



**TRANSCRIPT  
OF PROCEEDINGS**

**SPARK AND CANNON**

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**PRODUCTIVITY COMMISSION**

**INQUIRY INTO IMPACTS OF NATIVE VEGETATION AND  
BIODIVERSITY REGULATIONS**

**DR N. BYRON, Presiding Commissioner**  
**DR B. FISHER, Associate Commissioner**  
**PROF W. MUSGRAVE, Associate Commissioner**

**TRANSCRIPT OF PROCEEDINGS**

**AT ADELAIDE ON FRIDAY, 8 AUGUST 2003, AT 10.44 AM**

**Continued from 7/8/03 in Perth**

**DR BYRON:** Welcome to the public hearings for this Productivity Commission national inquiry into the impacts of native vegetation and biodiversity controls. My name is Neil Byron and I've been appointed as the presiding commissioner for this inquiry. On my right is Brian Fisher; left is Warren Musgrave - my fellow commissioners. You are probably aware of the background to the inquiry, so I would just like to say that we try and keep these things as informal as possible, but we do make a recording of the transcript, and that will be available - after it's been checked - on the web site and in public libraries and that sort of thing.

Usually, at the end of the day, I ask if there is anybody else in the room who wants to make a statement or comment on anything else they have heard, but I'm not sure how many of you will be still here at the end of the day. We will be. Without any further formality I'd like to welcome Mr Parker and Mr Parker. The way we normally do this is that if you'd like to maybe take about five or 10 minutes to outline the basic things you want to say, then we can just have a bit of question and answer session after that, that's okay. Thanks very much for coming.

**MR K. PARKER:** Okay, thanks. In 1980 they brought in the Heritage Agreement Scheme in South Australia and people signed heritage agreements. However, this scheme wasn't working, in my belief and my brother's belief, so they introduced a Native Vegetation Clearing Act. This impacted very heavily on a number of families. In our case it locked up 50 per cent of our farm for five years.

The original agreement had no compensation in it and, after a battle with the Department of Environment and Planning and me myself getting hated by the department, I established some sort of compensation for farmers. However, in my opinion, that was the worst thing I ever did, because the word "compensation" is not compensation when it takes five years to get the compensation and you have to sell a paddock of the farm to get the compensation. It's like sort of selling the front fence before you sell the sheep; you can't run sheep on it after you've sold the front fence. However, five years down the track we got half what we were promised 12 months after we agreed to a heritage agreement.

We were forced to sign a heritage agreement because it had taken five years and the only way we could get compensation was to sign a heritage agreement. There was no other form of getting compensation. In this book put out by the department in the last couple of months, there are a number of heritage agreements in that; some of them are even our neighbours, and I can guarantee you - apart from one of them - they were all forced signed heritage agreements, because farmers had to sign them to get the compensation.

We own one property and all the properties around us are under heritage, so we have a kangaroo plague problem. If people support land clearing in the way they

have over the last 20 years - it wrecked my family. I haven't seen my wife and kids for 10 years. This heritage agreement we have on our property stopped us having a mortgage on it. We are no longer allowed to mortgage the property. We have not been able to find a financial institution to mortgage it. If it didn't have a heritage agreement on it, and it was allowed to be cleared by the deeds which I carry here because we're not allowed to mortgage them, it would be valued at about \$3 million.

So we claim that the department has put a caveat over our property to the extent of the total value of the property. Now, I challenge anyone who has \$3 million tied up in land to put up the same amount as we've had to put up. That is my basic argument on it. It has wrecked our family completely. We got a grand total of 1700 acres of scrub with the land worth \$100 an acre so, in your own head, you can work that pretty well out - it's \$178,000 roughly. The timber value was \$3 million on that land, for firewood and charcoal. We got a grand total of \$178,000. We signed a heritage agreement on the promise we'd receive \$320,000.

Out of that \$178,000 it cost us for five years, and we never ever got an agreement with the department unless we involved lawyers - it cost us, in a grand total, \$100,000, so in other words, we only got \$78,000 and a five-year battle in compensation, so that's why I claim compensation isn't worth the word it means under that aspect.

I know quite recently we've had the Wentworth group and other groups say, "Farmers will do anything for compensation." Farmers who have had heritage agreements will question that - a lot of them. There's one farmer in this booklet, Mr Stasinowsky, has quoted, "Although we agree with heritage agreements and bushland conservation, why should we have had to pay for it?" Anyone who hasn't been involved in a heritage agreement wouldn't really know what it means on their property. It is a caveat, a definite caveat. I carry all the deeds around to all the properties we own in this bag, because they cannot be mortgaged, and as soon as you mention to any financial institution there's a heritage agreement on them - because it's stated on the deeds, anyway, so there's no getting away from it; you have to be honest - they don't want to know about it.

On these deeds, which I believe are a contract, it states we're allowed to clear down to two and a half per cent. We purchased this land, or my father did, on the conditions he'd be allowed to clear down to two and a half per cent. Some years down the track, the government says, "No, you can't clear any," and at that time there was no compensation either. Now, he purchased that land on the open market. He came out of the army and bought it on the open market, and he becomes the loser.

My brother and I can't own this property for the simple reason we've still got a clearing permit being worked on, and we can't take the risk of transferring it and

losing that clearing permit. My mother has died in the last 18 months. We just hope our father doesn't die before we get the thing cleaned up, because we know the department has - in some cases when land is transferred - council clearing permits. So, in my opinion - in South Australia at the moment we have a big inquiry into freeholding properties and crown rent, the money that farmers should pay on crown rent. It's been discovered that the government can't change the crown rent fee, so the government said, "We'll put a \$300 surcharge on it to get the money we wanted."

However, if they can't change the crown rent fee which was established back in the year dot, we might as well say - 1910 or something like that - how can they change anything else on the deeds, because it's still an agreement, so I in that case would challenge the government that they are not breaking the law themselves, by breaking a deed contract which any of you people here who own land or own a house would probably value with your life. You might have a different opinion of that to me but most land-holders value their deeds as money. They can mortgage them; they're an asset.

In our case we've got a property which, if it was allowed to be cleared to the conditions of the deeds, today's value would be around \$3 million, and at the moment I think if we put it on the market it might bring \$600,000, and the reason I'll give you that experience - a property was sold in the area quite recently, a 12,000-acre property, with a 6000-acre heritage agreement on it, with 6000 acres cleared, house and sheds, very good country, very good underground water - it brought \$335,000 at auction. A place sold quite recently in the area of 3000 acres, similar improvements, land not as good, no underground water, just mains connection. Fair enough, it was 10 K's closer to the nearest big major town - brought \$300 an acre. In other words, a property with a heritage agreement on it brought around about \$60 an acre for cleared arable land. The one with no heritage agreement on, all cleared, brought three hundred and something dollars an acre - similar condition.

If it was a choice of me buying a property in the area - if I was a newcomer into the area, I would have bought the bigger property because the ground was better. Some say, "Oh, but that place had this and that." No. I've been in the area all my life and I know what farms - the property that brought the big money is actually considered one of the most worn-out farms in the district. As a matter of fact, through the drought it was the only property between Swan Reach and Loxton that the soil was blowing out on the main road.

I know that's getting a bit away from the impact of land clearing but that's the sort of thing that the impact of land clearing does to farmers. It's probably had a bit bigger impact on me than some others. Most other farmers have taken the compensation and run, and bought land somewhere else, other neighbours have bought them out, but it hasn't done anything for the area. The local school is battling

to stop open, the local towns have lost business. It might look all right on the big picture but it's very demoralising to the community.

There seems to be an opinion that some farmers in the Murray Mallee obtained their land by just government grants. That is a misleading deception. There are people who have done that, and they were there like two generations ago. They did obtain their land that way, and some people in the department think, well, if they obtained their land that way, they should be able to give it back. One of the first heritage agreements signed in our area was by the Evans family. I'm not going to knock the Evans family because what they did I would have done myself. It was land that was unarable, it would have cost money to clear it, and I fully support what they did. In their position, I fully support what they did.

Some of these stories are all right, but some - I did a survey in 86 on how many people force-signed a heritage agreement, and I came up with 95 per cent of the people in the Murray Mallee force-signed heritage agreements, and the reason why they force-signed them was the bank said, "We can get the money off your mortgage, you can give up your scrub country and we'll get the compensation for that." That's not a willing signed heritage agreement. That's force-signed. So this booklet saying we got so many heritage agreements and so many acres and so many this and that - look behind the picture, because there was no compensation in South Australia unless you signed a heritage agreement.

So, in other words, the book is very misleading in that aspect. It is a forced signed heritage agreement, and most heritage agreements in the state - I'm not saying all; the Evans family wasn't, and I support what they did, on the ground they did it on. It's really only single purpose ground if it was developed, and that's grazing, and it wasn't a big part of their farm. It might sound to be part of their farm, for someone who's got a 600-acre farm, but when you have 12,000 acres and you give up 600 acres, it is not a big part of your farm. Fair enough, if they thought they should do that, they should do it. Well, they can. I'm not saying they shouldn't, and the Evans family would also say that I should not have to give up land that I thought should be developed. Do you understand what I'm trying to say?

**DR BYRON:** Yes.

**MR K. PARKER:** And that's all right, you know. We would have given land to heritage ourselves if the department hadn't stepped in and told us what to do with the rest of it. In one case, one officer said to my father, "If your two boys don't agree to what we want, we'll acquisition the whole property under acquisition rights, and you won't have anything." He said that to our father without my brother and I present, and tried to cause a split in the family by doing so. And so compensation in this aspect doesn't mean anything as far as I'm concerned.

**DR BYRON:** I think one of the things that for me comes out of what you're saying is that when you talk about voluntary agreements you can probably say there are three categories: one, where it's entirely willing, where the landowner does it himself because he thinks it's a good idea and, you know, no questions asked, off his own bat; the second one where the landowner enters into an agreement that says, "Okay, I'm happy to do this if you pay me that much," and it's a fair-and-square transaction; the third one, the one that you're talking about is basically with a gun at your head, and I don't think anybody should really call that a voluntary agreement.

**MR K. PARKER:** I don't know whether any of you people see Landline. There was a show on Landline quite recently - I'm talking within the last three months - where land clearing in Queensland had been stopped and one farmer had donated a fair proportion of his farm to conservation apparently, but he did state himself - he said, "This has caused a lot of conflict in my own family." Obviously, he did it probably when his lads or family - children - were off at university or something or had another job and, when they wanted to come back on the land, there was no room for them. The impression he gave me - that was probably the last he seen of his children.

**MR N. PARKER:** Basically, I had to leave the farm and venture off shearing, and that's what I have been doing for the last 10 years. I sort of wanted to get back on the farm now things are a bit better, although the rain hasn't come much, I suppose. Yes, that was my idea now and the farm is sort of too small. You know, it's made it unviable. I'm 50 years old now and it's pretty hard work - shearing - to sort of keep going.

**DR BYRON:** Yes. Just to clarify, the covenant that's on the property - does it not allow you to put any use of it at all or can you use - - -

**MR K. PARKER:** No, it's not a caveat in the sense of a caveat, right?

**MR N. PARKER:** That's just in our own mind.

**MR K. PARKER:** It's like having a caveat over your property. Like, you go to the bank with these deeds and when it states on the bottom, "Heritage agreement over this section and this section," they just don't want to know about it.

**MR N. PARKER:** Unless you've got a real good cash flow, you know what I mean? We haven't been able to mortgage the place to get a decent cash flow on the property. My brother has just been home there trying to clean up some of the ground over the last 10 years by himself, and I just come home on weekends now and again. It just makes it so hard, you know.

**MR K. PARKER:** It's not actually an official caveat, but it's like having a caveat. Do you understand what I'm trying to say? Well, I look at it this way - and I describe it to some other people the same way - it's like someone saying, "Here's a block of land; you can build a house on it." When you get to the top of the walls, someone comes along and says, "Very good, but you can't finish it, you can't live in it and you can't sell it." That's what they did with these farms. "You take this section up and you develop it, you clear it." It states it in the deeds. You do these things to it, but before you get the last paddock cleared or the last two paddocks cleared or even half the farm, in some cases, you've got to stop right there. You can see yourself how valueless it is.

**MR N. PARKER:** There's 8000 acres of that property that was bought when me and Kevin left school, and it would have never been bought if we knew this was going to go on. We would have bought cleared ground or elsewhere, you know. It really wrecked the whole family over it.

**PROF MUSGRAVE:** You're in a situation where, under the agreement, you undertake to voluntarily retain and manage a certain area of vegetation. This is the South Australian Farmers Federation submission, and they just have this phrase to describe the nature of a heritage agreement.

**MR K. PARKER:** Yes. What they did was made maps up, right? These areas weren't to be cleared. They were to be fenced. In our case, one area still hasn't even been fenced, which was signed in 88, so we're talking about a fair way back. The heritage agreement was signed in 88. It still hasn't been fenced. When I've inquired with the department why it hasn't been fenced, they just say, "Well, there are more important parts to fence." They can say, "We haven't got the money" - they can say whatever they like - but if they haven't got the money why do they expect farmers to have the money, you know, to give up all this land? They expect that. They seem to think farmers are millionaires.

The point is that the farmers who went out and bought these - well, I call them cheap blocks, because they were at the time, but they were market value for that sort of country, right? They were cheaper than buying all cleared land. They weren't the rich farmers. They were the poor farmers, like shearers. Me and my brother were both shearers till we talked dad into buying this land, then we went home clearing land. Then they brought the regulations in, so one of us had to go back shearing. So you're not taking it off the rich farmers, you're taking it off all the poor farmers. The rich farmers have got the money to go and buy land in all cleared areas in rich country.

**DR BYRON:** If the government decided sometime after you bought the property

that particular bits of land are of high conservation value, which they thought was so important and should be set aside, what could they have done differently? How would you have liked to have been treated? Would you have been willing to sell them stuff? I mean, you've told us what happened and what you didn't like. Is there a fair way that it could have been done?

**MR K. PARKER:** Yes, I believe there was. Not put a gun to your head, right? Come and talk it over with you. In 1980, I think, Mr Colin Harris - who started this thing off in South Australia - had a meeting at Mantung, which was the local community, and he showed a video of what the department wanted. At that meeting, most people agreed with what the department wanted, and that was a corridor system with patches of unarable ground or your single-purpose land left as habitat. That's basically what the Evans's did agree to, right - and a lot of other people did too - but, like I said, people got to the top of the walls and they wanted to finish off - the farm to be viable, at least, but they come in and put a stopper on that before it was done. That got everyone's back up straightaway. If you're going to tell us what to do, we're not going to do what you want to do.

It's like a lot of older people have said to me over this meeting here today, "Well, we don't want to go down there, Kevin. For a start, it's just too mind boggling to go to the city. You go down and keep them occupied and we'll put a match to the house." That was the words of a lot of the older people. You can say that I'm here trying to win a battle while they're going to do the fighting, because a lot of the older people just will not argue with the department any more. They will just, "We'll do it their own way." I totally believe that that's what a lot of the bushfires have been in the recent years. People got their backs up. A lot of families were broken up over this in South Australia - a lot of families. I'm not the only one.

**DR BYRON:** Sure, but what a lot of people have said to us already is that in the long run, if that land is going to be managed for good conservation results, the government is going to have to rely on working with the people who live there.

**MR K. PARKER:** That's true. They lost me as a freeman, I can tell you that. I had a national parks officer come on my property quite recently and said, "Kevin, what you're doing is not illegal, but it's not in your best interests." Well, I more or less chucked him out the gate, because that was his attitude as soon as he walked in the gate. Do you understand what I'm trying to say?

**DR BYRON:** Yes.

**MR K. PARKER:** He came in there trying to order me around when I wasn't even breaking the law, and he knew I wasn't breaking the law. Otherwise, he wouldn't have said, "What you're doing is not illegal, but it's not in your best interests." I don't



know what he meant by, "It's not in your best interests." I got a witness to that, because he did it in front of another person. You know, I had a witness there. I more or less did my stack with him, just because of his attitude.

**DR FISHER:** Mr Parker, I just wanted to ask one question, mainly for clarification. The property is 8000 acres. Is that correct?

**MR N. PARKER:** No. All added up, it's - - -

**MR K. PARKER:** At the time this started, it was actually 10,000 acres - the property.

**DR FISHER:** Okay, so the total property is 10,000 acres?

**MR K. PARKER:** Well, since then we've bought a neighbouring property, which had more owners than it had years over the last 20 years - of 4000 acres, of which about, I should say, 600 acres is scrub on that one as well.

**DR FISHER:** Okay, so you've got a total holding of 14,000 acres.

**MR K. PARKER:** Yes.

**DR FISHER:** The amount of cleared country that you can crop and graze is how much?

**MR K. PARKER:** The amount of cleared arable ground will be about 7000 acres.

**DR FISHER:** So you have approximately today 7000 that's croppable - - -

**MR K. PARKER:** Yes.

**DR FISHER:** - - - and 7000 that's potentially under a covenant, but not at this stage.

**MR K. PARKER:** There's about 500 acres on the place purchased after 83, which can't be cleared or get compensation for, right? On the remainder, there's about 1700 acres of timber under native vegetation and there's probably another 500 acres that we left where we wanted it left.

**DR FISHER:** Right.

**MR K. PARKER:** Do you understand what I'm saying? There was single-purpose ground, and that's what I mean. If we'd been left to do what we wanted to do, they

probably would have even got more. Like, when they brought the act in in 83, we applied to clear land and they said, "Well, only apply for what you can do in three years. Only apply to clear what you can in three years." I said, "No, we want to know the future of this farm right here and now. We want to apply for the lot, so we know the future. We're not going to have someone come along in three years' time and say, 'That's the end of it,' because that's just going to make the agony longer. We want to apply to clear what we want to clear right now." It's just as well we did do that, because within a number of years that's exactly what they did do.

**DR FISHER:** Is there a current dispute over any of the land that you would - - -

**MR K. PARKER:** No, there's no current dispute. It's just that we gave up. We lost that much over it, we just gave up.

**DR FISHER:** Okay. At this stage then, you are not pursuing development applications and you have a property with 7000 acres of arable country.

**MR K. PARKER:** We have a property, yes, like you say, but we still have clearing permits which we haven't fully acted on yet.

**DR FISHER:** Right. In your view, 7000 acres is not a viable proposition in your area.

**MR N. PARKER:** It's about enough for one family.

**DR FISHER:** So it will support one of you, but not two of you?

**MR N. PARKER:** Yes.

**MR K. PARKER:** Our family was what most people would class as an extended family. It had our parents on it, me and my brother both on it and our children.

**MR N. PARKER:** And dad is still there. Like, it's all in dad's name still, and he can't get the pension because of it, and we just look after him. It makes it hard for us too, you know. It's just more stress on us in the droughts.

**DR FISHER:** The key issue in your minds is, first of all, that there's uncertainty with respect to - well, there's no uncertainty in your minds now about future development prospects, because you're not pursuing that, and you're sitting on a property that is, for the two of you, unviable in terms of its size and you don't have the cash flow to purchase additional cleared country. Is that the summary of the problem?

**MR N. PARKER:** Yes.

**MR K. PARKER:** Actually, to give you an example of what happened - I suppose it's going on 18 months ago now - we were very interested in buying Wilbur Station up from Menindee, which had a cropping permit on a lake of 15,000 acres. I actually found a private lender to lend me the money to buy the place - by mortgaging this, right - a private lender. There were actually two of them, but they were going to get a share out of the Wilbur property. Like, it was more of a company, right? We were going to put our place up and they were going to put some of their place up. It was going to be a company which I was going to run and we were going to put the biggest feed lot in the western division out of the basin country onto the high land and grow a lot of the organic grain on the lake. Do you understand what I'm saying?

We went to all that bother and four days before the auction - we were lined up for the auction. Four days before the auction the National Parks walked in and bought the damn lot for 300,000 less than we were going to pay for it. You can't win, can you? We claim that as "you can't win". Even Elders at the time said it's just disgusting that the government of New South Wales can do such a thing. I could have bought the place for what the National Parks bought it for if I could have went to a bank with these deeds and mortgaged it, right, but a bank wasn't interested.

**DR FISHER:** Would it be fair to describe your situation as an issue in terms of structural adjustment and farm viability as much as an issue as a consequence of native vegetation issues? Is that a fair - - -

**MR K. PARKER:** The consequences of all our problems are native vegetation control. Perhaps there is something in what you're saying. I'm not saying there's not. Put it this way: the heritage agreement was signed under the promise - when I established this compensation rate, they said - me and my brother went to two arbitrators. The department was involved, we were involved and the arbitrator said, "Look, Kevin it's like this: the place might be worth \$1 million. What the department wants to take off you might be worth \$1 million, but we damn well can't give a \$1 million for it." In other words, what the arbitrators were saying was, "We want you to forgo what your assets are so that the department can have what it wants." Do you understand what I'm trying to say?

We had to be the givers, not the department. I've heard that quite recently from other people as well in the department, "We can't afford to pay what it's really worth." All I've got to say to that - there's a place down the road sold the other day in land that is almost useless - brought \$160 an acre, and I'm glad it did, because it shows the department what it's really worth. Do you know what I mean? It does show them what it's really worth.

What you're saying there about financial adjustment - when we did sign that heritage agreement, it was connected to a clearing permit as well. I did say to David Conlon at the time, "If you could find cleared land next door - and, as you are in the Lands Department as well, you will know when any place comes up from transfers and that - we will use scrub country for cleared land at any time further down the track, from this day forth." Well, we're 20 years down the track. All the land around us, except one block, has been sold - some of them a number of times - and the department hasn't offered one cent scrub for cleared land in all that time.

**PROF MUSGRAVE:** Even though there is now provision for what they call "set asides"?

**MR K. PARKER:** That's true. No, they haven't.

**DR BYRON:** Time for one more?

**PROF MUSGRAVE:** This could be a bit detailed. It's not clear in my mind just why you incurred those large legal bills. Was this to contest the magnitude of the compensation offer or to contest the idea of the heritage agreement?

**MR K. PARKER:** No. It was all to do with compensation.

**PROF MUSGRAVE:** Yes.

**MR K. PARKER:** Under the original act of South Australia, there was no compensation.

**PROF MUSGRAVE:** I see.

**MR K. PARKER:** I admit I'm hated by the department, because I pushed for farmers to get compensation. It states in deeds that although the Lands Department can at times take land for parks or other purposes, like road construction or anything like that, you've got the right of fair and equal compensation.

**PROF MUSGRAVE:** I've got it clear now. I understand.

**MR K. PARKER:** That's what I was arguing.

**PROF MUSGRAVE:** Yes, I understand now.

**MR K. PARKER:** But that's where most of the money went - establishing that compensation - and in our case, because of what I'd done, I believe the department got a cold shoulder on me, because at the time they admitted it costs them millions

and millions of dollars.

**PROF MUSGRAVE:** Okay. Thanks very much.

**DR BYRON:** Well, gentlemen, I think we'd better move on to the next people. Thank you very much for coming and giving us your information. Next, we've got the people from Tatiara District Council.

**DR BYRON:** If you could just introduce yourself for the transcript, say your name into the microphone. We've read your written submission, so if you'd just like to summarise that a bit and then we can discuss it further.

**MR PAECH:** My name is Bryan Paech. I'm a farmer. I've got a farm just north of Bordertown. I'm a member of the Tatiara Advisory Committee but here today representing the Tatiara District Council. Firstly, thanks for the opportunity to be here, to address the council's submission on native vegetation. I guess before I start going through the document you have in front of you, I would probably be the first to admit that 40 years ago I cleared far too much country of my own, but in those days I had a bit more energy than I've got now, and a bit more enthusiasm, but since then I believe that we've made many attempts to rectify that with planting of trees and corridors and have been helped with Trees for Life and various groups, and government with fencing and so forth. So I think that puts it where I stand.

I'd like to expand just on the document presented to this group today, starting off with the fact that the council is frustrated with the situation of clearance applications that were being put in and were being dealt with harshly, the council believed, and just frustration set in. So the council set about to call nominations in our district for an advisory group of across-the-board farmers, business people or contractors, or whoever you like, to represent them, to give them what they believe is a fair and reasonable assessment of the application that was before them.

Eight people were appointed to this particular body, and that's basically how it started. The primary role of the advisory body is to comment on the amenity value of native vegetation under application. We have some rules relating to how this is supposed to be assessed, and myself, and I'm sure other members of this body find it quite frustrating to assess this, because amenity value of a tree - and that's what we set out to do, and we come into a paddock where a farmer maybe wants to clear one or five trees and we look at these trees and we're supposed to say amenity values sort of from medium, high, low or whatever, and we believe that in every situation it shouldn't be done that way, because if you put a 50-foot wall around that tree and assess it, we could do it, because you see nothing else.

But, in most cases, farmers have done a lot of work in the last few years, and a lot of them want to knock out one or two trees, have planted hundreds of trees - in some cases there are already lots of trees there and they are getting old, and I think everybody is aware of the fact that trees that are left are getting old and most of the young guys coming on farms today are prepared to plant trees, put these corridors in and do something towards it.

You will always have - I suppose as in life - 5 per cent of the people cause you 100 per cent of your problems. We've got a few people that aren't doing this but they

at most times aren't the people who are wanting to knock out a tree to put in a centre pivot or something like that to effectively use the water. As it is now, people are using flood irrigation and, as we're all aware, the water conservation is pretty important, and it's a much more efficient way of watering crops, using much less water, and for the sake of one or two trees, when people in every case that I've been involved in have been prepared to plant quite a lot of trees or areas of trees or fence around an area and virtually give it up totally. In cases they have been knocked back, and I can understand why the council were frustrated and, as a group, we find it a bit frustrating, too.

Land-holders in our district inherited the concept of forming an advisory body, mainly due to the frustration and inflexible attitude of the state government departments when assessing native vegetation applications for clearance. I've expanded on that. In broad terms, the Tatiara District Council does not support the clearance of native vegetation but there must be a balance, and I think the balance I've just explained is the fact that in most cases people are only wanting to knock out a small amount in our area, mainly for centre pivots - that's the real reason - or maybe they want to put a house in that particular area, or it suits the farm for better practices.

Unfortunately the current legislation does not provide for the balance and provide social, economic and environmental benefits, so that's pretty well explained. It seems that the current land-holders are being penalised for excessive vegetation clearance that has been undertaken over previous years, and I am the first to admit that I was part of that, and there's no doubt that the AMP cleared way back, and various other groups have cleared a lot of land in those days that was not high-productivity land, but with the use of clay and various things, that has changed, and most of those properties have trees planted on them anyway.

The 1991 Native Vegetation Act has attempted to address excessive clearance and this is evident in the objectives and principles within it. Experience indicates that the applications are only being assessed to meet the requirements of the Native Vegetation Act, and no consideration is being given to best farming practices and the ability for farms to be sustainable. I think everyone is pretty well aware that - okay, lots of people believe farmers are making heaps and heaps of money but the costs of things are eating up on that, and if you're able to do it more effectively by taking a couple of trees out or clearing a little bit of land, providing that they're prepared to plant more trees and maintain those trees, I think there should be a little more flexibility in the act, and I'm sure that's how the council thinks.

One of the main problems is, when these applications are assessed, they're sent away and they seem to take forever to make a decision. There are two or three applications - there's a couple on this particular sheet and other ones that would be

available that have taken up to two years to come up with an answer, and we believe that's not good enough. It surely can't take that long, and I think in some cases they are really only messing the people about.

There's talk here that the state government is promising to investigate natural resources management in relation to water, pest plants, animals and soil conservation, but native vegetation is not being considered as part of that process. In some other states they have thrown all these bodies together and, from my observation, which is not great, but from what I've been told and seen, I don't believe that that is working efficiently. I know in particular with the pest plant side of it that when the officers are given - instead of having a 100 per cent job to do, they are becoming multiskilled and putting 20 per cent here and 20 per cent there and 10 per cent there and whatever. It's not working, and I hope that our state doesn't come up and throw everything in the same pot, but if that's what happens, I suppose there's not much control.

The South-East area is diverse and we are very fortunate to have the abundance of good quality underground water, and the majority of applications received by council for comment have been for the removal of scattered trees to allow centre pivot irrigators to be utilised, rather than flood irrigation which, as I pointed out earlier, is not seen as the best practice method of irrigation. Obviously land-holders investigate the income potential and benefits of a centre pivot rather than continuing with flood irrigation. Water is a big issue in every state all over Australia. We have a nice jugful there, but it's not abundant everywhere else, so I think it is pretty important.

Our refusal to clear the native vegetation, which is often the case, may have an impact on the future viability of the farm. Unfortunately it seems that no consideration is given to the future viability of the farm in any decision made by the authority, and I think probably that's another thing that land-holders are frustrated with, and what happens then is when land-holders become frustrated and they believe it's going to be the way to make another dollar on the farm, that these trees will disappear - I don't think that's the way they really want to do it but they will do it by illegal means to clear it, and that becomes a fight between the native vegetation people and the land-holders and the council. Everyone gets into a bunfight, and we don't want to have that because, as I pointed out earlier, there's only a very very small percentage of farmers or anybody that will do the wrong thing. Most of them will go through the channels to do it the correct way, but when knocked back for reasons which don't seem right, these things happen.

On that particular paper there are two or three examples of how long it took to go through the process to either grant the application or knock it back, and I just think that could be tidied up and done much quicker. As I pointed out, there have



been various ways of getting vegetation in the system, and I think the government or this body has got to keep that money flowing, and I'm sure that 95 per cent of the farmers will do the right thing and utilise that money and keep the farms looking good.

I've made some comments there on the last page. It comes with better communication between all tiers of government and land-holders and developers. There's no doubt that communication is a very important thing, and if farmers are trying to ring up various people to get comments or ways of going about things and they don't get answers straightaway, this causes friction, and then you have a hassle and that's not any good.

A more flexible approach to assessing applications: as I pointed out, it's just too hard to have a rule and say that this particular body has got to go out and use that rule every time, because it doesn't apply every time, because if you're assessing a tree in an area - and there's heaps and heaps of trees around and the farmers put lots of effort into revegetating areas - a tree is not as important in my belief, not necessarily council - that's maybe a personal opinion - it's not as important as one where there's hundreds of acres and there's two nice trees they want to knock down. I see them as a very high amenity value and I'm quite prepared to say so, but in lots of cases here we as a group are saying they are of medium to low amenity value and straightaway someone is coming along and saying, "No, they're very important trees," and the land-holder is being penalised for it. I will just close by again saying thanks for the opportunity to be here.

**DR BYRON:** Thank you very much for that. You might or might not be surprised that the same points that you've made this morning have been made to us by a lot of other people in a lot of other places as well. If I can attempt to summarise - and tell me if I've got this wrong or not - you've talked about having more flexibility in the act, in the way it's interpreted - that's one thing - I'm not sure whether it's the legislation that needs to be changed or just the way it's interpreted, but that's something we'll come back to.

You talked about excessive delays and due process; do people get a quick response or is the whole thing just passed from one department to another for a period of years. That raises the other thing that frequently seems to come up, about the administrative complexity of all this, the number of government departments and agencies and subagencies and so on that are often involved in these sorts of things.

It seems to me, from a brief reading of the legislation in South Australia, that although a lot of the rationale for having it in the first place was about broadacre tree clearing - you know, hundreds of hectares or bigger - what we're now seeing it used for is the isolated paddock tree, particularly for centre pivot irrigators, dealing with

things like regrowth or timber thickening or woody weeds, and some would say, well, that's a bit different from what the legislation was actually written to do, and issues like lopping and trimming branches, and a number of people have said, "Why does the legislation even talk about that?"

But I think the other big issue that comes out of what you've been saying is that the way the decision is made is on the basis of what's going to give you maximum biodiversity or conservation, and it seems to me that the way the law is written - it says that you're not supposed to take into account the economic or social issues - you can't really blame the officials if they're following legislation that says, "Do what's best for biodiversity conservation," rather than legislation that says, "Try and come up with a sensible, reasonable balance of what makes sense environmentally, economically and socially," so I don't think it's right to necessarily criticise the public servants who are implementing the law as it's been given to them, but you might ask, why does the law just say you have to go for maximum biodiversity conservation?

If, as you say, a tree has relatively low conservation value and there's high economic and social pay-offs for getting rid of it you might conclude, fair enough, get rid of it, but if your only criterion is does it provide habitat for a species of bird or something, then you have to keep it and you can't make that sort of trade-off judgment. That dilemma that you're facing in your advisory body is because the law doesn't allow people to make that sort of trade-off judgment. It just says you have to do what's best for biodiversity.

**MR PAECH:** If that's the case, we're wasting our time, because if there's benefits by knocking down a tree and it makes the farm much more viable, surely to goodness if a trade-off for a tree, for a hundred trees or a thousand trees in some cases, or an area of land being fenced off in the corner to go back natural, if there can't be trade-offs for some of these things, all we're doing is forcing farmers into doing things that are against the law, and we don't want to do that.

**DR BYRON:** Absolutely.

**MR PAECH:** So in my mind the law has got to be changed with some more flexibility, or the people that are coming in secondary to our advisory body - and I don't think we're unrealistic. I've been to lots of inspections, and there's plenty of times where we've said, "Well, that's a lovely tree. There's no more trees around here. It's high amenity value, and I don't believe you're going to be able to get rid of it."

**DR BYRON:** Okay.

**MR PAECH:** But when there's trees everywhere - and I go along with the point that a lot of them are old, but most farmers - as I've said, 95 per cent of them - are prepared to plant trees, are planting trees and with the help of Trees for Life and various government bodies that are putting up money for it. But if they're doing the right thing and it's going to make their farm more sustainable, surely to goodness one or two trees - in some cases, five trees - must be a trade-off.

**DR BYRON:** A number of people have said to us it's only because putting in a centre pivot is going to increase the productivity and the profitability of their land by so much, by a factor of four times or eight times or something, that they can afford to set aside other parts of the farm under some sort of agreement to reduce the pressure for use on that. Don't get me wrong, I'm not disagreeing with you about the need to make those sensible judgments, but what I'm saying is that the way the law is written at the moment may not allow people to make those sorts of sensible judgments. They're backed into a corner where they don't have that flexibility.

**MR PAECH:** It's probably unfortunate that some of the people who are making those judgments probably haven't had to try to make a living off a farm.

**PROF MUSGRAVE:** Could I just ask you whether the Native Vegetation Council, which I understand is the state body which actually is involved or responsible for these decisions on clearing, has a clearly stated set of outcomes that it seeks for the district? Are you aware of such a clearly - - -

**MR PAECH:** No, I'm not right up with all that heavy stuff, but they would have. There's no doubt that, yes - - -

**PROF MUSGRAVE:** You feel they would have?

**MR PAECH:** I think they would have, yes.

**PROF MUSGRAVE:** I wonder if they did if you wouldn't have some sense of what they were.

**MR PAECH:** No, well, honestly, I haven't seen that. Our job is to represent the council as an advisory group mainly on the amenity values, but we see time and time again how hard it is to assess it when there is so much vegetation around. It's stated in here that possibly our South-East area is down to 6 per cent cover of trees and things, which is getting down a fair bit. But I would believe that although there's old trees that are dying every year, there's many more being planted. I'm not sure that that's a hundred per cent right because, if you take in the pine forests and the blue gum trees in the South-East, that 6 per cent might jump up a bit.

**PROF MUSGRAVE:** Let's imagine that there was such a set of outcomes that the council has decided it seeks for the district. One would imagine that it would achieve a degree of revegetation, certain biodiversity outcomes and so on. You've conceded that there has been more clearing than perhaps might have been desirable, and perhaps it's a good idea to get some more vegetation and greater biodiversity in the district. If we concede that the council could conceivably have objectives of that nature, would it be possible in your opinion for a plan to be produced which is in the form of an agreement between the community, the council and the vegetation council as to how those objectives might be pursued. You've mentioned corridors and so on. You've mentioned the need for people to clear individual trees to install pivot irrigation. Would you imagine that it might be possible to dream up some way of achieving the possible outcomes the vegetation council might have which could be pursued at minimum cost to the landowners?

**MR PAECH:** We're talking about the whole South-East, but I am only representing the Tatiara District Council.

**PROF MUSGRAVE:** For the whole South-East.

**MR PAECH:** But I believe that in our particular area that is happening. I believe that the new farmers coming through, the younger guys who have come through, this is in their philosophy, to have corridors and planting trees. As I said, they're being helped from these other groups and it is happening. I'm sure it's happening.

**PROF MUSGRAVE:** Do you think there's a mechanism for them to negotiate an outcome that's least difficult for them with the vegetation council, or whether that might be difficult?

**MR PAECH:** As I said, 90 per cent of the land-holders are doing this, and they could have no hassle with saying, "We're going to plant X amount of trees every year." Most farmers want to do that - but in the right place.

**PROF MUSGRAVE:** When you refer to amenity value, I assume that covers a range of things - biodiversity considerations, land cover; salinity issues, if they exist; and so on.

**MR PAECH:** The rules that were set down for us to assess the trees on were pretty straightforward. None of that was in it. If it's a nice tree, it's young, it's got a nice cover, it's not - - -

**PROF MUSGRAVE:** It looks good.

**MR PAECH:** Yes, and then you get a high, medium, low and whatever.

**PROF MUSGRAVE:** There's no reference to these other dimensions - - -

**MR PAECH:** No, they are saying to assess it with a wall up each side and see what that tree looks like, not in the area where it is with plenty of other trees and planted trees.

**PROF MUSGRAVE:** Thank you very much. That's very interesting.

**DR FISHER:** I guess what I take from you - and please tell me whether I've got this right or wrong - is that basically you believe that the native vegetation legislation is inflexible in the sense that if you want to make an optimal judgment about an environmental outcome in the area - for example, if you want to take out one tree to allow you to replace flood irrigation with pivot, which presumably would be advantageous to the environment and to the farmer - you can't do that because of the inflexibility in the legislation. Is that the force of your argument?

**MR PAECH:** Basically, but it's not always replace. Sometimes it's put in a new centre pivot, and they've got to have an area which a centre pivot can go around, and to get a reasonable thing of, say, 80 acres or whatever the thing is, it might be one or two trees in the road and it's not possible to put it in any other way.

**DR FISHER:** So the force of your argument really is that this legislation exists and it prevents the people who are enforcing it taking account of other environmental issues that are relevant to the district and, as a consequence of that, you have non-optimal outcomes for the environment as a whole as a consequence of inflexible bits of legislation.

**MR PAECH:** I would say yes.

**DR BYRON:** Is there anything else you want to say?

**MR PAECH:** No, happy as Larry.

**DR BYRON:** Do you think that nails it?

**MR PAECH:** Well, it probably doesn't nail it and it's not going to happen overnight, but I just believe there's got to be a bit of flexibility there. I think that the wheels are turning from the situation of overclearing to a situation now with people doing the right thing, and these bodies come along and stop people from perhaps more productivity on farms - in particular, centre pivots, but there's other little things like clearing limbs off trees to make them tidy and things like that. I think that

there's just got to be a little bit more flexibility, and probably commonsense has got to come in occasionally.

**DR BYRON:** Thank you very much, Bryan.

**DR BYRON:** Next we've got Edward Davis. Mr Davis, if you could just introduce the same sort of procedure as before.

**MR DAVIS:** Thanks very much. My name is Ed Davis. I come from Bordertown. I am a councillor for the Tatiara District Council, have been for quite a few years. I'm here to have a discussion with all you good people. I'm not here to shoot you to pieces, but I have had a lot of experience over my life. Early in my days I was - yes, I'd call it a scrub contractor, if you wish, sir, in that field, and I moved on to the earthmoving, et cetera. So I've been around for a few years in the Tatiara district, have been for 76 years. So I almost know where the back streets are.

So thank you very much. I'm not here to blow you on my submission, but I do feel there's things in that submission that we have got to look forward to. I am also mixed up with our committee that has just spoken. As a matter of fact, I was the originator, because I felt that we didn't quite sort of get a fair deal, so we formed that committee and we're hoping to work in with you as much as we possibly can. You have it there in front of you, I guess. If I read it with interest - with bylaws, vegetation, biodiversity regulations, et cetera. One thing, being in Tatiara for many years, which I have just spoken of - - -

**DR BYRON:** Mr Davis, we've got it, we've read it. You don't have to read it all out.

**MR DAVIS:** Thank you very very much. Okay. Well, I do believe in a lot of things that are there. The things that I have put in there, I want to know from you, sir, if you do understand them. You do?

**DR BYRON:** I think I do, but we'll establish that if we have a bit of a backwards and forwards discussion.

**MR DAVIS:** Okay. Thank you very much. If you want to ask anything, you blow me, and if I want to ask you anything, I'll blow you, and we'll get along quite well. Thank you very much. You can see there where the AMP came into our district. Do you understand all about that?

**DR BYRON:** Yes.

**MR DAVIS:** Do you understand turning the vegetation under to make a dampcourse?

**DR BYRON:** Yes.

**MR DAVIS:** You're a knowledgeable man, is the board. Thank you very much.

**DR BYRON:** We've been around a bit too.

**MR DAVIS:** Good boy. If - you came into the clay fields, sir. Do you understand what we do with our clay now and why we do use our clays?

**DR BYRON:** Yes, the wetting problem.

**MR DAVIS:** Dampness course, yes. Well, that is one of the big things which has turned our - well, shall we say, our sandhills, of no range whatsoever, sir. It has turned those into soils now that we can produce our lucerne so high, and our crop values have gone up to at least double, our grain-growing and that type of thing, which is a wonderful thing for our district, because prior to all this, of course, we had all our drift problems, and it created great hazards, believe me. I just put that all in there, sir, just to make sure that you did know, because I sort of feel in the vegetation line somewhere along the line that we've got to lift our game a little bit, probably to get the values of the land, and what we can produce from that today is quite a bit different to what it used to be - well, back in the 50s, I suppose you could say. That's made quite a difference there.

I have been on many inspections in our area. Some we've got along very well with some of the guys - very well, quite understanding. We can sit down and have a little bit of a talk and debate on what we've been talking about. There's been a few other people involved with it, maybe one or two, or sometimes three, and we don't exactly get away with a good discussion. I'm afraid we - as I put there, we've got defence in one hand and a book in the other, sort of thing, and it makes it quite awkward to debate what you're trying to do.

I can speak of one recently which I thought was mixed up with Bryan there, but it didn't come out - talk about the value to the poor old farmer. There was one down there that - well, it put him 12 months behind in his season - completely 12 months behind. At the time he went through all the fatigues and everything else, and he did really try to do the right thing, and it cost him a lot of money - a bloody lot of money. He's 12 months behind. He didn't get a very good job anyhow, because he was bylawed right back to following the book; but he did try to do everything possible, but he did fail, I'm afraid. Do you get the part, sir, with the overhanging limbs - do you understand what I'm talking about for the overhanging limbs, with not being able to clean up around your dead trees - or your trees, not dead trees - green trees?

**DR BYRON:** Yes.

**MR DAVIS:** You've got that part of it?



**DR BYRON:** Got that.

**MR DAVIS:** And why I suggest that those low-lying limbs are allowed to be cleaned away?

**DR BYRON:** Yes. I don't understand why there are rules against taking branches off, actually.

**MR DAVIS:** Well, there is.

**DR BYRON:** Yes, but - - -

**MR DAVIS:** Yes, there is. They don't let you clean them away, you know.

**DR BYRON:** Have you any idea why that regulation exists?

**MR DAVIS:** Why does it?

**DR BYRON:** Yes.

**MR DAVIS:** Well, they have what they call a verandah, and you're not supposed to work within 20 metres of those overhanging limbs. That is not too good. What the overhanging limb creates - I have asked the question many many times - the difference between a master tree and a regrowth tree created by poor development in the early days, which has grown off a root of a tree that's been left in the ground and has grown up, and it's only a little mongrel thing. We're not allowed to remove those. I think there is - I reckon it's eight inches diameter, I think - something like that, where you can probably remove them.

But the master tree - what creates the problem with the overhanging boughs - limbs, shall we say, was somewhere up to 50 metres wide, and they are the ones off the fresh butt of the tree, and they take all the darn moisture, and therefore the master tree, the main tree, he dies, because he is starved of moisture. Not only is he that, you get all the growth rubbish - leaves, everything underneath the tree, and white ants and that set in something vigorously - and they will kill the tree anyway. Over that we have what we call a silver grass. Have you ever heard of a silver grass, sir?

**DR BYRON:** No. I'm not familiar with that.

**MR DAVIS:** A silver grass is a shocking weed. It loves to go where there is - well, where it's protected from anything, it loves to grow there. The stock gets it in their jaws, their mouths - they'll just swallow it up like that. I've seen them laying dead at the trough, because they can't open their mouth to drink. That creates out of silver

grass - protected areas. If that is not there, you can reach closer to your tree and maybe clay it, as we do in our modern world today, and that type of thing, and that stops all the drift. Silver grass doesn't like clay; it's an insult - it will kill silver grass. So it makes a much better job, you know.

So that is the creation. But there is a bylaw that you're supposed to - I think you're supposed to trim them off with a chainsaw, if I remember correctly, and the height of a verandah - they call it a verandah. But most of those limbs I speak about just fall down and grow on the ground. There is a few limbs - a thing we don't do, of course, if we can possibly help it, is gums - we prevent every gum and mallee - but the thing I call is stringy-bark, but there is another name for it - I don't know what it is - he's the one that's very very vital. He's quite nasty, as a matter of fact.

We have two areas, you see, we talk about. We talk about our northern area, which I have in there, with the railway line, and that's our divide. That has always been the same for many many years. They say never buy land on the northern side of the railway line, because we don't get the rainfall. The southern side - and I've got there, that is in the northern side, they work for their farm; the other side, the farm works for them. It's almost that way with the difference in the conditions and the rainfall.

So there's little things like that that I think we could do a little bit better with. You can go along, you see we're not represented in the South-East on the vegetation committee, the state one, or whatever you might call it. We've got no representation on that whatsoever. I find that's rather bad too. I am again not opposing any of the systems, but I do think things could be a lot different. There's no doubt about that.

Productivity could be lifted. As it is at this stage, virtually - as I heard mentioned here again today - you've got to go behind people's back to do something to better your farms, than go the long way around it and go through permits or condition. These have been tried. There's many things have been tried. I will put my hand up, I've trimmed quite a few stringy-bark trees to see the results, see what came out the other side. They're there to be seen, sir. I'm quite happy to take you and show these. It's grown up so beautifully like that, and the top of the tree itself has gone back into a dark green because it's getting its supply of moisture. That's very vital. I'm not a lover of stringy-bark trees, because they have roots that will go anything out to 40, 50 yards out. If there's water there, they'll find the jolly old thing. So they create quite a hazard in drifts and many things like that.

So I don't know whether I - you have my submission, so you don't want to hear a terrible lot about me, I suppose. But I'm very happy to answer any questions you have, sir. I'm very happy to - if somebody could come to Bordertown, I could go and explain to him and show him exactly what we're talking about. A thing that has

altered in our fields, of course, land prices have gone out of proportion, but I would like to take you down to where there has been sandhills, which are just yellow drift. They've been clayed over the last three or four years; they've lucerne on them that high now. Now, there must be some monetary value there somewhere along the line, you know.

So I don't think I've got a terrible lot more to say to you. I did have a couple of questions I was going to ask you, and you may not answer them. I was going to ask you - I heard it mentioned how many - I expected a different set-up than this. I've been to one set-up down in east Adelaide there somewhere, we went to a big thing - a big table with a lot of people, and it did run through my mind, I thought, "My God, there's not many farmers around that table." So I was going to ask you that question, and you don't have to answer it if you don't want to. I also had wrote down here, "Righto, you people, what about the income off the land." The other little one I had down there at the bottom, as I mentioned, there is nobody on the committee representing the South-East, and that always strikes me funny. If people can come down and tell you what to do, I think you've got a little bit of input.

I had mentioned there one final thing, sir, if you will accept it, and it does worry me. They come down and they tell these people, and you isolate a sandhill or you isolate an area of land, and when they walk out the gates they say, "Well, that's okay, we want that. You put the fence around it and you pay for it." Now, I think that stinks. I don't think that's quite the right way about it. I think if the people that come down and demand that you do this, to do the few little things those people want to do, then give you the bill, that's not commonsense as far as I'm concerned. I think it's pretty bloody rough - pretty rough.

The poor old farmer, he's not making a lot of money, he's getting bulletted every way he goes, and I think the whole system in the whole district - and not only our district. These boys were talking before - well, we wouldn't know anything about that district. We know roughly where they are, they're down the other way, and every course is different. As I mentioned about the railway line down the centre, that side of the line there's a different rainfall to that side of the line. That side of the line is a different income to that side of the line, and I find it a little bit confusing. Thank you, sir. I'm here to answer any questions you want to shoot at me, and God bless you, and thanks for the opportunity of working with you. Go ahead.

**DR BYRON:** Brian, do you want to go first this time? Do you have anything to say?

**DR FISHER:** Thank you, Neil. So, Mr Davis, your recommendation to me is, if somebody offers me a piece of land north of the railway line, I should politely decline?

**MR DAVIS:** Well, that has been over years and years and years. But now we've lifted up into this grade that we've got clay onto it, and the value - we're growing better crops out in that country than what they're growing in (indistinct) and that, which is black topsoil.

**DR FISHER:** So the point there is that technology has been changing over time, that you've adapted to the environment, and now that you can make a reasonable living off that country, despite your notion that I should not accept this grateful offer of land north of the railway line?

**MR DAVIS:** No, well, that's up to your judgment as to how good a cocky you are.

**DR FISHER:** Right. I see. Well, of course, I'm not, and I guess one of the points I think that's worth making here is that it's not really our job to make judgments about what's happening in particular areas of South Australia. We're here to look at a set of regulations that have an impact on the way native vegetation and biodiversity is managed.

We're doing this not only in South Australia but across Australia, taking this evidence right across Australia and trying to sort out a set of arrangements or make recommendations that hopefully will make the administration of these types of arrangements, both at a Commonwealth level and a state level, more effective for not only farmers but everybody in the community basically, so that's our job. We certainly appreciate your insights into some of the issues that you face and I think the point you've made about improvements in technology and the fact that the farming community doesn't stand still and, therefore, we need to have flexibility on the regulatory arrangements that have an impact in the community is a point well made. Thank you.

**PROF MUSGRAVE:** Mr Davis, thanks for your advice and I enjoyed the conversation we had before we started, catching up with the technology developments in the old AMP scheme, but could we turn to the committee that you're a member of.

**MR DAVIS:** Yes.

**PROF MUSGRAVE:** Could you tell us something about how the membership of the committee is determined. Are they appointed by the council?

**MR DAVIS:** Yes, we did. In a roundabout way we definitely did, and what we did do, we have an area - the Tatiara District Council, and we selected a reliable person - one from there and one from there - - -

**PROF MUSGRAVE:** Each area, so you tried to get a regional spread.

**MR DAVIS:** A good regional mob of guys right over the district. That's how it was appointed in the first place.

**PROF MUSGRAVE:** Right, thanks. How did the committee exert its influence? We've already had the description of what the committee does in relation to assessing the amenity value of trees. After it's completed its assessment, what does the committee do? Does it report to the district council?

**MR DAVIS:** We do report back, yes.

**PROF MUSGRAVE:** What does the council do then?

**MR DAVIS:** We don't get a lot of feedback. I'll just refer to my mate.

**PROF MUSGRAVE:** Black hole.

**MR DAVIS:** Do we get a lot of feedback in that field?

**MR PAECH:** When we've been notified there's an inspection needs to be done we go as a group. There's eight people on that board and, as long as we've got about five, we go and we do an inspection of this particular area or these trees or this strip of land or this bit of roadside - whatever it may be. We have a chairman and we also have a secretary and the secretary is always there. He in turn writes up what we recommend as a group, puts it in writing, we all get a copy of that, and if we don't notify him within a few days it goes on to Rocco Callisto at the council, who in turn puts it in council writing on a council letter, and it's forwarded on to wherever it's got to go - Native Vegetation Council or whatever.

**PROF MUSGRAVE:** Presumably it goes on to the Native Vegetation Council.

**MR PAECH:** And in turn, if there's a hearing or whatever, it comes back to the council. We don't normally get a copy of that but it's available to us if we'd like to go to the council and have a look. Probably later on in the proceedings, if it's rejected - like when it's finished - we would get notified of what's happened. Then in the interim, while it's taking place, we probably don't have much to do with it once we've done our assessment.

**MR DAVIS:** Very good. Thanks, Bryan.

**PROF MUSGRAVE:** Thanks very much for that. Perhaps you might stay there

because either or both of you might have responses to my next and last question. Is there any way that you could see that the impact of this community group - it's not called a committee, is it?

**MR PAECH:** Advisory group.

**PROF MUSGRAVE:** Yes, advisory group, something like that. Do you see some way in which the impact of this group might be improved, or is it as good as it could be?

**MR PAECH:** I think it's very broad based, as Mr Davis pointed out - broad based across our district. I think they're all fair-minded people and we talk about it quite a bit. We don't make a rash decision and I think all of us have been prepared to give the time. Like, we don't go out and say we've only got five minutes to spare. The five or six people that go are prepared to spend half a day and we normally assess these trees on their amenity values. We don't always agree. As I pointed out, the way we're supposed to assess it I don't believe is the right way to do it but we always come to a decision eventually between the group and our secretary puts in writing how he believes the day went. As I just pointed out, we get a copy of that. If we don't respond to him to say he's done it wrong or something, he in turn presents it to council.

**PROF MUSGRAVE:** Like us, you have to adhere to your terms of reference.

**MR PAECH:** Yes, we do within reason. We do but we are frustrated because we don't believe it - it's got to have some flexibility there. What's the point of us going there if there isn't some flexibility?

**PROF MUSGRAVE:** That point is well made. We've got that one. Mr Davis, do you want to add to that?

**MR DAVIS:** I don't think so, sir, because Bryan - we're both on the same subject. We're a little bit different in speech and what have you, and that's all there is to it. I've just put up my own personal one which they thought might be a little bit rough on you guys - so I said, "Well, I'll put my own in."

**PROF MUSGRAVE:** Not at all.

**MR DAVIS:** Because I did want to explain to you the beneficiaries - the play and that type of thing which is not in that submission up there. Other than that, thanks, and I wish you a merry Christmas and God bless, and hope we get a little bit further in the field.

**PROF MUSGRAVE:** Indeed.

**MR DAVIS:** Because the sun is going down for me and I just wanted to fix this up before I went away, you know. Thanks very much.

**DR BYRON:** Thanks very much, Mr Davis.

**DR BYRON:** Thank you very much for coming. If you could just come and take a seat up here and sort of introduce yourself for the transcript.

**MS McKAY:** Thank you for the opportunity of addressing you. I didn't find out about this opportunity until very late in the piece, so I sent in my submission and didn't have a chance to back it up with the maps and the photos, which are vitally important to understand my issue. Can I approach the table with maps, photos, and if I bring my list here it will show where they fit in the submission. I'm sorry for other people who - - -

**DR BYRON:** At least we will be able to see the maps. That's terrific, thanks.

**MS McKAY:** For the other people in the room, I am in the Adelaide Hills and a member of the One Tree Hill Landowners Association of which there are few, because we are now in metropolitan Adelaide and we have been subdivided all around. This is the property in this shape there, which was purchased by the family in 1959 and, as you can see, it was pretty well devoid of trees. They were orchards and this was mostly cropping - they are some photos of on-site - because some of the lumps and bumps you see there are actually old stumps and mess that was left behind.

Unfortunately when we bought it we decided there wasn't enough tree cover for grazing stock and, as there were three generations, every time we came to the farm to work someone in town would say, "Bring us back a load of wood." We figured that was a good income, so we planted more trees to grow wood as well as other things on the farm. So the majority of these that you can see here were actually planted trees from that.

**DR BYRON:** You can see the subdivision as well - - -

**MS McKAY:** That was fenced off - right around, yes, and of the areas that were fenced, some of the old fences remain. But however, under local myth this is a state map, which refers - there's the property shape. You can see the leaf there, the leaf here. That is referred to as remnant vegetation. It is not remnant, and there are some photos of the sides of the hills that - what they are identifying is my lack of effort - they are dog roses and olives. So the thing that concerns me with native vegetation is that until we get our facts on the ground I am between a rock and a hard place, because I can't remove - after 40 years of waiting to harvest those trees, if you see the relevant section of the Native Vegetation Act - my little stick has fallen off, but I think it's 34 - they have made it a civil offence now to cut those trees down. When it was criminal it was up to them to prove you had made a mistake.

Now, I can drop one tree there and my neighbours can take me under civil, and



I have to prove I planted them. As we are going back to the late 50s, early 60s, everybody is dead. Proof is impossible, other than statutory declarations from 11 or 12 people I managed to find who said we were in the timber business, and that isn't enough in court to prove that that particular tree is my tree. So I am very disappointed and disillusioned by the Native Vegetation Act and, for the gentleman who spoke earlier, it's defined under the act you can't cut a limb, because it is defined as a tree-damaging activity. However, I can have a good thoroughbred mare run straight into a low branch and split her head open, and I can't remove those limbs for the safety of my stock. Yet in the act, if you read it, there should be economic considerations for the landowner for tree removal or dealing with trees.

So that's the history of my sad story on the act. That is a book that I quoted in my submission, which is just a never-ending list of organisations that have grown up on biodiversity. It has become an industry and you just can't, as a farmer - I don't know about the other gentleman - how do you keep up with every meeting and every discussion that is held? So the subdivision map - here, on the back of that, that is now my property. That's the total area. Elizabeth is in that direction, Adelaide is there, and that is the metropolitan Adelaide boundary. So unfortunately, all my rural livers, if I so much as start up a chainsaw, are out there, because they believe the other documents that say it's remnant vegetation.

I am not the only one in that situation. There is another what used to be one of the largest horse studs in the state. In fact, there were many around there and most of them have folded. He is in the same boat, because he bought their land and wanted to put trees in for shelter for his horses, but now, like us - we grew too many and they need removing, but no-one would even dare do them. There are some photos of olives on the property and there is grass, as you can see, right under them. There is a picture of the area of some of the trees we seeded. I've ploughed that to show you it's not rotten soil, it's just that - nothing grows under them, so I'm losing that land to production. Even in the distance you can see the areas of trees. Nothing grows under that particular - whether it's that gum or it's universal, I don't know.

There is another area again. It just shows the lack of grazing. I'm losing grazing from a 3000 DSE property, not to mention spraying the weeds and trying to keep up with the five-year rule of spraying regrowth, which costs me up to 30,000 a year just to keep the chemicals flowing, and I'm not allowed to farm any more. It is our only income. We are not North Terrace farmers. We are losing our productivity. I wouldn't ask to cut a tree down on a fence line, partly because I like the tree, but it's not my tree. This is my property. So this poor little alpaca got wedged between the tree and the fence and that's what the dogs did to him, and he was alive when we found him. Trees and fence lines just do not go together. He was actually wedged on that side and we pulled him out, but that's where he was wedged, between the tree and the fence. That's a beautiful old gum tree, but it's a hazard. The other thing are the

corridors. That is council-owned land on that side, this is ours. We are continually having to repair fences, and the local council isn't - the Fences Act doesn't cover them, so it's my cost to repair the fences.

**DR BYRON:** Caused by their trees.

**MS McKAY:** Caused by their trees. We did ask permission to have the trees lopped on their side, on the land in their care and control. There is another one that went down and took a fence. Daytime that's fine. If it's at night-time and all my horses, stock, sheep, goats, everything I've got, get out, I'm liable for the damage to the car that they run into. I have no control over their trees, and they will not clear the fence lines. So it's a cost to me. I run at a loss. The trees have taken on a life of their own certainly in our area, with our group of people. That is the border on my property, which is supposed to be for access around the farm. You can see the fence line there and that's what I have to put up with with council trees.

**DR BYRON:** You can't get access - - -

**MS McKAY:** I can barely drive without scratching my tractors. I used to have three people working for me on the farm. Now, my son and I do the lot, because we just cannot keep up with - we're losing carrying capacity, we can't keep up with controlling the vegetation and if I did have anyone helping me - my son is fairly reliable, but you've only got to have a person, a labourer, drive somewhere and collect one of those trees through the windscreen and my occ health and safety would just go through the roof. So unfortunately, certainly where we are, it's just a long, sad litany of problems. Not me personally, but in this whole area. These mostly are hobby farmers, but, as I say, down the road here there are a couple of horse studs who are still trying to survive, but our rural livers have a different standard.

We are not covered. Native veg - sure, I could put in an application to remove some trees, but I haven't got enough land to give up a heritage agreement - nearly 400 acres isn't enough to survive on, and I reckon I've done my bit. Surely there should be some recognition of a family taking a property from that to that. I'm obviously not an environmental vandal, but I get no credit for what I've done, nor the income on the trees that we planted. That goes for a lot of what is left of the farms in our area. The other groups seem to have been able to form groups that can work together as farmers. We're just busy keeping our heads down and just keeping on going. Our group would not get any hearing from the local council, because it's a metropolitan council.

But the act is frightening, because of its civil action, and this tree-damaging activity for survival I think is wrong, because - one branch here, it may give consent for clearance, but then when it comes to actually doing it - we've already paid for the

land. Why should we pay to put an area in conservation - because the fence they may pay for is nothing. Who looks after the weeds? Who looks after the foxes? It's not necessarily a habitat that's going to be just native animals, and there is no payment. There might be a one-off for a heritage agreement, but it's not an annual income for the loss of the use of that part of the farm. So thank you, gentlemen. I'm sorry about my bits and pieces. Any more questions?

**DR BYRON:** That's fantastic. I'm really glad you brought the maps and the photos.

**MS McKAY:** I'm sorry they weren't made available for you in the initial stages.

**DR BYRON:** That's all right. I don't know if I've actually driven past your place, but I have driven around through the Hills a fair bit over the last couple of years, so I think I can visualise what you've done. I'm almost sick of saying this, I know it's no consolation to you, but we've heard very similar issues from other landowners in other states and in other submissions. As Brian suggested before, we are not set up - we have no authority to try and sort out individual problems of individual properties, and we don't have a magic wand either. But what we're trying to look at is, why do situations like yours arise and what could be done to avoid it to make the system work better?

It frequently seems to show up people who have tried to do the right thing with regard to retention or replanting, regeneration of native vegetation, sometimes seem to get caught in a trap that was never intended for them, and other people who took every tree off their property 20 or 30 years ago are sort of scot-free. I'm trying to think through what would be the ideal outcome from your point of view. The fact that you're now surrounded by five-acre blocks or whatever, and that you live in a metropolitan environment, I don't think we can change anything about that. But what would have been a better outcome from your point of view then were you are at the moment?

**MS McKAY:** Because I'm not the only one; there are other farms in the area. All the development plans and the development acts say farming must be protected and stop the urban sprawl. Well, it's a bit like stable doors. But why can't a farm have some sort of level set on it? If you've owned a farm for a certain period of time, then you're like Woolworths. Woolworths has a building, and they can move their shelves, what they stock, what they do, because it is a supermarket. Surely there's got to be something that says it is a farm, therefore, we have rights on that farm to move the furniture - ie, the trees.

I just don't see any farmer now saying if all the restrictions were removed tomorrow, nobody would go out and clear-fell their properties. Surely, if anyone was that stupid, there must be some way of saying you've gone too far but still the

right to stay there and farm or, if biodiversity is that important - and I doubt it is, because I've got blue wrens living in the roses, and down the road in the horse stud there's a whole lot of other shrubs that are exotics. They've still got all the various blue wrens and everything else living in them. So it's not an either/or situation. The birds have adapted as much as we have.

But if it is that important, then perhaps something like the Yarra Valley, where subdivision would be allowed on a small enough scale - because the majority of the properties around me, I might add, are not looked after because they just do not have the time to go to work and look after their properties - could be done. But then you're creating your own problems in the Hills, because for every house you build you have to have two four-wheel drives and a septic. It just goes with the territory. So it's got to be some rights that if we have been a farm for a certain period of time, then it's hands off the interior of that farm, and the council must take responsibility for these corridors.

**DR BYRON:** How much of your problem arises from the fact that this vegetation, which you say you planted, has now been mistakenly classified as remnant vegetation?

**MS McKAY:** It's huge.

**DR BYRON:** Is that a major issue?

**MS McKAY:** A very major issue.

**DR BYRON:** In three or four other states, people have said the first problem is that the maps are wrong. So your - - -

**MS McKAY:** You have just seen my map, yes.

**DR BYRON:** - - - example of that - - -

**MS McKAY:** We can't get that changed. We've tried, but we can't get it changed.

**PROF MUSGRAVE:** Could we have some elaboration of that? What form did your attempt to have it changed take?

**MS McKAY:** We went and saw two gentleman in Mapland in the State Government with this information, and they looked at it and said, "Well, yes, but we can't change it." They also had us down under the 1:50,000 map with a lot of our area marked as watercourses, which again is important because they're trying to say watercourses must have their biodiversity edges. So we had the local water

catchment board - it's a state statutory body - come out, and one of their officers came out and wrote me a letter saying we did not have a watercourse on the property, but we couldn't get that changed either. We just got another polite letter back saying, "Well, we're going to call them drainage alignments, and they stay there." So you go to the head of Mapland, you still can't get it changed. You go to Planning SA, you can't get it changed.

**DR FISHER:** Was there any explanation as to why?

**MS McKAY:** It was just too difficult: the maps are the maps. They're not going to reprint maps. There's a street directory out there, Fullers, that has a lot of our local area listed as a national park, and they won't change it because their maps are their maps and there's too many of them out there, and they can't change them. That's a street directory.

**DR FISHER:** But there is a qualitative difference in terms of changing the original database so a new map will be printed that's correct versus - well, one presumably would never request that somebody would cause 50,000 street directories - - -

**MS McKAY:** No, they wouldn't change.

**DR FISHER:** But there is a qualitative difference between that and accepting that the database itself needs to be changed. I can't quite understand why somebody would say, faced with documentary evidence, that we can't change the database.

**MS McKAY:** There's a gentleman here that was with me at the time, if he wouldn't mind standing up, who can quote what happened when we went to see Mapland.

**MR McDOWELL:** My name is Jim McDowell. I know Sally's property very well. I accompanied her to visit both the senior officer of Mapland, who produced the maps, and also a senior officer of the Department of Planning SA who provided the information. It was very much a, "We'd love to help you, but we can't." I've since examined the method that they use to produce the maps, and I think it's flawed from a statistical basis and a scientific basis. I think that the departments concerned don't want anyone to examine the actual methodology too closely because it will mean that they will have to rewrite all their maps.

**PROF MUSGRAVE:** So, going back to Brian's point, the database itself might be in question.

**MR McDOWELL:** I think that my discussions with farmers across the breadth of South Australia and other land-holders who have significant historical knowledge going back two, three generations or more - and a lot of it is backed with

photographic evidence - the database is flawed and probably seriously so. To some extent, that's proved by the misstatements in various documents, or variations in statements. Quite often you will read that Mount Lofty has only 4 per cent remnant vegetation. You will pick up another government document and it will have 12 per cent remnant vegetation. That's a lot of area, so there's a problem of definition.

You will see in the foreword to the Mount Lofty Ranges strategy plan, which is the regional strategy planning document, that there's a statement made in respect of vegetation clearance, and it's made in such a way that it presumes that, prior to about 1945, the Mount Lofty Ranges weren't substantially cleared. Quite clearly, that's a nonsense. The Mount Lofty Ranges were the food basket for South Australia and were quite heavily cleared. Because aerial photography wasn't widely used prior to World War II, because the history only goes back as far as the first of the aerial photographs, then it's easy for people to presume that there was a different set of events prior to that.

I think that it's been in some people's interests to present that view, that it's only since the advent of mechanisation or some sort of post-war boom in the need for productivity to support the growing population that we've had land clearing at a broad level. I'm the first to admit that, yes, there's been significant land clearing. My mother's family did half the Eyre Peninsula, but I think that in respect of closely settled areas - say, into the Mid North and some of the Lower South-East, for example - the area was significantly cleared in the middle of the 18th century because it was valuable farmland. It was high rainfall, fertile soils and close to transport and marketplaces, and they're the essential economic ingredients for any industry.

**MS McKAY:** Can I just add to that, too. Jim has mentioned farming, but in the area of the Hills that we are, and probably more extensively right through the Adelaide Hills, mining was such a huge undertaking for the gold mines. I find it hard to believe that there could have been very much in the way of lush vegetation prior to 1949, because it would have been used to fuel the mines. So my history that's been handed down to me on our property is that it was cleared during the time the mines were in operation, and we have two mines either side of us: one in Para Wirra Park, the Lady Alice, on the other side is Stockyard Gully in Kersbrook. So they were running quite big boilers, crushing plants and everything else. I would say there were a fair few trees taken out then. So what we're looking at now is not necessarily remnant vegetation; it's regrowth.

The only way to give us some sort of rights as landowners, whether it's a farmer or just a rural liver - and then those rights we can trade in some way - they have a value - if we're going to give up land for native vegetation and, with those rights, some sort of responsibility that if you overstep the mark then there is a

penalty, but at the moment it's a penalty before you've done anything wrong: we're guilty.

**DR BYRON:** The question of the quality of the information is one that has come up in all our other public hearings. People in Queensland showed us where an area was marked as wetlands and it was actually on the top of a range and that sort of thing. But it seems obvious to me that, if you're going to have sensible, defensible, well-justified decisions, it's got to be based on accurate information, and I would have thought that there would be a process to make sure that all the data, the maps and so on were as accurate as was possible, because you're unlikely to get the right decision if you're basing it on flawed information.

I think there's also a question that arises from what you were saying, though, about how remnant vegetation is defined, because in Perth yesterday we were told that anything more than two years old is remnant vegetation. We've got a submission from people in Victoria who planted eucalypts, acacias and tree ferns on potato paddocks 17 years ago, and that's now been classified as remnant native vegetation and they're not allowed to touch it.

**MS McKAY:** Here, it's five years regrowth becomes non-removable.

**DR BYRON:** One thing is that the definition varies quite greatly, with different problems arising from it. I understand that with native grasslands, it's 10 years rather than five in South Australia.

**MS McKAY:** No, I'm sorry. That's wrong. Any area that has not been cultivated in the previous five years requires a permit to the Native Vegetation Council for permission to cultivate that land. That in itself is a problem, because you can cultivate with minimum till, so you just use a sod seeder on growth or chemical plough. Is that cultivation? You can broadcast seed, like we do on the sides of the Hills; therefore, that really isn't technically cultivation. So at what stage does somebody say I haven't cultivated by definition, and I have to go back to the Native Veg Council to ask them, "Please, may I plough my land?" and they say, "No, there's native grass," and that's an end of my farm. It's scary.

**MR McDOWELL:** On the subject of native grasses, there's been a significant push in the pastoral - well, not so much pastoral areas, but for grazing to sow native grasses as a means of supplanting exotic grasses. You run into the philosophical and probably legal problem: when does the seed from that grass become subject to the Native Vegetation Act? It's all right while you intentionally sow something, that plant is exempt, but what happens to its successors?

**PROF MUSGRAVE:** You're talking about perennial pasture?

**MR McDOWELL:** Yes.

**MS McKAY:** Yes.

**MR McDOWELL:** So is there some surreptitious agenda somewhere pushing these native grasses, which presumably were originally supplanted on the fact that they couldn't carry stock or whatever? You can go down the conspiracy line as much as you like, but once someone has planted these grasses and they start to spawn their own seed stock, where does the line finish, and have you actually sown the seeds of your own demise?

**MS McKAY:** The other thing is, we have a 10-year situation where you cannot change the number or species of stock held on a property, differently from the previous 10 years. I'm not sure on the wording but that's the principle. And farming is taking advantage of, unfortunately, some other farmers' misfortune, so if cattle in a drought-affected area are cheap and you can afford to truck them across, then if you've got the feed, why not bring on X number of cows while you've got the feed and the price is cheap and you can make some money? But under our act, if they really wanted to be picky - I can't run suddenly just all cattle or all sheep or take advantage of the market because the numbers change, therefore I should make an application to the council to change the number of stock or if I want to change the species - say I have an ovine Johne's disease, so I'd want to bring in cattle because I can't run sheep any more because of the disease, technically if I want to have larger numbers, I have to apply to the Native Vegetation Council for permission to change either the number or the species of my stock.

**DR FISHER:** So are you saying to us that the Native Vegetation Council has legislative power to tell you how many beasts per hectare you run and - - -

**MS McKAY:** Only if I wish to change, yes.

**DR FISHER:** So one dies. You have to go and get their permission to have one less?

**MS McKAY:** No. It's only if I increase the number. As I say, it depends how nitpicky they want to be.

**DR FISHER:** So if one has a calf - - -

**MS McKAY:** Yes, exactly. If they really did it to the letter of the law, and I run 20 cows over a 10-year period, at the end of the 10 years, I think I'll keep the calves this year, which means I'd end up with 40 - I'll keep them and lessen off the sheep -



to the letter of the law, I should apply to the Native Vegetation Council for permission to do that, and that's the letter of the law.

**DR FISHER:** I'd like you to point out to me the part of the act later on, because it seems to me that that is absolutely - I'm going to make a personal comment now: if that's what the law says, then the law is an ass.

**MS McKAY:** Exactly, and so is the five years, by definition of what is cultivation. You may have three drought years in a row. You get out and you start one paddock or half your farm, and then the fourth year. The season goes against you in the fifth year. Are you technically breaking the law because you haven't complied with that five-year period? Our vegetation act unfortunately is - what sounds good, you plant the tree, you cut it down, but when push comes to shove and it's now civil, not many people would take the risk of cutting and harvesting half a million dollars worth of trees, and I have waited - or my family has waited 40-odd years to do that very thing to harvest that income. Why would we plant any more trees?

**PROF MUSGRAVE:** Could I ask a question about your relations with the council and perhaps more precisely the powers of the council and the exemption of the council from the provision of the native vegetation legislation. In your presentation - - -

**MS McKAY:** Sorry, are we talking local council or native vegetation - - -

**PROF MUSGRAVE:** Sorry, yes. We have a problem here, don't we? Yes, the local council, the metropolitan council. In your presentation you've referred frequently to the local council, particularly in relation to boundary and corridor problems arising that one would naturally expect would arise on boundaries and along corridors such as that, and we all know good fences make good neighbours and so on, but I gained the impression from what you said that in some respect the council is exempt from aspects of native vegetation regulation. Is that correct?

**MS McKAY:** No, they're exempt from the Fences Act, so we don't have to go halves. I'm surrounded totally by a boundary, with council as my neighbour, right round the property. They're exempt under the Fences Act for going halves in the fence, and they can ignore the removal of their trees or pay for the damage that their trees do, and they unfortunately choose to - even with a lot of letters from me and solicitors and everything else, they will ignore these trees hanging over and breaking my fences. Eventually, after many years of battering, they gave me permission to remove the overhanging branches, but again that is unfair because that is a cost to me that - they're not my trees so it's another cost.

**PROF MUSGRAVE:** That exemption is not under the Native Vegetation Act, you say?

**MS McKAY:** It is.

**PROF MUSGRAVE:** It is?

**MS McKAY:** It's there, but again they choose not to give you your rights under the Native Vegetation Act. They concentrate more on the obligations or the community pressure for that corridor to be a biodiversity corridor, ie, the side of the road.

**PROF MUSGRAVE:** Yes, I can see that this would be difficult.

**MS McKAY:** But if trees fall down - I've got some more photos - the rubbish is left on the side of the road so that come summer, we have - it's not a corridor, it's a fire trap all the way along the property, on a narrow road, with 120 people needing to get out, and it's barely - well, one and a half cars wide, and it's just full of Jane, capeweed, soursobs, cape tulip, which is a poisonous plant. That to me isn't true biodiversity or bush care.

**PROF MUSGRAVE:** And what about the laneway? The council once again - - -

**MS McKAY:** That's my laneway that we drive.

**PROF MUSGRAVE:** That's a private laneway?

**MS McKAY:** Yes, and I have to fight to keep that clear for us to drive around the property.

**PROF MUSGRAVE:** Yes, right.

**MS McKAY:** And it damages the vehicles.

**PROF MUSGRAVE:** Okay. There are other questions I could ask but I think that's enough for the moment. Thank you.

**MR McDOWELL:** Could I just make a point about the membership of the Native Vegetation Council.

**DR BYRON:** Yes, please.

**MR McDOWELL:** As I understand it, there's only one member from the South Australian Farmers Federation appointed to the council. The South Australian

Farmers Federation I think would describe itself as representing less than half, for example, part of the farming community, and it's currently got a membership drive going. There are, I think, another seven members of that committee or that council that represent a variety of other interest groups, from the Conservation Council and so on - - -

**MS McKAY:** Local government.

**MR McDOWELL:** It would seem to me that it would be far more sensible if the body determining what's happening on land was far more representative of land-holders' interests, particularly if the representative of the Farmers Federation is not fully apprised of the act, and I know that has been the case in the past. It has been very much led by the nose. So I think if you're not going to have a system of property rights, then at least there needs to be some redressing of the balance in relation to the decision-making with respect to native vegetation, and I think that then you might find that there's a more balanced outcome.

**PROF MUSGRAVE:** The council has executive responsibility, I understand. It makes the decisions.

**MR McDOWELL:** It makes the decisions in respect of applications.

**MS McKAY:** Advised by - - -

**PROF MUSGRAVE:** It's not an advisory body?

**MR McDOWELL:** No.

**MS McKAY:** No, and it makes those decisions on advice given by the staff of the native vegetation department, which again may be relying on these old maps, photos and incorrect information.

**PROF MUSGRAVE:** I presume legally speaking the council advises the minister.

**MR McDOWELL:** No, I think the powers have been - - -

**PROF MUSGRAVE:** Delegated.

**MR McDOWELL:** - - - delegated.

**PROF MUSGRAVE:** Okay.

**MR McDOWELL:** And it's supposed to, within the act, operate within a set of

guidelines which I've never seen.

**DR BYRON:** Okay. Well, we might take that one up again later, but I would assume that the government set it up that way because they wanted it set up that way. It's more likely to be intentional than an oversight. Yes, it's a good point. Thank you for making it. No more questions?

**MS McKAY:** Can I just make one closing comment?

**DR BYRON:** Yes. I was going to ask if you wanted to make a closing comment.

**MS McKAY:** Not just regarding this particular issue when we're talking about native vegetation, but as a farmer from generations of trying to do the right thing by the land, for whatever economic reason - I won't say it was necessarily from some idealistic look at the property - it is very disappointing when continuously on either revegetation or the reasons for biodiversity and everything else, we've lost a lot of our remnant vegetation, there's only so many species left, the soil is degraded, the land is degraded, it's almost a foregone conclusion that if you're a farmer, the land you have something to do with is already degraded.

Now, certainly there aren't that many farms that, driving around the place, are I would say abused or degraded. They may have road drains running through that cause erosion and they may have been encouraged under the soldier settlement moneys to clear their property - I think they had to, to get the land - it would just be nice for, somehow, farmers to be given a better image of our care of the land as a preface to any of these sorts of hearings. It's always the negative on farmers, and we're not - we've done, I think, the best we can with the money and regulations that we have to deal with. Thank you very much.

**DR BYRON:** That point has, again, come up in every single public hearing we've had, that landowners that we've spoken to without exception would describe themselves as environmental stewards, whereas many people in government and environmental NGOs see them as environmental vandals who need to be controlled before they did more damage, and there's basically a pretty serious gulf between those two views that makes communication and sensible discussion issues more difficult than it needs to be. Abusing each other and calling each other names doesn't help anything.

**MS McKAY:** No.

**DR BYRON:** Thank you very much for coming and presenting your evidence. I think today we actually get a lunch break, so we can now adjourn. I can remind you that, as with all the Productivity Commission's public hearings, at the end of the day's

scheduled presentations, there is always an opportunity for anybody who wants to either make comments on the transcript, on the formal record, for somebody who has already presented to come back and make a follow-up, if you've thought of something you forgot to say this morning, or if you've been provoked by something that somebody else has said, whatever, but there will be opportunities to put your views on the transcript later. Thank you very much. We will resume with the SA Farmers' Federation at 2.30.

(Luncheon adjournment)

**DR BYRON:** We will resume the public hearing with the South Australian Farmers Federation. Could you each introduce yourselves so that the transcript gets the name and the voice sorted out and then, if you would like to summarise the submission, which we have and we have all read quite thoroughly, we can have a discussion and an elaboration about your submission. Thank you very much.

**DR DONNER:** I'm Scott Donner. I'm the executive officer for Natural Resources at the South Australian Farmers Federation.

**MR MARTIN:** Kent Martin. I'm chairman of the South Australian Farmers Federation's Natural Resources Committee.

**MS HUNT:** I'm Libby Hunt, and I'm policy support officer at the South Australian Farmers Federation.

**DR BYRON:** Could you summarise the submission, please.

**DR DONNER:** To begin, we'd like to thank you for the opportunity to speak and to take our submission. We think the issues are very important. We've had great difficulty in trying to come to the answers to solve all these problems, so we respect the job you have in train. We decided to proceed by our speaking from the right, to me, then to Kent. Libby will start off with a discussion of the issues that we face every day in the office, if that's all right.

**MS HUNT:** Scott and I receive a continuous stream of inquiries from the federation's members regarding whether or not they are able to clear native vegetation in a particular given situation. It is not appropriate for us to give on-ground advice due to the complexity of the current native vegetation legislation and the legal implications it could have. Our members contact us because often they do not feel comfortable in contacting the Native Vegetation Council and are looking for a simple answer. Contacting the Native Vegetation Council for many is seen as the last resort.

Scott and I simply inform members of the relevant exemption that applies to their particular situation and then advise that they contact the Native Vegetation Council to ensure that they meet all of the conditions under the exemption. We have attempted to clarify what is and is not permissible under the Native Vegetation Act by co-writing a series of articles with the Native Vegetation Council which have been placed in our member publication. Scott, Kent and I created the questions for the articles based on common inquiries that we receive from our members in areas where they seem to continually run into difficulties. The Native Vegetation Council then wrote the answers to these questions and provided a point of contact should our members require more information or like to speak to someone directly.

In general, we have noticed that people seem to be particularly confused by two exemptions which allow clearance for regrowth under a five-year and 10-year rule. The five-year rule is for clearance to maintain pasture, cropping and forestry, and the 10-year rule is for clearance by grazing. Many land-holders are not aware that they can clear after these time periods as long as a management plan has been developed for the land-holder prior to the expiration of the five or 10-year rule and it has been approved by the Native Vegetation Council. People are also confused by clearance along fence lines. Many are confused by the width that they can clear along a fence line and are unaware that the local council is responsible for the management of native vegetation along roadside and roadside reserves. In cases where roadside reserves are poorly managed, it places an unnecessary burden on the adjoining land-holder as it can cause damage to fences by branches dropping; it can create a fire hazard; and it can act as a refuge for pest animals and plants.

These problems are magnified for farmers adjoining national parks. Recently, we received a report from a farmer on Kangaroo Island whose property adjoins a national park that the current attitude - at least, on Kangaroo Island - seems to be that it is better to let the fire burn through a national park to the land-holder's property and ignore the cost of the fire to the land-holder rather than attempt to manage the fire within the national park. These are just a few of the issues that we have been dealing with, and I would now like to hand back to Scott.

**DR DONNER:** Thank you, Libby. I guess our overall view of the problems which we believe land-holders face with the current Native Vegetation Act is that a very famous triple bottom line is not being addressed. Native vegetation has blanket protection in this state, and there has been no assessment of the social and economic costs to the community. Compensation offered is trivial in comparison with the costs and lost income, so we believe that the whole issue needs to be re-examined carefully. Our overall view is that maintaining the environment should not be a burden but good business, and overall we need some sort of payment for environmental services.

A few more specific issues we believe need to be addressed. We have a major problem with the use of the Native Vegetation Act as a major guideline in the managing of the rangelands. Our pastoralists believe that the Native Vegetation Act is being used to impinge upon their capacity to perform their business and they are using majority property rights, and there are numerous examples of this throughout the rangelands. In a number of areas, this concerns the perverse outcomes of being creative, particularly with the refurbishment of the Great Artesian Basin, and the potential to move bores to other areas requires native vegetation clearance and decreases the capacity of the land-holder, or the lease-holder in this case, to manage the country as they would like. There is always a great difficulty in dealing with

extended bureaucracies.

Another point that the pastoralists from the regions bring is that, at the time of the creation of the Native Vegetation Act, they believe the debate in parliament on the use of grazing as a clearance act did not discuss the rangelands; it was meant for the inner country. So the view of pastoralists is that this is not a legitimate use of the act. Another difficulty that people in the lower country face is the use of the five-year rule preventing clearance of pastures and regrowth in pastures. We see this as a major problem because, by definition, it means you need to manage 20 per cent of your property each year, and we see this as an onerous responsibility on farmers and also a perverse outcome. Because of the five-year rule, you would be under an obligation to clear regrowth within that five-year cycle rather than leaving things until you want to clear it. Neither the five-year rule in the lower country nor the 10-year rule in the northern country really relates to farming cycles of pasture renovation, et cetera. They are just completely out of sync with reality.

We also have concern about the use of fire as a clearance act. A lot of Australian bush benefits from fire, and this creates a lot of burdens upon our land-holders with native vegetation. Clearly, there's some need to control it, but people seem to be getting into trouble with this - often unnecessarily. As you would have noted in our submission, we've had individual submissions about difficulties with dealing with the department or native vegetation officers. We have called for the review of operational practices to ensure that this is done in a fair and proper manner. We do hear disturbing stories - and we can't completely vouch for them - about the behaviour of officers in the field, and we think that this is a very important and sensitive area that needs to be addressed carefully. I will now hand over to Kent.

**MR MARTIN:** I guess I'd like to cover the area of how we see the Native Vegetation Act in this state could be amended to work better. The first issue that we are confronted with is that this is a reasonably negative act. It's just about protecting the existing estate, and the only time you get a gain is if you intend to actually apply to clear something, rather than being proactive and managing the estate for the future. In trying to develop a new process, because we've got an integrated natural resource management program and bill being introduced into this state, we've been looking at how you manage native vegetation on a regional basis and the implications of that, where it could be proactive and you actually head towards these aspirations of everybody, which is really the triple bottom line - where you do look after your native vegetation in the state; you do get productivity benefits for the stakeholders; and you implement the community's wishes, which are the ethical and political aspirations.

One of the difficulties, of course, that we have found in working towards this aim is that native vegetation legislation isn't just about good science and maintaining



your estate; there's a whole range of political agenda which actually make a good, sensible approach to getting a better outcome quite difficult. We have been currently having a review of the Native Vegetation Act in this state, and our organisation has been proactive in promoting a number of objectives, and that's very clearly getting to stakeholders what their rights and responsibilities are. One of the great deficiencies we have observed in the act has been an agenda basically to deprive people of knowledge to actually fully utilise the opportunities available within the act. Many of the areas that our members experience difficulties with actually could have easily been overcome if there had been a proactive approach by the native vegetation authorities to clearly convey to people their rights, not just their responsibilities.

We think it's particularly important with the future of natural resource management that there is a code developed in this state that actually allows for the native vegetation management on a regional basis, because a broad-brush approach, where you just look at legislation on a statewide basis, is fairly inefficient and doesn't allow the best options to be developed within the regions. The best options are not just about productivity; they are about much better management options for the native vegetation. The whole point of this exercise is really twofold: it is about getting a better outcome for the native vegetation and maintaining productivity. It's about good business, and this is where we seem to lose sight of the fact of what is good business, and that is looking after your biodiversity and the sustainability of it.

In our concept of good business we are particularly keen on the use of market based instruments to achieve the aims and aspirations of the community, the government and the stakeholders. Much of the regulation is fairly counterproductive and negative and, although in some ways this claims that there's been big gains made in the stopping of broadacre clearance, the gains in the actual health and management of the native vegetation has never been clearly or well monitored, and the reality is there are not good gains there. So we are actively working towards a program which would look at the gains for management as being particularly important, just as is maintaining a certain percentage. But the concept that you must maintain every tree at all costs without considering the science is, we consider, just not a good mechanism to follow.

**DR BYRON:** Yes, terrific.

**DR FISHER:** Thanks very much. You just now mentioned your interest in market-based instruments. Are you able to expand on the nature of any further thoughts you had? For example, were you thinking about Bush Tender Schemes or something like that when you were thinking of market-based instruments, or have you not yet had an opportunity to flesh those issues out?

**MR MARTIN:** Yes, we're working quite closely with a scheme in the upper

South-East in the Bordertown-Naracoorte-Kingston area - I'm trying to be specific - which is the Upper South-East Dryland Salinity and Management Program where there's a biodiversity management scheme where there's a trade for biodiversity management. The program is worth slightly in excess of \$11 million and I understand it is similar to the Bush Tender Scheme but this is a particular South Australian scheme where that amount of money is made available and we're developing a process to value the biodiversity.

The process is about a biodiversity component and a management component, and this is a good proactive scheme that actually does three things. It looks after initially the biodiversity well but it sends a clear message to, on the one hand, the farming community that they can be rewarded for managing native vegetation. I guess it sends a clear message to the rest of the non-stakeholder community that there's a real reason that they should participate and actually pay for some of this, which is what they're doing with the federal money.

**DR FISHER:** If I understood your earlier comments correctly, you seem to be implying that in the cropping areas of South Australia you thought that, apart from whether the regulation is an appropriate way to go or not - and you've just said to us that you believe in markets which is - I can agree with that. But in the case of the cropping areas you seem to be saying that the principal problems at the moment are about communication - is that correct - and failure somewhere in the system for people to understand exactly what they can and can't do under the current legislation. Is that a correct interpretation?

**MR MARTIN:** Yes, and it's not just in the cropping areas. There's a difficulty in a whole range of areas about how this South Australian act is interpreted. We had a case the other day where there was a query about clearance on fence lines. On the local radio station there were four different groups of people gave their version of how the act could be interpreted, including the chairman of the Native Vegetation Council, government agency and this range - and they all were different, and this is clearly confusing for the community.

**DR FISHER:** We've got this little document here called A Guide to Programs Under the Native Vegetation Act, which seem to be very helpful and it sets out - I would have thought it actually sets out quite explicitly in this document what you can and can't do with respect to fence lines. If I were to read this document I would - it seems to me clear, at least at first blush, what you could and couldn't do with a fence line. What's your interpretation as to why there's confusion and four different stories?

**DR DONNER:** We've struggled with that particular issue because when we deal with those sort of things it seemed to me that it should be straightforward and yet we

have enormous numbers of people, as Libby pointed out, that start to run into difficulty and not simply because they weren't trying to do the right thing. To try and resolve this we went as far as commissioning some specific articles to re-address that question. There seems to be a profound problem.

**DR FISHER:** If I were a farmer - which I should immediately tell you I'm not - and I were to read this, I wouldn't seek permission to clear a fence line. This document seems to say you can clear a fence line and you're exempt under the act for anything you do with respect to clearing a fence line up to five metres wide.

**MR MARTIN:** It uses the word "reasonable" and on your side of the fence you have to use "reasonable", and then if it's a roadside fence you have to get permission from local government, and they have concerns about how you interpret "reasonable need for reasonable clearance". It's inconclusive and we've got a couple of cases going at the minute with particular issues because in the South-East there's a property that is a stud sheep property quarantined for OJD, and he's got legal liabilities about maintaining his boundary fences. He can't get agreement from the local government because they are concerned about what constitutes "reasonable".

**DR FISHER:** So this is not so much a problem with the act itself but interpretations in different jurisdictions and what you can and can't do, for example, with a fence between a property and a shire road or something like that.

**MR MARTIN:** Yes.

**DR FISHER:** So is it fair to say that if you were in the middle of the property and you didn't have to worry about the local council, there's probably not too much room for differences in interpretation? The principal issue is where you run up against different jurisdictions and how they interpret what their responsibilities are. Is that a correct interpretation?

**MR MARTIN:** That's one interpretation but it's still a problem within a property about what's reasonable, because there's different interpretations by different officers within the authority about what's reasonable. That's not necessarily a criticism of the authority; it's just the reality about how you interpret "reasonable".

**DR FISHER:** Right, okay. So what you're saying to me is that if I were a farmer in South Australia and I was to clear a fence line after having read this document, and to put a fence up, then there's no guarantee that some officer of the Native Vegetation Council won't turn up on my doorstep in the middle of the night and cause me some difficulty as a consequence of my misinterpreting what's reasonable.

**MR MARTIN:** That's a genuine concern and happens with our members.

**DR FISHER:** Okay. Now, the last question I wanted to ask was, I think when you were talking to us before you drew a distinction between the way in which people are interpreting all their responsibilities under the act in pastoral areas versus cropping areas. You seemed to be implying that it was more difficult to interpret what you should or should not be doing in a pastoral zone. Is that a correct interpretation?

**DR DONNER:** Yes, pastoralists aren't always clear because they believe they are operating under the Pastoral Land Management and Conservation Act. The Native Veg Act seems to have started to intrude upon their working lives.

**DR FISHER:** So this again is a set of issues arising as a consequence of several acts interacting with each other in an untested way, is it?

**DR DONNER:** Very much so, yes. For instance, this week I was contacted by the head of a major pastoral company where it's now considered that if you were grazing an area for normally eight to nine months per year because of your watering point - now, if you happen to now have a watering point and graze for 12 months, that is considered a change of land use and needs approval. That is not viewed very well in the rangelands.

**DR FISHER:** And that's under the Native Veg Act or is that under the requirements with respect to your pastoral lease?

**DR DONNER:** Native Veg Act, to my understanding.

**DR BYRON:** But it's not a change in the legislation. It's simply a change in the interpretation of the legislation or the regulations under the legislation?

**DR DONNER:** Yes. The balance between the two seems to be changing and one is moving into the other by osmosis.

**MR MARTIN:** One of the difficulties we are faced with - because we were actually discussing this - with the natural resource management regulations and bill in this state is the difficulty of integrating native vegetation legislation because, as I alluded to before, it's not about the science; it's about the politics of it. To get this better management you are faced with this dilemma that, as I said, it's not about the science, it's about political agendas, and this is the answer we're given when we start to talk about it. We have a need to get better outcomes. We have a need to coordinate all of this and then it becomes a political issue.

**DR DONNER:** If I can continue on that, in the rangelands there seems to be another problem with regard to when stock have access to parts of the property. This

seems to arise out of concept of needing Native Veg Council approval to extend watering points. Pastoralists would argue, with passion, that stock can get to all of their property at different times, depending upon the waters, and so they would follow the waters up and down through a property. The native vege authorities point of view seems to be that if there isn't a watering point nearby there seems to be some range that cattle sort of should not go beyond. That doesn't really work with reality cattle. Stock will move throughout the whole property, depending on the natural waters available, so it becomes a question of how frequently they graze. I think there are some great difficulties in defining that process properly.

**DR BYRON:** It seems that the Native Veg Council is interpreting that areas that aren't permanently watered or artificially watered are sort of natural areas that are basically unused.

**DR DONNER:** Very much so.

**DR BYRON:** What the pastoral industry is arguing is that that is a mistaken understanding because if it's been a good season the stock will actually move over every bit of the property.

**DR DONNER:** Yes.

**PROF MUSGRAVE:** Just getting back to the political agendas, you referred, Kent, to the need to work through this and I think agree on satisfactory outcomes, or words to that effect. I'm not sure which political agendas you're referring to. If you could enlarge on that, that would be helpful, but could I conclude from what you're saying that what is needed is some energy devoted to trying to hammer out outcomes in a strategic sense - say across the state, across regions and even some regions within the state - in order to try to remove political considerations from individual decisions?

**MR MARTIN:** Yes, when I spoke about agendas, there's a whole range of perspectives about how different groups in the community believe things should be managed - from the very green, I guess, to the very rednecked, if that's the way people wish to describe it. That's been one of the difficulties confronting the legislation in this state for a long time. When you actually look to improve it, both sides have a fear of actually doing anything because they can see that the other side might encroach further into their own sort of patches, for want of a better word, which always seemed unfortunate. We're working hard at the federation to actually try and back that view down. It's about better management of the resource, rather than being scared about somebody gaining an advantage. We see it's absolutely critical that the bill in this state is made a proactive one where it's about managing the estate for a better outcome.

**PROF MUSGRAVE:** The estate is state, the state of the state.

**MR MARTIN:** Yes, the biodiversity estate - that you get better outcomes, not just sort of having a negative "protect what we've got" attitude about it.

**PROF MUSGRAVE:** Yes. Would it be consistent with what you're arguing to aspire to some mechanism by which desired outcomes are determined through an arm's-length process, where the principles are debated before the consideration of individual cases, rather than a situation - which I sense may exist - where the nature of the overall objectives for the state or the region are determined, say, within the Native Vegetation Council at the time of consideration of individual cases?

**MR MARTIN:** Yes. Please.

**PROF MUSGRAVE:** Yes. Well, that's all for the moment from me.

**DR BYRON:** I'd like to briefly go back to the range lands question. I'm trying to find the bit in the submission, or the appendices. I think there's a statement in there to the effect that the Native Vegetation Act isn't consistent with the pastoral legislation.

**DR DONNER:** Well, there's a view by pastoralists that moving watering points about the property is best pastoral practice, and that's been a long-held view. My understanding, is there's research to support that. To prevent the movement of watering points to protect - from the other side of it - to protect the biodiversity, or supposedly protect the biodiversity in other parts of the property, there's a conflict. Pastoralists would take the view that moving the water to the stock is a better way of protecting the environment than bringing the stock to the water, and keeping a more diffuse thing, because ultimately the stocking rate around the watering holes is therefore higher if you can't take the water to the stock.

**DR BYRON:** I guess what I'm getting at is the complexity that you - and I think everybody else has mentioned - of many different pieces of legislation, often not entirely consistent with each other - this is a general feature, not specifically South Australian - with different government agencies, sometimes different parts of the same agency, tasked to implement a particular piece of legislation, and then frequently finding that they're sort of stepping on each other's toes.

One of the consequences of that seems to be that there isn't a clear process of - a map that tells you how to get through what landowners see as sort of a bureaucratic maze, and as a result, the way they're perceiving it is that there's a lot of buck-passing goes on between different agencies, as the officers in those agencies try as best they can to figure out how to rationalise some of these either inconsistent or simply

previously unexplored areas - things that the legislation didn't anticipate.

**DR DONNER:** Yes, we'll support that, and I guess we would look in comparison to the federal Environmental Protection and Biodiversity Conservation Act where the officers are obliged to respond to any question within 30 days, otherwise people can go ahead with what they planned, and there's no obligation in this state legislation to actually get something done quickly. That's often a problem for land-holders. In the Rangeland appendices to our submission, there's an example of a problem with watering holes and dams proceeding for nine - and it's now 14 months, I believe, and rains - - -

**DR BYRON:** I thought you were going to say nine years.

**DR DONNER:** Nine months, sorry - no - and good rains were missed, and in rangelands that's not a good thing.

**DR BYRON:** The reason I thought you were going to say nine years is, in other states that has happened, but we won't talk about other states today. This issue of complexity and process has come up in many other submissions and in the appendices in your submission. Do you have the feeling that the new legislation the government is considering now is going to try and, if you like, rationalise or give everybody a clear path or a map that says, "If you do this, this, this and this, it will be considered by agencies 1, 2 and 3, and then you get a definite answer, yes or no"?

**DR DONNER:** There are some proposed changes to the Native Vegetation Act regulations; they wouldn't quite achieve that. The proposals in the proposed NRM bill, the Natural Resources Management bill, don't go that far, and in fact we've been pushing for the inclusion of native vegetation management in that process, so that all that sort of thing could be done.

**DR BYRON:** But in the Innamincka example, in the appendix, they're dealing with the water land and Biodiversity Conservation Department, the Environment Department, National Parks, the Native Veg Council and the Pastoral Board, so that's five government agencies that one property has to get to resolve this issue about can you put in two new dams. I can understand why they're arguing that the process seems a bit more complex than they think it needs to be. Now, maybe it does need to be that complex, but - - -

**MR MARTIN:** And then you can add to that that in the new legislation we've been looking at, the native vegetation legislation, the state continually makes reference to the need to comply with the Environment and Biodiversity and Conservation Act, the federal act. In our dealings with people administering that, the process almost tends to be mischievous, that some of the requirements that sort of filter down, that are

purported to be needed by that EPBC Act, isn't actually the case.

One I would cite would be the case of preserving dead trees, that there was a proposition in the new amendments to the act that all dead trees be preserved, and it cited the EPBC Act. Our response immediately was we didn't think that's what the EPBC Act was on about, it was on about habitat for threatened species, and we checked it out and that's exactly the case, and not a blanket sort of ban on clearing of all dead trees. So there's a real difficulty with this complexity about how you interpret it.

**DR BYRON:** Yes, but it may simply be a question of interpretation, not necessarily a question of malice or being deliberate or mischievous. I mean, it's very difficult to get into discussing people's motivations and intent, but you might be quite correct in saying that, rightly or wrongly, they may have misunderstood.

I guess what I was trying to get at with that last question is, the suggestions of the kind you've made in this submission I imagine you've been putting to government agencies and to politicians. Is there a positive reception, in the sense they say, "Well, yes, maybe we can fine-tune that a bit" or, "Maybe we do need to clarify this" or, "Maybe we do need to do something about resolving that apparent inconsistency" or - you know, who gets the final sign-off on this, whether it's A or B? Are we making progress in that area?

**MR MARTIN:** My answer would be "slow". In our endeavours with the new integrated natural resource management bill in this state, one of our prime concerns is the lack of commitment to where the Native Vegetation Act will finally fit within that new bill, and right at this very moment we're negotiating with government about some commitment on that. The reality is - and that's when I alluded to the political realities of it - it's hard to get a commitment about where it might go to actually resolve some of these management issues. It's not so much about science, it's about political realities, I guess, of the difficulty of doing it, and the answer - it's slow.

**DR BYRON:** In the submission and in your presentation just a few minutes ago, both Scott and Ken have referred to some amount of judgment or balance or trade-off or flexibility - whatever you call it - that enables you to take into account the economic and social costs and benefits together with the biodiversity or the conservation case for whether to permit the removal of particular pieces of native vegetation or to require its retention.

Am I correct in understanding that the legislation - the native veg legislation in particular - doesn't actually give people that flexibility or discretion. It simply says, "If this species of high conservation value, it must be" - or "this individual is of high conservation value" in the case of a paddock tree "it must be conserved" full stop.



**DR DONNER:** I think there has been a little bit of trading of late - and it's difficult to answer this with great certainty, but certainly protecting biodiversity is an obligation under the act, and we saw some difficulties in what are known of the case of the pastoral lease or the lease with woody weeds, sort of running into difficulties with apparent biodiversity being protected by a very spiny woody weed, and to us, that seems to be a very difficult issue to judge. I mean, I can't see how you can be very systematic about that kind of call. It would make it very difficult for the officers in question, to be fair.

**MR MARTIN:** We've got a number of cases with vegetation on roadside fence lines where there's big stands of existing gum trees which could be legally cleared, and owners say, "Well, these have significant aesthetic value. Now, if I'm to re-fence" - which we have a particular case where the person is required to, the choice is either to legally clear a row of big mature trees, which are of significant aesthetic value, because they're on a main highway, or be able to do some sort of deal where he fences inside, but he gets some in-kind compensation. There's a real difficulty, apparently, in doing that.

**DR BYRON:** If he actually puts the fence back from his property boundary?

**MR MARTIN:** Yes.

**DR BYRON:** The impression I get is, one of the major - well, the major sticking points in South Australia seem to be - as in many other jurisdictions, funnily enough - isolated paddock trees, for putting in centre pivot irrigators, the question of regrowth, timber thickening, woody weeds, that sort of issue, and the question of rangelands, which often includes the timber thickening, woody weeds issue too. But I don't detect any great argument about whether areas of obvious pristine, old growth, remnant native vegetation should be knocked down in large areas. I haven't heard anybody in South Australia saying that they've got hundreds or thousands of hectares that they want to knock base over apex. Am I right in getting the scale of the problem - we're actually talking about relatively small amounts of native vegetation, not in terms of thousands or tens of thousands of hectares?

**DR DONNER:** Well, I mean, with the prevention of broadacre clearing, the debate is about - the issues that cause people grief, the large parts or regions of the state where they might have preferred to clear in the past, but that's not even discussed any more.

**DR BYRON:** Yes. That's history.

**DR DONNER:** Yes. It's gone.

**DR BYRON:** It's long gone.

**MR MARTIN:** It is a decade old, but people are still quite cognisant of the fact that they did lose a lot of potential production, and there were significant impacts on different family businesses that were actually put together with certain business plans, but the reality is it's 10 years on, and aggrieved as they might feel, it's another decade and they accept the situation.

**DR BYRON:** Okay. But following on from the point about the scale now, it seems to me, in a state the size and diversity - heterogeneity of different sorts of ecosystems you've got here in South Australia - we're really looking at a very very fine-grained decision, and with enormous differences in soil, rainfall, topography, current and potential land use, as well as land users. So that suggests that "one size fits all" or even just saying, "Well, in this region everybody is going to do A, B, C. It suggests to me that you really need to have a great deal more scope for saying, "Normally, in these region we might do A, B or C, but if there's a very good reason why on this property - or that paddock of this property - we should do X, Y or Z instead, well, let's think about it."

**DR DONNER:** We would welcome that, I'm sure.

**MR MARTIN:** With the implementation of the NRM bill in this state, we see this is a unique opportunity to actually implement some of those ideas. That's why we've been working with non-government particularly furiously, I guess, because it's such an important and opportune time.

**PROF MUSGRAVE:** I just thought I might ask about the incidence of problem situations. We've had a number of quite sad and harrowing cases brought to our attention, some of them from your submission. Is the incidence of such cases related to native vegetation and biodiversity regulations greater than would be the case with other problem areas that you deal with as an association?

**DR DONNER:** I only deal with natural resources. I guess we're motivated to sort of work on this, because of concern about our members getting into trouble. I mean, the appendices don't reflect all the things that happen. We often get phone calls, "Look, I'm going to court, what can you do?" which seems to be a bit late. We do get very regular calls. It's not a flood, but it never goes away. We had a bit of a flood just before Christmas and early this year when the state government used satellite imagery to send a number of "please explain" notices out to people. There seems to have been a bit of a flood of activity since last year. Certainly, there's been a heightened concern amongst members, and that's been mostly about clearance of regrowth.

**PROF MUSGRAVE:** In Perth yesterday - and we were talking to government representatives - we commented upon the harrowing cases that have been brought to our attention, and we were told that we'd probably just had a few squeaking wheels mentioned to us. Really, they thought they were managing things pretty well. You know, you'll have a few instances of such problems, but we shouldn't view it as being particularly remarkable.

**MR MARTIN:** No. In this state, it's significant - the amount of complaints about poorly dealt with and basically, in some cases, frivolous cases. I sat on the state soil council for some 10 years, where we dealt with a whole range of soil degradation issues and the act had the ability to enforce change, with very specific regulations. There were very few cases brought with charges under the Soil Act in comparison with the Native Veg Act. When you actually analyse them, a whole range of them - in our opinion - seem to be quite frivolous, and I would really refute what the agencies are saying.

**PROF MUSGRAVE:** This is in another state, so - - -

**MR MARTIN:** I mean, we hear this on a consistent basis here - that there are these numbers of offenders. Where I sit on my committee, it's not an area that I particularly dwell on. Scott and Libby deal with it more. I deal with the more proactive end of what we try to do and change policy, but it is significant and it is real.

**PROF MUSGRAVE:** Yes.

**MR MARTIN:** We could catalogue a whole range of cases. In our submission - - -

**PROF MUSGRAVE:** You've got a few here.

**MR MARTIN:** - - - we put in a few, but we could have a catalogue of them which would fill the whole submission.

**DR DONNER:** One of the things that's really probably sparked my concern in my role and in Libby's role is that you often get the story of, "Look, I've got this native vegetation. I actually really care and I consider myself an environmentalist, and now I'm in strife." It's often the preamble. I mean, some individuals are known to be somewhat gung-ho and we may not be choosing to support them, but you do get concerned when people say, "Look, I've put 200 acres aside" - or whatever - "I've been clearing out my regrowth." That's what we hear. It would need to be settled in a court to determine how completely accurate that is, but that really does concern us where we sit. On the one hand, people are trying to do the right thing and, on the

other, they're getting stung for what sometimes they consider trivial things. The balance seems to be wrong.

**DR BYRON:** What we really do need to get a handle on is whether there are 10,000 land-holders who are perfectly happy with the way these sorts of legislations work and there's just a dozen noisy exceptions. Even if it's only a small number, it doesn't necessarily make it right that people have grievances and that their grievances should be swept aside. It would be really helpful to us to know whether the system is working fine 90 per cent or 95 per cent of the time, but it throws up a handful of problems now and again, or whether the system is only working right 50 per cent of the time and is throwing up all sorts of problems all over the place in different regions over different issues. We're just trying to get that sort of sense of how you see it working.

**MR MARTIN:** The difficulty is with different components of the system, particularly in relation to regrowth and what that actually means. The implications for that are different within different parts of the state. Take the upper South-East where, when it was cleared, people made a conscious effort to leave a certain percentage of native vegetation. It wasn't left in blocks, it was left as isolated remnants over paddocks, and this has come back to haunt them. The people who actually cleared everything with a burnt earth policy have had no problems and the people who left scattered remnants have enormous problems about what this involves. When you move up into pastoral type country and up in the mid-north of this state, where you get regrowth in some of the rangeland areas, you're immediately confronted with the same problem. There's no ability to control it or modify it. They just don't have any opportunity within the system, because it's so inflexible.

**DR BYRON:** What you've actually raised there is the equity issue. The land-holder who got rid of all the trees off his place 20 or 30 years ago is plain sailing now and he could put in as many centre pivots as he wants to or whatever. The guy who did actually retain a lot of the native veg next door is basically trying to compete but, because he's retained native veg, he's now facing additional costs and additional controls, largely because he tried to sort of "do the right thing" in terms of retaining native veg. Perhaps the more you retain the more you are affected by this legislation.

**DR DONNER:** Yes.

**MR MARTIN:** That's clearly the case. There are numbers of examples where people really made an effort to maintain native vegetation for the future and, as I said earlier, it's come back to haunt them.

**DR BYRON:** That seems a bit ironic, doesn't it?

**MR MARTIN:** It does.

**PROF MUSGRAVE:** The Native Vegetation Council appears to be a unique institution amongst the states. I'm not sure about Victoria, but it seems that the other states - apart from Victoria - don't have a similar institution. Would you commend such an institution to those other states?

**MR MARTIN:** It's not about the Native Vegetation Council. It's about the way the act is structured that requires an independent Native Vegetation Council and, from where I sit, I certainly wouldn't.

**PROF MUSGRAVE:** You certainly would?

**MR MARTIN:** Wouldn't.

**PROF MUSGRAVE:** Would not?

**MR MARTIN:** No.

**PROF MUSGRAVE:** Could you tell us why you wouldn't?

**MR MARTIN:** It's not about the actual performance of the council. It's about the rules under which they have to act. If you've set up a structure which is totally inflexible and requires a council to sit the way it does, the whole of the structure is what we see as a problem, and the council is really only a symptom of it.

**PROF MUSGRAVE:** Okay. Yes, I see. In the submission, you make reference to regional decision-making. I'm looking for some clue to where that was. I think in one of your recommendations you refer to that, so it would be right at the end of the submission itself, wouldn't it?

**DR DONNER:** Yes.

**PROF MUSGRAVE:** Here we are. Yes, the first dot point under your major recommendations; a recommendation that there be a review of the Native Vegetation Act and regulations with the intent of developing regional management of native vegetation based on integrated natural resource management principles, which would be in accordance with state and federal legislation. Could you expand on how such regional management might be structured?

**MR MARTIN:** In broad terms, with the restructure in this state we'd have eight regional boards, with a mandate to manage soil, water and pest plants. We believe -

and would be lobbying very hard - that native vegetation should be in that. That would allow - if you manage at a regional level - a more refined and sophisticated approach to the actual management. If I could just give an example, on a state-wide basis there's an exemption for posts. People are allowed to take posts under certain conditions for fencing on their properties, whereas if you worked at a regional level you can be much more specific.

In that regulation, it talks about red gums of eight inches and that's the only consideration. Well, the reality is that a red gum of eight inches in the South-East is - you can grow them in three years. They're as common as hairs on a cat's back, whereas eight-inch trees in the pastoral country might be 1000 years old. This would give you the opportunity to specialise in what you're attempting to do, and we see this as a major advantage - just for the native vegetation - to be able to specialise on a regional basis, and that's what we're trying to develop.

**PROF MUSGRAVE:** Could we go back then to my first questions of you earlier in our session with you when we were working through political agendas and the idea of trying to evolve strategic outcomes - the sorts of different levels - at arm's length from individual decisions. Presumably, such a regional structure and approach could fit into such a way in which outcomes could be developed.

**DR DONNER:** Yes, we would agree with that.

**PROF MUSGRAVE:** Yes. We just need to think a bit further about how the bits fit together. Finally, I'm wondering if you could just explain to us a little further something about the heritage agreement scheme. I'm a bit confused, because I ended up with the impression from what you say on page 4 of the submission that if someone is offering up some land committed under the agreement - a national heritage contract or something - as an agreement, payments can be made to that individual, but then that payment is put back into a native vegetation fund, and then that's used to meet the costs of managing the land, which is the subject of the agreement, and if anything is left over in 50 years that is given to the owner of the land. Have I got that right?

**DR DONNER:** Yes, that was material that was taken from departmental web sites.

**PROF MUSGRAVE:** Okay, you might not be able to help me then, but it just seemed to me to be a Clayton's thing as far as the landholding is concerned.

**MR MARTIN:** It has been an evolving scheme where originally this state, when it stopped broadacre clearance, paid a lot of money in compensation for heritage agreements.

**PROF MUSGRAVE:** Yes.

**MR MARTIN:** Numbers of millions of dollars, in the 60 million range, and then this was gradually phased out until there were basically voluntary heritage agreements, as I understand. We have actually run into some difficulties with this with our management program in the upper South-East, with this biodiversity trade. That's why in actual fact we've gone towards a management program, because some of the heritage agreements had actually compensation paid on them and some didn't, and people who had actually been paid compensation couldn't, in actual fact, double-dip and be paid a biodiversity trade, whereas others could for some equity. We have actually gone to the management scheme, because it's quite a confusing area actually.

**PROF MUSGRAVE:** And I have picked up the confusion, if nothing else.

**DR DONNER:** I guess a particular difficulty with that, and this will be another example of people saying, "Look, I'll put vegetation under a heritage protection order and do the right thing," and then sort of sometime later, when other options come up, may not necessarily be able to participate. Which is why we went for the management scheme, so as to not disadvantage people who once again had done the right thing, because that seems to be a real slap in the face.

**DR BYRON:** The question of active management is sort of related to that. You've got a statement on I think page 7 which says, "Native vegetation needs an active management process requiring committed on-ground expertise and long-term investment to ensure its survival in the future." That's pretty similar to the proposition that I've been putting to a lot of other people in these hearings previously, that it's one thing to tell a landowner that, "You are prohibited from clearing a piece of native vegetation." That doesn't necessarily guarantee that that ecosystem, or that piece of land, is going to be well looked after in the long-term, in the future.

So my question is not how do we get beyond just, you know, drawing a line on a map or passing a piece of law and saying, "Well, that piece of natural vegetation is now protected forever," because somebody is going to have to manage it on a day-to-day basis, and it seems to me that eventually governments are going to have to enter into some sort of long-term mutually agreeable collaborative partnership arrangement with the people who are actually on the ground.

**DR DONNER:** We would agree, and obviously money needs to change hands, or some sort of compensation process. I mean, it's a bit hard to envisage all the details, but we have the same sense that this is where the issue has to go.

**DR BYRON:** I was actually heading to a different point, that if governments and landowners are going to eventually have to work together in a mutually amicable sort of relationship, beating people around the head isn't a good way to start off that long-term relationship. I'm not debating at this point who has the powers to require who to do what under what circumstances, but even if you've got the power to force people to do things, sometimes it would be wise not to exercise that power if ultimately you have to pragmatically come back to a working relationship.

**MR MARTIN:** The answer is yes, and I would again cite our upper South-East scheme as an excellent example about where you can go, that we are developing the good management, it will be looked after and people need to be looking at this management process as basically a second income. It's not something you just do because somebody feels like it. It's because it is an aspiration of the community that they do want it looked after, and it's a legitimate thing and is being seen to be legitimate to do it properly. That's what in actual fact the process is doing in the upper South-East to the tune of \$11 million, and we think it's ground-breaking stuff.

**DR BYRON:** That's the one that you were talking about before, that is in some ways similar with bush tender in Victoria.

**MR MARTIN:** Yes.

**DR BYRON:** It does seem to me to get around the problem of saying, "If a particular piece of native vegetation is of very high conservation value the government should buy it and manage it themselves." I think it would probably be a logistical nightmare for a government agency to have to manage relatively small patches of native veg in what is basically an agricultural landscape. So the idea of having people who live and work in that agricultural landscape doing the day-to-day management has an appeal there.

**DR DONNER:** I'll go a little further than that: many of the landholders who I've spoken to would fight tooth and nail against losing that management right, because they believe they do a better job. That is something that I've really picked up with this role.

**DR BYRON:** I think you've exhausted our well of questions. Is there anything else that you want to say in wrapping up and closing?

**PROF MUSGRAVE:** There is one question - not quite exhausted, but it's a very important point to do with the precautionary principle and your observation in the submission in relation to that, which raises the question of have you any thoughts of how we deal with this problem of society, on the one hand, wanting to reserve options, because of our present uncertainty about the status of the environment,



biodiversity and what we might learn, or how science might develop in the future, and the landholder's desire for security. Have you got any thoughts on where we might go in this respect?

**DR DONNER:** A very small question. A comment we heard earlier today is perhaps not the precautionary principle but risk management - and I think that's a powerful argument that we heard in our earlier discussions in our business today. I think that's probably fundamental - it is that if you treat something as precautionary you tend to be looking at it as protection, as opposed to trying to improve something in the future. I think the way I've been thinking about this issue, or we have, is that rather than try and simply protect, you try and find a way of improving the question. I've often used the example of the Geoffrey Boycott method of protecting your wicket and not winning the match, with all due respect to a great cricketer. The point being that you need to try and go forward and improve things and be active.

**MR MARTIN:** I think it's important that we promote a philosophy about the biodiversity, that it's an asset and not a liability, and that's how we need to structure our regulation. That people actually view things as an asset, and it is an asset to them and not a liability, because no matter how hard you work on people, if it has become a liability, they don't tend to love it a lot.

**DR DONNER:** I mean, this issue has been obviously debated around the country and we are only one group doing it, and it does come down to that simple principle of benefit or payment for the environmental services provided. I get a feeling that there is a lot of power in that view.

**DR FISHER:** I think there's a couple of issues there, aren't there? There is, first of all, the question about who pays for the environmental or ecological services. Clearly there are provisions of ecological services being provided by the farming community that is effectively a public good, and a lot of the evidence we've heard so far is that there is concern on the part of the farming community that they are being expected by the rest of the community to provide those services and with no due payment, and in fact in some cases some of their rights have been stamped - they perceive their rights are being stamped upon as a consequence of having to provide those services. So that is one issue. I guess the other one is that the difficulty seems to be that some parts of the community think the environment is static, and/or it should be fixed in 1770, and in fact it's a dynamic thing and presumably the question is how you would manage that dynamic environment. Is that a correct interpretation?

**DR DONNER:** Yes, I would be in agreement with that.

**DR BYRON:** I would just like to elaborate that, because I think it's not only that

the ecosystems are naturally continuously evolving. What we have heard this morning is that there is continuous evolution in agricultural technologies: new ways of growing crops, new crops and new farming systems that we hadn't heard about. So there is a question then of do we try and sort of fix something snap frozen in time, or do we allow a system where continuing evolution and innovation and adaptation is permitted. Where I am leading to is, it's not only that first point that we were talking about just before, payment by taxpayers to the landholders who provide ecosystem services to them. What I'm picking up is that landowners are saying that, "As long as we are responsible as owners for managing this property, we would like to have the flexibility to manage it the way we see best."

So every time there is a new set of rules that restrict what we can and cannot do the - you know, you're not allowed to put stock up there, even if it's only for two days a year, because of a flood or a drought. It's inhibiting the manager's ability to manage and I think a lot of the landowners that we've spoken to have been objecting to that. Even if they were paid for the ecosystem services they're generating, there is still that issue about, "Who is running this farm, me or the bloke sitting in Canberra, Adelaide, Perth or Sydney," or wherever you are. Am I wrong in that?

**DR DONNER:** No, I think you would be correct in that, and the Rangelands issue was a good example. I guess that's a fundamental problem and you can perhaps alleviate the problem by some payments. Certainly to use our South-East example again, nine months ago or six months ago the issue was at a sort of deadlock of disagreement. By taking a sort of new way forward with offering some levy offsets, which is basically a payment system by default, all of a sudden we're seeing a completely different view and response from the community down there, which gives you a fair bit of hope.

**DR BYRON:** Good.

**MR MARTIN:** But there is a view that there is a lack of consultation and really a lack of partnership between governments and landowners about how they actually achieve these things. It's about partnerships and doing things together rather than enforcement. Where I sit, on the agripolitical side, enforcement doesn't necessarily go down well or sit comfortably. There are some times when you get a much bigger bang for your buck with a bit of voluntary, educational, extension or incentive payments rather than the regulatory big stick. Not instead of, but there is a time and place for all those different instruments. It's about good business and good business covers a whole range of things.

**DR BYRON:** Anything else you would like to say? One more wrap-up?

**DR DONNER:** No, thank you.

**MR MARTIN:** No, thank you.

**DR BYRON:** Thank you very much, Libby and gentlemen.

**MR MARTIN:** We thank you for the opportunity.

**DR BYRON:** It has been most helpful. As normal, before we wrap up I always invite anybody in the audience who would like to come forward and put a point of view on the record, on the transcript - any information that they think would be helpful to us would be most welcome. Even if you don't have anything to say, thank you very much for coming and attending. It's good to have you here, I'm glad to see you. With that, I think I can declare these public hearings closed. Thank you very much, ladies and gentlemen.

AT 3.50 PM THE INQUIRY WAS ADJOURNED ACCORDINGLY

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