Parliamentary Committees



Vegetation Management and Other Legislation Amendment Bill 2018

Report No. 6, 56th Parliament
State Development, Natural Resources and Agricultural Industry Development Committee
April 2018

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Chair	Mr Chris Whiting MP, Member for Bancroft
Deputy Chair	Mr Pat Weir MP, Member for Condamine
Members	Mr David Batt MP, Member for Bundaberg
	Mr James (Jim) Madden MP, Member for Ipswich West
	Mr Brent Mickelberg MP, Member for Buderim
	Ms Jessica (Jess) Pugh MP, Member for Mount Ommaney

Committee Secretariat

Telephone	+61 7 3553 6623
Fax	+61 7 3553 6699
Email	sdnraidc@parliament.qld.gov.au
Technical Scrutiny Secretariat	+61 7 3553 6601
Committee webpage	www.parliament.qld.gov.au/SDNRAIDC

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Contents

Abbreviations and Glossary

2016 Bill	Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016
Accepted development code	Accepted development vegetation clearing code – see Vegetation Management Regulation 2012, s 3.
AgForce	AgForce Queensland
AMP	Area management plan
BAMP	Baseline area management plan
Bill	Vegetation Management and Other Legislation Amendment Bill 2018
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 – see *Vegetation Management Act 1999,* s 20AL. 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 – see *Vegetation Management Act 1999,* s 20AM. Category B areas are colour coded 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 – see *Vegetation Management Act 1999,* s 20AN. Category C areas are colour coded orange 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 – see *Vegetation Management Act 1999,* s 20ANA. Category R areas are colour coded pink 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'. Category X areas are also known as 'exempt areas' as activity in Category X areas is not regulated by the *Vegetation Management Act 1999* – see *Vegetation Management Act 1999,* s 20A.

	Category X areas are coloured coded white on the regulated vegetation management map.
CEO	Chief executive officer
Clear (vegetation)	To remove, cut down, ringbark, push over, poison or destroy in any way including by burning, flooding or draining; but not including destroying standing vegetation by stock, or lopping a tree – see *Vegetation Management Act 1999,* Schedule.
code	Accepted development vegetation clearing code – see Vegetation Management Regulation 2012, s 3.
committee	State Development, Natural Resources and Agricultural Industry Development Committee
Criminal Code	*Criminal Code Act 1899* (Qld)
CSIRO	Commonwealth Scientific and Industrial Research Organisation
CYLCAC	Cape York Land Council Aboriginal Corporation
DA	Development approval
DES	Department of Environment and Science
Department/DNRME	Department of Natural Resources, Mines and Energy
DNRM	Department of Natural Resources and Mines
DSITI	Department of Science, Information Technology and Innovation
EDO/EDO Qld	Environmental Defenders Office Queensland
EDS	Early detection system
Environmental offset	An environmental offset is an activity undertaken to counterbalance or compensate for a lasting adverse impact on significant environmental matters (e.g. valuable species and ecosystems) on one site. Offsets can be financial or property driven (i.e., by securing land at another site and managing that land over time to replace those significant environmental matters that were lost); or a combination of both. 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.
EPBC Act	*Environment Protection and Biodiversity Conservation Act 1999* (Qld)
Essential habitat map	A map certified by the chief executive as the essential habitat map for the state showing areas of the state the chief executive reasonably believes are areas of essential habitat for protected wildlife.
FLP	Fundamental legislative principle – *Legislative Standards Act 1992* (Qld)

Fodder harvesting	The clearing of vegetation that predominantly consists of fodder species for use as a food source for livestock. Used as a normal part of land management and during droughts, fodder harvesting is typically carried out in strips, blocks or other sections so as to leave a proportion of vegetation intact to conserve the area and broader regional ecosystem; and with the cleared vegetation remaining where it is cleared, for nearby stock to feed on.
GBR	Great Barrier Reef
GBRMPA	Great Barrier Reef Marine Park Authority
GPS	Global positioning system
High conservation value	High conservation values are biological, ecological, social or cultural values which are outstandingly significant or critically important at the national, regional or global level. There are six categories of high conservation value: • Concentrations of biological diversity including endemic species and rare, threatened or endangered species, that are significant at global, regional or national levels • Landscape-level ecosystems and mosaics. Intact forest landscapes and large landscape-level ecosystems and ecosystem mosaics that are significant at global, regional or national levels, and that contain viable populations of the great majority of the naturally occurring species in natural patterns of distribution and abundance • Rare, threatened, or endangered ecosystems, habitats or refugia • Basic ecosystem services in critical situations, including protection of water catchments and control of erosion of vulnerable soils and slopes • Sites and resources fundamental for satisfying the basic necessities of local communities or indigenous peoples (for livelihoods, health, nutrition, water, etc...), identified through engagement with these communities or indigenous peoples • Sites, resources, habitats and landscapes of global or national cultural, archaeological or historical significance, and/or of critical cultural, ecological, economic or religious/sacred importance for the traditional cultures of local communities or indigenous peoples, identified through engagement with these local communities or indigenous peoples. The values underpin an internationally recognised approach to the conservation of ecosystems which requires an area of high conservation value to be appropriately managed in order to maintain or enhance the identified values.
HVA	High value agriculture
ICUA	Indigenous Community Use Area – Cape York Peninsula Heritage Act 2007 (Qld)
IHVA	Irrigated high value agriculture

Interim period	The period starting on 8 March 2018 and ending immediately before the date of assent of the *Vegetation Management and Other Legislation Amendment Act 2018.*
LGAQ	Local Government Association of Queensland
LSA	*Legislative Standards Act 1992* (Qld)
Managing thickened vegetation	The selective clearing of vegetation at a locality that does not include clearing using a chain or cable linked between 2 tractors, bulldozers or other traction vehicles— (a) to restore a regional ecosystem to the floristic composition and range of densities typical of the regional ecosystem in the bioregion in which it is located; and (b) to maintain ecological processes and prevent loss of diversity. See Vegetation Management and Other Legislation Amendment Bill 2018, cl38(2).
MGD	Mitchell Grass Downs
Minister	Hon Dr Anthony Lynham MP, Minister for Natural Resources, Mines and Energy
NCA	*Nature Conservation Act 1992* (Qld)
NQCC	North Queensland Conservation Council
OQPC	Office of the Queensland Parliamentary Counsel
Planning Act	*Planning Act 2016* (Qld)
PMAV	Property map of assessable vegetation – a map certified by the chief executive as a PMAV for an area and showing the vegetation category areas for the area (e.g. Category C area, Category X area, etc.)
PRA	Property Rights Australia
Property Council	Property Council of Australia
Proposed Category C area	An area which is high value regrowth on freehold land, indigenous land, or land the subject of a lease issued under the *Land Act 1994* for agriculture or grazing purposes or an occupational licence under the Act, which has not been cleared for 15 years if the area is an endangered regional ecosystem; an of concern regional ecosystem; or a least concern regional ecosystem.
Proposed 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, Burnett-Mary, Eastern Cape York, Fitzroy, Mackay Whitsundays, or Wet Tropics catchments identified on the vegetation management watercourse and drainage feature map.
Proposed regulated vegetation management map	A map published by the chief executive during the interim period showing the proposed Category C areas and Category R areas.
QCC	Queensland Conservation Council

QELA	Queensland Environmental Law Association
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.
Regrowth vegetation	Vegetation that is not remnant vegetation
Remnant vegetation	Vegetation that: • is an endangered regional ecosystem, an of concern regional ecosystem, or a least concern regional ecosystem, and • forms the predominant canopy of the vegetation covering more than 50 percent of the undisturbed predominant capacity; averaging more than 70 percent of the vegetation's undisturbed height; and composed of species characteristic of the vegetation's undisturbed predominant canopy.
RIS	Regulatory Impact Statement
RPP	Riverine protection permit
SDAP	State Development Assessment Provisions
SE Queensland	South East Queensland
SLATS	Statewide Landcover and Trees Study. SLATS is a vegetation monitoring initiative of the Queensland Government with the primary objective of assessing the extent of woody vegetation in Queensland and assessing all woody vegetation change (clearing) in Queensland.
UDIA	Urban Development Institute of Australia
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UQ	University of Queensland
VMA	*Vegetation Management Act 1999* (Qld)
VMFAA	*Vegetation Management Framework Amendment Act 2013* (Qld)
Water Act	*Water Act 2000* (Qld)
WWF	World Wildlife Fund

Chair's foreword

This report presents a summary of the State Development, Natural Resources and Agricultural Industry Development Committee's examination of the Vegetation Management and Other Legislation Amendment Bill 2018.

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

It has been heartening to see such a high level of engagement by the Queensland public over this Bill. We have received over 13,000 submissions, conducted eight public hearings across the State and heard from almost 130 witnesses. Whilst the submissions and witnesses have shown strong opinions on this Bill, it augers well that Queenslanders are prepared to be involved in their Parliamentary processes.

I would like to thank my fellow committee members for their contributions to this inquiry.

I also thank our committee secretariat staff, Hansard reporters and the departments for their assistance, together with all of the many submitters and stakeholders who gave evidence to the committee.

The work of the secretariat has been quite outstanding in the processing of this inquiry. Their long hours of work and the precise and detailed manner in which they have handled all requests and all submissions create a high water mark for this Parliament.

I commend this report to the House.

Chris Whiting MP

Chair

Recommendations

1 Introduction

1.1 Role of the committee

The State Development, Natural Resources and Agricultural Industry Development Committee (committee) is a portfolio committee of the Legislative Assembly which commenced on 15 February 2018 under the *Parliament of Queensland Act 2001* and the Standing Rules and Orders of the Legislative Assembly.[1]

The committee's areas of portfolio responsibility are:

- State Development, Manufacturing, Infrastructure and Planning
- Natural Resource, Mines and Energy, and
- Agricultural Industry Development and Fisheries.

Section 93(1) of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for examining each bill and item of subordinate legislation in its portfolio areas to consider:

- the policy to be given effect by the legislation
- the application of fundamental legislative principles, and
- for subordinate legislation – its lawfulness.

1.2 Inquiry referral and process

The Vegetation Management and Other Legislation Amendment Bill 2018 (Bill) was introduced into the Legislative Assembly and referred to the committee on 8 March 2018. The committee was required to report to the Legislative Assembly by 23 April 2018.

1.2.1 Submissions

The committee received 777 submissions on the Bill and approximately 13,100 'form submissions' – submissions with substantially uniform content based on a template submission document or wording (see **Appendix A** for a list of submitters).

This represented the largest number of submissions to an inquiry received by any committee of the Queensland Parliament to date.

The approximately 13,100 form submissions were received in relation to eight different forms generated by key stakeholder groups or individuals, as follows (see also **Appendix B**):[2]

- Form A – Environmental Defenders Office Queensland – 116
- Form B – WWF Australia – 4,747
- Form C – Queensland Conservation Council – 183
- Form D – The Wilderness Society – 4,955
- Form E – Greenpeace – 3,068
- Form G – Peter Spies and North Queensland landholders/business operators – 8
- Form H – Middlemount landholders and stationhands – 7.

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1 *Parliament of Queensland Act 2001*, s 88 and Standing Order 194.

2 Where less than five of the same or substantively similar submissions were received, these submissions were considered and published individually (for example, on a number of occasions, different members of a family submitted similar submissions). Only where five or more substantively similar submissions were received were these submissions treated as a form submission.

While some form submissions included information in addition to the template document or wording, the committee resolved to treat those submissions as individual submissions only where the distinguishing content provided substantive evidence in relation to the Bill or its policy objectives.

A significant number of submissions were also provided after the 22 March submissions closing date, some of which the committee was unable to accept, due to the limited timeframe for conducting its inquiry and reporting on the Bill.

The committee continued to receive submissions-related correspondence right up until the finalisation of this report.

1.2.2 Public briefing and hearings

The committee received a written briefing on the Bill and a comparative summary of its provisions from the Department of Natural Resources, Mines and Energy (DNRME/department), ahead of a public briefing on the Bill on 19 March 2018 (see **Appendix C**).

The committee held public hearings in Brisbane on 23 March 2018 and on 12 April 2018, with the latter hearing including a videoconference link to Bundaberg.

In addition, the committee travelled to key locations across Queensland to hear from affected groups and individuals at regional hearings in:

- Rockhampton (27 March 2018)
- Townsville (27 March 2018)
- Cloncurry (28 March 2018)
- Longreach (29 March 2018)
- Charleville (29 March 2018), and
- Cairns (13 April 2018).

Public hearing at the Stockman's Hall of Fame, Longreach on 29 March 2018.

The committee encountered impressive receptions at each of these regional hearings, with consistent crowds of over 150 interested members of the public in attendance, and reports citing over 400 people present in the public audience in Rockhampton[3] and Charleville.[4]

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[3] K Butterworth, 'Your speakers, your voices in vegetation debate', *Queensland Country Life* (online), 28 March 2018, https://www.queenslandcountrylife.com.au/story/5310680/your-speakers-your-voices-in-vegetation-management-debate/?cs=4704.

[4] L Kinbacher, 'Charleville hosts vegetation management hearing', *Queensland Country Life,* 29 March 2018, https://www.queenslandcountrylife.com.au/story/5315351/all-the-photos-from-the-charleville-vegetation-management-hearing/?cs=4785.

Public hearing at the Central Queensland Livestock Exchange, Rockhampton on 27 March 2018.

(Above and below) Public hearing at the Murweh Shire Council Town Hall, Charleville on 29 March 2018.

Many of those present had travelled substantial distances to attend the proceedings and share their experience and perspective with the committee.[5]

In total, just under 130 witnesses gave evidence to the committee (see **Appendix D**).

1.2.3 Site visit

Whilst in Cloncurry, the committee also undertook a site visit to local cattle properties to view and discuss vegetation management challenges, techniques, principles and approaches, with assistance from Cloncurry Mayor, Cr Greg Campbell.

The committee on its site visit in Cloncurry Shire, 29 March 2018. .

1.2.4 Inquiry material

Copies of the material published in relation to this inquiry – including departmental advice, transcripts of the public briefings and hearings, and public submissions on the Bill – can be found on the inquiry website.[6]

[5] For example, in Cairns, Mr Justin MacDonnell revealed 'I have driven 1,400 kilometres, I have spent six hours on a plane and I am going to spend two nights sleeping in a swag beside my car before I get home', while Mr Luke Quartermaine stated that 'my wife and I and a five-month-old baby had to swim two rivers and boat across one to get here today'. In Longreach, Ms Robyn Simmons told the committee she had driven over 10 hours to have her say. In Townsville, Mr Des Bolton advised that he had travelled from a property 'four and a half hours from here'; and in Cloncurry Flinders Shire Council Mayor Cr Jane McNamara advised she had travelled from Flinders Shire – 'four hours east of here by road' to represent her constituents at the public hearing. See: public hearing transcript, Cairns, 13 April 2018, pp 32, 36; public hearing transcript, Longreach, 29 March 2018, p 12; public hearing transcript, Townsville, 27 March 2018, p 16; public hearing transcript, Cloncurry, 28 March 2018, p 2.

[6] The committee's inquiry website can be accessed at: http://www.parliament.qld.gov.au/work-of-committees/committees/SDNRAIDC/inquiries/current-inquiries/5VegManagOLAB2018.

1.3 Policy objectives of the Bill

The explanatory notes state that the policy objectives of the Bill are to amend the *Vegetation Management Act 1999* (VMA), *Planning Act 2016* (Planning Act), Planning Regulation 2017 and *Water Act 2000* (Water Act) to reinstate responsible clearing laws[7] and honour the Government's 2017 election commitments to:

- further protect remnant and high conservation value[8] non-remnant vegetation
- amend the accepted development vegetation clearing codes to ensure they are providing appropriate protections based on Queensland Herbarium advice, and
- align the definition of 'high value regrowth vegetation' with the international definition of high conservation value.[9]

The commitments were made as part of a broader drive to end broadscale tree clearing in Queensland and enhance protections for vegetation with significant environmental value, including native vegetation and maturing regrowth; habitat for near threatened species; and riparian vegetation across all Great Barrier Reef catchments. The changes are also considered to be critical to the government's agenda of reducing greenhouse gas emissions and better protecting the health of the Great Barrier Reef.[10]

Some of the Bill's provisions are consistent with provisions of the Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016 (2016 Bill), which sought to reinstate protections that were scaled back by the Newman Government in changes to the VMA in 2013.[11]

The 2016 Bill ultimately failed to pass in the Legislative Assembly.

1.4 Government consultation on the Bill

The explanatory notes advise that stakeholders have not been specifically consulted on the Bill.[12]

This was a source of concern amongst many of the groups and organisations who provided evidence to the committee. A large number of local councils, businesses and landholders expressed their disappointment at being 'left out' or having their voice excluded from the Bill's development, despite the fact that they will be impacted by the changes it proposes.[13]

AgForce Queensland (AgForce), the Queensland Farmers' Federation (QFF), the Local Government Association of Queensland (LGAQ), and various other peak bodies and organisations argued that the complexities of the Bill and 'significant potential ramifications' or possible 'perverse outcomes' warranted thorough exploration prior to its introduction.[14]

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7 Explanatory notes, p 1.

8 High conservation values are biological, ecological, social or cultural values which are outstandingly significant or critically important at the national, regional or global level. For further information see the Abbreviations and glossary table, or visit the High Conservation Value Resource Network, https://www.hcvnetwork.org/.

9 Explanatory notes, p 1, 9; Department of Natural Resources, Mines and Energy (DNRME), written briefing, 14 March 2018, p 1.

10 Hon Dr Anthony Lynham MP, Minister for Natural Resources, Mines and Energy (Minister), Introductory Speech, Record of Proceedings, 8 March 2018, p 415; Explanatory notes, p 1.

11 *Vegetation Management Framework Amendment Act 2013* (VMFAA).

12 Explanatory notes, p 9.

13 See, for example: submissions 7, 19, 66, 69, 75, 201, 230, 279, 280, 320, 340, 19, 69, 75, 279, 280, 320, 409, 464, 544, 547, 554, 578, 655, 776.

14 See submissions 187, 188, 189, 199, 204, 230, 273, 463; public hearing transcript, Brisbane, 23 March 2018, p 28.

The Queensland Law Society (QLS) submitted that such further consultation would have been welcomed by all affected stakeholders 'given the sensitive nature of this legislation and the significant public debate on the issues during 2016'.[15]

QFF and LGAQ further called for a Regulatory Impact Statement (RIS) process to be undertaken prior to the approval of the Bill,[16] 'to enable a comprehensive understanding of the environmental, social and economic impacts across all Queensland communities'.[17]

Whilst acknowledging these concerns, the department pointed to a 'substantial history' of consultation on many of the measures contained within the Bill.[18] The department advised this included, for example:

> *… throughout 2015, discussions with key stakeholders including: Queensland Farmers' Federation, AgForce, Canegrowers, WWF, The Wilderness Society and Environmental Defenders Office.*
>
> *Dr Allan Dale was engaged at that time 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.*
>
> *In late 2015, the Deputy Premier engaged in extensive stakeholder consultation on the Government's plans to reinstate vegetation protections. The stakeholders consulted included: WWF, The Wilderness Society, Concerned Queensland Scientists, AgForce and Environmental Defenders Office.*[19]

The department further stated:

> *From the department's perspective we have regular contact with all key stakeholders, both the likes of AgForce, QFF and their members as well as conservation interests. As you can appreciate, there are a very, very broad spectrum of interests. Certainly this bill relates very strongly to government policy that has been articulated in the last two election campaigns, and the government put a very strong imperative on delivering these reforms in a very timely manner.*[20]
>
> *Stakeholders are divided on the treatment of high value agriculture and irrigated high value agriculture. AgForce, Queensland Farmers' Federation are concerned about how the government will support the development of the industry. The conservation sector wants an end to broadscale clearing and has been critical of high value agriculture and irrigated high value agriculture clearing projects, especially in northern Queensland.*[21]

The department also advised that an RIS process was not completed 'due to the need to avoid both panic clearing and pre-emptive applications for approvals that would negate the effect of the legislative changes to which the Government has committed'.[22]

The department noted that 'there is a high risk that landholders may take pre-emptive clearing action should an RIS consultation process be undertaken', and that the Office of Best Practice Regulation, the

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15 Submission 200, p 2.

16 Submission 187, p 7; submission 273, p 4.

17 Submission 273, p 4.

18 DNRME, final response to submissions, 12 April 2018, p 10.

19 DNRME, final response to submissions, 12 April 2018, p 10.

20 Mr Lyall Hinrichsen, Executive Director, Land Policy, DNRME, public hearing transcript, Brisbane, 23 March 2018, p 58.

21 Explanatory notes, p 9.

22 DNRME, written briefing, 14 March 2018. p 8.

Department of the Premier and Cabinet and Queensland Treasury accordingly supported an exemption from an RIS process.[23]

The possibility of such panic clearing was acknowledged by some landholders in testimony. At the hearing in Longreach, for example, the committee heard:

> ***Mr Gibson:*** *Of course there should be more discussion before it is drafted. As soon as word gets out that there is a bit of discussion about more tree-clearing legislation, panic clearing sets in. You only have to drive up Blackwater-Rolleston Road and there is miles and miles of country that does not have a tree standing on it. Even the regrowth is flattened. There has probably been more trees destroyed through some of this discussion before it gets enacted.*
>
> ***Mr Ryan:*** *I would not call it panic clearing; I would call it smart, because they want to get it done. Does diesel go down? Do costs go down at all? They do not. It just gets dearer and dearer...*[24]

At the same hearing, Mr Dominic Burden, Chairman, Desert Channels Queensland, stated:

> *Because of the combativeness around this issue I do not think that the consultation that could have happened has happened. I would hope that through this committee process one of the things we are recognising is that that needs to go out the window straight away… I would expect that as this debate matures and hopefully becomes more outcomes focused, that correct consultation can occur. Groups such as ours… [are] ready and willing and located in the communities ready to be part of that consultation process.*
>
> *…I think, as much as all parties can do so, we need to depoliticise this… Depoliticising it and setting a stable platform with an outcomes based view is critical.*[25]

1.5 Should the Bill be passed?

Standing Order 132(1) requires the committee to determine whether or not to recommend the Bill be passed.

After examination of the Bill, including the policy objectives that it will achieve, and consideration of the information provided by DNRME and the Department of Environment and Science (DES) and from stakeholders; the committee recommends that the Bill be passed.

Recommendation 1

The committee recommends the Vegetation Management and Other Legislation Amendment Bill 2018 be passed.

[23] DNRME, interim response to submissions, 4 April 2018, p 2.

[24] Public hearing transcript, Rockhampton, 27 March 2018, p 28.

[25] Public hearing transcript, Longreach, 29 March 2018, p 9.

2 Background to the Bill – the current vegetation management framework

In Queensland, the clearing of vegetation on land other than state forests, national parks or reserves[26] is predominantly regulated by the VMA, the Planning Act, and associated regulations, policies and codes. Together, these Acts and legislative instruments make up the state's vegetation management framework.[27]

The purpose of the vegetation management framework is to conserve remnant vegetation and vegetation in declared areas, and to ensure that clearing:

- does not cause land degradation or loss of biodiversity
- maintains ecological processes
- reduces greenhouse gas emissions, and
- allows for sustainable land use.[28]

The framework applies to the clearing of native woody vegetation, including trees and shrubs, but not to non-woody plants such as grasses and non-woody herbage, or to mangroves.[29]

The VMA identifies various categories of vegetation to which different restrictions and codes apply. The application of these categories to different geographical areas across Queensland is set out in a series of regulatory maps which accompany the legislation – principally the regulated vegetation management map, the vegetation management supporting map, and at a property level, property maps of assessable vegetation (PMAVs).

The vegetation categories are known colloquially in terms of the colour in which they are mapped, with areas shown on the regulated vegetation map as either:

- **Category A areas** (red) which are subject to greater clearing restrictions, including areas subject to environmental offsets, protected under a voluntary declaration, or areas subject to compliance action;
- **Category B areas** (blue) of remnant vegetation. Remnant vegetation is mature native vegetation that has either never been cleared, or has regrown to a certain density and height;
- **Category C areas** (orange) of high value regrowth vegetation. High value regrowth vegetation is vegetation that has not been cleared since 31 December 1989. In 2013, Category C was removed from freehold land and Indigenous land so that high-value regrowth is presently regulated only on leasehold land used for agricultural and grazing purposes;
- **Category R areas** (pink), which contain regrowth located within 50 metres of watercourse areas in priority Great Barrier Reef catchments (Burdekin, Mackay, Whitsunday and Wet Tropics); or
- **Category X areas** (white), which are none of the above – they are unregulated vegetation areas that are exempt from requiring approval to clear under the vegetation management framework.[30]

PMAVs are an important tool to show landholders where they can or cannot clear, and also have the effect of 'locking in' vegetation categories as per the regulated vegetation management map – in particular, category X areas of unregulated vegetation. Once a landholder has secured a PMAV for their

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26 *Vegetation Management Act 1999* (VMA), s 7.

27 Queensland Government, *Vegetation clearing: Monitoring and Compliance,* webpage, updated 13 March 2018, https://www.qld.gov.au/environment/land/vegetation/monitoring.

28 DNRME, written briefing, 14 March 2018, p 2. See also: VMA, s 3.

29 VMA, s 8.

30 DNRME, written briefing, 14 March 2018, p 3.

property, it overrides any subsequent change to the regulated vegetation management map, such that landholders who have 'locked in' category X land retain the right to clear the area even if the vegetation regrows to high value regrowth or remnant condition.[31]

In addition, the PMAV process can be used to correct any inaccuracies in vegetation mapping.[32] Further information on vegetation mapping can be found in chapter 3.10.

Under the vegetation management framework, regulated vegetation may be cleared under:

- **Statutory exemptions** for a range of purposes, including making and maintaining fence lines, vehicle tracks, built infrastructure, fire breaks and public safety. Such clearing does not require any approvals under the framework.[33]
- **Accepted development vegetation clearing codes** (accepted development codes) and **area management plans** (AMPs) for lower impact activities:
    - Formerly known as 'self-assessable codes', accepted development codes permit clearing for certain prescribed purposes under the VMA, including thinning of regrowth, grazing, control of non-native plants and declared pests and certain fodder harvesting. Landholders are required to follow the practices listed in the code and notify DNRME before starting to clear vegetation.
    - AMPs are plans prepared by landholders or rural organisations which relate to particular vegetation categories and regional ecosystems, and specify the purposes and clearing activities that have been approved for the areas in the plan. The plans operate much like the codes – if a property is covered by an AMP, a landholder may clear vegetation after notifying DNRME and the requirements of the AMP must be followed.
- **Development approvals** for certain higher-impact clearing activities recognised as a 'relevant purpose' under the VMA.[34]

DNRME assesses clearing and monitors landholder compliance with vegetation management laws using a range of measures, including audits and information provided by members of the community. The department also engages satellite imagery via the annual Statewide Landcover and Trees Study (SLATS) and at more regular intervals via its Early Detection System (EDS).[35]

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 6,250 penalty units ($788,437) or five years imprisonment.[36] Landholders may also be issued with a restoration notice which requires them to restore the vegetation on the land.[37]

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31 VMA, s 20H.

32 DNRME, *Guide: Vegetation management laws before Parliament,* 2018, p 7, https://www.dnrm.qld.gov.au/__data/assets/pdf_file/0017/1380410/new-veg-management-laws-guide.pdf.

33 DNRME, written briefing, 14 March 2018, p 3.

34 DNRME, written briefing, 14 March 2018, p 3.

35 Queensland Government, *Assessing land clearing using satellite technology,* webpage, updated 6 February 2018, https://www.qld.gov.au/environment/land/vegetation/mapping/land-clearing.

36 *Environmental Protection Act 1994*, s 437(1); *Penalties and Sentences Act 1992*, s5.

37 VMA, s 54B.

3 Examination of the Bill

The Bill aims to achieve its policy objectives by amending the VMA, the Water Act, the Planning Act, the Planning Regulation 2017, and the Nature Conservation (Wildlife Management) Regulation 2006, to:

- remove provisions that allow landholders to clear for high-value agriculture (HVA) and irrigated high-value agriculture (IHVA) under development approval processes
- protect riparian regrowth vegetation in all Great Barrier Reef catchments
- align the definition of 'high value regrowth' with high conservation values and increase the land types on which Category C areas are regulated to include freehold land, indigenous land and occupational licences
- include near-threatened species in the regulatory essential habitat map layer for remnant and high conservation value regrowth vegetation
- regulate the removal of vegetation in a watercourse under a riverine protection permit (RPP)
- enhance compliance measures, to modernise enforcement tools and increase penalties to align with other natural resource and planning legislation in Queensland
- allow an area mapped as Category X area in a PMAV to be converted to a Category A area with the landholder's agreement, and
- support the implementation of three revised accepted development codes for vegetation clearing, including through changes to area management plans.[38]

The three revised accepted development codes, which were released on the introduction of the Bill, replaced the previous codes for:

1. managing Category C areas;
2. fodder harvesting; and
3. managing thickened vegetation (formerly called 'thinning'), to align them with the broader amendments to the vegetation management framework under the Bill.[39]

Accompanying the changes, the government also released a proposed regulated vegetation map which reflects the amended geographic application of the vegetation categories across the state.[40]

Should the Bill be passed, some of its provisions, together with the proposed regulated vegetation map, would be affirmed as having commenced immediately on the Bill's introduction on 8 March 2018.[41] Accordingly, the provisions will apply retrospectively to the interim period between the Bill's introduction and the date of royal assent.[42]

The following section discusses the key provisions of the Bill, the issues and views expressed by submitters and witnesses at public hearings, and information provided by DNRME and DES.

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38 Explanatory notes, p 2; DNRME, written briefing, 14 March 2018, p 2.

39 The three new codes were made by the Minister on 7 March 2018. See: Vegetation Management (Clearing Codes) and Other Legislation Amendment Regulation 2018, s 6; Vegetation Management Regulation 2012, s 3.

40 Vegetation Management and Other Legislation Amendment Bill 2018 (Bill), cl 37, s 131.

41 Hon Dr Anthony Lynham MP, Minister for Natural Resources, Mines and Energy, Introduction, *Hansard,* 8 March 2018, p 416; DNRME, *Guide: Vegetation management laws before Parliament,* 2018, p 7, https://www.dnrm.qld.gov.au/__data/assets/pdf_file/0017/1380410/new-veg-management-laws-guide.pdf.

42 Bill, cl 37, s 128.

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

In 2013, HVA and IHVA were introduced as relevant purposes for clearing under the VMA, such that landholders have since been able to apply for a development approval to broadscale clear remnant vegetation for these purposes.[43]

HVA 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.[44] IHVA 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.[45]

Currently, HVA and IHVA clearing applications must meet defined criteria outlined in the VMA, prior to the landholder applying for a development approval under the Planning Act. These criteria include land suitability, economic viability and, for IHVA applications, access to water.[46]

The Bill will remove the ability to apply for a development approval for clearing for HVA and IHVA by removing it from among the list of relevant purposes for clearing under section 22A of the VMA. It also makes consequential amendments to the Planning Regulation 2017 and State Development Assessment Provisions (SDAP) which reflect this change.[47]

To contextualise the amendments, the department advised:

> *From 2006 to 2013, the Vegetation Management Act did not permit broadscale clearing of native vegetation for agricultural purposes. In 2013, the government amended the Vegetation Management Act to allow clearing of remnant vegetation under a development approval for both high-value agriculture and irrigated high-value agricultural purposes. Since then, approximately 114,800 hectares of remnant vegetation clearing has been approved for those purposes. Of that area, about 109,300 hectares was for high-value agricultural clearing and 5,500 hectares was for irrigated high-value agriculture.*[48]

Any existing development applications for clearing for HVA and IHVA that were made prior to the retrospective commencement of the Bill and are a properly made application under the Planning Act will continue to be assessed under the current legislation.[49] Equally, development approvals that were in effect prior to 8 March 2018 are not affected.[50]

The department also emphasised that despite the removal of HVA and IVA as a relevant purpose:

> *There will still be a limited number of pathways by which new areas can be cleared for intensive agriculture: firstly, clearing for agriculture may be approved for a coordinated project under the State Development and Public Works Organisation Act 1971; applications can also be made for clearing for agricultural developments on Aboriginal land on the Cape York Peninsula under the Cape York Peninsula Heritage Act 2007; and of course areas that are mapped as category X on either the regulated vegetation management map or on a*

43 Explanatory notes, p 3.

44 VMA, Schedule.

45 VMA, Schedule.

46 VMA, s 22DAB, 22DAC.

47 Explanatory notes, p 4.

48 Mr Lyall Hinrichsen, DNRME, public hearing transcript, Brisbane, 19 March 2018, p 2.

49 Explanatory notes, p 4.

50 Mr Lyall Hinrichsen, DNRME, public hearing transcript, Brisbane, 19 March 2018, p 3.

PMAV can still be cleared without any approval under the vegetation management framework.[51]

3.1.1 Stakeholder views

The amendments were widely supported by environmental groups and by a number of ecologists, conservation scientists and community members, due to the environmental benefits expected to be achieved by their implementation.[52]

In reducing clearing of remnant vegetation, it was submitted that the amendments would:

- protect remnant woodlands and vegetation[53]
- improve water quality in Great Barrier Reef catchments[54]
- enhance biodiversity and the maintenance of natural habitats[55]
- reduce the number of native animals that are killed, injured or otherwise harmed by land clearing in Australia,[56] and
- reduce carbon emissions.[57]

The Queensland Conservation Council (QCC) and The Wilderness Society pointed to data from the most recent SLATS report,[58] which indicated that remnant woody vegetation clearing in the state has increased from 22 percent of total statewide woody vegetation clearing in 2012-13 (58,000 hectares per year), to 35 percent of total statewide woody vegetation clearing in 2015-16 (128,000 hectares per year).[59]

The Wilderness Society and Dr Martin Taylor acknowledged that of the total remnant vegetation cleared from 2013-2016, only around 10 percent was under high value agriculture permits.[60] However, it was submitted that this contribution is not insubstantial, noting that the clearing of remnant vegetation for these purposes is primarily carried out in a broadscale manner,[61] and that the higher ecological values of remnant vegetation cannot easily be replaced by other vegetation once lost.[62]

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51 Mr Lyall Hinrichsen, DNRME, public hearing transcript, Brisbane, 19 March 2018, p 2.

52 See, for example: submissions 21, 38, 45, 51, 103, 135, 183, 184, 192, 194, 198, 202, 207, 213, 216, 236, 271, 283, 334, 337, 369, 391, 402, 412, 500, 504, 505, 558, 666, 680, 684, 686, 769.

53 See, for example: Dr Tim Seeling, Coordinator, QCC, public hearing transcript, Brisbane, 23 March 2018, p 7; Submission 506.

54 See, for example: Ms Rebecca Smith, Spokesperson, Townsville and Region Environment Foundation, public hearing transcript, Townsville, 27 March 2018, p 27; submissions 150, 271 and 506.

55 See, for example: submissions 135, 254, 271, 503; Dr Leonie Seabrook, Honorary Research Fellow, School of Earth and Environmental Sciences, UQ, public hearing transcript, Brisbane, 12 April 2018, p 15.

56 See, for example: Dr April Reside, Postdoctoral Research Fellow, Centre for Biodiversity and Conservation Science, UQ, public hearing transcript, Brisbane, 12 April 2018, p 16; submissions 150, 504, 506, 636, 680, 687.

57 See, for example: submissions 186, 447, 502, 506, 510.

58 Submission 184, p 15-16; submission 186, pp 9-11.

59 Department of Science, Information Technology and Innovation, *Statewide Landcover and Trees Study Report*, Queensland Government, 2017, p 23.

60 Submissions 184, 322.

61 DNRME, response to Questions on Notice taken at the public hearing on 23 March 2018, p 5.

62 See, for example: submissions 184, 192, 769; See also Dr April Reside, UQ, public hearing transcript, Brisbane, 12 April 2018, p 16.

Dr Jennifer Silcock stated in this regard:

> *The management action that has by far the greatest potential to destroy the system and its sustainability is broadscale tree clearing, which has disastrous effects on threatened species, vegetation communities, soil processes and carbon emissions. Since the effective dismantling of the Vegetation Management Act by the Newman government, I have seen vast areas of eucalypt and acacia woodland flattened, including old trees that would have been here long before white people even arrived. These provide critical habitat for hollow nesting birds and mammals and will take many hundreds of years to replace.*[63]

Shayan Barmand and Michelle Ward similarly submitted:

> *There is clear evidence that remaining remnant vegetation is of very high value as habitat for wildlife, including many species listed as Endangered in Queensland and threatened nationally, and provides myriad other services for people, such as carbon sequestration and storage, sediment retention and water quality and flow regulation.*[64]

It was also stated in a form submission authored by the Environmental Defenders Office Queensland (EDO Qld), and in various other submissions, that there was 'generally insufficient verification that the land was high value agricultural land, was needed for agriculture, and was actually utilised for the agricultural activity applied for'.[65]

Environmental groups and conservation scientists agreed that in removing the allowance for clearing for HVA and IHVA under development approvals, the Bill would bring the legislation better in line with its purposes,[66] and close a 'loophole' that 'was one of the two main mechanisms by which the 2006 ban on broadscale clearing was undermined in 2012-13'.[67]

Many of these submitters also called for the amendments to be bolstered through further changes to protect remnant vegetation mapped as exempt vegetation (Category X) under PMAVs.[68] The Wilderness Society noted that:

> *…there is a staggering 23 million hectares of land covered by a "Category X" exemption in PMAVs across the state. This means developers can continue to clear these areas, no matter the value of the forest and bushland.*[69]

The QCC also sought to counter concerns about the impacts of the proposed changes on the agricultural industry, submitting:

> *We have looked at the data, and there is no relationship between land clearing controls (as measured by clearing rates) and farm productivity in terms of value of crop and livestock output in Queensland. While there are annual variations in both the real value of cropping output and livestock productivity real values, these are unrelated to land clearing regulations… Controls on broadscale clearing which were introduced in the mid-2000s (supported by both Labor and the Liberal Party at the time), and extended in 2009 to include*

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63 Dr Jennifer Silcock, Postdoctoral Research Fellow, Centre for Biodiversity and Conservation Science, University of Queensland (UQ), public hearing transcript, Brisbane, 23 March 2018, p 16.

64 Submission 329, p 1; submission 330, p 1.

65 Form submission A – EDO Qld; submissions 12, 15, 20, 31, 38, 236, 271, 283, 334, 337 369, 391, 402, 412, 500, 504, 505, 666, 680, 684, 686.

66 See, for example: submissions 78, 173, 184, 192, 283 322.

67 Submission 322, p 6. See also submissions 183, 236, 502.

68 See, for example: submissions 173 and 184; See also Ms Gemma Plesman, The Wilderness Society, public hearing transcript, 23 March 2018, Brisbane, p 15.

69 Submission 184, p 10.

> *ecologically significant regrowing woodlands, did not have any obvious overall effect on the agricultural sector. Indeed, indications during these times from AgForce were that the laws were workable and not obviously impacting on overall farming output.*[70]

Further, a number of stakeholders submitted that much of the best high value agricultural land 'has long since been cleared in Queensland';[71] and that further clearing may not be helpful for agricultural profitability, as international and domestic markets are increasingly seeking food that has been produced in a sustainable way.[72] The Wilderness Society submitted in this respect:

> *Over 90% of all clearing in Queensland is for livestock grazing, most of which is for cattle beef production. Yet international markets are moving quickly to shun beef sourced from such environmentally damaging practices. For example the China Meat Association recently signed the Chinese Sustainable Meat Declaration that commits to "...avoiding land degradation, deforestation and conversion of natural vegetation in the livestock production value feed chains". McDonalds is also working towards "...eliminating deforestation from our global supply chains". These two players alone represent a large share of the global beef market, signalling a significant shift underway.*[73]

These arguments were countered by submitters including AgForce, the QFF, various local government and natural resource groups, and indigenous land councils working in the Gulf and Cape York, all of whom opposed the amendments and supported the retention of the current assessment scheme for clearing for HVA and IHVA.[74]

These submitters considered that the amendments would stifle rural and agricultural development and reduce local employment opportunities, including in those areas suffering from a downturn in the resources sector, and at a time where the state is looking to transition away from its reliance on mining.[75]

At the public hearing in Cloncurry, Flinders Shire Council Mayor, Cr Jane McNamara, told the committee:

> *With horticulture… one acre, whatever that is in hectares, basically equates to one full-time job. If you put in 100 acres of anything that is high-value agriculture related, that is an extra 100 jobs for Hughenden itself. It also means that people in Cloncurry, Julia Creek, Richmond, Pentland, if they can grow a few pumpkins or …melons of some description, with the Hann Highway, the money going into that, we can have crops coming down from the Atherton Tablelands, they can pick them up there, we can have packing sheds and coldrooms. The flow-on effect then into schools, education, health—the whole atmosphere for this area changes…*[76]

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70 Submission 186, p 9.

71 See, for example: submission 216, 289, 329, 330.

72 See, for example: submissions 184, 186, 502; Ms Gemma Plesman, The Wilderness Society, public hearing transcript, Brisbane, 23 March 2018, p 17.

73 Submission 184, p 5.

74 See, for example: submissions 187, 193, 199, 244, 246, 249, 463, 543, 635, 655.

75 See, for example: Mr Crisp, landholder, public hearing transcript, Cloncurry, 28 March 2018, p 22; Form submission G – Peter Spies, submissions, 187, 270, 277, 279, 285, 604.

76 Cr Jane McNamara, Mayor, Flinders Shire Council, public hearing transcript, Cloncurry, 28 March 2018, p 28.

The HVA and IHVA sectors, it was submitted, are responsible for a very small amount of clearing proportionally for industries that deliver very high value, such that the strategy encompassed in the amendments may not the best way of achieving the Bill's policy objectives on a cost-benefit basis. QFF CEO (Chief Executive Officer) Mr Travis Tobin testified to the committee:

> *In terms of irrigated high-value agriculture…only 5,608 hectares has been approved to be cleared since that was brought in. To put that in context, as a percentage of the total land used for agriculture, that is .0039 of one per cent… Surely, there is no justification for getting rid of IHVA when it is already the most controlled. You have the opportunity to strengthen things if you want to and it is certainly not being abused.*
>
> *The economic benefit, the social benefit, the jobs—all the things that you get from it—are incredible.*[77]

In relation to horticulture in particular, Ms MacKenzie stated:

> *Like cane, we have had 19 applications, or permits, approved since 2013. In fact, one of the largest ones was for the Queensland Department of Agriculture and Fisheries for mangoes and maize. The rest of them were all under 30 hectares. I note in the explanatory notes that there is a comment saying that it is anticipated that this amendment to irrigated high-value agriculture and high-value agriculture will 'reduce clearing rates and subsequent carbon emissions in Queensland'.*
>
> *I would be very interested to know what the carbon emissions are from 56 hectares per annum and whether that is enough to justify completely stifling an industry that the Farm Index has just said has had a $1.1 billion appreciation 'after strong demand for both developed assets and suitable greenfield planting sites in the horticultural sector'.*[78]

CANEGROWERS CEO, Mr Dan Galligan, also stated:

> *The way this bill is drafted, it completely codifies the size of our industry. It constrains our ability to diversify and expand. Therefore, our ability to deliver on what are multiple outcomes that this government already has in using cane in Queensland as a feedstock for biofuels and generally biofuture industries is completely limited.*[79]

QFF and Growcom submitted that the constraints on expansion would heighten already extensive pressures on the industry as a result of the loss of prime agricultural land to urban development and alternate land uses that including manufacturing, industrial, services, utilities and mining.[80] Agricultural processors, furthermore, highlighted the downstream effects on their operations – including sugar mills, for example – as a result of reduced development opportunity.[81]

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77 Mr Travis Tobin, Chief Executive Officer (CEO), Queensland Farmers' Federation (QFF), public hearing transcript, Brisbane, 23 March 2018, p 42.

78 Ms Rachel Mackenzie, Chief Advocate, Growcom, public hearing transcript, Brisbane, 23 March 2018, p 41.

79 Mr Dan Galligan, CEO, Canegrowers, public hearing transcript, Brisbane, 23 March 2018, p 41.

80 Submissions 187, 204; Ms Rachel Mackenzie, Chief Advocate, Growcom, public hearing transcript, Brisbane, 23 March 2018, p 41.

81 See, for example: submissions 463, 575, 598; Mr Dan Galligan, Canegrowers, public hearing transcript, Brisbane, 23 March 2018, pp 40, 44; Mr Peter Sheedy, Manager, Canegrowers Herbert River, public hearing transcript, Brisbane, 12 April 2018, p 10; Mr Stephen Calcagno, Chair, Canegrowers Cairns Region, public hearing transcript, Cairns, 13 April 2018, p 21.

North Queensland landholders and Indigenous organisations highlighted that many of the expressed concerns were intensified for those on State and Aboriginal land tenures on Cape York, where approximately 98 percent of the land is covered by remnant vegetation.[82]

The Cape York Land Council Aboriginal Corporation (CYLCAC) and Balkanu Cape York Development Corporation Pty Ltd argued that the amendments proposed unfair and unreasonable constraints on development that will perpetuate Aboriginal and social economic disadvantage across Cape York:

> *The impact of this proposal will have a greater impact on economic activity in the Cape York region than the rest of Queensland because of the very high percentage of remnant vegetation on Cape York compared to the rest of Queensland. This is an unfair impediment on a region which is already struggling with very high levels of unemployment and low levels of economic activity. For example, in Hope Vale, which has good soils and water resources, this Bill would, if passed, restrict the expansion of current agricultural activities, including the banana farm, as well as new agricultural activities that are being planned.*[83]
>
> *Much of the economy of Queensland is driven by land cleared many years ago, but Cape York is not allowed to reap the same economic benefits. Cape York's indigenous people abate more carbon through savannah burning projects than is created through land clearing on Cape York; in fact, all of the land clearing on Cape York emits less carbon than is created by the universities in Brisbane, yet this goes unrecognised.*[84]
>
> ***
>
> *Aboriginal people … should have the opportunity to develop just like the rest of the people in Queensland have been able to in the south. We do not think it is reasonable that the Queensland government inflicts such a penalty on people who have already had to bear so much over recent history. The objectives of the bill to mitigate environmental impacts are supported, but not when they have significant impacts on people who are the most disadvantaged people in the state already.*[85]
>
> ***
>
> *… using Aboriginal land for agricultural purposes is, in many areas, the most prospective option for Aboriginal participation in the mainstream economy.*[86]

CYLCAC further submitted:

> *If the Queensland Government intends to remove this opportunity for Aboriginal economic participation through the imposition of the Bill, then it must provide Aboriginal people with alternative options for participation in the mainstream economy.*[87]

It was acknowledged that the *Cape York Peninsula Heritage Act 2007* is unaffected by the Bill, and continues to make special provision for clearing for a special Indigenous purpose, including within an Indigenous Community Use Area (ICUA). However, as was also highlighted by the QCC and EDO North Queensland, 'not a single application for clearing has been made' under the Act.[88]

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82 Submission 543.

83 Submission 543.

84 Submission 578.

85 Mr Shannon Burns, Policy Officer, Cape York Land Council Aboriginal Corporation (CYLCAC), public hearing transcript, Cairns, 13 April 2018, p 7.

86 Submission 543.

87 Submission 543.

88 Submission 186, p 11; Ms Kirstiana Ward, Principal Solicitor, Environmental Defender's Office, North Queensland, public hearing transcript, Cairns, 13 April 2018, p 16. See also Mr Shannon Burns, CYLCAC, public hearing transcript, Cairns, 13 April 2018, p 7.

In this regard, CYLCAC submitted:

> *Amongst other things, the preparation of ICUAs requires:*
>
> - *evidence that there is no suitable alternative site for the development;*
> - *evidence that the development cannot be carried out without the proposed clearing;*
> - *details about how adverse impacts of the proposed clearing will be minimised or mitigated;*
> - *details about how vegetation will be rehabilitated on the land the subject of the application if the development does not happen or ends;*
> - *the nature and extent of any other thing done or proposed to be done in addition to the development that has had, or may have, a beneficial impact on the natural values of the indigenous community use area or land in its vicinity; and*
> - *details of a business plan, for activities related to the development, showing information about the viability of the activities.*
>
> *The collation of this information for the preparation of an ICUA requires a significant investment of time and energy to research existing data, and may require primary research into environmental values. Although Aboriginal land owners have good knowledge of the suitability of their land for various purposes, and how to manage land to protect its values, the resources required to support the preparation of an ICUA [are] generally not available. Government should support Aboriginal land owners to prepare ICUAs so that land may be used for sustainable development. Over time, as land uses generate income, the need for government support for Aboriginal land owners will decline.*[89]

Accordingly, CYLCAC requested:

> *We would also like to see the vegetation management bill amended to also include amendments to the Cape York Peninsula Heritage Act to simplify the ICUA declaration process and also for the Queensland government to take a proactive role in supporting Aboriginal landholders to go through the process of identifying areas of land that are suitable to have an ICUA declared and, therefore, provide exemption from the vegetation management laws. We are not talking about huge areas. We think that it would be a small mosaic of areas across Cape York.*[90]

Other stakeholders also noted that the significant regulatory and costs burden associated with coordinated projects 'is generally greater than $2 million' and therefore beyond most agricultural enterprises;[91] and that the lack of more accessible opportunities for expansion runs contrary to federal government proposals to invest in the development of Northern Australia, including through the release of water entitlements and expenditure on road upgrades.[92]

3.1.2 Department's response

In its response to submissions, DNRME acknowledged the value of remnant vegetation, as articulated in the submissions of key environmental organisations, scientists, and other concerned community members.[93]

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89 Submission 543.

90 Mr Shannon Burns, CYLCAC, public hearing transcript, Cairns, 13 April 2018, p 8.

91 Submission 316.

92 Submission 323.

93 DNRME, final response to submissions, 12 April 2018, p 2.

The department advised that over the past four years, 67 development applications have been approved for HVA and IHVA clearing, the majority of which are in North Queensland (46 applications), followed by Southern Queensland (17 applications) and Central Queensland (4 applications). This included two properties that together accounted for close to 73 percent of the land cleared for these two purposes.[94]

By removing the ability to clear for HVA and IHVA, the department estimates that remnant vegetation clearing will be reduced by approximately 20,000 hectares per year.[95]

In relation to impacts on agricultural development and farm operations, DNRME advised:

> *Preliminary analysis of soil suitability analysis by DNRME indicates there are about one million hectares of Category X land with Class A [the best quality agricultural land] available for agricultural development (this includes cleared land not currently under cropping and land with remnant and regrowth vegetation in PMAVs, but not including National Parks, urban areas, mining or reserves)…*
>
> *… 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 Maps or on a PMAV. Areas that have already been cleared for cropping or hay can remain in use, and (as they will be mapped as Category X) regrowth can be managed without any approval.*
> - *on exempt grassland areas within the Gulf and north western Queensland which have no assessment requirements under the VMA;*
> - *for larger-scale agricultural activities under the State Development and Public Works Organisation Act 1971 where designated as a coordinated project;*
> - *clearing under the accepted development code for managing clearing to improve the operational efficiency of existing agriculture; and*
> - *on Aboriginal land on Cape York Peninsula under the Cape York Peninsula Heritage Act 2007.*

In relation to opportunities for agricultural development in North Queensland and Cape York in particular, DNRME further advised:

> *… there are about 300,000 hectares of Queensland's best agricultural land that is currently being used for grazing in northern Queensland, which could be readily developed for cropping. All of this land is currently Category X, indicating that no clearing of regulated vegetation is required to significantly expand cropping in northern Queensland.*
>
> *The Cape York Peninsula Heritage Act 2007 (Qld) is to be subject to a review during the current term of Government. Opportunities for making improvements to the Indigenous Community Use Area (ICUA) processes, which are supported by the Cape York Land Council would be considered as part of this review.*[96]

Committee Comment

The committee recognises the crucial conservation value of remnant vegetation, and the significant annual reduction in clearing of remnant vegetation that is anticipated as a result of the amendments.

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94 DNRME, final response to submissions, 12 April 2018, p 1.

95 DNRME, final response to submissions, 12 April 2018, p 1.

96 DNRME, final response to submissions, 12 April 2018, p 2.

However, the committee also appreciates the concerns raised by submitters as to the need to generate employment and development activities, particularly for Indigenous Australians on Cape York.

The committee considers that options to better support the establishment of ICUAs should be prioritised as part of the government's review of the *Cape York Peninsula Heritage Act 2007,* so as to better support Aboriginal landowners to realise sustainable agricultural development opportunities.

Recommendation 2

The committee recommends the Queensland Government prioritise the investigation of options to support the establishment of Indigenous Community Use Areas under the *Cape York Peninsula Heritage Act 2007.*

3.2 Protection of regrowth vegetation in watercourse areas in Great Barrier Reef catchments – extension of Category R area

The VMA 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 areas' and are classified as Category R.[97] Vegetation in these areas can only be cleared for limited purposes in accordance with clearing exemptions or the 'Managing Category R regrowth vegetation' accepted development vegetation clearing code.

The Bill broadens the protection of regrowth vegetation in watercourse areas to the Burnett-Mary, Eastern Cape York, and Fitzroy catchments by amending the definition of 'regrowth watercourse and drainage features area' to include these catchments.[98] The explanatory notes state that 'expanding the regulation of riverine regrowth to include these catchments will increase the protection for the Great Barrier Reef from sediment run-off and other impacts of clearing'.[99]

During the interim period (8 March 2018 to royal assent of the Bill), watercourse areas in the Burnett-Mary, Eastern Cape York and Fitzroy catchments will be categorised as proposed Category R areas and will mapped on a proposed regulation vegetation management map.[100]

3.2.1 Stakeholder views

Environmental groups, and various other submitters (including stakeholders from catchment regions), supported the proposed extension of the protection of regrowth vegetation in watercourse areas, to take in all of the Great Barrier Reef catchments.[101]

In supporting the amendments, many of these submitters cited the need to reduce the impacts of erosion, damaging runoff and sediments to these catchment areas and to the Great Barrier Reef.[102]

Mr Gethin Morgan, President of the Magnetic Island Nature Care Association, stated in this regard:

> *The two major threats to the reef are water quality and climate change. From a water quality perspective, the nutrients and sediment that are coming down the coastal rivers into the Great Barrier Reef lagoon are having a major impact on the reef health. I think that is quite clearly established.*
>
> *The main contribution of sediment is river banks. There are two, but one is river banks. If you do not have vegetation holding the river banks together, it is going to slump more and more. The better you can manage the river banks the less erosion you will have in the longer term.*[103]

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97 VMA, s 20ANA and Schedule.

98 Bill, cl 38; Explanatory notes, p 4.

99 Explanatory notes, p 4.

100 Bill, cl 37.

101 See, for example: submissions 21, 103, 172, 183, 198, 201, 236, 271, 283, 478, 506, 671 and 758. See also Form submission D – Wilderness Society.

102 See, for example: Form submission A – EDO Queensland; submission 307; Ms Wendy Tubman, President, North Queensland Conservation Council, public hearing transcript, Townsville, 27 March 2018, p 4; Dr Don Butler, Science Leader, Queensland Herbarium, public hearing transcript, Brisbane, p 54.

103 Mr Gethin Morgan, President, Magnetic Island Nature Care Association, public hearing transcript, Townsville, 27 March 2018, p 8.

The QCC canvassed a similar point:

> *In the last data we have for 2015-16, 40 per cent of all clearing in Queensland was in reef catchments, and there was a 45 per cent increase in clearing in those catchments. UNESCO and the Commonwealth and state governments are all very anxious to see proper protection measures put in place to give the reef a fighting chance. Land clearing clearly will play an important part in that. The impacts are that, if we do not retain the vegetation in the reef catchments, we add to the risk of sediment run-off and poor water quality and that impacts on the health of the coral and that basically is the bedrock of the ecosystem. Land clearing does have a direct impact on the future of the Great Barrier Reef.*[104]

Further, Mr Garry Reed also submitted:

> *The abolition in the early 1970's of the Two Chain Law (protection of 40.23m of waterway bank vegetation) has been a major contributor to the collapsing, degrading and eroding creek banks. Waterway bank vegetation is also important for aquifer recharge, water and air pollution reduction, carbon sequestration, fire retardation, micro-climate and wildlife habitat.*[105]

Within the bank vegetation mix, Dr Jon Brodie particularly singled out the importance of trees, as the vegetation feature playing the preeminent role in lessening erosion in catchment watercourses:

> *Essentially grasses are not very good at bank protection, except on very small order 1 streams. You can imagine the tiny streams in small catchments where grass swales, for instances in sugarcane where you have wide spoon drains that are grass swolled. They are okay. If we are talking about natural streams, trees provide much better bank holding protection than grass because of their deep roots. Once you get down to order 5 streams on the main course of the Tully River near Tully then even trees do not do anything really. The banks are too high. It depends so much on the stream type. Only on very tiny streams would grass have any effect on bank erosion...*[106]

Wildlife groups also noted the importance of watercourses as a corridor for animals and the need to maintain water quality to ensure the survival of aquatic animals in these watercourses and the Great Barrier Reef.[107]

Additionally, LGAQ submitted that 'local governments acknowledge the intrinsic and economic value of the Great Barrier Reef and the importance of taking actions to ensure its long term sustainability'.[108] LGAQ recommended, however, that the state government provide support and guidance to local governments to minimise the likely impacts incurred by additional reporting and notification activities arising from these amendments.[109]

Some submitters considered that the Bill did not go far enough to protect watercourses. For example, the Australian Marine Conservation Society expressed its concern that a 50 metre buffer may not be sufficient, calling for the release of additional information as to how this was defined.[110] The Wilderness Society noted that although there is a 50 metre buffer zone for Category R areas, clearing is still permitted in these catchment areas if land is categorised as Category X. It also suggested that

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104 Dr Tim Seelig, QCC, public hearing transcript, Brisbane, 23 March 2018, p 10.

105 Submission 603, p 18.

106 Dr Tim Seelig, QCC, public hearing transcript, Brisbane, 23 March 2018, p 10.

107 See, for example: Ms Liz Downes, Townsville Branch, Wildlife Queensland, public hearing transcript, Townsville, 27 March 2018, p 4.

108 Submission 273, p 4.

109 Submission 273, p 4.

110 Submission 203.

there should be a protected buffer for 'regrowing forest and bushland around waterways, lakes and springs outside of reef catchments', to give stronger protection to regrowth in riparian areas.[111]

Additionally, ecologist and wildlife veterinarian Dr Jon Hanger called for the extension of the amendments 'along all waterways – not just the GBR catchment', submitting that 'all of our waterways are suffering from declines and damage due, amongst other things, to the loss of the riparian vegetation that acts as a filter and cleaner of run-off water'.[112]

Landholders and agricultural stakeholder groups generally opposed the provisions in the Bill to extend protection to additional catchment areas.[113] A key issue raised by these submitters was the causes of erosion and the ability of these amendments to address impacts of erosion on watercourses, catchments areas and the Great Barrier Reef.[114]

AgForce General President Mr Grand Maudsley stated:

> *Best practice in the grazing industry is actually to have the tree/grass balance right. It is not about retaining all of the trees. If, for example, you put that cat R in place and then you cannot manage the density in the cat R area so it becomes thicker and thicker, you will reduce the grass out of there and then you will increase the erosion out of that environment. It is really important that we have a clear understanding from a scientific point of view.*
>
> *…It might meet some outcome that your government has promised to UNESCO or something, but it actually does not do what you think it is going to do. Sediment and run-off are an issue we can control when we are able to control what is on the ground and it will actually produce the reverse outcome.*[115]

Further, at regional public hearings the committee also heard:

> *Invasive noxious and nominated weeds are a huge issue. They have a massive negative effect on the balance and health of these environments. Fencing off these areas and managing them properly is imperative to prevent erosion and sediment run-off and the growth of natives and grass to stabilise the soil will be impossible if landholders are not permitted to clear these areas and to start and continue a healthy cycle.*[116]
>
> *… if we were not able to clear under the self-assessable code we could not manage weeds such as bellyache, poisonous peach, rubber vine—you probably know them all. Bellyache actually puts a toxin into the soil that does not let any grass grow under it. Then there is rainfall and everything else and you get more and more erosion. We have one paddock in particular—3,000 acres—that we cannot use because we cannot clear it cost-effectively to manage that weed. It is eroding more and more every year, and it would be eroding probably a hundred times quicker than anything else on the rest of the property. If we*

111 Ms Gemma Plesman, Campaign Coordinator, The Wilderness Society, public hearing transcript, Brisbane, 23 March 2018, p 15.

112 Submission 173, p 1 and Jon Hanger, Ecologist and wildlife veterinarian, public hearing transcript, Brisbane, 23 March 2018, p 23. See also submission 590.

113 See, for example: submissions 66, 70, 75, 91, 153, 164, 174, 176.

114 See, for example: submissions 43, 129. 193, Form submission G – Peter Spies and North Queensland landholders/business operators; Ms Elisha Parker, landholder, public hearing transcript, Rockhampton, 27 March 2018, p 14.

115 Public hearing transcript, Brisbane, 23 March 2018, p 38.

116 Public hearing transcript, Rockhampton, 27 March 2018, p 22

> *cannot manage that then the whole place is buggered. If you cannot get on top of it from the start, because it all comes from the river, what do we do?*[117]

Affected landholders, local governments and natural resource management groups stated that the amendments would serve to further restrict development in their catchment areas,[118] with impacts on farming capacity and production.[119] For example, Councillor Robert Radel from the North Burnett Regional Council stated:

> *If you have a look at an overlay of a map of our North Burnett area, you will see that we have one of the most extensive river and creek systems throughout Queensland. Category R is going to have a huge effect on how much viable land we have and how those waterways can be accessed.*[120]

Central Burnett Landcare Inc similarly emphasised that in the Burnett River catchment 'many farming enterprises… rely on creek and river flats for their best agricultural production', with the sugarcane and horticultural industries in particular likely to be 'severely affected'.[121]

Some of the other key issues raised by submitters against these amendments included:

- the application of a 50 metre buffer zone is arbitrary – buffer zones should be determined based on the size and significance of the relevant watercourse[122]
- farmers and producers should be able to use best management practices to manage these areas of land,[123] and
- there has been no impact evaluation of Category R regrowth on water quality in the Great Barrier Reef.[124]

3.2.2 Department's response

DNRME acknowledged many submitters' endorsement of the amendments' moves to address sediment run-off and associated water quality and wildlife impacts more consistently across the reef catchments, affirming:

> *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.*[125]

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117 Mr Bristow Hughes, private capacity, public hearing transcript, Townsville, 27 March 2018, p 23. Mr Hughes also told the committee of innovative trials run at his property in conjunction with Greening Australia, which 'reduced the sediment run-off by 99 percent in one area, with not a single tree on it'.

118 See, for example: submission 199.

119 Submission 187; Mr Travis Tobin, QFF, public hearing transcript, Brisbane, 23 March 2018, p 42.

120 Cr Robert Radel, Councillor, North Burnett Regional Council, public hearing transcript, Rockhampton, 27 March 2018, p 4.

121 Submission 397.

122 Submission 187.

123 Mr Travis Tobin, QFF, public hearing transcript, Brisbane, 23 March 2018, p 42; Ms Josie Angus, private capacity, public hearing transcript, Rockhampton, 27 March 2018, p 17; Mr Peter Anderson, public hearing transcript, Rockhampton, 27 March 2018, p 13; Mr Dan Galligan, Canegrowers, public hearing transcript, Brisbane, 23 March 2018, p 40.

124 Submission 199.

125 DNRME, interim response to submissions, 4 April 2018, p 4.

With respect to impacts on the Great Barrier Reef, DNRME advised:

> *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.*
>
> *Expanding the regulation of riverine regrowth to the Eastern Cape York, Fitzroy and Burnett Mary catchments will increase the protection for the Great Barrier Reef from sediment run-off.*[126]

In addition, the department noted that the amendments are consistent with a key action (EHA20) of the *Reef 2050 Long-Term Sustainability Plan* developed by the Australian and Queensland governments, which is 'to Strengthen the Queensland Government's vegetation management legislation to protect remnant and high value regrowth native vegetation, including in riparian zones'.[127]

With respect to the questions raised by submitters as to the sources of erosion in Great Barrier Reef catchments, the department stated:

> *Complex factors are involved in the prevention of erosion. Covering the ground surface with litter and herbage can protect the soil surface from erosion. Trees and shrubs however, are particularly important to holding soil and nutrients in arid systems exposed to wind erosion, such as south-western Queensland. Dense vegetation typically reduces herbaceous cover and biomass, especially in the context of high grazing pressure. Dense vegetation generally produces a marked increase in litter on the ground which can have nutrient cycling and water quality benefits (increased litter cover reduces rainfall impact, improves infiltration and decreases surface runoff).*[128]

In response to the issues raised by submitters regarding the economic impact on farmers and agricultural production, DRNME also emphasised that the Bill would not remove the ability to conduct clearing on these areas, but rather would lead to tighter controls and oversight of such activities. For example:

- landholders may undertake clearing in a Category R, or proposed Category R, area under an exemption in the Planning Regulation 2017 for a range of activities including clearing for fence lines, fire management lines, road and vehicle tracks and any necessary built infrastructure
- landholders may clear in accordance with the relevant self-assessable clearing code (Managing Category R regrowth vegetation) for a range of activities including, for example, managing thickened vegetation and managing weeds, and
- the amendments will not apply to land that has been lawfully cleared or approved for clearing under a development approval or previously made Category X land on a PMAV. [129]

DNRME also noted, in response to concerns about the 50 metre buffer zone and the application of the Managing Category R regrowth vegetation code, that this code is scheduled for review and that there will be consultation with relevant stakeholders over the next 12 months.[130]

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126 DNRME, interim response to submissions, 4 April 2018, p 4.

127 DNRME, final response to submissions, 12 April 2018, p 6; Australian Government and Queensland Government, *Reef 2050 Long-Term Sustainability,* Commonwealth of Australia, 2015, p 37.

128 DNRME, final response to submissions, 12 April 2018, p 5.

129 DNRME, interim response to submissions, 4 April 2018, p 4-5.

130 Public hearing transcript, Brisbane, 23 March 2018, p 60.

3.2.3 Definition of 'regrowth watercourse and drainage area'

In addressing the amendments relating to Category R areas, several stakeholders also raised concerns about the general definition of a 'regrowth watercourse and drainage feature area' in the VMA; and in particular, how this definition operates with respect to the definitions of 'watercourse' and 'drainage feature' under the Water Act.[131] The current VMA defines a regrowth watercourse and drainage feature area as:

> *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.*[132]

Submitters expressed some confusion as to whether Category R areas encapsulate either, or both, watercourses and drainage feature areas, given that the definition of a watercourse in the Water Act specifically excludes drainage features.[133] For example, Cook Shire Council noted in its submission:

> *Category R area will be expanded to include Eastern Cape York catchments however it is unclear exactly what area on the ground this will cover. The VMA defines a watercourse as having the same meaning as the Water Act, but also "includes anywhere that is downstream of the downstream limit of the watercourse" and section 20ANA of the VMA also includes drainage features in the 50m category R zone.*[134]

EDO Qld raised similar concerns, both with respect to the operation of Category R and to the RPP amendments contained in the Bill:

> *We are aware that improvements are needed to the method by which watercourses are mapped in Queensland, to ensure that all water resources that meet the definition in the Water Act 2000 (Qld) (Water Act) are mapped as such and provided with the requisite level of regulatory protection. We are informed by landholders around Queensland that the determination of the resource as a 'watercourse' or 'drainage feature' is not always being undertaken with sufficient reference to the Water Act and it's regulatory intent. This determination effects the level of protection the water resource is provided with – including under these new proposed amendments.*[135]
>
> *We have been getting many calls through the years that landholders are concerned that there is too much discretion when a watercourse is actually defined as a watercourse or as a drainage feature. This can affect a few matters that are sought to be protected under this bill better.*[136]

During one of the public hearings, the committee asked the department to address this concern. In response, the department advised:

> *Under the act there is reference to both watercourses and to drainage features. The legislation was changed in 2012 to align the terminology with the Water Act. Prior to that, there was a watercourse for the purpose of the Water Act and there was a watercourse for the purpose of the Vegetation Management Act, and they were quite different. I guess there was an overlap.*
>
> *Named rivers and streams were definitely a watercourse for both. When you got up into the head waters where there was the regular flow, it was still being referred to as a watercourse*

131 See, for example: submissions 183, 279, 306 and 505.

132 VMA, Schedule.

133 *Water Act 2000,* s 5(3).

134 Submission 279, p 4.

135 Submission 183, p 8.

136 Ms Revel Pointon, Solicitor, EDO Queensland, public hearing transcript, 23 March 2018, p 3.

for the purpose of the Vegetation Management Act, but not for the Water Act. As you could imagine for a landholder, that was terribly confusing and unnecessarily confusing. The language was changed in the Vegetation Management Act not to change the footprint of the regulation, but to better align with the language that was in the Water Act, hence there are watercourses. If it is a watercourse for the Vegetation Management Act then it is a watercourse for the purpose of the Water Act.

Then there are the drainage features which are the gullies and the very small streams which are outside the regulatory scope of the Water Act. The category R regulation certainly equally applies to those drainage features as well as the watercourses. That is a long explanation to a pretty simple question.[137]

Committee comment

Given the confusion that has arisen amongst stakeholders as to the operation of the definition of 'regrowth watercourse and drainage feature area' – and in particular, the practical impact on stakeholders with respect to both the Category R and RPP amendments, the committee considers that it would be prudent for the Minister for Natural Resources, Mines and Energy (Minister) to provide some clarification on the matter.

Recommendation 3

The committee recommends the Minister, in his second reading speech, clarify the operation of the definition of a 'regrowth watercourse and drainage feature area' and how watercourses and drainage feature areas will be dealt with under the proposed Category R and Riverine Protection Permit amendments.

[137] Mr Lyall Hinrichsen, DNRME, public hearing transcript, Brisbane, 23 March 2018, p 62.

3.3 Protection of high-value regrowth on freehold and indigenous land and occupational licences and to land not cleared for 15 years

Under the VMA, Category C areas contain high-value regrowth vegetation, which is currently defined as vegetation on leasehold land used for agriculture and grazing purposes that has not been cleared since 31 December 1989 and that is an endangered, of concern, or least concern regional ecosystem.[138]

The Bill will extend the definition of high-value regrowth vegetation, and thereby Category C areas, to include freehold and indigenous land (removed in 2013), and land which is the subject of an occupational licence under the *Land Act 1994* (not previously regulated).[139]

In addition, clause 38 will also amend the definition of high-value regrowth to mean vegetation that has not been cleared for at least 15 years that is an endangered regional ecosystem; an of concern regional ecosystem; or a least concern regional ecosystem.[140]

The department explained:

> *The Vegetation Management Act 1999 defined high value regrowth vegetation as vegetation in an area that had not been cleared since 31 December 1989 – which at the time applied to regrowth about 10 years old or more. With the passage of time, regrowth up to 28 years old is now unprotected, although scientific studies indicate that it has generally acquired significant values before this time. The Bill amends the definition to mean vegetation in an area that has not been cleared for 15 years, and this will be supported by annual release of mapping to identify these areas.*[141]

Under the changes, which would be affirmed as having commenced immediately on 8 March 2018 should the Bill be passed, some areas that were previously mapped as Category X on the regulated vegetation map are now mapped as proposed Category C areas on the accompanying proposed regulated vegetation map (though areas that have been 'locked in' as Category X in a PMAV are unaffected).[142]

Landholders are permitted to clear Category C areas only if clearing is exempt or consistent with the new 'Managing Category C' accepted development vegetation clearing code that was released in concert with the Bill.[143]

The explanatory notes advise that:

> *This gives effect to the policy objective of aligning the high value regrowth definition with the 'high conservation value' international definition advocated by the High Conservation Resource Network.*[144]

In introducing the Bill, the Minister also stated:

> *Restoring the pre-2013 mapping of high-value regrowth on freehold and Indigenous land protects approximately 630,000 hectares on freehold and Indigenous land.*
>
> *With the changes I am proposing to the definition of 'high-value regrowth', our government will protect an additional 232,275 hectares. These two measures will protect an additional*

138 VMA, Schedule.

139 Bill, cl 38.

140 Bill, cl 38.

141 DNRME, written briefing, 14 March 2018, p 6.

142 Mr Lyall Hinrichsen, DNRME, public briefing transcript, Brisbane, 19 March 2018, p 2.

143 Bill, cl 37, s 132. See also: DNRME, *Guide: Vegetation management laws currently before Parliament,* Queensland Government, 2018, p 6.

144 Explanatory notes, p 26.

> *862,506 hectares of high-value regrowth. Importantly for the environment, approximately 405,000 hectares or 47 per cent of this is within the Great Barrier Reef catchments.*[145]

3.3.1 Stakeholder views

Environmental peak bodies and their members supported the amendments to protect high value regrowth,[146] which they acknowledged would provide significant biodiversity benefits,[147] and protect a greater area of important high conservation regrowth woodlands.[148] The QCC submitted that the removal of Category C protections for high value regrowth on freehold land under 2013 amendments to the VMA left significant high conservation value woodlands largely unprotected, and contributed to 'a dramatic rise in land clearing rates in the state'.[149] The Bill's 'broader' and 'more sound' definition,[150] it was submitted, was a welcome step in the right direction.[151]

Researchers at the University of Queensland's Centre for Biodiversity Science stated in this regard:

> *For many extensively cleared ecosystems, the only way they can return to a non-threatened status is by allowing regrowth to mature to an age at which their condition approaches that of remnant. Therefore, older regrowth of such ecosystems needs protection to achieve this.*[152]

Mr Ted Fensom of Wildlife Logan stated that the protections would be 'essential' for the protection of habitat for the state's koala population, which has faced significant habitat loss due to urban development and other clearing for industry:

> *Work done by Healthy Land & Water with three councils indicate that half the koala population is living in high-value regrowth. That is not protected under the existing legislation. That has a further complication in that with the planning scenario in South-East Queensland we have 70,000 hectares of vegetation in what we call the urban footprint. Some of it has protection but most of it does not and it is generally split fifty-fifty with remnant vegetation and high-value regrowth, so it is about 35,000 hectares of each sitting in that urban footprint.*[153]

Similarly, Dr Anita Cosgrove and Dr April Reside highlighted benefits for endangered black-throated finch populations:

> *Numerous environmental assessments for proposed developments have recorded Black-throated Finches in disturbed, regrowth habitat (e.g. EPBC referral 2017/8067 Maidment Land Pty Ltd/Residential Development/267 EP1719 and 257 SP253223/Queensland/Sanctum West Master Planned Community, near Townsville, Queensland). Some of this regrowth vegetation is used for foraging, nesting and breeding. The Black-throated Finch Recovery Team database demonstrates that both remnant and regrowth vegetation are valuable for the Southern Black-throated Finch.*

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145 Minister, Introduction, Record of Proceedings, 8 March 2018, p 416.

146 See, for example: submissions 51, 128, 183, 184, 186, 192, 213, 329, 495, 671, 742.

147 Submission 671.

148 Submission 742.

149 Submission 186.

150 See, for example: submission 51, Form submission A – EDO Qld.

151 See, for example: Form submission A – EDO Qld.

152 Submission 216.

153 Mr Ted Fensom, Wildlife Logan, public hearing transcript, Brisbane, 12 April 2018, p 21.

> *With so much of their remnant habitat lost, the future survival of the Southern Black-throated Finch will depend on maturing regrowth vegetation. Currently, regrowth vegetation contributes to the viability of some Southern Black-throated Finch populations. Therefore, Endangered species such as the Southern Black-throated Finch need regrowth to be protected in order to recover some of the habitat that has been lost.*[154]

The Wildlife Preservation Society of Queensland – Fraser Coast branch submitted that the amendments 'achieve conservation outcomes over all tenures which most Queenslanders would consider 'fair''.[155]

However, the majority of environmental groups and other community members who supported the amendments also called for 'more extensive protection including endangered vegetation species and communities, vegetation in reef catchments, riparian areas, threatened species habitat and areas where landscape integrity is at risk'.[156] Many submitters saw opportunity for further complementary regulation, maintaining that significant and harmful clearing of high value regrowth could continue on the new Category C areas under the accepted development codes; and also across the large areas of exempt high value regrowth remaining unprotected on Category X land.[157]

Other submitters saw opportunities to strengthen the proposed Category C definition itself. Ms Vanda Grabowski, President/Secretary Koala Action Inc, emphasised that even regrowth of only four years can host koala populations and provide crucial wildlife corridors between cleared areas.[158] Submitter Paul Burke questioned whether the failure to protect regrowth until it reaches 15 years of age, may 'deter effort and investment in creating the future remnant vegetation that we all so desperately need'.[159]

Mr Alex Lindsay, Director of Forsite Forestry, called for the inclusion of 'some sort of definition about height, crown cover and floristic composition' within the amendments, to better account for variability in vegetation conditions and composition.[160] Whilst advising that he did 'not disagree with 15 years as a minimum age for regrowth', Mr Lindsay emphasised that 'not all regrowth is high value just because it is 15'.[161]

Calls for the variable composition of different types of regrowth to be taken into account were also made by agricultural groups, local councils, landholders and various landholder organisations.[162] However, these submitters, conversely, were staunchly opposed to the amendments, citing some variable outcomes in regard to expected conservation values.

In this respect, former principal scientist in Queensland's then Department of Primary Industries and Fisheries, Dr Bill Burrows, advised the committee:

> *…honest biologists would also accept that in many—indeed, most—situations regrowth plant composition differs somewhat markedly from the original woody stand because regrowth favours root-suckering species over those establishing solely from seed. What is*

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154 Submission 590.

155 Submission 671.

156 See, for example: Form submission A – EDO Qld, submissions 21, 103, 150, 183, 236, 355, 369, 490, 500, 687.

157 See, for example: submissions 183, 184, 236, 283, 490, 558.

158 Public hearing transcript, Brisbane, 23 March 2018, p 24. Ms Carolyn Donnelly (submission 505) similarly submitted: 'Regrowth can provide habitat for a range of flora and fauna well before it is 15 years old. I think 5 years would be more appropriate'. See also submission 111.

159 Submission 100.

160 Mr Alex Lindsay, Director, Forsite Forestry, public hearing transcript, Cairns, 13 April 2018, p 25.

161 Mr Alex Lindsay, Director, Forsite Forestry, public hearing transcript, Cairns, 13 April 2018, p 25.

162 See, for example: submissions 199, 270, 351.

> *the conservation value of a stand of mono Pacific regrowth suckers that are 10, 20 or 30 years old?*[163]

In keeping with this, graziers Blair and Josie Angus submitted that significant areas of land that will now be mapped as high value regrowth do not meet the international criteria for high conservation value, and therefore run counter to the stated intention of the amendments.[164]

Accordingly, Mr and Mrs Angus called for Category C to be made *'*consistent with the international definitions for high conservation value and detailed ground investigations be undertaken to establish those values on a site by site basis'.[165]

Many landholders warned that an inability to control regrowth in new Category C areas would in fact result in a monoculture that would choke out other vegetation, and make it virtually impossible to manage weeds and feral pests as required under the *Biodiversity Act 2014*.[166] Mr Fred Bryant submitted that without the ability to clear this regrowth:

> *..areas of land areas of land become feral pest havens and as the timber thickens the country will become useless with the trees choking out pastures and unbalancing natural ecosystems. The pest havens then in turn hamper greatly the ability to run a profitable enterprise through stock losses and maiming, caused by Wild Dogs and feral pigs which thrive in these areas. These pests also have a devastating effect on native animals and plants. On our property we have seen whole Koala populations disappear not through excessive clearing but because of the explosion in wild dog numbers and disease. As a grazier I am also a conservationist and don't want to see my families [sic] land degraded and eroded through mismanagement and excessive clearing, but I also know that some clearing is required to ensure we have healthy ecosystems and healthy pastures to enable a stress free environment for the animals that both graze and coexist on our property.*[167]

Questions were also raised as to the underlying science behind the 'arbitrary' 15-year time threshold included in the amended Category C definition.[168]

For example, it was submitted:

> *A tree's rate of growth is primarily determined by its access to water and nutrients. Under low rainfall conditions tree species have evolved to suit the environment and will grow slowly. Under high rainfall conditions, the tree species have adapted to a faster growth curve. Therefore an Ironbark tree in the higher rainfall bioregion of the SE Qld Bioregion will grow significantly faster than a Gidyea tree in the Mitchell Grass Bioregion over a 15 year period of time. A landholder within the MGD [Mitchell Grass Downs] Bioregion who has Gidyea regrowth of 14 years, is probably not in a great hurry to re-pull the regrowth as it could be detrimental to their land condition, and their financial status.*
>
> *Putting a 15 year timeframe on "high value regrowth" does not account for the varying timeframes of woody vegetation in different bioregions.*[169]

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163 Submission 222.

164 Submission 270.

165 Submission 270.

166 See, for example: submissions 104, 136, 159, 224, 269, 304, 315, 341, 351, 379, 382, 387, 515, 566, 572, 587, 643, 655, 699, 777. See also Cr Rob Chandler, Mayor, Barcaldine Regional Council, public hearing transcript, Longreach, 29 March 2018, p 3.

167 Submission 587.

168 Submission 270.

169 Submission 515.

Submitters argued that the application of the 15-year time threshold would likely also lead to the perverse outcomes of disadvantaging those landholders who have previously adopted conservative approaches to the management of their vegetation; and encouraging more frequent clearing than is necessary in many areas, in order to keep land 'open' and 'potentially usable' (e.g. as Category X).[170]

For example, at the public hearing in Cairns, Mr Justin MacDonnell told the committee that the amended definition effectively:

> *… rewards people who have over cleared in the past and punishes people like myself who own properties with much more conservative levels of clearing. If you have cleared wall to wall in the past you have got it locked in as a category X on a PMAV. Thanks to your legislation that property value has just gone up. People will pay more for that property because it has a certainty going forward of its productive capacity. A property like mine, where we have 65 per cent standing remnant, where practices have been employed on our property in more ways than one that would be consistent with the type of practices you want to encourage, the valuation of my property has now decreased. You are penalising the very people who you should be really encouraging.*[171]

Further, another submitter stated:

> *It does not encourage good land stewardship, as landholders will be in a reactive state of mind to the legislation, and rather than controlling their regrowth at the most appropriate time from a financial and land condition perspective, they will be scared into woody regrowth control with a "before the time is up" mindset.*[172]

Many landholders also considered that the lack of flexibility afforded by the Category C definition would place undue financial pressure on many properties, interrupting future planning and budgeting that has been based on the current definition.[173] Optimal treatment intervals, it was emphasised, can be highly variable, with farmers generally seeking to minimise the frequency of regrowth control wherever possible, due to the significance associated with these vegetation management activities.[174] Submitters stated in this regard:

> *You cannot expect a farmer dealing with drought, flood, government regulation and banks, to be able to financially manage regrowth in such a specified timeframe. That money might not be there at the time. It could quite possibly have been used to feed stock now. That regrowth, when cleared, will then help feed those same stock.*[175]
>
> ***
>
> *… we don't do regrowth pulling for fun, it is a very expensive management tool.*
>
> *Minimum figures would be $30 per hectare. On our operation we may need to do 1000 ha per year – that is $30 000 per year. Shortening the time frame will increase costs and if the regrowth isn't big enough the results are unsuccessful (the trees bend over and spring back) making it even more expensive. We have other plans we would prefer to spend our money on.*[176]

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170 See, for example: submissions 566, 270.

171 Mr Justin MacDonnell, private capacity, public hearing transcript, Cairns, 13 April 2018, p 40.

172 Submission 515.

173 Submission 386.

174 Submission 270.

175 Submission 389.

176 Submission 501.

A number of submitters spoke to the combined effects of the extended Category C and Category R amendments, as constituting a total of 1.76 million hectares of developed land affected.[177] Blair and Josie Angus submitted:

> *At a market valuation differential of approximately $1000 / hectare in developed scrub land and remnant vegetation this represents the stealing of approx. $1.8 billions dollars from Queensland farmers given the devaluation of their land assets.*
>
> *This does not count any lost income through productivity decline or the stripping of future development rights.*[178]

Submitters also pointed to issues in the mapping of the new Category C areas and the criteria employed, including:

- citing the memory of significant inaccuracies in 2009 when the high value regrowth mapping layer was initially introduced, as a hastily prepared 'desk-top mapping exercise' which associated errors including 'areas of non-native vegetation (such as orchards) and bare earth'[179]
- reporting that land that has not been cleared because of its largely clear condition has been changed from Category X to C, while other areas that have not been physically cleared for the same amount of time have not been included,[180] prompting questions as to the criteria employed, and
- reporting that land which has been cleared in sections across the area over the last 15 years has been reclassified as Category C, due to the clearing having being carried out without the use of bulldozers, and apparently undetected by satellite imagery.[181]

3.3.2 Department's response

In its response to submissions, DNRME stated that it 'notes and accepts the value of regrowth vegetation' as emphasised by many stakeholders. The department noted that the protection of High Conservation Value non-remnant regrowth reflected the election commitment made in the Labor Party 2017 policy document 'Saving Habitat, Protecting Wildlife and Restoring Land: ending broad scale tree-clearing in Queensland (again)' – that is, that 'high conservation value' will be defined consistently with the international definition advocated by the High Conservation Resource Network.[182]

The department advised that amendments were informed by a departmental analysis of the alignment of Queensland's statutory instruments and programs against each of the High Conservation categories, which recognised that while conservation values are afforded varying levels of protection for each of the categories 'some values are not reflected in the vegetation management framework'.[183]

In relation to the scientific underpinnings of the amendments, DNRME advised:

- *High conservation values, developed by the high conservation resource network, are biological, ecological, social or cultural values which are outstandingly significant or critically important at the national, regional or global level.*

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177 See, for example: submission 270.

178 Submission 270.

179 See, for example: Form submission G – Peter Spies and North Queensland landholders/business operators; submissions 5, 43, 44, 48, 55, 67, 70, 75, 92.

180 Confidential submission 131.

181 Submission 120.

182 DNRME, final response to submissions, 12 April 2018, p 3.

183 DNRME, final response to submissions, 12 April 2018, p 4.

- *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.*
- *Scientific advice from the Department of Environment and Science indicates that by 15 years after clearing, many regional ecosystems have recovered significant ecological values, although some will continue to regain value over longer timeframes.*[184]

DNRME advised that the amendments would restore the pre-2013 mapping of high value regrowth and result in the re-regulation of an additional 862,506 hectares over and above the current definition.

This will not preclude landholders from managing regrowth on their land:

- *Landholders with proposed Category C (high value regrowth) have a range of options to manage vegetation, including during the interim period:*
    - *exemptions under the Planning Regulation 2017 allow clearing for fence lines, fire management lines, road and vehicle tracks and any necessary built infrastructure;*
    - *under the Managing Category C regrowth vegetation accepted development code, clearing may occur for a range of activities such as fodder harvesting, thinning of thickened regrowth vegetation, encroachment on native grasslands, and control of non-native plants and declared pests;*
    - *the Managing native forest practice accepted development code allows clearing for managing a native forest.*
- *Under the accepted development vegetation clearing codes, landholders are not required to lodge a development application to clear native vegetation. However, they are required to notify DNRME prior to clearing.*[185]

In relation to questions surrounding the mapping of amended Category C, the department advised:

- *High-value regrowth mapping will be supported by annual mapping updates to the Regulated Vegetation Management Maps. High value regrowth mapping was developed using a combination of automated processing and manual editing.*
- *An initial automated process identified vegetation with woody foliage projective cover of at least 11% (SLATS FPC layer) that had not been cleared for at least 15 years (SLATS clearing layer) and was category X in the regulated vegetation management map. The automated process ignored woody vegetation in:*
    - *tenures not covered by the Vegetation Management Act 1999;*
    - *areas cleared since 2002, identified using the Statewide Landcover and Trees Study;*
    - *areas covered by a property map of assessable vegetation;*
    - *areas mapped as remnant vegetation in version 10 of the remnant Regional Ecosystem map (2015 remnant);*
    - *areas of cropping, plantation, orchards or specified intensive land uses under the Queensland Land Use Mapping Program (QLUMP); and*

[184] DNRME, final response to submissions, 12 April 2018, p 3.

[185] DNRME, final response to submissions, 12 April 2018, p 3.

- *gardens and heavily modified vegetation in urban areas, identified as aggregations of lots sizes less than one hectare.*

- *The output from the automated process was subject to manual visual checking and editing over high resolution imagery to remove errors such as plantations, weeds or other non-native vegetation, and also to define accurate boundaries and identify any areas of suitable native vegetation that had been missed by the automated process.*
- *The DNRME is working with the Queensland Herbarium within the Department of Environment and Science 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 interim period so it amends the effect of the mapping on commencement. This option has been available to landholders since 2004.*[186]

DNRME also advised that a proposal from the Property Council of Australia (Property Council) and the Urban Development Institute of Australia (UDIA) to essentially exempt urban development from the provisions by extending exemptions for an urban purpose to planning schemes 'is not supported'.[187]

[186] DNRME, final response to submissions, 12 April 2018, p 4.

[187] DNRME, final response to submissions, 12 April 2018, p 3.

3.4 Protection of essential habitat for near-threatened species

3.4.1 The essential habitat mapping layer

The essential habitat map is a mapping layer that identifies the areas that are believed to be essential habitat for protected wildlife.[188] Protected wildlife, under the existing vegetation management framework, is defined as native wildlife prescribed under *the Nature Conservation Act 1992* (NCA) as 'endangered wildlife or vulnerable wildlife'. Essential habitat mapping is used by the department to assess vegetation clearing applications and to determine vegetation clearing requirements.

The department explained the mapping process as follows:

> *Basically, when you have your property mapping it defines the vegetation types on your property in terms of categories B and C and A, if that is appropriate. It will be category R if you are in a reef catchment. More detailed information then lets you know whether that is an area of significance for habitat and, if so, then it puts limits on the types of activities you can undertake or puts obligations on the way in which you can undertake activities. For example, if you are clearing an area that has conservation status it can be that the Environmental Offsets Act applies, so then there is a requirement to provide an equivalent area to offset and maintain the habitat for those particular species.*[189]

Reforms to the VMA undertaken in 2013 saw the removal of near threatened wildlife species from the essential habitat mapping layer.[190] Under the NCA, wildlife may be prescribed as `near threatened wildlife' if:

- the population size or distribution of the wildlife is small and may become smaller, or
- the population size of the wildlife has declined or is likely to decline at a rate higher than usual, or
- the survival of the wildlife is affected to an extent that the wildlife is in danger of becoming vulnerable.[191]

The Bill proposes to reinstate near threatened wildlife species in the definition of protected wildlife under the VMA to ensure they are covered by essential habitat regulation for remnant and high value regrowth vegetation.[192] The amendment affords near threatened species the same measure of regulatory protection as endangered and vulnerable species.

According to the explanatory notes, this will give effect to the government's policy objective of aligning high-value regrowth with the international definition of high conservation value,[193] which includes threatened species habitat.[194]

Transitional provisions in the Bill provide that the essential habitat layer for remnant and high conservation value regrowth vegetation includes protected wildlife and near threatened species during the interim period (from 8 March 2018 to immediately before royal assent of the Bill).[195]

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188 VMA, s20AC, Division 5AA.

189 Mr Lyall Hinrichsen, DNRME, public briefing transcript, Brisbane, 19 March 2018, p 12.

190 See, for example, submissions: 201, 604, 639.

191 *Nature Conservation Act 1992*, s 79.

192 Bill, cl 37, 38.

193 Explanatory notes, p 27.

194 Queensland Labor, *Labor 2017 Policy Document, Saving Habitat, Protecting Wildlife and Restoring Land: Ending broad scale tree clearing in Queensland (again)*, 2017, p 10.

195 Bill, cl 37, Division 13; Explanatory notes, p 20. The interim period is defined as the period starting 8 March 2018 and ending immediately before the date of assent.

Clause 37 section 141 requires the chief executive to publish an essential habitat map on the department's website during the interim period showing the proposed essential habitat for protected wildlife and near threatened wildlife. According to the explanatory notes, the proposed map, with the inclusion of near threatened wildlife, will be taken to be the essential habitat map from 8 March 2018.[196] The updated essential habitat map will:

> *… assist landholders to determine what new requirements may apply to their property on the commencement of the Vegetation Management and Other Legislation Amendment Act 2018, which in turn can help guide clearing to ensure it does not become unlawful following commencement.*[197]

In introducing the Bill, the Minister stated that updates to the vegetation management maps (including updates to essential habitat mapping) were based on the latest advice from the independent Queensland Herbarium.[198] The Minister expressed confidence in their accuracy and stated that an 'update of this scale has not been undertaken since 2013 and will ensure the vegetation management framework is using the best available science'.[199]

3.4.2 Environmental offsets

The Bill also proposes to reinstate offset requirements for essential habitat for near threatened species, by making amendments to the Environmental Offsets Regulation 2014 and Queensland Environmental Offsets Policy 2014.[200]

Under the *Environmental Offsets Act 2014,* environmental offsets apply to approvals for unavoidable significant residual impacts caused by clearing of remnant vegetation that is essential habitat.[201] The clearing of high-value regrowth that is essential habitat requires the provision of an exchange area. The Bill's proposed expansion of the definition of essential habitat will ensure that offsets apply to approvals for any significant residual impact on near threatened species.[202]

3.4.3 Stakeholder views

The reintroduction of protections for near threatened species were welcomed by environmental groups and various individual submitters as an important step in protecting Queensland's valuable wildlife.[203]

However, much of this broad support was accompanied by calls for the Bill to go further to protect the habitat of threatened species, with an emphasis on the need to expand protection of koala habitat in particular.[204] The committee received thousands of form submissions with recommendations along these lines, generated by conservation groups including the QCC, The Wilderness Society, WWF Australia and Greenpeace.

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196 Issues that were raised during the inquiry in relation to the retrospectivity of the Bill are discussed at chapters 3.9 and 4.1 of this report.

197 Explanatory notes, p 27.

198 Minister, Record of Proceedings, 8 March 2018, p 416.

199 Minister, Record of Proceedings, 8 March 2018, p 416.

200 Bill, cl 37, s 143.

201 DNRME, written briefing, 14 March 2018, pp 3-4.

202 Bill, cl 47, s 143.

203 See, for example: Form submission B – WWF Australia, submissions 51, 100, 183, 184, 186, 192, 448, 467, 479, 554, 562, 566, 636, 671, 718, 742, 758.

204 See, for example: submissions 399, 429, 456, 477, 495, 500, 510, 517, 593, 596, 620, 626, 638, 645, 670, 691, 693, 703, 707, 757.

The Wilderness Society submitted that:

> *…while "essential habitat" for threatened species is also afforded protection it is unclear what protection is afforded for other forms of habitat under the ongoing self-assessable codes. In addition, there are many areas exempt from protection altogether ("Category X" in PMAVs). Threatened species habitat has not been explicitly included in the redefinition of high conservation value regrowth.*[205]

QCC similarly submitted that a broader and more encompassing definition of essential habitat mapping was needed. In its submission, QCC highlighted the devastating impact that land clearing is having on native animals and the broader environment, citing estimates of 45 million native animals killed due to land clearing in Queensland last year.[206]

In order to better protect native wildlife during clearing operations, some other submitters called for greater use of spotters and ecologists in pre-clearing assessments.[207] Dr Hugh Finn proposed that the government implement a code of practice about animal welfare relating to land clearing operations, to be made under the *Animal Care and Protection Act 2001*.[208]

Landholders and agricultural groups raised a number of concerns about the inclusion of near threatened species in the essential habitat mapping layer.[209] AgForce questioned the need for the amendments in clauses 37 and 38, noting that protections already exist for near threatened species:

> *The NCA currently regulates endangered, of concern and near threatened species in Queensland. There are also federal levels of protections for significant species under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) … this is another area of legislative duplication, as well as unjustified regulation on landholders … A better approach would be to fund an effective extension campaign to inform landholders of their existing responsibilities under the EPBC Act and to pay them for the ecosystem services they provide in conserving these species for the public good.*[210]

A lack of confidence in the accuracy of the data used for mapping was also a common concern among land holder groups and stakeholders.[211] The committee heard, for example:

> *I have also seen the effect of the generous protection of our native fauna by mapping of essential habitat areas that are generous to a fault. I say that quite seriously: that in the mapping of essential habitat it is well beyond the known range of the protected fauna, in our case the mahogany glider, which is certainly a beautiful animal and well worthy of protection, but when the protection goes well beyond the known range of the mahogany glider it is protection to a fault.*[212]
>
> ***
>
> *Analysis of mapping undertaken by Agforce illustrates the massive reduction in available farming land in Queensland created by this legislation….a further 2,107,180 hectares of land*

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205 Submission 184, pp 7-8.

206 Submission 186, p 9. See also submissions 207, 391, 490, 558, 560, 585, 680, 684, 686.

207 See, for example: submissions 192, 322, 478, 539, 721. See also Mr Paul Toni, Conservation Director – Sustainable Futures, WWF Australia, public hearing transcript, Brisbane, 23 March 2018, p 14.

208 Submission 78, p 11.

209 See, for example: submissions 201, 604, 639.

210 Submission 199, p 14.

211 See, for example: submissions 441, 515, 568, 653.

212 Mr Peter Sheedy, Manager, Canegrowers Herbert River, public hearing transcript, Brisbane, 12 April 2018, p. 10.

> *has been declared essential habitat with the inclusion of "near-threatened" species. I have lived my entire life in the bush and consider myself an environmental custodian. I have never had a scientist ask to visit my property to assess a habitat, to look at any species, flora or fauna. The regional ecosystem mapping is highly inaccurate with once again no ground truthing. Essential habitat has been declared with no on-the-ground knowledge of the existence or extent of populations of flora and fauna in an area.*[213]

The Property Council also expressed 'serious concerns' about the flow-on effects of both the inclusion of near threatened wildlife in the definition of essential habitat and associated changes to the definition of high-value regrowth, to align with high conservation values, on local government planning schemes. The Property Council submitted:

> *The State Planning Policy definition for MSES [Matters of State Environmental Significance] means that essential habitat is regulated vegetation under the Environmental Offsets Act 2014 … While the clearing of some vegetation in urban areas will be exempt under State provisions, there are requirements on local governments in relation to the incorporation of MSES into planning schemes. The policy framework local governments implement regarding this mapping will significantly impact the extent of development that can be achieved in urban areas. Where development can be achieved, this will come at an increased cost due to offset requirements under the Environmental Offsets Act 2014.*[214]

The Property Council recommended that the committee 'ensure that the urban purpose exemption that applies through the Planning Regulation 2017 extends to the reflection of essential habitat in local government planning schemes'.[215]

The Queensland Resources Council (QRC) also expressed a concern that the explanatory notes did not adequately clarify why the chief executive is required to publish a map during the interim period showing areas of proposed essential habitat. The QRC recommended that 'the Explanatory Notes to the Bill be amended to provide an explanation for the inclusion of near threatened wildlife areas on the Essential Habitat map'.[216]

3.4.4 Department's response

In response to calls for essential habitat mapping to better incorporate koala habitat, DNRME noted that koalas are in fact listed as a threatened species, and therefore, that 'known habitat is already incorporated into the Essential Habitat mapping'.[217]

In reference to Dr Finn's call for the establishment code of practice addressing animal welfare in land clearing operations under the *Animal Care and Protection Act 2001*,[218] the department stated:

> *Dr Finn … is seeking a policy that requires decision-makers to identify and evaluate the harm that a proposed clearing action may cause to the welfare of individual animals. This is best characterised as an ecological assessment undertaken by a person with the requisite experience in providing information characterising the harm that a proposed clearing action would cause, such as fauna mortality estimates.*
>
> *This recommendation is a significant measure that goes beyond the policy commitments of the government. To fully understand the costs and implications, a regulatory impact*

213 Submission 270, p 4.

214 Submission 201.

215 Submission 201.

216 Submission 97, p 3.

217 DNRME, final response to submissions, 12 April 2018, p 26.

218 Submission 78, p 11.

> *assessment would need to be undertaken to understand the costs to landholders and the government. The practicality of this measure over and above the current approach of an essential habitat layer that recognises listed plants and species with the application of an offset would also need to be fully understood.*[219]

Further, with respect to comments as to the possible duplication of other conservation legislation, and reported inaccuracies in essential habitat mapping, DNRME advised:

> *The reason the essential habitat layer is associated with the vegetation management regulatory map is that the approvals are to clear native vegetation. The identified biodiversity to be protected is given recognition as part of that same regulatory decision. The NCA by contrast requires a person to apply for a permit to take the regulated plants or species. The permit to take is not associated with approvals to clear native vegetation.*
>
> *The Vegetation Management (VM) Class mapping regulated under the Vegetation Management Act 1999 (VM Act) uses the same base data from the Queensland Herbarium as that used for the Biodiversity (BD) Status mapping and the Environmentally Sensitive Area (ESA) mapping referred to under the Environmental Protection Regulation 2008.*[220]

The department also advised that 'extending the exemptions for an urban purpose to planning schemes is not supported'.[221]

[219] DNRME, final response to submissions, 12 April 2018, p 17.

[220] DNRME, final response to submissions, 12 April 2018, p 16.

[221] DNRME, final response to submissions, 12 April 2018, p 3.

3.5 Extension of the riverine protection permit framework

The Bill reinstates the requirement to obtain a riverine protection permit (RPP) for the destruction of vegetation in a watercourse, lake or spring, by amending the provisions of Water Act to extend the application of the RPP framework. Currently, RPPs are required only for excavating or placing fill in a watercourse, lake or spring.

In re-extending the RPP framework, the Bill's amendments restore the permit requirements for the destruction of vegetation as they were prior to the amendments made by the *Land, Water and Other Legislation Amendment Act 2013*.[222]

The Bill also makes provision for authorised officers to monitor compliance and investigate unauthorised destruction of vegetation.[223] A person who destroys vegetation in a watercourse, lake or spring, without a RPP, would commit an offence attracting a maximum penalty of 1,665 penalty units ($210,039).[224]

In addition, the Bill proposes adding that a permit is not required if the destruction of vegetation is necessary for construction or maintenance of government supported transport infrastructure under the *Transport Infrastructure Act 1994*.[225]

The proposed amendments are designed to restore regulation of the destruction of native vegetation, thereby allowing the appropriate assessment of impacts and the management of risks associated with such activities in watercourses, lakes or springs.[226]

3.5.1 Stakeholder views

Many submitters expressed general support for the amendments to the Water Act.[227] Seqwater's submission referenced the enhanced protection the permit system will provide, stating:

> *These new protections will serve to protect important vegetation along watercourses, in particular the mid-Brisbane River, which is the conduit for 40% of the SEQ water supply. Such vegetation is essential to protect source water quality, by stabilising stream banks, filtering overland flow and preventing the transport and delivery of sediment and nutrients downstream.*[228]

EDO Qld, the North Queensland Conservation Council (NQCC) and Birds Australia expressed similar views to Seqwater, with EDO stating:

> *Upstream impacts to riparian vegetation can have significant impacts to watercourses and downstream ecosystems through the increased erosion of banks. These activities must be assessed, the Riverine Protection Permit is one mechanism for this assessment to ensure that these activities are only allowed as far as they will minimise or avoid negative impacts to our watercourses and downstream ecosystems.*[229]

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222 Explanatory notes, p 4.

223 Bill, cl 54.

224 Bill, cl 55. A penalty unit has a value of $126.15: Penalties and Sentences Regulation 2015, s 3.

225 Bill, cl 55.

226 Public briefing transcript, Brisbane, 19 March 2018, pp 1, 2.

227 See, for example: submissions 12, 13, 15, 20, 21, 31, 38, 45, 89, 102, 103, 135, 167, 183, 186, 198, 211, 228, 229, 236, 283, 288, 307, 311, 334, 337, 369, 391, 402, 412, 422, 448, 467, 479, 499, 500, 502, 504, 505, 506, 511, 544, 562, 590, 641, 666, 677, 680, 681, 684, 686, 687, 694, 701, 718, 722, 742, 743, 749, 758, 765.

228 Submission 288, pp 3,4.

229 Submission 183, pp 7-8, Submission 307, pp 1-2.

The Property Council submitted that it 'does not have any major concerns with the proposed provisions regarding the RPP being reintroduced, as long as the permit system is operated in a timely and efficient manner'.[230] The NQCC also submitted that the permits must be strongly enforced with significant penalties imposed for infringement.[231]

Other submitters specifically expressed their opposition to the amendments to the Water Act.[232]

A number of submitters expressed concern that the proposed provisions will effectively duplicate existing regulation.[233] AgForce suggested the amendments would serve as additional regulation of activities that already regulated in the VMA and Planning Act:

> *The current RPP regulations require permits to be obtained to excavate or place fill in a watercourse, lake or spring, which includes vegetative material below the surface, playing a key role in bank stability. Reinstating these provisions in the Water Act adds an additional layer to the already complicated framework landholders are required to abide by for vegetation management.*[234]

Ms Jacqueline Curley, similarly, submitted that the amendments proposed to the Water Act would be a duplication of the existing vegetation management codes (SDAP State code 16: Native vegetation clearing).[235] Further, the North Queensland Miners Association Inc submitted that many mining operations in North Queensland 'are already restricted by protections for vegetation intersection [sic] a watercourse'.[236]

A range of submitters also pointed to significant flow-on effects on the costs, timeframes and procedural complexity for infrastructure and development works as a result of being required to gain a permit to destroy vegetation in accordance with the proposed provisions.

The UDIA particularly singled out adverse impacts for urban development,'[237] while LGAQ pointed to the added regulatory burden for construction and maintenance of necessary built infrastructure.[238] LGAQ submitted that 'local governments that span large geographic areas will be particularly affected'.[239] For example, LGAQ explained:

> *…road crews and pest management crews must drive hundreds of kilometres to reach an area and will often stay away from home for up to two weeks while working in remote locations of their local government area. Without an exemption for local government activities, council will need to send staff to a remote location to gather information required for a permit, submit the permit application, then send the crew out to do the work. This will increase costs, loss of staff time for other works and timeframes for the delivery of essential services such as the reinstatement of essential roads in remote locations.*[240]

230 Submission 201, p 5.

231 Submission 307, p 2.

232 For example, see submissions 5, 115, 188, 199, 273, 279, 280, 332, 543.

233 Submissions 188, 199, 332.

234 Submission 199, p 21

235 Submission 332, p 8.

236 Submission 188, p 1.

237 Submission 280, p 8

238 Submission 273, p 4.

239 Submission 273, p 4.

240 Submission 273, p 4.

This concern was affirmed by the Cook Shire Council, which made reference to the size and remote nature of its local government area, and the anticipated costs associated with the amendments.[241] Cook Shire Council submitted:

> *The Explanatory Notes estimates the financial cost of implementing the legislation to be cost neutral, but this only considers the cost to the Queensland Government. The cost to local government has not been considered and in particular the loss of rates to rural councils like Cook Shire due to lost agricultural opportunities and additional planning section assessment costs. In addition there may be direct costs and interruption to operational works connected to the extended category R areas and requirements to obtain riverine protection permits to clear in a watercourse; and some areas may trigger both these requirements in eastern parts of the Shire.*[242]

Cloncurry Mayor, Cr Gregory Campbell, suggested that the proposed amendments reflected the Bill's broader one-size-fits–all approach to reform, which may not be appropriate for significant parts of Western Queensland, stating '…that is another one that is probably more suited to the east coast and not aligned at all with our environment'.[243]

CYCLAC also pointed to the impacts for Indigenous communities in Cape York of the 'additional layer of technical and procedural complexity to development application processes' arising from the extended RPP requirements, which would add to other restrictions within the Bill that will interfere with economic activities and perpetuate obstacles to Aboriginal economic participation.[244]

Citing these effects, a number of submitters called for exemptions from the need to apply for a permit for destroying vegetation in watercourses, lakes or springs. The UDIA also submitted that 'the Bill should not impact near urban and Potential Future Growth Areas of the South-East Queensland Regional Plan', and the RPP framework '… should be changed to clearly exempt Urban Areas/Urban Purposes'.[245]

The LGAQ and Gympie Regional Council called for local government activities, such as works to facilitate the construction and operation of community infrastructure, to be exempt to ensure costs to the community are minimised.[246]

Finally, the QRC drew attention to the current exemption for mining provided under the Water Regulation 2016 with regards to the excavation and fill of a watercourse, lake or spring; and which refers to the Riverine Protection Permit Exemption Requirements guideline (2017). The QRC raised a concern that 'the reinstatement of the RPP framework will potentially constrain proponents from undertaking vegetation clearing in a watercourse, lake or spring' unless associated changes are made to the Water Regulation 2016 and the 'Riverine Protection Permit Exemption Requirements guideline' (2017).[247]

3.5.2 Department's response

In response to submitter comments regarding the provisions' potential duplication of existing regulation, DNRME advised:

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241 Submission 279, p 3.

242 Submission 279, p 4.

243 Public hearing transcript, Cloncurry, 28 March 2018, p 2.

244 Submission 543, p 6.

245 Submission 280, pp 2, 8

246 Submission 273, p 4; submission 279, p 2.

247 Submission 97.

> *The Bill retains an exemption in the Planning Regulation 2017 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 2000. In these circumstances there will be no potential for overlap.*[248]

Whilst noting concerns as to the possible increased costs and complexity of the proposed amendments, the department also emphasised that the proposed amendments are consistent with the government's 2017 election commitment, and are not retrospective.[249]

In relation to continued exemptions for the construction and operation of community infrastructure, the department advised:

> *Exemptions from the need for a riverine protection permit are given in the Water Act, the Water Regulation and in the document "Riverine protection permit exemption requirements" published by DNRME. The document exempts local governments and its corporate entities placing fill or excavating for the purposes of:*
>
> - *the construction, installation, removal, maintenance or protection of in-stream infrastructure*
> - *the establishment and maintenance of flow efficiency around in-stream infrastructure*
> - *riverine restoration or rehabilitation, flood mitigation, erosion protection or weed control.*
>
> *DNRME will update this document to also apply to the destruction of vegetation in line with the commencement of the VMOLA Bill.*[250]

Noting QRC concerns as to the need for accompanying amendments to the Water Regulation, DNRME also advised that a review and update of the Regulation would be undertaken within the scope of its broader review and update of 'any necessary forms and documents, including the exemption guidelines, to support the new legislative framework, i.e. include 'destroying vegetation''.[251]

The department also acknowledged QRC's two recommendations, and advised that 'both recommendations will be implemented and the department will consult with QRC to understand any anomalous situations that arise'.[252]

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248 DNRME, final response to submissions, 12 April 2018, p 14.

249 DNRME, interim response to submissions, 4 April 2018, p 14.

250 DNRME, interim response to submissions, 4 April 2018, p 14.

251 DNRME interim response to submissions, 4 April 2018, p 14.

252 DNRME, interim response to submissions, 4 April 2018, p 14.

3.6 Compliance measures

The Bill introduces a range of new compliance and enforcement measures that the explanatory notes state are designed to 'balance the government's commitment to reduce carbon emissions and protect the Great Barrier Reef with landholders' ability to responsibly manage vegetation on their properties'.[253]

Firstly, there are a number of amendments that will increase maximum penalty units for offences under the VMA.[254] This includes increases in the maximum penalty units for offences such as providing false or misleading statements to authorised officers,[255] and failure to comply with a stop work notice,[256] or restoration notice.[257] The explanatory notes state that these amendments were designed to 'achieve a more appropriate level of deterrence',[258] and to consistently align maximum penalty units for offences under the VMA with similar offences under the Planning Act and Water Act.

The penalty increases range from a 1.7 times increase (for a failure to comply with a stop work notice), to a tenfold increase for providing false or misleading statements or documents to an authorised officer. A full list of the affected offences and associated penalty increases is provided at **Appendix E**.

The Bill also contains provisions that will expand the powers of entry of authorised officers.[259] In particular, clause 21 introduces a new power for authorised officers to enter a place if they believe on reasonable grounds that a vegetation clearing offence is happening or has happened. The authorised officer may enter and re-enter the place without the occupier's consent or a warrant to investigate, but must give the occupier at least 24 hours written notice.[260] The explanatory notes state:

> *This power is consistent with other natural resource legislation. It is necessary to ensure effective and proactive enforcement of vegetation clearing legislation, and to prevent serious and often irreversible impacts on biodiversity and land degradation in imminent circumstances.*[261]

The Bill also introduces a new compliance measure in the form of an enforceable undertaking. Under the amendments, a person will be able to request that the chief executive accept a written agreement in relation to a penalty or remedy for a contravention, or alleged contravention, by the person under the VMA or Planning Act.[262] The explanatory notes state these agreements will commit the alleged offender to delivering on agreed environmental outcomes (for example, by revegetating an area connecting a strategic environmental corridor), and can be used as an alternative to prosecution or as a remedial tool.[263]

Other amendments will broaden the use of existing enforcement measures – in particular, the operation of stop work notices. The new provisions will make it clear that a stop work notice may be issued in situations where a person is either currently committing, or has committed, a vegetation

253 Explanatory notes, p 5.

254 See, for example: Bill, cl 28(5), cl 29-33.

255 Bill, cl 30.

256 Bill, cl 28.

257 Bill, cl 29.

258 Explanatory notes, p 5.

259 Bill, cl 20, 21, 28, and cl 35.

260 Bill, cl 21(2) and (4).

261 Explanatory notes, p 5.

262 Bill, cl 35.

263 Explanatory notes, p 5.

clearing offence.[264] The amendments also contain examples of what may be required by a stop work notice.[265]

The explanatory notes state that these strengthened compliance measures will 'provide for more timely and effective compliance action, and enforcement of vegetation management laws'[266] and where relevant, align with the corresponding provisions under the Planning Act.

Unlike the 2016 Bill, the Bill does not propose to reinstate the reverse onus of proof requirement for clearing offences or remove the application of the mistake of fact defence provisions under the *Criminal Code Act 1899* (Criminal Code) from the VMA.[267]

3.6.1 Stakeholder views and the department's response

3.6.1.1 *Penalties*

Environmental groups, and other individual submitters, generally supported provisions to increase the maximum penalties for offences committed under the VMA.[268] These submitters considered that strong vegetation protection legislation is needed to safeguard animal welfare, Queensland's ecosystems[269] and the Great Barrier Reef.[270] Others also noted the importance of appropriate penalties as a deterrence against illegal clearing. For example, Moreton Bay Regional Council, stated:

> *Council supports the adoption of higher penalties for unlawful vegetation clearing. Where penalties are set too low they can be seen as a cost of business where it is cheaper to remove the vegetation and pay a fine than to obtain a development approval.*[271]

Generally, landholders, local governments and agricultural industry groups opposed the maximum penalty increases.[272] These submitters argued that the penalty increases appeared unduly harsh and excessive,[273] and suggested that, rather than increasing penalties, education and assistance should be provided to farmers to help with compliance.[274] This was particularly emphasised by submitters who highlighted the challenges associated with navigating vegetation mapping, including on-the-ground difficulties in utilising GPS devices to track the bounds of different and sometimes overlapping mapping polygons and spatial data, some of which may not be accurate.[275] A number of submitters noted that such challenges can be heightened by internet issues and telecommunications limitations across parts of the state, which can restrict farmers' access to updated information, including limiting their ability to download updated maps.[276] It was submitted that these issues may affect landholders' ability to

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264 Bill, cl 28.

265 Bill, cl 28(2). For example, a stop work notice may require a person to stop carrying out a development; demolish or remove a development; and/or to not remove, burn, dispose of, or otherwise cause to be removed, burnt, disposed of, any felled vegetation.

266 Explanatory notes, p 16.

267 Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016 (2016 bill), cl 6.

268 See, for example: submissions 51, 77, 184, 282, 307, 671.

269 Submission 478.

270 See, for example: submission 307.

271 Submission 508, p 1.

272 See, for example, submissions 5, 11, 18, 39, 44, 50, 54, 57, 66, 75, 81, 109, 117, 146, 153, 174, 193, 199, Form submission F – AgForce and Form submission G- Peter Spies and North Queensland landholders/business operators.

273 See, for example: submissions 37, 92, 149, 221, 280, 441, 518.

274 See, for example: submission 32.

275 See, for example: submissions 501, 546, 611.

276 See, for example: submissions 308, 515.

comply with the amendments, increasing their vulnerability to being penalised – and now more significantly so – for making what may be honest mistakes in a highly uncertain environment.[277] Issues regarding some of these mapping and informational challenges are discussed further in chapter 3.10.

Noting these challenges, submitters considered the increased penalties to be unwelcome and a source of fear and unease.[278] Others noted that the proposed penalties would significantly exceed penalties for other offences, such as under stock route management legislation and the *Biosecurity Act 2014.*[279]

QLS raised some concerns with respect to the penalty increase for a breach of a restoration notice in particular. In its submission, QLS stated that an increase from 1,665 penalty units ($210,039) to 4500 penalty units ($567,675) was significant given the primarily administrative, rather than judicial, power which is exercised when these notices are first issued.[280]

The proportionality of the Bill's penalty provisions is also considered further in section 4.1.1, which addresses FLP issues.

In response to submitter commentary, DNRME affirmed that the proposed increases would bring the respective penalties in line with equivalent penalty provisions in other natural resource legislation and in the Planning Act and Water Act.[281] For example:

> *The maximum penalties for failing to comply with a stop work notice, or a restoration notice, would increase from 1665 penalty units, to 4500 penalty units, to align with the penalty for contravening an enforcement notice under the Planning Act.*[282]

The department also highlighted improvements in monitoring systems which allowed for early intervention to prevent or minimise the extent of illegal clearing in the first place;[283] and emphasised that the Bill does not affect landholders' access to the defence in section 24 of the Criminal Code,[284] which provides:

> *A person who does or omits to do an act under an honest and reasonable, but mistaken, belief in the existence of any state of things is not criminally responsible for the act or omission to any greater extent than if the real state of things had been such as the person believed to exist.*[285]

3.6.1.2 *Investigation and enforcement powers*

Many environmental groups and some individual stakeholders expressed general support for the range of enhanced compliance measures introduced by the Bill, without commenting specifically on the operation of the different provisions.[286] These submitters noted the importance of strong and effective compliance powers to discourage unlawful clearing and its adverse effects on the environment; with some also noting the consistency of the amendments with other legislative frameworks.

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277 See, for example: submissions 52, 53, 55, 56, 72, 119, 159.

278 See, for example: submissions 142, 199, 404.

279 Submission 635.

280 Submission 200, p 5.

281 DNRME, interim response to submissions, 4 April 2018, p 16.

282 DNRME, interim response to submissions, 4 April 2018, p 16.

283 Mr Lyall Hinrichsen, DNRME, public briefing transcript, Brisbane, 19 March 2018, p 3.

284 DNRME, final response to submissions, 12 April 2018, p 21.

285 *Criminal Code Act 1989*, s 24(1).

286 See, for example: submissions 15, 51, 311 and 322. See also Ms Revel Pointon, EDO Qld, public hearing transcript, Brisbane, 23 March 2018, p 3.

EDO Qld stated in this regard:

> *These provisions may be raised as controversial, however we note that these enforcement mechanisms are provided for in many other environmental or development frameworks in Queensland; they are not novel in any way and are needed to assist the relevant departments in undertaking enforcement on private land.*[287]

Other submitters – in particular landholders and agricultural industry groups – expressed concerns regarding the strengthened compliance measures.[288] Many landholders and their representatives submitted that the increased enforcement powers would diminish landholder rights and add to the existing struggles of farmers and their families,[289] with implications for the relationship between landholders and government. South West Regional Economic Development Association suggested that the combination of the strengthened enforcement powers and increased penalties sent an adversarial and unsupportive message to landholders:

> *On multiple occasions the Government has indicated that it has confidence in the landholders to do the 'right thing', however the harness [sic] of the increase in penalties paints a completely different picture. Increased regulatory powers and increased fines do not give landholders confidence that the Vegetation Management Officers are there to help and causes unnecessary angst in small towns and communities where these staff live and work.*[290]

Powers of entry

With regard to powers of entry in particular, a number of submitters provided an explicit endorsement of proposed power set out in clause 21, which would allow authorised officers, who believe on reasonable grounds that a vegetation clearing offence has happened or is happening, to enter and re-enter a property to investigate by giving 24 hours' notice to the occupier.[291]

QLS commended the inclusion of a notice requirement and the prescription of information to be included in the notice. However, QLS also considered that the most appropriate course of action in such circumstances would be for the authorised officer to obtain a warrant before entry.[292]

In relation to proposed power, DNRME advised:

> *This power of entry is necessary to ensure effective and proactive enforcement of vegetation clearing legislation and to prevent serious and often irreversible impacts on biodiversity and land degradation in imminent circumstances, or where obtaining the consent of the occupier to enter the place is not practicable or possible.*[293]

With respect to the specific concerns raised by QLS, DNRME highlighted the reasonableness test associated with utilising the power:

> *Our experience is that there is a timeliness element associated with undertaking investigations and that does require, with those limitations on the power—it is not ever to be an absolute power of entry—reasonable attempts to notify the landholder, either verbally or in writing, before that entry power is then exercised. It is a power that is*

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287 Submission 183, p 10.

288 See, for example: submissions 193, 435, 518, 650, 733, Form G – Peter Spies and North Queensland landholders/business operators.

289 See, for example: submissions 199 and 312, 760.

290 Submission 655, p 7.

291 See, for example: submissions 183 and 184.

292 Submission 200, page 4. See also submission 650.

293 DNRME, interim response to submissions, 4 April 2018, p 16.

> *consistent with the provisions under the Water Act and the Land Act, for example. It is consistent with other enforcement powers that are available to our department for other aspects of its functions.*[294]

Enforceable undertakings

Several submitters supported the introduction of enforceable undertakings in principle, but recommended the development of clear guidelines for their use.[295]

The LGAQ, for example, recommended:

> *The establishment of clear guidelines for landholders that outline how the revegetation/restoration process should be undertaken as part of an enforceable undertaking to ensure overall environmental impacts are minimised.*[296]

AgForce and Property Rights Australia (PRA), together with several individual landholders,[297] expressed some concerns regarding the potential operation of the provisions, due to the 'lack of specificity in these clauses'.[298] AgForce endorsed commentary from Property Rights Australia in this respect:

> *An enforceable undertaking is meant to be a voluntary agreement between a landowner and the state. They appear to be designed to avoid court action and cover an alleged offence as well as an offence. How well they work will depend entirely on how they are administered.*
>
> *As with much of this Act there are many ways in which the agreement can be amended or suspended after a show cause process which is unspecified so that the subject may never be sure that there will be a secure agreement.*[299]

In its submission, PRA stated that 'protections should be built into the legislation'.[300]

DNRME advised in response that these such undertakings are voluntary, will operate as an alternative to costly prosecutions and will be a more cost effective and responsive mechanism.[301]

In addition, DNRME stated that it would 'prepare and implement a range of measures to support implementation of the Bill, including guidelines, web-based support, and communication campaigns'.[302]

Stop work notices

Amendments to broaden the scope of stop work notices were supported by environmental stakeholders and some individual submitters;[303] while landholders and agricultural industry stakeholders generally did not support the amended provisions as proposed in the Bill.[304]

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294 Mr Lyall Hinrichsen, DNRME, public hearing transcript, Brisbane, 23 March 2018, pp 60-61.

295 See, for example: submissions 518, 635.

296 Submission 273, p 4.

297 See, for example: submission 394 and 554.

298 Submission 199, p 22.

299 Submission 199, p 22.

300 Submission 193, p 4.

301 DNRME, interim response to submissions, 4 April 2018, p 16.

302 DNRME, final response to submissions, 12 April 2018, p 22.

303 See, for example: submissions 183, 184 and 186.

304 See, for example: submissions 18, 48, 518, 554, 635, Form G – Peter Spies and North Queensland landholders/business operators.

While specific stakeholder commentary on the operation of clause 28 was limited, some submitters identified scope for the provisions to be improved. For example, PRA acknowledged that 'if a matter is urgent a stop work notice should be issued', but submitted that:

> *It must have legislated short timeframes in place to ensure that it is lifted immediately if clearing is being done under a permit, accepted code or a PMAV.*[305]

QLS was opposed to the one of the examples of what a stop work notice may require as set out in clause 28(2) of the Bill – specifically, that a stop work notice may require a person to 'demolish or remove development'. QLS stated:

> *The purpose of a stop work notice ordinarily is to stop any further work or damage being done at a particular place, pending a fulsome investigation or prosecution. The example provided goes beyond maintaining the "status quo" of the worksite and would permit an official (including an authorised officer) exercising administrative power to impose a positive obligation on a person to undertake work to demolish or remove development, even though no judicial determination has been made about whether the initial work was not permitted or not approved. This power impermissibly blurs the lines between administrative and judicial authority.*[306]

DNRME noted the concerns of QLS with respect to stop work notices.[307]

[305] Submission 193, p 6.

[306] Submission 200, p 5.

[307] DNRME, final response to submissions, 12 April 2018.

3.7 Voluntary conversion of exempt land for protection and environmental offsets

Beyond its prescriptive amendments for the protection of vegetation, the Bill also provides a voluntary option for landholders to request an area mapped as a Category X area on a PMAV be converted to a Category A area, where the area contains remnant vegetation or high-value regrowth vegetation.

This is set out in clause 9 of the Bill, which amends section 20AL of the VMA to extend the definition of a Category A area to include a 'Category A area by agreement'. The explanatory notes state that this implements an election commitment and will assist landholders 'who wish to protect remnant or high value regrowth vegetation on their land'.[308]

The department advised that an owner can also later request that a 'Category A area by agreement' be reverted back to Category X area.[309] Clause 13 of the Bill sets out how this would operate – it allows a replacement PMAV to be made to change a 'Category A area by agreement' to be either a Category B, Category C or Category X area on a PMAV, if each of the affected owners agrees to the replacement.[310]

The provision for voluntary conversion of Category X areas to Category A areas was supported by environmental stakeholders, and some individual submitters, as it was considered to provide opportunities for further environmental protection.[311] For example, Mr Alex Lindsay, Director of Forsite Forestry, stated at the Cairns public hearing:

> *I strongly support the proposed amendment to section 20AL whereby a landowner can voluntarily change an area on a PMAV from category X to category A. I have been involved in revegetation projects in the past where a landowner has planted a wildlife habitat strip to connect to areas of remnant vegetation. The landowner had to sell the block of land and the next landowner came along and cleared the wildlife corridor strip. It was a very gutting experience and I think this provision would stop that.*[312]

Humane Society International was also supportive of 'incentivising schemes to encourage landholders to voluntarily surrender exempt areas mapped as category X for protection in category A'.[313]

Many of the environmental stakeholders who addressed the amendments, however, were not supportive of the ability for landowners to later request a replacement PMAV, where such a Category A area could then be changed to either Category B, Category C or Category X (essentially, the possibility to revert back to Category X).[314] The QCC, for example, stated that it 'undermines the policy intent of the Bill'.[315]

Although attracting the attention of some environmental stakeholders, for the most part, few submitters addressed these amendments specifically in their submissions. Overall, the issues raised by clauses 9 and 13 of the Bill did not appear to be of significant concern relative to other aspects of the Bill.

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308 Explanatory notes, p 6.

309 Mr Lyall Hinrichsen, DNRME, public hearing transcript, Brisbane, 23 March 2018, p 6. See specifically, clause 13 of the Bill.

310 Bill, cl 13.

311 See, for example: submissions 21, 45, 89, 102, 172, 186, 198, 499, 511, 677, 681. See also Ms Gemma Plesman, The Wilderness Society, public hearing transcript, Brisbane, 23 March 2018, p 15.

312 Mr Alex Lindsay, Director, Forsite Forestry, public hearing transcript, Cairns, 13 April 2018, p 25.

313 Submission 539.

314 See, for example: Dr Tim Seelig, QCC, public hearing transcript, Brisbane, 23 March 2018, p 7. See also, for example: submissions 21, 45, 89, 102, 103, 172, 186, 228 and 681.

315 Submission 186, p 2, 8.

3.8 Changes to accepted development vegetation clearing codes and area management plans

Currently, the VMA prescribes that the Minister must make accepted development codes for specific activities and areas. These codes are for controlling non-native plants or declared pests, relevant infrastructure, fodder harvesting, thinning, encroachment, extractive industry, necessary environmental clearing, a category C area, a category R area, and native forest practice.[316]

Clause 4 removes the 'prescriptive element' within the current provision to:

- allow that the Minister 'may' elect to make a code, and
- amend references to specific codes to reflect general types of codes which may be developed in relation to broad clearing purposes and activities.[317]

The department stated that 'this creates a more balanced and responsive vegetation management framework,[318] which allows for an accepted development vegetation clearing code to be made on a discretionary basis for any activities.[319]

Coinciding with these arrangements, on 7 March 2018 the Minister released three new accepted development vegetation clearing codes for managing Category C regrowth vegetation, managing fodder harvesting, and managing thickened vegetation (previously referred to as 'thinning').[320]

The establishment of the three codes by way of regulation may be examined in more detail within the scope of the committee's separate powers of inquiry with respect to subordinate legislation; with the Legislative Assembly having the power to pass a resolution disallowing the regulatory changes.[321]

However, their interaction with the amendments is recognised within the Bill.

Notably, the 'Managing thickened vegetation' code is only an interim code, with the government having announced that it will withdraw the code when the Bill receives assent.[322]

At this time, landholders who wish to manage thickened vegetation will no longer be able to clear by notifying the department and complying with the 'Managing thickened vegetation' code; but under clauses 16 and 17 of the Bill, will be required to submit a development application to manage thickened vegetation as a 'relevant purpose' for a vegetation clearing application under the amended Act.

In introducing the Bill, the Minister explained that the change reflected a decision that 'thinning' was not a low-risk activity and therefore not suitable for regulation by way of an accepted development code; but that the development approval process would preserve an assessment pathway for landholders who wish to manage thickened vegetation on their property.[323]

DNRME further advised:

> *There is still a mechanism, but the intent is that before any practices occur they are properly assessed and there is scientific rigour around how those applications are evaluated so that*

316 VMA, s 19O.

317 DNRME, written briefing, 14 March 2018, p 7.

318 DNRME, written briefing, 14 March 2018, p 7.

319 Explanatory notes, p 6.

320 Vegetation Management Regulation 2012, s 3, as amended by the Vegetation Management (Clearing Codes) and Other Legislation Amendment Regulation 2018, s 6.

321 *Statutory Instruments Act 1992*, s 50

322 Minister, Introduction, Record of Proceedings, 8 March 2018, p 417.

323 Minister, Introduction, Record of Proceedings, 8 March 2018, p 417.

> *the clearing or the thinning that does occur does not impact on the remnant habitat status of those regional ecosystems.*[324]

Complementing this development, the Bill also amends the definition of managing thickened vegetation ('thinning') to recognise an additional purpose of managing thickened vegetation as being 'to maintain ecological processes and prevent loss of diversity'.[325] (The Bill also removes other references to 'thinning' to align with the new terminology).

For the revised code for managing Category C area regrowth vegetation, the updates reflect the changes to the definition of high-value regrowth vegetation discussed in chapter 3.3; while the revised fodder harvesting code, like that for managed thickened vegetation, is also informed by additional scientific and other review processes. This includes:

- an independent review of the codes conducted by Cardno, which was charged with providing advice on whether the codes were meeting the purposes of the VMA
- department consultation on the fodder code and managing thickened vegetation codes, including a public submissions process, and
- a best practice review and review of scientific evidence conducted by the Queensland Herbarium and peer reviewed by CSIRO.

In this regard, the department advised:

> *The major outcome of [Cardno's] recommendation was that some of the practices that were in the codes at the time could lead to the purposes of the act not being met…*
>
> *The fodder harvesting code has been revised based on scientific advice provided by the Queensland Herbarium. This advice was also independently peer reviewed by CSIRO. The new code sets limits to the area that can be cleared under a single notification and requires a self-audit before another notification can be made under the code.*[326]
>
> *… Those limits are up to 500 hectares per notification, of which there needs to be 60 per cent retained, so 200 hectares of fodder trees actually harvested. Beyond that, there can be a further notification, so there is no limit on the number of notifications. There is a limit in terms of how frequently you can harvest and reharvest. For example, the vegetation needs to have recovered, it needs to be 10 years old, it needs to be more than four metres and it needs to be 70 per cent of the pre-existing remnant mulga height. To go beyond those pretty generous limits would take you to a DA path. For fodder harvesting, there will not be too many landholders who need to make a DA application. It will probably be more common when it comes to managing thickened vegetation or thinning.*[327]

Further:

> *…[the] interim managing thickened vegetation code has been issued that is based on the scientific advice of the Queensland Herbarium and CSIRO on how to best manage the associated risks. It sets some stringent limits on the areas that can be cleared under a notification and requires a landholder to document the areas to be managed and that they have exceeded nominated tree density thresholds...*[328]

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324 Mr Lyall Hinrichsen, DNRME, public briefing transcript, Brisbane, 19 March 2018, p 4.

325 Bill, cl 38

326 Mr Lyall Hinrichsen, DNRME, public briefing transcript, Brisbane, 19 March 2018, p 3.

327 Mr Lyall Hinrichsen, DNRME, public briefing transcript, Brisbane, 19 March 2018, p 7.

328 Mr Lyall Hinrichsen, DNRME, public briefing transcript, Brisbane, 19 March 2018, p 7.

In addition to these amendments to the codes, the Bill also removes the ability for landholders to initiate AMPs as a mechanism for managing low-risk clearing, 'as these plans have been superseded by the accepted development code process'.[329]

The Mulga lands Area Management Plan will be revoked from 8 March 2018, such that previous notifications under this AMP are invalid.[330] Landholders can continue to harvest fodder under the 'Managing fodder harvesting' accepted development code, following notification to DNRME.

For other AMPs dealing with fodder harvesting, managing thickened vegetation and encroachment; the Bill's transitional arrangements will allow for their phasing out over the next two years. Existing AMPs for such purposes will remain valid up until 8 March 2020, and landholders who have already notified under one of these existing plans will be able to clear in accordance with the plan up until this time. However, the Bill will invalidate any new notification under these AMPs.[331]

AMPs for all other purposes are unaffected by the changes.[332]

3.8.1 Stakeholder views

3.8.1.1 *Accepted development codes*

Environmental stakeholders generally welcomed the changes to accepted development codes, particularly commending the proposed removal of the accepted development code for managing thickened vegetation, and accompanying changes to the definition of 'managing thickened vegetation' (currently 'thinning').[333] The inclusion of commentary to this effect in several form submissions meant the committee essentially received thousands of written endorsements along these lines. For example:

> *I strongly endorse amendments to the Bill to totally remove "managing thickened vegetation" provisions, to guarantee no new self-assessable code for thinning or new Area Management Plans were possible in the future.*[334]
>
> ***
>
> *Tightening of the definition of 'thinning' (now known as 'managing thickened vegetation') is supported. The Bill now requires that thinning activities must 'maintain ecological processes and prevent loss of diversity'.*[335]
>
> ***
>
> *I welcome the improvements that are in this law: … the removal of the main self-assessable code for thinning, the modification of the fodder self-assessable code…*[336]
>
> ***

It was widely submitted that the environmental impacts of clearing conducted under the accepted development codes to date (and particularly those for managing thickened vegetation ('thinning') and

329 DNRME, written briefing, 14 March 2018, p 7. See Bill, cl 37, ss 136- 137.

330 Bill, cl 37.

331 Bill, clause 37, 3 137.

332 DNRME, *Guide: Vegetation management laws currently before Parliament,* Queensland Government, 2018, p 4.

333 See, for example: Dr Tim Seelig, QCC, public hearing transcript, Brisbane, 23 March 2018, p 7; submissions 135, 140, 162, 183, 186, 228, 236, 271, 278, 322, 391, 422, 429, 477, 490, 502, 506, 596, 620, 665, 684, 693, 706, 758.

334 Form submission C – QCC.

335 Form submission A – EDO Qld.

336 Form submission D – The Wilderness Society.

fodder harvesting), have been too high; and that such codes have been used as a cover for broadscale clearing.

For example, EDO Qld stated:

> *The codes that have been produced to date, especially the thinning and fodder code, have allowed for significant thinning across Queensland. The thinning code, as it was known, is a case in point. The code itself allowed for potentially 75 per cent of forested areas to be cleared under self-assessment by the landholder or by the person clearing. This is a really dangerous matter to have in the hands of somebody who potentially has a commercial interest in what is being undertaken but also understanding how these codes relate to their property and implementing them in an effective way. Seventy-five per cent of a forest is a huge area. We consider that, if you are going to allow clearing of an area, especially clearing of habitat, you should be pre-assessing this in the department to see what kind of vegetation really is there.*[337]

The Australian Veterinary Association, similarly, supported the tightening of the provisions, noting:

> *Thinning, in particular, has a severe ecological consequence fragmenting the residual area. This is detrimental for biodiversity and delivers residual areas of a low biological value on a hectare by hectare basis.*[338]

Many of these stakeholders called for further reform in this area, with some suggesting that accepted development codes should be abolished entirely. The QCC, WWF Australia and some academic experts submitted that the 'self-regulation' approach of the codes, constitutes a 'loophole' which provides too much discretion to landholders and does not lend itself to the most rigorous of pre-clearing assessment processes. [339] For example, the QCC stated:

> *In terms of codes generally, we have never supported self-assessable codes because we believe it takes out of a regulatory approach the key decisions that really ought to belong under legislation or at least supplementary legislation, regulation and so on. Our view is that the self-assessable code system has been taken advantage of, it has created too many loopholes and we would much rather see them replaced with permit based systems or, in some cases, removed completely.*[340]

WWF similarly stated:

> *They are high environmental impact issues. They largely rely upon the knowledge of the individual landowner, which may be excellent but it may not be excellent. It is really very much dependent upon the knowledge of the individual. A preferable approach when major clearing is involved is for this to be dealt with by the development approval process if it is in remnant or high conservation value vegetation.*[341]
>
> ***…** A development application plots the area to be cleared—presently the codes do not necessarily require that—so the coordinates of the area to be cleared are available. A permanent record is created in a government office about its location. It gives the people responsible for protecting the environment an opportunity to form a view, whether that is*

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337 Ms Revel Pointon, EDO Qld, public hearing transcript, Brisbane, 23 March 2018, p 4.

338 Submission 431.

339 See, for example: Mr Paul Toni, WWF Australia, public hearing transcript, Brisbane, 23 March 2018, p 12; Dr Tim Seelig, QCC, public hearing transcript, Brisbane, 23 March 2018, p 7; Dr Jennifer Silcock, UQ, public hearing transcript, Brisbane, 12 April 2018, p 19; Submissions 186 and 192. See, for example: Ms Gemma Plesman, The Wilderness Society, public hearing transcript, Brisbane, 23 March 2018, p 5.

340 Dr Tim Seelig, QCC, *Public Hearing Transcript,* 23 March 2018 (Brisbane), p 7.

341 Mr Paul Toni, WWF Australia, *Public Hearing Transcript,* 23 March 2018 (Brisbane), p 12.

> *by visiting the site or remote sensing, about the likely impact. It enables conditions to be imposed to protect wildlife, watercourses and so on and so forth, and for those to be secured on a map so that it is clear where the activity can and cannot be undertaken.*[342]

Additionally, the EDO submitted that the codes can be burdensome for farmers in practice:

> *It is not fair to farmers to lump them with the regulatory burden of actually understanding the really complex codes we are putting out there for them to discern what is allowed and what is not allowed and then the burden on the department to audit these post clearing. The clearing has already happened by the time the department gets out there and has a look at what has happened.*[343]

Given these issues, some of these submitters considered there should therefore be no flexibility for the Minister to make new accepted development codes;[344] while others considered that any new codes should be precluded from applying in areas of high conservation value, such as endangered ecosystems, essential habitat, and stream or wetland buffer zones.[345]

In addition, a number of environmental groups and individual submitters also called for further restrictions to fodder harvesting provisions, including proposing that clearing for this purpose be limited to situations where drought declaration is in place.[346]

Landholders and agricultural groups, in contrast, stressed the importance of the retention of a self-assessable approach, emphasising that most farmers are conservationists at heart,[347] and 'only do what is best for the land so that the land can give us the best returns, not only now but for generations to come'.[348] The committee consistently heard from local farmers and graziers that:

> *No-one observes their land more than the farmers who run it – no-one sees in as much detail, the needs and responses of the land to management activities. No-one is better placed to assess what needs to be done, so that future generations can live and work on a sustainable, healthy and productive farm.*[349]

***

> *… we read on to some of the background paper that the CSIRO puts up. It says—and I will quote from it—that it is 'too complex' for us to manage our own landscapes. Honestly, there are people in this room who have been managing mulga and various landscapes for a very long time.*[350]

In Charleville, Bidjara traditional owner Patricia Fraser also cited generations of knowledge and cultural tradition surrounding the management of mulga amongst her people:

> *We grew up knowing the areas of mulga. We have cultural stories and Dreamtime stories attached to the mulga. Way back then, for generation after generation, as we are oldest living culture in the world, we managed mulga. Our traditional ancestors used to burn*

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342 Mr Paul Toni, WWF-Australia, public hearing transcript, Brisbane, 23 March 2018, p 14.

343 Ms Revel Pointon, EDO Qld, public hearing transcript, Brisbane, 23 March 2018, p 3.

344 See, for example: submissions 183, 403.

345 For example, submissions 79, 322.

346 See, for example: Dr Seeling, QCC, public hearing transcript, Brisbane, 23 March 2018, pp7-9; Mr Paul Toni, WWF, public hearing transcript, Brisbane, 23 March 2018, p 13; Submissions 15, 20, 21, 31, 45, 89, 102, 127, 139, 145, 172, 183, 184, 186, 490, 495, 500, 502, 504, 505, 585.

347 See, for example: submissions 5, 99, 153, 223, 484, 587, 604, 705.

348 Mr Paul Slack, private capacity, public hearing transcript, Brisbane, 12 April 2018, p 4.

349 Submission 484.

350 Mr Richard Bucknell, landholder, public hearing transcript, Charleville, 29 March 2018, p 18.

> *mulga. To me, it is just carrying on through the landholders today. It is all about management. Therefore, I do not really understand why there is more impact or more legislation to allow the mulga to grow, because from my understanding as a community member when mulga does grow it pretty much diminishes just about everything around it except for certain birds or plants that live in the mulga.*
>
> *…There is a part where we talk about this spirit man. When we were kids, my dad used to tell us not to go into the mulga, because this spirit created the mulga and made it spread to get back at the Bidjara people. He told us if we went in there we would get lost or it would get that thick it would create nests where it would capture us and we would never get out. That is a part of something that we grew up with. I am here to support my community and the landowners in saying that you really need to give them a fair go…* [351]

Submitters also emphasised that the 'self-assessable codes':

- have reduced the time and cost taken to make applications for managing vegetation [352]
- allow activities to be carried out in a timely manner when conditions are suitable, rather than through time-consuming development application processes[353]
- 'help farmers to ensure trees and grass stay in balance, avoid soil erosion and feed animals in drought',[354] and
- are audited and monitored by DNRME, with notifications reported.[355]

A number of landholders expressed a preference for the five pre-existing regional codes for managing thickened vegetation, which were repealed and replaced by the new interim code from 8 March 2018, to remain in place. These five codes, all of which were made on 14 November 2013, respectively provided distinct requirements for managing thickened vegetation in:

- the Brigalow Belt, Central Queensland Coast and Desert Uplands bioregions
- the Mulga Lands
- the South East Queensland and the New England Tableland bioregions
- the Mitchell Grass Downs and the Channel Country bioregions
- the North West Highlands, Gulf Plains, Cape York Peninsula, Wet Tropics and Einasleigh Uplands bioregions, and
- the Brigalow Belt, Central Queensland Coast and Desert Uplands bioregions.[356]

The interim, 'one-size-fits-all' code for managing thickened vegetation, it was submitted, has more onerous requirements and additional complexities, and also does not sufficiently account for the widely varying environmental conditions and factors that distinguish these different bioregions.[357]

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351 Pat Fraser, Charleville and Western Areas Aboriginal and Torres Strait Islander Community Health Ltd, public hearing transcript, Charleville, 29 March 2018, p 7.

352 See, for example: submissions 5, 7, 11, 39, 52, 57, 113, 199, 223, 371, 390, 392, 570, 644, 705.

353 See, for example: submissions 275, 281.

354 See, for example, submissions 5, 11, 32, 65, 75, 174, 218, 341, 371, 569.

355 See, for example: submission 536, 728.

356 Vegetation Management Regulation 2012 (historical version, as at 3 July 2017), s 3.

357 See, for example: submissions 4, 18, 48, 136, 174, 188, 382, 398, 728.

For example, the committee heard:

> *The code of thinning, which is also proposed in the legislation, gives us a complicated and time-consuming method to count how many tree trunks, small and large, there are per hectare on the property you want to thin. If there are more than 1,250 stems per hectare, you can thin back to 500. If there are 1,240, you cannot thin. The code states that we can only thin out 10 per cent of our property, yet the Queensland fire and rescue authority, under their act, will allow us to burn 100 per cent of the property under a hazard reduction burn. I can see landholders resorting to wide-scale burning to try to thin properties full of weeds and invasive lantana and wattle, which will also cause harm to any native trees.*[358]
>
> ***
>
> *Under the proposed legislation, in state code 16 a landholder is required to leave every remnant tree. A remnant mulga tree is classified as a tree with a diameter of 20 centimetres—not a big tree—measured at a level of 1.3 metres off the ground. Given the right conditions, it does not take very long for a tree to attain this size.*
>
> *Mulga trees are not very large trees and they grow quite close together. Therefore, you mechanically manage thickening in these areas. There is a five-metre buffer zone around every tree. To initially get through the big trees, you have to stay five metres from that one and five metres from that one. The earthmoving machinery that we use is seven to eight metres in diameter. As we go through, it is physically impossible to clear the undergrowth and the thickened vegetation around these remnant trees—so-called remnant trees*.[359]
>
> ***
>
> *… the five-metre rule for thinning. That might be really applicable, say, in the Central Highlands or in the rainforest or something like that, but with gidgee, and we have heard it talked about, that 4.3.8 gidgee on alluvial plains, basically, if you leave a five-metre buffer around a mature gidgee tree, from the photos you have seen how thick it gets, you are guaranteeing that you will kill that tree in about 10 years. That mature tree will be killed by that encroaching gidgee. To leave that five-metre buffer is actually completely counterintuitive to what you are trying to achieve in this sort of ecosystem. I am not saying that is across the board, but for gidgee in alluvials definitely that is a serious issue; that five-metre rule will actually be completely counterintuitive to what we all want to achieve there.*[360]

Some submitters argued that under the both the interim code for managing thickened vegetation and the revised code for fodder harvesting; the stated limitations on the extent of clearing activity that can be carried out on a self-assessable basis have the effect of essentially imposing a development application requirement immediately. The costs associated with a such a process, they noted, are not insignificant – including not only a $3,000 application fee, but also likely additional expenses associated with engaging consultants to help navigate the process. For example:

> *There is no way in the world that a small family farming community would be able to go through that process without hiring a major consultant group. You just cannot do it. That is what consultants do; that is what they are designed for. They currently work for the urban industry doing that work for DA approvals. A DA approval will cost you anywhere from really small stuff, $50,000 to $60,000, up to $240,000 or something like that in getting your*

[358] Mr Bruce Wagner, landholder, public hearing transcript, Brisbane, 12 April 2018, p 28.

[359] Mr Scott Sargood, landholder, public hearing transcript, Charleville, 29 March 2018, p 5.

[360] Mr Peter Whip, landholder, public hearing transcript, Longreach, 29 March 2018, p 19.

approvals going forward. You can imagine us trying to do that for clearing something to try some new trees or a new vegetation type or a new tree crop.[361]

Submitters also expressed concern about the imposts caused by possible delays in the processing of applications, particularly for fodder harvesting activities. Mr Edward Wade testified to the committee:

… the reported time that the department would require to assess applications, being 21 days, are 21 vital days when trying to keep stock alive. It would be reasonable to expect the department may struggle to meet the assessment time frames during periods of high volumes of applications which would be the case in drought times. If applicants were not assessed in a timely manner, landholders would end up with three choices to make: illegally clear to maintain the nutrition requirements of livestock, sell animals that may not be saleable and decimate the core breeding herd or be forced to stop feeding and risk animals starving, all undesirable outcomes I think you would agree.[362]

AgForce General President Mr Grant Maudsley, similarly stated:

…previous development approval processes take between three months and three years to get through the system. I suggest if you want to do some thinning or if you are feeding livestock, then that is way, way too long and not practical in any sense at all.[363]

Noting the various objections to the revised codes, AgForce Queensland questioned the rationale for the proposal to grant the Minister power to make accepted development codes on a discretionary basis. Mr Maudsley asserted that the amendments 'appear only to increase flexibility for chief executive to make vegetation management activities tougher, and to centralise power in Brisbane City'.[364]

3.8.1.2 *Department's response*

In response to calls from environmental stakeholders for accepted development codes to be abolished, DNRME advised that it has committed to retaining the codes for low risk activities, as accepted by landholders as a 'useful tool that reduces regulatory burden, and allows for real time property planning', and which are necessarily underpinned by the 'best available science'.[365]

The science in question, DNRME noted, included advice from the Queensland Herbarium and CSIRO as follows:

- *Managing Thickened Vegetation when implemented in accordance with the current requirements and codes is not broadscale clearing and should not change the remnant status of the woodland.*
- *Thinning regrowth may be a good outcome to correct the dense even-aged stands induced by previous clearing. This would assist in creating a multi-aged woodland…*
- *… However, the nature of the assessments which would need to be done in relation to the Managing thickened vegetation code, are too complex for a landholder to be expected to perform if the aim of the code is to ensure clearing does not result in land degradation, loss of biodiversity, or disruption of ecological processes.*[366]

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361 Mr Des Bolton, landholder, public hearing transcript, Townsville, 27 March 2018, p 16.

362 Mr Edward Wade, landholder, public hearing transcript, Brisbane, 12 April 2018, p 29

363 Mr Grant Maudsley, AgForce, public hearing transcript, Brisbane, 23 March 2018, p 31

364 Submission 199, p 24.

365 DNRME, final response to submissions, 12 April 2018, p 14.

366 DNRME, final response to submissions, 12 April 2018, p 13.

The department noted that scientific information quoted by Dr Bill Burrows and various landholder submitters as potentially at odds with the conclusions of the Herbarium and CSIRO, and which had therefore prompted questions about the reviews of the codes:

> *… is legitimate and the Department of Agriculture and Fisheries stands behind that work that was done over all those years. But that work was done with an intended outcome of best practice agricultural production. The science the Herbarium undertook and CSIRO reviewed considered whether the code meets the purposes of the Act, which require the conservation of remnant vegetation, prevention of land degradation or loss of biodiversity, and maintaining ecological processes.*[367]

This includes allowance for regional variation, with the interim code for managing thickened vegetation, for example, listing the regional ecosystems in which the managing of thickened vegetation may occur, grouped by bioregion and with concordant practice limitations that reflect the nature of the vegetation, soil and climatic conditions.[368]

The department also emphasised that in addition to the revised codes, there are a range of other codes which landholders continue to be able to employ to address various management issues, including codes for managing encroachment and managing weeds.[369]

Further, while the '$3,130 fee for thinning applications is a development approval cost set by the Department of State Development, Manufacturing, Infrastructure and Planning' and are therefore a matter for the department:

> *Our minister has made a commitment for our department to work with the planning department through the Department of State Development, Manufacturing, Infrastructure and Planning to look at streamlining the process where they are relatively simple proposals within logical bounds. Our minister's proposal, and I know he has the support from the planning minister, is to look at limiting the need for detailed technical assessments—consultant reports, for example, where a landholder should otherwise be able to provide the basic information needed to support that application. It does need to be substantiated. It still does need to have demonstrable evidence that thickening has occurred and that the proposed response to that is appropriate; it is not going to result in broadscale clearing of that land. There will be larger proposals no doubt that will require a much, much more complex process and indeed are likely to require consultants…*
>
> *… if we look at the thinning applications that we have received or notifications that we have received under the existing code, they range from 0.1 of a hectare through to 10,000 hectares. Obviously, the less complicated, smaller scale areas—area might not necessarily equal complexity, depending on the vegetation type and the circumstances, but generally with those smaller basic management practices, we would expect very little in terms of additional technical assessment. When you get into the thousands and tens of thousands of hectares, it is a large-scale development and, rightly, the assessment would be more complicated.*[370]

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367 DNRME, final response to submissions, 12 April 2018, p 14.

368 See:https://www.dnrm.qld.gov.au/__data/assets/pdf_file/0004/1380379/managing-thickened-vegetation.pdf.

369 DNRME, final response to submissions, 12 April 2018, p 14.

370 Mr Lyall Hinrichsen, DNRME, Public briefing transcript, Brisbane, 19 March 2018, pp7-8.

DNRME also noted that all other accepted development codes will be reviewed by 2019, and that this will include not only scientific review by the Queensland Herbarium and CSIRO, but also a process of stakeholder consultation.[371]

3.8.1.3 *Area Management Plans*

A large number of environmental organisations, and other individual submitters, supported the Bill's phasing out of AMPs. With the intended retention of self-assessable codes, it was submitted, AMPs are now effectively obsolete, being not only duplicative and but also 'providing weaker regulation of clearing'. [372]

The Wilderness Society cited the lack of transparency associated with the plans in particular, stating that:

> *A significant amount of the self-assessed clearing, as we understand it, is happening under area management plans. There is no requirement to register those plans. It is hard to see exactly where the clearing will occur under the area management plans.*
>
> *In terms of the other self-assessable codes, the notification is simply per property.*[373]

The QCC questioned the need for a transition period for the removal of AMPs, calling for the committee to support an 'amendment to the Bill that clause 14 requires immediate termination of all area management plans and guarantees that no new area management plans could be created under the Vegetation Management Act'.[374]

Further, WWF queried the Bill's retention of a discretionary power for the chief executive to make new a new AMP, including for thinning and fodder harvesting, suggesting it would circumvent parliamentary oversight, and well as duplicating the accepted development code provisions of the VMA.[375]

Other submitters considered AMPs to be a helpful regulatory tool, noting that they provide a regionally-focussed approval system that delivers landscape-level outcomes not able to be achieved within the accepted development codes.[376] AgForce submitted that the AMP was one of the main legislative components used to form its proposed 'Baseline Area Management Plan policy (BAMP)', which it described as offering a 'a simpler, outcome focussed, landscape scale approach to vegetation management'.[377] Mr John Tekloot, Chair of the AgForce Vegetation Management Committee stated that:

> *…in taking out the area management plan this legislation would certainly be doing a bad thing for the landscape and for the landholder, because certainly there are some area management plans that have been rigorously debated and formulated between landholders and the department. They are due to be phased out in two years. I see this as a very, very retrograde step. It would also be a step that would prevent the introduction of BAMPs if the*

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371 DNRME, final response to submissions, 12 April 2018, p 15.

372 See, for example: submissions 183, 184, 186, 192.

373 Ms Jessica Panegyres, National Nature Campaigner, The Wilderness Society, public hearing transcript, Brisbane, 23 March 2018, p 20.

374 Dr Tim Seeling, QCC, public hearing transcript, Brisbane, 23 March 2018, p 7.

375 Submission 192.

376 DNRME, final response to submissions, 12 April 2018, p 19.

377 Submission 199, p 27.

> *Minister and the department and others were to show interest in that way of going forward with vegetation management.*[378]

3.8.1.4 *Department's response*

In response to commentary regarding the phased removal of AMPs, DNRME stated that having used self-assessable codes since 2013, the government believes 'that they deliver better vegetation management outcomes than AMPs while also avoiding duplication or inconsistencies between the two instruments'. Removing the landholder-initiated AMPS also 'reinforces the role and function of accepted development codes', as the supported mechanism in which low-risk clearing activities are undertaken.[379]

With regard to calls to remove the ability for the chief executive to make an AMP in the future, and for current plans to remain in place for the next two years, the department explained that while the Bill removes provisions allowing for landholder-initiated AMPs, the retention of the ability for the chief executive to make an AMP will ensure that:

> *… any low risk small scale vegetation management issues outside the scope of an accepted development code that are necessary or desirable for achieving the purposes of the Act, may still be addressed in a self-assessable framework.*[380]

Acknowledging the expressed preference of some submitters to notify and clear under these plans due to the simplified regional guidance they may offer, the departmental also affirmed the transitional nature of the amendments.[381]

Committee comment

The committee acknowledges the divergent views amongst stakeholders regarding both accepted development codes in general, and the three new codes for 'managing category C regrowth', 'managing vegetation thickening' and 'managing fodder harvesting' in particular.

Noting DNRME's explanation as to the scientific underpinnings of the revised codes and the associated development application requirements, the committee considers the amendments are an appropriate step to ensure clearing practices are suitably informed by the consideration of possible impacts to degradation, loss of biodiversity, and disruption of ecological processes.[382]

Whilst sensitive to the expressed frustrations of landholders regarding the potentially more onerous nature of these regulatory requirements, the committee considers that the primary effect of the amendments is to support more informed clearing practices, without significantly diminishing the range of options available to landholders to manage vegetation on their land. In this respect, the committee notes the observations of rangeland ecologist Dr Jennifer Silcock:

> *Cutting and pushing the amazing biological resource that is mulga for stockfeed during dry times is the backbone of the grazing industry in this region and has been practised for over 150 years. It is almost impossible to find a patch of mulga that has not been cut through with an axe or selectively pushed through in the past. Genuine fodder harvesting, where small patches or strips of mulga are lopped or pushed over to feed stock during drought times, will not be stopped by the proposed changes to the Vegetation Management Act.*[383]

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378 John te Kloot, Chair, AgForce Vegetation Management Committee, AgForce, public hearing transcript, Brisbane, 23 March 2018, p 35.

379 DNRME, final response to submissions, 12 April 2018, p 19.

380 DNRME, final response to submissions 12 April 2018, p 19.

381 DNRME, final response to submissions, 12 April 2018, p 18.

382 DNRME, final response to submissions, 12 April 2018, p 13.

383 Dr Jennifer Silcock, UQ , public hearing transcript, Brisbane, 12 April 2018, p 16.

At the same time, the committee recognises the importance of minimising obstacles for farmers who are navigating the development application process, including ensuring that development applications are processed in a timely manner, noting the often time-sensitive nature of landholders' planned vegetation management activities.

Accordingly, the committee calls on the department to explore options to streamline the processing and cost impost of development applications.

Recommendation 4

The committee recommends the Department of Natural Resources, Mines and Energy explore options to streamline the processing and cost impost of development applications for relevant purpose clearing.

The committee also notes landholders' concerns regarding the removal of AMPs.

For the large part, support for the retention for AMPs appeared to reflect a broader desire for a legislative framework that is sufficiently flexible to support its effective application across the varying environmental conditions of the state's diverse bioregions; but that also necessarily offers landholders some outcomes-based guidance regarding the management of their land.

The current system of accepted development vegetation clearing codes is designed to offer just that flexibility and accommodation of regional considerations, whilst also offering a more robust and transparent self-assessable mechanism, which better aligns with the purposes of the VMA.

However, to help landholders to undertake self-assessments and prepare development applications that align with their needs and regional variations, the committee recommends the establishment of local guide sheets outlining preferred vegetation management solutions and outcomes at a bioregion or other local level.

Further, the operation of the accepted development clearing codes should be reviewed within a period of three years to ensure they remain effective and fit for purpose.

Recommendation 5

The committee recommends the Department of Natural Resources, Mines and Energy issue local guide sheets to assist landholders with the application of accepted development vegetation clearing codes with respect to their vegetation bioregion.

Recommendation 6

The committee recommends the Minister review the operation of the accepted development vegetation clearing codes within three years.

3.9 Transitional arrangements and compensation

Clause 2 specifies the date of commencement of the Bill's amendments. As acknowledged elsewhere in this report, certain provisions within the Bill have retrospective effect (i.e. taken to have commenced on 8 March 2018). The department states that this is designed to 'minimise pre-emptive clearing that may otherwise have occurred from the date of the Bill's introduction'.[384] In particular, the Bill proposes retrospective commencement of the following provisions:

- amendments to the VMA and the Planning Act to remove the ability to apply for clearing for high-value agriculture and irrigated high-value agricultural purposes
- the extension of Category C to include high value regrowth on freehold land, indigenous land and occupational licences across the state, and to include vegetation that has not been cleared for at least 15 years
- the extension of Category R protections to the Burnett-Mary, Eastern Cape York and Fitzroy Great Barrier Reef catchments
- the removal of the ability of the chief executive to approve a draft area management plan or accredit an existing planning document as an area management plan.[385]

The clause also provides that section 35 (regarding enforceable undertakings) is to commence on a day to be fixed by proclamation, with the remaining provisions to commence on assent.

Clause 37 outlines transitional arrangements with respect to the application of these and other provisions, including clarifying that:

- any existing development applications for clearing for HVA or IHVA or applications for PMAVs or AMPs, including applications to amend existing plans, PMAVs or applications, that were not decided before 8 March 2018, remain unaffected by the amendments
- the three new updated accepted development codes apply from 8 March 2018, with landholders required to notify and comply with these requirements for any code-based clearing[386]
- the proposed regulated vegetation map and proposed essential habitat map are taken to be the relevant regulatory habitat map and to prescribe the application of the amended Category C and R definitions to conserve High Conservation Values
- while AMPs are to be phased out, those that relate to clearing for encroachment, managing thickened vegetation, or fodder harvesting remain in force until 8 March 2020; with landholders able to continue notifying and clearing vegetation under an AMP up until this time (and potentially also after this period under exceptions for weed and pest control, ensuring public safety, relevant infrastructure activities and necessary environmental clearing),[387] and
- 'to remove any doubt, it is declared that no amount, whether by way of compensation, reimbursement or otherwise, is payable by the State to any person for, or in connection with, a provision of this division that applies in relation to the interim period'.[388]

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384 Mr Lyall Hinrichsen, DNRME, public briefing transcript, Brisbane, 19 March 2018, p 2.

385 Explanatory notes, pp 7-8.

386 During the interim period, clearing of proposed Category C areas or proposed Category R areas that is not considered an exemption or an accepted development vegetation clearing code will not be a development offence under the Planning Act, but the landholder may be required to restore the area (and other areas).

387 Bill, cl 37; See also: Explanatory notes, pp 7-8.

388 Bill, cl 37, s 135.

Any clearing carried out during the interim period in the proposed Category C areas or proposed Category R areas that is not consistent with an exemption or an accepted development vegetation clearing code will become unlawful once the Bill is given assent. In these circumstances, the clearing will not be a development offence under the Planning Act; however, the landholder may be required to restore the area (and other areas). [389]

As is also noted elsewhere in this report, the effective consequence of these commencement and transitional provisions is that key amendments in the Bill apply retrospectively across the interim period, allowing no period of legislative transition between the existing law and the proposed reforms, as might ordinarily be the case. The explanatory notes state that this retrospectivity was necessary to minimise pre-emptive clearing and impacts to the environment, and that the impacts on individual rights are outweighed by the public interest in protecting the long-term health of our biologically diverse State and our world heritage listed Great Barrier Reef, and reducing carbon emissions from vegetation clearing'.[390]

Potential FLP issues with respect to these provisions are discussed further at chapter 4.1.1.3. Here, the committee canvasses broader stakeholder testimony in relation to the provisions.

3.9.1 Stakeholder views

Some stakeholders expressed their support for immediate and retrospective commencement of the provisions, with EDO Qld citing the adverse effects of the significant increase in clearing typically associated with any government consultation or forewarning of reform in this area. The EDO stated:

> *It is something we have seen in that pretty much every time the tree-clearing laws in Queensland are sought to be strengthened there is a peak in clearing. Landholders, once they hear about this through the media or statements from the government, get concerned that what they consider they can clear now they will not be able to clear in a few months or next year because of the laws that will go through. Even if they are not planning on necessarily utilising that land any time soon or are just holding their bases just in case in the future they want to use it, they might go out and clear that land to prevent them from being stopped from clearing it later on when the law changes. There are really good statistics to demonstrate that panic clearing occurs every time the legislation is strengthened. That is why it is so necessary to have these retrospective provisions put in and making them effective as soon as the legislation is introduced into parliament just to have some way of reducing whatever panic clearing might occur as this bill is debated.*[391]

In the context of the government's widely announced 2017 election commitments, and their continuity with 2015 election commitments and the failed 2016 Bill, it was acknowledged that the amendments were not unforeseeable;[392] and indeed, figures provided by DNRME suggested they were in fact anticipated by many. When asked to provide advice on the number of applications received as a consequence of media speculation surrounding the proposed reforms, the department advised:

> *Potential changes to the vegetation management laws have been the subject of media articles since the 2017 State election campaign.*
>
> *During the period from October 2017 to March 2018, the Department of Natural Resources, Mines and Energy received 1588 applications for Property Map of Assessable Vegetation*

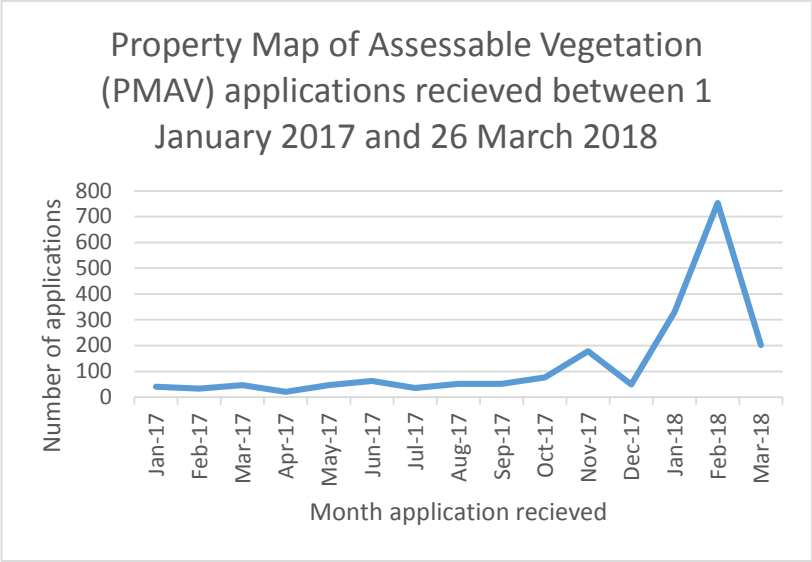
389 DNRME, final response to submissions, 12 April 2018, p 11.

390 Explanatory notes, p 7.

391 Ms Revel Pointon, EDO Qld, public hearing transcript, Brisbane, 23 March 2018, p 5.

392 Submission 186.

(PMAVs). The graph below shows the increased number of (PMAV) applications in this period compared to the previous nine months.[393]



Such figures aside, many submitters were vocal regarding the significant adverse impacts associated with the lack of either:

- a transition period in which landholders can appropriately inform themselves of the reforms, and adjust their activities appropriately, or
- any compensation to offset their losses or aid re-adjustment. [394]

The Queensland Environment Law Association (QELA) submitted that while it understood the government's concern with avoiding pre-emptive clearing, it was concerned that the amendments:

> *… could have the effect of making unlawful, actions that were lawful at the time they were undertaken … Given there was no consultation with relevant stakeholders, this is particularly concerning.*[395]

The QLS, describing the proposed reforms as legislation by 'press release', submitted that perhaps consideration should be given to a transitional period:[396]

> *One of the first things we learnt as law students was that a person cannot rely on ignorance of the law as a defence. That represents part of the enshrined law in Queensland. The law, whatever it is, needs to be obeyed. It follows that a person should be able to trust the law and it should be predictable. A law that is altered retrospectively cannot be predictable…*

Additionally:

> *… The lack of any transitional process around that is of concern. For someone who currently has a notification that entitles them to clear, if that revocation immediately takes away that*

[393] DNRME, response to Question on Notice taken at the public hearing on 23 March 2018, p 2.

[394] See, for example: submissions 187, 193, 199, and 200.

[395] Submission 189, pp 1-2.

[396] Ms Wendy Devine, Acting Principal Policy Solicitor, Queensland Law Society (QLS), public hearing transcript, 23 March 2018, p 29.

> *right, that to us is concerning because it creates uncertainty for the person with that notice. They have no clarity around when that notice no longer has effect.*[397]

At the Cairns public hearing, Mr Lindsay from Forsite Forestry, commented on the 'overnight' notice given for the proposed change to an area on a PMAV from Category X to Category C appeared to be 'a grab by the government'.[398] Mr Lindsay suggested 'that there would have been greater acceptance of the measure if the government had announced it before the election and if the changes were proposed to occur at some date in the future'.[399]

With respect to the immediate removal of HVA and IHVA as 'relevant purposes' for clearing development applications, the LGAQ noted there are multiple local government examples where 'significant time and resources have been spent in creating a development plan in consultation with the Department of Natural Resources and Mines and Energy' and queried 'the use of a one-size fits-all approach in prohibiting this form of clearing'.[400] The LGAQ called for the department to engage in further conversations with affected local governments, recommending:

> *…the establishment of a transition period for applications which are significantly progressed with the Department of Natural Resources, Mines and Energy, to ensure that local governments who have expended significant community resources are not disadvantaged.*[401]

Individual submitters also raised concerns about the 'overnight impact' of these changes and provided the committee with examples of how their particular properties would be affected.[402] Some of the common concerns raised by these landholders include a reduction in land and property values and a loss of development potential.[403] For example, the committee heard from Mr Scott Dunlop, who appeared at one of the public hearings via videoconference from Bundaberg:

> *I think the economic modelling is extremely important. I do not think it has been considered at all how this is going to affect individual operations, which in turn is going to affect all communities. There is talk about rural communities and sustaining them. I do not see how this is going to happen. This legislation is going to cause a significant downturn in employment and the death of rural communities. Our banks require modelling and budgets from us as business owners, but has the government prepared modelling and budgets to ascertain the extent of the negative effects on primary producers, businesses and the subsequent fallout to the communities in which they live?*[404]

A similar point was expressed by Ms Robyn Simmons in her submission:

> *The proposal that compensation will not be available for high value regrowth, regrowth watercourses and essential habitat during the transitional period may be a tactic to prevent panic clearing, but the implications for compensation for vegetation management in the broader sense are quite alarming. Not only is this in conflict with the Government's proposed attempt to develop the north, it is unethical to restrict landholder earning ability when*

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397 Mr Michael Connor, Chair, Planning and Environment Law Policy Committee, QLS, public hearing transcript, Brisbane, 23 March 2018, p 29.

398 Mr Alex Lindsay, Director, Forsite Forestry, public hearing transcript, Cairns, 13 April 2018, p 25.

399 Mr Alex Lindsay, Forsite Forestry, public hearing transcript, Cairns, 13 April 2018, p 25.

400 Submission 271, pp 4-5.

401 Submission 271, pp 4-5.

402 See, for example: submission 72, 81, 140, 221, 371, 387, 432, 699, Form submission F – AgForce.

403 See, for example: submissions 32, 206, 225, 304, 314, 341.

404 Mr Scott Dunlop, private capacity, public hearing transcript, Brisbane (via videoconference), 12 April 2018, p 6.

> *property has been purchased in good faith with opportunity for agricultural development. Landholders invest significant capital in property development and borrow money on this basis. For this right to be denied is unethical and imposes a negative impact on viability and increased pressure from financial institutions. With the cessation of broad scale land-clearing, compensation for landholders to offset opportunity cost, lost development potential and decreased property value has been a critical omission from the Vegetation Management Regulatory Framework.*[405]

Several stakeholder groups also raised a general argument that through these amendments, land owners are being burdened in paying for the environmental aspirations of the broader community.[406]

3.9.2 Department's response

With respect to the concerns raised about the retrospective operation of some of the provisions contained in the Bill, the department advised the committee that it had made extensive efforts to communicate the proposed changes to relevant stakeholders:

> *To support the public to understand the impacts of the retrospective provisions, the Department has:*
>
> - *the Proposed Regulated Vegetation Management Map shows the proposed category C areas and proposed category R areas; and*
> - *sent an email to any person whom has obtained vegetation management mapping online since January 2016 informing them of the updated and proposed mapping, and the introduction of the Bill.*
>
> *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*.[407]

The department further advised:

> *Communication about the bill so far includes media releases that have supported widespread coverage in statewide and regional media. We have also emailed every landholder who has previously downloaded a property report for their property and those who have notified the department of proposed clearing under the accepted development codes fodder harvesting, managing thickened vegetation and managing category C vegetation or under an existing area management plan. We have provided a call centre, which is primarily operated by experienced vegetation management staff, located in the department's Charleville office. We also have significant resources available through the department's website. This includes a user-friendly interface that… allows a landholder who does not already have a PMAV to download the new maps of their properties. There is no fee associated with this service. Since the introduction of the bill some 11 days ago there have been over 7,500 downloads of property maps and property reports through that online service.*[408]

The committee heard that the department has sent out '17,000 emails to people who have downloaded maps and over 1,100 emails to people who have made notifications under previous self-

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405 Submission 5.

406 See, for example: submissions 193, 199, 204, 285, 518, 635.

407 DNRME, final response to submissions, 12 April 2018, p 11.

408 Public briefing transcript, Brisbane, 19 March 2018, pp 3-4.

assessable codes'409 in an effort to inform relevant stakeholders on the Bill. The department also noted that interaction through their website, regional hubs and call centres, has been positive:

> *Obviously, our website does as well. All we have is anecdotal evidence, I suppose, of feedback, which has been very positive. People have been quite appreciative that their inquiry has been dealt with over the phone in 98 per cent of cases. So far the feedback has been positive. As Lyall said, the core hub is stationed at Charleville with support from other regional offices throughout the state where call volumes get really high. It has been going really well.*
>
> *…In the past two weeks there have been about 500 calls.*[410]

In response to the LGAQ's recommendation for a transition period be allowed for applications which have been significantly progressed with the department, the department advised:

> *Local governments who are developing significant proposals may seek designation as a coordinated project under the State Development Act.*[411]

With respect to compensation, the department advised the committee that compensation associated with impacts from the broader vegetation management framework is 'a matter for Government.'

DNRME also sought to emphasise:

> *In 2004, the Beattie Government provided a $170 million financial assistance package over a five year period, comprising $150 million for a Structural Adjustment Program, $12 million for a Vegetation Incentives Program and $8 million for a Best Management Program. The department advised that 1466 landholders were provided up to $100,000 in enterprise assistance to assist affected landholders to improve productivity and viability of their farming…*[412]

409 Public briefing transcript, Brisbane, 19 March 2018, pp 3-4.

410 Public briefing transcript, pp 8-9.

411 DNRME, final response to submissions, 12 April 2018, p 11.

412 DNRME, final response to submissions, 12 April 2018, p 7.

3.10 Vegetation mapping and availability of information

3.10.1 Mapping accuracy

Stakeholder criticisms of the accuracy of the state's regulated vegetation mapping were also a consistent theme of the committee's inquiry. At its hearings and throughout the submission process, the committee heard of numerous examples of inaccurate vegetation mapping and the adverse effect such inaccuracies can have on landholders.[413] Agricultural industry stakeholders were concerned that these irregularities and errors may be exacerbated by the amendments contained in the Bill – and in particular, the inclusion of 'high value regrowth' mapping.[414]

Many individuals provided specific examples of mapping inaccuracies on their property or the property of their members. For example, Mr Maudsley, President of AgForce Queensland Farmers, stated:

> *You have to gather clear data from somewhere to make sure it is right. It is fine to have satellite imaging, but someone has to actually go on the ground and check that it is picking up the right thing. At the moment you may be aware that avocado orchards are picked up as remnant veg. The accuracy on the ground is pretty poor. I have remnant ecosystems in my landscape. I have not started thinning in my business yet, but it is mapped totally wrong. It has the wrong trees in there. In terms of me doing with it for thinning purposes, not only do I have to change the remnant ecosystem type on the map but I have to get an ecologist in or talk to DNR about how we might change it. I then have to go through the development approval process, and then I might get to thin it if I am lucky.*
>
> *That is a long way away from having accurate data on the ground. Largely the producers are correcting the inaccuracies of the data through the PMAV process or the change in the vegetation type, so there are a hell of a lot of inaccuracies out there.*[415]

At the hearing in Cloncurry, Mr Russell Pearson stated:

> *One particular strip of country was covered in blue gum trees, and we do not have a blue gum tree within 100 miles of our country. There are other trees listed on this particular map and the thinning had to be done by hand. There was a strip of country about three kilometres wide and about 10 kilometres long. I do not know how we are going to thin it by hand, but that was the listing on the PMAV.*[416]

In many submissions, individuals commented on the significant and costly process involved with making corrections or changes to vegetation maps.[417]

Some environmental stakeholders also submitted that current mapping did not accurately reflect the habitat requirements of Queensland's native wildlife, including mammals, reptiles and invertebrates.[418]

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413 See, for example: public hearing transcript, Rockhampton, 27 March 2018, pp 15, p 19; Ms Robyn Bryant, landholder, private capacity, public hearing transcript, Charleville, 29 March 2018, p 8. See also submissions 180, 187, 199, 279, 291, 306, 635 and 760.

414 See, for example: submissions 199 and 442.

415 Mr Grant Maudsley, AgForce, public hearing transcript, Brisbane, 23 March 2018, p 34.

416 Mr Russell Pearson, private capacity, public hearing transcript, Cloncurry 28 March 2018, p 22.

417 See, for example: submissions 5, 18, 36, 48, 81, 119, 157, 411 and 515.

418 See, for example: Mr Ted Fensom, Wildlife Logan, public hearing transcript, Brisbane, 12 April 2018, p 23. See also submissions 172 and 539.

Other stakeholders also noted the improvements in mapping data and accuracy over recent years and commented on the strengths of Queensland's vegetation mapping framework. For example, Mr Toni, Conservation Director at WWF Australia stated:

> *Could I say that Queensland's mapping is amongst the best in the world, and that would be by quite a considerable margin. The herbarium is a very highly respected organisation, I think by most people, so the mapping is as good as you will get, to be frank. The use of satellites and remote sensing, and no doubt in the future drones and so on, will only improve the remote sensing ability to detect environmentally important habitat, land and water.*
>
> *I think one of the strengths of the act as originally passed was that there was a practical solution to check mapping that might be wrong, and that was the PMAV system. Every now and then it is bound to be wrong. I think the great majority of the time it is correct, but every now and then it will be wrong. A suitably qualified expert could come out, have a look, make a determination, discuss it with the landholder and make a decision, so we would urge that it be maintained for that purpose.*[419]

Dr Jennifer Silcock also highlighted the improvements in Queensland's mapping:

> *I agree there is a lot of work to be done with the mapping. I would also like to say that it is getting better all the time. People at the Herbarium are working almost constantly on improving the mapping. Queensland is the only state that has this regional ecosystem mapping. It is a massive resource. It is not perfect, but it is a lot better than what other states are working with.*[420]

In addition to the issues raised about the accuracy of vegetation mapping, several stakeholders raised concerns about the coverage of SLATS data. In particular, many stakeholders commented on the fact that SLATS did not capture the growth of regrowth.[421] For example, AgForce noted that the SLATS data 'shows tree losses but not the tree gains'.[422] Others submitted that the SLATS reports 'can be misleading when clearing rates are measured and regrowth is not'.[423]

3.10.1.1 *Department's response*

With respect to the general concerns about the accuracy of mapping, the department advised:

> *The maps are compiled based on satellite imagery. Much of the satellite imagery that we use today is very, very accurate and very, very detailed, but it is not the be-all and end-all. It is supplemented by field verification as well, bearing in mind it is at a statewide scale for the regional regulated vegetation map.*[424]

Further to this, the department advised that 'high value regrowth' mapping was developed using a combination of automated processing and manual editing. It stated:

> *The output from the automated process was subject to manual visual checking and editing over high resolution imagery to remove errors such as plantations, weeds or other non-*

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419 Mr Paul Toni, WWF, public hearing transcript, Brisbane, 23 March 2018, p 14. See also submission 172.

420 Dr Jennifer Silcock, UQ, public hearing transcript, Brisbane, 12 April 2018, p 18.

421 See, for example: Mr Vol Norris, North West Regional Manager, AgForce, public hearing transcript, 28 March 2018, Cloncurry, p 10; Submissions 199 and 518.

422 Mr Vol Norris, AgForce, public hearing transcript, 28 March 2018, Cloncurry, p 10.

423 Mr Cameron Tickell, private capacity, public hearing transcript, Charleville, 29 March 2018, p 6.

424 Mr Lyall Hinrichsen, DNRME, public briefing transcript, Brisbane, 19 March 2018, p 5.

> *native vegetation, and also to define accurate boundaries and identify any areas of suitable native vegetation that had been missed by the automated process.*[425]

With respect to the issues raised by stakeholders about the cost to rectify mapping errors, the department stated:

> *When landholders lock in their property map there is an opportunity, if they disagree with the designation of land uses or vegetation types on their property, for that to be specifically validated. That frequently does occur if there are those inaccuracies. If they are obvious inaccuracies, that is rectified at no charge to the landholder at all. If there are those inaccuracies, we would certainly encourage landholders to make contact with us and we can take a close look at that. If indeed there are, that can be pretty readily rectified.*[426]

The department also advised that there is discretion to waive the application fee for a replacement PMAV in situations where there are demonstrable errors:

> *There is discretion to waive the fee if it is demonstrably in error. With refinements in the mapping in recent times, the absolute lion's share of those obvious areas—where it is weeds, or in some places orchard crops in the past were being designated as native vegetation—have been filtered out based on the more detailed imagery that is now available to the Queensland Herbarium. If there are still areas that are demonstrably wrong, then there is ability and it is the department's policy to waive the application fee. The application fee of $434 only applies then to a lock-in type application or to an application where a landholder is seeking to have a more complex assessment undertaken in relation to the status of that vegetation. Those types of assessments are the exception, not the rule. Most of the applications we get, I think it is fair to say, are for locking in the existing regional map.*[427]

In response to concerns raised by landholders about compliance and genuine mistakes, the department confirmed:

> *Clearing in accordance with the requirements applying to the Category shown on the regulated vegetation management map is lawful. In addition, the Bill does not remove the existing provision on a defence of mistake of fact.*[428]

Although it could not comment on mapping inaccuracies for specific properties as part of this inquiry, the department encouraged individual landholders to call the Veg Hub on 135 VEG (13 58 34) or email them directly so that they can initiate a review of the mapping on the relevant property.[429]

In relation to issues raised about SLATS, in particular the point that mapping does not cover the regrowth of vegetation, the department stated:

> *The first point I would make is that the mapping of clearing rates is performed by the Department of Environment and Science, so it is undertaken outside of our Natural Resources, Mines and Energy portfolio. It is certainly recognised that the current SLATS report focuses on clearing rates and not on the regrowth of vegetation. The government has made a commitment to significantly enhance the current SLATS reporting to provide an equal focus on the regeneration of regrowth vegetation.*[430]

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425 DNRME, final response to submissions, 12 April 2018, p 15.

426 Mr Lyall Hinrichsen, DNRME, public briefing transcript, Brisbane, 19 March 2018, p 5.

427 Mr Lyall Hinrichsen, DNRME, public briefing transcript, Brisbane, 19 March 2018, p 6.

428 DNRME, final response to submissions, 12 April 2018, p 16.

429 DNRME, final response to submissions, 12 April 2018, p 16. The relevant email address is: vegetation@dnrme.qld.gov.au.

430 Mr Lyall Hinrichsen, DNRME, public briefing transcript, Brisbane, 19 March 2018, p 4.

Committee comment

The committee notes DNRME and DES' commitment to ongoing and continuous improvements in the accuracy of vegetation mapping in Queensland.

The committee commends the departments' moves to enhance mapping of vegetation regrowth, to support a more dynamic and comprehensive informational picture of the state's evolving vegetation cover.

3.10.2 Informational challenges

As outlined in section 3.9.2 of this report, the department has various mechanisms through which to provide information and assistance to stakeholders. For example, an extensive email mailing list to provide information and updates; the departmental website and mapping; the 135VEG number; vegetation management hub in Charleville; and departmental officers located in various regions across Queensland. The department advised that in most cases, queries or concerns are dealt with over the phone or, in a small number of cases, through follow-up appointments in regional centres (such as Gympie or Mareeba).[431]

However, the committee heard evidence from various landholders about the difficulties navigating the complex informational requirements of the vegetation management framework.

> *Every landholder that I have spoken to who has been through the process has struggled to understand exactly what the process is. Sometimes the lines on the map can be blurred or overlapping. The feedback is that it is up to them to decide what side of the line they should be. I think there is a real opportunity to have somebody regionally—a number of people regionally—to go out to a property, sit down at the kitchen table, have a cup of tea, go through the map, get in the car, go out, have a look at the paddock and work out where that line exactly is so then once a machine goes in there are no mistakes.*[432]

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> *From our perspective, with having southern gulf catchments and also with the prickly acacia and so forth, if we could have some project officers within the area that could help us with vegetation management issues, with woody weeds, that would be so much better than having to deal all the time with someone in Brisbane or even Townsville. It is very long—four hours—for us to get to Townsville; it is eight hours for Greg, or a very expensive flight.*[433]

Submitters suggested these concerns were only heightened by the regular intervals at which the laws and regulations surrounding vegetation management have changed, which has posed difficulties for industries like agriculture and farming, which require a necessarily long-term outlook.[434]

Others submitted that in a relative sense, the extent of change has been overstated. QCC submitted:

> *While it is true that the VMA has been amended a number of times since it was first passed in 1999, this is not unusual for state legislation. Most of the changes have been modifications to ensure proper operation. There have been three main changes over the last fifteen years: the ending of broadscale remnant clearing (2004), the protection of high conservation value regrowth (2009), and the substantial weakening of the Act in 2013.*

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431 Public briefing transcript, Brisbane, 19 March 2018, p 7.

432 Cr Gregory Campbell, Mayor, Cloncurry Shire Council, public hearing transcript, Cloncurry, 28 March 2018, p 8.

433 Cr McNamara, Flinders Shire Council, public hearing transcript, Cloncurry, 28 March 2018, p 5.

434 See, for example: submissions 32, 34, 304, 308, 312, 340, 341.

> *Restoring past provisions, and extending protections in 2018 is hardly continuous change nor hasty reform. Many of those who argue legislative change is bad now championed it just a few years ago, despite the fact that the changes in 2013 broke election commitments and indeed the policy stand of the agricultural lobby.*[435]

These issues aside, stakeholders were united in their calls for a larger on-the-ground presence of departmental extension officers, to help them navigate the informational requirements associated with the management of their vegetation.[436]

For example, the committee heard:

> *Given the complexity of the act, the proposed changes and the issues that are at stake, there needs to be a significant education and extension program implemented. Field days run by department extension officers are essential to demonstrate each step through the assessment and notification process, followed by a practical field demonstration with the thinning bar behind a dozer.*[437]
>
> ***
>
> *…you need to have someone who will come around who you can talk to face to face and show them what you are doing and what you are going to do and what you can achieve by doing it and they tick yes or tick no.*[438]

Committee comment

While the committee acknowledges the wide range of information and assistance currently provided by DNRME, stakeholder feedback suggests that these services could be enhanced by an expansion of existing extension activities, to assist landholders in navigating the vegetation management framework.

Field work days, workshops and other in-person demonstrations or seminars were widely cited by stakeholders as critical to improving understanding of their obligations and of best practice ways to achieve compliance and support the long-term environmental and economic values of their properties.

To support the effective implementation of the Bill, the committee also recommends that DNRME commence a comprehensive public education campaign, drawing on the involvement and expertise of industry groups and third party organisations.

Recommendation 7

The committee recommends the Department of Natural Resources, Mines and Energy consider the appointment of additional extension officers in regional hubs to help foster positive relationships and engagement with communities to promote the best application of the law.

Recommendation 8

The committee recommends the Department of Natural Resources, Mines and Energy commence a comprehensive public education campaign to support the effective implementation of the government's reforms to the vegetation management framework, including the operation of the fodder harvesting code, drawing on the involvement and expertise of industry groups and third party organisations.

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435 Submission 186, p 11.

436 See, for example: submission 306, 547; public hearing transcript, Cloncurry, 28 March 2018, p 2, 21; public hearing transcript, Longreach, 29 March 2018, pp 4, 5, 7, 8, 21; public hearing transcript, Charleville, 29 March 2018, p 2.

437 Cr Mike Pratt, Deputy Mayor Barcoo Shire Council, public hearing transcript, Longreach, 29 March 2018, p 4.

438 Mr Bristow Hughes, private capacity, public hearing transcript, Townsville, 27 March 2018, p 25.

4 Compliance with the *Legislative Standards Act 1992*

4.1 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* (LSA) states that '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 to the attention of the Legislative Assembly.

4.1.1 Rights and liberties of individuals

4.1.1.1 *Proportion and relevance*

The reasonableness and fairness of the treatment of individuals is relevant in deciding whether legislation has sufficient regard to rights and liberties of individuals. Consequences imposed by legislation should be proportionate and relevant to the actions to which the consequences are applied by the legislation. In this respect, the Office of the Queensland Parliamentary Counsel (OQPC) Notebook states: [439]

> *… the desirable attitude should be to maximise the reasonableness, appropriateness and proportionality of the legislative provisions devised to give effect to policy.*

A number of provisions in the Bill increase existing maximum penalties, some of which involve considerable increases – ranging from a tripling, to a ten-fold increase in the maximum penalty units applicable. A comparison of the current and proposed new penalties is set out in **Appendix E**.

The QLS in its submission also raised concerns regarding proposed section 134. Section 134 is a transitional provision to the effect that the chief executive may give a person a restoration notice in relation to unlawful clearing that has occurred during the interim period (between 8 March 2018 and the date of assent).

The QLS states:

> *This provision appears to apply only if a person undertakes unlawful clearing during the interim period ... If this occurs, the chief executive may issue a restoration notice and, in addition to other restoration notice matters, also:*
>
> - *include additional requirements to those in the existing section 548(3) of the Act; and*
> - *require the person to restore land **in addition to the land the subject of the unlawful clearing.** [Bold font in the original submission.]*
>
> *This seems to be an extraordinarily punitive provision which requires someone to undertake additional work, at additional cost, beyond rectifying unlawful clearing and only applies for a limited time.* [440]

The committee notes the explanation offered in the explanatory notes that:

> *The application of restoration notices under clause 134 of the Bill arguably offends section 4(3)(k) of the Legislative Standards Act 1992 by remaining unclear about the scope of a*

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439 Office of the Queensland Parliamentary Counsel (OQPC), *Fundamental Legislative Principles: The OQPC Notebook*, p 120.

440 Submission 200, p 6.

> *restoration notice. This is unavoidable due to the nature of the content of restoration notices, which are case specific and in response to a particular instance of unlawful clearing.*
>
> *Landholders are sufficiently informed in advance of the possibility of receiving a restoration notice as a result of retrospective unlawful clearing resulting from the Bill and will also be aware that the restoration requirements will aim to negate the damage caused by the clearing. Landholders will be informed of the legislative changes to the vegetation management framework, which negates any ambiguity and inconsistency with the fundamental legislative principles.*[441]

The committee acknowledges that a penalty should be proportionate to the offence. The OQPC Notebook also states:

> *Legislation should provide a higher penalty for an offence of greater seriousness than for a lesser offence. Penalties within legislation should be consistent with each other.* [442]

While the explanatory notes do not canvass the issues of increased penalties in any detail, they do state that increasing the maximum penalties:

> *… achieves a more appropriate level of deterrence, and consistently aligns maximum penalty units for the same offences under the Planning Act 2016 and the Water Act 2000 …*[443]

Committee comment

The committee notes the comments of the QLS regarding the proportionate nature of consequences of legislation, including that maximum penalties should be appropriate and justified in the circumstances. The committee acknowledges that there is a need to balance, the offences and associated penalties to provide an appropriate level of deterrence in order to achieve the objectives of the Bill.

Given the objectives of the Bill, and the explanation provided in the explanatory notes, the committee is satisfied with respect to these matters.

4.1.1.2 *Powers of entry and seizure – clauses 20, 21, 24 and 54*

Clauses 20 and 21 respectively extend the scope of an existing power of entry under the VMA and insert a new power of entry in the Act, with clause 24 extending an associated power of seizure.

Clause 20 amends section 30 of the VMA, which is a general power of entry provision that allows an 'authorised officer' to enter a range of specified places in certain circumstances.

Currently, this includes places that are the subject of a development approval; a lease, licence or permit under the *Land Act 1994;* a stop work notice or restoration notice; or an enforcement notice under the Planning Act relating to the contravention of a vegetation clearing provision.

Clause 20 extends this range of places to include places that are the subject of:

- *an activity, being carried out at the time of entry, to which an enforceable undertaking relates, or*
- *a notification of an intention to clear vegetation given under an accepted development vegetation clearing code or an area management plan.*

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441 Explanatory notes, p 9.

442 OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 120.

443 Explanatory notes, p 5.

Clause 21 inserts new section 30A in the VMA, which provides for a new power of entry. New section 30A will allow an authorised officer to enter a place where the authorised officer believes, on reasonable grounds, that a vegetation clearing offence is happening, or has happened.

According to the explanatory notes:

> *This will allow the authorised officer to enter and re-enter a property without the occupier's consent or a warrant to investigate whether a vegetation clearing offence has happened or is happening at the place.*[444]

Subsection 30A(4) provides that an authorised officer must give the occupier 24 hours' prior written notice of a proposed entry. The notice must include a statement of the officer's belief and the reasons for that belief, as well as the purpose and times of entry. Additionally, an authorised officer must take all reasonable steps to cause as little inconvenience and damage as is practicable in the circumstances. (section 30A(6)).

Clause 24 of the Bill extends the power of seizure which exists in section 39 of the VMA to apply with respect to the new power of entry under proposed section 30A.

If an authorised officer enters a place under section 30A, the officer can seize:

- an item that the officer reasonably believes is evidence of a vegetation clearing offence and seizure of which is consistent with the purpose of entry as stated in the notice of entry
- anything else at the place if the officer reasonably believes the thing is evidence of a vegetation clearing offence and the seizure is necessary to prevent the thing either being hidden, lost or destroyed, or being used to continue, or repeat, the offence, or
- any item if the authorised officer reasonably believes it has just been used in committing a vegetation clearing offence.

Clause 54 amends section 748 of the Water Act. Section 748 currently provides for a power of entry for an authorised officer if the officer reasonably believes one or more of certain specified activities is happening (such as unauthorised drilling, unauthorised taking of or interfering with or use of water, unauthorised taking of water or quarry material). The officer can enter – without consent, notice, or warrant – and by using such force as is reasonable and necessary, to find out or confirm whether the unauthorised activity is occurring or has occurred.

Clause 54 extends this power of entry to include circumstances where an authorised officer reasonably believes there is unauthorised taking or destruction of 'other resources' which, by definition in the Act, includes riverine vegetation.

Potential FLP issues

Legislation should confer power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer.[445] The OQPC handbook states that this principle supports a long established rule of common law that protects the property of citizens.[446]

Power to enter premises should generally be permitted only with the occupier's consent or under a warrant issued by a judge or magistrate. Strict adherence to the principle might not be required if the premises are business premises operating under a licence or premises of a public authority. Often a

444 Explanatory notes, p 8.

445 *Legislative Standards Act 1992*, s 4(3)(e).

446 OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 45.

concern in this context is the range of additional powers that become exercisable after entry without a warrant or consent.[447]

The OQPC Notebook states: [448]

> *FLPs are particularly important when powers of inspectors and similar officials are prescribed in legislation because these powers are very likely to interfere directly with the rights and liberties of individuals …*
>
> *Residential premises should not be entered except with consent or under a warrant or in the most exceptional circumstances.*[449]

Committee comment

Clause 21

The committee notes that the power of entry in proposed section 30A does not extend to residential premises.[450] The explanatory notes state that the power of entry is necessary:

> *… to ensure effective and proactive enforcement of vegetation clearing legislation and to prevent serious and often irreversible impacts on biodiversity and land degradation in imminent circumstances, or where obtaining the consent of the occupier to enter the place is not practicable or possible.*[451]

The explanatory notes also highlight that the clause is consistent with other statutes:

> *Section 30A is consistent with other natural resource legislation in Queensland and other States, including the Water Act 2000, the Land Act 1994, the Environmental Protection Act 1994 and the Local Land Services Act 2013 (New South Wales) to ensure the power can only be used in a way that does not amount to an intrusion on a person's rights which have been granted under an existing right to occupy the land.*

The committee notes the submission from the QLS, which traverses proposed section 30A.[452] As discussed in chapter 3.6.1.2, the QLS commended the inclusion of a legislative requirement for a specified entry and information notice and the requirement for reasonable notice; but at the same time, suggested that in most cases the requirement for a 'reasonable grounds' belief would be sufficient to support the issue of a warrant by a magistrate.

Overall, the committee is satisfied by the reasons provided in the explanatory notes that this clause is warranted given the policy intent of the Bill.

Clause 54

The committee notes that the power of entry under the *Water Act 2000* is unconditional (in that no notice, consent or warrant is required), provided the authorised officer has a reasonable belief that the unauthorised activity (to include taking or destruction of riverine vegetation) is happening or has happened on the land. The explanatory notes to the bill that became the *Water Act 2000* stated:

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447 Alert Digest 2004/5, p 31, paras 30-36; Alert Digest 2004/1, pp 7-8, paras 49-54; Alert Digest 2003/11, pp 20-21, paras 14-19; Alert Digest 2003/9, p 4, para 23 and p 31, paras 21-24; Alert Digest 2003/7, pp 34-35, paras 24-27; cited in Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: *The OQPC Notebook*, p 45.

448 OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 45.

449 OQPC, *Fundamental Legislative Principles*: *The OQPC Notebook*, p 46.

450 Bill, cl 21, s 30(7)

451 Explanatory notes, p 9.

452 Submission 200, p 4.

…. in practice such [unauthorised] activities … often occur in remote areas and at night. Often the occupier of the property may not be easily locatable, and any delay, prior warning of entry, or need to locate the owner would cause the loss of resources and evidence.[453]

The committee is satisfied by the reasons provided in the explanatory notes that any potential breach of the FLPs with respect to clauses 20, 21, 24 and 54 are warranted given the policy intent of the Bill.

4.1.1.3 *Retrospectivity – clauses 2, 37 and 45*

As also discussed in chapter 3.9, by virtue of clause 2, a number of provisions in the Bill are taken to have commenced on 8 March 2018, the date the Bill was introduced. Those clauses are discussed below.

Clause 37 inserts new part 6, division 13, which provides transitional provisions. These include section 128, which defines the 'interim period' as the period starting on 8 March 2018 and ending immediately before the date of assent of the Bill.

Proposed section 132

Section 132 provides that during the interim period:

(a) the schedule, definition *high value regrowth vegetation,* paragraph (a) is taken to include a reference to vegetation located on freehold land, indigenous land, or land subject of an occupation licence under the *Land Act 1994*

(b) the Category C code applies (until remade after the date of assent) to that land in the same way it applies to such vegetation located on a lease issued under the *Land Act 1994* for agriculture or grazing purposes.

Section 133

Section 133(1) provides that during the interim period the definition of *regrowth watercourse and drainage feature area* is also taken to mean an area located within 50 metres of a watercourse or drainage feature located in the Burnett-Mary, Eastern Cape York, and Fitzroy catchments (as identified on the vegetation management watercourse and drainage feature map).

Section 133(2) provides that the Category R code applies to these catchments in the same way it applies to the catchments mentioned in the definition, until the Category R code is remade by the Minister under the amended Act after assent.

Section 133(4) provides that in this section Category R code means the accepted development vegetation clearing code called 'Managing Category R regrowth vegetation'.

Proposed section 135 provides that no amount, by way of compensation, reimbursement or otherwise, is payable by the State to any person for or in connection with a provision of that division (13) of the VMA in relation to the interim period.

Clause 45 amends the *Planning Act 2016* by adding broadly similar transitional provisions. These provisions cover the same 'interim period' (from 8 March 2018 to the date of assent) and void development applications in relation to HVA and IHVA (proposed sections 333 and 334).

Section 333(1) provides that the section applies to a development application made, during the interim period, for operational work that is the clearing of vegetation that:

(a) is assessable development prescribed under section 43(1)(a)

(b) is HVA clearing or IHVA clearing, and

(c) is not for a relevant purpose mentioned in the *Vegetation Management Act 1999*, section 22A(2)(a) to (j) or (2AA).

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[453] Water Bill 2000, explanatory notes, p 11.

Pursuant to section 333(2) an application is taken not to have been made and any decision on the application is of no effect.

Section 334(1) applies to a development application, made during the interim period, for a material change of use that is assessable development, if:

(a) the material change of use involves the clearing of vegetation that is high value agriculture clearing or irrigated high value agriculture clearing, and

(b) because of the clearing the chief executive would be a referral agency for the material change of use if a development application were made for the material change of use.

Section 334(2) provides that the application is taken not to have been made and any decision on the application is of no effect.

In relation to sections 333(2) and 334(2), the explanatory notes explain the rationale in each case:

> *This is because on assent, high value agriculture and irrigated high value agriculture clearing will no longer be a relevant purpose under the Vegetation Management Act 1999 for which clearing can occur under the vegetation management framework.* [454]

New section 332 provides that unlawful clearing in the interim period is not an offence against section 162 (Carrying out prohibited development) or section 163 (Carrying out assessable development without permit) of the *Planning Act 2016*, to the extent that the offence became unlawful clearing on the commencement of the *Vegetation Management and Other Legislation Amendment Act 2018*:

> *Accordingly, it will not be an offence under the Planning Act 2016 if this clearing is undertaken, however a restoration notice may be given under the Vegetation Management Act 1999 for the unlawful clearing.* [455]

Potential FLP issues

The provisions potentially breach section 4(3)(g) of the LSA, which provides that legislation should not adversely affect rights and liberties, or impose obligations retrospectively. Strong argument is required to justify an adverse effect on rights and liberties, or imposition of obligations, retrospectively.

The explanatory notes acknowledge the issue and provide the following justification for the potential FLP breach:

> *Pre-emptive clearing or submission of applications ahead of Parliament enacting reforms to the vegetation management framework can cause significant negative impacts on the environment, business and the community. An increase in certain development applications and requests for maps has already been recorded since media articles alerted the public to potential changes to the vegetation management laws. While the Bill is before Parliament, retrospectivity is necessary to ensure pre-emptive clearing and increases in certain applications do not render the reforms less effective.*
>
> *There may be some detrimental effects on individual rights in relation to these applications; however the impacts on individual rights are outweighed by the public interest in protecting the long-term health of our biologically diverse State and our world heritage listed Great Barrier Reef, and reducing carbon emissions from vegetation clearing.*[456]

454 Explanatory notes, p 29.

455 Explanatory notes, p 29.

456 Explanatory notes, p 7.

The department also provided the following advice:

> *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 areas as category X areas 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 agriculture and irrigated high value agriculture.*[457]

These matters are also canvassed at chapter 3.9 of this report.

Committee comment

The committee notes the retrospective provisions contained in clauses 37 and 45. The committee is satisfied that the retrospective operation is justified given the policy intent of the Bill.

4.2 Drafting and explanatory notes

4.2.1 Clear and precise drafting

Clause 37 inserts new section 134 which provides that if a person undertakes unlawful clearing during the 'interim period', the chief executive can issue a restoration notice. The explanatory notes state:

> *The application of restoration notices under clause 134 [sic – the reference should be to clause 37] of the Bill arguably offends section 4(3)(k) of the Legislative Standards Act 1992 by remaining unclear about the scope of a restoration notice. This is unavoidable due to the nature of the content of restoration notices, which are case specific and in response to a particular instance of unlawful clearing.*
>
> *Landholders are sufficiently informed in advance of the possibility of receiving a restoration notice as a result of retrospective unlawful clearing resulting from the Bill and will also be aware that the restoration requirements will aim to negate the damage caused by the clearing. Landholders will be informed of the legislative changes to the vegetation management framework, which negates any ambiguity and inconsistency with the fundamental legislative principles.*[458]

Section 4(3)(k) of the LSA makes clear that legislation should be drafted in a sufficiently clear and precise way. [459]

Committee comment

As discussed above, the committee notes the reasons provided in the explanatory notes as to the lack of clarity about the scope of a restorative notice:

> *The application of restoration notices under clause 134 of the Bill arguably offends section 4(3)(k) of the Legislative Standards Act 1992 by remaining unclear about the scope of a restoration notice. This is unavoidable due to the nature of the content of restoration notices, which are case specific and in response to a particular instance of unlawful clearing.*[460]

The committee is satisfied that there is no undue lack of clarity in the actual drafting of proposed section 134.

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457 DNRME, final response to submissions, 12 April 2018, p 11.

458 Explanatory notes, p 9.

459 *Legislative Standards Act 1992*, s 4(3)(k).

460 Explanatory notes, p 9.

4.2.2 Explanatory notes

Part 4 of the *Legislative Standards Act 1992* 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.

Explanatory notes were tabled with the introduction of the Bill. The committee notes that the explanatory notes are fairly detailed and contain the information required by Part 4 and a reasonable level of background information and commentary to facilitate understanding of the Bill's aims and origins. However, it would be helpful if the explanatory notes identified the specific clauses being discussed, when identifying FLPs.

Appendix A – Submitters

Sub #	Submitter
1	Derek Robertson
2	Helen Sturmey
3	Jonathan Peter
4	Stirling Tavener
5	Robyn Simmons
6	Peter Jessup Low
7	Name suppressed
8	Duncan Banks
9	Don Dunsdon
10	David and Ruth Jones
11	Shane Warner
12	John and Kathryn Edwards
13	Sarah Isaacs
14	Jack Stansfield
15	Julie Dawburn
16	Mike and Jan Johnson
17	Rowan Douglas
18	Confidential
19	Janette Jenyns
20	Alan Gillanders
21	Householders' Options to Protect the Environment (HOPE) Inc
22	Sue Denham
23	Brad Cameron
24	Kylie Slack
25	Courtney Johnson
26	Darren Howard
27	Peter McCasker
28	Greg Ryan
29	Confidential
30	John Liu
31	Elizabeth Hobson
32	Alexandra Phelps
33	William Phelps
34	Debra Roberts

35 Paul Slack
36 Inga Gibson
37 Barbara Clark
38 John Morrison
39 Cameron Schutt
40 Vivienne Atkinson
41 Susan Glasson
42 Peter Fuller
43 Bristow Hughes
44 Robyn Bryant
45 George Theobald
46 Rob Williams
47 Jess McKinlay
48 Peter Murphy
49 Stephen Tully
50 Michael Price
51 Jeanette Kemp
52 Geoffrey Swanson
53 Cameron and Michelle MacLean
54 Andrew Wilkinson
55 Carl and Andrea Moller
56 Clynton Johnstone
57 Mervyn Bourne
58 Julie Wallis
59 Miriam Stewart-Taylor
60 Kerry Deacon
61 Gabriella Cadorin
62 Phil and Diane Cornelius
63 Gregory Shaw
64 Tom Menzies
65 Walter and Christine McLean
66 Barry Hughes - Gulf Cattleman's Association
67 Name suppressed
68 Lucy Worgan
69 Barry Hughes - North Head Cattle Company
70 Alex O'Neill
71 Toshimi Hirano

72 Simon and Myriam Daley
73 Kylie Jones
74 Mick Hughes
75 Tony May
76 Phillip Axiak
77 Carolyn Bussey
78 Dr Hugh Finn
79 Dr Leonie Seabrook
80 Gavin and Cassandra Warmington
81 Helen Roth
82 Ron Miller
83 Carol and Andrew Iles
84 Robert and Peta Hanna
85 Christine Bennett
86 Kim Barnicoat
87 Dale Smith
88 Rob and Julie Moore
89 John van Grieken
90 Gail Phillips
91 Peter Joliffe
92 Bill and Michelle Bryant
93 Elizabeth Martin
94 Catherine Money
95 John Baker
96 Melissa Stagg
97 Queensland Resources Council
98 Wildlife Queensland - Cassowary Coast Hinchinbrook Branch
99 Anne Moloney
100 Peter Burke
101 Harold Burnham
102 Richard Copeman
103 Wide Bay Burnett Environment Council
104 Christine Campbell
105 Colin and Kellie Mitchell
106 Helen Taylor
107 John Harth
108 Mary Anne Millar

109 Raymond Barrett
110 Felicity Broadbent
111 Anne and Lawrie Martin
112 Widgee Koala Action Group
113 Bulloo Shire Council
114 Thomas Oliver
115 Darryl Suttle
116 Aloma Everingham
117 Rob Worsnop
118 Alastair Webb
119 Kathryn Hawkins
120 Mats and Pamela Gustafsson
121 Carol Ross
122 David Paterson
123 Carl Bain
124 Bill Bryant
125 Toni Davidson
126 Doug Burnett
127 Anthony Van Kampen
128 Lesley Keegan
129 Allan and Jeanette Williams
130 Bruce Collins
131 Confidential
132 Mark Jenyns
133 Cat Curtis
134 Jacinda Moore
135 Kuranda Conservation Community Nursery Inc
136 Brett McDonald and Cathy Zwick
137 Andrew Schmidt
138 Kathryn Schmidt
139 Frank Box
140 Kim Lewis
141 Gregory and John Perry
142 Dixie Nott
143 John and Glen Fearby
144 Mike Gordon
145 Pam Ison

146 Carol Godfrey
147 Cameron Tickell
148 Alan and Deborah Rae
149 Malcolm McClymont
150 Townsville and Region Environment Foundation
151 Allan Lucas
152 Jo Thomas
153 Diane Binnie
154 Peter Wilkinson
155 Verna Webb
156 Brett Smith
157 Reg and Jackie Carlyle
158 Peirce and Deirdre Edwards
159 David Winten
160 Wendy and Ian Winks
161 James Ashley McKay
162 Garry Leonard
163 CC and DR Quartermaine
164 Michael and Helen Meppem
165 Katelyn Lark
166 Darren Hegarty
167 Narelle Jarvis
168 Catherine Smith
169 Scott Moller
170 Jana Wake
171 Confidential
172 Koala Action Inc
173 Dr Jon Hanger
174 Christine Parker
175 Richard McInnerney
176 Andrew Bulger
177 Confidential
178 SW and SB Larkin
179 Matthew Werner
180 Bruce Wagner
181 Tom Kennedy
182 Confidential

183 Environmental Defenders Office (QLD) Inc
184 The Wilderness Society Ltd
185 Lachlan Millar MP
186 Queensland Conservation Council
187 Queensland Farmers' Federation
188 North Queensland Miners Association Inc
189 Queensland Environmental Law Association
190 South Burnett Regional Council
191 Quilpie Shire Council
192 WWF - Australia
193 Property Rights Australia
194 RSPCA Queensland
195 Ian Wright
196 James Stinson
197 Scott & Jo Pegler
198 Coomera Conservation Group
199 AgForce Queensland
200 Queensland Law Society
201 Property Council of Australia
202 BirdLife Southern Queensland
203 Australian Marine Conservation Society
204 Growcom
205 Olkola Aboriginal Corporation
206 Scott and Jacqueline Laidler
207 Mackay Conservation Group
208 Mitchell and Camille Kemp
209 Longreach Regional Council
210 Lisa Lonsdale
211 Mary River Catchment Coordinating Committee
212 Tom Marland
213 Australian Conservation Foundation
214 Forsite Forestry
215 Shire of Flinders
216 Centre for Biodiversity and Conservation Science
217 Sabine Walther
218 North Burnett Regional Council
219 Jeffrey and Tricia Agar

220 Andrew Lawrie
221 Peter Anderson
222 Dr Bill Burrows
223 Lance and Sonia Faint
224 Elanor Bellgrove
225 Bronwyn Roberts
226 Loy Gardiner
227 Name suppressed
228 Pine Rivers Koala Care Association Inc
229 Glenda Pickersgill
230 Central Highlands Regional Resources Use Planning Cooperative
231 Paula Harrison
232 John Compagnoni
233 Confidential
234 Sandra Ryan
235 Bruce Ryan
236 Cairns and Far North Environment Centre (CAFNEC)
237 Justin MacDonnell
238 Selwyn Read
239 Wendy Perry
240 Nicholas Swadling
241 David Luke
242 Bonnie Sargood
243 John Milne
244 Neville Galloway
245 Anika Eliott
246 Cloncurry Shire Council
247 Leanne Moore
248 Rob Moore
249 Cynthia Sabag
250 Dan McDonald
251 Malcolm Dyer
252 Ineke McDowall
253 Edward Wade
254 Micah Chataway
255 Charlton Doblo
256 Jenny Bambling

257 Ian Gorrie
258 Nikki Cameron
259 Bill & Karen McLennan
260 Natalie Rasmussen
261 Sue Mitchell
262 Pip Clifford and Robert Sharplin
263 Kathleen Rule
264 Karen McGlinchey
265 Oliver Neubauer
266 John Rohde
267 Kym Maver
268 Peter Harling
269 Barry Hoare
270 Blair and Josephine Angus
271 Capricorn Conservation Council
272 Betty Inskip
273 Local Government Association Queensland
274 John Hine
275 Bruce and Samantha Cobb
276 Shane Benney
277 Michael Crisp
278 Leonard Fitzpatrick
279 Cook Shire Council
280 Urban Development Institute of Australia
281 Scott Sargood
282 Dr Leah Coutts
283 Gecko Environment Council Association Inc
284 Chris Francis
285 Institute of Public Affiars
286 Magnetic Island Nature Care Assoc
287 Jim and Jenny Elliot
288 Seqwater
289 Carl Green
290 Dr Ian Beale
291 Maranoa Regional Council
292 Libby Handley
293 Tony Lilburne

294 Brett and Sandy Southern
295 John Jago
296 Sue and Craig Hurford
297 David Astley
298 Confidential
299 Robert Titley
300 Karen Howe
301 Prue Lonergan
302 Wildcare Australia Inc
303 Greg Bennett
304 Sarah Cook
305 Sam Dart
306 Gympie Regional Council
307 North Queensland Conservation Council
308 Vicki Franklin
309 Carly Vetter
310 Laura- Lea Compagnoni
311 Wildlife Preservation Society of Queensland
312 Katter's Australia Party
313 Janenne Kornfeld
314 Confidential
315 David Wright
316 Edentech
317 Sarah Campbell
318 David Jamieson
319 Creevey Russell Lawyers
320 Leigh Smith
321 Frieda Berry- Porter
322 Martin Taylor
323 Nicole Tobin
324 Suzanne O'Sullivan
325 Northern Gulf Resource Management Group
326 E and B Finger
327 Dale Stiller
328 Michael Lyons
329 Shayan Barmand
330 Michelle Ward

331 Paul and Janeice Anderson
332 Jacqueline Curley
333 Tara Rule
334 Cooloola Coastcare Association Inc
335 Eliza Keeley
336 Mitchell Sargood
337 Jasmine Vink
338 Ross Jones
339 Shontae Moran and DJ Moran
340 Confidential
341 Amanda Salisbury
342 Desmond Bolton
343 David and Heather Morton
344 Scott Counsell
345 Richard Bucknell
346 Guy Newell
347 Roly Hughes
348 John Ashton
349 Peter McCarthy
350 Graham Clune
351 Renewable Developments Australia
352 Andrew Ferguson
353 Murweh Shire Council
354 Dale Stevenson
355 Wildcare Australia Inc.
356 Peter and Jennifer Pocock
357 Peter Creedon
358 Gail Courte
359 Teresa Allen
360 Mark and Casey Hodgson
361 Justin Lough
362 John Moore
363 Confidential
364 Ange Smith
365 John Graham
366 Leo Neill-Ballantine
367 Name supressed

368 Michele Newby
369 Veteran Tree Group Australia (Ltd)
370 Bruce Cook
371 Phillip and Janelle Otto
372 Janice Haviland
373 Robert and Kellie Caskey
374 Bradley Mifsud
375 Paul Oates
376 Daniel Black
377 Confidential
378 Jane O'Sullivan
379 Bruce Cook
380 Harry and Susan Shann
381 Confidential
382 Billy Winks
383 Peter Wippell
384 Confidential
385 Name suppressed
386 Carbine Investments Qld Pty Ltd
387 Ahern family
388 Karla Hicks
389 Andrew Hawkins
390 Greg Ashton
391 Brisbane Residents United Inc
392 Confidential
393 Miles Armstrong
394 Ken Obst
395 Allen Faggotter
396 Name suppressed
397 Central Burnett Landcare Inc.
399 Sona Trivedi-Ginn
400 Paul Murphy
401 Andrew Saal
402 Carla Archibald
403 Steve Mifsud
404 Col and Kristy Cornford
405 Lindsay and Avriel Tyson

406 Jeffrey Lloyd
407 Peter Durkin
408 Kathryn Jones
409 Adma Sargood
410 Ross and Rachel Pierce
411 Rachel Purvis
412 Matthew Roetteler
413 Helen Cox
414 Trudi Saal
415 Kim Williams
416 Diana Glynn
417 Jacob Ross
418 Yolie Price
419 Cam and Kym Macfarlane
420 Bernadette Shingles
421 Leanne Brummell
422 JJ Bridle and JM Owens
423 Jane Mason
424 Anthony Marsh
425 Confidential
426 Linda Brimblecombe
427 Richard Daniels
428 Colin Baker and Lorna Taylor-Baker
429 Alison Kempe
430 Marianne Elliott
431 Australian Veterinary Association
432 Steve Burnett
433 Stuart Barrett
434 Richard and Wendy Barlow
435 Rick Gurnett
436 Bradley Price
437 Brice Henry
438 Kathy Turner
439 Jon Hacker
440 Geoff Maynard
441 RV Pastoral Pty Ltd
442 WEC Industries

443 Confidential
444 Dyan Hughes
445 St George District Chamber of Commerce
446 Brett Blennerhassett
447 Laura Rutherford
448 Mary Boscacci
449 Phillip Crocker
450 Helen Allen
451 Eddie Shaw
452 Tablelands Regional Council
453 Aboriginal Carbon Fund
454 Dr Frank Talbot
455 Confidential
456 The Bimblebox Alliance Inc
457 James Pisaturo
458 Paroo Shire Council
459 Jim Ferguson
460 Aleisha Finger
461 Luke Ferguson
462 Donna Finger
463 CANEGROWERS
464 Burnett Inland Economic Development Organisation
465 Clive Dingle
466 Arthur D.T. Dingle
467 Jane McLean
468 Kathleen Stanyer
469 Trevor and Sharon Jonsson
470 Harry Webster
471 Jamie Walker
472 Michael and Kaylean Killen
473 Len and Jocelyn Martin
474 Julie Latham
475 Jody Murray
476 Ewen Mackay
477 Dr Jan Aldenhoven
478 Animal Justice Party Queensland
479 Bernadette Boscacci

480 Patricia Gretton
481 Confidential
482 Friends of Pooh Corner
483 D and V Jamieson
484 R and G Somerset
485 P and J Fisher
486 R and T Sevil
487 Confidential
488 EA and J Iker and Iker Family Trust
489 OW and HL Anderson
490 Sunshine Coast Environmental Council
491 Desmond Coupe
492 Rob and Sandra Cornish
493 Michelle Finger
494 Gary Bulger
495 Milena Gongora
496 Brendan McNamara
497 A and L Gardiner
498 Peter Wharley
499 Ian Lambert
500 Koala Action Group Queensland Inc
501 The Peaks Pastoral Company
502 Ecological Society of Australia
503 Paula Peeters
504 Vanessa Neale
505 Carolyn Donnelly
506 Animal Liberation Queensland
507 Jude Garlick
508 Moreton Bay Regional Council
509 James Bennett
510 Ruby Riguet
511 Gary Dunn and Frances Ford
512 DMRS Family Trust
513 Cairns Regional Council
514 Judith Bain
515 MH, DE, MBJ and GC Hawkins
516 Tina Stewart

517 Stephanie Rasche
518 Kent Morris
519 Murray and Jennifer Allan
520 Yvonne Cunningham
521 Luke and Ally Quartermaine
522 Berry Shann
523 Andrew and Carmel Walsh
524 Rhiannon Finger
525 Lionel Smith
526 Terry Randell
527 Reece Campbell and Danielle Holz
528 FJ and JM Zahl
529 Jade Ritchie
530 Heidi Harris
531 Eve Rhodes
532 Lois Levy
533 Brad Tickle
534 Les and Kellie Wilkie
535 Cotton Australia
536 Morven Progress Association Inc
537 Ron Howick
538 Confidential
539 Humane Society International
540 Catherine Hughes
541 Adam Murray
542 Lawrie Hawkins
543 Cape York Land Council Aboriginal Corporation
544 Chuulangun Aboriginal Corporation
545 Stephanie Ford
546 Bernard Anderson
547 Barcoo Shire Council
548 Kate Murphy
549 Patricia Cameron
550 Confidential
551 Ian and Annabelle Brayley
552 Emma-Lea Compagnoni
553 Lauren Finger

554 Anthony Calleja
555 Joanne Martel
556 Bev Obst
557 Ken Fry
558 Arid Lands Environment Centre Inc
559 Tim and Tina Patterson
560 Alliance to Save Hinchbrook
561 Ulan (Sam) Coxon
562 Elizabeth Ballment
563 Hugh Bridge
564 Ron, Diane and James Pullen
565 Peter Obst
566 Alexandra Brown and Bradd Witt
567 Kristen Hicks
568 Tamara Finger
569 Pat Lonergan
570 Michael and Kellie Silvester
571 Tammy Cross
572 Tim and Leesa Bongers
573 Dan Hogarth
574 Confidential
575 Bundaberg CANEGROWERS
576 Confidential
577 Jude Hicks
578 Balkanu Cape Development Corporation Pty Ltd
579 Steve Nowakowski
580 Heather Garside
581 Rachel Weston
582 Mark Collins
583 Nigel Burnett
584 Dougal Johnston
585 John Woodlock
586 Mick Shaw
587 Fred Bryant
588 Confidential
589 John te Kloot
590 Dr Anita Cosgrove and Dr April Reside

591 Kate Cormack
592 Don Perkins
593 Ted Fensom
594 Peter Barnes
595 Sam Barnes
596 Katherine O'Halloran
597 Sybille Frank
598 Bundaberg Sugar
599 James Modra
600 Confidential
601 Confidential
602 Lina and Paul Oates
603 Garry Reed
604 Kimberly Lund
605 Confidential
606 Name suppressed
607 Damien Friederichs
608 Patricia Benney
609 Deirdre Williams
610 Doug and Sue Bryant
611 Gregory Windsor
612 Jill Christensen
613 Andrew Rea
614 Queensland Murray- Darling Committee
615 Brenda Hensley
616 Les Durnsford
617 Bruce Alchin
618 Private Forestry Service Queensland Inc.
619 Far North Queensland Regional Organisation of Councils
620 Kate Campbell- Lloyd
621 Mervyn Zahl
622 Eleanor Bellgrove
623 David Crombie
624 Peta and Robert Hanna
625 Rodney Barrett
626 Alan Richardt
627 Allison Edwards

628 Luke and Sara Westaway
629 Confidential
630 Don Glasson
631 Mark O'Brien
632 Confidential
633 Paul Hodgson
634 Jed Barlow
635 Balonne Shire Council
636 Fauna Rescue Whitsunday
637 Joy Nowland
638 Angela Swan
639 Bradley and Kerryn Piggott
640 Callan and Helena Tweed
641 Dr Rowena Maguire and Dr Hope Johnson
642 Justin Tait
643 Lloyd Russell
644 Michael & Judy Treloar
645 Jennifer Ryan
646 Peter Douglas
647 Tim and Anne Agar
648 Carole Hayes
649 Corey and Naomi Back
650 Lestar Manning
651 Glenda Henry and Collin Valler
652 Flinders River Agricultural Precinct
653 Daryl and Milynda Rogers
654 Edward Bassett
655 South West Regional Economic Development (SWRED) Association
656 William Rae
657 Tony and Alison Murphy
658 Judy Cook
659 Charles Nason
660 Diane, Christian and Daniel Cormack
661 Barbara Harwood
662 University of Queensland researchers
663 David Clark
664 Name Suppressed

665 Ross McMilan
666 Joy Macumber
667 Anthony Poutsma
668 Leanne Jack
669 Sue Atkinson
670 Alexandra Moors
671 Wildlife Preservation Society of Queensland – Fraser Coast Branch
672 Ilan Ivory
673 Liz Cooper-Williams
674 Peter Clark
675 Shaun Brown
676 Mathias Rittgerott
677 Dr Elena Jeffreys
678 Genevieve Jones
679 David Kault
680 Denise Seabright
681 Joan Dillon
682 Roy Jurgensen
683 Janelle Vaughan
684 Maree Kerr
685 Richard Tighe
686 Mary Maher
687 Environment Council of Central Queensland Inc.
688 Ashley Smith, Jean Smith and Chelsea Smith
689 Confidential
690 Wendy Sheehan
691 Barbara Latham
692 Louise Hoch
693 Andy Grodecki
694 Alice Hungerford
695 Craig McDougall
696 Confidential
697 Carolyn Bock
698 Ben Turner
699 William Wilson
700 CJ Lee
701 Birds Queensland

702 Derek and Christie Goddard
703 Peter Young
704 Pam Lewington
705 Ben Drynan
706 WD and JE Purcell
707 Andrew Marr
708 Christina Shepherd
709 Paul Eddleston
710 Helen Powderly
711 Helen Mano
712 Stephen and Colleen Corbett
713 David Wilkinson
714 Lyn Schlunke
715 Peter Johnson
716 C Philips
717 Richard Ranson
718 Sue Cole
719 Zoe Bowen
720 Amanda Hook
721 I G Johnson
722 Alisa Wortley
723 Jess Bargenquast
724 Clare Mifsud
725 Geoff Wearing
726 Bernard Jean
727 Craig Moller
728 Kristy Sparrow
729 Thomas Mifsud
730 Cracow Station
731 Arthur and Vanessa Bambling
732 Alex Gardner
733 Veronica Sargood
734 Lach McMaster
735 Andrew Tilly
736 James Farquhar
737 Frederick Wheeler
738 Andrew Rowlands

739 Scott Loughnan
740 Heidi Hardisty
741 Bronwynne Barnes
742 Christine Mair
743 Daryl Dickson
744 Yasmin Shoobridge
745 Michael Gibson
746 Nathan Watts
747 William Bruce Crighton
748 Jennifer Robin Crighton
749 Belinda Thomson
750 Carmel Lumley
751 Rebecca Bidstrup
752 Ellen Bock and Kevin Blackman
753 Henk and Anika Lehmann
754 Cement Concrete and Aggregates Australia
755 Return to the Wild Inc.
756 Confidential
757 Australian Koala Foundation (AKF) and Queensland Koalas
758 Wildlife Preservation Society of Queensland – Townsville Branch
759 Beanie Mackenzie
760 One Nation Party (PHON)
761 John and Mel Bodkin
762 Tim and Vicki Bell
763 David Pitt
764 Howard Briggs
765 Nichola Hungerford
766 Deborah Bates
767 Don Compagnoni
768 Cameron Daley
769 Dr Jennifer Silcock
770 TVF Pastoral Pty Ltd
771 Paul Davis
772 Robyn Cox
773 Paul and Kylie Banks
774 Ian and Meredith Heymink
775 Jessie Scott

776 Boonah Organisation for Sustainable Shire

777 Rob Atkinson

Appendix B – Form Submissions

Form #	Submitter
Form A	EDO Queensland
Form B	WWF-Australia
Form C	Queensland Conservation Council
Form D	The Wilderness Society
Form E	Greenpeace
Form F	AgForce
Form G	Peter Spies and North Queensland landholders/business operators
From	Middlemount landholder/stationhands

Appendix C – List of witnesses at public departmental briefing

Witnesses – Public Briefing held on Monday 19 March 2018 in Brisbane

- Mr Lyall Hinrichsen, Executive Director, Land Policy, Department of Natural Resources, Mines and Energy
- Mr Peter Jamieson, Director, Land Policy, Department of Natural Resources, Mines and Energy
- Mr Peter Lazzarini, Director, Vegetation Operations Support, Department of Natural Resources, Mines and Energy

Appendix D – List of witnesses at public hearings

Witnesses – Public Hearing held on Friday 23 March 2018 in Brisbane

- Ms Revel Pointon, Law Reform Solicitor, Environmental Defenders Office Queensland
- Dr Tim Seelig, Coordinator, Queensland Conservation Council
- Mr Paul Toni, Conservation Director—Sustainable Futures, WWF-Australia
- Ms Sheila Collecott, Executive Manager, Animal Focus, RSPCA Queensland
- Ms Jessica Panegyres, National Nature Campaigner, The Wilderness Society
- Ms Gemma Plesman, Queensland Campaign Manager, The Wilderness Society
- Ms Vanda Grabowski, President/Secretary, Koala Action Inc
- Dr Jon Hanger, Wildlife Veterinarian and Ecologist
- Mr Michael Connor, Chair, Planning and Environment Law Policy Committee, Queensland Law Society
- Ms Wendy Devine, Acting Principal Policy Solicitor, Queensland Law Society
- Mr Matt Dunn, Government Relations Principal Adviser, Queensland Law Society
- Mr Michael Guerin, Chief Executive Officer, AgForce Queensland Farmers
- Mr Grant Maudsley, President, AgForce Queensland Farmers
- Mr John Te-Kloot, Chair, AgForce Vegetation Management Committee
- Mr Dan Galligan, Chief Executive Officer, Canegrowers
- Ms Rachel MacKenzie, Chief Advocate, Growcom
- Mr Travis Tobin, Chief Executive Officer, Queensland Farmers' Federation
- Associate Professor Rod Fensham, School of Biological Sciences, University of Queensland
- Dr Hugh Finn, Lecturer, Curtin University
- Dr Don Butler, Science Leader, Queensland Herbarium
- Mr Dave Harris, Principal Scientist, Remote Sensing Centre
- Dr John Neldner, Acting Director, Queensland Herbarium
- Mr Dan Tindall, Acting Science Leader, Remote Sensing Centre
- Mr Lyall Hinrichsen, Executive Director, Land Policy, Department of Natural Resources, Mines and Energy
- Mr Peter Jamieson, Director, Land Policy, Department of Natural Resources, Mines and Energy
- Mr Peter Lazzarini, Director, Vegetation Operations Support, Department of Natural Resources, Mines and Energy

Witnesses – Public Hearing held on Tuesday 27 March 2018 in Gracemere

- Ms Joanne Rea, Chair, Property Rights Australia
- Mr Robert Radel, Councillor, North Burnett Regional Council
- Dr Bill Burrows, Private capacity
- Mr Peter Anderson, Private capacity
- Mr Blair Angus, Private capacity
- Ms Elisha Parker, Private capacity
- Ms Amanda Salisbury, Private capacity
- Mr Malcolm Dyer, Private capacity
- Mr Neil Farmer, Private capacity
- Mr Barry Hoare, Private capacity
- Mr Andrew Lawrie, Private capacity
- Mr Richard Moffat Private capacity
- Ms Victoria Moffat, Private capacity
- Mr Murray Gibson, Private capacity
- Mr Bruce Ryan, Private capacity
- Mr Ross Smith, Private capacity
-

Witnesses – Public Hearing held on Tuesday, 27 March 2018 in Townsville

- Ms Wendy Tubman, President, North Queensland Conservation Council
- Mr Gethin Morgan, President, Magnetic Island Nature Care Association
- Ms Kylie Stretton, Private capacity
- Mr Des Bolton, Private capacity
- Ms Liz Downes, Townsville Branch, Wildlife Queensland
- Mr Bristow Hughes, Private capacity
- Ms Rebecca Smith, Spokesperson, Townsville and Region Environment Foundation
-

Witnesses – Public Hearing held on Wednesday, 28 March 2018 in Cloncurry

- Cr Gregory Campbell, Mayor, Cloncurry Shire Council
- Cr Jane McNamara, Mayor, Flinders Shire Council
- Ms Anne Alison, Rangelands Officer, Southern Gulf Natural Resource Management
- Mr Vol Norris, North West Regional Manager, AgForce
- Mr Michael Crisp, Private capacity
- Mr Lloyd Hick, Private capacity
- Mr Russell Pearson, Private capacity

Witnesses – Public Hearing held on Thursday 29 March 2018 in Longreach

- Cr Rob Chandler, Mayor, Barcaldine Regional Council
- Mr Paul Hockings, Director of Corporate Services and Deputy CEO, Longreach Regional Council
- Cr Leonie Nunn, Deputy Mayor, Longreach Regional Council
- Cr Mike Pratt, Deputy Mayor, Barcoo Shire Council
- Cr Trevor Smith, Councillor, Longreach Regional Council
- Mr Dominic Burden, Chair, Desert Channels Queensland Board
- Mr Malcolm McClymont, Private capacity
- Mr Paul McClymont, Private capacity
- Mr David Morton, Private capacity
- Ms Robyn Simmons, Private capacity
- Mr John Chandler, private capacity
- Mr Bruce Currie, private capacity
- Ms Elisha Parker, private capacity
- Mr Peter Whip, private capacity
-

Witnesses – Public Hearing held on Thursday, 29 March 2018 in Charleville

- Ms Robyn Bryant, Private capacity
- Mr Pat Fraser, Charleville and Western Areas Aboriginal And Torres Strait Islander Community Health Ltd
- Cr Annie Liston, Mayor, Murweh Shire Council
- Mr Campbell McPhee, Western Meat Exporters Pty Ltd
- Mr Scott Sargood, Private capacity
- Mr Cameron Tickell, Private capacity
- Dr Ian Beale, Private capacity
- Mr Peter Joliffe, Private capacity
- Ms Lisa Lonsdale, Private capacity
- Mr Rob Moore, Private capacity
- Mr Guy Newell, Private capacity
- Mr Richard Bucknell, Private capacity
- Ms Vicki Franklin, Private capacity
- Mr Dan McDonald, Private capacity
- Mr Dan Radel, Private capacity
- Mr Donald Williams, Private capacity
- Mrs Deidre Williams, Private capacity

Witnesses – Public Hearing held on Thursday, 12 April 2018 in Brisbane and via videoconference (Bundaberg)

- Mr Scott Dunlop, Private capacity (via videoconference)
- Mr Peter McNaughton, Coalstoun Lakes Development Group (via videoconference)
- Mr David Rolfe, Central Burnett Landcare Inc (via videoconference)
- Mr Paul Slack, AgForce, Central Burnett (via videoconference)
- Mr Peter Sheedy, Manager, Canegrowers, Herbert River
- Mr Hugh Killen, Chief Executive Officer, Australian Agricultural Company Limited
- Dr Leonie Seabrook, Honorary Research Fellow, School of Earth and Environmental Sciences, University of Queensland
- Dr Jennifer Silcock, Postdoctoral Research Fellow, Centre for Biodiversity and Conservation Science, University of Queensland
- Dr April Reside, Postdoctoral Research Fellow, Centre for Biodiversity and Conservation Science, University of Queensland
- Mr Ted Fensom, President, Wildlife Logan
- Mr Sean Ryan, Executive Officer, Private Forestry Service Queensland
- Ms Teresa Allen, Private Capacity
- Mr Edward Wade, Private Capacity
- Mr Bruce Wagner, Private Capacity
-

Witnesses – Public Hearing held on Friday, 13 April 2018 in Cairns

- Ms Cathy Johnson, Manager, Biosecurity Services, Cook Shire Council
- Mr Travis Sydes, Coordinator, Natural Assets and Sustainability, Far North Queensland Regional Organisation of Councils
- Ms Darlene Irvine, Executive Officer, Far North Queensland Regional Organisation of Councils
- Mr Robert Frazer, Chuulangun Aboriginal Corporation
- Mr Shannon Burns, Policy Officer, Cape York Land Council Aboriginal Corporation
- Mr Harold Ludwick, Traditional Owner
- Mr Alan Creek, Chairman, Cape York Land Council
- Mr Gerhardt Pearson, Executive Officer, Balkanu Cape York Development Corporation
- Mr Terry Piper, Chief Operating Officer, Balkanu Cape York Development Corporation
- Dr Jon Brodie, Professorial Fellow, ARC Centre of Excellence for Coral Reef Studies, James Cook University
- Ms Yvonne Cunningham, Member, Cassowary Coast Alliance
- Mr Brynn Mathews, Treasurer, Management Committee, Environmental Defender's Office, North Queensland
- Ms Roz Walden, Director, Cairns and Far North Environment Centre
- Ms Kirstiana Ward, Principal Solicitor, Environmental Defender's Office, North Queensland

- Mr Stephen Calcagno, Chair, Canegrowers Cairns Region
- Ms Tahna Jackson, Regional Manager, AgForce North Queensland
- Mr Joe Moro, President, Mareeba District Fruit and Vegetable Growers Association
- Mr Alex Lindsay, Director, Forsite Forestry
- Mr Anthony Calleja, Private capacity
- Mrs Ally Quartermaine, Private capacity
- Mr Luke Quartermaine, Private capacity
- Ms Cynthia Sabag, Private capacity
- Mr Peter Spies, Private capacity
- Ms Nicole Tobin, Private capacity
- Mr Steven Van Ballegooyen, Private capacity
- Ms Karin Campbell, Private capacity
- Mr Justin MacDonnell, Private capacity
- Mr Paul Jon Rossi, Private capacity
- Mr Louis Peter Rossi, Private capacity

Appendix E – Comparative table of previous and proposed offence provisions

One penalty unit equals $126.15.

Clause	Amendment	Previous penalty	Proposed penalty	Comment
		Vegetation Management Act 1999		
19	Amendment of s 28 (Failure to return identity card)	10 penalty units	50 penalty units	Explanatory notes state: Aligns with penalties issued under other natural resource Acts, such as the Water Act
22	Amendment of s 37 (Failure to help authorised officer)	50 penalty units	200 penalty units	Explanatory notes state: Aligns with penalties issued under other natural resource Acts, such as the Water Act
23	Amendment of s 38 (Failure to give information)	50 penalty units	200 penalty units	Explanatory notes state: Aligns with penalties issued under other natural resource Acts, such as the Water Act
25	Amendment of s 51 (Power to require information)	50 penalty units	200 penalty units	Explanatory notes state: Aligns with penalties issued under other natural resource Acts, such as the Water Act
26	Amendment of s 53 (Failure to certify copy of document)	50 penalty units	200 penalty units	Explanatory notes state: Aligns with penalties issued under other natural resource Acts, such as the Water Act
27	Amendment of s 54 (failure to produce document)	50 penalty units	200 penalty units	Explanatory notes state: Aligns with penalties issued under other natural resource Acts, such as the Water Act
28	Amendment of s 54A (Stop work notice)	1665 penalty units	4500 penalty units	1.7x increase Explanatory notes state: provides appropriate level of deterrence and aligns with the VMA
29	Amendment of s 54B (Restoration notice)	1665 penalty units	4500 penalty units	1.7x increase Explanatory notes state: provides appropriate level of deterrence and aligns with the VMA and Planning Act
30	Amendment of s 58 (False or misleading statements)	50 penalty units	500 penalty units	10x increase Explanatory notes state: creates a more appropriate level of deterrence and aligns with VMA
31	Amendment of s 59 (False or misleading documents)	50 penalty units	500 penalty units	10x increase Explanatory notes state: creates appropriate deterrence and aligns with the VMA and other Queensland natural resources legislation (e.g. Water Act)
32	Amendment of s 59A (Impersonation of authorised officer)	50 penalty units	200 penalty units	Explanatory notes state: creates appropriate deterrence and aligns with the VMA and other Queensland natural resources legislation (e.g. Water Act)
33	Amendment of s 60 (Obstructing an authorised officer)	100 penalty units	500 penalty units	Explanatory notes state: creates appropriate deterrence and aligns with the VMA and other Queensland natural resources legislation (e.g. Water Act)

35	New section 68CI (Contravention of enforceable undertaking)		Wilful offence - 6250 penalty units Otherwise - 4500 penalty units	Explanatory notes state: Maximum penalty units are reflective of the offence being an aggravation of the original non-compliance of the substantive offence
Water Act 2000				
55	Amendment of s 814 (Excavating or placing fill without permit)	1665 penalty units	1665 penalty units	No change to penalties. The clause adds to the activities that are prohibited, but does not change the penalty.

Appendix F – Dissenting Report

Vegetation Management and Other Legislation Amendment Bill 2018

Dissenting Report

The non-government members of the State Development, Natural Resources and Agricultural Industry Development Committee submit this dissenting report to outline the reasons that we oppose the Vegetation Management and Other Legislation Amendment Bill 2018.

The first observation that we would make was the limited timeframe for the reporting of this bill. The bill was introduced into the house on the 8th of March 2018 with the report to be tabled on the 23rd of April 2018.

This was despite the fact that the Easter holiday period and the Commonwealth Games, coupled with some major flooding in the north was taking place during this period.

Despite these events a request for an extension of time was rejected.

The significance of this proposed legislation on the agricultural industry was deserving of a much more wholesome engagement, and many submitters expressed their anger and disappointment at this constrained timeframe, both online and at the public hearings across the state.

The next issue we would like to address was the lack of consultation with the industry groups and landowners most affected. This was raised at a number of the hearings.

TOBIN, Mr Travis, Chief Executive Officer, Queensland Farmers' Federation
Disappointingly, the government did not consult with the agricultural sector and key stakeholders before the 2016 bill was introduced and nor has it done so before tabling the 2018 bill we are here to discuss today. Considering the significant issue vegetation management is for the sector, this is not only disappointing but also concerning. Specific concerns with the 2018 bill include removal of clearing provisions for HVA and IHVA; extending category R again to include regrowth, vegetation, watercourse and drainage feature areas; impact on land values by increasing the land type of which high-value regrowth is regulated; that existing prime agricultural land is currently not being protected adequately; the knowledge gaps that currently exist which are not enabling a transparent, evidence based policy formulation; and the perverse outcomes that will undoubtedly result from the bill being passed in its current form.
The reasoning for these concerns are detailed in our submission. As it currently stands, we do not consider that the bill will deliver a fair, transparent and stable regulatory framework that balances the needs of the environment with the legitimate business interests of Queensland's intensive farmers and the prosperity of the state as a whole.
In terms of irrigated high-value agriculture, which is what we were talking about before, across all agriculture only 5,608 hectares has been approved to be cleared since that was brought in. To put that in context, as a percentage of the total land used for agriculture, that is .0039 of one per cent.

GALLIGAN, Mr Dan, Chief Executive Officer, Canegrowers
We support absolutely, as we have said in our submission, the position put by the Queensland Farmers' Federation and reflect again on the fact that, although we do not agree with reef regulations, at least the government has continued to consult on that matter. There has been no consultation on this matter. We have referred quite pointedly to the issues in our submission that, again, the QFF has amplified, particularly around the impact of irrigated high-value agriculture and the application process for high-value agriculture.

Ms Joanne Rea, Chair of Property Rights Australia responded to a question at the Rockhampton hearing:

Mr WEIR: You have just given a good outline of what Property Rights Australia does. With that breadth of knowledge and experience, were you consulted in any way in the drawing up of this legislation?
Ms Rea: Absolutely none.
Mr WEIR: Is that surprising?
Ms Rea: I find it disturbing but not surprising

Councillor Mike Pratt, Barcoo Shire Council:

Mr Pratt: I am on the Desert Channels board as well. None of the NRM groups were consulted before all of this was put in place. Surely the NRM groups should have had some input here and they were not consulted

Ms Darlene Irvine, Far North Queensland Regional Organisation of Councils:

Ms Irvine: We are again disappointed that the consultation period was so short that many councils were unable to consider the impacts and make an informed submission through their councils. We are also disappointed that again there are no regulations to read in partnership with the bill, especially as the state has had two years to develop them and this was an issue last time.

Many submitters raised issues regarding the accuracy of the mapping particularly around the issue of regrowth.
AgForce suggested that the mapping should have been subject of a review before any amendments to the legislation.

Grant Maudsley, President of AgForce:
The Queensland government claims these laws are backed by science. The science is only looking at half the picture. The Queensland government has been happily using satellite imagery for years to measure vegetation clearing rates under the SLATS study, which you will all be aware of by now, but they do not and never have measured how much vegetation in Queensland has grown at the same time. AgForce is requesting a 12-month review of the SLATS data and thickening statistics by independent scientists to create a balanced understanding of both production and ecological values in our landscapes.
I was dealing with a member whose electorate is close to Brisbane yesterday where the new category C has picked up what has been mapped as hooped pine but it is actually black wattle. That is a completely debilitating woody weed under anyone's definition of what a woody weed is. It does not matter how green you are, you would see it as a weed. It is just completely incorrectly mapped. There a lot of these mapping errors going on which completely stifles people. The process for changing the maps is really, really problematic when it is that badly wrong.

Mr Guerin: We have here a large number of examples where mapping has been fundamentally flawed and provided exactly the wrong outcome. The updated map and the satellite image of the same property at the same time shows completely different outcomes. I have a large number of examples here.

Mr Vol Norris at Cloncurry:

I wanted to also draw your attention to the fact that the data that the legislation is based on are incomplete and inaccurate. The Statewide Landcover and Trees Study—or SLATS data—shows tree losses but not the tree gains. The Queensland government has not recognised that. You are already starting off with an inaccurate dataset. The mapping of high-value regrowth is still not right. The nomination of 15 years as the age at which regrowth becomes high value is just totally arbitrary. Blanket mapping of high-value regrowth based totally on vegetation age regardless of species, soil type, ecosystem type, climate or location is just an ecological dream world. It is a clumsy, cheap and, I might say, lazy short cut with no recognition of the need for real, reliable data on the ground that says, 'This is what the vegetation is here and this is when regrowth becomes available in this area.' It says that vegetation behaviour in North Queensland tropical rainforest is the same as it is in south-west Queensland gidgee lands, which is just crazy. That leaves the Mitchell grass downs to the grazier, with half their property covered by gidgee encroachment with no grass under it and twice the soil erosion. It is just complete nonsense. It should not be the basis on which these decisions are made.

At Longreach:

Ms Parker: I have two brief points on that. I think, yes, what we have talked about time and time again is that the satellite imagery can be wrong. It has been wrong on our property. We have had parkinsonia, which is a Weed of National Significance, being incorrectly mapped and at the end of the day the cost of ground-truthing this and fixing the mapping comes at the cost of the landholder.

Mr Whip: One of the big issues I have is that the SLATS data is also picking up encroachment and thinning. When you pull up the SLATS data it is pulling up encroachment and thinning as remnant clearing. That is completely wrong.

At the public hearing in Brisbane the committee put questions to both the Queensland Herbarium and the principal scientist's from the Remote Sensing Centre who are responsible for the Statewide Landcover and Trees Study or SLATS as it is more commonly known.

These answers were deeply concerning and called into question the data that the government is using to justify this legislation.

Mr Dan Tindall, Acting Science Leader, Remote Sensing Centre stated in reply to a question regarding regrowth mapping:

Mr Tindall: I think it is a valid criticism. The SLATS program has only ever really had a mandate to map clearing up until this point. The government is committed now and we are looking at addressing this in the near future. I must admit that the mapping of regrowth is a very difficult thing to do. The way that we map clearing with the satellite imagery, there are indices and things like that that help us find those detections. Regrowth is a much more subtle beast in terms of the nuances of it changing over time, as Dr Neldner referred to, in terms of thickening and those sorts of processes. We are starting to think about how we address that and also how we address mapping of woody extent in the state so that we can tell the complete picture.

Mr MILLAR: Could we possibly see an increase in vegetation—more trees grown in Queensland—once this technology is hopefully adopted? Is the position that we might see an increase in trees rather than a decrease?

Mr Tindall: The possibility exists. Until we get a better handle on the amount of regrowth that has occurred and how that balances out with the clearing that has occurred over the years, acknowledging that our monitoring of clearing only goes back so far, the possibility exists, yes. I would not be able to say one way or the other until we can stand here hand on heart with confidence in our regrowth figures in the same way that we do with our clearing figures.

In response to a question regarding woody weeds:

Mr WEIR: I was wondering about weeds such as lantana and prickly acacia. Can you differentiate between those? Obviously there is a lot of clearing of that going on—which we applaud.
Mr Tindall: In terms of SLATS maps, it is non-discriminate in a sense. It is all woody vegetation in the state. In terms of whether we can detect them and separate them, we have done some research on that in the past with our colleagues in Biosecurity Queensland. In some cases, yes, we can do it really well; in some cases, no. Having said that, we did some of that work some years ago and we now have a range of new satellite sensors and technologies at our fingertips. It is just about getting the time and some resources to look into that.

AgForce and other agricultural advocacy groups had considerable concerns with the ability of the state's mapping to accurately track regrowth rates. These inconsistencies were central to their concerns around basing new laws on incomplete data and science.
The proposed changes to thinning also were the cause of much concern.

Dr Bill Burrows, Former principal scientist, Department of Agriculture and Fisheries stated at the Rockhampton hearing:

However, the thinning code, which was released on 8 March, then goes on to approve very limited thinning options. These codes more or less ensure that it will not pay to thin thickening grazed woodlands based on eucalypt tree cover, pasture production relationship curves and economic analyses of them. These have been done. One may well ask whether the bill's advisers on eucalypt thinning were ignorant of DAF's long-term clearing/thinning experiments in the grazed woodlands, which is a distinct possibility, or more deviously have deliberately set up guidelines designed to fail However, the thinning code, which was released on 8 March, then goes on to approve very limited thinning options. These codes more or less ensure that it will not pay to thin thickening grazed woodlands based on eucalypt tree cover, pasture production relationship curves and economic analyses of them. These have been done. One may well ask whether the bill's advisers on eucalypt thinning were ignorant of DAF's long-term clearing/thinning experiments in the grazed woodlands, which is a distinct possibility, or more deviously have deliberately set up guidelines designed to fail However, the thinning code, which was released on 8 March, then goes on to approve very limited thinning options. These codes more or less ensure that it will not pay to thin thickening grazed woodlands based on eucalypt tree cover, pasture production relationship curves and economic analyses of them. These have been done. One may well ask whether the bill's advisers on eucalypt thinning were ignorant of DAF's long-term clearing/thinning experiments in the grazed woodlands, which is a distinct possibility, or more deviously have deliberately set up guidelines designed to fail However, the thinning code, which was released on 8 March, then goes on to approve very limited thinning options. These codes more or less ensure that it will not pay to thin thickening grazed woodlands based on eucalypt tree cover, pasture production relationship curves and economic analyses of them. These have been done. One may well ask whether the bill's advisers on eucalypt thinning were ignorant of DAF's long-term clearing/thinning experiments in the grazed woodlands, which is a distinct possibility, or more deviously have deliberately set up guidelines designed to fail. Rural landholders deserve better, but it is obvious from the contents of this amendment bill that its framers have swallowed its one-sided advocacy and groupthink hook, line and sinker.

Councillor Pratt stated at Longreach:

Appropriate thinning and managing grazing pressure will restore the required grass-tree-living organism balance evident prior to thickening. Thickening and encroachment of gidgee along watercourses is also a problem, choking out established coolabah, sandalwood, lignum and native grasses and herbages. This degradation leads to increased erosion, rapid stream flows causing bank destabilisation, increased sediment flow, the deposit of silt along the waterways and diminishing water quality.
Our next concern is that the maximum area to be treated is only 400 hectares per lot. Given the rural lands within the Barcoo Shire have a safe carrying capacity of one dry sheep equivalent to five hectares, a viable livestock business area equates to 50,000 hectares. By limiting thinning to 400 hectares, many landholders would not even get out of the horse paddock. Admittedly, one can apply for a development application to increase this limit. However, this would delay further management of the thickening for up to two years, as past evidence has shown.

Mr Whip: One is the five-metre rule for thinning. That might be really applicable, say, in the Central Highlands or in the rainforest or something like that, but with gidgee, and we have heard it talked about, that 4.3.8 gidgee on alluvial plains, basically, if you leave a five-metre buffer around a mature gidgee tree, from the photos you have seen how thick it gets, you are guaranteeing that you will kill that tree in about 10 years. That mature tree will be killed by that encroaching gidgee. To leave that five-metre buffer is actually completely counterintuitive to what you are trying to achieve in this sort of ecosystem. I am not saying that is across the board, but for gidgee in alluvials definitely that is a serious issue; that five-metre rule will actually be completely counterintuitive to what we all want to achieve there.

This problem was also highlighted at Charleville:

Mr Tickell: I have a cattle property in the mulga lands 30 kilometres west of Charleville. I also have an earthmoving business that operates solely on vegetation management.
I would now like to outline why thinning under proposed state code 16 is totally not feasible. Under the proposed legislation, in state code 16 a landholder is required to leave every remnant tree. A remnant mulga tree is classified as a tree with a diameter of 20 centimetres—not a big tree—measured at a level of 1.3 metres off the ground. Given the right conditions, it does not take very long for a tree to attain this size.
Mulga trees are not very large trees and they grow quite close together. Therefore, you mechanically manage thickening in these areas. There is a five-metre buffer zone around every tree. To initially get through the big trees, you have to stay five metres from that one and five metres from that one. The earthmoving machinery that we use is seven to eight metres in diameter. As we go through, it is physically impossible to clear the undergrowth and the thickened vegetation around these remnant trees—so-called remnant trees.
In addition to the already four rules in state code 16, we read on to find that landholders can thin only 400 hectares, or 10 per cent of their category B country, whichever is the lesser. Thinning an area of 400 hectares of a typical 10,000-hectare property will not have an impact on the thickened vegetation in that region. The DA application for this minuscule 400 hectares of thinning will cost the landholder $3,000 per application.

The intention under this legislation to subject every applicant wishing to control thickening vegetation to apply for a development approval under the Department of State Development only adds further complexity and uncertainty to this process.

In Townsville:

Mr WEIR: We heard a somewhat similar comment today at Rockhampton. One landowner said that he thought they would have to employ consultants to go through that process. A lot of landowners would not be able to get through that process unaided. You said that you have been through that process. What are your thoughts?
Mr Bolton: That is correct. There is no way in the world that a small family farming community would be able to go through that process without hiring a major consultant group. You just cannot do it. That is what consultants do; that is what they are designed for.

The process around applying for a DA to manage watercourses also raised a lot of concern.

Ms Ann Alison, Southern Gulf NRM:

The other thing that I wanted to draw your attention to was wooded stream buffers in the reef catchments. That is just another example of what might have started off as an idea worth thinking about but has become another blunt instrument based on more—and I do not want to be offensive—lazy assumptions and inadequate science. It has been known for decades that it is ground cover—it is grass on the ground—which limits overland flow and slows down run-off, increases filtration and catches sediment. such complex matters, and we feel that it is essential to have a regionally based vegetation management officer who would be able to meet face to face with graziers to pore over the

maps and guidelines in the whole process when people are trying to decide whether they can or cannot conduct any activities

Ms Parker: I think the introduction of the extra catchments to be affected with the 50-metre regrowth control along watercourses is not only going to not achieve its purposes, it is going to increase erosion. There are changes to the codes. The fodder code has been abolished; there is an interim code in place. The new code is apparently going to be done in consultation with stakeholders, which I would probably suggest is going to be the CSIRO and the Queensland Herbarium not us sitting here today so we cannot comment on that anyway. The removal of the thinning code, whilst it is going to be introduced with some new restrictions which are definitely not good, it is simply really making that process a harder administrative process and we have to apply for a development application rather than doing it under the self-assessable code.
Mr Newell: Unfortunately, the thinning code is no longer. If you want to keep thinning, it may be relegated to a developmental application process. This process, as we heard earlier, will cost an initial fee of $3,130. Not only that; you will probably also need quite a bit of help from a consultant because you will need to demonstrate that thickening has actually occurred. This is another new requirement and that is going to cost us many more thousands of dollars.

In response to these concerns, bearing in mind that any applications for High Value Agriculture or High Value Irrigated Agriculture must now go through the same process. Mr Lyall Hinrichsen, Executive Director, Land Policy, Department of Natural Resources, Mines and Energy did not give a lot of comfort to the probable outcomes.

Mr Hinrichsen: As I think we mentioned on Monday, the process of actually dealing with those DAs is administered by the planning section within the Department of State Development, Manufacturing, Infrastructure and Planning. We do work very closely with them. We would be looking at making sure that there were fit-for-purpose guidance materials available to landholders who were seeking to obtain those approvals. It is very much about it being fit for purpose.
We would envisage that a very minor proposal would be something for which you would not be requiring, say, a consultant's report or detailed technical assessments. Obviously, if you get into some of the more extensive proposals that might be within the scope of the DA then naturally one would be expecting there to be a greater level of technical underpinning for that application.
We certainly see that by removing the accepted development code for thinning it will mean that landholders with a legitimate need to undertake those activities will be required to go through a DA process. We want to make sure that they have the appropriate guidance materials to assist them with making their applications.
There will also be some prerequisites. We do not want landholders to think that it is an automatic process—that is, if they make an application they will receive approval to undertake thinning. There needs to be demonstrated evidence of thickening. If landholders do not have that evidence, if there has not in fact been thickening, then we would obviously prefer that they do not spend time and money on making an application that effectively is doomed to failed. We will provide that information up-front as to what information they will need to provide as part of that process for it to be successful.

The constraints around HVA and HVIA angered many landowners who would like to have a simplified approval process.

Ms Bryant: There have been high-value agriculture applications in the Maranoa region that I am aware of and they have been knocked back. Absolutely there is an opportunity in this area. There are small pockets of high-value agriculture that could be developed on properties given the opportunity to do it.
Mr WEIR: Are you indicating that the process for high-value agriculture is too difficult as it stands let alone making it more difficult?
Ms Bryant: Absolutely it is. I know of at least one producer who spent a bit over $30,000 on an application for high-value agriculture on a very small area and it was knocked back. He got to a point where it became too difficult and it was costing too much money. It was not worth it given what it was going to achieve at the end of day. The process is far too difficult as it is. Any more red tape around it

will make it impossible for that future development. That will then take away the opportunity for the industry to grow

Ms Simmons: It means instead of being able to drought proof our property, we would be looking for government handouts in a drought, which is exactly what we are trying not to do. By doing that, we can grow forage sorghum, we can cut it as hay, we can put it in the shed and save it for a later date. As all farmers know, no matter how well you plan and you manage your property, the one thing you can guarantee is a drought. If we can continue to develop high-value agriculture, not only will it help the bottom line of the Queensland government with us calling for help; it helps us, it helps the economy and it stops starving cattle dying. There is nothing worse than going out and shooting dying cows. It is vital. There are limited resources and there is a small percentage of agricultural areas that have suitable terrain and soil. We need to be able to develop those if we can.

Mr Moro: The Mareeba District Fruit and Vegetable Growers Association supports strongly the Growcom submission. The Tablelands is regarded as the fruit bowl of Northern Australia and this legislation puts its further expansion under threat. We strongly support the farmers who, over the last period of applications that have been done under the previous legislation, which is about half of the Tablelands, have been able to clear small portions of their land to remain viable going forward. The legislation puts at threat the clearing of some of those small parcels of land within the Tablelands to allow those farmers in the horticultural industry to expand and remain viable within the properties they currently own.

Mr Calcagno: As I said at the start, I am the Chair of the Cairns region Canegrowers. I am also a grower, most importantly. The Cairns region Canegrowers supports the submission of the Queensland Canegrowers organisation, but specifically I would like to talk about our area and how it would impact our area.
The first major concern we have as growers is the removal of high-value agriculture land. Our members farm from the Barron River down to the North Johnstone bridge. That is who I represent. We are under urban encroachment from around Cairns. That is urban encroachment with infrastructure going in. As you would know, in the next few years highways leading into the city are going in. There is even state development area land on the south side of Cairns, which encroaches on our production. We are also worried about the high-value agriculture land part with regards to MSF Sugar, which is who we supply. We have concerns that this legislation could dampen their enthusiasm. They have committed to an $80 million investment up at the Tablelands mill to put in a generation plant that will be supplying green energy to the grid. Like I say, it is an $80 million investment that they have committed to. Right now, 150 workers are onsite building that clean energy factory. At full capacity, that green energy factory will power 28,000 homes across the Tablelands region. As well as that, the factory has imported at least 100,000 agave plants as another feedstock for the industry. For other Tablelands growers, be it horticultural or whatever, that could be another income from parts of their farm. That is on the board and that will go on this year.

Ms MacKenzie: I have one quick point. Horticultural enterprises can be extremely small. You can have a 1.5 hectare mushroom farm that generates $6 million a year at farm gate. By having these buffer zones that are not able to be counteracted using other mechanisms, you can effectively halve the production area of a small horticulture enterprise that is high value.

Committee member Mr Brent Mickelberg, MP, has pursued the lack of any economic modelling.

Failure to Consider Economic, Productive and Social Impact

The non-government members of the Committee are concerned that the Bill fails to consider what impact the proposed legislation will have on agricultural production. It is clear that the policy objective of the Bill is to limit the clearing of remnant vegetation for agricultural purposes; however little to no consideration has been given to the second order effects that will likely mean that Queensland farmers and graziers are unable to meet the food and fibre demands of the future. Furthermore, the social and financial effects more broadly on small rural communities must be considered.

Such a lack of consideration is evidenced in testimony by officers from the Department of Natural Resources, Mines and Energy received at hearing on 19 March 2018:

> **Mr. MICKELBERG:** *Has the department undertaken any modelling in relation to the effect the proposed legislation will have on agricultural production across the state in the future?*
>
> **Mr. Hinrichsen:** *No.*
>
> **Mr. MICKELBERG:** *Does the department intend to?*
>
> **Mr. Hinrichsen:** *No.*

The failure to consider the effect this legislation will have on agricultural production and as a consequence on rural communities, is disgraceful and is illustrative of the fact that this legislation is informed purely by a desire to satisfy the environmental lobby, who seek to stop the clearing of vegetation regardless of the social and economic loss.

A more considered approach is articulated in the submission received from AgForce Queensland Farmers and in verbal testimony received by Mr. Grant Maudsley, President of AgForce Queensland Farmers on 23 March 2018:

> **Mr. Maudsley:** *We all live in modified landscapes out there. Fire has been removed, livestock has been introduced. We need to get a better understanding of why we do what we do and stop talking about ecological values alone. We can have win-win if we think about this properly. Rather than being 100 percent focussed on ecology the whole time, we have to do both. We have to grow food for this state and we have to look after the environment. We accept that and we are proud to do that.*

The Committee heard considerable evidence that this Bill will inhibit the ability to grow agricultural production and that in some cases production will decline due to farmers and graziers being unable to effectively manage their land and production systems.

During the hearings held on 12 April 2018, the Committee received testimony from Mr. Scott Dunlop, a 4th generation grazier from the Proston district who articulated his concerns with regard to the potential economic and social impacts of the Bill.

> **Mr. Dunlop:** *Has the Government done production modelling? We all talk about the work of our country and the rest of the world needing to be fed, housed and clothed. These laws are going to reduce the amount of production that our country can contribute to that.*

I think that economic modelling is extremely important. I do not think it has been considered at all how this is going to affect individual operations, which in turn is going to affect all communities. This legislation is going to cause a significant downturn in employment and the death of rural communities. Our banks require modelling and budgets from us as business owners, but has the Government prepared modelling and budgets to ascertain the extent the negative effects on primary producers, businesses and the subsequent fallout to the communities in which they live?

Mr. Dunlop gave further testimony to this effect when later questioned:

Mr. MICKELBERG: *In the regions that your operate in, do you think this legislation will either increase production, keep it the same or decrease production?*

Mr. Dunlop: *Decrease significantly, and more so over time. The decrease will become exponential.*

The Committee heard specific examples of the impact that this legislation will have on different industries and agricultural operations. An example was the testimony received by Mr. Hugh Killen, Chief Executive Officer of Australian Agricultural Company (AACo), which is Australia's largest integrated cattle and beef producer, and is the oldest continuously operating company in Australia. AACo operates on approximately 2.4 million hectares of land across Queensland and Mr. Killen testified that his business was focussed on ensuring that their business is financially and environmentally sustainable over the long term.

Mr. MICKELBERG: *Mr. Killen, you spoke of your desire to work with government to drive sustainable outcomes for all stakeholders. I also note your significant investment in the Gulf region through the water tender process. Firstly, was your business consulted in developing this legislation? Secondly, given that you are one of the largest landholders in Australia and in Queensland, I am interested to hear your thoughts in relation to the effect that the proposed legislation will have on your ability to grow agricultural production in Queensland?*

Mr. Killen: *From our perspective, the answer to the first part of your question is that we were not consulted on the new legislation. Our stance is that the current HVA and IHVA regime is fit for purpose. For our decision- making process, what we are after is consistency in changes in legislation. We would be proponents of keeping it as it is and modifying it as required, if that makes sense.*

Mr. MICKELBERG: *Yes, it does. The second part to my question was with respect to the effect this legislation will have on the ability of your business to grow agricultural production.*

> **Mr. Killen:** *As you said, we operate about 2.4 million hectares of country in Queensland across 10 of our own properties and a number of properties on lease. We use other people's land as well. As we think about deploying capital, it is a big amount of money. Anything that changes seriously makes us consider how we make investments. If this were to change, we would have to consider further development in regions such as the Gulf.*

This Bill does not provide a workable solution which would allow farmers and graziers the ability to develop land to make it more productive. The proposed Development Approval process will jeopardise existing investment proposals, such as the development described by Mr. Killen.

Prior to the introduction of this Bill, the principal means that agricultural development was achieved was through the HVA and IHVA provisions, which provided scope to diversify production and manage risks for producers. Despite Government's previously articulated desire to develop additional agricultural production in under developed regions like the Gulf and Peninsular, this Bill will mean that such developments do not occur and as a result as a State we will be less equipped to meet the challenge and opportunity of feeding a growing population.

Specific concerns were noted in relation to the impact that this Bill will have on horticulture. The Committee heard evidence of the considerable economic and social benefits that arise out of a vibrant and sustainable horticulture sector; however, evidence was also received suggesting that constraints on availability of suitable cropping land are a threat to the viability of the industry. This was illustrated in the submission from Ms. Rachel MacKenzie of Growcom:

> **Ms. MacKenzie:** *Horticulture is extremely high value. Every hectare under horticulture provides a large number of jobs and an extremely high return on that particular land. Of note, because of our proximity to urban centres – because we tend to be on the coast and close to markets – we have lost something like 5,700 hectares of land per year to urbanisation since 1999. Since the introduction of this Bill in 2013, under high-value and irrigated high-value agricultural land provisions, 56 hectares of land has been cleared for horticulture per year. We are seeing an absolute squeezing of our industry.*
>
> *As we know, fruit and vegetables are fairly important to everybody's nutrition. If every Australian were to eat the recommended two and five serves of fruit and vegetables every day, we do not grow enough fruit and vegetables in this country to provide that. Ninety-six percent of all fresh fruit and vegetables consumed in Australia is grown in Australia. If we wish to ensure that we have a food-secure future, we need to be able to make sure that our growers can expand responsibly and that we can have new horticulture enterprises come in and utilise available land in a responsible manner. We are not talking about a carte blanche approach; we are talking about using the current permit system,*

> *potentially strengthened if you have concerns, that will enable our industry to meet what is well acknowledged to be its extraordinary potential.*

Testimony from industry stakeholders and community representatives across the State has highlighted the concern that this Bill will have in relation to economic viability and in terms of second order effects on rural communities. A Regulatory Impact Statement (RIS) is the only appropriate course of action to address such concerns and the failure to undertake such a process is illustrative of the level of consideration that has been taken in drafting and proposing this Bill.

The suggestion in Explanatory Notes to the Bill that a (RIS) could not be prepared due to concerns with regard to "panic clearing" do not hold water as the retrospective clauses contained in the Bill address such concerns. As such, the Government should immediately commit to completing a RIS on this Bill if they are serious about objectively considering the impact that this Bill will have on all stakeholders and the community broadly.

Among the many criticisms of this bill they think the most was the loss of area wide management plans.
The one size fits all does not take into account differing soil and flora and fauna types across this vast state.

Mr Pratt: Area management plans have been a magnificent step forward in enabling landholders to practically and appropriately manage the situation. Desert Channels Queensland, with the help of Peter Ruth, our lab consultant here, devised the area management plan for this region which encompasses all the shires from Tambo through to Winton. That, together with self-assessable codes, was an incredibly smart move to take away a lot of the bureaucracy and paperwork and still let people—even though they still have to abide by the act—fast-track the process and get a lot of good stuff happening on the ground. It is absolutely critical that the area management plans remain. That is one of the best features of the whole act.

Mr Whip: I think it is really critical. It definitely makes a difference. What Desert Channels did with their area management plan was a series of field day workshops. They had departmental staff, they had NRM people there, they actually had contractors there with dozers doing it on the day and that was a huge tool to really educate people to say well that is what you can do, that is what you cannot do, and we had departmental staff there to say well look that is why that is important, that is a habitat tree, that is why we want to keep them. To me, that collaborative approach works really well. That was when we weren't fearing the penalty breathing down our neck. To me we really have to get back to where we actually do that practical hands-on, this is what you can do, this is what you cannot do. People went away from those workshops and field days and knew exactly what they could or could not do.

Mr Te-Kloot: I believe that in taking out the area management plan this legislation would certainly be doing a bad thing for the landscape and for the landholder, because certainly there are some area management plans that have been rigorously debated and formulated between landholders and the department. They are due to be phased out in two years. I see this as a very, very retrograde step. It would also be a step that would prevent the introduction of BAMPs if the minister and the department and others were to show interest in that way of going forward with vegetation management.

Many submitters stated that this approach will do more damage than good through soil erosion along waterways in certain conditions.

Mr Lloyd Hick:

Approximately five years ago we purchased a 40,000-acre property in the Longreach region. Ten thousand acres of this is gidgee country that had been pulled before and had gidgee suckers coming over it. The plan was always to re-pull this country and grass it to make it more productive for us. Along came five years of drought and we had no money to do it at that stage so it has been put on hold. Now these suckers are over 15 years old and we can no longer do this. What this means to us is that 25 per cent of my property will be worthless in approximately 10 years when those gidgee suckers keep spreading. As people who live in this country know, grass will not grow in gidgee country.

Mr M McClymont: With the codes, the infrastructure code is very useful, because there is certain essential maintenance work that you have to do—clearing fence lines, firebreaks, what have you—and you can just go ahead and do it. Avoiding unnecessary paperwork is very important. Not only does it save us a lot of time, but also it saves the department a heap of time. One of the big problems before the codes came in was that every little action took a mountain of paperwork from us and a mountain of paperwork from the DNR. They could not cope, so it took us ages to get a response back. When you wanted to do something, it did not mean to say that it was going to happen then; it could have been months later. The codes have been a very big step forward and they should be retained.

Dr Brodie: Essentially grasses are not very good at bank protection, except on very small order 1 streams. You can imagine the tiny streams in small catchments where grass swales, for instances in sugarcane where you have wide spoon drains that are grass swaled. They are okay. If we are talking about natural streams, trees provide much better bank holding protection than grass because of their deep roots. Once you get down to order 5 streams on the main course of the Tully River near Tully then even trees do not do anything really. The banks are too high. It depends so much on the stream type. Only on very tiny streams would grass have any effect on bank erosion.

LINDSAY, Mr Alex, Director, Forsite Forestry

I noticed today that in category R, which we have heard, beside stream sides there is no provision in relation to timber harvesting silviculture. A lot of wood lots have been planted within 50 metres of stream sides in the Wet Tropics and the code does not provide any guidance on how they might be managed. My personal opinion is that the proposed change to the nature of PMAVs really does seem like a grab by the government—changing substantial areas from category X to category C overnight.

Mr Lyall Hinrichsen was asked about the codes for controlling regrowth and woody weeds along watercourses:

Mr Hinrichsen: I think it is important that that area of designated category R protection is understood and looked at in the context of what you can and cannot do in those zones under the accepted development code for managing category R vegetation. It is one of the codes that is scheduled for review. There will be consultation associated with those communities over the course of the next 12 months.

Given the consultation process thus far I hold grave concerns for this outcome.

The inclusion of near threatened species is another that has caused confusion.

Mr Lindsay: Near threatened, as I understand it, is a species that is not threatened but is subjected to a threatening process. I found 235 plants and 21 or 31 animals. Looking at that list there are several of those animals that are not listed as threatened on the IUCN, in contradiction to what is actually said on the website. The green python is one that I noted. When you look at where these species are distributed you find they are everywhere. I fear the devil is in the detail. If restrictions are going to be implemented on the basis that a species might occur there then I think you are adding a level of difficulty.

If there happens to have been an endangered species found within five kilometres of your block you need to go and look for it. A gentleman in this room and I had to go and look for a species of plant which has not seen since 1951 before he could implement a forest practice.
These processes are really adding complexity to what should not be a complex business.

The lack of trained departmental staff in the regions was also raised. Staff that are there to assist rather than just enforcement.

Mr BATT: Mayor Campbell, in your briefing you mentioned dwindling departmental staff in the regions. You then say there is a real opportunity to employ staff regionally to assist landholders through the process rather than having them centralised in major cities. Do you want to go a bit further into how that would assist here? As part of this bill do you think it would be a great opportunity to bring that forward?
Mayor Campbell: There is a great opportunity. Every landholder that I have spoken to who has been through the process has struggled to understand exactly what the process is. Sometimes the lines on the map can be blurred or overlapping. The feedback is that it is up to them to decide what side of the line they should be. I think there is a real opportunity to have somebody regionally—a number of people regionally—to go out to a property, sit down at the kitchen table, have a cup of tea, go through the map, get in the car, go out, have a look at the paddock and work out where that line exactly is so then once a machine goes in there are no mistakes.

Ms Alison: Southern Gulf NRM would like to see thorough consultation and transparency in the process of adopting of any new legislation. We would like to see clear guidelines and processes to reduce the confusion and frustration experienced by graziers and vegetation management staff within the region who are physically accessible to graziers and who are familiar with the local vegetation management issues. At the moment we are serviced by a vegetation management officer in Mareeba, and this is not sufficient for our region.

Mr Pratt: I do see a role here for natural resources management groups to perhaps step into that void. They could be the extension arm of the department and maybe subcontracted to that role. There are no departmental people in Longreach and there is one in Emerald to my knowledge, so how the hell can landholders get the advice and help they need before they embark on a management plan.

Some of the most scathing criticisms of this legislation came at the Cairns hearing, firstly from Mr Shannon Burns, Policy Officer, Cape York Land Council Aboriginal Corporation.

Mr Burns: I will state some statistics to begin with. The total area of Cape York is around 14.5 million hectares and the total area of land that is being transferred to Aboriginal freehold is around 5.7 million hectares. Of those 5.7 hectares, about two million hectares is in Cape York Peninsula Aboriginal land national park and about 3.7 million hectares is unencumbered Aboriginal freehold. This land is owned by and it is the home of about 10,000 Aboriginal people of Cape York.
The government's intention to transfer land to unencumbered Aboriginal freehold has always been to provide the opportunity for Aboriginal people to use this land to improve their economic circumstances. The creation of Aboriginal freehold land tenures has been in the recent past—the very recent past; in fact, just last year—so people have not had the opportunity to make use of that land and work out how they are going to use it for economic development. Less than one per cent of this land has ever been cleared. It remains what the Vegetation Management Act refers to as remnant vegetation. On Cape York, it is clearly not remnant. Ninety-nine per cent of land on Cape York is considered remnant. It cannot be remnant; it is the intact, original vegetation.
The amendments to the Vegetation Management Act proposed by this bill would have significant impacts on Aboriginal land on Cape York. The proposed amendments would have the effect that virtually none of the 3.7 million hectares of unencumbered Aboriginal freehold could be cleared for high-value agriculture even though there are areas that have potential for high-value agriculture and Aboriginal people have aspirations to use it for that. These restrictions have been brought in by the amendments to category B, category C and category R under the act.
We have raised these issues previously with the state, but we have been brushed off with comments about, 'You can have an Indigenous community use area declared under the Cape York Peninsula

Heritage Act.' Whilst in principle we support that—it is a good idea—there has never been a single ICUA, as they are called, declared on Cape York. That is because the process to have an ICUA declared is too complex—all the science and all the consultants' reports and the evidence to support that a particular piece of land could be used for high-value agriculture and, therefore, cleared.

This was followed by Mr Gerhard Pearson, Executive Officer, Balkanu Cape York Development Corporation.

Mr Pearson: The first economic opportunity that hit the soil of Cape York was in 1873—145 years ago. For most of that time, our people, the Indigenous people of Cape York, did not participate. We were removed from our country. It has been only since 1992 that we have gained back land. There is a range of titles: native title, pastoral leases, Aboriginal freehold, reserves, former reserves. We have only just started to sniff and enjoy the piece of dirt under our feet again in this short period and, essentially, this law takes that back off us.
The Beattie government and the Bligh government were influenced by the environmental movement in South-East Queensland more than 15 years ago and they put in place conservation regimes over Aboriginal lands in Cape York and the white pastoral properties of Cape York just for votes. The wild rivers legislation followed.
Our organisation under my leadership and that of Alan Creek and many other people concerned about that very invasive piece of legislation politically fought that and also fought it in the courts. We won that court action to prevent the then Labor government from gazetting wild rivers over the entirety of Cape York. We did that because we had only just started enjoying the piece of dirt under our feet in the past 20 years and our people were looking forward to a future where we can have growth and our children can use the land for the economic and social wellbeing of their communities, their people and future generations.
This pervasive green movement that is very influential, particularly on your party, Mr Chairman, provokes down south a snuffing out of the opportunity of remote communities, white and black families on remote communities, and regional Queensland. These are communities that have a long history in providing for the strength of the economy of not just this state, but of this nation. Why would any government just for votes in fact arbitrarily take away and limit and devalue the potential for our communities to grow and an economy to grow and for the nation to benefit from that, for our children to benefit from the jobs. Let me tell you, Mr Chairman, yes, this law may very well pass, it is poison law, but we will not rest, we will fight until the next government comes in and changes this law. That is our commitment here today. It is bad law.

During the course of the regional hearings many concerned landowners travelled vast distances to attend and have their say. I have included a couple of their stories below.

Mr Quartermaine:
What I have to say is not that big; it is the same old thing. I would like to thank everyone for being here. It is hard. My wife and I and a five-month-old baby had to swim two rivers and boat across one to get here today. When I asked my oldies, Cameron and Doreen Quartermaine, if they were going to make it to this meeting here today, they told me that ever since they bought Watson River 35 years ago, all they have been doing is fighting an ongoing battle every year with the government, trying to stop Cape York from being locked up. They are sick and tired of the constant changes in the legislation and the inconsistencies and uncertainty of new policies and protocols being brought out. It is safe to say that I speak on behalf of every grazier and primary producer in Queensland when I say that these policies are like viruses: they keep coming back to infect our family businesses.

The reason I wanted to speak here today about this new legislation is that it affects my family. Personally, I have 220,000 acres on the Watson River lease. We have cleared approximately 1,000 acres. On half of that cleared development we have a hay paddock and improved pasture for weaners. The legislation restricts us from developing more of our own land, which in turn stops us from becoming more self-sufficient. This is very important for us, due to our isolated location. My wife and I had big plans for developing more country, which could potentially lead to another avenue of business in the future, not just beef production. To be able to grow our own food and fodder would save us a fortune, because the cost of freight is twice the price of the purchased product.

Now the state government is trying to restrict, control and tie up in red tape all the land clearing and development.

Mr Calleja:
I will try to be brief, Mr Chair. Thank you for the opportunity to speak today. I am here today because I am angry and I am concerned.
This has already had a direct effect on myself and my family. In December last year, we were shown property in Innisfail, close to where we operate, that fitted in with our current operation. We looked into it and we decided it would be worth taking it on to expand our operation. In December 2017, I inquired with DNRM as to the classification of the property, because there was some timbered country on it, as well as some grass country. It is an abandoned grazing block. The email I received stated the property was all category X—I take that back. The portion that I was looking at was category X and one-third of the property was already classed as essential habitat. However, the category X area was tabled to be freely managed, so we did our budgeting and forecasts on country that was available to us.
On 5 March, we signed the contract to purchase that property. On 8 March, I can thank the minister for changing the laws and 50 per cent of that property has now been resumed as category C. Needless to say, that has shot to shit our budgets on that property. It is now no longer viable. As a result, my wife and I now find ourselves in the compromising position of having a signed legal contract on a property that is no longer viable and that we have not even yet had the opportunity to buy. Where that leaves us I am not sure yet. Time will tell as the contract closing date comes to pass.

Mr MacDonnell:
Mr Chairman, I appreciate that we are over time, but I am going to completely reject your suggestion that we have only 10 minutes. I have driven 1,400 kilometres, I have spent six hours on a plane and I am going to spend two nights sleeping in a swag beside my car before I get home. I have not come this far—because it is so important to my family—to be rushed in a few minutes.
Together with my wife Pauline and my three children we run Brigalow Beef Company. Our operation spreads across two properties in Central Queensland: 31,500 hectares of land is under management, 65 per cent of which is considered remnant.
Under the proposed legislation we will only be able to manage timber thickening on 400 hectares, even though I have 11,500 hectares of freehold land that suffers from timber thickening. That is a 96.5 per cent reduction in the area that I can manage for production.

The Labor Party has a parliamentary majority. There is no upper house. Without consultation, an essentially urban focused government could pass legislation without understanding the true consequences. That is essentially why I went to such an effort to be here today, because I want to look you, Jim and Jess firmly in the eye.
After this legislation goes through some of your colleagues will be able to hide behind ignorance, they will say they did not know the full implications on regional Australia—and how could they, they are from urban electorates—but yourselves, you have travelled to all the regions, you have heard the heartfelt evidence given by people. You will have seen people sit in front of you and cry, you will have seen such emotions.
If this process is a sham, like many of us are meant to believe, and that when you leave here you go back, issue a divided report down party lines and the Labor Party goes ahead and moves the legislation, the only hope for the people who have presented before you and the people sitting in this room today and sitting beside me, our only hope is in Chris, Jim and Jess. Our hope is that you show some intestinal fortitude and that you stand up to the powers that be in your party and your Deputy Premier and let her know, given what you have heard, you could not in all conscience vote for this legislation.
You will have heard it from everyone: we are sick of being bashed, we are sick of rolling out every time. We are happy to have some certainty. We are sick also of being portrayed as vandals. Every time vegetation management comes out we see the same footage of the same two dozers and the chain and not a tree standing between them. That is not the reality. That is not the reality on my property, it is not the reality on 99 per cent of people's property and, to be honest, I think all of us here, most of us, do not endorse those practices anyway. Like I said, 65 per cent of my property is my own pristine private national park. For that your government punishes me. I find that very insincere.

The feelings of many submitters are best summed up by:

Mr Newell: I am opposed to the amendments laid out in this bill. I am opposed to them because there is no evidence that justifies why further amendments to vegetation management in Queensland are

necessary. Labor tries to explain why these changes are needed by claiming that increases in tree clearing in Queensland have been alarming and that this needs to be reversed to protect high-value regrowth, remnant ecosystems and the Great Barrier Reef.
What they do not tell you, however, is that less than 0.23 per cent of Queensland's land area was cleared in 2015-16 and that two-thirds of this vegetation management was carried out to control regrowth and other routine farm maintenance tasks such as removing invasive weeds; constructing fences, pipelines and roads; thinning; fodder harvesting; and managing encroachment. The other thing that the government failed to explain to voters at the last election is that, while they can measure changes in tree clearing, they cannot measure changes in regrowth. The government is trying to sell us only one side of the story.
When the average voter is constantly being told by the government that tree-clearing rates are increasing, they may also be led to believe that rates of illegal tree clearing may be increasing. However, there is little evidence of that. In 2016-17, there were just three prosecutions of illegal clearing in Queensland. This is despite the fact that the department's own satellite monitoring technology is better than ever and is watching us every 16 days. Furthermore, we now learn that, even though illegal tree clearing is low, the government wants to triple the penalties for illegal tree clearing.

Committee member David Batts, Member for Bundaberg, remains very concerned with the additional powers that will be granted for entry and prosecution to departmental officers under this legislation and has outlined his concerns below.

Extract From Qld Law Society Submission (number 200)

Retrospective legislation - breach of fundamental legislative principles

A number of the provisions in the Bill are specifically intended to affect rights and liberties, or impose obligations, retrospectively. These provisions are highlighted on pages 7 and 8 of the Explanatory Notes.

This is inconsistent with section 4(3)(g) of the *Legisiative Standards Act 1992* which provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation does not adversely affect rights and liberties, or impose obligations, retrospectively.

The relevant provisions are proposed to have retrospective commencement from the date the Bill was introduced in Parliament (8 March 2018). Essentially, these provisions relate to the right to clear particular vegetation between 8 March 2018 and the date of assent, and the right to have certain applications considered or amended.

The justification for the proposed retrospective effect is that the *"retrospectivity is necessary to ensure pre-emptive clearing and increases in certain applications do not render the reforms less effective"* (page 7, Explanatory Notes).

As noted in the Legislation Handbook, strong argument is required to justify an adverse effect on rights and liberties, or the imposition of obligations, retrospectively.''

The Fundamental Legislative Principles Notebook on retrospectivity also notes that the former Scrutiny Committee did not support retrospectivity merely because the government had announced its intentions to retrospectively legislate, a practice referred to as "legislation by press release".

The rule of law requires that laws are certain and are capable of being known in advance. Laws that create offences or change legal rights and obligations with retrospective application undermine the rule of law and significantly disadvantage those affected by the legislation.

Retrospective legislation makes laws less certain and reliable and can cause damaging practical difficulties to individuals and organisations involved.

The risk of retrospective legislation is that it creates uncertainty in the community about the state of the law:

• As at 8 March 2018, certain types of clearing are permitted, because the Bill has not been passed by the Parliament, notwithstanding the proposed retrospectivity

• If the Bill is passed, a person could be prosecuted for this clearing because of the retrospective amendments

• If the Bill is not passed (which is always a possibility) then those members of the community who are aware of the proposed retrospectivity are "in limbo" whilst Parliament considers the Bill, as they are unable to undertake this clearing until there is certainty about the state of the law.

The effect of these provisions is that a person could commit an offence today, between 8 March 2018 and the date of assent, because a person is unaware of a proposed law which is yet to be passed.

Public Hearing – Friday 23 March

Mr Michael Connor, Chair, QLS Planning and Environment Law Policy Committee -

Mr Connor: *Retrospective laws that incorporate or impose sanctions are bad laws. Whilst arguably that concept is not immutable, in the view of the Queensland Law Society and on the basis of the evidence that it has seen, a parliament would not be persuaded that in the circumstances of this case and this bill the aspects of the current bill which take retrospective effect are validated.*

It is not the Law Society's job to deal with the evidence that is put forward to support this, but as a personal observation I think it is a bit threadbare. The question is not whether it is important to protect the environment of Queensland. That is a given. The question is whether the rights of individuals and the public more generally should be infringed by allowing retrospective laws. It is my view and the view of the Queensland Law Society that the balance has not been properly struck here, and the provisions which have retrospective effect and which give rise to sanction against members of the public, sometimes acting in good faith, are inappropriate.

Amendment to section 30 of the current *Vegetation Management Act 1999* and new section 30A

The proposed section 30A provides for entry without a warrant only when 24 hours' notice is given and the section also prescribes the Information which must be given in the notice. Providing for a reasonable period of notice is a matter of natural justice to owners and occupiers and is also a safety issue, given that many rural properties are operational workplaces and exercising broad powers of entry could give rise to genuine operational concerns about security of livestock or disruption of harvesting.

However, it is noted that the "trigger" to exercise the power to enter a place is that "an *authorised officer believes on reasonable grounds that a vegetation clearing offence is happening, or has happened, at a place.*"

QLS queries whether in many or most cases, the *"reasonable grounds*" belief would be sufficient grounds for a magistrate to issue a warrant. For example, the officer may have access to satellite imagery indicating clearing is occurring without approval. The use of satellite imagery to monitor clearing activities is referenced on the Queensland Government's website in relation to "Vegetation clearing: Monitoring and compliance". It is clearly stated that this is used to address "potentially unlawful clearing events rapidly." Further information about using satellite images to monitor compliance is also provided on the related Government website "Assessing land clearing using satellite technology."

In these circumstances, QLS considers the most appropriate course is to obtain a warrant, given that it is a fundamental legislative principle that legislation confers power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer.

Public Briefing - Monday 19 March 2018 - DNRME

Mr BATT: In relation to fundamental legislative principles, section 30A(4) relates to entering without the occupier's consent or a warrant and it states that it is the intention of the bill to prevent serious impacts. Why would you need to be able to enter without warrant or consent of the owner if the offence **has already been committed**?

Mr Hinrichsen: To gather appropriate evidence to establish that that indeed is the case.

Mr BATT: You could do that with a warrant and with the owner's consent?

Mr Hinrichsen: Indeed. This goes beyond those existing provisions.

Public Hearing – Friday 23 March

Ms Wendy Devine, Acting Principal Policy Solicitor – Qld Law Society

Mr BATT: My question relates to the explanatory notes and section 30A in relation to entry without warrant. You have mentioned on page 4 of your submission the trigger to do that. In the explanatory notes it states it 'is happening', which you can understand, or 'has happened'. What are your views on why we need 'has happened' to enter without a warrant. Would it not be easier to have the time to get a warrant to do that? Do you understand what I am getting at?

Ms Devine: I believe so. I will comment with respect to what we said in our submission. Our concern, as outlined in the submission, is that if the trigger for exercising the power of entry is that an officer has a reasonable belief that an offence has happened or is occurring our question is around the standard of proof that is going to be applied to that. If there is sufficient evidence to indicate that an offence is occurring or has occurred, we query whether the more appropriate method is to take that evidence to a magistrate and obtain a warrant rather than rely on an administrative process of giving 24 hours notice to enter someone's property.

Mr Lyall Hinrichsen, Executive Director, Land Policy - DNRME

Mr BATT: The QLS was talking about the section 30A amendments and reasonable grounds for someone to go in without a warrant. Their idea is that it would be very difficult to have reasonable grounds for that. They believe that the most appropriate course would be to obtain a warrant rather than have that section in there. Have you got any thoughts on that?

Mr Hinrichsen: We certainly note the Queensland Law Society's view on that. To the extent that it would be difficult, I would concur and it ought to be. There ought to be a reasonableness test associated with utilising that power. That is certainly the way the provision is couched.

Given that, our experience is that there is a timeliness element associated with undertaking investigations and that does require, with those limitations on the power—it is not ever to be an absolute power of entry—reasonable attempts to notify the landholder, either verbally or in writing, before that entry power is then exercised. It is a power that is consistent with the provisions under the Water Act and the Land Act, for example. It is consistent with other enforcement powers that are available to our department for other aspects of its functions.

Mr BATT: The provision is for 24 hours' notice, which is what they have to give if possible to use this section—if they can find the landowner. In 24 hours would the officer not be able to get a warrant from a magistrate?

Mr Hinrichsen: It depends on the circumstances. In some cases, yes. In other cases that may not be the case.

Mr BATT: Why is that?

Mr Hinrichsen: From experience, the process of obtaining a warrant has been up to four days in some instances. There will still be situations where that is the preferred course of action.

My View –

Police Officers have powers under the Police Powers and Responsibilities Act (PPRA) to conduct investigations into certain offences. Under S 160 of the PPRA Police do have a power to 'Enter a place without warrant' if they believe evidence for a 'Part 2 offence' may be concealed or destroyed unless the place is immediately entered and searched. However under Section 161 the Police Officer then

has to apply to a Magistrate as soon as reasonably practicable after exercising the powers of Section 160 for a 'post-search approval order' to have the entry and any evidence seized authorised as if a warrant was obtained.

Part 2 offences are -

(a) an indictable offence;

(b) an offence involving gaming or betting;

(c) an offence against any of the following Acts—

•Confiscation Act

•*Explosives Act 1999*

•*Nature Conservation Act 1992*

•*Weapons Act 1990* ;

(d) an offence against the *Liquor Act 1992* , section 168B or 168C.

If Section 30A is to remain then a similar 'Post Search Approval Order' should be included in the section to have the entry and seizure of any evidence approved by a Magistrate.

The non-government members of the committee cannot support this legislation as it currently stands.

The reasons for this include, but are not confined to:

- The lack of any meaningful consultation with industry groups and the broader community the laws directly impact
- The Government has failed to complete cost analysis or RIS on the economic and social impacts on regional Queensland
- The justification used for the removal of HVA and IHVA from the act has been ill-informed and inconclusive. These provisions were already the most regulated part of the vegetation management act and from evidence presented to the committee puts into doubt the basis for its removal.
- The inclusion of regrowth that has not been cleared for 15 years will lock up over 862,506 hectares of land into the high value regrowth classification.

- The exclusion of Area Management Plans which provide an alternative approval system for vegetation clearing in particular regional ecosystems.

- The proposed accepted development vegetation clearing code-managing fodder harvesting for drought management is unworkable, particularly in the Mulga lands.

- The proposed accepted development vegetation clearing code for managing thickened vegetation is impractical and unworkable.

- The expanded powers of entry gives department powers that even the police do not have.

- The proven inaccuracy of the mapping. By SLATS own admission there is no mapping of regrowth. This legislation has been introduced using SLATS data which fails to be based upon science. To not base this legislation on science fails to tell the whole story around vegetation in Queensland.

Whist the committee report does make a number of recommendations, these recommendations are aimed at resolving problems caused by the proposed legislation.

Without the proposed amendments to the legislation these problems do not currently exist!

Pat Weir MP

Deputy Chair

State Development Natural Resources Agricultural Industry Development Committee

23rd April 2018