

Submission to the Productivity Commission:

What of the WA State Government Response?

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Sources of Conflict Between the PC and the WAG

When reading the WA Government (WAG) submission it is overwhelmingly obvious that the objective (productivity) has become the constraint and the constraint (native vegetation) has become the objective. It is the WAG that has employed a *narrow* focus – the environment only and not farm productivity, farmer's livelihood or a respect for property rights. It is the PC that has employed a wider focus, as there is an emphasis on *broad* considerations whereby all benefits (private and social) and all costs (private and social) are lumped together – at least in theory. According to the WAG, the PC should not only examine the negative impacts of biodiversity legislation but the positive impacts as well. The PC's response is that all economic and social benefits should be weighed up against onerous WAG regulation that targets the environment only – and contains reckless regard for people's livelihood, their hard work over 40 years (inter-generational farms), town life and the world's poor. There are human rights issues here.

There is little acknowledgement of the rights of farmers to use their land and increase production. Grazing is viewed as an immediate threat to remnant native vegetation. In fact, there is downright hostility toward farm expansion at the expense of native vegetation – as it is the 'right' of the State to acquire the 'social good'. It is here that the PC and the WAG differ – on the matter of compensation. The WAG believes that the 'user pays' or the 'impacter pays' for environmental degradation. That is, privatize the costs and socialize the benefits. The PC believes that social benefits (environmental protection) should be a cost shared by the broad community and not a narrow group.

A fundamental question arises - where does legitimate, best practise land use end and degradation begin? Why emphasize the lack of 'sustainability' as though the environment is not dynamic and incapable of regeneration? Why base policy on the unjustified belief that the environment is doomed? Why should we listen to the modern day Malthusians? It was Malthus who clung to a 'static' view of the world by claiming that population growth was sure to outstrip food production and we are all doomed to an early death and/or life-long poverty. He missed the dynamic nature of both population growth and production growth as technological progress lowered the former and raised the latter.

The WAG is caught up in its own ideological trap of being doomsdayers and claiming that the environment does not have dynamic, regeneration properties – and if so, only when it suits their cause. Coexistence between farmers and the environment is not an option – only conflict, fines and jail. Farming causes environmental damage and so any expansion should be restricted. This is a short-sighted and imbalanced view that ignores

the enormous benefits bestowed on communities by farm production. It is a pity that sustainability criteria are not applied to country towns that wither because of onerous government regulations.

The PC is correct in emphasising that government's do not have monopoly knowledge on 'sustainability' as the environment is a dynamically changing organism that possesses inherent regeneration properties. Besides, farmers that generate their livelihood from their largest asset - their own farm – are rational enough to want to preserve its productive capacity and longevity. Why is it that WAG officials claim to have a better understanding of farm best practise and its impact on the land than those that live on it and off it? If farmers wish to expand acreage under production why are they being thwarted by native vegetation (often regrowth) that contains very low-grade and unidentified environmental benefit? The guilt lies in the fact that it is too low-grade for the WAG to buy it and therefore is of dubious quality.

Are the PC's Terms of Reference Legitimate?

It should be noted that the Productivity Commission's (PC) terms of reference are *broad* rather than *narrow* in scope. It is concerned with -

1. Evaluating the economic and social benefits of more efficient regulation against the benefits of tight environmental controls.
2. Assessing the impacts of native vegetation and biodiversity regulation on landowners *and* local communities.
3. The right to farm within the framework of 'best practise.'
4. Productivity, innovation and expansion – Australian farmers meeting demand from the world's poor.
5. The effectiveness of current regulations in reducing resource degradation.
6. Explore more efficient ways of achieving desired environmental objectives.

These objectives are broad in scope as they explore economic and social benefits that are likely to flow from improved farm productivity and more efficient regulatory approaches and not just the benefits that flow from existing regulation targeting the environment.

There are very good reasons as to why the Productivity Commission has focussed on these issues of biodiversity and the virtual prohibition on land clearing as they affect landowner's income, asset values, flexibility of farm practise and civil liberty. The growth and vitality of country towns are under threat as uncertainty surrounds future farm expansion and so values.

As the PC states there is an urgent need to clarify landowner from community responsibilities with regard to environmental challenges. Therefore, a distinction is required for both private *and* public property rights. The distinction is currently blurred – and I say deliberately – so that government theft can appear legitimate.

The PC is correct in adopting a broad approach to community welfare and living standards, an approach that transcends the WAG’s narrow focus of the environment only.

The PC versus the WA Government (WAG) Approach

There are stark contrasts in both objectives and approach.

PC	WAG
Productivity	Environment
Expansion	Native vegetation
Farming Best Practise	Departmental Regulations
Land Use/Grazing	Degradation
Local Evaluation	Centralist Control
Geographical Heterogeneity	Farmland Homogeneity
Conservation Outcomes	Conservation Controls
Positive Incentives	Negative Incentives
Market Based Instruments	Regulation, Fines and Jail
Openness and Transparency	Closed and Deceitful
Time Lines and Certainty	Bureaucratic Maze and Uncertainty
Appeals Process/Right of Reply	Wear It
Providing Public Goods is A Public Affair	Providing Public Goods is a Forced Private Affair
Compensation is Legitimate	Compensation is Illegitimate

The PC, by encouraging landowner and broad community comment, has opened up a Pandora's box of government exploitation and deception. The WAG has performed a covert operation of stealth to disenfranchise WA landowners of basic land rights. The objectives between the PC and the WAG differ greatly. The former desires efficiency, productivity and choice whereas the latter desires no further farm expansion, preservation of private habitat and no choice. The approaches also differ greatly as the PC favours the use of market instruments, positive incentives and local decision making whereas the WAG prefers regulation, negative incentives and centralised decision making.

The PC is correct in seeking to minimize the impact of native vegetation legislation and biodiversity demands on farm efficiency and productivity. The purported social benefits of such legislation appear 'stand alone' weak and even weaker when compared to broader economic (including country town multiplier effects) benefits.

WAG Approach to Native Vegetation Preservation

According to the WA State Government, land clearing has been excessive in the past and a major cause of salinity in major parts of the agricultural area. Many acts of parliament focus on *land degradation* as the rationale for imposing additional constraints and regulations on landowners (and farmers in particular) on land clearing. Such a rationale also fits within the broader government objective of 'sustainability' – the land needs hands-on nurturing by government officials to ensure its environmental integrity in the future.

It is also obvious that the WAG prefers regulation over incentives as an approach to conserve native vegetation. The state favours the view that "subsidising revegetation *and* allowing land clearance at the same time is obviously not cost effective. There are severe limitations to approaches based on property rights and market based instruments." This government has revealed its contempt for property rights in various ways as they know more about farmers' land than do farmers. In the WAG's view, it is the inability of WA farmers to efficiently manage their own farms – and so generate excessive external costs to other farmers and the broad community – that provokes government intervention. Regulation is the key instrument to bring irrational, irresponsible and law breaking farmers to heel.

In the WAG's view there is a need for a *holistic approach* to sustainability, land management and so land clearing. There is also the view that private landowners have environmental as well as production responsibilities. This government pushes the notion that farmers are the direct beneficiaries of land and water resources and so have a responsibility to maintain or restore the biological diversity functions of those resources. Hence, there is a level general of responsibility for land care that farmers must meet – as they are direct beneficiaries. But would they not look after and maintain their own asset anyway if the benefits are solely private? Are the costs of meeting biodiversity standards solely private? If so, why do governments get involved in land management if the costs

and benefits are solely private? It is obvious that there are both social costs and social benefits emanating from land use but why should the WA landowner be victimised for the former and ignored for the latter? The WAG submission is fundamentally flawed as it deliberately ignores public benefits that it extracts from private landowners – and bestows those stolen goods – on a receptive WA public that pays nothing.

The Nationalisation of Private Forests

This state has set aside state forests, parks and reserves in perpetuity for the public and yet it seeks to acquire more forests via stealth and dishonesty by stealing it from private landowners. If more forests are demanded by the public then why would the public not be prepared to pay for them? Why has this state government acted in a cowardly manner by appropriating land for the public good and yet not compensated landowners for such theft? Would a third world dictator nationalising private land be seen in a different light to that of the WA State government? I say no. There are so many draconian laws governing land use in this state that *effective* control of private land has passed over to the WAG.

Marxism and Ideology

They say old Marxists never die. Karl is still alive and well in WA. He has orchestrated the biggest take-over of private property ever witnessed in this state, if not the country. His ideological dogma and dream of seizing the ‘means of production’ has come true in the case of WA landowners - and farmers in particular. This seizure has been achieved via reams of regulation and bureaucratic red tape that has choked, if not killed, private property rights. Karl didn’t have the courage to steal through the front door in the cold light of day, he had to act behind closed doors and in secret. Fake and phoney ‘consultation processes’ were employed whereby landowners were informed and not asked – they were subject to propaganda doctrine – accept or else. Landowners were only marginally involved in this process and the true ‘stakeholders’ and ‘key community citizens’ were the drivers in this revolution of theft. This is why the WAG prefers ‘broad community support’ so that non-landowners and the nobodies of society can veto productivity and progress. Natural justice has been denied to many WA landowners.

Socialize the Benefits and Privatise the Costs

This government strategy of forcing landowners to bear the full cost of providing social benefits is fundamentally flawed. It seems strange that in one breath the WAG’s view is that the maintenance of rural land, native vegetation, good water and salinity are private landowner problems and a responsibility that they must accept and yet in another breath providing social benefits to the community is of paramount importance.

The Right to Compensation

It is for the above reason – that farmers will maintain their land efficiently and in a quality manner providing the private benefits exceed the private costs from doing so. It is rational for them to reduce degradation and environmental harm – in terms of lowering salinity, maintaining soil capability and reducing the impact of pests. However, the WAG is forcing landowners above and beyond what is rational business calculus to provide social benefits to the community – above and beyond what could be viewed as private benefits accruing to landowners only. It is the sheer magnitude of these social benefits that has angered landowners and the corresponding costs (opportunity cost included) that is borne privately.

If the size of these public benefits are so large then so too should be the compensation paid to WA landowners.

Timelines - At Last!

In another submission I have outlined extreme frustration of dealing with many layers of government – all fighting over the ‘right’ to control private land. There is a feeding frenzy by government bodies that is nothing short of violent. The bureaucratic paper trail is designed to be obstructive and not transparent. This is indeed how the WA Mandarins maintain their power and control over the WA community. Delay is costly and effectively wears out the applicant, forcing them into submission – by donating private land to government through ‘conservation covenants’ and even directly. The alternative is to sell one’s land well below what it should be worth – and so pass on the problem to the next purchaser that mistakenly thinks that she owns the land.

Timelines that are enforced will do much to ‘encourage’ the Mandarins to be diligent in their process – otherwise the application should be automatically approved and rubber stamped. Next please. Time has been the weapon of stealth that has significantly eroded property rights in WA. More regulation begets more regulation and various government bodies stake their claim at the landowner’s expense.

Less Regulation Not More Taxation

When searching for solutions the PC is correct in concluding that the costs of tighter environmental regulation should be broadly shared across the community. However, we must be careful not just to shift the burden from the landowner to the taxpayer as environmental bill – unless checked – will be too large for one generation to bear. Besides, the so-called high quality environmental gains are well over-stated by the lustful and expedient WAG. Much of the remnant native vegetation is of low-grade and poor quality and not worthy of such high esteem. A well informed public would not want to pay for it. Some of the high quality native vegetation – and held in such esteem by the

public – should be paid for by the public. And by definition they would be glad too. Even so, there are inter-generational issues here that require consideration.

The PC is also correct in calling for a defined benefits process and evaluation to distinguish between high grade and low grade native vegetation – that which should be paid for from that which should be left in the private decision making domain.

If the WA public is unwilling to compensate landowners for fear of the sheer size of land appropriation in this state then the compromise approach is to lessen regulation and/or make it more efficient. The other compromise (and currently employed by the WAG) is to encourage ‘conservation covenants’ whereby the landowner sacrifices a certain acreage to government in perpetuity and receives a sweetener from government via better use and access to other land – a trade-off. For example, a farmer with a 500 hectare farm may have 250 hectares of native vegetation and 250 hectares under production. The farmer may ‘offer’ 125 hectares to government as a conservation zone on the provision that she can clear the remaining 125 hectares for production. This may be acceptable to both sides but only encourages blackmail by government – to acquire land at no cost and forever. The landowner still pays this ‘hidden tax’ – and without any real choice.

As the value of cleared land rises and the value of uncleared land falls so will this value gap place additional pressure on farmers to ‘illegally’ clear land.

The PC is correct in pushing for more efficient regulatory practise and more efficient land use – which permits clearing when environmental values are low rather than pushing for greater compensation and so higher taxes for all. In short, less draconian regulation and compromise is better than a nationwide compensation package. An offshoot of this PC approach is to lower the infinite demand for social goods that have no price attached. While it is costless for WA politicians to bestow stolen goods on an electorate that bears no cost there will be endless conflict between landowner and government thieves.

The true test of the worth of these proposed WA regulations on land use – and highly prized native vegetation – is how much the WA public will be willing to pay via compensation to landowners. There is no doubt that the broad WA public will reveal a luke-warm commitment to such onerous regulations when *their own* hip pocket is affected.

Recommendations

A legal class action by WA landowners against the WAG for damages sustained by legislation that has clearly affected their productive capacity and business returns. I would estimate a \$500 million law suit. By employing ‘performance based’ lawyers the signal would be given to the WAG that there is to be no retreat by landowners.

An advertising campaign to demonstrate the immoral and illegal behaviour of the WAG

in relation to basic property rights and natural justice. Theft by government is still theft regardless of what cloak is worn .

The introduction of Federal Land Rights Bill – whereby inalienable land rights are ‘re-introduced’ for all Australians and not just some. A legal statement on the certificate of title would follow.

WAG Funding from the Federal Government should be cut according to the value of the private land appropriated and the consequent compensation denied existing landowners. Existing federal legislation could be used to compensate WA landowners for land appropriated by the WAG. The expense from the public purse will be deducted from WA coffers – albeit at a federal level.

An appeal to the Human Rights Commission based on the abolition of natural justice in the State of WA – albeit at the silent expense of ‘ignorant’ and ‘minority’ landowners.