National Association of Forest Industries

Submission to the Productivity Commission's Inquiry

into

The Impacts of Native Vegetation and Biodiversity Regulations

Summary

To deliver biodiversity conservation and the most effective utilisation of Australia's native vegetation, it is essential that industry and landowners be provided with a clear and consistent legislative framework. It is therefore essential that the interpretation, regulation and implementation of Commonwealth and State legislation is consistent with the stated objectives of the Acts.

By example, legislation should reflect the forest and timber industry's commitment to sustainability, rather than having Government agencies continually attempting to redefine sustainability for each new piece of environmental legislation. With a more appropriate application of the existing legislative framework, business confidence would be restored with flow-on benefits, through reduced financier risks being reflected in new investment and employment opportunities for the communities of rural Australia.

This legislative framework needs to be cohesive, with clear links between the relevant policy objectives and the impacts on vegetation management or biodiversity conservation. Similarly, there should be some degree of consistency between the various jurisdictions in regards to the way that native vegetation management and biodiversity conservation legislation is implemented and regulated.

There is a perceived lack of willingness for landowners to report on the area of native vegetation they either clear or use on a sustainable basis for production purposes, due in part to the uncertainty over possible future changes to legislation that may restrict their landuse activities. This is one of the perverse outcomes of the existing legislative arrangements as landholders don't want to end up having government agencies telling them how they will manage their land and resources in intricate detail.

The National Association of Forest Industries generally supports the objectives of the native vegetation management and biodiversity conservation legislation applying at the Commonwealth and State levels. To overcome the difficulties arising from the existing legislative framework, avoid any perverse outcome from restricting the use and clearing of native vegetation, and promote investment in sustainable land management, the following recommendations are provided for the Productivity Commission to consider:

1. There should be a greater degree of consistency between the objectives and the interpretation, regulation and implementation of legislation governing native vegetation utilisation and biodiversity conservation. It is essential that government agencies do not attempt to redefine sustainability with each new piece of legislation. Instead, they could

seek to use certification standards (such as the Australian Forestry Standard) as opposed to highly prescriptive legislation.

2. There should be clearly identified approvals processes to assist land and resource managers to comply with native vegetation utilisation and biodiversity conservation regulatory requirements (including the EPBC Act).

3. To deliver a greater degree of alignment between Government policies and legislation, and between the various pieces of government legislation, a business study test should accompany the regulation and environmental impact statements provided with each piece of legislation. The business study test would determine whether the legislation can be implemented without any unnecessary impacts on business investment decisions and whether a particular piece of legislation is effectively aligned with other related pieces of legislation.

4. Legislation governing the use of native vegetation should be set out in such a manner that it provides individual landowners with the flexibility of making decisions governing sustainable production and/or conservation on their own land. Those decisions should be made in accordance with land managers' needs and provide the basis for ensuring that perverse outcomes (such as ecosystem degradation) are avoided.

5. If the objective for environmental legislation is to avoid outcomes that impact on sustainability or biodiversity conservation, governments should avoid the introduction of highly prescriptive and restrictive legislation. Instead, landowners should be provided with compensation from a dedicated levy to deliver the specified environmental benefits associated with meeting the Government's (and therefore society's) biodiversity conservation objectives.

6. Secondary legislation should not be used by Parliaments to deliver environmental outcomes. Examples of secondary legislation include the use of renewable energy legislation to prevent the generation of electricity using wood waste harvested from sustainably managed forests or States introducing national park legislation that overrides the Comprehensive, Adequate and Representative reserve system agreed to as part of the Regional Forest Agreements.

7. The community consultation processes are an important component in delivering acceptable regional vegetation management plans. However, the consultation process should be constructed in such a manner that the interests of the community are identified and represented in these management plans, rather than the views of noisy minority groups or government agencies.

Introduction

Environmental legislation applying to the regulation of native vegetation utilisation and/or biodiversity regulation is having a significant impact on rural business confidence and investment. However, it is extremely hard to quantify the financial impact of the regulatory regimes on investment decisions, as many potential projects do not even make it to the planning stages. In many cases, it has been identified by land managers that the approval stages are too risky and costly to work through.

Generally, the difficulties faced in using existing native vegetation or undertaking activities that are perceived to have an impact on biodiversity outcomes, arise in the face of regulatory controls applied at the local, State and even Commonwealth levels of government. To counter these difficulties, provide resource security to land managers and deliver sustainable outcomes, it is essential that there is a greater degree of consistency and reality in the regulatory framework applying to vegetation management.

While any form of legislation is subject to the changing policy directions of each tier of government, it is apparent that legislation governing the use of Australia's vegetative resources comes under excessive pressure from environmental groups. As governments, and agencies responsible for implementing Government legislation, continue to respond to these ideological pressures, the changes that arise could have an increasingly negative impact on the quality of our ecosystems.

The National Association of Forest Industries (NAFI) agrees, in principle at least, with the key objectives of policies and legislation governing the use of native vegetation as it is consistent with the forest and timber industry's approach to ecologically sustainable forest management. However, the difficulties arise when the interpretation, regulation and implementation of various pieces of legislation are inconsistent with the objectives identified and pursued by respective governments when setting out that legislation.

Recommendation

There should be a greater degree of consistency between the objectives and the interpretation, regulation and implementation of legislation governing native vegetation utilisation and biodiversity conservation.

To overcome the inconsistencies between the stated objectives and the implemented outcomes of legislation covering native vegetation clearing or utilisation and the conservation of biodiversity, it is essential that government legislation and policies are consistent with one another. Four key examples are discussed in the body of this submission to outline the inconsistencies that currently arise. In brief:

1. The Environment Protection and Biodiversity Conservation (EPBC) Act 1999 is meant to streamline and support the project approval process. In some cases however, the EPBC Act approvals process is not clearly identified, thereby adding a considerable degree of cost, time and uncertainty to project assessments.

2. *Plantations for Australia: the 2020 Vision* (1997) contains a number of actions, agreed to by the Commonwealth, States and industry as being necessary to support future investment in the expansion of Australia's plantation resources. Unfortunately, there is

no consistency between the States in regards to the plantation planning approvals and the pieces of legislation applying to plantation developments. Similarly, local governments in most States can exert planning controls on plantation activities that differ from one council to the next.

3. There are inconsistencies with the treatment of Regional Forest Agreements (RFAs) at the State and Commonwealth level that impact on the use of native forest resources. These inconsistencies are reflected in State Governments delivering additional national parks to the detriment of industry with subsequent impacts arising through reduced resource availability and uncertainty over future supply arrangements. In a similar vein, the introduction of Federal regulations governing the use of wood waste for renewable energy generation is contrary to the content of the RFAs.

4. Under the Vegetation Conservation or similar Acts, State Governments have attempted to deliver regional management plans by engaging in broad community consultation processes. For example, this approach has been followed in an attempt to develop regional vegetation management plans in NSW and to identify the most effective management options for the Box-Ironbark forests in Victoria.

The costs of the existing legislative and regulatory frameworks

At the present time, the forest and timber industry is required to comply with a fairly broad and comprehensive range of environmental legislation. An outline of the legislative requirements applying to forestry activities in four States is provided at Attachment A to this submission. In addition to those requirements, forest growers may be required to comply with the EPBC Act (including on-going studies of environmental impact), local government planning guidelines and the State or Commonwealth rules applying to the use of wood waste for renewable energy production.

Instead of seeking to deliver sustainable outcomes through highly prescriptive legislation, alternative solutions should be considered. For example, the forest and timber industry in association with the Commonwealth and State Governments, have developed the Australian Forestry Standard (AFS). The AFS is a third-party audited certification standard for determining industry compliance with the internationally-accepted criteria of ecologically sustainable forest management.

As forestry companies become certified against the AFS, there will be a diminished requirement for Governments to control land use and vegetation management through highly prescriptive legislation. In the case of Regulation 8 of the Commonwealth's Renewable Energy (Electricity) Act, which controls the use of wood waste, there should be no requirement to say that native forest or plantation wood waste should only be acceptable for renewable energy generation if those resources pass the so-called high value tests.

The key requirement, which should be the case for other forms of environmental legislation, is whether its' use passes the test of sustainability. From a forestry perspective, that could simply require that the practices of vegetation managers are certified under the AFS or an equivalent certification standard.

Recommendation

It is essential that government agencies do not attempt to redefine sustainability with each new piece of legislation. Instead, they could seek to use certification standards (such as the Australian Forestry Standard) as opposed to highly prescriptive legislation.

There is no agricultural industry controlled under a regulatory framework as complex or diverse as the legislated regulations applying to forestry. In some instances, it is claimed that these additional regulations and the application of mandated Codes of Practice are necessary for long-term investments such as forestry. This view is quite contentious, given that any agricultural activity (cotton, grains, grazing, fibre) requires a long-term commitment by landowners. However, farmers are not required to go through stringent planning approval processes or forced to comply with a whole new raft of legislation, if they change between these non-forestry landuses across time.

Recommendation

There should be clearly identified approvals processes to assist land and resource managers to comply with native vegetation utilisation and biodiversity conservation regulatory requirements (including the EPBC Act).

Although it is difficult to determine the full cost implications of the regulatory requirements applying to the forest and timber industry, there should be some recognition that it is actually quite expensive and therefore impedes, or at least restricts, investment. This is further compounded by the industry having to comply with different legislation in each of the States, particularly when some forestry companies have plantation investments in five States.

As a direct result of the high costs associated with resource utilisation and meeting the requirements of biodiversity conservation, there are limits placed on the use of existing floral resources from Australia's forest and woodlands. In the case of renewable energy, the legislative arrangements applying to the use of wood waste at the Federal and State level undermine business confidence to the point where business financiers see the electricity generation projects based on this resource, as being too risky at the present time.

By undermining business confidence, the regulatory framework puts at risk a significant level of rural business opportunities. If the existing wood waste streams were utilised for renewable electricity generation, they would provide some 2,300 jobs and $800m in direct investment to supply enough electricity for over 400,000 houses. All of this could happen in rural communities without touching one more hectare of trees.

Recommendation

Secondary legislation should not be used by Parliaments to deliver environmental outcomes. Examples of secondary legislation include the use of renewable energy legislation to prevent the generation of electricity using wood waste harvested from sustainably managed forests or States introducing national park legislation that overrides the Comprehensive, Adequate and Representative reserve system agreed to as part of the Regional Forest Agreements.

Similarly, restricted access to native forest timber resources has had a major impact on the native forest industry sector right across Australia. An analysis of the socio-economic impacts of reducing the size of the timber industry in Western Australia, entitled 'Draft Forest Management Plan – Supplementary Social and Economic Impacts Report' can be obtained from the website www.conservation.wa.gov.au. The Governments of the Mainland States have considerably undermined confidence in this sector of the industry. As a result, project financiers are using the security of timber resource supply as the key criteria for lending to businesses so that they can expand.

Declining resource availability has therefore had, and continues to have, a major impact on employment and investment throughout Australia's regional communities. The indirect impacts are also quite substantial, given the employment and income multipliers for the forest industry are generally between 1.8 and 2.2.

By restricting the use of native vegetation, there is no mechanism for landowners or managers to place a commercial value onto those resources. This has the potential to lead to a significant decline in ecosystem integrity and biodiversity over time. If legislation, planning approvals or project assessment processes result in the limited use and value of native vegetation, it should be expected that the regulatory framework would actually deliver perverse outcomes. It may just take a considerable period of time for these perverse impacts to become more obvious.

Recommendation

Legislation governing the use of native vegetation should be set out in such a manner that it provides individual landowners with the flexibility of making decisions governing sustainable production and/or conservation on their own land. Those decisions should be made in accordance with land managers' needs and provide the basis for ensuring that perverse outcomes (such as ecosystem degradation) are avoided.

There are two approaches to achieve the stated objectives of the legislation applying to native vegetation utilisation or biodiversity conservation. If the intention is to limit landowner's uses of the existing native vegetation, there needs to be some method of compensation in order to deliver the appropriate outcomes. This is particularly important if Governments want to ensure that the objectives of the legislation are consistent with the delivered outcomes. There is no point telling landowners that they can only use their native vegetation for specific or limited purposes without providing financial incentives to deliver the most suitable conservation management approaches.

In some cases, it should be recognised that the most beneficial outcome will be to provide landowners with a number of options for placing a value on their native vegetation. In that way, landowners could make one of a number of decisions on how best to manage their resources as opposed to being forced to comply with restrictive and prescriptive regulations.

If the compensatory approach is to be adopted by Governments, there should be a direct relationship between the collection of a levy and the payment for specified environmental services. Compensation could be provided from a specific fund, with general contributions from taxpayers collected through a specific levy to pay for delivering the biodiversity conservation outcomes sought by society. There would be little benefit in disassociating the levy collection and the environmental service/biodiversity conservation outcomes.

Recommendation

If the objective for environmental legislation is to avoid outcomes that impact on sustainability or biodiversity conservation, governments should avoid the introduction of highly prescriptive and restrictive legislation. Instead, landowners should be provided with compensation from a dedicated levy to deliver the specified environmental benefits associated with meeting the Government's (and therefore society's) biodiversity conservation objectives.

In an attempt to achieve more balanced outcomes, Governments are becoming increasingly reliant on community consultation processes, particularly for the development of regional vegetation management plans. There are a number of cases where the community consultation process has delivered a well-supported management plan. However, where there have been attempts to prepare plans in the contentious regions, such as the Box-Ironbark forests of central Victoria or the forest-grazing areas of northeast NSW, the community consultation process has failed to deliver workable solutions with strong community support.

Those managing the consultation process need to recognise the importance of engaging rural stakeholders and the benefits of canvassing issues through public forums, as opposed to one-on-one meetings. It is of particular concern that the views of minority groups appear to have a significant level of influence over the final recommendations delivered from the community consultation process.

Recommendation

The community consultation processes are an important component in delivering acceptable regional vegetation management plans. However, the consultation process should be constructed in such a manner that the interests of the community are identified and represented in these management plans, rather than the views of noisy minority groups or government agencies.

While it is essential that the legislative framework of the Federal and State Governments support sustainability, it should be recognised that there is an increasing level of prescription and compliance in the regulated approaches. Two important tests that fail to be taken up by the Governments are whether there the implementation and introduction of the legislation will place large costs or impediments in the way of industry investment decisions. Secondly, there are cases where environmental legislation is not effectively aligned with existing pieces of legislation.

Recommendation

To deliver a greater degree of alignment between Government policies and legislation, and between the various pieces of government legislation, a business study test should accompany the regulation and environmental impact statements provided with each piece of legislation. The business study test would determine whether the legislation can be implemented without any unnecessary impacts on business investment decisions and whether a particular piece of legislation is effectively aligned with other related pieces of legislation.

Legislative and regulatory processes assessed in this submission

While there is a very broad range of Commonwealth, State and Local Government regulatory requirements applying to forestry activities, a limited number of Acts and planning approvals approaches are used to demonstrate the points raised in this submission and to outline the recommendations for future action. The regulatory components assessed are:

- The EPBC Act
- Regional Forest Agreements (RFAs), Commonwealth RFA legislation and State National Park declarations
- Regulations of the Commonwealth *Renewable Energy (Electricity) Act 2000* and the New South Wales' Greenhouse Gas Abatement Credit scheme
- Community consultation processes applying under the Native Vegetation Management Act in NSW and the management plan for the Box-Ironbark forests in Victoria
- Relationships between the policy *Plantations for Australia: the 2020 Vision* and the Plantation and Reafforestation Act in NSW as well as the draft Farm Forestry policy for Western Australia (with its associated regulatory framework)
- Options for addressing land clearing in Queensland.

Environment Protection and Biodiversity Conservation (EPBC) Act 1999

The EPBC Act has the key objectives of providing protection for the environment, particularly those aspects of the environment that are matters of national environmental significance. As a direct consequence, the Act attempts to promote ecologically sustainable development and the conservation of biodiversity. To achieve those outcomes, the EPBC Act consolidated and replaced a number of Acts (including the Environment Protection (Impact of Proposals) Act 1974) and attempted to streamline the environmental approvals process.

Of particular concern with the EPBC Act is the way that it is being used, or may be used, to assess particular projects that could have an impact on the environment. In most cases, there is no clear path for investors to have their projects referred for assessment under the EPBC Act and prior to the assessment process, there is no clear indication of the requirements that proponents will have to address.

Without any clarity on the assessment process applying to certain projects, particularly to large projects, there is an additional level of uncertainty left facing investors. For example, if an investor considers building a world-scale pulp mill in Australia at a cost of $1-2bn, they could move through the environmental impact studies for the project together with the completion of economic feasibility and community impact studies. However, the main risk is the lack of clear direction on the specific criteria they would have to meet in order to gain environmental approval for building a pulp mill in Australia.

It is recognised that many of the potential impacts from such an investment would be site specific but, there is no way that a company would embark on a process that might cost up to $60m to complete, without knowing the criteria they will be expected to meet. Most international investors remember all too well that the Tasmanian pulp mill proponents went through a number of assessment stages only to find that a political decision, by the then Federal Government, blocked the final project approval.

A more recent example under the EPBC Act has been the approval of the Tiwi Island plantation project. In the first instance, the project was to be assessed under the Environment Protection (Impact of Proposals) (EPIP) Act 1974. Although the assessment of the project was nearly complete under the EPIP Act, the approvals process was transferred without notice to the EPBC Act in 2000. This required a new set of project impact assessments and there was no outline for the project proponents on the specific criteria that would be assessed.

Even though the project has now been approved, following an extremely convoluted and translucent assessment process, there are still a number of quite stringent and somewhat unrealistic conditions placed on the project. The conditions for approval are contained on the Environment Australia website. Although they have been somewhat reduced in their content, quite substantial costs have been placed onto the project managers in order to complete the specified studies and monitoring activities.

It is this complex approach combined with uncertainty over the particular aspects of the projects that will need to be addressed or the criteria that would need to be met, in order to have a project approved, that provide the greatest risk to potential major project investors. To encourage investment in a new pulp and paper mill, there should be some means for specifically identifying the approval conditions that will apply to a proposed project without any risk of new assessment criteria being introduced during the approval process.

Regional Forest Agreements (RFAs), Commonwealth Regional Forest Agreement Legislation and State declaration of National Parks

Ten RFAs were entered into between the Commonwealth and the States of Tasmania, Victoria, New South Wales and Western Australia. They attempted to establish a balance between biodiversity conservation, natural heritage protection and the production of timber. The RFAs contain an agreed framework for the environmentally sustainable management of the public forest estates for a period of 20 years.

To derive the Comprehensive, Adequate and Representative (CAR) Reserve System for native forests, the Commonwealth and the States had to address the regulatory requirements of environmental impact, world heritage, national estate and endangered species legislation. As a consequence of this process, the Commonwealth and States agreed on the areas to be maintained in permanent reserves, the areas available for production forestry, the volume of timber to be harvested and the process for assessing the outcomes of the RFAs.

The Federal Government cemented the RFAs in legislation through the Regional Forest Agreements Act 2002, with the primary purpose of the Act being to support the Commonwealth's obligations, as set out in each agreement. Unfortunately, since signing the agreements, some of the State Governments have eroded the content and spirit of the agreements by reducing the areas available for timber production. These areas have been transferred across to National Parks in response to the influence of environmental groups.

The primary concern of the forest and timber industry is that no additional financial resources have been provided by State governments to manage these new national parks. As a result, there is minimal protection of biodiversity. Feral animal and weed control are major problems and recently, we have seen the loss of numerous ecosystems through the effects of bushfires that could have been reduced in their scale and intensity if the lands were under the stewardship of the State forestry agencies.

In the new national parks, the access trails are no longer maintained to the standard that existed when the areas were production forests. Most importantly, the loss of timber workers has also meant the loss of fire fighting personnel, equipment and infrastructure (such as the extensive fire trail networks). By working in these forests, the foresters had a good knowledge of the landscape and were committed to dealing with fires as soon as they were ignited.

When new national parks created at the expense of the forest and timber industry, State governments need to provide additional funds not only for their management but also for the replacement of personnel and equipment lost when the forestry workers lose their jobs. In the recent Victorian bushfires, over half of the bulldozers used to cut fire breaks and protect either commercial or environmental assets, were owned by the timber industry.

It is of serious concern that State governments can place at significant risk both native vegetation and biodiversity conservation. There is no requirement to maintain the active management of these resources and there are generally insufficient funds to support those management practices. The inability of the States to either complete hazard reduction burns to reduce national park fuel loads or implement alternative options to reduce the fuel loads, indicate the less than exhaustive efforts undertaken to protect the natural environment.

Commonwealth and State Renewable Energy Regulations

Australia currently has enough wood waste from existing native forest and plantation activities to generate almost 3,000 GWh of electricity each year. That is, around one third of the Mandated Renewable Energy Target could be derived from wood waste without harvesting one more tree. Unfortunately, Commonwealth and State legislation has impeded the use of wood waste for this purpose.

The Commonwealth's Renewable Energy (Electricity) Act (REAA) 2000 was designed to encourage the generation of electricity from renewable sources, reduce greenhouse gases and to ensure that the resources used for renewable energy come from ecologically sustainable sources. Regulation 8 to this Act covers the use of wood waste and represents the use of 'secondary' legislation to reduce the markets for wood products harvested from plantations and native forests. That is, some members of the Parliament couldn't obtain the outcomes they sought through the primary RFA legislation (that is, to stop native forest harvesting) and attempted to restrict native forest activities by limiting the market options for wood waste generated during timber harvesting operations.

It is extremely disappointing that the Opposition supported the RFA legislation in both houses of Parliament but then restricted the use of wood waste by allowing the inclusion of very costly auditing requirements in Regulation 8 of the REAA. Unfortunately, many companies interested in renewable energy now have limited confidence in using wood waste for electricity generation purposes. The numerous difficulties posed by Regulation 8 are detailed in two submissions made by NAFI to previous parliamentary inquiries. Those submissions are available at www.nafi.com.au/issues – NAFI Submissions:

- Renewable Energy from Forest Residue (NAFI 2003) – a submission to the Environment, Communications, Information Technology and the Arts Legislation Committee inquiry into the Renewable Energy (Electricity) Act Amendment Bill 2002
- The Review of the Renewable Energy (Electricity) Act 2000 – a submission to the Senate Environment, Communications, Information Technology and the Arts Legislation Committee.

The RFA process identified those areas of forest that could be used for production purposes, based on the principles of ecologically sustainable forest management. State Premiers agreed to that assessment process and the harvesting of timber from specified areas. However, in the case of New South Wales (and possibly in Victoria in the near future), the State Government has legislated against the use of native forest wood waste for producing electricity and charcoal. It is almost an absurd outcome that there is agreement on the forests being managed in an environmentally sustainable manner for the purposes of timber production, but the use of wood waste for renewable energy generation is excluded by regulation.

By taking away the markets for low grade timber products that can be harvested in association with saw and veneer log production, Governments are also reducing the economic returns that private land managers can obtain for their native vegetation and therefore the incentive to manage those resources for multiple outcomes. This is one of the perverse outcomes associated with implementing a highly prescriptive regime. Instead of attempting to prescribe high-value tests that limit the use of wood waste, the regulations should be supporting the use of wood waste derived from sustainably managed resources.

Community Consultation Processes

The community consultative processes can be shown, under certain circumstances, to have a positive influence on vegetation management outcomes. In NSW, the are provisions under the *Native Vegetation Conservation Act 1997* for members of regional committees, appointed by the relevant Minister, to manage the consultative process for delivering recommendations on regional vegetation management. Those recommendations are transformed into regional vegetation management plans by the Department of Land and Water Conservation.

In NSW, there have been two plans implemented, covering important issues such as vegetation clearance, vegetation management and biodiversity conservation. Those plans have been developed separately for the Mid Lachlan and Riverina Highlands regions.

However, the community consultative process is not so effective in those regions where vegetation management is a highly contentious issue. In the Clarence and Richmond regions of northeast NSW, there have been several attempts to develop regional vegetation management plans that meet the requirements of all stakeholders.

Clarence region committee members were appointed by the Minister to oversee the process and consultants were appointed, against a brief prepared by the Department of Land and Water Conservation, to undertake consultations with various regional stakeholders. In general, the consultants held meetings with individuals or organisation representatives.

The information was used to prepare a report that was delivered to the government agency as the basis for developing a regional vegetation management plan, with limited input from the appointed committee. Unfortunately, the appointed committee was so dysfunctional, it could not agree on definitions (such as the definition of clearing).

There was public consultation on the draft plan and further requests for public input. A plan was finally developed, containing regulations that the government agency believed appropriate for vegetation management in Clarence region, but it is not likely to be implemented. Similarly, the plan for the Richmond region was not supported by that region's committee and as a result, there is no plan covering vegetation management.

In the Box-Ironbark forests of central northern Victoria, community consultation process was undertaken as part of the approach for developing a management plan that covered the various uses for those forests. However, the Environment Conservation Council attempted to restrict the consultation process by having one-to-one meetings between appointed researchers and community stakeholders. In each case, the researchers provided their interpretations of what was discussed at the meetings as the basis for the Council to develop the management plan.

Although the community consultation approach can produce quite beneficial results and effective vegetation management plans, there are major impediments to achieving substantive outcomes in the more contentious regions. To obtain the views of stakeholders, it is essential that public meetings be held to discuss the objective, priorities and content of the plan. To extract that information, it is essential that facilitators be used who understand rural people and don't allow minority groups to over-ride the consultation process. This would allow Government agencies to provide a greater degree of balance between land use and/or conservation outcomes when finalising the plans.

Legislation reflecting Government policies – the 2020 Vision as an example

In 1997, the Commonwealth, State governments and industry initiated the strategy *Plantations for Australia: the 2020 Vision.* There were two key components to the 2020 Vision – the target of increasing Australia's plantation estate to 3 million hectares by the year 2020 and a list of actions that identified the impediments which needed to be addressed if the target was to be achieved. Unfortunately, no State has yet delivered a comprehensive plan for their jurisdiction that outlines the State-specific impediments to the growth of the plantation sector and the actions required to address those impediments.

Over the last six years, there has been on going work to address those impediments identified in the national strategy. Each State has drafted, implemented or modified its codes of forest practice and planning approvals processes, including the vegetation clearing and biodiversity conservation regulations.

The key difficulties with this approach is that each local council can have specific landuse planning policies with varying controls over plantation projects. This means that forestry companies may have to deal with a large number of planning policies across their plantation estate. In some cases, the plantation forestry companies may operate in five States, leading to considerable difficulties with the inconsistencies in the plantation approvals processes they have to follow.

In NSW, the Plantations and Reafforestation Act 1999 sought to overcome some of these difficulties. Plantation companies could seek approval for their projects through a single process without having to specifically comply with a diverse range of related pieces of legislation. There are still a number of difficulties with this approach, as reflected in the relatively weak investment in expanding the NSW plantation estate over the past six years - at the present time, NSW accounts for less than 5% of the total new plantations being established around the nation.

In many cases, the forestry companies believe that the costs of completing the required impact studies and the risk of not gaining approval are too high in NSW, compared to the other States. To gain a plantation development authorisation, forestry companies must:

- Have their operations comply with the State code of forest practice
- Determine if there will be any impacts on unique or special wildlife values
- If so, complete a relevant species impact statement, demonstrating that the project will not harm any endangered species or endangered ecological community
- Determine if there are any threatened species impacted by the plantation development
- Comply with regional vegetation management plans, particularly any provisions relating to vegetation clearing, and
- Outline the environmental effects of those plantation operations that do not comply with the code of practice, at which time, local councils, neighbours and other relevant stakeholders can raise objections to the application under consideration.

It is possible that the relevant Minister could place conditions on the plantation authorisation or request that the applicant provides recovery and/or threat abatement plans in response to the outcomes of the species impact statement. While these conditions may seem reasonable, it needs to be understood that the authorisation process may be very costly to complete (given the number of studies that may have to be undertaken) and these requirements do not apply in

any other State or for any other landuse in NSW. These requirements are arduous and act as a significant disincentive for any investor considering whether to invest in plantation forestry or some other form of landuse.

In Western Australia, there has been a draft farm forestry policy in place for four years – it has not been finalised during that time and the State has no Code of practice in place for timber plantations. This is in stark contrast to the Government's claims that they support the 2020 Vision and that they see plantations providing the future resources to support the long-term growth of the forest and timber industry in that State.

Without a State policy governing plantation planning approvals in Western Australia, there continues to be inconsistencies in the statutory planning provisions between the different local governments. An effective State planning strategy is required with no discrimination between landuses. At present, the draft farm forestry policy attempts to specify the agricultural zones where plantation planning applications can be approved. If this process were included in the final policy and legislation, plantation forestry would not be an 'as-of-right' landuse. In special control areas, plantation developments may not be approved because the landuse is not compatible with the identified landscape or environmental values.

The regulatory approaches taken in NSW and Western Australia are quite discriminatory and are at odds with the respective Government's commitments to the national 2020 Vision strategy. As further evidence in the lack of consistency between policy and legislation, the Federal Opposition supports the 2020 Vision for plantations. However, when Regulation 8 of the Renewable Energy (Electricity) Act 2000 was finalised in the Parliament, the Opposition did not prevent the inclusion of a high-value test that effectively precludes the use of plantation wood waste as a renewable energy resource.

As a consequence, the legislative framework applying to plantation approvals and renewable energy limit the expansion of plantations that could deliver environmental services and provide commercial timber resources for industry. Indirectly, the beneficial outcomes for biodiversity conservation and remnant vegetation management associated with plantation forestry will be restricted, leading to another perverse outcome from the inappropriate wording, interpretation and implementation of legislation.

Land clearing in Queensland

The options for placing a tree clearing ban on grazing woodlands in Central Queensland were developed by Government agencies in response to pressure from environmental groups. A closer examination of the trees being cleared indicated to the Prime Minister in his July 2003 visit to the area, that there were far different outcomes to consider when developing a vegetation management strategy for the grazing and wood lands of Queensland.

In many cases, the scrub and trees being cleared represents the regrowth of trees on paddocks that had been cleared in recent times. Throughout other areas, the canopies of the woodlands had closed over, preventing the growth of grasses under the trees and leading to soil erosion when it rained. Finally, there are those areas that have never grown trees, due to the soil composition and should not be included in cleared area estimations. This is an example of why it is extremely difficult to apply one prescriptive approach to vegetation management without considering the regional differences in vegetation communities and ecosystems.

Attachment A

Forestry-related legislation in New South Wales, Victoria, Tasmania and Western Australia

The comprehensive legislative requirements applying to forestry in Australia should be recognised for their capacity to support ecologically sustainable development and the conservation of biodiversity. However, these regulatory requirements place additional costs onto forestry investments, which are not faced by any other agricultural pursuit.

New South Wales

Forestry Act 1916
Timber Marketing Act 1977
Contaminated Lands Management Act 1997
The Forestry and National Park Estate Act 1998
Plantations and Reafforestation Act 1999
Protection of the Environmental Operations Act 1997
National Parks and Wildlife Act 1974
Threatened Species Conservation Act 1995
Wilderness Act 1987
Environment Planning and Assessment Act 1979
Native Vegetation Conservation Act 1998
Soil Conservation Act 1938
Aboriginal Land Rights Act 1983
Native Title (NSW) Act 1994
Heritage Act 1977
Fisheries Management Act 1994
Rural Fires Act 1997

Victoria

Forests Act 1958
Forestry Rights Act 1996
Land Act 1958
Conservation, Forests and Lands Act 1987
Crown Land (Reserves) Act 1978
Flora and Fauna Guarantee Act 1988
National Parks Act 1975
Catchment and Land Protection Act 1994
Heritage Rivers Act 1992
Reference Areas Act 1978
Planning and Environment Act 1987
Country Fire Authority Act 1958

Tasmania

Forestry Act 1920
Forest Practices Act 1985
Land Use and Planning Approvals Act 1993
Environmental Management and Pollution Control Act 1994
Threatened Species Protection Act 1995
Aboriginal Relics Act 1975
Aboriginal Land Act 1995
Historic Cultural Heritage Act 1995
Weed Management Act 2000
Agricultural and Veterinary Chemicals (Control of Use) Act 1995
Fire Service Act 1979

Western Australia

Forests Products Act 2000
Forest Management Regulations Act 1993
Conservation and Land Management (CALM) Act 1984
Environmental Protection Act 1986
Sandalwood Act 1926
Sandalwood Regulations 1993
Health Act 1911
Health (Pesticide) Regulations 1956
Aerial Spraying Control Act 1966
Timber Industry Regulation Act 1926
Environmental Protection Act 1986
Wildlife Conservation Act 1950
Aboriginal Heritage Act 1972
Bush Fires Act 1954
Country Areas Water Supply Act 1947
Country Areas Water Supply (Clearing Licence) Regulations 1981
Country Areas Water Supply By-Laws 1957
Metropolitan Water Supply Sewerage and Drainage Act 1909
Soil and Land Conservation Act 1950
Heritage of Western Australia Act 1990
Agriculture and Related Resources Protection Act 1976
Explosives and Dangerous Goods Act 1961
Fish Resources Management Act 1994
Rights in Water and Irrigation Act 1914
Town Planning and Development Act 1928
Waterways Conservation Act 1976