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# Ecologically Sustainable Forest Management Part V: Regulation of Private Plantation Forestry in Victoria: A Case Study of Hancock Victorian Plantations Pty Ltd

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## I. PRIVATE FORESTRY REGULATION IN VICTORIA

What regulatory model will achieve Ecologically Sustainable Forest Management (ESFM) in Victorian private forestry? Sustainable private forestry practice involves increasing productive capacity and reducing pressure on public forests. This focuses on a regulatory structure able to deliver ESFM effectively, which inherently requires a regulatory model able to address economic and ecological sustainability private forestry.

In researching current regulation of private forestry, it is necessary to address balance with the elements of ESD. The variable nature of economy ecology and society means it is essential that regulation be assessed for capacity to adapt to different circumstances which affect balance. It is relevant to evaluate regulation for its capacity to utilise principles of ecological sustainable development. Even though these principles are not expressly mentioned in regulation pertaining to private forestry they remain relevant. The principles are not directly referred to in the *Code of Practice for Timber Production 2014* (Vic) (Code), however the Code covers both private plantation and public forestry. For both forest types the Code makes express reference to how environmental values must be considered at all stages from planning through to harvesting. While this does not mandate the application of the principles, they are still a reference point by which regulation can be assessed.

## II. DATA GATHERING ANALYSIS AND TECHNIQUES IN RELATION TO PRIVATE FORESTRY REGULATION

Private forestry includes private native forestry (PNF) and plantation or industrial scale private forestry. The former requires management of native vegetation for sustainable logging and timber production. The Code covers harvesting in plantations and native forests on private land. *Management Guidelines for private native forests and plantations: Code of Practice for Timber Production 2014* (Guidelines) should be read in conjunction with the Code.<sup>1</sup> The Code and Guidelines represent a regulatory framework covering operational controls over PNF and plantations, and its requirements are examined from a sustainability perspective.

Timber production is a defined land use in the Victorian Planning Provisions and related planning schemes. Local government is responsible for ensuring compliance with planning schemes and the Code. The requirements of planning schemes are examined for their capacity to progress the ESFM objective. This is considered at two levels, (1) at a global or governance perspective and (2) from an operational perspective.

Hancock Victorian Plantations Pty Ltd (Hancock) case study examines how they operate under private forestry regulation. This requires information on compliance with the Code, Guidelines, planning schemes and local government requirements covering permits and authorisations. An interview with the Hancock

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<sup>1</sup> Victoria. Department of Environment and Primary Industries, *Management Guidelines for Private Native Forests and Plantations: Code of Practice for Timber Production 2014* (Department of Environment and Primary Industries, 2014) (Guidelines) <[https://www.forestsandreserves.vic.gov.au/\\_data/assets/pdf\\_file/0021/324084/Management-Guidelines-for-private-native-forests-and-plantations-Code-of-Practice-for-timber-production-2014-web.pdf](https://www.forestsandreserves.vic.gov.au/_data/assets/pdf_file/0021/324084/Management-Guidelines-for-private-native-forests-and-plantations-Code-of-Practice-for-timber-production-2014-web.pdf)>.

company secretary, who is responsible for monitoring regulatory compliance, provides the main source of information for this part.<sup>2</sup> Secondary material from Hancock includes their Forest Management Plan, data relevant to voluntary forest certification, and data relevant to production and sustainability related information including sustainable yield. The aim is to address how regulation applies to Hancock and its effect on production levels and sustainability objectives.

Secondary source material assesses regulatory performance covering growth in the plantation sector, sustainability performance and competitive neutrality with public forestry. It is evaluated from the perspective of how regulation addresses cross boundary outcomes and the protection of large-scale ecological integrity. This requires assessing how regulation addresses productivity and sustainability and the inherent balance a sustainable sector requires. Finally, current regulatory performance is considered from the perspective of wood industry associations.<sup>3</sup> Industry associations like the Australian Forest Growers (AFG) who represent private forestry and commercial tree growing interests, make submissions that include reference to current regulation. Their input provides guidance on how current regulation impacts private forestry interests. Similarly, their recommendations on industry reform points to how they perceive the performance of current regulation.

### **III. DISCUSSION ANALYSIS AND EVALUATION OF DATA COLLECTED**

This part examines data to determine how current regulation of private forestry addresses ESFM. The analysis examines, (1) balance between economy, society and ecology (2) governance, (3) measurement and monitoring, and (4) compliance. This evaluates the overarching regulatory structure, and a case study of Hancock Victorian Plantation Pty Ltd and their experience within that regulatory framework.

#### **A. Regulation of Private Forestry in Victoria – An Overview of Current Regulatory Structures**

In assessing ESFM, through governance, balance of elements of ESD, monitoring and measurement, and compliance, the primary research goal is analysing the current regulatory model's capacity to deliver a sustainability objective, specifically ESFM.

##### **1. Impact of Commonwealth Plantations Policy on Victorian Private Forestry Regulation**

The National Forest Policy Statement outlined agreed objectives and policies for Australia's public and private forests.<sup>4</sup> The Statement called for ecologically sustainable management of Australia's forests including, (1) increasing forest area, (2) adopting a holistic approach to managing forest values, (3) private forest managed in an ecologically sustainable way in co-operation with public forest managers, (4) developed sustainably forest-based industries, and (5) a policy of ESFM. The national goals of this policy contained 11 objectives integrating environmental and commercial objectives using all forest values.<sup>5</sup> This included ensuring private native forests are maintained in an ecologically sustainable manner and expand commercial plantations of softwood and hardwood. This relies on combining commercial uses of forest using ecologically sustainable practices with integrated strategic planning. The linkage between sustainable practices and integrated planning required codes of practice and forest management plans incorporating sustainable yield harvesting, and application of the precautionary principle.

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<sup>2</sup> Mr Warwick Smith is the company secretary of Hancock Victorian Plantations Pty Ltd.

<sup>3</sup> This includes the Australian Forest Products Association, Australian Forest Growers, Forests and Wood Products Australia and the Victorian Association of Forest Industries.

<sup>4</sup> Commonwealth of Australia, *National Forest Policy Statement: A New Focus for Australia's Forests* (Commonwealth Government, 2<sup>nd</sup> ed, 1995) <[http://www.agriculture.gov.au/SiteCollectionDocuments/forestry/australias-forest-policies/nat\\_nfps.pdf](http://www.agriculture.gov.au/SiteCollectionDocuments/forestry/australias-forest-policies/nat_nfps.pdf)>. It represented a response to the Ecologically Sustainable Development Working Group on Forest Use, the National Plantations Advisory Committee, and the Resource Assessment Commissions Forest and Timber Enquiry.

<sup>5</sup> The goals covered conservation, wood production industry development, private native forests and plantations, water supply in catchment management, tourism and employment, public awareness and participation and research and development.

This policy was reviewed in a report to the Australian Forest Products Association (AFPA) in February 2016.<sup>6</sup> It concluded plantation development had stalled in Australia, due in part to the absence of any new investment mechanism for new plantations. It was difficult for investment in plantations obtaining a commercial rate of return at current wood and land price. It noted payment for carbon sequestration will improve commercial viability of plantation investment, but this is dependent on future carbon prices. These issues highlight the sustainability of the sector depends on improving plantation profitability, efficient utilisation of carbon credits, and development of farm forestry. Case studies in the report confirmed that new industrial plantations were uneconomic when land is acquired at the average regional cost per hectare. The Report recommended alternative plantation expansion strategies including farm forestry where trees are established as part of an existing farming enterprise.

The 2020 Vision Strategy for plantations aimed for a sustainable expansion of the plantation forest estate, with the target of trebling the acreage goal by 2020.<sup>7</sup> Like the National Forest Policy Statement it highlighted gaps in the current regulatory environment for plantations. For example, the absence of regulation to encourage smaller scale on-farm plantings with different ownership and management options. Regulation does not recognise plantations as long rotation agricultural crops as part of the planning approval process, ensure certainty over harvesting rights with streamlined approval processes facilitating plantation expansion. Protecting the commercial interests of plantations meant separating the ownership of plantation/forest products from the land. Current regulation does not encourage the valuation and development of markets for environmental services. These factors have seen the vision of expansion of the plantation sector envisioned in the 2020 Vision Strategy not realised.

## 2. The Victorian Private Forestry Regulatory Framework

The main Acts regulating private plantations in Victoria are *Planning and Environment Act 1987* (Vic) covering planning requirements for timber harvesting on private land, and the related *Planning and Environment (Planning Schemes) Act 1996* (Vic). The latter Act requires each local government area have its own planning scheme based on Victorian Planning Provisions.<sup>8</sup> Victorian planning schemes are administered at local government level and mandate application of the Victorian *Code of Practice for Timber Production 2014* (Code).<sup>9</sup> The local council is responsible for decisions under planning scheme provisions, including planning decisions relating to timber production.<sup>10</sup> All native forest harvesting and regeneration on private land must comply with the *Code of Practice for Timber Production 2014*,<sup>11</sup> and Victoria's Native Vegetation Regulations.<sup>12</sup>

When undertaking harvesting on private land a planning permit for native forest harvesting and regeneration is mandatory. This may come with conditions relating to exclusion areas, buffers, filters, drainage lines, silvicultural practices and access arrangements to the property. A Timber Harvesting Plan (THP),<sup>13</sup> must be submitted with a planning permit application, in compliance with requirements of the

<sup>6</sup> Anna Matysek and Brian Fisher, *The Economic Potential for Plantation Expansion in Australia: Report to the Australian Forest Products Association* (February 2016) <<http://ausfpa.com.au/wp-content/uploads/2016/02/BAEconomics-plantations-report.pdf>>.

<sup>7</sup> Commonwealth of Australia, Department of Agriculture, Fisheries and Forestry (DAFF), *Plantations for Australia: The 2020 Vision – An Industry/Government Initiative for Plantation Forestry in Australia* (Commonwealth Government, 2002) <[http://www.agriculture.gov.au/Style%20Library/Images/DAFF/\\_data/assets/pdffile/0009/2398185/plantations-australia-2020-vision.pdf](http://www.agriculture.gov.au/Style%20Library/Images/DAFF/_data/assets/pdffile/0009/2398185/plantations-australia-2020-vision.pdf)>.

<sup>8</sup> The Victorian Planning Provisions are the planning policies and control mechanism for decisions on land use planning <<http://planningschemes.dpcd.vic.gov.au/schemes/vpps>>.

<sup>9</sup> See <<http://planningschemes.dpcd.vic.gov.au/>>.

<sup>10</sup> An example of a planning scheme and its application to private forestry is in Appendix A.

<sup>11</sup> Victoria, Department of Environment and Primary Industries, *Code of Practice for Timber Production 2014* (Department of Environment and Primary Industries, 2014) (Code) <[https://www.forestsandreserves.vic.gov.au/\\_data/assets/pdf\\_file/0016/29311/Code-of-Practice-for-Timber-Production-2014.pdf](https://www.forestsandreserves.vic.gov.au/_data/assets/pdf_file/0016/29311/Code-of-Practice-for-Timber-Production-2014.pdf)>.

<sup>12</sup> Victoria, Department of Environment, Land, Water and Planning, *Native Vegetation Information Management (NVIM) Website* (2019) <<https://www.environment.vic.gov.au/native-vegetation/native-vegetation-information-management>>.

<sup>13</sup> An example of a Timber Harvesting Plan from East Gippsland Shire Council is accessible at <[http://www.eastgippsland.vic.gov.au/About\\_Us/Our\\_Environment/Forestry\\_and\\_Plantations](http://www.eastgippsland.vic.gov.au/About_Us/Our_Environment/Forestry_and_Plantations)>.

Code. An exception to the permit requirement is where State and Local Planning Policy Frameworks and the zone system identifies timber production “as of right” s 1 land use, meaning a permit is not required in farming or rural activity zones. Plantations are allowed as-of-right in rural areas on cleared land, provided that the total plantation area on contiguous land under the one owner is under 100 hectares.<sup>14</sup> Where a permit is not required, the developer must lodge a Plantation Development Notice with the local council, advising location, extent, species and year of planting and expected year of harvest. A THP must be lodged prior to the commencement of harvesting, setting out where and how much harvesting is proposed.

The efficacy of current regulatory arrangements over forestry was subject to review in 2012.<sup>15</sup> A parliamentary committee noted no major environmental degradation incidents arising from plantation forestry. However, it felt regulation of the sector does not achieve consistent compliance across Victoria and does not have a method for capturing and summarising learnings from the application of the Code to improve application. There were limited consistent guidelines to support the Code particularly in complex situations such as protection of soil and water values. The Code made no concession for size of forest area, thereby causing small operations higher compliance cost per hectare. Main areas noted for improvement were, (1) clear guidance for achieving goals stated in the Code, (2) applying a mechanism for systematic capture of information from audits at a State or regional level and using this information to improve the Code application, especially in cumulative impacts of small-scale plantings on the environment, and (3) improving the skill base of local government to ensure consistency of Code application and compliance auditing. The lack of cross boundary consistency in the administration of the Code highlights a governance failure in the current model. This is characterised by a lack of data about the impact of regulation as a potential disincentive to the establishment of more small-scale farm forestry operations. The lack of control over cross boundary applications of the Code is an inherent weakness of the current system with power distributed through local councils.

### **3. Code of Practice for Timber Production (2014) and Its Impact on Private Forestry Practice**

The *Code of Practice for Timber Production 2014* (Vic) (Code) contains mandatory operational guidance on timber harvesting and regeneration. Plantations and private native forests are covered under Pts 4 and 3 of the Code respectively. The local council is responsible for compliance with the foregoing operational actions. The Code requires private foresters to submit to the council a Plantation Development Notice prior to establishment,<sup>16</sup> and a THP prior to harvest. Plantations require the lodgement of a Planning Development Notice with the local council not less than 28 days prior to the commencement of site development, unless a permit is required in which case it is submitted with the permit application.<sup>17</sup>

The Code is prescriptive about content of the THP for plantations, including methods to minimise impacts on water quality and river health from timber harvesting,<sup>18</sup> the estimated timber volumes to be harvested, methods to minimise impacts on biodiversity, water quality and river health, minimising impacts on significant visual landscape values, impacts on cultural heritage values, and regeneration programs. Timber harvesting practices for private native forest must also be consistent with the THP.<sup>19</sup> Harvesting must be within designated coupes and not in buffer zones.<sup>20</sup> Regeneration of private native

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<sup>14</sup> The plantation must not be within 100 metres of a dwelling under separate ownership, land zoned for residential, business or industrial use, any land where a permit allows dwelling construction and not be within 20 metres of a power line.

<sup>15</sup> See P Smethurst et al, *Assessment of Code of Practice for Plantation Forestry: Victoria* (May 2012) <<http://www.agriculture.gov.au/SiteCollectionDocuments/forestry/australias-forest-policies/plant-code/plant-code-vic.pdf>>.

<sup>16</sup> This is the case if no permit is required. If a permit is required then it is submitted with the permit application.

<sup>17</sup> See Code cl 4.1.1.2.

<sup>18</sup> See Code cl 4.5.1.2.

<sup>19</sup> See Code cl 3.4.

<sup>20</sup> See Code cls 3.4.1.3, 3.4.1.5 respectively.

forests must be in accordance with *Permitted Clearing of Native Vegetation – Biodiversity Assessment Guidelines (2013)*<sup>21</sup> which are incorporated in the Victorian Planning Provisions. Environmental and sustainability requirements of the Code for private forestry aim to ensure, adequate regeneration occurs after harvesting, reforestation is achieved efficiently with environmental care, environmental values are conserved and water supply catchments are protected. The Code deals with conservation of biodiversity for private native forest,<sup>22</sup> and prohibits harvesting in rain forests.<sup>23</sup> It requires silvicultural systems be suitable for the ecological requirements of forest type.<sup>24</sup> Regeneration must be undertaken using species native to the area.<sup>25</sup> The Code covers protection of water quality by the establishment of buffers or filter strips.<sup>26</sup> It prescribes methods to minimise water pollution through use of drainage, artificial structures, buffers and filters to slow and disperse surface flows before reaching waterways.<sup>27</sup> Operational conditions and compliance for each harvesting site must be set out in the THP. Private native forest harvesting must comply with planning schemes and the *Permitted Clearing of Native Vegetation – Biodiversity Assessment Guidelines (2013)*.<sup>28</sup>

Departmental assessments of the Codes effectiveness in relation to plantations have highlighted a lack of prescription on how Code objectives are achieved.<sup>29</sup> Achievement of environmental goals relies on synergies between plantation owners and local government during the planning and compliance audit phases, and on internal company systems of forest management. The departmental assessment noted the Victorian system does not achieve consistent coverage of compliance auditing across the State and lacks a methodology for capturing data from application of the Code. It noted limited availability of consistent guidelines to support the Code, particularly in complex areas such as protection of soil and water values. It noted main areas of improvement in Code implementation are (1) provide clear guidelines for achieving goals stated in the Code, especially to assist local government in its application, (2) the need for capturing data from audits at a State or regional level and use of this to improve the Code and its implementation, and (3) strengthening the skill base of local government to minimise cross boundary in equity in Code application and compliance auditing. Hancock also noted a lack of consistency across different councils in Code application and compliance auditing.

#### **4. Current Incentives and Barriers to Private Forestry in Victoria**

Current regulation provides both incentives and disincentives for private forestry. The *Forestry Rights Act 1996* (Vic), for example, allowed for the ownership of trees to be separate from the land under a Forest Property Agreement, thereby ensuring certainty over transfer of interests in forest products without reference to land title. Tree owner rights are placed on title and gives security to the tree owner in protecting rights to the trees in the event the land is sold. This gives certainty to investors in the plantation development approval process and in later trading of established plantations. This Act was replaced by the *Climate Change Act 2010* (Vic) where a similar regime is in place.<sup>30</sup> Despite this positive, a number of regulatory barriers inhibit the expansion of private forestry in Victoria.

<sup>21</sup> These guidelines – of which the latest version is September 2013 – are incorporated into all planning schemes in Victoria. They deal with how applications for removal, looping or clearing of native vegetation will be considered in relation to impact on biodiversity.

<sup>22</sup> Code cl 3.2.2.

<sup>23</sup> See Code cl 3.2.2.1.

<sup>24</sup> See Code cl 3.2.2.3.

<sup>25</sup> See Code cl 3.2.2.4.

<sup>26</sup> See in particular cl 3.2.1 covering water quality, river health and soil protection.

<sup>27</sup> See Code cl 3.2.1.9.

<sup>28</sup> This is incorporated into the Victoria Planning Provisions.

<sup>29</sup> Smethurst, n 15.

<sup>30</sup> See *Climate Change Act 2010* (Vic) Pt 4.

Local government planning and infrastructure requirements, were also seen as limiting the expansion of plantations.<sup>31</sup> Industry associations identified conditions imposed on the management of the plantations and harvesting of plantation products as a disincentive for plantations.<sup>32</sup> Other impediments to full implementation of the 2020 Vision policy dealt with institutional factors relating to property rights, taxation and environmental regulation impacting the private returns from plantations compared to other investments.<sup>33</sup> However, arguably the greatest restraint was economic, particularly gaining information on the log price and its role in the analysis of new plantation investments.<sup>34</sup> The problem was described as one where; “Long term supply agreements between a small number of large-scale growers and processes effectively means there is no spot market for logs, making it difficult for new growers to enter the market”<sup>35</sup> Identified economic factors referred to a “lack of complete knowledge of the current low level of investment in longer rotation plantations”.<sup>36</sup> A consistent approach by local government in entry, planning approvals, management conditions and ownership and trade rights, and dealing with market information on log price was necessary.

The national policy highlighted regulatory impediments to expansion of private forestry in Victoria. This includes the inequitable approach towards small scale and low impact forestry operations. For example, the current Code places onerous burdens on farmers conducting small scale farm forestry. Industry bodies argue that small scale operations should be exempt from compliance burdens relevant to large scale industrial plantations. Regulatory transaction cost for small scale operations are higher per hectare of forest compared to industrial plantations. Compliance obligations in current regulation potentially discourages investment in the sector. The Aboriginal Heritage Regulations, for example, makes no distinction between plantation forestry and logging in native forests.<sup>37</sup> This creates extra compliance burdens on already cleared land, a situation confirmed by Hancock.

Since forestry has long-term crop rotation, this requires certainty over costs and projected returns. Current regulation and associated planning schemes make no reference to these issues, presumably because they are not designed to address markets for various forest services. Regulation does not provide for a review process determining compliance cost to small scale forestry operations given the long-term crop rotation.<sup>38</sup> It also fails to provide quantitative and qualitative assessment over the overall level of production arising from small scale forestry operations. Until a mechanism is in place to assess the impact of regulation on small scale forestry operations, it is difficult to gauge the cost of regulation on the industry and assess the effect of this disincentive on production levels. A related issue is the lack of regulation to ensure transparent competitive markets for private sourced wood, and no competitive neutrality between public and private forestry.<sup>39</sup> Thus, despite Victoria agreeing to the national policies for plantation expansion the regulatory environment unfairly discriminates against small scale private forestry.

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<sup>31</sup> Submission of National Association of Forest Industries; Seeing the forest through the trees: Inquiry into the future of the Australian Forestry Industry; House of Representatives Standing Committee in Agriculture, Resources, Fisheries and Forestry, November 2011, Canberra <file:///C:/Users/u1067051/Downloads/http\_\_\_www.aphref.aph.gov.au\_house\_committee\_arff\_forestry\_report\_fullreport.pdf>.

<sup>32</sup> Seeing the forest through the trees: Inquiry into the future of the Australian Forestry Industry, Footnote 31, submission of Plantation Timber Association Australia.

<sup>33</sup> Seeing the forest through the trees: Inquiry into the future of the Australian Forestry Industry, Footnote 31, submission of Abareconomics.

<sup>34</sup> Australian Bureau of Agricultural and Resource Economics (ABARE), *Global Outlook for Plantations: ABARE Research Report 99.9* (Jaakko Poyry Consulting, June 1999) (Abareconomics-Jaakko Poyry study 1999).

<sup>35</sup> Above n, 33.

<sup>36</sup> Above n, 32.

<sup>37</sup> *Aboriginal Heritage Regulations 2007* (Vic).

<sup>38</sup> See submission of the Australian Forest Growers Association, *Impediments to Private Forestry Development Relating to Legislative Burdens*, August 2007 <[https://www.pc.gov.au/inquiries/completed/regulatory-burdens/primary-sector/submissions/46\\_australian\\_forest\\_growers/sub046.pdf](https://www.pc.gov.au/inquiries/completed/regulatory-burdens/primary-sector/submissions/46_australian_forest_growers/sub046.pdf)>.

<sup>39</sup> For example, State forests are exempt from sales tax on vehicles and does not pay local government rates.

The AFG submission to the *Review of the Code of Practice for Timber Production* in 2006, referred to local government as not being suitable for monitoring compliance with the Code and should be replaced by compliance audited by a State government department.<sup>40</sup> The AFG supported small scale operations being exempt from some compliance measures more suited to large scale operations. The current exemption for compliance to the Code is 5 hectares or less, which AFG consider is “not large enough to be a commercially viable crop”.<sup>41</sup> They also supported low impact PNF in freehold native forests warranting exemption from Code compliance.<sup>42</sup>

Local government planning schemes are seen as inequitable in that private forestry is singled for “special regulations” that are not applied to other land uses which have less favourable socioeconomic and environmental impacts.<sup>43</sup> For example, cl 52.18 of the Victorian Planning Provisions exempts Crown Land unless it is leased Crown Land. Thus, forestry in State forests is excluded from local government planning requirements imposed on private forestry. This places private forestry at a commercial disadvantage by the comparative lack of “red tape” over State forests.

The AFG policy on private forestry has called on greater government support to expand the sector.<sup>44</sup> The particularly focus on the economic disadvantage of environmental regulation impacting private forests, where the landowner is restricted in the use of their land. They refer to a “formulaic regulatory approach” and a “lock up and leave” policy attitude that undervalues multiple forest uses. They are critical of local government having inconsistent regulations in relation to forest management and harvesting. Their policy seeks to protect landholders unfettered, but environmentally responsible, land use. It seeks certainty in maintaining landholder’s access rights to manage and harvest forests on private property. It also seeks government payment for the environmental services provided by protected forests on private land which cannot be used for farm forestry. The AFG policy seeks “sufficient and consistent” government funds to implement the 2020 Vision which underpins accessible farm forestry extension services, and technical support services for trees suitable for commercial purposes. It calls for equitable levying of local government rates to ensure that where a Capital Improved Value is used to set rate payments, the valuation does not include timber in a forestry operation as applicable to other agricultural crops. The policy requires removal, relaxation or alignment of local council tree cropping permits for other non-irrigated agricultural enterprises. It also calls for forestry as a permitted “as of right use” in appropriate land use zones for all land government planning schemes. Further, it seeks permit requirements for private native forests should not exceed the requirements of the *Code of Forest Practice for Timber Production*.

The AFPA released a policy document outlining a vision for plantation development through development of plantation hubs.<sup>45</sup> This policy highlighted gaps in the current regulatory framework, particularly in relation to encouraging new investment. The AFPA policy highlights a current lack of alignment between State plantation development regulation and the Commonwealth Carbon Farming Initiative. The policy also called for the establishment of a national farm forestry co-operative for farmers. While this is primarily focused at federal level, it highlights a lack of regulation supportive of farmers’ co-operative arrangements at State level. The regulatory implications for the development of plantations and farm

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<sup>40</sup> Australian Forest Growers (AFG), *Submission to the Review of the Code of Practice for Timber Production* (AFPA, 2006) <[http://afg.asn.au/images/stories/PDF/Submissions/20060614\\_AFG\\_submission\\_to\\_the\\_Review\\_of\\_the\\_Code\\_of\\_Practice\\_for\\_Timber\\_Production\\_2006.pdf](http://afg.asn.au/images/stories/PDF/Submissions/20060614_AFG_submission_to_the_Review_of_the_Code_of_Practice_for_Timber_Production_2006.pdf)>.

<sup>41</sup> AFG, n 40.

<sup>42</sup> Agroforestry is defined to mean the simultaneous and substantial production of forest and other agricultural products from the same land unit. See: AFG, n 40.

<sup>43</sup> Seeing the forest through the trees: Inquiry into the future of the Australian Forestry Industry, Footnote 31, submission of Gippsland Private Forestry Inc.

<sup>44</sup> Australian Forest Growers (AFG), *Policy Statements* (AFG, 4<sup>th</sup> ed, 2010) <[https://www.afg.asn.au/images/Policy/AFG\\_Policy\\_Statements\\_4th\\_Edition.pdf](https://www.afg.asn.au/images/Policy/AFG_Policy_Statements_4th_Edition.pdf)>.

<sup>45</sup> Australian Forest Products Association (AFPA), *Plantations: The Missing Piece of the Puzzle, New Policy Proposal for the Australian Government 2016 Budget* (AFPA, 2016) <<http://ausfpa.com.au/wp-content/uploads/2015/11/AFPA-Plantations-Policy-Proposal.pdf>>.

forestry through development of plantation hubs is discussed in Ch 7, but this is relevant in this part by highlighting a lack of alignment in policy at federal and State level to expand the sector.

## **B. Hancock Victorian Plantations Pty Ltd and Sustainability**

The use of Hancock in assessing private forestry regulation is based on the following factors; (1) their status as the largest private plantation company in Victoria, (2) their sustainable forest management policy, (3) their recognition of multiple forest values, and (4) their relevance in assessing the efficacy of current Victorian private forestry regulation. It is assessed primarily on how regulation impacts sustainability performance, noting that sustainability in this context represents both economic and ecological sustainability and the balance between them.

### **1. Introduction to Hancock Victorian Plantations Pty Ltd**

Hancock Victorian Plantations Pty Ltd (Hancock), is Victoria's largest private timber plantation company, managing approximately 240,000 hectares of land, with approximately 170,100 hectares of plantation pine and eucalypt.<sup>46</sup> Annual production is approximately 3 million tonnes of softwood (pine) and 300,000 tonnes of hardwood (eucalypt).<sup>47</sup> Sustainable forest management incorporating environmental, social and economic values is part of Hancock's operational objectives set out in its Forest Management Plan 2017/18.<sup>48</sup> Hancock was the first plantation company in Australia to be third party certified under the Forest Stewardship Council (FSC) certification process.<sup>49</sup> It is also certified under the Responsible Wood Standard.<sup>50</sup> Certification demonstrates that Hancock has met internationally recognised standards in sustainable forest management. Its certification under FSC and the Responsible Wood Standard requires regular auditing of its performance to ensure compliance.<sup>51</sup>

Hancock must comply with the *Code of Practice for Timber Production 2014*<sup>52</sup> (Code) and its compliance efficiency is subject to internal audit. Local councils covering Hancock plantations are responsible for monitoring compliance with the Code. Corporate counsel for Hancock, Mr Warwick Williams, advised that councils are generally not strong on monitoring and enforcing Code compliance and there is a lack of uniformity in how Code provisions are monitored.<sup>53</sup>

As part of its sustainable forest management plan Hancock emphasises its responsible forest stewardship policy comprising 10 key aims predicated around sustainable productive efficiency.<sup>54</sup> Its corporate mission is managing the plantation estate in a "safe and sustainable way",<sup>55</sup> that is, "economically viable, socially acceptable and environmentally responsible".<sup>56</sup> The stewardship policy extends to all forest values and Hancock commits to balance economic, social and environmental factors in the forest management

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<sup>46</sup> This comprises approximately 140,000 hectares of pine and 20,000 hectares of eucalypt with the remaining area awaiting replanting.

<sup>47</sup> These figures relate to the 2017/18 year.

<sup>48</sup> Hancock Victorian Plantations Pty Ltd (HVP Plantations), *Forest Management Plan and Sustainability Report 2018/19* (HVP Plantations, 2018). This aim is outlined in the Forest Management page of their website <<https://www.hvp.com.au/hvp-forest-management/>>.

<sup>49</sup> The Forest Stewardship Council (FSC) is an international not for profit, multi-stakeholder body established in 1993 with the objective of promoting responsible management of forests worldwide. The FSC does this by establishing standards on forest products, as well as establishing a certification system for eco-friendly products.

<sup>50</sup> Previously operating as the Australian Forestry Standard Ltd, emphasising the sustainability of certified Australian wood products.

<sup>51</sup> February 2016 was Hancock's last Forest Stewardship Council audit and Australian Forestry Standard audit was in 2014.

<sup>52</sup> See n 9.

<sup>53</sup> Interview conducted with Mr Williams on 2 November 2018. He noted that Hancock plantations cover 25 council areas.

<sup>54</sup> This is attached as Appendix B.

<sup>55</sup> Part of its mission statement <<https://www.hvp.com.au/about-hvp/>>.

<sup>56</sup> HVP Plantations, *2015/2016 Forest Management Plan* (HVP Plantations, September 2015) <[https://www.hvp.com.au/wp-content/uploads/2015/12/2015-HVP-FMP-2015\\_16.pdf](https://www.hvp.com.au/wp-content/uploads/2015/12/2015-HVP-FMP-2015_16.pdf)>.

program. The plan emphasises no native forest is harvested or converted into plantation and threatened species and ecological communities are protected.<sup>57</sup> These activities are conducted under their Policies, Procedures and Operating Standards within the Company Best Management Practices, that cover forest health, site preparation, planting, timber harvesting and biodiversity. The plan recognises some forest regions having significant biodiversity values or high conservation values, which are protected on-site.<sup>58</sup>

Annual harvest rates are calculated for each supply region to meet long-term supply commitments. The resource planning system aims to predict future volume and plan which forest stands are harvested first to meet demand. A yield table predicts future volume by log product at different ages, including volume harvested and volume remaining after thinning. The accuracy of yield tables is analysed yearly to reconcile volume prediction against actual harvest volume.

Hancock also maps the area of plantation estate that is Kyoto compliant. This carbon monitoring is based on anticipation of commercial opportunities for trading carbon credits in the future. The Forest Management Plan also looks at ways of reducing greenhouse gas emissions to be compliant with the carbon clause of its Forest Stewardship Policy, including alternative uses for harvested biomass and residue. Hancock participates in industry projects to enhance opportunities for creating and selling carbon offsets. This demonstrates Hancock factors into its business plan multiple uses for forest ecosystem services as part of its sustainable forest management plan.

## **2. Hancock Forest Certification and Sustainability Performance**

Hancock's latest available annual audit for certification under the FSC forest management standards and policies was in February 2017. The audit confirmed ongoing accreditation according to the FSC standard. Certification is confirmation that forest is managed sustainably according to this standard, which incorporates social, economic and ecological sustainability. The benefits of certification include sending a signal to consumers about the company's social licence to operate, and as a way to gain new markets in sustainably sourced wood.

The audit report noted various performance requirements relevant to sustainability and whether there were non-conformances. These included (1) indicator 6.2.5 *Effective procedures shall be implemented during forest operations to protect conservation zones, identified species and their habitats*. The Hancock THP identified three rare or threatened species, although the Road Construction Operation Plan did not contain any information about the presence, identification and associated protection procedures for these species. Appropriate remedial action was required but non-conformance remained open and not yet met at the time of the audit for one incident but closed for another in respect to this standard.

Another reported non-conformance was indicator 7.3.5 *All activities are supervised and monitored sufficiently to ensure that standards and procedures are adequately implemented*. Rare or threatened species identified on the timber harvest plan and site preparation plan. At issue was supervision and monitoring of species identification and protection procedures for contractors working on site. Appropriate corrective action was identified and the non-conformance report status was marked closed. Another reported non-conformance incident was in respect to indicator 10.6.3 *Forest operations shall not degrade water quality or negatively impact local hydrology*, and 10.6.4 *Where negative impacts on soil or water resources are identified, FME shall take steps to reduce or eliminate such impacts*. The incident related to sediment entering Vaggs Creek in the Gippsland forest region. This was reported as still pending as it was to be corrected by the next audit.

Hancock also received certification renewal pursuant to the Responsible Wood AS4708:2013 standard in September 2017. This certification covered activities associated with sustainable management of Hancock's plantation softwood and eucalypt plantations. This included planning and management of forest operations, and the management of custodial lands for conservation purposes. The audit sought to verify compliance with the standard and progress towards achievements of the company's sustainability objectives. The audit assessed a number of operational sites and activities including ground-based

<sup>57</sup> Protection measures include "protection prescriptions" or plans for threatened species such as the Giant Gippsland Earthworm.

<sup>58</sup> An example is the Strzelecki Warm Temperate Rainforest in Gippsland.

clearfall and sitting operations, internal audit of forest operations and chain of responsibility procedures. The audit identified a number of strengths of the Hancock Forest Management System, including: (1) strategic approach to risk management and mitigation, (2) corporate support for ongoing high-quality, in-house research underpinning forest management, (3) stakeholder engagement and external relations processes, and (4) effective management review processes with greater engagement and participation and linkages between management review and delivery of corporate objectives. It noted effective processes for management of social and environmental impacts of activities associated with forest operations. This enabled a “robust” framework for identification and protection of biodiversity values in the forest landscape, protection of soil and water, forest productivity and forest health.

The integrity of the FSC certification has been questioned. A case study by the UK Rainforest Foundation questioned its certification of two teak plantations in Thailand.<sup>59</sup> This report found serious flaws in certifications carried out under the FSC name. It concluded the public cannot be assured that a wood product carrying the FSC certification comes from a sustainably managed forest. These flaws were viewed as coming from (1) structural weaknesses in the FSC system, (2) specific political decisions within the organisation, and (3) a lack of effective control mechanisms. This view was based on its voluntary nature, where the FSC competes with other certification bodies. There is an apparent conflict of interest in that the FSC uses third-party certifying firms that are paid directly by forestry companies. The FSC model also promotes a “fast growth” strategy that, according to the report, promoted certification of non-compliant forest managers. The report noted the absence of a defined “major failings” category results in consumers being misled about the “guarantee” provided by the FSC. It also viewed its chain of custody system was flawed and open to abuse resulting in consumers being misled as to the integrity of the supply chain. It considered FSC’s governance model functioned poorly as a democratic membership-based organisation, placing in question its claim it is based on multiple stakeholder principles. Even one of the founders of the FSC questioned its performance, noting, “There are too many cases on record of illegal timber coming through the FSC for it to be able to guarantee that certified timber is not illegal.”<sup>60</sup>

An alternate view had a more positive assessment of certification, by evaluating the FSC in terms of statistical impact, looking at the causal effects of conservation policies and procedures, and evaluating the impact of FSC certification compared to likely outcomes without it.<sup>61</sup> This noted FSC certified areas had reduced deforestation by 5%, when compared to very similar non-FSC areas. It also found reduced air pollution and respiratory infections and dependence on firewood in FSC areas.

This differing position on integrity of FSC certified wood provides a focus for evaluating the current regulation of private forest certification. Victoria does not provide State sanctioned certification processes and relies on private voluntary certification. Assessment on forest management is not done by State certification standards. Similarly, evaluation of Hancock’s compliance with the Code is subject to local council investigations, which have been shown to take a predominantly hands-off approach in auditing Code compliance. Despite this, FSC and other certification over forest management is likely to result in improved sustainability performance in the context of a company like Hancock, because it is motivated to act in this manner. The absence of a regulatory inclusion for certification, leaving it to voluntary arrangements, highlights a regulatory model that is not prescriptive of a particular sustainability standard. The interface of Hancock with current regulation is more problematic as a result, something considered in more detail in the next section.

### **3. The Hancock Interface with Current Regulation and Its Impact on Sustainability Performance**

Regulatory interface with Hancock is assessable in different contexts, including; (1) whether it is effective in implementing the sustainability provisions of the Plantations for Australia: the 2020 Vision,

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<sup>59</sup> S Counsell and KT Lorass, “Trading in Credibility: The Myth and Reality of the Forest Stewardship Council, The Rainforest Foundation” <<https://www.illegal-logging.info/sites/files/chlogging/uploads/RainforestFoundationTradinginCredibility.pdf>>.

<sup>60</sup> C Lane, “Certified Nonsense”, *New Internationalist* (April 2016) <<https://newint.org/features/2016/04/01/sustainable-forestry>>.

<sup>61</sup> See also DA Miteva, CJ Loucks and SK Pattanayak, “Social and Environmental Impacts of Forest Management Certification in Indonesia” (2015) 10 *PLoS ONE* e0129675.

by encouraging increased sustainable productive efficiency, and (2) its capacity to address consistency in cross boundary outcomes,<sup>62</sup> (3) different management objectives of land owners and (4) accommodate different forest type. The equity requirement in point (2) includes alignment with other legislation, particularly in ensuring the regulatory burden on landowners is consistent.

An interview conducted with Hancock corporate counsel, Mr Warwick Williams, provided an overview of how Hancock address sustainability and its place in the current regulatory framework.<sup>63</sup> Hancock supports sustainable forest management as part of its social licence to operate. It recognises that wood certified as sustainably sourced has greater marketability and operates as a “defence against market harm”. Thus, Hancock views sustainable forest management is aligned with improved economic performance. Therefore, its sustainability practice is motivated by both the altruistic social licence to operate, and the economically grounded benefit of selling sustainably sourced wood.

Hancock’s sustainability practices are confirmed by its accreditation with voluntary accreditation schemes.<sup>64</sup> Sustainability performance in its Forest Management Plan reflect these standards. This highlights sustainable forest management for Hancock is not driven by regulatory forces, and instead relies on voluntary accreditation. There is limited regulatory impetus to “act sustainably” except in two areas (1) general planning scheme invocations to “implement principles for ecologically sustainable development that have been established by international and national agreements”, protecting biodiversity and ensuring agricultural land is managed sustainably, and (2) mandatory application of the Code.<sup>65</sup> These provisions relate to forestry and timber production and establishment and management of plantations, aimed at ensuring timber production in native forests is conducted sustainably, in accordance with the Code. The Planning Schemes therefore are not prescriptive documents that set specific boundaries or promote a particular agenda for sustainable practices. Partly due to this lack of prescriptive sustainability requirements in Planning Schemes, Hancock reported no problems in the interface between these requirements and their forest management practices.

Two areas of concern over regulatory controls related to the operation of the Foreign Investment Review Board (FIRB)<sup>66</sup> and provisions of Aboriginal Heritage Regulations.<sup>67</sup> The former operates under federal law and not part of Victorian regulation. Hancock reported concern over prescriptive requirements for FIRB approvals on small scale land transfers that did not involve new foreign new investment, something viewed as an unnecessary regulatory burden.

The concern over Aboriginal Heritage Regulations related to prescriptive regulatory burdens in protecting heritage sites. Hancock noted that there was no, or extremely tenuous, risk factors over aboriginal heritage sites connected to their plantations, yet significant regulatory burdens operated. The common problem in both scenarios is a regulatory process that did not adjust for scale or degree of risk factors involved, and in each case represented a regulatory disincentive to engage in private forestry. Of less concern were prescriptive requirements in the Code which Hancock accepted willingly. Hancock undertakes one internal audit per year that includes an audit of Code compliance, creating no concerns over the regulatory burden in complying with the Code. Hancock care in meeting Code requirements, highlights its essentially self-regulated position, particularly as councils predominantly do not take a proactive involvement in monitoring and enforcement of Code requirements. As a result, there is little monitoring or enforcement problem experienced in meeting Code standards. Hancock did express concerns over cross boundary consistency by council governance. Its operations cover different councils and were subject to varying degrees of council oversight, with some councils “unhelpful” and openly opposed

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<sup>62</sup> Hancock operate within 25 council areas throughout Victoria, which means it must interact with 25 separate regulators for each forest region.

<sup>63</sup> This is attached as Appendix B.

<sup>64</sup> Forest Stewardship Council and Responsible Wood Standard accreditation.

<sup>65</sup> See, eg, cls 12, 14 and 21, *East Gippsland Planning Scheme* <[http://planning-schemes.delwp.vic.gov.au/\\_\\_data/assets/pdf\\_file/0004/463945/EastGippsland\\_PS\\_Ordinance.pdf](http://planning-schemes.delwp.vic.gov.au/__data/assets/pdf_file/0004/463945/EastGippsland_PS_Ordinance.pdf)>.

<sup>66</sup> See *Foreign Acquisitions and Takeovers Act 1975* (Cth).

<sup>67</sup> See *Aboriginal Heritage Act 2006* (Vic); *Aboriginal Heritage Regulations 2018* (Vic).

to expansion of Hancock plantation estate. This resulted in different experiences in applying for and granting of permits for timber production. This lack of cross boundary consistency is a key impetus in Hancock's support for a centralised governance framework, removing regulatory control from local councils.<sup>68</sup>

### **C. Does Current Regulation Enable Progress toward the ESFM Objective?**

Regulation of private forestry should be assessed on its capacity to balance economic production with ecological and social sustainability, since principles of ESD inherently refer to this balance requirement. The 2020 vision seeks a sustainable increase in plantation resources based on a notional target of trebling the area of commercial tree crops by 2020.<sup>69</sup> This is unlikely to be reached and begs the question why has plantation and private forestry stalled in its development. Increasing the private forest estate requires increased support for long-term investments that equitably accounts for deferred and regular income from private forestry. Regulation should enhance multiple private forestry options, including farm forestry, and remove uncertainty over rights to plant, manage, harvest and trade plantations and their products. Regulation should address different management structures, and ownership categories in order to enhance economic sustainability of the sector. It should ensure that there is a separation of ownership of plantation/forest products from the land itself. It should not discriminate against separation and sale of secondary products from plantations and sold as of "right", which requires the development of secondary markets. Land management practices for private forestry, including chemical use and fire protection, should be consistent with other agricultural activities and not be subject to the current regulatory discrimination based on the extent of the regulatory burden. This requires a rigorous code of practice that supports high environmental standards and applies equitably to different scale plantations.

The equitable application of regulation to private forestry is therefore a key issue for the sustainability of the sector. Cross boundary management at large spatial scales is important to ensure consistency in the equitable application of regulation. Where there are inconsistent applications, economic and ecological sustainability is potentially impacted. The regulatory framework should address this by taking account of landscape variability, and disparate interests and goals of private forest owners.<sup>70</sup> This also means balancing a healthy environment with individual rights of forest property owners.<sup>71</sup> This balance is pitting public versus private environmental rights. A key issue is to ensure the balance does not fall disproportionately against the landowners. Further, if regulation tends to produce unequal regulatory outcomes among forest owners, there is both inequity between forest owners and across different forest sectors.

Evaluation of current regulation must determine impacts on landholders and their capacity to address ESFM. For example, does it provide assistance in educative formats to assist best practice silvicultural method? Does it enhance ecologically sound outcomes, while allowing productive efficiency? Does it promote dissimilar regulatory outcomes across boundaries and with other agricultural activities? Where dissimilar outcomes become evident the chance of a consistent approach in progressing an ESFM sustainability outcome is lessened. The problem of inequitable regulatory outcomes may arise from natural landscape variability, so ideally regulation should address this. However, a main reason for different regulatory outcomes is likely regulatory design and how it applies to landowners who may have variable goals and circumstances. This includes how regulation aligns with regulation covering other

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<sup>68</sup> This governance reform for private forestry is discussed in Ch 7.

<sup>69</sup> It is relevant to note that the Commonwealth Scientific, Industrial Research Organisation (CSIRO) *Australian National Outlook Report 2015: Economic activity, resources use, environmental performance and living standards 1970-2050* (CSIRO October 2015) developed economic and environmental models that enable ESD. Part of this hinged on massive reforestation and afforestation. The report may be accessed at: <<https://www.csiro.au/en/Research/Major-initiatives/Australian-National-Outlook/National-Outlook-publications/Main-reports>>.

<sup>70</sup> RS Gootee et al, "Equitable Regulation of Private Forests" (2011) 10 *Small Scale Forestry* 457.

<sup>71</sup> MA Kilgore, "Public Forest Policies and the Family Forest" (2004) 102 *Journal of Forestry* 11.

sectors. They may not align or be consistent with other sectors, like the agricultural sector, resulting in standards and obligations of forest owners more onerous than on landowners conducting agriculture.

Another evaluative measure is the capacity of regulation to address individual forest owner's goals. For example, whether it accommodates an owner's preferred harvest method and frequency. Another example relates to the governance method and whether it responds to different owner's goals and expectations. Checking the regulatory structure's capacity to respond to inequitable applications is therefore important because it addresses the inherent differences in landscape and owner's expectations. This requires evaluating regulatory design and its reflexive capacities to address equitable outcomes impacting sustainability objectives. This requires an adaptive response that addresses the inequity and assists progression to the sustainability objective. It is necessary to investigate whether current regulation addresses inequities resulting in owners bearing a disproportionate regulatory burden.

How then does current regulation compare to these preferred regulatory characteristics for development of private plantations? Current planning processes for establishment of plantations have been described as "complex, lengthy, costly and applied inconsistently across local government jurisdictions".<sup>72</sup> The importance of cross boundary consistency in private forest management, is demonstrated by Guidelines for the removal, destruction and lopping of native vegetation in Victoria.<sup>73</sup> The Guidelines allow for commercial forestry to use biodiversity offsets to remain compliant. It was argued that the cost of obtaining biodiversity offsets is prohibitively high when compared to potential timber values.<sup>74</sup> The risk assessment process in the Guidelines for removal of native vegetation did not distinguish between sustainable timber harvesting regions and clearing to convert land for other uses like agriculture. The Guidelines do not treat forestry as a distinct activity with lower impacts on biodiversity values, with a consequent offset adjustment. They do not currently allow for biodiversity offset within same site regeneration, nor generally reduce the operational and administrative burden on private forestry by restrictions on exemptions from the offset requirements. Current regulation assesses forestry as medium to high risk for biodiversity loss, with consequent purchase of biodiversity offsets at a cost well in excess of potential value of timber. The Victorian Association of Forest Industries recommended a distinction between native vegetation removal for land use change, and sustainable timber harvesting, with the latter given a lower risk assessment pathway for offset purposes. The association recommended that private commercial forestry be governed by an overarching regulatory system for private and public land under the Code of Practice, and that management oversight operated at State level.<sup>75</sup>

#### IV. CONCLUSION

Private forestry regulation is assessed in its capacity to deliver ESFM and this was done by looking at balance, governance, measurement and monitoring and compliance. Current regulation of private forestry reveals a distributed governance structure controlled by local councils. These councils are responsible for permits and Code compliance. The experience of Hancock, highlights limited cross boundary consistency between councils in Code implementation and limited Code compliance auditing. This places responsibility on participants to self-regulate Code compliance, thereby making attainment of the ESFM objective more problematic. Regulatory impediments also act as a brake on the expansion of the sector, characterised by their inability to adjust regulatory requirements to address scale. The regulatory burden on small scale private forestry operations, is generally seen by industry associations as a major impediment. Industry associations generally are critical of a lack of vertical and horizontal

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<sup>72</sup> Victorian Association of Forest Industries, Submission to the Victorian Competition and Efficiency Commission on the Draft Report on Environmental Regulation, March 2009 <<https://www.dtf.vic.gov.au/sites/default/files/2018-02/environmental-regulation-in-victoria-inquiry.pdf>>.

<sup>73</sup> Native vegetation clearing regulations <[https://www.environment.vic.gov.au/\\_data/assets/pdf\\_file/0021/91146/Guidelines-for-the-removal,-destruction-or-lopping-of-native-vegetation,-2017.pdf](https://www.environment.vic.gov.au/_data/assets/pdf_file/0021/91146/Guidelines-for-the-removal,-destruction-or-lopping-of-native-vegetation,-2017.pdf)>.

<sup>74</sup> Victorian Association of Forest Industries, Submission to the Review of Native Vegetation Clearing Regulations, May 2016 <[https://engage.vic.gov.au/application/files/8814/8090/3497/103\\_Victorian\\_Association\\_of\\_Forest\\_Industries\\_.pdf](https://engage.vic.gov.au/application/files/8814/8090/3497/103_Victorian_Association_of_Forest_Industries_.pdf)>.

<sup>75</sup> Victorian Association of Forest Industries, n 74, 6. This will be considered in detail in Ch 7.

alignment of regulation over forestry with other agricultural uses. This is seen as a powerful disincentive for small scale private forestry operations.

The Hancock case study highlighted their sustainable forest management policies that are incorporated successfully into their business plan. Hancock demonstrates the fundamental association between sustainable forest management practices and strong profit outcomes. It also highlighted their association with voluntary certification schemes. While the integrity of the party certification schemes is open to dispute, this does not lessen the benefits it provides Hancock in setting compliance standards to ensure it meets the certifying audit requirements. The voluntary nature of forest certification highlights the lack of State certified standards. This should also be seen in the light of inconsistent audits of Code compliance. This suggests a general lack of prescriptive sustainability standards in regulation of private forestry. Hancock's interface with current regulation highlights that its sustainability performance is primarily driven by its internal policies and less from regulatory requirements. In terms of governance, Hancock expressed frustration over the lack of cross boundary consistency between different council-controlled regions, and they expressed a preference for a centrally controlled system for management and control of private forestry.

Current regulation fails to adequately address the long-term crop rotation inherent in private forestry and fails to adapt to different scale of forest operations. Regulation is not reflexive or adaptive in both its inherent structures and its adaptive management responses. The example of native vegetation clearing regulation exemplifies this weakness. These problems can arguably be more efficiently addressed by an overarching central regulatory governance process for private and public land subject to Code requirements.

## Appendix A

### South Gippsland Planning Scheme and Its Application to Plantation Forestry

Using the South Gippsland Planning Scheme as an example for application to private forestry and plantations it is possible to identify some key provisions.<sup>76</sup> Clause 12.01 covers biodiversity setting out three parts:

- (1) Objective – the protection and conservation of biodiversity.
- (2) Strategy – to consider the impact of land use and avoid adverse impacts.
- (3) Policy Guidelines – in this case to apply the *Native Vegetation – Biodiversity assessment guidelines* and the *Native Vegetation Information Management System*.

The key provision is cl 52.18 covering timber production. This clause requires timber production to comply with the *Code of Practice for Timber Production 2014*. The Code must be complied with to the satisfaction of the responsible authority being the local council. If a permit is required for timber production, then it is possible it may include a requirement for compliance to the Code is acknowledged from other parties including the Minister or referral authority. In other words, requiring that they consider compliance has been met.

Clause 52.18-3 requires that after a Timber Harvesting Plan is lodged with the council and prior to commencement of harvesting, the council with the forest manager establish the condition of roads to be used as a cartage route. The council must be advised when harvesting is complete to then review the condition of the roads and if, as a result of use for cartage of the harvest they are damaged, to restore those roads to its previous condition:

- (1) Clause 52.18-4 requires the council to consider the need to encourage plantation establishment in areas significant to national, State and regional economies and in areas impacted by salinity and other forms of land degradation. Other considerations include the role of native forests and plantations in protecting water quality, conserving flora and fauna, preventing land degradation, salinisation and

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<sup>76</sup> It should be noted that while private plantation forestry and private native forestry are broadly treated the same way under this legal regime there are distinctions in relation to permits that may be required that differ between these two categories.

preventing adverse effects of groundwater recharge, impact on the natural environment, cultural heritage and visual amenity and whether it is appropriate to require environmental protection standards greater than those in the Code.

## **Appendix B**

HVP forest management principles:

- (1) Comply with forest resource management in letter and intent of all statutory requirements, particularly the *Code of Practice for Timber Production 2014*.
- (2) Incorporate forest management performance evaluation procedures and indicators in the company's Forest Stewardship System and Forest Management Plan.
- (3) Promote with staff and contractors scientific excellence in forest management.
- (4) Maintain forest ecosystem health through long-term resource sustainability strategies in relation to forest management.
- (5) Consider the public resources of the forest and manage them with a long-term sustainable perspective.
- (6) Enhance the capacity of the forest to act as a net carbon sink.
- (7) Contribute long-term social and economic benefits to the community from forest management by managing significant environmental and social impacts through the use of integrated forest management procedures and planning.
- (8) Work with interested stakeholders and with the community to address social and environmental management issues for forest management.
- (9) Conduct long-term research to maintain the productive capacity of forest land and monitor environmental, economic and social aspects of forest management.
- (10) Commit to continual improvement of forest management performance.