SUBMISSION TO THE PRODUCTIVITY COMMISSION

Impacts of Native Vegetation and Biodiversity Regulations

18/08/03

My comments are made as the elected Mayor of the Southern Midlands Council, in Tasmania.

Our Municipal area is approximately two thousand five hundred square kilometres, of which a significant area is utilised for Wool Production, Beef Production, Intensive Agriculture including various varieties of Grapes, Stone/Berry Fruits, Vegetables, Essential Oils and many other rural pursuits.

The above farming activities are generally situated on privately owned land which has varying degrees of importance in farm management and commercial value.

Historically, privately owned land has been traded and purchased in democratic societies for many years. Where a 'public interest' existed, and acquisition of land was necessary, the process would ensure a fair market price would be paid.

Traditionally, our culture and the law have evolved to allow private title land holders to use land as a right, or be paid appropriate compensation where, for the benefit of the 'common good', land or rights applying to land, are removed by the government of the day.

In recent decades the Federal Government has increasingly sought to achieve biodiversity-related goals through mechanisms that have incrementally impinged on private title rights, without proper compensation. Such mechanisms often involve the provision of environmental cash payments to the States, conditional upon the States introducing certain legislation and regulations. Usually there is no, or woefully inadequate levels, of compensation accompanying such mechanisms, which are therefore viewed as being unjust and devious.

Native vegetation and biodiversity regulations generally have significantly more impact on private land owners in country areas than on their city counterparts. Yet it is usually from city dwellers that the political push comes to introduce such regulations. In public workshops and meetings in which Southern Midlands Council has been involved, it is clearly evident that country people are becoming increasingly frustrated and angry at having to bear the entire cost of preserving values for the 'common good'.

Moreover, biodiversity regulations are usually implemented without adequate consultation with those directly effected and through a heavy-handed regulatory approach. We submit that it is un-Australian to expect rural private property land owners to bow to pressures and intimidation for the 'common good'.

Where Governments find it necessary to interfere with private title rights for biodiversity reasons, Governments must legislate to provide market value compensation for that benefit.

Yours Faithfully,

Colin H Howlett
MAYOR
SOUTHERN MIDLANDS COUNCIL

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CASE STUDIES

The following examples illustrate some of the problems alluded to in Council's submission. They pertain to a properties located in Southern Midlands:

EXAMPLE NO. 1

Area total property:	1,690 hectares
Area land developed for agriculture:	800 hectares
Area native forest and grasslands:	890 hectares

- The native forest is an under reserved type over which there is a blanket moratorium on clearing.
- The land owner desires to clear 45 hectares of forest located on potentially productive farm land.
- The land owner is willing to preserve the remaining 845 hectares of native forest and grassland.
- The land owner has been advised he will not be granted a permit to clear the 45 hectares, and that it is 'not worth applying'.
- The 45 hectares in question is currently valued at around $100 per hectare, ($4,500)
- If developed, the 45 hectares would be valued at around $1,600 per hectare, ($72,000)
- If developed, the 45 hectares would fatten 350 lambs @ $50 per head, ($17,500) and 50 steers @ $300 per head, ($15,000) per year.
- The cost to clear the 45 hectares would be approximately $65 per hectare, ($2925)
- The cost to cultivate, fertilise and sow the 45 hectares each year to a standard suitable for fattening lambs would be approximately $80 per hectare, ($3,600)
- **Approximate loss of capital value: $64,000**
- **Approximate loss of yearly income: $29,000**

EXAMPLE NO. 2

The following example is provided in the words of the property owners concerned.

1. Dam application lodged under Section 65 of the Water Management Act 1999 on 21st July 2001.

2. We received six objections of which one was later withdrawn (Southern Midlands Council).

3. We granted an extension of time for consideration of application request under section 164(3)(a) of the act from the Assessment Committee for Dam Construction (ACDC) on 24th October 2001.

4. On 9th November 2001 we met with the ACDC and discussed the application giving them a background history of our farm and some financial estimates as to what the dam would do for our business and the community (the financial gain could potentially double our turnover).

5. On 25th January 2002 we received a notice of additional information from the ACDC under section 154 of the act. This required us to give reports on

    i. Aboriginal Heritage Survey,

    ii. Pre-Construction and Design Report incorporating the hazard rating, spillway dimensions and a fish-pass and

    iii. A report providing an assessment of the impact of the dam on environmental flows, water quality and existing water allocations in the Little Swanport River.

6. The following has been extracted from an email from the DPIWE to myself.

> *Following a further meeting between council (Glamorgan Spring Bay) representatives and Water Resources Division staff the DPIWE have decided that to stabalise the water use in the area as much as possible while the water management planning work is proceeding, the Department (as a delegate of the Minister under the Water Management Act 1999) will*

require applicants for all new or increased water allocations in the catchment to provide the following information under section 62(b)(iii) or 70(c) of the Act:

> ***(i) Expert evidence of the water needs of the ecosystems that are dependent upon the water resource (including the estuarine and coastal ecosystems) and expert evidence that the requested water allocation will not impact on the quantity of water needed by those ecosystems or the times at which, or the periods during which, those ecosystems need that water to sustain the natural ecological processes at a low level of risk; and***
>
> ***(ii) Evidence to demonstrate that the requested water allocation can be taken without a significant adverse impact on other persons taking water from the resource, including the commercial operations of major users of water from the water resource.***

the information set out above will need to be presented with any future applications for new or increased water in this catchment.

For the current dam and water licence applications in the catchment our position is that we consider it unreasonable to change the framework under which these applications are assessed during the assessment process. However in view of the development of a water management plan for the catchment you may wish to agree to let your application lay on the table pending work on the WM Plan on the basis that you would be

first in line for any water that becomes available for allocation once the Plan is done.

The problem lies with the extra requirements that have been handed down by the Department to dam applicants. No matter how small the dam if it exceeds the one megalitre threshold under Part 8 137 (1) (b) of the Act then the applicant has to effectively do a whole of catchment study, including the estuary. These studies come at a considerable cost to the applicant and for the small to medium size business would far exceed any resources available, it is an effective moratorium on dams in the catchment.

A scoping study to identify the costs involved was done with close consultation with the DPIWE and the environmental studies alone were quoted at $70,000 to $108,000 (this does not include any construction related expenses). These environmental requirements more than double the estimated cost of a 680 megalitre dam. We have already spent in excess of $15,000 (partially funded through the Partnership Program) and have barely scratched the surface of any environmental requirements.

The Little Swanport Catchment, compared to other catchments is undeveloped, our application is asking for a mere 0.4% to 1.4% of flows from the winter period (May to October) from a catchment that delivers on average 75,000 megalitres to the estuary annually. The catchment, through generations, has been developed from bush and marshland to productive agricultural land. In its pristine condition the area would have utilized massive amounts of water through the marshland that is now drained and flows out to sea. All we are asking for is a small portion of that water to make our business more productive and sustainable.

The other problem that we at risk of is the time limitation of two years given to allow us to comply with the extra requirements handed down by the ACDC. As stated in the DPIWE email extract the department made the suggestion that we lay our application on the table pending work on the Water Management Plan, unfortunately once the two years is up then our application becomes invalid. The act allows for extensions in time for the ACDC to consider the extra requirements, as granted by us, but it doesn’t allow for an extension in time in meeting those requirements. With a normal dam submission the

period of two years should be ample but considering the current climate of water issues in the community politics can play a major role in the meeting of those extra requirements and quite simply the extent of the studies required. The simple fact being that there is no mechanism for the applicant, under the act, to request an extension of time to meet the requirements of the ACDC, this is grossly unfair to the applicant.

We feel that there are documents such as the Water Development Plan for Tasmania that are put forward by the state government stating they want to "double the value of agricultural production in the ten years to 2008" and on the other hand the imposts by government regulation are stifling this development. The costs and red tape involved in many business development pursuits are crushing the vigor and enthusiasm that the government should be nurturing and encouraging.