

Department of Water & Environment Regulations

Having your say

Draft Native Vegetation Policy for WA

To whom it may concern, a farmers perception

Farmer have seem to have lost there

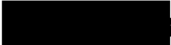
- Land rights
- Water rights
- Mineral right
- Private property rights

Q: Why?

Q: Why aren't these being upheld?

Under the constitution of Freehold Title it gives an owner a bundle of rights.

- Even the king on England cannot enter his humble abode
- 14. An owner owns below the ground, on top of the ground including rocks, soil, and vegetation.
- Water taken away from farmers – i.e. meters on soaks
- Land taken away from farmers – i.e. told not allowed to use it – effectively stealing it at no compensation.
- All so called creeks, wetlands and such, two people on a map recorded and taken from farmers no compensation – now we have public, like in Victoria camping on farmers private land.
- Q: If really dinkum about carbon credits – unfair on the farmer who originally left bush on their farms – can only claim if planted bush – unfair.
- Landowners being prosecuted, called a criminal, for doing what they have done their lives. Taken to court and if trying to fight it by pleading not guilty end up losing their livelihoods, their health and bankrupted like Peter Swift and Peter Spencer because , fighting a government with ending money purse that keeps appealing a court's decision until they go broke. While the majority have to plead guilty because they can't afford all the legal fees and the time, and all the unnecessary stress. Why should they be penalised and at farmers cost for the public good.

Why should  be penalised carrying out what he has been doing in a responsible and ecofriendly manner for 45+ years? His original property was 1798ha of bush, no power and a blank canvas. He chose during that period to leave, from the onset over 300ha of that land as shelter belts, block of bush, creek lines when he could have cleared fence to fence like most around him. During

that time he had no wind erosion, or salt by strategically leaving areas of bush. He left approx. 40ha of four different types of habitat, he fenced it at his cost next to his house and sheds. He must have been doing something right from those 45+ years to now because that whole property was totally burnt out the year, prior to him purchasing it. Yet how he treated that land, developed it, and loved it, how come 45+ years later his paddocks don't blow, salt was not a problem, run off water caught by own dams, organic levels were above most surrounding farms because of farming practices, his natural microbic, fungus and other soil elements were good because he didn't like using insecticides and fungicides as recommended by Dept. of Ag at the time. It is interesting to note he lived in harmony with nature and was trying to do the right thing, and leave it a better place for his future generations. He has four wild bird species that nested in his sheds. He had logs and nest boxes up trees, specific size entrances for wildlife like Mulga, Elegant, Parrots, and Owllet night jars used to nest in them. He had all kinds of mixed bird life five species of swallows, three species of robins, wrens, trillers, whistlers, honeys eaters, king fishes, Mallee fowl, parrots, there were more birds there than most public reserves because he tried to keep cats and foxes at bay. He must have been doing something right during those 45 years because he had echidnas, mountain devils, lizards, kangaroo mice, dunnarts, pigmy possums, and the like all living harmoniously with Trevor's farming practices. He and 95% of farmers love their land, look after their land. But he's been called a criminal, had stress and financial loss over the last four years of prosecution and a big fine for doing something that has been an ongoing long term plan to fully develop his land, in a time frame, to as not to go eventually broke and leave an industry of feeding a hungry world with food, in a sustainable way.

In his lifetime he has seen 2/3 to ¾ of farming families leave their properties in WA and Australia. In WA we had approx. 500 plus dairy farmers, it is less than 100 today. WA used to supply all our eggs, now can only supply 20% of our market. Fruit and vegetables growers numbers have diminished approx. the same amount. Most of the young people not continued back into those industries, this then affects towns, schools, hospital's, businesses etc.

In the last 50 plus years all governments and BOS numbers have just stood back and let this happen. We are very fortunate living in Australia, most haven't had a food famine in the past, Like Europe etc. Farmers export in Australia approx. 80% of what we grow. But why don't governments take to W.T.O when deregulation came in USA, England and Europe still subsidise to grow crops. So Australian farmers are really subsidising everyone who buys our grain to the tune of \$120/-130 tonne as stated in farm papers a few years ago.

No one seems to listen to farmers and realise they love and look after their land in a sustainable way. These old and new vegetation laws are a violation of farmers property rights. In this new policy I have read nothing about private property rights or farmers rights.

The policy states "regional prosperity, aboriginal wellbeing and strong economy". As stated last 50+ years, most of farms have gone, I did not read about a farmers wellbeing. Fortunately in Australia we have a big country, so mining will last longer than a smaller country. One day it will end, it is a finite resource, it might be a strong economy now. If we don't look after farmers, you can't eat paving bricks.

Farmers do try and conserve, restore and look after their bush, but needs a common sense balance. Most of the outer eastern farming fringes haven't finished a lot of their developing. Why should they be penalised for public enjoyment? I have seen a housing development in the city, 1.6k/sq, 3 banksia trees left, they disappeared when all the housing went up.

Farmers are fed up with all the pen and paper shuffling brigade force upon them, on their time which they don't have. Quoting policy "Within agencies regulating land management, land planning and funding functions, developing and implementing policies, plan and programs, projects, process and systems, agencies will identify and progress reforms". This will be a bureaucratic nightmare, then the rest of the 4 points, more worried about mitigation process than the farmer's freehold property rights in upholding the constitution.

Farmers are insulted by not being acknowledged on their ownership and care of their land that bureaucrats and government bodies have to tell them what to do. To me, you are alienating farmers not working together with them. There is a lot of smooth talking in this policy, makes it sound good, but the underlying message farmers don't know what they are doing.

It was mentioned in the content "feed livestock". I was banned from grazing my stock on land that had been previously stocked. I have previously stated a farmer has been ecologically sustainable, yet he has been called a criminal. Q: Is this fostering co-operation?

I don't see the policy supporting farmers, they are hardly mentioned.

On table 1 landholders referring to farmers they are not holders "they are owners" of their land.

Q: How can under water and regulation now, a farmer, 84 years old, helped his father dig a soak on his freehold property when a kid. He owns above the ground and below the ground so his title says, yet the Department of Water installed a meter and are now charging him for his water?

Q: Road safety and Farmer Protection around Government Reserves. Kangaroos breed-up, bend cars and cause accidents. Not long ago living next to 4000ac government reserve had 100ha of crop knocked over and eaten by kangaroos and emus = economic cost \$25k+. Farmers go half each on neighbouring fences yet next to government reserves farmers full cost of this fence.

Most farmers know their bush is vital for live on earth and is worth looking after like they do, like me, for future generations. I worry what you call "ecosystem services" is this more government medalling??? Mentioned in Value 1.

As per values 1 – Bush "sustains community health and wellbeing and provides a unique sense of place". Of course farmers agree, but why at farmers expense, the ones forced to leave unfinished country, which then makes them less viable at their expense, for public benefit.

I read nothing under "values" about farmers sustainable, management and use of the bush. I for one probably wouldn't be farming if no bush on farm, I love my land, my bush and birds and animals on it because 45+ years ago I choose to develop my land in a sustainable way and still am today. But at the same time had had progress and common sense approach. It is no good saving all trees than farmers and loggers go broke because densely populated cities packed full of house with a higher carbon footprint per person compared to my farm that is carbon positive. If the government really dinkum they would recognise bush that farmers have chosen to leave as a carbon credit, not just on planted trees. When farmers sell their land, at the moment they are only paid for arable land, so someone like me that has chosen to leave a lot of bush loses money big time.

14 – Not all of WA bush condition and extend is declining, mine certainly isn't, all the forest east of the coastal plain looks as good as 50 years ago. Fire to keep fuel loads down and rejuvenate the country with control burns.

The policy talks about "coordinated management across all landowners, supporting connectivity and maintenance of eco system function strategic coordination and stewardship across sectors"

"Intensive and extensive land use zones. You will only get coordination by not rubbing farmers the wrong way as it has been happening. Farmers are not like bureaucrats that get paid forms and the like. Overtime a farmer stops, nothing else happens, he is regulated, fills out enough paperwork already. I think State Government needs to be very careful by making new legislations that go against the constitution and a landholders freehold bundle of rights. It might come back to bite you. I seem to read a lot about "traditional owners and having rights and responsibility to speak for country". I have read nothing about farmers who own freehold titles of most of the intensive and Wheatbelt land use zones, rights to speak for farmers ownership of land. A 30 day submission period, that's hardly been advertised, most farmers wouldn't have even known about it in their busy lives.

I can see from this policy, a legal and bureaucratic nightmare of regulations coming up if enacted from the intensive land zone, mitigation hierarchy, nature vegetation, policy settings, regionally tailored objectives and priorities, restore.

Power is going to their department heads, and there will be no common sense like in the case with Main Roads. An office girl gave the driver paperwork who transports oversize weights width and height mining gear, the owner runs 5 impeccable trucking rigs. Main Road pulled up the driver and couldn't fold the truck or anything, then looks at the permit, and it's the wrong paper for that load. The office girl gave the wrong reg on truck. It was sorted by the driver within 5 minutes with a phone call. But it still wasn't good enough for Main Roads and pins him for over width height and weight. He ends up with a \$100,000.00 fine. No common sense. This truck operates on the road 7 days a week, he will probably go broke now.

There is no common sense anymore, all the government fines are so outlandish! Legislators are out of touch with the reality and the real world, farmers are not like the government departments that have new vehicles and gear every second year. They cannot afford it. Farmers want to be able to get rid of dead trees that are a hazard, not to be forced to establish or restore areas, it could send farmers broke, for the sake of the common good, the bureaucrats don't seem to care.

Farmers are stressed enough already just keeping up with the things now. Not more headaches and red tape. Academics are getting really good at telling farmers how to run their farms and what they can do on it.

We are the ones out in the heat, cold, flies at all hours getting our hands dirty. I have had to work 12 hours days all my life and ever longer during the busy times, just to survive and develop my farm.

I noticed on the roadmap, no farmers are going to have any input, this seems strange when farmers are the owners of most of the area on the map.

I am a first generation farmer, and spend my entire life developing my land to produce food for Australia and the world. As a farmer I love my land and try to live in harmony with nature, to leave it in a better health for the next generation.

Because of the prosecution for alleged unlawful clearing, I spend copious amount of time that I did not have, researching my constitutional rights as they relate to my land. I feel that the state is trying to legislate away and change my basic rights under my freehold title.

I have always had a high regard for our courts and judges, and understand that the courts are there to protect the people from the parliament. This is why our fore fathers marked the judiciary independent.

"If people fear the government there is anarchy,  
If government fears the people there is peace"

With what has happened to me and other farmers it seems that the government is using our tax payer money to destroy us with repetitive litigation. What the government is doing is ultra vires.

I had to plead guilty because I didn't have finances to fight that I was not guilty. As stated earlier, DWER seem to keep appealing their decision till you go broke.

I would like to have these questions answered in a satisfactory way, because they have a very direct bearing to these vegetation legislative laws:

Q: Why can the state government stop a farmer from using his land and take his land without compensation?

Q: Is it no contrary to the constitution to place a vegetation conservation notice on my land which stops me from being able to use it?

I acquired the title to my land by way of a conditional purchase lease that required me to clear the land for farming purposes. I did this, but also chose, as stated earlier, to leave bush land, creek lines strips around paddocks, clumps pf habitat so different species could live in them when I could have cleared the lot.

Q: My question is, how did the clearing of native vegetation laws come into being and what commonwealth jurisdiction is there to tell the states to make the law?

In my investigation I read the commonwealth told the State Government – you make the legislation, then neither of us has to pay compensation.

In my investigation I also read when Peter Spencer from NSW was trying to fight the courts by himself, that the State Government told farming bodies if you support him we will withdraw your funding. His health has gone and he went bankrupt and lost his land. Q: Is this fair? I also read when Peter went to the Higher Court, the judge told him, if he would allow this it would send Australia broke to pay all the farmers out. I would have thought to uphold the constitutional property rights of farmers, the judge should have told the State Government to change the legislation or all the farmers whose land had been taken would have to be paid out by the Government.

8.17 WindayerJ referred to:

"The elementary principle of the common law that a freeholder for an estate of inheritance is entitled to take from his land anything that is his. Except for those minerals which belong to the crown, THE SOIL AND EVERYTHING NATURALLY CONTAINED THEREIN IS HIS." (22)

As a farmer I would class everything under the ground depending on what the titles says is his depth 14 meters or similar, everything on top of the ground, soil, rocks, vegetation, trees, water are the farmers.

8.12 " Also the first is that the property rights of a landowner are not just a unitary estate or interest in land, but a bundle of rights which includes the rights to use and enjoy the land, to dispose of or alienate it, and to exclude others from it" (dispose of = clear)

"The second proposition is premised on the idea of property as 'an ad hoc collection of rights in resources. It holds that any regulation which curtails one or more of the rights in the owners bundle is a prima face 'taking' ('conceptual severance')..."

"The third proposition is that compensation must be paid whenever a disproportionate burden has been unfairly imposed on some citizen for the benefit for the public as a whole" ('distributional fairness' ... (16)

I don't think governments are upholding the constitution when reading Section 100 109 'when a law of a state is inconsistent with a law of commonwealth, the latter shall prevail and the former shall to the extent of the inconsistency be invalid.'

Also quote "There are some basic propositions of constitutional which are beyond controversy. The words of the constitution are to be read in that natural sense they bore in the circumstance of their enactment by the imperial parliament in 1900. That meaning remains, beyond the reach of any Australian Parliament."

I cannot understand how any rational thinking person could come up with anything different, all farmers land, soil, water, rocks, vegetation, trees or whatever is growing in or on his land is hi, to do whatever he deems fit, to remove, graze, grow crops or whatever. That is his right.

Unhelpful rules will not produce the food on our tables.

Farmers know best in matters of the land. We are private farmers who decide how to develop privately held land, in our own time and as our finances permit. It is not government land, it is not the publics land, the greenies land, or wilderness society's land. What right or business has the above groups in telling farmers what they can and cannot do on farmers private land.

To me a lot of this is about control.

Farmers know to care for the environment and know the future is all about sustainability. We don't want or need government intervention. It is time the government got out of the way and left us farmers do what only we can do best – produce high value food, fibre and grain while being responsible custodians of our land for the next generation of Australian farmers.

The original constitutional act of the British parliament remains in place to this day. Politicians and judges to me have not upheld its true status. The constitution is meant to be the foundation for creating all the laws that govern our lives and for that reason alone, is a crucially important document. All Australians are created equal under the rule of law. That we are endowed with certain inalienable rights, these include the right to live, liberty and the pursuit of happiness and it is the parliamentary responsibility to guarantee that these rights are sustained.

Property rights are essential to freedom, justice, peace and prosperity. They are basic rights. So despite common law and constitutional protections, our property rights increasingly being eroded and not being upheld.

Owner property rights in Australia are supposed to be guaranteed in three ways by three different legal instrument as under:

1. Deeds in fee simple
2. Magna Carter 1215 and
3. The Bill of Rights 1688/9

Under the current laws in Australia both state and federal it is absolutely illegal for the government "to take what it wants" or indeed to dictate in any way what property owners must to or not do in regards to their land held under deeds in fee simple so long as we retain our common law status under our legally unchangeable Christian monarchical constitutions which apply both state and federally.

To me certain politicians are trying illegally to change our unchangeable (except by referendum) federal constitution because they want to deny people the right to hold private property under our monarchical laws.

Some of this is being pushed by the United Nations for the so called good of everyone. In a nutshell the plan of government to take control of all land use and not leave any decision making in the hands of private property owners. Individual rights in general are given to needs of communities as determined by governing bodies.

Some of this is being pushed by the Vatican with their *in bonum* for the common good.

There is a slogan going around Europe at the moment 'You won't own anything, but you will be happy'

**Q:** Are we going to let governments take away our property rights which is then our freedoms and do we all end up being slaves and serves to the elite? This looks to be the way we are headed and this new vegetation policy eroding farmers' rights. Farmers are hardly even mentioned, seems bureaucrats can manage everything better than private land owners. Parliaments have overstepped the mark in legislative oppression and interference. As a farmer I see it at all levels affecting in time and viability. There is no joint body checking and keeping legislators answerable to the public that I know about.

The High Court has already ruled unanimously that the government has no power to impose new conditions on the landholder where the land title was granted under "fee simple". This is the 1923 precedent and again in 1999 which is current.

I'm going to finish in saying you guys have good intention we do need to look after our bush. Guys like me out in the eastern fringes of the eastern Wheat belt haven't finished all their developing. I don't even receive mobile phone coverage. That's how isolate I am. I talk to many farmers, we love our land, our bush and we have left, some left more than others, and the wildlife that lives in them. But you can not come over heavy handed, keep telling us what to do and take away our rights and pinging us with big fines.

I live near where is bush all the way to South Australia, we had volunteer fire fighters (30 odd one time 25 years ago) on a narrow break in that bush trying to protect farms further west. They all risked their lives, all it would take was a wind change and we would have nowhere to go. Now much later because of how farmers have been treated, all the red tape with new legislation and fines, none of the guys will go out to the bush to fight those fires as they come up. They will when it hit farm land. To get cooperation you need to work with farmers, together. Just as a side light new laws forces on FESA which in turn affect volunteer, the volunteers have fought fires all their lives now have to do all this training and are held accountable if someone is injured or even dies but not if you are a government employee, how is that fair? All the older guys are saying that its not worth the risk and that "I am leaving" – Government Intervention again.

In the centre of the Wheatbelt zone running north-south at an angle, this area has been over cleared years ago. That is not the case out here. There should not be a blanket approach all areas are

different. With our busy lives most farmers didn't know about the consultation period last year, when most of the area mentioned in the state is going to affect them.

As a farmer I am very concerned this policy will affect our rights, ownership, time and finances. Seeing the majority of the land mentioned is owned by farmers, how come there is no farm bodies or the like under the lead agency partner? All I can see coming up is heavy handed tactics, big fines, red tapes, loss of rights and more unneeded stress.

We are going to see more people like Peter Swift, who lost 4/5 of his land, is now financially broke and his health gone. Q: And who is answerable?

The late WA Federal Parliamentarian Don Randall said Mr Swifts case was the "worst case of injustice I have seen in my role as a political representative".

I can see coming up rural property is more and more restricted in what can be used on it, more restrictions. It seems and is the case the push is for people to get off the land.

Q: Who is going to stand up for farmers rights? We have lost too many farmers already in the last 50 odd years.

