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Submission to the Standing Committee on Environment and Heritage

Inquiry into Public Good Conservation - Impact of Environmental Measures Imposed on Landholders by Government.

Prepared by Ian Mott
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Australian Forest Growers is the national body representing the interests of private forest owners who sustainably manage their plantation and native forest resources for on-going, lawful, forestry purposes.

The forestry purpose is one of the few agricultural activities that is entirely contingent on the presence of trees. And there is no single element of the landscape that has a greater impact on public good than the character and scale of forest cover. Consequently, we are uniquely placed to address the terms of reference of this inquiry.

This submission will contrast the situation in Queensland and New South Wales and address the terms of reference under four headings;

1 The actual letter and intent of current measures imposed on landowners in both states.

2 The interpretation, in the absence of case law, of the scope and powers of those measures by consent authorities and resulting misrepresentations to landowners in respect to interests in land.

3 The use of a "whole farm risk assessment model" to determine the extent of the detriment suffered by various landowners.

4 The use of the same model to determine compensation for the cost of measures and the value to landowners of various public benefit options.

1 Current measures affecting working forests.

The formal practice of forestry dates back over 1000 years in Anglo-European history and has always been regarded as an agricultural use of land. In the overwhelming majority of cases, both here and abroad, this use has been carried on as an "as-of-right-use" in conjunction with other agricultural pursuits like grazing etc. Like all agricultural uses in Australia, this use has attached to the entire holding so once the use has lawfully commenced it may continue under the relevant planning legislation in both states.

The relevant planning legislation, in Qld and NSW (and Vic), may only exercise planning control over *"development",* and this means *"new uses"* and *"material changes to existing uses".* Activities that are *"normally and necessarily associated with a use"* do not constitute material changes in use.

The Qld Integrated Planning Act 1997 Sec.1.4.1 states -

> *If immediately before the commencement of a planning instrument or an amendment to a planning instrument the use of premises was an existing lawful use of the premises and there has been no material change in the use since the commencement, nothing in this Act, the planning instrument or the amendment to the planning instrument May-*
> *(a) stop the use from continuing: or*
> *(b) further regulate the use; or*
> *(c) require the use to be changed.*

Similarly, The NSW Environmental Planning and Assessment Act 1977 Sec.109 states -

(1) *Nothing in an environmental planning instrument operates so as to require consent to be obtained under this Act for the continuance of a use of a building, work or land for a lawful purpose for which it was being used immediately before the coming into force of the instrument or so as to prevent the continuance of that use except with consent under this Act being obtained.*

But the section then goes on to clarify material changes that would not have the protection of the above part, thus -

(2) Nothing in subsection (1) authorises:
(a) any alteration or extension to or rebuilding of a building or work,
(b) any increase in the area of the use made of a building, work or land from the area actually physically and lawfully used immediately before the coming into operation of the instrument therein mentioned,
(c) without affecting paragraph (a) or (b), any enlargement or expansion or intensification of the use therein mentioned,
(d) the continuance of the use therein mentioned in breach of any consent in force under this Act …, or
(e) the continuance of the use therein mentioned where that use is abandoned.

And this latter issue of abandonment is clarified in -

(3) *Without limiting the generality of subsection (2) (e), a use shall be presumed, unless the contrary is established, to be abandoned if it ceases to be actually so used for a continuous period of 12 months.*

Such provisions are relatively easily interpreted when one is dealing with buildings which have obvious parameters and easily observable activities associated with the use but this is not the case when agricultural uses are interpreted by essentially urban individuals with only a transient exposure to the nature of the use and the fundamentals of legal rights.

But what, exactly, is a forestry use?

The legal roots of a *use* are "*to set aside for a purpose",* and the roots of a *purpose* lie in the *intent* of the person. The *commencement of the use* takes place when the person acts with an *intent.* This action with *intent* is easily identified when someone establishes a plantation but it can also manifest itself in a decision to take no action.

In most cases of forestry in Australia, ie, native forestry, the decision to not clear native forest from land, or the decision to allow trees to regenerate on previously cleared land, marks the beginning of the intent, the commencement of the forestry purpose.

In most cases this *commencement* took place up to a century ago when the original clearing took place and logs of value were sold as part of that integrated agricultural use. And it is a simple fact of nature that when established trees are removed from a site that seeds and seedlings will regenerate to replace them unless effort is made to prevent them from doing so.

In most cases farmers have needed to strike a balance between frequent pasture maintenance (or sheep grazing) at one extreme and complete pasture abandonment at the other. That balance has been to retain varying levels of tree cover, for shade, ecological values like soil and water quality, social amenity and a distant expectation of an economic return from timber sales.

In most cases the decision to take no action, to not remove trees, was a discretion that was frequently exercised for both individual stems and larger clusters, albeit perhaps in a broader context of large scale removals. The inputs to those decisions were the cost of removal, the priority of the action compared to other on-farm actions and the potential value of the stem.

The interaction of these variables over time has produced an extraordinary range of variation in the character, scale and intensity of the broader forestry purpose and significant variation within individual examples of the purpose.

At one extreme, regeneration may take place after a single fire event, either deliberate or accidental, and a decision is made to take no action until sawlogs can be removed some 80 years later. At the other extreme, regeneration may take place randomly in space and time. Interventions may also take place somewhere in the forest on a weekly basis with the removal of weeds, cutting of fence posts, or the casual destruction of undesirable stems or the planned silvicultural treatment of parts of the holding.

At another extreme, the forestry intent may maintain only one shade tree per hectare (in conjunction with grazing) which will ultimately be used for timber while at the other extreme it may exist discretely in a closed canopy wet forest. Yet, even this is capable of existing in association with other uses like tourism etc, with no diminution of rights in law. As far as the law is concerned, all the above extremes constitute lawful permutations of the as-of-right-use which, once commenced, attach to the land as a right to be enjoyed by all subsequent owners.

This right has been reinforced in the *Qld Integrated Planning Act (IPA)* where both native and plantation forestry, inclusive of all practices from planting and tending to harvesting, are listed as Exempt Development, that may not be made Assessable Development.

This is further reinforced by the *Vegetation Management Act 1999* which makes clearing Assessable Development requiring consent under IPA but *forestry practices* are excluded, not by exemption in a schedule, but within the definition of clearing itself.

As far as the law in both states is concerned, there is no room for value judgements concerning what may or may not be the best form of forestry or what may or may not be in accord with current policy or fashion. If the form of forestry that was being pursued at any *relevant date* was lawful then that form of forestry may continue without need for consent.

2. The interpretation of measures to the detriment of forest owners.

The only limitation on existing use rights in NSW would be if EPA Sec 109.(2) or (3) applied. And for Sec 109.(2) to apply someone would need to explain how activities that are normally and necessarily associated with the use, like silvicultural treatment, harvesting and regeneration etc, can amount to;
(a) an alteration or extension to work, while ploughing a field, for example, is not,
(b) an increase in the area of the use when the agricultural use attaches to the entire holding,
(c) an intensification of the use when, in most cases the use was lawfully commenced when clear falling was the norm,
(d) a breach of consent conditions when no such consent requirements were in place, or
(e) an abandonment of the use.

For the test of abandonment in Sec 109.(3) to apply there must be clear evidence that the forestry *intent* has been abandoned while the trees are still growing. A simple absence of some activities that are normally associated with the use would never stand up in court. It is the lawful right of any class of citizens, to have activity tests applied to their use rights that fully consider the actual nature of their lawful purposes.

Yet, Sec 109.(3) appears to reverse the burden of proof onto the landowner to establish that the use has not been abandoned. But it cannot and does not do any such thing. The burden of proof still rests squarely with the consent authority to establish a prima facie case that a living, growing, forest that has had no harvesting activity for more than 12 months has *ceased to be so used* for forestry purposes. Only when that is established would the burden of proof be shifted.

In the majority of cases in NSW there is zero evidence of actual abandonment. Indeed, there is overwhelming evidence to the contrary. A survey of owner intent prepared for the NSW NE RFA **(1)** revealed that, despite more than a decade of discouragement, some 62% of forest owning landholders had a forestry intent. And one can only wonder how many of the remainder may have indicated otherwise if they knew that they had an unfettered right to do so.

Yet, the entire private forestry policy framework in NSW is based on the assumption that the forestry purpose is absent until proven otherwise. And this has led to the imposition of vegettion management instruments that give no indication of their extremely limited coverage.

The now superseded *SEPP 46* established clearing controls as a planning instrument under the EPA Act which required development consent for any destruction of native vegetation but gave specific exemption to, among others;

(a) Minimal clearing (2 hectares per annum)
(b) Minimal tree cutting (7 stems/hectare per annum for on-farm uses,
(h) Planted native vegetation,
(I) Private native forestry (selectively logged on a sustainable basis **or** managed for forestry purposes) and,
(j) Regrowth less than 10 years old.

The minimal clearing exemptions (a) and (b) had already applied to *"Protected land" under the Soil Conservation Act 1938* but copies of these exemptions were only available from the Ministers Office. The Act covered land that was, *in the opinion of the Commissioner*, in excess of 18º slope, within 20 metres of a river or environmentally sensitive land. Beyond these exemptions, approval under Sec 21.D was needed for the destruction of trees in such areas but this did not amount to a capacity to extinguish a forestry purpose on such areas.

Indeed, all the powers under Sec 21.D are measures of degree rather than absolute. They were measures that could specify what proportion of trees could be removed, what spacing of trees should be retained etc but there was no power to prohibit the use of such land for purposes that involved the destruction of trees or to effectively acquire interests in parts of land.

Yet, while the two instruments (SEPP 46 and Soil Con Act) were working concurrently, a perception was allowed to develop that forestry was acceptable on lesser sloped non-riparian land under SEPP 46 but was unacceptable on *Protected Land*. Studies of the private native forest resource, like O'Neill [(2)], specifically excluded protected land (30% of total area) on the basis that the forestry purpose had already been extinguished on such land.

The above mentioned author, a lecturer in forestry, was as surprised as anyone else when advised that we had written confirmation from the Director General of the NSW Department of Land and Water Conservation (3/99) that *"There is no (DL&WC) policy which precludes logging in riparian zones. Your current authority to selectively log regenerating native forest excluded the riparian zones primarily because of the lack of commercial species of millable size."*
[NB: the cost of blanket exclusion zones V's partial ones will be covered below].

Both *SEPP 46* and the *Soil Conservation Act* have since been replaced by the *Native Vegetation Conservation Act 1997* - the Objects of which include;

- *(a) to provide for the conservation and management of native vegetation on a regional basis, and*
- *(e) to encourage the revegetation of land, and the rehabilitation of land, with appropriate native vegetation, and*
- *(f) to prevent the inappropriate clearing of vegetation, and*
- *(g) to promote the significance of native vegetation, in accordance with the principles of ecologically sustainable development.*

All exemptions that existed under the two previous instruments have been carried over into the new NVC Act but references to them are extremely obscure. It would also appear that Regional Vegetation Management Plans would not need to maintain these exemptions with the clear implication that *development consent* under the *EPA Act* would be required for forestry activities.

It is no small irony that the one lawful agricultural purpose that has been demonstrated to maximise the objects of the NVC Act, clauses *(e) encourage revegetation, (f)* an economic alternative to *inappropriate clearing* and (g) in particular, has no provisions within the Act that could be considered in any way supportive of that purpose. **The only supportive provision is in a schedule of exemptions attached to a defunct policy.**

No mention is made in the *NVC Act,* any of the supporting notes or any of the public statements made before, during or after the enactment of the legislation, that the consent procedures would only apply to new uses and material changes to existing uses.

We are in receipt of confirmation from NSW Minister for Urban Affairs & Planning that Regional Vegetation Management Plans are deemed planning instruments under the EPA Act and subject to the existing use protection of Sec 109. We are also in receipt of confirmation from that Department that the *Existing Use Provisions* can apply to managed native forests, *"on a case by case basis"* (sic).

But what about plantations?

If the existing use provisions apply to native forests then they will clearly apply to existing plantations where the very presence of trees in rows is evidence of the purpose. But considerable effort has been made in NSW to ensure that the officially favoured plantation sector did not face the need to claim existing use rights.

At the same time as *SEPP 46* was introduced with its somewhat obscure exemptions for native forestry, NSW introduced the *Timber Plantations (Harvest Guarantee) Act 1995* with much fanfare. The objects of the Act were to remove impediments to the harvesting of plantation timber so as to encourage the establishment of commercial timber plantations.

It should be noted that as far as the clearing controls under SEPP 46 were concerned there was no threat to harvest security as plantations were covered under exemption *(h) planted native vegetation* and there were no controls over the removal of exotic species.

The problem was that certain local governments chose to ignore *SEPP 46* and apply their own planning instruments *(Local Environment Plans*) under the *EPA Act* and some of these went so far as to require consent for the removal of a single tree from rural as well as urban land.

And these were ill conceived and incompetently drafted. For example, *Byron Shire Council's Tree Preservation Order* of April 1990 covered every tree in the shire more than 3 metres tall with no exemption for existing uses or planted trees. Yet, forestry could still be lawfully commenced as an as-of-right use on all rural land.

And like its counterparts in other shires, it was not a valid instrument because the consent that was required was not a proper *Development Consent* under the *EPA Act.* And as the instrument was not a consent under the *EPA Act,* there was no need to respect the existing use provisions of that Act. **So the *Harvest Guarantee Act* was drawn up to protect plantations from the provisions of unlawful instruments.**

Even more ironically, the administration of the *Harvest Guarantee Act* was handed to the Dept. of Urban Affairs and Planning who, amongst other duties, were required to vet all planning instruments to ensure consistency with the objects and intent of the *EPA Act.* And it is clearly the intent of the *EPA Act* that existing uses be respected.

To compound the folly, part (2) (c) of the objects of the *TP(HG) Act, "removes the need for development consent under Part 4 of the EPA Act, or environmental assessment under Part 5 of that Act, in relation to the carrying out of harvesting operations on accredited timber plantations.* The assumption here is that (a) the act of planting does not constitute lawful commencement, or (b) the absence of activity for more than 12 months indicates abandonment. None of these assumptions are valid.

The *TP(HG) Act* was only voluntary (by 6/1999 there were only 40 accreditations covering only 400 hectares) but the clear implication was that consent requirements for the continuation of lawful operations on existing unaccredited plantations and managed native forests were valid, when they clearly were not.

It is also worth asking, if the requirement for development consent was a well recognised impediment to the establishment of new plantations, why is consent not an impediment to the expansion of higher ecological value native regrowth? The (catch 22) answer is, because they enjoy the protection of the existing use provisions.

When faced with the obvious failure of the *TP(HG) Act* to bring plantations, voluntarily, in under the code, in effect, the assignment of interests in land *by agreement*, the new *Plantations and Reafforestation Act 1999* was passed. This Act does actually recognise the existing use rights of established plantations but goes on to require full consent for new plantations and prescribes a code for both establishment and harvesting as a condition of that consent.

An exemption is granted for farm forestry, being holdings less than 30 hectares, in apparent recognition that a small scale planting may not constitute a significant enough variation in character, scale or intensity of use.

But the Act also seeks to limit the duration of the lawful purpose by requiring additional consent for the replanting of the site after harvest. This claim, that the cutting of the tree marks the abandonment of the use, marks the continuation of a callous disregard for the actual nature of the use and the lawful rights of forest owners.

And one must ask, what lawful use would the land revert to once the plantation has been harvested? Most mature plantations (native or exotic) have significant understorey of native species that will require removal (with consent) if the land is to be used for any other purpose. Yet, the mechanism that will apply under the *P&R Act* will allow the further carve up of the site into retained native vegetation and diminished productive area.

This policy approach cannot be justified under either justice & equity grounds or Ecologically sustainable development principles. ESD requires a balance of ecological, economic and social values in decision making and foremost among those social values are trust in the rule of law and the integrity of the policy process. Arbitrary termination of a continuing lawful purpose is the antithesis of these social values that must not only be protected but also be restored when compromised and ultimately enhanced.

This measure is also completely at variance with the *Intergovernmental Agreement on the Environment (IGAE) 1992* of which all States are signatories. This agreement sets out *the principles of environmental policy* on which environmental measures are to be established. They include;

Section 3.4 *(ii) ensuring that there is a proper examination of matters which significantly affect the environment; and*
(iii) ensuring that measures adopted should be cost effective and not be disproportionate to the significance of the environmental problems being addressed.

And subordinate to these principles are the principles of ESD *(Section 3.5 precautionary principle, intergenerational equity, conservation of biological diversity etc and improved valuation and pricing).*

There has been no proper examination of the ecological impact of allowing the forestry purpose to continue post harvest. For clearly if one had been conducted it would have been obvious that the continuation of the purpose, beyond harvest, would have only beneficial effects. These include a very high probability that no actual replanting would take place as the understorey regrowth could be managed in perpetuity as a native forest.

Clearly, the continuation of the forestry purpose beyond harvest does not constitute *a threat of serious or irreparable environmental damage,* a prima facie case of which must be established for the precautionary principle to require the measure. And it beggars belief how anyone could seriously argue, as NSW appear to have done, that *intergenerational equity* within an ESD framework does not include the maintenance of economic values (ie interests in land) between generations as well as ecological values.

It is also appropriate to ask how the discouraging of on-going forestry on a plantation site serves the *conservation of biological diversity* and how the extinguishment of a lawful forestry purpose serves *improved valuation and pricing.*

The arbitrary extinguishment of the lawful forestry purpose upon harvesting of a plantation manages to offend every principle of ESD and the entire framework in which ESD has been established. It would mean that any assessment of the profitability of a plantation investment must factor in the probable cost of the loss of all use of the land post harvest or major costs in understorey destruction prior to harvest (assuming that the code of practice would allow it).

And while the *P&R Act* does recognise that existing plantations do not need development consent to continue, those responsible for it could not resist the temptation to refer to approved plantations under the Act as *Authorised Plantations.* This will give a clear impression to the uninitiated (ie Bankers) that other plantations and forms of forestry that have not signed up for the as yet undetermined liability for road levies are *unauthorised* and somehow lacking legitimacy and resale value.

As mentioned above, we are unaware of any mention of existing use exemptions in public statements by responsible State or Local Government officers in respect of vegetation management in NSW.

And given the materiality of this information, *reasonable men and women* would be bound to conclude that such an omission amounts to *a misrepresentation of fact*. It is a sequence of *such partial and fragmentary statements of fact that the omission of that which is unstated, renders that which is stated untrue.*

As the *Trade Practices Act 1974* confirms, an *interest in land* includes a part of land and also includes *a use to which land may lawfully be put.* That Act goes to considerable length to make it clear that the community does not accept *misrepresentations in respect of interests in land.* But it only covers corporations in *trade or commerce*.

Yet, the State and various local government authorities have clearly attempted, and succeeded, by way of misrepresentation by omission, to exercise a *right, power or privilege over land,* (to acquire an interest) that their legislative authority expressly precludes them from exercising. And the fact that the acquisition is outside any legislative planning powers means, by default, that the activity is in *trade or commerce*.

The activities taken under planning instruments and deemed planning instruments are actions of *the Corporation* that administers the *EPA Act,* The NSW Department of Urban Affairs and Planning, and that Corporation, under EPA Section 9, may only acquire interests in land *by agreement, or compulsory acquisition with just terms.*

However, we have been advised by the Australian Competition and Consumer Commission, in a letter of February 26, 1999, that the *shield of the crown,* while lifted from the competition provisions of Part IV of the *Trade Practices Act,* still applies to the deceptive conduct provisions of Part V. And this applies, despite the fact that the actions in trade or commerce are outside their legislative planning authority.

It has been suggested that, in the absence of any case law that deals specifically with existing forestry uses, that an outright denial by a local government authority of the applicability of the existing use provisions to vegetation management instruments, amounts to a mere opinion on the interpretation of law. But given the obvious position of authority of the opinion maker, and the implication that they know, or should know what they are talking about, such an opinion is one that *reasonable men in full possession of the facts would not hold.* And this, of course, could easily establish that the opinion is a misrepresentation of fact.

It has also been suggested that such misrepresentation by any relevant officer would constitute a breach of discipline under Section 66 of *The Public Sector Management Act 1988.* Indeed, it would be most surprising if the deliberate withholding of such relevant information were not covered under Sec.66 (1) (b) *misconduct,* or (e) *negligent, careless, inefficient or incompetent in the discharge of his duties.*

It is certainly in breach of the DUAP Code of Conduct which requires staff to *respect for the rule of law, promote public confidence in the integrity of public administration* and to *take responsibility for your acts and omissions be accountable for them..* It goes on to state that *"Members of the public have a right to accurate information". (pp.3)*

As far as negligence is concerned, the withholding of information on the applicability of existing use rights in a consent framework clearly has the potential to cause a detriment to the forest owner. That detriment is entirely foreseeable and any responsible officer has a duty of care to take all reasonable steps to avoid causing that detriment.

There are numerous examples of detriment.

One Shire in NSW has removed forestry as an as-of-right use on rural land and requires development consent for the commencement or continuation of any activities associated with the purpose. A forest owner whose interest pre-dated the planning instrument, had concluded, from the body of published material from the Council that consent for the continued selective harvesting of his previously harvested regrowth forest would be difficult, time consuming and expensive if not futile. Meanwhile, the viability of his concurrent grazing activities was severely compromised by a decade of regeneration and over-stocking of trees.

His neighbour, an experienced forester, had assessed the value of the standing timber on the 1,000 hectare property to be in excess of $1,500,000 at stump. A standard silvicultural treatment of such a forest would have called for the immediate removal of the low value half of the wood volume. Given that the most valuable stems would be retained, the net proceeds would have been circa $500,000.

The property was a convenient distance to a recognised high population growth area and there was considerable scope for on farm value adding. Indeed, even a modest 1m3/hectare annual growth increment of the retained forest would have been well in excess of the capacity of a full-time, two man portable sawmilling operation with gross revenue in excess of $200,000 per annum.

But the forest owner was put into liquidation by his bank and the property was sold at auction for just enough to recover his debts of $385,000. Because no one in the region was aware of the value of the existing use right the land was considered less valuable than cleared land because of the trees and the former owner was left virtually penniless.

The landowner has clearly suffered a detriment due to the negligence of the Council and possibly the Minister administering the *EPA Act.* The calculation of appropriate compensation for such negligence raises some interesting accounting/legal issues.

The owner has lost land worth at least $385,000 and standing timber at $1,500,000 but he has also lost a *going concern* in the form of an on-going forestry business which also has a value. The rights that attached to his land included the right to convert the forest to cash and, once converted, he could have derived an interest income from that cash. As a significant portion of that cash could have been used to retire debt, the appropriate interest rate would not be the *official cash rate.* Instead, it should be a weighted average of his mortgage rate and other interest that he could obtain for such a large sum.

Given the size of the property, it is unlikely that the conversion would take place in a single year and it is also unlikely that a complete clear fall would produce the best financial return. But if a clear fall did take place then the remaining land would still have sufficient ecological capital in situ to ensure a quick regeneration of forest to take its place. And this regrowth would also produce a steady increase in the value of the forest that the owner had a right to enjoy.

The value of regrowth, post harvest, would be quite low after a clear fall but be quite significant after a silvicultural thinning. So while the immediate conversion amount, on which interest could be earned, may be lower with thinning, the post harvest growth in the standing asset would more than compensate (ie MAI x pulp wood v's sawlog royalty). Obviously, the amount varies depending on the time when the loss is *realised* or when compensation is made. So in this particular case, the Council's liability is still accumulating.

This is not an isolated case.

Some 30% of all rural landholdings are sold within any decade. There are many reasons for this, ranging from life style change, insolvency, marital problems, retirement, physical disability and plane old trading up or down. So the lack of any consideration for the standing value of timber is an issue that constitutes a serious impediment to the spread of forest on farmland.

We can reasonably conclude that some 1.56 million hectares of the 5.2 million hectares of higher volume, forestry relevant private native forest in NSW has been sold in the past decade. Even a modest 100m3 gross wood volume/hectare at a mean value of only $15/m3 would mean that some $2.3 billion dollars worth of forest has changed hands in the past decade for little consideration.

Some of those disadvantaged sellers were retirees whose superannuation was wiped out by official misconduct. Others are single mothers who have received a minority settlement of joint assets while others are our very best role models, our environmental repairers and native forest regenerators who have reaped only heartache for a lifetime of good works.

It is not unusual for the value of standing timber to be up to 5 times the value of the land on which it stands. So when the asset is sold at land value only it is clearly an adverse impact that is far greater than the impact of individual measures and prescriptions.

The impact of the reverse multiplier on such a large scale capital extinguishment has not, to our knowledge, been adequately treated in an economic model of rural economies. But one does not need Lord Keynes to understand that a circular flow that leaks some five sixths of its capital every decade will begin to struggle.

The victims of predatory forest policy are as diverse as rural populations can be but what we do know is that they exhibit;

1 amongst the highest incidence of age disadvantage,

2 amongst the highest incidence of income disadvantage

3 amongst the highest incidence of educational disadvantage

4 amongst the highest incidence of communication disadvantage

5 amongst the highest incidence of infrastructure disadvantage.

Remove the ambiguities in private forest policy and your committee will go a long way towards fixing many of the problems in the bush.

3 The use of the "Whole farm risk assessment model".

A reasonable assessment of such a complex calculation requires an assessment of the probability of obtaining certain prices, volumes and growth rates and it was for this very reason that the Whole Farm Risk Assessment Worksheet was developed. It was first published in *Proceedings of Australian Forest Growers Conference, July 1998 (pp.81)*[(3)]*,* and has undergone substantial enhancement since then.

There is insufficient time or space in this submission to cover the full application of the model in determining the cost of measures or the value of compensation for existing losses or future environmental benefits. It suffices to say that no such detailed analysis has been conducted on current measures has been performed by regulatory assessment authorities.

It is a series of interconnected spreadsheets that enable;

1 The value of the entire standing forest volume (sawlog, poles, posts & pulp) to be calculated for each class of forest on a property or catchment.

2 The returns from a range of various types of full or partial interventions to be calculated with variables such as growth rates, prices, land appreciation, price changes and interval between interventions.

3 Multiple assessments of the probability of various profit and loss scenarios taking place with consideration of outright loss (ie extinguishment of use) and its impact on risk weighted returns for each class of land use.

4 Integration of risk weighted returns for each class of land use into a whole of farm assessment that can identify the impact of each land use class on the viability of the whole farm entity.

The model can, for example, show how a riparian buffer of a certain size may have only a minor impact on the viability of a farm with only 10% forest cover in an arid region but have a major impact on a 70% forested farm in a high rainfall region. It can then show how prescriptions that achieve the same outcomes but do not involve the permanent exclusion of the forestry purpose have very little impact on viability.

The model is also capable of showing what mix of rental or tourist accommodation would need to be integrated into a managed forest to fully compensate the owner for the public good provided by his forest (ie what threshold areas should apply). Such concessions can be granted by consent authorities at no cost in exchange for compliance with measures.

It is the only tool available that is fully capable of performing *a proper assessment,* at farm or catchment level, of what is, or is not, a *disproportionate measure* under the *Intergovernmental Agreement on the Environment.* As nothing like it has been used to date then it is difficult to see how the obligations under that agreement could possibly be met without it.

A proper understanding of its output and scope is only possible after an on-screen demonstration of its application. Accordingly, I take this opportunity to extend an invitation to the Standing Committee on Environment and Heritage to view the working model in person.

It should be noted that this is not merely a tool for costing blame. It is above all a tool for assessing the effectiveness of options. If you are unable to accept this invitation we would request the opportunity to make a detailed submission of example case studies at a later date.

Yours sincerely
Ian Mott

References

1 Bureau of Rural Sciences/Northern NSW Forestry Services, *Private Forest Management Intent Survey, NSW CRA/RFA Steering Committee 1999*

2 O'Neill, M. *The Private Hardwood Forest Resources of Northern NSW - Proceedings of Australian Forest Growers Conference 1998 (pp. 129)*

3 Mott, I. *Whole Farm Risk Assessment for Private Forests - Proceedings of Australian Forest Growers Conference 1998 (pp.81)*

Legislation

- *Qld Integrated Planning Act 1997* www.legislation.qld.gov.au
- *NSW Environmental Planning and Assessment Act 1977* www.austlii.edu.au/au/legis/nsw
- *Qld Vegetation Management Act 1999* www.legislation.qld.gov.au
- *NSW Soil Conservation Act 1938* www.austlii.edu.au/au/legis/nsw
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- *Trade Practices Act 1974* www.austlii.edu.au/au/legis/cth/
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