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Mr Chris Whiting MP
Chair
State Development, Natural Resources and
Agricultural Industry Development Committee
Parliament House
George Street
Brisbane Qld 4000
Via: sdnraidc@parliament.qld.gov.au

Dear Mr Whiting

Vegetation Management and Other Legislation Amendment Bill

Thank you for the opportunity to provide a submission on the *Vegetation Management and Other Legislation Amendment Bill 2018* (Bill).

The Property Council previously provided a submission on the *Vegetation Management (Reinstatement) and Other Legislation amendment Bill 2016*, that was defeated in the Legislative Assembly in 2016.

We acknowledge and support the removal of the reverse onus of proof offence provision and the retention of the mistake of fact defence provision from the previous Bill. Furthermore, we acknowledge that the current Bill, unlike its predecessor, does not seek to amend the *Environmental Offsets Act 2014*.

It is disappointing and concerning that once again the Property Council was not consulted prior to the Bill being introduced, and that there is an unreasonably short time frame to make submissions to the Committee, as well as not being provided the opportunity to be called as witnesses in Brisbane following the close of submissions.

Furthermore, we are concerned that the Bill breaches fundamental legislative standards by proposing retrospective clauses that will not only impinge on the ability to clear particular vegetation, but also has the ability to amended certain applications.

As outlined in the explanatory notes, a key aim of the legislation is to protect the Great Barrier Reef. While supporting actions to protect the Reef, the Property Council contends that policy responses in this area must be proportionate to the environmental threat, based on evidence, and coordinated with other existing and emerging policy responses from all levels of Government.

Therefore, industries with a significant impact on the Reef catchments must be the principal focus of legislative intervention, rather than smaller contributors such as urban development. With limits already placed on urban growth, particularly in South East Queensland, it is

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imperative that the Government understands the overall implications that the proposed Bill will have on urban development.

Due to the limited time available to prepare a submission, and for the fact that the detailed mapping has not been released to enable detailed analysis to occur, we implore the Committee to investigate the overall impacts that the proposed changes will have on urban development.

Protection of high value regrowth vegetation (Category C)

We acknowledge that while significant changes are proposed to occur as part of the amendments, the urban purpose exemption remains under the *Planning Regulation 2017*.

It is our understanding that the proposed amendments that will see freehold land included as a land type where high value regrowth is regulated, are not intended to trigger vegetation offsets through the Queensland Government under the *Environmental Offsets Act 2014*.

However, we have serious concerns about the flow on implications to local government planning schemes, as a result of regrowth vegetation being mapped as a matter of local environmental significance (MLES).

While local governments are not required to incorporate the updated regrowth vegetation mapping into their planning schemes (as regrowth is not defined as a Matter of State Environmental Significance (MSES)), many local governments will incorporate the mapping through including regrowth as a Matter of Local Environmental Significance (MLES).

As an example of local government policy on MLES, Brisbane City Council generally includes regrowth within the General Ecological Significance area on its Biodiversity overlay, and applies a policy of avoid, mitigate and offset impacts to these areas. Within Logan City Council, most MLES can be cleared within urban areas, however an offset is required based on the type of vegetation and extent of the clearing.

Therefore, while the clearing of regrowth vegetation will be exempt in urban areas under State provisions, the manner in which the mapping is incorporated into planning schemes means that this mapping will significantly impact the extent of development that can be achieved in urban areas. Where development can be achieved, this will come at an increased cost due to links between mapping and the calculation of offsets.

In addition to the potential restrictions on urban development that will result from the Bill, it should be noted that rural residential areas will be significantly impacted by the proposed changes. Rural residential is not considered as an urban purpose, meaning that clearing exemptions are not applicable for land in these zones. The additional restrictions placed on rural residential areas is contrary to the recent amendments to the South East Queensland Regional Plan, which sought to increase opportunities for rural residential development through the inclusion of new Rural Living areas, such as in Tamborine.

To mitigate the unintended consequence of proposed changes flowing through to MLES mapping and thereby restricting development or increasing costs, the Committee should include a recommendation that the urban purpose exemption is extended to planning schemes. Furthermore, self-assessable codes that apply to the clearing of remnant vegetation should be expanded to include regrowth vegetation. This will ensure that regrowth vegetation mapping does not have a higher level of protection than remnant vegetation.

Without these urban exemption provisions in place, the likely consequence will be further pressure placed on housing affordability.

It is important to also note that the provisions that apply to regrowth vegetation will be stricter than remnant vegetation, which can be cleared through compliance with self-assessable codes.

Recommendation:

Ensure that the urban purpose exemption that applies through the *Planning Regulation 2017* extends to the reflection of regrowth mapping as MLES in local government planning schemes.

Ensure that regrowth mapping does not have a higher level of protection than remnant vegetation.

Essential Habitat Mapping

The Property Council has serious concerns about the flow on implications to local government planning schemes, as a result of the proposed change in definition of essential habitat to include near threatened wildlife, coupled with the change in definition of high value regrowth to include freehold land.

The State Planning Policy definition for MSES means that essential habitat is regulated vegetation under the *Environmental Offsets Act 2014*.

As local governments are required to update MSES mapping in their planning schemes, this will trigger additional requirements or restrictions on development. As an example of local government policy on MSES, Brisbane City Council generally includes essential habitat MSES within the High Ecological Significance area on its Biodiversity overlay, and apply a policy of avoid, mitigate and offset impacts to these areas. Similarly, Moreton Bay Regional Council applies a policy position that the creation of new subdivision boundaries cannot occur within mapped areas of MSES.

While the clearing of some vegetation in urban areas will be exempt under State provisions, there are requirements on local governments in relation to the incorporation of MSES into planning schemes. The policy framework local governments implement regarding this mapping will significantly impact the extent of development that can be achieved in urban areas. Where development can be achieved, this will come at an increased cost due to offset requirements under the *Environmental Offsets Act 2014*.

To ensure that the proposed changes to MSES mapping do not restrict development or increase costs, the Committee should recommend that the urban areas purpose exemption is extended to matters within local planning schemes. Without these exemption or provisions in place, the likely consequence will be further pressure placed on housing affordability.

Recommendation:

Ensure that the urban purpose exemption that applies through the *Planning Regulation 2017* extends to the reflection of essential habitat in local government planning schemes.

Amended definition of high value regrowth

The continual change to vegetation management practices is a source of frustration for all stakeholders, as it creates uncertainty and leads to piecemeal environmental outcomes. The Government, and Parliament more broadly, needs to adopt a bipartisan approach to vegetation matters to stop the constant change that is occurring in relation to vegetation and wildlife matters.

The introduction of a new definition for high value regrowth - being vegetation that hasn't been cleared for 15 years - will only increase the level of uncertainty that currently exists.

If the 15-year definition is passed, the Government needs to establish a yearly fixed date on which updated vegetation mapping is released. Currently, there is no transparency, consultation, notice or timeframes associated with mapping changes.

Furthermore, the proposed changes contained in the Bill must not affect the protection afforded by a Property Map of Assessable Vegetation (PMAV). Investment decisions have been made on the basis of existing PMAVs, which are intended to provide a level of protection against future change.

Recommendation:

Introduce a fixed date for when mapping changes are released by the Department.

Ensure that existing PMAVs are not affected by the proposed amendments in the Bill.

Great Barrier Reef (Category R)

The Property Council is not opposed to the proposed change to extend category R to include regrowth vegetation in watercourse and drainage feature areas in three additional Great Barrier Reef catchments. However, we seek clarification as to why areas close to the Sunshine Coast are being captured in the Great Barrier Reef catchments.

Furthermore, any existing PMAVs in these areas should not be changed as a result of the proposed amendments.

Requirement to obtain riverine protection permits

This amendment was a previous requirement under the Act and the Property Council does not have any major concerns with it being reintroduced- as long as the permit system is operated in a timely and efficient manner.

Mapping implications

The full implications of the mapping changes are not able to be ascertained in the absence of the mapping details (the shape files). This information should have been made available at the time that the amended mapping was released.

The legislation should make provision for transitional provisions which provide that a mapping change does not affect a properly made development application that was made prior to the mapping change, or a development approval granted prior to a mapping change.

The legislation and its associated mapping have the effect of extending the prohibition on clearing native vegetation. The Property Council is concerned about the impact this will have on the State and local governments being able to implement the outcomes sought to be achieved by the South East Queensland Regional Plan in terms of housing and economic development. It is important that environmental policy changes are assessed in a holistic fashion by reference to other policy outcomes.

The Property Council seeks assurance from the Government that a holistic assessment of the implications of the changes has been undertaken and the outcomes are consistent.

Recommendation:

introduce transitional provisions to ensure that properly made development applications or development approvals are not affected by mapping changes.

Thank you for opportunity to make a submission on the *Vegetation Management and Other Legislation Amendment Bill 2018*. If you require any further information or would like to discuss this matter further please don't hesitate to contact me on [redacted] or [redacted]

Yours sincerely



Chris Mountford

Queensland Executive Director

