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2 July 2013

By email: arec@parliament.qld.gov.au

Agriculture, Resources and Environment Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Committee,

Nature Conservation (Protected Plants) and Other Legislation Amendment Bill 2013

This submission is made by Ergon Energy Corporation Limited (**Ergon Energy**) in response to the *Nature Conservation (Protected Plants) and Other Legislation Amendment Bill 2013 (Bill)*.

Ergon Energy is a Queensland Government-owned corporation that supplies electricity to approximately 700,000 customers across a vast operating area of over one million square kilometres – around 97% of Queensland. Ergon Energy's operations include managing vegetation for the safe and reliable construction and operation of electrical infrastructure.

Ergon Energy supports the Bill's objectives of simplifying the existing protected plants framework. An effective simplification of the framework assists with the efficient and economic supply of electrical infrastructure.

Ergon Energy made a submission to the Department of Environment and Heritage Protection (**DEPH**) about the Consultation Regulatory Impact Statement for the Review of the Protected Plants Legislative Framework under the *Nature Conservation Act 1992*. That submission is **attached**. Ergon Energy has also reviewed the resulting Decision Regulatory Impact Statement (**Decision RIS**). The substance of the changes brought about by the Bill will be effected by the implementation of Option 2 in the Decision RIS. Accordingly, this submission deals with aspects of the Decision RIS. It should be noted that it is difficult to appreciate the detail of what is proposed in the Decision RIS without having the opportunity to review the relevant subordinate legislation that will result from the Decision RIS. Ergon Energy would welcome the opportunity to undertake such a review.

Ergon Energy is concerned that it is difficult to completely comment on the changes proposed to the protected plant framework because the key provisions will be in the amendments that flow from the Decision RIS, which are not available for comment.

Structure of the changes

We ask that the committee reconsider the proposed structure for permitting and exemptions. The proposed structure starts with the primary position that taking a protected plant is an offence. The structure then proposes a series of exemptions to this offence. One of those is if a permit is issued under the *Nature Conservation (Wildlife Management) Regulation 2006 (Regulation)*. Another exemption is if an exemption applies under the Regulation. This structure does not initially tell the reader of the legislation what must be done in order to take a protected plant. Rather, the reader must delve into the subordinate legislation to determine what must be done in order to take a protected plant. This is one of the key difficulties with the current legislative framework.

The structure is also not the usual structure for regulating these types of activities. The usual structure is to require a permit for particular regulated activities. The offence would then be to carry out a regulated activity without a permit. There would then be a definition of regulated activities which would exclude activities that the State does not wish to regulate. This is the process used under the *Sustainable Planning Act 2009* (and its predecessor legislation) for all development, including vegetation clearing. A similar structure is adopted for authorising resources activities and environmental authorities, although it is a slightly different structure.

Implementing the usual structure would require more amendment than is currently proposed. However, it would not require significantly more work and would simplify the regime.

Since the aim of the Bill is to simplify the protected plants regime, it would be sensible to adopt a structure with which most of the affected industry is familiar.

Exemptions and other comments

Ergon Energy currently maintains its existing infrastructure by operating in accordance with an approved protected plant exemption under section 41(1)(a)(ii) of the *Nature Conservation (Protected Plants) Conservation Plan 2000 (Ergon Energy Exemption)*. This exemption has been in place since 8 October 2010 and is operating effectively. However, there is scope to streamline and reduce the record keeping obligations placed on electricity entities.

The Ergon Energy Exemption operates regardless of whether there is a known record of endangered, vulnerable or near threatened plants (**EVNT**). It authorises the taking of parts of EVNT where doing so would not cause the death of the plant. It also permits taking of EVNT and least concern plants in an area that has been previously cleared and has not regrown to remnant vegetation status. It also authorises the clearing of least concern plants in areas that have not previously been cleared, subject to conditions.

To ensure that the Ergon Energy Exemption is not accidentally removed, it will be important to carry it forward by including a provision in the *Nature Conservation Act 1992* or the Regulation mirroring section 41(1)(a)(ii) of the *Nature Conservation (Protected Plants) Conservation Plan 2000*.

It is still a little unclear what is proposed for the regulation of special least concern plants. The Decision RIS appears to suggest that an exemption will exist for the *clearing* of special least concern plants but that the *harvesting* of such plants will be require a permit. If this is the proposal, it is supported.

Ergon Energy otherwise supports the exemptions proposed in the Decision RIS, but considers there would be a simpler way to deal with them. Ergon Energy suggests including a definition (or provisions having the same effect) of “*low risk clearing activities for electrical infrastructure*”. This approach would provide consistency across the different frameworks that currently regulate clearing activities.

It is submitted that “*low risk clearing activities for electrical infrastructure*” are:

- clearing activities associated with the maintenance of existing electricity infrastructure as defined under the *Sustainable Planning Regulation 2009*;
- clearing activities undertaken for a supply network for electricity, as defined under the *Electricity Act 1994*, or for private electricity works that form an extension of or provide service connections to properties from the network, if the network operates at standard voltages up to and including 66kV;
- clearing activities undertaken for a supply network for electricity, as defined under the *Electricity Act 1994*, in:
 - areas that are non-remnant vegetation as defined under the *Vegetation Management Act 1999*;
 - an area shown on a property map of assessable vegetation (**PMAV**) as a category X area; or
 - an area for which there is no PMAV and the vegetation is not shown on the regional ecosystem map or remnant map as remnant vegetation; or
- clearing activities under:
 - the *Electricity Act 1994*, section 101 or 112A; or
 - the *Electricity Regulation 2006*, section 17.

Ergon Energy considers that meaningful consultation with linear infrastructure providers is required to develop a protected plants code of practice for high risk clearing activities for electricity infrastructure that will deliver the appropriate balance between environmental outcomes, practicality and administrative reporting requirements. The code of practice must also be cost efficient taking into account the risk-based approach to regulation and the role of electricity entities as essential community infrastructure providers.

A definition of “*low risk clearing activities for electrical infrastructure*” would assist with reducing regulatory burden and result in lower costs for Ergon Energy in dealing with

protected plants. In a climate of increasing focus on reducing electricity prices, it is important to minimise the costs associated with the provision of electrical infrastructure.

Please do not hesitate to contact me if you would like Ergon Energy to provide any further details in support of this submission.

Yours faithfully



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21 March 2013

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Protected Plants Review Project
Threatened Species Unit, Nature Conservation Services
Department of Environment and Heritage Protection
GPO Box 2454
BRISBANE QLD 4001

Dear Sir/Madam

Review of the Protected Plants Legislative Framework under the *Nature Conservation Act 1992* Consultation Regulatory Impact Statement

This submission is made by Ergon Energy Corporation Limited (**Ergon Energy**) in response to the *Review of the Protected Plants Legislative Framework under the Nature Conservation Act 1992 – Consultation Regulatory Impact Statement (RIS)*.

Ergon Energy is a Queensland government-owned corporation that supplies electricity to approximately 700,000 customers across a vast operating area of over one million square kilometres – around 97% of Queensland.

Ergon Energy supports reform to the protected plants legislative framework to streamline the regulatory process whilst improving environmental outcomes.

Option 2 – Greentape reduction and regulatory simplification (preferred option)

The RIS identifies option 2 as the preferred option as it will “*provide the greatest net benefit to the community*” and “*significantly reduce business and government costs and improve environmental outcomes, primarily by adopting a risk based approach to regulation*”.

Option 2 is Ergon Energy’s preferred option subject to the comments contained in this submission.

Ergon Energy submits that the new protected plants legislative framework (including the protected plants code of practice) should recognise:

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- the role that electricity entities have as essential community infrastructure providers; and
- the low impact of clearing for linear infrastructure.

Ergon Energy is an electricity entity with obligations under the *Electricity Act 1994*, *Electricity Regulation 2006*, *Electrical Safety Act 2002* and the *Electrical Safety Regulation 2002*.

In particular, section 148 of the *Electrical Safety Regulation 2002* provides that “an electricity entity must ensure that trees and other vegetation are trimmed, and other measures taken, to prevent contact with an overhead electric line forming part of its works that is likely to cause injury from electric shock to any person or damage to property”.

Under the current framework, potential impacts to protected plants are assessed by Ergon Energy through its comprehensive process *Environmental Planning for Work*.

Ergon Energy is able to maintain its existing works by operating in accordance with an approved protected plant exemption under section 41(1)(a)(ii) of the *Nature Conservation (Protected Plants) Conservation Plan 2000*. This exemption has been in place since 8 October 2010 and is operating effectively. However, there is scope to streamline and reduce the record keeping obligations placed on electricity entities.

Section 2.2 of Attachment 1 to the RIS lists proposed exemptions to the permitting regime discussed under option 2. Ergon Energy supports the position that flora survey and clearing permit requirements will not apply where the clearing is being undertaken to maintain existing infrastructure.

However, meaningful consultation with linear infrastructure providers is required to develop a protected plants code of practice that will deliver the appropriate balance between environmental outcomes, practicality and administrative reporting requirements. The code of practice must also be cost efficient taking into account the risk-based approach to regulation and the role of electricity entities as essential community infrastructure providers.

Definition of “low risk clearing activities”

Ergon Energy requests that the Government consider including a definition of “*low risk clearing activities for electrical infrastructure*”. This approach would provide consistency across the different frameworks that currently regulate clearing activities.

It is submitted that “*low risk clearing activities for electrical infrastructure*” are:

- clearing activities associated with the maintenance of existing electricity infrastructure as defined under the *Sustainable Planning Regulation 2009*;
- clearing activities undertaken for a supply network for electricity, as defined under the *Electricity Act 1994*, or for private electricity works that form an extension of or provide service connections to properties from the network, if the network operates at standard voltages up to and including 66kV;

- clearing activities undertaken for a supply network for electricity, as defined under the *Electricity Act 1994*, in:
 - areas that are non-remnant vegetation as defined under the *Vegetation Management Act 1999*;
 - an area shown on a property map of assessable vegetation (**PMAV**) as a category X area; or
 - an area for which there is no PMAV and the vegetation is not shown on the regional ecosystem map or remnant map as remnant vegetation; or

- clearing activities under:
 - the *Electricity Act 1994*, section 101 or 112A; or
 - the *Electricity Regulation 2006*, section 17.

General comments

Ergon Energy does not support requirements for permits or recording of clearing of special least concern plants for essential community infrastructure development. These species have low conservation value and the currently large number of obscure and cryptic species involved makes survey impractical. Similarly commercial harvesting arrangements should not be relevant for activities relating to essential community infrastructure.

Please do not hesitate to contact Geoff Sharp, Environmental Advisor (telephone 0427 038 055) if you would like Ergon Energy to provide any further details in support of this submission.

Ergon Energy looks forward to participating in the next stage of the review.

Yours faithfully



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