



Tablelands Regional Council

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Research Director
Agriculture and Environment Committee
Parliament House
BRISBANE QLD 4000

Via email: vminquiry@parliament.qld.gov.au

Dear Whom It May Concern

VEGETATION MANAGEMENT (REINSTATEMENT) AND OTHER LEGISLATION AMENDMENT BILL 2016

I refer to Tablelands Regional Council's current submission number 507 to the above amendment bill and hereby provide further comment to enhance Council's original submission.

The Tablelands is valued for its biodiversity and other environmental services. After agriculture, the tourism industry is the Tablelands next most valued economic driver due to the native flora and fauna that rely on the high value regrowth areas for habitat and movement through the landscape.

Council has been supporting and working cooperatively with a range of community groups across the wetter eastern Tablelands areas to enhance and replant areas that connect to high value regrowth because of their importance for habitat conservation, as climate refugia and also for water quality protection.

I will comment from the outset on my disappointment in the level of consultation on this very emotive matter which led to the first submission being made in haste due to the short timeframes, and limited notification. The Bill was referred to the committee on 17 March 2016 with the deadline for submissions being 29 April 2016. This timeframe also coincided with Local Governments elections and inductions of new Council's. The explanatory notes even comment that there was limited consultation on the Reinstatement Bill and no consultation undertaken in relation to the changes to the Environmental Offsets Act. This is unacceptable given the complexity of the issue that affects the environment, people's livelihoods and region's economies.

Prohibition of HAV & IHVA

Prohibition of HVA & IHVA is a giant leap. Rather than a prohibition on clearing for High Value Agriculture or Irrigated High Value Agriculture, there should be clear legislative guidance on the level of assessment for these applications. An assessment process would be deemed more appropriate and in line with performance based planning controls and would allow for development to be considered, assessed and either approved or refused. If appropriate the assessment criteria could be included in a State Planning Policy or similar. However, any amendment to this process or policy should be subject to rigorous public consultation and should not be subject to the opinion of State Officers.

Reinstating protection of high value regrowth on freehold and indigenous land (category C)

In regards to reinstating the protection of high value regrowth on freehold and indigenous land (category C), it is very evident, particularly with the Tablelands region, given the diversity of the landscape, that a one size fits all approach for the identification and management of regrowth vegetation is not the most effective approach, or at least one which requires more investment to articulate usefully.

The reinstatement would be well supported by more accessible stewardship incentives or economic drivers for landholders to retain or sustainably manage regrowth vegetation.

It would be more appropriate to provide some defined areas/precincts where intensive agriculture would be suitable. This is particularly relevant for rural shires such as Tablelands and would provide the opportunity to promote both economic development and environmental protection in the region. Improved detailed mapping is required to ensure that there is clarity to the application of the law. The absence of this detailed mapping associated with other state legislation and planning policies has caused significant issues in the local communities to date.

There should be clear provisions on the management of vegetation clearing for essential infrastructure provision and asset protection through fire breaks.

Onus of proof

The reverse onus of proof and the removal of the ability of a defence of a mistake of fact is unacceptable. It is inconsistent with procedural fairness and inconsistent with other common and statutory law approaches. It also results in land owners being vulnerable to third party clearing. Local government (particularly those with a large geographic area) may be vulnerable to reverse onus of proof provision on land they manage as it is a plausible scenario that illegal clearing by private parties is more likely to occur on lands in Council's charge than on private adjoining land.

Ongoing uncertainty due to amendments

The ongoing uncertainty in relation vegetation management laws is not conducive to either economic development or the environmental outcomes detailed in the purpose of the Act. Although the VMA was introduced with a degree of bi-partisan support, since its adoption it has become something of a political football with considerable amendments ensuing each change of office. Without an adequate solution being reached where a workable balance is met, ongoing uncertainty will continue to complicate effective management of vegetation. It goes without saying that all these costs associated with the political position could be well spent on other matters.

Regulatory framework and Council's planning scheme

The legislation should contain clear assessment parameters for considering applications. This should not be left to a piece of legislative guidance that can be changed by State government officers without formal and detailed consultation.

There remains concern about the application of the law. Is DNRM to be reinstated as a concurrence referral agency under the planning legislation? If they are not to be a concurrence referral agency then where does the responsibility for defending a decision in the court sit? If it is expected that Councils bear this responsibility this is considered grossly unfair.

There is a suggestion that where vegetation clearing is proposed that any development application would not be a properly made application under the planning legislation unless there is an approval for the clearing with the application. As there are no appeal provisions for not properly made applications, this would have the result of effectively removing a right of appeal from the applicant in respect of planning applications, thereby denying them procedural fairness.

In terms of any required amendments to planning schemes as a result of the changes to vegetation management legislation, where this results in a potential for a claim for compensation for removal or change to development rights, who is to be responsible for the payment of compensation? It is considered wholly unfair if this is expected to be managed solely by Local Government.

The retrospective application of the draft legislation appears to have been included to address applications that are currently under consideration and is considered to represent the unfair shifting of the goal posts for current applicants. If the approach is going to be a balanced approach then it should be a transparent process.

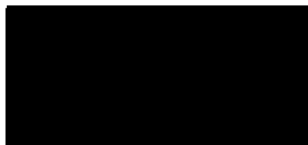
Key messages:

- More effective and representative mapping based at a regional scale.
- Consider and introduce a stewardship incentive as a driver for landholders to retain or sustainably manage regrowth vegetation.
- An alternative to the 'one size fits' all approach should be adopted in order to support both agricultural development and ecological outcomes. Rigorous consultation is required to achieve this.
- Provide stability and certainty with vegetation management laws to avoid amendments with each change of government.
- Facilitate appropriate instruments to identify precincts for intensive agricultural development.
- Clarify the regulatory framework of the vegetation laws and how they operate within Council's planning scheme is required. Council seeks response in this regard.

I strongly urge you to consider the matters raised. The Council is very concerned with the level of consultation undertaken given the major changes and implications to our constituents and those further afield. We as a Council are well aware that we have similar key messages submitted by other organisations and strongly urge you to consider these and take more time to achieve an acceptable outcome to all parties.

For further information in regards to this submission please contact Council's Manager Regulatory Services, Kirsty Lamperd on 1300 362 242.

Yours faithfully



CR JOE PARONELLA
MAYOR