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WA

Residence:

17 July 2003

Native Vegetation Enquiry
Productivity Commission
LB2, Collins Street East
MELBOURNE VIC 8003

WRITTEN SUBMISSION – Covering letter

We wish to make a written submission to the inquiry into the impacts of native vegetation and biodiversity regulations, as landowners affected by Perth's Bushplan, "a strategic plan for the conservation of regionally significant bushland in Perth".

The document "What Perth's Bushplan means to landowners" claims that "detailed negotiations will take place to ensure the interests of the owner, community and the State are considered" and that "all agreements with landowners will aim to be fair and equitable, financially viable for both landowners and government, and will be initiated quickly to minimise inconvenience and uncertainty".

The situation with respect to the 400 ha Stakehill precinct in Rockingham WA is far from achieving these high-minded ideals!

As owners of one of the 35 original landholdings comprising this precinct, we wish to submit the following documents (as attached) to form our submission:

1. **The Stakehill Saga: The Corruption of the Property Value Process by Government Bureaucrats.** A submission on behalf of the Stakehill Rural Landowners Action Group.

Note: An updated hard copy of this submission, with additional graphs and evidence to support the group's claims, will be forwarded by mail - also hard copies of the following documents.

2. **Letter to John Howard** – from the undersigned
3. **Statement to Standing Committee on Public Finance and Administration**
-as presented by Mel Wilson
4. **Presentation to Parliamentary Enquiry** – as presented by Kay Wilson

Mel & Kay Wilson

The Stakehill Saga: The Corruption of the Property Valuation Process by Government Bureaucrats

A Submission on behalf of the Stakehill Rural Landowners Group

Corruption of the Valuation Process: Recent examples

* The recent investment brokers scandal highlighted the critical role of fraudulent property valuation in the collapse of public confidence. There is no less scandal in the corruption of that process at the instigation of government bureaucrats. We are entitled to expect that Government Agencies set the highest standards of ethical conduct, especially in such crucial matters as the fair and just valuation of private property.

*Recent public examples have, however, clearly demonstrated the potential for corruption of the valuation process by such Agencies. Individual property owners at Northbridge successfully sued the Western Australian Government for millions of dollars alleging that the valuation process had been seriously and systematically corrupted by individual Valuers under the influence of the Ministry of Planning and the Commissioner of Main Roads.

*The experience of landowners in the Stakehill precinct at Baldivis over a period of ten years also clearly demonstrates how bureaucrats can corrupt the process of fair and just valuation of property. The excuse that such procedures "are within the law and in the public interest" is an outrageous affront to the fundamental rights of individuals in a democratic society.

BACKGROUND

Stakehill : A Case Study

*This saga commenced in January 1993 with the now notorious "public consultative process" and the establishment by the then Department of Planning and Urban Development, of the South-West Corridor Community Advisory Committee.

A precinct of about 400 ha comprised originally of 35 individual landholdings under separate freehold title was made the subject of a recommendation by the South -West Corridor Structure Plan Review. Invitations to participate in the advisory committee review process were sent to numerous extraneous "stakeholders" including the local Masonic Lodge, various Church groups, the YMCA etc. None of the affected landowners were invited to participate. (!)

Conservation interests were disproportionately represented and significantly influenced the Committee's recommendations.

The Review recommended that the Stakehill precinct be rezoned from Rural to Parks and Recreation and Landscape Protection. When alerted to its implications, Landowners vigorously opposed the rezoning on the grounds that it would have destroyed land values and seriously impacted on their use and enjoyment of rural land.

Landowners were not then, and are not now opposed to the conservation of wetland portions of their land. They purchased land at Stakehill because they are conservationists. Their opposition was to the objectives of some in government agencies who, they believed had tried to steal their land by stealth.

The proposed amendments were rejected by the then Minister for Planning, Mr Richard Lewis..

Recorded minutes of the Advisory Committee's meetings contain a series of questions relating to the proposed Perth - Mandurah rail link. The Ministry chairperson repeatedly told the Committee he had no information on the subject. The matter was never detailed in the nine working papers of the Structure Plan Review of the South West Corridor.

Within days of the Committee's final meeting, the Ministry's CEO met with Rockingham Council in closed session and detailed the railway proposal. Clearly this had been in preparation for months and was an issue seminal to the Advisory Committee's proper function. The fact was, as the Ministry knew, the proposed alignment cut through the proposed wetland buffer zones to Stakehill and Anstey swamps, an area it was arguing had immense conservation value.

Why did the rail alignment divert south of Rockingham away from the centres of population growth (Clare, Port Kennedy, Secret Harbour, Golden Bay, Singleton and Madora)? Why was it diverted into rural areas the Ministry was claiming had very high conservation value? Why was its proposed alignment never publicly disclosed and examined?

When this Association put these questions to an independent expert appointed by the Ministry, he was told by the key consultant acting for government, that the decision to by-pass centres of population growth had been taken "at the highest levels" because one prominent and (obviously well connected) developer south of Rockingham, considered that his market would not perceive the railway as a benefit. Absurd though it may seem that was the explanation given by Ministry consultants to our membership, confirmed again recently in discussion with the Chairperson of our Association..

An infamous Memo : Pt Kennedy System Six for Stakehill Swamp

In 1993, during an independent review of Departmental files relating to the Stakehill issue, a memo was examined by our members, addressed to the then President of the Australian Conservation Foundation offering to swap a proposed Stakehill wetland rezoning for the Foundation's compliance in the revocation of a System Six wetland at Port Kennedy.

This extraordinary (unique?) revocation was subsequently achieved and the subject Port Kennedy land rezoned Light Industrial. Land in this area had originally been acquired from private interests on the basis that it was to be rezoned Parks and Recreation.

A Revealing Website

Attached is a copy of a Planning Dept website page. It boasts of making \$22 m from the rezoning and resale of land portions excised from Parks and Recreation Reserves. This page was withdrawn after questions raised by our membership of its ethical implications. The memo and its removal after protest speaks for itself.

A Scientific Basis? The Seminuk Report

In order to validate its proposal (and its commitment to the ACF ?) the Planning Department belatedly commissioned a scientific study, "freed of all cost and social impact constraints" . This Environmental Audit was not completed at the time amendments were proposed (the consultant demanded more money!)

When finally made available, this largely qualitative and self-serving document could equally be applied ("scientifically") to nearby Tamworth, Paganoni and Sherwood wetlands - which became part of large corporation sub-divisions, immediately north and south of Stakehill.

The advice of independent expert consultants to this Association is that the Seminuk Report is a poor scientific basis for the planning decisions made in respect of this land. It is based largely on untested assumptions and its main conclusions are regarded as scientifically unsound.

It is, from our viewpoint, totally unacceptable that this Audit remains the so called "scientific" mainstay of the Ministries argument for extended boundaries to the proposed Reserve. These boundaries would deprive our members of half their land, much of which is beautiful tuart-covered

parkland. Their antagonism is even more embittered when the government then begins to manipulate the valuation process to depress compensation payouts.

The Valuation Process - fraudulent and unfair manipulation of property values.

Our Association maintains that at least in respect of Stakehill, the actions of the Ministry amount to grossly unjust and even fraudulent manipulation of the valuation process.

This commenced with a prolonged period of isolation and planning uncertainty in respect of future zoning options for the subject land. Various proposals made known to landowners essentially created a "planning blight" over the area, a process aided and abetted by Local Govt planning officers, many of whom are recruited from the Ministry of Planning.

The Stakehill landowners were encouraged by the local government authorities to initiate a Town Planning Scheme (at a cost of \$40,000 to our membership). This was deemed not acceptable to the DEP. A further \$60,000 of public money (apart from the \$100,000 spent on the Environmental Review, was spent on a series of independent expert reports, the recommendations of which have been generally agreed to by our members but rejected by bureaucrats.

Due to the uncertainties thus created, the real estate market for such land is greatly restricted - the government in effect becomes the only buyer.

The elderly, the sick and financially straightened are usually picked off first. In so doing the record shows that land prices were rapidly reduced in comparison to nearby unaffected land (see Graphs attached).

This data puts beyond any doubt the countervailing trend of values within a deliberately blighted precinct. While the Rockingham City's Rural Strategy earmarks this area for Special Rural zoning, values offered to landowners for land within the proposed P & R reserve are now only 25% that paid by the Ministry two years ago, and half the value paid for comparable Special Rural land outside the precinct.

It must be stressed here that we are not concerned so much with the value of wetland proper, but of land which is well clear of the paperbark fringe. Land that in the nearby examples mentioned above, are now developed under Special Rural and Rural Residential zonings.

When an experienced local valuer acting for the Ministry, included in her report observations that expressed concern at this artificial blighting effect at Stakehill, she was asked by the senior Ministry official to remove it. She did so in part, fearing that if she refused the request, no further work would be offered.

This is a key factor in the corruption of proper process: valuers know that Government business is significant and ongoing. Clearly they do not want to lose that business despite knowing full well what the Ministry is up to. It is much easier to come in on the low side and get further work, than to buck the system. Furthermore this process once begun, provides them with the downward spiral of sales evidence needed to "justify" even lower figures.

Owners never get to see the actual valuations and are deemed to be "willing sellers". Despite repeated written requests for an explanation of how particular valuations were derived, not a single reply has been forthcoming from the Ministry.

What follows are a series of case studies that underscore the human side of the process. Implicit in these is a considerable amount of personal suffering. Several of our members have experienced stress sufficient to cause major illness including heart attacks. Several others have given up the struggle,

expressing the belief that "the government cannot be beaten" irrespective of the injustice of it all. Most of those who remain are becoming very angry.

Individual Case Studies

The _____ were elderly and increasingly of poor health. They expressed the need to seek external aged care but were compelled to sell their property to achieve this. The Department obtained an "independent" valuation which was 20% below comparable property values nearby - including one the Dept was bidding on! To overcome the impasse the Dept offered a one-off "relocation bonus" - an extra amount which did not appear as part of the purchase consideration. This ensured that the lesser amount became a precedent against which later valuations would be depreciated.

The _____ have owned land in the Stakehill precinct for three generations. They are successful market gardeners. Faced with a rapidly increasing local govt rates and holding some land unable to be cleared because of clearing bans, they were forced to sell something.. Because of the uncertainties surrounding the precinct this proved almost impossible. The land eventually sold for half the valuation of similar land outside the precinct. This artificially debased value also became a precedent for subsequent valuations.

The _____ had lived in the precinct for many years. He is a Vietnam veteran and in increasingly poor health, This condition was greatly aggravated by the Stakehill saga. The Department negotiated purchase of his land based on rural land values and within weeks of its purchase commenced negotiations for lease and redevelopment of it, (ironically) as a retirement village for veterans!

The _____ owned land on the corner of Stakehill and Jarvis roads. They also found themselves in financial difficulties and sought to sell at least part of their land. They were told that half their block would be included in the proposed Parks and Recreation Reserve and would therefore have greatly diminished future value. They sought to sell only that portion of land within the wetland, but were told the government was not prepared to purchase less than the whole. Because of their financial circumstances they were forced to sell. The price offered was less than a quarter the price being offered by the ministry to another party 20 meters across the road! It is also known that at the same time ministry officers were offering to purchase other nearby titles IN PART OR IN WHOLE .

Several families owned land at Stakehill truncated by the Rockingham / Mandurah rail link. They were made aware that additional to the need of Government to acquire the rail reserve, the ministry intended to rezone large portions of their land P & R. Some were shown the proposed reservation map by ministry officers. They were told that such land would encompass the dry land portions at the rear of their properties and that they would not be able to develop that land in any way. They were encouraged to therefore sell the rear portions to the government. Prices offered in no way reflected what was arguable achievable had the land been sold without the P & R threat.

Mr _____ has owned a market garden on Stakehill road for over 30 years. Prior to announcement of the rail link alignment, he was approached by local real estate agents keen to buy his land. He is not a seller. More recently the ministry has made several offers to purchase his land at fivefold the price per square meter offered nearby owners. The reason appears to be that a railway station is planned for this land, a consideration that is not supposed to influence the government valuation.

The _____ have lived in the area for twenty years. They were recently approached by a local Vet who made an unsolicited formal offer to purchase 4 ha of their 29 ha holding. The offer (\$9.88 m2) was subject to approval of plans for a veterinarian hospital by the local shire. These plans were subsequently approved, subject to approval by the Ministry of planning. This approval was refused. Clearly the market at Stakehill is free to go only one way.

Conclusions :

- 1. We submit that corruption of the property valuation process by government agencies is totally unacceptable and must be stopped.**

- 2. We submit that this procedure is unjust and therefore in breach of our Constitutional rights.**

- 3. We submit that in so far as Western Australian law permits such travesty, lawmakers ought take the necessary action to ensure its immediate rectification and to ensure conformity with Commonwealth and International law.**

- 4. We submit that no matter how desirable the perceived "end", such "means" as detailed here, are never justified. If the community wishes to Reserve and isolate private land, it must be prepared to pay fair value for it or make some mutually acceptable offset arrangement with landowners.**

M & K Wilson
WA

The Prime Minister of Australia
The Right Honourable John Howard

Dear Sir,

With deep respect for the office you hold, we humbly request your assistance in resolving what we consider is an eleven year assault on human rights by the West Australian government and an out-of-control bureaucracy implementing a Greens Party agenda.

The Great Green Land Grab and its Draconian Effect on West Australian Citizens

Lines arbitrarily drawn on maps by Ministry of Planning and Infrastructure, without consideration for or consultation with landowners, smells of fascism and offends basic human rights.

It is our premise that property owners within the confines of these as-drawn lines are discriminated against, deprived of equal rights and equal opportunity and are being denied normal aspirations and expectations.

Comparisons of property values within and outside the bureaucratically-blighted Stakehill precinct in Baldivis attest to the corrupted system whereby this Ministry attains its objectives, to the landowners cost.

This group of citizens, residents on some 30 properties confined within these imposed planning boundaries, believed in democracy, justice and due process – and that was our major error in reasoning.

Eleven years - three governments - no resolution.

We still pay inflated council rates on land we cannot use ... and the saga continues.

We do not deny that planning for conservation, parks, open space and recreation is necessary and important. But why do we, the landowners, have to be the ones to pay in a bureaucratic lottery?

In conclusion, we believe democracy in this instance is dead and buried. Bureaucrats promulgate and administer policy, politicians apply the rubber stamp and appear to be redundant in state government.

For your information we request you read the enclosed documents attesting to this sorry saga inflicted on law-abiding Australian citizens. This group is just the tip of the iceberg of similarly affected groups throughout Western Australia; please look at the

web site of A Coalition of Private Property Supporters on www.acopps.com which has just been launched.

We await the results of your considerations.

Yours sincerely

Mel Wilson

19 June 2003

enc

Statement for Committee Hearing 27 August 2002 by **Mel Wilson**, Lot 760 Mandurah Road, Baldivis 6171, within the **Stakehill Precinct** and affected by the MRS Proposed Amendment South West Corridor.

Lacking the finer arts of the orator so greatly admired by politicians and bureaucrats, I have to resort to my written notes and address you in plain workman's language, from the coalface.

It doesn't take a Rhodes scholar to realise an enquiry into the fraudulent activity and processes by which the Ministry of Planning divest the legal owner and user of his land is long overdue.

The bureaucratic four-step is as follows:

Step 1: Place a planning blight over the desired area

Step 2: In collusion with other government agencies, implement a veritable arsenal of oppressive restrictions on possible land usage i.e. Landscape Protection, Bush Forever.

Step 3: Place lawful landowners under years of constant unwarranted financial and psychological stress, resulting in family break-ups, illness and worse.

Step 4: Mislead landowners with innuendos, misinformation, procrastination and failure to confirm ever-changing boundaries; refuse to answer correspondence; lies and deceit. This phase isolates and identifies the elderly, the financially constrained and those unable to cope who either contact or are contacted by the Ministry and are pressured into selling at unfair, unrealistic and greatly undervalued land prices. The benchmark for acquisition has now been set by the department.

Having acquired the land under whatever pretext – wetlands, public recreation, landscape amenity – wonder of wonders! after a time, amazingly land is found surplus to requirements, rezoned yet again and sold off to the Ministry's best friends, the land developers. The profits from this rorting then funds the next foray into defrauding land owners.

Our background in brief – earnings attained by honest hard work in foreign locations in the then dangerous offshore oil drilling and exploration industry, including long separation from wife and family gave us some savings.

As advised, this was invested in a share portfolio and property for our retirement, now imminent. Corporate fraud and mismanagement took care of the portfolio and now the Ministry of Planning, in a mirror image of the corporate sector, are intent on defrauding us of the rest by diminishing land values.

Ten years of fighting to preserve our equity in our land has cut into our cash reserve.

Appeals to politicians, council, members of parliament, meetings, letters – all seeking equitable resolution - have been ignored.

The past ten years' experience has confirmed beyond any doubt that faceless bureaucrats do indeed exist – and they control this country. Democracy, representation, fair and just process have gone the same way as the fairies in the garden.

We know and understand the value of the wetlands; that's why we purchased and preserved it. We also know the Mandurah rail link at our front door and the freeway at our back door greatly enhance the value of our property, contrary to what the Ministry would have us believe. And one thing is for sure! The Valuer General would agree with us, as rates for our so-called value-less land has increased 150% over the last 18 years.

We will continue to fight by every means available and when all is said and done, an angry man with nothing to lose is not exactly a conforming member of the community.

In conclusion, please forgive my jaundiced view of politicians and bureaucrats. If the Ministry of Planning is the executive arm of a transparent and open government – and if an enquiry into their activities is not implemented – I truly fear for the future of Australia. North. South and east a groundswell of disaffected landowners is becoming apparent.

The veracity of my words can be backed with documentation if and when necessary.

All landowners await your considered findings without prejudice and trust they will be handed down before another change of government.

Thank you.