposition members oppose the re-regulation on high value regrowth on freehold and indigenous land. As AgForce pointed out:

> *This is some of Queensland's most productive land and imposition of Category C requires compensation. Category C mapping is a land grab that permanently devalues land and reduces income. This land has been paid for and has developed at major cost. There is a case for compensation for land freeholded since December 2013, particularly for those who freeholded and arranged a Forest Consent Agreement with the State giving them ownership of the timber.* [26]

As noted by witnesses at our regional hearings the proposals will have the opposite effect to what is intended:

> *... the proposed ban on clearing category C high-value regrowth will lead to a loss of biodiversity and an increase in erosion and sediment washing onto the Great Barrier Reef. This is the opposite effect to what the laws are trying to achieve. This will happen because, contrary to the commonly held belief of many environmentalists, trees do not prevent erosion; rather good ground cover, especially grass, that slows the flow of the water across the land and holds the soil together.*[27]

and

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24 AgForce, submission 598, p.3

25 Shannon Burns, Cape York Land Council Aboriginal Corporation (CYLCAC), *Public Hearing Transcript*, 17 May 2016 (Cairns), p.2

26 AgForce, submission 598, p.7

27 Janeice Anderson, Public Hearing Transcript, 19 May 2016 (Emerald), p.4

> *... where regrowth has thickened there is no ground cover; there are sink holes and very significant erosion ... thick regrowth is totally useless ... there was no wildlife and very few tracks on the ground indicating that even the native animals do not find it very attractive.*[28]

Other witnesses raised the importance of landholders' being able to manage regrowth on their properties, for example:

> *... controlling regrowth is just basic maintenance of property. It is no different to replacing an old ... fence or replacing a set of yards or a shed falling down on your place. It has been blown out of all proportion over the last 20-odd years to being this catastrophic thing that people do.*[29]

In relation to the impact of regrowth and thickening, one witness stated that:

> *Say there was 1,000 acres, they could run 100 head of cattle. If that regrows into thick suckers and they could not run anything, there is 100 head of cattle that they cannot run. That has a big impact on your viability and your profitability, and that of course flows on to the towns and community as well.*[30]

Similarly, a further witness stated that:

> *The thickening of vegetation has choked out the grass, causing erosion. Where we improved the land sustainable for grazing, erosion has been reduced. The land we have developed needs constant maintenance to keep regrowth from taking over our grazing areas in order to keep it healthy and productive.*[31]

Another witnesses commented on the impact that regrowth has on land value:

> *When any real estate agent comes out or even when we get valuations done every three years for the banks, they will say, 'How much white country have you got? Okay, that is worth $800 an acre. You have coloured country – that is worth $300 an acre.' There is $500 an acre gone there. There is $100,000 in value of that property immediately wiped.*[32]

Protection of regrowth vegetation in watercourse areas in Great Barrier Reef catchments

Opposition members of the committee also oppose the proposed extension of the protection of regrowth vegetation in watercourses to the Burnett-Mary, Eastern Cape York and Fitzroy Great Barrier Reef Catchments. The one-size-fits-all approach in the Bill does not work. As highlighted by the QFF:

> *There is an argument to say that the one-size-fits-all bill is not necessarily the right fit for the whole category. Some scientific research into the proper riparian zones for certain areas, stream size, creek size, river size and also soil types is probably needed to actually make it a more effective on-ground application of category R.*[33]

Similarly, Ian Mackay, Mary River Catchment Coordinating Committee, stated that:

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28 Janeice Anderson, *Public Hearing Transcript*, 19 May 2016 (Emerald), pp.4-5

29 Barry Hoare, *Public Hearing Transcript*, 19 May 2016 (Emerald), p.10

30 John Baker, *Public Hearing Transcript*, 19 May 2016 (Emerald), p.11

31 Peter Joliffe, *Public Hearing Transcript*, 2 June 2016 (Roma), p.11

32 Brad Newton, *Public Hearing Transcript*, 1 June 2016 (Bundaberg), p.9

33 Ross Henry, Queensland Farmers' Federation, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.24

> *... there might be some sort of scale that is related to the order of stream magnitude – that smaller streams have a smaller buffer – but there really is a need for on-the-ground officers to be doing some assessment as well.*[34]

Other witnesses questioned the science behind the proposals, and stated:

> *I am not aware of any proof that the imposition of Category R vegetation restrictions in the Burdekin, Mackay-Whitsunday and Wet Tropics Great Barrier Reef catchments has reduced sediment and chemical run-off, I see no reason to impose the same restrictions in the Burnett-Mary, Eastern Cape York and Fitzroy Catchments. This is especially so as there is no science to prove that a 50-metre vegetation buffer is more beneficial to the Great Barrier Reef than a 50-metre vegetation groundcover buffer of filtering sediments.*[35]

Vegetation mapping and availability of resources and information

During the committee's inquiry, in particular its regional hearings, the most frequent concern raised was the inaccuracy of vegetation mapping and a lack of departmental resources. The vegetation mapping was described as "woefully inaccurate", "atrocious" and "thoroughly irresponsible and irregular". For example:

> *For some reason a lot of woody weeds that are not native to the country are coming up on the maps as some sort of vegetation resource, if not regrowth. In my case it is lantana that has come up as softwood scrub endangered regrowth.*[36]

Witnesses also stated that correcting errors in mapping was "a big process and it is costly to get those changes done".[37]

Other witnesses highlighted that the vegetation mapping used is "a totally wrong basis for vegetation management. It is not the right data that you should be using".[38] AgForce stated that "The regional ecosystem mapping was actually never intended for the Vegetation Management Act as a legal instrument" and "consistently the mapping has proved to be extremely wrong".[39]

Opposition members support the views of many submitters that the Bill should not be passed until the mapping is right and landholders have been consulted.

Witnesses and submitters also raised concerns about a lack of departmental resources to assist with understanding the vegetation management framework. One witness indicated that "There are just no department people there to help educate landowners".[40]

Opposition members note that in the 2016 State Budget the Government has recently allocated $7.8 million over four years and ongoing funding of $1.5 million per annum to support aerial and satellite imagery to assist vegetation management compliance[41] – which is code for a return to tree police.

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34 Ian Mackay, Mary River Catchment Coordinating Committee, *Public Hearing Transcript*, 1 June 2016 (Gympie), p.6

35 John te Kloot, *Public Hearing Transcript*, 2 June 2016 (Charleville), p.13

36 Stuart Leahy, *Public Hearing Transcript*, 19 May 2016 (Emerald), p.8

37 Stuart Leahy, *Public Hearing Transcript*, 19 May 2016 (Emerald), p.8

38 Richard Bucknell, *Public Hearing Transcript*, 2 June 2016 (Roma), p.3

39 Dr Greg Leach, AgForce, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.30

40 Jim Viner, Gympie Beef Liaison Group, *Public Hearing Transcript*, 1 June 2016 (Gympie), p.12

41 Queensland Government, *Budget Measures 2016-17 – Budget Paper No.4*, June 2016, p.78

Whereas common sense and good governance would dictate that a budgetary allocation be identified and used to correct and update inaccurate mapping.

Reverse onus of proof

Opposition members opposed the amendments which reversed the onus of proof in relation to prosecutions for vegetation clearing offences. As stated by AgForce, the proposals make "farmers guilty until they prove their innocence. This means that farmers have fewer rights and are treated worse than murderers and outlaw motorcycle gangs".[42] The Queensland Law Society (QLS) stated that:

> *We regard this as a step backwards for justice in this state. It is a departure from well-established rule of law principles and must be thoroughly and rigorously justified if parliament is to move forward with it. We say it is a step backwards for justice in this state because, to use a graphic situation, let us imagine that any one of you as a committee decide it is a great idea to go away for the weekend – leave your constituency and perhaps come down to parliament. You go back and there in your backyard is a dead body. If this law was to be applied to those circumstances it does not matter that you did not kill the person. What matters is that as the owner or the occupier of the land you would be deemed to have committed that offence, carrying substantial penalties including jail and fines.*[43]

The QLS also informed the committee that

> *... administrative convenience or procedural efficiency, which is what, in essence, the discussion around the act is promoting to this parliament, does not justify erosion of the principle that a person is presumed innocent of an offence until they are proven guilty.* [44]

The QLS considers:

> *... that removing the presumption of innocence is unjust in the circumstances of this act. I understand from public comments that have been made today by the minister there has been commentary about this type of law where a deeming provision exists, and it exists for red-light camera offences, offences relating to being in possession of forestry products and the like. This, I might add, might take a few points off your licence and might end up with a very small fine. The penalties which this act deals with is up to five years imprisonment. The liberty of the people who are deemed to have committed the offence is clearly at stake. In addition to that, the penalty unit being $117.80 is somewhere around about $736,000. A conviction for this carries maximum penalties of five years and fines sufficient to effectively bankrupt or take away the farms of people who are deemed by law to have committed offences.*[45]

And

> *... that in the relevant provisions of the bill there is no justifiable reason or proof provided to reverse the onus of proof in this. The society considers that a more appropriate response to the perceived issues in prosecuting offences is to ensure*

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42 Grant Maudsley, AgForce, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.26

43 Bill Potts, President, Queensland Law Society, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.44

44 Bill Potts, President, Queensland Law Society, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.44

45 Bill Potts, President, Queensland Law Society, Public Hearing Transcript, 3 June 2016, p.42

that prosecutors are in fact properly funded and resourced so that a prosecutor can gather as part of the investigative process sufficient evidence to demonstrate at least to a court that an offence has been committed.[46]

In relation to the Deputy Premier's comparison to red light and speeding offences, QLS stated that:

I dealt earlier on with the analogy that Minister Trad has used with respect to red light cameras and speed offences. They are what lawyers refer to as strict liability offences. They have, generally, modest penalties. Environmental harm offences are not strict liability generally and involve significant penalties. There is simply no equivalence between the two and, with respect to the minister, it is like comparing a grape to a watermelon.[47]

Mistake of fact defence

Opposition members also oppose the proposal to remove the defence of mistake of fact. As mentioned by the QFF "It is clear that the quality of mapping is poor, and on this basis alone it would be in breach of the principles of natural justice to remove the "Mistake of Fact" defence, which could result in landholders prosecuted solely due to the inadequacy of the mapping".[48]

Tim Marland, Marland Law – Agribusiness and Advisory also stated that:

Mistake of fact is a criminal law defence. If you had a reasonable belief that you were compliant with the law and you were found to be wrong, it is a defence.[49]

The QLS gave the following example of the problems with the proposal:

So let us imagine a situation where a diligent public servant creates a map and the map is wrong. It turns out to be wrong-one digit to the left, one digit to the right. The map is provided to the farmer. The farmer honestly and reasonably says, 'Fine, that bit of brigalow over there and those gums over there are not on the map', so he removes it. The map is wrong. Take away this defence and that farmer gets prosecuted; deemed by law to be guilty until he proves that he did not do it. [50]

The QLS also stated that the defence of mistake of fact:

... is simply good law, it is enshrined law, it has been in the Criminal Code as a defence since 1900. That is 116 years now. I can tell you from 36 years of experience as a criminal lawyer, it is not raised often and even when you do raise it it is hard to raise successfully because there is a two-limb test ... The actual test is twofold – honesty and reasonableness.[51]

The QLS noted that:

... although it is not a defence which is raised often it plays a very, very important role and it in fact prevents injustices. Can you imagine a court fining someone or being asked to fine someone, taking away their livelihood and imprisoning them because someone did not do the map right and they cannot rely upon that as a

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46 Bill Potts, President, Queensland Law Society, Public Hearing Transcript, 3 June 2016, p.43

47 Bill Potts, President, Queensland Law Society, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.45

48 Queensland Farmers' Federation, submission 346

49 Tim Marland, *Public Hearing Transcript*, 1 June 2016 (Bundaberg), p.4

50 Bill Potts, President, Queensland Law Society, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.46

51 Bill Potts, President, Queensland Law Society, *Public Hearing Transcript*, 3 June 2016, p.45

defence? How is that fair? How is that reasonable? Does it pass, quite frankly, what some people used to refer to as the sniff test, the pub test?[52]

Amendments to *Water Act 2000* – Extension of riverine protection framework

Opposition members oppose the proposed amendments to the *Water Act 2000*, and share the Property Council of Australia's concerns that:

> *The inclusion of 'destroying vegetation' in the Water Act provides no additional environmental benefit, however it adds significant duplication and cost to the proponent, and to Government, which will have to provide the resources to administer the assessment and granting of permits.*[53]

Amendments to *Environmental Offsets Act 2014*

Opposition members also oppose the amendments to the *Environmental Offsets Act 2014*. The Government undertook no consultation with the resources, property or development sectors on the amendments prior to the introduction of the Bill. As mentioned by the Property Council of Australia:

> *The removal from the offsets act of the threshold to determine significance of an impact threatens to add exorbitant costs to the delivery of new housing. An example I came across this morning when I was going through the mapping showed, that where you removed the term 'significant' on a site zoned for low-density residential property in Brisbane, it had the potential to add $197,000 to each dwelling.*[54]

The Urban Development Institute of Australia stated that:

> *UDIA Queensland has undertaken analysis on some of our member sites, focusing on South-East Queensland at this stage, which reveals that on those sites the removal of the word 'significant' has the ability to add between $10,000 to $197,000 as an additional cost to each house.*[55]

Retrospectivity, transitional provision and compensation

Opposition members concur with the views of AgForce, the QFF and other submitters that the retrospective commencement of Bill provisions breaches the fundamental legislative principles. The QLS stated that:

> *The proposed retrospective application of certain amendments to 17 March 2016, which is when the legislation was introduced, have the potential to create significant complexity for determining clearing activities that are lawfully undertaken and a landholder's ability to defend any prosecution relating to the transition period. Again we state it is a breach of fundamental legislative principles which is contained within the Legislative Standards Act, which provides that legislation should not adversely affect rights and liberties or impose obligations retrospectively.*[56]

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52 Bill Potts, President, Queensland Law Society, *Public Hearing Transcript*, 3 June 2016, p.45

53 Property Council of Australia, submission 228, p.9

54 Jen Williams, Property Council of Australia, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.32

55 Kirsty Chessher-Brown, UDIA, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.49

56 Bill Potts, President, Queensland Law Society, *Public Hearing Transcript*, 3 June 2016 (Brisbane), p.46

Given that landholders are being expected to maintain their land for the public good, Opposition members consider that landholders should be compensated. As one witness at the Bundaberg hearing stated:

> *... we should be paid by the government to keep the trees there and manage them. We are helping the government so why should we not be paid if we are not allowed to clear it.*[57]

Similarly, Ian Mackay, Mary River Catchment Coordinating Committee, stated that:

> *They [landholders] are looking after that land for the benefit of the wider community, if you like. I would not see it as compensation like a one-off thing. I would see it almost like an annual payment.*[58]

Conclusion

Opposition members consider the measures in the Bill as extensive and aggressive. They will apply a brake on investment and job creation, shut down farm management, and will have a negative impact on the agricultural, resource and property industries.

It demonises the activities of farmers and landholders and is anti-agriculture, anti-resources and anti-economic development generally. They do not consider that landholders whether indigenous or non-indigenous are better placed to say what is best for their land. The Bill seeks to remove rights and impose significantly unjust ramifications on landholders through reverse onus of proof, mistake of defence and retrospectivity measures.

They do nothing to build trust and confidence between government, these industry groups and individual landholders.

These measures are being driven by green activists which have demanded pay back for previous preference deals and for future support. Green activists have tried to hinder any meaningful consultation with landholders; they have pushed to nullify any consideration of landholders' circumstances; and they have pushed to exclude the provision of sensible and sustainable opportunities for farmers and landholders to grow their agricultural businesses in the regions.

Sincerely

Tony Perrett
Member for Gympie
Deputy Chair, Agriculture and Environment Committee

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57 Selwyn Read, *Public Hearing Transcript*, 1 June 2016 (Bundaberg), p.21

58 Ian Mackay, Mary River Catchment Coordinating Committee, *Public Hearing Transcript*, 1 June 2016 (Gympie), p.7

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Rob Katter MP
Member for Mount Isa

Wednesday 29 June 2016

RE Statement of Reservation on Report No 19. Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016

I write to lodge a Statement of Reservation to the Agriculture and Environment Committee on the Report No. 19 Vegetation Management referred on March 17 2016.

I reject outright any intention to pass this bill for a multitude of reasons, particularly the apparent impact this legislation would have on the development and the land holders of this state. Despite this I give my reserved support for a number of recommendations put forward in the event the bill was to be passed without need for the KAP's support.

The significant lack of consultation undertaken by the Government and the Department of Natural Resources and Mines during the formation of this bill is a primary concern, and was an issue raised a number of times by submitters. The fact that the Government proceeded with the formation of the bill to fulfil election commitments, despite the DNRM's own admission that they were unable find consensus among the stakeholders is incredibly concerning. It is clear that the proposed bill would have significant impacts on the livelihoods of many, as such the lack of consultation and the unwavering position of the government is simply not acceptable. The volume of this concern amongst submitters was not accurately portrayed within this report despite the dozens of representations on this issue.

My second concern is in regards to the rationale provided by environmental academics in support of this bill during the Brisbane Hearings. These comments and their inconsistencies remained inadequately scrutinised throughout this report, particularly when addressing the SLATS report on tree survey data. In one instance the data on levels of clearing were seen as reliable, however separate data that shows that the expansion of trees during this time was rejected. We were told the SLATS report was more consistent on clearing rates than on regrowth rates, as such the vegetation regrowth anomaly and its cause was inadequately addressed within this report. More emphasis should be placed on the point that the Government's own report details that wooded vegetation cover in Queensland has increased, even with the rise in annual clearing rates reported in the SLATS Report 2012-2014.

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This bill's clear impact on indigenous owners, producers and was also a point often underplayed. The Cape York Aboriginal Land Corporation is one of many groups who was in support of some aspects of the bill, and made it clear they were not in support of the removal of the option for vegetation clearing for irrigated agriculture and high-value agriculture. The group also did not support the restrictions that have been placed on regrowth or watercourses. As the group stated - *"Any development on the cape is good for Aboriginal people because Aboriginal people work on pastoral leases and those other sorts of areas as well."*

The justified frustration of many of these stakeholders at the introduction of yet another round of measures needed to be addressed further within the report. After enduring rounds and rounds of legislation the exasperation and costs endured by many from the relevant industries was clear.

Recommendations

Though the KAP are in support of a number of these recommendations if the bill was to pass, I reject the bill outright in its current or future amended forms.

Recommendation 2, is a necessary step to properly address the disastrous issues relating to the vegetation mapping by DNRM. We heard from submitters who were fined for being inaccurate by 10 metres, yet the Government has admitted under oath that their mapping may be out by kilometres. The mapping inaccuracies have proven to have an inadvertent effect on development, strongly discouraging any producers who hope to undertake vegetation management activity due to the lack of certainty around this issue. The net effect of this is that farmers will be further discouraged from even considering clearing where they may have otherwise.

Again this by no means resolves all the issues in relation to the Department's current mapping model and the negative impacts of this bill and its impact on industry.

Recommendation 3, the removal of Clause 6 of the bill which reverses the onus of proof must take place. It is a cornerstone of the legal system in Queensland that the presumption of innocence should be maintained. People should not be considered guilty until they have proved their own innocence.

Recommendation 4, any engagement with the property, resources and development sectors to assess the full impact of the bill should have been addressed before its drafting. Further consultation must take place if the bill was to be passed.

I am not convinced that the recommendations put forward by the committee can address all of the issues raised in investigation of this bill. As such I do not commend the bill to the house and in the hopes of preserving potential development in the state of Queensland I will be voting against this legislation outright. The rights of the communities, producers and industries dependent on stable vegetation management laws have simply not been taken into account in the drafting of this bill.

Yours sincerely,

Rob Katter

Member for Mount Isa

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