

W A PROPERTY RIGHTS ASSOCIATION (WAPRA) INC

Submission EPA 1986 Amendment Submission

With the recent bushfires in Western Australia and Eastern States it is now the time to take stock of the negative impact of this Act's 'lock it up and leave it' Regulations are having on Native Vegetation/Bush areas of the State.

We must repeal the following section

5. Inconsistent laws

Whenever a provision of this Act or of an approved policy is inconsistent with a provision contained in, or ratified or approved by, any other written law, the provision of this Act or the approved policy, as the case requires, prevails.

The Bushfire Act must take precedents to allow for protective burning and fuel load management.

Being instructed by the Bushfire Act to complete bushfire mitigation and then being prosecuted by the EP Act for following the Bushfire Act is beyond ludicrousness.

We must repeal the following section

clearing means —

~~(a) the killing or destruction of; or~~

~~(b) the removal of; or~~

~~(c) the severing or ringbarking of trunks or stems of; or~~

~~(d) the doing of any other substantial damage to,~~

~~some or all of the native vegetation in an area, and includes the draining or flooding of land, the burning of vegetation, the grazing of stock, or any other act or activity, that causes —~~

~~(e) the killing or destruction of; or~~

~~(f) the severing of trunks or stems of; or~~

~~(g) any other substantial damage to,~~

~~some or all of the native vegetation in an area;~~

Clearing means – the removal of all vegetation using mechanical machinery, allowing no growth of any form of plant life to grow. With the exception of infrastructure requirements.

These are land management controls that have been made illegal in WA but encouraged under our Bilateral Agreements with the Commonwealth.

It was these land management controls that had allowed our vegetation to prosper, however under the current Policy, Act and Regulations our Vegetation is suffering especially with the fuel load and bushfires. A gentle burn at the right time of the year allowed the bush to regenerate. However, a wildfire with a large fuel load is destruction.

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51C. Unauthorised clearing of native vegetation

A person who causes or allows clearing commits an offence unless —

- (a) the clearing is done in accordance with a clearing permit;
- (b) the clearing is of a kind set out in Schedule 6; or
- ~~(c) the clearing is of a kind prescribed for the purposes of this paragraph and is not done in an environmentally sensitive area; or~~
- (d) the clearing is done after the person has received notice under section 51DA(5) that the CEO has decided that a clearing permit is not needed for the clearing.
- (e) the clearing is done to expand, grow or commence productive enterprise.**

Current and new business must be able to expand and grow. Currently this legislation stifles productive enterprise.

Bilateral Agreements with the Commonwealth

Commonwealth EPBC Act.

*It is also possible that farmers are not aware of the financial benefits that may, in theory at least, flow from fulfilment of their responsibilities under the EPBC Act. Having a MNES on your property – for example, a threatened ecological community or species – can potentially be a source of income if you are able to negotiate with project proponents to have this MNES classified as an **environmental offset** in future. The payment and income structure are negotiated directly between the farmer and the project proponent (e.g. a property developer seeking an offset for MNES impacted by new urban development on the fringes of a city). For example, a landowner on a 220-hectare property in Victoria agreed to covenant 100 hectares of their property as an offset site. Ongoing funding was provided by an EPBC approval holder to the landowner for activities such as ecological monitoring and weed control. In addition, the landowner has been able to continue using the offset site for rotational sheep grazing, as this is an appropriate tool for managing biomass for the relevant species/ecological community. It is not yet clear to the independent reviewer how common such arrangements are in the agriculture sector under the EPBC Act. The independent review will seek to better understand how farmers and industry groups view the time and cost implications of fulfilling their obligations under the EPBC Act, and how they leverage (or do not leverage) MNES on their properties as offsets. Options for improved communication and streamlining of regulatory processes will be considered.*

The Bilateral agreements and their intent have been undermined by the States disproportionate Environmental Act and Regulations written by the State. The Federal laws allowing for compensation for land affected by Environmental Regulations, however the State fails to meet this agreement.

If the Environmental importance is so great, then this should be reflected in the purchase price of the area by the State Government.

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Land no longer able to be utilised in a productive manner but not purchased by the State, has no environmental importance.

A workable solution to both protecting the environment and allowing productive enterprise is available however we must have the will and allow common sense to prevail.

Heather Dewar

Secretary

W A Property Rights Association