

Ref CTS 06568/10

Department of
Environment and Resource
Management

24 MAY 2010

Ms Christine McDonald
Finance and Public Administration References Committee
Australian Senate
PO Box 6100, Parliament House
CANBERRA ACT 2600

Dear Ms McDonald

Thank you for your letter of 15 April 2010 seeking information about Queensland's vegetation management laws to assist the Senate Finance and Public Administration References Committee inquiry into vegetation laws and greenhouse gas abatement and climate change adaptation measures.

The Queensland Government's *Vegetation Management Act 1999* (VMA) has successfully ended broadscale clearing across the state and protects around 80 million hectares of woody ecosystems from loss of biodiversity and land degradation resulting from inappropriate clearing.

Monitoring shows that since Queensland committed to end broadscale clearing on 31 December 2006, native vegetation clearing fell from 235 000 hectares/year in 2006-2007 to 123 000 hectares/year in 2007-2008. Carbon dioxide emissions from clearing have generally followed the reduction in clearing rates. Queensland data and estimates are that carbon dioxide emissions from clearing have reduced from 36 mega tonnes in 2006-2007 to 24 mega tonnes in 2007-2008.

1. *Establishment of native vegetation areas*

The majority of Queensland is covered by regional ecosystem (RE) mapping, which shows the location and conservation status of remnant REs, and helps to determine if clearing vegetation on a property requires a permit. Property-scale maps, called Property Maps of Assessable Vegetation (PMAVs), may be made over a property to show the location and status of vegetation on a property, and replace RE maps and regrowth maps for determining if a permit is required.

PMAVs provide enduring certainty about the legal status of vegetation in relation to the VMA. While a small number of PMAVs are made by the Department of Environment and Resource Management (the department) to secure areas that have been illegally cleared, over 6000 PMAVs have been made at the request of landholders including PMAVs to "lock in" areas of vegetation where the vegetation laws do not restrict clearing.

Where landholders do not agree with the RE mapping they can apply at no charge for a PMAV to remedy a mapping error or pay a fee for a PMAV that shows greater detail.

PMAVs made at the request of landholders prevail over the RE mapping that otherwise shows the legal status of vegetation and once made can only be changed by the department with agreement with the landholder. This provides high levels of certainty for development and land management.

In circumstances when a landholder disputes the PMAV, the VMA provides for a right to an internal review of the decision followed by appeal to the Queensland Administrative and Civil Review Tribunal (QCAT). The current review and appeal arrangements related to PMAVs have been in place since October 2009 and few useful statistics are available at this early time.

Under previous arrangements regional ecosystem mapping updates and amendments were carried out administratively. A targeted analysis of mapping amendment requests during the period from August 2003 to July 2005 revealed that of the 1285 requests received, 954 resulted in changes to the mapping. However, of the 2.6 million hectares assessed, only 470 000 hectares or 17.7% was modified on the regional ecosystem mapping. This equates to a change of only 1.9% to the statewide coverage of regional ecosystem mapping, which highlights the accuracy of the mapping.

Officers of the department do not have rights of entry to private property in relation to the making of either regional ecosystem maps or PMAVs.

2. Compliance Investigations

Tree clearing related offences are variously provided for under the VMA and the *Sustainable Planning Act 2009*. The standard of proof for compliance actions is "balance of probability" for civil responses with recourse to the QCAT and "beyond reasonable doubt" for matters subject to the criminal court system.

The burden of proof in compliance investigations lies with the government, with the exception that a tree clearing offence is taken to have been done by the owner of the land in the absence of evidence to the contrary (VMA section 67A).

The VMA provides that a person may be required to provide information to an authorised officer about a tree clearing offence (VMA section 51). Persons are protected from self incrimination because the VMA provides that such information can not be either directly or indirectly used to derive evidence that might tend to incriminate the person in a civil or criminal proceeding.

Civil remedies such as orders for restoration of illegally cleared vegetation are subject to internal review of the decision and appeal to the QCAT. Criminal matters are heard in the Planning and Environment Court and can be appealed to higher courts.

Since July 2004, over 7,500 investigations have been completed by the department. However, not every investigation results in enforcement action. Once a notification is received via community complaint, discovery or satellite detection, a compliance investigation can start with a desktop analysis and may proceed to a more comprehensive investigation such as site inspections and expert reports where it likely an offence has been committed.

3. Has the Queensland Government undertaken any studies of the impact of the Vegetation Management Act on productivity of the agricultural sector?

Measures of the effect of the vegetation management framework on productivity are generally subject to complex correlation with other factors and interpretation of such measures narrowly risks ignoring the benefits clearing regulation has brought to rural industries.

Economic impact concerns were raised prior to the end of broadscale clearing of remnant vegetation. However, property values have increased, for example in the Brigalow Belt by between 100 to 250% since 2004 when the end to broadscale clearing of remnant vegetation was introduced. Meat cattle numbers have experienced a 12% increase between 1998-1999 and 2007-2008 to 11.73 million in 2007-2008.

The 2009 report, "Net carbon position of the Queensland beef industry", indicates that the beef industry is likely to be close to carbon neutral as a result of reductions in emissions due to Queensland's clearing laws.

Along with evolving carbon markets, the reduction in industry emissions provides competitive advantages and new opportunities to the agricultural sector.

The report is available from Queensland Primary Industry and Fisheries, and can be accessed at: www.dpi.qld.gov.au/documents/AnimalIndustries/Beef/Net-carbon-beef-industry.pdf.

To assist agricultural businesses adjust to the phasing out of broadscale clearing the State Government in 2004 committed to joint funding of a financial assistance package totalling \$150 million with the Federal Government. Following withdrawal of the Federal Government from that arrangement the Queensland Government solely provided \$170 million in financial assistance, comprising \$150 million in enterprise and exit assistance, which has been matched by landholders to result in approximately \$254 million investment in new rural enterprise development.

\$12 million in incentives was provided for land management through the environmental partnerships program. \$8 million was provided for industry partnerships to resource practical on-ground assistance to landholders to manage their land in compliance with the new laws.

A further \$2 million was provided for industry partnerships last year as part of the government's commitment to protect high value regrowth vegetation.

Under the new regrowth laws, certain circumstances may exist where the regrowth clearing restrictions might cause financial hardship for a farm business to such an extent that it would stop the business from operating. If it can be proven that a farm business is affected to this extent, landholders may be eligible for a regrowth clearing authorisation which allows the clearing of regulated regrowth vegetation even if it does not comply with the regrowth vegetation code.

4. The Committee has received evidence indicating significant concerns about the poor relationship between landholders and officers implementing Queensland's native vegetation management regime. Does the Government wish to respond to these concerns?

The department employs some 140 professional and dedicated staff to administer the vegetation management framework.

Since significant amendments to the VMA in 2004, vegetation management staff had over 200 000 interactions with clients about the vegetation laws.

The Queensland Government's \$10 Million investment in industry partnerships has developed a reliable alternate path for landholders seeking information about the state laws.

To date, over 4800 landholders have participated in over 430 workshops, and field days run by industry groups under the AgForward (Best Management Practice) program. The Queensland Government is committed to strong rural economies and to protecting the community's right to a diverse and green environment.

The Government recognises that in order to achieve the important sustainability outcomes through the VMA, ongoing engagement and constructive working relationships with landholders are required.

Should you have any further enquiries, please do not hesitate to contact Mr Peter Burton, Director Vegetation Management and Land Planning of the department on telephone 07 3330 6231.

Yours sincerely

John Bradley
Director-General