

14 July 2003

Native Vegetation Inquiry
Productivity Commission
LB2 Collins Street East
Melbourne VIC 8003

Dear Sirs

We are the owners of 539.2892 ha of rural land purchased for farming purposes in 1972-74. Our land consists of 8 contiguous lots with approximately 56% covered in native vegetation. In regards to farming as a business native vegetation and biodiversity equate to 302 ha of an almost useless impost. Legislation, regulation and policies have been and are injuriously affecting our financial position.

Box 1.3 of the issues paper of the Productivity Commission's operating principles in dot point 3 states: *"to have over-arching concern for the community as a whole, rather than just the interests of any particular industry or group"*. This is as good a place as any to begin with. Such fundamental bias is the reason why private landowners of native vegetation have been made to wear the unfair burden of providing public good for the community at their (private landowners') private cost and hardship.

In reference to section 1.2 Scope of the Inquiry, *'Mat there is a raft of legislation and regulation that has the potential to influence the way native vegetation and biodiversity is managed'*---we don't manage the native vegetation and biodiversity on our properties-- we deal with the constant struggle to maintain a negotiable hold to secure a tangible, tradable and marketable use value of freehold land of which native vegetation and biodiversity are an innate grant of private freehold entitlement from the Crown.

The West Australian State Planning Strategy and in particular the Leeuwin-Naturaliste Statement of Planning Policy (LNRSP) in 1998 (under the Town Planning and Development Act 1928) arbitrarily reclassified our land use categories from rural and farming to reflect nature conservation and landscape values. Consultation with private landowners was available only after the maps were drawn and new land use categories set. No consideration whatsoever was granted as to the financial implications of losing the choice to determine the future use of our private freehold land. It seems that the West Australian Planning Commission (WAPC) engaged in "a comprehensive process of community consultation" that somehow excluded the party most affected --- **the private landowner**. When comment was sought it was in the form of "there has been a great

deal of thought and discussion on how to deal with privately owned land and I would welcome your input on this matter." (letter from Simon Holthouse, Chairman WAPC). The local shire scheme is to follow with a yet to be released document incorporating a possible forced rezoning of our land which must show "due regard" to the LNRSP

During the 1970's we operated a mixed market gardening and livestock grazing enterprise on our land to secure income. During the 1980's and into the early 90's we operated solely in livestock production and trading and did clear and pasture approximately 60ha of native vegetation. During that time as a family with three growing sons we found that off-farm income was necessary to supplement our requirements, exacerbated by our children not being eligible for Austudy to assist in tertiary education only available in Perth.

During the 1990's it became uneconomic to further develop the farm by more clearing of native vegetation for grazing purposes only. The state government also began to implement a rigorous regime designed to discourage such actions in the form of a State Cabinet endorsed inter-agency memorandum of understanding. Hysteria and negative hype is constantly being stirred up, based on populist and unscientific information and principles associated with clearing and developing land; it is better to wait to another time or perhaps the next generation when common sense can prevail. (Due to abuse and threats we have learned to move and act cautiously when we stand up for our rights. We have been at the receiving end of injurious affection many times.)

We are now not able to plan to a viable farming business, in part due to accumulated long-term debt as a result of not being able to secure opportunities to institute sustainable streams of productive on-farm income. If you cannot go forward in a business sense in farming the ability to take risks and seek opportunities disappears. We are no longer production orientated and recently have had to liquidate all our livestock and agist and lease out the paddocks as a means of some form of income. The focus of is no longer to farm the land for agricultural productivity, but to farm the assets for economic survival-much like relying solely on the vagaries of risky share markets for financial planning. Peter spends 25% of his physical working time controlling weeds both in the paddocks and in the native vegetation. (Arum Lily, Bridal Creeper, wild garlic, Watsonia, Cotton bush in the native vegetation). **We love the bush - but "love is not potatoes" - as the saying goes. So we bide our time and wait for something fundamentally positive to happen.**

We are foundation members of the South West Private Property Action Group of which Peter is the Chairman. We are foundation members of the Property Rights Committee of the Pastoralists and Graziers Association Inc. and also the West Australian Water Users Coalition. We are members and contributors to the Landholders Institute Inc. Peter has appeared before the Productivity Commission during the Ecologically Sustainable Land Management inquiry in 1998, before the House of Representatives Standing Committee on Environment and Heritage for its inquiry into Public Good Conservation in 2001, the West Australian Legislative Council's Standing Committee on Constitutional Affairs in 2000 for an inquiry into land clearing, and just recently the Standing Committee on

Public Administration and Finance for the inquiry into the impact of state government actions and processes on the use and enjoyment of freehold and leasehold land in Western Australia. All this focus, involvement, time, and energy is sourced at our expense and to the detriment of an income earning capacity that has been taken away in an enormous degree by dealing with the impact native vegetation and biodiversity policies and regulations and land use controls. We simply have not been free to plan for and pursue a viable livelihood and income from our freehold rural farming land.

In October of 2000 we placed two adjoining parcels of land, Lots 23 (41.9 ha predominately cleared and pastured) and 24 (37.7 ha fully native vegetation and chokkablok full of exciting biodiversity) on the open market for sale both at the same price for each block. The only interest shown Lot 24 was 35% below the asking price of which on advice of the selling agent was so low as to not bother with an offer and acceptance form. The local Shire of Augusta Margaret River had identified Lot 24 as being of high conservation value in its Remnant Vegetation Strategy and was investigating funding mechanisms to support incentive programs for conservation on private land (we still haven't figured it what it means and await shire support and a magical funding mechanism with bated breath). On 29 June 2001 we approached the Shire Council with a public presentation to take the highly rated (shire rates) useless burden of native vegetation off our hands with a request to the shire to either consider a Vendor's contract for sale of land by offer and acceptance or to assist to find a buyer. The local Shire Council did not support either approach and highlighted that our concerns were more a matter for the WAPC and with reference to seeking development options under the LNRSP and the Shire Town Planning Scheme No. 11. Why does a shire bother to lead us on with such shallow and impertinent foolishness as funding mechanisms and support incentives? We are not dealing with touchy feely stuff here, this is long-term structural debt that we are struggling with mostly because we have never been able to fully develop our farm but also the enormous costs of time, money, energy and focus to establish and protect our private property rights.

In the attempt to protect our asset base we have had to engage expensive planning consultants as a means to access creditable dialogue and response in the planning process (in other words to be able to get a foot in the door of government agencies, including the local shire). As a means of financial adjustment and in our hope for a viable restructure, we have been pursuing the sell off of portions our land. We have offered to sell portions (Lot 24) of our native vegetation to the Conservation and Land Management (CALM) that adjoins CALM managed Nature Reserves outright. Whilst the conservation values of Lot 24 are deemed to be of a high enough nature to thwart any sustainable development aspirations the values apparently are not ranked high enough on a statewide priority basis to warrant purchase by CALM. We unsuccessfully pursued with the WAPC to have the outcome of transferable subdivision rights (under the LNRSP and requiring restrictive covenants) from the native vegetation to adjoining cleared land by offering to cede 35ha of high conservation value land to the Crown free of cost. **(Att.1)** During this exercise, which cost us over four years of time and well over \$20,000.00 to pursue, a sworn valuation was procured for Lot 24. The sworn valuation was the same as the market price we had been asking. CALM sought and was given permission to

undertake an assessment of Lot 24 to determine if the land is worthy of inclusion in the conservation estate. It was, but it appears only if we give it away **at no cost**. The attitude of the senior CALM officer we negotiated with was - since you can't do anything with it anyway it must not be worth much to you."

(Due to its sensitive nature this section of the submission along with the relevant attachment number 2 is included in the accompanying confidential copy.)

One must wonder where lies hope for a future without government imposed hardship?? Why are the people behind these regimes of land use deprivation endowed with such lack of insight and so mean spirited?

Of particular interest to us in this current inquiries issues paper is S.2.6 *Options to reduce adverse impacts of environmental regimes.....the Commission is asked to consider measures that clarify the responsibilities and rights of resource users*. On this point we tender a letter of explanation that was a part of our testimony to the Standing Committee on Public Administration and Finance inquiry into state government actions and processes on the use and enjoyment of freehold and leasehold land in Western Australia. **(Att.3)**. Our understanding is that our rights and responsibilities are lawfully determined to encompass all profits and commodities including the use of all native vegetation and biodiversity, that is to freely clear the land at our will and discretion. These indefeasible rights and responsibilities are lawfully registered Crown grants of **"Land, Together with all Profits, Commodities, Hereditaments, and Appurtenances whatsoever thereunto belonging, or in anywise appertaining to the holder of such entitlements or heirs or assigns FOREVER'**. These grants were issued under the Transfer of Lands Act 1893 and or a conveyance registered under the Registration of Deeds Act 1856 in which the Crown divested its rights through law, that is government legislation and regulations, of the full liberty and freedom of use to the holder(s) of the entitlement. This clarification of our fully lawful rights as landholders to clear, use and manage native vegetation on our freehold land are as indisputable as a discretionary use derived from the local government Town Planning Scheme and under the Town Planning and Development Act 1928. **These Crown grants are fully transparent, enshrined and protected in Crown Law and run with the land forever.**

The Crown did however "hereby save and reserve to Us, Our heirs and successors, all mines of Gold, Silver, and other precious metals, in and under said the said Land, with full liberty at all times to search and dig for, carry away the same, and, for that purpose, to enter upon the said Lands or any part thereof" All other mines and minerals of whatsoever nature are registered to holder of the estate in fee simple and again as with the land run forever.

What are our environmental responsibilities? Who sets the standards? Is a regime such as Environmental Management Systems (EMS) realistic, practical and cost effective in every circumstance and for all agricultural industries? As much as there is ecological diversity in native vegetation reflecting a mix of communities and habitats so is there

diversity in soil structures and types in the open farmland landscapes. Revegetation is only selectively appropriate in a farm situation where environmental targets can blend with productive targets for desirable outcomes. A figure bandied about for years is a minimum of 20% of the farm in vegetation, native or otherwise. Farms with watercourses again require a different approach. Each Lot, each farm, each catchment all present a unique set of challenges. Environmental responsibilities require a farmer to be open to a constant learning curve of knowledge and application as much as necessary for soil and water management. Techniques in soil sampling can ameliorate over fertilizing causing eutrophication and poor economics. Take our farm for example, which is 56% native vegetation, yet some of the open paddocks require more protective vegetation for the benefit of livestock management. Conversely much of the native vegetation is superfluous to our requirements and of dubious or low environmental value and should be cleared for agricultural production. Could an EMS assessment have the scope for such recommendations?

So, as in the past, traditional agricultural techniques always required farmers to be at the leading edge of new ideas, open to knowledge, experimentation with insight and observation. It is no different with an environmental perspective than for when our fathers and grandfathers changed from the horse and mule to tractors with as much reticence and fear of the unknown. And that wasn't so long ago either. We constantly change, adjust and adapt as nothing is perfect and nobody is the complete expert. You could liken it to how agricultural production attached to the petro-chemical industries that emerged during and after WW II. Secondary support industries were created in both government and private sectors to the benefit of agricultural production (farm machinery, irrigation, fertilizers, pesticides, herbicides, feed supplements, plastics, consultants and advisory services, the list can go on and on). National Heritage Trust monies have opened new horizons for the merge of agricultural industries and natural resource management (NRM) (EMS, eco-system services, intellectual property rights associated with biodiversity, carbon credits). New job descriptions such as Community Support Officers, Zone Coordinators, Strategic Planning Officers, Program Managers, Communication Coordinators, Monitoring and Evaluation Coordinators, Spatial Information Managers are creating nebulous support positions that are following trends in other parts of the world of 'the twilight zone of political correctness translated into situations vacant.' **(Att.4)**

For these reasons Peter --- along with being a traditional farmer --- has also become a de-facto landscape based NRM manager. His credentials are gained by an active membership (Vice Chairman) of the Lower Blackwood LCDC, which is a statutory body by Ministerial appointment under the Soil and Land Conservation Act 1945, and is also a member on the managing committee of the Blackwood Basin Group (BBG) a community driven NRM body of a sub region of the South West of WA. Peter represents Zone 1 of the Blackwood Basin sub-region. The largely voluntary involvement (the BBG does allow a sitting fee to compensate for traveling expenses) in these environmentally focused land care groups is time and energy consuming and often without reward. Private credentials are based on 31 years' experience managing 302ha of native vegetation and biodiversity on our land. It is also one more strain on not being able to

generate streams of farm income, relying on asset-generated cash flow and debt for survival.

In summary the *"raft of legislation and regulation that has potential to influence the way native vegetation and biodiversity is managed"* (1.2 Scope of the Inquiry) has over time created for us a situation comparable to what salinity or a drought does to farmers in other areas. We have good soils, ample and assured rainfall patterns, excellent sources of water for irrigation, and a suitable Mediterranean climate that can grow a myriad of crops for a mixed farming enterprise to boost productivity and income. But the circumstance of government interference and control is as strong and debilitating of a force as salinity is to soil structure or the weather is to farming when it doesn't rain. Fifty six percent of our land affected by native vegetation and biodiversity in the business sense of farming is a real and measurable impost---sterilised from productivity like salt affected farms or areas dealt with extreme drought conditions. If we had the force of numbers and political connections as farmers in drought prone areas we would have a case to put forward under exceptional circumstances and receive assistance in the form of funding relief from both the state and federal governments.

As dedicated and long-term farmers and de-facto "natural resource managers" we live in hope that these welcoming funding rains will soon fall. We feel we do have a genuine case for payment on the basis of the extension of our environmental management responsibilities on 302 ha of native vegetation and biodiversity and for the voluntary curtailment of our fully lawful rights to clear our land.

Sincerely

Peter and Manya Wren
WA