

Submission to Productivity  
Commission

Inquiry into  
Impacts of Native  
Vegetation and Biodiversity  
Regulations

**CONTACT DETAILS**

Sally McKay  
South Australia

## Legislation

The South Australian Act does not cover all of the State as certain areas are excluded. As these are predominantly urban zones those living within the zones are largely ignorant of the impact of Native Vegetation legislation on those whose daily lives are affected by it.

The predecessor to the current Act was introduced primarily to prevent further clearing of marginal land for cropping.

The Act is misleading as it presumed that all of the State had been reduced in Native vegetation and is degraded in the land and soil.

However, in relation to my area this is not borne out by the evidence.

1. There is significantly more vegetation than in the 1940's (borne out by aerial photography)
2. The only degradation is as a result of:
  - Soil erosion resulting from water discharged from roadsides
  - Septic tank discharges from subdivisions
  - Loss of certain bird life as a result of invasions of other birds
  - Loss of certain fauna as a result of wild or roaming dogs
  - Weed invasion from roadsides
  - Excess tree planting by "rural livers" and public authorities reducing water run off and possibly drying springs
  - Excess water use in house and gardens (predominantly amongst "rural livers") largely facilitated by dams which alter the hydrology of catchments . Sometimes dams are retained as garden features and underground water utilised as service water supply.
3. Farmers representative bodies were ill equipped to represent the farmers of my area and possibly incapable of foreseeing the consequences of the legislation.
4. The one size fits all approach in the administration of the Act makes no allowance for farms that have problems and in any event the Native Vegetation Council is dominated by interests that have other agendas.

## Impacts

My family bought the farm in 1959. It had very few trees and was eaten out. Over most of the next two decades trees were planted by seed, fenced and not grazed heavily. This was done for 2 reasons:

- Stock shade and shelter
- Firewood (so many city people wanted firewood and we sought to tap the market)

Trees were also allowed to grow naturally, sometimes within planted areas.

When clearance restrictions were first introduced in 1981 on the face of it regulations seemed fair as planted trees were "exempt".

---

However twenty years on when we decided to change land use in order to remain commercially viable we found we had to battle a well organised lobby who had decided that our "landcare" work was in their eyes "pristine" native vegetation. This meant that we had to pursue old friends for statutory declarations, obtain old records and other evidence to establish our claim that stands of trees were not subject to the Native Vegetation Act.

We obtained legal advice that we did not have to apply for removal of those trees but as an act of courtesy we approached the Native Vegetation Council to explain the position and layout our evidence.

This resulted in a response that we would have to put in an application for removal. They pointed out that not to do so would risk action not only against me but anyone who assisted me in removing the trees.

This left me in a no win position. If I make an application I admit that the trees are subject to the Act. If I proceed to clear the trees, I and others would be subject to a legal action where there is a reverse onus of proof. **In other words, I would be presumed guilty and would have to prove my innocence something that even murderers and rapists do not have to do.**

This position has cost me:

- Thousands in legal advice
- \$250,000 in lost income from harvesting trees for firewood
- Opportunity cost of lost productivity of land:
- Past losses as pastures lost under tree cover therefore lower grazing income
- Future losses from not being able to re-employ land in new enterprises

It is essential that farming enterprises such as mine are allowed to change crops in order to remain viable. Part of this change may include changes to the landscape for efficiency reasons (we note how other industries can change the physical layout of their productive units with little or no fuss on the grounds of efficiency).

In my case, a property that was once an orchard (in the days prior to Britains entry into the EEC) and a market garden, with plenty of water in a 700mm rainfall area, with good soil and proximity to markets, must be able to change in a planned orderly and efficient manner.

This need to change has been accelerated by deminishing returns from grazing (dog attack losses run at over 10% annually) and the ever increasing restrictions on land use arising from direct application of legislation such as Development and Water Resources Acts with the unintended consequences of legislation such as the Local Government Act.

## **Social**

In the early 1970's the farms around me were subdivided as "hobby farms". Subdivision is now banned (and has been for over 25 years). This was the era of Nimbin and "self sufficiency". We have seen a lot dreams come and go.

---

Now the area has undergone a generational change with many newcomers motivated to "save the environment". They are ably assisted by a plethora of government funded organisations many staffed by zealots who are ignorant of farming practices or outright "anti farming". They seem attract followers who in days gone by would have demonstrated against the Vietnam War and think that handouts (eg trees for planting or fencing) do not come at a cost.

In my case, the idea has evolved amongst these arrivals that the farm was remnant vegetation so I experience anger, damage to equipment and letting stock out on roads. This common and costly.

There is now a small group of neighbours who make surveillance of my activities their full time occupation for example recording numberplates of visiting vehicles, filming me fencing or just stickybeaking.

I have had to suffer investigations by the Native Vegetation Branch as a result of report by neighbours for undertaking activities that are exempt under the Act and defamatory representations in relation to a Development Application.

There are no measures that are mitigating my loss, and I believe that any application by me to remove trees my family planted or to thin regrowth would result in the following options:

*EITHER*

Give up an area of my property to a heritage agreement

*AND / OR*

Pay money into a fund for other other areas elsewhere to be acquired to be set aside for native vegetation. (In other words pay twice for my land)

My farm of 350 acres just supports 2 generations now - the removal of trees would make the extra income to improve our standard of living nearer the average wage earner. I can't afford either of the two options above.

Aside from the development of the property there is only one viable option for me and that is subdivision into lots of about 2 hectares - a size that is manageable yet affords the attributes of country living.

## **Roadside vegetation corridors**

This concept of roads being corridors for vegetation and fauna is costly.

In my experience, the damage to my fencing through:

- Bushes and grasses causing fencing to rust prematurely
  - Overhanging trees dropping branches
  - Removal of intruding vegetation is a constant management expense
-

In addition, the time cost of recovering stock that may have escaped through damaged fences cannot be ignored.

However, there is a more insidious cost. The local council supports the creation of these corridors and assembles groups to assist in the "management" of them. Because I have sought to exercise my various legal rights to protect my fencing and property I have been vilified as being "anti environment" and requiring of "supervision". (Letter from Native Vegetation Branch to Playford Council.)

There are also issues of public cost associated with these corridors.

Fire will travel down these corridors (most of which are on ridgelines in my area) closing off avenues of escape and rescue. I have seen bushfires in my area, which is more than most residents and almost certainly none of the local council staff. The speed at which they can move in corridor like situations is frightening. These fires will also damage my infrastructure.

The cost of poor drainage of roads and undermining of the road itself by tree roots is a longer term public cost associated with such corridors.

However, large single event costs can occur where trees are deemed to be more important than road users. Despite significant evidence as to the dangers of trees to roadusers trees are still permitted to grow right up to the road edge. The cost to the community as a result of road accidents is well known.

## **Biodiversity**

Biodiversity has taken on a life of its own. Extremists in our area are of the view that my farm must provide corridors and that the slightest depression or drainage line must be fenced.

These same people have their swimming pools, green lawns, expansive rose gardens, large dams for "amenity" on land that used to be productive paddocks. They actively feed and water birds and kangaroos (not indigenous to the area) which provides a false environment. Such an environment permits the proliferation of species not indigenous to the area and creates a favourable breeding environment for numbers to increase differently than that which would be the natural case.

The lack of awareness of the consequences of various popular "environmental" measures such as removal of exotics which may in effect remove the habitat of native birds and the fencing off of areas which may promote weed growth or at best become populated by aggressive native species. It is not possible to "re-invent" the environment. No account seems to be taken of the ability of native birds and animals to adapt to a changing environment.

## **Government, Greens and Do-Gooders**

Land management and the environment are at a cross roads. It is time for Governments to take steps to prevent the erosion of landholders property rights in the name of the environment without compensation.

---

If farm land has demonstrably been cleared in the past the landholders should be able to rearrange the vegetation on the land in the same way as a shopkeeper changes the layout in his shop - without intrusion or penalty. Productivity and efficiency of that production should be primary goals of land management. If land is not managed properly and the return insufficient to pay for its proper maintenance it will be degraded in which case the market will act to ensure that eventually it will be managed "sustainably" both in terms of its productivity (short term goal) and value (long term goal). The value of the land will reflect its sustainable qualities.

If this is not to be the case then Governments should act to :

*EITHER*

Provide mechanisms to realise its lesser potential by allowing subdivision with environmental covenants that could be purchased by biodiversity enthusiasts who do not need to earn an income from their land.

*OR*

The Government pays for the land, assumes the responsibility and costs for managing the land, provides an income for myself, my son and his family.

The Mount Lofty Ranges Regional Revegetation Strategy (ISBN 0 7308 4367 X) contains a chapter on the key players in revegetation and related activities in the Mount Lofty Ranges. It identifies 25 main organisations, to which are attached 19 subgroups within those subgroups are 37 groups as Friends of Parks, 4 Soil Boards and 6 Catchment Boards. This does not include groups spawned by councils or partnerships between groups.

THIS IS AN INDUSTRY which is characterised by a number of common faces across the breadth of the groups. The reality is that the "environmental movement" is not much more than a self promoting paper tiger that spends most of its resources in getting more resources rather than applying those resources to EFFECTIVE environmental improvement.

Because Government today relies on so called consultation processes, most meetings to do with the environment are dominated by representatives of these groups. Farmers tend to deal through a peak body and may not even participate in the broader consultation. Most small businessmen are too busy to keep up with the game.

### **Have I been affected financially?**

Fortunately, to date I have not had to borrow so I do not know what effect Native Vegetation and Biodiversity legislation may have had on my capacity to borrow.

However it is clear to me that changes to other legislation that reflect the values of the other legislation (particularly my local Development Plan) has or has the potential to have real effects on:

- my ability to change enterprises
  - the way in which I carry on my business
  - the costs associated with my business and therefore my potential income  
thus my capacity to repay loans
-

The operation of some legislation can also provide a route for my competitors to influence my business outside the provisions of the Trade Practices Act.

To date the costs which I have experienced are:

- Costs of managing native vegetation (about \$30,000 per annum)
- Loss of Income through inability to harvest tree crop
- Lower grazing income through pasture loss due to tree cover
- Costs associated with gaining approval for vineyard (held up mainly on "environmental" concerns)

### **Are regulatory regimes effective?**

Aside from the Native Vegetation Act which operates on the basis of fear rather than a rational examination of facts, at the local level very few of the regulatory regimes are effective.

For example:

I have an outbreak of bridal creeper (a pest plant) on a roadside. Under the Pest Plant Act I have an obligation to destroy that plant and if I don't the local Pest Plant Board can send me a bill for doing the work.

However the local council refuses to let me spray the weed (I may kill "precious" vegetation), demanding that I hand weed the plant. This is not effective due to nature of propagation of the plant so I refuse. They send up a crew to hand weed and the plant subsequently spreads.

For 15 years my property has been subject to water flows as a consequence of roadworks causing significant erosion. This water flows through a council owned "Bushcare" site where erosion is significant and worsening. Besides putting up the "Bushcare" sign council has done nothing to halt the environmental degradation - a council that goes to great lengths to claim its environmental credentials.

From my perspective no amount of legislation will be able to replace common sense or consideration for others. In the main there are no effective mechanisms for forcing governments or their agents to accept the responsibilities delegated to them under legislation or to accept responsibility for the unforeseen third party costs that may accrue as a result of their actions under the power they accumulate.

### **Land and Property Rights**

Which ever way it is dressed up the "environmentalists" have only one agenda which ultimately will see farmers as externally managed caretakers of the land. In fact some even suggest that we should even abandon our legal system of "rights", perhaps illustrating that landholders in fact have very few "rights".

Perhaps the only way to restore some balance for farmers in the unbalanced political environment (farmers do not have many votes or make good headlines) is to grant by legislation "land rights" with such rights extended to all owners of freehold land.

---

Then as governments seek to modify or remove these "rights" compensation can be paid. This way it can be possible for those who are seeking modification of the rights to be acquainted with the cost and thus would need to be less emotive in their arguments, working harder on persuading the (largely urban) population of the merits of the case by addressing the fundamental question that politicians must ultimately face - "who pays, how much, for what" - carefully balanced with an eye to the next election.

It is only an approach like this that will overcome the currently unbalanced outcome that affects rural communities disproportionately whilst the real environmental problems are the cities. Rural land is not a playground and land management practices are not homogeneous. Leave the management of land to those who have their human and financial capital invested in it for experience has shown that the best reforms are achieved because it is demonstrated there is a good reason to change.

### **Is Revegetation an Option?**

Those who wish to revegetate or set aside land for regeneration, should do so under a regulatory framework that requires that land to be isolated from other land uses to prevent the spread of weeds, fire and vermin and provides mechanisms for adjacent landholders to enforce compliance or obtain relief. This is the lesson of last years bushfires in the Great Divide.

Should such practices be publicly supported? No unless mechanisms are in place for land to be properly managed (including financing) by succeeding generations. No succession plan could potentially create pockets of abandoned land. Logically, this will mean that such land will end up in public hands. National Parks are under funded now, vast increases in responsibilities may not be able to be funded by government.

### **CONTACT DETAILS**

Sally McKay  
South Australia

---