

**SUBMISSION TO:**  
**Vegetation Management (Reinstatement) and other Legislation**  
**Amendment Bill 2016**

**SUBMISSION COVER SHEET**

Closing date for submissions is 25 April 2016

**Email:**

[vm inquiry@parliament.qld.gov.au](mailto:vm inquiry@parliament.qld.gov.au)

**Post:**

Research Director

Agriculture and Environment Committee

Parliament House

BRISBANE QLD 4000

**Organisation or individual:** P & C Sabag

**Principal contact:** Cynthia Sabag

**Position:** Owner

**Telephone:**

[REDACTED]

**Email address:**

[REDACTED]

**Street address:**

[REDACTED] TULLY QLD 4854

**Postal address:**

[REDACTED] TULLY QLD 4854

**Is all or part of your submission confidential?** No



*Conserved land on our property*

## SYNOPSIS

As a landowner who, with my husband has been severely impacted by the 2004 and 2009 Vegetation Management Legislation, and one who has secured a HVIA Development Permit under the 2012 regulations, I believe our experiences are relevant for consideration by the Committee.

We have lived as farmers on our rural property of about 70 hectares west of Tully in the Wet Tropics Bioregion since 1984. Vast conserved expanses lie to the north of us. We farm exotic tropical fruits, managing our land so that our farming has minimal environmental impact. In 2004, much of our land was not yet under crops and was locked up under Vegetation Management with additional restrictions in 2009. No compensation was available yet we had no access for farming to 75% of our land.

The 2012 regulations enabled us to secure a permit to develop less than 12 hectares but only by agreeing to offset (lock up for conservation) more than three times that area, resulting in a net gain of 3.4 hectares for farming. The process was costly, lengthy, thorough and in no way a licence for uncontrolled land clearing. These regulations provide more than adequate protection for both endangered species, biodiversity and the Great Barrier Reef.

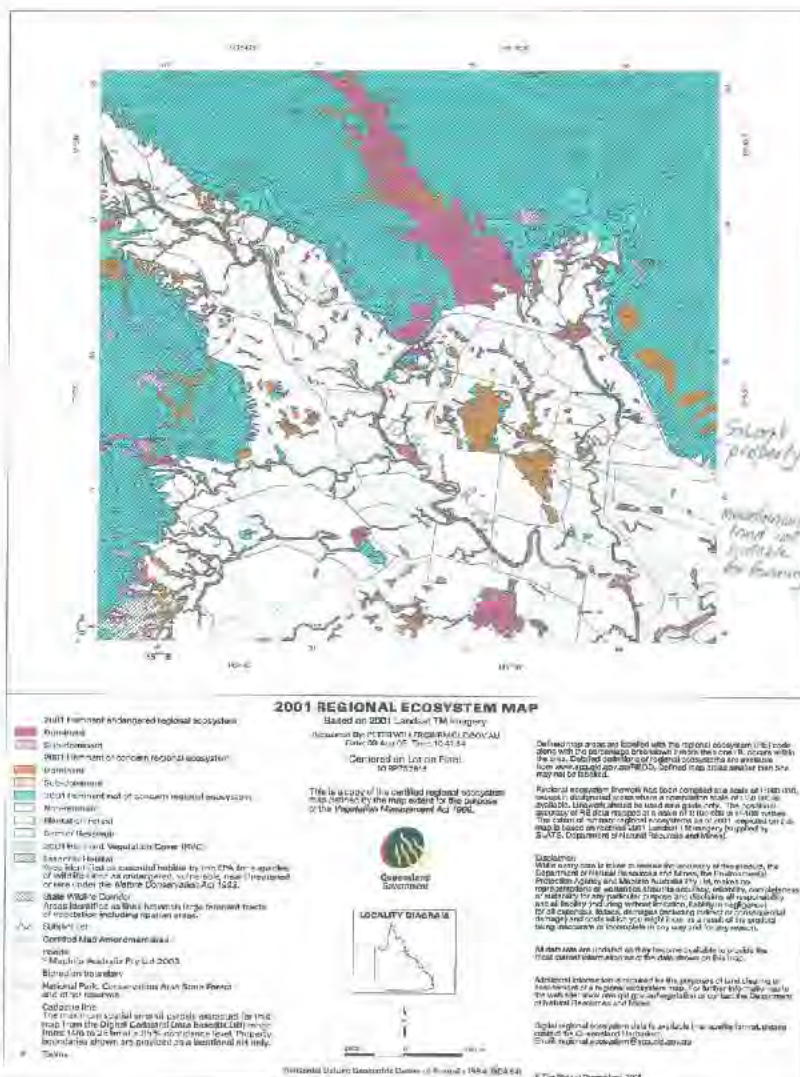
After twelve stressful years dealing with Vegetation Management issues, we are now in a position where our children no longer have any desire to continue the business, our prospects of selling, especially pre-2012 were nil and we are well past the age when most Australians could enjoy retirement yet with our home here, we must continue to maintain the property.

Vegetation Management legislation has focussed entirely on the environment. Never has consideration been given to the impact and toll on the lives of affected rural landowners like us. Reinstatement of previous legislation (and more) could mean not just the end of sustainable farm businesses for many landowners but could be more than they can endure.

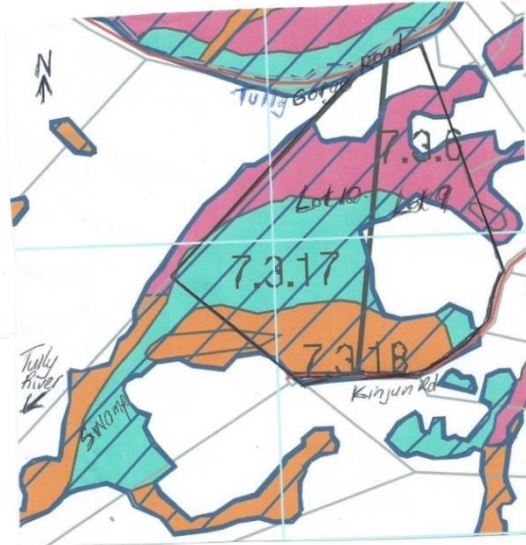
I urge the Committee to consider the proposed amendments not as a party political decision but from the landowners' position. Reinstatement as proposed, is a measure using unsubstantiated and sometimes inaccurate data in the name of the public interest, which results in the denial of human rights for targeted landowners: it is a direct attack on their right to earn a living on their rural land.

I recommend that the Committee reject the proposed reinstatement of the previous VM regulations.









**Vegetation Management map of Sabag's property applied in 2004**

The map shows our land (Lots 9 and 10 marked with a dark border) with the 2004 restrictions, a high percentage of our being land locked up. Only the white areas were available for farming. At that time our existing development was in the large central area. In 2005-6 we developed an orchard on land mapped white to the north of that area and in 2006 commenced preparing the land near the Tully Gorge road for orchards. The two cyclones halted that development.

Our ability to expand our farming business and use our freehold land for the purpose for which it is zoned, that is, farming, has been severely restricted, far in excess of what could be considered to be a landowner's duty of care for the land.

When we purchased the land in 1981 it was cleared and previously part of a cattle property. Thus, the classification of much of the property as "remnant" vegetation is questionable. Despite requests, we were unable to get an officer from DNRM in 2004-2005 to make an on-site inspection.

Since 1984 the family home has been on this land. Initially we grew pineapples for a relatively quick return as we progressively expanded our tree crop fruit orchards, relying only minimally on pesticides and being mindful of the ecological value of the land, especially the wetlands. Our orchards are fully grassed and the trees mulched to minimize runoff into waterways.

In 2004 our house, infrastructure and orchards occupied approximately a quarter of our land. We expanded gradually as time, finance and plant material were available. We grow rambutan, lychees, mangosteen and a range of other tropical fruits in irrigated orchards. Our fruit reaches markets in Brisbane, Sydney and Melbourne and in the past Japan and Hong Kong.



*Fully grassed and mulched orchard, with wetland and other conserved land in the distance.*

*Part of the Walter Hill Ranges, a World Heritage area in the far distance.*



*Picture shows Lychee trees in the foreground beside conserved vegetation. This is within twenty-five metres from a small stream. Yet over the thirty two years we have been farming here, there is no evidence of any erosion or silt deposits in the stream from our orchards. The area never floods.*

### **2004 and 2009 Vegetation Management Regulations**

The 2004 Regulations locked up approximately 60 per cent of our land area for conservation. This left us with less than 20 per cent of the land area but far from our best land, for any expansion of our orchards.

An overlay of Essential Habitat mapping for the Southern Cassowary exists on the conserved land. Although cassowaries eat the fruit we grow, they rarely access our land, risking death when crossing a busy road to gain access. Parts of our property are also conserved for the Mahogany Glider, which if present, inhabit wetlands which we have never disturbed.

We applied to clear an estimated 23 hectares in 2004 but were unsuccessful largely due to the Essential Habitat mapping. No compensation was available.

In 2006 we began to prepare regrowth land near our Northern boundary for expansion (interrupted by Cyclone Larry) and continued into early 2009 until finding that the Queensland Government had it mapped in 2009 as 'High Value Regrowth' hence preventing development. Regrowth was defined as land not cleared since 1989. I attempted to have the mapping corrected in 2010 and was told that the mapping was constantly reviewed but there was no change.

### **2012 LNP changes**

The changes made by the Newman government had two impacts on us:

1. The 'regrowth' land was again available to us.
2. We were able to apply for a Development Permit for High Value Irrigated Agriculture.

### **Development Application**

Working closely with two DNRM officers, we applied for a High Value Irrigated Agriculture Development Permit for 16.4 ha (about 24% of our land) over two sections of our best farming land adjoining our existing orchards. This was both a time consuming and costly activity. We were also required to have our proposed development approved as financially viable by an accountant with the preparation of a Cash Flow over a ten year period as well as a report. We finally gained a Development Permit in March 2015 for 11.88 ha (17% of our land area) but only when we agreed to offset (lock up permanently for conservation) more than three times that area, 37.45 ha representing 55% of our land area. This was a net gain of 5% of our land area, or less than 3.5 hectares. Additionally we are required to take a number of actions to maintain and improve the deemed conservation value of the Offset land.

An environmental offset was required because of the Essential Habitat mapping on our land. DNRM Officers could not finalize our permit earlier because a workable Land Offset Policy was not available until December 2014.

Before December 2014 only a Cash Offset was possible. For a permit to use 16.4 ha of our land, we would have been required to pay the State more than \$3.6 million, a totally unrealistic proposition. We were prepared to negotiate for much less than this, the sale of the entire undeveloped 39 ha block to the State since it was considered so valuable for conservation but were unable to secure a meeting at Ministerial level.

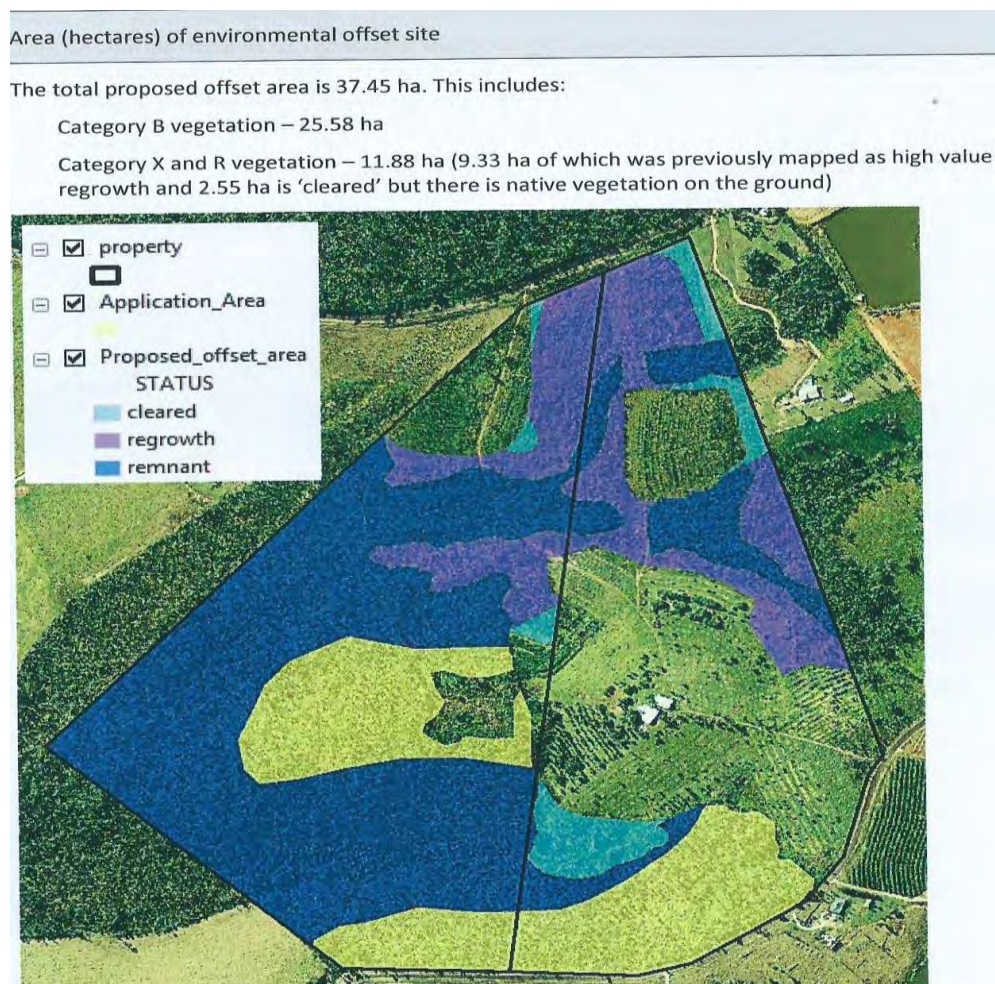


A one hundred metre wide wildlife corridor was retained throughout the property as well as buffer/riparian zones one hundred metres wide on each side of any wetland, however insignificant. We accept the need for buffer zones but a blanket width (in our case 100 metres) is excessive.

Thus, the process was costly in time and money, but a very small step to provide us with a measure of balance between land available for farming and conserved land which did not exist under previous legislation. Our experience shows that the 2012 Regulations are cautious, environmentally sound and an attempt to restore a degree of balance between farming and environmental conservation.

These regulations are in no way a licence to clear extensively or in an unregulated manner.

The map below supports this position that very stringent restrictions were placed on us for us to obtain a development permit. I believe that, for other landowners, especially in the Wet Tropics where Essential Habitat mapping covers most land and the permits applied for are for either High Value or High Value Irrigated Agriculture the same restrictions would apply.



The entire area of DARK BLUE, LIGHT BLUE and PURPLE (37.45 ha) had to be offset to gain a development permit over the two LIGHT GREEN areas (11.88 ha). Of our cleared and regrowth land, only the small area in the north west is still available for farming giving us access to Tully Gorge Road. Our net gain was just 3.4 ha.

**IMPACTS OF THE 2004 AND 2009 LEGISLATION ON US**

The restrictions applied from 2004 until the 2012 changes had a severe negative impact on our farm business, and on us financially as well as personally.

1. They removed the ability for us as landowners to make decisions over the further use of our land or the development of our farm business , despite our existing farm development exhibiting significant respect for the conservation and environmental values of our land.
2. We were unable to expand our orchards over our best farming land.
3. The value of our property was severely reduced.
4. Our children, having seen the impact of the regulations on us and the farm business, lost all interest in taking over the property.
5. Attempts since 2004 to get some fairness for us as freehold landowners were costly, extremely stressful and consumed our life for almost ten years. Time spent on this left considerably less time for me to be involved in the productive activity on the farm creating tension in the home.
6. There was never any interest from bureaucrats or politicians to fine tune the blanket regulations despite the harsh and unfair impact on us and our property. We were constantly reminded of the important environmental significance of our property, yet no government or any other organization had any interest in purchasing it; we were left with the situation of continuing to pay rates on up to three quarters of our land with no prospect of any productivity from that land or a future sale. Despite being good custodians of our land, our land management skills were not just ignored but actually resulted in us being penalized.
7. Working in a niche industry with a restricted growing area in Queensland, we were committed to supply the Australian market with fruits generally not available in the cities. Since 2004, this vision has been severely shattered.
8. The stress we endured affected our relations with friends and family at one stage resulting in a serious rift with a family member.
9. The failure to provide compensation or the purchase of environmentally significant blocks such as ours has had a very negative impact on us.
10. The unavailability of carbon trading from conserved land is inequitable, while landowners with cleared land on which they plant trees are able to participate in carbon trading.
11. The use of carbon stored in our land and that of others to offset emissions enabling Australia to meet Kyoto targets without any payment is blatant theft.
12. For eight years we have been unable to sell our property to consider retirement. As soon as a potential buyer realized that so much of the good farming land was conserved they walked away disinterested. Our home is on the property so we cannot simply walk off; nor can we abandon the farm and stop working it. With both partners now 70 years of age and with health issues, living twenty kilometres from the nearest health facility with no public transport, we are unable to retire and enjoy life as is a normal expectation for people of our age in Australia.





Pristine wetland on our property

Wetland trimmed by Ergon below power lines.

#### **POTENTIAL IMPACT OF THE PROPOSED 2016 CHANGES**

1. For landowners who have not yet obtained a development permit, regression to a situation worse than that of 2004 could be financially and personally catastrophic.
2. If High Value Agriculture permits are eliminated, from my understanding of the northern part of Queensland, once again the impact would be extremely negative. Development would be severely stifled, contrary to desires of the Federal Government.
3. Job creation in agriculture, as anticipated by Federal Government ambitions for Northern Australia for both white and indigenous communities, would be non-existent.
4. Industries which benefit from the flow on effects of agriculture (transport, farm chemicals, fertilizers and machinery) will be severely impacted.
5. Once again, any control that a rural landowner needs to plan for the future of their business would be stripped away in the name of public interest.
6. **Blanket locking up of land for endangered species** without fine tuning according to specific locations and consultation with landowners can actually have the reverse of the desired result. Using our property as an example, cassowaries rarely attempt to access our land since the extensive largely untouched World Heritage area lies across the road. Most properties in our area are fenced, denying cassowaries access, and our frontage on the main road lies at a blind corner; traffic on the road is



heavy (buses and trucks) and fast (100 kph); the result is that inevitably cassowaries attempting to cross the road are killed.

7. **Measures to protect the Great Barrier Reef** Blanket Wetland Mapping showing buffer zones in catchments such as the Tully of 100 metres wide fails to take into consideration existing land management, configuration of the land, size of the catchment on specific blocks and Wet Season flow. The need for this width as standard could be questioned without definite scientific studies to prove it.



Close up of our wetlands at present. This shows healthy reeds in Melaleuca forest beside our farm track.

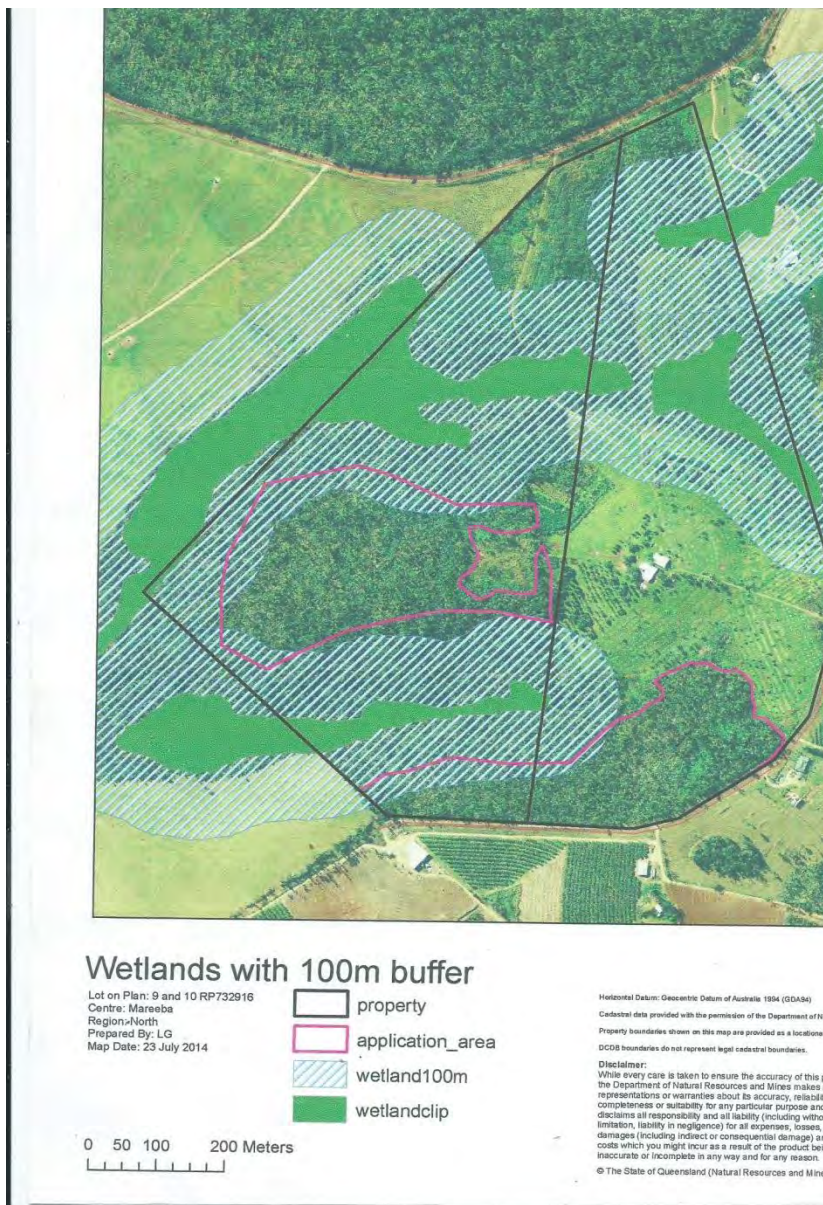
Leaning and fallen trees show evidence of cyclone damage (Cyclone Larry in 2006 and Cyclone Yasi in 2011). However, they are recovering and healthy.

The only damage to wetlands on our property is caused by cyclones and in a limited area, Ergon, who for safety reasons must keep the area under power lines, clear.



*Our track when water backs up from the Tully in flood. Track undamaged by flooding when water recedes as wetland reeds slow the movement of water and prevent loss of soil.*





The above map shows our original Development Application area of 16.4 ha which was reduced. What is significant is that if the 100 metre buffer had been applied several years ago and combined with the Essential Habitat overlay, almost all of our property would have been conserved presumably with no compensation. An entire orchard in the north east of our property planted in 2005 could not have existed, while areas on the northern boundary of our main farm development which contains some of our earliest plantings of lychees (thirty years ago) would have been land denied to us for farm use. All of these orchard areas are grass covered and there has been no impact on the wetlands, so it is unlikely there has been any impact on the Great Barrier Reef.

8. **Proposal to lock up “High Value Regrowth”**. In 2009 the Regrowth mapping used was inaccurate. The “Proposed regulated vegetation management map”(5.3) contains gross inaccuracies: on our land two of the areas are of a clearing and an orchard; on neighbouring properties a lime orchard and cattle land which has existed for grazing for decades are mapped as Proposed Category C (High Value Regrowth). Thus the map has limited validity. Where is the science which supports such a measure?

For those landowners who would wish to expand their business, the denial of expansion for High Value



Agriculture or High Value Irrigated Agriculture as well as losing their regrowth land, could render their farm businesses unsustainable with a devastating personal impact.

9. **The reversal of onus of proof** denies natural justice which is inherent in the Australian legal system. This concerns me greatly as the mapping provided is not always accurate according to what is on the ground and landowners could be seen to unwittingly break the law, even with a valid permit and have to prove their innocence at great financial and personal cost.

### **Concluding remarks**

The years since 2004 have been harrowing for us, at times feeling we were treated like environmental vandals if not criminals for questioning policies and attempting to achieve a fairer outcome. After owning the land for thirty-five years there is no evidence of erosion or impact on wildlife, and even under the 2012 regulations strict inflexible environmental controls remained. Be assured that the procedures to be followed to implement the 2012 Regulations at least for the Wet Tropics ensure that the environment is more than adequately protected while the landowners may have a small gain in land to be farmed.

We and others trapped by the 2004 regulations were leaving vegetation intact until we were able to expand, yet we are the ones who have been grossly penalized with no compensation. This is hardly a fair go in the Australian tradition.

For a moment I ask you to put yourself in the shoes of landowners like us. If your contact with the rural sector is limited, empathise with the owner of an urban business with equivalent restrictions as my example shows:

*A taxi business or courier business is required to garage all their vehicles (but still pay insurance and registration) for half the working week or garage half their vehicles entirely over concerns with pollution and carbon emissions. No compensation is provided and the business owner cannot negotiate any other solution.*

This just would not happen yet this is equivalent to what has happened since 2004 to us and many others on the land in Queensland.

Various groups have put forward statistics on land clearing to support a specific argument. It is an indisputable fact from the Government's own statistics (SLATS) that there has been a net increase in tree coverage in Queensland, despite clearing to feed starving stock in drought-stricken areas and clearing allowed under the 2012 changes to the VM Regulations.

To attribute responsibility for carbon emissions and their reduction to farmers and argue for a cessation of farming expansion to provide carbon offsets without payment is unconscionable.

My understanding is that independent Japanese satellite data has shown Queensland to be a carbon sink for several years.

One cannot dismiss concern for the environment: biodiversity, the Reef, one of the world's most valuable treasures, and endangered species. However, when Government policies made in the public interest, so indiscriminately and severely impact on the lives and livelihoods of a specific group of people within society, it should be obligatory to recognize this impact and the existence of this group. At no time, at least since 2004, have the very people who have borne the brunt of the 2004, 2009 and if implemented 2016 VM Regulations, been considered or consulted. The laws, regulations and policies have been formulated in city offices by people with little or no connection to the people, the industries

or the land to which these apply. Officers working with landowners must apply these policies with little if any flexibility allowed. Nor has compensation been considered. It is as if people such as us, do not exist. In short, the human toll has never been acknowledged or considered.

Farmers are generally a resilient lot: they have to be, to be able to bounce back after a natural disaster. However, when it is other people who are remotely deciding on their future (in many cases determining there is no future) it is extremely difficult to remain resilient. A reversion to the 2004 Regulations and worse is likely to be more than many landowners can endure.

I conclude with some pertinent comments from the former Human Rights Commissioner, Tim Wilson, in an address on property rights to the Australia Press Club on 20<sup>th</sup> February last year:

*Preservation of property rights is central to the human rights cause.*

*They underpin autonomy, security, and the foundations of a market economy through physical and intellectual property to deliver the growth to deliver higher standards of living, art and culture, innovation and education and health outcomes.*

*Property is the foundation of industries past, and the entrepreneurialism and creativity of tomorrow.*

*Denying them has the reverse effect. ...the human cost of excessive environmental laws destroys the security and opportunity for farmers to invest in their own future.*

I urge you to consider the proposed 2015 legislative changes not from a party political position, but holistically, and consider the impacts on landowners and the denial of their basic human rights.

Accept that the 2012 Regulations are measured and unlikely to result in uncontrolled land clearing.

Reject the proposed legislative changes.





