

L & R Vulcz
260 Amiets Road
Wyalangta
Victoria 3237
Ph. 03 52 373216
Fax 03 52 373270
Email mr.fern@bigpond.com

July 15, 2003

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

Submission to the Inquiry into Impacts of Native Vegetation and Biodiversity
Regulations.

Mr. Fern is a small, export orientated Tree Fern Nursery situated on a thirty-three hectare property, located in the temperate forest region of the Otway Ranges in Victoria. The owners, L & R Vulcz, have been involved in the tree fern industry for over twenty years and have experience in all aspects of tree ferns, from traditional propagation, growing, marketing and exporting to the challenge of establishing a commercial tree fern plantation.

The tree fern plantation has been specifically designed to mimic natural systems, based loosely along analogue forestry principles with multiple levels and mixed species. The aim is to produce multiple products, ranging from tree ferns to mosses to myrtle beech and blackwood timber. Selective harvesting methods are to be used to maintain the overall system. It is one interpretation of sustainable farming in a particular location for a specific niche market that may provide the landholder a sound economic base from a small land area, (income, employment, exports) while improving the ecological base of the farm. However, it has been a very challenging project. Attached is a paper written in 2001 that examined the problematics of turning the rhetoric of sustainable production into the practice of sustainability. Native vegetation and biodiversity regulations were discussed. We are now moving on to finding solutions to facilitate the practice of 'sustainability' for those landholders venturing down this path.

In our district we do not have many of the environmental problems we are told about in other parts of Australia such as drought or salinity and there are more trees being planted on private land than are being permanently cleared in the district. Motives for planting are varied. The vast majority of land is in public ownership managed by the government with 52% of the remaining private land owned by people who reside outside the district, not necessarily dependent on land for income. The primary producers here are involved

in a diverse range of primary production, from dairying, beef, fat lambs, potato cropping, hardwood and softwood timber, agroforestry and niche farming.

It is timely to review how effective the government's various native vegetation and biodiversity regulations have been so far in achieving the triple bottom line. The ultimate objective and rationale has become somewhat unclear which raises many questions. How much land for 'conservation purposes only' is required before the level of native vegetation and the district's biodiversity is considered out of the danger zone. Has the level of threatened species and ecosystems reduced in line with increases in area's reserved for conservation. For example, in our district, have the increases in conservation reserves implemented under the RFA on government land ameliorated the risk that activities on neighbouring private land may pose on the district's biodiversity.

The Wilderness Society's WildCountry project claims it will require an unbroken chain of conservation reserves from South Australia to Queensland managed in line with deep ecology principles, to restore the 'balance'. All land within the designated areas, private and public, will be required to comply with those principles. Is the focus on restricting human activities in rural areas detracting from the goal of integrating human activities to achieve improved productivity, improved ecosystems and healthy, happy, prosperous rural communities.

I will attempt to give an overview of the impact the accumulative and rapidly changing native vegetation and biodiversity regulations have had on our efforts to establish a tree fern farm on our private property. The following appears to underly the difficulties that we have confronted.

- The focus of native vegetation regulations centre on 'preservation' and ignores the potential of farming or ranching native rather than exotic species. We contend that this has resulted in undue hardship for those selecting the transition to farming natives as a legitimate alternative path towards sustainable farming practices.
- There is a cultural blockage to utilising native flora, instilled by the early English settlers, who preferred using products and systems from their homeland with which they were familiar. This appears to be now translated into regulations that further instill the separation of primary production from 'nature' in Australia.
- Innovative systems specifically designed for Australian conditions that integrate commercial farming systems, 'native vegetation' and increased biodiversity rather than separating them are still viewed as 'novel'. Current native vegetation and biodiversity regulations based on the narrow 'preservation' definition stifles innovation.
- Native vegetation and biodiversity regulations on private land should be viewed in the context of the wider debate between resourceism and preservation. Preservation pursued to fulfill the post-material need of the affluent, eg spiritual, aesthetic, recreational, is presented as being beyond the traditional distribution of resources

debate and a higher, worthier goal than using the land to merely satisfy material needs. Many primary producers and the less affluent are still focused on meeting their material needs on their own private property.

- 'Nature', remnant vegetation, revegetation are all terms that are defined in different ways by different people creating confusion when applied.

Tree Fern Farming

The Department of Natural Resources and Environment (DNRE) have recently been restructured. We have been advised that the product, native tree ferns is the responsibility of the Parks, Flora and Fauna Section of the Department of Sustainability and Environment. Plant nurseries are included in the Farm Animals and Plants section of the Department of Primary Industries. We are members of the Nursery Industry and consider ourselves a plant nursery, but have also joined the VFF and TCA as our paths cross over all areas of traditional primary production in the district.

The transition to tree fern farming poses difficulties in classification for both planners and regulators. The farming of native plants with native trees as an overstory has been specifically designed to mimic natural systems but this blurs the distinction between farming and 'nature'. It also brings in the question of the interpretation of the term 'native vegetation' and the level of human intervention that distinguishes the 'native vegetation' from being classified as part of the farming system or part of a conservation area. Regulators have attempted to divide the property into different sectors - native vegetation and plantation but the whole property is a plantation/farm. We have areas with young trees and areas with mature trees on the property for overstory but we view the age of the overstory as merely a temporal issue with management of the tree ferns required over the whole property in a systems approach.

While there are measures in place to secure conservation areas on private property, there are no measures in place to secure utilisation areas that are improved ecologically through the landholder's intervention with the use of native vegetation.

The Tree Fern Management Plan will only allow harvesting from areas deemed at a particular point in time as 'low conservation value'. To improve an area on private land to achieve a medium or high conservation value, effectively negates the opportunity to utilise the plants. A land covenant enshrining utilisation rights on private property would overcome this perverse regulation and allow utilisers to aim to improve the ecological base of their property without losing their utilisation rights.

A check of the DSE website indicated that all ferns (Pteridophyta) native to Victoria are now listed as protected species under the FFG Act. *Acacia melanoxylon* (blackwoods) are also listed as protected species. The listing process appears not to be as transparent as it could be, particularly in regards to nominations, inclusion of local knowledge in the assessment and advertising of the implications of listing.

Costs

The costs of complying with native vegetation and biodiversity regulations is both a direct cost and an opportunity cost to the business.

One full time staff member is responsible for meeting all regulatory measures imposed by native vegetation and biodiversity regulations. Record keeping is labourious and very time consuming. Tags are required on certain tree ferns under the FFG Act and attaching the tags to the ferns is the equivalent of one days work per shipment. While the NRE records tag numbers in consecutive order, the wholesaler is faced with recording seven digit numbers (attached to many tonnes of produce) in non-consecutive order by hand. An evaluation of clerical errors along the chain of personell from the various departments and businesses involved in each shipment averages out at approximately 5% and is spread evenly across all those involved. The recording and collation of tag numbers in a suitable format for the individual permits required for each shipment can take up to two days. Continuous training to try and keep up with the regulatory environment is being undertaken through an internet university course after work hours.

Environmental regulations are being drafted in a political environment requiring lobbying to ensure that the utilisation of native plants will continue to be permitted by government. As it is only a small niche industry, important locally but unimportant on a broader scale, lobbying to individual industry groups to include our interests (farming, timber, nursery industries) is also required.

The different value systems and priorities of the primary producer and the regulator also create undue friction and misunderstandings between the parties. Rarely is the cost of stress to both parties and its related health problems included in valuations into the cost of regulations.

Sharing of Knowledge

There are many studies conducted by the NRE/DSE over the years that are unpublished but cited. This wealth of information should be made easily accessible to the wider public, to further the understanding of the rationale behind decisions and objectives of the government, preferably by being published on the web.

Specific Examples of Costs.

Tree Fern Management Plan

The NRE Draft Tree Fern Management Plan suggested the growing of exotics should be encouraged as an alternative to utilising native plants. Draft plans had been applied to our operations in the past, so we complied with the draft and purchased exotic tree fern tubestock instead of native to grow on to plant out in the plantation the following year. The final Tree Fern Management Plan was released in December 2001 and stated that it was best to grow natives as exotics could pose a risk to the environment. We were advised by the NRE not to plant out the exotics. We waited for some sign of direction, then took a pragmatic approach and reverted back to our original plan. We cannot change our plans out in the field as easily or quickly as departmental policy can be

changed and any changes made cost in lost time, production space and jeopardises the completion of our project, which is entirely self-funded. I liken this particular event to gaining government approval to build a timber house, purchasing the building materials and then being told that only brick houses are permitted. It would be too depressing to work out the dollar amount in direct and opportunity costs of regulations on the project over the years. We cope by focusing on our overall objective of creating a self-sustaining tree fern plantation that meets the triple bottom line.

Local Council Overlays

An amendment to the Colac Otway Planning Scheme under the Planning and Environment Act 1997 Amendment C2, identified the need for an Environmental Significance Overlay for the river abutting our land as there was a special fish in the river. We were concerned that this may lead to a buffer on our land which would prevent our continued utilisation of a section of our tree fern plantation. We presented our case to VCAT at a special hearing in BeechForest and were assured that the special overlay would in no way impact on our plans. The cost of understanding the planning process, VCAT system and time involved is not compensated. The Geelong Shire states that it requires three working days to prepare for a simple VCAT case for a professional experienced person. It took much longer in our case as we were not familiar with the procedure.

River Frontages

A review of leasing of river frontages, resulted in a request by the NRE to either lease the river frontage beside the tree fern plantation or erect a fence at our cost. We explained that we did not have animals other than native animals on the farm, who came and went at will and browsed for free in the tree fern plantation. We were at a loss as to the type of fence we were to erect and why the government expected us to pay to manage the area when it was their responsibility. After discussions about dry sheep that appeared quite irrelevant, we realised that once again we did not fit into the government's criteria. We have worked out an amicable compromise that still costs us.

Length of Permit

While we operate our business to a twenty-year plan, the permit to harvest tree ferns from private land issued under the Flora and Fauna Guarantee Act is issued annually and we must re-apply each year. We do not understand why we are not permitted the security of a longer-term permit. The lack of security is stressful.

Threatening Process

We have planted myrtle beech trees, *northofagus cunninghammi*, as an overstory tree in the tree fern plantation. We believed it was more environmentally friendly to use trees for shade for the tree ferns rather than shade cloth or plastic in the paddock. Although told that the myrtle beech was too slow to be commercially viable, we have found that its growth rate is similar in the right conditions to the blackwood trees *acacia melanoxylon* and we considered it a good investment to pass on to our children. The trees will require management and thinning as they age. The listing of human activity near a beech tree as a threatening process under the FFG Act has concerned us and we still wonder whether

we should replace the myrtle beech trees with exotic trees to eliminate the 'no native use risk'. We have not planted anymore, opting for blue gums, oaks and chestnuts for our latest tree plantings. Current regulations allow us to remove the trees up to ten years of age. After ten years we will require government permission. We have recently written to the new Environment Minister, Mr. Thwaites, asking for reassurance that we will be allowed to utilise both the land the myrtle beech trees are on and manage the trees as required. We have not received an answer. Our choice of tree is a constant worry and escalates the risk of compulsory acquisition through regulation of that section of our property. A radiata pine overstory would eliminate this risk.

Globalisation

We compete on a global market. Our neighbour, New Zealand, now exports four times the level of Australia's trade in tree ferns with an inferior product. Tree fern plantations are being established in other parts of the world who do not have to contend with our restrictive regulatory environment based on 'nativeness' and have lower operating costs. The time spent coping with ever-changing regulations in Victoria is time taken away from focusing on the business.

Perspective as a Community Member

The local Progress Association is the vehicle used in this district to stay abreast of changes to the Planning and Environment Act requirements. Native vegetation and biodiversity regulations, zoning and overlays are topics that consume a great deal of time at our meetings. The following examples were from this week's meeting.

The Beechy Line Rail Trail was a 'community initiative' from Colac to Beech Forest. There were only segments of the original railway line left on public land as the government sold large sections of the trail to the adjoining landholders. The trail concept was rejected by one community at the end of the line. Landholders were informed that their opinions would be respected and the trail would not proceed past Beech Forest. It was after all a 'community initiative'. However, it was brought to the attention of the meeting that the Beechy Line Rail Trail Committee had recommended changes to the Planning Scheme to restrict land-use. It required landowners to apply for permits for any change in land use including traditional farming and cropping on the old rail trail site, even though they had purchased the land many years before. The committee included the section that the community categorically stated they were not to include in their plans. The original objections were not about the walking path per se, but the fear of further government regulations that would be imposed as a consequence of permitting the rail trail project to go ahead, including visual overlays and land-use restrictions. The landholders fears were proven to be correct. A delegation has been organised to meet with the committee members to re-iterate that the community at the end of the line does not want a rail trail and therefore the recommended changes to the Planning Act are not relevant and should not proceed.

The Progress Association received a copy of proposed changes to rural zoning by the state government two weeks after the close of submissions. It proposes to take away expectations that a house can be built on a block of land in rural areas. A change to environmental rural zones would place conservation as the highest priority above all

other land uses. The third option, rural living is only available for existing 'nodes of activity' so is not the ideal solution to an area being promoted for tourism but with limited accommodation.

A letter was read out at the meeting of the Progress Association informing us that our application for a trial community forest project initiated in 2000 and submitted in April 2002 as part of a community empowerment project was officially rejected. The area in question is under consideration as a National Park.

It appears very clear to us that central planning is not obtaining optimum environmental, social or economic results. Native vegetation and biodiversity issues are dominating the public domain in our region at the cost of many other issues (our highest community priority at present is a community bus). The requirements of visitors and their perceived values are given precedence over the requirements and values of the local community. Local community input into planning issues is being restricted through a lack of consultation at the ground level. The cost of placing conservation as the highest priority of land use on private property currently being used for primary production in our district raises serious distributional justice issues.

Recommendations

- Landholders decision-making is influenced by many different factors, motives and priorities. A better understanding of these underlying factors would enable both regulators and the landholders to target and benefit from programs more effectively.
- Recognition by regulators that utilisation can increase native vegetation and biodiversity, rather than depending on the single option of creating 'conservation areas' on private land.
- Current land covenants are unbalanced as they fail to protect utilisers who improve areas on their farm. A utilisation covenant system is needed urgently to encourage primary producers to improve degraded areas without risking their utilisation rights.
- Current measurements of successful implementation of native vegetation and biodiversity regulations could be modified to focus on the positive rather than the negative. For example, the measurement, "How many species listed on the 'protected species list'" should become "How many species no longer require government protection". Another measure could be "How many different systems have been implemented in a district that achieve the triple bottom line" rather than counting areas 'preserved'.
- Funding levels should be based on successes rather than the number of problems, with the most successful planners and regulators receiving the most funding.

- If the government is unable to arrest the decline of native vegetation and biodiversity as they claim under the current regulatory system, then they should be looking to encourage alternative models such as the Earth Sanctuaries Model and the farming of natives, that are succeeding to reverse the trend.
- To improve communication flows, more assistance needs to be given to rural landowners to participate in planning.
- Imposition of one style of management of our native vegetation by government does not allow for error or oversight and therefore appears to be in breach of the precautionary principle. It was after all the government who encouraged land clearing with the best of intent in line with the knowledge at that particular time.
- There appears to be provision for compensation to landholders under the FFG Act. The preferred use of the Planning Act in the form of overlays and re-definition of zonings avoids the requirement to compensate landholders adversely affected by native vegetation and biodiversity regulations. The requirement for compensation would improve the level of consideration of social and economic impacts on individual landholders.
- A review of the 'protected species list' procedures and rationale is required.
- Australia is a huge country with different challenges in different areas. Only two-way communication between government and landholders will correctly identify and solve local environmental problems. It has to be a partnership and an equal partnership. The overwhelming power of government planners and regulators in relation to the property owner is currently unbalanced and this needs to be corrected so we can all move forward.

Awareness of the link between environmental health and production appears to be well-entrenched in the rural community in our district, although I do not have empirical data to back this up. If this is the case, then the shift towards sustainable practices that enhance native vegetation and biodiversity is already taking place with or without government intervention. We look forward to working with the regulators to find specific solutions that will facilitate and encourage our tree fern project.