

# **SUBMISSION TO NATIVE VEGETATION INQUIRY**

Prepared by:

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As well as Licensed Valuer, Real Estate Agent and past Local Government Representative

I will commence this submission by dealing with three aspects referred to in the Terms of Reference of the Inquiry.

1. Property Values
2. Property Returns
3. Investment behaviour of affected landholders.

## **1. PROPERTY VALUES**

As a licensed real estate valuer, valuing since 1962 and residing in the locality which has seen the Vegetation Management Act of Qld used to support other conservation policies of Government, I have seen values of land with vegetation standing fall in value, to where vegetation in localities is highly regarded by EPA as remnant or possible habitat or corridor vegetation has rendered the land valueless and in fact to be avoided as the rate burden continues, without compensation but the land can not be used.

Landowners do not want land on which they are rated and which is of no use and which will attract Government and Lobby groups attention.

This is not peaceful enjoyment of the land to carry out normal legal activities and is certainly outside the provision under law whereby "fee simple" title creates rights of ownership.

### CASE 1

Recently I was asked to value land by Council because it was to be sold for non payment of rates.

The land had been purchased for around \$25,000 and had produced tropical fruit and crops.

It had standing vegetation and is located in the Allingham area near the beach in Ingham. district. I had prepared a value of \$20,000 because it had been neglected for a couple of years since it was purchased. To take effect of vegetation management legislation, I contacted EPA and was advised they would not consent to clearing. As a result I had to reduce the value to \$10,000. As a member of a mahogany glider group, I knew it was listed as part of likely habitat although it was part of a smaller area of vegetation which would have been useless for that purpose for any medium to long term use. The lot subsequently sold at Auction for \$9500.

This is the effect of the legislation.

I have frequently had to reduce values on properties, previously valued for the purposes of security on loans, simply because of the vegetation legislation.

This has caused hardship when the borrower is a canefarmer or other landholder battling adverse economic conditions.

### CASE 2

My own case is also an example. Having been offered \$5m for the property in the 1980's, (it was not on the market), I could not get \$1.5m for it now after having received \$460,00 for 460 hectares from Qld Government for land that was fenced into the National Park by agreement over 10 years previously.

I was originally offered \$250 per hectare by the Government and \$2500 from buyers wanting to develop aquaculture. Settlement was finally made at \$ 1000 per hectare because I simply could not contest it any longer. A recent decision given to Mr. L. Pajares a landowner in the same locality with similar type of country gives an indication of what should have been the outcome, if I could have financed my defence. The law alternative is available, only providing one has the finance to proceed through the process. The result in Pajares case, was decided at a similar rate per hectare that I was offered (\$2500 p ha) for my property.

### CASE 3

At date of writing this material, I am instructed by an elderly widow of a police sergeant, who served in Cardwell and purchased 10 hectares for retirement. This lot was cleared many years ago and is now under regrowth. She has been told that she can clear only 1 acre for a house and must leave the balance stand. It is valued by Government at \$120,000 unimproved for rating purposes. It is located just south of Cardwell, with good access to highway and adjacent to the Port Hinchinbrook upmarket development. It is also adjacent to a rural residential development, although presently zoned agriculture.

As she is unable to sell it, she is forced with prospect of selling her house of residence in Innisfall to meet the rate burden.

The property without vegetation management legislation would sell at \$250,000 minimum for development or would return up to \$600,000 net if the owner financed the development. As it presently stands, she would probably get around \$50,000 for it which is only about 40% of the unimproved value on which it is rated.

This is not concern caused by lack of information. It is trauma, stress - a burden on the wife of a man who served Queensland well. This was to be their retirement home but he predeceased his wife.

It is the implications of the new regime in action out in the real world.

These are only 3 examples of many instances experienced in the last 3 years since the introduction of vegetation management legislation in Queensland.

## 2. **PROPERTY RETURNS**

I have no definition of what is meant by property returns, so I will proceed with the understanding I have.

A Property returns are effected because if uncleared land is not producing the rates on the land and the interest on any purchase price, it is a load on the nett returns of the balance of land that is producing.

B If legislation stops the clearing of land that was planned to produce in the future, then whole budgets and forecasts and future income can be upset and lost to the point in some cases where viability of a property can never be achieved even forcing sale to meet prior commitments. Sale price, because of new circumstances, often means loss of equity at best or bankruptcy at worst.

A return on investment is difficult to achieve if part of a property which it was planned to bring under production to achieve that projected return, is, because of a change of policy, now prevented from ever producing. Apart from a smaller throughput from part of the property only this part has to carry overhead of the part that is held for public benefit at no expense to Government, lobby groups or people other than the land holder himself.

### 3. INVESTMENT BEHAVIOUR OF AFFECTED LANDHOLDERS.

It is difficult to see what is required here. The investment behaviour of the affected landholders is restricted. He has a property which had value previously and now has reduced value. He cannot increase borrowings to meet an opportunity or a crisis. He cannot get out without loss. If he is restricted because of his borrowings not being covered by now reduced values, he is between a rock and hard place.

It is unfortunate that most of those recommending these policies and those implementing them, have only a view that is completely devoid of any real experience otherwise these policies and resultant legislation would not be introduced before these problems were dealt with. Without such protection, the policies and/or legislation should never be introduced as there are other ways to deal with the problem.

Land could be purchased on open market and trees planted as part of employment scheme or just planted if Government did not want to attend to two problems at one time.

### GENERAL PRINCIPLES.

What has not been considered, is the undue burden placed on particular communities or localities.

The coastal strip north of Townsville, particularly has a high percentage of its area in National Parks. Well over 60% to 70%.

Is it fair to further decrease the projected productivity by restricting development on areas that have not yet been cleared? I think not.

The burden is carried by all in the community because the burden of Local Government services is carried by landholders. The towns are supported by what is produced from the surrounding land in the case of most towns in the area.

Is the new regime being successful in its attempt to increase sustainability - generally no.

There has been no doubt, some areas where advances have been made but these are small compared to the major problems caused.

All attention is focused on vegetation still standing and neglect is rampant in attention to the land we are using.

The sugar industry decision to abandon gross, nett assignments in the 1970's to allow 100% of land assigned to produce sugar in each and every year, has never been questioned by green groups or Government.

Up to millions of dollars has been spent on trials and reports to encourage fallowing of land.

It was compulsory by legislation. It is costing a fortune to reinvent the wheel and to add insult to injury, it is being proposed as new.

As a farm salesman in the late 1940's and 1950's, from October my order book was full of orders for green manure seed to sow in the fallow paddocks. That was sustainability, practised, proven, and accepted before the word even became popular. It was abandoned to satisfy greed by an industry that has paid and is still paying a high price but has not yet learnt from its mistake.

Now to the standing scub.

For years as a public accountant, I serviced timber cutters, sniggers, haulers, sawmillers in the Tully and Innisfail district. It was an industry.

It did NOT destroy the scrub. Only selected trees, marked by competent forestry officers were harvested and the new growths benefited from the removal of the old. Yes like humanity.

Now the forest areas have been transferred into National Parks, left untouched apart from two users. Ecotourism and illegal drug production. I am not being funny or sarcastic just factual.

There is insufficient funds to service the areas and feral animals particularly pigs and wild dogs, rats etc create nuisance and financial loss to neighbours of the area.

If my animals or birds get onto National Park land, I am in trouble. If I go onto National Park land to hunt and kill the feral animals and predators that come from National Park land and do damage on my property, I can still be in trouble. If my dog injures a feral pig in the process of hunting even though the dog can be killed in the process, I am in trouble.

However, if animals or birds from National Park land, do damage on my land, I must suffer that damage. I may be able to obtain a pen-nit that allows me to provide limited control only to protect my land, even though the predators are in plague proportions. I have 2 lychee trees on my property and I am aware of the number of flying foxes. Across the road from my property, is the largest lychee operation in North Queensland and the problems and losses that that farmer has faced in recent times is well known. He has been forced to spend large sums of money to obtain protection for his crops. All to no avail.

Our history speaks for itself. We have scrub standing because we care for the land. We have wallabies and cassowaries because we care, so please don't think this is a submission from a developer who wants to clear everything for a dollar. Common sense is all most of us ask.

As a past Local Government representative, I do have experience on the operation of legislation on land planning and control.

When control of land planning is taken away from local representatives and administered from a central area, more problems are created.

The Federal Government has created further problems for itself, when it placed this Nation's land under control from overseas bodies. That would not have been agreed to by a majority of Australians.

I refer here to the location where the final decision on matters pertaining to the boundary of areas controlled under World Heritage legislation is made.

Members are no doubt aware that the final decision on change of boundaries of such areas is not made on Australian soil.

This is more than disconcerting to an Australian citizen as it takes the control of much of our Native Vegetation and the land that surrounds it or effects it out of our control.

Local Council representatives are not without fault, but they are the people elected to deal with Local issues. They know the area better than other Government representatives that cover large areas (particularly where the vegetation is still standing). Yet it is local government decision making that has been curtailed and it is local government finances that are most affected.

## FINES

The fine should fit the crime.

The fines now imposed under Qld Vegetation Management Act are draconian. The difference between body corporate and individual fines portray a thinking that it is popular to kick the big one. I'll not debate that because I would have to agree to a claim that it is often the big that kick the small.

However, what has been missed is that corporate ownership in the form of private company is often a way of holding assets by an individual family.

This has been completely missed by legislators and it applies particularly with land ownership.

I ask you to address this matter in your report. The quantum and the discrimination between landholders is an offense to Justice if that is to be of any consideration.

In asking certain landholders who have retained vegetation, even under pressure to clear to beat the regulations that were projected, to bear the total cost of loss of land use while still carrying the tax (rate and land tax) on the land - an injustice has been inflicted. Now if any of such parties "break the law" they are visited a second time with further injustice in the quantum and in many cases the discrimination of the penalty provisions.

When the Queensland legislation (Vegetation Management Act) was made law, I was warned (as a favour I appreciated), not to start my bulldozer as my fine would be up to \$7m, as my wife and I hold the land in corporate ownership (a private company).

This was then 150% of the value of the whole property (less than half of which was cleared) and thanks to the legislation it is now at least over 300% of its value.

This is why I ask you to look at and ask for a review of the present system of fines if the legislation is found to be legal and retained.

In looking at the overall picture, you are asked to consider whether or not present legislation is legal under present constitution and laws made by Governments elected under that Constitution.

High Court decisions confirm that the law is the law and what is written must be altered by further law, not by judiciary deciding it no longer fits in with society's present needs.

A Government certainly has power to pass legislation that is new, providing it does not exceed the powers given it by any Constitution or amend valid legislation previously passed.

However a Court or a Government cannot get around a constitution. That must stand until it is amended by the process provided under that Constitution for such amendment.

Present Vegetation Management laws should be examined in this light. Do they comply with the present social thinking or with existing law and conform to authority given under Constitution?

I do not desire to waste the Committee's time. If you require further submission on this, I would be happy to oblige if possible.

Also, your terms of reference, do not allow me to touch on other matters concerning vegetation management and the spiritual, economic, political and social cost of present policies which provide the avenues for horrendous results.

Should there be any questions from any statement made, I would, if asked, do my best to answer them.

At 72 plus, I am not overanxious at the considerable personal financial loss we have suffered through this legislation. However I do feel for many Australians who have been hurt by the "implications of the new regimes".

## COMPENSATION

If the Acts are tested and proved to be valid (though I personally doubt this is possible), and to be the lot of landholders with vegetation, then to be just, full compensation for loss must be the right of all landholders effected. This is not the present situation. In fact even if the validity is not tested but operated upon as is presently intended, compensation must be forthcoming.

There have been figures from \$150m to \$500m and above in Queensland's case bandied about.

As a valuer, I am fully aware of the difficulty in arriving at a fair value. Todate, I have never been approached for any estimate so how can any reliable estimate be given when our case would be one of the major factors in the coastal strip between Townsville and Cairns.

Some land areas in this Shire were purchased and one is under resumption for mahogany glider purposes mainly. A budget of \$16m has been expended and many properties were removed from the critical habitat classification because there was no more funds at the time and the same land is now held at no cost under the Vegetation Management Act. Our company's property is only one such property. This is only one example of the hotchpotch administration of a policy (or lack of it) planned by people with little else than good intentions but seriously deficient in able administration, planning and particularly public relations and an understanding of what the words "equity" and "justice" once meant.

Compensation does not fix the problem, but without it even justice is not done and the problem is carried by a few.

A new cliché is in order to replace Winston Churchill's made famous in World War II and it is "Never have so few carried such a burden for so many. So was our contract with United Nations met, and our conscience regards posterity washed clean."

## A CONCERN OVER EFFECT ON LANDHOLDERS

Loss of use of land once thought you owned, loss of value of land, loss of security value for borrowing purposes, loss of income from land once available to be brought into production, but now the use of which is denied, all create hardship, particularly, when imposed without any monetary compensation. Of course, a continuing rate burden on land that is now held for common public good only increases the burden.

The above all spell hardship and trauma but when I recently travelled from North Queensland via an inland route, I found a new factor, that is, new to me.

A lady, who with her husband and adult family work land and only desire to have family hand it down to succeeding generations explained to me that the most difficult aspect of the legislation in Queensland, was the fear that had been introduced into the industry.

She quoted the family case where a parcel had been under lease to another while sons grew up and now there was a need to bring it back to good condition.

They were having difficulty getting contractors to clear fence lines as they were concerned that they would be involved in an argument with Department. The owners were warned not to take any action which would require a government Officer to inspect.

I would have found this difficult to accept and would like Mr. Campbell, have dismissed the lady's fears as ill informed had I not been involved personally with two instances in recent times, where Qld government Department Officers were involved. Officers from the Department that administers the Legislation.

## CASE 1

I was visited by an Officer requiring the name of a neighbour where a fence line along Bruce Highway had been cleared.

This experience saddened me, firstly in the way the approach was made and secondly that the clearing of a fence line on a boundary should be treated as a criminal offence and thirdly in the way that the wife of the landowner was treated after the ownership was established. She was interrogated under a great deal of pressure in the absence of her husband and at that time she had no knowledge of what it was about.

In this case, the landowner had previously been in contact with the Department and secured approval to proceed. However when verbal approval was given, he was told he could clear a "reasonable" distance from the boundary.

The interpretation of this word could cause major problems under present regimes.

## CASE 2

An Officer from some Department visited a landowner and told him his irrigation pump was unlicensed and he was to report at Department Offices some approx 80 kms way next day for an interview.

I was present at the interview, as he asked me to attend. I had valued the farm before he purchased it, knew the pump was there and was operated by previous owner. In fact the Department had no authority to issue a licence as the pump was located in a tidal section of the creek.

The officer claimed that the boundary of authority had been relocated downstream to a railway bridge by legislation and the land owner was submitted, in my presence, to an interrogation that would be expected if he had committed a serious crime.

After a period of time, when the bananas suffered from lack of water and during the visit of a senior department officer, it was established that the Officer had imposed a ruling which had been proposed but never enacted.

The whole drama was serious because the officer imposed a lie, the department would not listen to the farmers irrigation committee in the locality set up to advise the department, the department had to be pressed to correct the position and never apologised. When the farmer offered to apply for a permit, the Department advised me that no permit would be issued even if he did apply.

The attitude in which the whole saga was conducted, in fact both sagas, could only engender fear and so I could easily understand what, without the experience, I would not otherwise have understood.

The senior officer remarked during the interview "that Government policy had changed two years ago", referring to a new attitude to implementing policy. This was evident in both instances and needs to be addressed or the title public servant reserved for museums. It is serious.

ROY DICKSON B Com

Landowner and shareholder of company holding "fee simple" land in Far North Queensland but writing as a concerned citizen using experience as evidence for views.

## **ADDENDUM TO SUBMISSION**

### **PREPARED BY ROY DICKSON**

Lived all of his 72 years in Far North Queensland. Since 1947 (after being reared in Hughenden in North-West Queensland) has lived between Proserpine and Cairns with most of that time (1952 to present) between Babinda and Ingham (coastal wet tropics).

Educated only to primary school standard. Obtained accounting and secretarial degrees with recognised institutes and Commerce Degree from University of Queensland as student by correspondence.

After early years as truckdriver/salesman to rural areas - canefarmers - engaged in sugar industry on cane inspecting staff then as Assistant Secretary and Secretary of Canegrowers organisation at Innisfail and Ingham.

Resigned to commence practise as Public Accountant, Real Estate Agent and Valuer in 1962 and ceased to practise as Accountant in 1978 but has continued as licensed valuer and continued to hold real estate and auctioneers license.

Owned rural land in the Innisfail, Tully/Cardwell areas since 1963.

Chairman of Innisfail Butchering Company Pty Ltd, which built and operated local abattoir at Innisfail, now export plant operated by Teys Brothers.

Presently controls about 1800 ha of land, the major portion of which has common boundary with National Park/World Heritage Area.

Entered public life in 1967 as Councillor of Johnstone Shire and promoted to Chairman in 1973 and served until retired in 1979.

During this time also served as

Chairman, North Queensland Local Government Association Senior vice Chairman, Queensland Local Government Association Chairman, Far North Regional of Local Government Councils - Commonwealth purposes Deputy Chairman, same group for State purposes (Chairman was public servant) Chairman Far North Queensland Development Bureau Chairman Far North Queensland Council for Social Development and Chairman of Queensland group of Councils

Have served as River Improvement Trusts and presently as member of Community Consultative Committee of Wet Tropics Management Authority (the Commonwealth State body that administers the World Heritage Area for Far North Qld),

Member of Recovery Committee for Mahogany Glider - advising Ministers on matters to enhance the future of this endangered species.

I set this out not to boast, but to give Committee some understanding of where I come from so you can assess what I say (or in this case write).

I do not seek to offend but with respect, I ask you give weight to "on ground experience" rather than academic qualification. I respect academic qualification. I worked hard to get the very small qualification I have. However I found in public life, when I refused to listen to those with "on hands" experience, I made bad decisions.