



18 July 2003

Native Vegetation Inquiry
Productivity Commission
LB2, Collins Street East
MELBOURNE VIC 8003

Dear Sir/Madam

IMPACTS OF NATIVE VEGETATION & BIODIVERSITY REGULATIONS

This submission is presented on behalf of Gippsland Farm Plantations Inc. (GFP), an organisation which operates, with financial support from the Commonwealth and Victorian Governments, to promote private forestry in the Gippsland region. GFP is recognised as the Private Forestry Development Committee for this region. Private forestry is commercial tree growing of all types and scales on private land, including management of plantations and native forests, and their integration with farming systems. GFP's role in the Gippsland region is somewhat similar to the role of the Private Forestry Council Victoria for the State. This submission is therefore provided by GFP acting generally as an advocate for the interests of private forestry in the Gippsland region of Victoria.

GFP's interest in this inquiry arises through our involvement in private forestry promotion within Gippsland, and as a consequence, our observation of the interaction between the practice of private forestry as a land use in the region and the statutory environment relating to native vegetation and biodiversity in Victoria. The principal statutory instrument that affects private forestry in Gippsland is the provisions of local Planning Schemes, and in particular Clause 52.17 dealing with Native Vegetation, and to some extent Clause 51.18 which applies to Timber Production. In addition, in 2002 the Victorian Government released a policy document titled "Victoria's Native Vegetation Management – a framework for action", and this submission is written in anticipation that this policy will be soon reflected in mooted changes to the relevant Planning Scheme provisions.

There are six main aspects of private forestry activity that are impacted by the Victorian Planning Scheme provisions relating to native vegetation and timber production, they being:

- a) Volunteer native vegetation growing within established plantations,
- b) New plantations involving native species,
- c) Management of native forest regrowth on land previously cleared of forest,
- d) Harvesting and regeneration of private native forests,
- e) Clearing of existing native vegetation to establish new plantations on private land, and
- f) Application of the Code of Forest Practices for Timber Production to forestry activities on private land.

Before discussing these impacts in more detail, there are a number of observations that GFP wishes to make in respect of the general native vegetation policy environment that prevails in

Victoria as it relates to owners of private native forest, particularly in terms of equity and effectiveness.

1. There is an implication of a duty incumbent on owners of private land with native vegetation to protect and appropriately manage that native vegetation. Yet there is little attention given to the need for such landowners to have a convincing motivation to value native vegetation and regard it as an asset rather than a liability. There is insufficient focus on the fundamental drivers that will influence the behaviour of private landowners in order to achieve sustainable improved outcomes with respect to native vegetation management.
2. There is little recognition given to the scope for private forestry to be a significant contributor to the objectives for improved native vegetation outcomes in the State. The term "private forestry" is used here to embrace management of trees on private land where there is an element (to a greater or lesser degree) of intended commercial gain from the management of the trees. It therefore includes harvesting and regeneration of existing (and future) private native forests, and the growing of planted trees for commercial purposes in plantations, woodlots, timberbelts or the like. The opportunities for productive private native forest use to provide a positive management incentive to owners of private native forest, and the scope for commercial gain from the growing of planted trees to drive revegetation at significant scale, have been largely overlooked. This is a major oversight when the matter of financing achievement of the native vegetation objectives is considered, and the limitation of over-relying on public funding to achieve such outcomes, in any realistic timeframe or over the desired scale.
3. There is a strong argument that areas of private native forest that are not available for productive use through restrictions imposed for 'public good' should be eligible for a financial consideration to reflect the opportunity cost incurred. Such an obligation on the broader beneficiaries of the public good benefits would impose a reasonable discipline on the assessment of areas of native vegetation for which productive use options are restricted. There is an avenue to address this legitimate concern of landowners affected by decisions that constrain their land use options for public environmental purposes. It is canvassed in GFP's Regional Strategy (3.7) under the heading Public Environmental Benefits, and I invite a closer examination of its recommendations. The issue of cost sharing needs to be much further developed for them to be regarded broadly within the rural community as equitable, credible and reasonable.
4. The quality of management of existing (and future) native vegetation is surely as important as reducing losses in area or extending the area of native vegetation in our rural landscapes. There appears to be little 'reward' to native vegetation owners for good past or future management. In fact one can argue there is in fact the opposite. Degraded native vegetation is generally given wider management options than quality native vegetation. The scope to undermine the intent of policy aiming to achieve sustainable native vegetation communities in the future by inadvertent or deliberate negative management actions will not be lost on landowners who do not support adoption of regimes they regard as unfair or unreasonable.
5. The use of an approach for private land conservation planning that seeks to reflect that used for similar public land planning is not necessarily appropriate, given the completely different land tenure matrix that exists on private land. The ability to 'absorb' the implications of measures to retain areas for conservation purposes on private land on an equitable basis is much less than that on public land.

The following section of this submission addresses examples of the six main aspects of private forestry activity that are impacted by the Victorian Planning Scheme provisions relating to native vegetation and timber production, referred to above.

Volunteer native vegetation growing within established plantations

Pine or eucalypt plantations often experience ingrowth of native species within the plantation boundary, even despite the normal weed control operations conducted in the earlier establishment phase of the plantation. Typically the volunteer (i.e. not planted) species are wattles, although other understorey species can appear, depending on the characteristics of the site. Unless the extent of this volunteer ingrowth is significant and threatens to reduce the productivity of the plantation crop, most plantation owners will tolerate the volunteer vegetation, and perhaps even regard it as being beneficial for habitat diversity.

However, the issue arises come the time for harvest of the plantation, whether it is a final harvest at say age 28, or an intermediate harvest at age 14 to 22. Even if only one volunteer tree of a native species occurs within the plantation, Clause 52.17 requires a permit to be obtained if that tree (being regrowth not less than 10 years of age) is to be damaged during the harvesting operations. It is almost inevitable that harvesting will damage any volunteer vegetation, since final harvesting of a plantation invariably involves clear felling, and in any case the plantation grower would prefer the volunteer vegetation to be removed in preparation for re-establishment of the subsequent plantation crop.

This situation arises regularly in Gippsland plantations, and whilst GFP is unaware of permit applications in such instances being refused, it appears a nonsense that a permit is required in the first place. The result is lack of certainty over harvesting potential and timing, and cost and resources to pursue a permit application. The alternative option for a plantation owner is to remove the volunteer native vegetation before it reaches 10 years of age, thus taking advantage of the exemption from a permit requirement that is granted in the Clause provisions.

It would appear this circumstance was not anticipated in the drafting of Clause 52.17, and that it could be remedied by including an appropriate exemption in the clause (for volunteer native vegetation greater than 10 years of age within a plantation boundary).

New plantations involving native species

Whilst existing statutory planning provisions (Clause 52.17) provide an exemption from the requirement to obtain a permit to harvest native vegetation if it is planted for timber production, there is considerable wariness in the rural community that this situation may not remain in the future. The adoption of the native vegetation retention provisions in Victoria has shown the rural community how changes to land use rights can be quickly introduced. There is a lack of confidence that a plantation grower who chooses to plant native species will be able to harvest those trees in the future, either due to a change in the current provisions (sovereign risk), or because the plantation is subsequently deemed to be native vegetation that is subject to the provisions.

A case in point exists in Gippsland with the mature eucalypt plantation estate in the Strzelecki Ranges. These plantations of endemic mountain ash were established in the 1960's on abandoned farmland, and with their diverse (volunteer) understorey, demonstrate on one hand the considerable biodiversity contribution that plantations can make in a sub regional context. On the other hand, the confusion that exists in some quarters of the community who see these

areas as native forest, rather than plantations of native species established for timber production, causes a lack of confidence by prospective growers considering new plantation establishment using native species.

This appears an unfortunate outcome in light of the native vegetation policy's overall aim to not only protect but extend the area of native vegetation in the State.

Management of native forest regrowth on land previously cleared of forest

There are examples in Gippsland where land that was previously cleared for pasture has begun to revert back to forest via natural regeneration. A landowner faced with this situation, and wishing to retain the option of deriving some productive return from the land, has to decide whether to clear the regrowth before it reaches 10 years of age and thus a permit is not required, or to allow the regrowth to grow on past age 10 and face having to obtain a permit to even manage the regenerated forest for productive purposes (eg to eventually harvest and regenerate the stand). The irony is that if the area was planted to forest, then a permit to subsequently harvest would not be (currently) required. Yet it is likely that a regrowth forest is a cheaper and easier way to achieve a conversion back to forest, and it would provide better native vegetation outcomes. The incentive to clear the regrowth before it reaches age 10 appears to be another perverse outcome.

Harvesting and regeneration of private native forests

Conventional forestry operations for commercial purposes in private native forests generally require a permit under Clause 52.17. A range of exemptions allowing harvesting for listed rural activities are provided, but conducting a harvesting and regeneration operation in private native forest, in a similar manner to that conducted routinely by the Government on State forest, requires a permit.

In forest types of low to moderate conservation significance, a permit for a harvest and regenerate proposal is generally granted in Gippsland, although many landowners assume a permit will be difficult to obtain. For most landowners, harvesting an area of native forest (if they have any) is the only circumstance in their farming experience where they would ever need a planning permit, and rural people are therefore often unfamiliar with, and daunted by, the process involved.

Forest management is by its very nature a long term venture. The statutory planning process tends to take a shorter term view, and focuses on development events. Thus permits that are issued for forestry operations generally only apply for a limited term that covers one harvest event. The consequence is that the forest owner then has to apply for another permit for a subsequent harvest event, adding to cost and uncertainty.

The planning scheme (Clause 52.17) does provide for a permit to be granted in accordance with a land management plan or works program, but to date responsible authorities in Gippsland have been reluctant to issue permits that apply for an extended term.

Clearing of existing native vegetation to establish new plantations on private land

The clearing of native vegetation to establish a new plantation on private land requires a planning permit under Clause 52.17, unless the exemption provisions of Clause 52.18 apply. The exemption provision referring to the Secretary of the Department of Natural Resources and Environment is in effect only gained by a case specific approval, and is therefore a permit by

another name. In any case, GFP is unaware of this exemption ever being sought or granted in Gippsland.

A permit is therefore invariably required to clear existing native vegetation for the purposes of establishing a plantation, regardless of whether the vegetation involved consists of isolated paddock trees, or more substantial areas of the proposed plantation site. The experience in Gippsland is that a permit to clear native vegetation to establish a plantation is viewed similarly to a proposal to convert native vegetation to pasture, and that a permit application will often be either refused, or if issued the permit is burdened with onerous and cost prohibitive conditions. There are a number of instances where a permit application is not lodged because the landowner is advised by a responsible authority staff member that a permit is unlikely to be granted.

This issue applies particularly with plantation companies seeking to acquire properties for plantation expansion. Where a property has native vegetation present, the prospective purchaser has to calculate the likely net plantable area available for plantation establishment, taking into account the prospect of obtaining a permit to clear some or all of the native vegetation. This has a major bearing on the purchase price considerations, and many companies now purchase such properties subject to obtaining a satisfactory planning permit outcome.

In effect, there are properties in Gippsland with some native vegetation on them that otherwise lend themselves to plantation development, but which are not planted more extensively to trees because of the native vegetation provisions.

Application of the Code of Forest Practices for Timber Production to forestry activities on private land

Clause 52.18 requires the conduct of all timber production activities on private land (unless exempted) to comply with the Code of Forest Practices for Timber Production. The Code must be complied with to the satisfaction of the responsible authority. The Code has two main sections, one dealing with public land native forests, and the other dealing with private land native forests and all plantations. Some of the provisions applying to private land are less onerous than those applied to public land, for good reason.

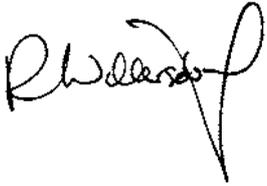
However, there are instances where, through permit conditions, the more demanding public land provisions are applied to a private land situation. The opportunity for this arises when a permit is required under Clause 52.17 because the proposed activity involves harvesting of native forest (vegetation), and thus any conditions deemed appropriate by the responsible authority can be applied to a permit that is granted. There is a strong temptation for some responsible authorities to seek to impose the higher standards applicable to public land, especially in relation to the extent of vegetation required to be retained.

Conclusion

The above examples illustrate circumstances where the conduct of private forestry activities in Gippsland are impacted by Native Vegetation and Biodiversity Regulations, in particular the native vegetation provisions of Planning Schemes applying in Victoria. The significance of these impacts varies, but generally speaking they do not assist private forestry to compete with other rural land uses as a viable agricultural enterprise. This seems unfortunate in light of the considerable potential for private forestry to contribute substantial economic, social and environmental benefits to rural Victoria.

In most of the instances above, the impact is caused by the requirement to seek a planning permit in order to conduct the private forestry activity described. This in itself imposes time, costs, and uncertainty to the land or forest owner concerned. The next measure of impact is, where a permit is required, whether a permit is granted, and the degree to which the conditions imposed with the permit affect the cost effectiveness of the intended venture.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rob Willersdorf'. The signature is fluid and cursive, with a prominent loop at the end.

Rob Willersdorf
Executive Officer