

Submission to the Productivity Commission Inquiry into Impacts of Native Vegetation and Biodiversity Regulations

The Wilderness Society

Contacts:

Dr. Barry Traill & Mr. Noel Ryan

C/ RMB 1207 Chiltern 3683. woodland@wilderness.org.au

The Wilderness Society

The Wilderness Society is a national, community-based, environmental advocacy organisation whose mission is to protect, promote and secure the future of wilderness and other high conservation areas. It has offices throughout Australia.

Submission to the Productivity Commission Enquiry into impacts of Native Vegetation and Biodiversity Regulations

Background

This submission focuses on the need for what package of measures is needed to develop long term sustainable management for Australia's native vegetation, particularly on the issue of landclearing.

Landclearing is the biggest threat to Australia's biodiversity. It is the major cause of dry land salinity. It also contributes around 12% of Australia's greenhouse gas emissions (SOE 2001; AGO 2002; Possingham et al. 2002; NLWRA 2002).

Dealing with the issue of broad scale clearing of bushland is the most fundamental need in developing long term sustainability in the use of native vegetation.

Scope of the inquiry

The Wilderness Society considers the scope of this inquiry to be too narrow. We do not believe that the focus on the costs to one industry group and associated regions can be reconciled with the third of the Productivity Commission's three operating principles:

“to have over-arching concern for the community as a whole, rather than the

interest of any particular industry or group.”

An examination of the impacts needs to properly examine not only the impacts for landholders, but the entire spectrum of economic, environmental, and social impacts, both positive and negative, for the broader community.

Only such a broader examination can properly inform the development of policy that best serves the nation in the longer term, and will permit the appropriate designation of costs to different parts of the community.

Need to achieve change on land clearing

We take it as a fundamental principle that current land clearing rates in Australia are not sustainable and that *broad-scale clearing* of mature (remnant) bushland needs to cease for the long-term community benefit. These community benefits include a reduction in salinity, improvements in water quality, reduction in greenhouse gas emissions and protection of biodiversity. This has been well established in a range of authoritative studies (eg. DEST 1995; Garnet & Crowley SOE 2001; Possingham et al. 2002; NLWRA 2002; Wentworth Group 2003).

However, we stress that such a cessation of clearing does not preclude ongoing *management* of native vegetation, through activities such as as fodder harvesting, thinning and control of regrowth.

Landholders equity

Available anecdotal information and information on clearing statistics indicates that most clearing in the highest clearing states of New South Wales and Queensland is now concentrated in land types and regions with poorer soils and lower rainfalls, with lower economic potential (eg. DNR 2003). For example the ABARE study into Queensland landclearing statistics assumed that only a very small proportion of potential clearing would be on land suitable for high value cropping, as distinct from lower value clearing for pastoralism (ABARE 2003).

The great majority of preferred soil types have already been cleared, and potential economic returns for many or most of the individual landholders clearing are likely to be marginal.

For reasons of social justice and equity though, it is reasonable and appropriate that any landholders who are unduly affected by tighter controls are assisted during a transition phase. Tighter controls, through regulation however, do not produce a compensatable right for landholders.

It is appropriate and reasonable for government to put in place tighter controls on clearing of native vegetation as this is to the community benefit. The attached paper sets out our position on this key point in more detail.

What approaches are needed?

Our experience of working on the issue in most states over the last decade has demonstrated to us the need for a combination of mechanisms to provide the environmental gains of controlling clearing, while best ensuring the support of landholders, and ensuring that individual landholders are not unduly affected. These mechanisms are set out in point form below. The details of how this is applied will vary in different jurisdictions, largely dependent on the agricultural industries in place, the amount of clearing that has already occurred and the consequences for further clearing.

1. Regulation

Underpinning regulation which controls clearing and sets clear targets and outcomes as to what clearing may be appropriate. Decisions on targets need to be based on the best available science and be made by government.

Delegation of decision making on *clearing targets* to regional committees of landholders does not work. It has failed in all states when it has been tried where significant areas of native vegetation remain which some landholders may want to clear. It is unreasonable and inappropriate for local landholders to set targets on what their neighbours can or cannot do on their properties. Only in over-cleared landscapes where clearing has essentially ceased have such committees ever set revegetation targets or sought to cease clearing.

It is the appropriate role of government to set such targets in the community interest.

2. Regional institutions

Implementation at a regional level is needed to work through a range of often complex vegetation management issues, such as regrowth, thinning and fodder harvesting.

Regional committees are best placed to assist with issues such as:

- Developing guidelines for the distribution of financial assistance to their region;
- Identifying effective incentives programs for improved vegetation management;
- Identifying education and capacity building requirements for their regions;
- Drafting codes for the implementation of exemptions such as thinning and fodder harvesting (after clear definitions of these management issues are established);
- Integrating vegetation management with other landscape management issues at a regional and state scale; and
- Further development of vegetation management guidelines for other issues such as weed, fire and pasture management.

3. Financial assistance

As discussed above we support the provision of funding to assist farmers to meet new environmental standards and support conservation.

4. Long term conservation management

To encourage high quality management of native vegetation on private land there are now a number of well-established models for further protection of native vegetation over and above a cessation of clearing. Mechanisms such as:

- Voluntary covenanting through Trusts for Nature,
- Trust for Nature revolving funds, where properties are purchased on the open market and resold with conservation covenants
- Land for Wildlife education programs
- Bush Tender schemes offering funds through tenders for proactive conservation work

provide education, additional long term protection and additional funding for proactive conservation management. These models now have a proven track record of providing additional protection over and above a cessation of clearing.

References

- ABARE (2003). Queensland Land Clearing Proposal, Socio-economic impact. Report for the Commonwealth Government. ABARE & BRS Canberra.
- AGO (2002). *Australia's Third National Communication on Climate Change*. Australian Greenhouse Office (AGO), Canberra..
- DEST (1995). *Native Vegetation Clearance, Habitat Loss and Biodiversity Decline Biodiversity Series paper No. 6*, Department of the Environment, Sport & Territories (DEST), Canberra.
- DNR (2003). "*Land Cover Change in Queensland 1999-2001*" A Statewide Land cover and Trees Study Report Issued January 2003, Department of Natural Resources (DNR) Indooroopilly, Qld.
- Garnett & Crowley (2000). *The Action Plan for Australian Birds*, Environment Australia, Canberra.
- NLWRA (2001). National Land and Water Resources Audit (NLWRA). *Australian Dryland Salinity Assessment 2000*, Canberra.
- NLWRA (2002). Australian Terrestrial Biodiversity Assessment 2002. National Land & Water Resources Audit (NLWRA). Canberra.
- Possingham, H, Ryan, S, Baxter, J & Morton, S. (2002). *Setting Biodiversity Priorities*. Report to the Prime Minister's Science, Engineering and Innovation Council (PMSEIC). Canberra.
- SOE (2001). State of the Environment Committee, Australian State of the Environment (SOE), CSIRO, Canberra.
- Wentworth Groups of Concerned Scientists (2003). *A Blueprint for a Living Continent*, WWF Australia, Canberra.

Attachment to submission from The Wilderness Society to the Productivity Commission

Protecting the Queensland Bush – who pays and how? *Paper for Property Rights Australia annual conference 2003*

Dr. Barry Traill & Felicity Wishart, The Wilderness Society & Queensland Conservation Council

Correspondence:
The Wilderness Society, Queensland
PO Box 5427 West End 4101
woodland@wilderness.org.au

There is no question that environmental regulations are getting tighter.

As we come to recognise that some of our development activities are damaging the environment, there has been increasing regulation around environmental management.

This is increasingly affecting rural industries, especially the agricultural sector, including both farmers and graziers.

The Wilderness Society, Queensland Conservation Council and most other environment groups agree that the cost of environmental protection should be borne more broadly across society. Where there is a major tightening of clearing regulations in Queensland, we believe that money should be provided to ensure social justice and basic provision of equity.

But while we agree that equity needs to be provided with major changes to clearing controls in Queensland, we do not agree with the concept that landholder rights over native vegetation are a compensatable right.

Rights to compensation in relation to a state's regulation of native vegetation clearing are extremely limited in law. Environment groups have received clear legal advice to this effect.

There has never been any form of private property or resource access right that is absolute and immune from government interference. Our society has always recognised the authority of governments to regulate the use of both public natural resources such as water and private or leasehold land.

In the past, land owners have been permitted, even encouraged to clear their land and drain wetlands. In the city, landowners could light backyard incinerators and dump waste into nearby rivers. As society's values have changed and the level of awareness of the environmental impacts has grown, environmental laws have been introduced to protect the wider interest from damaging use of private property. Such laws don't remove private property rights. They exercise government's authority to regulate the use of private property, an authority that has always been recognised.

But if environmentalists generally believe in equity but not property rights how should 'equity' be delivered when regulations are tightened for clearing native vegetation?

We would argue that directly delivering assistance to assist and overcome adjustment problems from clearing controls will achieve the same policy objectives as a package based on compensation, and is likely to be fairer in its distribution of resources². This can be done through direct provision of cash, other assistance and advice with business adjustments, and where needed, buy out of highly affected properties.

This approach avoids the vexed issue of defining a duty of care, of trying to decide what is public benefit and what is private benefit. It avoids the difficult path whereby property rights and compensation become the arguments and lawyers end up making much of the money.

This may seem to be just playing with words but we believe it is a crucial point. Property rights as a definable right, that says how many dollars in compensation per hectare, is something that has no basis in law, and which environment groups won't support. But we do agree with equity. Landholders should receive financial assistance where environmental regulations causes unfair hardship. For us property rights and equity are not the same thing.

So what is the vision from environment groups to protect and manage the native vegetation in Queensland?

1. Native Vegetation laws that protect remnant vegetation and important regrowth – strengthened and simplified.
2. Flexibility for landholders – appropriate and workable exemptions for routine maintenance, thinning, and fodder harvesting.
3. Financial Assistance – significant levels of public funding to assist landholders affected by more stringent regulations and to provide voluntary incentives for conservation work on their lands.
4. Security for landholders – approved long term property plans and permits to provide investment security and management certainty.

It is essential that there needs to be clear and quantifiable gains in environmental protection before financial assistance is provided, however the funding commitment has to be real, tangible and delivered with a minimum of paper work.

We believe that a focus on compensatable property rights, 'rights' that do not exist in law, will not bring a resolution to the debates over regulation. It is actually likely to have the opposite effect, as Governments of any type are extremely loathe to open up a potentially open ended number of payments if they tighten further regulations.

By contrast, a fair and equitable deal for landholders in the wake of necessary environmental reform on native vegetation is a vision that could be shared by environment and farming groups. That *will* bring a resolution when effectively implemented, as it has in other states. It can be effectively implemented if farmer groups and environment groups work together. If we can work together we think we can jointly deliver the equity and fairness needed to accompany tighter environmental controls, to protect the environment of Queensland, and to keep viable grazing and farming businesses intact supporting rural communities in the long term.

June 2003