

F.S. Hesper

26 January, 2004

The Secretary
Native Vegetation Inquiry
Productivity Commission
LB 2 Collins Street East
Melbourne Vic 8003

Dear Sir,

Re: - Impacts of Native Vegetation and Biodiversity Regulations
Comment on Productivity Commission Draft Report

The Commission is to be congratulated on identifying so many of the large number of serious impacts and losses sustained by landholders as a result of the above legislation (Regulations). It is to be congratulated too in pointing out the pitifully few provisions for compensation (which amount to virtually nothing) provided by governments. Yet again, it has clearly shown up the spurious claims made for the “benefits” supposed to derive from the Regulations.

In a perfect world, the summary given on p.XXII under the “Key Points” would almost exactly encapsulate the basis for appropriate legislation if that legislation were in fact necessary. Unfortunately, we do not live in a perfect world, and equally unfortunately this is only one page in a 589 page document.

It is clear that the Commission has had its hands tied behind its back from the start (“The inquiry is not about arguing the case for or against promotion of environmental objectives – what value to place on environmental services provided by native vegetation is for the community to determine, not the Commission” Report p. XXIII.) The terms of reference make it clear that there is a tacit assumption that the current regulations are basically correct and only need some amendment or adjustment.

The comment in the above quotation – about community determination of the necessity / desirability / extent of native vegetation and biodiversity legislation – is, to say the least, trite. It is also perhaps unfair to the Commission itself. The Commission must be fully aware that the environmental debate has been taken out of the true public arena and has become the captive of the green movement, the media, and ideologists of the left. In any case the weight of propaganda from these vested interests would make it very difficult if not impossible for the “community” to make a reasoned determination. This would be particularly so in determining the real cost and who was to pay it. For example, it is impossible to believe that firstly, any government would openly declare that all taxpayers would have to pay an additional impost to “protect the environment”; and secondly, that taxpayers would be prepared to pay that impost.

I intend, in this brief written submission and in my later evidence at the public hearing in Sydney, to touch on as many of the matters raised in the draft report, as time will permit. It will be impossible to cover all that should be covered in the report, it

would take a document as long again as the report. There is hardly a paragraph in the report that does not need comment.

Before I do so however I must express my bitter disappointment on finding, after having read the “Key Points” referred to above, that the draft Recommendations (pp. XLII – XLV) are simply tinkering with the existing draconian legislation. For example, Recommendation 3 talks about ‘data’ and ‘science’; but instead of urging the necessity for proper scientific inquiry into and definition of the whole basis of the supposed ‘greenhouse effect’ and ‘biodiversity’, and their relationship, if any, with wide scale blanket prohibition of clearing, all we find is an emphasis on extra snooping on the extent of clearing.

The Commission's inquiry has been wide ranging and has allowed a large number of people to express their views. My broad comment – and here I seek leave to point out that this comment is generalised – is that giving evidence of the costs and disadvantages of the legislation have provided facts and figures which support their evidence. On the other hand, those speaking in support of the legislation have relied on emotive statements and virtually no facts. What is worse, what they do put forward as fact is usually nothing but exaggerated postulation. I am reminded of a remark made to me by the late Milo Dunphy when I confronted him with the falsity of one of his public statements. “I know it’s not true,” he said “but you have to exaggerate or fabricate to make people listen; in any case the media won’t give you any attention unless its sensational”. The Australian Conservation Foundation, the Wilderness Society and Senator Bartlet, among others, seem to have taken a leaf out of Milo’s book.

1. More Appropriate Legislation

Until unbiased research, both scientific and historical, establishes the need for wide scale prohibition of clearing – if indeed such a need is ever established – more appropriate and scientifically based legislation should replace that which has been enacted by governments intent on being politically correct and/ or buying votes from the Green movement.

I have touched on this in my earlier submission (Sub. 62) and in my evidence at the first public hearings (transcript pp. 864/5). The legislation I have in mind would be based on up to date agricultural, meteorological, geomorphological, hydrological and geomechanical data.

Among other things the legislation would:-

- Prohibit clearing within a certain distance of any watercourse (with the provision that minor watercourses could be filled in or ploughed out and grassed)
- Prohibit clearing on slopes steeper than a certain gradient.
- Provide for the maintenance or planting of tree belts of a certain minimum width on the contour at certain maximum intervals on slopes steeper than a certain gradient.
(Relief would need to be given on the last two points for (i) short steeper slopes within a general slope and (ii) the provision for application for clearing on steeper slopes on the basis of appropriate sampling and testing - at the cost of the land holder.)

- Prohibit clearing land which would not sustain a viable crop or pasture. (This would of course be self regulating in the case of genuine farmers or graziers, but would need to be policed in the case of developers, hobby farmers or the like)
- Prohibit clearing of land defined as water table recharge zone proven to be contributing to dry land salinity. (The onus of proof for this should lie with the Authority exercising the prohibition, and the landholder should be reimbursed for the consequent losses/ costs.) It must be noted here however that very often on such recharge areas the tree cover is naturally scant, and deep rooted crops such as lucerne provide a better solution.
- Provide for a minimum area of tree cover (not more than say ten per cent of the total land holding).

Governments wishing to restrict clearing on freehold land beyond that set out above should be required to recompense the affected land holders by:-

- (a) Purchasing the affected land at the market price of nearby similar but cleared land less the cost of clearing; or,
- (b) Paying the land holder annually, the loss of profits from the sequestered land.

Leasehold land should be dealt with in the same way. In the case of leasehold land however, any change not envisaged by the conditions of the lease would be a breach of those conditions and appropriate damages would be payable. Clearly the conditions of each lease would need to be examined, but compensation on the same scale as for the freehold land would be appropriate ad damages.

I note that, quite properly, the Federal Government has declined to be a signatory to the Kyoto protocol. This decision has been made on the same basis that I am opposed to the legislation which is the subject of this inquiry; namely, very high costs for very little benefit and the lack of determinative evidence. One might ask why the government does not repeal or significantly amend the EPBC Act and enter into negotiations wit the States with a view to getting some sanity into their legislation. Perhaps it is simply that the big business lobby is more powerful than the farm lobby.

2. The Current Regulatory Regime

It is not my intention here to rehearse all the legislation in current use. In any case the Commission has done that quite adequately.

It need only be said again, that the current legislation impacts severely and unfairly (I make no apology for the use of the last word – I simply refer the Commission to the Oxford Reference Dictionary) on a small section of the community. A section for the community, moreover, that is already under stress and which provides some 25% of the country's export earnings.

The Commission's report makes it clear makes it clear (although it does not set out to do so) that there has been no attempt to engage with scientific and historic reality in the

drafting of the current legislation. False emotion, ideological bias and black armband attitudes toward nature have been the driving forces, together with political correctness, behind each piece of such legislation. For example the Victorian government wants the ‘... transferring [of] power from land holders to the community’. There speaks the authentic voice of the ideological left.

Ignorance, or blind disregard, of the realities of the ecosystem fuel the green lobby’s demands; and politicians, to curry favour in the expectation of votes, have translated these demands into legislation.

Not only are their claims false at the global level (see my original submission [No. 62] at pp. 1-3) but have been demonstrably false at the local level. An example of this is the A.C.F.’s claim that restrictions on vegetation clearance (specifically tree clearance) had improved the condition of the Great Barrier Reef. I note that the Commission’s own conclusion was that this was not so. In passing, it is interesting to note that Bob Katter questioned whether retaining woody was the best means of reducing runoffs.

Of course the Commission and Bob Katter are both correct. The coefficient of runoff ©, which is a measure of the proportion of rainfall falling on a particular area that runs off the area, varies with the intensity of rainfall and the type of surface. For example; for a rainfall intensity of 50mm per hour, C for grassland is 0.275 and for forest is 0.475 and; for a rainfall intensity of 100mm per hour, C for grassland is 0.43 and for forest is 0.68. In other words the runoff from forests is of the order of 60 per cent more than the runoff from grassland. (Australian Rainfall and Runoff – Institution of Engineers Australia 1977)

Among other things, the Inquiry has shown that:-

(i) The existing legislation has brought serious, loss, of both capital and income, to farmers and their dependants. This has been shown by numerous submissions and by the Commission’s own investigations in the Moree and Murweh Shires.

There should have been no need for all this investigation; the income producing capacity of a property is directly proportional to the area capable of production. Where a part of the property is sequestered by prohibitions against clearing, that part of the property, ipso facto, becomes non-productive, so that the potential income producing capacity of the property is reduced.

Replacing this lost productive capacity by the ‘benefits’ of ‘ecotourism’, provision of fodder, food, seeds, wild flowers and plants, medicine, timber etc.; as has been suggested in Box 2.2 on p. 10 of the report is a sad commentary on the total lack of reality which unfortunately has been allowed to permeate the report as a result of the vapourings of the green movement.

The capital loss to land holders has already reached the land valuation system. For example, over the last valuation cycle (1998-2002) land in the Bathurst area with a significant proportion of tree cover has been reduced in value by 20 per cent; while cleared land of a similar nature has continued to appreciate in value.

(ii) Local areas are also being, and will continue to be disadvantaged. The Moree and Murweh Shire studies have shown this, without the other evidence before the Commission.

(iii) There has been and there will continue to be an increase in vermin and noxious weeds in timbered country sequestered by this legislation. Evidence for this is abundant in national parks, and already in some freehold land. There is plenty of evidence of the propagation of noxious weeds from National Parks; and of the Parks being used as a harbour for vermin, from which they prey on livestock in adjacent properties.

(iv) Claims by the proponents of the legislation have not been substantiated by any factual evidence. Most of it consists of dire predictions about what might happen at some indeterminate time in the future. For example, '...the long term adverse economic and environmental effects which could result from land degradation if native vegetation and biodiversity are not protected.' (Tamborine Mountain Landcare) 'Urgent action is required to prevent further degradation of our natural resource base and natural heritage' (senator Bartlett).

(v) There are serious flaws in what little quantitative 'evidence' has been produced to support the basis for the legislation. Among other things, the base from which the extent of clearing has been postulated can best be described as a figment of somebody's imagination. Even so, on the basis of this very tendentious data more than two-thirds of the 'intensively used areas' are still tree covered. There is very good reason to believe that this is very little, if at all, less than at the time the first settlers arrived.

(vi) In reality, as I indicated in my earlier submission, it gets down to the fact that these pieces of legislation are an ideological tool used by governments to propitiate the green movement in the expectation of votes.

3. Attitude of Farmers

The report makes it abundantly clear that farmers (the landholder group most seriously affected by the legislation) have kept a very open mind in regard to the whole question of environmental conservation and husbandry.

Before 'green' ideology became part of the political agenda, most farmers were conscious of and actively pursued conservation practices. Of course there were exceptions, but these were few. There has been a rising plane of information and advice from agricultural departments, farmer's organisations and other bodies which has made farmers more aware of appropriate practices. These have had a wide acceptance and have been put into use.

Farmers are, by inclination and experience, individualists. Nevertheless, they have been prepared to co-operate in conservation and husbandry. Carrying out activities on their own land which would benefit adjacent properties and even whole districts. Landcare groups and other similar organisations are evidence of this.

Nevertheless, farmers have been affronted by native vegetation and biodiversity legislation. They, quite properly, perceive it to be based on false premises and totally biased and unfair. Furthermore, it cuts across all established legal, constitutional and familiar rights; many of them centuries old.

The result is quite likely to be that farmers will become estranged from the environmental process. For example, if some of their land is sequestered by a blanket prohibition of clearing it is more than likely that they will simply neglect it. Or at the best, only do what is absolutely necessary to protect their remaining property.

It is perhaps not drawing too long a bow to suggest that this legislation will further add to the estrangement between country and city. Most members of the 'green movement, and certainly the most vocal of them, are city based. They have no understanding whatsoever of the realities of conservation and husbandry, and farmers are acutely aware of this. Furthermore, 'green' propaganda consistently casts farmers in the role of villain – polluters, destroyers of the natural environment, razers of trees etc., etc. When a section of the community, constituting less than five per cent of the total; which provides 25 per cent of the community's export earnings and provides the rest of the community with the cheapest food in the world; is attached in this way, it is naturally resentful.

4. The Attitude of the 'Green' Movement

In contrast to farmers, the 'green' movement is intransigent, biased and closed minded. It's attitudes are at best emotional and at worst ideological.

In my earlier submission I dealt with question of the false premises upon which the emotive fears of global warming and biodiversity depletion are based. Yet it is upon these false premises that the native vegetation and biodiversity legislation is claimed to be necessary. The green movement promotes these fears, the venal media publicises them and, as a consequence, a great many ignorant and unthinking people accept them.

There are many instances in the report of the 'green's' irrational and selfish attaches on farmers.

The A.C.F., for example, is totally opposed to the giving of compensation to farmers for the loss of potentially productive land. "The payment of compensation for regulating land use or water access would be an unreasonable burden on the public peruse." They say, "the high cost of compensation would leave governments in a position where they could no longer afford to enforce environmental laws or social responsibilities." In other words let the farmers suffer, we're all right. I is also enlightening to note that they at least recognise the 'high cost' to farmers that is the inevitable result of this legislation. Nevertheless, they are quite satisfied to leave the farmers to bear that cost.

This same organisation blandly suggests that no hardship will result from the legislation or that at least there will be only "... Unusual cases where real hardship is faced..." This is an easy attitude to adopt for someone in a soft well paid office job, without the risks and hardships associated with farming. It is also the attitude of someone with no understanding and very little sense.

This of course epitomises the whole of the 'green' movement. None of them have their livelihood or their assets on the line. They are quite prepared to make others suffer for their own ideological prejudices.

Another such a one is Grafton (Report p.28), who considers that landholders do not have rights, but have been granted privileges to undertake certain activities. Presumably these privileges include being allowed to farm. This is something straight out of Soviet Russia.

I would like Mr. Grafton to have the 'privilege' of putting all his assets into a farming property and then working a 60 or more hour week for the rest of his life,

probably without ever being able to pay off his mortgage on the property. I would particularly like him to have the privilege of encountering a three or four year drought soon after buying the property. He could also have the further privilege of providing the rest of the community with 25 per cent of its export earnings, low cost food and the ability to enjoy an income far in excess of that which he could ever hope to have. The man is a nincompoop.

It is significant that many in the 'green' movement are members of the ideological left. It is no longer practicable for the radical left to promote communism, but it is very politically correct to promote environmentalism, and to use it as an attack on capital.

5. Conclusion

The draft report is too vast for my small resources. It is only possible for me to repeat again that:-

- (i) Farmers responding to this inquiry had shown their preparedness to work toward environmental protection. They have provided factual evidence to support their claims that the current legislation causes them loss and actual harm.
- (ii) The Green movement at the other hand has not provided factual evidence in general; and what little they have provided is suspect.
- (iii) The representatives of the green movement have no real conception of what they are talking about; but are quite prepared to let, or make, others suffer for their prejudices.
- (iv) In my opinion, the current legislation is dubious on constitutional and legal grounds. Nothing in the draft report has given me any reason to change this opinion.
- (v) Despite the Commission's obvious attempts to be disinterested, its terms of reference have tied its hands in such a way that, despite the weight of evidence against the current legislation, it has only been able to recommend peripheral changes to that legislation. Whereas repeal, followed by rigorous scientific, historic and socio-economic research leading to new legislation, is what is really necessary.
- (vi) I believe that, despite that apparent complexity of the draft report, the whole matter can be summed up in the following questions:-
 - (a) Is the claim that prohibition of clearing is necessary for the safe continuity of human civilisation correct?
 - (b) What is the best management practice for a particular rural property, and who is the best person to decide that practice?

Only if the answer to the first question is a definite and probative yes is there any warrant for wholesale restriction of clearing, and even this needs to be looked at on a case by case basis. Other wise the type of legislation I have suggested in 1. above is the appropriate form for the current situation.

The best person to decide the appropriate management practice for a particular property is the owner of that property. He may well need assistance by way of

information and advice; particularly in regard to soil science and other complex technical matters. In addition, any information that he can be given in regard to environmental matters would be of great benefit. Nevertheless, his own personal knowledge and experience of his own property will always be the deciding factor.

- (vii) It is high time that the vilification of farmers by the green movement ceased.
- (viii) The question must be asked, why is it that farmers are singled out to supply the supposed required carbon dioxide sink. Reduction in carbon dioxide production greater than which could be disposed of by all the trees on private land could be achieved by banning night time sport which requires floodlighting (and which attracts large numbers of spectators, who travel by private car); or by banning the use of private cars in inner city areas. But of course no government would do this, and the green movement would not ask them to. After all, farmers are a much easier target.

Yours faithfully,

F.S. Hesper