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SUBMISSION TO THE SENATE COMMISSION ENQUIRY

I am submitting this document in the hope that the Constitution will be upheld and the Vegetation laws scrapped, so not one more suicide will take place, to add to the 500 plus attributed to the Vegetation Laws and regulations, I can personally vouch for the enormous stress these laws put one under, it is very difficult to go about normal farming practices in this district without breaking some unknown regulation, so you continually have one eye over your shoulder looking out for the “Green Gestapo”.

The area around Willsons Downfall is about 900 meters above sea level and rainfall is 1200mm per annum [average] the soil comprises of various granites and some very leached basalt, the dominant species are eucalyptus - e/andrewsii, e/deanii, e/radiatii, e/novaanglii and several stringy bark species, numerous acacia species, banksias and casuarinas, these are the invasive native vegetation species which cause most of our problems.

One of the most sustainable and environmental friendly forms of agriculture was common in this district up until the regulations prevented this practice. This country was open woodland up until the 1890’s then a change was noted, it was in a report presented to the Queensland Parliament by Sydney B.J. Skertcilly,[extract attached] this was the first record of vegetation changing from open woodland to dense scrub. The first graziers learnt that if this invasive native vegetation was controlled by ring barking [ie silviculture],the grass grew much better than the original grass in the woodland, this is because nutrients were bought up by tree roots from a greater depth than the shallow rooted grasses were able to, the graziers soon learnt not to kill all the timber, but to leave a percentage to provide a seed bank for the next generation of trees, and depending on the species this was done on a regular basis between 8 and 15 years, this was later refined to leave the best trees suitable for milling or other timber products to provide additional income. Unfortunately if this was done on a crown lease the State Forest reaped the benefits and a lot of crown leases were turned to State Forests, now National Parks.

We have a 240 hectare property on which we run beef cattle and have harvested timber on a regular basis; logging has been carried out on our property and in the district for over 100 years. The Vegetation Laws now prevent us from practicing silviculture [ie thinning timber], a practice which is necessary to promote the growth of healthy timber on the 100 hectares of managed forest which we have logged in the past. The regulations associated with the Vegetation Act also make our timber harvesting unviable. The scars from mining from the late 1800’s are the only visible environmental damage in the district today. Landholders are still repairing this damage.

We harvested a lot of timber prematurely to beat the regulations, this was to be our superannuation, in my estimate this early harvest and the timber we can not harvest now,has cost us in the vicinity of $160,000.00 plus.. This is direct loss to us.

The thickening timber, mainly 1 [one] species also has a devastating effect on the environment in several ways. We have noted a shift from open woodland fauna species to scrub species, as the canopy thickens and heath type vegetation disappears, as this happens fires become a major problem. The thickening timber also causes major hydrological problems. In the forest we lease the 2 permanent creeks have dried up in the last 30 years because of thickening timber and do not run until we get atleasat 150mm of rain.

Prior to the Vegetation laws the only factor that lowered the value of land in our district was quality of land and suitability for grazing, now woody vegetation coverage is also taken into account, if there is too much vegetation it is only possible to sell this land as a lifestyle block, and when negating a purchase price only cleared land is taken into account.

I have been a fire fighter for over 45 years; the fires we are experiencing now are totally alien to the district and getting worse and are more difficult to control. Prior to the vegetation laws the local bush fire brigade had one vehicle which was adequate, now we have 2 plus the use of helicopters plus, a third vehicle is needed. We are having difficulty in getting enough voluntary firefighters to join our local brigade. The general attitude of landholders is "you create the problem, you fight the fires", meaning the Greens or the Government regulations, hence hazard reduction is declining, and causing major problems.

Agriculture is the only sustainable industry we have in Australia, [remember mining is a finite resource]. Agriculture is the only industry that sequests carbon naturally ie native pasture in our district produces 2 to 3 tonne of dry matter [carbon] per hectare, per year 2/3"s of which are lost when it is burnt, where as improved pasture produces 4 to 8 times that amount and is not lost by burning, it adds to the soil carbon levels, but for that to happen we need cheap fertilizer, particularly phosphate. Agriculture should be exempt from carbon trading as should all agricultural support industries.

To compensate us for the theft of our assets such as logging and grazing we would need $10,000 - $15,000 pa compensation, depending on the price of carbon this could be an additional $30,000 - $40,000 pa.

To calculate the compensation payable the following should include the Comparative value between cleared and uncleared land, the value of timber, value of existing carbon in that vegetation, the amount of carbon sequestered by agriculture all on a per annum basis.

My recommendation is to scrap the Vegetation Act and regulations and say NO to any form of carbon trading.

We believe the Senate inquire is unnecessary because we own the Freehold property, and it is zoned for agriculture and there should not be regulations in place to prevent us farming our land. [See below].

1 Agriculturists demanded in a Letters Patent Petition to the Crown a guarantee of unrestricted, unconditional and unregulated continuing use of any "development" for themselves, heirs in entitlement for all time.

2 It was also demanded, a system of local Government – free from the authority of a Parliament and distinct from the short term interferences of the State or Federal bicameral systems.

3 As such in 1842 Local Government was approved with what is called an incorporation of an elected system of Local Authority as that government "closest to the people" it is mandated to serve .....with the incorporation to be with perpetual succession.

4 Local Government will be funded by a system whereby a RATE will be struck relative to the "capital sum of the fee simple".

5 THAT LOCAL INCORPORATED SYSTEM OF GOVERNMENT STILL STANDS. NOTHING HAS CHANGED ONLY THE SELECTIVE 'INTERPRETATION' AND THE UNCONSTITUTIONAL ADMINISTRATIVE INTRUSION BY THE STATES.

6 1855 was the first NSW Constitution and QLD and Vic about same time.

7 1902 State Constitutions at the insistence of the FEDERAL Authority were <u>required</u> to "guarantee" that there shall "continue" to be a system of Local Government ……..

8 The primary ``use`` of land is conveyed to each owner as a constitutional process as a binding contract. Binding means binding. It is a binding contract and does not need consent. I

9 Governor Torrens of South Australia came up with a titling system in 1857, now adopted world wide, this was incorporated into the Real Property Act in NSW in 1863.

OWNERSHIP OF PROPERTY UNDER THE TORRENS STATUES

a. [FREEHOLD LAND]

10 The Government guarantees the Title Rights of Registered Freehold Land Title Owners. This is not being adhered to.

11 The structure of the Torrens Statues is very specific. The Statues were set in place to continually protect the Rights, Land and Appurtenances whatsoever, of the Legal Registered Owner [and subsequent Owners} forever under the Westminster System of Government If this doesn't happen it will destroy our present system of Government.

Definition of land from Torrens Statues:-

12 "'Land' shall extend to and include messuages, tenements and hereditaments corporeal and incorporeal of every kind and description, whatever may be the estate or interest therein, together with all paths passages ways waters water courses liberties privileges easements plantations, garden mines minerals and quarries and all trees and timber thereon and thereunder lying or being unless the same are specially excepted"

Vegetation is included within the STRUCTURE OF THE TITLE OR PARCEL and included within the purchase price of the parcel. The Registered Owner of the parcel actually owns and has full control of all Appurtenances within the boundaries of the parcel.

Freehold Land Title [in Standard Format] is represented by a parcel on the earth a with dimensions on a horizontal plane and included the surface of the land, the area above the surface and the area below the surface, subject to encumbrances and/or reservations.

The actual location of the parcel on the earth is determined by Solar Observation or measurements related to other parcels and referenced to the Australian Map Grid or other geodetic framework, by the practice of cadastral surveying.

All current Freehold Land Titles are related back to the Original Deed of Grant and are subject to that Original Deed of Grant with all Rights and Interests of the Title Holder and the Reservations to the Crown as noted on that Grant.

Many Original Grants include the wording [or similar wording]

12 "All the piece or Parcel of Land [descriptions by metres and bounds]
with all the Rights and APPURTENANCES whatsoeverbelonging thereto:
To Hold unto the said…….His Heirs and Assigns for ever."

13 The word 'APPURTENANCES' represents the vegetation, water etc as part of the STRUCTURE of the Title.

14 The Structure of the Freehold Land Title can only be changed by the Registered Owner [or Authorised Representative] or the Crown and that change noted on the Title as an encumbrance or a New Title issued.

15 If Local Government or State Government can change the structure of Freehold Land Title under the Torrens Statutes without the consent of the owner and without such change being noted on the Title, then all Rights given by the Crown on the Original Deed of Grant have no meaning.

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If Local Government or State Government wishes to own the vegetation on Freehold Land they may have the power to resume and pay compensation for the land and vegetation. The Freehold Land Title is a Legal Contract between the Government (their heirs and assigns] the Registered Title Owner [his heirs and assignsforever] subject to the original Deed of Grant.

The Torrens Statute is the corner stone of Freehold Land Tenure, it conveys the secure possession of total ownership within the structure of the Freehold Title and cannot be changed. All subsequent Bills, Acts, Local Law etc may be amended, added to, extinguished or new laws created, but they cannot override property ownership as established by the Original Torrens Statute.

16 The Structure of a Freehold Land Title is more that the surface of the land. It is a volume of space and its contents {Appurtenances} and extends vertically above and below the surface from the surveyed cadastral boundaries of the land. Only 13% of Australia's land mass is "Fee Simple" "Freehold".

17 Commonwealth v NSW [1923] HCA 34; (1923) 33 CLR (Aug 1923) ...page 10: ***** "In Challis Real Property 3rd ed. p 218: it is stated with perfect accuracy:- In the language of English law the word fee signifies an estate of inheritance ...A fee simple is the most extensive in quantum, and the most absolute in respect of the rights which it confers of all estates known to LAW. It confers and has always conferred since the beginning of legal history, to lawful right to exercise over, under, upon and in respect to the LAND, every act of ownership which can enter the imagination including the right to commit unlimited waste; and for all practical purposes of ownership it differs from the absolute dominion of a chattel, in nothing except the indestructibility of its subject"....

18 THE FACTS ARE: NO PARLIAMENT EVER had the Constitutional POWER and AUTHORITY to make overriding NATURAL FREEHOLD RESOURCE LEGISLATION in the first place. Had Section 15A (Acts Interpretations Act 1901 incorporating 1897) been followed as the LAW requires the traumas; suicides; bankruptcies and emotional and economic havoc wrought over the past 15 years could NEVER have happened.

19 NO PARLIAMENT and certainly not one in a Monarchical Democracy has the Constitutional power to enact any Statutory "theft of assets" ..... and then to conveniently 'interpret" that STEALING (a breach of a Christian Commandment) is legal, simply because some despotic Parliament said so.

20 FORGET about the IMPACTS of the legislation. The Natural Resource Legislation applying over the CONSTITUTIONAL common law principle of the "fee simple" can NEVER be legal as acknowledged by the INTERGOVERNMENTAL AGREEMENT ON THE ENVIRONMENT (1992) ..... it's as simple as that.

21 The "primary" development of the LAND is the actual physical "use" of the LAND and it is well established that the primary "use" of all FREEHOLD requires neither PLANNING or DEVELOPMENT consent.

22 A secure title is necessary to secure a loan.

Food security is underpinned by land security.

Title security is pivotal to environmental improvements.

Below are a couple of supporting documents.

23 www.samuelgriffith.org.au/papers/html/.../v17chap2.html

24 http://www.propertyrightsaustralia.org/speeches/bill-burrows-pra-rally-2005/

On the Geology of the Country around Stanthorpe and Warwick, South Queensland, with a special Reference to the Tin and Gold Fields and the Silver Deposits.
[By Sydney B.J. Skertcilly, late Assistant Queensland Geologist].

Extract Chapter VIII
The Stanthorpe District.
I1 Physiography of the Area.
Paragraph 1 [Part of].

"*In some places, as at the head of Lode Creek, the country is very broken; at others, as at the head of Sugarloaf Creek, the hills are more or less conical; and yet at others as at the Bald Rock, fine bosses of granite with precipices of 200 to 500 feet in height occur. Yet along the greater part of the ranges on can easily canter, and I have ridden 10 miles without drawing reins from Sugarloaf to Bald Rock, along what maps show to be the crest of the ridge. On Map [1?] contour lines, 100 feet apart, are drawn, and the places where there is no range are indicated."*

Extract Page 37:- *"The Dividing Range, from Sugarloaf Mountain south to near Bald Rock, has an average elevation of over 3,000 feet, but it has been denuded on either side till it is so level that for 10 miles I have galloped along it. Sugarloaf Mountain itself is about as like a sugarloaf as is the crown of a hat, and I have taken a lady to the summit on horseback. Northward the range is more rugged, but one can take a horse along most of it – an he be a native of those parts. It is because the range has suffered such a vast amount of denudation, starting probably as far back as early Tertiary times, that the streams have cut back nearly to the ridge, their fall has been lessened, and so they are apt to form swampy flats. But this question has already been dealt with, and some of its consequences will be discussed at the close of this chapter. One curious change has been effected in the Sugarloaf basin, by the mining operations. Before they commenced the entire country below the range was open forest, through which the distant hills could be plainly seen, and to one of which the blackfellows were wont to signal. It is now covered with a moderately thick low scrub of banksias, wattle, and stringy bark. The alteration is due mainly to the bush fires, which open fresh soil sites for the seeds of smaller trees*".

Submitted by Gary Verri

2/3/10.