

NSW NATIONAL PARTY

PRODUCTIVITY COMMISSION INQUIRY INTO THE IMPACTS OF NATIVE VEGETATION AND BIODIVERSITY REGULATIONS

Introduction

The majority of the NSW landmass is privately managed, with 39% leasehold and 48% freehold land. Without doubt, it is the private landholders who have a vital role to play in the future conservation of natural resources, including native vegetation.

Since the election of the Labor Government in NSW in 1995, rural communities have been engaged in a complicated process of compliance and regulation in natural resource management. This was first evidenced through State Environmental Planning Policy 46 (SEPP 46) which placed a moratorium on land clearing in July of that year.

The sustainable management of natural resources, including native vegetation, is widely accepted within the agricultural community. High participation rates in formal and informal land care and environmental repair projects are evidence of landholders' quests for a greater understanding of their co-existence with the environment and of the regulations in place on natural resource management.

Instead of harnessing the commitment of rural landholders to manage their properties sustainably, the current regime of Native Vegetation and biodiversity management is reliant on inequitable penalties and regulation to impose management restrictions on rural landholders. The environmental outcomes aimed for by the regulations are most often unclear and arguable.

These regulations have severely impacted on the economic viability of rural and regional NSW. There has been minimal demonstration of the environmental benefits of this approach.

Reconsidering The Native Vegetation Conservation Act 1997

The Carr Labor Government began its highly regulatory approach to native vegetation management in 1995 through the introduction of SEPP 46, which effectively prohibited land clearing (except for some exemptions) and was introduced without consultation with rural stakeholders though the environmental lobby was instrumental in its drafting.

Subsequently, the Native Vegetation Conservation Act 1997, which came into force early in 1998, has continued to impede on landholders' 'right to farm'.

Labor's Native Vegetation Conservation Act (NVCA) shows no regard for the expertise of the landholder as a conservationist and, instead, demands that the simplest of land clearing obtain complex statutory approval. Moreover, it does not sufficiently recognise the differences between the bioregions, nor the relationship between, land, water, soil and vegetation management.

The National Party opposed the NVCA in the NSW Parliament and believes that an overhaul the Native Vegetation Conservation Act is needed in consultation with the community and stakeholders. We believe that an opportunity exists, almost as a result of the NVCA, to establish inter-related natural resources legislation to recognise the diversity of natural ecosystems while also providing "one-stop" certainty to those, such as farmers, whose livelihoods depend upon their relationship with these ecosystems.

There is a need to review the system of clearing exemptions so that it is more equitable and comprehensible. A threshold should be clearly defined for each region of the State below which the farmer is entitled to conduct best practice without the need to obtain any form of external consent.

There is also a strong need for any future Native Vegetation or Natural Resources legislation to be based on a true assessment of environmental benefits and social and economic impacts of constraining or altering a proposed development. We contend that the dire fate of many smaller regional communities can be traced, in large measure, to the obstructions and disincentives to any form of future development that are implicit in laws like the NVCA.

Stakeholder involvement and understanding of relevant Legislation

Transparency and community consultation

Stakeholders have been swamped by regulations that are constantly changing. It is becoming increasingly difficult for landholders to keep up with the legal requirements for managing their own land.

The NSW Labor Government moved to try to engage local landholders in understanding the new regulations by establishing Regional Vegetation Management Committees.

Regional Vegetation Management Committees

Clearly, it is local stakeholders who should have the ultimate responsibility for developing conservation objectives and management options for their region through Regional Vegetation Management Committees (RVMC).

Local stakeholders have the required knowledge of their region and an interest in the outcomes of their plans to ensure that viable and sustainable options are developed. This laudable objective underpins the RVMC principle but the Committees have failed because of the reluctance of legislators to trust them to make their own decisions and regulate their own plans.

The Commission's Inquiry will be able to gain first hand experience of the feelings of frustration and wasted effort if it chooses to contact some of these Committees of receives their submissions. Interestingly, both conservation and farming interests share these concerns.

The NSW Nationals believe that voting rights should be limited to community representatives, with agency representatives providing technical advice only.

It is also vital that all community representatives live in the area to which the Regional Vegetation Management Plan applies. This principle will ensure that the Committees obtain local input and an ongoing and unchallengeable local relevance.

Regional Vegetation Management Committees should be able to consider appeals from individual landholders or groups of landholders regarding gazetted Regional Vegetation Management Plans. In this way, the RVMC's are able to monitor and intervene in the ongoing development of the plan as it takes effect on the ground.

Incentives and Education

The NSW Nationals believe that incentives and education should be the primary focus of the Government's involvement in the management of native vegetation. Regulation should only be used as a back up to the promotion of voluntary conservation of native vegetation.

The place of regulation is minimised the more the expectations for conservation mirror existing practice. The Nationals contend that there is not widespread disregard for the needs of the environment by landholders and, therefore, there is more to be gained by encouraging good practices than by regulating all practices.

The current legislative model in NSW has, at its core, a need for each clearing project to first comply with a set of subjective and most often, nebulous, standards administered by public servants with negligible experience in the field and usually no experience on the farm or in the immediate vicinity of the farm in question.

This model places generic standards at a higher level than localised consideration of conservation and production imperatives. The outcome is usually a compromise that bears little semblance to the original application and thereby penalises the farmer. Most significantly, the outcome is often devoid of any environmental data or substantiation that would show the value of the remnant vegetation and explain to the applicant the relative merit of the application as compared to the competing environmental standards. Any casual observer would be left wondering how the determination was made and, indeed, how one might ever comply with the standards for conservation.

Local landholders need to know the standards to which they must comply. Preferably, the landholders should have an integral role in the development of these standards because, usually, they have been struggling to keep a balance between environment and production issues for years and, contrary to popular myth, most have been reasonably successful in this quest.

There is a great need for increased spending from the Government on education programs, but more importantly, by making additional funding available for compensation for landholders to adopt the regulations –financial benefits as an incentive to conserve native vegetation.

Where education programs are concerned, it is also vital that the Government provide education on the benefits of native vegetation conservation to on-farm biodiversity.

It is often forgotten that it is in the best interests of landholders to ensure the natural resources on their private land are managed in the most efficient way and in a manner such that the property may sustain ongoing agricultural production and sustainability of the land.

In cases where the legislation constrains the best interests of the landholder, the state has an obligation to provide financial offsets to lessen the impact of the public interest for conservation upon the private interest of the landholder. This principle is often misunderstood but there are several levels at which it operates well before the State hands over huge amounts of money to private interests.

Fundamentally, farmland has value in two forms. Firstly, the current land user makes plans and endeavours that are consistent with a set of personal aspirations. The farmer then realises a combination of wealth and satisfaction as a result. Secondly, the land itself has opportunity in any user's hands meaning that the physical characteristics of the property and its location may support a range of endeavours, not only those being practiced by the current owner.

In the first case, the State can adopt a range of low cost but high impact triggers to encourage certain practice by existing users. In the past there have been taxation and depreciation advantages afforded those landholders who conducted their developments in a certain manner.

Local government has also waived or reduced its rates or charges for some practices. Historically, these have been to encourage production but there is no reason why the same principle could not apply to conservation.

In this way, the farmer is not only told that a certain standard is desirable but he is also rewarded for certain behaviours, whether or not he is considering development. This model has greatest impact at times of severe financial pressure such as during drought and governments have an obligation to rethink their assistance measures with the dual objectives of production and conservation in mind.

This approach also places a discipline on the legislators. Incentives for production are justified by the expectation of a resultant lift in taxation revenue from the new project. In the case of conservation incentives, the benefits to be derived are not measured by revenue but the beneficiaries are the community in general. It is, therefore, logical that public funds should contribute to the cause. Naturally, matters of public expenditure - where the reciprocal gains are not measured in dollars - have the effect of constraining the excesses of government and thereby minimising the risk that unjustifiable environmental standards will be used by the State to constrain productivity.

In the second case, where land values suffer from land conservation, there is also a suite of measures that the State should consider as their obligation to offset the impact of public good upon private enterprise. Here, the farm is seen to have been devalued or the profitability to be derived from it is restrained by a decision to disallow a form of development that was previously a right.

To the existing landholder such an outcome can be debilitating. The argument is often made that disallowing further development leaves the existing landholder no worse off. Such an argument assumes that current farming practice is both sustainable and profitable indefinitely. This is only the case if competitors do not take advantage of the same technologies or enterprises that the farmer was seeking for his own land. In cases where environmental standards constrain development there is, most often, a downward pressure begun upon the farm's viability.

In these cases, the outcomes are not even desirable for the environment because accelerating financial pressures will often force farming practices that involve such components as overgrazing and radical cultivation that can render native grass species, in particular, unable to re-establish themselves.

The Nationals advocate a programme of unintrusive negotiation between the State and the landholder to modify land clearing projects that are considered to be likely to have an unacceptable impact upon the environment. The State should enter these negotiations with the ability to offset lost financial opportunities with either lower taxation outcomes for revenue derived from the allowable parts of the new project,

cash injections to assist with certain required aspects of the development activity itself or ongoing but tapering payments that mirror the expected revenues from the new but disallowed project.

The Commission should give consideration to establishing substantial consultative mechanisms with the rural community to finely tune these incentives and offsets. Simple measures like allowing for the re-establishment of vegetation elsewhere on a farm and allow the development of a more optimal farming site are not even considered by current regulations and regulators for fear of a publicity backlash when the land in question is actually cleared. This pressure can only be released by open and public debate about the issues and opportunities at hand.

Perverse environmental outcomes from the implementation of the regime

There are examples of land that remains infested with weeds because some minor clearing of associated native species was disallowed. The most recent examples of this have occurred with the weed 'lipia' in the Moree district where several landholders were unable to conduct the established practice of irregular cultivation that has the effect of suppressing this choking ground cover and allowing native grasses to re-emerge for grazing.

Similarly, woody lignin weeds in the far west of NSW have become rampant leading to monocultures in places where the practice of burning or raking them on a relatively regular and large scale has been discouraged.

These absurd impacts of the regulations are examples of where insufficient regard has been given to local knowledge and the bureaucracy has been simply unable to map a suitable path through the regulations despite their best efforts and will.

In association with other similar laws, such as the NSW Threatened Species Conservation Act, land clearing laws have also rendered private and some public forests unharvestable even though they were planted with the intention of harvest or are predominantly regrowth from past large scale forestry.

Several private landholders remain confused about their rights to reduce bushfire hazards resulting in instances of wildfire occurring in areas that were previously managed by locals. These people have now given up the regular practice of burning off because of the 'bureaucracy' involved.

There is a critical need to debunk this State's land clearing and associated laws because sound environmental management is one of their casualties.

Bushfire threat and native vegetation

The Australian Property Institute has raised the issue of there being too much of a focus on preserving native vegetation and ignoring the threat to bushfires.

(The Australian Financial Review of 2 May 2003) Concern is also raised over the adequacy of bushfire management standards, particularly given the severe fires last summer.

This issue is the subject of several inquiries. As far as the Commission is concerned, the safety of residential developments and private investment and the cost to the community of fighting wildfires should be contrasted with the sensible removal of the bushfire threat in close proximity to private farmland and assets.

The recent spate of bushfires over consecutive years and in wide areas is unique. This is despite similar or worse conditions in previous decades and less sophisticated fire fighting and monitoring equipment. The Nationals are of the firm view that more needs to be done to reimpose a discipline of hazard reduction burning by giving landholders the right to reduce bushfire hazards on land that they have used as fire breaks previously and by obliging public bushland managers to remove the bushfire threat where it abuts private interests.

Assessment of Social and Economic Impacts

Sydney Labor has pressed ahead with its regulatory approach to the management of native vegetation in NSW despite the significant economic costs it has imposed on rural and regional NSW.

The social and economic impacts of native vegetation legislation and Regional Vegetation Management plans need to be assessed before they are implemented.

This assessment should be balanced with projected environmental benefits as the basis of a triple-bottom-line approach to the management of natural resources, including native vegetation.

The NSW Nationals advocate the assessment of the social and economic impacts of Regional Vegetation Management Plans before they are implemented.

It is also important that if needed Regional Vegetation Management Plans should be de-gazetted, in consultation with Regional Vegetation Management Committees, if it is in the public interest to do so.

The main problem here is that it is difficult to compare economic measures of productivity with esoteric measures of environmental value. The Commission should propose models for this measurement or alternatives that rely upon negotiated standards in each case.

Recommendations to reduce the adverse impacts of the regime

The NSW Nationals strongly believe that there needs to be a system that focuses on incentives, not penalties, to conserve native vegetation. It is also vital that the social and economic impacts of policies are assessed before they are implemented.

The value of rural impact statements cannot be underestimated. They should be conducted at any time when it is deemed legislation may have an impact – both positive and negative on a rural community.

The challenge remains to deliver an equitable and sustainable system of conserving native vegetation, which engages private land managers in the process, but does not burden them with exclusively carrying the costs of native vegetation conservation.

The NSW Nationals' approach to conserving native vegetation is based on the recognition of a fundamental property right over private landholdings and a commitment to providing incentives and education to promote the voluntary conservation of native vegetation.

The NSW Nationals have an overriding principle that cooperation with landholders will dramatically increase the prospects of achieving a real increase in native vegetation across NSW.

Community Relationships

The NSW Nationals agree that the community requires assistance so that they may participate in the conservation of native vegetation by refocussing the human and economic resources of the responsible State Government Department to their original role of assisting landholders.

The department responsible for land clearing and native vegetation regulation needs to be focussed on providing advice and assistance rather than the policing role that has been forced on it by the current Labor Government.

Self Assessment and region specifics

The NSW Nationals believe that those bioregions that are most at risk from native vegetation loss must be identified, and more resources targeted to those regions.

It is important that a system of self-regulation under a Code of Practice be developed for areas that are assessed as low risk, in line with the recommendations of the Auditor General. The Code of Practice will be assessed and its effectiveness will be monitored.

It is conceivable that certain types of vegetation or certain scales of landscape in each region covered by an RVMC may be cleared by each farmer without consent but with some form of reporting to a central database. At present, this model can not be allowed under State legislation. It should, in fact, be encourage as a means of providing certainty to landholders and reducing compliance costs to all concerned.

Public Funding of Conservation for the Public Good

(See also the earlier discussion under the heading “Incentives and Education”.)

The NSW Nationals are acutely aware that there are economic considerations in the preservation of native vegetation.

The wider community, through the input of the NSW Government, must be prepared to assist in meeting the costs involved in conserving levels of native vegetation to community standards.

Farmers have a duty of care to manage their land sustainably, but beyond that duty it becomes a responsibility for the whole community.

It is necessary to provide genuine incentives to landholders, including the payment of stewardship fees, when native vegetation conservation is undertaken at private cost for the public good, as part of the Native Vegetation Management Fund.

Contractual arrangements with farmers need to be looked at, including individual property agreements, to protect and preserve native vegetation as an economic and ecological option. These contracts will be used as the basis for stewardship payments.

It is vital that market-based solutions are developed to encourage native vegetation conservation. For example, encouraging private forestry, and promoting initiatives such as developing the eastern mallee as a commercial crop that may be used for the production of oil, electricity and activated carbon, whilst also reducing salinity and increasing biodiversity.

Land clearing and biodiversity regulations will have an important impact on property values. Restrictions on clearing may impact adversely on property values for landholders who may have land undervalued as a result of the restrictions.

Data Collection and Monitoring of land clearing

Satellite data shows that land clearance has declined in NSW and indeed, few cases related to illegal land clearing have been prosecuted since 1998.

In light of this, statistics relating to native vegetation are flawed due to a lack of standardised methodology for the collation and interpretation of data.

Until the information on native vegetation is standardised and improved, the conflicting data, rather than solutions, will occupy a disproportionate part of the native vegetation debate.

A course of action is needed to standardise and quantify the information on native vegetation that is available. It is also essential that consistent and transparent methodology is provided for assessing associated environmental, economic, and social impacts of decisions, ensuring that assessments examine impacts at farm, regional and state level and are completed prior to decisions being made.

Any decisions made should be in an open and transparent manner and with a commitment to including the community and those most directly affected by decisions in the identification of problems and the development of solutions.

Additional funding needs to be allocated so that funding can be increased for monitoring and mapping Native Vegetation. Priority should be given to those regions identified as high-risk areas.

The regrowth of Native Vegetation across the various bioregions should be studied so that net native vegetation loss can be properly assessed.

Definitions of land clearing

The definition of land clearing needs clarification so that it reflects the reality on the ground. Definitions of both land clearing and native vegetation differ from state to state.

Native vegetation means any of the following types of indigenous vegetation: trees, understorey plants, groundcover and plants occurring in a wetland.

For the purpose of this definition groundcover means any type of herbaceous vegetation but only to be regarded as native vegetation if it occurs in an area where no less than 50% of the herbaceous vegetation covering the area comprises indigenous species. In determining that percentage, not less than 10% of the area concerned must be covered with herbaceous vegetation (whether dead or alive).

Private Forestry

The NSW National Party believes that sustainable forestry operations on privately owned land should be completely separated from Regional Vegetation Management Plans. Regional Vegetation Management Committees have little, if any, expertise in forestry management.

Forestry on privately owned land should be subject to its own Code of Practice, as is the case in Tasmania.

The NSW Nationals believe that private forestry operations should be removed from the scope of the NVCA, making it subject to a separate Code of Practice, which should then be audited for compliance.