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Robert Young
[redacted]
COUTTS CROSSING 2460
Phone [redacted]
Email [redacted]

Native Vegetation Regulation Review
Office of Environment & Heritage
Level 12, P.O.Box A290
SYDNEY SOUTH 1232

Review of Native Vegetation Regulation

I would like to make a submission to the Review of the Native Vegetation Regulation and associated Private Native Forestry.

1. As a smaller landholder, I continuously harvest small quantities of timber from my land rather than conduct a major harvesting operation. The proposal to notify the start and finish of PNF operations as against annual reports may be good for larger operations but for me will mean more red tape rather than less. Can operations like mine be accommodated in the revised notification arrangements?
2. At the public meeting I attended it was stated that trees that represented an OHS issue could be removed regardless of native vegetation status. To give certainty and clarity, I believe there should be a specific statement somewhere that vegetation that constitutes a safety risk under OHS legislation may be removed.
3. I was intrigued in looking at the koala management discussion paper to note that the definitions of koala habitat in SEPP44 were being rewritten by local councils in their koala management plans, even though the authority for these KMPs is SEPP44.
   Surely this is legal nonsense - how can a subordinate document have authority to change definitions in the enabling instrument.
   Hence it would seem to me that the whole discussion on how to handle KPMs in relation to PNF Codes is really a non-event – the PNF Code agrees with SEPP44 and needs no changes.
   I would suggest that local councils be told they are not at liberty to use other definitions than those in SEP 44 in their KMPs.
   In any case, for the sake of consistency KPMs should be subservient to the PNF code.
4. This opens up the whole question of consistency across jurisdictions – with local governments being a major problem area but state government instruments needing looking at too. For those of us on the ground, we need consistent definitions, rules and only one set of approvals. If I have followed due process and obtain a PVP, there should be no other bodies involved – any other is simply duplication and unnecessary red tape.

   Examples I am talking about include:

   - RAMAs should not be contradicted or modified by conditions in council LEPs or development consents – this is happening. Do you just follow the RAMAs and take the risk of the time and cost involved if the council tries to prosecute you.

- For that matter, 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 – this has happened in the new Clarence Valley LEP where because of a change in the zoning nomenclature, with no other changes happening, land that has been logged over decades now requires council development consent before a PNF PVP can be obtained - at a cost of approaching $1000 to the landholder – this is red tape & expense for no reason whatsoever.
- On the far north coast, council Tree Preservation Orders are being used to prevent the removal of Camphor Laurel trees despite their being a declared noxious weed.

This goes much further than just Native Vegetation but is an issue I believe needs to be addressed – those trying to do things in NSW are being hamstrung by people utilising inconsistencies between different jurisdictions and different legislation to drive their own agendas. We desperately need to only have to get one approval from one body to do any given job – constantly having question marks over you removes incentive to try and do anything or makes you go somewhere else (not NSW).

5. PVPs can go for a period of 15 years but what happens after this. In PNF, forestry happens over a much longer time period. There should be a facility for the automatic roll over of PVPs if both parties agree.
6. I believe that the government should also look at the Native Vegetation Act as well as the Regulation since there are some inherent difficulties with the Act itself. Fiddling with the regulation while the underlying legislation has problems is a bit of an exercise in futility
    a. Forestry should not be included in the definition of broad scale clearing. This is inherently illogical and was a "quick fix" at the time. It needs to be addressed to tidy up all the distortions it has created.

        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 area regrow to productive forest as quickly as possible.

    Clearly, forestry is a totally different activity from what the Native Vegetation Act is seeking to control and should be dealt with separately – ideally with its own Act (as I understand this was the original intention). The various bodies have done a valiant effort in attempting to make forestry fit into the current legislative framework but it will never be without problems because this is not where it should be.

    b. It is my observation that the underlying premise of Native Vegetation Act and much similar legislation is inherently unbalanced. If you think about it, its presupposes that ideally no vegetation should ever be removed but you can tolerate it provided environmental objectives are maintained or enhanced. This is really skewed too far one way and a much better outcome for all concerned would be if the underlying premise was that native vegetation is something that can and should be managed on the basis of the so called triple bottom line, i.e you should aim for a win-win situation for people and business as well as the environment. Starting from this objective would result in significant differences to the way the existing act operates but should not result in reduced environmental outcomes.

c. It is also my observation that the current regulatory framework on forestry and its underlying assumption that forestry by definition is bad for the environment, is missing the obvious point that if this is the case, why is it that forests that have been logged for 100 years or more are considered to have high enough ecological values to be included in National Parks and even World Heritage areas. Surely if forestry has left the environment in such good condition, why shouldn't forestry be allowed to continue?

d. I would also question the current generally accepted definition of "Old Growth" forests. Originally old growth forest was old established forest that had never been disturbed. Now this has been changed to forest that shows negligible evidence of disturbance. As well as being extremely open to different interpretations , this definition misses the point that the whole idea of sensitive sustainable forestry is to have forest with negligible evidence of harvesting within a fairly short time frame. So if a one does the right thing, you run the risk of having your forest deemed "old growth" and further harvesting prohibited. The perverse result of this is the incentive to work the forest hard and often to ensure that the effects of disturbance are always obvious. This is a no win situation for everybody.

Thank you for the opportunity to comment. I trust what I have offered is of some use

Robert Young