

Senate Finance and Public Administration Committee  
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***I would prefer that my details are not made publicly available on the internet, but am happy for the content to be published.***

The NV Act and Regulations do not stop farmers from clearing land.

While the objects of the Native Vegetation Act 2003 include the prevention of broadscale clearing and the protection of high conservation value native vegetation, there are still several ways that native vegetation may be cleared.

1) It is possible to get a property vegetation plan (PVP) for clearing, provided the maintain or improve test is met. This standard assessment procedure eliminates the subjectivity of consultants, is provided at no cost to the land holder and secures outcomes for remnant vegetation to compensate for net losses.

In the development of this legislation, compromises were struck and concessions granted in terms of permitted clearing and threatened species assessment obligations. Its not fair or equitable that some farmers are now pressuring to further compromise our unique biodiversity and extent and condition of the regions native vegetation by seeking an amendment to suit their own interests.

Development should be sustainable and all clearing and loss should be offset.

2) It is possible to clear significant vegetation through the application of the NV Act land clearing exemptions “Routine Agricultural Management Activity” – RAMAs, (defined under section 11 of the *NV Act*). These concessions are not, however, limited to true agricultural land but can be exercised on any non-urban environment including high conservation value (HCV) lands and lands that are not, and should not, be subject to agricultural production.

Adverse environmental impacts associated with the NV Act stem from a number of areas: the destruction of significant habitat resulting from cumulative and excessive clearing enabled by exemptions and the lack of enforcement or consequence for breaches. Cumulative removal of vegetation through the inappropriate application of RAMAs and unchecked ‘under scrubbing’ is neither ‘maintaining’ nor ‘improving’ the condition and extent of the region’s native vegetation, but rather allowing it to continue to decline unchecked. In terms of ending broad scale clearing, the *NV Act*, *the NV Regulations* and the Environmental Outcomes Assessment Methodology are sound. It is the monitoring, compliance and enforcement areas that need to be tightened to address the ‘unapproved’ clearing activities that are presently occurring, and, that are expected to proliferate when Local Government ceases to have a role in vegetation management in rural zoned areas.

Proving intentional damage in a court of law is difficult when the Act and Regulations are open to significant variation in interpretation and DECCW's compliance policy seems to be subjectively applied to breaches. The onus of proof in cases where clearing has been 'excessive' rests with the government – and while most land managers do not exploit the system, the potential for serious and progressive decline in both quantity and quality of native vegetation is happening now and will only be exacerbated once Local Government clearing controls are removed with the gazettal of new Local Environment Plans.

3) It is also possible to get a private native forestry (PNF) approval by the Minister for the Environment. In recent years the Minister has been approving about 100,000 hectares of land per year for private native forestry. It is well known locally, how easy it is to obtain a PNF approval - the assessment process appears to be far less rigorous than for a clearing PVP.

While it is acknowledged that farming is a tough business and some farmers regard these controls on clearing as restrictive or bureaucratic. In my experience, most land managers can live with the NV Act. But, there are some very vocal drivers in the farming fraternity, who are scaremongering and peddling alarmist scenarios on land clearing throughout the State. I have also found locally, that those most opposed and outspoken on this legislation are those that have the least understanding of it. I believe that many responsible landmanagers are being fed a load of rubbish and that there is little in the way of education provided to dispel these myths or refute the extremist claims that have been rampant in the local press in recent times. Its time for the Government to speak up and to set the record straight (again).

Survey after survey funded by taxpayers rates the 'environment' as the second most important element in their lives after family.

The cold hard truth is that a line must be maintained to protect this valuable asset Australia already has the largest percentage of land clearing in the world and one of the most abysmal extinction rates in the developed world.

If farmers need more cleared land, they can buy it and/or offset it.

Farmers should not be compensated for a perceived loss of income should they not be able to clear more land. Under the NSW Land Acquisition (Just Compensation) Act 1991, the state government is required to pay compensation on just terms or at market rates for land acquired by the state. However, the enactment of legislation that restricts the clearing of vegetation is not an acquisition of land, so compensation is not payable by the government.

In 2006 the NSW Government announced a three-year, \$37 million Farmer Exit Assistance Program to help those farmers who experienced financial hardship as a result of the new legislation. Where farmers could show their land had become financially unviable because it could not be cleared, the government allocated funds to buy them out. On top of this, NSW Farmers have access to all manner of tax breaks, incentive packages, drought relief and excessive water allocations. Will those farmers wanting more land cleared compensate the State, the country and indeed the world for the further losses of unique vegetation systems, biodiversity and

essential ecosystem services that will undoubtedly eventuate? I think not. I do not support and am not prepared to shoulder further loss of these public assets for someone's short term gain. While agriculture sustains our population, it has come at a cost. The majority of people are disgusted with what we have enabled to happen in the Murray-Darling. We must learn from these mistakes, and we need strong leadership on the issue of clearing controls.

Habitat and Biodiversity impacts are also continuing especially in coastal areas due to mounting development pressures. The intent to remove dual consent through the introduction of the states standard instrument, removes Local governance on land clearing – devolving all control onto the NV Act. Alarming, while this approach is largely supported by Local and State Governments, there is continual weakening of the Acts governance by introducing new exemptions and allowances.

Rural residential subdivision and the consequent effects of occupation continue to be a major impact on the States biodiversity asset. It is vitally important that clearing associated with rural residential subdivision continues to be assessed under the NV Act and that required offsets are formally identified up-front, based on consistent, scientifically sound methodology. Once lots have been created, clearing assessments are rarely required (RAMAs) and this approach has failed to be effective in the past at arresting the cumulative loss of vegetation. Consideration should be given to amending the Act and Regulations to require the formal assessment of clearing required to establish building envelopes (including asset protection zones) in subdivision situations. Currently, the second dwelling in a dual occupancy scenario is subject to assessment under the Act – this principle should be extended to subdivision proposals in Environmental zones. This would assist with regulating lot yield to sustainable levels (to accommodate offsets) and ensure coastal development does not continue to erode the community's and the nation's biodiversity asset.

Local Councils do not have the required skill in-house to make consistent and scientifically sound decisions on offset requirements. On this basis, in relation to subdivision in environmental zoned areas, the Act/Regulations should be amended to require clearing assessment of building envelopes with proposed clearing subject to the maintain and improve test. This approach would allow sustainable development of HCV areas, with impacts offset and the current pattern of vegetation erosion slowed.

A review of the *NV Act*, *the NV Regulations* and the regulatory impact statement and compliance model and present resourcing levels is urgently required. A strong regulatory message should be sent to all coastal communities regarding clearing tolerance levels and actions. Presently the only recourse available is to report clearing incidents to DECCs Enviroline. Unfortunately, there is a widespread reluctance to bother with this duty as generally no tangible action seems to result, and there is little follow-up information provided once a case has been reported. Hence, the extent of illegal clearing impacts on the coast is poorly documented.

Thank you for the opportunity to provide comment on this important issue.