

A Preliminary Package to Implement Vegetation Management Reform in Queensland

Policy Context:

With respect to restoring Queensland's legislative regime for vegetation management, during the 2015 State election, Queensland Labor committed to:

Reduce Queensland's carbon emissions by reinstating the nation-leading vegetation protection laws repealed by the Newman Government. This will be done in consultation with stakeholders and the community. However, we do not plan to remove existing self-assessable codes as long as they provide appropriate protection.

This commitment sought to address amendments to the *Vegetation Management Act 1999* (VMA) introduced by the previous government in March 2013. In its first six months of office, the government has already made several changes to improve the operation of the Act. These include:

- ***High Value Ag Clearing:*** Following the review of the decision making process for the HVAC and approval for Olive Vale, DNRM has implemented improved decision-making processes with escalation of decision making to more senior officers, published revised non-statutory landholder guidelines, and implemented a revised internal work practice;
- ***Community Infrastructure Exemptions:*** From 1 September 2015, changes to the community infrastructure exemption took effect. Previously, any clearing for community infrastructure mentioned in Schedule 2 of the *Sustainable Planning Regulation 2009* was exempt. From this date, for clearing to be exempt, clearing for community infrastructure must be on land designated for community infrastructure under the *Sustainable Planning Act 2009*. Transitional provisions allow infrastructure developments that submitted a development application before 1 September 2015 to continue to operate under the previous exemption;
- ***Self-Assessable Codes:*** DNRM have engaged Cardno Chenoweth to review the Self Assessable Codes. The Department expects an initial report on the Mulga Lands and Brigalow Belt thinning codes (all the thinning codes are consistent in structure except for the mulga lands) to be provided by 9 October and the rest by Christmas.

Finally, given the need for changes to navigate parliament, Minister Lynham proposed the formation of an independently Chaired Vegetation Management Roundtable to build consensus towards the best possible approach for the Government to meet its election commitments. The Roundtable approach was intended to reach clear objectives and Terms of Reference (TOR), to define the evidence-base required to solve identified policy problems and to explore potential short and long term solutions. Allan Dale of James Cook University (JCU) was proposed as the Roundtable Chair, but before committing to the role, Dr Dale undertook to consult widely with all key sectors about their support for him taking on this role and for the Roundtable approach. In regard to this initial approach, the broad view held across the key sectors regarding the Roundtable was as follows:

- The Agriculture, NRM and Indigenous sectors were highly supportive and appreciative of the proposed Roundtable approach and strongly willing to participate; and
- The Conservation Sector (with a cross-organisational view) was supportive of a Roundtable, but remained *firmly fixed* on the precondition of a temporary protection mechanism.

The Department of Natural Resources and Mines has taken the view that an extensive temporary protection order approach (focussed on HVAC, High Value Regrowth and some other forms of broad-scale permitted clearing) would create a number of problems in that:

- A moratorium on existing clearing rights would legitimately lead to calls for compensation by affected landholders;
- It would be difficult to achieve under the current VMA without legislative amendment; and
- The evidence suggests that by far the vast majority of increased clearing is permitted and hence would not be prevented by a temporary protection order.

As a result, the Minister has adopted an alternative approach to engage all sectors well on the development of a package of sound policy proposals. This option relies on the Department quickly developing a preliminary policy package regarding how it will deliver on the intent of the election commitment *and* engage well across the sectors on its rapid design and development. It is considered that this will enable rapid progression of key policy initiatives, including the longer term establishment of the original Roundtable approach to support implementation, ongoing monitoring and continuous improvement in the operation of the *Vegetation Management Act*. It is hoped a clear policy package can be engaged and formulated by Christmas, enabling program of legislative reform to be agreed by Cabinet and implementation commenced in early 2016.

Problems, Objectives and Potential Policy Solutions:

To commence discussion across interested sectors, the following key initiatives could form options for discussion/ engagement on a possible policy package:

High Value Ag Clearing and HVIAC

Policy Problem:

The VMA defines High Value Agriculture Clearing (HVAC) as clearing carried out to establish, cultivate and harvest crops, other than clearing for grazing activities or plantation forestry. Irrigated High Value Agriculture Clearing (IHVAC) refers to clearing carried out to establish, cultivate and harvest crops, or pasture, other than clearing for plantation forestry, that will be supplied with water by artificial means. The department does not have any figures for clearing currently being undertaken under approved permits, but this should be considered as a specific monitoring task. Development approvals for high-value agriculture to 31 January 2015 (under the previous LNP government), and from 26/1/15 to 2 November 2015 (under Labor) are as follow:

Region	To 26 January 2015		From 26/1/15 to 2/11/15		Total at 2 November 2015	
	Approved applications	Approved area (hectares)	Approved applications	Approved area	Approved applications	Approved area (hectares)
North	9	88681	8	17055	17	105,736
Central	2	829	0	0	2	829
South	10	737	4	101	14	838
Total	21	90247	12	17156	33	107,403

Meanwhile, development approvals for irrigated-high value agriculture to 26 January (under LNP) and from 26/1/15 to 2 November 2015 (under Labor) are as follows:

Region	To 26 January 2015		From 26/1/15 to 2/11/15		Total at 2 November 2015	
	Approved applications	Approved area (hectares)	Approved applications	Approved area (hectares)	Approved applications	Approved area (hectares)
North	16	4775	7	123	23	4898
Central	1	67	0	0	1	67
South	1	5	1	30	2	35
Total	18	4847	8	153	26	5000

The primary purpose of the *Vegetation Management Act* (VMA) is to regulate the clearing of vegetation in Queensland. Changes to the Act to enable HVAC and HVIAC created tension between the purpose the legislation and an approach focussed more on the facilitation of economic development. Queensland has an appropriate legislative regime to achieve both purposes, but good natural resource policy requires a clear separation of legislative effort between economic development and environmental protection. This tension has pitted the facilitation of broad-scale clearing against the facilitation of sensible and sustainable approaches to agricultural development that are equally able to meet the primary purposes of the VMA. Additionally, the Government has concerns that clearing under such permits may in practice be able to proceed at a rate far in excess of the capacity of the developing landholders to successfully establish cropping in a timely fashion behind the clearing activities being undertaken. This leaves the potential for significant clearing to occur without any consequent economic benefit from dryland cropping or irrigation. While more intensive cropping and irrigated agriculture may need to be part of the mix in achieving broader outcomes for other government priorities such as development in northern Australia, such development should be facilitated in ways that uphold the purpose of the VMA.

Policy Objective:

The suggested key objective of policy and operational reform in this area is “to ensure proposals for high value agricultural intensification in Queensland pay due regard to the primary purpose of the *Vegetation Management Act*”. This means accounting for the key purpose of the VMA being to regulate the clearing of vegetation in a way that:

- (a) conserves remnant vegetation that is -
 - (i) an endangered regional ecosystem; or
 - (ii) an of concern regional ecosystem; or
 - (iii) a least concern regional ecosystem; and
- (b) conserves vegetation in declared areas; and
- (c) ensures the clearing does not cause land degradation; and
- (d) prevents the loss of biodiversity; and
- (e) maintains ecological processes; and
- (f) manages the environmental effects of the clearing to achieve the matters mentioned in paragraphs (a) to (e); and
- (g) reduces greenhouse gas emissions; and
- (h) allows for sustainable land use.

Proposed Policy Solutions:

- **HVAC and IHVAC Application Assessment:** There is scope to further improve the quality of the assessment of HVAC and IHVAC applications, noting that under Section 22a requirements, applications are referred to additional internal soil assessments. For future applications, further procedural administrative change may be established to: (i) develop a more robust viability assessment and improved ecological consideration in the assessment process (both of which would require change to Section 22a assessment conditions or a State Development Assessment Provisions or SDAP regulatory change); and (ii) through regulatory change specify the limit of application sizes (e.g. nothing if regional ecosystem is down to less than 40% of its original extent, 5 to 10 ha size limits if the regional ecosystem is between 40 to 70% of its original cover and up to an upper limit (e.g. 10,000ha) if the regional ecosystem is over 70% of its original distribution. Progression of such changes would need input from the Department of Infrastructure, Local Government and Planning, and the Coordinator General. Applications above set limits could trigger requirements for coordinated project status under the *State Development and Public Works Coordination Act*. In such cases, clearer guidelines would need to be developed on how such triggers apply and the assessment process. Under both arrangements (VMA and SDPWOA), consideration should be given to the conditioning staged approaches to implementing clearing works.
- **Staged Tree Clearing Agreements of Existing Permits:** Exploring the possibility of reaching agreements about the staging of tree clearing under existing HVAC permits to ensure clearing rates don't shoot ahead of the permit holder's capacity to develop crops. With Strathmore having likely completed its extensive clearing schedule, this opportunity rests mainly with Olivevale, which now has to develop a species management plan approved by Queensland Environment and Heritage Protection prior to submitting a referral under EPBC. Staging could also be considered where appropriate in future approval conditioning.

Reef Catchments and Wetland Buffers and High Value Regrowth:*Policy Problem:*

Given the combined State and Commonwealth commitment to the Great Barrier Reef Long Term Sustainability Plan (LTSP) and the lack of effective legislative protections for endangered and high value ecosystems, the removal of High Value Regrowth in 2013 has created a policy problem. The protection of native regrowth vegetation along watercourses in the priority Great Barrier Reef catchments was retained. Given that the evidence suggests limited development in these areas, less intense conflict would likely arise from reinstating the legislative protections. It should be noted, however, that SLATS reports that overall clearing in Great Barrier Reef catchments in both the 2012–13 and 2013–14 periods has increased from 31,330 hectares per year for the 2009–10 period to 109,235 hectares per year and 104,802 hectares per year respectively.

Proposed Policy Objectives:

A key objective of policy and operational reform in this area would be “to adequately protect High Value Regrowth on freehold land, but particularly in Great Barrier Reef Catchments”.

Proposed Policy Solutions

- **Restoring the Protection of High Value Regrowth:** Rapid but effective restoration of the 2009 legislative protections for HVR (and/or);

- **A commitment to a process of scientifically robust redefinition/remapping of High Value Regrowth and Reef Catchment/Wetland Buffers in the Freehold Estate:** With the original mapping of this layer having been poorly defined and rushed, much opportunity exists to, through effective evidence building and engagement, redefine and review these mapping boundaries over time. This approach would enable a focus on securing important landscape features in genuine need of protection, but would require a new legislative head of power.
- **A Strong Policy and Investment Framework to Protect/Restore High Value Ecosystems:** The Queensland Government, particularly working closely with the Commonwealth, the Office of the Great Barrier Reef, the Trust for Nature and the Reef Alliance, could build a strong policy and implementation framework into place to attract high value ecosystem service payments and markets through a defined package of strategic incentives to protect and enhance these high value ecosystems. This work could commence quite quickly with a combined/ embryonic Commonwealth/State commitment to such a program established soon to enable combined resource allocations under existing commitments to funding for joint-funding of the achievement of improved Reef Water Quality Outcomes.

Operation of Category X Clearing Permits:

Policy Problem

With by far the largest increase in clearing rates in Queensland comprising clearing events which did not require approval under the pre-2013 legislation, urgent attention is needed to ensure this clearing activity meets regulatory requirements, but that more importantly, Queensland is able to take effective action to reduce carbon emissions from the land sector.

Policy Objectives

The proposed policy objective is “to ensure effective operation and compliance of permitting under category X and to look for a range of incentives to reduce carbon emissions from the land sector”.

Proposed Policy Solutions

- **Large Scale Carbon Project:** Create value in vegetation in cases where clearing is legal by creating the foundations for a large scale carbon project for the avoided deforestation and regrowth market through the Commonwealth’s Direct Action mechanisms (see Losee 2015). The Commonwealth is not bound to deal only through the Emissions Reduction Fund reverse auctions and it can negotiate abatement separately via directly negotiated approaches. Hence there is scope for the State to significantly explore this opportunity, either through a focussed large scale project or effective facilitation of the market.
- **Regional Investment in Targeted Landscape Protection:** State investment could be made in more targeted, cohesive, regionally planned incentives that deliver improved landscape outcomes to improve landscape connectivity and ecosystem function in these areas. The State could consider progressing the proposed Regional NRM Collective proposal for a landscape scale strategic revegetation program under the State’s regular regional NRM investment program. The State could also work to help mobilise Queensland Trust For Nature to maximize investment raising for such strategic protection and restoration efforts.
- **Modelling and Area-Wide Planning of Clearing the Mulga Lands:** There is still not a clear evidence-based picture of the long term pattern of clearing in the Mulga lands, its social and economic benefits and the consequent ecological and carbon implications. Resources could be made available scope a longer term area-wide planning approach and to undertake a comprehensive modelling exercise, giving the Government and the Queensland public a

better understanding of the cycle of fodder clearing and the long term positive and negative impacts emerging from this practice.

Compliance, Education and Extension:

Policy Problem

Unexplained clearing is not currently considered a major problem, (around 10%) but it does exist and could in part be explained by procedural problems and illegal activity. While clearing efforts were encouraged under the previous State Government, there has not been a definable increase in illegal activity. Any good regulation, however, needs to have a strong culture of compliance, and a range of strategies from education to strategic enforcement. The State needs to promote a culture of clearing when necessary for development and not just clearing because permissions are in place.

Policy Objectives

A proposed policy objective could be “to achieve continuous improvement and best practice compliance and monitoring under the operation of the Act through simpler but more effective compliance procedures”. These could include an increased focus on industry cooperation, greater landholder awareness of their responsibilities under the Act, and a strong culture of land stewardship that encompasses best practice approaches to vegetation management.

Proposed Policy Solutions

- **Improved Compliance Efforts:** Strengthen compliance messaging and compliance capacity. This includes strengthening regulatory posture with boosted, better trained and redirected compliance effort supported by clear public ministerial statements in a range of rural and regional media channels and more timely, full and transparent release of clearing data by bioregion, catchment, industry, remnant/regrowth categories and codes. Improved heads of power related to the facilitation of negotiated outcomes and Penalty Infringement Notices (PINs) could be considered. Stronger and early investigative effort on suspected illegal clearing activities should also be a focus.
- **Satellite Imagery:** Continue to build the strength of real time satellite imagery and web delivery (Veg View). This would be enhanced by making generalised information on clearing under codes and development approvals available on line (while protecting privacy rights).
- **Industry Cooperation, Education and Extension:** Investment in more cohesive approaches to Industry cooperation in the development and review of compliance, mapping and the expansion of regionally based education, extension and incentives, perhaps in partnership with Industry and the Regional Groups Collective. Regional NRM Bodies, for example, have recently proposed a state wide extension and education package, with the flexibility to focus the delivery according to priority which would be based on demand as reflected by existing workloads and strategically address vegetation management issues across Queensland.
- **Immediate SLATS Data Release:** Immediate release of the 2013 and 2014 SLATS data.
- **DSITI Involvement in Regulatory Map Changes:** A clearer, flexible and adaptive process for prioritising regulatory map improvements and changes (including landholder feedback) and involving DSITI in such processes. This approach only requires Director General signoff.

Self-Assessable Codes:

Policy Problem

The Government wants to preserve the flexibility of the Self Assessable Code system, while upholding the purpose of the Act and achieving high quality environmental outcomes. This is an adaptive management problem that requires regular review to reduce environmental threats and social and economic concerns and hardships from the landholder's point of view.

Policy Objectives

The proposed policy objective is "continuous improvement and monitoring of the usefulness and performance of Self Assessable Codes under the *Vegetation Management Act*".

Proposed Policy Solutions

- **Continuous Code Improvement:** Retain Self Assessable Codes, but create strong mechanisms for engaged administrative/ regulatory review with inputs from ecological, economic and social sciences. The Department should itemise and consult (using proposed continuous improvement arrangements) on a first round of specific refinements emerging from the current review of the framework for the use of Self-Assessable Codes.

Ongoing Engagement and Continuous Improvement:

Policy Problem

An unstable policy environment on vegetation management neither protects environmental values nor gives landholders the certainty needed to invest in appropriate development. Such approaches breed distrust between those sectors that have a critical role to play and results in a lack of shared objectives for the operation and review of the Act.

Policy Objectives

The proposed policy objective is "to establish a stable policy framework driven by shared objective setting, evidence building, problem solving and continuous improvement across all key sectors".

Proposed Policy Solutions

- **A Standing VMA Ministerial Advisory Committee (MAC):** Under existing legislative arrangements, establish a standing *VMA Implementation and Continuous Improvement MAC*. This should be independently chaired, focussed on building and refining the evidence base for the operation of the Act, jointly setting objectives and identifying problems and developing shared solutions. Establishing the Roundtable would help develop and monitor the Department's work program for continuous improvement in the operation of the VMA.