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Native Vegetation Regulation Review
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Review of Native Vegetation Regulation

Thank you for allowing us to be part of the review of the Native Vegetation Regulation and associated Private Native Forestry. We would like to make the following comments for your consideration.

Whilst we appreciate that this review is only about the Native Vegetation Regulation and associated PNF Code of Practice, we believe there are some significant underlying issues that we would like to highlight to the Minister and the Government since if the framework undergirding the regulation is faulty, then any tinkering with the regulation, however useful, will not address the real issues.

1. We would suggest that the underlying paradigm of the Native Vegetation Act and much of the state's planning and development legislation is wrong – currently it comes from angle that removing any vegetation at all is inherently wrong but may be tolerated provided environmental objectives can be maintained or enhanced. For the good of NSW this paradigm needs to come from the angle that vegetation is something that can and should be managed for the triple bottom line (people, planet, profit).
   It is because the current paradigm is out of balance that NSW is constantly ending up with bad or conflicting results and wastes considerable effort and resources no matter how hard the government tries to get the regulatory framework right
2. There is a serious need for consistency across all the relevant legislation and regulations
   - There must be one set of rules and definitions across all acts, regulations, government departments and levels of government for the same activity
   - If an activity is allowed under one act or regulatory regime, there should be no need to worry about getting approval from any other body

Some examples of how these 2 issues are affecting the current Native Vegetation review are:

- There is currently no recognition that Australian flora & fauna is adapted to regular disturbance & fire and that consequent regrowth often enhances its quality.
- The inclusion of forestry under the definition of broadscale clearing:
  - Unless you tie yourself up in legal knots, broadscale clearing is when you clear all the vegetation with the intention that it not be allowed to grow back
    Selective logging does not even remotely remove all the vegetation – the whole idea is to remove only selected logs with minimal disturbance of the rest

Even in clear fell logging, the intention is that the cleared coupe be allowed to become forest again.
Logically, forestry should not be under the Native Vegetation Act at all, but under a separate Forestry Act, as was going to happen at one stage.

- There is no recognition that well managed sustainable forestry enhances environmental outcomes. Over the past 100 years, most forestry has maintained high quality ecosystems worthy of preservation – most of the calls for preservation have been essentially emotional and miss the point entirely that if the forest has been maintained in a condition worthy of preserving while it was being harvested then why not allow the forestry to continue.
  In the same vein is the changing of the definition of old growth forest from forest that had never been harvested to forest that is an "ecologically mature forest where the effects of disturbances are now negligible". Almost any forest that has been sensitively harvested and left for (what used to be) the normal rotation period of 10 to 20 years would meet this new definition. So you have the perverse situation where someone who harvests a forest in the best environmentally friendly way is penalised by being denied access to it in the future with the practical implication that you will work a forest harder and more frequently to make sure there is always evidence of disturbance – crazy.

- Local councils are being allowed to override established PNF & native vegetation issues through planning controls. Some examples of this are:
  - Some local councils in the Northern Rivers region prohibiting removal of Camphor Laurel trees despite them being a declared noxious weed.
  - Local councils redefining the meaning of Koala Habitat in their Koala Management Plans despite there being clear definitions in SEPP 44, the instrument that gives them the power to create Koala Management Plans
  - Development approvals with different clearing requirements for clearing around rural infrastructure to those given in the RAMAs under the Native Vegetation Act.
  - Zoning definitions in a new LEP making land that has been consistently logged over many decades now require development consent before a PNF PVP can be issued.

  With due respect to councillors and council staff:
  - Local councils are much smaller and do not have the broader and higher level access to information and skills that the state government has.
  - By their nature local governments have greater potential to be loaded or influenced by local interest groups or people with hobby horses to the detriment of consistent application of principles,
  - Local government should use its local knowledge to flesh out and apply the thrust and general direction of State Government instruments, but not seek to modify their intent or introduce conflicting or contradictory terms.

  Consequently, we would submit that there must be explicit direction in relevant state legislation, and its enforcement, that local government instruments are subservient to State government instruments and that in any conflicts the definitions or direction of the state government ones will stand.

We would make the following specific submissions on the proposed revision of the Native Vegetation Regulation

1. Koala management plans must use same definitions as SEP 44 and should be subservient to PVPs.
2. There should be a specific statement that vegetation that constitutes a Work, Health & Safety risk may be removed.
3. RAMAs should not be contradicted by conditions in LEPs – for clarity and consistency there should be a specific statement that RAMAs take precedence over other instruments
4. Forestry should not be a term allowed to be discussed in LEPs – if PNF can be conducted according to the PNF code as determined by the relevant authority it should not require development consent
5. Tree preservation orders and the like should be subservient to criteria in Native Vegetation Act and regulations
6. PNF PVPs can go for a period of 15 years but there is no mention of what happens after this. In view that forestry happens over a much longer time period, there should be a facility for the automatic roll over of PVPs if both parties agree.
7. The proposal for notification of starting and finishing PNF operations as against annual reports is good for larger operations but overlooks that many landholders with smaller forest areas will continuously harvest small amounts over many years rather than start and stop a harvest operation. In the revised notification arrangements, there should be accommodation for this type of operation.

I trust that these comments are useful in your review.
Whilst I have no problems with the points raised above being aired as part of a public discussion, I would prefer if our details were kept confidential.