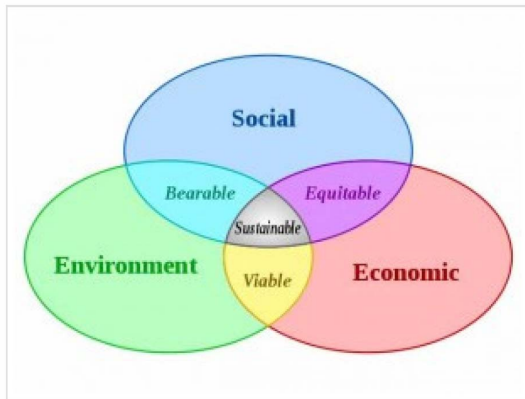


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Sunday, 2 June 2013

## The Ecology of Land Regulation in Queensland



In the last couple of weeks, the Queensland government has passed changes to tree clearing legislation and introduced provisions allowing cattle to graze in certain national parks and reserves. Both changes represent a regulatory shift in land use priorities relating to biodiversity and conservation and the ecological sustainability of industrial farming that threaten legislative and policy progress on ecological sustainability.

### Vegetation management

It was the Beattie Government that introduced restrictions on tree clearing in 1999 under the *Vegetation Management Act*. At the time, farmers in particular objected to the constraint on their rights to use and enjoy their land. Indeed [the Act represented a significant shift](#) in attitudes to the environment and the culture of broad scale land clearing.

It is interesting to observe, however, a shift in the public perception of farmers as a destructive force on the land, to one of a caretaker. Intimately involved (for example) in [Landcare projects](#), farmers now claim to have developed the skills and knowledge to use land wisely in the interests of sustaining natural resources. Indeed in response to the present changes, [Charles Burke, Chief Executive of farming lobby group Agforce, has said](#)

It certainly isn't going to see a return to unsustainable activities from the last century.

### National parks

The issue of grazing in national parks is in one sense more complex. On the one hand are reports of starving cattle, on the other are [claims of the mass destruction](#) of national parks that will inevitably follow the new rules. As a question of animal welfare, it seems logical to provide these cattle with sustenance. This is particularly so in light of the recent calls to halt live cattle export because of animal welfare concerns. Greens MP Andrew Wilkie introduced a [private members bill](#) only last week, under which live exports would be banned from 2017. Arguably, the immediate welfare of sentient beings, particularly in an emergency situation (such as drought) would trump the longer-term welfare of the parks involved.

Both of these issues however pose broader questions about the regulation of land use in terms of environmental sustainability, that are not answered by these legislative responses.

### Land use and private property

Australian law, following its English roots, celebrates and protects the 'highest and best use' of property. Based on John Locke's theory of property, the idea is that the general welfare of society will be best served if property (notably land) is put to the best use possible. Locke wrote in the 17<sup>th</sup> century and at that time, cultivation of the land or the beginnings of the

### About Me



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industrial age meant that the 'best use' of land implied some kind of measurable economic outcome. In Locke's era, this was derived from cultivation or mining.

Indeed it was this thinking that justified English sovereignty in Australia, through the infamous legal fiction of terra nullius. As a 'new land' that was uncultivated, English sovereignty over Australia was justified as the land would be put to 'better' use.

Since the [Brundtland Report in 1987](#), the idea of sustainable development has become part of the legal lexicon, including in terms of regulation of land use. The term itself still implies the capacity for *development* and with it, economic development as envisaged by Locke and his successors. There is scope however within the term to balance a purely growth-based model of land use with intrinsic environmental and ecological value. Laws such as the *Environment Protection and Biodiversity Conservation Act 1999* as well as tree clearing legislation and national parks legislation demonstrate the way in which the law seeks to balance economic and ecological interests.

This balance is challenged by Queensland's legislative changes.

### The ecology of land regulation

In the same way that any one aspect of the environment is linked with another, so too are regulatory frameworks of land use and their companions, environmental legislation. There is no point developing a policy and regulatory framework to achieve one end - biodiversity for example - then a policy and regulatory framework that works against that. The Queensland changes do just that.

Opening up tree clearing and grazing in national parks both aim at protection for private economic interests. These interests are given paramountcy over ecological concerns. While the plight of cattle themselves must be addressed humanely, the legislative response fails to provide a long-term solution to alleviate suffering, or to stop it happening in future. The response is instead focused on economic viability of private interests.

This is not to say that private interests are not valid, nor that they should not be upheld by law. What is concerning however is the relative weight afforded to private interests over ecological concerns. The balance seems to be shifting so that advances in regulatory approaches to land use and management are now receding. For the sustainability of the economy and private interests themselves, government must prioritise ecological sustainability and embed it into policy, legislation and practice. This calls for a rethinking of the latest changes to land use regulation in Queensland.

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