

How to Centrally Plan the Environment

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AUSTRALIA lost three million hectares of native vegetation last bushfire season. All of this would fall within the current statutory definition of 'clearing'. In other words, we just 'cleared' 40 per cent of Victorian forests, 60 per cent of ACT forests and 20 per cent of NSW forests.

At the same time, the Productivity Commission has been charged with an inquiry into the Native Vegetation and Biodiversity regulations (NVBs); regulations aimed at preserving our environment. Truth is, they are a shambles.

Governments fiddle while the forests burn.

THE PROBLEMS

The problem is that the NVBs fall mainly on private landholders who manage most of the Australian environment—both natural and transformed—and that government has contrived to make compliance impossible.

First, the regulations are overwhelming. In NSW alone, they amount to at least 17 Acts of Parliament, numerous regulations and guidelines, multifarious regional, catchment and property plans, biological diversity strategies, species recovery plans, conservation agreements, threat abatement plans, local planning rules and much more. They specify endangered plants, animals, populations, and ecological communities, species presumed extinct, vulnerable animals and plants, key threatening processes and critical habitat—852 separate items.

In addition, the regulations are absurdly restrictive. The NSW *Native*

Vegetation Conservation Act defines clearing as 'any cutting, destroying, lopping, damaging' of native vegetation. It could include the cutting (or grazing) of a single blade of native grass. In truth, a farmer needs a team of lawyers, biologists and botanists following every movement of humans, animals and machinery on his property to be sure that he is not damaging individual plants or animals of some listed species.

Inevitably, consent procedures are time-consuming and expensive and therefore unavailable to any but a very small, wealthy minority. In NSW, the clearing application process involves 30 or more steps (for example, to lop a tree). Governments cannot manage or even comprehend the complexity they have themselves created, even with the assistance of the farcically numerous and chronically conflicting committees established by law to deal with NVBs.

Bad law means weak enforcement. There were 800 alleged breaches of the NSW State Environment Plan 46, but only 3 successful prosecutions. A nasty side-effect of the laws is that it encourages doblers and litigation.

Second, the NVBs are heavily duplicative. The *Native Vegetation Conservation Act*, the *Threatened Species Conservation Act* and the *Water Management Act* all contain NVB provisions, which are echoed in the *Protection of the Environment Operations Act* and the *Plantations and Reforestation Act*.

Third, the NVBs are extremely unstable. Government repeatedly changes the rules. This is not just the continual declaration of national

parks at the expense of the hapless forest industry. It involves continuous new restrictions on private land.

UNFAIR COSTS

Whatever regulations are imposed, privately-held land must still be managed and the NVBs impose a heavy cost. The landowner must learn the multifarious rules and participate in the process or suffer the consequences. He is effectively banned from private native forestry and new native plantations risk effective expropriation. He must identify listed species and protect them and their habitat. He must spend time with inspectors, objectors, informers and other third parties given rights over him.

Generally speaking, those that have maintained extensive areas of native vegetation will now be penalized for it. So, the NVBs cause loss of current and future income. The loss of expected income feeds into the potential sale price of the property and hence has an impact on the wealth of the landowner.

For the NVBs to have any real justification, they must presuppose the creation and transfer of well-being to the community at large. But how do you measure that? Given the existence of very extensive national park and State forest areas in Australia, the accession of vast new private forest areas is not likely to add much to recreational opportunities. There is a very substantial dilution effect and private forest is generally much harder to access.

There may be psychic income for the community from the quarantining of native vegetation areas on pri-

vate land, but this is hard to measure and likely to decline quickly over time. This is confirmed by observation. The level of satisfaction among environmental activist groups does not appear to register any permanent increase with the gains made.

PERVERSE OUTCOMES

Simple preservation or quarantining of areas of land does not ensure predictable or good conservation outcomes. Land that is left unmanaged or poorly managed will not remain in its pre-existing condition nor revert to some stable, ideal environmental state.

Vague general principles, such as preservation of biodiversity, the precautionary principle and the concepts of ecological sustainability and intergenerational equity, are meaningless at the individual property level. Nor do the general principles incorporate the notions of sustainability of human communities. Nevertheless, the landowner must be the agent of the community for almost all the compliance with the NVBs (as well as make a living). His attitude is vital. And yet environmental regulation offers him almost no incentive to comply.

The landowner will minimize the time and expense devoted to the very parts of his property rated as high environmental value. Why bother with noxious weeds and feral animals in an area that the government has effectively expropriated? Why maintain access for hazard reduction or scientific assessment or the general public? Why identify rare species just to generate further interference? Why volunteer to fight fires created by government enforced neglect?

At present, there is virtually a complete disjunction between the day-to-day managers of the land and those who are attempting to micro-manage it from afar. Governments will not take up the task thus neglected. They will not have the resources to do more than conduct guerrilla inspections guided by local informers. In short, it will be the re-

verse of the outcome for which the policy was put in place.

CENTRALLY PLANNED ECOLOGY

The environment is subject to continuous slow change. There are medium and long-term climatic shifts, which alter the ecology profoundly. The cycles of fire can have long-term effects. It will take many decades to recover the billions of plants and animals destroyed in the last bushfire season and the ensuing pattern will be very different from that which preceded it.

Most of the longer-term changes are unpredictable and hence unknowable. But much of the regulation assumes an attainable, stable state, optimum environment.

The award for the most fatuous legislative provision must go to s140 of the NSW *Threatened Species Conservation Act*. This requires that the Biological Diversity Strategy is to contain proposals for 'ensuring the survival and evolutionary development in nature of all species, populations and communities'.

This patent nonsense implies a degree of knowledge about the environment and its future evolution that is quite breathtakingly arrogant and a degree of totalitarian surveillance and control that would be unacceptable if applied to human communities. After the spectacular failure of the centrally planned economy, we are to have the centrally planned ecology. We are engaged in a foolish and doomed attempt to preserve everything.

WHAT TO DO?

There is a case for the government to sort out priorities and express them much more succinctly in legislation. They created the mess and should now clean it up. At the same time, they could dramatically slim down and localise the administrative processes.

Government should cease trying to apply national parks standards to private land. The NVBs can be char-

acterized as a means of getting more national park on the cheap. In any case, parks often provide poor examples of conservation: consider the regular Royal National 'bonfire' and the utter desolation of the Brindabellas.

We also need to abandon the notion that anyone—park manager, farmer, forester—can micro-manage the environment to the degree envisaged by some scientists and much of the environmental movement. There needs to be flexibility in the regulations so that they tackle the more serious environmental problems and protect the significant areas of value.

Solutions could also include voluntary conservation agreements, which would be like a lighter handed version of the existing native vegetation Property Agreements. It is important that they embody financial incentives for the outcomes desired by the community. This could be accompanied by the further development of markets in environmental goods. We already have a market operating for greenhouse credits and the market in water rights is expanding. Green NGOs could then put their money where their mouth is and buy the outcomes they demand rather than forcing private landowners to pay for them through confiscatory legislation.

Given the pervasive presence and continuing impact of human populations, we should consider careful use of the environment rather than an ever-expanding list of prohibitions. Encouraging positive behaviour is a better solution in our society than savage punishment for perceived and often-trivial misbehaviour.

Finally, we should resist the expropriation of property rights that underpin our society. Where one section of our society is required to surrender valuable rights to please another, then the cost of this should be borne by the community as a whole.

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