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Position: Environmental consultant specialising in vegetation management and landscape design. Farmer. Founder of Life Source. B. Agric Econ (Hons)

Summary

This submission addresses the affect of native vegetation laws and legislated greenhouse gas abatement measures on landholders **and society in general.**

Specifically it looks at Queensland's laws and outlines why these laws have had a negative effect on the environment and our nation's greenhouse gas abatement.

It extrapolates Queensland Government SLATS data and the first hand experience of an experienced vegetation consultant to demonstrate why these laws have failed in their stated purpose.

The submission outlines the erosion of trust between government and landholders that began in 1999 and details the landmark points where government eroded this trust up until now. It provides an insight in to the incentives of landholders, their decision making process and why the underlying trend of much improved land management that marked the last twenty years has been regularly harassed by poor government policy.

Peter Mahony Background:

Peter Mahony studied agricultural economics at The University of Queensland and went on to work in finance and marketing in Australia and the United Kingdom.

Between 2001 and 2009 he and his wife Nikki managed, leased and bought a 4,400 ha. cattle property in the Brigalow region of Central Queensland.

In 2005 he started a consultancy business called AXM Research which developed into one of Queensland's most respected vegetation management and landscape design companies.

In 2009 he led the popular movement against the new vegetation laws introduced by Anna Bligh's labor government. This movement gained national prominence as it demonstrated the flawed technology and logic behind the laws and popular support as landholders saw their ability to remain viable being stripped away from them with no environmental gain.

He is a committed conservationist with direct experience in the Australian landscape and trained economist who sees economic security as the first and most critical plank in long term environmental sustainability.

Submission.

Vegetation Laws and their Effect on Environmental Stewardship in Queensland

1.1. History

In the late 1990's and early this decade governments around Australia moved rapidly and universally to tighten up the restrictions on land clearing on agricultural land. They were accompanied by a well funded, organised and highly successful campaign run by the NGO pressure groups like WWF (World Wildlife Fund) and the Wilderness Society. In Queensland the laws introduced in 1999-2003 replaced a co-operative approach that had delivered many environmental benefits since the Goss government ('89-'96) with a punitive approach which in turn created a deep mistrust of the government by landholders.

1.2. Affect on clearing rate

Fig. 1. Extract page 1.(DERM, *Land Cover Change in Queensland 2007-2008* SLATS Report,Oct. 2009)

Section 1 Summary of results

- The Statewide average annual woody vegetation clearing rate for the 2007–08 period was 123 000 ha/year. This is 48% lower than the previous period (2006–07) of 235 000 ha/year and continues a significant downward reduction since the 2005–06 period (Figure 1, this page).
- The 2007–08 figures constitute the lowest annual rate of clearing since the Statewide Landcover and Trees Study (SLATS) report commenced analysing imagery from 1988. The clearing rates for 2007–08 represent approximately a six-fold decrease from this initial year of data collection. This report covers the first full annual period of SLATS analysis since the *Vegetation Management and Other Legislation Amendment Act* (VMOLA) was introduced to end broadscale remnant clearing by 31 December 2006.
- Clearing of remnant woody vegetation, as defined by the Queensland Herbarium Regional Ecosystem (RE) mapping, for the period 2007–08 was 56 000 ha/year or 46% of total woody vegetation clearing—down from 129 000 ha/year in 2006–07 (Figure 1 and Table 4, page 26).
- Non-remnant (or regrowth) woody vegetation clearing in 2007–08 was 67 000 ha/year or 54% of total woody vegetation clearing. This also represents a decline from the 106 000 ha/year reported in 2006–07 (Figure 1 and Table 4, page 26).
- Compared to the previous period, clearing of remnant woody vegetation on freehold tenure halved, whilst on leasehold tenure there was a 66% decrease.

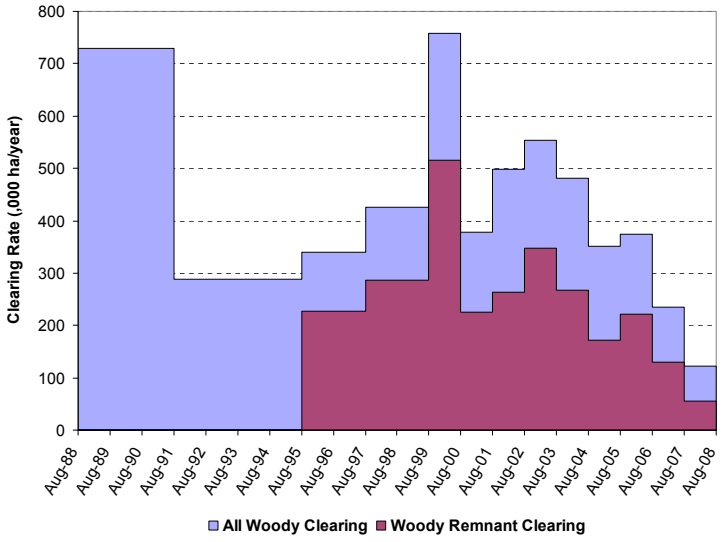

Figure 1: Annual woody vegetation clearing rate in Queensland (1988–2008)[1]

[1] The earliest available RE remnant mapping is for 1995

The Queensland laws resulted in a measured and well documented **increase** in land clearing rates immediately before and after new laws were introduced . Leading up to 1999 clearing rates doubled from approximately 300,000 to 750,000 ha. and again leading up to the new 2003 laws clearing rates increased from 350,000 to 550,000 ha. I would expect another huge jump in clearing from the quite low figure of 123,000 ha in the 2010 SLATS report as a direct result of the Queensland Government's bungled attempt to impose another tranche of vegetation laws in 2009.

There is no doubt that land clearing rates are generally decreasing but the question is whether that is because of changed farming practices or government legislation. My professional opinion is that lower rates of land clearing are **in spite of** Government legislation not because of it.

The overwhelming majority of land cleared since 1999 has been cleared legally and with a regrowth cycle from 7 to 25 years there is no doubt that there will always be a need to clear **regrowth** if productivity and a healthy ecosystem are to be maintained.

In my professional capacity I would suggest that the rate of clearing is **markedly more** since the introduction of the 1999 land clearing laws than they would otherwise have been. I have regularly visited properties where landholders have cleared vegetation that they openly admit they did not really wish to clear . These landholders were not clearing illegally at the time but remained extremely skeptical of their ongoing ability to do so with a government and vocal environmental lobby group pushing for even tighter laws. The uncertainty of their tenure pressured them to manage their land in a manner contrary to their own feelings and contrary to the betterment of the environment. Land prices also reflected this changing attitude with cleared land selling at an increased premium to vegetated farmland.

1.3. Incentive

Of course economists would call what is happening in Queensland a great example of the *tragedy of the commons* whereby land stewards who have limited personal ownership of an asset tend to prioritise short term gain (e.g. a higher sale price) over long term benefits. By introducing a high level of uncertainty into the land tenure the government has enforced its own *tragedy of the commons* with the net result that Queensland is, in my professional opinion, environmentally worse off after ten years of punitive tree laws. The additional economic cost must also be staggering of:

- The capital cost to farmers of clearing land they wouldn't otherwise have cleared.
- The foregone production of clearing land that shouldn't have been cleared.
- The foregone production of clearing land that should have been cleared and can't.
- The environmental cost of increased atmospheric carbon and increased land degredation.

2.0 Government Record of Increasing Uncertainty.

2.1. 1990 - 1999

In Queensland during the 1990s landholders realised that they were unable to continue clearing on an ad hock basis. Additionally a large proportion of the remnant vegetation that could have been removed for most productive use was by this time. Starting from 1995 comprehensive property plans were required before clearing took place and the government departments provided a service to help landholders recognise which parts of their properties should and should not be cleared. It could be argued that these first signs

of a government forcing regulation on landholders were responsible for the initial increase in clearing rates between 1996 and 1999 but it was also during this time that landholders, in partnership with government and universities, began to develop new and innovative methodologies of managing the landscape e.g. strip clearing and regular thinning of forests.

2.2. 1999-2003

in 1999 the state government changed its policy towards farmers and in a three year period the government departments overlooking natural resource management transformed from providing a service to help farmers make the right decisions in managing land to a department concerned principally with enforcement.

The 2003 vegetation laws imposed bans on clearing of 'remnant' vegetation across Queensland - effectively locking up over 75% of the state's land mass. Many landholders who planned to clear regularly and in a sustainable (for the environment and their cashflow) fashion were left helpless.

These vegetation laws severed the trust between landholders and the government that is supposed to represent the best interest of society by:

- Casting aside all co-operative work between stakeholders in the previous decade.
- Being based on mapping which was never designed for this purpose and which has subsequently been proven to be deeply flawed.
- Providing no reliable method of improving these faulty maps (the first *complex PMAV* was not processed until mid 2006 despite applications being in place since 2004. All onus is on landholder to make these changes)
- Providing no flexibility whereby a landholder may be able to preserve genuine remnant timber (which was regularly mapped as non-remnant) in exchange for clearing timber mapped as 'remnant'.

In addition the vegetation laws applied to all forms of land tenure. Previously when an investor purchased Freehold land (normally at a large premium) they indisputably purchased the right to utilise the timber off that land. In 2003 the certainty of tenure associated with freehold tenure was substantially weakened.

2.3. Legal Ramifications

Landholders who thought they may find support in the independent judiciary have been disappointed. Despite numerous rulings by magistrates finding the vegetation laws "unworkable", "onerous" and "one of the worst pieces of legislation I have seen" they have consistently had to make judgements in accordance with the laws written by Queensland's single house of parliament. In addition there are aspects of the vegetation act which run counter to natural justice (e.g. the right to silence) and are consistently vilified for it by presiding magistrates but they remain on the statute books.

There have been several legal wins by landholders but all of these hinged on technical issues and/or overturned perjured evidence from departmental staff. After each of these losses the state government has hurried to both change the legislation to close the loophole and to appeal the findings. These unending appeals are affordable for government but not for landholders. It is a tried and true formula for governments of all persuasions on many issues, but it is not justice.

Landholders then found themselves facing laws that were poorly thought out and badly imposed with no alternative adjudicator to turn to. They felt, with much justification, unable to rely on the 'system' for justice.

2.4. 2003 - 2009 Regrowth

In 2003 Peter Beatty promised that "you will always be able to clear regrowth" under the new legislation in order to provide some certainty to landholders but in May 2007 the Department of Natural Resources quietly reneged on that promise too. Until May 2007 a landholder of Leasehold land could apply for a permit to clear regrowth that had not been cleared since 1990 (deemed category 4) and provided they did not clear slopes, water-courses etc. this permission was granted. In May 2007 all DNR staff were retrained on how to interpret the clearing requirement for Category 4. Overnight an *ecosystem* was interpreted as any form of plant that was at any stage of growth with the result that so deemed *endangered ecosystem* regrowth on Leasehold land (cleared prior to 1990) was now locked up. The Department made a concerted effort to keep this change out of the headlines.

Emboldened by this the Department continued to make other smaller changes to interpretation which increasingly locked up more and more regrowth between 2007 and 2009.

2.5. 2009 State Election

In 2009, as part of her election campaign, Anna Bligh made an open assault on the landholder's right to clear regrowth and maintain his/her property in a productive state by introducing a 3/6 month moratorium on clearing

The SLATS data shows the lowest rate of clearing since records began and a concerted downward trend since the previous 2003 tranch of regrowth legislation. For what environmental reason were new laws required? Moreover the mapping used by the government to impose the six month moratorium was demonstrated to be massively flawed. The realisation of departmental incompetence (or more accurately the use of mapping for a purpose for which it was never intended) moved from being known only by professionals dealing with vegetation issues to becoming public knowledge.

The attempt by the Bligh government to impose new laws for purely political motives with mapping that is plainly wrong and her open breaking of the promise to allow regrowth clearing has left land managers with very little certainty in government guarantees.

3. The Future Environmental and Economic Effects of Queensland's Vegetation Laws 2010 - 2012

Extrapolating the SLATS data and combining it with my own first hand knowledge of a large amount of central, western and northern Queensland leaves me in no doubt that the government's legislation has had a negative effect on our environment and our economy.

Demonising and confronting landholders rather than working with them may have been electorally positive for the Labor government but it has foolishly created an environmental backlash that will be with us for decades to come.

Perhaps the best example of where the erosion in trust in Government will have negative effects on the environment and the economy moving forward is the PMAV process.

In 2003 the State Government introduced the PMAV (Property Map of Assessable Vegetation) process whereby the landholder could “Lock In” the mapped non-remnant portions of their property. This was also one of two processes whereby a landholder could make changes to (and most of our clients did have to make changes) the government’s mapping. This PMAV process was to the cost of the landholder (who paid between $320 and $20,000 plus for the process) and supposedly guaranteed that the land could be maintained (category ‘X’) or maintained with a permit (category ‘4’).

Although neither the 2009 moratorium or the final laws affected properties with a PMAV it has been suggested that WWF (World Wildlife Fund) and the greens went to the election believing that the new laws would in fact affect PMAV land. An agreement that the government reneged on after the election but with no guarantee that such a promise would not be made again and carried out come another tight election.

Many landholders - myself included - have standing trees in PMAV areas. This is regrowth and will need to be treated in time but not now. In a normal situation I would regularly thin those trees out and strip clear but with the approach of a tight election in 2012 I cannot be sure that I will be able to continue managing those trees over the next 10 - 20 years. This being so there is a high liklihood that I may (legally) broadscale clear those areas. This clearing would not benefit the environment; it is a cost I cannot afford but it is the better of two evils when the alternative is to gradually lose all productive capacity from those areas over the next twenty years.

The PMAV process was introduced to deliver certainty and help ensure that the kind of unnecessary clearing described above does not occurr. Unfortunately the Queensland government’s record has eroded that certainty and we see a very real case of the tragedy of the commons.

4. Conclusion

The Queensland land mass is extensive and farmers and aboriginals manage the overwhelming majority of that landscape. The last 20 years have witnessed many changes in agricultural practices that have seen a marked improvement in how farmers manage their environment. This period of enhanced environmental awareness has coincided with a dramatic decrease in state government investment into agricultural R&D and extension. A hole that has been filled by private education providers (often subsidised in the past by Federal funds) and industry bodies.

The State Government’s insistence on a punitive vegetation policy has only served to increase clearing rates and land degradation in an environment in which Queensland’s farmers were, by their own accord, becoming rapidly better stewards of their own landscape. A fact that is already born out by the SLATS data available and sure to be made abundantly clear at the end of this enquiry.

Unfortunately the Queensland state government continues unabated this flawed policy of confrontation rather than co-operation with the states only effective land managers. In 2009 they introduced not only the new vegetation laws but the latest tranch of *Wild Rivers* legislation and Burdekin Reef Protection laws.

All these policies/laws are based on deeply flawed assumptions and/or drivers that will continue to have detrimental effects on our environment and our economy.