

Impediments to private forestry development relating to legislative burdens

Australian Forest Growers Position



Australian Forest Growers (AFG) wishes to bring to the attention of the Department of Treasury and Finance the regulatory burdens related to private forest growers in Victoria and the onerous legislative barriers they face when investing in commercial tree crops. This document seeks to explain the impact that various legislative tools are having on impeding;

- forestry business growth and participation by private growers in wood markets and forestry development opportunities;
- productivity through diversifying agricultural activities and strategically placing trees to gain environmental benefits;
- entrepreneurship in marketing and innovation in developing farm-scale forest management and value adding technologies.

Policy burden rationale in brief

AFG has recently experienced lack of appropriate action in respect of the review process regarding the CoP for Timber Production in its regulation of private growers. The focus of our submission (see summary in attachment 1) related predominantly to the inequitable approach this legislative mechanism has towards small-scale and low-impact forestry operations. Unfortunately, the CoP for Timber Production, whilst being theoretically pertinent for use by industrial scale forestry operations, is an onerous legislative burden for farmers, on landscapes where trees are needed the most. AFG's contribution to this policy review process was largely ignored.

Private commercial plantation investment is also experiencing legislative impediments via a number of compliance obligations. This is occurring to the point where their investments are now more likely to be spent interstate.

The forest industry was also not adequately consulted as part of the Aboriginal Heritage Regulations development process earlier in 2007. In this case, there was no reasonable basis for a lack of effective consultation and an unintended oversight in the draft regulations occurred. The specific legislative issue relates to a lack of distinction between plantation forestry and logging in native forests, which has the effect of unfairly burdening tree growers on once cleared landscapes. This could now act as a significant forest industry regulatory impediment that could have easily been avoided through adequate industry consultation.

Experience with the 2006 review process of the CoP for Timber Production

AFG, acting on behalf of the industry, advised as part of the 2006 CoP for Timber Production review process, that discrimination as to the scale of the forestry operation must be applied to the CoP. This is important so that small-scale operations are exempt from compliance measures that are relevant to large-scale, industrial forestry operations. These recommendations (see attachment 1) were not supported and potential growers are now exploring other primary production options, which all require far less regulatory obligations. The existing Victorian timber industry also relies on private growers supplying an important part of state wide wood supply, but this rate of supply is reducing. As Australia currently faces a \$1.9 billion annual timber and wood products deficit, encouraging commercial tree growing through complementary legislation is achievable and germane.

Despite industry seeking small grower exemptions to the CoP for Timber Production, being 10% of land area or 40ha, whichever is greater, the outcome was a 5ha maximum plantation size exemption. No explanation to discuss the logic has ever been offered to industry regarding this outcome. In almost all circumstances, 5ha of timber plantation is not large enough to be a commercially viable crop.

As forestry is a long-term crop, certainty relating to costs and projected returns is critical information for growers prior to investment. Issues of uncertainty surrounding costs and potential future changes in costs associated with red tape related tasks, act as a disincentive for private forestry investment in Victoria. Emotive deep green legacies have crept into legislative tools, such as the CoP for Timber Production, compounding regulatory barriers, specifically targeting the forestry sector.

The forestry related compliance measures demanded by the Victorian Government are incomparable with legislative requirements of other forestry countries. From a private landholders perspective, why grow crops that require significant intellectual and financial investment for policy interpretation and implementation, where other agricultural pursuits require drastically less regulatory compliance? Ultimately, this will diminish

potential tree growing efforts in farming landscapes, thus less than desirable environmental outcomes will eventuate.

Experience with the Aboriginal Heritage Regulations 2007

In relation to the development of the Aboriginal Heritage Regulations 2007, inadequate forest industry consultation was a discredit to this policy development process. Testimony to this lack of industry consultation, the draft regulations failed to recognise the basic distinction between plantation forestry on once-cleared land as opposed to native forest logging practices. Plantations are established on land that has already experienced previous ground disturbance, so there is a fundamental basis for distinction as opposed to native forestry.

Timber plantations under the draft Aboriginal Heritage Regulations 2007 have been singled out for special treatment as opposed to other agricultural practices. AFG acknowledges that forestry operations in native forests which may impact on Aboriginal heritage values require appropriate protection through policy, but in contrast, plantation forestry established on cleared land must be treated equitably with other farming rights. The lack of forest industry consultation effectively resulted in an unintended oversight in the development of the draft Aboriginal Heritage Regulations 2007.

The cost of red tape to farm foresters

The impact to the private forestry industry, of which the onerous nature of the code directly effects, also includes red tape related transaction costs. These costs associated with meeting legislative requirements, including extensive management plans and other correspondence to government, were not taken into due consideration by the Department of Sustainability and Environment in the last review process for the CoP for Timber Production. As this piece of legislation was developed so exclusively for the industrial scale forest industry sector, regulatory transaction costs incurred by small growers are much higher per hectare of forest than industrial scale operations. No distinction with regard to red tape related transaction costs and scale of operation are made in the CoP for Timber Production. The outcome of this is that a small scale forest grower, such as a farmer who is diversifying land use, is potentially exposed to as much red tape related transaction expenses as large forestry entities.

A recent Holmes Sackett Pty report prepared for the National Farmers' Federation shows that the average grazing farm spends more than 15 days per year for one person on red tape related tasks. Many of these predominantly grazing properties are highly suitable for plantation forestry, so in a situation where a grazier wants to diversify more than 5ha

of a farm into commercial wood crops, compliance with the CoP for Timber Production is pertinent, and is effectively added to the 15 days of red tape related tasks already conducted by the average grazier.

The next policy-related and therefore financial disincentive for farm foresters is that unlike many voluntary codes of practice for dry land farming pursuits, compliance with the CoP for Timber Production is compulsory and a high level of policy interpretation expertise is required. The only way to avoid compliance under the code is to plant less than 5ha, which is generally unviable. Unfortunately though, there is no governmental review process to determine the financial burden to farming landholders in compliance costs related to the CoP for Timber Production. It can be certain though that the time and costs related to red tape related tasks, unnecessarily burdens commercial farm tree growers in Victoria.

The cost of red tape to plantation companies

Managed Investment Scheme tree farming has been reconsidering plantation investment in Victoria in recent years, as a direct result of the impact of State Government regulatory burdens. Even for business entities large enough to employ dedicated policy compliance staff, MIS companies report a lack of workability in Victoria at present, due to the volume of legislative barriers. Unfortunately the CoP for Timber Production is just one of the regulatory burdens that the MIS sector in Victoria faces. The costs associated to other red tape tasks in Victoria are so numerous, that plantation investment moneys are now being moved into states outside Victoria.

Red tape impacts on the domestic wood market

Another perverse outcome that emerges in situations where the forestry sector is over-regulated, relates to the market and the share of the market that private growers contribute. In effect, where private growers have insurmountable disincentives to invest in forestry, greater pressure is placed on the Victorian timber industry to import wood and other forest related products. The present-day Victorian forest industry is in many areas, a world leader in sustainable, holistic management which incorporates conservation and water quality outcomes into commercial practices. Yet this is not widely understood or recognised, nor is the fact that Victoria imports much of its wood to supply demand, some of which enters from illegal or dubiously sourced, South-east Asian rainforest operations.

Reference

Holmes Sackett Pty Ltd (2007) The Cost of Bureaucratic Red Tape in Agriculture.
Report prepared for the National Farmers' Federation.

Overarching policy agendas

Representatives of the forestry industry, including Australian Forest Growers, seek the development of productive and sustainable forest industries in Australia. Industry also supports the renewability of forest resources and at the same time, enhancing and improving ecosystem services that forests provide. This shared industry vision for Australia is contradictory to the perceptions the Department of Sustainability and Environment have regarding the motives of representatives of the forestry sector, which are chiefly based on economic outcomes. This misconception has been resulting in a lack of consultation invitation of forest industry representation from senior staff within the department. In order to develop policies that deliver sensible outcomes all stakeholders must be consulted, in this case, forest industry representatives.

A way forward

AFG's recommendations to the review process for the CoP for Timber Production relating to the application of relevance-to-scale, was ignored and participation in the Aboriginal Heritage Regulations development was rejected. From this, it is clearly evident that a mechanism needs to be put in place so that the Department of Sustainability and Environment can understand, through quantitative and qualitative assessment, the impact the regulations are having on businesses participating in the Victorian timber industry. Such an assessment process must include quantitative evaluation of the up-take and participation of the private forestry sector, as well as the financial burdens related to red tape duties that they face. A lack of or declining investment amongst farmers and MIS companies to the industry must be considered in examining impact, so that sound and equitable policies related to private forestry can finally materialise.

Recommendations

1. A quantitative assessment be conducted to examine the costs incurred by all aspects of the private forestry sector in Victoria, relevant to red tape related tasks.
2. A qualitative assessment be conducted to reveal the impact to the up-take of forestry amongst private landholders in Victoria, relevant to legislative disincentives.
3. Conduct a study from the qualitative and quantitative assessments, to reveal the implications to rural economies and natural resource management objectives, relevant to contemporary Victorian Government policies that impact private forestry practices.

Attachment 1

Table: Summary extracted from the 2006 AFG Submission to the Review of the CoP for Timber Production

Code of practice issues	AFG position
LGAs are un-suitable as the statutory body responsible for Code compliance on private land.	LGAs are insufficiently resourced, lack technical expertise or consistent approach. Obligations should be empowered to DPI.
Small private growers are unfairly disadvantaged as compliance issues are treated equally between public and private land.	Reduced productivity and the costs associated with public good conservation unfairly burden private growers.
Small plantation holdings less than 5ha are exempt from the Code, but this is not nearly a large enough area.	Greater tree growing incentive needs to be provided to private landholders. This requires a substantial increase to the 5Ha exemption to 10% of land area or 40ha, whichever is greater.
AFG supports agroforestry as an exemption, but requires inclusion of its definition in the Glossary to enable adequate understanding.	Definition offered: " <i>Agroforestry: the simultaneous and substantial production of forest and other agricultural products from the same land unit</i> ".
AFG believes a new exemption provision for low impact private native forestry should be applied into the code, irrespective of scale.	Low impact private native forestry exemption for those increasingly interested in ecologically sustainable timber production in freehold native forests.
Complex document that contains numerous references to other legislation and is now unsuitable for on-ground use.	To adequately support forest operators and small growers, a guiding document targeting private growers is required.
AFG rejects the notion that <i>only</i> preservation can protect biodiversity and maintain ecological processes.	Actively managed native forests give ecologically superior outcomes as well as providing the economic imperative to manage.