



Moree District Land Clearing

We were engaged by McCullough Robertson Lawyers, and later Mills Oakley Lawyers to investigate alleged illegal land clearing (on behalf of the landowner) in the Moree district, NSW.

Statutory Context

Investigations were being conducted on two fronts:

- By the Commonwealth Department of the Environment and Energy regarding the alleged loss of a Natural grassland Threatened Ecological Community listed as a matter of national environmental significance under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act); and
- By the NSW Office of Environment and Heritage (OEH) regarding clearing allegedly in contravention of the *Native Vegetation Act 2003* (Native Vegetation Act).

Challenges and Solutions

We initially focused on resolving the EPBC Act natural grassland issue. Regional pre-clear and remnant vegetation mapping suggested that the clearing area may have supported the Natural grassland community at the time of clearing, and the Commonwealth's ecological expert used a range of other remote-sensing techniques in an attempt to strengthen that position.

However, we found that there were considerable uncertainties with the Commonwealth's assessment, and insufficient evidence to clearly demonstrate the grassland community's occurrence in a form that achieved mandatory condition thresholds. After presenting video evidence clearly demonstrating that the community's condition thresholds would not have been achieved at the time of clearing, the Commonwealth's investigation was discontinued.

We next moved to resolve issues with OEH, which had presented compelling evidence that clearing had in fact contravened the Native Vegetation Act. We represented the landholder in subsequent Land and Environment Court proceedings (50660 and 50659 of 2014). Our role was to quantify the precise extent of clearing, and prepare a Statement of Evidence outlining the degree of environmental harm that had arisen.

We engaged in a joint expert meeting process with the State's ecological expert, in which matters of agreement and disagreement were identified. Agreement was largely achieved, allowing the matter to progress without any further involvement by the ecologists.

CLIENT

MCCULLOUGH ROBERTSON
LAWYERS, AND MILLS OAKLEY
LAWYERS

LOCATION

MOREE DISTRICT
NEW SOUTH WALES

The court issued a remediation order, and we worked collaboratively with OEH to identify an offset site that adequately addressed the impacts of clearing. We prepared a rehabilitation management strategy, which was approved and has since commenced.

Outcome

Both the Commonwealth and State matters have been resolved, and we have an ongoing role advising the landholder on lawful clearing under the Land Management (Native Vegetation) Code 2017.

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