

Thursday, 15 July 2021

[To: Stokes, Pavey, Barilaro, Kean, Marshall]

Dear Ministers,

Request for Action – Deemed Approval for Landscape Rehydration Works

Since our meetings in February last year with you and your staff, the Mulloon Institute and the Mulloon Law Committee has continued its work to try and reduce government red tape preventing NSW landholders from rehydrating their properties.

Overview

Over the last 200 years, European land clearing, farming techniques and water management practices have led to erosion and loss of soil organic matter which has dehydrated NSW. Over this short time, the amount of water stored in our soils and landscapes has decreased by over 50%. This loss of hydration has caused, and is causing, long term damage to our land, biodiversity and microclimates.

Please review this short 3-minute video outlining the issue and a solution ("Landscape Rehydration Works") being championed by the Mulloon Institute:

<https://www.youtube.com/watch?v=TFk1cFWnV0M>

Remediating catchments and rehydrating land has a huge number of benefits – improved soils, improved agricultural productivity, increased carbon sequestration, improved drought resilience, lower bush fire risk, increased biodiversity, improved water quality, etc. For a full list of benefits see:

https://static1.squarespace.com/static/5600debe4b07aeb017c6d2/t/5e55beb4dd4cda3aa2cf36f2/1582677688824/Scienfic_Compndium_25February2020.pdf

The Problem – NSW Government approval process

When seeking to repair a water catchment utilizing Landscape Rehydration Works, a project manager often requires from government:

- individual approvals for each structure
- individual submissions for each separate landowner in a catchment
- separate approvals from multiple government departments (water, planning, environment, fisheries, etc.) – each requiring their own submission, and
- expensive expert reports from numerous experts.

Landholders are often required to submit:

- environmental impact assessments

- development applications
- site descriptions
- engineered designs
- hydraulic modelling reports
- vegetation management plans
- sediment and erosion control plans
- Biodiversity Assessment Reports
- WAL applications, and/or
- cultural heritage assessment reports.

This process takes significant time and money. When the Mulloon Institute (a charity) initially sought to rehabilitate the Mulloon Creek Catchment we spent \$350,000, waited 30 months and we still have not received all approvals. Once approvals are granted, we complete on-ground work in a fraction of the time taken waiting for such approvals.

The Solution – Deemed approval for compliant works

The Mulloon Institute has been working with John Ross and Penny Goldin of DPIE since June 2020 on regulatory and legislative solutions. Through John and Penny we have had discussions with various other departments and officers. We are due to have further discussions in early August. At present we understand that DPIE (after consultation with NRAR) favours a “Development permitted without consent” planning pathway. The proposal is that the Infrastructure SEPP would be amended so that "Landscape Rehydration Infrastructure" is deemed development permitted without consent on land in a prescribed zone.

While we look forward to working with DPIE and NRAR on refining this proposal, our concern is this pathway still requires landholders to jump through almost all the expensive and extensive hurdles listed above. Our preferred pathway remains a "Code Compliant" approach in which all government departments agree a Code for building Landscape Rehydration Works and landholders can simply build these structures without approvals as long as such works are Code Compliant. We understand our "Code Compliant" approach presents a risk that a small number of landholders may not build compliant structures, but this small risk does not outweigh the significant benefits of landholders across NSW building these structures quickly and rehydrating our land. We should trust and incentivise our landholders, not put hurdles in their way.

Once an approach is settled, we expect that complimentary amendments to NSW legislation and regulations will need to occur. Possible complimentary regulations include:

- landowners needing to provide notice of their intent to carry out compliant Landscape Rehydration Works to a “primary regulator” who would then inform all other interested government agencies
- landowners being able to build compliant Landscape Rehydration Works without the need for approvals from multiple NSW Government departments and regulators
- Landscape Rehydration Works being automatically certified by all interested NSW regulatory agencies, and

- regulators having the right to conduct periodic inspections to ensure compliance and to seek necessary removal or remediation of non-compliant structures.

Requested Ministerial Action

Please could you encourage your officers and regulators to work efficiently and constructively with DPIE to finalise proposals with timetable discipline.

Once a pathway is finalised, please assist with a public education campaign so that landowners are encouraged to remediate and rehydrate their land as soon as possible.

The NSW Government may even consider some sort of matching government funding and support for these works (which will produce substantial regional economic activity and jobs).

Recent Mulloon Initiatives

The Mulloon Institute remains extremely busy:

- we are hiring extra staff to help landowners plan and construct their remediation works
- we are conducting sold out Landscape Rehydration Workshops across NSW, and
- we continue to gather scientific evidence on the effectiveness of our remediation solutions.

Here is our latest newsletter: https://myemail.constantcontact.com/Resilience---Winter-2021.html?soid=1110438715606&aid=BsUPxj_AJeA

The Mulloon Law Committee recently made submissions to:

DPIE as part of their review of Coastal Harvesting Rights:

<https://static1.squarespace.com/static/5600deeb4b07aeb017c6d2/t/60b57e63d2b07229dd41f565/1622507109361/Mulloon+Submission+to+Harvestable+Rights+Review+%2812+May+2021%29.pdf>

Crown Lands on the Crown Land Management Act Discussion Paper:

https://static1.squarespace.com/static/5600deeb4b07aeb017c6d2/t/60b57e7de31831589636c611/1622507160001/Submission_14779646_1.PDF

Thank you for your help and support so far. Please encourage your departments to complete work on the proposals. We need momentum from Ministers to finish the legislative and regulatory work.

Regards,



Gary Nairn AO
Chairman

Matt Egerton-Warburton
Chairman Mulloon Law Committee