Native Vegetation Inquiry
Productivity Commission
LB2 Collins Street East
Melbourne Vic 8003

Mark Drury

NSW

Submission to The Productivity Commission on The Impacts Of Native Vegetation and Biodiversity Regulations

Having worked in plantation forestry for nearly 5 years and being involved in the planning and operations of Eucalypt plantation establishment on the North Coast of NSW I have gained an appreciation of the regulations governing vegetation management in NSW and the impacts of such regulations may have. Principally I have worked under the regulations set out by the Native Vegetation Conservation Act 1997 and most recently under the Plantations and Reafforestation Act 1999. I have been involved in preparing clearing applications during the planning phase and implementing consent conditions during the establishment phase of plantation establishment. After reading the Issues Paper I have been prompted to raise several issues regarding Plantations and Reafforestation Act (P&R Act) 1999 and the Native Vegetation Conservation Act (NVC Act) 1997 in NSW.

Inconsistencies in Interpretation and Application of the Regulations by Regulatory Authorities

All legislation is open to a certain degree of interpretation in the way certain elements of it are applied no matter how well defined it may be. There is often much variation in how leniently it is applied and this is often determined by set of precedencies that may have been set. Certainly during the teething stage of the NVC this was a significant problem as there were few precedencies existing and the regulatory authority at the time (Department of Land and Water Conservation) was having difficulty in maintaining consistency in interpreting and applying this legislation. For example, the NVC Act includes native grasses as vegetation that is subject to clearing restrictions. Native grass pastures are common on the NSW North Coast and most consist of species that are not significant for habitat or biodiversity values and commonly exist as an invasive species, such as Blady Grass (*Imperata Cylindrica),* on improved pastures. This has in itself created a lot of frustration and confusion, which is an issue I wish to raise a little later,

but the fact that this requirement has been applied differently in different regions by different representatives of the one regulatory authority is surely a matter of great concern. It certainly has made my job difficult and confusing at times as it has many others involved in any sort of land management. Representatives from the Department of Land and Water Conservation (DLAWC) now Department of Infrastructure Planning and Natural Resources (DIPNR) operating in the northern part of my organisations operating area were requiring clearing applications to be submitted before any form of clearing could be undertaken on native grasses when representatives in my area of working were allowing clearing of such grasses under exemptions set out in the NVC Act. Surely this is not an acceptable approach to applying this legislation as inconsistency undermines the legitimacy of the legislation.

The P&R Act has certainly come a long way towards dealing with this problem in plantation establishment in that it is more specific and doesn't leave as much open to interpretation. However there is still inconsistencies in the way some of the requirements of the Act are applied and enforced. These inconsistencies are forcing organisations, such as the one in which I am employed, to err even further on the side of caution when evaluating properties for purchase/ lease or when planning and implementing plantation establishment. This can have the effect of devaluing properties due to a reduced willingness to invest in a property where there is any uncertainties over vegetation management. Such uncertainties can also impede development in effected areas as development, such as plantation development will be diverted to areas where there are more certain regulations on vegetation management and proposed operations on a property can be more easily predicted even before clearing applications are made.

Perhaps it is time for certain aspects of the NVC Act that are open to too much interpretation, or are creating so much controversy that regulatory authorities are forced to use there powers of interpretation to the limit, are reconsidered. Certainly I believe much work can be done to improve the consistency of decision making across regulatory authorities such as DIPNR.

.

Lack of Understanding of the Regulatory Framework

It is well known that there is significant lack of understanding among the rural community about the regulations governing native vegetation and biodiversity on private land and this lack of understanding extends to other environmental legislation such as the Fisheries Management Act 1994 and the Soil Conservation Act 1938. This lack of understanding has been further exacerbated by the recent introduction of Regional Vegetation Management Plans. Within such pieces of legislation there is also confusing and sometimes conflicting requirements and this is further complicated by inconsistent interpretation as mentioned previously. This complicated regulatory framework often leads to frustration and results in vegetation being cleared illegally. For many landholders it seems to them a better proposition to undertake clearing without proper authority and take the risk of getting prosecuted rather than go through a costly and complex approvals process with no guarantee they will be allowed to do what they plan. I have personally

witnessed this on several properties within my area of work However, I don't believe this legislation has led to an increase in land clearing on the north coast as is claimed in other areas such as the Brigalow Belt[1]. Local companies specialising in land clearing are generally downsizing or ceasing operation which I think is an indication such legislation has been successful at reducing land clearing but it may be arguable if clearing of important relict vegetation has reduced.

The P&R Act was developed to streamline the approvals process and to provide for harvest guarantee for plantation establishment and to date it has been successful in providing a one-stop-shop for plantation approvals. Previously several pieces of legislation had to be hurdled which was a much more complicated, time consuming and confusing process. Surely a similar process could be created which simplified the approvals process for developments on rural land for agriculture. Such a simplified approvals process could be expanded to include property developments such as road construction, dam construction and contour bank construction in addition to clearing operations. Surely the lost revenue in dropping all applications fees and making the process free to private landholders would be saved in reducing the costs of investigating illegal clearing operations which would certainly be reduced under these changes.

On a positive note, my experience with the P&R Act so far is that it has come a long way in streamlining the approvals process for plantation development and has had the effect of improving relationships and understanding between regulatory authorities and those involved in plantation establishment. I look forward to some further positive outcomes and I am sure this inquiry is the right way to bring about such outcomes.

---

[1]Davie, J.D.S., Barry, S.J. and Morgan, G. 1994. 'Planning for nature conservation in rural environments: The Brigalow belt in Central Queensland' in the *Proceedings of the Royal Society of Queensland*, 102:69-89