



# HUMANE SOCIETY INTERNATIONAL

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To whom it may concern,

**Vegetation Management and Other Legislation Amendment Bill 2018  
Parliamentary Committee Submissions**

Humane Society International (HSI) is the world's largest animal protection organisation with more than 10 million supporters. HSI seeks to create an ecologically sustainable and humane world for all animals and their environments. We have more than 24 years' experience in promoting the enhancement and protection of wildlife and their habitats in Australia. Our scientific nomination program has seen seventy three species classified as threatened and six million hectares classified as threatened ecological communities under federal and state legislation, and we work to ensure this protection is enforced and leads to recovery. HSI is also a founding member of the Places You Love alliance, which advocates for robust laws for the protection of Australia's most iconic reefs, forests, wetlands and wildlife.

On behalf of our 70,000 Australian supporters, we make the following submissions to the State Development, Natural Resources and Agricultural Industry Development Committee in relation to the *Vegetation Management and Other Legislation Amendment Bill 2018* ('VMOLA'). Our submissions speak to potential for improvement in the areas of both animal welfare and conservation.

HSI is strongly supportive of the Queensland Government's commitment to better regulate land clearing which is indisputably a key driver in Australia's biodiversity crisis with as much as 138,000 ha of mature bushland and 257,000 ha of regrowing forest and woodland destroyed in Queensland in 2015 -16. This clearing destroyed habitats for 115 threatened species and 70,648ha of vegetation from threatened ecological communities protected under Commonwealth law<sup>1</sup>. In light of this our organisation looks forward to full implementation of the November 2017 election commitment to *protect remnant and high conservation value non-remnant vegetation' with 'high conservation value' defined consistently with the international definition advocated by the High Conservation Resource Network, including but not limited to endangered vegetation species and communities, vegetation in reef catchments, riparian areas, threatened species habitat and areas where landscape integrity is at risk*<sup>2</sup>.

HSI has identified six key areas in the VMOLA bill that require strengthening in order to ensure the key purposes of conservation and biodiversity loss enshrined in the *Vegetation Management Act 1999*<sup>3</sup> ('VMA'), and committed to by the Queensland Government in 2017, are upheld:

- i) Animal Welfare;
- ii) PMAV Categorisation;
- iii) Mapping;
- iv) Transparency and Reporting;
- v) Self-assessment; and
- vi) Thinning

### **Animal Welfare**

The process of vegetation clearing will always involve the very real risk of adverse impact on native animals present in the areas being cleared. This impact is not one that can be overlooked as the potential consequences can be extremely detrimental to Australia's native animal population and its welfare. Currently, VMA does not make any provisions for the welfare of native wildlife impacted during the act of land clearing.

Land clearing can cause harm to animals by inflicting physical or psychological injury or death upon an individual, suffering and/or displacement. Indirect injury and psychological trauma can be inflicted upon animals during the land clearing process due to exposure and the stress of survival in cleared habitat.<sup>4</sup> It has been estimated that current land clearing legislation facilitated the killing of nearly **50 million animals in Queensland in 2015-16 alone**.<sup>5</sup> Due to the extremely high risk of significant impact to native wildlife and habitat caused by land clearing activities, it would be remiss

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<sup>1</sup> <http://www.wwf.org.au/ArticleDocuments/260/pub-briefing-pervasive-inaction-on-national-conservation-law-over-tree-clearing-14jul17.pdf>

<sup>2</sup> <https://www.queenslandlabor.org/media/20226/alpq-saving-habitat-policy-document-v3.pdf>

<sup>3</sup> *Vegetation Management and Other Legislation Amendment Bill 2018* (QLD) s3

<sup>4</sup> H.C. Finn and N.S. Stephens. (2017). The invisible harm: land clearing is an issue of animal welfare. *Wildlife Research* 44(5): 377-391. <http://dx.doi.org/10.1071/WR17018>

<sup>5</sup> H. Cogger, C. Dickman, H. Ford, C. Johnson, and M. Taylor. 2017. Australian animals lost to bulldozers in Queensland 2013-2015. WWF-Australia, Brisbane. Available at: <http://www.wwf.org.au/ArticleDocuments/353/pub-australian-animals-lost-to-bulldozers-in-queensland-2013-15-25aug17.pdf.aspx?Embed=Y>

to discard their protection as an issue of paramount concern in implementing land clearing legislation.

The mortality estimates indicate that existing legislation in Queensland is not sufficient to offer animal welfare protection in instances of land clearing. The *Nature Conservation Act 1992* ('NCA')<sup>6</sup> and the *Animal Care and Protection Act 2001* ('ACPA')<sup>7</sup> work in tandem to provide a significant loophole that exempts land clearing activities from prosecution under Queensland animal welfare legislation.

The NCA makes it an offence to "take" a **protected** animal, except where the taking has occurred in the course of a lawful activity that does not have the specific purpose of taking the animal, and could not have been reasonably avoided.<sup>8</sup> The ACPA further cements this defence by making an explicit exception to animal cruelty prohibitions<sup>9</sup> for activities undertaken in accordance with the NCA.<sup>10</sup>

Furthermore, relevant State Development Assessment Provisions on clearing native vegetation,<sup>11</sup> and State Planning Policy<sup>12</sup> are both silent on the issue of native wildlife and habitat harm minimisation.

At best, present legislation only clearly allows for prosecution of harm caused to native animals through unlawful land clearing activity. In practical terms, the evidentiary burden in such circumstances would be significant to the point that they may be insurmountable. Nor does the existing or proposed legislation provide any obligations to take reasonable steps to avoid harm to wildlife present in an area of vegetation to be cleared or a duty of care to those animals found injured subsequently.

We submit that VMOLA is an opportunity to strengthen protections for native animals, and clear up the ambiguity that existing land management and animal welfare legislation creates around the issue.

VMOLA has potential to mitigate harm inflicted on protected animals in a way that NCA has failed to do. HSI recommends that VMOLA incorporates provisions that foster the minimisation and mitigation of harm to all native species and their habitat. With this objective in mind, VMOLA should include provisions or that:

- i) *Encourage proactive assessment and surveying of targeted land clearing areas.*

There must be a robust system to facilitate the mapping of species prominence and dispersal, as well as maps of essential habitat for threatened species. These surveys and maps must be accurate, detailed, and up to date, or they will be impotent. It is also paramount that these maps are accessible and encourage a culture of transparency, so that information barriers are low and comprehensible. This will ensure robust and consistent decision making.

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<sup>6</sup> *Nature Conservation Act 1992* (QLD)

<sup>7</sup> *Animal Care and Protection Act 2001* (QLD)

<sup>8</sup> *Nature Conservation Act 1992* (QLD) s88(3)

<sup>9</sup> *Animal Care and Protection Act 2001* (QLD) s18

<sup>10</sup> *Animal Care and Protection Act 2001* (QLD) s 6A(3)

<sup>11</sup> State Development Assessment Provisions, State code 16: Native vegetation clearing (2018)

<sup>12</sup> Queensland Department of Infrastructure, Local Government and Planning, *State Planning Policy* (April 2016)

ii) *Implement a Code of Practice for Animal Welfare during logging operations.*

In order to ensure that all logging operations are carried out in accordance with accepted animal welfare standards, HSI recommends the implementation of subordinate legislation which imposes mandatory harm minimisation practices.

A Code of Practice should be made under the ACPA, so as to ensure that land clearing practices in Queensland are injected with animal welfare standards that are directly compliant with, and originate directly from, existing Animal Welfare Legislation.

iii) *Mandate the use of spotters.*

Spotters will help to ensure that no direct physical injury is caused to any wildlife in the area during the act of land clearing would also work to substantially mitigate harm.

iv) *Require management of species present in areas approved for clearing.*

This is vital in order to ensure there is minimal distress and suffering caused by displacement and injury. There is a need to incorporate relocation and rehabilitation provisions into the VMOLA, or into associated regulation and codes.

The use of these measures concurrently will ensure that wildlife and their habitats, threatened or otherwise, will be handled in accordance with the purpose of conservation and biodiversity preservation set out in VMA.<sup>13</sup> These provisions should be incorporated into VMA with the intention of imposing a duty of care upon land clearers to minimise and avoid harm to animals, which would also significantly reduce the exposure to harm that the NCA creates for protected species.

### **Land and Vegetation Conservation**

By and large, HSI supports a number of the changes to VMA proposed by VMOLA. In particular the strengthened compliance action, extension of Category R areas and, perhaps most encouragingly, the removal of high value agriculture as a relevant purpose for land clearing.

However, we do have a number of recommendations that would further strengthen VMA, remove the exemptions that will enable ongoing loss of high conservation value vegetation and further align its provisions with its purpose, and secure sustainable biodiversity conservation in Queensland.

### **Categories and Mapping**

i) *PMAV Categories*

While HSI is in favour of the VMOLA amendment to allow land owners to remap Category X areas as Category A restoration areas, we acknowledge that further amendments could be made to rectify some of the significant drawbacks inherent in marking areas as Category X. HSI would recommend a more proactive approach toward ensuring that Category assessments are made on a recurring basis, not at the behest of landholders alone, to ensure that Categories are not misapplied or no longer

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<sup>13</sup> *Vegetation Management and Other Legislation Amendment Bill 2018 (QLD) s3*

relevant. This will ensure that vegetation is offered the appropriate level of protection and that long term environmental changes are accounted for.

Without a mechanism for ongoing reassessment of Categories it is foreseeable that unmonitored degradation of vegetation, from both natural and man-made causes, could result in the under protection of certain vegetation and the over application of Category X mapping. Indeed, the trend is toward growth in the number of mapped Category X areas.<sup>14</sup> This will do doubt lead to high conservation value vegetation and remnant regrowth being cleared due to the incorrect categorisation. In our view, these amendments should prohibit the clearing of remnant forests over 15 years old or where there is substantial risk of landscape integrity loss.

Further, HSI is supportive of incentivising schemes to encourage landholders to voluntarily surrender exempt areas mapped as category X for protection in category A.

## *ii) Mapping regulation*

HSI submits that VMOLA should incorporate a mechanism to facilitate accurate and up to date area mapping of land and land conservation status. It has been acknowledged that the lack of up to date data and inconsistent monitoring has been a huge detriment to any real attempt at biodiversity conservation and sustainability.<sup>15</sup>

## **Transparency and Reporting**

HSI recommends strengthening of VMA and associated development codes in the areas of reporting and transparency.

HSI is of the view that in order to achieve truly sustainable development and vegetation management, transparency and regular reporting is vital. To this end, VMA and/or subsequent codes and/or regulations should facilitate the development of robust reporting practices. Assessment and reporting should be carried out regularly and consistently in relation to land clearing impact of both vegetation and species. In particular, there should be reporting on the changes to the number, extent and condition of remnants of different regional ecosystems and for the habitat of threatened species, and the consequences for their recovery.

All reporting and assessment should be made publicly available and easy to obtain. It may be necessary to implement easily accessible public registers of impending and current land clearing activity to encourage public participation and prevent single-interest decision making.

Overall, HSI encourages the regulatory mechanisms to take a proactive role in vegetation management and land assessment, instead of the reactionary or passive approach it has taken in the past.

## **Further submissions**

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<sup>14</sup> *Vegetation Management Act property maps of assessable vegetation*. Available at: <http://qldspatial.information.qld.gov.au/catalogue/custom/index.page>

<sup>15</sup> Australian Government, *2016 State of the Environment report – Biodiversity – Key Finding*. Available At: <https://soe.environment.gov.au/theme/biodiversity/key-findings?year=96#key-finding-120176>.

HSI also makes the following recommendations:

*i) Self-assessment*

HSI does not support self-assessment of land clearing approval without a mechanism for final approval by a regulatory body.

*ii) Thinning & Fodder Harvest*

HSI strongly opposes the concept of “thinning” due to the significant negative impact it imposes on biodiversity.<sup>16</sup> Similarly, fodder harvest is a threat to biodiversity, particularly remnant forests. We recommend that these are both removed as an allowable land clearing activity in its entirety from the VMA and any subsequent codes or regulation. We again note that this is in keeping with the purpose of the act being to prevent the loss of biodiversity.<sup>17</sup>

*iii) WWF Submissions*

HSI also supports all recommendations made by WWF in their submission to the Parliamentary Committee in relation to VMA and VMOLA. We further support the recommendations made by Dr Martin Taylor in his submission to this inquiry, particularly in relation to the removal of exemptions which will enable continued clearing of high conservation value vegetation.

### Closing Comments

VMOLA is an encouraging step toward greater biodiversity protection, rehabilitation and the prevention of further degradation. However, HSI is of the view that there is still significant room for strengthening the Act in key areas in order to arrest the rate of habitat and biodiversity loss and protect high conservation value vegetation in Queensland. We ask that exemptions which would allow ongoing clearing of high conservation value vegetation be removed from the bill. We also recommend that VMOLA takes the opportunity to ensure future land clearing activities are carried out in a way that minimises immediate harm to native animals. Improvement of reporting, assessment, mapping and transparency will allow for impacts to be measured and therefore further encourage biodiversity protection.

Please forward any correspondence in relation to these submissions by email to [REDACTED] I can be contacted anytime on [REDACTED] or at the email address noted above.

Yours sincerely,



Nicola Beynon  
Head of Campaigns  
Humane Society International

<sup>16</sup> Thompson, W.A. and Eldridge, D.J., 2005. Plant cover and composition in relation to density of *Callitris glaucophylla* (white cypress pine) along a rainfall gradient in eastern Australia. *Australian Journal of Botany*, 53(6), pp.545-554

<sup>17</sup> *Vegetation Management and Other Legislation Amendment Bill 2018* (QLD) s3