

21 March 2018

Committee Secretary
State Development, Natural Resources
and Agricultural Industry Development Committee
Parliament House
George Street
Brisbane Qld 4000
Email: sdnraide@parliament.qld.gov.au

Dear Committee

Inquiry into the *Vegetation Management and Other Legislation Amendment Bill 2018*

Thank you for the opportunity to make a submission to the above Inquiry regarding the *Vegetation Management and Other Legislation Amendment Bill 2018* (the Bill). This submission is made on behalf of the Queensland Conservation Council Inc. (QCC).

QCC is the peak conservation organisation in Queensland, with some 60 member groups across the state, each with their own significant membership bases. We are approaching our 50th anniversary of advocating for stronger conservation policy, law and practices, and have played a lead role in many critical campaigns to secure protection for Queensland's nature. QCC also works directly with other state and national conservation groups, and a number of regional conservation bodies in Queensland which focus more intensely on local and regional environmental issues within their particular geographic scope.

QCC has a long-standing interest and involvement in land clearing policy and legislative reform in Queensland, and its current Coordinator (the author here) has also been very closely involved in tracking, analysing, critiquing and advising on land clearing policy and legislative reform in the state over the last ten years.

1. Summary of our position and recommendations

QCC has now had the opportunity to study the Bill in some detail, and how it amends the *Vegetation Management Act 1999* (VMA). In summary, we hold the view that the Bill should be strongly supported as an important step in addressing Queensland's land clearing crisis.

1.1. We strongly endorse the Bill in seeking to scrap high value agriculture as a relevant clearing purpose, protect high conservation value regrowing woodlands, scrap the thinning self-assessed code, extend Reef riparian areas, and to terminate current Area Management Plans. **We strongly recommend the Committee supports these provisions in the Bill.**

However, we see some deficiencies within the Bill itself that must be addressed, and also some omissions in terms of the proposed legislation and associated policy which mean there is remaining work to do in comprehensively reducing land clearing rates, and meeting policy and political commitments and community expectations.

- 1.2. While the ‘managing thickened vegetation’ provisions in the Bill are a substantial improvement on the current ‘thinning’ notification process, there is still scope for the proposed system to result in considerable clearing of native vegetation. This undermines the policy intent of the Bill. **We strongly recommend that the Committee supports amendment to the Bill to completely remove ‘managing thickened vegetation’ provisions from the VMA.**
- 1.3. The wording of Clause 4 of the Bill suggests a non-exhaustive list of matters that constitutes a relevant clearing purpose, and does not rule out the prospect of a new thinning code in the future. This undermines the policy intent of the Bill. **We strongly recommend that the Committee supports amendment to the Bill so that Clause 4 establishes an exclusive list of items which does not include thinning, to completely remove any capacity to create a new thinning code.**
- 1.4. The wording of Clause 14 of the Bill allows a slow phasing out of existing Area Management Plans and allows for the establishment of new ones. This undermines the policy intent of the Bill. **We strongly recommend that the Committee supports amendment to the Bill such that Clause 14 requires immediate termination of all existing AMPs, and guarantees that no new AMPs could be created under the VMA in the future.**
- 1.5. Clause 13 foreshadows circumstances for protected woodland (Category A) being allowed to be re-categorised as either Category B or C, or as unprotected woodland (Category X) where all the landholders agree. This latter point undermines the policy intent of the Bill. **We strongly recommend that the Committee supports amendment to the Bill so that Clause 13 removes reference to Category X.**
- 1.6. With the release of the Bill and a new code for fodder harvesting, which only incorporates relatively small changes to the existing code, we are also disappointed that the government has not taken this opportunity to substantially tighten up fodder harvesting provisions, including formally tying any clearing to official drought declaration, and further restrictions on volume (such as maximum of 10 hectares or 1% of the property). **We strongly recommend that the Committee supports changes to the fodder code to ensure that such reforms are adopted.**
- 1.7. Given ongoing debates about the purpose of the VMA, it would be prudent for the Bill to propose removing ‘sustainable land use’ from the objectives of the VMA, but requiring consideration of greenhouse gas emissions in deciding development applications.

Notwithstanding these reforms and the importance of achieving swift legislative, regulatory and policy reform on land clearing as proposed in the Bill and in line with the above recommendations, QCC recognises there will be more work to be done to fully protect the native woodlands that are intended to be legally protected. This needs to include Category A, B, C and R -type vegetation across the state, and capture such vegetation that will be newly or re-protected under the Bill or through future analysis of regulated vegetation.

Additional, specific policy and protections for koala habitat in South East Queensland are still required. Other complementary mechanisms including the Land Restoration Fund should be used to practically extend a means of protecting woodlands, securing biodiversity, carbon and other co-benefits, and creating income streams for landholders which avoid clearing.

The combination of all these present and prospective reforms should help bring about an end to remnant clearing in Queensland, better protect threatened species, and comprehensively protect native woodlands in this state. Better monitoring of clearing data will enable government and the community to track success in reducing land clearing rates in Queensland.

Later in this submission, we provide a clause by clause analysis of the Bill, and highlight our responses. At the end of this submission, we make a set of recommendations for improving both the Bill and associated policies, and urge the Committee to give serious consideration to these and to reflect them in their own recommendations back to the Minister for Natural Resources, Mines and Energy ahead of resumption of debate and consideration in detail for the Bill in Parliament.

However, before we get into the details of the Bill itself, we believe it is important for the Committee to gain a proper appreciation of why progressive law reform is necessary, the impacts that land clearing has on wildlife, essential habitats, and landscape integrity.

Queensland has witnessed a surge in land clearing since laws and policies were seriously weakened by the Newman LNP government. The previous Parliament was unable to pass land clearing reform legislation designed to address some of the factors involved in the re-emergent crisis. Notwithstanding the significant media coverage the issues have since received, it is worth placing the Bill into its policy and legislative context.

2. The background to progressive land clearing law reform¹

Queensland is a very special place, socially, economically and ecologically. We are custodians of some of the most environmentally important and sensitive landscapes, rivers, and marine areas on the planet, including native woodlands and forests. The responsibility for the ongoing protection of these areas lies with us all, but principally with the governments and broader Parliaments of the day. The Queenslanders of today and tomorrow will judge into the future how well governments have acted to ensure our environment remains intact and in good health. This is a matter of concern for people and for nature: future economic prosperity relies on responsible protection and management of the natural world. The environment is our best long term economic competitive advantage, and we rely on the environment for clean air, clean water, maintenance of biodiversity and a healthy climate.

The clearing of tress, bushland and other native vegetation, or ‘land clearing’, represents the biggest threat to native wildlife and biodiversity in Queensland. Land clearing is connected with ecosystem damage, and mass loss of Australian wildlife. Land clearing impacts on land degradation, hydrology, soil erosion and farmland productivity. The future of the Great Barrier Reef is in part tied to how Queensland deals with its land clearing. Land clearing is also a major source of carbon pollution, and substantial emissions reductions can be and have been achieved in Queensland through controls on land clearing.

Queensland was historically the land clearing capital of Australia. But between the late 1990s and 2012, Queensland moved to ensure that broadscale land-clearing of remnant (old growth or mature woodland) and regenerating high conservation value native woodland (high value regrowth) was no longer permitted in this state. It was recognised that such clearing had devastating effects for wildlife and habitats, for landscape integrity, for river catchments, and for the climate. It has also become evidently clear that without very rigorous regulation and enforcement, numerous instances of smaller scale clearing of remnant and regrowing native vegetation can also have the same impacts.

¹ Some of this section is paraphrased from previous materials written by the author to earlier land clearing Inquiries in Queensland.

Despite commitments from the Newman campaign in the lead up to the 2012 Queensland election to leave land clearing laws alone, and contrary to the policy position of AgForce Qld to not make further legislative changes to the VMA, the last LNP government initiated a program of policies, Act amendments and reduced monitoring processes that sought to deregulate land clearing, and deprotect native woodlands.

High value regrowth on freehold land was no longer protected, a new category of broadscale remnant clearing (so-called high value agriculture) was introduced, and we witnessed an explosion in ‘thinning’ of remnant woodlands allowed as a self-assessment and notification process. During this period, it was quite apparent that enforcement was not a priority, and nor was monitoring or tracking of clearing given the fact that no State Landcover and Trees Survey (SLATS) report was released during the time of the Newman government.

The consequences of this were a dramatic rise in land clearing rates in this state, thanks to newly allowed clearing, weakened enforcement and the strong likelihood of an increase in illegal clearing. The language of these changes was inflammatory (“Taxing the Axe Queensland’s Tree Clearing Laws”²), and the underlying ethos was to achieve a “shift in clearing culture and perceptions ...to assisting landholders to undertake clearing rather than the previous priority on assessment and compliance brought about by the change in government in 2012”³. The Newman government was warned directly about what would happen, and the current high clearing rates were foreshadowed⁴. The collective result has been that Queensland once again finds itself at the epicentre of Australia’s land clearing crisis, as recent SLATS reports have indicated.

Sadly, the sort of vitriol expressed during those times was also evident in 2016 when the *Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016* was tabled and debated. Although most of the issues with the current (2018) Bill have been exhaustively ventilated already, it would be refreshing to have the debates this time couched in more rational, science, and evidence-based terms, and for there to be cross-party acknowledgement that the present land clearing situation is regarded as unacceptable by the broad community, and therefore needs to be addressed.

The Palaszczuk government was very open about its intention to pass much stronger land clearing laws prior to and during the 2017 state election, and there is broad community expectation that it will now deliver.

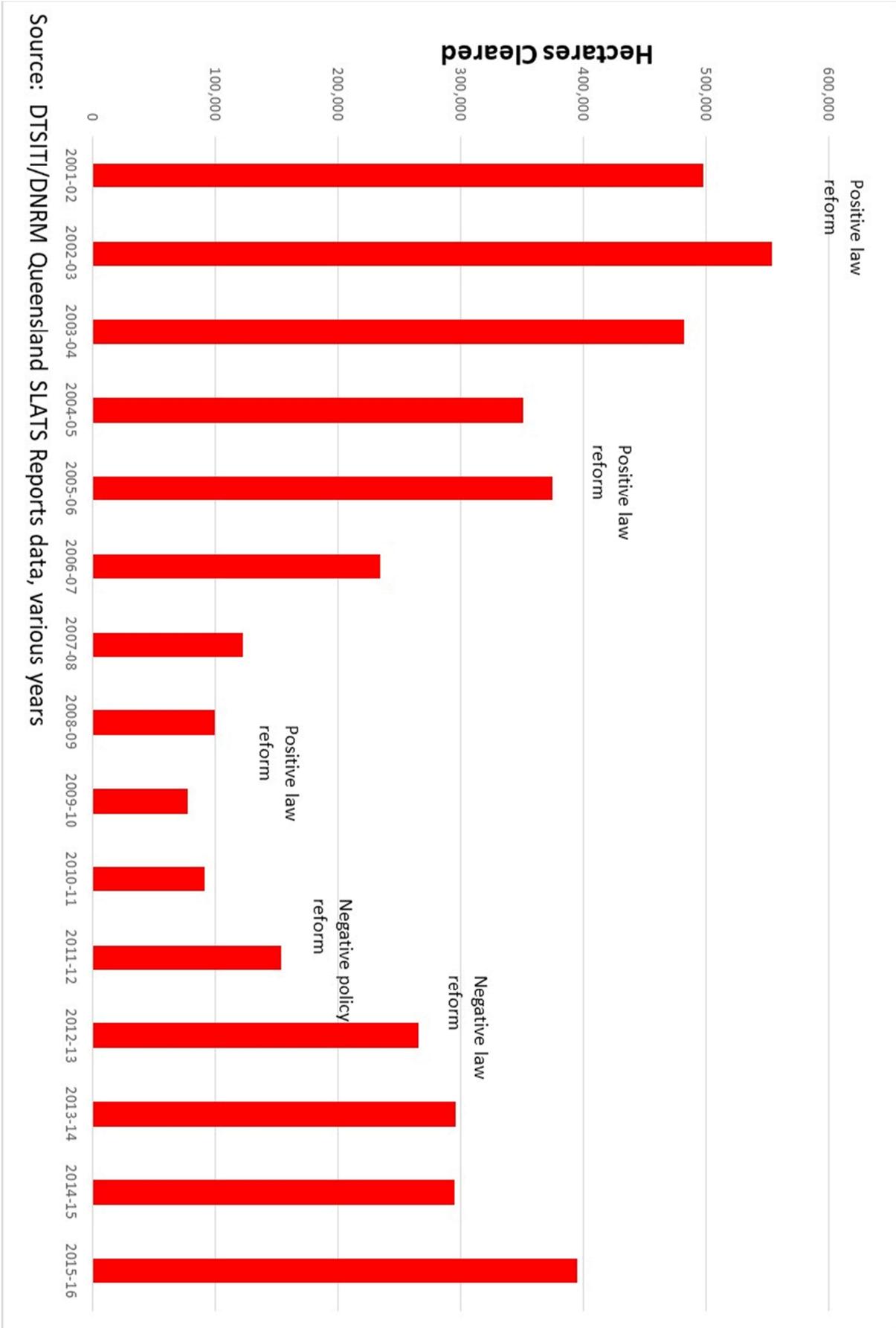
It should further be noted that the Palaszczuk government has also committed to the establishment of a \$500 million Land Restoration Fund. Our understanding is that this will seek to create incentives for land holders to retain vegetation or support revegetation outside of the regulatory scope, to achieve biodiversity, carbon and other co-benefits. This should prove to be a major complementary measure to legislative reform, which landholders will benefit from.

² 2013 speech by then Natural Resources Minister Andrew Cripps to the Rural Press Club.

³ <https://publications.qld.gov.au/dataset/supplementary-report-to-the-statewide-landcover-and-trees-study-report-2012-14>

⁴ <http://www.parliament.qld.gov.au/documents/committees/SDIIC/2013/10-VegetationMgmtFramewk/trns17Apr2013.pdf> - see end of evidence presented on p7.

Land clearing trends in Queensland 2001/2-2015/16 with law reform episodes mapped.



Source: DTSITI/DNRM Queensland SLATS Reports data, various years

3. Analysis of the 2018 Bill

The Bill is the product of the policies articulated in Labor’s ‘Saving Habitat, Protecting Wildlife and Restoring Land’ 2017 election policy statement, and also the commitments made during the 2017 Queensland election, where the Palaszczuk Labor government promised the ‘cessation of remnant clearing’, ‘ending of broadscale clearing’ and ‘legislation to protect remnant and high conservation value regrowth vegetation’.⁵

At the time of its tabling, QCC strongly welcomed the Bill and the government’s intention to substantially strengthen Queensland’s land clearing laws. But we also stressed that we needed to study the details. We have now undertaken such an analysis:

<i>Clause</i>	<i>Provison</i>	<i>Specific comments</i>
1-3	Preliminary	None.
4	Removing self-assessable code for thinning	Thinning no longer allowed as self-assessable code. Establishes new non-exhaustive list of what may be covered by a code, and does not rule out the potential for a new thinning code.
5	Minor change to wording	None.
6	Ending of existing code notifications	Existing thinning notifications no longer valid.
7	Change of terminology around Cat B being mapped despite activity	Thinning now referred to as ‘managing thickened vegetation. Remnant status of areas retained on regulatory map despite approvals for clearing, or clearing having occurred.
8	Showing Cat C being mapped despite activity	High (conservation) value status of areas retained on regulatory map despite approvals for clearing, or clearing having occurred.
9	Category A	Allowing for Cat X to be reclassified Cat A
10	Category X	Cleared land that as Cat A, B, C, R does not automatically become Cat X.
11	Clarifying situation with PMAVs	None.
12	Clarifying situation with PMAVs	None.
13	When PMAV may be replaced	Allows for Cat A to revert to B, or X under certain circumstances where all the landholders agree. Not clear why this includes Cat X!
14	Area Management Plans	Deletes current AMPs although apart from the Mulga Lands AMP, this could take up to 2 more years. However, this also allows for the DG of DNRME to create new AMPs. There is current scope for this, but it is unclear in what circumstances this would occur and for what benefit.

⁵ This was published on the QCC website prior to and following the state election <http://bit.ly/2IFPDgv>

15	High Value Ag removed; High (Conservation) Value Regrowth and GBR riparian protections reinstated / expanded.	Removing High Value Ag as a relevant clearing purpose and related processes. Ecologically important regrowth protected.
16/17	Managing Thickened Vegetation	While retains a limited pathway to still ‘thin’ under DA process, there are much stronger controls on that.
18	High Value Ag rules	Processes related to High Value Ag taken out.
19-36	Legal, enforcement and related processes	None.
37	Transitional Provisions for Area Management Plans, definition of Essential Habitat Mapping, interim period, etc	Apart from Mulga Lands AMP, removal of existing could take up to 2 more years. Broader definition of Essential Habitat Mapping.
38	Amendments to Dictionary of Terms - New, broader definition of High (Conservation) Value Regrowth; restrictions on managing thickening	Much stronger rules about how managing thickening can occur, via development approvals (not self-assessable code). Thickening must not involve chains, must “restore regional ecosystem”, and also “maintain ecological processes and prevent loss of diversity”.
39-48	Amendments to Planning Act / Reg	Consistent with the above re VMA.
49-56	Amendments to Water Act	Consistent with the above re VMA. NB: Riverine Protection Permits are reinstated.

We applaud the components of the Bill that are designed to achieve:

- The removal of high value agriculture as a relevant clearing purpose and the scrapping of that permit process;
- The re-protection of high conservation value regrowing woodlands, under a broader definition that includes ecologically significant woodlands that are 15 or more years old;
- The scrapping of the ‘thinning’ self-assessable accepted development clearing code;
- The extension of riparian area protections to the final three Great Barrier Reef catchments;
- The capacity to reclassify Category X into Category A with landholders’ agreement, under the forthcoming Land Restoration Fund and other incentives;
- The reinstatement of Riverine Protection Permits; and
- The termination of current Area Management Plans.

Accordingly, we support the adoption of these clauses of the Bill and their effect in amending the VMA.

4. Improvements to components of the Bill

However, our analysis of the Bill has highlighted a number of deficiencies with the Bill and related policy, which we believe need improvement via changes to the Bill.

- 4.1. The Bill does not foreshadow the complete removal of provisions for ‘managing thickened vegetation’. While the tests that will be applied to permit applicants will ensure a greater level of protection for some native woodlands at risk of ‘thinning’, this still means that there will continue to be some thinning by another name, and the chance for loopholes to appear. We would strongly endorse changes to the Bill to no longer allow for ‘managing thickening’ processes, on the basis that there are no clear ecological reasons to undertake such clearing, and any exceptions would be just that: exceptional.
- 4.2. We are disappointed that the Bill includes provisions that could be used to allow new self-assessable codes, due to the wording used. Clause 4 of the Bill proposes a non-exhaustive list of matters for which new codes could be created, unlike the current VMA, and as a consequence such an amendment fails to explicitly exclude thinning/managing thickening from any future provisions. We would strongly endorse changes to the Bill to remove the word “including” from the preliminary part of Clause 4 of the Bill.
- 4.3. The Bill allows for up to two years delay for the removal of existing Area Management Plans (AMPs), and then allows for the creation of new AMPs. Clause 14 of the Bill needs amendment to immediately wind up existing AMPs, as is occurring with the Mulga Lands AMP.
- 4.4. Reverting protected woodlands to unprotected Category X makes no policy or ecological sense, and would defeat part of the rationale for the Bill. It is unclear what Clause 13 of the Bill is trying to achieve or why it is in the provisions, and reference to Cat X needs to be removed.
- 4.5. We are also disappointed that government is not proposing to substantially tighten up fodder harvesting provisions, including major restrictions on volume and tying any clearing to official drought declaration. Our view is that limits on fodder harvesting, such as a cap of 10 hectares or 1% of property, in conjunction with a requirement that there be a formal declaration of drought in operation, would be both sensible and practical, and would reduce the scope for fodder harvesting being used as a loophole for broadscale clearing.
- 4.6. The Newman government added an extra purpose to the VMA, namely ‘sustainable land use’. This term remains undefined in the VMA, and would in practice appear to directly undermine the achievement of the other Purposes of the VMA. Given ongoing debates about the intentions of the legislation, *vis-à-vis* the government’s commitments about protecting woodlands and ending specific types of clearing, the objective of ‘sustainable land use’ as compared to conservation or ecological protection imperatives would seem inconsistent and incongruous. We see the Bill as an opportunity to address this matter, and for the Bill to be amended to include a clause to strike out ‘sustainable land use’ from the stated Purposes to the VMA.
- 4.7. Similarly, it could be argued that, given that one of the existing purposes of the VMA is to ‘reduce greenhouse gas emissions’, there ought to be a clause in the Bill to amend the VMA whereby greenhouse gas emissions must be considered as a relevant factor during the assessment of any development applications for land clearing.

We wish to see the Bill and associated policies strengthened to address each of these deficiencies, and respectfully ask that the Committee examine options for recommending changes to the Bill and codes accordingly.

5. Associated changes to land clearing policy and woodlands protection

In addition to the Bill itself, QCC sees the need for associated changes to land clearing policy and woodlands protection instruments and tools. We are anxious to ensure that with the passing of the Bill, protected vegetation, be it Category B (remnant), Category C (high value regrowth), or Category R (Reef riparian), is fully and properly mapped and protected across Queensland.

While not a specific focus for this Bill, we look forward to additional specific action under the Planning Act to better protect threatened species habitats in key areas of Queensland, including koalas and their habitats in southern and central parts of the state.

6. The potential impacts of progressive land clearing law reform

When land clearing law reform is announced, it seems claims that news laws will reduce farm productivity are never far behind. We have even occasionally witnessed quite ridiculous claims that new laws will completely stop farmers from growing food!

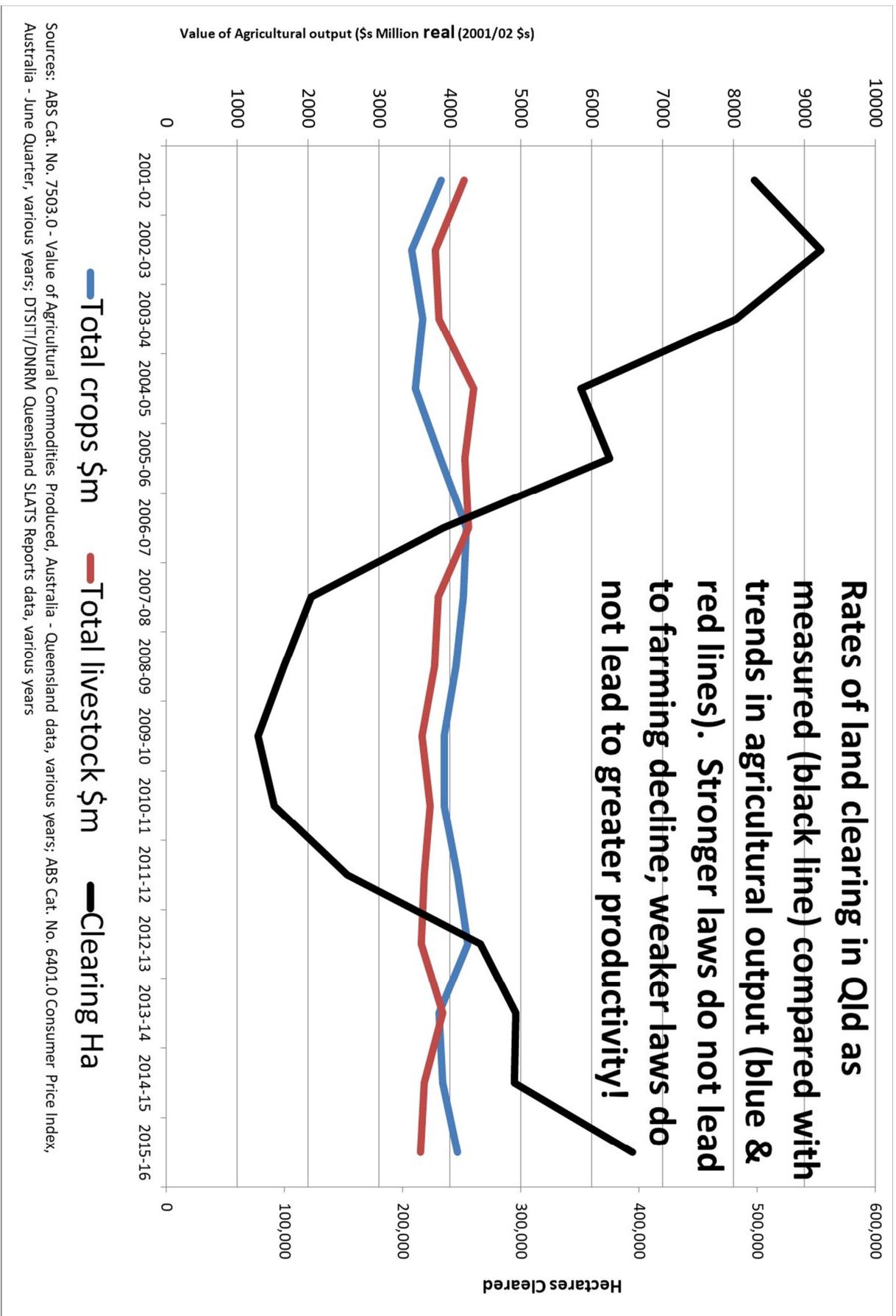
We have looked at the data, and there is no relationship between land clearing controls (as measured by clearing rates) and farm productivity in terms of value of crop and livestock output in Queensland. While there are annual variations in both the real value of cropping output and livestock productivity real values, these are unrelated to land clearing regulations.

A review of the last two decades of land clearing reform in Queensland have demonstrate that, despite the claims of some, stronger laws will not negatively impact on overall agricultural productivity. Controls on broadscale clearing which were introduced in the mid-2000s (supported by both Labor and the Liberal Party at the time), and extended in 2009 to include ecologically significant regrowing woodlands, did not have any obvious overall effect on the agricultural sector. Indeed, indications during these times from AgForce were that the laws were workable and not obviously impacting on overall farming output.

By contrast, we know that current land clearing is having a devastating impact on native animals and the broader environment. Estimates are that during the last year we have data for (SLATS 2015-16), some 45 million native animals were killed due to land clearing in Queensland. We have also seen ongoing problems with clearing in Great Barrier Reef catchments, which saw a 45% increase in clearing year on year, and continue to represent some 40% of all clearing in the state. Given UNESCO's concerns about the health and prospects of the Great Barrier Reef World Heritage Area, the commitments made by the Queensland and Federal governments under the Reef 2050 Plan including reef water quality targets and action on land clearing, and the importance of the Great Barrier Reef to the state economy, there are very strong social, economic and environmental imperatives to act on land clearing in relevant catchments, and similar factors in play elsewhere in the state.

We also know from SLATS that Queensland's greenhouse gas emissions from land clearing over the recent times have been rising: 46 million tons of carbon were released into the atmosphere from clearing in 2015-16 alone.

The relationship between Queensland clearing rates (as a proxy for law reform) and agricultural productivity 2001/2-2015/16



Other criticisms of land clearing law reform have included the assertion that in fact more woodlands are regenerated each year than cleared, that frequent law reform is unhelpful, and that provisions will unfairly disadvantage Indigenous landholders on Cape York Peninsula. Addressing each of these in turn:

- There is no evidence base to claim more woodlands are regenerated each year than cleared. We are not aware of independent, reliable science that enumerates this. The Queensland Herbarium has always urged caution in comparing dissimilar data in SLATS reports. The caveats are quite clear, and are there because while clearing is both closely analysed and verified, notional figures of new green growth are not. It should also be pointed out that most of that new growth can then be cleared with impunity, so its relevance at all is open to question.
- While it is true that the VMA has been amended a number of times since it was first passed in 1999, this is not unusual for state legislation. Most of the changes have been modifications to ensure proper operation. There have been three main changes over the last fifteen years: the ending of broadscale remnant clearing (2004), the protection of high conservation value regrowth (2009), and the substantial weakening of the Act in 2013. Restoring past provisions, and extending protections in 2018 is hardly continuous change nor hasty reform. Many of those who argue legislative change is bad now championed it just a few years ago, despite the fact that the changes in 2013 broke election commitments and indeed the policy stand of the agricultural lobby.
- The Cape York Peninsula Heritage Act 2007 makes special provision for community use areas for Indigenous communities on Cape York: provisions that don't exist elsewhere in Queensland. Subject to reasonable tests of environmental sustainability and the approval of both Natural Resources and Environment Ministers, they exist to safeguard the development aspirations of Cape York Traditional Owners and their communities. Despite this, QCC understands that not a single application for clearing has been made under the Cape York Peninsula Heritage Act. This begs us to consider how much of a priority such development is, compared to return of lands, protection of country, traditional land management and other aspirations.

7. Conclusion

In conclusion, it is QCC's view and experience that Queenslanders, be they environmentalists, farmers, rural landholders, or urban communities, all want to see their natural environments protected, and their state left in the best shape for future generations. We all care about nature, but if we are to be serious about that, we must also recognise the importance of environmental laws and regulations, and the need for these laws and regulations to be strong. As a community, we also need to accept government's duty of care for the environment, and its responsibility to ensure our environment is properly protected. And governments in kind must fulfil that duty of care.

Stronger land clearing laws are urgently needed to protect wildlife and biodiversity, to keep landscapes intact and avoid erosion, to reduce carbon emissions and impacts of climate change and negative weather patterns, to avoid damage to the Great Barrier Reef, to safeguard our broad economic and social welfare, and to maintain our national and international reputation.

It is now time to ensure our native woodlands, the native wildlife that relies on them for their habitats, and the iconic Great Barrier Reef are afforded much better protection. Over time, the community needs to see reforms leading to land clearing rates falling significantly.

8. Recommendations

QCC recommends the following:

- 8.1. The Committee supports provisions in the Bill which will scrap high value agriculture as a relevant clearing purpose, protect high conservation value regrowing woodlands, scrap the thinning self-assessed code, extend Reef riparian areas, and to terminate current Area Management Plans.
- 8.2. The Committee supports amendment to the Bill to completely remove ‘managing thickened vegetation’ provisions from the VMA.
- 8.3. The Committee supports amendment to the Bill so that Clause 4 establishes an exclusive list of items which does not include thinning, to completely remove any capacity to create a new thinning code.
- 8.4. The Committee supports amendment to the Bill so that Clause 14 is changed to require immediate termination of all existing AMPs, and to guarantee that no new Area Management Plans could be created under the VMA in the future.
- 8.5. The Committee supports amendment to the Bill so that Clause 13 is removed, preventing the reclassification of protected woodland into unprotected woodland.
- 8.6. The Committee supports changes to the fodder code to ensure that formally tying any clearing to official drought declaration, and further restrictions on volume (such as maximum of 10 hectares or 1% of the property) are adopted. The Committee supports removing ‘sustainable land use’ from the objectives of the VMA.
- 8.7. The Committee supports requiring consideration of greenhouse gas emissions in deciding development applications under the VMA.

Thank you once again for the opportunity to raise these matters. we would welcome any invitation to appear in front of the Committee or to assist your Inquiry in any other way. Should you require any further information about this submission, please do not hesitate to contact me.

Yours sincerely



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