Submission No. 259

[redacted]

Highfields QLD 4350

Research Director
Agriculture and Environment Committee
Parliament House
Brisbane QLD 4000

Dear Research Director,

Please find attached submission regarding the *Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016.*

I thank the Committee for considering this submission.

Sincerely,

Mr Nathan Laurent, B. Gen St., B. A. (Hons)
[redacted]

[redacted]

Introduction

I am not a lawyer, an environmental scientist, or an environmental manager, so I will limit my comments to observations about land use and natural resource management (NRM) policy in living memory, which has been a research interest of mine since 2010.

I acknowledge that the main public policy interventions made in relation to broad-scale tree-clearing in Queensland to date have had direct impact on one socio-economic sector in particular, namely pastoralists.

As someone who lived for six years on a highly-eroded working stud beef cattle property in uplands at the eastern edge of the Darling Downs (land which had been cleared down to the creek banks by previous generations of farmers), I am aware of the interests of graziers in maximising production for a market, and of the impacts of fodder crop cultivation and cattle grazing on soils in that particular region. In dryland cultivated pasture production, those operations involve a cycle of: waiting for rain; erosion of freshly tilled soil; expensive fertiliser inputs; buying hay from irrigators; weed control; and moving cattle from paddock to paddock. I also recall that during that time, when an electricity provider removed vegetation along a road next to a paddock, a breeder was annoyed that cattle had been left without shade as a result. There certainly was not much shade to be found in the middle of the day within those miles of fences. I also recall one dust storm which lasted for a day, an experience that I do not wish to relive.

I am also aware that whole shires of the Darling Downs that had been cleared for agriculture by the late 1960s were declared Areas of Soil Erosion Hazard under the Soil Conservation Act after flooding in the 1970s (at considerable cost to the state), and that similar historic land degradation as a result of clearing across southern states was a major concern for Landcare throughout the 1990s and various subsequent regional NRM “care” programs, which were largely paid for with federal tax revenue.

Although vegetation management policy has an impact on one socio-economic sector, the biodiversity and climate change implications of vegetation management policy in Queensland are global, and so the general public arguably has a legitimate interest in the relevant legislation. My own concerns about deforestation are: that habitats for threatened native flora and fauna species will be destroyed; that tree-clearing in Great Barrier Reef catchments will delay or prevent recovery from bleaching; that the release of millions of tonnes carbon dioxide from tree clearing for fodder crop production will contribute to global climate change. These concerns have been central to the land-clearing debate in Queensland since the 1990s, so I do not feel compelled to spend time on problem definition here.

Although the Australian Bureau of Statistics (ABS) is not an environmental authority, I think the following quote from a 2002 ABS report generally summarises received wisdom on the environmental impacts of deforestation well:

> land-clearing destroys plants, entire habitats and local ecosystems; it removes the food and habitat on which other native species rely. Clearing helps weeds and invasive animals to spread, causes greenhouse gas emissions [from the burning and decay of vegetation and from the disturbance of soil which releases carbon] and can lead to soil degradation, such as erosion and salinity, which in turn can harm water quality…. (ABS 2002, 26-27).

Regarding biodiversity impacts, the 1996 Australian *State of the Environment* (*SoE*) report (SoE Advisory Council 1996, 4.49) described land-clearing as the "single greatest threat to terrestrial biodiversity and a significant threat to aquatic and some inshore marine biodiversity", as well as a cause of increasing salinity and climate change. Clearly, such a threat is significant for Queensland, which a prominent ecologist described in 2003 as "the most biodiverse state in the most biodiverse country in the developed world" (O'Malley 2003). As a World Wide Fund for Nature (WWF) report outlined in 2003, broad-scale tree-clearing often leads to a predictable extinction process for many species. The report cited examples of patterns of regional species loss caused by landscape fragmentation and degradation, including "the wheatbelt of Western Australia, the Mount Lofty Ranges of South Australia, western Victoria and the New England region of NSW" (Cogger, et al. 2003, 6).

The significance of clearing in the GBR catchment was outlined in a Productivity Commission (PC) report (PC 2003, 28), which noted that:

> the main sectors that tend to be identified as contributing to water quality problems in the GBR lagoon are grazing (primarily through soil erosion due to overgrazing and/or clearing of vegetation and riparian strips), and sugar cane cultivation (primarily through application of chemicals and fertilisers, encroachment of riparian strips, and wetland destruction and other land clearing).

Significantly, the 2002 ABS report cited above pointed out that the environmental impacts of BSTC also caused economic impacts, such as costs associated with reduced flood control, the provision of potable water or increased soil erosion (ABS 2002, 27).

Specific points about the Bill

Since the 2013 amendments, the purpose of the Act has not been fully achieved. While the Bill makes significant progress in restoring effective regulation of clearing, it does not go far enough to ensure the Act achieves its purpose, which is stated as follows:

"(1) The purpose of this Act is to regulate the clearing
of vegetation in a way that—
(a) conserves remnant vegetation that is— (i) an endangered regional ecosystem; or (ii) an of concern regional ecosystem; or (iii) a least concern regional ecosystem; and
(b) conserves vegetation in declared areas; and
(c) ensures the clearing does not cause land degradation; and
(d) prevents the loss of biodiversity; and
(e) maintains ecological processes; and
(f) manages the environmental effects of the
clearing to achieve the matters mentioned in
paragraphs (a) to (e); and
(g) reduces greenhouse gas emissions; and
(h) allows for sustainable land use."

Although the achievement of the purpose of the Act is not guaranteed by the Bill, I support the Bill because:

- It could stop large-scale clearing of remnant woodlands by removing provisions that permit clearing applications for so-called "high value" and irrigated agriculture.
- It restores protections for High Value Regrowth (HVR) on freehold and Aboriginal land.
- It restores protections for trees in riparian areas and extends provisions from some to all GBR catchments.
- It removes the defence of claimed mistaken clearing, and restores the starting presumption that a landholder is responsible for clearing that takes place on their property.
- It makes important provisions of the proposed legislation retrospective to 17 March, in an attempt to deter panic clearing and panic applications, which were evident in response to previous incarnations of the VMA.

In terms of conservation of remnant vegetation, SLATS reports have demonstrated that the 2004 amendments leading to the 2006 ban on broad-scale tree-clearing brought remnant clearing down (Department of Science, Information Technology and Innovation, 2015). However, permits to clear over 100,000 ha of remnant vegetation for "High Value Agriculture" were approved after the 2013 amendments (Taylor 2015, 8). In addition, illegal clearing increased after penalties were suspended and enforcement staff and resources were reduced in 2012 and prosecution powers were reduced in 2013 (McCarthy 2015).

The self-assessable code (SAC) for thinning has not been limited by scale and has not required a demonstration of prior "thickening". It is my understanding that "thinning" under this code means up to 75% of forest cover can be dozed, leaving only thin strips; and that endangered ecosystems can be cleared without offsets. The retention of SACs is an urgent problem that has not been addressed by the Bill. I agree with the recommendation

(Taylor 2015, 34) that SACs should only apply if clearing very modest scale (e.g., clearing less than 10 hectares of low risk ecosystems or 1% of property area) and only if there are no threatened ecosystems or species habitats, or land degradation risks.

Regarding the conservation of biodiversity, the lack of Environment Protection and Biodiversity Conservation Act 1999 Act referrals, and the fact that no offsets have been required, is surprising in view of the large amount of approved clearing since 2012.

The removal of protection of high conservation value regrowth on freehold land in 2013 has unfortunately compromised biodiversity conservation. Restoration of protection of HVR, and broader protection of riparian vegetation (especially in the GBR catchments) are positive features of the Bill, as is the reinstatement of the application of the riverine protection permit framework to the destruction of vegetation in a watercourse lake or spring.

Regarding "sustainable land use", "land degradation" and "ecological processes", it is worth noting that a Queensland Auditor General's report (Queensland Audit Office 2015, 2) observed that "the recent relaxation of land clearing rules also increases the risk of adverse consequences from sedimentation run-off, and could work against the achievement of Reef Plan water quality targets". It cited SLATS data that "land cleared in reef catchments increased by 229 per cent, from 31 000 ha per year in 2008–09 to 102 000 ha per year in 2013–14", noting that "the 113.4 per cent increase from 2010–11 to 2012–13 coincided with the policy change to reduce compliance activities." If protection of the GBR is considered as a factor in the sustainability of land use within relevant catchments, then the sustainability of land-clearing approved in those catchments since 2012 is questionable.

Disappointingly, the Bill does not deal with the problem of exemptions. As a WWF report (Taylor 2015, 30-32) noted, 125,000 ha of unexplained exemptions of remnant vegetation (via changes to the regulatory maps, through Property Maps of Assessable Vegetation or other means) were detected by comparing 2012 and 2015 Regulatory Vegetation Maps. I agree with the recommendation (Taylor 2015, 34) that exemptions should only be allowed if clearing is on a very small scale (less than a quarter ha per property) and only if outside of areas with high conservation value or land degradation risks.

On the question of onus of proof, I note that McGrath (2004, 166) pointed out in relation to the Natural Resources and Other Legislation Amendment Act 2003 (which introduced the provision), that there needed to be "an acknowledgment of the practical reality of tree clearing offences [and] of the difficulty and cost of investigation and enforcement", and that the normal protections of landholders' civil rights in criminal proceedings remained unaffected.

Finally, on the question of retrospectivity, I note that Kehoe (2014, 108) argued regarding the proclamation of the VMA in 2000 that "it was predictable that landholders would clear whilst the opportunity to do so legally remained; and it was equally predictable that the government could have expected the mere passing of the Act would have the effect of a starter's pistol". Provision for retrospectivity in the current Bill would therefore appear to be prudent.

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