

SUBMISSION

“Errors do not cease to be errors simply because they’re ratified into law.”

— [*E.A. Bucchianeri, Brushstrokes of a Gadfly*](#)

I, Kent Morris provide this submission in respect of the proposed Vegetation Management and Other Legislation Amendment Bill 2018 to be included in the SDNRAIDC’s detailed consideration.

I have been engaged in the field of Natural resource Management for many years, and my experience with Vegetation management in the Mulga Lands and Brigalow Belt Bioregion includes:

- Former Vice Chair of South west NRM Ltd
- Independent Vegetation Management Consultant (Trading as Western Geographics)
- Former rural property and livestock salesperson
- Vice President of Mitchell and District Landcare
- Coordinator of Rural Land Services – Maranoa Regional Council

I also hold an Advanced Diploma of Natural Resource Management.

In providing this submission I refer directly to the Vegetation Management and Other Legislation Amendment Bill 2018, the Introductory Speech of the Hon Dr Anthony Lynham MP, Minister for Natural Resources, Mines and Energy, of 8 March 2018, and the Explanatory Notes that encompass the proposed changes to the above Acts and a range of commentary and issues.

I do not in any way support broad scale land clearing or land degradation, however strongly feel that proposed vegetation management laws will negatively impact on the towns and communities within my area, placing further pressure on farmers and reducing the opportunities for future regional development. Furthermore, there are some key principles that I feel should form the basis for any sound, effective and fair vegetation laws:

- The Legislation must not be subject to arbitrary changes, that penalise one form of land management over the other (eg, High value regrowth affecting a landholder who has not kept his regrowth control up, due to financial pressures, versus a landholder with the resources to regularly treat his regrowth)

- The Legislation must be based on sound, peer reviewed and independent scientific evidence
- The removal of a property right to a landholder must be accompanied by compensation for the loss of this right
- The data used in enforcement and administration of the Act must be subject to continuous improvement and regular review
- The Legislation must comply with the Legislative Standards Act 1992
- The Legislation must comply with the principles of the “Mistake of Fact” and “Onus of Proof (Presumption of innocence)” (it is noted that the current Bill, as proposed, complies with these principles)
- The Legislation must allow for practices that ensure the continued functioning of ecological processes, and provide opportunities to manage adverse impacts
- The Legislation must provide a clear and easy to follow process for the conduct of activities.
- The administration of the Act should be done in a manner that aids compliance, rather than prosecutes for breaches
- The harvesting of fodder should be recognised as an important animal welfare issue, and should exempt from the provisions of the Legislation
- The Legislation should recognise the importance of agricultural production to the state economy

The overall “tone’ of this Bill is adversarial, and does little to build rapport with landholders to achieve the objectives of the Act. It is divisive in nature and I am of the view that this legislation paints “All farmers as bad people who cannot be trusted and must be punished hard.” It places undue pressure on landholders and does little to help with their sense of wellbeing and their mental health. I fear that there will be lives taken due to this legislation. When the stakes are so high, the actions of people become dire. The proposed amendments in this Bill smack of “You resisted our reinstatement legislation, and now we are going to pay you back in spades”

I am of the View that the current Vegetation Management Act is adequate and strikes a suitable compromise between the protection of the environment and agricultural production.

“Any law that makes criminals of honest men is a bad law” – Anon

Matters considered within the Bill

Clause	Supported/Not Supported	Description	Comment
Clause 10	Not Supported	Requirement for the clearing to have occurred in order to be assessed as Category X	Insertion of this clause may lead to negative unintended consequences, as it may encourage landholders to clear areas that have not been cleared since December 31, 1989, but are not mapped as high value regrowth, in order to seek security over its classification as Category X.
Clause 17	Not Supported	Requirement to demonstrate an area has thickened in order to undertake thinning	<p>Much of the ecological processes in the rangelands occur slowly. There is little Aerial photography prior to the 1950's which can be of value to determine the location and extent of thickening. Comparison to similar areas of vegetation not in its thickened state are problematic, as these are often difficult to find.</p> <p>Regional Ecosystem descriptions specify a density and height of the relevant layers of vegetation, and the floristic composition. These RE descriptions should form the target of what the area should look like and contain after thinning has occurred. Any thinning should include the requirement to reintroduce natural processes where possible, such as the use of fire, to prevent the area from thickening again.</p>
Clause 18	Not Supported	Omission of High Value Agriculture/Irrigated High Value Agriculture	Removal of this section impacts upon the profitability and sustainability of local economies and reduces the diversification opportunities for landholders. This impacts upon their resilience and the economic development of the region
Clause 19	Supported	Penalty for failure to return card	
Clause 21	Not Supported	Powers of entry	<p>Section 30A, paragraph 4 states that an entry notice should be given 24 hours prior to entry. Legislation, such as the Local Government Act specifies 7 days for reasonable entry. Timing should be consistent across all legislation.</p> <p>Powers of entry must consider the GBO obligations under the Biosecurity Act 2014 for the Landholder and the Department administering the <i>Vegetation Management Act 1999</i></p>

Clause 22 and 23	Not Supported	Increase of Penalty Units	Proposed penalties are excessive and not consistent with other legislation, such as the <i>Stock Route Management Act 2002</i> or the <i>Biosecurity Act 2014</i>
Clause 24	Not Supported	Power of seizure	Seizure should only be authorised by a warrant, given the likely value of assets to be seized (e.g., earthmoving equipment)
Clause 25, 26 and 27	Not supported	Increase of Penalty Units	Proposed penalties are excessive and not consistent with other legislation, such as the <i>Stock Route Management Act 2002</i> or the <i>Biosecurity Act 2014</i>
Clause 28	Not Supported	Stop work notice	The need to issue a stop work notice for works that have been completed, or if an offence has already been committed, does not appear necessary.
Clause 28	Not Supported	Examples of what a stop work notice may require	<p>The requirement not to burn felled vegetation may create an undue risk of public safety, particularly if the material represents a fire hazard.</p> <p>While this example is not supported, should it be seen as necessary to include such a provision in the Act, it should be accompanied by a time limit on the stop work notice, to allow for the hazard to be removed. (eg, notice only valid for 3 months)</p>
Clause 28	Not Supported	Increase of Penalty Units	Proposed penalties are excessive and not consistent with other legislation, such as the <i>Stock Route Management Act 2002</i> or the <i>Biosecurity Act 2014</i>
Clause 29	Not Supported	Increase of Penalty Units	Proposed penalties are excessive and not consistent with other legislation, such as the <i>Stock Route Management Act 2002</i> or the <i>Biosecurity Act 2014</i>
Clause 35	Supported, in principle	Enforceable Undertakings	Supported, on the condition that clear guidelines are developed for their use, and that landholders have the option to elect to a court hearing.
Clause 37	Not Supported	S 134 – Restoration notices	<p>The section as drafted is punitive, as it includes the provision to require the restoration of land in addition to any land that may have been unlawfully cleared. This section is unclear as to what (if any) appeal provisions exist for notices under this section.</p> <p>Restoration notices should only apply to an area that has been unlawfully cleared, the Act also needs to clarify that this section only applies to any offences committed between 8 March 2018, and the Date of Assent of the act. (as stated in the Explanatory Notes) the definition of the Interim period does not appear to be included in the Bill.</p>

Clause 37	Not Supported	S 139 – Revocation of the Fodder AMP	<p>With large areas of the Mulga Lands currently drought declared, revocation of the existing fodder Area Management Plan (AMP) this will place undue hardship on landholders harvesting fodder for stock.</p> <p>Should the current fodder AMP be deemed unsuitable. An alternative model should be prepared prior to revocation to allow time for landholders to transition to a new AMP without delay. This is an animal welfare consideration.</p>
Clause 37	Not Supported	S 135 – No Compensation Payable	<p>This goes to the very heart of the issues surrounding the Vegetation Management Act, in that individual landholders are being burdened with the environmental aspirations of the broader community. Any restrictions on the abilities of landholders to manage the production of their lands should be compensated for. Landholders should be rewarded for the stewardship functions they provide for the broader community.</p>

Matters not considered in the Bill

	Issue	Description	Proposed solution
1	Clearing for significant projects, eg cluster fences	A significant amount of government and community funds have been invested in the construction of exclusion fences for the control of wild dogs. The need for ensuring that these fences are protected from the effects of fire and from falling vegetation is evident, as the current guidelines for clearing of fence lines are insufficient for the adequate construction and protection of these fences.	Suggest that a new purpose for clearing for “Projects of Local Significance” to allow for the clearing of land associated with the construction of projects which demonstrate significant community benefit.
2	Accuracy and Quality of Data	The Act relies on State datasets, such as the DCDB, SLATS data and Preclearing vegetation data. Much of this data was not originally developed for the purposes of legislation. Some of this data is very old, and not produced to a great standard of accuracy. There are also conflicts, whereby one	Act must include the provision for ongoing updates and continuous improvement of the standard of data used. Datasets should have an expiry date, whereby they can no longer be relied upon if they have

		<p>dataset has been amended but another hasn't, this leads to errors when developing a third dataset.</p> <p>An example of this is were a regional ecosystem map has been amended to correct the vegetation type from one type to another, but the preclearing data relating to this area has not been amended to show this change. The development of essential habitat data is complied from the preclearing data. This leads to a situation whereby the Regional Ecosystem mapping shows one RE description, and the Essential Habitat mapping shows the potential habitat for a completely unrelated species</p>	<p>not been reviewed or updated for a period of time (eg, datasets more than 5 years old are invalid)</p>
	Management of Vegetation on public lands	<p>Many Stock routes and reserves have become unusable, due to the removal of ecological processes, such as fire, and the absence of regular grazing. Thickening of vegetation, and the presence of woody weeds is making these areas of land unusable. These reserves and stock routes are of declining ecological health, and often represent the last linkages of wildlife corridors across the landscape. Priority needs to be given to ensuring that they are able to function to maximum effectiveness, by active management.</p>	<p>The Act should be broadened to allow for the vegetation management activities available to landholders to be undertaken on public land, such as reserves and stock routes, where the primary purpose is for livestock related activity. The department of Natural Resources should also demonstrate its commitment to restoring the ecological function and usefulness of this land by partnering with local government to undertake remedial works, such as the thinning of vegetation.</p>

Responses to quotes from the Ministers speech

	Ministerial quote	Response
1	The results should surprise no-one. Within three years in Queensland clearing rates of remnant native vegetation increased from 59,800 hectares in 2012-13 to 138,000 in 2015-16. This amendment bill seeks to end the levels of broadscale clearing that the LNP legislation created.	The quotation of these statistics is regrettable, particularly given that the years 2012/13 were particularly wet years, that led to no fodder harvesting being necessary, and that large areas of the state were too wet to successfully undertake clearing activities. Severe drought conditions in 2014/15/16 saw a large number of landholders undertaking fodder harvesting, and a significant number of landholders playing “catch up” on previously planned development.
2	After listening to stakeholder feedback, the bill will not include a reverse onus of proof provision nor will it remove the application of the mistake of fact defence for vegetation clearing offences. To minimise pre-emptive clearing and impacts to the environment, certain provisions in this bill will apply from the date of its introduction to this parliament.	This commitment from the state has been sorely necessary, as the reverse Onus Of Proof and the absence of Mistake-Of-Fact provisions offend the principles of democratic law making, and are inconsistent with the Legislative Standards act 1992
3	I want to stress that the Labor government will honour the long-held security provided to category X areas on a property map of assessable vegetation. Since 2004 all governments have provided certainty to landholders that areas shown as category X on a property map of assessable vegetation are, and continue to be, exempt from the vegetation management framework.	The retention of the status of Category X on a PMAV is of fundamental importance to land managers. The erosion of the integrity of Category X vegetation would be seen as a grave injustice by all landholders. The Ministers comments in this regard are wholeheartedly supported.
4	We are responding to stakeholder input and future SLATS reports will include any increase in woody vegetation as well as clearing rates. Those with a stake in our vegetation management laws will all benefit from an online report that is delivered in a timely manner that shows vegetation trends throughout Queensland, including the extent and the condition of our native vegetation and how much is being cleared and for what purpose.	It is pleasing to see the commitment by the minister to ensure the data used to administer the Act is to be updated, and that for the SLATS data to include a reference to thickening of vegetation.
5	In conjunction with this bill, a major update to the vegetation management maps based upon the Queensland Herbarium’s regional ecosystem mapping will be released including updates to the	It is pleasing to see the acknowledgement by the Minister that the current data is not fit for purpose. The proposed Bill needs to go one step further to

	wetland and essential habitat mapping. An update of this scale has not been undertaken since 2013 and will ensure the vegetation management framework is using the best available science. These maps are currently going live online. Landholders wishing to find out how their property is affected can request a property report and vegetation maps from my department's website. These maps are based on the latest advice from the independent Queensland Herbarium and we are confident they are accurate. However, if landholders are still unsure or believe they have identified an error, I would encourage them to call the vegetation management hotline on 135VEG, 135834, or go into their local department office.	enshrine this commitment into legislation. The bill should require the ongoing improvement of improving the accuracy and timeliness of the data used to enforce the act
--	--	---

Other Submissions

I have also perused a number of other submissions with regard to the Vegetation Management and other Legislation Amendment Bill, and also wish to offer in-principle endorsement of the contents of these reports:

1. Local Government Association of Queensland
2. Maranoa Regional Council
3. Property Rights Australia
4. Agforce Queensland