19 February 2004

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

Dear Sirs

Re: Supplementary submission

We commend the Commission on its thorough and comprehensive approach to grasp what an economist struggles to do - interpret the relative complexities of human behaviour and actions, and in this case converting and using the natural resources base from which all our physical sustenance emanates. The Final Report will fall short on the science of predictability, as with economics in general, but your effort is a genuine attempt to see patterns and trends as well as to set a groundbreaking baseline to establish cost benefit analysis in the quest to manage native vegetation and biodiversity. We have a long way to go and this is the genesis of a new field of study. You have touched on a significant area of civility - that is to refine, educate and enlighten. You have adopted the mode to see the law of the state as it relates to private and civil affairs. It is the civil touch that at one time made Australia a 'lucky country'.

We attended the public hearing in Perth on Tuesday, 17 February 2004 whereby the Western Australian Government (WA Government) made public oral and written submission to the effect that we provided evidence to the Commission that was misleading and with discrepancies. We must attend to these allegations so the Final Report can be amended where necessary and seek your consideration to accept this as an extension of our original written submission to you.

As regards the Draft Report, p. 432, para.1 and sub 119 we actually claimed:

"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 state wide basis to warrant purchase by CALM. We unsuccessfully pursued with the WAPC to have the outcome of transferable subdivision rights (under the LNRSPP 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)***" (as excerpted from sub 119)

Lot 24 was assessed on site by CALM (Department of Conservation and Land Management) and its high conservation value was substantiated. It did not

warrant a commitment to purchase by CALM. Lot 24 is on the open market for sale and the WA Government is not precluded from an offer to purchase under its conservation land purchase program and /or Bush-Bank as listed on p 10 in their submission in the much heralded Table 1: West Australian Incentive and/or Assistance Schemes.

We made no mention whatsoever in sub 119 of the Natural Resource Adjustment Scheme or of a Notice of Intent to clear land. We also made no mention of an Agreement to Reserve (ATR) in Sub 119. However as the WA Government apparently compiles a dossier on us and has referenced to the matter we will reply. We did refuse to accept as a condition of a subdivision and boundary rationalisation approval to agree to reserve any portions of our property. We were within our full rights to apply for the subdivision and boundary rationalisation and we were within our full rights not to proceed with an unacceptable and unsustainable condition of approval. One cannot as yet be unduly and unwillingly pressured to agreement in our society, unless of course by coercion.

The WA Government alleges, "Wren refused departmental staff access to the land in order for an assessment to be carried out." The WA Government did intimidate us with the threat of a Soil Conservation Notice (SCN), under which it has the powers to inspect properties and implement, if we did not agree to reserve our land (copy of letters from the Department of Agriculture's Statutory Controls Group and the Minister for Primary Industries are attached to this submission). Fortunately common sense and sanity prevailed over hysteria and a dictatorial approach as land degradation was not an issue. The rightful expectation we had of the potential to clear the land was the issue. Neither the assessment nor an SCN eventuated. But the exposure to the "mad cow" standover tactics of WA Government public servants and threats and an edict from the Minister of the Crown had seared our will and devastated our future to plan as agricultural producers. Had we not the means and capability to source an independent private consultant to represent us before these people with the minds of third world country predatory despots---the outcome would have been much worse.

It should be evident to the Commission of our subsequent fear and reluctance to freely pursue our rights to clear and develop our land with a Notice of Intent under this regime or any time thereafter. We couldn't dare think about it or plan for it as an option. This was the beginning of policies, legislation, and regulations that are injuriously affecting our financial position. The WA Government then instituted an inter-agency MOU to control clearing in a manner that is now considered by many to have been ultra vires.

That leads on to the Draft Report, p 419, para 4 in relation to the fact that consultation with landholders was lacking specifically in relation to the Leeuwin-Naturaliste Statement of Planning Policy. Para 4 is a correct quotation from sub 119. All the public and private involvement in the community consultation process occurred after the maps were drawn and the WA Government set new land use categories. We were not informed. **NO consideration was shown or consultation granted as to the financial**

implications of losing the choice to determine the future of our private freehold land until, we must repeat again, *after* the maps were drawn and new land use categories were set. During the consultation period we lobbied politically to have the right to refuse the imposition of the change in land use but to no avail. And that was with a conservative government in power.

One must ask the question: On what empirical basis were our land use categories changed by the WA Government from rural to nature conservation and landscape values without assessment or inspection of our properties? In the end as the WA Government had no legitimate grounds to force an ATR they now are attempting other insidious methods to 'take' the potential use values of the land by constraints in the LNRSPP and the regulations to support the clearing provisions of the amended Environmental Protection Act 1986. And to avoid compensation they have the audacity to put out an unsustainable lifeline of pathetic and useless "incentives and/or Assistance Schemes" to pick the eyes from the dying carcass. We do not require or benefit from an overload of conservation values and it is retrograde thinking to be offering "incentives" for values that we do not wish to secure. Our freehold entitlements have already been effectively compromised as unsubstantiated high conservation values (Principle Ridge Protection [PRP]) and any suggestion of a" win/win" outcome is taken with a grain of salt. We are willing to consider including land of unsubstantiated high conservation value (PRP) be ceded as a lot in a subdivision proposal plan, but the concessions on our side of the "win" must be secure. The WA Government has taken, but if it wishes to secure and benefit from conservation values it now must give back.

As to discussions with the West Australian Planning Commission (WAPC) on subdivision/development opportunities linked to the principle of ceding land, our door is open. If the WAPC wishes to secure conservation values it must move beyond the use of policy terms such as "incentives" and "limited subdivision or development opportunities" to a reflection in the statutory planning process which would clearly determine the guidelines for lot yields of a subdivision plan and scheme texts to secure development uses for identified portions of our land that have been included in Table 5 of the Settlement Hierarchy of the LNRSPP. The WA Government, especially the WAPC, is fully aware that it must work through local government for rezoning and that a "win/win" outcome in these circumstances is only possible through the Shire of Augusta Margaret-River's District Planning Scheme, which is now being revised at this time and in the hands of the Department for Planning and Infrastructure for review, or an amendment to the current scheme. Either way is subject to considerable influence and direction by the WA Government, including State Cabinet, which endorsed and can amend the LNRSPP. The WA Government must be open not only to consultation but also realistic negotiation to secure the conservation values it desires to benefit from in perpetuity. The WA Government and the Shire of Augusta-Margaret River must lift their game, clearly identify the PRP land to be offered for ceding as the environmental outcome, work with efficiency and to an agreed time frame, and in a fair and equitable manner.

We may have ventured beyond the immediate scope of this inquiry as outlined by the terms of reference in as much as we seek remedy for our situation. But after all that is what it is all about. If the WA Government cannot come to resolution in regards to our properties by the utilization of the LNRSPP then it should back off. It should respectfully and fairly honour our original titles and allow us to adequately clear and develop our farm for the purposes of sustainability and inter generational equity. If resolution under the LNRSPP or clearing and further development of our farm are not possible then compensatory measures should become fact.

We can ask no more.

Sincerely

Peter & Manya Wren

WA