

MOREE CHAMPION

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Moree lawyer points to native veg rules in conflict with natural justice and public policy formulation

Brendan Moylan



Further changes to native vegetation legislation are needed to halt the targeting of farmers retrospectively.

A few nights ago, I ended up in a client's shed late at night.

He was at his wits end. Months of frustrating engagement with the NSW Office of Environment and Heritage (OEH) over compliance and prosecution proceedings in relation to land clearing were taking their toll.

He felt he had no one else he could talk to.

As a solicitor at Moree, I'm no stranger to native vegetation compliance cases.

Most years on average I'll open two or three files on the issue. In the past 12 months I've opened 86, and there's no sign of that slowing.

You might think, and some have claimed, that this sudden surge is because there is a lot more land clearing occurring. But there isn't.

In fact, all of these matters relate to clearing that occurred prior to the introduction of new biodiversity legislation in 2016 – the Biodiversity Conservation Act 2016 and the Local Land Services Amendment Bill 2016.

With the introduction of the new legislation, the NSW Government has given the OEH a licence to go after farmers retrospectively for alleged offences under the now repealed and discredited Native Vegetation Act.

How can they be charged now for an alleged offence under legislation that was repealed on the basis that it was unfair to farmers? This goes against the basic principles of natural justice and public policy formulation.

There has been a lot of media about land clearing and these laws, including green groups issuing a misleading report that the OEH itself responded to ("Koala clearing claims 'wild'", *The Land*, September 13).

The vegetation the activists alleged was unlawfully cleared was in fact invasive native species authorised to be cleared by a property vegetation plan.

This is an important issue not helped by activist groups. Propagating factually inaccurate and alarming information helps nobody. These groups should be called to account and some media need to be more vigilant in fact checking their wild claims.

Importantly, in that article, the Local Land Services said land management reforms needed to “balance the needs of our farming community and the environment”. But the current legislation does not achieve this.

Our farmers are being zealously pursued for historic actions which are said to have occurred under repealed legislation. This is a real concern for me and should be for all Australians.

Farmers understand better than anyone, the balance of biodiversity and they need flexibility to effectively manage their land.

The solution is simple. The Berejiklian/Barilaro Government must change the legislation so any alleged clearing that occurred under the old legislation cannot be prosecuted, and any compliance proceedings already underway on this basis are halted.

We need an immediate line in the sand to stop these unjust and retrospective prosecutions.

- Brendan Moylan is a director at Webb and Boland Lawyers in Moree.