28 April 2016

Online Response: vminquiry@parliament.qld.gov.au

Research Director
Agriculture and Environment Committee
Parliament House
BRISBANE QLD 4000

Environment Institute of Australia and New Zealand
SOUTH EAST QLD DIVISION

Dear Honourable Committee Members,

Re: Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016

Thank you for providing the Environmental Institute of Australia and New Zealand (EIANZ) with the opportunity to provide a submission the Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016 (the "Bill").

EIANZ is a non-profit, multi-disciplinary association. Its members include a broad range of environmental consultants who represent, and provide advice to, a range of developers and regulators within the resources development industry.

We understand that the Bill has been introduced to reinstate a responsible vegetation management framework, to more effectively manage vegetation clearing across Queensland. The Bill pays particular attention to the reduction of carbon emission rates caused by clearing, and risk to the Great Barrier Reef from sediment and pollutant run-off. Members of EIANZ reviewed the Bill and associated documents and provide the following comments.

Reinstatement of the High Value Regrowth Vegetation

The reinstatement of the High Value Regrowth Vegetation restores protection to ecologically important regrowing woodlands ('High Value Regrowth') on freehold and Aboriginal land, while retaining the ability to clear vegetation, where required, through simple notification to the state government.

Currently, high-value regrowth vegetation is defined in the Regrowth Vegetation Code as vegetation that is:

a. any of the following:

i. an endangered regional ecosystem;
ii. an of concern regional ecosystem;
iii. a least concern regional ecosystem;

b. have not been cleared since 31 December 1989; and

c. is shown on a regrowth vegetation map.

While EIANZ supports reinsertion of regrowth vegetation into the Act, we suggest further amendments to the definition. The definition should outline 'the vegetation that has not been cleared for the past 15 years' and should not include a defined date such as 1989. This would ensure consistency in the ecological assessment of regional ecosystems, and the definition of a vegetation having a regrowth on a yearly basis.

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The Bill will also restore protections for vegetation in proximity to riverbanks ('riparian areas'), and extend provisions to most of the Great Barrier Reef catchments. EIANZ supports this decision, as it will regulate the vegetation in prime areas, and minimise erosion and sediment runoff, ensuring that the stated purpose of the Act, i.e., that it does not cause land degradation, are met.

Changes to Permit for Clearing for High Value Agriculture and Irrigated High Value Agriculture

Irrigated high-value agriculture clearing is defined as clearing of native vegetation to establish, cultivate and harvest crops, or pasture. We understand the need to clear vegetation to ensure prosperous agriculture within Queensland. However, the provision of a clearing permit for high value agriculture and irrigated high value agriculture does not include conditions that enable the protection of threatened ecosystems. Permits to clear threatened ecosystems were issued in areas located outside the mapped "high value agriculture land" under the Web-based Agricultural Land Information. If the clearing is to be maintained in the high value agriculture areas, a thorough assessment of the environmental values of the land must be undertaken to demonstrate that the clearing would not be detrimental of other environmental values of the land. Evaluation must include standard environmental assessments, such as ecological surveys, to verify the ecological values and functions of the subject site.

In the past 3 years, large-scale clearing has also been used under this Permit. Chaining methods (e.g., pulling a large chain behind two tractors) were used to clear land without any controls regarding erosion and sediment run-off. Moreover, no protection or care for wildlife can be provided or enforced during this type of clearing. This type of land clearing can create major erosion, sediment runoff and expose saline or acid sulphate soils. If the Permit for clearing high value agriculture and irrigated high value agriculture is to be retained, better conditions should be set regarding the method for clearing, machinery to be used, and require clearing to be supervised by suitably qualified wildlife spotters. Conditions should also be put in place to advise those responsible for land clearing that they must comply with other legislation, such as the Environmental Protection and Biodiversity Conservation Act 1999, Nature Conservation Act 1992, and other regulations.

Thinning Codes

The Bill does not amend the Thinning Codes. The QLD Self-assessable Thinning Codes allow landholders to clear as much as 75% of trees in previously intact forests. The Codes set arbitrary thresholds for tree densities, which are not based on peer-reviewed science.

While the Thinning Codes set out the practices and guidance for thinning trees and shrubs greater than two metres in height, clearing can also occur within endangered and vulnerable regional ecosystems, including Mulga land bioregion, Brigalow Belt Bioregion and Cape York Peninsula. The Thinning Codes can reduce remnant vegetation in mature regional ecosystems by up to 50%. This level of vegetation cover reduction from an ecosystem could mean that the regional ecosystems no longer meet the definition of a regional ecosystem.

Reducing the vegetation canopy and cover can also significantly impact on the ecological function of this ecosystem, and reduce the use of the vegetation by threatened species. While the intent of the Codes can be supported, there is a strong need to revise these Codes to account for impacts on the ecological functions these ecosystems.

Significant Residual Impact

The removal of the "significant" residual impact threshold for environmental offsets is supported. There is currently no clear definition of "Significant" in the Environment Offset Act. A "significant" residual impact can be interpreted differently depending on the assessment officer. This has created major issues and delays in the negotiation and the delivery of the offset. The current terminology is not consistent or effective.

To be consistent with the EPBC Environmental Offset Policy, EIANZ supports the removal of the term "Significant" as it will simplify the assessment, avoid inconsistencies between applications and legislation, and refine the way the offset will be assessed.

Onus of proof

In its present form, the Bill reverses the onus of proof. This will remove the defence of 'claimed mistaken clearing', and restore the starting presumption that a landholder is responsible for clearing that takes place on its property. As it is highly improbable that clearing of land would occur without the consent of the landowner, reversing the onus of proof will ensure that the landowner or, if proven, a third party, will be taken to be responsible for the offence in the absence of contrary evidence.

We note that the landowner can still provide evidence to prove its innocence. The person's right to natural justice is maintained, consistent with legal practice.

Retrospective

If passed, the Bill will have retrospective commencement from the date the Bill was first introduced to parliament (i.e., 17 March 2016). The intention is to minimise "panic clearing" across the state. We notice that all the required forms and maps are already available online, and can be used to notify the Department of Environment and Heritage Protection. EIANZ supports this retrospective requirement.

Thank you once again for the opportunity to provide our comments on the Bill and would, if requested, welcome the opportunity to assist the Committee further. Please contact me directly on 07 3222 3422 or at seq@eianz.org, if you have any questions regarding this submission.

Yours faithfully,

Dr. Mark Breitfuss
President EIANZ-SEQ