



THE VOICE OF LEADERSHIP

2013 Corporate Partners

5 July 2013



Research Director
Agriculture, Resources and Environment Committee
Parliament House
George Street
Brisbane Qld 4000



Dear Mr Hansen



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



Thank you for the opportunity to provide feedback on the *Nature Conservation (Protected Plants) and Other Legislation Amendment Bill 2013* (Bill).



The Property Council is supportive of the Government's commitment to reduce the green tape and complexity associated with vegetation management in Queensland.



As you are aware, the Property Council lodged a joint submission with the Urban Development Institute of Australia (Queensland) on the Consultation Regulatory Impact Statement (RIS) on the proposed changes to the Protected Plants Framework, in March 2013.



It is disappointing to note that not only did we not receive a response from the Department of Environment and Heritage Protection (Department), but also the concerns raised in the submission on the RIS have largely been ignored in the development of the Bill.



We take this opportunity to once again draw these issues to your attention, and have attached our earlier submission for your reference.

In addition to the attached submission, the Property Council provides the following comments.



Role of the Bill

The Bill is designed to lay the foundation for future amendments to the *Nature Conservation Act 1992* (NCA). However, as these proposed amendments are not available, it is difficult to provide meaningful commentary on their appropriateness, or otherwise.



For example, the *Explanatory Notes* accompanying the Bill note that amendments to the NCA will be made to, among other things, clarify when offsets can be required.

This is also noted as a key element of the Bill in Minister Powell's Explanatory Speech in Parliament on 21 May 2013:

(Wildlife Management) Regulation 2006. The bill will also clarify when offsets can be required, which will be consistent with the requirements of the Queensland government offset policy. It will be made

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As the word 'offset' does not appear in the Bill, it is assumed this clarification will be made via future amendments.

The Property Council seeks the assurance of Government there will be further opportunity for stakeholders to be involved in the review of proposed amendments before they are presented to Parliament.

Specific concerns

Section 88D of the Bill seeks to allow the regulation to prescribe a least concern plant as a 'special least concern plant'. While the *Explanatory Notes* outline the term 'rare' will no longer be used, this new category of least concern plant will not replace the term 'rare', rather seeks to introduce an expanded category.

This amendment will have implications for industry, as under Clause 10 of the Bill, a proponent will now need to obtain a permit or other form of permission to use special least concern plants.

Section 88D also seeks to introduce a risk assessment, whereby the 'ecological sustainability' of a least concern plant has to be determined. It is unclear who will make this assessment, or what the term 'ecological sustainability' means in this context.

This new section of the Bill does not support the Government's commitment to green tape reduction, as along with allowing for a new category of least concern plant, additional assessments will be required.

Section 174B of the Bill intends to introduce a power, whereby the chief executive of the Department will be able to publish assessment guidelines that must be taken into account in considering applications made under the Act.

As the chief executive is currently able to publish administrative guidelines at any time, the need for this provision is questioned. Making guidelines mandatory considerations, through the operation of the legislation, will provide less flexibility for both Government and industry going forward.

Additionally, a draft of the assessment guidelines has not been made available for consultation, so it is difficult to comment on their potential impact on the industry.

Green tape reduction

The vegetation management framework in Queensland is complex and burdensome for both Government and industry.

While the Bill lays the foundations to reduce some complexity, in order to achieve meaningful green tape reduction, the Property Council urges the Government to consider integrating the Protected Plants Framework into the *Vegetation Management Act 1999* (VMA).



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Recent changes to the VMA, such as self-assessable codes and a single vegetation map, could be expanded to include the protected plants elements of the NCA.

Through these initiatives, and integration of the NCA's permit application process into the VMA, real time and cost savings could be achieved by both Government and industry.

The Property Council therefore questions the need for this legislation, and urges the Government to look more broadly at ways of reducing green tape in Queensland.

Conclusion

Thank you again for the opportunity to provide feedback on the Bill.

The Property Council questions whether more significant gains could be achieved through limiting the role of the NCA, rather than reinforcing it through the Bill's proposed amendments.

As noted above and in the attached submission, if introduced in its current format, the Bill will impose significant costs on the industry while providing minimal returns in green tape reduction.

If you have any questions about the Property Council or this submission, please do not hesitate to contact me on kmacdermott@propertyoz.com.au or 07 3225 3000.

Yours sincerely



Kathy Mac Dermott
Executive Director

CC:

Hon Jeff Seeney MP, Deputy Premier and Minister for State Development, Infrastructure and Planning

Hon Andrew Powell MP, Minister for Environment and Heritage Protection



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21 March 2013

Hon Andrew Powell MP
Minister for Environment and Heritage Protection
Level 13
400 George Street
Brisbane QLD 4000
GPO Box 2454, Brisbane QLD 4001

Dear Minister

Review of the Protected Plants Legislative Framework under the Nature Conservation Act 1992

The Property Council of Australia (Property Council) and the Urban Development Institute of Australia (Queensland) (UDIA (Qld)) jointly write to express our concern regarding the high degree of regulation and duplication associated with the clearing of native vegetation in Queensland. We welcome the opportunity to comment on the *Review of the Protected Plants Legislative Framework under the Nature Conservation Act 1992 Consultation Regulatory Impact Statement* (Consultation RIS).

The property and development industry is concerned the Consultation RIS lacks the necessary rigor and transparency to support the review of the regulation. For example, little information is given regarding the assumptions for cost calculations, such as the \$2,500 'cost recovery' fee for processing an application for a vegetation clearing permit. We therefore request a technical review of the Consultation RIS by a technical expert external to the Department of Environment and Heritage Protection to ensure the document has been based on appropriate assumptions.

While the property and development industry acknowledges the Department's work to cut green tape and improve efficiency, the Consultation RIS circulated for discussion to stakeholders is inadequate, providing little detail regarding key definitions of importance. During a pre-consultation meeting, representatives from both the Property Council and UDIA (Qld) expressed that the definition of both 'high risk clearing activities' and 'low risk clearing activities' was the most pertinent issue to the industry in the consultation document.

Included in the definition of 'high risk clearing activities' in the key terms section (p.vii):

- "built infrastructure where the impact area is over a certain size or width and the activity will involve clearing
- clearing over a certain size or width (including linear clearing)
- material change of use (MCU) where the development footprint is over a certain size and clearing will be required to facilitate the change of use
- reconfiguring a lot (RaL) where the site is over a certain size, if the size of any lot created is 25ha or smaller and the site contains vegetation that will be cleared as a result of the RaL."

'Low risk clearing activities' provide a similar level of vagueness, being defined as "clearing activities that are not high risk clearing activities". It would appear that little further thought has been given to this by the Department, given the absence of any clear metrics of what constitutes 'a certain size'.



Additionally, with the Queensland Government seeking to reduce red tape and regulation for the industry, it is questioned why a new category of 'special' least concern plants has been created.

Section 2.3.2.2 of Annexure 1 of the Consultation RIS provides that proponents must comply with the assessment code in order to be issued a permit. This section lacks a mechanism for proponents who are unable to fully comply with the code to apply for a permit, such as through attaching additional conditions to a permit.

The proposal under Section 2.3.2.2 also leads to additional regulation. Under the Regrowth Vegetation Code, clearing is permitted where compliance with the code can be demonstrated. Under this proposal, proponents are not only required to demonstrate compliance with the code, they must also then obtain a permit for clearing.

With the current level of detail being inadequate, the property and development industry is not in a position to provide meaningful feedback on the industry's preferred option. We therefore request that the Consultation RIS is reviewed by a third party technical expert and the key terms used in the paper are revised to ensure that clear definitions are provided to articulate what constitutes both 'high risk' and 'low risk' clearing activities.

The Property Council and UDIA (Qld) request that once the above is undertaken, the Consultation RIS and detailed preferred options be redistributed for consultation.

Yours sincerely

A handwritten signature in black ink, appearing to read 'MARINA VIT'.

MARINA VIT

Chief Executive Officer

Urban Development Institute of Australia (QLD)

A handwritten signature in blue ink, appearing to read 'Kathy Mac Dermott'.

KATHY MAC DERMOTT

Executive Director

Property Council of Australia (QLD)