

**Submission  
by  
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**To**  
**Senate Inquiry into Native Vegetation Laws, Greenhouse Gas Abatement and  
Climate change Measures**  
**Senate Finance and Public Administration Committee**  
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### **PROPERTY RIGHTS AUSTRALIA INC.**

Property Rights Australia is a non-profit organisation which was formed to protect the property rights of its members and supporters and has supported property owners in landmark court cases involving the Native Vegetation Act and related legislation.

#### **Summary**

Economic indicators show that rural industry is in dire straights and unable to absorb impediments to its profitability.

Both the Australian Bureau of Agricultural and Resource Economics (ABARE) and the Productivity Commission 2004 have recognised not a small to moderate impost from the various native vegetation laws but a severe impact. Five to six years on from this recognition new native vegetation laws with even more dire consequences are still being enacted in Queensland. The latest being the Vegetation Management and Other Legislation Bill 2009 which regulates the clearing of certain types of regrowth from October 2009.

Even with Agriculture excluded from the Carbon Pollution Reduction Scheme the on costs will impose significant financial hardship.

#### **Social and Environmental Policy**

There is in Queensland in modern times, and indeed in Australia, no coherent, visible well thought out policy for the welfare and benefit of our agricultural industries. Any policy measures have been ad hoc at best and supremely damaging at worst.

In introducing Native Vegetation Legislation in Queensland it was not considered if rural industry could afford to absorb the costs imposed by the legislation and the many prosecutions under the legislation. The financial imposts caused to individual businesses and families have been enormous and a disproportionate burden has been placed on rural businesses for the environmental aspirations of the wider community. This has been done without consultation with that wider community as the urban population in general is largely unaware of the extent and depth of the load being

borne by their country counterparts. Few rural stories are reported in mainstream media and people tend to think that such incidents as are, are isolated.

No Cost-Benefit analysis or Impact study into the effects on rural producers was ever used in the framing of this legislation. Work that was commissioned on behalf of primary industry and completed by Dr, Bill Burrows showed a great cost related to woody weed encroachment but attempts were made to keep these findings from public view.

In an address to Property Rights Australia Dr. Bill Burrows said:-

*I am a woodland ecologist who has spent a lifetime studying Queensland's grazed woodlands – for 40 years as a research scientist employed by the government itself. It is my considered opinion that the VMA is, at best, based on a very selective reading of the available science and, at worst, the framing of the Act and its regulations deliberately and capriciously ignored a large body of scientific research and economic data relevant to the management of vegetation on our grazing lands. Given this perspective I believe it is very dishonest to claim the Act is based on the best available science.*<sup>1</sup>

Only the benefit to the wider community and the environment was considered. This was exaggerated, as extreme and undemonstrated claims of harm to the environment, such as increases in salinity, which were based on no science or dubious science have been made and acted upon. Negative impacts of not clearing, both economic and environmental have not been considered at all. Political ends have ensured that deeply flawed policy has been implemented.

Professor Suri Ratnapala in his paper<sup>2</sup> “Constitutional Vandalism Under Green Cover” believes, in speaking about the threats to the constitution of vegetation management laws that *“The threat arises not from the aim itself but from the flawed processes by which environmental policies are determined and implemented. These processes not only subvert constitutional principles but also admit bad science.”*

With the vigour with which landholders have been pursued in court, many farm businesses (in the hundreds) who had made every reasonable effort, some even employing consultants, to comply with the provisions of native vegetation laws have been caused much stress and financial hardship. The stress and hardship has not been communicated to the wider community in whose name these laws have been enacted. This stress has also applied to some contractors who have been told (wrongly) by Department of Natural Resources (DNR) staff that their machinery can be confiscated.

In these prosecutions under the Native Vegetation Laws (Q) the onus of proof for criminal cases has been reversed, mistake of fact has been removed as a defence, the right to silence and self incrimination has been removed and the application of compliance notices has a Departmental official as judge, jury and enforcer and there is no appeal against the terms of the notice, which are often arduous or impossible to comply with and remain for up to forty years on a title deed..

One of the major injustices comes about as the result of remotely sensed images with no ground truthing. They are notoriously inaccurate but the legislation deals with this by declaring that the Certified Map is the standard. If a remotely sensed image shows disturbance, a landholder is likely to be charged regardless of the cause which may be a natural cause such as fire or wind. Expert witnesses who have experience in

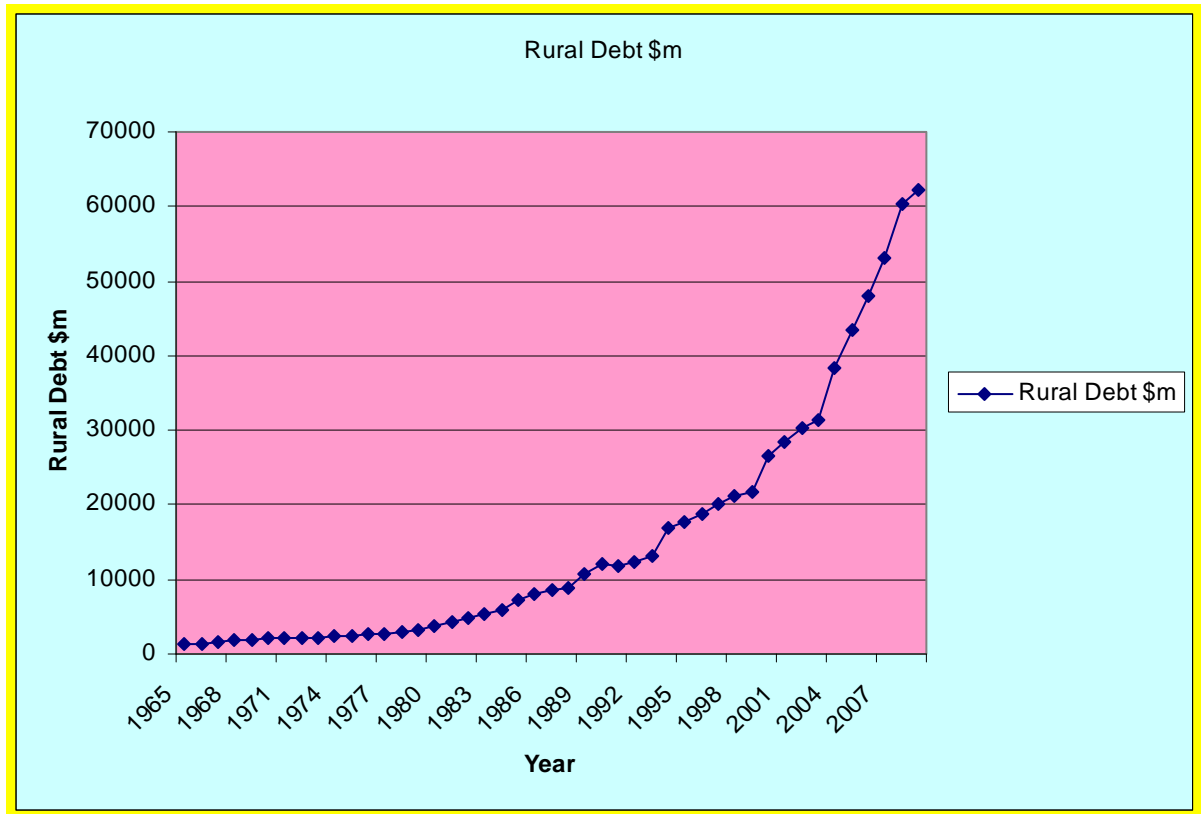
remotely sensed images are taken to be believed in spite of not having undertaken a ground inspection with consequent inaccuracies.

Incorrect maps can be expensive and difficult to change and have caused heartache to some farmers who have their cropping land shown as remnant vegetation and some have been too afraid of prosecution to plant their usual seasonal crops.

In short the concept of “natural justice” has been ignored, the laws are complex and unable to be complied with, retrospectivity has been used on a scale not seen before in this state and parliamentary processes and conventions have been skirted around or ignored.

### **Economic Data**

- In the last twenty years from 1989 to 2009 rural debt has risen almost sixfold which is at a faster rate than household debt. (RBA)
- Household debt has risen only four and one half fold from \$363b to \$1824b (RBA) in the same period and has fallen since 2008. The rise in household debt seems to be a policy concern.
- Non rural business debt has fallen dramatically.
- There has been an increase in rural debt by a factor of 1.62 (almost double) since the Productivity Commission findings were published in 2004.
- Since 1998 debt to life insurance companies does not appear to have been included in the consolidated rural debt figures.
- Between 1965 and 2009 Rural Debt increased from \$1290m to \$62,167m (RBA) see graph below.
- In Queensland, farm cash income is predicted to fall from \$68,400 in 2008-09 to \$29,000 in 2009-10.
- Farm Business profit in that state is forecast to drop from \$21,100 to a loss of \$13,000 in the same period.
- Policy makers have always pinned their hopes on the large agricultural concerns but Australian Agricultural Co., Australia’s largest listed pastoral company, made a \$30m loss in the six months to June 2008 and results for the six months to Dec. 2009 are rumoured to be double that.



Source RBA

World Wildlife Fund (WWF) has claimed that the only real cost to farmers was “opportunity cost” which they dismissed out of hand as not being an out of pocket expense and of no real consequence.<sup>3</sup>

It is certainly of consequence in that it affects land values, loans based on equity and real sale prices.

It is also of the utmost importance in a price taking industry with rapidly declining terms of trade, that productivity can be stepped up when necessary. An inability to do this will lead to debt default and social upheaval.

The Regrowth Bill enacted in October 2009 moves totally outside the arena of “opportunity cost” and into the arena of asset deterioration which is unable to be reversed and leading to productivity, income loss and inability to service debt requirements.

The Australian Bureau of Agricultural and Resource Economics (ABARE) in a September 2005 media release entitled “Vegetation regulations impose significant costs” notes that “Native vegetation regulation is imposing a burden on the farm sector and can jeopardise some environmental outcomes”<sup>4</sup>

Dr Fisher (ABARE) went on to explain “ that the cost of conserving native vegetation is likely to be an important factor in determining the future competitiveness of Australia's broadacre agriculture industries on world markets.” This effect on the future international competitiveness of Australian agriculture is not widely acknowledged but is of importance because the efficiency of agriculture and agricultural infrastructure is often dependent on exports to gain the sort of cost efficiencies that come with throughput. This has likely implications for food security which go beyond the acknowledged forgone productivity gains caused by Native Vegetation legislation.

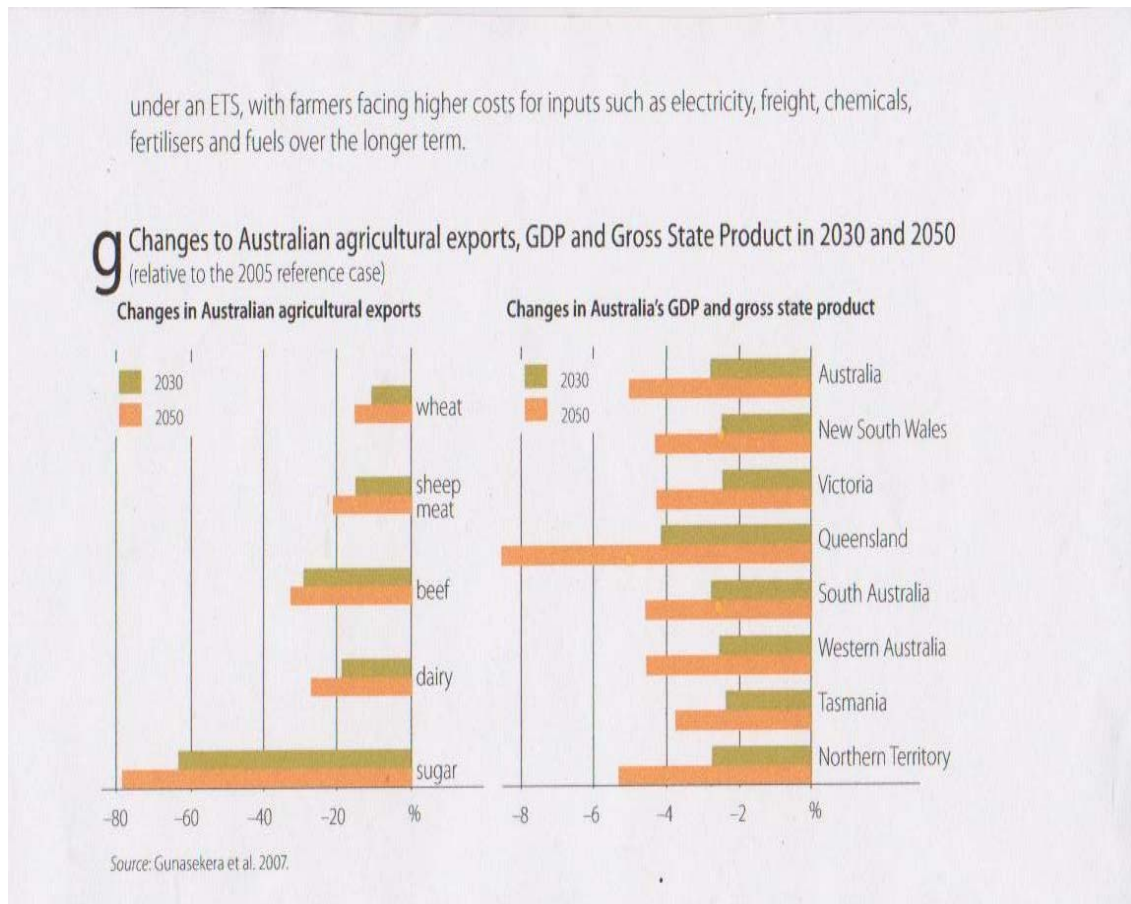
### Carbon Pollution Reduction Scheme and ETS

No detailed analysis of the effects on rural Australia of the Carbon Pollution Reduction Scheme (CPRS) and Emissions Trading Scheme (ETS) seems to be available. The Australian Bureau of Agricultural and Resource Economics (ABARE) in an analysis entitled Global Food Security and Australia<sup>5</sup> cited increases in costs of fuel, fertiliser, chemicals and energy as an impost. No reference was made to the fact that food processing companies had already signalled that increases in energy and other costs of the scheme would be passed on to primary producers. Primary producers are unable to pass on any of their cost increases and there are some commentators who believe that primary producers have been subsidising commodity prices with off-farm investments and off-farm jobs for quite some time.

This graph from that document paints a concerning picture of the effects of “climate change”.

It represents changes to Australian Agricultural exports, GDP and Gross State Product in 2030 and 2050 relative to 2005.

This analysis assumes that Agriculture is excluded from an ETS..



ABARE has predicted a decrease in increasing productivity as a result of climate change, reduced access to irrigation water and decreased spending on public and private research but no mention is made of Native Vegetation laws which many farmers know will make a huge dent into their ability to increase production and productivity.

A unilaterally imposed Carbon Pollution Reduction Scheme will make absolutely no difference to “climate change” but the on costs will make a huge difference to Australian agriculture’s ability to compete on world markets.

The Vegetation Management Act 1999 (Q) which has as one of its aims, the assistance of the Australian Government to meet its Kyoto greenhouse gas emissions commitments has already imposed severe costs on the Queensland farming community without adequate compensation.

. It is obvious that rural communities in some states, and particular groups of producers within those states, have borne a disproportionate amount of the burden for environmental and greenhouse gas emissions targets and they will bear more than they can afford of a CPRS and ETS scheme.

### **Conclusion**

If the community as a whole values the supply of clean, uncontaminated healthy food that it now enjoys, even in extreme weather conditions, it must very soon signal that via visionary policy settings or we just may lose it.

The threat to Australia’s agricultural industries of Native Vegetation laws and the CPRS is profound and unrecognised. In fact I doubt that any other legislation has the potential for the negative economic impacts that native vegetation has. It has been consistently underestimated and any surveys which come close to measuring the real cost have not been taken note of.

Edwina Farley, ABC rural reporter 20/9/2005 reported:-

*It's described as one of the biggest issues facing agriculture - native vegetation laws, and how they're administered are causing headaches for farmers around the country, and now they've got the support of the country's agricultural economic forecaster. The Australia Bureau of Agricultural and Resource Economics has released research showing current native vegetation laws are costing farmers millions and not doing a lot for the environment - findings echoed in a Productivity Commission report from 2004. ABARE says current regulations are costly, time consuming and confusing, and discouraging farmers from conservation work.<sup>6</sup>*

Native Vegetation laws need to be wound back immediately and any future regulation needs to be based on sound environmental science: not unfounded claims and conjecture made by extreme Green groups who bear no economic responsibility for their actions.

If a farmer’s right to develop and use his land as his business requires he must be compensated.

The vindictive pursuit through the courts of landholders who have been caught up in the minutiae of “black letter law” must cease at once. The terms of “natural justice” which have been removed from Native Vegetation legislation must be restored immediately.

Proper scrutiny and parliamentary process must be followed for all environmental legislation

Proper note should be taken of local knowledge by landholders.

Economic impacts of legislation on landholders and the effects on their viability must be taken into account.

The regulation of private land for public benefit without adequate compensation must stop.

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<sup>1</sup> "Sorting fact from fiction – questionable 'science' and 'management' that underpin Queensland's Vegetation Management Act"  
Bill Burrows

<sup>2</sup> CONSTITUTIONAL VANDALISM UNDER GREEN COVER  
Suri Ratnapala, Professor of Law and Director, Centre for Public, International and Comparative Law, T C Beirne School of Law, University of Queensland

<sup>3</sup> WWF briefing - native vegetation regulation: financial impact and policy issues, 31 October 2005

<sup>4</sup> *Australian Commodities*, Dr Brian Fisher, Executive Director of ABARE.

<sup>5</sup> Sheales, T and Gunning-Trant, C 2009, *Global food security and Australia*, ABARE report, Canberra, December

<sup>6</sup> Edwina Farley, ABC Rural Victoria and South Australia, 20/9/2005 with ABARE's Lisa Elliston, Manager Agriculture and Biosecurity Section.