



**TRANSCRIPT  
OF PROCEEDINGS**

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**PRODUCTIVITY COMMISSION**

**INQUIRY INTO IMPACTS OF NATIVE VEGETATION AND  
BIODIVERSITY REGULATIONS**

**DR N. BYRON, Presiding Commissioner**  
**DR B. FISHER, Associate Commissioner**  
**PROF W. MUSGRAVE, Associate Commissioner**

**TRANSCRIPT OF PROCEEDINGS**

**AT MOREE ON WEDNESDAY, 20 AUGUST 2003, AT 9.10 AM**

**Continued from 19/8/03 in Sydney**

**DR BYRON:** Good morning, ladies and gentlemen. Welcome to the public hearings of the Productivity Commission's national inquiry into native vegetation and biodiversity legislation. My name is Neil Byron and I'm the presiding commissioner for this inquiry. My colleagues are Prof Warren Musgrave and, on my right, Dr Brian Fisher. This inquiry started with terms of reference sent to us from the Commonwealth treasurer. I think the roots of the inquiry go back to a lot of lobbying, I guess you'd say, from the National Farmers Federation and Commonwealth and state politicians into the effects that native vegetation and biodiversity legislation is having on land-holders, and the terms of reference we've been given ask us to look at that and alternatives, which I'll explain in a minute.

Over the last six or eight weeks we've been everywhere from Cairns to Perth and from Darwin to Hobart, an awful lot of individual properties in between there. We've had submissions from land-holders and farmers' organisations, from environmentalists and environmental organisations, from state and Commonwealth government departments, from a number of shire councils and local planning officers and those sorts of people. We've now got over 160 written submissions. We've just got a pile of the ones from New South Wales sitting on the table outside, but it's a fair sort of stack of paper. We've had public hearings in Cairns, Brisbane, Perth, Adelaide, Melbourne, Hobart, Sydney and here, so this is actually the last of our formal public hearings for collecting evidence but we're still on the road somewhere between Roma, Cunnamulla, Charleville, Injune, Augathella and Blackall for most of next week. We're still sort of in the evidence-collecting phase but not with these sorts of formal public hearings.

The purpose of these hearings is to provide an opportunity for people who are interested in the inquiry to discuss their submissions to elaborate in further detail what they put in writing and to make other comments on the public record. I usually emphasise that we're not a tribunal that's been set up to decide whether a particular landowner should or should not have got a permit to clear native veg, nor are we set up to decide whether or not he or she should get compensation if they didn't get a permit. Our task in the terms of reference is to examine all this legislation and to assess how and how much it adversely affects land-holders in different ways, and then to make recommendations on how the legislation might be changed, any other processes, policies, programs that governments could use to better achieve the environmental outcomes that they're apparently looking for.

Probably about the beginning of December we'll be bringing out the draft report, which will have draft recommendations and findings, for public comment, and there will be other opportunities for people to participate in writing or in hearings like that after they've had time to read and think about our draft conclusions. The final report we have to give to the Commonwealth government on 14 April next year. The Commonwealth government is required to respond to our report, but of course they don't have to accept any or all of it. There's also, I understand, an

agreement that the Commonwealth will forward it to state premiers and treasurers and other relevant ministers, and I believe that there are arrangements for it to be discussed at a COAG meeting, something like that, because a lot of the legislation that we're looking at is actually state legislation, not Commonwealth legislation.

We like to conduct all these hearings in a pretty informal manner but we do take a full transcript, and for that reason it's not really useful or possible to accept comment from the floor because it doesn't go into the microphones and the transcript won't know who's sort of made the comment from the floor. But we always give anybody in the audience an opportunity to come forward before the end of the day if they want to make a statement on the public record, if they want to expand on or contradict something that they've heard somebody else say. There's an opportunity to have your say at the end of the day.

The participants are no longer required to take an oath, but under the Productivity Commission Act I think the exact words are "required to be truthful in their remarks", but people usually are anyway. Participants are quite free to, as I say, expand on or take issue with comments that other people have made either in their written submissions or in their oral presentations today.

I mentioned the transcript. We get a copy of the transcript usually within a few days. It will be sent back to participants, the relevant bits, to be checked for transcription errors, and then once it's all checked as an accurate transcript, that will be on the web site of the commission and hard copies will be available to people on request. So you don't really need to take detailed notes of what happens today. It will all be on the transcript.

That's enough of the housekeeping and formalities. I'd now like to welcome the first participant, Mr David Aber from Moree Plains Shire Council. If you'd like to just come over here and take a seat. When you're comfortable, settled in, if you could just introduce yourself and your affiliation for the transcript and then we've got half an hour or so. Maybe if you can summarise the main things you want to say and then we can have a bit of a discussion, question and answer session, about that. Thank you very much for coming today.

**MR ABER:** Thank you. You may have to bear with me. I've been in bed with the flu and sort of rushed in here this morning to do that. My name's David Aber. I'm the general manager, Moree Plains Shire Council, and as general manager I was involved with the setting up the vegetation committee of Moree Plains Shire. This committee was set up basically to have a council response to the vegetation planning legislation that has been put through in New South Wales by the state government. We felt that it was important for the council to canvass the opinions and views of the local farmers and the farmers within the shire on the legislation and what the impacts are so that we could put forward a considered response back to the state government

on the legislation.

A number of concerns and issues arose out of our discussions on that. The council took on board their comments, particularly in relation to - there's a high degree of suspicion in terms of some of the technical input into some of the committee hearings, basically in terms of people coming in from Sydney, saying their piece, disappearing again and having a fairly strong effect on the outcome, the way things were going. It was generating a degree of suspicion and mistrust. Basically there was a feeling that the bureaucracy was running the agenda, what was being said from the farmers' viewpoint was not really being heard properly, and they felt that the issue was starting to get out of hand.

We sat down with them and said, "Okay, what sort of plan would work?" and we came back to the state government with a 10-point plan basically simplified, a 10-point plan based on this community, some of the measures that we felt would work and still satisfy the goals and objectives of what the state government were looking for. We took that to the minister. Unfortunately we were met with a bureaucratic response back on the whole thing and we're still basically taking the issue on from there.

If you like I can summarise some of the concerns that the people had. One of the major concerns was the socioeconomic impacts we felt weren't being considered properly. I think if you look at the history of the development of this area, with the impact of things like greater efficiency of farming and the move to broadacre crop producing, there is certainly a degree of loss of jobs in the farm sector. While we're producing a lot more, we're using a lot fewer people to do it, and that's certainly had an impact, particularly in Moree. While we haven't gone backwards, we've probably maintained a line, but at the same time there's been quite a significant increase in the economic output in the shire, and in socioeconomic terms we're really concerned about the effect on particularly the Aboriginal community in the town, because basically they're the ones that normally are taking up the seasonal work and the lower paid area within the sector. So it has, particularly in terms of welfare and also some of the social impacts, potentially an impact here that we need to consider.

There were certainly some questions about the science, what models were used, what was the basis for the models. Also I think there was a tendency of feeling that, "Don't they appreciate that we've taken care of the land for three generations here already? We're not about to sort of give our sons and daughters a problem," in the sense that that wasn't being considered. Certainly duty of care - further legislation actually. There are some impacts in terms of farmers taking control and having control of duty of care in terms of the operation of their farm.

Actually, one of the points about legislation and increasing legislation is we seem to be complicating all the legislation. One of the things that was evident with

this vegetation plan was that we're creating new legislation to bypass other areas of legislation which was covered. One particular instance was the riparian zones along the creeks in the vegetation plan. There was another part of the act dealing with riparian zones, which is already dealt with in another area. Why not amend the other legislation rather than bringing in new legislation? Even in local government now, I think the last time I looked there were 120 pieces of legislation governing our operations - different, separate acts and things. If we're going to keep increasing it, it's basically going to mean more and more experts just to keep track of what we're supposed to be doing.

In this sort of legislation, if we're not considering it properly, I think in government we need to start thinking about how we can actually simplify some of these things and maybe use some of the existing acts and provisions and amending those rather than adding new sets of legislation over the top. That certainly came out with some of these issues like the duty of care, discussion on the riparian zones being made out to 500 metres from the current 100-metre provisions, all these sorts of things.

Clearing of single trees: the one factor that brought this whole process into serious questioning was the definition of a clump being a single tree. Certainly, I think, probably that's the one factor that brought this whole process into serious question was the definition of a clump being a single tree. It certainly got a very cynical response from the practitioners and probably people scratching their heads in disbelief in trying to understand what the basis of the definition was. In our 10-point plan, actually, we came back with a definition which we thought was more workable. Issues of noxious weeds or other concerns. How we control not just weed, particularly in the movement of noxious weeds into some of the vegetation zones and who was to take care of those and how that was to be handled.

There seems to be strong view that a lot of the responsibility was being put on the farmers, and the government weren't taking a share of the responsibility, particularly in terms of managing some of these areas which are actually being put at - seem to be put aside for conservation. There was also some concerns that litigation would increase against farmers in terms of clearing and what was going on. The other point that was debated pretty strongly was which acts could override which. Does a local government act have - which, of course, it didn't because in terms of the Vegetation Act it came in over the top. But there's understanding the hierarchy of the legislation and how that fitted together. And that was of particular interest to the farmers, in particular. I think unless you've been working in government a while, it's pretty hard to understand some of these things and how it works; "Well, if the council says we can do this, why does this have to say we change it?" you know. And the challenge, I think, in a lot of this is to actually start to align our planning and legislation and our planning instruments with what's happening with some of the higher legislation as well. Sometimes, if you don't know the exact provisions in some of these things,

then it can actually create confusion in the field because people say, "We're getting conflicting advice."

I think the degree of consultation in terms of what discussions are actually happening with the people actually out there in the field and what they're doing. There was a strong viewpoint put forward that a lot of the views were already fixed before they'd even spoken to them and discussed with the practitioners. They felt that some of the discussion was based more on perception rather than reality. I think that that's something that, I think, this community does suffer from, particularly in terms of the perceptions that are held elsewhere about what's happening in Moree. Certainly, if you talk to people in Sydney, the viewpoint you often get is that this is an area where massive amounts of water are used along with massive amounts of chemicals to produce cotton. But the reality is that there's a lot of conservation farming techniques and other things going on. If you look at the history in terms of water use, while there's been significant productivity increases, in terms of productivity per litre of water, there's also been significant efficiency gains in the use of water as well by the practices that they're doing.

Now, one of the issues in water is that potentially prices of water may change the whole aspect of what farming is about and the concern it was having, particularly in the vegetation issue, is what will happen if we have to change the products we're producing, what's our ability then to go and change the area set aside for vegetation conservation and all that sort of thing because we may need it to produce other things, even if it's located within our property. So in terms of future crops or farming techniques, it was felt that there was needed a consideration that we may need to change the plan in the future to accommodate what we need to do to produce a living.

Certainly, there was a high degree of suspicion on who was selected for the committee, where they came from, what their basis was. That was expressed - I can give you a copy of this if you want. One of the interesting arguments is why would Coles and Woolworths - what would they think about having to put aside 10 per cent of their floor space for conservation principles. In the farming community, they're actually being asked to put 10 per cent of their land use that they need for conservation. What would be the difference in terms of what would be the reaction if it started to go in the commercial sector in that way?

Probably, the main concerns were actually more about in terms of sustainability. How do we sustain our land to produce an income in the future for our children and their children, taking into account the potential changes in crops or farming management, depending on what's happening with water prices and things like that versus the need to make sure that they can keep the land productive - and that doesn't necessarily mean some conservation, in terms of species conservation - and how can we balance that? I think what was felt was that the processes so far have ignored the

concerns of the people who have actually been there generationally trying to sort of do it and actually developing their own techniques and developing their own body of knowledge on the whole process.

I think, you know, while they may not be scientific, from what we heard, there is a high degree of concern there, particularly in conservation because they've got to look after the land, they've got to keep the land operating. There's a whole heap of associated things that need to be considered just in keeping a farm running, and I probably remember that from my grandparents' experience. They had me get out there and dig weeds all weekend and stuff like that. I think also, in terms of - if they leave something fallow for some time, at what point does it suddenly have to become conservation value where they can't re-clear it again? So they were probably the main issues in discussion there.

In terms of a vegetation plan, we put forward a proposal that basically said that, "30 per cent of the region is to retain under endemic and indigenous and native vegetation with no change to present land management practices." Now, this is a group of people who actually say, you know, "We're talking like this, we're prepared to accept that notion." "10 per cent of the region in Crown ownership," which is the travelling stock reserves, state forests, nature reserves, national parks and the like, "should be included in the 30 per cent of the land to be retained under endemic and indigenous native vegetation." And that made sense because basically a lot of that is primarily under that already. It also, in terms of the travelling stock reserves, it provides convenient areas of species migration and movement, provided they're not overgrazed in terms of the handling of it, it can still provide that facility.

The suggestion was that, "80 per cent of each individual private land-holding located within the 1A zone shall be made available for self-managed agricultural production subject to the provisions of a farm management plan prepared by the land-holder in consultation with Agriculture New South Wales. The clearing of self-managed land would not require consent." So basically what they're saying is they'd give us 80 per cent of our land. We will do a management plan in terms of how we're going to run it, what we're going to do, but we don't have to go through consent to achieve that. "The remaining 20 per cent to be left under native vegetation retained in an endemic condition as native vegetation with no change to the current land use." So if they're grazing it periodically, you still could do that, but just be kept under the native vegetation. "Any works within this land should be conducted in accordance with a consent issue of the director-general." In other words, there was approval needed if there was anything to be done under that.

"Clearing and native vegetation would comply with direction given by an authoriser, particularly under the Noxious Weeds Act or Rural Fires Act." This is one of the areas where the legislation you're considering does have a side impact. Noxious weeds; what do you do if you've got a major infestation of noxious weeds? You may

need a lot of this and it may need clearing or chemical treatment in a conservation zone. So there needs to be some mechanism to allow for that, otherwise you can basically have it spreading from the conservation areas back into the farming areas. Certainly, there's a fair bit of discussion on how do we actually protect both areas from noxious weeds, and managing them.

"Retain the riparian land," in other words, 40 metres from the top of the bank back to remain under native vegetation. "Removal of single trees in cultivation areas does not require consent," under the plan, which under the draft New South Wales one it did. "When developing a farm management plan, land-holders should consider, where possible, the need to maintain corridors of native vegetation not less than 100 metres wide to connect larger areas of native vegetation." So in planning their 80 per cent, they may well put aside a 100-metre corridor to connect maybe a travelling stock route or another large stand of native vegetation. The idea behind that was to give wide corridors and to allow species movement within the corridors.

"Where possible, clumps of trees to be retained, and "the clump" we define as six or more mature trees with a girth of 1.2 metres, height above ground greater than 200 metres," but anyway, basically saying about six trees together is a clump which provides us sufficient protection in there. "Where it is considered desirable, to encourage land-holders to retain or conserve native vegetation in excess of the 20 per cent required by the plan or to replant land clearly in excess of the 80 per cent allowed by this plan, then compensation should be payable." In other words, there should be some monetary contribution to either assist with the process or basically compensation for the loss of productive area of the farm. Maybe I should leave it at that.

**DR BYRON:** Okay. That's excellent. It sounds like we could have saved ourselves a lot of trouble by just coming to you first because all those points of concern that you raised here, I think every one of those has come up in other places, everywhere from, as I say, Cairns to Perth and Darwin to Hobart. In spite of the fact that the legislation you're operating under is different in each state, it's actually very surprising to me how similar the problems or concerns are. It's actually very helpful to have that summary of your experience here. Could you just elaborate a little bit more on the reaction you got to that proposal when you took it to Sydney? The reason I ask is that one of the things that we've been sort of thinking about is that a way forward with this native veg management is the decentralisation or devolution to regional committees who would come up with something that was tailor-made to what make sense for a particular region, given its soils and climate and rainfall, topography, land use, potential industries and all that sort of stuff.

**MR ABER:** Yes.

**DR BYRON:** That seems to be exactly what you've done here and it didn't seem to



fly very far yet.

**MR ABER:** I think - we presented to John Aquilina - I can't remember now. It was last year, I think it's before the election. He gave it a positive response, I admit, and probably his senior bureaucrat was with us and I think she was quite interested in the whole thing. I think what interests me was the reply was drafted in Tamworth, so there's a high - the issues, I think, are more related to - I think there's starting to be the political acceptance we need to do this sort of thing. I think what we tend to be tangling with is the bureaucratic response and where the bureaucracy is in the high level of ownership in terms of some of the directions, and maybe some of the outcomes are in actually the bureaucratic areas of supervising or running the program. We notice it more probably more in local government in terms of, you know, you can sometimes get the nod from the minister or that and then suddenly all hell breaks loose in another area, but then, I must admit, we tend to use it as well to put pressure back down to get what we want.

I think it's the technical areas, or the people who are actually having technical or expert input into it I think are tending to override some of the more wider socio-economic discussions and the feelings of the people actually working in the area.

**DR BYRON:** But did you get any response that said, "Well, that wouldn't work because it's not going to deliver this, this, and this and this, which is what we really need to see achieved," or was it just, you know, that's - - -

**MR ABER:** It's more along the lines of, "No, this has already been covered in the discussions. Just go away," yes, basically, yes. It was highly defensive, the current proposal. Basically, I know, "This has already taken account in this section, this section. No, we can't consider that," you know, that sort of response. Primarily, they were just saying that, you know, it's already been covered under the basis of the planning and the stuff that's gone on. It's been subject to community consultation already and that they felt that the current proposal should continue.

**PROF MUSGRAVE:** Were you able to give this advice to the local Native Vegetation Committee when it was deliberating over the regional plan?

**MR ABER:** Well, the interesting thing was, of the local committee, there was I think three of them actually participated in our process, were actually on the committee.

**PROF MUSGRAVE:** So they should have been able to take your thinking to the - - -

**MR ABER:** I think they had already expressed that in the committee and were

getting basically the dead response.

**PROF MUSGRAVE:** Is your plan one of those that's in limbo?

**MR ABER:** Yes, it's in limbo, and probably the positive aspects of putting our submission forward is actually they were prepared to actually reconsider, at a political level anyway.

**PROF MUSGRAVE:** Sorry - - -

**DR BYRON:** Carry on.

**PROF MUSGRAVE:** Okay, you said that you were concerned about who was on the local committee, local Vegetation Committee and how they got to be there, that's a common - - -

**MR ABER:** Yes, that was a common - - -

**PROF MUSGRAVE:** Comment and complaint, but have you developed some thoughts about how this process might be done. There seems to be a pretty wide consensus that these things are most effectively done by entities within the regions, local entities of some sort or other, but it does - well, we get the impression that in New South Wales, for example, what was done hasn't gone too well with 22 plans produced and only two gazetted.

**MR ABER:** Yes.

**PROF MUSGRAVE:** Have you got any thoughts on how it might be done better, and when you respond, don't feel constrained by the provisions of the act.

**MR ABER:** I think, probably very simply, I think the environmental scientists need to live and work in the community where they're generating it. I think bringing them in from Sydney to meetings in Tamworth, places like that, really doesn't put them in touch with the reality of what they're trying to deal with.

**PROF MUSGRAVE:** What about the - - -

**MR ABER:** They need to be able to talk to people, they need to be able to understand a bit more about what's going on. I think that they - - -

**PROF MUSGRAVE:** Do they need to be members of the committee?

**MR ABER:** Probably not.

**PROF MUSGRAVE:** What about stakeholder representatives from outside the region, like representatives of the conservation groupings?

**MR ABER:** I think they certainly shouldn't have the balance of power, and that's probably the issue that was being - - -

**PROF MUSGRAVE:** Yes.

**MR ABER:** You need the influence. I don't think anyone is going to say that we shouldn't be ignoring this sort of stuff. We need the advice. We need the influence in terms of consideration, but at the end of the day, when you're dealing with people's livelihoods, they get very sensitive to being told unless they can come to an understanding themselves about what needs to be done. I think one of the dangers in the whole process is often it's better I think to have people actually working in the area, even if they're doing the research, you know, alongside the people. If they're going to do research on some of the riparian zones or the species and stuff there, actually have them working in the area some time before the thing so they can actually talk to the people they're going to be dealing with anyway and then they can come to some understanding of some of the issues surrounding it before, sort of, coming in and saying, well - at least they're known. I think that's probably the issue. At least they're known. They also can give it some credibility if it's required in terms because they know the person, they know what the value is of what they're talking about.

I think if you bring people in from afar, then it's really easy to put a wall up and ignore it, but if you bring too many people in from afar then basically it's seen as the whole process, "Well, why are we doing this? You're just going to do what you want anyway."

**PROF MUSGRAVE:** It makes you pine for the old days of having a local agricultural research station, having an environmental research station locally.

**MR ABER:** Yes. If the reason is significant, why aren't we doing it. I think one of the interesting issues that I'm noticing in probably the 25 years that I've been involved, a lot of the environmental research is being done by the people doing the environmental impact statements for projects. It's been paid for basically corporately or by governments doing those sorts of things. We've stopped putting the researchers in the field to do that. Some of that research can be positive or negative, depending on the biases of what goes in. Most of it, I think, is quite valid and quite important, but it's fragmented now. It's basically tied up in a whole heap of documents associated with different projects. Do we screen enough across? Do we know exactly what's what?

One of the things that I think is important is that - I know in my experience

dealing with one particular species which is supposed to be totally rare and only one in an area - and we did a bit of satellite research and discovered the whole thing was endemic over about 10 kilometres square. It's just that you didn't know it until you actually had the right techniques to actually start to locate it, and I think Australia tends to suffer from a lot of that. I think we're tending to be very precautionary in our approach because we really don't know what we're actually doing. If we don't start doing the research in the areas, if we are concerned about particular areas - and I understand the brigalow belt, you know, is it of concern? Why aren't we researching? Why aren't we doing that? We may tend to say, well, that's a lot of money, but in the long-term by actually doing it and having people working here, we can give the community understanding of what they're actually living in and the values of the area that they have.

**DR FISHER:** I want to just follow up on that last point, we've had a lot of evidence so far suggesting that due to the suspicion among farmers of the regulators that there are a lot of instances where there's a reluctance to come forward to talk about the fact that a particular species might exist on your property, and this has actually led to a situation where, not necessarily in New South Wales per se, but in some other states we've heard that people are now basically deliberately not telling the authorities about the location of particular species. Do you think that's an issue here in this shire that the level of concern with the way the system works is such now that people have become distrustful?

**MR ABER:** I think probably that came out, particularly with the proposals to link vegetation, and certainly that created a rush to get out there and clear what you could in some areas. You hear the stories, I'm not sure, but, you know, I couldn't categorically say either way. I think that you certainly hear stories and people will tell you things like that, but I think a lot of it is that they probably wouldn't know for sure. It comes back to the point we were talking about earlier is that if people know what they're dealing with and they know the value of it, then they're probably more likely to look after it.

**DR FISHER:** Okay, so that basically comes back to your point about lack of research on the ground.

**MR ABER:** Yes.

**DR FISHER:** So you're effectively saying that governments are failing to put in the necessary money to understand what needs to be conserved or is broadly represented enough that we don't need to worry too much about it?

**MR ABER:** I'm not sure about the money aspect, but I think it's probably the way it's organised to a fair degree. Where are we doing the research? How are we funding it? It may well be that it needs money to certainly set it out wider than what

we're doing, but then we're dealing with an area that's vastly populated, and particularly some of the area we're talking about the vegetation, it's fairly sparsely populated. I don't know, I really don't know enough, you know, to be able to comment categorically on that, but certainly I think there needs to be some way of facilitating what research is being done, holding it together and building it up in a regional basis rather than centralising it maybe in Sydney, right, where it's being built up on a New South Wales basis but not necessarily on a regional basis.

**DR FISHER:** Right, and my final question was - perhaps you answered this before and I didn't quite follow - following the response to your plan that was drafted in Tamworth, have you responded to that in any way or are you now sort of sitting in limbo, so to speak?

**MR ABER:** We're in limbo to some degree. We've actually asked for another meeting with the minister to further discuss it. Basically he gave us, or John Aquilina did, gave us the response and if we weren't happy with the response, to come back to him, which I thought was very good. But now it's Craig Knowles, so - - -

**DR FISHER:** So your next step is to - - -

**MR ABER:** Go back to Craig Knowles.

**DR FISHER:** Right.

**MR ABER:** Yes.

**DR BYRON:** Just one more thought that occurred to me, do you know whether any other shire or region in New South Wales has sort of done the same thing as you, sort of stepped outside of the formal regional vege management committee and come up with your own alternative plan, or are you the only ones that have done that?

**MR ABER:** Yes, Tenterfield did it, yes.

**DR BYRON:** Thanks. Is there anything else that you want to add by way of concluding.

**MR ABER:** No.

**PROF MUSGRAVE:** Will you provide us in writing with the essence of what you said and in - - -

**DR BYRON:** Well, it's on the transcript.

**PROF MUSGRAVE:** Yes, including the details of your plan.

**MR ABER:** I'll make copies available to you of that.

**PROF MUSGRAVE:** Yes, I think that would be an idea, rather than us just relying on the transcript.

**DR BYRON:** Thank you very much.

**MR ABER:** Thank you.

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**DR BYRON:** Next on the program we have Prof Jack Sinden who has prepared some visuals to help with our comprehension of his submission. Whenever you're ready, Jack, just introduce yourself and then take it away.

**PROF SINDEN:** I'm Jack Sinden, an associate professor of agricultural and resource economics at the University of New England. The title of the submission, A Review of Impacts of Vegetation Protection on Farmland Values in Northern New South Wales: How much are the farmers forced to pay?

I note in your introduction, Mr Presiding Commissioner, you said you'd been having hearings in Perth, Adelaide, Hobart, Melbourne, Canberra, Sydney and Brisbane and Cairns and I note this is your first hearing in the bush, so welcome to Moree Plains Shire. Here is a little bit - a few facts about the shire that you may wish to be aware of. 47 per cent of the shire is still native vegetation. This is from the DLWC mapping reporting in the vegetation management plan last year. It's a very detailed map; I consider it to be a very good map and the farmers to whom I have spoken consider it to be a very good map also. So when the nature conservation council tells you that 70 per cent of the shire is cleared, please don't believe them, it's not true.

Next line: there's 1.558 million hectares in agricultural holdings; there's 620 farms in the shire. That's taken from the Australian Bureau of Statistics. So if there's 620 farms, I would think there's about 550 farm owners, or farmers. In the work that I'll be discussing that I did in the shire, I interviewed 51 of them, so I've interviewed about 10 per cent of them, so if the World Wildlife Fund tries to tell you I have a small sample, don't believe them. If my friend, Wolfgang Casper, in his submission says the same thing, you can take that with a small grain of salt also, but the rest of his submission I do like.

The next set of comments were published in the Journal of Forest Economics this year. Because of the Native Vegetation Conservation Act, the average farm loses 30 per cent of its potential income; 25 per cent of the farms actually lose very little at all; 25 per cent of the farms lose less than 5 per cent of their potential income, but equally 25 per cent of the farms lose more than 50 per cent of their potential income.

The context of my review, how I got interested in all of this, I was concerned over the costs but not the goals of SEPP 46 and the Native Vegetation Conservation Act. I didn't disagree with the goals of these acts, to try and attempt to preserve the native environment, but I was curious as to what they were going to cost the farmers. In all of the literature I was reading in Armidale on the tableland theme, letters to the editor, the articles in the newspapers, said the cost to the farmers of this conservation would be small. I doubted this, but it seemed to me there was no information, so I was interested to try and work out some of the costs.

But also, as I began working through this work, I discovered that the level of the

debate was really rather poor. The environmental groups were putting opinions into the literature, into the media, with almost no facts and arguments to back them up and there were a lot of individual farmers cases highlighted in the media showing the hardship to them, but there was no concerted effort by the New South Wales Farmers Association to draw that together, so it seemed to me, if I could put one good well-researched number into the public arena, that might stimulate and improve the level of the debate.

Here in this submission there's a review of independent studies of the effects of retention of vegetation on loss of land values. They are independent. I took none from environmental groups; I took none from the farmers' groups; they are from the Department of Economics University of Queensland, Steve Harrison; Charles Sturt University, Michael Lockwood and Sandra Walpole; they are from our work at the University of New England, stretching back many years, Warren; they are from my own work in Moree Plains Shire and from Peter Spackman, a very well-respected valuer in Gunnedah Shire. These studies cover 12 areas across northern New South Wales, a total of 365 farm surveys. Now, you were asking for submissions by July 18th, so I could put together the data from those 12 areas, I now have data from twice as many areas, a large number of extra studies, but all with the same kind of results and here I am talking just about land values, I have the same results for farm income as well and they tell the same story.

The Costs: How I was looking at losses in land value. If the farmer buys land before SEPP 46, he has a loss in property value immediately after 1995, when SEPP 46 was introduced, because that policy stopped farmers from clearing, that reduced the saleability of the farm. If the farmer sells after 1995, the property loses value because of SEPP 46 and the Native Vegetation Conservation Act. If the farmer doesn't sell, the property loses its collateral value for mortgages and its asset value because of SEPP 46 and NVCA and I should note I discussed quite often with two of three or four of the lending agencies here in town, the banks about lending money to farmers and they bore out the issue. They would lend more on land which had higher value; if the collateral value of land was reduced they would offer the farmer less money.

But the real issue is how large are these losses. We know these losses would occur; how large would they be? The environmental groups were arguing these losses would be small. I was curious as to how big they would actually be. The method: all the figures on changes in land value are net of clearing costs. I deducted clearing costs. The effect of non-vegetation factors is removed from the estimates of change in land value, so I was working only with the change in land value due to the need now to keep the native vegetation and I was searching for orders of magnitude and patterns in the data. One study showing something is fine, but we really need a number of studies showing a trend. So here was the basis of the trend, and I need to ask you Neil, did you provide me with this figure about three months ago, four



months ago, or does it not look familiar to you?

**DR BYRON:** I don't - - -

**PROF SINDEN:** Anyway, let's continue. It seemed to me there would be a trend. Three kinds of impacts on land value. If we start in the bottom left-hand corner at zero and we increase the percent of native vegetation on a farm, we might expect land values to rise. There would be more shelter on for stock, certainly on the tablelands. We might have a reduction in land degradation on the farmers, as the native vegetation prevented erosion. Then at point M - change point 2 there - we might have no change in land value, that is, there might come a certain time at which an increase in vegetation had no effect on land value at all. But then after point M I would think an increase in the percent of native vegetation on the farm would decrease land value, because then there'd be less area for the farmers to crop.

If we start at the other end and come backwards, that is to say, if the farm were fully native vegetation to start with or 78 per cent native vegetation as is the average in Walgett, if the farmer clears and we move backwards the land value will rise up to a point, then we might expect the land value to drop as the chances for degradation increase. So it seemed to me we'd have these kinds of trends, we'd have three different situations; one, where the impact would increase land value if we kept native vegetation; the second where there'd be no change in land value if we kept the native vegetation and thirdly, it would be a decrease in land value if we increased the amount of vegetation.

Now, here's the evidence, taken from a wide number of studies across northern New South Wales. Cases 1, where protection does increase land value. One case which we've documented is on the New England tablelands, when there is less than 20 per cent of the farm in live healthy woodland, an increase in the percent of native woodland increases land values, that is, if there's less than 20 per cent of the farm in native woodland and we increase the percent of native woodland, we do get increases in land value. This is documented. These farms have relatively little native vegetation and they are mainly grazing and livestock. So here is one case where we can get increases in land value if we increase the amount of native vegetation, or protect the native vegetation that is there.

Second case: Where protection has no effect on land value, situation A. On the New England tablelands again, when there is between 20 and 25 per cent live, healthy woodland on the farm, increasing native vegetation within this range has no effect on land value. Increasing the amount of vegetation from 20 to 25 per cent does not affect land value, but it does increase income. But you may remember, Brian, you were editor of the journal when this was published in the Australian Journal.

Now, some information from Mr Spackman. In Walgett East, east of the western

division, on light red soils, protection of native vegetation doesn't change land value. He argues from his knowledge of the area that if the farmers are asked to keep their native vegetation on light red soils in Walgett, there's no drop in land value. Bellingen Shire, special case, small farms up to 15 kilometres from town, increase in native vegetation has no effect on land values either. Some of these farms were hobby farms admittedly, but some were dairy farms as well. So here is our first case where protection has no effect on land value.

The second case may be a special case: when it is unprofitable to clear the native vegetation anyway, protection has no effect on land value and we have two well-documented studies there; one is on the eastern scarp of the tablelands, that is, southern and eastern regions of Walcha Shire. This was undertaken a few years ago by one of my fourth year students in agricultural economics. She lived in the area and this was happening to her farm, some of her farmers on the eastern scarp of the tablelands, and she was wondering what happened in another 30 or 40 farmers of a similar position in Walcha Shire. So we set it up as her fourth-year honours thesis and she did a very intensive, very good survey, of farmers in the area.

The same happens in Nymboida Shire, that is, the particular area around Nymboida Village and Cootes Crossing in Nymboida Shire. Nymboida Shire is about halfway between Armidale and Grafton. But we can note the characteristics of these farms. These farms all have steep slopes; they have large amounts of dense woodland, perhaps - the trees might perhaps be three quarters of a metre diameter, big trees, and there are unproductive alternative agricultural uses.

Now, the third situation, the third kind of trend, where protection of native vegetation decreases land value, case A: here in Moree Plains shire there's an average 16 per cent loss of land value. This percentage varies a little with the gross margin, et cetera. If I may, I'll offer a few details on how I undertook this study. I obtained from the valuer-general in Tamworth information on all sales in Moree Plains shire since 1991. I then took all sales since SEPP 46 was introduced, that is, August 1995. There were 380 of those sales. 380 parcels of land had changed hands since SEPP 46 was introduced. Of those 380, I cut out all the corporate farms, I cut out all the purchases of roads, I cut out all the transfers within one family, leaving me with 180 exchanges of land from one family farm to another family farm. That's what I wanted to look at, exchanges between family farms, from one family farmer to another. There were 180 of those, and I decided that was the sample I should use, so I interviewed 51 of them. That's a large proportion. That's a large sample.

I should also note, Brian and Neil and Warren, I only had to ring up 53 farmers to get 51 interviews. I simply indicated to them who I was, that I wanted to look at the impacts of the native vegetation committee; could I come out next week. The answer, yes, so they were very keen to talk. Through standard hedonic pricing I worked out there was a 16 per cent loss of land value if all the native vegetation had

to be retained. Walgett East - this is from Mr Spackman again: his belief is there's a 66 to 77 per cent loss of land value in Walgett East on the black soils because the native vegetation has to be protected. Note, his estimate is far higher than mine. I'm sure his estimate is right for Walgett shire.

Now, the characteristics of these farms: why are these figures occurring? These farms have large percentages of native vegetation on them. In Moree Plains, 48 per cent of the shire is still native vegetation; Walgett, 78 per cent of that shire is still native vegetation. So there are large percentages of native vegetation on these farms and there are very productive alternative uses for the land: wheat cropping, perhaps cotton, et cetera.

Next situation where protection decreases land value as well: Liverpool Plains, decreases of 40 to 240 per cent, depending on the soil and the vegetation type. The brigalow belt, northern outwash province, decrease of 14.4 per cent. This is the northern head of the brigalow belt south region in New South Wales. It's really the triangle between North Star, Moree Plains and Walcha. I had good data for that. Some of that area of course is in Moree Plains shire. I have a lot of students who are now back on farms in that area, so I had good sources of information. This is what is termed technically the northern outwash province of the brigalow belt. The decrease there was 43 per cent, 14.3 in land value. The characteristics of these farms: why does this loss in land value occur? There's relatively less native vegetation left here than in Moree Plains shire. Maybe 35 per cent of this area is still in native vegetation, but there are very productive alternative uses for the land.

You only have to go to this area, Mr Commissioners, to talk to the people to find out what's going on. They could take in another hectare of their native vegetation, put it down to their crops, they could return regular yields, highly productive yields. Another situation, C, that I might elaborate on - please note the red asterisks. I'll explain those in a moment. Here is our third case where protection of native vegetation decreases land value, situation C. It's a single case study farm in the Upper Hunter Valley, with white box, yellow box, stringy-bark and very intensive grazing. This was another of my fourth-year honour students in agricultural economics of UNE. The farm was intensively grazed. About a third of it is good flats on the Hunter River, another third is good pasture land on very gently undulating country, another third is on the slopes where this timber occurs. But the really interesting thing about this study was I'd been doing work on adjacent farmers, so I knew and could check with the student his data and his and his father's perception of land values.

Now, I told the student all of this, I told the father all of this. I told the other farmers that I'd been working with so that I could check his data, so that I could make sure things were coming out about right. The farm is in the Scone area in the Upper Hunter Valley. If we have thin timber, native vegetation protection prevents

the increase of 165 per cent in land value. Let me explain that. The land value of the thin-timbered areas now might be \$100 a hectare. That would rise to \$265 a hectare if there was no vegetation protection. That's what he and his father told me. I knew that to be roughly correct from my information from the farmers surrounding this particular farm. If there's thick timber, the Native Vegetation Protection Act prevents an increase of 140 per cent. On modest slopes and steep slopes, protection prevents increases in land value because the farmers can't sell their land and their income opportunities are low. So there is a case study in the Upper Hunter.

Another one from New England: here protection decreases land value. This is on the New England tableland, the southern area from Walcha through to Guyra. When more than 25 per cent of the farm is in native vegetation, an increase in the proportion of native vegetation decreases land value. So if more than a quarter of the farm is native vegetation, the farmer has to protect all of that native vegetation in excess of 25 per cent, it decreases his land value. The average loss was about 8 per cent across the whole sample.

So now let's see if we can get some kind of overview of all of this. Protection of native vegetation can increase, decrease or have no effect on land values. We do have to recognise the protection of native vegetation can increase land values - and I've got a couple of cases here - but it can decrease land values or it can have no effect on land values. Decreases in land value are large, they're common and they're widespread throughout northern New South Wales. As far as I can see, the loss of land value in Moree Plains shire is \$198 million at the very least. In the brigalow belt, the northern outwash province, it's at least \$145 million. The two stars on brigalow belt remind me to note this is the northern head, the northern outwash province, not the whole of the brigalow belt. It will be vastly bigger in the whole of the brigalow belt.

I should note, gentlemen, this is based on analyses, the kind of analyses I published in Land Economics a few years ago. In blue at the bottom - so farmers are forced to bear very large losses to benefit perhaps the rest of the community. We don't know if the protection of species will actually benefit the community in any way at all other than land and water conservation.

The commission may wish to do the following: this is what you may wish to do, gentlemen. You have case studies from individual farmers. I've been through many of the transcripts. They're very good. You've got lots of very good cases where individual farmers are suffering hardship. You can take those and put them together. Then you need some trend or framework to hang it together, so you have a general curvilinear track that I have in this submission. Then you have the specific survey results from this submission and the others which are available to you. It then would be very useful to estimate state-wide losses in land value with GIS mapping. You could, for example, consult Sandra Walpole's PhD thesis, where she did this for

the Gunnedah area, and I know Brian Aber has done this sort of thing. So I think you're well placed to do that. That would be very useful to the whole community.

In notes, my work in Moree Plains: this is all referring to the conference paper I gave writing up this Moree Plains work. The paper was given in February last year. In March last year the World Wildlife Fund sent out a general email about my work in the shire, with strong support for the results, raising some issues about the analysis. They said the data appeared to be sound, the knowledge of Moree Plains shire would support my assumptions. They supported my result and my conclusion that one group in the community, namely, the farmers should not be bearing very large costs for the sake of the rest of the community.

They didn't send me this email. I got from three colleagues within DLWC. They said, "Jack, you should have a look at this," and they sent it on to me. But then in April 2002 the World Wildlife Fund sent out a critique that omitted this support but repeated the same issues. That didn't worry me greatly. What really worried me was the following. In February 2002 the World Wildlife Fund already had enough data to work out that none of their issues affected my estimates of the loss of land value. So my estimates of land value were totally insensitive to the issues that they raised.

So far, gentlemen, I've simply offered the facts as they were, tried to distil them into a general picture. Now this last slide has my own views, and here are the two questions that I would probably try and answer. Please note, these are my own views, not speaking as a representative of farmers nor the university. First question: what is the net impact on the whole community? I think this we must try and answer. There are impacts on the farmers within an area. There are impacts on the farmers downstream. If the farmers upstream preserve their native vegetation, that should prevent degradation downstream. If farmers preserve their native vegetation, there may be biodiversity-type benefits at some time in the distant future. We have to take all of those in together to try and work out what is the net impact on the whole community.

I think this is the situation: the benefits possibly just exceed the costs; note the carefully guarded answers, now here is why. One very good study of this issue is by Dr Michael Lockwood at Charles Sturt University, a colleague, and from his information, if we preserve the remnant vegetation on farms in the Southern Murray catchment of this state, land values will increase \$5 a hectare. This is an increase from about 150, \$200 a hectare, to an extra \$5 a hectare.

Steve Harrison's work: Steve was looking at annual incomes from the protection of species on the New England tableland. If we prevent New England die-back and hence enable the trees to come back, his estimate was we would increase incomes each year by about \$29 a hectare; the income per hectare would be about \$80. So

we'd increase that by about \$29 a hectare, that is quite a big increase. I attempted to do something like this for Moree Plains Shire, but I took a slightly different risk analysis approach, because we don't really know the benefits of keeping species for the future. If we reckon a species which is preserved in the shire is worth \$5000 a hectare per year - that's grossly less than most of my colleagues will estimate it to be, but I feel it has to be of the right order of the magnitude - if we value a species' worth at \$5000 a hectare per years, there's a 62 percent chance the benefit cost ratio will be .8, that's almost profitable.

In the Brigalow belt, similarly, there's a 60 per cent chance the benefit cost ratio will exceed 0.8. Now, probably we might argue they are just profitable; we might argue the benefits possibly just exceed the costs. But there is another equally important question. What is the net impact on individual farmers? What is the net impact on individual farmers; costs certainly exceed benefits for the large majority of farmers. Costs on farmers can be very very large, farmers seem to bear all the costs and in my opinion, gentlemen, this is unjust and it's unfair. Thank you.

**DR BYRON:** Thank you very much, Jack, for all the work that you've put in on this. It's been a most helpful review, overview, of the literature that you've pulled together for us.

**DR FISHER:** First of all, Jack, a question of clarification. On one of your slides you had a reduction land value of 240 per cent. Can you just tell us what that means exactly?

**PROF SINDEN:** Yes. May we go back to the slide, Brian? Is it this one? A decrease of 240 per cent?

**DR FISHER:** Yes.

**PROF SINDEN:** That should be read in conjunction with the next one; If the land value is now \$100 with native vegetation, that would be \$340, if the native vegetation could be cleared. Taken from Peter Spackman's work as a valuer-general.

**DR FISHER:** Okay. So you've shorthanded - it's a bit of a shorthanding of - you're not meaning that the value is going below the axis, effectively, that's the question I'm asking you.

**PROF SINDEN:** We're preventing increases, preventing an increase from \$100 to - whatever.

**DR FISHER:** Yes, I just wanted you to clarify that. Now, getting on to the more pertinent questions, I was encouraged to reread your 1983 article to work out whether I'd made an awful mistake in agreeing to have it published and I decided I

probably hadn't, which is - I'm not too sure whether that makes you happy or not, but in rereading that, basically what you seem to be saying there was backing up the graph you had on the slide effectively where you're talking about a situation in grazing country where you can have the possibility of an increase in value as you have more tree cover and then as you get an "excess" of tree cover, you have some dropping off in value. Now, that makes perfect sense to me in grazing country. Now, if we go out to, say, Croppa Creek, and we consider a nice large paddock of wheat, which is probably the principal crop, presumably in that sort of country any tree cover, if we're talking about the centre of the paddock where you want to grow wheat, any tree cover will reduce value. There is no value in having a tree in the middle of your wheat paddock. Is that correct?

**PROF SINDEN:** Probably not, no. Firstly, though, since you raised it, Brian, the four reviewers said yes to publication, you said no, and I rang you up and we came to an agreement. But now to answer your question, let's find the graph. In the Croppa Creek area and indeed in Moree Plains, we're probably on the right-hand side of this graph, where if we increase the percent of native vegetation the land value drops, so as we clear the native vegetation the land value rises. I interviewed 41 farms in the Moree Plains shire and searched long and hard to see how this trend would be and it's all on the right-hand side of this graph, you're right. But now let's try and think about why this is the case. As I think I mentioned in the paper, and indeed Spackman quotes, farmers are probably looking, maybe 30 to 40 years, probably not longer than that, and they probably have very strong needs to meet their immediate costs to cover their immediate bills. So for this purpose they need to keep as much as they've got cleared, and indeed clearing a bit more might increase their immediate income. They are very concerned in the short-term with maintaining their immediate income, so to them keeping a bit of native vegetation is a bit of a problem.

But I spoke to maybe a dozen farmers within 30 kms of Croppa Creek and they were all saying, "We're going to attempt strongly to keep - and we will keep our trees along the riparian bank, we'll keep our trees around the edge of the paddock, our trees around the edge of the property," so they do see that native vegetation has value, but in those particular senses.

**DR FISHER:** Yes, right, and that was my point, that it's the location of the vegetation that's important. So there's two issues. First of all, it would appear that whether vegetation is positive or negative depends on the nature of the farming operation and secondly, in cropping country it depends on where it is actually.

**PROF SINDEN:** I think that's right, yes.

**DR FISHER:** Now, under those circumstances, when you're suggesting that we should try and do some analysis across New South Wales, the thing that I'd like to ask you is, given the specificity of the effects farm by farm, it seems to me very

difficult to try and do some aggregation and come up with some meaningful number given the vast difference in landscape types, farming types, and in fact your own studies suggest that you almost have to do this analysis, small area by small area, to make sense, because if you don't you just put all of this stuff together and then you get some amalgam and you wouldn't know, because of the aggregation errors, whether the amalgam makes any sense or not. Is that a fair assessment?

**PROF SINDEN:** The state-wide analysis, I think, is exactly as you have presented it, yes, because the particular enterprise and the nature of vegetation affects the land value, we'd have difficulties doing it state-wide, but there may well be advantages to try and do it to see how the situation looks. If you want to do a study more accurately, you've got a good vegetation map of Moree Plains shire, you've got one of Walgett shire, I presume you've got one of other shires. I've seen the one we have in Moree Plains shire and we know exactly where the vegetation is kept around the paddock, around the property, it could be done in great detail for the whole shire and this to me would be a big step forward.

**DR FISHER:** The other practical implication of what you're saying to us is that if we take Moree Plains shire and we go down to the local shire office, it should be the case, should it not, that their rates - the amount of rates that they're raising since 1995, has been falling, because the value of rateable rural land should have been falling given your findings? Is - - -

**PROF SINDEN:** No, it shouldn't.

**DR FISHER:** Is that correct or not correct?

**PROF SINDEN:** No. Because of my findings the rateable value would be rising faster than it has been.

**DR FISHER:** So can you explain that to us?

**PROF SINDEN:** Yes, certainly.

**MR .....:** I can explain - - -

**DR BYRON:** Hang on - there's a problem. Jack?

**PROF SINDEN:** I don't know whether the rateable value of the shire has been rising or falling, I haven't looked at that, but let's say it has been rising, then it would have been rising faster if the land was being cleared. It would have been rising faster with the Native Vegetation Act, I think that's the case.

**DR FISHER:** Right. So can you explain then this reference case problem that we



have and how we might overcome that problem?

**PROF SINDEN:** What is the reference case, Brian?

**DR FISHER:** In other words, what do we compare - we have this situation where you have this hypothetical where you're saying that if we could sweep away SEPP 46 we would have had land values going in a particular direction and given that it's there, we've got it going down slightly. So we have a - we've got a hypothetical, effectively, we're doing a thought experiment. Now, in your thought experiment presumably there are other confounding effects having an impact on land values, so we need to sort all of those things out. How would you recommend that we do that?

**PROF SINDEN:** Hedonic pricing.

**DR FISHER:** Yes, I know you're very fond of that. Can you just elaborate a little bit for us.

**PROF SINDEN:** Yes, certainly. The basic idea is to draw simply a series of graphs. On one axis you have land value, on the other axis of your graph everything you think might be related to land value and for the 51 farms I had in Moree Plains shire, it turns out that distance from a town is related to land value; the further you go from a town, the lower is the land value. You could see it on the trend and it worked out statistically. The three towns I took were Goondiwindi, Narrabri and Moree; as the farms got further and further out, the land value dropped. Also, there's an area effect, larger farms tend to have lower land values per hectare and then we have the gross margin you can generate from the present area of croppable land or even grazing land, the higher the present productivity the higher will be the land value, so we have as factors; distance from Moree, area of the farm and then the productivity of the farm as it is, and the fourth factor, to put it simply, is the area of native vegetation on the farm. To put it simply, the more the area of native vegetation, the lower the land value. That's how I would go about separating things.

**DR FISHER:** Probably these farms haven't moved, so the distance from urban areas hasn't changed. The only one of those factors that's probably changed since 1995 is agricultural productivity. Would that be correct?

**PROF SINDEN:** Mm, keep going.

**DR FISHER:** So the two factors - is it the case that the two factors that are really having an impact in your analysis are productivity change and SEPP 46. Would that be fair?

**PROF SINDEN:** SEPP 46 rather than productivity change. If you look at the way land value responds to all these other factors, response or elasticity is greater for -

percent - native vegetation. Is that what you had in mind?

**DR FISHER:** No, I was just thinking - so are you really saying to us that there are no confounding factors, that it's - all of the effect is SEPP 46?

**PROF SINDEN:** Not at all, not at all. The factors are - the important factors are distance from town, area, area percent of native vegetation and productivity, those four are the main ones.

**DR FISHER:** Yes, but I'm just saying that the distance from town hasn't changed - - -

**PROF SINDEN:** Yes.

**DR FISHER:** - - - over time because the farm is not moving about.

**PROF SINDEN:** They haven't changed their farm, no.

**DR FISHER:** The productivity has been rising, so that's a factor. SEPP 46 has been introduced in August 95, correct, so the two factors are probably only productivity and - that have been changing over the last 10 years, say - are the introduction of the legislation and the productivity improvement.

**PROF SINDEN:** These were the prices buyers were paying for the land. So if you think of two farms, perhaps adjacent, same distance from town, let's say the same area, one has - say for argument they both have the same agricultural productivity - one has for some reason more native vegetation than the other, that's the one that sells below a land value. That's all I'm suggesting.

**DR FISHER:** Yes, okay, my last question, if I'm permitted one more, sorry, is that in your conclusions in your submission you suggest that statewide the loss may be several billion dollars. That several billion is sort of a broadish number - - -

**PROF SINDEN:** Yes.

**DR FISHER:** You've done that analysis on the basis, or drawn that conclusion on the basis of analysis of the land values themselves. You haven't actually gone back and tried to do a calculation on the basis of the impact on net returns and then compound through to get a value. Is that correct?

**PROF SINDEN:** No, I feel that's a job for (indistinct) Brian.

**DR FISHER:** Thank you.

**DR BYRON:** Just on that last point, when you talk about the losses of billions on a statewide basis, you've made the point very clearly that the property values have gone down for people who have got a lot of native vege remaining on their property.

**PROF SINDEN:** Yes.

**DR BYRON:** Is the converse of that that people who had very little native vege on their property as a result of the reduced supply of land available for clearing, their property values have gone up at a faster rate, so that although it's probably true that there are thousands of farmers whose property values have gone down by a huge amount, there may be other land-holders whose property values got an unintended, unexpected boost as the reciprocal effect of the one that you've documented.

**PROF SINDEN:** That may well be the case. So from an efficiency or overall community viewpoint, there's a little bit of a balancing factor then reduced to the equity argument.

**DR BYRON:** Exactly.

**PROF SINDEN:** Who is disadvantaged and who is advantaged?

**DR BYRON:** Yes, but, I mean, that's certainly not a case for ignoring the very large losses that have been felt by some, but it's just that it's possible that there has been a redistributational effect.

**PROF SINDEN:** First question, "What is the net impact on the whole community" - that takes account of the balancer - "then what is the net impact on individual farmers?" That's the equity issue.

**DR BYRON:** Thanks. Warren?

**PROF MUSGRAVE:** Thanks, Neil. Thanks, Jack. In relation to the WWF critique, have you prepared a written, a detailed written response?

**PROF SINDEN:** On my part?

**PROF MUSGRAVE:** Yes, yes, you've got that reference here - - -

**PROF SINDEN:** Interesting. Before the main critique was released in April, Warwick Moss sent it to me five days before he was going to release it. I sent back a quick email which said, "I really can't go through the whole thing in four days," but you've got so many individual arguments there, it's lost within - each argument will get lost within the whole set of arguments you have. What you should do is hone in on the main key issues which are those questions, and I do know one of my

colleagues at Armidale, who is well known to both of us, had gone through the critique and made exactly the same comment. There were so many individual arguments that missed the main point, is there an overall loss or an overall gain, and I pointed out to him, "Take a look at the elasticities that you can calculate from the paper", and the elasticity's show that my estimates of land value change are insensitive to the issues that they raised.

**PROF MUSGRAVE:** And there is the question he raised about the sampling properties of - properties of your samples representativeness.

**PROF SINDEN:** I ignored that. That was absurd. Let me comment on it, all the same. His point was I'd chosen family farms only to interview within the shire. Now, I did that because it seemed to me family farms will be least well able to hand the effects of vegetation protection. That's explicitly why I did it, but then it was quite clearly set out in the paper that the main issue is the percent of native vegetation on the farms that affects the loss of income, the loss of land value, not whether you're a corporate farm, not the choice of enterprise, whether it's cotton or wheat. So you can ignore the particular kind of ownership, corporate or not. Now, I was using a figure for 41 per cent of the farms under native vegetation, because that was the proportion my farm is under native vegetation. The regional vegetation plan done from the very good map produced by the Inverell resource centre says 48 per cent of the shire is under native vegetation. The shire is 48 per cent, I was using 41 per cent, so I'm in fact under estimating the losses.

**PROF MUSGRAVE:** Yes.

**PROF SINDEN:** No, I didn't comment. I thought it was absurd.

**PROF MUSGRAVE:** Okay, thanks. Jack, can you expand on the difference between Walgett and Moree Plains shire, that's quite interesting. You know, the Walgett situation seemed to be substantially higher, the figure there is substantially higher than Moree Plains, and you did refer to it in passing, but could you explain it further?

**PROF SINDEN:** Yes, I can. I can explain the figures further. I should note I haven't been to Walgett shire. My information comes from the valuer and from a whole series of telephone conversations to people within Walgett shire, quite a lot of them, actually. The difference between, essentially between Walgett shire and Moree Plains shire, I think on the issue of native vegetation is, Walgett still has 78 per cent of the shire as a whole in native vegetation, west and east, whereas Moree Plains has 48 per cent, and I think that's the big difference.

**PROF MUSGRAVE:** State of development.

**PROF SINDEN:** Yes.

**PROF MUSGRAVE:** Yes, okay, thanks. Have you some thoughts on the policy implications of what your results show, apart from the obvious one you've drawn out, which is the cost to farmers could be high and conceivably compensation should be paid in some form, but what about - have you got any thoughts further than that, for example, if we were to compensate, then the cost of this policy would rise dramatically, and we already have the situation where we seem to have too little money chasing very ambitious policy objectives. Have you thought about the implications of this for native vegetation and biodiversity policy - - -

**PROF SINDEN:** Yes, I have, but it's sort of been thoughts down a narrow track, but I felt the last speaker, in fact, hit the nail on the head very well. I think the farmers would normally keep their riparian vegetation anyway. Let's say that's about five per cent of the area. I think the farmers would naturally feel they had a duty of care for their land and would be prepared and indeed would keep a further proportion of their property in native vegetation anyway to keep the asset values for them and their children and grandchildren, and as a contribution to the rest of the community. Now, what that duty of care level ought to be is a bit of an issue. I know there was a meeting in Moree town hall that Rob Anderson organised a few years ago, 1999, I think, where the farmers indicated they would keep 15 per cent of their property in native vegetation.

The last speaker had a very similar extra figure for native vegetation, and I like that policy considerably, so I've thought of been thinking along the lines of we'll keep 5 per cent anyway as riparian vegetation, et cetera, but it will be duty of care that farmers might normally wish to keep by way of native vegetation anyway and the community might ask them to do that, so perhaps that might take up to 20 per cent of the property kept as native vegetation. What happens after that, I'm unsure of, but it seemed to me if compensation were thought of, it's compensation after those duty of care levels.

**PROF MUSGRAVE:** Above that threshold.

**PROF SINDEN:** I think it is.

**PROF MUSGRAVE:** Yes.

**PROF SINDEN:** Yes.

**PROF MUSGRAVE:** Okay, thanks.

**PROF SINDEN:** Could I ask you gentlemen a question? Have you got access to the Wentworth group? I know they have been talking about compensation is needed

for vegetation protection, and they have been talking to Michael Duffy as well.

**DR BYRON:** Not officially, not formally.

**PROF SINDEN:** Okay.

**DR BYRON:** Every one of the members of the Wentworth group has been a personal friend of mine for some time.

**PROF SINDEN:** Yes.

**PROF MUSGRAVE:** If I can continue, we're wandering a little bit away from your immediate study - - -

**PROF SINDEN:** Okay.

**PROF MUSGRAVE:** But we've been thinking about these things and so I think we should benefit from your thoughts, and at the outset you said you were comfortable with the objectives of SEPP - what was the number?

**PROF SINDEN:** 46.

**PROF MUSGRAVE:** 46, yes, SEPP 46, and of the act itself. This has become a bit of an issue in the presentations made to us in the sense that an inflexibility in the administration regulations is reported, a difficulty in obtaining rationalisations of regulatory decisions that are made down at the coal face in individual cases, a lack of an output oriented approach rather than approaches that say, "You shall not clear." Approaches which might be preferred is, "We want to achieve this particular native vegetation or biodiversity outcome and an implication of this is that you can't clear," the difficulty in getting explanations of bureaucratic decisions in those terms, and some people have suggested that a contributor to these difficulties is the very baldness of the objectives stated in the act, that is that in effect native vegetation clearing shall cease. Have you got any thoughts on that?

**PROF SINDEN:** Yes. They're not really specific thoughts. My impression was that the Native Vegetation Conservation Act was in fact very flexible because it devolved to the regional committees the balance that would be maintained between vegetation and production. I was comfortable with the goals of SEPP 46 and the Native Vegetation Conservation Act because professionally I can't argue with goals. Personally I like the idea of preserving bits of the environment. This is not an economic argument, just a personal viewpoint. Then of course we come to the nub of your question, "How do you actually do that?" The field problems, I think, are probably the greatest problems of all, and I think they devolve down to the limits put on the people who have to administer the act. It's not the people. They're all highly

professional - - -

**PROF MUSGRAVE:** Yes.

**PROF SINDEN:** And the farmers consider them highly professional as well. It's the limits within which those people have to work. They feel they have to ensure this amount of a particular species is conserved, so they try and have to do it, and also a very real problem is that data put forward to the DLWC to make the decisions, it's very hard to find out whether a particular species or set of species is there. Experts are brought in from outside, they give their opinions. DLWC has their experts, and it's very hard to work out completely and absolutely what the case is, and I looked at about a dozen of these cases in Moree Plains shire and I couldn't comment on the ecology there, but the economic cases that were put forward intrigue me. Sometimes the land-holder had a very good set of economic data showing the losses to him were large or small, et cetera, but when in the opinions that were returned to the land-holders the economic data was unable to be fully assessed and integrated, the economic data was appreciated. The DLWC people appreciated the work had been done, they knew the economic problems to the land-holder, but somehow the economic data didn't get integrated with the ecological data, and in that paper in the journal of forest economics, you might find a way in which we could do that.

The protection of species is a benefit. The economic costs or the costs, we try and maximise a benefit cost ratio. That's an area I find a bit hard to get to grips with, Warren, and that's about as far as I got in my thinking on it.

**PROF MUSGRAVE:** Okay, thanks.

**DR BYRON:** I was just thinking of your graph with the point that optimises value. It's interesting that most of the environmental organisations that have appeared before us have assumed that unless there is strict regulation that limits land clearing, landowners everywhere will inevitably clear until there is zero cover. I've been looking for evidence for or against that proposition. Yours is evidence that suggests that they will stop at 20, 25 per cent or whatever. It's very interesting that in Western Australia a couple of weeks ago, I think it was the Western Australian government's own submission that in certain parts of the agriculture heartland in WA clearing stopped voluntarily some 20-odd years ago. There hasn't been an application since then. It bottomed out at about 15 per cent and since gone up to 20. So it bottomed out automatically without being proscribed by legislation and the farmers have now, again without being subsidised or pushed or prodded in any way, worked out that the optimal amount of tree cover that they want on those properties in that region happens to be somewhere round 20 per cent.

Everywhere else that we've been from the Northern Territory to North Queensland, on the properties that we've been on people have said to us, "That bit

over there, I'd never touch that because it's gravelly soil. The cost of clearing it is more than it would be worth for the production we'd get out of it." Everybody has been able to point us to bits of the property that "I would never want to clear" purely because it's not worth clearing. A property in Tasmania that had been there since 1827 - they said, "That ridge there has never been cleared since 1827 because we wouldn't want to." So the idea that he would now need to be paid to not clear it he found almost laughable, because he wouldn't want to clear it; it had never even occurred to him to clear it.

So I'm now struggling for examples where in the absence of legislation people have just bulldozed all the way down to zero per cent native veg cover. Have you got any more examples, apart from the ones that you've already given us, of where people seem to converge on what's the financially optimum amount?

**PROF SINDEN:** I've been searching the literature, Neil, for about five years to find this, and the only ones I can find are here now, our work in New England and the Lockwood-Walpole work in southern New South Wales. Our work is on grazing properties, where we might this more pronounced. Sandra and Mike's work was in grazing-cum-cropping properties.

**DR BYRON:** I think that obviously the exact point at which the peak occurs depends on land use and soil type and topography and so on.

**PROF SINDEN:** Yes, that's right.

**DR BYRON:** I suspect that a lot of the country that's been debated now in Queensland about whether it should be cleared or not is simply protected because it's not worth clearing because of its remoteness, soil type, topography, lack of rainfall.

**PROF SINDEN:** Yes.

**DR BYRON:** So that's one of the reasons why in those areas you've got 90 per cent still native vegetation.

**PROF SINDEN:** That's right.

**DR BYRON:** It's protected not by legislation but by all those physical factors.

**PROF SINDEN:** Yes. For my data for Moree Plains shire and the 51 properties, I tried desperately to fit this interesting shape curve through quadratics. It couldn't be done, but you can fit a curve to the end of it, which shows that decreases in vegetation raise the land value. I've been looking for that data for five years but can't find it now.



**DR BYRON:** Okay. Thank you very much, Jack. Is there anything else that you wanted to say to wrap up?

**PROF SINDEN:** No, that's fine, thank you.

**DR BYRON:** Mr Mayor, would you like to come and answer that question we had before about rates or would you rather stay out of it?

**MR BROOKS:** I thought you might have needed it then. I think everyone knows there's a rating system in New South Wales and I think that explains it.

**DR BYRON:** Thank you very much. I propose we break for 15, 20 minutes for a cup of tea. Thank you very much, ladies and gentlemen.

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**DR BYRON:** Thank you, ladies and gentlemen, we'll resume. We've got Mr Rod Young. Thanks for coming, Mr Young. If you could just introduce yourself for the transcript and, you know, we've got your submission. We've read it and do you want to just sort of give us the main points, then we can talk about it a bit.

**MR YOUNG:** Right.

**DR BYRON:** Thanks.

**MR YOUNG:** I've just written here, "I realise I have not the high profile of the previous speaker but I can add practical comments to his submission without actual figures, but with on-ground experience." I'm a mixed farmer from the Coonabarabran district and I'm on the Narcoona Regional Vegetation Committee which covers the Coolac, Coonabarabran and Narrabri shires and as a result of that, I have also become heavily involved in what's known as the brigalow belt south bioregion debate and from that situation I have become involved looking at the entire situation, I suppose to a great extent, across a fair area of the state in a holistic point of view.

To summarise on my submission I consider that the current disincentives in my submission were the Native Vegetation Conservation Act, the Threatened Species Act, the RACAC Process and the Wilderness Act. Now, to summarise on the Native Vegetation Conservation Act, due to the current drought conditions many mixed farming producers have had to drastically reduce breeding-stock numbers. These operators will have no option but to sow wheat fence to fence when the drought breaks. This is when the flaws of property plans and inflexible crop pasture rotations will show up. As I mention in my submission, I concentrate on those four current disincentives. To further summarise, you must realise there is often a submission overlap between some, if not all, of them.

This combination has become more apparent to me due to a large amount of travelling and investigation I have done as a result of being involved in the RACAC Process. A glaring example of this has become more apparent to me even since writing my submission. The property I mention in this case is in the Carr Springs area on the Liverpool Range west of Scone and it's interesting that I notice Prof Sinden's comments on the same area. This property is freehold tenure consisting of similar areas of land on both easterly and western aspects of the range with a small area of occupational permit lease running along the summit, dividing the two areas of freehold.

This OP lease was relinquished for national park in the lower north-east RFA. This access across the range on the OP lease is about 32 metres wide, where this grazier drives his stock backwards and forwards, and it consists of approximately about 70 per cent flat rock. This property has been in the one family for five

generations and was selected in 1864. History shows that in 1824 the explorer Cunningham used the same access to cross the Liverpool Range and the same thoroughfare has been used since on a regular basis for the movement of stock with no visible sign of erosion.

After much debate with NPWS the current property owner has been allowed access to cross the OP lease under special conditions. Without this access he would have a 180-kilometre round trip on unsealed, rough, gravel roads to his western boundary. The special condition is that permission of access will not be transferred to any other party or person. This means that that grazing enterprise in its present state becomes non-viable when transferred to family or sold because the property will be split for the devaluation of the land. NPWS has recently enforced legislative restrictions on long recognised land management techniques on neighbouring properties in the areas. The poatussock, a native grass in the region, is often burnt in the early autumn, allowing winter clover and herbage to come away.

The sheep camps on the range country are often infested with Bathurst burr. A highly skilled helicopter contractor boom-sprays the areas of burr with a reasonably soft chemical, MCPA. Due to the manoeuvrability of a helicopter the surrounding timber is not affected. These two practices, that is, strategic areas of burning and spraying, are essential for the long-term viability in this fine wool growing area. NPWS has banned these practices on the protected land, that is, land 18 degrees or steeper. Now, I consider that a combination of the NVC Act, because they would consider it's clearing, and the Threatened Species Act.

I have similar repetition of restrictions in coastal and eastern fall country where graziers often burn blady grass to create green feed and a grazier at Kyogle has recently brought that to my attention. It seems most unreasonable that NPWS can play environment policeman on private land, particularly where long-proven viable sustainable land management practices are being questioned.

A case of - I'd almost call it absurdity with the threatened species legislation is the application of a 10-kilometre buffer zone around nests of the superb parrot in the red gum forests of the Riverina. A 10-kilometre buffer will contain approximately 78,000 acres, possibly a lot of it private farming and grazing land adjoining the forest. Surely a 50-metre buffer zone from logging would be more practical to protect the nest with the products of viable farming and grazing land producing a healthy habitat for the bird species to feed on.

During the RACAC Process in the brigalow bioregion RACD of Planning New South Wales in cooperation with NPWS produced an article labelled a Summary of Scoping of Wilderness Values. It is an obvious attempt by bureaucracy to influence further legislative amendment to the Wilderness Act to make it even more discriminating on private land. Under the current legislation the minimum area

allowed to be nominated is 8000 hectares with a minimum janus criteria of 12. This article suggests the area to be reduced to 1000 hectares with a minimum janus criteria of 10. That would put the average-size property within reach of a wilderness nomination.

I mentioned HCV in my submission and I have here a map showing the high conservation value moratorium forest areas in the brigalow belt and if you want a further explanation of that I can give it to you, and I also have a copy of both the scoping of wilderness and the map that the commission can have. This moratorium has created a situation of areas of forest being unsustainably logged and at the same time the viability of the timber industry being put at risk. This is a combination of the Threatened Species Act and the RACAC Process. To me, it is obvious the greens cannot define high conservation value. It is merely a fictitious state of mind or opinion and it is being used bureaucratically and politically as a means of gaining what they could not gain through the RACAC Public Consultation Process.

In that process they came up against a group of local stakeholders who researched their facts and told the truth and as a result, the credibility of the greens was blown away. I mention these examples to reinforce the fact that if one piece of environmental legislation doesn't tie you in knots, another one will. I realise I have been very critical of the legislation and NPWS land management policy. I accept we need it in some form, but it must be practical and non-discriminatory. I consider it needs to be explained to this inquiry that there are many hundreds of cases of victimisation and discrimination out there that you will never be made aware of, for several reasons. One is that lot of these rural people are conservative by nature and are not used to putting pen to paper to defend their rights. They are often bewildered and confused by what is being forced upon them.

Others, I am certain, would be concerned that upon their submission being made public a certain type of person would take the time to identify and further antagonise their situation. I consider under the current circumstances we must be forward thinking and realise that our land, whether public or private, must be actively managed. I realise I am speaking from an economic, productive and self-help background but I consider I am a true believer in the triple bottom line, that is, economic, social and environmental. Now, I would like to just add to Prof Sinden's submission.

There's one farmer I contacted. I contacted, I think, about 38 individual people that I've met through my association with the regional veg committee and the RACAC Process, and hoping that some of them would put in a submission and this particular person from around the Pilliga area put in a submission on the fact of the problem of regrowth pine and the regrowth cypress pine in a significant area of our regional vegetation committee area is a major regrowth problem. What he did not put in his submission was that they bought a property next door, just right prior to

SEPP 46 and of course SEPP 46 came along and it was a virtually undeveloped area. It had a small house on it that the young son got married and moved into, and they could not develop the land. It was covered with a lot of regrowth cypress pine. Eventually the son, wife and family have had to leave the farm and move to a regional centre to seek employment.

Now, I know the son did not want to leave the farm, but the situation was made unviable for both father and son to stay on the property, and that's just one case of victimisation. During the RACAC Process I had experience around the Kaputar National Park where a wilderness nomination was placed on the park and on freehold land adjoining the national park, and the problem with the Wilderness Act as it stands is that an area is nominated. It is then assessed. If an area is identified as the potential for wilderness it is only then that the owner of the land has the right to say no and it will not go through to declaration. However, the blot of nomination remains on that land and as a result this process has lowered the value of those properties.

It is now generally accepted in that area and in a lot of areas throughout the brigalow region that properties adjoining or in the near vicinity of a national park have lost value due to the combination of the acts, not only the Wilderness Act but the Native Vegetation Conservation Act, The Threatened Species Act and the RACAC Process. I'd just like to comment on one figure and that is the actual clearing area and this has been made public from the implementation group. We realise there has been very little made public at this stage. But the actual clearing area is 19 per cent of what the conservationists are pushing in New South Wales and this 19 per cent incorporates what is also being cleared for housing and industrial use. So in actual fact the area that is still being cleared for farming and grazing is a very small area of what certain conservationists put up that we are actually clearing.

I notice that one thing that was brought up was the point of scattered paddock trees and their value, et cetera, and the location and the nature of the native vegetation. In our regional vegetation committee I have pushed the point that where regrowth is to be cleared, particularly around the Pilliga area - there's huge areas of regrowth cypress pine and other eucalypts. These areas, I suppose it would have probably been from the early 70s onwards that, with the rise in the costs of production it was no longer feasible, viable, for them to continue to grow wheat. So they let the country go back to native vegetation and ran stock, and as a result the regrowth has come up and they are now caught in a situation with the legislation that if they can't get in quickly and start removing this regrowth, well, they'll lose the productive nature of their land.

Now, I have pushed the point in our regional vegetation committee that there is an advantage in leaving, say, 10 per cent of regrowth in a paddock in clumps or in a corridor somewhere advantageous from the point of view of a wind break, et cetera,

and removing the scattered regrowth in the rest of the paddock. This would increase the efficiency of farming practices and it would remove or at least decrease the likelihood of reseedling of regrowth.

The problem with scattered paddock trees, particularly pine and some of the more prolific eucalypts that grow on some of that lighter country, is that if you're going to have a continual reseedling effect from scattered paddock trees you are not going to gain the proper effect and efficiency that you should gain, whereas the conservationists want us to DBH, that is, diameter at breast height, which means that you could have scattered paddock trees left across the area. It's not practical and it's not efficient, and I would consider that from a conservationist point of view we would be better with clumps or corridors which are going to support birdlife and other small areas, to give them much better shelter.

On the questions on land value and productivity and native vegetation, I feel we have to incorporate the influence of the other acts besides the Native Vegetation Conservation Act. There's no doubt in my mind the developed property has increased in value while the partly undeveloped property value has either stayed stable or possibly stagnated.

The other point I'd like to make comparing the Walgett shire with the Moree shire: from my observations you need to realise that it's probably not only the Walgett shire; it would also be other shires on the western edge of the wheat belt - they are very much in a development stage and they've been caught by this environmental legislation. We've had the development of minimum tillage and such things as the western farming systems, where you've got a wheat-chickpea rotation, which is a rather robust rotation; there's now some of the more progressive farmers out that way experimenting with dryland lucerne; and we've had better wheat varieties developed that are designed for prime hard production in the lower rainfall country. This has turned an area like the Walgett shire from a predominantly woolgrowing area into a reasonably efficient prime hard wheat producing area. I consider it would probably be a reasonably similar story along the western edge of the wheat belt.

However, it is a different story say in the more eastern areas, particularly in some of the ironbark and bloodwood scrub areas, where it's probably no longer viable for large, significant areas to be cleared due to the high cost of development. So you've got a movement of development to the western edge of the wheat belt and I think we're not going to have huge amounts of significant clearing in the more eastern areas. It's more a problem of clearing regrowth, and we've got now a system of very good pasture improvement with acidic-tolerant pasture varieties such as serradella and consul lovegrass, et cetera and top-dressing, which make those regrowth areas efficient and viable for pasture production, which go back even 10, 15 years ago. It was very much still being experimented with. That's basically my

comments.

**DR BYRON:** Terrific, thank you very much. You've answered a lot of the questions that I was going to ask you anyway. Warren, do you want to start?

**PROF MUSGRAVE:** First of all could we talk about your particular situation, which actually relates to wider issues you've raised. I gather that that native pasture phase in your rotation exists because the native pasture will regenerate in former cultivated ground.

**MR YOUNG:** Yes. What you must also realise is that the Hunter River variety of lucerne went out back in the early 80s with the introduction of the aphids, and since then we've gone to the American-type lucerne varieties, which haven't got the persistence that the old Hunter River variety had. As a result, most of the lucerne varieties, in our area anyway, start to diminish after about year 6 and the native grasses such as redgrass and corkscrew and various other species very quickly come back into our lucerne pastures. I'm sure there's a certain amount of seed bank there, but in my country it's all undulating and I wouldn't know but I'd have, God knows, miles and miles of contour banks, and every contour bank will have grass on it and every fence line, and very quickly the native grass moves back in. So by year 10 you've generally got maybe some lucerne, with a top-dressing program you'll have some introduced subclover, and you'll have a good balance of legume and grass.

My point is that as the markets change and, I've got to say, the age of the operator, I may find - at this stage I've got all my country under a 10-year rotation, but as I get older I may want to slow down a bit and I may prefer to, say, run more cows and more ewes and reduce the cropping. It means that a lot of my country will get well and truly over the 10 years.

**PROF MUSGRAVE:** The point being that that native grass association that we're talking about is protected?

**MR YOUNG:** You would get to a stage where you would have threatened species in there and, technically, once you get over the 10 years at the present moment, you should legally go to consent. The problem could be, say, if giant redgrass shows up - giant redgrass is growing along virtually all our shire roads on any of the red soil country, so if you got somebody in from say DSNR to inspect it, they probably would find say giant redgrass or maybe Queensland bluegrass, maybe some of the wallaby grasses, and this could cause you problems. So despite the fact that we don't mind the native grasses, particularly for cattle production, we've got to be careful that we don't tie ourselves up.

I feel that if that law could be made more flexible, there would be a lot of people that would be prepared to leave that grass there for a longer period of time,

and particularly on the sloping country I just wonder what the long-term effect is going to be. Maybe with minimum tillage we will get away with it, but I know in years gone by we often used to leave a grass paddock out for much longer and that returned a certain amount of humus and structure to the soil, and therefore we were less prone to erosion when we went back into a farming phase.

**PROF MUSGRAVE:** So what you're suggesting is that it's a shame that the regulatory process hasn't got scope for the exploration of negotiated solutions whereby the landowners undertake to contribute to the protection of the threatened species in exchange for them having greater flexibility in their cropping rotation activities?

**MR YOUNG:** I've got to be careful what I say here, because I'd like to be able to see us leave say a paddock out to grass for 30 years, if somebody wanted to. But if he then retires and sells it to someone else, say a younger fellow that wants to go back into cropping, by the same token that young fellow should have the opportunity to go back in and grow a few wheat crops on that paddock if he wants to, and then return it back to dryland lucerne. You need that flexibility.

**PROF MUSGRAVE:** Okay. Thanks very much on that. **RACAC:** I think RACAC is not terribly familiar to us. I have run up against it in the past. What is it? It's the Resource and Conservation Assessment Committee, is it?

**MR YOUNG:** The Resource and Conservation Assessment Council.

**PROF MUSGRAVE:** Or advisory committee, is it?

**MR YOUNG:** No, Resource and Conservation Assessment Council is what RACAC stands for. The process is actually run by the resource and conservation division of Planning New South Wales. It's a very complicated process. If I could just read a little bit in my submission about it. This is a process which I believe was supposed to deliver a balance between conservation, production and enhancement in the long-term sustainable use of our natural resources. Instead it is quickly destroying our timber industry. It is endangering a significant proportion of our grazing enterprises by deleting grazing in former forest areas now rebadged as national park. It is promoting the destructive spread of wild dogs which destroy both native and domestic animal species, and there's no doubt the RACAC process has contributed to the increase in wildfire in recent years. The huge increase in national park area due to the RACAC process at the expense of forest land has led to a massive build-up in fuel load on public land.

On the north coast the RACAC process did not contain a huge amount of public consultation, and when they came out to the brigalow region, for some reason or other they decided to experiment with a more intense public consultation process.



The long and the short of it was I realised what the push of it was through the regional vegetation committee because I saw the mapping coming through, and when we put our regional vegetation committee together we purposely wanted to put in the Narrabri area and the Coonabarabran shire area, the Pilliga, to put it all in under the one regional vegetation committee control and, unbeknownst to us at the time, we'd fenced in a major proportion of the south brigalow bioregion. It's an area that runs from the Queensland border as far south as Merriwa and west of Dubbo. It takes in big forests, significant areas like the Goonoo and the Pilliga, and a number of island forests all the way up to the Queensland border.

In my opinion, to be very negative, I suppose, it was virtually a process that was allowing the greens to come in and take state forest area and rebadge it as national park. I got involved in it for two reasons. I could see the timber industry was going to be under great pressure. We've got small timber towns. We have mills at Bingera, Gwabegar, two at Baradine, one at Gunnedah, one at Gulargambone and one at Dubbo, significant operations employing 20 or more people, and small timber towns like Baradine, Gwabegar and Gulargambone stand a good chance of virtually being wiped out. In Baradine, for example, 47 of the people in the town exist on the timber industry, and if the timber industry closes those small towns are just going to fold up. So it will have not only economic effects but very social effects.

But also what you've got to remember is that around all of these little forests, as well as areas like the Pilliga and the Goonoo, there are hundreds of farms, and we know over the last two summers what happened at Kosciusko, what happened at Goobang, what's happened on the northern tablelands and the north and south coast. A lot of farms have been burnt out and there's been huge loss of infrastructure, and it was obvious to me that there is as many landowner people going to be affected by the RACAC process as there are people in the timber industry in the brigalow. So we got stuck into it and we ended up with 24 stakeholders on a public consultation process. I think there were about eight or nine two-day workshops and we ended up doing 13 days of negotiations in Dubbo.

24 stakeholders came together in what was called the Bruce option. The only stakeholders who would not go with the Bruce option were the greens, and when the results of the 13 days of negotiations went to RACAC, that's the Resource and Conservation Assessment Council, that's the mob that makes recommendations to state government, they could not gain consensus - and I hate the word consensus - but they could not gain consensus because the two conservationist reps on Resource and Conservation Assessment Council voted against her, even all the, let's say, politically-appointed director-generals voted for the Bruce option.

Now we have a situation where the state government will eventually make the decision and no doubt that will be a political decision, not an environmental one and I fear that as a result the timber industry will probably - it will be probably death by

slow strangulation; the land owners will suffer a major decline in land value, anybody that's near a forest, and there will be a significant decrease in environmental out of it, because a lot of us have seen what happened in Kosciusko and particularly these forests throughout the fire region, if they're not accurately managed and thinned and logged and looked after and the bushfire kept down, with controlled burning and grazing, et cetera, well, eventually we're going to have wildfires and a lot of the koala population, et cetera, will be, you know, destroyed. So I really think it's an adverse environmental process and certainly from a social and economic point of view as well.

**PROF MUSGRAVE:** Yes, and also we can observe that we've got these three silos of decision-making and presence or absence of planning and we've got the Vegetation Act, administered by DLWC; you've got Threatened Species, administered by National Parks and you've got RACAC administered by Planning and - do they talk to each other?

**MR YOUNG:** Well, I've seen cases of some of the government servants in Dubbo, they live in the room next door and they don't talk to each other, so - what you've got to understand is that in my opinion - and I suppose this is a bit cynical on my part, but seeing I've got the opportunity I'll put it - in - particularly in the bureaucracy in these various departments, you will find that at the local level and at the regional level there are - you could almost call them, I suppose, little Hitlers - who I'm quite sure make decisions which the minister either doesn't know about or turns a blind eye to and so you've got situations in various areas - and that Liverpool Range area is a good example of it - where I'm quite sure, as I say, the minister is either turning a blind eye or he doesn't know about it and NPWS are enforcing influence, because they've got a national park in the area they are enforcing influence on the private property around it and I just feel that that's not the way it should be done.

**PROF MUSGRAVE:** Okay. Thanks very much.

**DR FISHER:** Apart from these problems with the personalities of some local bureaucrats that you've just mentioned, do you have any other views about why, faced with very strong evidence, that some of the current activities leading to potentially bad environmental outcomes that you see a persistence in this approach. I mean, what is it that stops some sort of reform, do you think?

**MR YOUNG:** Well, in my opinion, the decisions are more political than they are practical environmental, in that what you've got to understand is, look, like say for in our bio-region, we had - when I say a handful, I could probably name six or seven - actual active conservationist people who were opposing us in the debate in the workshops. Now, those five or six people, if they had been on their own, they would not have had a chance of influencing what's going to end up happening in this area, but the whole thing is they have contact with city-based organisations, such as

National Parks Association, Total Environment Centre, need I go on, there's heaps of them, and it is the pressure from those city-dominated, city-centralised organisations which affect the politics in high places, which will make the decision here. We attempted - our stakeholders attempted to put up the story; we researched our facts, we told the truth and we won the battle on the ground here, but it's pretty obvious to me that we're not going to win the war in Macquarie Street - - -

**DR FISHER:** Okay, so - - -

**MR YOUNG:** - - - and I think that - does that answer your question?

**DR FISHER:** Yes. So your proposition basically is that the notion that the Pilliga scrub might burn to a crisp, and everything in it will be burnt to the ground, basically - - -

**MR YOUNG:** Yep.

**PROF MUSGRAVE:** - - - that information is just not getting back to the key decision-makers in Macquarie Street. Is that the - - -

**MR YOUNG:** Well, I would think that after the mess in the Kosciusko National Park and what happened in Canberra, that the message does get back, but you've got the politics that come into it. It's - they seem to think that it is still environmentally correct to lock up areas, whereas the argument I'm putting is that those areas, all right, they may need to be national park, but they should probably be - and I think eventually this is what will happen in the future - we will have multi-use parks in that those areas will probably have to be strategically grazed, at times, to reduce the fire hazard; the feral animals will probably need to be commercially removed and God knows however you will do it with the liberation groups, but kangaroos, for example, should be culled so that the native animals can run in the right stock-carrying capacity on the native vegetation that's there and then, in my opinion, you would have a national park that would be environmentally sustainable.

Whereas at the present moment, say from a grazier's point of view, the worst neighbour you could have would be somebody who allowed their stock numbers to build up to such a stage that their property wouldn't carry them and when they got to that stage they either let them die or they cut a hole in the fence into the neighbour and let them go everywhere. That would be entirely unacceptable in a private land situation, but that is exactly what's happening with our national parks. As well as that, you've got the problem of bush fires, weeds and feral animals, which are not being addressed because they've got such a huge area and I'd hate to see them get more funding, but God knows how much funding they would require to run the areas that they've got. So the whole thing is unsustainable. I realise we need to conserve our species, our native vegetation, et cetera, but it's an argument of lock-up versus

active management and at the present moment the politics are more in favour of lock-up.

**PROF MUSGRAVE:** Right. So your conclusion is that New South Wales national parks have approached, or are now, unsustainable.

**MR YOUNG:** Yes, I'd agree with that, yes.

**PROF MUSGRAVE:** The last question I wanted to ask was that you seem to be implying in your earlier comments that as technology changes over time, you have some areas that are effectively becoming not so attractive for agriculture and other areas becoming more attractive, so the tablelands areas or the slopes areas are potentially less attractive now than some of the western fringes of the wheat belt, say compared with 30 years ago. Is that the point you were making?

**MR YOUNG:** Probably what I'm saying, or what I mean to say, is that an area where we used to grow a lot of wheat back in the 60s and early 70s has got to the stage that it's still viable, but I can make a much more reliable living from beef production and wool and prime lamb production. Therefore I've gone to a multi-purpose type of cropping in that my emphasis is on producing green winter feed and producing pasture and the large-scale wheat production, due to the cost of production, has moved, as they say, west of the Newell and you've got areas like Walgett which can produce a tonne of wheat, probably a mile more efficiently than what I could in my area and most years it will be prime hard wheat, whereas I will only produce probably ASW or APW and the areas that I'm talking about with the regrowth on, as I said, they went through a period in say the 50s and 60s where they could say if they grew a six or seven bag crop they were still viable, but by about the end of the 70s they had become unviable. So they said, "Well, we've got to leave the tractor in the shed and we'll run more ewes or more cows," and of course the regrowth came up and they attempted to keep on top of it, but they'd have to go back and farm it. Then the legislation came in and they've been caught in that situation.

It also amounts to this, that those properties probably have to amalgamate, to a certain extent, to get a viable area. That seems to be the way a property has to, in my area, I consider a family farm, one person's income, would probably need to be a couple of thousand acres at least. Now, a lot of the younger chaps in my area probably haven't quite got that and that's why the wife has a job in town. The wife puts the tucker on the table and the husband, he pays the debt off the property and hopefully, at a later stage, he'll buy a next door neighbour or something and they'll gradually get themselves a bigger area. So you have this situation where the product of the property has changed and there's more emphasis on grazing in those eastern areas and the grain production has moved west. I hope that answers your question.

**PROF MUSGRAVE:** Yes. So your key proposition basically is that you need

flexibility in the legislative base in the face of technical and other economic change.

**MR YOUNG:** Yes, most definitely, as I said, I mentioned several issues such as the Australian dollar, export markets, the weather, cost of production and foreign farm subsidies, all demand a certain amount of flexibility. For example, say if South America overcomes their foot and mouth disease in the next 10 years, we might find that our cows aren't going to any near productive enough and some of us blokes east of the Newell might have to go back to growing a fair bit of grain, well, we need that flexibility. But at the same time - I don't know how you work it out - but at the same time I realise we don't want to wipe out our native grass species either.

**DR FISHER:** Okay. Thank you.

**DR BYRON:** Thank you very much for coming, Mr Young. It's been really helpful and for putting all your experience down on paper.

**MR YOUNG:** May I leave a copy of that map and - - -

**DR BYRON:** Yes, I would love that. Thank you very much. Your opening comment about a lot of people who weren't quite game to stick their heads up in case they drew attention to themselves, yes, we're aware of that.

**MR YOUNG:** All right, thank you.

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**DR BYRON:** Next, Mr Bryan Pape from UNE who is going to explain the legal situation to us. If you could just introduce yourself for the transcript and perhaps summarise the submission which we've all read a few times.

**MR PAPE:** Thank you. My name is Bryan Pape; I'm a senior lecturer in law in the University of New England and have been there since August 2000. Before that I was a barrister practising at the New South Wales bar, for the best part of 20-odd years. Of course at that time I was a member of the Commonwealth Taxation Board of Review and a member of the Australian Accounting Standards Board. My interest in this exercise arose because of my colleague, Prof Jack Sinden, wrote a paper where he made some observations that in the Moree Plains shire, as a result of the economic effect of the native vegetation legislation, values would come down by 21 per cent, farm incomes by 10 per cent and by 2005 he estimated that farm incomes will be down by 18 per cent and what triggered that proposition was, did any of the farmers have a case and what really interested me was, an adage - just listening to what Mr Young said - Sir Garfield Barwick used to say, "Everybody has got a case; the real issue is, is it a winning case," and that was what prompted me to investigate this exercise, and of course there are Commonwealth legislations. You can't take property away without compensation under the constitution, and that also applies in New South Wales in relation to land, but what about when a statute impacts upon the productive capacity of land? I started to think about that, and rather pejoratively, a thing came across my mind, a phrase called "nationalisation of Australian farming land" and I said, "Good heavens, what an extraordinary proposition," and that caused me to go back to the Bank Nationalisation case, and when one looked at that, the Commonwealth in that case attempted to gain control of the banks by a very indirect line, by in fact passing legislation which allowed the Commonwealth to appoint directors to the banks, and there was a proposition there, you can't do something in an indirect way, it's as good as doing it directly, and the High Court took that view and that really triggered it off to say, "Well, there might be something in this."

So far as I'm aware, there's been no case that's ever been run in Australia which has gained compensation as a result of this, but what really did interest me was in Canada there was a case called Manitoba Fisheries, and in Manitoba Fisheries, the government passed legislation which it virtually put the company out of business, and the way the company got compensation was an argument about good will, and it seemed to me that had never been characterised before in Australia that in fact if you expropriate property or take it away, you're in fact destroying the goodwill of an economic entity. Now, farms - I don't think many people look at farms and say whether they do have goodwill but I'm sure that they do if somebody did the calculations, and that may well be an issue that could be won, as it were. The trouble with all of this sort of thing of saying, "Well, does a farmer have a right to compensation," you need a great deal of money to run litigation, and most likely, as in a lot of tax cases, at first instance you may well be unsuccessful. It's not much

good saying to a litigant, "Well, ultimately the High Court will decide in your favour." You spend a lot of money to get to the High Court and you may not - you might get a four-three decision in the High Court against you and you've spent a lot of money, you've still got an enormous costs order, so that would be a deterrent for anybody embarking upon litigation. As I mentioned before, even just the straight costs, not only that, it's just the opportunity cost of even being involved in running litigation.

So that's part of the issue that's before us, and I noticed Mr Young made some observations about buffers in relation to I think threatened species, and there is in the paper there was a passage from the Tasmanian Dams case which Mr Justice Deane made some observations about and perhaps I might just refer it to you because it struck me as fairly significant. He said:

Thus if parliament were to make a law prohibiting any presence upon land within a radius of one kilometre of any point on the boundary of a particular defence establishment and thereby obtain the benefit of a buffer zone, there would, in my view, be an effective confiscation or acquisition of the benefit of use of the land in its unoccupied state, notwithstanding that neither the owner nor the Commonwealth possessed any right to go upon or actively use the land affected.

Now, I thought if Deane J was saying that 20 years ago in the Tasmanian Dams case, it would be an interesting proposition to ventilate that before the High Court to see what sort of reaction you'd get. So there may or may not be a case there, but the real issue in this whole exercise is why should somebody be burdened, a private person burdened with what I might call public benefits, and that's the whole issue, and the paper talks about what's happened in America in the takings legislation. Perhaps that's where I really come to is why is it in Australia that we have not had any such legislation, or even a discussion of it, where in America it's probably been rife for the best part of 20 years where each state, many states have in fact legislated to bring on this takings legislation. Some of it is what they call "bright line legislation" where they say, "If in fact your land declines by 25 per cent, you're entitled to compensation.

Now, there's a statute in Texas which actually does say that, but the most remarkable thing about the Texas statute is it gives the opportunity for the Texas Government to say, "We will withdraw the rule so we don't have to pay compensation." So that seemed to be an interesting situation that would be worthwhile looking at here in Australia. On the other hand of that exercise is before you even get to the issue of compensation is where is the taking impact assessment been made, and that seems to be quite deficient at the present time. At the end of the day, litigation is not a satisfactory way to administer anything. It's just the last resort, so it may well be that the framing of any of these sorts of statutes really does require

a taking impact assessment to be made, and that seems to be, in my submission, a logical thing to do, because what governments are seeking to do is to change behaviour, and that ought to be a way of getting acceptability.

At the end of the day, the statute isn't trying to - you're trying to change behaviour, and I'd suggest most - it's good business to be conservative in terms of the management of natural resources, and if a taking impact assessment provision was provided in some of these statutes, and there's a plethora of them in this country at the present time - I mean, to download off the Internet the Water Management Act, the Native Vegetation Act and the Threatened Species Act, you can fill up three binders just for one state, and you can do the same in Queensland, and then you go down and look at the Commonwealth of course is now in the field, and that leads to another issue, of course. But we've got everybody in the natural resource management field and that's making it difficult.

But to come back to the point, I think that's probably the most important thing that needs to be done. Some of these - my reading of some of the literature, some of the acts in America probably haven't worked very well. Some of the commentators seem to say, "Well, governments like to restrict your right of access to compensation." They'll say, "Well, you've only got six months to make a claim," or "there are heavy restrictions on it." I think one Texas commentator makes the observation, "Well, it might have got a few politicians re-elected and it was very popular, but it hasn't done any good," and that's really the issue that's before us. So that's briefly, I suppose, the summary that I would come to. I think there ought to be some form of statute, particularly dealing with an assessment procedure, and also a provision there for compensation. You can go "the bright line" method or the way they went in Florida where they say whether the land is inordinately burdened. That could be a way of doing it, but I think if you want acceptability rather than this, dare I say, command and control, you know, "This is the way it's going to be and you've just got to accept it," and I think there'd be a lot more recognition if people are aware of what the costs are. Of course if the politicians are properly briefed before they put the legislation in, they may not put it in in such a draconian form. Those are my submissions.

**DR BYRON:** I read a fair bit of the US literature on regulatory takings, but I'd also been advised that because of constitutional differences that we can't just sort of copy too much from the American observation. In your paper you made a few comparisons between sort of the British Commonwealth legal tradition - - -

**MR PAPE:** Yes.

**DR BYRON:** And the US one, and those differences are significant, aren't they?

**MR PAPE:** Yes, well, of course you've got a statute in America which actually



provides for compensation, but of course where did that statute come from? The fifth amendment, as it were, in the United States, it didn't come out of the thin air. They didn't just dream about it. It is in fact a derivation of Magna Carta which is in fact the basis of our system, so all they've done in another way is codify Magna Carta.

**DR BYRON:** But in Australia we haven't actually codified it that way. I mean, there are people giving us all sorts of contradictory advice and so on, but the message that I get out of yours is that it's actually extremely contentious, and as you say, you could go all the way to the High Court and, you know, it might be four-three or it might be three-four and it would cost a hell of a lot of time and money to actually find that out. Now, given that there's that much room for debate, I'm wondering about an alternative proposition along the lines of even if it was accepted that states have the power to expropriate without compensation, and we don't think they should, but even if we accept that, it would be wise of them not to exercise that power because it gets everybody offside, it leads to, you know, it's dysfunctional, it's unhelpful, it alienates the people who ultimately are the ones on the ground who will be making the decisions.

**MR PAPE:** Yes.

**DR BYRON:** Is that consistent with - - -

**MR PAPE:** Indeed. I think litigation would be the last resort. I mean, that's a one-off case-by-case situation, and if you want to remove or eradicate salinity or clean that up and you want good native vegetation, you're trying to get a management practice in of good management and natural resources. Unless you do that, that's a changing of behaviour approach. Litigation will never do that.

**DR BYRON:** No.

**MR PAPE:** That's only giving a specific result, citizen versus the state on a one-off basis. The only thing it might do is that by running what is sometimes called a test case, it may prompt government to say, "We have a problem. We need to fix this because the courts have decided that there is a right of compensation," and I think the position in Queensland, for example, numbers have been thrown around which are fairly significant. You may well then start to say, "Well, perhaps we ought to frame our legislation in a certain way that may assist us to avoid that claim for compensation."

**DR BYRON:** Some people have said to us that the way the native vegetation controls works is that it's actually worse than resumption because the crown doesn't actually take the title. They leave you with that and they leave you with the responsibility to pay the rates and the fire protection and the ferals and the weeds and

everything else.

**MR PAPE:** Precisely.

**DR BYRON:** It would actually be less painful if they took the whole bloody lot.

**MR PAPE:** Yes, I couldn't argue with that.

**DR BYRON:** Now, I guess what we're fishing around is the general presumption at law that - and I think the phrases appeared in a few places in your submission that, well, it was the Penn Central Transport v New York City case that:

This court quite simply has been unable to develop any set formula for determining when justice and fairness require that the economic injuries caused by the public action be compensated by the government rather than remain disproportionately concentrated on a few persons.

It seems to me that captures the thing. We're saying that if it's of interest to the whole Australian public to have better resource management, biodiversity, watershed, soil, salinity, et cetera, it doesn't seem fair or just that the entire cost of paying for that should not only fall on rural landowners but a particular sub-group of rural land-holders being those who happen to have the most native vege. So that there is an inequity that arises, not only between land-holders and the rest of the Australian public, but even within the land-holder group, the neighbour who got every tree off his property 20 years ago and received a tax concession and whatever else to do it is home and hosed now, whereas the one who has actually been trying to, or through force of circumstance has retained a lot of vegetation, seems to disproportionately bear what can be almost catastrophic losses. I mean, we've met people who, you know, half their property has gone from being worth \$150 an acre to \$5 an acre.

**MR PAPE:** Yes.

**DR BYRON:** Enough to technically make them bankrupt. To me that's a catastrophic imposition on a very small percentage of the Australian public, allegedly for the greater benefit of all of us. Does that seem to fit into the cases you're talking about?

**MR PAPE:** Indeed. That is in fact the American fifth amendment. I think there's a passage there. O'Connor J said:

We have recognised that this constitutional guarantee is "designed to bar government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a

whole.

That's at page 23 and that's the passage I think you were referring to.

**DR BYRON:** Yes.

**MR PAPE:** I agree entirely that - - -

**DR BYRON:** The contrary proposition - there was a statement I think from the Western Australian minister for agriculture last Friday week when he said, "Yes our native veg controls are in a bit of a mess and it seems to be denying some people natural justice, blah, blah, blah, but can somebody at least give me an argument why the taxpayers at large should pay farmers for not damaging the environment?" That seems to be a completely reverse way of posing the question. Could you suggest a way of answer that question or a different way of responding that would help get that agriculture minister out of his difficulty?

**MR PAPE:** Our society is based on having rights which attach to property. Generally speaking you're allowed to do what you will with that property, indefeasibility of title. There are rules which can affect it such as certain zoning rules, and there's a fine line. It's a question of judgment there. The last thing any government wants to do is to be going the European Union way of paying people not to produce, and that would be a disastrous situation to have in this country: "Please don't farm. We will pay you X amount of dollars not to farm." That would be an extraordinary proposition, I would think, and that would probably be completely unacceptable too.

At the end of the day it's really about encouraging people to run their, dare I say it, businesses. It's in the farming community's interests to have regard to the management of their properties long term. If in fact you want to sell your property, you want to leave it in a condition where you'll get a good price for it. There's certainly not a legal answer to this problem. It's a management problem. The problem with society today is any time there's a problem it seems the first answer must be a legal one, and generally it isn't. That's coming from a lawyer.

**DR BYRON:** It's better coming from you than from me. I'd like to hear a bit more about the sort of alternative dispute resolution process that you talked about on page 30 of your submission, especially if there's a way of keeping this out of the courts because, as you say, once it gets into the courts, who knows where it's going to end up and it's going to cost money.

**MR PAPE:** The only beneficiaries of that are myself and my colleagues and maybe the client if he or she is successful. In fact, I used to tell my clients Voltaire's quote, which I've put there, "I have been ruined twice by going to court. First, when I lost

and again when I won." I think litigation has a pretty perilous effort and it's a lot of money. There are means of doing it. Mediation is probably the best way of resolving these sorts of claims. Arbitration probably isn't because both sides are lined up and we can start throwing costs away.

I think mediation is probably the best way of doing it where there is a genuine dispute, and coming to some settlement, and you may well have to have some commission, compensation-type commission or mediation commission, to look after that, or maybe in New South Wales the Land and Environment Court. The courts in fact these days are conscious of alternative dispute resolution and there are provisions for a judge to say, "I think this ought to go to mediation," and say, "The parties are to at least try and mediate the problem," and then if that can't resolve itself it comes back. But it's certainly worth the effort. But at the end of the day I think it all comes down to education. I keep coming back to this dispute resolution. That's the last exercise.

**DR BYRON:** But does it also come back to the fact that governments all over Australia, including the national government, have seen regulation as a very quick, effective way of achieving the environmental outcomes that they want to achieve without having to make budgetary allocations for doing it? It's quite possible that they could have achieved perhaps amicable commercial negotiations that would have delivered the environmental outcomes but it would have required setting aside money and budgets. The argument that's been put to us is that this is sort of setting up additional conservation areas on freehold land but doing it on the cheap rather than the honest thing, which would be to sort of buy it and add it to a national park and put a park ranger in to manage it.

Is it also a question of educating governments that using the regulatory approach may seem to be inexpensive, but if it doesn't work or if it leads to lots of perverse outcomes, it's really not such a good bargain.

**MR PAPE:** I think that's right. I suppose it's just the nature of government. I mentioned that Texas statute. That came in because, as one commentator suggested, it got people re-elected. It's good politics to throw a statute - I mean, every problem we have, you throw a statute at it and you seem to be doing something about it. You don't worry about what the cost of it is but you're seen to be doing it and everybody - there's a bureaucracy working the statute. Maybe you should never have thrown the statute at it at all.

**DR BYRON:** That comes back to what we call the regulation impact statement, that before you draft a new piece of legislation there should be a very clear statement of, "What is the problem? Is there really a problem? Are we really sure that there really is a problem?" and then, "What are the different ways of doing it? Is legislation necessary or the best way? What are the other ways? How are we going

to chose?" But it seemed in the discussion this morning that we've got layer upon layer upon layer of legislation, often not fully aligned, dare I say it, sometimes inconsistent, and we just keep putting more layers of legislation on it without actually working out, "What is really the nub of the problem we're trying to solve and are there different ways of solving it?"

**MR PAPE:** Indeed. I agree entirely.

**DR BYRON:** I don't want to appear to be attacking the legal profession.

**MR PAPE:** No, it's not the legal - it's the legislature. If you'd go and look at the 1950 statutes of the Commonwealth of Australia, you'd see them in a little volume about that thick. If you go and look at the printed volumes today, you'll probably see that. Sure, the population of the country has doubled, but I can assure you that the volume of legislation has more than doubled. It's growing exponentially. Not only are you looking at the legislation; you're backing up with each piece of legislation an explanatory memorandum and a whole stack of regulations, and when you put the Commonwealth and the states in the same paddock it's pretty hard stuff. So your point, Mr Chairman, is well taken. What you've got jurisdiction over today is one thing, but just about every field of activity around the place at the present time suffers from the same disease. It's a world disease, may I suggest, that you keep throwing the statute book at every problem in society. It doesn't work. You're not going to change human behaviour in that way.

You then ask the legal profession to come along and administer this, and the legal profession is really only tooled up to do it on a case-by-case basis, if it ever gets to that.

**DR BYRON:** Gentlemen, who wants go first?

**PROF MUSGRAVE:** I don't know if I'll get to ask a question about it but I'd like to thank you very much for your submission and for your presentation, which greatly helped me understand your submission. The one thought that occurs is that, if government was faced with statute compensation based on, say, Texas, Florida, the bright line business and so on, it might adopt a sort of incremental approach to achieving the objectives that have been enshrined in legislation.

**MR PAPE:** I'm sure that any statute which exposes the government to paying out would have a salutary effect, coming back to the chairman's observation, as to whether we should go down this track because there's a financial penalty. To take the Texas example, they know there's a financial penalty down the line and they say, "We have the option, if you do make a claim, of in fact repealing or rescinding that statute." So it would certainly - - -

**DR BYRON:** Has anybody ever received payment under - - -

**MR PAPE:** Yes, I think people have received payment, but it hasn't been what I might call a queue of people seeking compensation. I think it's happened that in some situations there has been a withdrawal or indeed an amendment, which comes back to negotiation and rescission.

**DR BYRON:** As people have been saying at all these hearings, what we need is a bit of commonsense, and if you can get people out on the paddock and they say, "Well, normally we do A, B and C but in this place that wouldn't work, for the following reasons, but we propose to do X, Y and Z instead. Is that okay," you may actually be able to work it out, but we don't seem to have at the moment a mechanism for doing this at either a property level or a regional level or even at a state level, you can't say that whatever works in New South Wales would work equally well in the Northern Territory or Tasmania. So we need to have horses for courses basically.

**MR PAPE:** If I may say, listening to Mr Young in his presentation, he had a lot of detailed facts on particular situations. I would guess that a lot of those factual situations would be unaware there are a lot of bureaucrats in Macquarie Street or anywhere else, and it strikes me that you've got all these proposals under the Native Vegetation Management Act, all these regional plans, that it's a very localised situation. It's the old, old story of litigation: cases are won by facts, not by legal principles, and it seems to me that the facts are getting in the way of policies or views about how the world should be operating, and I think people have to come back and find out what the facts are before you go drafting legislation.

**PROF MUSGRAVE:** But we could aspire to mechanisms for getting those facts marshalled.

**MR PAPE:** Yes.

**DR BYRON:** Sorry, just one more thing, Bryan. Even if there was a question about whether or not governments have to pay, there's nothing that prevents them from making voluntary compensation payments if - - -

**MR PAPE:** Or ex gratia payments, yes.

**DR BYRON:** Ex gratia, yes.

**MR PAPE:** Yes. Not at all.

**DR FISHER:** Thank you. Now, I'm an economist, so all of this legal stuff is a bit confusing. I just want to see if I can take you through a set of propositions and test

whether I understand this or not, or you can educate me.

**MR PAPE:** Sure.

**DR FISHER:** Let's take a property out here at North Star. I presume that if the government decides to resume 25 per cent of the property for the purposes of roadworks or something - I imagine North Star must be a big road; let's imagine it's a big road but it's resumed. Under those circumstances the government has expropriated the property and compensation would be paid, yes or no?

**MR PAPE:** Yes. In New South Wales there's a Land Acquisition Just Terms Compensation Act and if it was a Commonwealth appropriation well you've got the constitution, paragraph 31.

**DR FISHER:** Yes. Okay, so some compensation will be paid.

**MR PAPE:** Land, per se, yes.

**DR FISHER:** If, however, a government comes along and decides, for some reason or another, under the Native Vegetation Conservation Act or some other thing, that the farmer is not to use 25 per cent of the property for his normal purposes, at law there's a real uncertainty about whether compensation would or would not be paid and this is your three-four, four-three situation.

**MR PAPE:** That's right, I mean, there would be one view which says you ought to have something specific. It would be interesting to test that proposition and bearing in mind I use the Bank Nationalisation case in some of our international agreements, where you might be - expropriation of property to talk about something it's tantamount to expropriation of property and quite - an example, the chairman said, "Well, we put these restrictions on you, but you've still got to pay the rates and you've still got to do all these other things and in fact it would have been better that you'd taken the property away from us and said, "You're not to use it'."

**DR FISHER:** But in your opinion the evidence that we've received from, for example, the Constitutional Property Rights Committee that in several places around Australia that there is a substantial case that you're going to win if you take this. You think on balance it's a pretty risky proposition.

**MR PAPE:** Well, I mean, you'll never know unless you run one and the short answer is it will be a full round event. It will be - first instance, intermediate appellant court, special leave application, High Court.

**DR FISHER:** Presumably because there must be some wealth property owners around and the notion that - the empirical observation that no such case has ever been

run, leads me to conclude that you're correct, that - namely that it's pretty dodgy, it's a risky proposition.

**MR PAPE:** You're going to have to test some - I mean, there you come back to the factual basis. You've just put the proposition, a 25 per cent reduction in value. Well, what's the evidence of - - -

**DR FISHER:** No, well, 25 per cent is taken - you can't use 25 per cent.

**MR PAPE:** Can't use 25 per cent, well, I mean, that's a given. That might be - the real issue is the factual situation of saying, "Can you prove that?"

**DR FISHER:** Okay. Now, at law, qualitatively, is the situation for my hypothetical North Star farmer any different from a situation where the government came to you and said, "I'm moving a homeless person into your four-bedroom house, into the one bedroom," so 25 per cent of your domestic property is now being used for some other purpose by the government. Is that the same?

**MR PAPE:** That's effectively you're doing the same thing. You're tantamount to reducing your right to use your property, whatever way it happens.

**DR FISHER:** So there's no qualitative difference between the two cases, the North Star farmer and your four-bedroom house.

**MR PAPE:** No. That's a bit like saying - like the government commandeering, for defence purposes, which they can do, "You will billet one platoon of soldiers on your property."

**DR FISHER:** Okay. Thank you.

**MR PAPE:** And they might pay you compensation for that too.

**PROF MUSGRAVE:** It just occurs to me that an attractive possibility with the idea of a statutory right is that this could well force government to amend or even repeal its existing regulation for vegetation clearance and biodiversity and replace it with legislation which recognises the potential expense of the regulations and might allow for the more flexible negotiated types of outcomes that have been discussed here and in many of our other meetings. Yes, it's interesting. What's the prospect for general agreement of lawyers in Australia with your position? Have you got any indication of that? Can you comment?

**MR PAPE:** I don't know. If somebody came to me and said, "Would you like to brief me to run the case," well, we'd have a look at it, but at the end of the day cases are won by facts and the first fact that would have to be established is, has there been



a diminution in value of the property. I mean, you could well go the other situation - and this is against it - there could actually be an appreciation, for some strange reason, but the proposition being briefed would be, "There has been a diminution as a result of these rules; I can only farm half the property now; my income has gone down; the bank is worried about the security. The bank have lent me a lot of money on the basis of a certain valuation and now their security is in fact halved and I've got a cranky bank manager running around the place saying, 'Well, wait a minute, your cash flow situation is down the well, just keep this up another year and we'll have a receiver in'." So I mean that's where it starts to trigger off into the financial aspect, because at the end of the day we're not talking about people, presumably, who are running businesses with a whole lot of equity capital, a hundred percent equity. It's probably usually highly geared either with borrowings from the bank or, around here, presumable heavy finance leases of equipment. So you're highly geared up and somebody comes along and says, "Well, wait a minute, we just changed the rules. You can only farm half your property now." Pretty severe sort of - quite frankly, talking to you this morning I think I'm probably convincing myself there might be a stronger case than what I thought.

**DR BYRON:** Well, we've heard some very, very powerful cases from individuals who have, in one case, had more than half their property - and literally it did go from, you know, \$150 an acre to \$5 an acre and that was enough to trigger insolvency and so on.

**MR PAPE:** Well, that's very interesting.

**DR BYRON:** And there are - well, you might like to have a look at the transcripts from Perth and Adelaide, where we both had people in that situation who had ended up losing their property and their argument was that it was because of the revaluation of their assets, vis-a-vis the outstanding loans that they had. I mean, people in Narrabri and Deniliquin have told us similar stories, too, so - it's not at all contrived.

**MR PAPE:** That would be a very interesting - thinking aloud - a very interesting case because if in fact the bank was suing the farmer, the farmer's counsel might join the government in those proceedings and that would be an interesting way that the government has been brought in as a third party.

**DR BYRON:** It would bring it to their attention, wouldn't it?

**MR PAPE:** Yes, it certainly would.

**DR BYRON:** Thank you very much for coming. I still wouldn't say that we understand it all, but it's helped quite a lot. Thank you.

**MR PAPE:** Thank you, Mr Chairman.

**DR BYRON:** We might just fit in one more before lunchtime. Mr Woods, yes.

**MR WOODS:** I've also got Bruce Southern, who is a land-holder, who will be giving a five-minute overview of what it's done to him on his property.

**DR BYRON:** Terrific.

**MR WOODS:** I act as the Chairman of Murray Darling Lippia Management Group and the very brief, bullet point submission that I have put through to the commission to try to keep it so it's very readable for you, but as we explained in that, we have actually commissioned a study, probably the most comprehensive study every undertaken, by Dr Judy Earl, of - I think it's Agricultural Risk and Monitoring Services, I think she trades under, yes - and that is now completed and it's just to the printout stage and that will be made available to the commission the moment those copies are done.

That is a very - it's covered the Murray Darling Basin, as much as what our committee could raise, we didn't have any government money for this and those of us that work on the committee just work paying our own costs. It was only formed in 2002, but I've been working on it a great many years before that.

This weed, we believe, was imported - that actually was stated at a field day that was ran by actually a department official, many years ago, by the old Water Resources Department - we believe from South America, to stabilise the banks of irrigation channels. And where this leads as far as the Native Vegetation Act has on the ability of land-holders to handle this very insidious weed, is that under the existing legislation there aren't any exemptions for Lippia and Lippia comes in - and you can be the best land-holder looking after your country and the biodiversity of it and I suppose looking after your pasture stands, this will be brought in by flooding and then it just spreads across the ground and we believe it's got an allopathic effect on the country which is really a poisoning effect of the country. One of the things our committee wants to do and after this scoping study is released, is that we can get into some finance to be able to start sort of concurrently both the taxonomy of it with a PhD study and also then to start a biological control.

Just some of the points with it. It's spread by water, by birds, feet of stock, probably vehicles. It's a very low grower and it's a mat-like - a mat-forming weed, so it doesn't really grow all that high, even though in some cases, I think, in some of the water course areas it may even get up to probably - so high, like this it would be, but that would be very unusual, mostly it's just crawling across the ground. I know in our own country that probably eight or nine years ago I wouldn't have even known what it was. It's come in on floodwater and on some of the country it is - in the last six years the carrying capacity was cut by 80 per cent. If you talk in the reduction of someone's earning capacity by even 20 per cent, that's enough to put you out of

business, let alone 80 and we've had - at about the same time that came in the Vegetation Act hit about the same time and as there's no exemptions in it, like, you're stuck with this and what do you do? It's taken over your country, it's ruined your carrying capacity and the biodiversity of your land and I don't believe - I believe the act - what it's achieved I think, is sped up land clearing probably by a full decade or more. I know this is an unprovable statement, but it's caused a lot of panic out there.

One of the worst things that it's done is the people that we should be working hand in glove with is our departmental officials. Our Department of Ags, our Department of Land and Water Conservation - I know they've changed their name twice lately, but I can't quite keep up with that - they should be the people that's our first call and usually are our first call. Like, if we were worried about salinity, about anything else, there's so many exciting things happening in agricultural, fantastic things, like controlled traffic farming, everything else, even to the point of maybe being able to grow three crops in two years by proper farming methods, don't let your profile fill up with moisture and then go into the sub, really great stuff and the young farmers coming on today are well educated, far better than an old bloke like me, that's for sure, but they are really going to do this.

You know this is a very exciting era, but this act has had probably the reverse effect to whatever was intended and we've got the departments out there, the people we should be working hand in glove with, here we are, they've got to be the policemen. Then there's court cases, litigation and everything that is exactly the wrong way to achieve anything and they can come out to look at this and they can say, "Well, look, sorry, Woodsy, we can't do anything with this because, you know, there's nothing in the act." We can have someone that's looked after his country, has got Lippia through it and boy does this stuff spread. We always thought that - it was only an estimate by the Department of Ag - that there was somewhere about 800,000 hectares in the Murray Darling Basin affected, and we believe that the figure our scoping studies come up with is 5,300,000 hectares and spreading very, very rapidly, and I think this is the biggest environmental threat to our Murray Darling Basin probably that we may have ever had, and there's just a few photographs there. I know the things that you can understand, inundation, drought, spreads prolifically. It can break off, go off on a stream, where it sits, it will grow, and it seems to be growing anywhere. In this scoping study, it's up in some of the hill country, which is a real worry.

If I could just lead you through some photographs there, because it just gives you some idea, and they are numbered. I don't know whether - that photograph number one there just shows a typical - that's actually a bit of Rural Lands Board country that's in our area near the Croppa Creek, St Albans Slopes Rural Lands Board. That's really about 100 per cent Lippia cover. Now, if you can see by that photograph there, the timber on that, there's really no way that you can control this weed. At the moment, cullivation is probably the only way to do it. I don't suggest

that you just flatten everything. You're still going to have to leave corridors, and they might be 100 per cent Lippia. We hope one day that we can get something that is an effective control of this, and you might have to leave your clumps of trees - there will be 100 per cent Lippia through it - and have to cope with it. That particular photograph there, I'm directly behind that, the downwater side, so whatever I do, I have a seed burden that's going to come through every year, and we have done a lot of work on that country to try to be able to do something and I'll just have to continue at it.

The photograph number 2 is just showing what I believe the stumping is of the creek bank. There's a number on that. Number 3, this is the stock country at, I think it's at Telluna Station, and that was just a cattle pad, and that just shows the erosion effect, because it dries the country down just so far, and then at the next flood it will just erode. It will erode where it's never eroded before, like, even in flat country or a cattle pad, it will become a little gully, and that's just part and parcel of it. I think the third one is just more slumping. Now, the fourth, number 4 - or number 5, sorry, number 5 is a fault line along a creek. If you look there closely, there's a few little arrows there. Have you got number 5?

**PROF MUSGRAVE:** Yes.

**MR WOODS:** Those little arrows, that entire part of the bank there will disappear into the creek, and when this happens - it's happening along the creeks and the river banks - but this is where the stumping is putting all that eroded material into the bottom and that's affecting both your marine life and that as well, and, you know, this is putting more sediment. I think there's a study with the CSIRO down at Gunnedah that said a lot of the blue-green algae blooms that came was actually from the sulphates and things that were coming out of erosion, and that's just one of the features of it. I think number 6, the same thing. That's just more slumping. Number 7 just happens to have a - that's a good looking cattle dog there, Woody, down in the bottom. I don't know whether that will go well in the transcript. Number 8 just shows you here, now, this has been drought, it's the only damn stuff that's green, and there is some slumping there, but it just shows you the total mat cover. People that have got that, and that particular person there on Telluna Station, his entire creek country is like that. He's de-stocked ages ago, probably 12 months ago, and because it's been dry, he actually probably wouldn't have had any feed anyway, but when it does rain, that will be straight back into Lippia again, and that's it. He still won't grow any feed.

Number 9 is, that one there, that's actually had a number of workings, and right beside that - and it was just hard to get a shot because it's in behind that bit of bush behind which is lignum - there's a hundred per cent Lippia there and that's had a couple of workings that's broken down that allopathic effect of it, and now that was clover and that was graze clover. We have some bulls and stuff on it, and that clover

actually got up that high because it was right on the edge of this creek that's just got a bit of water. It's not that close to the edge, but it's actually got a little bit of water in it in the drought, so it just shows you what you can do, and number 10 is just what it's doing to the creek banks. But I can see that those, with the Vegetation Act, and I've always used "is to selectively clear to rehabilitate the land". Never at any stage have we ever recommended that there's got to be whole-scale massacre, but these people, the worth of their land, you know, they've just faced total financial ruin unless there is some exemption put into the act for this.

**PROF MUSGRAVE:** And there is no avenue that you can take which would enable you to explore possibilities for exemption?

**MR WOODS:** No, not as the act stands at the moment, no, and I believe there's a lot of people in our area, and we've got one gentleman here, Rodney O'Brien, from the department here now heads up the Moree office. They've been very supportive to the cause. They know what it is. They are localised on a local basis. We've had Jenny Spencely from the Department of Ag and she has done an enormous amount of work on this, and these are excellent people to try to do something, but there's really no scope within the act, and, you know, I believe that probably down the track that when there's a new set of aerial photographs around, I think a lot of our people with Lippia that's been really good land managers and let this, I think they're going to be left high and dry, and that's what we're trying to do. We're trying everything in our power to fight to get an effective control method of it. Chemical is hard. It's very hard to pull off, because you could see that first photograph I showed there with all the timber, there's no way in the world you could work a boom in it, and working a boom spray on large scale areas is cost prohibitive because the main chemicals are 24D derivative, and say DP600 or something is like \$45 a hectare, and you've only got to put pen to paper, that just won't work with a stock enterprise.

But I believe there are things we can probably do with chemical, just with better spray technology and probably better timing, and hopefully we can have some better results than what we've had. Certainly no magic bullet, that's for sure, but I think we can do better than what we've done, but we still must be able to open that country up so you can actually work a boom and that in it anyway, but at the moment I see actually cullivation is the only real means of control for this insidious pest.

**DR BYRON:** Well, what surprises me is, you know, if all the government agencies share the concern and understand the sense of urgency and can see sort of how catastrophic this is, how come there's no way through it? Well, now that you've explained the problem, how do we get towards an answer, apart from, you know, the research on control?

**MR WOODS:** Well, I think, you know, we naturally want to go on the research part, but we'll separate that from the problem as it stands now, because the time, you

know, with a biological control, like, you gentlemen would certainly know that that's hard to pull off, number one. Certainly you've got to start. You certainly never give up, but it's certainly hard to pull off, number one. It's very time consuming, number two. We're going to have people just broke, if it doesn't. I think it's just got to be in the act. No doubt there will be some re-writing of the act. There's got to be an exemption there for Lippia, and at a local level where people have got the teeth that can come out and to say, "Okay, well, this is good. Let's get a rotational strategy on this farm here and so you can collectively clear this, have so many years in crop to pay for it and then you'll pasture that down," and that may have to be a continuing merry-go-round of pasturing or whatever because until we actually get a full control of this, no doubt it probably will re-invade because - like that country of mine directly behind it.

**DR BYRON:** So what it needs is provision to make special exemptions from native vege - - -

**MR WOODS:** Yes, yes. This country we're talking about, Murray-Darling Basin, that's some of the most productive country in Australia, wow.

**DR BYRON:** Yes, I know.

**MR WOODS:** And we've got, I think it's five per cent of that catchment now from Condamine up in Queensland clean down through the whole shooting match. This is one helluva thing. It's one helluva thing. It's the most frustrating thing ever I've been - because, you know, I farm, owned a cattle enterprise and had good pastures, good grasses, and pooh, she's all gone.

**DR FISHER:** Is this plant declared a noxious weed?

**MR WOODS:** No, it's not, and there's a number of reasons there. It was put up - first of all I said, "Christ, we've got to get this thing declared noxious. Jesus, it's not a noxious weed, what are we doing?" and if we did, it means you must control it. There are no real control methods other than the plough, and we're a bit concerned what doors that opens up because - not that I'm saying there's a green bone in any of your bodies - but we could come up with some people that are and say, "Jesus, Woods, you're not controlling the Lippia on this place. Thank you very much, we'll take this back."

**DR FISHER:** Okay, so there's some issues there. So this thing is extremely invasive.

**MR WOODS:** Absolutely.

**DR FISHER:** Once it invades an area, it basically kills off everything and covers

over everything except the big trees. Is that correct?

**MR WOODS:** Pretty well. It doesn't kill the big trees. I think with black wattle country it may killing some and it might stop some regeneration in some areas, but there hasn't been an enormous amount of work done on that part of it, but it certainly takes over all the pasture, growing up to the butt of all the trees and, bingo, yes.

**DR FISHER:** Okay, so every bit of biodiversity except the trees will be removed and you'll have Lippia instead.

**MR WOODS:** Exactly.

**DR FISHER:** And yet there's no apparent concern for biodiversity among those persons charged with that responsibility in New South Wales as a consequence of the spread of this plant.

**MR WOODS:** Well, I think when we really started to make awareness, people knew it was there, and it's in the last five or six years it's exploded, and even on some land-holders properties, I know a fellow that inspected a property up - I suppose it would be 300 kilometres west of Goondiwindi, which is to you guys 100 west of here - and he was up there and he said, he got out of the vehicle and he said to this fellow, he said, "You realise this place" - after he'd had a good look around, there was Lippia there and then he went up, and the fellow didn't even know what it was - he said, "Jeez, I'm not running as many cows as I used to," and, you know, we have this unawareness factor as well, and I think the departments now in some ways, it's too hard basket, say, "Well, what are you going to do with this, because it's ruining the biodiversity, it's hitting the river systems, it's hitting the banks of your river systems, it's causing the slumping, it's taking over huge tracts of land and it's in the too hard basket." I'm certain even in some of the vege plans, even I led submissions and that on it, when the vege plan came out, it might have one line on Lippia, and then I'd put in a submission on that and they said, "Well, we didn't know what to do with it. This stuff ruins our vege plan." You know, you've got this beautiful natural Mitchell grass pasture, get a flood and it puts Lippia all thought it, next minute, a matter of time, it's taken over. It may take some years, but it will take over.

**DR BYRON:** You're making it sound like you were rearranging the deck chairs on the Titanic.

**MR WOODS:** Well, it is, it is a bit, yes, she's going down.

**DR BYRON:** Mr Southern, did you want to give us your example?

**MR SOUTHERN:** Yes, Bruce Southern is my name. We run a cattle property right at the end of the Gwydir River where it breaks into a flood plain. Actually the

river actually stops on our country and floods out. We've also got the largest Ramsar, privately owned Ramsar site in Australia, so we're into the environment and very concerned of what's going on, and I've just watched Lippia spread. Actually since the mid-70s I saw it in the Gingham Channel which is north of the Gwydir River, and we had country there which we ended up selling because it was getting that bad, but at that stage there was none in the Gwydir River itself, and so I was very conscious of it and watched it, and over the last - I've just watched it sort of spread right through.

Actually I've got a map here, which I probably should have brought over to the table. That was our country in 1980, and that red is the Lippia on it, that's all, and this is 2003. The red is where the Lippia is now and the black is what we've had to farm to try and keep it out, and it's just spread. In the last five years it's just gone mad, and we've always been very conservative stockers. We live on bull couch country with floods and dries, and we've always - I've been very concerned about our grass country and I've always looked after it, and I've felt up to five years ago I wasn't beating Lippia, but I was sort of containing it, you know, it wasn't really getting going. Then it started to move, and in 2000 we had a flood in the November which put it over - bear in mind that we've got 13,000 acres and all but 500 goes under water, so it all floods, and that was in 2000 in the November. In the February of 2001, we had 10 inches overnight, and that put another flood over everything, a massive flood, and when that had gone, in the next 12 months there was Lippia in places I've never seen it before, and not just plants. It's just taken out whole areas.

We run usually two to two and a half thousand head of cattle. We always join 1000 breeders and then the rest is bought cattle and grown cattle and we deal and such. We're down to 700 cows now. We still buy cattle, but that's when the drought will allow us. In the last two years we've had no rain and it's been pretty drastic. But we've had to drop back to 700 cows to try and - well, that's all we can carry. As Tony said, their stock rates have dropped and this is what's happened.

I feel that after two years of drought, we're going to get another big flood, there's nothing surer, in the summertime - this is when it will break - but I think we'll have it all over our country. There's so much of it there now. There's no control; other than ploughing it, we can't do a thing about it. We can't stop it, we can't spray it. A lot of our country in the river system is classed as the bed of the Gwydir, so we can't go and plough that and we can't virtually spray it in the wetlands. Some of our country can get a couple of feet of water over it and the high feed - well, that seems to keep it out. The Lippia doesn't like that. Anywhere it can get a bit of sunlight, away it goes.

Another thing we're seeing is that our weaners - we've always had a reputation for good weaners finished and ready to go to market and now they're coming out half poor, and I'm sure - it hasn't been proved, although speaking to other land-holders,



they all agree with me - that it is affecting our weaners as well. They're not doing as well as they were. I've been around this country since the mid-50s and I've been through all sorts of problems and I don't think I've ever struck a weed anything like it. Every other weed, you could do something about it; we can lock country up. The place we're on now, when we bought that, it had been flogged to hell, and I locked a lot of it up for 12 months, 18 months in places, to beat the black rolypoly and the galvanised burr and the Bathurst Burr, and I beat that, but I can't beat this one. I can't plough it, I can't do anything. We've got to the point now where we're looking to buy country up further in the east to run our breeders. Our country has always been thought of as breeding country, and now we look like we're going to have to move our breeders east and bring our weaners back onto what we were able to farm and plough to get rid of the Lippia to keep going. I really wonder what our future is there. Without really getting a hand on it one way or another, I don't think our future is very great there.

**PROF MUSGRAVE:** So your ploughing possibilities are restricted by the fact that part of the country at least is this water course river bed - - -

**MR SOUTHERN:** Yes.

**PROF MUSGRAVE:** - - - and the rest is what - it's got vegetation on it?

**MR SOUTHERN:** It's got vegetation, mostly black wattle. We have cleared quite a bit of country - we've had to - but we made a policy where we don't touch only black wattle. Now, black wattle only lasts for 20 years at any rate and it starts to die, and a lot of country to the west hasn't had water on it for a number of years because of Copeton Dam and controls over it. So it's dying anyhow, because every time it rains it puts up a few more seedlings to try and grow again. But we've made a policy of always leaving any coolabah country and that and, you know, tried to do the best we can with it, but we're going to have to do something. We've even - in our paddocks that we have ploughed there's areas of heavy coolabah and that and it's just a mass of Lippia, which will keep reinfecting. Country we've got that we've ploughed for a number of years, every time there's a flood comes through, of course, it reinfects again and away it goes, so it's a no win situation really.

**PROF MUSGRAVE:** It's really depressing.

**MR SOUTHERN:** It is.

**MR WOODS:** It's not an easy no.

**MR SOUTHERN:** No.

**PROF MUSGRAVE:** Sorry, your committee is the Murray Darling Basin

Committee.

**MR WOODS:** Management Group. Yes, it's got - it's brought together, you know, the land-holders to those in the research and a lot of departmental officials. We've got some excellent people on it, excellent, but that's been with the biological controllers as well as people from the CSIRO.

**PROF MUSGRAVE:** So you report to the commission.

**MR WOODS:** I beg your pardon.

**PROF MUSGRAVE:** The committee reports to the commission.

**DR BYRON:** The Murray Darling Basin.

**MR WOODS:** Yeah, yeah, absolutely and the Murray Darling Basin actually help fund - the Murray Darling Basin Commission actually help fund part of this scoping study.

**DR BYRON:** And it in turn reports to the ministerial council.

**MR WOODS:** It certainly will be, yes, yes. And this scoping study, well, that would be the biggest - that's the most comprehensive study that's ever been undertaken on it and admittedly we were limited by money too, because we had to - Christ, we did the best we could to get it, but it was pretty hard and the major contributor of that was the Murray Darling Commission itself; we've got a little bit out of the shire here and other Pasture Board and landcare groups and - yeah, but hopefully we'll keep at it and there will be nothing magic about it, but unless we try, we're gone.

**MR SOUTHERN:** One point I forgot there. Our 300 cows, you could equate them at about \$100,000, like the calves, even at 30 - at \$300 a head, you're coming back around the \$100,000 a year loss and you know it's going to get worse, so I don't know where we go - that's a financial loss that I can pretty well show - - -

**DR BYRON:** Similar effects are going to apply all across the whole basin.

**MR SOUTHERN:** That's right.

**MR WOODS:** Yeah. We've got some excellent case studies. I think there's something like 18 or 20 that's in the scoping study and excellent - which you gentlemen will have the moment it goes to print. I know you have a huge amount of stuff to go through here, but you may have - just give it one little quick glance.

**DR BYRON:** No, we'll do a bit more than that. Thank you very much for coming and addressing us.

**MR WOODS:** Thank you for having it outside the capital cities, so it gives us a chance to get here.

**DR BYRON:** No, that's good.

**MR WOODS:** No, that's good, thank you.

**DR BYRON:** Thank you very much for coming.

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**DR BYRON:** Thank you, ladies and gentlemen. Shall we resume? We've got Mr O'Regan. Is he here?

**MR O'REGAN:** I'm waiting.

**DR BYRON:** You're waiting, okay, sorry. Let's start then, shall we?

**MR O'REGAN:** Can I start, can I?

**DR BYRON:** Yes, please go - sorry to keep you waiting.

**MR O'REGAN:** That's all right. I've been here for an hour or so and thank you very much for the chance to speak on this limited, narrow subject, I believe it is. I belong to a committee called the Constitutional Property Rights Committee which is only a bit over 12 months old, but I've been a councillor with Narrabri Shire Council for 22 years, a farmer for about 50, and so I reckon I've got a bit of experience in this field.

My submission is based on the fact of local government's predominance, if I can call it that, and my submission is based on the premise that SEPP 46 and the Native Vegetation and Conservation Act of 97 is flawed in many instances, particularly where it contravenes local government's use of State Planning Act or the 1979 Environmental Planning Assessment Act which is the bible of local government and which has been actually in vogue since 1979. The EPA Act must co-exist with common law and it's from the common law angle I hope I'm coming and I hope you can sort of pick up the gist of what we're saying.

Common law is the old law and if I could go back to your Productivity Commission's statement, Dr Byron, of 2001 - I think this one was put - and it says in that:

Statutes have the ability to override the common law. However, unless there is an unavoidable conflict between statutory provisions and the principle of common law, courts will interpret statute as not affecting the common law.

On the next couple of pages it states that:

A feature of the duty of care under common law is that irrespective of the form in which it appears it is owed to individuals, not to the environment.

I just thought I'd read that out of your document.

**DR BYRON:** That was a?

**MR O'REGAN:** That was a document of the Productivity Commission, yes.

**DR BYRON:** That we published.

**MR O'REGAN:** You published, yes.

**DR BYRON:** It's commission document though.

**MR O'REGAN:** No, I think it's by - - -

**DR BYRON:** Gerry Bates.

**MR O'REGAN:** Gerry Bates, yes. I thought I'd bring that point out. But in 1979 it was legislated that natural justice protects developed assets. The High Court determined - and if I could just read what the High Court did determine in that time:

The High Court determined that it is a canon of construction that all environmental law is permitted no more liberty than with sufficient departures from the previous act to allow the desired objects to be obtained, but if it departs beyond to deprive the applicant of natural justice then the court will rule in favour of natural justice.

I just thought on what I'm saying, I'm trying to keep to that train - and that has been reiterated in the Real Property Act and also the Environmental Law Act. I might add also that agriculture, which is part of local government's zoning areas - and that's where I'm coming from - is tied directly to our LEPs, our local environment plans. Every council in New South Wales had a local environment plan under the Local Government Act and under that it says that there is no development consent necessary for agriculture and of course if you look at the agriculture in the dictionary it says agriculture is a disturbance of the earth. It depends on what dictionary you look at, but basically agriculture is a disturbing of the earth and the cultivation thereof.

Getting back to the EP and A Act, which is this one here, 200-odd pages - which it looks a bit dishevelled at the present time. But every day, every council in New South Wales uses that act. It is made up of the Real Property Act of 1900 - I'm not going to read from any of these, it's too much - the Land and Valuation Act of 1916, which is that one, and the Conveyancing Act of 1919, and together with the Local Government Act which is about that thick and my bag just couldn't - I just didn't bother bringing that up to show you. But basically those four acts make up the EP and A act which has every rule in it that is needed and of course that's where the solicitors go doing their searches when they search for what can be done. If someone wants to buy a property to use as agriculture they get issued with 149 certificates and

the 149 certificates in this, I think there are about eight or nine 149 certificate and that's related to agriculture, to building, to anything that goes onto the land or, sorry, in business.

Land and land use is the charter of local government, land and land use. I reiterate that very loudly: land and land use is the charter of local government. Local government dictates what you can do under the zoning laws and those laws are usually - and right across New South Wales, and I've checked about six or seven in Queensland, Rural 1 A says that no development consent is needed for agriculture. In 1976 a three-year inquiry was carried out. Before the 1979 EPA came out there was a three-year inquiry into land tenure, which really is the basis of what we're talking about today, and land tenure or land ownership was carried out under this commission of inquiry under letters patent by Sir John Kerr. It went on for nearly three years.

I think there was 230 submissions and the one that I'm picking out, that I think was important, is the section on compensation. Mr Pape, who was here this morning, mentioned compensation and I think you asked him about compensation. There is a whole chapter on compensation, each state is talked about, but the part that I'm interested in is the fact that it says in page 61, 6.1:

Thus Magna Carta 1215 guaranteed that no free man shall be deceased of his freehold or liberties or free customs but by the law of the land.

It goes on to say that:

So the greater moreover is the regard of the law for private property that it will not authorise the least violation of it, not even for the general good of the community.

I think you might have mentioned this morning when I was here someone wants to put a road in. Well, it has to be a very, very strong case when land acquisition is a compulsory exercise and that's why that clause was put in there - a very interesting document, the whole document on that, and the fact that it is the basis of local government's LEP I think is pretty important. It was conducted by Sir Just Else-Mitchell who now is a pretty aged man. I think he might be pretty sick actually, still lives in Canberra, and he conducted that inquiry in 1979. As I said, the EP and A Act was a direct result of this inquiry.

Local government held, and holds, the key to property rights and issue certificates, as I've mentioned, under section 149. That's part of the search fees that go on. When you purchase a property you find out what you can do with that property and once you are given that right, that right cannot be taken from you, and this is our complete argument where the Native Vegetation Act is flawed in many

cases.

What I would like to mention then is existing use. Existing use was mentioned by Mr Kevin Roberts, the acting general of the Native Vegetation System Development in notice 13 on 5 October 2001. This was probably 12 or 18 months after the vegetation committees had got going, had been going. He said in statement 1, "There must be an existing use," and existing use in our local government's EP and A Act says that existing use persists under section 106. Section 107 of this says that existing use continues under the word "continuance". So what I'm saying is that the native vegetation committees gave credit to the EP and A Act of existing use.

Existing use really is where you can carry on a prohibitive use in an area that may have changed its use or is not pertinent of the use, but once you've had that use - and the best way to describe it is, if someone down the bottom of the main street grandfather had a piggery there, that piggery can remain while ever that stays in the hands of that person. If it lapses for 12 months it then loses its existing use. Perhaps the piggeries mightn't be the best existing - but something that's quite abhorrent to an area can still exist if it still stays within that 12-months period. Continuance or continuing use in section 107 and 109B actually guarantees that forever.

So once you are issued with a 149 certificate in this, once you get your LEP, there is no provocation to say that a statute can overrule that under common law. We went along to the New South Wales farmers and they said, "Yes, parliamentary supremacy does reign." We went along to the New South Wales Shires Association and they said - because the New South Wales farmers said parliamentary supremacy reigns, they said, "Parliamentary supremacy reigns," but we believe that what we are talking about is parliamentary supremacy and as Mr Stoner, the leader of the National Party, said to me the day before yesterday, the 1979 act was there first. So whatever is there first simply means that if the government want, or anybody wants, to shift the goalposts those goalposts can only be shifted by changing the act.

In the case of the EP and A Act, the EP and A Act has not been changed and the EP and A Act is administered - our local government administers it, but it is actually an act of the New South Wales State Planning Authority and I've asked them as late as about nine months ago, "Is there any talk of changing this 79 EP and A Act?" and they said, "No, not in the foreseeable future." So while ever we have the EP and A Act we have the authority to do whatever local government says under that act. My arguments against the premise that the 1979 Vegetation Act can overrule the EP and A Act, I believe it's a strong statement but I probably might be best just to read what some of it says - and I'll be very brief. This is the 1997 - updated to 3 January last year. This is the Vegetation Conservation Act. It does give recognition to local government's EP and A Act. Now, I'm not sure I put this in my submission or not, but it says - and I have it here - on section 14, Consent Authority

for Clearing, it says:

For the purpose of the EP and A Act the minister is the consent authority for any development application made under that act for any clearing that requires consent of this part under the EP and A Act.

If you go down to section 15, under Granting of Development Consent it says:

For the avoidance of Part IV of the EP and A Act applies to and in respect of that development consent in the same way as it applies to and in respect of the development consent that may be required by an environmental planning instrument.

This is the environment planning instrument, the EP and A Act that we believe is the authority. If you go over further to clearing native vegetation on land - I'm reading from the Conservation Act in the present - it says, section 21(2)(a), Development Consent:

A person must not clear native vegetation on any land except in accordance with a development consent that is in force.

We still say that the 1979 state EP and A Act is the authority. Going further over, we believe it's flawed on the position of entry, powers of entry. That absolutely violates trespass. No-one will argue that certainly no-one can come onto your place without written permission. Section 118 again in our EP and A Act says that you cannot come onto a property - so this act is flawed in many cases. I'm just looking for section 50, Powers to Obtain Information. Certainly there's been plenty of case law to say that you can't force a person to give some information; you cannot self-incriminate, but it says here that:

The director-general may by notice in writing serve in person ... give authorised orally or in writing signed by a person ... to get that information.

We believe that's a classic example of someone that has put this act together with very, very immature ideas. Of course, the savings clause is the clincher that really destroys any authority that this native vegetation has. It says:

To the extent which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate:

(a) to effect in a manner prejudicial to any person the rights of that person existing before the date of its publication.



In that case, sir, it really blows apart any authority that the Vegetation Act has, I believe, over the EP and A Act. On the compensation clauses, of course, in the 1976 royal commission that goes on in detail and tells you about the compensation. It simply means that if you attempt to lock up land - I think was mentioned here this morning - I believe the country could not possibly pay the farmers the amount of money needed to lock up land. It's quite simple. Anyway, we are still only talking about 13 per cent of the land because there is only 13 per cent of private property land that we're talking about, and that means that 87 per cent of Australia is not freehold private land.

With regard to the Wilderness Act, there's another one I'd just like to mention. Our shire in Narrabri has had the veil of 22,000 hectares put over it under wilderness. The people that have been clouded by this Wilderness Act now virtually have got properties that are unsaleable. If the value of that goes down, which it will, the shire council certainly is going to lose a lot of rates. The value of that property will depreciate to the people that own it, and down the like, of course, the shire councils will depreciate it.

As I've said, my brief submission is based on my years in local government, my understanding of the EP and A Act, and must admit in the last three years since - I was on a vegetation committee but I reckoned in it was going nowhere so I didn't bother continuing with it - as it incorporated the 1938 Soil Conservation Act, I really thought that perhaps it would talk about and give advice, but I was quickly told that it was not a committee of advice; it was a committee of regulation. I think the word "regulation" has been mentioned a couple of times this morning, and regulatory powers given to committees that contravene our EP and A Act I believe is quite contrary.

I don't know whether that's brief or not, Dr Byron, but that's the way I see it, that's the way local government sees it and that's the way our Constitutional Property Rights Committee sees it.

**DR BYRON:** Thank you very much, Councillor O'Regan. I don't know if you were aware that we had other people from the Constitutional Property Rights Committee come to our hearings in Canberra, I think it was.

**MR O'REGAN:** In Canberra I think it was, yes.

**DR BYRON:** June Weston.

**MR O'REGAN:** I wasn't privy to what Mrs Weston said, but I think she probably would have said mostly what I've said; I don't know.

**DR BYRON:** It was entirely consistent, yes. You mentioned Mr Pape's submission this morning, that he seemed to say that the legal issue on a lot of these things is still very hotly debated. The way you and your committee have put it - - -

**MR O'REGAN:** It seems too simple?

**DR BYRON:** Yes, I was going to say it sounds sort of pretty logical to me, but the lawyers seem to get themselves in quite a state and find that it's not quite as clear-cut as your or I might think it was.

**MR O'REGAN:** Yes.

**DR BYRON:** If that's the case, the answer is, "Why not test it in a court somewhere?" - and, as he said, that's a very expensive thing to do.

**MR O'REGAN:** Yes. But we have lawyers divided on our viewpoint. We have certainly got lawyers and solicitors divided on our viewpoint.

**DR BYRON:** But the bottom line of what your committee would like to see is, what, that the Native Vegetation Conservation Act be changed or completely repealed or what?

**MR O'REGAN:** I think the Native Vegetation Committee has to give appreciation to local government's EP and A Act.

**DR BYRON:** That means that if an area is zoned for agriculture, then as long as it's used for agriculture, carry on; if you want to grow corn instead of potatoes, you want to grow sheep instead of cattle, you don't need a permit.

**MR O'REGAN:** Absolutely. You can go from growing beans to cotton and there's no change of use. It is still agriculture. The only time that you can change is if you want to put up a 1000-cow feedlot or a 2000-sow piggery, and then your 1A turns into 1A(b) or something like that and you go from broadacre agriculture to intensive use and the EPA then will ask you, "What are you going to do with the effluent?" - and all that sort of thing, so then you'll need another zoning change. But under broadacre agriculture clearing trees, ploughing land, draining land, cropping land, grazing land is all part of agriculture.

**DR FISHER:** I just have two questions. Imagine I'm a farmer in Narrabri shire and I come to you - I'm a broadacre farmer - and some Lippia has got out of your lawn and onto my property and I need to clear 10 hectares to control it. I take it that what you're saying to us is that you will give me that permission.

**MR O'REGAN:** I don't need to. You've already got it. You purchased the

property, you were issued with a 149 certificate to say that it's agriculture. You don't need any permission.

**DR FISHER:** Okay. So your argument is that I should go ahead and do it regardless?

**MR O'REGAN:** Yes, absolutely.

**DR FISHER:** But then I'll have a visit from the people with the red numberplates, or whatever coloured numberplates they have in New South Wales, and I'll be in jail.

**MR O'REGAN:** You refer them to the town planner of the Narrabri Shire Council, who will tell you that under section 1A of our local environment plan there are no restrictions on agriculture. That's happened two or three times, and you're not the first person to come up with that scenario.

**DR FISHER:** What's happened to these practical cases where these two or three people have done this and then the regulator has been referred to the town planner?

**MR O'REGAN:** Nothing.

**DR FISHER:** Nothing?

**MR O'REGAN:** Because the EP and A Act is supreme.

**DR FISHER:** So in other words are you saying to us that you have practical cases where people have cleared land and when it came down to it there was no follow-up to it?

**MR O'REGAN:** It is possible because local government is the controller of land, because local government issues a zoning plan under common law.

**DR FISHER:** So in that case your proposition to us would be that there really isn't a problem in New South Wales?

**MR O'REGAN:** Absolutely.

**DR FISHER:** And you have cases to prove it?

**MR O'REGAN:** Yes.

**PROF MUSGRAVE:** Cases in your shire?

**MR O'REGAN:** Yes.

**PROF MUSGRAVE:** What about other shires?

**MR O'REGAN:** I don't know. I'm a councillor on Narrabri Shire Council. I can't speak for other shires.

**PROF MUSGRAVE:** So you know of no other cases in other shires? It is interesting, though, that - - -

**MR O'REGAN:** Under common law - the 1979 EP and A Act was put together under common law and, as Dr Gerry Bates in your commission here says, as I mentioned, common law is owed to the individuals and not the environment. That's Dr Gerry Bates's opinion under your Productivity Commission submission of 2001.

**DR BYRON:** Yes. We made it quite clear when we published that, that we weren't necessarily endorsing all his opinions but we were, as a contribution to the date, putting his opinions out there.

**MR O'REGAN:** From my point of view you must admit that if I want to grab onto something, I'll grab onto something that's in my favour, and certainly your media release certainly suited my argument.

**DR BYRON:** I'm not sure how Gerry would have felt about that.

**PROF MUSGRAVE:** We have some instances therefore from your shire where this argument appears to prevail and it has not been challenged by the regulators.

**MR O'REGAN:** There has been a lot of things happen in the shire. We've had people been refused permission to plough and it has basically gone through council as a fait accompli because some third, fourth, fifth person down the line in the environment - middle of the department - under section 79, I think it is, of this says, "Oh, yes. Look, if that letter came from the Department of Land and Water, as it was five or six years ago, it must be right." I certainly know of a man that wanted to plough 500 acres out of 14,000 and he didn't come to us. He didn't come to council. He just took the word of the Department of Land and Water Conservation and went sort of back into his nest and didn't do anything, you know.

So there are instances where people have been deprived of their application simply because - and in this case not because there were native endangered species there, but because the area was conducive to those types of endangered species and section 90 - and I didn't bring that act with me, but section 90 of the Endangered Species Act says that endangered species does not apply to agriculture, to the performance of agriculture. So if that person had have come to us before he wanted to plough, we would have said, "Look, under section 90(1)" - I think it is. I think it's

9, I haven't got it with me. I don't know why I didn't throw it in, but the Endangered Species Act that people use. That doesn't apply to agriculture, to use its words, "the performance of agriculture," which there again is another dichotomy, isn't it?

**DR BYRON:** But again, that makes it sound like people have been either told they had to get permits or denied permits without the legislative backing.

**MR O'REGAN:** Without any substance, yes. Well, this particular man who has since died, I believe was denied a permit to plough on the basis of endangered species when in fact section 90(1) - maybe 91, and I'm not too sure, but certainly in that area, where it says that endangered species doesn't enter into the argument if you're talking about the performance of agriculture.

**PROF MUSGRAVE:** So what exactly are you suggesting to us?

**MR O'REGAN:** I'm suggesting, very much loud and clear, that local government departments have been woken up to the fact that they have been sitting on their hands for too long and that the EP and A Act is the strongest act in Australia. It is the act that guarantees property rights and to go a little bit further than that, the Land and Valuation Act is the one that guarantees that water cannot be separated from land. I don't know whether - I didn't put that in my submission, but land and water under section 6A I think it is. Under section 6A it says that land and water cannot be separated. It talks about fee simple. Mr Pape would have certainly clobbered onto fee simple. But it says - I mean, this is another instance where there is a dichotomy but it says:

Notwithstanding anything in subsection (1) in determining land value -

and this is where local government comes into it, in rating, and we have to rate ourselves. In rating we use the Land Valuation Act to rate, which is very important -

in determining land value, being land in relation to which at the date to which the valuation relates, there was a water right. The land and value shall include the value of that water right and it shall be assumed that water right shall continue to apply in relation to the land.

There is an instance that we have an act now that says, 1916, that land and water cannot be separated under fee simple. I asked one of the directors of the Department of Land and Water Conservation recently how they were going to handle fee simple and the answer was, "I don't know." But in New South Wales particularly land has been separated from water and at present they are trying to get a water bank together whereby water can be sold, as you know, and worldwide. I didn't bring that - I've got the prospectus to that. I can buy shares in that at 1000 units and in actual fact we are also arguing - but I didn't put that in my submission. We're also arguing

that that's another violation of one of the acts that this is the basis of.

I can't highlight any more that the EP and A Act is the strongest act for the protection of property rights that we have probably in the world, which happen to be based on Sir John Kerr's commission of inquiry that was commissioned, which - mentioned this morning Magna Carta, goes back to Magna Carta. I think things are very simple but unfortunately some people along the line have complicated matters.

**DR BYRON:** It certainly would seem so. Okay, well, thank you very much for that. We'll keep looking into it. I'll be delighted to find out that it's all very simple.

**MR O'REGAN:** I think it's very simple.

**DR BYRON:** Get their victory and go home.

**MR O'REGAN:** Sorry to bring so much paraphernalia with me, but - - -

**DR BYRON:** No, I'm sure it's all necessary.

**MR O'REGAN:** Well, it is necessary if you sit up till midnight and try and wade through it, yes.

**DR BYRON:** Thank you.

**DR BYRON:** Have we got Councillor Boardman? Mrs Boardman, do you want to join in?

**MR BOARDMAN:** No, it's Mrs Harris.

**DR BYRON:** Sorry, my mistake.

**MR BOARDMAN:** Thank you very much, commissioners, for the opportunity of being able to speak to you. I probably come from a different perspective to most of the speakers up to date today. I happen to be one of those - what's called the humble farmer. However, I have had quite an association with local government. I've had 27 years' experience with it and not only in this state but I've been in Victoria as well. Probably one of the significant features of making me decide to move some 15 years ago was the fact that it was becoming quite obvious to me that there was a significant spread of serrated tussock within our area and I was at that stage of life I thought I'd loathe battling with this thing and some of the terrain we had was fairly steep, and I could see myself being in quite a number of problems in order to combat that particular enemy.

I don't have any university degrees, other than the one of the university of hard knocks. That's the one that I've been through and consequently I've picked up quite a few things over a period of years, and while my submission, as you will well realise, is fairly limited, I have had quite a bit of association with the presentation of the Moree Plains shire one, my involvement in that, and also I felt from my perspective it was an opportunity for me just to perhaps explore some of the things, or a couple of the things, that perhaps may not have got in. However, fortunately Lippia did come to your notice and while I wasn't here, I would understand that those gentlemen would have given you the scenarios that may well happen down the track.

So I just thought that I would add it here as a back-up and also mention to you the significance that I feel that serrated tussock will have in the future of farming. Just a small piece here, I've just got a little handout that was given as far as noxious weeds are concerned and what it does say here is that:

These seed heads separate from the host plant upon maturity and can travel up to 50 kilometres in the wind.

I thought that that was of significant value when I'm trying to explain to you the problem that I foresee over a period of time. So that just gives you a brief history of what I'm about. So everybody else that I've heard up to date today have given you all the - what would you say - theoretical issues that I believe needed to be brought to your attention, the fors and the againsts and whatever else. However, what I would suggest, in whatever decision you make, the significant thing that has come to my mind over the period of years that I've been in local government - and this takes in

everything as a broad issue - is the fact that regulation is creating a problem for us as a society and if it goes too far over the top then we have all these problems that appear to be arriving, from what people have suggested to you up to date, today.

I haven't got the answers for it, I'm afraid. But I think that a sensible solution needs to be given to the operation, and going back to both Lippia and serrated tussock, if there isn't a degree of flexibility for people on the land to be able to either cultivate or spray at the necessary times - they probably never will eradicate them but to at least suppress them - that the first thing that a farmer is concerned with is to have the red tape of filling out all the necessary forms to actually get the permission to do the job, and that's what I think turns a lot of people off. So I'm just endeavouring to point out to you the anomalies as I see them. As years have gone by, the regulations have become tighter and tighter and people in the long term tend to throw their hands up and say, "Well, hang on, you know. This regulation has just about got me by the throat."

As far as the native vegetation is concerned, what does concern me is if it is taken to the nth degree and all the limitations are put on, it will make it extremely difficult for those people in traditional grazing areas to be able to utilise cultivation or perhaps in some cases to even spray some of that particular country. The one that really does concern me too is the Lippia one. I'm halfway between here and Goondiwindi on the Cropper Creek actually and there is incidence of Lippia through that country, as I think Tony Woods would have expressed to you, and what does concern me, as it goes further west of course this problem keeps moving with it. The Lippia keeps moving west as floods and so forth come up.

So consequently those people who have been traditionally - it hasn't really worried them. Their native vegetation has been okay. Their trees haven't really been of a great problem. However, if they are inundated with either one of these, either Lippia or serrated tussock, they need to be in a position to either have sufficient room to utilise machinery for cultivation or, once again, for spraying in order that they can, to some degree, help to control this particular problem. So I really think that's probably about the main things. You've heard all the other arguments that have been put today and they've all had merit. But I just felt that I would like to present my version of why I believe that we need - or you people need to give deep consideration when making - what would you say, making and arriving at recommendations, I suppose you would say, as to how we are able to keep our productivity within our agricultural land to the utmost that we can with the minimum amount of fuss. I think that's about the best that I could describe, sir.

**DR BYRON:** Somebody said to us yesterday that the thing about commonsense is it's not very common and especially when you look at - I mean, what you've just given us is a beautiful example of commonsense and it's a real problem, that there isn't a lot more of it around. As I said before, we've seen examples all over the



country, not just over this state, of where things have been put into black and white legislation in a very inflexible way that's coming up with all sorts of basically silly results that are costing farmers money and not good for the environment anyway.

**MR BOARDMAN:** Yes.

**DR BYRON:** And it results from this sort of lack of flexibility and the fact that even when the landowner and the government official get together on the property and talk about it, they can see that the law's not working but they don't have flexibility to be able to - - -

**MR BOARDMAN:** That's right.

**DR BYRON:** You know, to just say, "Well, okay, we'll make your place exempt because" - you know, in some places that would be called corruption.

**MR BOARDMAN:** That's right.

**DR BYRON:** If the public servant doesn't actually do what the law says.

**MR BOARDMAN:** What the law says, yes.

**DR BYRON:** But the problem comes back to that lack of flexibility in the regulations, I think. Brian, did you want to ask anything?

**DR FISHER:** I was just going to test whether the following was your principal proposition, that is, you're saying to us, are you, that the current legislation and regulations effectively lead to a situation where you have the potential for a seed build-up of pests that then have negative implications for the environment and farming? Is that basically what you're saying?

**MR BOARDMAN:** Well, the thing that concerns me is the fact that - I think I might have said that in most cases most farmers are very reluctant to start filling in too many forms, so consequently they become shy, they pull off, back off these things when in actual fact they should be right out the front stopping that before you get that build-up. What you're saying that, you know, you're going to get seed build-up or whatever it might well be, and if there is not an understanding or there is not that flexibility in - and, I mean, as Councillor O'Regan said that perhaps there isn't the need to be concerned, but there are many people out there who have that concern and feel uneasy to fill out the heaps of forms or whatever it is to get the approval to do the job, and I think that by that being done, it's too late by the problem is recognised. In some areas it's got out of control and then it creates further problems down the line. So I don't know whether I've actually answered your question; probably not.

**DR FISHER:** No - yes, yes. So you're actually saying it's even worse than what I'm suggesting, namely that farmers are intimidated by the mountain of regulations and paper and are therefore shy about even attempting to deal with the problem.

**MR BOARDMAN:** I believe in many cases this is true, and that's what I tried to emphasise earlier that I believe the whole society is - regulation has taken over, it's gone over the equilibrium and then that creates so many more problems for us. So, yes, I do think that that's a fact.

**DR FISHER:** Thank you.

**DR BYRON:** The strange thing about this, particularly the Lippia case is that the controls that don't allow you to clear so you can cultivate to get rid of the Lippia are actually there because we want to, you know, "save the biodiversity".

**MR BOARDMAN:** Yes.

**DR BYRON:** But the result of that is that a hell of a lot of other biodiversity downstream - - -

**MR BOARDMAN:** Is affected.

**DR BYRON:** In the rivers and the soils, the plants and animals and everything else, so that because we want to save, you know, this little bit over here, we're actually putting a great deal more at risk.

**MR BOARDMAN:** I believe that's true. Now, I didn't say - give you an example of this case, but it's a build up of things that have happened over the years on my particular property. Here in November 2000, we had a major flood, and when we have a major flood out there, it's fairly major. So after it went, after the second step at the house door was water and, you know, we had about an eight kilometre frontage to this water, I went out to investigate it, and the two problems that I think have created what I found were number one was Lippia, and number two was the blockage, mainly with black wattle, but with trees that have got within the streams system itself. So what actually happened was, instead of the stream doing its normal route around the place, it came down to one particular spot and it failed to take the curve and it went straight through. Well, now, I ended up with about a 12-foot gap in the creek bank and consequently there are, you know, quite - it was probably 4 or 5 hundred acres were affected and I've had a degree of erosion that went on through there.

So what I'm saying is that the Lippia, I believe, it dried that bank out so such a degree, and this water rose so quickly, of course, that it couldn't wet itself up quickly

enough to hold. So consequently it went through, so I think about four and a half thousand dollars later, I've got my bank back again but I've lost a degree of my top soil in some of these paddocks, and once again the problem is - and I'd be one of those who would be concerned that to clear in the creek itself is a fair mindful of paperwork and whatever, and are you doing the right thing and inspect this and inspect that, and that's just an example, I believe, of the sort of things that can be created. I'm not saying that that particular case is going to happen everywhere, but it did happen. So I think it does have some implication.

**PROF MUSGRAVE:** You heard Councillor O'Regan - well, are you going to go ahead.

**MR BOARDMAN:** That was his version, his side of the story, so I'll leave - he did quite a good job in exemplifying it, so I think I'll leave him to - - -

**PROF MUSGRAVE:** Does Moree Plains Shire know, is it familiar with these cases in Narrabri Shire?

**MR BOARDMAN:** No, I'm not. No, no, I'm not, to be honest with you.

**PROF MUSGRAVE:** Moree Plains Shire don't have an opinion on this matter?

**MR BOARDMAN:** We haven't probably gone to the extent that Councillor O'Regan has gone, no, we haven't. I mean, we put together what was presented to you there this morning, but I don't think we've gone quite as deeply into it as Councillor O'Regan.

**PROF MUSGRAVE:** Does it interest you?

**MR BOARDMAN:** It does. It's very interesting, certainly is, my word, so we might have to attack, take on the cudgel and see if we can assist him in his cause.

**PROF MUSGRAVE:** Okay.

**MR BOARDMAN:** All right.

**PROF MUSGRAVE:** Thanks. Thank you very much for coming and thank you very much for sharing the benefits of your experiences.

**MR BOARDMAN:** Well, it's only fairly minute, but anyway, I hope it's worth something.

**PROF MUSGRAVE:** Thank you very much.

**DR BYRON:** Now, Mrs Ball. No, Mrs Harris is going to speak for her.

**MRS HARRIS:** There's an apology from Mrs Ball. She was not able to be here and she's asked me to attend to the submission on behalf of the CWA.

**DR BYRON:** Thank you very much for coming and for filling in.

**MRS HARRIS:** It's a pleasure. My name is Merna Harris and I'm a councillor on Moree Plains Shire. I'm a farmer and grazier from the western side of the area, and I've been on CWA executive for a number of years, not all that long ago, so I know what the basis of the CWA talk, so if you don't mind, I'll read from this. I want to thank you for coming to a country area, not on the coast, to talk about productivity. Thank you:

The Country Womens Association from New South Wales represents over 12,000 women and has for many years been a voice to government at all levels, expressing the views of regional and rural communities on the effect of government policy and decisions that impact on these communities. The last decade of natural resource reforms have increased feelings of isolation, social inequity, unemployment and dislocation. The association attempts to buffer some of these situations through its community-based work.

The right to farm is being seriously threatened by native vegetation regulations. Control by governments, particularly its officers who have no understanding of or responsibility to the farm land or production of those farms is causing a great amount of anger and frustration in rural areas. Some native vegetation committees have had little or no understanding of farming and its value to the community and its affect on country towns and employment.

A lot of these vegetation committees that are set up, there will be two farmers, two people from National Parks and Wildlife, two people from fisheries, two from the EPA and two from the Department of Land and Water, so what hope have the rural community got of having any say in the situation anyway because they're so overburdened with fly-ins from the city:

Over the past years, the process that was adopted by government departments has created an agenda that put farmers against conservationists. Both of these groups acknowledge that our natural resources must be managed better. This conflict has had an extremely negative impact on farmers and discouraged them from seeking advice on land and vegetation management.

Again, as Councillor Boardman said, there is too much paperwork to go through to warrant the exercise, a lot of the time:

The majority of Australian farms are family owned, and the majority of those farmers are the first to agree that change is inevitable to protect and enhance our natural resource base, but the change must be based on proper science and informed debate, including the real benefit of local knowledge. We are trying to keep our young people on the land. It is a way of life that they know and love. They are all far more highly qualified and technically aware than previous generations and realise that if they cannot farm sustainably, there will be no future. They are prepared to make many sacrifices to live in more isolated areas. They're prepared to work hard to make their land productive for the next generation, yet how can we encourage them to stay and improve their productivity and make viable enterprises when their future plans are constantly put on hold due to the imposition of unworkable government regulations.

Many of these young people are fourth and fifth generation members of farming families. Had their forefathers not managed their land sustainably, they certainly would not still be there. The reforms are causing endless paperwork for the farmer, eg the cost and time of preparing environmental impact statements, the cost and time to prepare property plans with no allowances for weather or other variances such as drought or flood.

We need practical definitions of clearing, and clear definition of undisturbed native vegetation, remnant vegetation, regeneration, regrowth, invasive scrub, biodiversity, et cetera. What do they all mean? There must be financial encouragement to farmers if their land is to be locked up for environmental reasons. Who will pay rates, fencing, et cetera? We need to stop blaming farmers for climate change as well. We need a platform for genuine informed transparent debate with proper scientific knowledge and data which must include local knowledge and experience. We need to identify new opportunities for change. Outdated and institutionalised arrangements lock us in, and we need new and diverse innovative systems and policies to build on the responsibility of land managers and consumers.

We need to know what Australians really want from a rural landscape and how they see the role of agriculture in the Australian economy.

Just before I finalise this, I'd like to make another comment. We've discussed, or other people have presented - these people from the various organisations can

come onto our properties and not let us know that they're there or that they're coming and everything else, but they wouldn't like all of us turning up in their backyard in Sydney or Newcastle or wherever they come from to check how many trees they've got and whether they have just recently taken one out or how often they have a barbecue and all the rest of it, which is what people seem to think they have the right to do with farming land.

This submission has been prepared by the agricultural environmental committee of the Country Womens Association, New South Wales, taking into account association policies, and is submitted by the association.

Thank you.

**DR BYRON:** Thank you very much, Mrs Harris. Can I just come back to one statement that you made there that I thought was particularly interesting. "We need a platform for genuine informed transparent debate with proper scientific knowledge and data which must include local knowledge and experience."

**MRS HARRIS:** Yes.

**DR BYRON:** It suggests to me that that's not what we've got at the moment if you're saying that's what we need to have, and so that the way things have been done up till now, you know, seems to have failed or it's not delivering that informed transparent debate with proper knowledge, et cetera. How do we fix that?

**MRS HARRIS:** Well, I think one way would be to have a proper consultation process before the rules are changed, instead of changing all the rules and then telling us and not giving us a chance to talk about it. We've been told by some of the politicians that the consultative process is there, but it's, like I described to you a minute ago, there will be two farmers and a bunch of bureaucrats that fly in out of the city, and if you read the minutes of that meeting afterwards, there have been plenty of people who have said, "Was I at that meeting," because it ends up, once it hits paper, it ends up being a totally different discussion to what actually took place. So that is where the transparency needs to be brought in.

**DR BYRON:** But that's also a question about, you know, who is actually on the committees and how representative they are. I've heard people say before that public servants can attend but they shouldn't get a vote. If they've got technical subject matter, expertise, that's relevant, they can be in the room.

**MRS HARRIS:** Yes.

**DR BYRON:** But as non-voting members. Now, would something like that solve

some of your problems?

**MRS HARRIS:** I believe it would solve a lot of problems if it was formulated more like that, yes.

**DR BYRON:** A lot of people have told us what they see as the problems and we've listened to all that. But what we've got to try and do is say, well, how do we go forward from here, how do we come with a better system that actually works rather than the one that we've got that doesn't seem to work very well?

**MRS HARRIS:** Yes. I would see part of that as having the discussions before the rules changed to see how it can work rather than just having something thrust upon us and we've got to try and live with it and work with it. If the debate and the consultation actually took place before the legislation arrived, we might have some chance, and I would think that farmers would not be feeling so frustrated about the whole process.

**DR BYRON:** And you'd actually end up with more sensible legislation or something that's had a better chance of working.

**MRS HARRIS:** Yes. And local knowledge needs to be well and truly included as well, because something that works in the mountains obviously doesn't work out here on the basalt plains or on the red plains further west.

**DR BYRON:** Well, I don't know what the situation is in New South Wales but in a couple of the other states people have said to us, "Look, the law hasn't changed at all in the last 15 years, it's just the interpretation of it changes." That's a slightly different problem.

**MRS HARRIS:** I don't agree that it hasn't changed, but there are lot of different interpretations, that's for sure. Even with the people that come and inspect the work that you might want to do on your farm, different people from the different departments have a different idea about how it should be done. The fellow from Fisheries will tell you something and next week someone from DLWC will turn up and they'll tell you a whole different story. We've even had people come on to the property and accost our workmen that are doing things, not going to the office or the homestead to ask if they can talk to anyone about it, just getting out of their car on the edge of the road and going across and talking to someone who's on a tractor. That sort of thing should just not happen, and it shouldn't need to happen if the system was right.

**DR BYRON:** Well, it's not even courteous, let alone due process.

**MRS HARRIS:** No, that's right. But those are some of the people, the types of

people that have got these jobs in some cases. I'm not saying all of them. There are some very good people who do make appointments when to come and see you and all that sort of thing, but there are some that are pretty unscrupulous and like their little touch of power.

**DR BYRON:** Yes, well, I mean, we might be looking at the legislation that gives them that scope. Anyway. Do you have any questions, gentlemen?

**DR FISHER:** Well, only, presiding commissioner, to note that I too marked the same paragraph, so you've asked my questions, thank you.

**PROF MUSGRAVE:** Could I just have a couple of clarifications, which might be difficult for you because you weren't necessarily involved in writing the document.

**MRS HARRIS:** No.

**PROF MUSGRAVE:** But just towards the bottom of the first page there's a reference to, "We need practical definitions and clear definitions of clearing," amongst other things. I just wondered what the authors might have meant by that.

**MRS HARRIS:** Well, I think, as other people have discussed, there are different ways of doing clearing. You might clear and leave your avenues of vegetation and your trees or your clumps of trees on a ridge or something in the middle of a paddock, or you might - it depends a lot on your operation and what you're trying to achieve on your farm as to what sort of clearing suits you the best. If you have broadacre equipment and large paddocks, it's totally impractical to have scattered timber all the way across that paddock, like one our family has had to leave.

**PROF MUSGRAVE:** Yes.

**MRS HARRIS:** And it is just totally impractical.

**PROF MUSGRAVE:** Yes. So the difference between complete clearing of an area and thinning, they're different things, but they could both be called "clearing"?

**MRS HARRIS:** Yes, and for different sorts of country. As I said, you know, the hilly or ridgy country is a totally different ball game to our flat country.

**PROF MUSGRAVE:** Okay, thanks. And what about, "The outdated and institutionalised arrangements that lock us in," have you got any idea of practical examples that - I'm sorry to put you on the spot.

**MRS HARRIS:** That's all right. I can't just off the top of my head think of any practical examples at the moment, but - - -



**PROF MUSGRAVE:** I'm assuming the paragraph is getting at this point that's been made several times today and has been made many times to us; the need for flexibility and negotiability and the like.

**MRS HARRIS:** Yes, and some regulations that seem to be imposed on us just make it too difficult for, as they say, a diverse innovative system, like the new types of working the land that you're using GPS's and laser equipment and very modern technology, and you can't do that in something that's got scattered trees all over it. You just can't use the modern technology.

**PROF MUSGRAVE:** Yes, I can see that there, yes. Okay, then, thank you.

**DR BYRON:** The last point that I wanted to make is that you're talking about the conflict and the lack of trust, and that seems to me to have been awfully damaging and that ultimately, you know, one day land-holders are going to have to be able to get on with their farming, but there needs to be a way that whatever it is the government wants to see, or the rest of the Australian government want to see in terms of how country is managed. We're going to have to work together eventually, and so this conflict and the breakdown of trust between, you know, different factions between farmers and greenies or between farmers and public servants and so on, it's really unhelpful in the long-term.

**MRS HARRIS:** Yes, and that's where another comment that was made earlier, some of these people that are giving us all the advice should be here locally, not just sitting in a high-rise in Sydney. How can they think that they've got the practical experience to advise, if they don't know what it's all about?

**DR BYRON:** Yes, it's a bit arrogant, to say the least, to think that, you know, sitting in a capital city somewhere that you know how to run a property better than the people who actually live there and have been on it for years.

**MRS HARRIS:** Yes, because there's a big lot of local knowledge accumulates as to what you can do with certain trees, certain soil types, the difference in waterways, whether you're irrigating or whether your dry-land farming, all of these things need to be managed differently, and that's why a lot of the distrust comes from someone putting a blanket over everything and saying, "This is they way you're going to do it."

**DR BYRON:** I think that's one of the reasons why, as you say, we've got hundreds and thousands of small farms rather than one big state government farm.

**MRS HARRIS:** Yes.

**DR BYRON:** Okay, well, is there anything else you'd like to say to wrap up?

**MRS HARRIS:** No, that's fine, thank you.

**DR BYRON:** Thank you very much for coming and thanks to the CWA for making the effort of putting it in writing for us.

**MRS HARRIS:** All right, I'll certainly pass that on too, because - - -

**DR BYRON:** It's appreciated.

**MRS HARRIS:** Okay, thank you.

**DR BYRON:** Right, be a good time for afternoon tea, or we could - are Mr and Mrs Schmidt here, and then we'll be nearly finished.

**MR SCHMIDT:** My name is Andrew Schmidt. I come from south-west Queensland where everywhere is sheep, cattle, fatteners, breeders, opportune stockers, et cetera, et cetera. We run two properties in the area; one near western Charleville, 55,000 hectares and one north of Cunnamulla, 33,000 hectares. We probably have nearly every soil type in the area, which is basically what I'm concerned about is the - it's actually known as the mulga lands. They actually consist of - I've actually - I've been a member of the South-West Natural Resource Management from chair through to other positions for probably eight or nine years. I'm also an - I'm a director of the UMDC. I was also a member of the stakeholders executive panel which wrote the original Beach Management Plan for the Mulga Lands, which actually is in the draft order at the moment.

Active area; we've got about 18 million hectares in the area, of which about 16 million hectares is still remnant, which is roughly 88 per cent. There's a bit over half a million hectares in the area actually protected, so we're talking quite, you know, big areas here. We go from probably 20 to 30 per cent protection in the eastern edge, a small area, back to 100 per cent protection in the western area. If we put that in greenspeak, it comes to probably about 150 million tennis courts, so if we started clearing tomorrow and went for the next 70 or 80 years, day in day out, we might just get the area cleared, so when you put it in perspective like that, when people talk about tennis courts, we've got a lot of them out there.

I'm probably - when I talk about the mulga lands I'll be probably using all my own experiences on our own property, that will cover a hell of a lot of the area, because we've got a very large cross-section of the country we actually manage. My partner here, Kathy, will actually talk then, towards the end, of another very important issue on fodder harvesting, which is very important in that area. She will, when I finish, work on that. The area we want to talk about is mostly the Charleville one - - -

**MRS SCHMIDT:** Which is this photo here.

**MR SCHMIDT:** That area up there, or part of it. I'll just point out, the dark areas, this mulga, this area here, all the area around here, is uncleared country. The white patch actually has been cleared, but you can see where the black areas are, that's actually quite thickly timbered country, so you can imagine what the country is like where it's dark like that, so we've got quite a lot of trees. Originally the carrying capacity of the area, that - it's actually two properties we've aggregated and put into one - was around about 16-17,000 DSC in 1950. By 1960 it dropped to 14,000 DSCs and by 1996 we did a safe carrying capacity over the whole area, it was back to about 11-12,000 DSCs. That was mainly due to tree thickening, that was the major thing that actually brought that timber back - brought that carrying capacity back.

We did a small trial area - I've got a few copies I can give to you if you need it

because it's - tells you, you know, the good parts, the bad parts, about the grass and stuff like that. I must admit, it's only a small area. We did it because it was close to a road, easy to get to. In the past year it went from 50 kilograms a hectare up to 250 kilograms a hectare in probably an average year, so if you put that over the whole place, where that mulga is, we're talking massive grasses. The reason we did it, because there's been no scientific work done from - starting from scratch onwards. I soil tested it, did the whole lot, and the idea try and keep it ongoing, over another say, the next 10 or 20 years, so at least we get a good idea of what actually happens in the country, because you can tell somebody something, but unless it's actually written down and done by professor or done by someone, no-one will believe us.

Since we've have started clearing on the whole, we've - probably I think like we've had better increase in biodiversity; we've seen Mitchell grass there, which I didn't - honestly would say it did not exist in that country, coming back into it. The brolga spotted pigeon, which is an endangered species, it actually prefers open country, we've noticed some of them come back in the area. The biggest - what we're worried about, the vegetation policies coming in will actually - is going to stuff up our long-term veg management plans, because we were doing the country on a sustainable basis, because back in the early 90s, like a lot of other wool growers, we almost weren't wool growers any more, we were almost dole bludgers, I suppose, we nearly had to leave, so we had a - 1996, we had a 10-year plan, which we were doing under like current guidelines, before pre-clearing guidelines came in, we were actually clearing under guidelines. We didn't panic clear. In retrospect we should have just got - borrowed a million dollars, half a million dollars, cleared the whole place and flogged it off, we would have been a lot better off, but we did it on, I suppose, an holistic approach, in other words, instead of pulling all our Yapunyah flooded country, we did some of that, we did some our mulga, some of our gidgee and did it over the whole - we worked slowly through the whole place and that's probably where we got caught out, badly, doing that on that approach, because we still got - I think we've still five or six years to go on our plan, like our long-term plan and anyone - like, that's doing the right thing, really has had the beat put into them.

The main thing is, what I'm a bit concerned, is tree thickening and what was in the original landscape because areas there now, we've got two and a half to 3000 stems per hectare and I'm only - I am worried about in the long-term what they're going to call - what was original trees, what is there now, like basically I think it's some time in the late 60s they virtually said, "That's what was there." Well, actually, historically the timber wasn't there and so we're really working from a false premise, you know, what they're actually working on. Within 20 to 30 years, even probably half someone's lifetime, some mulga lands go from basically an open plain to thick - actually thick sort of forest.

**PROF MUSGRAVE:** So it was an open grassland initially.

**MR SCHMIDT:** The area I think really was open - can I ask our expert here what our country - was it open savanna, was it?

**MR VOLLER:** Yes, mostly it was open - - -

**PROF MUSGRAVE:** Open savanna.

**MR SCHMIDT:** Savanna, that was the classification of the country originally, back in the like 89, 1990, originally when they first opened the country up. So now it's gone back - in areas like, as you can see up in that area up there where it's no resemblance - if you see that there it's hard to imagine, until you actually have a close look and you see the very odd big tree and then you see the old burnt stumps and that country will never have enough grass to get a fire through it now, like, it doesn't matter what you do to it, like, under natural conditions.

The other problem that occurs is compliance and cost of compliance. We've got rules, regulations, for pulling regrowth from remnant, et cetera, like that and also the policing now because I think we've got - the rules came in - some of the policing and that even the civil libertarians sort of are on our side, which is - they don't normally get in bed with civil libertarians. It's a case of we're sort of holding hands pretty closely at the moment, because there really are very poor regulations and the other problem, we've had to bring in, in Queensland we've had a really good relationship with our DNR, I mean, I've been very proud of the relationship we had and that relationship at the moment is starting to get really stretched, because they say we can't do this, we're not allowed to do that, we can't tell you that and it's really making it - you know, making it hard.

The other one too is like satellite photos, stuff like that, it's - in America, from what I can understand, the satellite maps, they become part of the public domain, anyone can get one. I want to be able to ring up now and say get one on my computer. I ring up DNR Charleville, or wherever I live. They can send me one on the computer. I can look at it. If they want to do that now, it's going to cost you \$150 every time you do it, when really it shouldn't - it should be actually a part of the - you know, their essential services, because it's - they were at one stage lending them out, they'd lend you the maps, but they were told, "No, you can't do that, you must actually charge people for maps," so they're trying to make us do this - comply us one way and the other way sort of putting barriers up, dollar barriers up in front of us to stop it, because I think it's something that's very important to - you know, in our case, especially when we're fodder harvesting with mulga, where you can have a look at a paddock and say, "Well, hang on, I'm getting close to the money there, I'd better stop," then I'll move to another area. You know, checking and getting your maps updated, the whole lot. The other one too about fodder harvesting, must be totally divorced from broadscale and Kathy will be working on that in a minute.

The other problem at the moment is greenhouse gas seems to be the - one of the big sticks, you know, we had salinity and it sort of fell by the way a bit now, so greenhouse gases are - I don't know if you heard about that case in Queensland the other day with Richard Golden did a basic place a fair way east of us and all the purpose it would have been a carbon - admitted it turned out it was a massive carbon sink and so there's been very little science in that type of thing and before - I'd like to see a lot more science done, especially in our areas, with the carbon stuff, because as far as I can understanding, an older mulga forest is basically almost nearly a negative, you know, carbon thing where if you - regrowth is a carbon sink. When we pull out a mulga it's got a - it comes back probably twice as thick or - it really regrows very quickly and so you actually have - a lot of the country out there probably would be carbon sinks. Also we were told, I think three or four years ago, that our country wasn't counted anyway, so now they need us we've been counted, but before, I imagine, like it was about three or four years ago, they said it didn't matter, so we are very confused in that one.

The other is a very big concern is gagging of excellent scientific knowledge by our current government. We have Dr W. Bill Burrows, a lot of people, like, they're good people, are not allowed to speak, they're just told to go away and it worries you, what are people hiding, because you know if you've got a message to put out, you know, let people know about it. That's - you know, it's a big problem.

When we did our plan, we've got a book here, called a Regional Veg Management Plan for Mulga Lands, it's that one there. It's actually an excellent plan. Unlike New South Wales, we were very lucky, we had the state hall, we had an excellent lot of stakeholders on it, a lot of people - property managers. The DNR, even the Maguire Metal people actually came from west of the range and they all had the input, we all had our arguments and we came out with an excellent book. When I read through your original agenda for this, that book answers most of the - a lot of the stuff that has come up. At the moment, we are worried they were going get it and throw it in the bin because it mightn't suit what they want to see. I don't know if you've seen a copy of this book, but you probably should, because in it, I think, probably 50 per cent of the RE areas, like all the different types of tree-types areas, you've actually got 100 per cent ban on tree-clearing. You'd almost think, if you read through it quickly, you'd say this was written by a rabid Green from, you know, from Melbourne somewhere because it does ban a hell of a lot of stuff in there. When you read the fact that graziers actually came to an agreement, read that book. It still is in draft. There's probably, you know, a few little things to go out with it.

Probably the other ones is - well, probably if I'm allowed to have a couple of quick grizzles here, is we've had a huge problem with anything dealing with the Wilderness Society. They seem to come out of Canberra, go back to Canberra and leave behind everyone sort of wanting to, you know, shoot them. The WWF, we've

had really great - in our mulga lands area, we've had really good results with the WWF because they actually come out to our country, they come and see our concerns, we can talk with them. So we're very - well, basically, you know, we're quite impressed with WWF because they're fair dinkum, where the Wilderness Society seem to have an agenda and that's all they've got. There's nothing to back it up.

There's probably a lot of things I'd like to see about the tenure between freehold and leasehold, all that mulga lands I'd probably like to see it in the future under one tenure because at the moment it's different, it's scattered round the place. I think we actually run four different tenures doing the same thing. One property has two. You know, it's ridiculous, with the different laws for different places and you're trying to run something on one approach, one thing. Probably, about tree-thickening, this is one our big concerns. I don't know if anyone - you probably would have, somewhere in the 1890, 1900 Royal Commission, Western Lands, New South Wales in the Bourke - I think it came there in the 1880s and 1890s, a tree-thickening of the pine in Cobar or some area who actually liked that country way back then. I think I remember reading something there they had trouble. So tree-thickening has been with us for a long, long time. Like, it doesn't take long to change a landscape, what's there now. It might have been 8 millimetre thick, you know, with the fire and that sort of stuff, you know, it actually taken - we used to have a lot of fires which we've now stopped and what's come up in the difference.

The other way, too, is when we have our cap. We have a half-million hectare cap I think they've put in Queensland. What actually will be capped is the stuff - I mean, the mapping at the moment is getting better but, you know, what will be counted as RE, you know, remnant, what will be counted regrowth, will they count the stuff that's come up in recent times, because, you know, will it be a fair assessment of what's going on? Because some of the dealings we've had with the actual government lately have not been very fair. They're sort of basically - well, I think I've written a note here. If you're getting - milking the cow it would be the best milking cow in Australia probably, probably, you know, it would be the world champion of the show because it's just virtually be milked for all the wrong reasons. That's all about I've got to - could I apologise. We've only given you, like, small notes. We didn't have time. I'd hoped to give a better - if we need to, we could actually make up a lot better one with photos and stuff like that, if it needs to be.

**MRS SCHMIDT:** I was part of the - well, I still am part of the natural resource management group for our area and the panel that actually put this draft vegetation for the mulga lands, and in the mulga lands, which is, sort of, a fair bit of south-west Queensland, or mostly all of it, one of our main activities, especially in drought, is actually feeding mulga, which is an acacia, to our stock, and the stock actually go looking for it well before any place is declared drought-stricken. They crave it and they crave it before you even realise that they're doing it and one of the reasons we

even - and we started calling it fodder harvesting, not clearing, because mulga historically has been knocked over with bulldozers every drought and it will regrow again. Hopefully the drought is far enough away that by the time you're needing it again it's ready to be harvested again.

So we've been trying to have fodder harvesting totally divorced from tree clearing because the end result is that it's going to come back again to be used as a crop. Someone said it was like having a living haystack. We haven't quite succeeded in having it divorced from tree clearing, which is a worry, because if they succeed in totally banning tree clearing by 2006, and we haven't got this divorced from it, where whole areas of south-west Queensland will be worth absolutely zero because if you've got mulga country and a whole heap of mulga trees on it, and you can't knock them down because the branches are out of reach of any of your livestock, that area of country is going to be totally worthless.

So a group of us did get together and we've actually worked together with the department and other people to actually form a code of practice for the sustainable harvesting of mulga for fodder. Most of the concerns that we had were actually put into this book and we're hoping that it will be for all tenures and that it will be just for harvesting of mulga and mulga types. There's guidelines sort of for areas to be done at once and we wanted a long-term fodder harvesting and management plan which would go on for maybe five - or be renewed every five years, but you would have a 10 or 20-year plan for the whole of your mulga area and for each time you wanted to do something you would take out certain areas and leave others.

We recommended that 30 per cent virtually was left at any one time; that you didn't take any more; that you took out maybe strips; never the whole area at once. So it was virtually a list of commonsense things in dealing with mulga and we have managed to have it put into this draft mulga lands regional vegetation management plan. But we're not sure if it's going to be chucked in the bin or not yet and we would object very strongly if it was, because as I said, if we can't use the mulga on the mulga lands, those areas of land, instead of being worth maybe 2 to 10 dollars an acre will be worth minus because you will have to still pay rates and rents on that area and you will not be able to use it successfully in dry times and it will be worth nothing.

**MR SCHMIDT:** I missed a point too. I meant to come in at the end of it about the actual costs of slicing our property up. This is the Charleville property. These are absolute minimum figures of leaving I think probably 50 per cent retention of trees on the place. That's not actually going back to sort of 30 per cent and we probably worked on a minimum of income loss, so would have been 50 to 70 thousand dollars a year. That's only an estimated carrying capacity, like increase of 3 to 4 thousand a year if we actually finished our tree clearing area. That's a minimum amount, like, I mean, it would probably be more than that because, like, all our stuff, our rent, rates,



repairs, fencing, all that fixed cost stays basically exactly the same, and going on the property next door it sold, I think, \$46 an acre which probably put a 10 - if we were finished we'd have a 10 to 20 dollar an acre increase. It mightn't sound like a lot down here, but when you're talking about areas of 100,000 acres \$10 is a hell of a lot. It's a million dollars basically extra that the place would be worth if it was fully - like, got it done. But those are figures of 50 to 70 thousand dollars a year.

Then I'm saying that almost - on, like, minimal figures, in other words, it always would be year in, year out, not going to be the big years so probably on average the big years are probably a bit more. You know, crook years, I reckon they would always be a yearly thing. Another one too, about these guidelines you put in for the fodder harvesting were very severe, in other words, almost Draconic, the fact that you're only there to harvest mulga only, put the grass seed out, leave strips, because it was nothing like a boy scout clearing at all. It was very defined, very harsh herbage. You had to basically leave the mulga regrow, otherwise they could come and inspect you. I think it is written in there, saying, "Okay, you've done the wrong thing. You can't get a fodder harvesting permit," because if we lose our fodder harvesting our mulga country basically, well, it's not really worth having. It's only really worth a livelihood because it grows mulga, you know, in dry times.

**DR BYRON:** There's a lot of very interesting points you've raised there, Andrew and Kathy. I'm just wondering where to start.

**PROF MUSGRAVE:** I was just going to say, could I ask a question while you're working out where to start?

**DR BYRON:** Okay.

**PROF MUSGRAVE:** It's just a quick one in relation to the drawing up of the plan. Did you have some guidelines? Did you have even better outcomes that the state government thought would be desirable for the region? Kathy, this is addressed to you.

**MRS SCHMIDT:** Some of the government people that were on the group, and they were members of the group, wanted certain things and a lot of - in this book we've traded one for another, sort of, and we've agreed to, you know, leave 100 per cent to retention.

**PROF MUSGRAVE:** So you sort of negotiated with each other in the meeting?

**MRS SCHMIDT:** Yes, and we've negotiated that and it's contained in the plan. So if the plan is chucked in the bin, you know, we're not going to think very much - and we certainly probably wouldn't want to uphold any of our agreements.

**PROF MUSGRAVE:** But you feel a bit bitter and twisted?

**MRS SCHMIDT:** Yes. There's certain types of trees and certain types of land country that we agreed we would leave 100 per cent retention of vegetation.

**PROF MUSGRAVE:** Yes. What makes you think that it might be thrown in the bin?

**MR SCHMIDT:** Well, the cap for a start, with that half a million dollar - you know, when they just said, "Make it all clearing," and - - -

**MRS SCHMIDT:** There's a total moratorium at the moment.

**PROF MUSGRAVE:** A moratorium?

**MR SCHMIDT:** A moratorium, yes.

**PROF MUSGRAVE:** But they could park it, you would think, until they - just work their way through.

**MRS SCHMIDT:** Yes.

**PROF MUSGRAVE:** And come out the other end.

**MRS SCHMIDT:** It has got to the stage where we are unsure, you know, there's no certainty that any of it will be used or - but if it is used it will be an example of working with the government and having good outcomes.

**PROF MUSGRAVE:** As it's been displayed widely in the community and there's general community endorsement.

**MR SCHMIDT:** There's massive community consultation. It is still ongoing now. They're still actively calling for submissions to this.

**PROF MUSGRAVE:** Yes.

**MR SCHMIDT:** That was all sent out and then forms sent back where you had any worries you could actually go back and - that's still in the process now.

**PROF MUSGRAVE:** I see, yes.

**MR SCHMIDT:** Coming through.

**PROF MUSGRAVE:** Yes, okay. Did you have much technical assistance in

drafting the plan?

**MRS SCHMIDT:** Yes, we did. We did.

**PROF MUSGRAVE:** Well, it's very desirable I would have thought.

**MRS SCHMIDT:** Yes. It was a desirable process because we were consulted. It's just that we're just not sure if it's going to be used. And if tree clearing stops in 2006 it is in the bin. Because it's not just mulga - - -

**PROF MUSGRAVE:** Well, I guess it is.

**MRS SCHMIDT:** - - - it's for every type of tree in the mulga lands and every type of country, all vegetation in the mulga lands, it deals with that.

**PROF MUSGRAVE:** You had no feedback on the mulga as a fodder tree question?

**MRS SCHMIDT:** We're still hoping for that.

**PROF MUSGRAVE:** I should think you would.

**MRS SCHMIDT:** We're hoping for that at least. Well, otherwise sort of - that's a fair bit of concern for the Productivity Commission.

**DR BYRON:** The other possibility is that the government, after reading these regional plans, would come to the conclusion, "Well, we don't actually need to impose a total ban in 2006 because we can get, you know, good sensible environmental outcomes," through continuing with the process that they've already set up. Now, you know, who knows what's going to happen but the thing is - the term "bitter and twisted" - I can imagine why people would feel a bit burnt out if you'd put a lot of effort into going through a serious process to come up with a plan that everybody can sort of sign off on, only to find that it doesn't actually go anywhere.

**MRS SCHMIDT:** That's right. That's right, and with an election coming up in Queensland, that puts even more pressure on something like this, if it doesn't please some of the conservation groups.

**MR SCHMIDT:** Because the EPA were there, WWF were there, DNR had all the expertise there. So we had someone there we could always call upon, "What's that area like?" - if we didn't know, and okay, they'd describe it, and then we'd have a look at it and he described why it shouldn't be pulled or why it shouldn't be touched because of the right soil. Most, by that stage, had a pretty good understanding of the

soils and stuff like that, so we knew what we were coming from, and that's why a lot of country in there has been sort of - you know, been there. Mainly I'd like to see it out publicly for someone buying a place, they could look at the property because the bloke is never saying, "You can pull the whole lot, you know, who cares," and then they could sort of make sure before it goes through, has the person checked that this has got this type of country on it, and he's not allowed - that means, you know, it's not allowed to be pulled. It must leave - like it might be thinned and stuff like that, but not allowed - no more clearing.

**DR BYRON:** But what people have said to us in other places is that the quality of the basic data and the maps on which the plans were being based, if that was defective, then any plan based on it was going to be defective. So were you satisfied that you could get, you know, sensible, reliable information on which you could make sensible, reliable conclusions?

**MRS SCHMIDT:** Well, the mapping hasn't been done at all from just west of our boundary on our Cunnamulla place, just west of there right out into the desert. Well, there's not much trees in the desert anyway, but from there west, there's no mapping been done.

**MR SCHMIDT:** See, this book describes the areas. So it stays something like that. It's when it comes to the property, okay, then it comes interpretation - is that the type of country, you know, because it's got I don't know how many - there's quite a lot of different types in there.

**DR BYRON:** Yes.

**MR SCHMIDT:** So it becomes - it's not interpreting, okay, if you've got that sort of country and once it's mapped properly, there's probably areas you might think, you know, you can't touch. You can, but it's great for getting - you know, getting the properties down on accurate mapping, each individual property.

**DR BYRON:** We were given a couple of those draft veg plans but I don't think we got that particular one. We just got a couple of samples from AgForce in Brisbane a few months ago, but - - -

**MRS SCHMIDT:** I mean, as has been said, there's no scientific research being done out there, and hasn't been for quite a few years. So there's no new research being done, you know, to see what the effects of these vegetation sort of is much, and so we had to work sort of without any new research.

**PROF MUSGRAVE:** Was the precautionary principle rolled out then because of that?

**MRS SCHMIDT:** Yes.

**PROF MUSGRAVE:** But not in a big way, not in any strong way?

**MRS SCHMIDT:** It's difficult. The area has changed sort of, you know, in the last whenever. It was still classed as an open woodland. The whole area has changed, probably for the worse. So maybe - and one of the best things that was done out there was the safe carrying capacity, and it was a project that actually worked on the type of land for maybe that little bit, the type of land for that little bit, and they applied a carrying capacity to each type of country, and then they applied it over the top of your place. So people knew how much the property could sustain, and that was one of the best things, because a lot of people were actually doing it, having it done on their place, and realising the potential of their property, and that's where sort of our figures, our carrying capacity figures have gone down and down and down as the number of trees have gone up and up and up.

**MR SCHMIDT:** Yes, but if you were to go over the amount of trees, have a look at the area and the amount of vegetation trees on it, and then they'd work out how much grass would actually grow with that type of country with that many trees on it. So you might have, like, see this area here where the timber is on was 50 kilograms per hectare, with the trees off it, it became a 250 kilograms per hectare, which is a pretty substantial rise. So they could actually look at the country, then look at the trees, there's all the maps, you've got little lines, if you have a place to look at it, you can see all the different colours and stuff there. You don't have to be very smart to recognise all the different types of land types and then you just work out the tree cover then or the vegetation cover and that will give you actually what the country will grow and then you can work out your - you know, we're talking about sustainable grazing. That means not eating back to zero. So okay, you've got 250 kg, eat 150 but 100 left to rot down basically, and that's what was worked on.

**DR BYRON:** But one of the points that comes out of what you've both said is that the definitions are really important. When we were talking to Mr Harris about, "What do you mean by 'clearing'? What do you mean by 'remnant native veg' as opposed to regeneration or regrowth?" and all these sorts of things. There's a big difference between fodder harvesting which is a good thing, and clearing, which is a bad thing. But you reminded me of another definitional issue that came up when we were in Adelaide about two weeks ago; somebody in government decided that grazing stock on native pasture on a grazing lease was clearing native vegetation and therefore you couldn't do it without a permit, and there had been a grazing lease for 127 years. But just two years ago, somebody decided to change the definition so that grazing stock on native pasture is now equal to - that means "the same as" - clearing native vegetation.

Now, this is where words matter. The definitions are important. The

definitions that are used in Queensland and northern New South Wales for things like cypress pine country are very, very different, whereas here, if it's greater or less than 10 years old, and in Queensland you're talking about 75 per cent at mature height and the stems per hectare and all this sort of stuff. But I can't help thinking that the discussion about these sorts of issues has got really confused and a lot more complicated and aggravated than it needs to be because people are often talking at cross-purposes and using the same words with different meanings, that sort of thing.

**MRS SCHMIDT:** And just the fact that Queensland has a definition that once regrowth gets past a certain heights, it's then not called "regrowth" any more, it somehow turns itself into remnant vegetation. Now, that's almost a God thing.

**PROF MUSGRAVE:** Or capricious.

**MR SCHMIDT:** The other point too, we're all working under grazing pressure, which means weeds, feral animals et cetera out there, and I don't know if any of you were out in western Queensland last year, but the chief cattle population probably consisted of about 40 per cent of the grazing pressure. 60 per cent was actually from kangaroos and - there's probably one point I did actually try to put. It was put in the Courier Mail about how many - and they worked it out to the last number - thousand animals had been killed through tree clearing, but I know in our little set-up how many thousands we've saved by supplying water in the last drought. I think it was something like - I don't know how many thousands of birds because you come to a crop and there will be a massive number of birds just drinking off that water, taking that water around that area, and those birds would go - how many kangaroos we sustained with the water and stuff up in those areas, but they didn't really want to know that side of the story. You know, there's more to grazing pressure than just the animals and stuff. There's more to it than our native animals, there's the ferals as well.

**DR FISHER:** I just wanted to go through a little bit of the history. You talked about the carrying capacity of the properties dropping from - was it 16,000 DSE down to 12,000 or something over a 30-odd year period? Was that - -

**MR SCHMIDT:** Yes. We came to the place in 1986 and we probably took over personally in 1996, so I went back and got the old records that I could for our carrying capacities and the whole place was a very run-down place. We bought it cheap and the idea was, over the years, we would build it back up again. We found that the 16,000 in the old carrying capacity done in 1950, it had dropped back to 14, and the main reason given was the timber arrangement that's done in the area and we did the same carrying capacity; it came back to 12 because there had been a lot more - a timber arrangement by that stage as well.

**DR FISHER:** So basically that was all vegetation thickening driving it downward?

**MR SCHMIDT:** Vegetative thickening. If you see that country, like a map, you can actually see it. Sorry, I didn't bring the bigger ones; but it really is from the satellite - I mean, you can hardly appreciate it from the ground. It's only from the satellite that you will really appreciate the thickening of timber in some of these areas when you know that there's been no broad scale clearing in the whole area up until recently.

**DR FISHER:** You probably don't know the answer to this, given that you weren't in charge, but if you think about - so the operators observed this downtrend in carrying capacity, and presumably therefore income, from the property but obviously took no management action to deal with it. Can you speculate why that occurred?

**MR SCHMIDT:** I know one bloke because - I suppose my way of thinking is he probably is a flea. He was hopeless. I mean, he eventually - when we took over one side of the place, he was practically making his money off - he couldn't even run his own place. The power bill - the lights of the house was a pumped-up kerosene heater. I mean, he just let the whole place - it was a beautiful part-time.

**MRS SCHMIDT:** So he wouldn't have had money anyway, even if he wanted to, to clear the vegetation that had come up.

**DR FISHER:** Let me ask this question in another way: let's imagine that there's an operator with reasonable management skills and the technology that existed from 1950 up to 1980. Was the country actually worth enough to make it economically sensible to try and deal with the tree thickening or is it just technically so difficult to try and thin, rather than pull everything, that it's just not worth doing it?

**MR SCHMIDT:** No, with our modern machinery in the modern days, it's a lot easier now to thin than it was back probably 20, 30 years ago. The machinery is so much better and you can do it so much quicker. We use machines - I don't know if you've seen machines - but we put a 40-foot bar on them. That's going through thick mulga. They didn't exist; you couldn't do it 20, 30 years ago because machines wouldn't do it. Probably the other one is too, a lot of it - it's an insidious thing. It's a bit like the Lippia, where every year it's sneaking back a bit, sneaking back a bit, then all of a sudden - because a lot of it in the mulga lands, if you test the soil in the mulga lands, it's quite fertile. It's shaded out; it's actually a shade thing more than anything. That's why we've been trying to, in that one area, pulling in strips, bigger area, a smaller area, to try and get the right mix. A lot of our mulga country - some people would rather see it all down. We'd like to leave some; it's like almost having money in the bank.

We bought cattle in December-January at that place where we paid a bit over \$1 a kilogram for pretty good steers. They're probably worth about \$1.70, \$1.80

now, because we had the mulga there and we had the ability to actually get it on the ground because we had a lot - you know, there's too much. We're actually improving the country because we're bringing grass back. We're still leaving probably way above what's considered normal mulga for the area but that's how we're running the place. It's like having a bank balance somewhere; you don't want to use it but one day, it's there to use. In our case on that property, we've probably got far too much mulga. We're suffering very low carrying capacity in the good years, you know, in the good times. We could probably take a lot more off and we'd be a lot better. Trying to answer that question, it's sort of like an insidious thing; it just sneaks in, sneaks in, sneaks in.

A lot of that country - and I went back historically to the 1950s, there was a huge fire through it. Most of the mulga there has come in since 1951. There's been a combination of things; we had a big wet in the 50s and then you had a break; the people who had the properties in the 70s went back to cattle, not sheep, and the same thing, a whole lot more mulga came up in that time. If they had been running more sheep, the mulga wouldn't have come up - you know, trying to track back why it's there. But basically when you have a place looking - you can see where there was fire. We try and burn ongoing all the time up there - and one day I'll be jailed because I normally burn on days when there's triple fire warnings and God knows what because it's the only time we can burn our country. My wife, I let her do the worrying and I do the burning.

**DR FISHER:** We have heard of the incidence of lightning strikes rising recently. Now, the other question I wanted to ask was when you harvest mulga for fodder, how long does that take to come back? In other words, what sort of rotation do you have to use to make this viable?

**MR SCHMIDT:** Some people, it's been done - I think it's their third time. We're doing it on that property there - that's the second time. It was done in the 1960s and we're doing it again now. Some would have done it in the 70s; yes, a lot would have probably done it in the 70s and we're doing it, what, in 15, 20 years' time, depending on - - -

**DR FISHER:** So it's a 30 or 40-year rotation?

**MR SCHMIDT:** No more; in some areas, probably only 15 years. The reason it wasn't done in one area is because - like, we've got two crops of mulga in the place but we're harvesting stuff that was actually done in the 70s and we're harvesting stuff done in the 60s. The 90s, late 80s, they did more, but they did a whole lot of old stuff. It would have been probably old 50s stuff because the other stuff, like the stuff from the 70s, wasn't quite big enough. We actually try and do it on a needs basis, where you try and clean up the thicker stuff, like the stuff that's called whipstick, where absolutely nothing is growing, probably not as effective for feeding his sheep



because when you do that, you leave quite a lot of mulga. Where we've actually harvested what we call whipstick mulga, you could probably go back there in probably only seven or eight years and redo it because the stuff that's left there is really going to get going. Like, you might be only leaving a little strip that's probably as wide as this table but there's probably still eight or 10 trees still there. Because we take the side ones, they're going to get going again.

**DR FISHER:** You would need to do this, say, once every five years. Would that be - - -

**MR SCHMIDT:** No, you would probably - - -

**MRS SCHMIDT:** You would hope you don't need to.

**DR FISHER:** No, but in the general run of seasons that you have, what's your expectation about the frequency with which you have to harvest?

**MR SCHMIDT:** I'd say at the moment where Cunnamulla - well, there's never been one before like it. Like, it's new territory. Up in Charleville we've probably been going there for about six or seven months. Last time, probably a short time in the mid-90s, then it was 91, 2 and 3; there was a time then. Then there's 89 and you have to go right back then, I think in Charleville probably 72. But a lot of those other ones were only a short time, like six, eight months, that sort of stuff.

**MRS SCHMIDT:** You never touch it if you're not in drought because the stock won't eat it.

**DR FISHER:** Yes, I understand.

**MRS SCHMIDT:** If there's something better to eat they will go and eat it.

**DR FISHER:** Yes, obviously. But I'm just thinking, if you're thinking back over a 40-year period you would be having to harvest - - -

**MR SCHMIDT:** I'd say it would be every eight to 10 years.

**DR FISHER:** Eight to 10 years.

**MR SCHMIDT:** But we do it on a rotational basis, like at the moment - see, I don't know if you know the area. It was big places cut to really small areas and they end up - it was one of the disaster zones in Australia. It was known as a disaster area. It's now 20, 30,000-acre blocks up to 80 or 90 and we're running 130,000 acres up there. So really these days, the paddocks will be actually pushed in - we've got 20,000 acres there closed up, something - so we've got nice rain and therefore a bit of

mulga will come back and we won't strike that till some time next year. So even your smaller trees will get away - you might get a bit of germination. It just gives a chance for them to - you know, the country to come back a bit. That's how we normally, you know - we're still learning about our mulga country, like we're only about halfway there.

**DR FISHER:** Now, let's hypothesise about what would happen if you can't do this any longer. You have to do it, to maintain your stock, every eight to 10 years. If you couldn't do it any more, what's the consequence? You originally said that the country would be valueless, but presumably there are other alternatives: for example, sell or destock.

**MRS SCHMIDT:** Well, you'd have to sell, destock.

**DR FISHER:** That's one possibility?

**MRS SCHMIDT:** And if everyone with mulga country is having to do that at the same time, you're not going to get a lot of money.

**DR FISHER:** Yes, I understand.

**MRS SCHMIDT:** Whereas sort of mulga country is always - you lightened off, you know, even if you did start pushing, but you kept alive, sort of, your breeding stock. You got rid of excess.

**DR FISHER:** Right.

**MR SCHMIDT:** But your carrying capacity could also nose dive and the thickening of the mulga would actually just go down because there are areas there called mulga bare, which they're actually mulga bare because nothing grows in them, just mulga and nothing else.

**DR FISHER:** So there's two points here really, aren't there? One is that if you can't harvest the mulga for fodder, you don't have a drought strategy. That takes one drought strategy away. The other issue is that if you're not doing it relatively regularly, you have vegetation thickening so at some point in the next 50 years you have no stock carrying capacity at all.

**MR SCHMIDT:** No.

**MRS SCHMIDT:** And you won't have biodiversity either, because where there's only mulga and it's really thick, there's no grass, there's no lizards, there's nothing, and there's no light getting in either.

**PROF MUSGRAVE:** Sterile monoculture.

**MR SCHMIDT:** You could keep out - like, we've got areas there - if you pull up grass, then start burning it like traditional owners did, like start burning it on a basis, you can actually keep the mulga out of areas doing that, you know, by burning and probably stocking with sheep at certain times of the year in the wintertime, and then if you do get grass through it, okay, light fires through. We've got areas there we try and keep as semi-grassland by putting what we call coal fires in the wintertime, where still - you're leaving the wood in the ground, you know, you're not actually scorching the ground. We've still got areas there that were scorched in a wildfire, I think, in 1978, I think it was, and was actually still - they're still only just recovered now. It was just a proper wildfire, probably middle of summer, high grass and stuff like that. Where we've got the, you know, grass - we burn any of our mulga so if we push, we actually do what we call coal fire. So you try and leave at least 50 per cent of the sticks there to try and, you know, keep the country - stop the ground going back to bare ground.

**DR BYRON:** Thank you. Just on the timber thickening, a lot of the people we spoke to in central and north Queensland said that they didn't actually notice, you know - one year looked pretty much like the year before. It was only when somebody pulled out some photos of what it looked like 20 years ago that they suddenly realised how much it had sort of got away on them.

**MR SCHMIDT:** I thought my father was talking stories about open flat with kangaroo grass, you could see 10 mile. You'd look at him and think - and then all of a sudden, I've actually seen it in my little time, you know - such a short time, it can go from one to the other, and you think, "Well, that couldn't be right," but you start having a really close look at the country and then you look at the age of the trees, and everything all of a sudden starts - the picture starts to, you know, come back.

**DR BYRON:** Yes. I was interested in your comments about the rationalisation of the tenures, having, you know, four different types of - that's probably something that's on the go. The Productivity Commission had a bit of a look at pastoral leases a year or two ago and it was interesting that this pastoral lease system basically only exists in Australia and New Zealand but the New Zealanders decided to go through and review all theirs. They're looking at every single pastoral lease property and saying, "Well, it's either going to be freehold or it's going to be national park or something," and they're just going through one by one and negotiating. They're basically going to get rid of all their pastoral leases. But I don't know if anything is thinking anything like that in Australia.

**MRS SCHMIDT:** Do they apply different valuations to different leases?

**DR BYRON:** I'm not sure.

**MRS SCHMIDT:** Because, I mean, I think that's something we should look at too, is the fact that a freehold lease must be worth more than a pastoral lease, because there's no certainty or - - -

**DR BYRON:** Yes, yes. What else? Okay. Well, I'm looking forward to getting up that way next week.

**MRS SCHMIDT:** Well, give us a ring if you do want to call in.

**DR BYRON:** If I get a chance. The minders might take me in the opposite direction but - - -

**MR SCHMIDT:** Good place at Wooralla Road. Penfolds will give you a good night's accommodation.

**DR BYRON:** Okay, I'll remember that. Thank you very much for coming and for driving south of the border.

**MRS SCHMIDT:** Thank you.

**MR SCHMIDT:** Thank you.

**DR BYRON:** Well, as I said this morning, before we draw the proceedings to a close, if there's anybody who wants to come up and put something else on the record - you're next.

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**MR YOUNG:** Mr Chairman, just very briefly - - -

**DR BYRON:** Your name?

**MR YOUNG:** Rod Young, I'm sorry.

**DR BYRON:** Just for the record. I knew who you were.

**MR YOUNG:** Just very briefly, you've been asking us have we got any suggestions as to how to come up with resolutions for the problems we've got, and with the committee system of water and regional vegetation committees, I'd just like to explain, we actually set out in our area to stack our committee. Now, we actually went to the trouble of setting up a steering committee to get the three shires that we wanted, and then we set out to get what we thought were the best representation that we could. But already the government representatives on our committee tell us that they will change what we are proposing when it goes to the bureaucratic process in Sydney.

Now, a regional vegetation committee has 15 members. There's two New South Wales farmers, two Aboriginals, one Landcare, two rural interest, one catchment management, one local government, one NPWS, one DLWC, one Department of Ag, a scientific expert and two conservationists; 15 people all told. Now, just to give you a bit of an example of how we stacked it, our two New South Wales farmers reps are on the rural side. We've got two pretty good Aboriginal people that go with us. Our Landcare person is a farmer's wife. Our two rural interest people, one is a farmer's wife and the other is a farmer. The catchment management representative is a farmer's wife. The local government person is a local farmer, very much on our side. The scientific representative is a professor from UNE, and he is reasonably practical and willing to work with us for the common good. We've had no representation from NPWS for the last six months. We've had three changes in our DLWC representation. The Department of Agriculture representative has told us that she will definitely get things changed in the bureaucratic process when it gets to Sydney, and we have two conservationists.

Now, I see a big problem in that most rural communities have not moved positively to get proper representation on these committees, and that is really apathy on rural people. I realise that's their make-up, they're pretty conservative and they don't get off their backside to get out there and try and get positions and do the job right. Possibly a second time round, they might, but you will always get that big element that won't be prepared to do anything. Now, I consider that if local people only were involved and were held responsible by their local community for the outcome, because you've always got the chance that someone with a vested interest will run away with it, a cowboy on our side, I think in most cases we probably would be on the right track. In other words, we would take the bureaucratic and the

city-based politics out of it, but with safeguards that the cowboys on our side didn't stuff it up. We would have to vote, not depend on consensus, and rely on a local public consultation to keep the cowboys under control. And, of course, you'll never please everyone. I think as a result, rural people are more environmentally aware, as a result, but we certainly need a rehash of the committee system if ever it's going to work.

**PROF MUSGRAVE:** But you're ministerial appointees, aren't you? Wouldn't you be ministerial appointees?

**MR YOUNG:** No, I'm a New South Wales Farmers' rep, myself.

**PROF MUSGRAVE:** Okay. So you're accountable to New South Wales Farmers.

**MR YOUNG:** Yes. I'm - - -

**PROF MUSGRAVE:** You probably feel accountable to your local community.

**MR YOUNG:** Yes.

**PROF MUSGRAVE:** But formally you're accountable - - -

**MR YOUNG:** I'm probably more accountable to my local branch and district council of New South Wales Farmers in the area.

**PROF MUSGRAVE:** Okay. I was just wondering how you get those accountability mechanisms.

**MR YOUNG:** I was selected by Sydney office of New South Wales Farmers, yes.

**PROF MUSGRAVE:** Could I ask you a question about the present plans where the Department of Agriculture person said that things would be changed bureaucratically once it got to Sydney.

**MR YOUNG:** Yes.

**PROF MUSGRAVE:** I'm not too familiar with the status of these veg management plans, but I would have thought that the only person who could change the plan would be the minister.

**MR YOUNG:** Well, we haven't got that far yet to get our plan down to Sydney, and it's all virtually been put on hold now anyway because of the implementation group. Everyone seems to be waiting on that.

**PROF MUSGRAVE:** This is the Sinclair committee, is it?

**MR YOUNG:** Yes, that's right. So it has probably been a waste of two or three years, but it's been an experience, I can assure you of that. But I do think if it was rehashed, if we had our time over again, I think you would find that a lot of rural people would take more notice next time and get more representation in there, and we may come up with a more reasonable outcome. But consensus is pie in the sky, in my opinion. I think you've got to vote, and as I say, you do need safeguards on both sides. That's just my outlook on it. I know it's been a bit of a heavy day and you're talking about definitions. We have come up with a reasonable definition for "wilderness": it's the space between a greenie's ears.

**PROF MUSGRAVE:** Thank you, Rod.

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**MR VOLLER:** I'll be very quick.

**DR BYRON:** Don't bother. Take your time. Say whatever you want to say.

**MR VOLLER:** I'm stepping out of my present role, so I'm - although I work for the Queensland government, I'm not necessarily representing them here this afternoon. I was involved with the mulga lands vegetation management planning process, as well as others in south-western Queensland, and primarily I wanted to, I guess, speak on behalf of regional officers who work in government and their position in regard to applying or trying to implement legislation. I think I echo the thoughts that many people say here, that whilst many of these laws and regulations make perfect sense at a state or national level, they're often illogical at a regional or property scale, and that's an ongoing problem.

One of the possible solutions and the only real point I wanted to make with my presentation this afternoon is that the success of the regional process that we ran was based on community partnerships which were founded in trust and founded in personal trust in the people that were involved on both sides, and those people lived in those areas and those people that were involved need to be adequately resourced to be able to continue to find that support, trust and collaboration. Much of the success of plans like this and being mentioned at - in many cases, the environmental outcomes of the plans we've developed, were well and truly above what was expected in terms of an outcome from the state government, and they were there because the committee themselves realised that they needed to make a concession or give guidance in this process.

I think realistically we need to consider carefully that if we're going to run participative community processes, they're very hungry on resources, and I think you guys would realise that from the effort you've put in recently, and that we need to have - competent in their tasks, and I really just wanted to indicate to you that the ones that we call 'little hitlers' are often the ones that haven't had time in the bush to learn about what it really means to be there. We don't have agencies prepared to give long-term tenure to staff and the capacity for those staff to then develop adequate rapports with the community they've been asked to consult with.

So I just wanted to reflect on the fact that these processes need responsible, capable, intelligent people in the bush that are capable of brokering deals with reasonable responsibility. That's a resource commitment. That's a cost to government to provide that service. But if they want to get an outcome that's going to work and be long-term effective, we probably need to pay attention to that.

**DR BYRON:** Yes.

**PROF MUSGRAVE:** But who are you at - - -



**MR VOLLER:** Sorry, my name is Peter Voller. I'm with the Department of Natural Resources in Queensland. I'm a coordinator of the vegetation planning process in South-West Queensland.

**PROF MUSGRAVE:** Right. You talked about the plan actually exceeding what the state government may have expected of the plan. Do you think it would be feasible for the state government to have indicated some outcomes that it was looking for in relation to vegetation and biodiversity in the region at the outset of the planning process. So then the committee could see what it's working towards and then examine its options and try to achieve - - -

**MR VOLLER:** Yes. We had a lot of not-negotiable outcomes.

**PROF MUSGRAVE:** Not negotiable, from the state government?

**MR VOLLER:** Yes, basically there are certain ecosystems that just aren't available for clearing.

**PROF MUSGRAVE:** Right.

**MR VOLLER:** There are certain land types such as riparian zones which needed to be protected and basically we were given a writing brief to see if - we must equal or exceed the state standard. There's a statewide code which is, firstly, in place. We were asked to equal or exceed that. The process we developed in fact quite significantly exceeded that and included important external issues such as cultural heritage awareness and other issues. So they didn't just go back with a, "We will give you what you gave us." There was quite a considerable amount of consideration.

The process we ran was participative. We had over 400 land-holders who actually participated in a discussion paper process before we even started writing the vege plans and across South-West Queensland over 12 hundred people formally participated in written discussions with us about their concerns before we even started writing and that process of communicative participation is the basis of those quite supportive and powerful outcomes in terms of veg planning in our landscape.

**PROF MUSGRAVE:** In addition to those sort of no-go areas that the government outlined, were there other areas where there might have been some range within which outcomes might be found and which would then allow scope for negotiation and trade-offs?

**MR VOLLER:** Yes. The three plans that we've generated are the only ones in Queensland that suggest or broker the idea of a reconfiguration in the landscape. The

major issues that land-holders provided us with in the consultation we did was, their most significant concerns were the lack of flexibility, the lack of certainty and the lack of equity in the process. Of those, lack of certainty is probably the most significant that they wish to deal with. In fact it's probably more important to realise that provision of certainty seemed to be more significant and more valuable to them than some sort of financial adjustment. In fact a lot of people we talked to said that compensation is in fact tokenism and it was unacceptable that they be given some sort of financial adjustment for something they haven't done.

**PROF MUSGRAVE:** Yes, okay.

**MR VOLLER:** In many cases the financial interest was in some sort of environmental service, a fee for service, which provided them with some sort of affirmation of good practice rather than simply a payment for a thing they couldn't do. So they're looking for a positive spin on this, quite considerably.

**PROF MUSGRAVE:** I wonder how Rod feels about that. Rod, does that remind you of the process you went through in New South Wales?

**MR YOUNG:** Pretty similar, yes.

**PROF MUSGRAVE:** Really? Okay, good.

**MR VOLLER:** I'll leave you with a copy of that long-range plan too.

**DR BYRON:** Thank you very much.

**MR VOLLER:** It contains that fodder harvesting stuff which is - we basically based that out on a whiteboard in Cunnamulla one afternoon with the cockies telling me what to write and I didn't actually have a great deal of input apart from asking a couple of questions.

**DR BYRON:** Excellent.

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**MS MILLS:** My name is Denzil Mills and I come from the Traprock area in Queensland, about an hour and a half south-west of Toowoomba. I actually wanted to speak before Peter because one of the things I really wanted to put on record was that I was also part of the regional vegetation management process in Queensland and I don't know which plans Agforce gave you, but my impression of the regional vegetation management plans for Queensland are that there are the ones that Peter Voller husbanded and there's the rest. You know, I haven't looked at a lot of the others, but some of the comments that are being thrown around about the Queensland plans aren't really applying to Peter's, I don't think, and the ones that he husbanded, the process that he husbanded it through.

Having said that, I just said to someone before I'm surprised that he's still here and still as cheerful, because in the midst of a two-year planning process little Johnnie and Little Peter Beattie decided to pull the rug out from under the whole process and say, "We're changing the rules," and it left everyone with a very bitter taste in their mouth because really we put an awful lot of time into this process and we were told we should have been talking about greenhouse and not biodiversity or as well as biodiversity. So when we say we're not sure about how much we want to be involved in the future, what the future of these plans are, we really don't because it, all of a sudden, seems to have been taken right out of our hands.

But that's politics and I guess we all know about that, and we've got two elections coming up. So I don't think we'll see anything sensible come until we've had both the state and the federal election and we might then get back to some sensible veg management planning processes, unless you people can make some changes. I suppose one of the things - my husband did some figures on the back of an envelope about what it means to us on our property which is 4000 hectares of Traprock where, when Hawkie came out with his billion trees program, Traprock was one of the areas they thought, "Well, nobody needs to plant a tree in Australia. Traprock will do it for them," because we've got this continuing regrowth, regeneration of timber problem in our area that we learn to cope with and manage.

Since the announcement of the deal between the feds and the state one of the things that has happened is that the treatment of regrowth has sped up, because one of the big uncertainties we've got in our process is: what is regrowth? We've got a policy officer within the state department saying, "Regrowth is a 70-year process." We've got a mapping system that's mapping things and remapping it a lot, lot quicker than that. So as a land manager, it's really uncertain out there at the moment and so what's happening is that there's a lot of treatment of regrowth that would normally be treated probably every 15 to 20 years, coming back to a 10-year cycle, and that's not good for anyone but it's what uncertainty does.

I guess on our particular place probably the veg management would affect our plans, probably 800 acres of new development that's forgone and 400 acres of

regrowth that we mightn't be allowed to keep in production. That's probably equivalent of running 1000 wethers, wether only, and our present value we came to of that of 320,000, so that's just some figures off the bottom - I'll send you a typed version of that. I guess with one of my other past hats I worked with my husband with the DPI in Charleville, I suppose from the early 70s on, on and off, and what makes me really sad about the big move to legislation is, when we were working out there as extension officers we were just overcoming the real resistance in the grazing community up there, coming out of the old Lands Department legislative days, where you were told how many sheep, how many cattle, how many fences, whatever.

It took a long time to build that trust between the government worker and the land-holder. That blossomed and became very strong. The Landcare movement came in and all of a sudden it's all been ripped - I see it as having all been ripped apart again and I personally think that's really sad. I don't think the government has yet realised what damage they've done and I don't think their legislation will achieve the results that they think they're going to achieve by it, which is the thing that really worries me.

So I guess in finalising I'd like to have a plug for some certainty which means we've got to have some really good definitions. We've got to have a definition of what regrowth for narrow-leafed ironbark is, or what sort of leafed ironbark is - you know, it's got to be - and we need to be more careful in how we use people's consultative hours because you don't involve people in a two-year planning process and then with a press release pull the rug out from under it. I think, you know, that's, I guess, communication between people and it has broken down and it needs to be mended. That's my comments.

**DR BYRON:** Thank you very much. It's very pertinent. Anybody else?

**MR MANCHIE:** Could I make a late sort of - - -

**DR BYRON:** Yes, sure. Anybody in the room can come forward and say whatever they want to say.

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**MR MANCHIE:** I haven't been listening today, so my apologies for - I'm Geoff Manchie and I'm a land-holder north of Moree and I just wanted to make a couple of quick points. My family have been there for, well, through the generations for nearly 100 years now and we'd like to think that, you know, we'll be there for another 100 years. But obviously this legislation has probably had the greatest impact on our farming operation of any legislation - well, certainly my parents and I believe.

Firstly, my parents had run a grazing operation. I suppose they had been very particular about retaining native vegetation and this legislation has turned that native vegetation into, like, a noose around their neck and it has become basically - since I've come back to the business it's a burden. It's a weight on our shoulders and I would like to see legislation that actually rewards people who have retained vegetation rather than persecutes them, and not necessarily a lot of the rewards at the moment are for people who go out and plant vegetation. You know, it's a bit like giving the jail bird something after he has committed the crime, sort of thing.

But yes, I think we need to redirect the legislation and obviously we need to provide an economic value for that native vegetation which is commensurate with other land uses, because as a young farmer - and I see, you know, obviously there's different types of land uses. If I see that area and that has got, you know, native vegetation and it's costing me so much per acre as opposed to this area which is actually producing money because of the diminishing scale of returns in agriculture, it's like a child with candy. You know, what am I going to do? I'm going to slowly try and eat away at that native vegetation and, yes, it really is very difficult to justify retaining that native vegetation unless it does have some form of value, or at least meets the costs.

Secondly, I think the legislation obviously needs to take into account - in the area which we are in regrowth is commonplace. Most people come up here from down south in New South Wales and they say, "Oh, gosh," you know, "you've got so many trees. Do you plant them?" We don't plant any trees, you know, we're flat out trying to keep them down because we have a regrowth issue. So it's horses for courses.

**DR BYRON:** Thank you. That's terrific. That's a point that a lot of other people have made to us, that the costs seem to fall not randomly but the people who have got the most native veg on their property are the ones who are most affected by the legislation, and as you say, people who have got properties with no native veg and go out and plant a few thousand seedlings are likely to get a Farmer of the Year award, but the people who've got hundreds of thousands of trees and had them for years get problems.

**MR O'REGAN:** In our - - -

**DR BYRON:** Sorry, hang on. I'm just wondering - we can either stop and have a cup of tea and have a conversation, or we can keep the microphones going, in which case, you know, I'm just - do you want to - - -

**MR O'REGAN:** I just want to make one point, that Mitchell came through the Pilliga scrub with high axle drays, it's recorded in the Mitchell library. He wouldn't get through now with a high axle dray because the Pilliga scrub now is that thick that the proverbial dog wouldn't bark.

**DR BYRON:** Actually those sorts of historical records are very, very important because they're - one of the grazing leases we were on up in North Queensland, Ludwig Leichhardt went through there and described it as very, very open savanna woodland, and when you go there now, it's a dense forest that you can hardly walk through. Now, you know, I mean, people say, "Well, we want to put it back the way it was." Do you mean the way it was 150 years ago or the way it was 40,000 years ago or what? But there's an assumption that this ought to be dense forest when in fact when the first people went through it, it was very, very open savanna woodland.

**MR O'REGAN:** Captain Cook logged his log every night, "Saw 15 fires, 20 fires." It wasn't till he realised that the Aboriginals were burning and burning.

**DR BYRON:** Okay. I think I better draw the formal proceedings to a close. Thank you all - - -

**MR BOARDMAN:** Are you closing definitely now?

**DR BYRON:** Yes.

**MR BOARDMAN:** I'll make one quick comment.

**DR BYRON:** After that, please.

**MR BOARDMAN:** There's no more further comment to it, other than the fact that on behalf of Moree Plains, the community and the people that have been here today, I'd like to thank you three commissioners very much for the way in which you treated us all. You gave us a fair opportunity to present our cases. You've had people that have put a lot of research into this and have come up with what they believe are alternatives, and you've even had the students from the university of hard knocks, which made some contribution. However, what I would like to say to you gentlemen is the fact that we appreciate your time in coming here, listening to what we believe are some of the alternative answers to what we feel are the problems that are being shown to us, and also that we hope that - or I hope, at any rate - that

regulate does have a better understanding in years to come, and certainly I hope that you're able to formulate our thoughts in your decisions and hopefully our community, and possibly all of the communities of Australia, will be the better for it.

**DR BYRON:** Thank you very much. Deeply moved. I think that's it for the day. Thank you all very much for your participation.

AT 4.48 PM THE INQUIRY WAS ADJOURNED  
ACCORDINGLY

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