
From: [REDACTED]
Sent: Friday, 24 August 2012 4:44 AM
To: [REDACTED]; EHPP Landscapes & Ecosystems Section Mailbox
Subject: Review of Native Vegetation Regulation

Submission on the Review of the NSW Native Vegetation Regulation

I write with regard to serious problems with the current native vegetation laws and the Review now in process.

The current Review has so far ignored major economic, social and environmental costs imposed by the Native Vegetation Regulation.

For these reasons, I reject the proposed Native Vegetation Regulation.

I call on the government to move towards the repeal of the Native Vegetation Act and Regulation by re-doing the Regulatory Impact Statement properly.

I submit that the Regulatory Impact Statement must wherever possible quantify the costs of the Regulation that were ignored, including:

- the extent to which the native vegetation Regulation promotes weeds, and is actively worse for biodiversity, sustainability and native ecology
- the costs in terms of reduced productivity
- the cost of all federal, state and local government salaries, taxation, superannuation, all leave categories, offices, cars, phones, mobile phones, training, travel, and accommodation devoted to promoting, making, administering and enforcing the native vegetation laws
- the time and money costs to all farmers of compliance, administration and resource allocation
- the number of jobs, businesses and industries destroyed
- the number of people dispossessed of their farms as a result of the native vegetation laws
- the extent to which the native vegetation laws have reduced local council services including roads due to the funds they would need to comply with
- the difference between the value of land impacted by Native Vegetation Regulation as opposed to land un-impacted.
- the high value of the principles of innocent until proven guilty, protection from search without warrant, the privilege against self-incrimination, Constitutional protection of property rights, etc.

- reduction in the quantity of food and clothing produced and the need for agriculture to produce far more than it currently does to meet world food requirements
- * we have been victims of the administration of these draconian regulations
- * an unjustified order was placed on us under the guise of this act
- * we had the timidity to challenge this order
- * when we had the hide to challenge this order significant extra requirements were incorporated in the order, it was like turning up to play a game of football & being told that the opposing team had a 50 point start because you dared to make a challenge
- * Gestapo type tactics were used in the DIPNR defence
- * it was demonstrated that the on ground evidence presented by the department was based on incompetent exaggerated estimates
- * the department's predominant expert witness actually drove the department's case - highly irregular!
- * this same expert actually intimidated an expert witness presented by us ---- this occurred in the field, not in the court room
- * the department were not fully prepared, they requested a stay in proceedings in order to defend their position, they obviously weren't going to well, also they could see that it would cost us considerably more, basically double
- * it became apparent that it was a witch hunt after a third party considering the offer they put on the table to us at the adjournment, basically they offered a non prosecution against us if we were prepared to allow a third party to be hung out to dry
- * the most amazing thing is that they were granted a stay of proceedings
- * fortunately our Barrister & Solicitor offered free ongoing services as they could see the injustices that were perpetrated, quote "there is justice & there is the law"
- * When the proceedings were reconvened the department presented another expert who was protected by the magistrate against vital questioning that may have questioned his abilities as it related to this case
- * these comments probably go into grey legal areas, however it is long enough after the case & no names have been presented & a full disclosure of this situation would not be complete without being critical of how the case was handled by the judiciary

* firstly the magistrate (an engineer) had no understanding of vegetation & was prepared to accept anything presented by the department's primary expert witness at face value

* the magistrate wanted precision as it applies in engineering, we all know this can not be provided in relation to native vegetation

* the departments expert witness has a method for aging stands of eucalypt, this method is not well accepted in the general forester community, but there's more, this method could then somehow be extrapolated to also apply to tea tree regrowth. This method was then unquestioningly accepted by the magistrate. This method was then applied to vegetation which was unrepresentative of what had been cleared, it was beyond the borders of the cleared area, this area was left because it was different vegetation.

* the magistrate also accepted what should have been inadmissible the statement given by the departments expert witness that the average farmer would not know the geography of their own farm. This is despite the fact that the previous land owners son was given a test in court to demonstrate on a map the areas of land he had previously cleared, presumably he passed his test as no exam result was posted in court. This is also despite the fact that there was an onsite visit just prior to the commencement of these proceedings. While being led to a predetermined site of interest by departmental officers, the owners son, who apparently didn't know his way around had to lead them to the site of interest despite the fact that he had not been on the property since the clearing event. During this visit the departments expert witness appeared to also inappropriately have the ear of the magistrate.

* Ultimately the magistrate upheld the department order including the raft of extra conditions imposed as a result of this challenge

* Our Barristers comment was that there was only one person in that courtroom who could have come to that conclusion

* We did consider an appeal, however after \$50,000 in costs which almost broke us & is still impacting upon us today, & the fact that we had lost confidence in the judiciary we decided we would only appeal if DIPNR pursued costs

* DIPNR did not pursue costs, I would suggest for fear of the shaky ground they were on. As a taxpayer I would be annoyed that the department was prepared to spend what would have been considerably more than we spent, win & then not pursue costs! They did have their headline glory however, in relation to a court order being given in relation to illegal clearing.

* As a follow up the third party DIPNR was pursuing were never prosecuted, again indicating their known weakness of their position. The third party confided in us that it would break him if he had to go to court, DIPNR did however keep him under such close surveillance that he had to change the focus of his business.

* Incidentally the order was in place for 10 years, it has about 1 year to run

* The order was placed on our service company which was trustee for our superannuation fund. The trustee company was wound up because it was associated with a business we previously owned & subsequently sold.

* It appeared some 7 or so years ago that DIPNR had given up on enforcing the order because legally speaking they had no one to enforce it upon. We had intended carrying out the order which among other things included things such as nest boxes to substitute for trees that never had hollows, annual monitoring by an independent ecologist & weed control. We were also told to fence the area out for livestock & the area was not permitted to be burnt, all this for 10 years. Under any circumstance I refused to fence out the area due to a potential disastrous bushfire danger which other than potentially cooking all the vegetation & wildlife created a hazard to the rest of our property. Incidentally the vegetation in the remedial area had been cleared a number of times in the past & had in fact regrown in the presence of grazing. DIPNR provided fancy penthouse designed nesting boxes made out of marine ply. We wired large hollow bamboo sections in a number of trees (the few older trees weren't cleared which had no hollows because they were too young). We also contracted an ecologist who worked for a firm we had dealings with, she was deemed unacceptable because she was not independent. The bamboo was also deemed acceptable, we were informed that DIPNR would instal appropriate nest boxes & appoint an ecologist(& they'd be independent?) at our cost. It was at this point that we'd had enough & refused to cooperate, I'm afraid I can only be bullied so far!

* It was then that DIPNR realised they could not enforce the order although they indicated they may take further action in this regard.

* We were left alone for 6 1/2 years or so until about 7 months ago when I had a phone call from a new compliance officer from a name changed organisation; he seemed quite pleasant indicating that they wanted to do an audit. I indicated that I had no interest in being there as long as they shut the gates. On the inspection day I had 4-5 phone calls in order to find the place by road despite me giving correct directions on each occasion. On the next call I didn't answer the phone, after all I was on holiday at the time.

* Last week I received phone call from this officer, he indicated that cattle were grazing although the rehabilitation was going well. Was I prepared to fence off the area(the order has a year to run & the rehab was good!). I said NO & let vent as to what I thought of narcissistic officers I'd previously dealt with. He was very polite through this process & said he'd take it to his superiors.

* I would think that at this point in time even they might think it would look rather ludicrous to enforce any action

* Through all this although this, it is the first time I've officially vented my anger, at this point in time my major concern is that I'm a marked man, this is possibly the case regardless of my comments.

* What we have experienced substantiates many of the dot points made initially, it also reflects upon how the draconian provisions of the act have allowed bullying , big brother officers of little morality or honesty to use the law, not justice to

justify their employment. What happened to the good old days when government extension officers were helpful, honest & obliging?

Yours Sincerely,

Col Godfrey,



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