

## Property Rights Australia

### Supplementary submission to Productivity Commission

Property Rights Australia would like to add a supplementary submission to its previous two submissions.

We would like to comment on two areas.

1. Comments on Recommendations 5.1 and 5.2
2. The rezoning of land by authorities to any sort of “environmental” use and therefore eroding its value. Businesses operating on that land are caught in a time warp with no changes often being allowed to their operation and their historical business eroded. A feature of this is that the “authority” often wishes the owner to “gift” the land to the “authority.” This was characterised in submissions by the plight of Mr. Carmody from Craiglee Winery.

#### Environmental Rezoning

Mr. Carmody from Craiglee Vineyard came to Property Rights Australia’s notice as one of the presentations to the Melbourne hearing of this Inquiry. It is a very good example of a situation that is becoming far too common.<sup>1</sup>

The Craiglee Winery story struck a chord with Property Rights Australia as it was not the first time that we had come across this sort of action.

The case we were most familiar with has, after many years of stress, legal investigation and advice, letters to politicians and general disruption to life been positively resolved but with a confidentiality clause in place.

Legislation needs to be put in place which recognises the property rights of businesses and people. It should be illegal to just diminish the value of property for any purpose including environmental purposes without compensation.

Property Rights Australia appreciates the analysis that the Productivity Commission has applied to the burden that agriculture has borne to fulfil community expectations with respect to the environment.

#### Animal Welfare

Property Rights Australia opposes the establishment of a national animal welfare body and believes that each industry should be responsible for its own code with policy and enforcement operations separated. Fundamental legislative principles should always be observed with the rights and liberties of any accused fully protected, appealable, and written into any code.

This body, if the recommendation is acted upon, has the potential to become one of the most bureaucratic, unworkable, impractical, expensive, unaccountable, and politicised bodies which primary producers would have to deal with and there is already an abundance of such bodies.

In Australia many bodies have quasi-judicial powers but they are not always used fairly, wisely, without malice or favour, and with an understanding of the rights and liberties of

<sup>1</sup> <http://www.pc.gov.au/inquiries/current/agriculture/public-hearings/20160817-melbourne-agriculture.pdf>  
p45

individuals and fundamental legislative principles, one of which is a right of appeal. Too often people suffer trial by media and are forced into making life changing and business changing decisions only to find that there has been an “error.” Often people are just left in limbo for an unacceptable period of time. Examples abound in sport, racing and indeed the Human Rights Commission.

Animal Rights and Animal Welfare organisations do not want any such body to be responsible to or dominated by Departments of Agriculture or industry representatives. Conversely we do not believe that someone from Urban Australia who is used to handling companion animals or even someone from Southern Australia handling animals which are used to frequent human contact, can make rules which are meant to cover large, dangerous, commercial animals who are not trained nor used to frequent human contact, especially rangeland livestock operations covering very large areas of Northern Australia. Practical considerations need to be part of the code and this requires knowledge of the animal and circumstances.

Commercial livestock producers have a duty of care to their employees and Workplace Health and Safety is paramount. Handling a mob of wild cattle is not similar to handling a thoroughbred horse.

Not only are the numerous possible permutations of the makeup of the committee a concern but the protection or lack thereof put in place for livestock owners and their employees both physical and legal is not usually a feature of most extra judicial bodies. Too often in the animal welfare field we see what amounts to “reversal of the onus of proof” and with that, the disappearance of another fundamental legal right which is the right to silence and a right of appeal. It is too late when your animals are dead or your business rendered worthless.

One of the most prominent examples of this is the events surrounding the closure of the Giles processing works in Victoria which was a travesty which impacted a whole community. It is very easy to make the case that the actions taken were harsh and hasty and did not offer the owners a reasonable chance to make their case and to continue to at least trade product which had already been slaughtered.<sup>2</sup>

A second notorious case is one where the RSPCA was required to pay \$1.4m to an owner of 131 Murray Grey cattle which were slaughtered, according to the judge with “indecent haste”.<sup>3,4</sup>

Cases like this are not unique with videos on social media often showing what appear to be perfectly healthy cattle to those of us who know what one should look like, being slaughtered.

Similarly, auditing procedures should be such that one’s ability to trade is not paused by factors which have little to do with the purposes of the audit. Extra auditing requirements based on clerical errors, including spelling mistakes, equipment failure including electronic equipment failure should not be able to suspend trade.

At all times and for all instruments, fundamental legislative principles must be observed and the agents of any code need to be required to perform to the highest level of accountability themselves. This is not always the case.<sup>5</sup>

---

<sup>2</sup><http://www.abc.net.au/landline/content/2013/s3858413.htm>

<sup>3</sup> <http://www.theage.com.au/victoria/court-finds-rspca-inspector-negligent-in-shooting-of-131-pure-bred-cattle-20150526-gh9yia.html>

<sup>4</sup> <http://www.jamespurcell.com.au/media-release-purcell-calls-for-review-of-rspca-powers/>

<sup>5</sup> “As an issue of fundamental legislative principle, administrative power should be subject to an appropriate level of review. The Committee believes that a right of appeal is consistent with this principle.”

If a committee is to make either recommendations or enforce codes it must also set in place checks and balances on behalf of those who will be subject to the code.

<http://www.adelaidenow.com.au/news/national/government-inquiry-to-investigate-animal-welfare-charity-rspca-wa/news-story/508ddf792f82e3a1770e427e236d6154>

Yours sincerely

Joanne Rea  
Treasurer  
Property Rights Australia Inc