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Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016

Property Rights Australia (PRA) is an apolitical, not for profit organisation with members in all states but mostly in Queensland. PRA was formed primarily to protect a range of property rights, including rural property rights. It aims to promote fair treatment of landowners in their dealings with government, businesses and the community. Our philosophy is that if the community (or business) wants our resource for any other purpose such as environmental protection then the community must pay fair and unsterilised value for it.

Legislative Standards Act and Fundamental Legislative Principles

“The enforcement provisions of the VMA violate the most fundamental requirements of criminal justice and should concern every civil libertarian. The intrusive investigatory powers, the coercive extraction of evidence, the conferment of judicial powers on executive officers, the reversal of the burden of proof, the various presumptions favouring prosecutors, and the use of criminal history, combine to create a regime more reminiscent of a police state than of a liberal democracy. A detailed analysis is not possible, hence I will discuss the most pernicious provisions.

The guilt of a person accused of a vegetation clearing offence under the VMA need not be determined by a court but may be conclusively established by an authorized officer, a functionary under the command and control of the Minister and his department. (The judicial trials mandated by Division 3 of Part 4 of the Act have no application to vegetation clearing offences under the VMA). If an authorised officer issues a compliance notice, a failure to comply without a reasonable excuse results in an automatic penalty.”¹

¹ *Constitutional Vandalism Under Green Cover* by Professor Suri Ratnapala
<http://www.samuelgriffith.org.au/papers/html/volume17/v17chap2.html0>

What Professor Ratnapala had to say about the Vegetation Management Act is, in the main, as valid today as it was when he wrote it. Compliance Notices have become particularly pernicious.

This Bill reverses the onus of proof, is retrospective and removes the defence of “mistake of fact”.

The Australian Law Reform Commission details instances where Commonwealth laws have reversed the onus of proof. They are such things as “*terrorism offences, drug offences, child sex offences, and offence relating to unmarked plastic explosives.*”² The present Queensland Government obviously equates farmers clearing land to feed people with these crimes.

Reversal of the Onus of Proof

Innocent until proven guilty is a universally recognised right in liberal democracies. Reversal of the onus of proof should always be regarded as a very serious step and not taken lightly or unadvisedly.

Does the legislation reverse the onus of proof in criminal proceedings without adequate justification—Legislative Standards Act, section 4(3)(d).

Clause 6 reinstates reverse onus of proof offence provision, which existed prior to the 2013 legislative amendment to the Vegetation Management Act. The provision placed the responsibility for unlawful clearing with the ‘occupier’ of the land, such as the owner or lessee, in the absence of evidence to the contrary. While this provision potentially breaches FLPs, reinstating this provision is justified for the following reasons:

- Unlawful clearing often occurs in remote areas, meaning that in many cases there is a lack of evidence available to the government (e.g. direct witnesses, copies of contracts as they are commercial in confidence), to establish who undertook the clearing.*
- Due to the expense of clearing, it is highly unlikely that an unknown third party would undertake clearing on someone else’s property without the occupier’s invitation or consent.*
- The landholder may still provide evidence to prove their innocence, using evidence that would be readily accessible to the landholder but not the government (e.g. where a contract may be commercial in confidence the contract does not need to be disclosed to government during its investigation).*
- The state is still responsible for establishing and proving that a vegetation clearing offence has occurred.*³

² <https://www.alrc.gov.au/publications/laws-reverse-legal-burden>

³ Explanatory Notes

[https://www.legislation.qld.gov.au/Bills/55PDF/2016/B16_0035_Vegetation_Management_\(Reinstatement\)_and_Other_Legislation_Amendment_Bill_2016E.pdf](https://www.legislation.qld.gov.au/Bills/55PDF/2016/B16_0035_Vegetation_Management_(Reinstatement)_and_Other_Legislation_Amendment_Bill_2016E.pdf)

The explanations given for why reversal of the onus of proof is necessary are thin and lacking the necessary weight for such a serious breach of Fundamental Legislative Principles and is a denial of the hundreds of years of lawmaking which exists in a system such as ours.

That the alleged crimes are remote and/or subject to commercial in confidence contracts are hollow arguments and do not hold water.

If the Government wants to rely on an argument about “commercial in confidence contracts” for such a substantial move as reversing the onus of proof and automatically blaming the “occupier” for alleged unlawful clearing it needs to give examples of what sort of contracts it has in mind and how many times it suspects these contracts have been used. This is a very specious argument.

Attaching blame to the “occupier” of the land is a different concept from whether or not an offence has occurred.

The ability of a landowner or “occupier” to present evidence to prove his innocence brings us to the concept of Model Litigant and the might of the State against an individual. Vegetation offences are expensive, difficult and time consuming and now will be made more difficult by Government breaches of fundamental legislative principles. Passing off the seriousness of this breach of Fundamental Legislative Standards so easily show extreme disrespect for our system of governance, jurisprudence and the agricultural community.

Similarly, comparing it to a traffic offence is frivolous in the extreme. The magnitude of the penalties is beyond the capacity of many people to pay. Proving innocence is not as simple as signing a statutory declaration and is a complicated and expensive operation even in the face of inadequate evidence for prosecution. Unlike a traffic offence, where the option of going to court is offered on the fine document, no such offer is made for this retrospective legislation where “authorised officers” will be able to issue Restoration Notices in the (retrospective) “interim period” with penalties to be calculated with regard to the Environmental Offsets Act 2014.

This is a cynical and irresponsible action and is not only a breach of Fundamental Legislative Standards but unwarranted bullying of a small community and is definitely not consistent with the principles of natural justice.

The Legislative Standards Act 1992 was introduced by Tony Fitzgerald as a defence against unjust and undesirable legislation and provides that:-

- Laws must be consistent with the principles of Natural Justice.

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- Do not reverse the onus of proof.
- Provide adequate protection against self incrimination.
- Do not adversely affect Rights and Liberties or impose obligations retrospectively.
- Provide for compulsory acquisition of property only with fair compensation.

This Act violates every one of those principles.

It is important to understand that the land affected by the proposed amendments is land that is legislated as “Land for Agricultural purposes” in the case of significant Leasehold Land and Rural Freehold Land which is dedicated to Agriculture.

In effect the Government is proposing taking land out of production that is in fact set aside for food production.

This factor is a contradiction of the purpose of use of the land and the Government is simply not abiding by the laws that govern land use.

The proposed amendments are clearly in breach of the U.N. articles 15 – (1) provisions, the LSA1992 Act and its provisions are out of step with the Civil Liberties Council and the Queensland Bar Association.

Mistake of Fact

The Government claims that there is no place for mistake of fact under s 24 of the Criminal Code.

The Deputy Premier Hon. Jackie Trad in introducing the Bill in parliament says, ⁴

The bill will also remove the ability of a person who unlawfully clears to claim that they made a mistake as their defence. The Vegetation Management Act has been in place for over 15 years now and given the amount of information and assistance available this is a reasonable approach.

This is a poor excuse.

The explanatory notes claim that mistakes are made in the **interpretation** of maps and that there is a great deal of information and assistance available.

We contend that it is not just the **interpretation** of maps that is often wrong but the maps themselves which are incorrect and that mistakes are readily made by Departmental officers as well as producers.

Information given by Departmental officers has often been found to be incorrect according to law or the law and associated regulations have been so badly written that information given by Departmental officers is contradictory or they are unable to give advice at all.

The Government maps are often inaccurate (and recent mapping has been no great example of accurate mapping), they change often anyway as ecosystems change and litigators, the

⁴ Qld Hansard 17th March 2016 p921

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representatives of our Model Litigants have often substituted maps which show the vegetation as they wish it to be rather than the map that was in existence when the alleged offence occurred.

Instances have occurred relatively recently where landowners have received significantly different PMAV's online and in hard copy at the same time.

Many a landowner has been wrongly prosecuted based on an inaccurate map.

Also unacknowledged is that areas being cleared are not square boxes with straight edges. They are often intricate polygons with many potential error points.

Prosecutions are invariably based on satellite imagery. Because it is digital it is open to interference by those who know how to do it.

GPS co-ordinates are subject to error on many levels. Mapping based on surveys, some of which are quite old is not intended to be overlaid over a multitude of different systems and errors of some magnitude are often discovered. This does not stop the Government from using them as a basis for prosecution.

There has also been a case in Queensland where court documents⁵ show that Government officers altered the co-ordinates of the Digital Cadastral Data Base in order to make it appear that an accused landowner had built a shed on a road reserve so that they could serve on him a compliance notice, issued by an "authorised officer" to pull it down.

This type of perjury and fabrication of evidence has been a common feature of prosecutions and the representatives of the Model Litigant cannot be relied upon to carry out their tasks in a fair and neutral manner and as servants of the Court rather than servants of their Government Department who are trying to get scalps on their belt.

This also requires accused landowners to engage and pay for at great expense, their own expert witnesses to rebut the Government "witnesses for the prosecution".

The concept of the Model Litigant has been long forgotten in Queensland and the might of the State has definitely been lined up against landowners in an unjust and often illegal manner.

The reintroduction of reversal of the onus of proof and the exclusion of "Mistake of Fact" in such an intricate matter, often where the State mapping is incorrect is about numbers of prosecutions not justice.

⁵ http://www.propertyrightsaustralia.org/documents/1263786902_decision_scott_simpson_trial_.pdf

Retrospectivity

The retrospective aspects of this Bill in the “interim period” are harsh and overly punitive without any of the usual checks and balances that ought to be a feature of a judicial system such as ours. To be prosecuted based on a legislation passed at a future date for something that at the time was within the law is something all responsible governments with a respect for principles of natural justice do not even consider.

There is no justification whatsoever for breaching legislative standards and going outside the remit of the Legislative Standards Act on any count.

Responsibility for Clearing

67A Responsibility for unauthorised clearing of vegetation

(1) The clearing of vegetation on land in contravention of a vegetation clearing provision is taken to have been done by an occupier of the land in the absence of evidence to the contrary.

*(2) In this section— **occupier**, of land, includes—*

(a) for freehold land—the registered owner; or (b) for a lease, license or permit under the Land Act 1994—the lessee, licensee or permittee; or

(c) for indigenous land—the holder of title to the land; or

(d) for any tenure under any other Act—the holder of the tenure.

This is a very dangerous assumption and we certainly hope that any “evidence to the contrary” is thoroughly investigated before any landowner is put to any expense for legal advice and a trial.

There is one notorious case⁶ (not in the Queensland jurisdiction) where witnesses, neighbours who overlooked the property, claimed well before the trial that the clearing was done by a previous owner. This would have been relatively easy to establish.

Instead, the State went ahead with a malicious prosecution. Several years later and several hundred thousand dollars poorer, this owner of just a few hundred hectares bought from wages as a retirement property is so shattered that he can no longer work and will be foreclosed upon before this submission is read. The State washes its hands of any responsibility.

In this age where landowners are forced to share their space with resources companies and supporting infrastructure many of whom are allowed to clear at will, this is by no means an accurate assumption. Some landowners have up to a dozen companies with whom they share their space and it is by no means clear who may have carried out clearing activities. This is a simplistic assumption and the clause should be removed.

Reasons given such as remoteness and commercial in confidence contracts are not robust.

⁶ <https://au.news.yahoo.com/thewest/wa/a/14961084/green-farmer-faces-fine-for-clearing/>

The State has access to satellite imagery and witnesses as in any other Court case. As for commercial in confidence contracts, if the Government intends to rely on this for such a breach of legislative standards then it needs to fully explain what it means, give examples and give numbers of times that this type of action may have occurred. It is very doubtful that if it has happened at all that it would have been often enough to strip away an “occupiers” right to the presumption of innocence.

Restoration Notices

The imposition of restoration notices is absolutely unacceptable. There is no need for a trial or a finding of guilt.

They can be imposed if an authorised officer has a reasonable belief that an offence has occurred.

This is contrary to natural justice with no access to appeal or the court system offered.

The commission of an offence under the Vegetation Management Act is no traffic offence as referred to in the explanatory notes and involves a business and life changing penalty. Even a traffic offence has an appeals system.

On the one known occasion when a matter about a Compliance Notice, the precursor of the Restoration Notice, did make it into the Court system Her Honour Cornack SM found 19 grounds of invalidity and also found that the notice was “*confusing, unclear, uncertain, vague and impossible to comply with.*”⁷

Restoration notices and Compliance Notices should be abolished.

That all alleged illegal clearing during the interim period will be subject to notices as adjudged by an authorised officer and Guided by the Environmental Offsets Act is absolutely unacceptable. The Offsets scheme is designed so that very large, often multinational companies can pay for their environmental destruction. Any cash payout under the scheme is well outside the comparatively modest means of most farmers and livestock producers and multiples of the penalties imposed previously under the Vegetation Management Act.

The chief executive may also include additional requirements in the restoration notice requiring restoration of additional land to the land subject to the unlawful clearing.

The chief executive is required to have regard to the Environmental Offsets Act and Environmental Offsets Policy when deciding the additional requirements of the restoration notice.⁸

Compliance Notices have in the past been issued even after a Court case has been dismissed or before a decision has been handed down.

Use of Restoration Notices in any circumstance and use of retrospective provisions is unacceptable and breaches all concepts of justice in a liberal democracy. Use of Restoration Notices in the retrospective interim period with guidance from the Environmental Offsets Act 2014 is nothing more than a cynical exercise in farmer bashing.

⁷ Paragraph 40, page 8

http://www.propertyrightsaustralia.org/documents/1263786783_compliance_notice_and_contempt_-_whyenbirra_pl.pdf

⁸ Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016 p12

The committee should have no hesitation at all in throwing out all sections to do with Restoration Notices.

Great Barrier Reef and Ground Cover

The Queensland Government, under advice from WWF, TWS and QCC has repeatedly claimed that land clearing is damaging the Great Barrier Reef GBR.

Not only is there no definitive science that the bulk of what reaches the reef, and yes sometimes damages certain ecosystems of the reef while benefiting others, is anything other than a normal ebb and flow of reef ecosystems.

This Bill and the arguments behind it is a gross misuse of available science which discusses the delicate balance between trees and grass cover in some areas. There is a very large body of evidence that it is grass or a delicate grass tree balance, not trees which protect streams and the GBR from sedimentation.⁹ The balance differs between woodland types some of which allow almost no grass on the bare earth beneath them and there is, in general less tree cover under trees than in cleared areas. The Queensland Government website for soil conservation acknowledges that “*Trees are often considered to be the universal answer to control soil erosion. Tree roots help prevent landslides on steep slopes and stream bank erosion but they don’t stop erosion on moderately sloping hillslopes*”.¹⁰

There is no such delicacy of balanced science involved in this debate which has the Government and green groups running amok with selective science and the lives of rural Queenslanders.

Experienced land managers know that to focus on tree cover to the detriment of all other avenues is to invite failure and this is backed up by the available scientific literature where there is no mention of tree cover or tree basal area but rather looks to ground cover. Fire regimes and erodible soils such as gullies.(Wilkinson *et al* 2012, Bartley *et al* 2012).

The explanatory notes give the vaguest hint of the benefits of grass cover.

*3.5 Increased clearing may have the potential to increase run off and sedimentation but **the correlation is not necessarily direct, e.g. if good ground cover remains.***

This is the only very minute reference to the part played by ground cover which is supported by decades of research which the environmental movement chooses to ignore and lies about to the voters of Queensland. There is a large body of research covering 5 decades and may authors which supports a different position from that of the green activists.

9 Scanlan JS and Turner EJ, 1995. The production, economic and environmental impacts of tree clearing in Queensland. Report to the working group of the Ministerial Consultative Committee on tree clearing

10 Queensland Government – Preventing and managing erosion
<http://www.qld.gov.au/environment/land/soil/erosion/management/>

Science shows that it is ground cover, through grasses and crop stubble, which determines run off and erosion risk and not tree cover. Environmental groups saying tree clearing affects water quality on the reef is not backed by science.

Greenhouse Gas Emissions

Claiming that reintroducing vegetation controls is to control greenhouse gas emissions is to expose in all its nakedness the non-use of science in the debate.

While deifying the SLATS report and making copious mention of the 296,000 ha of tree clearing, no mention is made of the 437,00ha of woodland thickening as measured by the same Government SLATS report.

Government officials have not even heard of a more modern and accurate system of measuring greenhouse gas emissions than the inaccurate accounting system presently used by our Government.

NASA's OCO 2 satellite¹¹, has the capacity to accurately measure columns of greenhouse gases from earth to the outer atmosphere with total coverage.

OCO-2 is an exploratory science mission designed to collect space-based global measurements of atmospheric CO₂ with the precision, resolution, and coverage needed to characterize sources and sinks (fluxes) on regional scales ($\geq 1000\text{km}$)¹²

Not only does this system show Australia as a greenhouse gas sink but it also shows Queensland as a greenhouse gas sink in contrast to the Australian Government accounting system which shows us with a significant deficit and our country liable for significant outlays for greenhouse gas shortfalls.

That Queensland and Australia are greenhouse gas sinks has also been measured by Japan's GOSAT satellite.^{13 14}

Australia needs to update its greenhouse gas accounting methods and stop allowing the world to bill us as the largest source of greenhouse gas emissions.

Queensland is a Carbon sink and all arguments that we need to reduce tree clearing to meet international greenhouse gas targets are unjustified.

The current Queensland Government in its statements is ignoring the sequestration of carbon by not only forests, open grassy woodlands and by productive farming systems.

11 <http://oco.jpl.nasa.gov/>

12 Ibid.

13 <http://atse.uberflip.com/i/665800-focus-195-innovate-or-perish-thats-the-mantra-we-must-turn-our-ideas-into-world-products-and-services/29>

14

http://www.propertyrightsaustralia.org/documents/1453457894_vegetation_management_in_queensland_-_some_essential_facts_21_jan_2016_update3.pdf

Agriculture has also done much of the heavy lifting in the past meeting emission targets. The government claims clearing has to stop to meet the recently signed Paris agreement but has not disclosed that the Paris agreement has recognised the importance of food production. Professor Richard Eckard is director of the Primary Industries Climate Challenges Centre at the University of Melbourne, and is a science adviser to the United Nations Food and Agriculture gave a presentation at the Tas Farming Futures Ahead of the Game carbon farming workshop at Carrick, Tasmania:

“He said the Paris agreement encouraged farmers to produce food with the lowest possible emissions, rather than just focusing on total emissions.

“The Paris Agreement for the first time recognised the importance of food production and food security for the world, which is really important for agriculture,”¹⁵

Tree thickening and encroachment

In the research report, ‘Recent reversal in loss of global terrestrial biomasses, published on March 30 2015, vegetation in Australia has actually increased with the encroachment of trees into grassland a key factor. The research was collaboration between University NSW, Australian National University and CSIRO. It was an international study of two decades of work that developed a satellite technique called passive microwave remote sensing. Several satellites were used and the data was merged into one.

The report states:

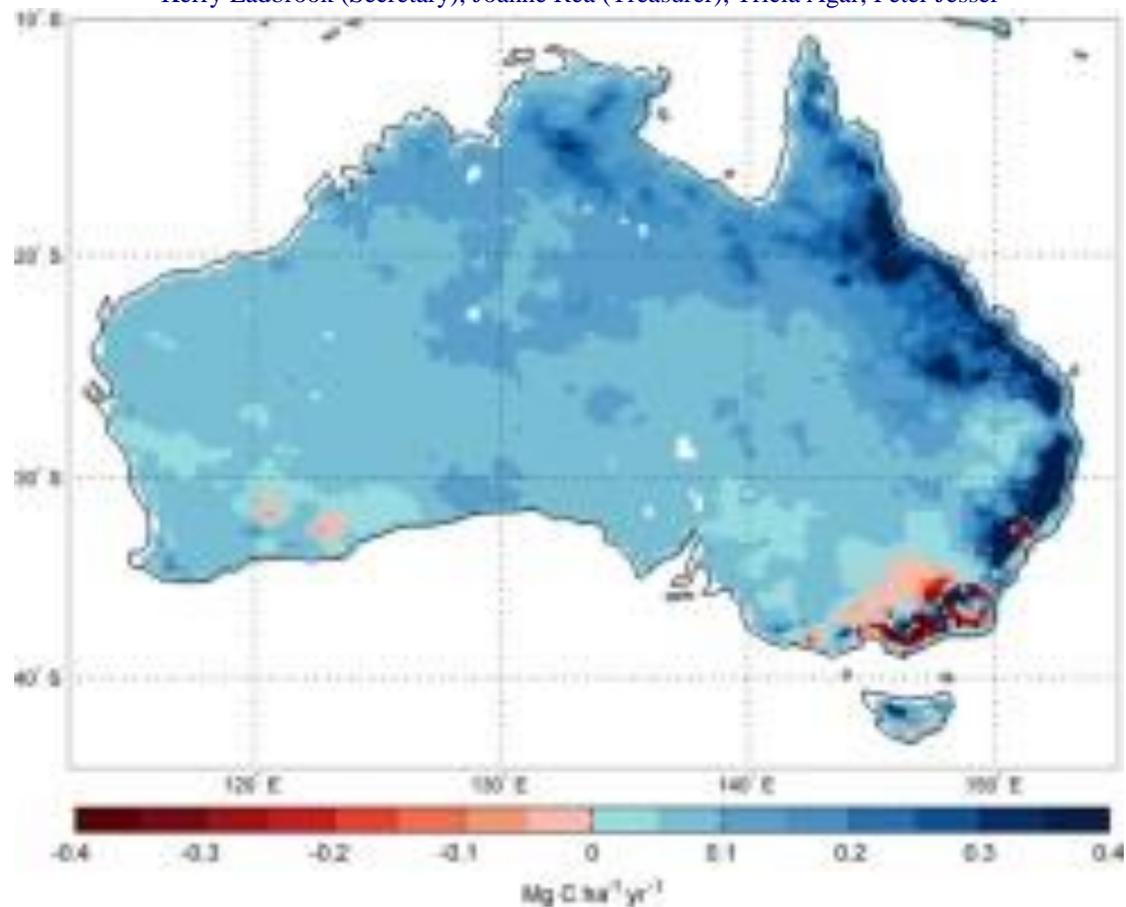
“We also found unexpectedly large vegetation increases in savannas and shrublands of Australia, Africa, and South America. Previous analyses have focused on closed forests and did not measure this increase.

On average, Australia is “greener” today than it was two decades ago. This is despite ongoing land clearing, urbanisation and the recent droughts in some parts of the country”¹⁶

The report included a map (below) that strongly illustrates that Queensland has had an increase in tree cover despite the alarmism about tree clearing. On this map red is a decrease in tree cover while blue is an increase. There are many areas in Queensland that are represented on this map in dark blue.

¹⁵ <http://www.abc.net.au/news/2016-03-24/paris-agreement-carbon-farming-food-security/7270580>

¹⁶ <http://www.iflscience.com/environment/despite-decades-deforestation-earth-getting-greener>



The Government's own SLATS report clearly shows the net increase of tree cover with the 296,000ha of tree clearing, it also measured 437,000ha of woodland thickening. There are no real surprises with the area of land. It isn't even a relatively large area for a State the size of Queensland. The SLATS reports clearly show that the greatest amount "cleared" was in south west Queensland in the mulgalands. With over 80% of Queensland drought declared, it is a long standing practice that the resilient acacia mulga is utilised in drought conditions for the feeding of livestock only to grow back vigorously afterwards.

The figure below is from data sourced from the SLATS report

Even with increased clearing rates, the actual wooded vegetation cover across regions increased in all but 5 regions between 2011-12 and 2012-13, and all but 4 regions between 2012-13 and 2013-14.

NRM Region	Total area (,000 ha)	2011-12		2012-13			2013-14		
		Rate of clearing (,000 ha)	% wooded vegetation cover	Rate of clearing (,000 ha)	% wooded vegetation cover	Δ ¹	Rate of clearing (,000 ha)	% wooded vegetation cover	Δ ²
Burnett Mary	5595	11.794	69.175	14.138	69.77	↑	15.240	73.12	↑
Cape York	13685	2.115	92.219	2.204	92.29	↑	2.811	94.43	↑
Condamine	2544	4.935	39.182	8.164	39.82	↑	5.959	40.44	↑
Desert Channels	51000	8.814	20.216	17.667	20.01	↓	19.896	19.04	↓
Fitzroy	15725	41.605	55.594	54.747	55.96	↑	58.617	57.77	↑
Northern Gulf	19410	1.675	88.107	1.385	87.94	↓	2.466	89.10	↑
Burdekin	14090	18.900	64.821	38.655	65.09	↑	29.818	65.49	↑
Border Rivers/ Maranoa Balonne	10176	57.570	42.550	57.521	42.76	↑	35.769	42.60	↓
Mackay Whitsunday	934	0.961	67.706	1.038	67.71	↑	0.775	69.67	↓
South East Queensland	2368	3.120	66.740	3.120	67.15	↑	4.577	70.21	↑
South West Queensland	18711	29.051	47.334	63.171	47.89	↑	116.997	44.49	↓
Southern Gulf	19460	1.801	49.179	3.337	49.08	↓	2.019	50.84	↑
Wet Tropics	2224	1.406	84.337	1.211	84.20	↓	1.466	85.46	↑
Torres Strait	85	0.000	70.113	0.000	69.98	↓	0.000	87.97	↑

Δ¹ = Increase (↑) or decrease (↓) in percentage cover between 2011-12 and 2012-13

Δ² = Increase (↑) or decrease (↓) in percentage cover between 2012-13 and 2013-14

Most of the clearing, 65% of the total, that occurred was on areas determined by the Department as being non-remnant, that is has been cleared before and not endangered. This is on approved mapping known as PMAV and called Category X. The image below is sourced from the SLATS supplementary report.

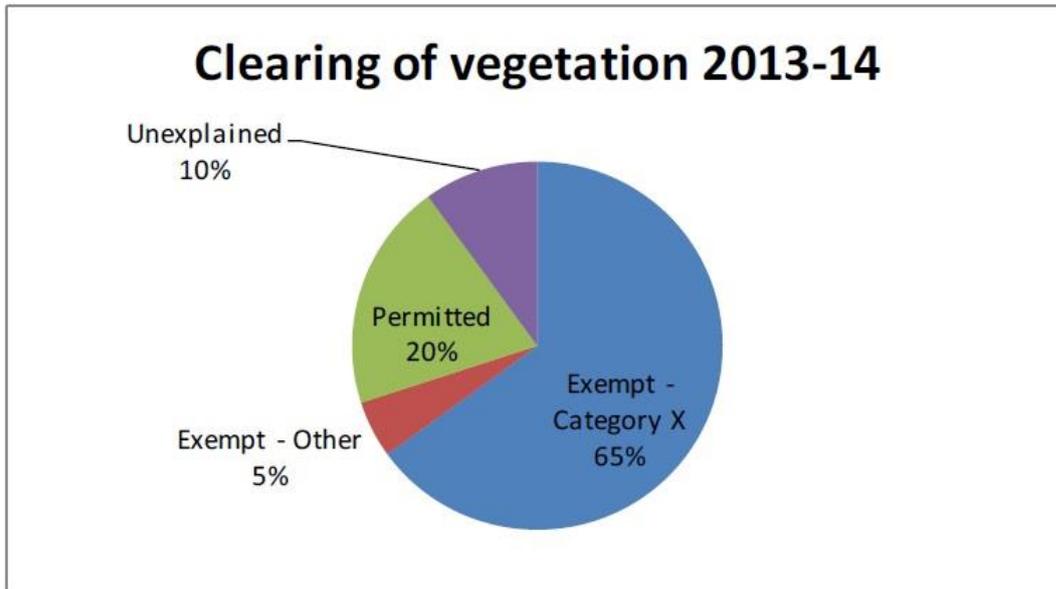


Figure 4: Clearing of vegetation subject to the framework in 2013–14

Most clearing in 2013–14 was also of exempt vegetation occurring within Category X areas on a PMAV (65%), which can be cleared at any time, for any purpose. Clearing under a permit was the second largest category (20%), while a smaller proportion of clearing was unexplained (10%) (see Figure 4).

The second largest area cleared in under an approved permit or self assessable codes, which do have vigorous guidelines. As seen in the image below 57% of the clearing in this section was for fodder.

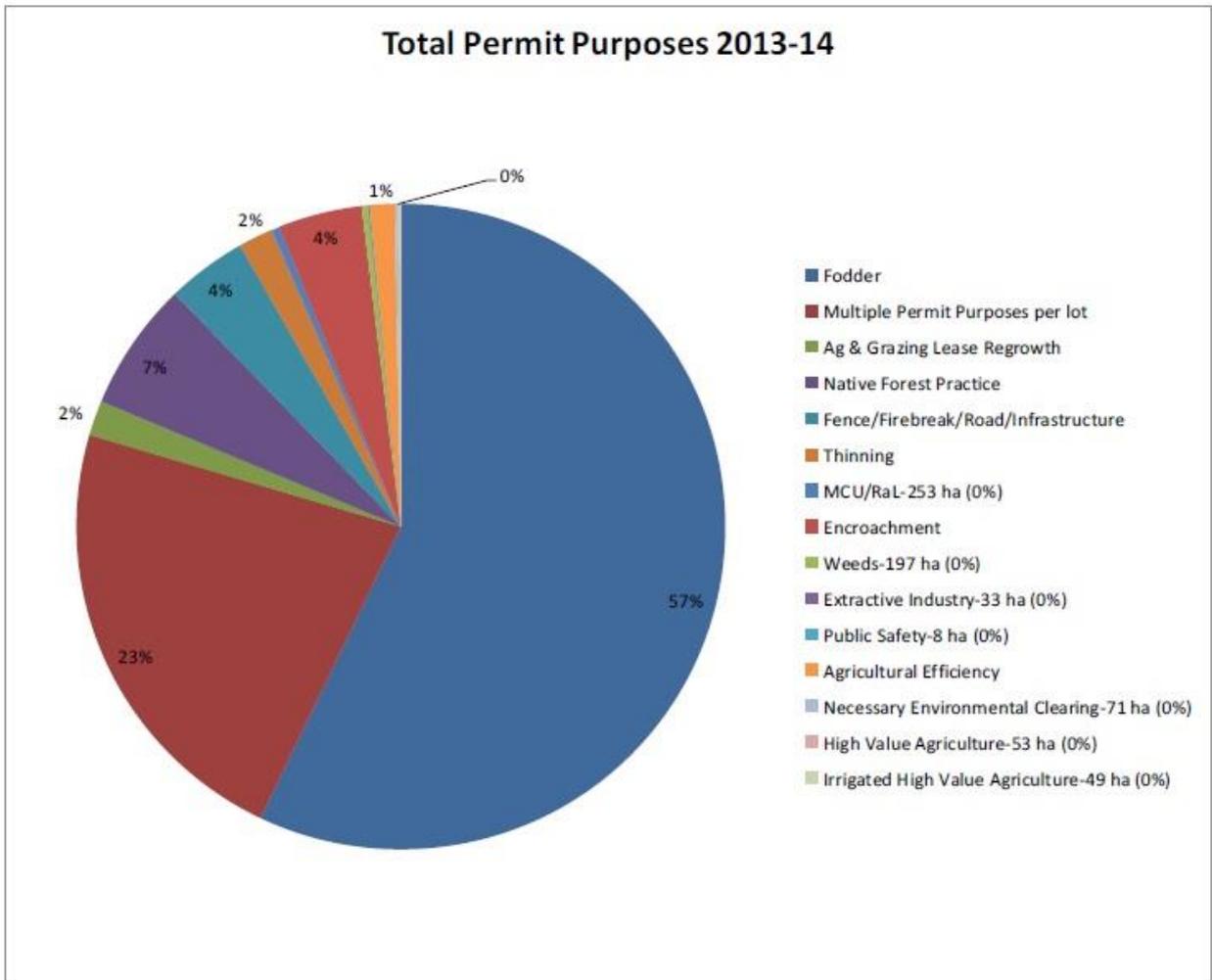


Figure 7: Total clearing by permit purpose 2013–2014

No vegetation system is static and the vast body of research available shows without doubt that since European settlement, changed management regimes such as fire regimes have led to increased tree cover (Burrows et al 2002, Krull et al 2005) and change in tree composition. Increased tree cover competes for water and nutrients and shades the ground leading to less ground cover and exposing the ground to erosion.

There are decades of research work conducted by rangeland scientists in Queensland that demonstrate that vegetation is a dynamic system. PRA believes that the work by Dr Bill Burrows should be mandatory reading. Updated in January this year Dr Burrows latest paper summarises a lifetimes research into vegetation thickening and references many decades of research work by himself and many others.

Vegetation Management in Queensland - Some essential facts for politicians, rural industry and all Queenslanders¹⁷ by Dr Bill Burrows is available at this link -

http://www.propertyrightsaustralia.org/documents/1453457894_vegetation_management_in_queensland_-_some_essential_facts_21_jan_2016_update3.pdf

In introduction to his paper Dr Burrow states:

“It is concluded that arguments for the reintroduction of strict tree/shrub clearing control bans on this State’s rural landholdings are not supported by the evidence. Our ‘intact’ woody vegetation is not static, but on a definite ‘thickening’ trend overall. This trend threatens the viability of many rural enterprises. Reintroducing strict restraints on the clearance of trees/shrubs from the rural landscape will only exacerbate this problem.

A review of research literature provides further support for these conclusions”

Economic Considerations

Deputy Premier Hon. Jackie Trad in introducing the Bill has said,

Broadscale clearing of remnant vegetation has been prevented by previous Labor governments since 2006. Despite the doom and gloom pedalled by the Liberal National Party here in Queensland, agricultural production did not stop. Landholders continued to produce high-quality produce for us and the rest of the world that Queensland is renowned for and our biodiversity, our reef and our climate were much better off.

The doom and gloom referred to by the Deputy Premier were not pedalled by the Liberal National Party but were the heartfelt pleas of landowners.

We would like to dispute that the doom and gloom predictions have not come to pass.

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http://www.propertyrightsaustralia.org/documents/1453457894_vegetation_management_in_queensland_-_some_essential_facts_21_jan_2016_update3.pdf

Rural Debt in Australia has increased exponentially over the last two decades, the average age of farmers and livestock producers has increased as no-one wants to take it on, in many circumstances rural properties have become unsaleable at anything like fair value. The continued production of high quality produce is often an indication of attempts to keep the wolf from the door with a lack of productivity increase a matter of concern for industry bodies such as MLA and the Federal Department of Agriculture.

No political party has yet had the light bulb moment that stripping huge amounts of value and income out of rural Australia will, sooner or later have dire and possibly irreversible consequences.

Amendments to the Environmental Offsets Act 1014

Amendments to the Environmental Offsets Act will remove “significant” as in “significant residual impacts” from wherever it appears.

Obviously the green movement wants to capture every single stalk of vegetation or melon hole that may be habitat for an endangered species.

Offsets are calculated on the basis of map overlays. If they are of the standard of the Regional Ecosystem maps they probably capture a great deal of country which is not relevant to the purpose.

Worse, the Act is to be used as a guide to penalty for land clearing which an authorised officer has a reasonable belief may have been cleared unlawfully.

In that case we expect that maps cover only what they need to cover and no more and that Australia observes international standards for judgement of endangered species and not hold Australian agricultural communities to a higher standard than the rest of the world.

The international standard for endangered species is deemed to be something that is less than 5% of its original number or extent. In Australia, lobbying by environmental groups, induced Senator Faulkner, under the Keating Government to increase the standard for Australia to 10%.

Not only do we have a subset of an already small community bearing the cost of an Australia wide public benefit without compensation, but we will, if this Bill is passed, have an onerous penalty regime in place that relies on inaccurate habitat mapping and a standard for endangered species that is double that of the rest of the world.

Compensation

The Amendment states that no-one will be entitled to compensation.

This also is contrary to natural justice and contrary to the opinion of the Productivity Commission in 2004 that individuals and individual business should not be expected to bear an inordinate amount of the costs of what is essentially a community benefit.

The Palaszczuk Labor government today takes an important step in redressing the balance to ensure that responsible landholders can still make a living from the land while, importantly, our native vegetation is protected for future generations.¹⁸

The government has not ensured that landowners can still make a living from the land and many are effectively going broke while providing a benefit enjoyed by the whole community. There should be no dispute that the proposed laws will have an economic impact on landholders via their production, their income, their asset value, their legal rights, their human rights and their property rights.

The Freehold Land is owned, bought and paid for by the owner. The Perpetual Lease Land is gazetted for use as Grazing and Agriculture. Any restriction on production affects the income, asset value, viability and social welfare of the affected landholder.

The proposed laws will impose a penalty on those food producing landholders, while the urban community will evade any cost, any obligation or any decrease in their comfort or lifestyle.

Every hectare of land that is or can be cropped but is legislated out of production is a financial loss for a landholder. Every hectare of grassland that is or can be developed, that is legislated out of production, is a financial loss for the landholder.

All farmers and graziers sell by the tonne of production, whether it be cotton, corn, wheat, meat, mutton etc. Any Government decision which reduces the tonnes of production, reduces the income of the enterprise and the income of the State.

The proposed ban on Regrowth Clearing is seen as compulsory acquisition.

All of this Regrowth Land was developed at significant cost and the viability of many depends on that land remaining in their production chain.

There is also the issue of permits not applied for before 17th March. Many landowners would have gone to considerable expense previous to 17th March but would have unsubmitted applications. The process is rigorous, time consuming and expensive. In order not to discriminate against those landowners, the Government should allow them to submit applications and have them judged on the same merits as those submitted before the 17th March deadline.

High Value Regrowth

To amend the Act to include freehold land and indigenous land in the category of High Value Regrowth is to deny freehold landowners and indigenous landowners the ability to maintain the worth of their asset without compensation.

Irrigated High Value Agriculture and High Value Agriculture

To remove these categories from the legislation is to deny Far North Queensland indigenous and non-indigenous Australians the opportunity to develop their economy in line with the expectations of the rest of the country.

It also denies landowners the ability to diversify and drought proof their properties.

The excuses around greenhouse gas emissions and effects on the Great Barrier Reef have already been shown to be not based on any balanced reading of the science. They are based on myths promulgated by environmental organisations who spin whatever is necessary to obtain maximum funding.

To force a small community to bear such a cost and be subject to such onerous penalties

Board: Dale Stiller (Chairman), Ashley McKay (Vice Chairman),
Kerry Ladbrook (Secretary), Joanne Rea (Treasurer), Tricia Agar, Peter Jesser

without the full protection of the law is to display a vicious vindictiveness which exposes their inhumanity which has no place in Government. Governments are required to govern for all Queenslanders not just the wealthy and powerful ones.

Irrigated High Value Agriculture and High Value Agriculture Permits were applied for from diverse areas of the State. Around 65% of the applications were for less than 250 ha and came

from horticulturalists, vegetable growers and cane farmers.

The over statement of the cases which seem like large areas to urban based consumers has meant that many small growers who are under constant pressure to increase the productivity and viability of their farms will be unable to clear some small areas which could make a large difference to the ongoing viability and long term sustainability of their enterprises.

The Moral Authority of the Government

The current Government is a minority Government holding less than half the seats in the Parliament.

Queenslanders did not give this Government an overwhelming mandate to amend these laws and most want a healthy thriving economy which can be enjoyed by all.

The Government's claim that this was an election commitment, has to be recognised that it was a commitment to the environmental movement in exchange for preferences. This was not a commitment for the good of Queensland as a whole, it was simply a shoddy, ruthless, desperate act to attract the votes of the vocal minority, without any consideration of the harm that would be inflicted on the State's food Producers.

A minority Government, that does not possess an overwhelming mandate, should never contemplate legislation that conflicts with the Legislative Standards Act, A United Nations Covenant, the view of the Queensland Bar Association and every other legal representative group, removes basic legal rights, imposes economic damage, actually harms aspects of the environment and punishes farmers with admittedly minimal consultation.

Recommendations

1. Property Rights Australia recommends that the Vegetation Management (Reinstatement) and Other Legislation Amendment Bill not be passed.
2. Further, we recommend that legislation that breaches the Legislative Standards Act 1992 and Fundamental Legislative Standards not be put forward.
3. There is no semblance of justice in the issuance of "Restoration Notices" by an "authorised officer" with overly harsh and onerous penalties and no automatic right of appeal. The reference to the Environmental Offsets Act 2014 in the provision of penalties can raise the penalty value into the millions of dollars.

Regards,

Dale Stiller

Dale Stiller
Chairman

Property Rights Australia Inc.