

**Please find below my supplementary answers to questions on notice**

**Question on Notice**

1. Regarding the permit to disturb for koalas from the Office of the Conservation Regulator — 'Is that like a once-off or is it ongoing? How does that work?' As noted in page 42 of the transcript;

The following information with respect to the legal framework around the welfare of Koalas in blue gum plantations is describe on the Conservation Regulator's website as follows.

***Koalas in blue gum plantations***

*Blue gums are a preferred food tree of Koalas, and Koalas in Victoria are increasingly moving into blue gum plantations seeking new habitat areas.*

*As well as being socially and culturally significant, Koalas are important to Australia's biodiversity.*

*Victoria has a relatively high Koala population in comparison to Queensland, New South Wales and the Australian Capital Territory. In these states/territory, koala populations are listed as vulnerable to extinction under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.*

*Despite the high population in Victoria, it's important that the Koala population and the welfare of Koalas is protected.*

*Blue gums are a preferred food tree of Koalas, and Koalas in Victoria are increasingly moving into blue gum plantations seeking new habitat areas. Timber from blue gum plantations is used domestically and exported throughout the world. The blue gum industry in Victoria operates on private land and is largely conducted by plantation management companies*

***What the law says about Koalas in Victoria***

*Koalas, like all wildlife in Victoria, are protected under the Wildlife Act 1975. The welfare of all animals is also protected under the Prevention of Cruelty to Animals Act 1988.*

*These acts refer to offences for disturbing, harming, possessing or destroying wildlife without the appropriate authority.*

***Authorisations and Koala Management Plans***

*The Conservation Regulator requires owners and managers of blue gum plantations who wish to undertake operations that may affect koalas to apply for an authorisation to disturb koalas under Section 28A(1A) of the Wildlife Act.*

*Owners or managers must also develop a Koala Management Plan that meets the minimum requirements set by the Conservation Regulator in order to minimise risks to Koalas during operations.*

*Further information on the regulatory approach to minimising impacts on koalas in blue gum plantations will be available in mid-2021.*

*For any enquiries, email the Conservation Regulator: [REDACTED]*

*Reviewed 27 April 2021*

Source <https://www.vic.gov.au/koalas-blue-gum-plantations>

### Additional questions on notice from Committee Members

**1. Can you provide any further comments to the New Zealand Resources Management Act?**

[REDACTED]

New Zealand's Resource management Act is available here.

<https://www.legislation.govt.nz/act/public/1991/0069/latest/DLM231905.html>

This document explains the reasons behind the enactment of the legislation. Essentially it was to streamline multiple laws under a single statute.

<https://www.waitaki.govt.nz/our-services/planning-and-resource-consents/Documents/RMA/Guidebooks/An%20Overview.pdf>

But more recently it has been criticised and is now subject to further review as explained here.

<https://environment.govt.nz/what-government-is-doing/areas-of-work/rma/>

**2. Can you provide the executive summary of the Productivity Commission report as per David's comments?**

The following is a summary of the recommendations of the Industry Commission's "Inquiry into Ecologically Sustainable Land Management – A Full Repairing Lease" Report no 60, dated 27 January 1998. <https://www.pc.gov.au/inquiries/completed/land-management/60eslm.pdf> as they relate to a more efficient regulatory framework.

The inquiry is about the use of Australia's agricultural land and its associated natural resources. It notes on page 2 that "the impacts associated with agricultural development have included:

- land degradation — such as waterlogging, soil erosion, salinity and acidity,
- weed and pest infestation;
- degradation of creeks, rivers and groundwater aquifers; and
- the loss and fragmentation of vital habitat such as forests and wetlands has contributed to species extinction — more than 20 per cent of our mammals, for instance, have been lost since European settlement."

The report grapples with the challenge of "ecologically sustainable development" and examines the concept and role of "natural capital" and notes on page 3 "Natural capital involves complex biophysical systems that change dramatically when disturbed beyond some point, and then are quite resistant to reverting to their previous range of operation. There is pervasive uncertainty about when this can occur and its impact. For example, once clear-felled, a mature forest cannot be replaced immediately and often we do not know the full consequences of its removal." It concludes that it is the role of government to "ensure a just solution to what and how much natural capital should be left for future generations." But also notes that markets also have a role to play.

In advocating a case for change the commission observes that government's first response has been to regulate resource owners or managers, despite "the severe practical limits to

what can be achieved with prohibition. Much regulation is ad hoc and too frequently the only response. The number of rules is large and growing, while a ‘command and control’ approach has been used to prescribe the means to be used — rather than the ends to be achieved.”

The Commission proposed a package built around three pillars. These being “to:

- *recast the regulatory regime to ensure resource owners and managers take into account the environmental impacts of their decisions;*
- *create or improve the markets for key natural resources; and*
- *encourage conservation on private land.” P.6.*

While noting that “underlying and fundamental to such a framework is a need to ensure that the generation and dissemination of environmental knowledge and know-how is adequate for the needs of policy makers, land holders and other resource managers.”

The new approach to regulation proposed “is based on the idea of a statutory duty of care for the environment. Everyone who could influence the risk of environmental harm should be required to take all reasonable and practical steps to prevent any foreseeable harm from their actions.” It notes a limited duty already exists in Victoria but proposes expanding its scope as follows:

- *a single unifying statute in each State and Territory to set out the principles to be observed in natural resource management;*
- *as far as possible, voluntary standards and codes of practice to be used to guide duty holders on how to comply with the law;*
- *mandated standards only to be a last resort — and any mandated standards should, as far as practicable, prescribe the outcomes to be achieved, rather than the inputs or processes to be used.*

It proposes a single unifying statute with a single independent agency to administer the legislation which puts greater reliance on self-regulation to minimise the deficiencies in “command and control” regulation. It also envisages a role for suitably qualified auditors from the private sector to undertake external audits of compliance.