

## MEMO

**FROM:** Angus Atkinson  
**DATE:** 1 September 2014

**TO:** Independent Biodiversity Legislation Review Panel  
**RE:** Biodiversity Legislation Review

Thank you for allowing me to provide my opinion regarding the NSW Biodiversity legislation. My comments are principally focussed on the Native Vegetation and Threatened Species Conservation Act.

I am a mixed farmer from Central West NSW. The Native Vegetation (NV Act) and Threatened Species Conservation Act (TSC Act) have directly impacted my families grazing operation. The NV and TSC Acts have prevented many farmers from remaining sustainable. I have been involved with native vegetation legislation for many years. It is extremely frustrating that politicians and bureaucrats in the past have not listened and responded to the people that have been so adversely affected by the Biodiversity legislation. The State Government has spent hundreds of millions of dollars enforcing this ideologically driven legislation. The basis of the legislation is that native vegetation is good and all other vegetation is bad. This is completely ridiculous. It is hard to understand why any natural resource management (NRM) legislation would not take a holistic approach to conservation instead of focussing all its attention on one (1) issue, is it native or not. Instead of looking at a plants recent history, the legislation should consider the long term sustainability. The NV Act and the TSC Act are an extremely blunt instrument that the Government is trying to use to conserve some "utopia" or Nirvana. Instead Government should consider regional plans and allow landholder to improve their property using the best available science. The current system forces farmers that have native vegetation into certain management, no matter how good a job they are doing to remain sustainable. While other areas that have very little native vegetation can continue as always.

The NV and TSC Acts are an enormous impost on farmers that generally have limited resources to try and operate in.

Instead of working with farmers, the current legislation penalises landholders that have significant areas of native vegetation. The NSW Government has allowed coal miners and property developers to clear the last of some endangered ecological community but has prosecuted farmers for clearing single trees.

It is absolutely essential that before finalising their report the panel should:

- 1: Engage a suitable contractor to perform a comprehensive analysis of the cost of the current and future biodiversity legislation including the cost to Government of employing and resourcing city based bureaucrats to draw up and enforce the various biodiversity and various off-set programs such as the \$71 million White Box-Yellow Box-Blakely's Red Gum Grassy Woodland stewardship program;

- 2: Engage a suitable contractor (Dr Ken Thompson University of Sheffield) to perform a comprehensive analysis on the rationale that forms the basis of the biodiversity Acts (native is good and the rest are bad);
- 3: The new legislation should consider the triple bottom line, the environment and the socio-economic balance impacts.
- 4: The new legislation should recognise and reward farmers valuable contribution to biodiversity management.

## SPECIFIC COMMENTS ON ISSUES LISTED IN ISSUES PAPER

### THEME 1

Pg	No.	Issue	Response
4	1	<i>Should there be an aspirational goal for biodiversity conservation?</i>	<p>Yes and No: NO: There is no point writing new objectives if the bureaucrats aren't going to use them when they develop regulations etc. The current NV Act includes objectives that most farmers would agree to but the Government and the bureaucrats completely ignore many of the fundamentals listed in the objective.</p> <p>YES: The aspirational goal needs to be holistic statement that reflects the need to include people in conservation not by excluding them.</p> <p>It also must reflect the need to consider the triple bottom line.</p>
4	2	<i>Given available evidence about the value and state of the environment, are the existing legislative objects still valid? Do the current objects align with international and national frameworks, agreements, laws, obligations? If not, what objects are required?</i>	<p>Regarding the NV Act, unfortunately the current administration of the Act does not reflect many of the objectives of the Act. For example the NV Act should promote the management of native vegetation on a regional basis in the social, economic and environmental interest of the state. The administration of the NV Act does not consider the social nor economic interest of the state. It only considers the environment and completely ignores the other elements.</p> <p>The NV Act does not promote regional</p>

Pg	No.	Issue	Response
			management, it is completely city centric.
4	3	<i>To what extent are the current objects being met?</i>	Given that the State Government does not effectively use the current NV Act objectives, it is impossible to say. It is essential that any review of the biodiversity legislation include a cost/benefit analysis of the legislation. I have never seen a detailed breakdown of the cost of the legislation. However I did see a regulatory impact statement that estimated the cost at between \$25/30 million per year. I am convinced that if the legislation was simplified and that a greater focus was on individuals that are doing the right thing for the environment, the outcomes would be significantly better.
4	4	<i>Could the objects of the current laws be simplified and integrated? If so, how?</i>	YES

## THEME 2

Pg	No.	Issue	Response
5	1	<i>Is the current system effective in encouraging landowners to generate public benefits from their land and rewarding them as environmental stewards? Or are current mechanisms too focused on requiring private landowners to protect ecosystem services and biodiversity at their own cost?</i>	This is a ridiculous question. Landholders are not being encouraged to generate public benefits, they are being forced to provide supposed public benefits and not being rewarded nor acknowledged. The vast majority of the cost of the NV Act is being paid for by landholders that have excessive native vegetation on their properties and simply wish to improve their properties long term sustainability. Unlike my Government employees, farmers need to consider the triple bottom line in all of their NRM decisions. They understand that an unprofitable farm cannot afford to perform the NRM projects to improve the natural environment. An example of this is weed control, if a landholder is unprofitable they will not perform effective weed control

Pg	No.	Issue	Response
			<p>because they cannot afford it.</p> <p>The current mechanisms are far too focused on requiring private landholder to protect ecosystem services at their own costs. This is another example of the attitude farmers have to deal with. Many environmentalists cannot accept the fact that many farmers are improving their natural environment not destroying. There is no real acceptance that modern farming practices have significantly improved the long term sustainability of farming. This is clearly evident as farmers are continuing to improve the productivity.</p>
5	2	<p><i>Are there elements of the current system for private land conservation that raise impediments (for example, the binding nature of agreements and potential loss of production) for individuals who want to manage their land for conservation? If so what are they? What incentives might be effective, efficient and equitable in promoting biodiversity conservation on private land?</i></p>	
6	3	<p><i>What should be the role of organisations and bodies, such as the Nature Conservation Trust, in facilitating and managing private land conservation through mechanisms such as conservation and biobanking agreements?</i></p>	<p>I am not convinced of the benefits of various organisations setting up and running their own “stewardship” programs. In the past this has resulted in duplication, lack of strategic approach and a lack of transparency. These schemes can be extremely expensive and have dubious outcomes. I am aware of a “stewardship program” that is currently operating in NSW. It costs on average \$202/ha/annum<sup>1</sup> and only involves 26,000 hectares and costs over \$70 million. It was heralded as a great example of how to operate stewardship programs but even a basic review of the report on the program reveals that it is overpriced, does not deliver the outcomes that were expected and has been a</p>

<b>Pg</b>	<b>No.</b>	<b>Issue</b>	<b>Response</b>
			disaster for the local economy.
6	4	<i>How should the government determine priorities for its investment in biodiversity conservation while enabling and encouraging others (e.g. community groups) to contribute to their own biodiversity conservation priorities?</i>	It is essential that the government leave these decision to local NRM organisations such as the LLS.
6	5	<i>How can the effectiveness of conservation programs be monitored and evaluated?</i>	Monitoring and evaluation is an essential part of any project. It would appear that this has been overlooked in the past. The first stage must be an evaluation of existing biodiversity conservation funding including National Parks/stewardship programs etc.
	6	<i>How should any tradeoffs be assessed?</i>	Tradeoffs must be assessed to determine the real value of them.
6	7	<i>To what extent is the system forward looking or dealing with legacy impacts?</i>	
6	8	<i>To what extent does current practice (rather than the legislation) determine outcomes?</i>	There is no doubt that current practice has the greatest influence on determining the environmental outcomes.

### THEME 3

<b>Pg</b>	<b>No.</b>	<b>Issue</b>	<b>Response</b>
7	1	<i>How effective are current arrangements at ensuring biodiversity values are identified early and properly considered in strategic planning systems? How can they be improved?</i>	<b>N/C</b>
7	2	<i>How effective are current arrangements for delivering strategic outcomes for biodiversity and enhancing ecosystem services? How can they be improved?</i>	<b>N/C</b>
7	3	<i>How should the effectiveness of strategic planning approaches be monitored and evaluated?</i>	<b>N/C</b>

### THEME 4

<b>Pg</b>	<b>No.</b>	<b>Issue</b>	<b>Response</b>
9	1	<i>To what extent has the current framework created inconsistent</i>	<b>N/C</b>

Pg	No.	Issue	Response
		<i>assessment processes, environmental standards, offset practices and duplicative rules? What can be done to harmonise processes?</i>	
9	2	<i>Can we have a single, integrated approach to the approval of all forms of development, including agricultural development, that is proportionate to the risks involved? If yes, should one methodology (or a harmonised methodology) be used to assess all impacts? Does a need remain for some differences in assessment approaches?</i>	<p><b>NO:</b> Approval should be based on a regional basis and therefore cannot be a single integrated approach.</p> <p>There definitely needs to be differences in assessment approaches. For example how could you use the same approach for a development in a white box community in southern NSW compared to northern NSW.</p>
9	3	<p><i>a: What are the advantages and disadvantages of the different biodiversity assessment methodologies?</i></p> <p><i>b: Are the rules transparent and consistent? Is the way data is used to underpin decisions transparent?</i></p> <p><i>c: Do the assessment methodologies appropriately accommodate social and economic values?</i></p>	<p>a: N/C</p> <p>b: No</p> <p>c: The current methodologies for the NV and the TSC Acts do not consider the social nor economic values of a proposal unless you're a coal miner or property developer in western Sydney</p>
9	4	<i>Does the regulatory system adequately protect listed threatened species, populations and ecological communities? Is there utility in specifically protecting these entities through the regulatory system?</i>	N/C
9	5	<i>Are there other models (international or Australian) that regulate activities impacting on biodiversity that may be relevant to NSW?</i>	N/C
9	6	<i>To what extent has the current regulatory system resulted in lost development opportunities and/or prevented innovative land management practices?</i>	<i>The NV and TSC Act have resulted in lost property development. Examples of this are the retention of native grasses that are unproductive and cause serious animal welfare issues.</i>

Pg	No.	Issue	Response
			<p><i>As a direct result of the philosophy that all exotic are bad and modern farming practices exploit the environments farmers have been prevented from planting legume based pastures that have significantly higher water use efficiency. This has resulted in reduced pasture production and a decline in profitability. Other examples of perverse outcomes include:</i></p> <p><i>1: Premature clearing of re-growth: A farmer is allowed to kill 100% of seedling but not allowed to develop a proportion of their property.</i></p> <p><i>2: Reduced pasture phase: Farmers are now forced to farm a paddock every 8 years to ensure it doesn't become native and therefore affected by the NV Act</i></p> <p><i>3: Reduced profitability reduces a farmers ability to manage their weeds and pests</i></p> <p><i>4: Many farmers no longer trust government officials and will not interact with organisations such as LSS because they fear being dobbed in and persecuted. In the past organisations such as Soil Conservation Service were seen as the farmers friend improving the environment and benefitting the entire community.</i></p>
9	7	<p><i>Some impacts cannot be offset. What are they? Are these appropriately addressed in approval systems? What is the relevance of social and economic benefits of projects in considering these impacts?</i></p>	<p><i>I do not believe this statement, even an open cut coal mine that completely destroys an endangered ecological community can offset its impacts. This can be achieved be looking at the issue in a mature and non-fundamentalist attitude. Nature is always changing but under the NV and TSC Acts the NSW Government does not want to accept the fact that things change. If a coal mine destroys</i></p>

<b>Pg</b>	<b>No.</b>	<b>Issue</b>	<b>Response</b>
			<i>1,000 hectares of woodland, improved management on 10,000 will more than make up for the loss caused by the mine.</i>
<b>9</b>	<b>8</b>	<i>How can offsets be more strategically located?</i>	<i>By being assessed at a regional level</i>
<b>9</b>	<b>9</b>	<i>Are there areas currently regulated that would be better left to self-regulatory codes of practice or accreditation schemes?</i>	<i>YES: Farms</i>

#### REFERENCE

1: Marsden Jacob Associates (2010) "Review of the Environmental Stewardship Program" pg 47