

Kim Hudson**The Gap 4061****22 April 2016**

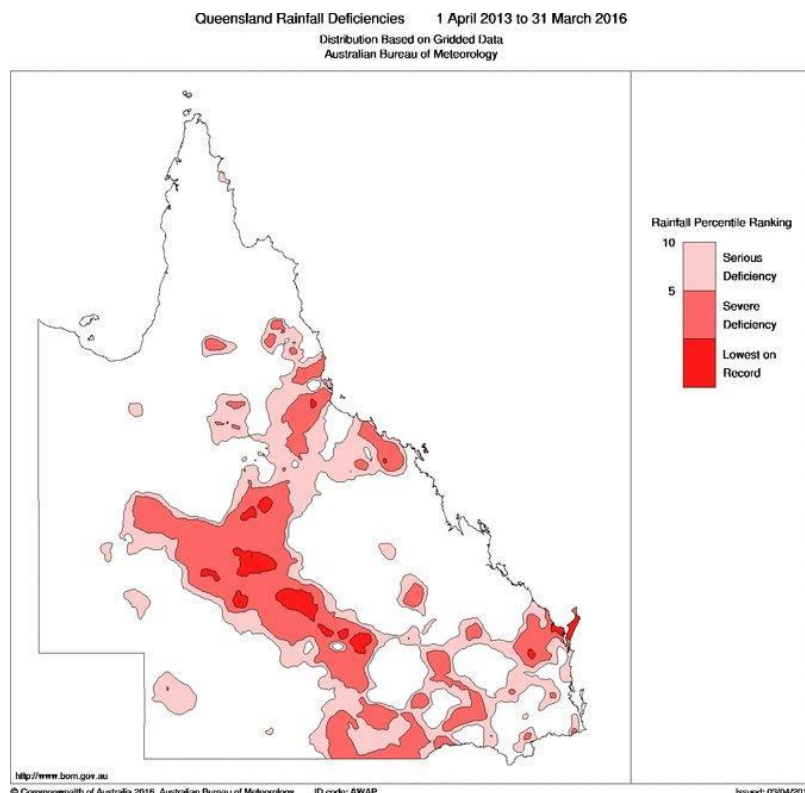
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Dear Chair and Committee Members

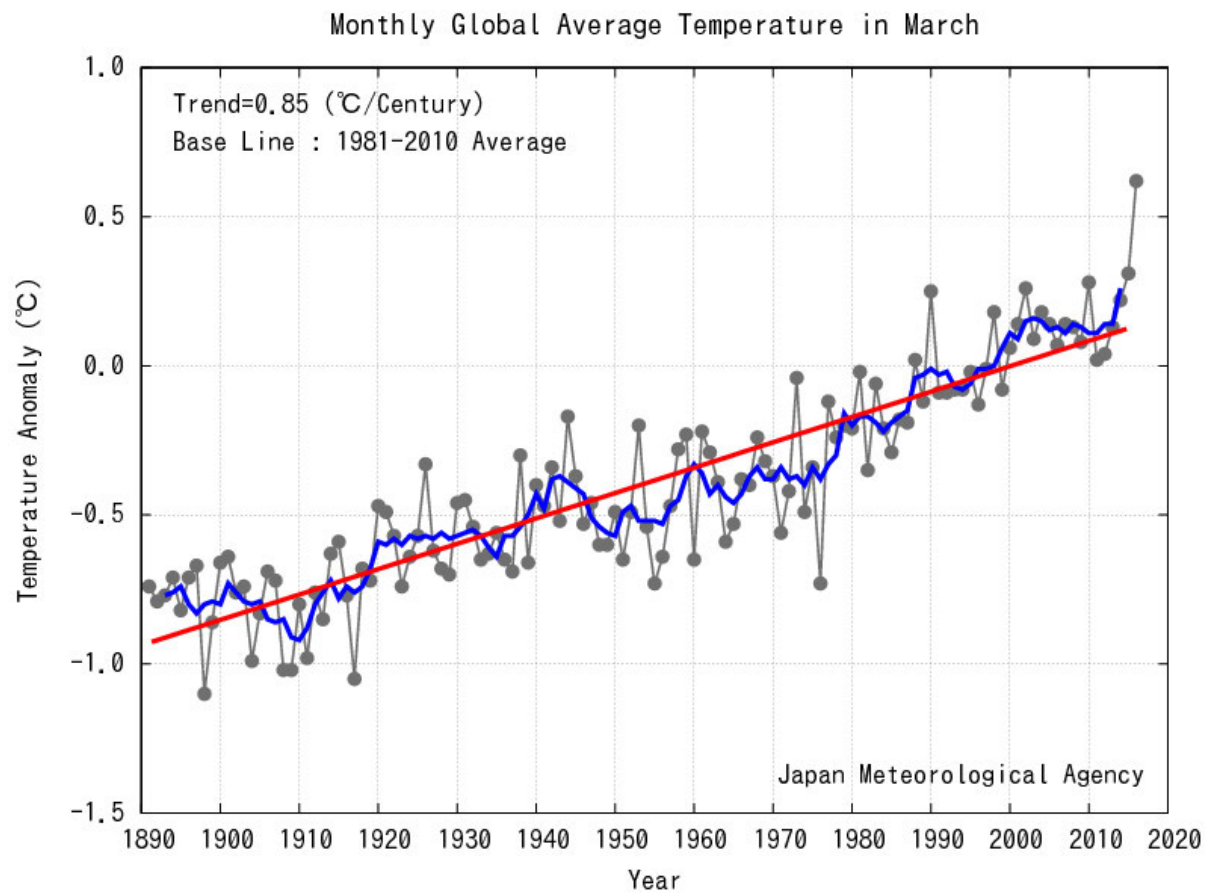
Submission to Committee on *Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016* (“the *Vegetation Management Bill*”)

I have always had a deep love for and interest in our environment. Growing up on a diet of David Attenborough documentaries, and being surrounded by rainforests, savannah, beaches and coral reefs, how could I not? There is simply nothing better than having the opportunity to spend some time outdoors. From 2014-15 I was a Council member for the *Australian Conservation Foundation* – an unpaid, voluntary position that I gladly undertook because of the importance of saving what is left of our environment for future generations.

We only need look at recent events to see the importance of the *Vegetation Management Bill*. Much of Queensland is in drought:

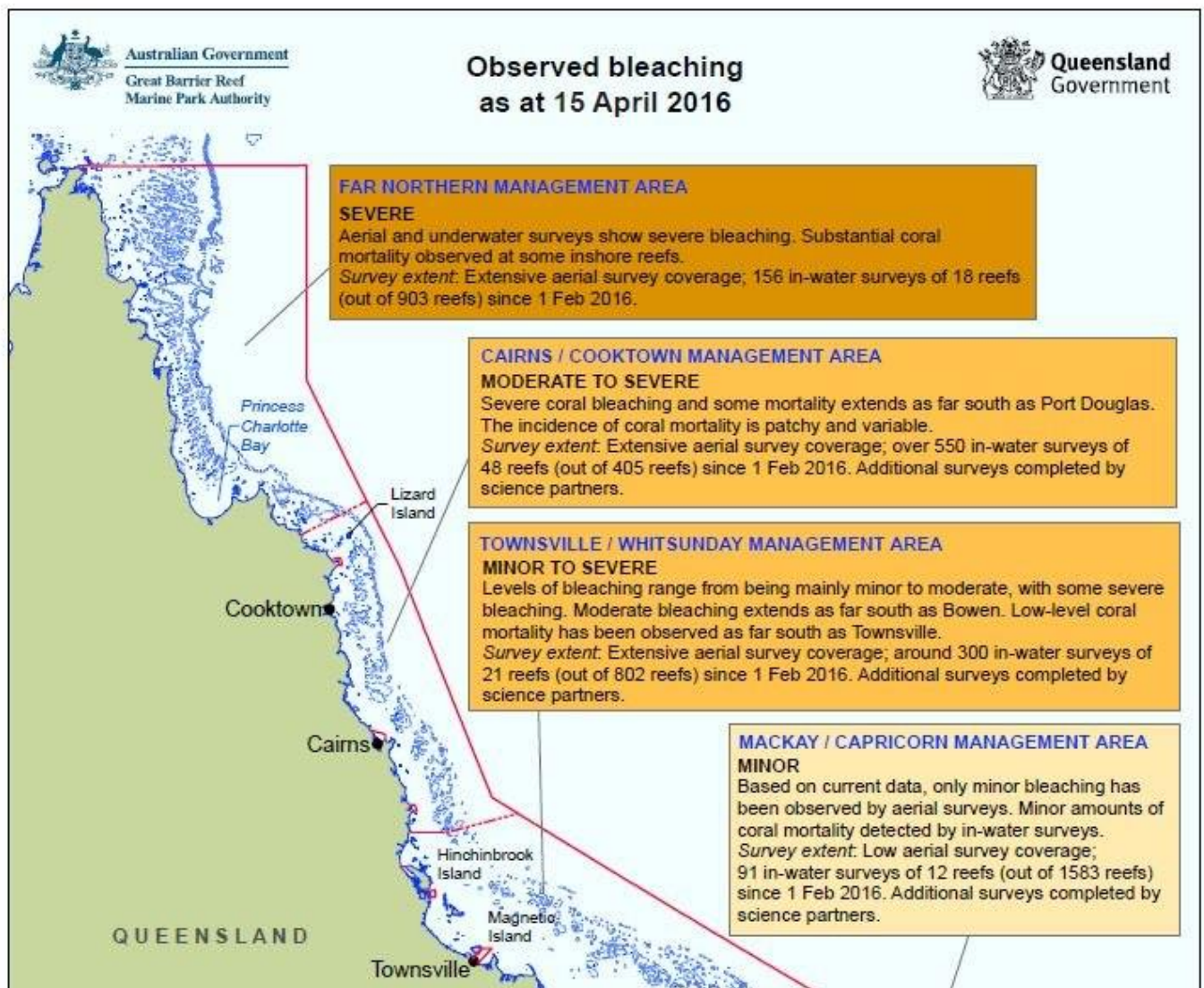


and all of 2016 to-date has been the hottest on record, with March setting yet another global extreme heat record:



Anomalies are deviation from baseline (1981-2010 Average).
The black thin line indicates surface temperature anomaly of each year.
The blue line indicates their 5-year running mean.
The red line indicates the long-term linear trend.

Approximately 93% of the Great Barrier Reef has just bleached; the northern section so catastrophic that most will die:



This is the worst bleaching event ever. 67,000 jobs, \$5.4 Billion in tourism, and our entire fisheries depend on the health of the GBR. Properly managing vegetation is one of the keys to the survival of both our land and aquatic ecosystems.

To continue as we are is an act of utter insanity.

Support for the Vegetation Management Bill

I fully support the Vegetation Management Bill. I will set out some reasons for my support, and make some further comments below.

I would like to highlight some of the purposes of the current *Vegetation Management Act 1999*, (“the current Act” or “the Act”) which incidentally has widespread political support from the LNP, Labor and Greens Parties; namely section 3:

- (1) *The purpose of this Act is to regulate the clearing of vegetation in a way that—*
- (a) *conserves remnant vegetation...*
 - (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.*

“(a) conserves remnant vegetation”

The 2006 ban on broadscale clearing significantly reduced remnant clearing and had bipartisan support. JP Langbroek MP is on record in Hansard stating that this was “the best policy for a sustainable triple bottom line” and would deliver a “massive reduction in greenhouse gas emissions.”

Under this scheme:

- \$150 million in enterprise/exit assistance was given to farmers and contractors
- 500,000ha remnant vegetation was sacrificed in broadscale clearing ballot
- Agforce received \$8 million, saying: “we’re prepared to accept the Act as it is”

After the 2006 broadscale ban, remnant clearing fell sharply.

The previous LNP government’s reversal of this ban has been a disaster. The main loophole is via the so-called ‘High Value Agriculture’ provisions where:

- 112,000 ha remnant vegetation was approved to be cleared
- as a result, the habitat for 56 threatened species is degraded
- there has been only one referral under Environmental Protection and Biodiversity Conservation Act (“EPBC Act”) which is yet to be seen
- as roughly half of what has been already cleared is mostly on one property, it is clear this loophole is not for the benefit of farmers as a whole, and
- no offsets are required.

I fully support the Vegetation Management Bill’s intention to close this loophole.

However the Vegetation Management Bill should go further and abolish another loophole, the ‘Thinning Self-Assessable Code’; under which there is:

- No limit on the scale of thinning
- No need to demonstrate prior “thickening” of the vegetation such that it must be thinned
- Someone can bulldoze up to 75% of forest cover leaving only thin strips; which effectively decimates the ecology of the land
- 18 endangered ecosystems can be bulldozed
- No offsets are required – which in the case of endangered ecosystems simply wouldn’t be a solution anyway, and
- Landholders can effectively change the vegetation map “on the fly”; hence seriously weakening any attempts to plan for and manage Queensland’s vegetation as a whole.

I also fully support the restoration of the Act’s prosecution powers after penalties were suspended in 2012. Under this, there has been:

- Reduced enforcement staff and resources allocated to enforcing the Act

- The “no prosecutions, no penalties” policy is the complete antithesis of good governance and the rule of law, resulting in 200 investigations, but only one prosecution since 2012.

“(d) prevent loss of biodiversity”

The current Act is clearly not achieving this aim, as:

- 40,000 ha of koala habitat was been cleared in 2012-2014
- more than 200,000 ha habitat for greater than 200 threatened species has been cleared
- There has been a lack of EPBC Act referrals
- No mitigations and no offsets are required
- 89 of 1383 regional ecosystems are endangered due to land clearing
- 531 ecosystems are ‘of concern’



Since changes were made to the Act by the previous LNP government:

- remnant vegetation has been remapped as PMAVX , and
- high value regrowth is not being properly protected,

resulting in:

- 405,000 ha of koala habitat being stripped of protection during 2012-2014
- 800,000 ha of habitat for threatened species being stripped of protection during 2012-2014, and
- 27 regional ecosystems are unable to regrow and recover out of endangered status due to removal of the protections of high value regrowth.

This situation can not be allowed to continue. The current position that these areas are ‘locked in’ and hence have become a property right should be legislatively over-ridden such that all remapping as PMAVX should be reviewed and remapped on a proper scientific basis.

I fully support the Vegetation Management Bill not only restoring regulation of High Value Regrowth on freehold (‘Category C’) but also going further and extending Reef watercourse regulation to all Great Barrier Reef catchments (‘Category R’).

(g) “reduces GHG emissions”

In my introductory comments I referenced the record global temperatures and the 93% bleaching (to some degree) of the Great Barrier Reef due to water temperatures increasing beyond any naturally occurring range because of the burning of fossil fuels. The fossil-fuel industry, and the politicians they have bought with political donations, may have politicised this, but they cannot change the facts upon which these claims are founded.

Due to the LNP’s previous changes to the Act, emissions from land-clearing have more than doubled since bottoming out 2009-11:

Figure 9: 1
relation to

source: SLATS 2012-14 suppl. report

The Vegetation Management Bill will help reduce our emissions and I fully support this.

(h) “sustainable land use”

The government’s promise to restore land-clearing protections was a major reason UNESCO did not list the Great Barrier Reef as ‘endangered’. The Auditor General’s report ‘*Managing water quality in Great Barrier Reef catchments Report 20: 2014–15*’ states:

“The recent relaxation of land clearing rules also increases the risk of adverse consequences from sedimentation run-off”

“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.”

“The 113.4 per cent increase from 2010–11 to 2012–13 coincided with the policy change to reduce compliance activities.”

Given the record catastrophic bleaching of the reef, the Vegetation Management Bill must be enacted as soon as possible.

UQ research shows a strong correlation between loss of tree cover and regional drought incidence and severity: *Impact of historical land cover change on daily indices of climate extremes including droughts in eastern Australia*: Deo, R.C. et al, Geophysical Research

Letters, Vol 36, published 25 April 2009. Allowing any further broadscale clearing will harm agriculture in Queensland, not help it.

Other issues

The Vegetation Management Bill does not go far enough

1. As discussed above, Self-Assessable Codes (SACs) are not capped or constrained in any way to keep ecological risk within acceptable scientifically determined boundaries.

For example, unlimited areas can be “thinned” with bulldozers, which is a major broadscale clearing loophole.

These SACs should only apply if clearing on a very modest scale (eg lesser of 50ha or 1% of property area) and only if there are no threatened species, ecosystems or land degradation risks. This Vegetation Management Bill does nothing about SACs.

2. Any constraints need to be in the Act itself, not left to the SACs (ie, subordinate legislation that is far easier to change, especially without public and parliamentary scrutiny).

3. The definition of High Value Regrowth should be referenced to regrowth that is 20+ years old, not that which dates from 1989.

4. There are too many exemptions under the Act. ‘Purpose’ tests should be replaced by ecological impact tests: it shouldn’t matter who is doing the clearing or for what purpose, only its ecological impact should matter.

Exemptions should only be allowed if clearing is on a very small scale (<.1 ha per property) and only if outside of areas with threatened species, ecosystems or land degradation risks.

This Bill does nothing about exemptions.

LNP scare campaign

There has been a fundamentally dishonest scare campaign waged by the LNP (principally via *The Australian*) over the Vegetation Management Bill; principally as follows:

1. retrospectivity

The Vegetation Management Bill is only retrospective to 17 March 2016. Any clearing permit that was issued before this remains valid. Any suggestion to the contrary is being wilfully dishonest.

As I referred to above, 22 million ha (27%) of Queensland bushland has already been mapped as exempt (PMAVX) under the current Act. Yet 13m ha (16%) has still not yet converted to non-forest uses (crops, plantations, sown pastures, etc). This is freely available to landholders to clear if they desire. Any suggestion that farming in Queensland would be impeded by this Bill is nonsensical.

Retrospective operation of this Bill is essential to stop the sort of panic clearing which occurred when the Act was first introduced, and when major changes to the legislation were proposed.

2. Section 67A(1): Presumption that the occupier of land is responsible for any unlawful clearing

The key words in this section are “in the absence of evidence to the contrary”.

This provision is no different to the presumption that the registered operator of a vehicle is liable for speeding offences. This presumption is rebutted every day in Queensland.

It is worth noting that both Labor and the LNP governments make common use of irrefutable presumptions, as well as rebuttable presumptions when it suits a legislative need.

For example, *Traffic Regulation 1962, Part 19 Breath analysing instruments and specimens of blood, saliva or urine for laboratory tests* contains six presumptions that apply for a prosecution unless the contrary is proved and a further 3 provisions of conclusive evidence of a matter unless the contrary is proved.

It must also be noted that even if the presumption under the Vegetation Management Bill isn't rebutted, all the elements of the offence must still be proven for there to be a conviction.

3. Section 67B “mistake of fact” defence in proceeding for vegetation clearing offence

The removal of the section 24 Criminal Code (mistake of fact) defence is no different to the unavailability of this defence in the *Transport Operations (Road Use Management) Act 1995*, section 79 *Vehicle offences involving liquor or other drugs*. I somehow doubt that those who claim that this defence should remain in the Act will also argue that the same defence should be available to those charged with drunk driving.

Concluding remarks

I support this Bill, but it should also go further and include tighter protections. Please do not let this Bill be watered down in any way. To do so will be a crime against us and future generations. Think about the Great Barrier Reef, the largest continuous living thing in the world, dying before our very eyes when you vote.

Yours sincerely



Kim Hudson