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Comment on: Productivity Commission Draft Report

"Impacts of Native Vegetation and Biodiversity Regulations"

Introduction

I am a forester managing private native forest in the far south west of NSW. I have 38 years experience as a graduate forester, including 23 years with the Forestry Commission of NSW and the last 15 years in private enterprise. I am a member of the Western Riverina Regional Vegetation Committee, and whilst the Vegetation Management Plan we prepared has been superseded by new legislation, the committee has not been disbanded. In fact late in 2003 the Minister reappointed me to that committee.

I am a member of the "Private Native Forestry Working Group" set up by DIPNR of NSW to prepare a Regulation for private native forestry under the Native Vegetation Act 2003.

Comment

This draft report should serve as a wake up call to legislators and regulators to recognise that conservation laws require the cooperation and compliance of landholders to be effective.

To me the draft report appears to have skirted around, but not quite come to grips with, a few key issues.

1. Draft recommendation 1. *A "regulation impact statement" should be prepared and made public.* This is all very well but it may not deliver an assessment of the true impact on the community. In NSW we have had several regulatory processes imposed in the last 10 years. When SEPP 46 was announced there was no assessment of its socio-economic impact. Then the Native Vegetation Act 1997 came into force requiring Regional Vegetation Plans that would include an economic analysis. Initially in the Western Riverina we had difficulty preparing e clear and concise consultants brief. However the consultant who did the analysis picked up on the point we had missed, that our vegetation plan did not vary much from SEPP 46 and so in effect our plan itself would have very little impact. The major impact had already been imposed by SEPP46 without redress. Director General J. Westacott of DIPNR acknowledges that she and Minister C. Knowles accept that the Native Vegetation Conservation Act 1997 was not working as intended because it did not adequately address the socio-economic impacts. **Question:** should a "regulation impact statement" evaluate the impact on the situation now compared to before the planning policy and Act that is seen not to be working, or should it merely evaluate the current change compared to the ineffective laws?

2. Draft recommendation 2. This recommendation needs to be qualified to ensure that there is no ambiguity. I assume it means that the monitoring and review will be of, what it is costing to achieve, and what it has achieved in environmental benefit. The *articulated objectives* are only relevant if they relate to direct and objective assessment of native vegetation and biodiversity. Neither successful prosecutions of breaches of regulations, nor vetoed clearing applications are measures of conservation because neither may have conserved anything in the field. It concerns me that no thought has been given by the relevant Departments to the means of measuring and monitoring benefits. Too often the only measure used is subjective opinion. For the Western Riverina Vegetation Plan estimates of pre-settlement vegetation were compared to current estimates. The data in early public consultation documents showed a particular forest type as currently 101% of the pre-settlement area. When improved data reduced the current area estimate significantly it was adopted, yet no attempt was made to apply the methodology to modify the pre-settlement

estimate. There is reason to believe the current area deleted was never that particular forest type.

3. Regulators need to appreciate the difference between theoretical impacts and what actually occurs in the field. It appears to be assumed that if the law says a tree must not be removed, that tree is safe. In fact if the landholder sees that tree as a liability, there is a probability that tree will disappear with little or no risk of the landholder being prosecuted. Surely the intent of a regulation should be of conservation benefit, not to just appear to be a formula to aid prosecution. A prosecution means that law has failed in that instance and the vegetation or biodiversity has lost. The extent to which a successful prosecution acts as a future deterrent remains speculative. **If a law retains my biodiversity as an asset I have the incentive to conserve it, and the impact is a win for biodiversity. If the law turns my biodiversity into a liability then it will have an adverse impact on me, or my biodiversity, or both.**

4. **An impact of most of the "draft recommendations" will be to increase Departmental employment to administer, monitor and research.** An impact of that is to increase the Department's cost to either the State or landholders depending on who is deemed to be "the user". An indirect impact of this is that officers will need to interact with landholders in ways that can be monitored in order to justify their existence. This places ever increasing pressure on successful land managers to participate in consultation processes, to sit on Catchment Authorities, management boards, regional or district committees, and to attend meetings, field days, and conferences. All of these take time from the most important business of running the successful property that complies with the new regulations and still makes a profit. The fear is that if you don't stand up to be counted, then there is a real risk that positions will be filled, and decisions made, by the less competent who may well cause you to be regulated out of business.

5. **The primary impact should be an actual benefit to native vegetation and biodiversity.** In my case the new regulations of recent years have meant negligible change to my management practice in the field. There is a constant threat that new regulations will prescribe practices that do not suit the type of native forest I manage as people without forest management experience or expertise often frame the prescriptions. The general trend is increasing involvement by Departmental staff and the need for me to prepare complying Property Vegetation Plans, Forest Management Plans, Annual Harvesting Plans, and maintaining records that can be monitored and audited. In order to comply I am obliged to do the necessary research and data collection. All of this is intended to satisfy the watchdogs that, if I comply with what I promise, my vegetation and biodiversity should be safe. The current condition of my forest, unless fully documented, is not taken as evidence of my *bona fides.* **New regulations are not improving my forest management, however they will increase cost, and may even result in an inferior forest in the long run!** Well managed private native forestry can be a sound income but is not highly lucrative. Therefore if the regulations increase costs by much, there is a real risk that my forest will no longer be profitable and thus no longer an asset. My neighbour will continue to harvest his exotic crop untroubled by vegetation regulation.

Vic Eddy
29th January 2004