

Sub No. 62.

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By Email: [sdiic@parliament.qld.gov.au](mailto:sdiic@parliament.qld.gov.au)

State Development, Infrastructure and Industry Committee  
Vegetation Management Framework Amendment Bill  
Parliament House  
George Street  
BRISBANE QLD 4000



Dear Sir/Madam

**Submission on behalf of Evergreen Fuels Pty Ltd in relation to the Vegetation Management Framework Amendment Bill**

**1 Background**

- 1.1 We act for Evergreen Fuels Pty Ltd ABN 49 118 526 033 (**Evergreen**).
- 1.2 Evergreen holds a registered profit a pendre dated 15 October 2010 for a term of 10 years (with an option to extend) over land described as 'the land marked "B" "C" and Weymouth "D" in lot 16 on SP104551' in the Lockhart River area of North Queensland (**Relevant Land**)
- 1.3 The Relevant Land is owned by the Mangkuma Land Trust, an Aboriginal land trust established to hold land under the *Aboriginal Land Act 1991* (Qld).
- 1.4 Evergreen is currently planting Pongamia Pinnata trees<sup>1</sup> on 3,000 hectares of the Relevant Land with a view to expanding this to a total of 10,000 hectares of Pongamia Pinnata trees. This plantation will provide a high yield and sustainable green alternative fuel source by refining crude vegetable oil into biodiesel, and employment for the local indigenous community (**Project**). The production of biofuel from Pongamia trees has previously been done successfully in several countries including India.
- 1.5 The Project is expected to produce approximately 40 million litres of affordable Australian specification high grade biodiesel by 2016, and ultimately produce in excess of 80 million litres. In full swing, it is estimated that the Project will provide 110 full-time jobs for the local Lockhart River community.
- 1.6 The Project has the support and co-operation of the local traditional owners of the Relevant Land. Many aspects of the Project present significant employment opportunities to the local Aboriginal community, including planting, propagating of seedlings, provision of bees to pollinate the plants and harvesting.

<sup>1</sup> Pongamia Pinnata is native to North Queensland and was determined by the Queensland Department of Agriculture, Fisheries and Forestry to pose "a low risk in Queensland" in terms of its impact on the environment as a weed, see for example: [http://www.daff.qld.gov.au/documents/Biosecurity\\_EnvironmentalPests/IPA-Pongamia-Risk-Assessment.pdf](http://www.daff.qld.gov.au/documents/Biosecurity_EnvironmentalPests/IPA-Pongamia-Risk-Assessment.pdf). It is also neither a declared pest plant under the *Land Protection (Pest and Stock Route Management) Act 2002* nor another plant listed in the regional vegetation management code as a high risk species. APAC-#18192052-v1

- 1.7 Therefore, as both a source of employment and environmental innovation, the Project is of great importance not only to the local Lockhart River economy, but also more broadly to sustainable economic development in Queensland and Australia.

## 2 Existing legislative requirements

- 2.1 The expansion of the Project would involve the clearing of existing vegetation on the Relevant Land, including:

- (1) remnant vegetation containing "of concern" regional ecosystems;
- (2) remnant vegetation that is "least concern" regional ecosystem;
- (3) "remnant vegetation" under section 20AH of the *Vegetation Management Act 1999* (Qld) (**VMA**); and
- (4) "Category A" vegetation under Property Maps of Assessable Vegetation (**PMAVs**).

- 2.2 We **enclose** the following documents for your information:

- (1) the registered profit a pendre dated 15 October 2010 held by Evergreen over the Relevant Land;
- (2) a title search which identifies the Relevant Land; and
- (3) vegetation mapping in relation to the Relevant Land.

- 2.3 Under current legislation, there are significant hurdles and costs associated with the clearing of native vegetation for the Project. This is because:

- (1) under the Sustainable Planning Regulation 2009 (**SPR**), operational work that is the clearing of vegetation on indigenous land is code assessable (see schedule 3, part 1, table 4, item 1) unless (relevantly) one of a narrow set of exemptions applies under schedule 24 of the SPR;
- (2) however, under the *Sustainable Planning Act 2009* (Qld) (**SPA**), assessable development that is operational work for the clearing of native vegetation is prohibited development (see schedule 1, item 3 of the SPA) unless it is for a "relevant purpose" (see paragraph (4) below) under the VMA
- (3) we are not aware of circumstances in which any of the exemptions in schedule 24 of the SPR would apply to the Project or to the Relevant Land (particularly given its current mapping as remnant vegetation); and
- (4) we are not aware of circumstances in which the relevant purposes set out in section 22A of the VMA apply to the Project or to the Relevant Land.

- 2.4 The consequence of the current legislation is that it is unlikely that approval can be obtained for the further clearing of vegetation, and as a result, the expansion of the Project is in jeopardy.

## 3 The Bill

- 3.1 The Project is unlikely to benefit from the *Vegetation Management Framework Amendment Bill 2013* (**Bill**) in its current form. This is because:

- (1) although the Bill removes "high value regrowth vegetation" regulations from freehold and indigenous land for agriculture and grazing purposes, the Project would not benefit from this amendment because the Relevant Land is mapped as comprising "remnant vegetation" as opposed to "high value regrowth vegetation";

- (2) it is unlikely that the introduction of self-assessable clearing codes will allow landholders to undertake clearing without the need for government involvement or assessment for clearing in areas mapped for remnant vegetation;
- (3) it is unclear whether the introduction of new relevant purpose for "high value agriculture clearing" will assist the Project. It is unclear whether the Pongamia Pinnata trees could be regarded as "high value agriculture clearing" which is proposed to be defined as "clearing carried out to establish, cultivate and harvest crops, other than clearing for grazing activities or plantation forestry". "Crops" is proposed to be defined as "any or all of the following--- annual horticulture; broadacre cropping; perennial horticulture". While these types of cropping are not specifically defined in the VMA or the Bill, these terms are generally associated with various types of "edible" food crops which would not include the Project (i.e. non-edible oil suitable for refining into biodiesel). In addition, it is also not free from doubt as to whether the Project would fall under the definition of "plantation forestry", which is proposed to be defined as "the planting and cultivation of timber for commercial purposes".

#### 4 Submission

- 4.1 Evergreen welcomes the *Vegetation Management Framework Amendment Bill 2013 (Bill)*, introduced to State Parliament on 20 March 2013 with the purpose to "allow for sustainable land use"<sup>2</sup> and to "allow sustainable vegetation management activities to occur to support the development of high value agriculture in areas with appropriate land and climate characteristics"<sup>3</sup>.
- 4.2 In the spirit of these objectives, it is submitted that the State Development, Infrastructure and Industry Committee (**Committee**) should recommend amendments to the Bill in order to facilitate the Project and the key benefits that it brings to the local community and to the environment. This could be achieved by a variety of legislative amendments, such as:
  - (1) an express exemption for the Project should be incorporated into the Bill;
  - (2) changes to the State-wide vegetation mapping in conjunction with the Bill should either exclude the vegetation on the Relevant Land from classification as "remnant vegetation" or reclassify the vegetation as "lease concern high value regrowth vegetation";
  - (3) a new relevant purpose should be included in the Bill (under section 22A of the VMA) for a "significant indigenous community project", specifically: a project that provides desirable social, economic and environmental outcomes and/or significant employment to a local indigenous community;
  - (4) the definition of "crops" should be broadened to specifically include cropping for the production of biofuels in order to remove any doubt or ambiguity in relation to whether the Project falls under the relevant purpose of "high value agriculture clearing"; or
  - (5) remnant vegetation regulations should be removed from indigenous land.
- 4.3 It is submitted that including any (or any combination of) the above suggested amendments will assist in ensuring the long term viability of the Project and will also assist in creating greater certainty and opportunity for future development in this industry for the benefit of Queensland.

#### 5 Conclusion

- 5.1 Evergreen thanks the Committee for considering its submission as it assesses the Bill and provides its recommendations to Parliament.

<sup>2</sup> clause 4 of the Bill

<sup>3</sup> Media Release by the Honourable Jeff Seeney and the Honourable Andrew Cripps, "Vegetation management changes to support new ag areas", dated 20 March 2013

10 April 2013

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5.2 Please contact Michael Walton on 3414 2633 or Andrew Muir on 3414 2935 if you require further information

Yours faithfully



Michael Walton  
Norton Rose Australia  
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(as authorised agents for Evergreen Fuels Pty Ltd ABN 49 118 526 033)

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