

# Submission To the Biodiversity Legislation Review Panel

From

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Robert Anderson [REDACTED]

## Introduction

As an introduction I feel I need to explain exactly where I come from in this debate.

In 1986 I came on the Conservation radar when, after a protracted and very public argument with the then State Government, I purchased the full timber rights to a 100 hectare piece of grassy woodland from the Government to prevent them exercising a 'Profit au Pendre' over this land and cutting out all millable timber. As this area had been more or less left in this natural state since my father purchased the land in 1927, it was his desire that it remained so. Actively managed but leaving it as it always was.

In hindsight this was a very expensive and stupid decision on my part. But who was to even hazard a guess as to what followed, from August 1995 until this present day.

As I had attracted quite a bit of attention over this episode which had quite an airing in the press and on television, I was then approached to become a member of North West Total Catchment Management. It was whilst in this position I became part of a small committee of representatives from Soil Conservation, Department Of Agriculture, and UNE, working on a voluntary code for clearing, to try and rein in a very small minority that were doing the wrong thing, to the detriment of both the environment and their neighbours. This all sparked by three instances of appalling behavior. I might add that these three were not your traditional family farmers but 'quick dollar' types

However in August 1995 we were blindsided by the unheralded introduction of SEPP46. At which the whole idea became irrelevant and such well regarded agencies as the Soil Conservation Service and Total Catchment Management who provided facilitatory roles for farmers were axed, and replaced with draconian legislation. Within months there had been a mass exodus of first rate practical knowledge. Agency staff who saw themselves as friends of farmers, not heavy handed policemen. These were replaced with, largely bureaucratic types who reveled in the power.

The carrot was gone and replaced with a very large stick. Which served extremely well in getting farmers backs up. In my mind, from that day on conservation on private land has been in retreat, caused both by flawed legislation and, as with any measure of this type, no one will voluntarily do more than the basic necessity, as deemed by legislation. Also the legislation itself is so flawed in its structure it provides exactly the opposite effect to what it was designed for.

I then found myself actively campaigning to try and get a modicum of common sense in this mess, and legislation changed to help both farmers and the environment. I worked independently at first but later as a representative of the NSW Farmers Association. I was chair of their Conservation and Resource Management Committee for 4 years ending June 2003 when I resigned all positions in NSW Farmers just

before the introduction of the current Native Vegetation Act. I was also a member of the Native Vegetation Advisory Council until it was disbanded in 2003, and on the board of Greening Australia until the end of 2003. Another wasted exercise was as part of a small group including the CEO of the NCC, working on a General Exemption as a base for the, then, Regional Vegetation Committees to work with. This was settled and got as far as the final Parliamentary draft stage, where to the disgust of myself and Kathy Ridge, then CEO of NCC at two key sentences were altered. We and some of the agency participants refused to accept the doctored version. In the following few days I trod on some very powerful toes, including premier Carr and decided that my time was up. In the following three weeks The General Exemption was abandoned, The Regional Vegetation Committees disbanded, NVAC disbanded and the Native Vegetation Act and the Infamous PVP started their gestation period. As I had resigned all positions, I watched this all from the sidelines. Four years work down the tube. This also applied to all those dedicated framers on Regional Vegetation Committees. I have covered this bit in some detail to just emphasize that so much of the Native Vegetation debate has been based on politics, prejudice, and social engineering. I became quite aware of this early on when I asked one department official just what he hoped to achieve. His answer was quite blunt. "Get rid of everyone of you f---- farmers off the land". That particular character was far from a lowly office boy and his name appeared quite often until about three years ago. I had to ask the person who was with me at the time if I had heard that correctly.

In my time on the front line, more so in the earlier days, I was made aware of two suicides that could have been partly or wholly attributed to the legislation, have personally witnessed three mental collapses and one broken marriage. To my way of thinking a very hefty price to pay. That does not include the tragedy at Moree.

In 2013, I was asked to go back with NSW Farmers on their Conservation Committee because of my 'Old Knowledge'. A position I still hold. I am totally stunned by just how little has changed in those 11 years. Some of the same bureaucrats. Same intransigent attitude. Same self satisfied "We know best"

I quote all the above, not as a glorification of self but to demonstrate that I would have, what I consider to be one of the better backgrounds in Conservation and The Act. I wish you well in trying to change an entrenched culture.

#### Comments for the Review

Firstly, as this review is mainly based around the Native Vegetation Act. I should start there

The Act is a Donkey. No matter how you feed it with more and more taxpayer dollars, no matter how many bureaucrats push and shove it around, no matter how much you tend to it and tweak it, or if you change its colours or its rider, it is still a Donkey, and to go forward it must be scrapped and replaced with a horse that can run.

- . Revert back to co-operative facilitation rather than draconian Legislation. This alone got every farmer's back up, no matter whether they were personally affected or not. The number one priority is to reverse that feeling. Legislate by all means. It is necessary, but make it the type of legislation that is 'User friendly' to those that want to go about their business in a professional sustainable way. The family farmer is thinking of the next generation and keeping the farm in order for it. The current legislation either drives the family off farm for want of room to move or

sends him/her broke and the bank sends them off. These farms then become absentee possessions or corporate possessions. Neither of which give a toss about 30, 40, 50 years hence but are only interested in profit now! They have little regard for environment or conservation and will bend the rules to the maximum and flout them where they can to make that years bottom line look good. Sustainability and biodiversity are ugly words.

- Treat farmers, as a group, as guardians of the land not criminals.
- Recognize that farmers, with proper help and guidance will, in the main do the right thing. As in every industry there will be outlaws that will flout the law. But, like other industries, pick up those that you can. Some will get through the cracks. They already are. If their neighbours are treated as responsible people they will be far more inclined to get annoyed and speak up, rather than, as now, thinking 'Half his luck, if he does not get caught'.
- Recognize those farmers with a past history of conservation. Why should a farmer with a very conservatively run place be hamstrung now because he did not plow up every acre 50 years ago. Why should he not have reasonable latitude to develop more country without ridiculous offsets.
- The whole concept of 'Maintain or Improve environmental outcomes' is in itself flawed. No one can quite define what is an 'environmental outcome'. It is a very subjective phrase. Purely in the eyes of the beholder. Also it totally binds those that have undeveloped country to leaving it in that state. They are left with little choice but to slowly go bankrupt. While those that are totally cleared, some at Government decree remain untouched. Why should one section pick up the cost for the other.
- There has been no consideration given to profit. A farmer farms to make a living first, and without that initial requirement being met has nothing left over for environmental good. Surely it is better to have a farmer making a profit off, say, 85% of his land so he can afford a lesser margin off the rest and run it with some conservation objectives, rather than the alternative of having 15% of his land being highly profitable and the rest just staggering along, being neglected for want of funds or inclination and turning into a wasteland.
- There has to be recognition of changing circumstances, past and present. Landuse change has presented a totally different dynamic and still is. As an example. Until the early 1960's most country west of the Newell Highway and even to a lesser extent east was, predominately or exclusively running sheep. At numbers that would nowadays be classed as unsustainable. Before the days of European settlement and sheep, it was firestick managed by the aborigines. Both of these regimes were sudden death on regrowth timber, woody weeds etc. Added to this was the rabbit plague. Myxo cleaned up the rabbits who had dug up enough topsoil to create a seedbed. A lousy wool market, rising labour costs and union strife drove farmers out of sheep and into cattle. Cattle do not, in anyway control regrowth. So we are now left with timber and woody weeds where only open grassland existed. Read the diaries of Sturt and Cunningham. Their travels were not worried by timber. Retrace those exact paths today and a lot of their routes are densely timbered. Farmers now need the opportunity to take that country back to more like it was and:
- Change Landuse. As times change, markets change and costs change, the only available opportunity for some farmers to survive is to move into cash crop farming. This is a situation of dire need in the West of the state. Without the opportunity to cash crop farm these farmers are condemned to a slow failure. Without being able to change landuse their land is unviable and unsaleable. As I have already pointed out, it is far better to allow these farmers to make a

decent living off say 85% of their land and also have the wherewithal to properly manage the remainder than the present scenario of trying to eke out an existence with what they have and in the process degrading all their land. If anything this highlights the utter stupidity of the present inflexible system which, as a priority should be replaced by resurrecting the:

- Regional Vegetation Plans or Similar. The disbanding of the Regional Vegetation Committees was one of the more spectacular acts of stupidity in this whole sorry saga. Vying for this dishonor would be the introducing of the Property Vegetation Planner. A computer based planner designed by bureaucrats without any idea of 'on the ground' circumstances. It is paramount that this system is scrapped and local decisions are made by local people on a regional landscape basis. Local people have to live with their decisions and be able to justify them within the local community. There were millions of dollars spent getting Regional Vegetation plans up to the stage that they were. Some were very close to completion, and mainly waiting for a general exemption to be put in place as a baseline from which to kick in. These committees had a lot of teething troubles as they were appointed by the Government. The appointees were what the Government classed as Stakeholders, and others to do the Governments bidding, and the farming community, whose futures were at stake had very little or no input, Any decisions had to be by consensus, which was never going to happen . However, as time moved on the irrational were replaced by rational and progress was being made. The scrapping of these plans was purely political and done to appease the city based bureaucrats who could see an end to their easy money and the green groups who could see their power shrinking. It had nothing to do with achieving good outcomes. Which leads onto next point:
- Stakeholders. So much of this Act has been designed around pleasing all 'Stakeholders'. To my mind and a lot of others a stakeholder is, as defined in the dictionary "A person who has a monetary interest in"(Definition varies with dictionaries but all mention monetary interest). We keep getting lumped with all these imposters at the wishes of the 'Stakeholders" These people are NOT stakeholders. The only stakeholders in this fiasco are the farmers. It is their money and their livelihoods at stake, no one else's. It seems as though every Govt department and every disparate group is classed as a 'stakeholder' . This needs to be rectified. No monetary input, no stake. If a farmers has used Landcare or CMA money, yes they are some sort of stakeholder in any decision that will affect that investment.
- The three Codes, not yet released are not much more than a waste of paper and will get very little if any uptake. They look to be more designed to butter up politicians than to work or improve a farmer's lot. This comes back to the fact that you cannot make a horse out of a donkey.
- Grasslands should be left to those who manage them best, Trying to draw up management plans for such a diverse issue, is just another example of bureaucracy controlling something it knows nothing about. The negative impact on good grasslands by the NVAct, not only has caused huge production issues with those involved but has also done, what is fast becoming, irreparable harm to the purity of native grasslands and the whole biodiversity dependent on them. Once again these lands have survived because of previous management, not in spite of, and to now bring in dubious management plans drawn up in a city office with no long term background has done an effective job of wrecking this country. Or should I rephrase that as not being able to effectively manage because of constrictions of the Act.

- Offsets are totally unrealistic. In the unlikely event that a farmer applies for and gets approval to remove scattered trees or clear some country, the offsets required are so ridiculously out of proportion to the work required to be done that in most cases, unless there are other factors in play, applications are then cast in the bin. Most farmers I know that have even considered putting in an application, do not even bother when they look at the offsets required. One only has to look at the proposed Code for removing scattered trees in cultivations.
- LLS and NVAct is in its current form incompatible. This was an issue that always had the potential to be a bad mix and, unfortunately, is proving to be just that. As it has now been done it is very hard to unscramble an egg but a good starting point is to make LLS as facilitators only, Not as compliance officers or as consent authorities. There is far too much history and friction to overcome for this to work out properly. Also a disproportionate number of ex CMA officers are now part of the new LLS and viewed by farmers as 'The Enemy' A lot of this came about, whether by design or chance, was because of the employment criteria which was clearly tilted towards those of environmental persuasion. This is not just hearsay as I actually saw a job qualification description for a 'ranger'. The bigger concern is there are a significant number of farmers out there who have had, or have heard of, bad experiences with Native Vegetation and those that ran it and because of the tie up have now branded LLS with that brush and will not voluntarily have anyone associated with LLS on their land. I have been quite surprised by some of the farmers who have expressed this feeling. The ramifications of this are immense. In the case of disease outbreaks in stock or disease or suspect weed outbreaks on land, if farmers are not going to use a Government vet or agronomist and reluctant to pay private operators, we could end up with problems out of control before measures are taken. Even then it could become an issue without 100% co-operation
- If the community at large desires farmer's to carry out conservation measures for the "Community Good", (And from various surveys this is not really the case) then the community at large should be the ones that to pay for this privilege. The farmer should not have to be the one to pick up the tab for others expectations. This is something the Government should be very forthright about. Even to the extent of having a fund that those that bleat pay into the fund to realize their expectations. I am sure you would then find that those that make the most noise would not contribute enough to buy a treeguard.
- At present the 'Threatened Species' legislation is being used as a sweeper to catch anything that the Native Vegetation Act has missed when it comes to preventing clearing. Badly thought out and even worse in administration. The so called "Precautionary Principle" has been stretched to the Nth degree. One also wonders about how threatened some species are, when they are over the whole state. When SEPP46 came in with the attached TS legislation as the sweeper, there was a very common saying in the bush "Shoot, Shovel, and Shut up". Not only was it a common saying, it was enacted on, on more than one occasion. I have talked to practical scientists who have discovered, by chance, threatened species on a farm when doing other work and have told the person who owns the land but have otherwise kept the discovery very 'in house' and quiet and suggest the farmer do the same. Their reasoning is very simple. These species have survived because of current management regimes, not in spite of. Interference by 'experts', locking country up etc, is a recipe for disaster. One only has to look at the listed threatened and vulnerable species for the North West Slopes and Plains to really wonder about how some of this stuff gets on the lists. Such things as Bluegrass and Redgrass, which in some areas are the

predominant species. It has been frequently said to me, and I am inclined to agree, that listing stuff like this is more or less deliberately done to act as a sweeper to stop any application getting over the line.

- Native Versus Exotic species. This has been taken to ridiculous heights. In the proposed codes it is mandatory to replant with native species. Anyone who has tried replanting with perennial native grass knows just how hard this is. Establishment is very hard and spasmodic. Meanwhile all the weeds and fast establishing imported annuals suck out all available moisture. Exotic grasses, due to their more robust seedling vigour establish well. They will outcompete most weeds, are more chemical tolerant in early stages when broadleaf weeds can be a problem. They can be well established, in the right conditions, in a season. Having good groundcover fast is essential to stop water runoff and erosion. Once erosion starts it is very hard to control. Over time natives will emerge through the exotics.

Some personal examples of how the Act does not work.

Most paddocks on this property have timberlines up one or two edges of the farmed paddocks. These timberlines are mainly old Brigalow. This Brigalow is reaching the end of its life and dying out. A botanist friend of my fathers suggested we try dozing and ripping a section to encourage regrowth. This was an outstanding success. While waiting to ascertain the result, clearing laws came into being. I applied to do the same with other strips and could not get permission. UNE botany dept which were involved in this also applied as a trial site. Also rejected. A big proportion of the old trees are now dead and I think the timber lines beyond resuscitation. Sad but true.

2004 through 2007 CSIRO Sustainable Eco-systems –CSE-(who I have done quite a bit of work with in previous years) did a whole of farm project on this property. This was quite a large project involving 11 different scientists and a budget of over \$200,000. The objectives of the project, done here and in QLD was to work out a system of tradeoffs of environment and farming that would increase productivity and environmental outcomes and use it as a template for a computer program. Ours was not the ideal place as we were more or less in balance, however they did come up with some changes. Sacrificing some environment to improve production and some farming country to help connect environment. This was an extremely balanced study however when it came to implementing it, needless to say the PVP planner gave it the red light. When they tried to negotiate, the powers that be were quite happy to allow the environmental gains but outright rejected the productivity gains. That was the finish of that project. I think that very well sums up the attitude of those that administer the Act. The only positive was that this was presented at a seminar in Tasmania attended by overseas and Australian scientists and was shown as an example of bureaucracy gone mad and the negative impacts it has on conservation.

During this exercise the issue of scattered trees in cultivations came up. CSE view was that other than shade and aesthetic value they were of no real benefit. They classed them as dinosaurs and desert islands. Dinosaurs as they will eventually, because of exposure fire and chemical drift die, and desert islands because, like a desert island, in isolation have little feed value. Their only value was as a stopover for flying fauna but owing to our smaller areas even that was of no value. When I mentioned this to OEH in a meeting earlier this year was ‘Their scientists are not any good.’ This was an insult expressed by people whose so called scientists have probably never left Sydney belittling

CSE folk who spent weeks studying every square meter of this place. Eleven scientists in the core group plus numerous others. This just typifies the attitude of OEH.

It was also this team which identified what are listed as threatened species on this place. Some of which, according to material are non existent in this area. Not so much non existent as not looked for.

Another issue pointed out in this program. Because I have not been able to manage the understory in my expensive piece of scrubland, regrowth and woody weeds have choked out most of the grass. This has led to some follow on issues. One I was aware of was the erosion we are now getting from water running out of the scrub and scouring farmland. There is no grass to hold it back. This highlighted by an earth tank which relied on catchment out of the timber. What was once just adequate catchment for sheep is now such a catch we have had to put in a bypass. Also we once cleaned the silt take about every 15 years, now an annual event. The other issue pointed out was that they identified more bird species in our garden (78) than in the scrub (26). Their reasoning was the ecosystem out of balance now. Lack of grass and forbs at the bottom of the chain. Aside from the conservation angle, because that scrub is only penetrable on foot, while 30 years ago it could be easily accessed in a vehicle, it is now a haven for foxes, pigs, rabbits, tree pear and plenty of other rubbish. This problem started when we reduced our sheep numbers in the late 70's and then not quite game to clean out the understory when it started to become a problem. We did apply for permission in about 2000 but were rejected.

Exotic and Native grass issues. We are rotational farmers and have always been looking at pasture rotation. Mainly Lucerne but wanting some grass country as well. Between 1985 and 1992 in conjunction with CSIRO NSW Agriculture and QLD DPI we ran a series of grass trials. These were properly monitored, replicated trials with all attendant data gathering. They consisted of a wide range of native and exotic grasses on three different soil types. There were numerous field days run on these sites. In every instance the native grasses were a failure. They had weed incursion problems, low to no germination, and were eventually swamped by the neighbouring exotic grasses. Some of the native species did have a poor showing in later years. But not to commercial extent. This is why I am opposed to this rubbish of reseeding with perennial native species. In 1986 we planted an area to a mixture of exotics as a long term rotation. This was to be annually monitored to see how long it took for native species to recolonize at their own terms. By 1996 the paddock was rated as having well over half native grasses which were recolonizing at an exponential rate, after the first 6 years. Unfortunately the aim to see how long it took to get to 80% was abandoned as I was panicked about the, then, ten year rule (Anything that had not been touched for ten years was deemed native and could not be farmed) so paddock was ploughed up again. This is just another example of bureaucracy gone mad and blinkered thinking.

In 1996 I was amongst a working group that did a lot of work on sustainable grasslands and to what extent they could be modified etc. This work, once again with a lot of input from UNE came to various conclusions. The main one being a well managed grassland of 15% of a farm was of greater benefit as an ecosystem than a badly managed 85%. This work was all trashed when SEPP46 was replaced, but I am sure it is still available as a sound basis for the present grassland issues. Once again s chosen to be ignored by OEH as does not fit in with their agendas.

Final Comment

Doing the figures on removing single trees in cultivations. Economic loss from a tree. Area of influence of root system equals a diameter of 6 times height. 10 meter tree severely affects yield for 60 meter diameter. Which equates to approx. 1/15 of a hectare. Wheat yield average 3,5 tonnes/hectare at \$260 tonne on farm 15<sup>th</sup> of \$250 equals \$17 per annum. Spraying around tree for weeds 4 times a year. Chemical and labour comes to about \$6 per time = \$24 Total of \$41 per year.

If I was to remove that tree, being reasonably well timbered, I would 'only' have to plant 20 as an offset. Lightly timbered it would be 30

1 tree \$6 .Labour to dig hole put tree in and erect guard. \$15. Material for guard. Mesh \$32, 3steel posts 3x7.40 \$22.20. Labour watering until established \$10. A total of \$ 85 per tree. Multiply that by 20 trees. \$1700 it would cost for a benefit of \$41. The net gain would pay half the interest on the capital outlay without repaying capital. That does not include some attrition in new trees or space taken up. The calculations for fencing in rather than guards is only slightly cheaper but is offset by having to manage land within the fenced area and loss of use of that land.

The people that try and lump us with this sort of stuff must think we are as big as idiots as they are