



MEDIA RELEASE 12 /5/2015: WHY HASN'T MINISTER TOLLNER PROSECUTED OVER THE CLEARING OF NATIVE VEGETATION?

In April 2014 the Rapid Creek Landcare Group was devastated to find over 4 hectares of native vegetation allegedly illegally cleared at 1 Boulter Road in the Rapid Creek catchment area. Over a year later they are asking Minister Tollner why no prosecution has taken place.

NT News stated on 17 April 2014 'Planning Minister Peter Chandler has confirmed the Development Consent Authority (DCA) would pursue a legal case against the landowner. "I cannot ask the public to have faith in the government's planning processes if they're not enforced when there has been a clear breach," he said "This guy has simply jumped the gun.'" On 19 April 2014 Minister Chandler wrote to the Landcare Group and stated, 'I have asked the DCA to investigate and proceed with prosecution in relation to this matter. The land is zoned CP (Community Purposes) therefore the clearing of native vegetation of more than one hectare of aggregate land requires consent from either the DCA or I as the Minister. No consent was applied for or approved.'

In Hansard of 22 October 2014 Minister Chandler states 'Development Assessment Services has concluded its investigation into the matter and has compiled all relevant information into a brief of evidence.' We understand Minister Tollner (now Minister for Lands and Planning) has all the legal advice required in order to decide to prosecute.

In relation to clearing native vegetation the *Planning Act* states 'Any one or more of the following persons may be prosecuted ... an owner of the land ... a person apparently in charge of the clearing of native vegetation' and 'In a prosecution of a person ... it is not a defence that the person had no knowledge of the requirements of a planning scheme ... relating to the clearing of native vegetation on the land.'

Owners must be held liable for any actions that occur on their property. The owner clearly has an interest in developing the block. As early as 2002 he had applied (unsuccessfully) to develop the land (restaurant/convention centre and cluster dwellings). In early February 2014 he advertised for expressions of interest for Land for Sale, interestingly this sale ad showed the block subdivided into 5 allotments (the property has never been subdivided). In late February 2014 he applied to rezone the land from Community Purposes to Multiple Dwelling Residential. That application has been deferred as it conflicts with the Berrimah North Area Plan. In addition there appears to be no question as to which company carried out the clearing operation in early 2014; photographic evidence of machines on the site exists.

The Environmental Defenders Office's Principal Lawyer David Morris says 'Based on the evidence I have seen I can't see any reason why the government would choose not to prosecute.'

The Rapid Creek Landcare Group calls on Minister Tollner to immediately use his powers under the *Planning Act* to prosecute the owners, and all of their contractors, to the full extent of the law, and to have the area, now covered in noxious weeds, fully rehabilitated.

Rapid Creek Landcare Group Inc.

http://www.rapidcreek.org.au/Rapid_Creek_Landcare_Group/Campaigns.html

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