



HEALTH AND COMMUNITY SERVICES COMMITTEE

Members present:

Mr TJ Ruthenberg MP (Chair)
Ms RM Bates MP
Dr AR Douglas MP
Mr JD Hathaway MP
Mr JM Krause MP
Mr DE Shuttleworth MP

Staff present:

Ms S Cawcutt (Research Director)
Ms K Dalladay (Principal Research Officer)

PUBLIC BRIEFING—FORESTRY AND ANOTHER ACT AMENDMENT BILL 2014

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 2 APRIL 2014

Brisbane

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Committee met at 9.58 am

HOEY, Mr Bob, Team Leader, Policy and Legislation Unit, Queensland Parks and Wildlife Service, Department of National Parks, Recreation, Sport and Racing

KELLY, Mr Todd, Manager, Policy and Legislation Unit, Queensland Parks and Wildlife Service, Department of National Parks, Recreation, Sport and Racing

KLAASSEN, Mr Ben, Deputy Director-General, Queensland Parks and Wildlife Service, Department of National Parks, Recreation, Sport and Racing

CHAIR: Thank you, gentlemen. Good morning and welcome. I declare open the Health and Community Services Committee public briefing on the Forestry and Another Act Amendment Bill 2014. Our purpose today is to receive a briefing on the bill from officials from the Department of National Parks, Recreation, Sport and Racing.

My name is Trevor Ruthenberg. I am the member for Kallangur and the chair of the committee. We have an apology from Mrs Jo-Ann Miller MP, the deputy chair and member for Bundamba. With me today are: Ms Ros Bates MP, member for Mudgeeraba; Dr Alex Douglas MP, member for Gaven; Mr John Hathaway MP, member for Townsville; and Mr Jon Krause MP, member for Beaudesert. Mr Dale Shuttleworth MP, member for Ferny Grove, is attending to business and will be back shortly.

I welcome the officials from the department: Mr Ben Klaassen, Deputy Director-General; Mr Todd Kelly, Manager, Policy and Legislation Unit; and Mr Bob Hoey, Team Leader, Policy and Legislation Unit.

I remind members and attendees to please turn off your mobile phones or switch them to silent mode. I remind those present that these proceedings are similar to parliament and are subject to the Legislative Assembly's standing rules and orders. Hansard is making a transcript of the proceedings. The committee intends to publish the transcript of today's proceedings, unless there is good reason not to. Our proceedings today are not being broadcast live.

The bill was introduced by the Minister for National Parks, Recreation, Sport and Racing and referred to the committee on 20 March. This committee is required to report to the parliament by 26 May 2014. Submissions have been invited on the bill, closing Monday, 28 April, and a public hearing will be held on Wednesday, 7 May. Mr Klaassen, are you taking the lead on this one?

Mr Klaassen: Yes.

CHAIR: I invite you to make an opening statement. Because of time constraints, we will need to be done in about three-quarters of an hour, so if you would leave us about 15 minutes to ask you some questions.

Mr Klaassen: That will not be a problem. I will leave you a bit more time than that. Thank you, Mr Chair, and thank you to the committee members for the opportunity to brief you on the bill today. Before I do that, I thought it might be useful to outline some of the history of the Forestry Act.

The Forestry Act provides the legislative framework for, among other things, the management of Queensland State forests and other forest areas, such as timber reserves and forest entitlement areas. These forest areas perform a number of key functions, not only providing a source of sustainable commercial timber but also being key areas of land which the community can utilise for a range of other commercial purposes such as grazing, beekeeping, obtaining quarry resources and other forest products, and for a wide range of recreational pursuits including camping, horse riding, mountain biking, motorcycling, four-wheel driving, bush walking, picnicking, swimming and generally enjoying the great outdoors in the wonderful State forests that we have across Queensland. The forests also provide environmental services such as watershed protection and habitat protection.

As briefly mentioned, there are a number of different forest areas managed under the Forestry Act, and I would like to quickly explain each of these. The areas I will discuss are State forests, timber reserves and forest entitlement areas. State forests are the most widespread and

well-known forest areas across Queensland and comprise native forest and plantation forest. Plantation forests are managed by HQPlantations Pty Ltd, who I will refer to as HQPlantations, who hold a 99-year licence from the state to utilise these lands to produce commercial plantation timbers.

Native forest is jointly managed by the Department of National Parks, Recreation, Sport and Racing, or NPRSR, and the Department of Agriculture, Fisheries and Forestry, or DAFF. DAFF are responsible for the commercial operations on these forests, such as the timber harvesting and sale of other forest products such as quarry material. NPRSR are responsible for managing the other elements of the forests, such as recreational use and land management activities, such as fire management, and many other day-to-day interactions.

Timber reserves are predominantly the same as State forests in that they are land set aside for the purposes of timber production. A number were originally reserved historically under the Land Act and were then added into the framework of the Forestry Act when it was created. There are relatively few remaining with only nine left, many having been turned into State forests over time.

Forest entitlement areas are areas on freehold land where the commercial timber and the land on which it sits is reserved to the state until such time as it is no longer required by the state for its timber or other forest products. Staff from NPRSR, DAFF and HQPlantations exercise their powers as forest officers and plantation officers under the Forestry Act and its associated regulations to ensure the effective management of these forest areas on behalf of the state and, in the case of HQPlantations, consistent with their licence agreement.

The main purpose of the bill the committee is examining today is to amend the Forestry Act to update, clarify and simplify provisions to improve the operation of the act which will benefit the community and the staff managing these forest areas. The bill will also allow for the Forestry Regulation 1998 to be remade. Before I discuss these improvements to the act, I will explain how the bill is relevant to the remaking of the Forestry Regulation.

The regulation is scheduled to expire on 31 August 2014 and is intended to be remade before that date. However, under modern drafting standards, there are a number of provisions in the regulation that need to be moved into the Forestry Act. These provisions include powers of forestry officers to give directions—for example, to require people to leave an area in the event of an approaching wildfire or to give directions to the driver of a vehicle in a forest area about the use of the vehicle. Locating these provisions in the act rather than in the regulation will ensure compliance with the fundamental legislative principles in the Legislative Standards Act 1992 which require legislation to have sufficient regard to the rights and liberties of individuals and the institution of parliament.

The bill will transfer these provisions from the regulation into the act via a two-stage process. The passage of the bill is the first stage where the bill will insert the necessary provisions from the regulation into the act. The second stage is the remaking of the regulation which will occur without those provisions being included. In the process, some offences will also be transferred from the Forestry Regulation to the Forestry Act in order to achieve consistency with other legislation, particularly to allow higher penalties to apply. The scope for applying higher penalties in the regulation is limited because the Forestry Act does not allow regulations under the act to carry penalties of more than 20 penalty units. So, where necessary, a number of offences will be moved from the regulation into the act which will allow greater penalties to be applied to such offences and also to comply with the former Scrutiny of Legislation Committee's preference for all offences with penalties above 20 penalty units to be located in the primary legislation.

Currently the maximum penalties for many offences in the Forestry Regulation are significantly lower than penalties for equivalent offences in other legislation. Offences such as unlawfully lighting a fire, polluting a watercourse, dumping noxious materials or failing to comply with a lawful direction attract a maximum court penalty under the Forestry Regulation of only 10 penalty units, equivalent of \$1,100. Significantly higher maximum penalties are needed as a deterrent for these offences which can have serious consequences. For example, a fire that gets out of control can put lives at risk or destroy valuable commercial timber, and the maximum penalty of \$1,100 is considered inadequate in circumstances where such a situation has occurred due to a person's negligence or failure to comply with clear instructions regarding such activities.

In reviewing this situation, it made sense to adopt an approach in this bill that applies penalties for these offences equivalent to penalties in related and more contemporary legislation. In many cases this will result in significant increases. For example, the maximum penalty for lighting a fire where fires are prohibited will go from 10 penalty units to 165 penalty units, and for polluting the

water the penalty will go from 10 penalty units to 50 penalty units. That is consistent with what I outlined before about the significance of the offence that has occurred. This approach of seeking consistency will also result in the bill reducing the maximum penalty for offences in a few instances. For example, the maximum court penalty for camping without a permit will go from 100 penalty units to 20 penalty units, and the maximum penalty for failing to display a camping tag will fall from 10 penalty units to two penalty units—again, reflecting the difference in circumstances. This reduction is also considered appropriate, reflecting the nature of such offences.

The bill has been drafted to also improve consistency with related legislation in regard to visitor access to forest areas not just in terms of officer powers and offences but also in terms of administrative processes. For example, the bill will allow camping permits to be booked over the phone or via the internet in the same way as camping permit bookings for national parks can currently be made. This is important because State forests and national parks are often side by side and consistency of processes and the laws relating to visitor use is less confusing for the community and more efficient for staff managing these areas. People also expect to be able to book online these days. So that is an inconsistency we are fixing.

I believe the explanatory notes for the bill provide a good account of the individual provisions in the bill. However, I would like to take a little more time to discuss the powers of the officers in the bill, as I believe this will be of some interest to the committee and the public. The Forestry Act provides for the appointment of forest officers and plantation officers. Forest officers are generally Public Service employees such as rangers with responsibility for the management of State forest areas. Plantation officers are employees of HQPlantations, the company licensed to manage specific state plantation forests. These officers can exercise powers specified in the Forestry Act.

The intention behind provisions in the bill relating to powers of forest officers and plantation officers has been to maintain existing powers while making amendments where necessary—for example, to clarify or update provisions to meet contemporary standards. However, the bill will also insert some new powers into the Forestry Act to mirror existing powers already available to authorised officers in related legislation. Officer powers in the bill that are new for the Forestry Act are the power to direct a person to vacate a camping site and the power to direct a person to remove an animal from the area. I would like to take this opportunity to explain these powers in a little more detail for the committee.

The power to give a person a direction to leave a camping site and remove all of their camping equipment will be able to be given by a forest officer if the natural environment of the site has been degraded by regular camping at the site—for example, to allow the site to be rested or rehabilitated or if the site needs to be vacated for health and safety reasons, including emergency situations. This direction to vacate the camping site may be given orally or in writing. Where practical, a direction will be given in writing and will state the reason why it has been given and warn that it is an offence to fail to comply. However, oral directions may be appropriate and necessary in emergency situations, such as an approaching cyclone or wildfire, particularly where large numbers of campers are involved—for example, at an event like the Gympie Music Muster at the Amamoor State Forest. If we need to get people out quickly, we will just give a verbal direction to vacate the site.

A forest officer will also be able to give a direction to vacate a camping site if a person camping at the site has had camping equipment at the same site for 30 days or more and it is considered necessary or desirable to allow other people access to that particular site. In this case, a direction to vacate the site must be in writing. Also, in this instance, the direction can only be given if there is another part of the area available for the person to camp.

The bill will also provide forest officers and plantation officers, where relevant, with the power to direct a person in charge of an animal, other than stock, in a State forest or a timber reserve to remove the animal from the area. The direction can be given if the officer reasonably believes that the animal is unlawfully in the area or has been causing a disturbance, or is a danger to persons or wildlife. This recognises the right of other individuals and of wildlife in the area to be reasonably protected from nuisance and danger. For example, an officer may direct a person to remove an aggressive dog from a day-use area if the officer believes the dog is disturbing or posing a danger to other visitors using the area. The person would not be allowed to return the animal to the area for 24 hours. This is intended to ensure the animal is not briefly removed from the area and then brought straight back.

Queensland Parks and Wildlife Service officers have had the ability to give a direction to leave a camping site or give a direction to remove an animal in relation to national parks and recreation areas since 2006. Therefore, the amendment in this bill provides these powers under the

Forestry Act and will give officers consistent powers in this regard over State forests, national parks and recreation areas. Invariably they are the same officers exercising these powers. But at the moment they need to ask, 'Am I in a State forest or am I in a national park?' and it is inconsistent.

Existing officer powers are also amended in the bill in order to allow contemporary standards to be applied. For example, currently an officer can direct a person to leave a State forest if the person is found committing an offence, without any additional requirements specified in the act. The amendments in the bill will clarify this situation and ensure that a person found committing an offence cannot be directed to leave unless the officer reasonably believes that this is necessary in order to prevent continuation of the offence, secure evidence of the offence and prevent commission of another offence.

The amendments include practical compliance measures, consistent with existing legislative provisions for protected areas and recreation areas, allowing an officer's existing powers to be more adequately applied. For example, a forest officer will be able to require a person committing an offence to stop and not move on until the officer has exercised the officer's relevant powers, such as establishing the person's name and address and questioning the person about the offence.

The bill also provides that in the case of an offence or an emergency situation, and if necessary, a forest officer may take reasonable steps to secure compliance with a direction to leave the area, including using reasonable force. This power would not be exercised except as a last resort—for example, in an emergency situation where a person's refusal to leave would put other people, such as forestry users or emergency services personnel, at risk, and it is not possible to obtain police support at the time.

The power to secure compliance with such a direction has been available to the Queensland Parks and Wildlife Service officers for protected areas and recreation areas since 2006. There are no reported cases where it has been necessary for an officer to physically remove anyone from an area, but in several instances it is believed that warning a person about this option has been sufficient to secure voluntary compliance with the direction to leave.

In addition to bringing powers of officers into line with contemporary standards in related legislation, the bill introduces a range of miscellaneous amendments to clarify and improve the operation of the act and to simplify some of the existing ways the department conducts its business. For example, the bill includes amendments to the Forestry Act and the Recreation Areas Management Act 2006 to deregulate certain small-scale filming and photography activities. This will allow commercial filming and photography involving fewer than 10 people and no structures to be undertaken without the need for a permit. Presently the exemption applies for filming and photography undertaken by two people or fewer. Increasing the threshold was considered to be low risk and will reduce red tape for business and remove an administrative burden for the department.

Similar improvements will be made to provide a simpler process for renewing commercial activity permits. Currently there is no ability to merely renew a commercial activity permit. A new application outlining the extent of the commercial activities must be submitted for assessment. Amendments in the bill will enable simple renewal of an existing commercial activity permit at a reduced application fee provided the activities carried out under the renewed permit remain substantially the same. This will save operators time and money and allow the department to process such applications more quickly.

The bill also makes amendments to apply relevant provisions consistently across timber reserves and State forests. For example, regulatory notices are a tool commonly used to manage vehicles and animals in State forests. Presently they are not able to be used in timber reserves, and the bill will remedy this situation.

Overall, this bill will improve the operation of the act and equally importantly will benefit business and the general community by reducing red tape and achieving consistency in management and administration of forest areas. Mr Chair, that concludes my opening remarks. We are happy to take questions from the committee.

CHAIR: Thank you, Mr Klaassen. Do any of your colleagues wish to make any remarks?

Mr Klaassen: Not at this stage.

CHAIR: Thank you. Committee, it is over to you.

Mr SHUTTLEWORTH: I have a very specific question. In relation to the felling of trees inside a forest park, what is the recourse? Is there anything in this legislation addressing penalty units or the capacity of an officer to take immediate action in that regard? The only reason I ask is that someone actually approached me three days ago about a four-wheel drive enthusiast who found the trees a little annoying and he was just chopping them down so he had a much clearer path.

Mr Klaassen: I do not believe that is covered specifically in this amendment bill.

Mr SHUTTLEWORTH: No.

Mr Klaassen: But there would be a provision in the Forestry Act that deals with it. I do not know whether Bob is able to pull that up straightaway or not. You cannot just go into a State forest and start knocking down trees. That is not accepted practice.

Mr SHUTTLEWORTH: I knew you would not be allowed to do that. I was just wondering exactly how you would address that.

Mr Klaassen: We could take that on notice and come back to you, if Bob does not know.

Mr Hoey: No. Section 39 of the Forestry Act provides a maximum penalty for interfering with a forest product such as trees and so on in a State forest or timber reserve, with a maximum court penalty for a first offence of 1,000 penalty units and for a subsequent offence 3,000 penalty units. So it is quite a hefty penalty. Forest officers currently have the power to enforce those provisions, to investigate the offence and take action as required.

CHAIR: So it could be a very expensive Christmas tree.

Mr Hoey: It could be. Clearly it is up to the court to set the penalty if it comes before the court.

CHAIR: Yes.

Mr HATHAWAY: Thank you, Mr Klaassen, for the briefing. My question is probably more of a technical question. With regard to the commercial activity permits for photography where it involves 10 people or fewer, I think that is a pretty good indication if you are going there with a small group of people—someone needs to hold the light shade and someone needs to hold the camera and all of that. Where there is a larger recreational activity—I will use the example of whitewater rafting or something like that—that may include more than 10 people and a business proprietor has applied for a permit to conduct that activity, would photography be included normally as part of those permit conditions? If he wants to take a picture of 11 people in a raft, for example, is that included in the conditions of the overall permit coverage for that commercial use?

Mr Klaassen: We tend to look at it from what is the primary activity that is being undertaken. So, if it is whitewater rafting, that would be the primary activity that the permit would address. The amendment in this bill is specifically where the primary activity is filming or photography. There is quite a lot of interest from people who want to come into those areas, given the natural environment. They might want to take their wedding photos in a protected area. There are a lot of TV crews and film crews that go to Fraser Island or up to the Daintree who want to promote parts of Queensland. So this is aimed at simplifying that and making it much easier so that they do not have to come to us and say, 'We have nine people. We are going to Fraser Island. Can we do this?' And then it can take a period of time for us to permit that. That is what the intention is.

Mr HATHAWAY: Thank you for that clarification.

Ms BATES: I am assuming that the provision of 10 people or fewer means that people who are actually filming potential films in national parks still have to get a permit from you to do that. The reason I am asking is that I have Numinbah Valley in my electorate. We have had *The Railway Man* and *Narnia* productions out there, and there have been more than 10 people in those production crews.

Mr Klaassen: Yes. Those larger scale commercial productions would still require a permit and would be assessed for the impacts they might cause, and certain conditions could be applied if it is a large-scale commercial production.

Mr SHUTTLEWORTH: Are the forest officers or the Queensland Parks and Wildlife Service officers the only people who can give directions or can a police officer provide directions within a park?

Mr Klaassen: My understanding is that police officers have powers to issue directions across the state. If it is an unlawful activity that has been detected by a police officer then, yes, they can issue a direction.

Ms BATES: I just have a comment on that. I have Springbrook Mountain in my electorate. If there is any danger to wildlife or homes, the police have the absolute power up in Springbrook to tell people to move.

CHAIR: The same would be the case, I am assuming, with natural emergencies where Emergency Services take control.

Mr Klaassen: Correct.

CHAIR: There being no further questions, Mr Klaassen, I commend you and your department on these explanatory notes. The fact that we have very few questions, I think, probably indicates to you that you have done a darn good job. I appreciate that greatly. We have had some trouble with explanatory notes in the past. These are not part of that. These are a good set of explanatory notes and we appreciate it. Thank you.

Mr Klaassen: Thank you. That is due to the good work of Mr Kelly and Mr Hoey.

CHAIR: We appreciate it. Thank you. Given that there are no more questions, I declare this briefing closed.

Committee adjourned at 10.23 am