



Natural
Resources
Commission

NATURAL RESOURCE MANAGEMENT AND THE LAW

Sustainability, Science and the Law

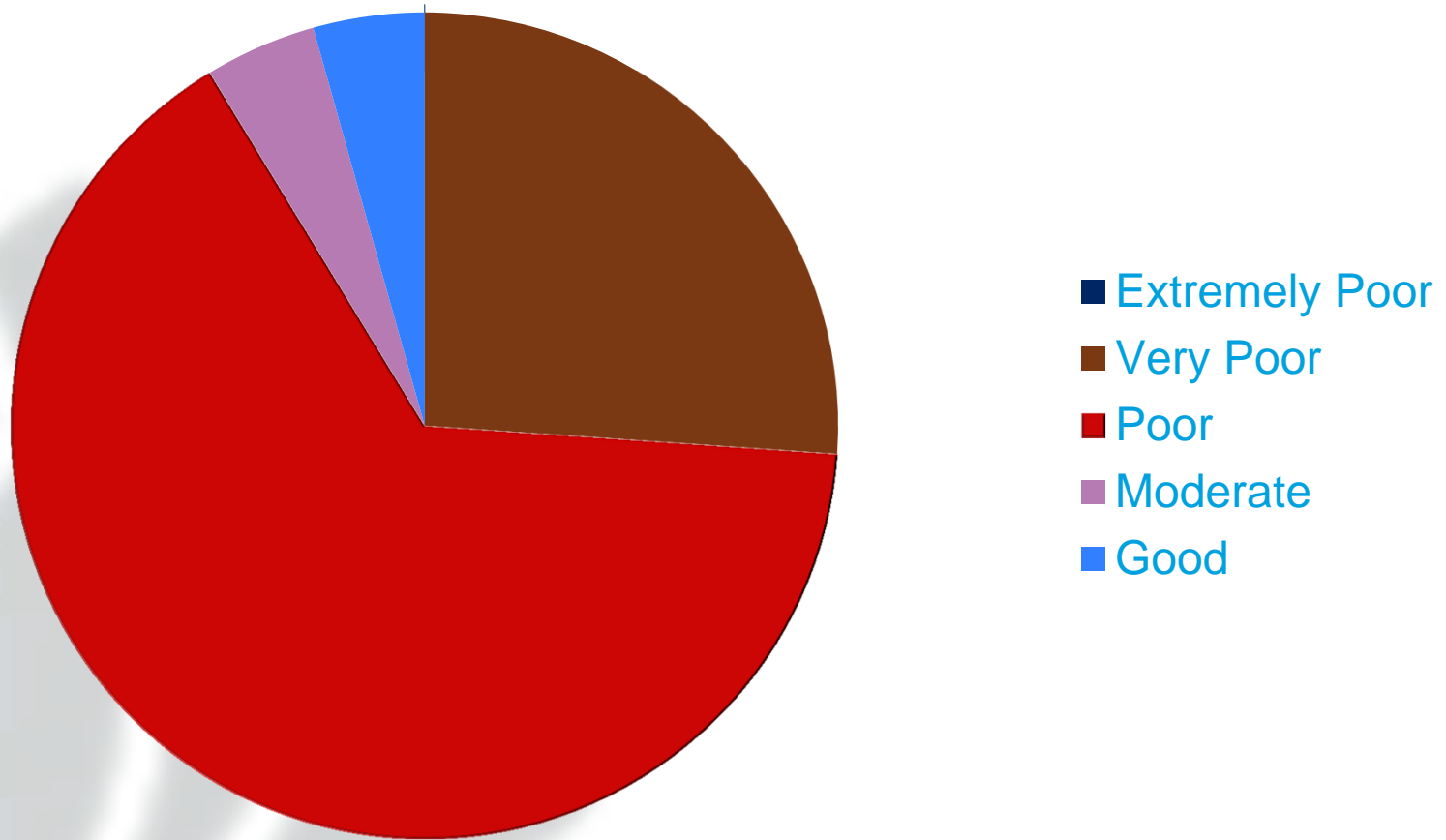
Macquarie University, 28 October 2014



Component	Summary of state and trends	Assessment grade			
		Very Poor	Poor	Good	Very good
Terrestrial ecosystem (native vegetation extent)	Northern and central Australia			↔	
	Southern, eastern and south western Australia		↓		
Terrestrial ecosystem (native vegetation) quality)	Remote areas and areas where urban development has been minimal			↓	
	Agricultural regions and around urban development		↓		
Terrestrial plant species	High altitude, remote and/or very dry parts of Australia			↔	
	Areas most suitable for urban development and/or agriculture		↓		
Terrestrial animals- mammals	Declines in all states	↓			
Terrestrial animals - birds	Several states raise concerns about recent declines		↓		
Terrestrial animals - reptiles	Concerns about ongoing decline		↓		
Terrestrial animals - amphibians	Major declines in many areas		↓		
Aquatic species and ecosystems	Northern and central Australia			↔	
	Southern, eastern and south western Australia		↓		
Marine species and ecosystems	Overall			↔	
	In a new areas	↓			



Murray Darling Basin river ecosystem health




What can we do?

- Understand the problem: science
- Regulate behaviour: law
- Guide how natural resources are managed: policy, plans
- Support work on the ground: programs, incentives, education
- Be careful of “one size fits all”
- Look for integrated and sustainable solutions

Law and natural resource management

- Common law inadequate
- Legislation = main source of environmental law
- Negative and positive duties



New South Wales

Native Vegetation Act 2003 No 103

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Legislative categories

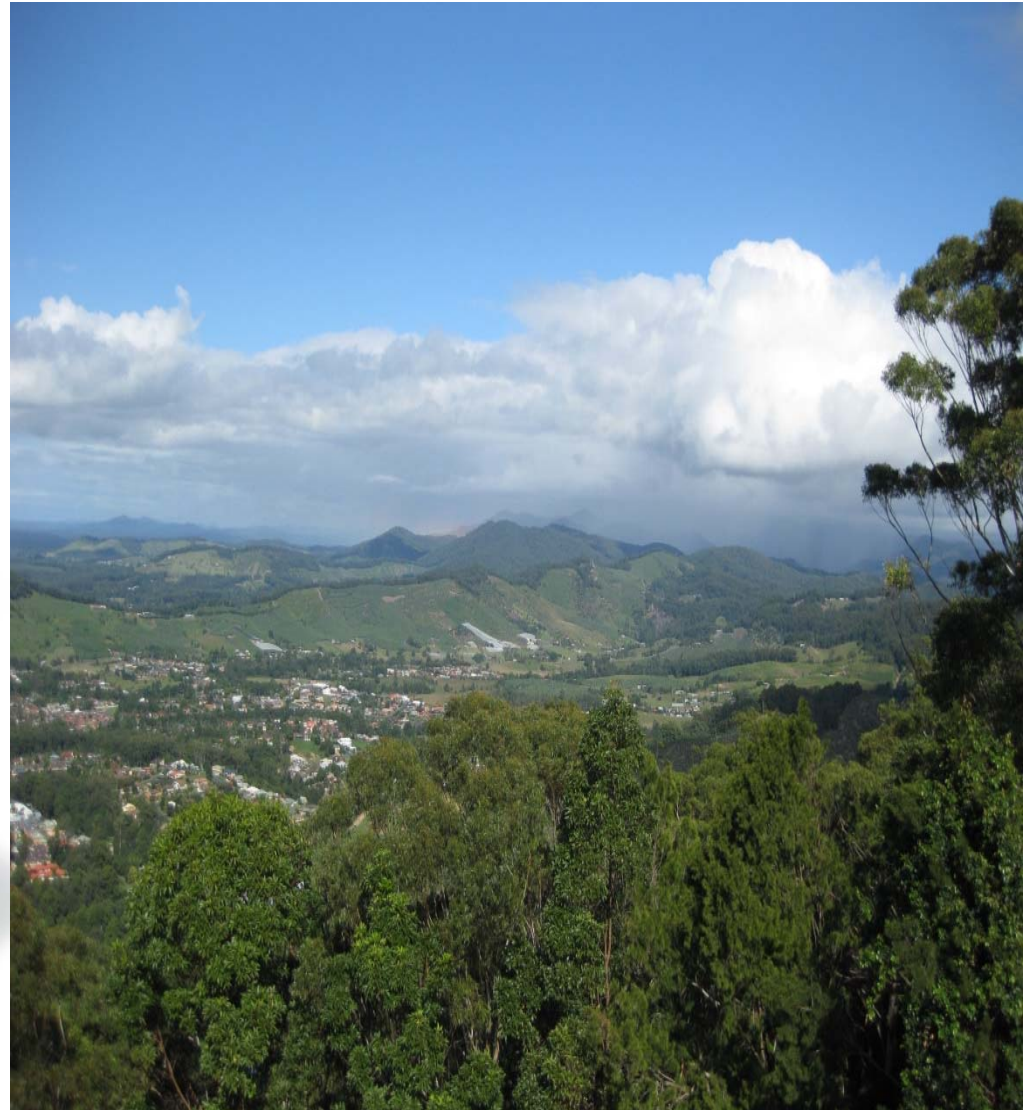
- 1. Designed to protect biodiversity (native veg)
- 2. Not specifically designed to protect biodiversity but has significant impacts (planning)
- 3. Not designed to protect biodiversity but which may adversely affect it (mining, bushfires)

Bates, G (2006) Environmental Law in Australia



2003 reforms

- Native Vegetation Act
- Catchment Management Authorities Act
- Natural Resources Commission Act





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Legislative intent vs implementation: case study of standards and targets





Why was implementation successful?

- Non-prescriptive
- Considered regional variation
- Community focused
- Addresses uncertainty
- Considered trade-offs
- Fostered collaboration





2013 Local Land Services Act



Review



Local Land Services Act

LLS Act Review and design process

- Clear problem identification
- Community consultation
- Co-design with stakeholders
- Strong evidence base



2015 Biodiversity Act??

Ongoing problem:

Farmer unrest on Native Vegetation
Biodiversity loss continues

Solution? New Act ?

Scope:

Threatened Species, Native Vegetation,
Nature Conservation Trust, National Parks and Wildlife Act

Independent Review Panel





Key challenges for the Review Panel

Establish simpler, streamlined and more effective legislation :

- facilitate the conservation of biological diversity
- support sustainable development
- reduce red-tape.

- Increase regulatory efficiency
- Transparency
- Minimise private costs
- Encourage economic development .. without devaluing biodiversity
- Build resilience to environmental hazards and risks

Elements of good legislative design

1. Clear problem definition and objectives
2. Proportional and targeted to the problem
3. Is fair, respects common law rights,
4. Consistent with other government legislation
5. Specifies coherent outcomes not prescriptive processes
6. Simple, user friendly, transparent
7. Strong evidence base
8. Co-designed with community and industry
9. Strategic, forward looking and integrated
10. Allows for good governance, accountability and adaptability

You are the law-makers of the future...

- Use a sound evidence base
- Genuinely consult and co-design with the public
- Identify policy objectives clearly
- Ensure legislation is enabling to allow for unexpected changes in future



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Any questions?