



**TRANSCRIPT  
OF PROCEEDINGS**

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**PRODUCTIVITY COMMISSION**

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

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

**TRANSCRIPT OF PROCEEDINGS**

**AT HOBART ON FRIDAY, 13 FEBRUARY 2004, AT 9.30 AM**

**Continued from 11/2/04 in Albury**

**DR BYRON:** Good morning, everybody. Welcome to the public hearings of the Productivity Commission's national inquiry into the impacts of native vegetation and biodiversity regulations. My name is Neil Byron and I'm the presiding commissioner for this inquiry. My fellow commissioner is Warren Musgrave, on my left.

The purpose of this round of hearings is to facilitate public scrutiny of the commission's work and to get comment and feedback on the draft report, which we released at the beginning of December. We have already held hearings, in the last few weeks, in North Queensland, South Queensland, Sydney, Dubbo and Albury. Next week we are in Perth and Geraldton, and the week after in Melbourne.

We will then be finalising our report to the Commonwealth government, having considered all of the evidence that has been presented in the hearings and in the submissions, as well as the information we've got from our field visits. All of the participants in the inquiry will automatically receive a copy of the final report, once it's released by the Commonwealth government; usually that's within 25 parliamentary sitting days of when we give it to them, which will be no later - in this case - than 14 April.

We always like to conduct hearings in a reasonably informal manner and we do take a full formal transcript for the record. For that reason we can't really have conversations and dialogues from the floor. Everything needs to be said into the mike, so that we get on the record. Anybody in the room who wants to make a comment will have an opportunity, before we finish today, to come forward, introduce themselves to the transcript and formally say whatever they want to say; whether it's to agree or disagree with something that has been said earlier.

Participants who are giving evidence to us are no longer required to take an oath, but the Productivity Commission Act says that all participants should be truthful in giving their evidence to us. As I say, participants are welcome to comment on issues raised in other written submissions, issues in the draft, issues that other people have raised during the day. There are really no constraints; it's a public hearing.

The transcript will be made available to the people who have given evidence so that they can actually check that there have been no transcription errors. Once it's checked and confirmed to be an accurate transcript of what has happened here today, that will be available on the web site and also be available Australia-wide through public libraries and so on, but it becomes part of the formal record of the inquiry process. I think that's enough of the housekeeping. So without any further ado I'd like to invite our first participant this morning, Mr Alistair Graham, from the Tasmanian Conservation Trust. Thank you for coming, Alistair. If you'd like to summarise whatever comments you want to make and we can perhaps then have a

discussion about it.

**MR GRAHAM:** As you will see from my submission, it is short, terse and critical. I think you will have to say we were extremely disappointed by the draft report. We had great hopes and aspirations for the involvement of the Productivity Commission in this difficult and ongoing issue about how to move forward the relationship between a wider community that has conservation aspirations involving land use and current occupiers of the land who are obviously relied upon to deliver against those aspirations. I think we felt that the report really did little more than institutionalise the same old squeaky wheels that we hear around the place.

The big thing we were hoping from this inquiry is to see some serious thinking and recommendations around the area of how to strike the balance between - I notice you refer to our comment about incentivisation. Where do we draw the line between using our resources of the community and the state to help the willing to bring about these outcomes in the landscape that the community expects and using regulations to drag the recalcitrant? All we see, from this report, is an opportunity to allow the squeaky-wheel recalcitrants to have their day yet again. If this is the commitment of the Productivity Commission to this issue then it's not going to go anywhere.

To give an example, if you look at what's happening with sugar nowadays. We are spending 150 million for a few thousand squeaky wheels, who happen to be far better professional squeakers than our farmers. It's not good policy. And we look to the Productivity Commission to cut through some of those games. Whereas if all that the Productivity Commission is going to do is to incite those games we are going to get absolutely nowhere and we will continue with the situation which is already developing. That is, we have a growing sense in the wider community that something has to be done on the biodiversity conservation front and we need to be able to get in there and work with the land-holding community to help move things forward.

If all we are going to do is encourage the recalcitrant squeaky wheels to be more squeaky and to respect and recognise them for that nothing will happen. In fact things will get worse because the concern is not going to go away, the objective problem is getting greater and that's reflected in a more angst-ridden expression of concern for the community. Unless we can find a way of moving this thing along then things are going to get more divisive, more antagonistic and more difficult for all concerned. Unpredictable and sudden lurches, due to changes in laws and regulations, will be the way in which things move forward.

If we can find 150 million to sort out a few thousand sugar farmers, where are the major national programs that we would think the Productivity Commission ought to be recommending to the government, which are going to help facilitate those who

actually have some interest and control over the land to move forward in directions which the community are beginning to clearly articulate?

We made a big thing, in our original submission, about wanting to see the Productivity Commission try to work through and with the enormous body of accumulated material that's saying, "We need to move forward in this area." There are lots of opportunities, there are lots of ideas, there are lots of things that could be done, and we don't see any evidence of the Productivity Commission coming to grips with that material and trying to help lead the way forward in this. I have to say, we are disappointed. Perhaps it was an unrealistic expectation of the role of the Productivity Commission, but from the basis of what we read and what we see, it seems that this is a reasonable thing to expect the Productivity Commission to come to grips with and we are disappointed that it hasn't.

I have to say, from the terseness of our submission, one of the problems for the Trust, which is a small, state-based community conservation organisation, we just can't afford the time to get involved with a process that is going to tritely dismiss the concerns we raise by juxtaposing what we have to say against what institutions have to say in defence of their own interests. We think this is a really unfair and incorrect way to deal with what we have to say. If that's the treatment that our contributions are going to get then you can't really expect us to put serious time into these kinds of processes. I say that with enormous frustration and disappointment. We would like to think this was somewhere where we really feel that our ideas and aspirations are going to get taken seriously. We don't expect to see them tritely slapped down. Thank you.

**DR BYRON:** Thanks for that. Warren, would you like to go first, or would you like me to initiate the conversation?

**PROF MUSGRAVE:** I think it might be appropriate if you initiate.

**DR BYRON:** Just on the processing. You are concerned about the juxtaposition of your arguments with other people's arguments. What we are required to do, by terms of reference and by our act of parliament, is to assess and evaluate evidence: evidence, facts, analysis. We have very little interest in opinion and assertion from wherever they come. The ideas and aspirations that you mentioned are interesting. We have considered those, as well as ideas and aspirations from others. What we are most concerned about is evidence and at this point in particular we are looking for positive, constructive ways forward.

Much of the evidence that we received, in the first round of public hearings, was really about the problems, as they were perceived by various interest groups. Perhaps the largest interest group has been land-holders, but another well-represented

interest group has been conservation organisations who were concerned that the existing regulatory approach was not working very well and was not very effective. What we have been trying to do, and what we proposed in the draft report, is to look at possible suites of measures that could be far more constructive and useful and effective in achieving sustainable development, in the sense of a balance between economic, social and environmental outcomes.

You said that something has got to be done for biodiversity conservation. If we accept that for now - and many of the people giving evidence to us don't accept it - the question is, "How should that be done?" Our conclusion, so far, is that reliance on black-letter law, command and control regulation, has been remarkably ineffective, and if I can give a simple example? Telling somebody that they are forbidden from bulldozing a piece of native vegetation because it's of high conservation value does not necessarily guarantee that that piece of native vegetation will be well managed and looked after in perpetuity, or even for years to come. So we have been trying to look at positive incentive measures that might complement - not replace, but complement - legislation.

You also mentioned that there's a very, very wide spectrum of land-holders between some who are already trying to look after remnant native vegetation as best they can, some who would probably do more if they could afford to and some that might do a bit more if they had more information, all the way through to the other end of the spectrum to the recalcitrants: the people who are unlikely to take any interest unless subjected to some sort of pressure.

It seems to us that governments need a variety of different approaches to deal with that variety of different contexts. It's extremely unhelpful and counterproductive to beat somebody about the head with a big stick when already they are "trying to do the right thing". That's why we have been trying to look at viable and effective measures that will provide that incentive for biodiversity conservation on private land. I should be coming to a question rather than giving you a sermon.

**MR GRAHAM:** It's your hearing.

**DR BYRON:** Do you think that we have not looked at positive incentive measures? Do you think that reliance solely on regulation is the answer to achieve what it is that you want to achieve?

**MR GRAHAM:** No. As we said in this response to the draft, in our original submission we went out of our way to make the point, in concrete terms, that we think coming up with programs that build these alliances, and consensus-building approaches, are the way to take things forward. Regulation, as you say, can do no

more than provide some kind of backstop. We said that. We identified a huge investment by the Commonwealth, in coming up with reports and ideas and notions and suggestions about how to move forward.

We served them up as matters of fact to the Productivity Commission, not as our assertions; major studies done by the Commonwealth about how we might take things forward in this area. We expected to see some engagement with that body of material by the Productivity Commission, and it was our hope that the Productivity Commission might be able to formulate some kind of propositions for government that might actually make that investment in that body of work pay off.

As a protection in the area of trying to work through how to actually deliver biodiversity conservation outcomes on the ground it remains my view that this still remains one of the most prospective areas. I do expect the Productivity Commission to take serious note of that work and I would like to know why it is that you appear, by omission, despite our admonishing you to look at it, not to give much weight to that.

**DR BYRON:** All I can say is that we've looked at everything that you've pointed us to. We have read it, we have evaluated it and we have made the draft proposals that you see in the draft report. Do you have specific suggestions on how we could improve those recommendations, from your point of view, or are you just not interested in pursuing that further?

**MR GRAHAM:** As I said before, I don't know what to do but to go back to our original submission. Through money from Environment Australia, and now DH, we've got 10 years of investment in thinking about how local government can get involved, how we can have incentive schemes to help land-holders; and enormous amount of things that I would have thought were of bread and butter relevance for the Productivity Commission.

What we asked of you was that you look at all of those suggestions and see whether you can formulate some propositions to put to government, about how we might take some of these things forward. That remains my view. If the Productivity Commission doesn't pick it up the propositions are still there on the table. All that work by Mike Young and Carl Binning and Co, is still there. It still hasn't been developed into real concrete programs by government. If the Productivity Commission doesn't pick it up, so be it.

It remains my view that that is one of the most exciting and prospective periods of public policy work right now and in my view nothing that you've said or written dissuades me from the view that it's core business for the Productivity Commission. I really want you to pick up and think about those things and pass some informed

view, by way of recommendations to government, about what we should do with all of that material. If it just becomes mouldering on shelves, in my view it would be a profound disappointment. But by omission, if you don't make recommendations about what we should do with that enormous investment of intellectual effort into what we might do, I don't see, in all fairness, how we can come to any other conclusion but that you have dismissed it.

**PROF MUSGRAVE:** Thank you very much for that. This greatly clarifies what you were trying to say in your letter, which was couched in polemical terms similar to the language you are using now. As I read it, you seem to be saying that we should be more precise and detailed in our suggestions and analyses of incentive schemes. Surely you are not saying that we ignored incentive schemes, or we dismissed the possibility of using incentive schemes. Are you saying that?

**MR GRAHAM:** The reference is there, but in my submission the reference I would regard as trite. That is to say - - -

**PROF MUSGRAVE:** You regard our discussion of that as trite?

**MR GRAHAM:** Yes. Some serious report work was done; there are some serious initiatives back there.

**PROF MUSGRAVE:** Yes, we have heard you say that. Could we tone this down a bit and try and get down to some nitty gritty, and then we can hear precisely what you are suggesting? Then we can take it away and think about it. What I'm trying to distil out of this, in my mind, is that we could have gone further and actually addressed specific policy possibilities within this class of policy activity, which we call incentive arrangements. Is that what you are saying?

**MR GRAHAM:** Correct, yes.

**PROF MUSGRAVE:** I'm not at all unsympathetic to that just as I'm not unsympathetic to other areas where the suggestion could well be made that we could come to grips in greater detail with possibilities. I'm thinking in particular here of our discussion of engagement of the community, devolution down of responsibility and decision-making and so on. It's big, isn't it?

**MR GRAHAM:** We get used to the Productivity Commission's style over the years. It's larger than it used to be.

**PROF MUSGRAVE:** Perhaps you could be helpful to us if you suggested what we might throw out in order to throw in what you're suggesting. But I've got a feeling that if you hadn't put so much effort into selecting the phrases to put in your letter,

and more effort into just being a bit more precise in your criticism, that would help us. All right, I think you might say, "I refer you back to our original submission."

**MR GRAHAM:** Yes, that's exactly what I would say.

**PROF MUSGRAVE:** But I wonder if there isn't some scope for being helpful and suggesting ways in which we can go some way towards meeting your concerns within a document which doesn't increase the bulk. That would be very helpful. The polemic of your letter suggests that we're far apart. I suggest to you that the fact of the matter is that we're not. I suggest to you that you're accusing us of sins of omission which are sins of dismissal.

**MR GRAHAM:** I accept your assurance, though, that's fine; that's very nice thinking.

**PROF MUSGRAVE:** Yes, well, thank you. If that's the case, it would seem to me that in dealing with this important issue it would be better not to descend to polemic and better to engage in constructive discussion and debate, because we are so close together.

**MR GRAHAM:** But if it takes a polemic to get you to take our original submission seriously, then I'll do it again. As I say, I genuinely - I understand and I accept what you're saying, and I'm very happy with that, but the answer remains. We put serious effort into our preliminary submission to address these issues. What you're asking us to do is to put serious effort into addressing these issues. Yes, thank you, I will, but that's what you're going to get.

**DR BYRON:** The reason I'm a bit perplexed, Alistair, is that I spoke with Mike Young a number of times on Tuesday and the weeks before, and I've spoken with Carl recently over the last few months - Carl Binning. They haven't read the report in the same way that you've read it. We are talking about the same report, aren't we? Because they haven't got the impression that all the work that they've done over the last five or 10 years had been discounted or ignored or discarded; that they actually thought we had not only considered it, but were trying to build on it. It just genuinely surprises me that you've read and interpreted our report in a way that really confuses me.

**MR GRAHAM:** We definitely had a different aspiration. When I read the recommendations in the draft report they're woollier than the recommendations that came out of that whole suite of documentation that EA invested in. As we put in our preliminary submission, we have great aspirations that the Commonwealth will work with governments and other stakeholders to come up with some serious, concrete initiatives based on that work. At best, I can interpret your draft recommendations to



say, "What a jolly good idea." To characterise it as building on I would rate as very optimistic and generous.

**PROF MUSGRAVE:** All right. We will take your suggestion on board and we will review our treatment of that area in the report, to see if we want to change our position. As I said to you, we are not far apart. I think your concern is that you made specific proposals which we've failed to address as specifically as you would have wished.

**MR GRAHAM:** Not as we would have wished - failed to address. Had you addressed them and said, "Look, I think this is a silly idea," or "I think this is a good idea - - -"

**PROF MUSGRAVE:** Okay, all right, which we failed to - sorry.

**MR GRAHAM:** That would have been nice.

**PROF MUSGRAVE:** Which we failed to address. I think that it's now our responsibility, having clarified the situation, to go back and see if we wish to address, in the way you suggest. Similarly - in a similar vein - in paragraph 3 of your submission, where you refer to our motherhood statement concerning provision of accessible and impartial appeals and dispute resolution mechanisms and then our "failure to identify these and to apparently accept such provisions, or provisions which prevent the use of such mechanisms in the Tasmanian section," could I invite you to just be a bit more specific. I know you say you're a small organisation and you lack resources, but it would be very helpful to those who are responsible for the report, if you could just be a bit more specific yourself and indicate page, paragraph, sentence. That would be very helpful.

**MR GRAHAM:** Of your report?

**PROF MUSGRAVE:** Yes.

**MR GRAHAM:** Okay.

**PROF MUSGRAVE:** A number of people have done this, including some of the people who are going to talk to us today. We're not without our inefficiencies and it's nice to have some help. I think moving away from areas where, in fact, we have high degree of agreement, and we perhaps are guilty of sins of omission or apparently, to some readers, of apparent denial when we don't mean denial, we could address an issue which is of major importance, which you've raised and - using rather plainer language than you have in your letter and in your presentation, you seem to be saying that we're giving a free kick to the rent seekers by adopting a position

which is a denial of the principle of polluter pays. Would you agree with that?

**MR GRAHAM:** With the principle of?

**PROF MUSGRAVE:** Polluter pays.

**MR GRAHAM:** There are two issues: devolving decision-making - - -

**PROF MUSGRAVE:** No, I referred to devolving of decision-making earlier - in earlier comments. No, here I'm suggesting that you're accusing us of, by recommendations, recommending giving a free kick to the rent seekers in society, the "squeaky wheels" you describe them as.

**MR GRAHAM:** Yes.

**PROF MUSGRAVE:** And, in doing that, making recommendations which are inconsistent with the principle of polluter pays. Would that be a fair description, using my language?

**MR GRAHAM:** I'm not sure actually I would choose the principle of the polluter pays to characterise the core of the debate.

**PROF MUSGRAVE:** Right.

**MR GRAHAM:** But, yes, appeasing squeaky wheels or rent seekers or however one chooses to analyse them in economic terms - - -

**PROF MUSGRAVE:** One is polemic, the other one is substance.

**MR GRAHAM:** - - - is bad public policy, in our view. We know that politicians are subject to the squeaky wheel, polemic or whatever; it's the reality of the game out there. If we can't rely on the Productivity Commission to cut through all that stuff we're in trouble.

**PROF MUSGRAVE:** Yes.

**MR GRAHAM:** From those of us who are not in a position to squeak so much, or have worried about squeaking as a way of decision-making in the modern world, we really look to bodies like the Productivity Commission for an approach which seems pretty insulated from that kind - and is prepared without fear or favour to pass comment on those kind of strategies to draft decision-making.

**PROF MUSGRAVE:** The Productivity Commission in other inquiries, to my

knowledge - I haven't been a member of many other inquiries of the commission - has a history of indeed attacking such poor policies as you describe, hasn't it? So you're seeing the position of the commission here as being a denial of its previous position.

**MR GRAHAM:** I'm not sure I'd say denial, but it certainly seems to us - - -

**PROF MUSGRAVE:** Inconsistent.

**MR GRAHAM:** - - - to be incongruous with the norm that we have come to expect.

**PROF MUSGRAVE:** From the commission?

**MR GRAHAM:** Yes.

**PROF MUSGRAVE:** I think that's an interesting and useful comment, and it certainly would be helpful - perhaps it's at a late stage now - for us to have greater engagement with that debate. I would suggest that points can be made for and against the principle of polluter pays and the principle of the polluter not paying. There are very, very important questions of equity here. But perhaps, as I say, this is not the time, although it may well have been the place at an earlier stage of the inquiry, to engage with that.

But to put the issue in terms which are closer to the language that you've used, it would seem to boil down to a debate now about implementing policy which drags what you call the recalcitrants into line versus taking policy action to deal with what the commission perceives as the perverse consequences of poorly designed and poorly implemented regulation. The commission seems to be adopting the position that the problem of the recalcitrants is not as important, but we don't deny the significance of the costs of compliance that they cause; not as important as the perverse consequences of poorly designed and implemented regulation.

In your letter, which attacks us so vigorously, you don't seem to have perceived this very important stance of the commission which is inconsistent, perhaps, or leads to the inconsistency that you see with the commission's traditional stance.

**MR GRAHAM:** It would be very much our view that the vast bulk of the submissions that you've received - certainly not the vast bulk but certainly those with which we're familiar and comprehend - are indeed from recalcitrants who are, quite properly in their own interests, seeking to have the regulatory backstop removed. The huge broad sweep of the job ahead of us, which is what we do with the vast majority of land-holders for the broadly held aspirations for sustainable landscape

management in Australia, is largely missing. If you limit the debate to the squeaky wheels that choose to turn up, you're going to be looking at an unfortunate subset of the debate that distracts you from the main game.

As I said, the main game has not got nothing to do with regulation. Regulation, at best, can do no more than provide a backstop for recalcitrants. The main game is out there, with the people who actually want to go somewhere and need some help and engagement to - - -

**PROF MUSGRAVE:** No, I think you distinguish between those who you can help and with whom you can engage under your discussion of those who respond to incentives, and then you seem to divide off another group whom you call the recalcitrants with whom you have to take other action to bring them into line.

**MR GRAHAM:** But the issues - everyone responds to incentives. The issue is how do we design packages of measures that create an environment that moves things forward?

**PROF MUSGRAVE:** Right, so all these recalcitrants who have made submissions to us, who have indicated that they would perhaps respond to incentives, could be dealt with, you think, in that way?

**MR GRAHAM:** If, as I said in the - if you design your incentive package to appease recalcitrants, you will spend a lot of money going nowhere. It's not the issue. The issue is to design packages that are actually going to move forward with those that want to move forward. To think everyone is of the same mind is not right. We simply cannot afford - well, it's neither good policy in terms of outcomes or good investment in terms of dollars, to throw the money at a squeaky wheel. That's precisely why we are disappointed with this report.

**PROF MUSGRAVE:** Yes.

**MR GRAHAM:** It's what we might expect of a minister coming into an election. It's not what we expect of the Productivity Commission.

**PROF MUSGRAVE:** You might be disappointed with our report, but I'm disappointed with what you've just said. I'm now very confused, as to where the recalcitrants fit in your spectrum of landowner behaviour and what policies are appropriate for recalcitrants.

**MR GRAHAM:** Regulations, by definition, are appropriate for recalcitrants. That's axiomatic.

**PROF MUSGRAVE:** I'm sorry. I thought you were saying that regulations weren't adequate. Okay.

**MR GRAHAM:** Well, no, indeed they may not be adequate. Let's just say they may not be effective at dealing with recalcitrants, but axiomatically that's what you have regulations and laws for, is to deal with recalcitrants.

**PROF MUSGRAVE:** Right.

**MR GRAHAM:** That's the way you get equity into the system. If you don't, then those that want to move forward at some potential cost to themselves, put themselves in an unfair situation.

**PROF MUSGRAVE:** Thanks for correcting me on that, but it would have been helpful in your response if you had engaged with our position in relation to the perverse consequences of poorly designed and implemented regulation. We have made specific statements about what we see as instances of poor design and poor implementation, yet you have chosen not to address this, which, to our mind, is an important issue. Perhaps to your mind it's not important.

**MR GRAHAM:** To my mind, I know of some of those instances which are referred to in the body of evidence. I would regard 100 per cent of those to be known recalcitrants. That is to say, if that's the body of evidence that the Productivity Commission relies upon to formulate its views about inefficiencies and ineffectiveness in the regulatory environment, this community is in deep trouble.

**PROF MUSGRAVE:** I can't respond to that.

**DR BYRON:** Many of the people who gave evidence - in other states at least - are people who have been members of Landcare groups since its inception; people who have been awarded, you know, Landcare Farmer of the Year for the sustainable agriculture and conservation practice on farms and all the rest of it. It was many of those type of people who were pointing out the perverse and inequitable consequences of the way the legislation in their state had been applied.

The question was are there different approaches that would engage those people who were already trying to do as much as they can, because they are genuinely interested in retention of native vegetation or restoration of previously degraded lands, people who have had demonstrably been protecting rare and endangered species of fauna on their property at their own expense, but who are still reacting negatively to what we see as poorly designed and implemented legislation?

I guess I'm trying to say that not everybody who appeared before us

complaining about the impacts of the legislation was someone who wanted to rape, loot and pillage and clear the property from fence-to-fence and if it moved, shoot it, and, if it's green, chop it down. On the contrary, many of them were people who have demonstrated records of good land management, but were still pointing out to us these perverse consequences.

**MR GRAHAM:** Well, if we could take the threatened species legislation as an example, for instance. Having threatened species legislation in all jurisdictions across Australia now, I have been working with a network of people for 20 years to put that situation in place. No-one is trying to pretend that it's perfect. Every single bit of law and regulation was a unique semi-random outcome of the politics of the day. To think that there's any kind of - they're not tablets from Heaven. They are outcomes of the politics of the day. They're all profoundly imperfect and they're all really frustrating to deal with.

The biggest frustration for all of them is that the regulatory - sorry, the legislative framework that went into place assumed that the state government would put resources into making it work. That hasn't happened, as a result of which you do have a regulatory obligation - a legislative obligation, without any of the parallel supporting measures to make it happen. It's not that concrete. Different administrations have different support measures, parallel measures, in place and some of them work better than others; but all of them are frustratingly imperfect and you're picking up exactly the entirely appropriate, proper assessment of the situation.

It remains the view of myself and my peers that the way forward is not to bash down the regulatory environment until everyone is fairly treated, which would, in effect, be removing - but to actually put the parallel supportive measures in place such that those who are receiving information which is a complication for their farm management, willingly, in terms of thinking about managing biodiversity on their property and threatened species listed under legislation, in particular, would feel that there was a positive incentive to go out and look for and deal with populations of those species.

We are a long way short of that, but that's the job and it has always been the job and it was always our intention when we set out to put threatened species-friendly administrative and regulatory regimes in place 20 years ago. It's still the job to be done and if we're going to take biodiversity conservation seriously, it has to be done.

**DR BYRON:** Can you just elaborate a bit, Alistair, on why you think that that hasn't happened across most of the state jurisdictions. I mean, the threatened species legislation is there. What you're suggesting is that if a landowner finds out or is told that there's a rare or endangered species of flora or fauna on their property, that's the

"bad news", but there's also good news in the sense that the state is going to offer some assistance in managing it or looking after it or some quid pro quo for fencing it off and protecting it from fires and ferals and weeds or something like that.

You know, what I'm trying to fight against is what is being called the shoot, shovel and shut up syndrome. That's one of the perverse consequences of legislation that landowners see as, you know, extremely unfair and unworkable. Now, again, as Warren was saying, I think we're actually not that far apart.

**MR GRAHAM:** Yes, which is the crux of the issue.

**DR BYRON:** The question is how do you actually make it work, because just telling somebody, "If a rare or endangered species of plant or animal is found on your property, we're going to come in here and we're going to do this and do that and you're not allowed to" - you know, it has demonstrably got people's backs up. It hasn't worked very well. It hasn't engaged them positively. It may appear to state governments to be very cheap, because they don't have to pay any money. If it doesn't work, if it actually has the opposite effect, then it's not, you know, a good value proposition. Even if it doesn't cost the state governments a bean, if it leads to the opposite result then it's not a sensible way to proceed.

Again what we're suggesting is if they want to get positive outcomes, the state governments can't do it for free; they are going to have to put some money on the table and then we are suggesting how do you target that money so that it goes to get the best value biodiversity conservation outcomes? We don't want to squander it away on, you know, something that is of low conservation value.

**MR GRAHAM:** But that's exactly and precisely what we asked of the Productivity Commission in our original submission. To be frank, I don't see it. Where are the recommendations that say, in New South Wales, if you want to fix the looming gap between the obligations of land-holders and your ability to do it, what are the support mechanisms and incentive programs? What are all those things that need to go into place? We have known about this for 10 years. It has always been with us, ever since the first bit of legislation went down.

**PROF MUSGRAVE:** Could I suggest - well, no, I won't suggest. There are those who would argue that the design of the sorts of instruments that you have in mind is not at all well understood. They would also suggest that the instrument that is appropriate for one situation would be very different to the instrument that would be appropriate for another situation and so the design - the question of design - is very important. It would seem, from my understanding or knowledge about such instruments that we have to learn a lot before we can be confident of our ability to get the appropriate design for each particular situation. Am I wrong?

**MR GRAHAM:** Sort of yes and no. The appropriate design is something you know by hindsight analysis. You can't divine the appropriate package by mere Aristophelian thinking up-front. You've got to get in there and do it.

**PROF MUSGRAVE:** Where is the literature on such successful ex-post analysis that is capable of law-like generalisation?

**MR GRAHAM:** It isn't there. Well, sorry. There is an enormous amount of - - -

**PROF MUSGRAVE:** That's what I'm suggesting.

**MR GRAHAM:** - - - anecdotal information from small state programs that have been put in place and Commonwealth programs and you can go and get any number of assessments of what we've done with Landcare or NHT1 or whatever. Like, the place is full of stumbling through this world. For those of us who actually work on creating the schemes to try and make this happen, it's profoundly frustrating to see how they actually get rolled out and delivered in practice. We can write the evaluation report. 10 years before they get written you know exactly what is going to happen.

There's a huge structural failure in the capacity of Australian institutions and political systems to deliver effective systems, and one of the reason why we really wanted to bring this issue to the Productivity Commission is because we really hoped that in the Productivity Commission we might find an institution that was capable of thinking about these things without having to bother about, you know, or whether they were sugar seats and which tweedie was on which committee where. Those are the things that really determine what happens with current schemes and as a result of it, whatever the good intentions are that you set out with, what you end up with is a pale imitation of what you intended and that's why evaluations that I've seen, at least, tend to be pretty disappointing.

We know all these things. We have a crushing need to get serious about what that environment of measures is that will actually genuinely help people move in the way the community wants.

**DR BYRON:** So do you think the Victorian bush tender pilot scheme is unnecessary?

**MR GRAHAM:** No, I think it's really good. I would rate it in the top 10 of anecdotal initiatives around the country that's worth thinking about.

**DR BYRON:** Yes, but do you think that it's so obviously going to work that they



don't need to waste five years piloting it; they can just get on and roll it out.

**MR GRAHAM:** I think it would be worth putting schemes like that in place in most states, in every state, actually.

**DR BYRON:** Now?

**MR GRAHAM:** Yes.

**DR BYRON:** When the evaluation is not complete?

**MR GRAHAM:** Evaluate it and it will say, "Oh, it's a bit expensive. We're not sure about how it works, you know." The next generation of schemes are already based on experience from the bush tender scheme. There are lots of us all over the country talking about what the next bunch of schemes looks like. This is - that's going on. I mean, of course you wait for evaluations and stuff, but the people who run these programs turn up and conferences, saying, "This is what is going down," and you talk to them and you form views and ideas about "If I was doing it tomorrow I'd do it better."

That's the real world out there. We need to get in there and bring that community of practitioners and engagers and all that to actually try and make something happen. I mean, we're talking about pathetically little resources for a microscopic scheme. Even if you get that evaluation report, you're in dream-world if you think you can use that evaluation report as a basis for whether or not you extend the Victorian bush tender scheme to the whole of Australia. It's too small. Somewhere someone has got to take a punt on a scale of response that genuinely addresses the issues before the community.

**PROF MUSGRAVE:** Okay. Well, that I think is very helpful and when we come to consider the words that we've used in relation to this type of scheme which, I think, you believe are not strong enough, don't grapple with the issue with a degree of steadfastness and enthusiasm that you suggest. Those words you've just used, I think have explained your position quite well and very helpfully. Personally, I would think the commission would have great difficulty in sharing your view which I see as somewhat cavalier, but still, it is a position that I can respect and I think we should take into account.

**MR GRAHAM:** Just think that 150 million for sugar - if that isn't cavalier, I don't know what is.

**PROF MUSGRAVE:** Well, that may well be the case.

**DR BYRON:** We had a very interesting discussion in Sydney with the Environmental Defenders Office. They presented a very detailed legal analysis about the case for compensation or, in fact, the case against compensation. Many of the people who appeared before us were giving documented examples, instances of where there had been very, very substantial reductions in the value of their land asset as a result of the way legislation had been applied; that overnight the value of the farm had been slashed in half and in a few cases, because of that, they now had negative equity and were, in fact, technically bankrupt at the stroke of a pen because land that had previously been worth a couple of hundred dollars an acre was now worth approximately one.

Now, for those people to ask for some measure of - whether you call it adjustment assistance, compensation or payment of some kind - is that what you are characterising as "squeaky wheels"?

**MR GRAHAM:** Not at all, no. It's precisely - remember when we talked last time. We specifically talked about this issue, that they are entitled to assistance. As we discussed at the time, to call it compensation and all the legalistic and constitutional notions that go with it, the interests I work for are not comfortable with conceding that as a matter of constitutional principle and law, but the notion that people who are unduly affected by the actions of government should expect some kind of fair dealing in that respect is completely accepted, but it goes to the heart of exactly the problem we are putting before you, which is that if governments don't put packages together when they introduce these measures these are the problems you should expect.

We try. We lobby for legislation. We lobby for resources to implement it. The sad reality is the game makes it easier to get the legislation than it does to get the resources implemented and the system is chock-full of these instances. That is what we want fixed. That is to say, we want to get a situation where the resources are available to help. I mean, the converse is if we're not going to be able to get the resources and we get rid of the obligation, we're going backwards on our capacity to articulate the aspirations of the community. If you can't rely on the law to do that then we have a serious fundamental democratic political problem.

We have a genuine, realistic, justifiable expectation that if a government is going to put something into law for the interests of everybody, for the wider community that it was articulated in the interests of at the time and those elements of the community that might be adversely affected by implementing it, they should take appropriate steps to make sure that fairness prevails.

**DR BYRON:** So you don't disagree with our sort of one-liner in there that if society wants to see more conservation and biodiversity and retention of native vegetation, society should be willing to pay for it?

**MR GRAHAM:** It should be prepared to put appropriate measures in place to ensure fairness. This isn't just a financial transaction.

**DR BYRON:** Yes. I was a bit taking liberty with the shorthand there but, yes, again I think we are in vigorous agreement there.

**MR GRAHAM:** Yes. The question is we have a dangerous balance here. You can either achieve a more equitable future by getting rid of the regulations and laws or by putting those measures to ensure fairness and equity in place. The problem we have in reading this is we can't avoid the conclusion that your thinking is that the quickest and easiest thing to do is to smooth out the regulatory environment so that wheels don't squeak any more, rather than do the far more difficult thing - - -

**PROF MUSGRAVE:** That's a different report, I think.

**DR BYRON:** Yes, because I think the report that I can remember writing is entirely about that question of putting the resources into it, not only that would be, as you just said, fairer and equitable, but would actually make the regulation work in delivering the environmental outcomes that the politicians have articulated that they see that society wants.

**MR GRAHAM:** Well, I'm really excited to hear that. As I say, I look forward to seeing the concrete recommendations that go with the concrete identification of the problems. Like, you've identified an anecdotal suite of problems on the basis of submitters and that's great. What are the concrete solutions to those concrete problems?

**PROF MUSGRAVE:** Perhaps you might have some specific thoughts then on the two-step process that we recommend, the first step being to try to overcome some of the inadequacies in the regulatory structures and the implementation procedures that are being employed. We see that as being something that could be relatively readily done, and the second stage being to come to grips with the sort of policy initiatives which you are so enthusiastic about. Now, in the draft report I read, I see that second step as stated quite clearly. Your reading of it, apparently, from what you say, is that you don't see that second step as being very clear, or you disagree with the two-step process. Your comments - - -

**MR GRAHAM:** How you choose to line them up intimates an order of work and the reality we live with is that if you deal with sorting out the regulatory problems without having the tools of additional measures to deliver fairness and equity, the only way to delivery fairness and equity without those other tools is to get rid of the regulations.

**DR BYRON:** I think you're - - -

**MR GRAHAM:** I'm being paranoid here, am I?

**DR BYRON:** Yes. I think you're reading something into it that neither Warren nor I ever intended to be in there. I guess my recollection of it was that we were saying that if you do nothing else you might improve the implementation of the existing legislation a bit, but the important thing is to bring real additional resources into this that would take all the weight off the command and control legislation. At the moment that's the only tool in the tool-box and it's not working very well.

**MR GRAHAM:** Yes.

**DR BYRON:** Even to make the regulation work well there needs to be some money on the table. I would have thought that one of the main take-home messages to Commonwealth and state governments is that you can't achieve good conservation outcomes for free just by trying to force people to do something which is against their will. You're far more likely to get good conservation outcomes if there is an appropriate package of measures.

**MR GRAHAM:** But my proposition is, we all know that. The question is, what are we going to do about it?

**DR BYRON:** Well, we may all know that, Alistair, but there is no evidence that any of the state governments are actually doing it.

**MR GRAHAM:** Precisely. Precisely and exactly. That's the situation we both furiously agree we are in. The question is, do you really think telling them that that's the situation they are in is going to change ingrained behaviour?

**PROF MUSGRAVE:** But it's a question of what do you think is the appropriate way of presenting the argument in relation to this point that we both agree on. You have your point of view. We have ours. You're suggesting we re-examine your point of view and we certainly shall and I think that here and now, this morning, I wouldn't come down to say what's the best of these two approaches; but I think we are arguing about ways of making the point. We hear what you say and we certainly will reconsider the way we're making the point. We may not accept your argument, though.

**MR GRAHAM:** The expectation we still have is that you will go further than making the point, whatever the point is. We may be misconstruing - the expectation may be unreasonable in terms of what we could expect of this inquiry but we do

expect the Productivity Commission to make the point and be concrete about what should be done as a result of those things.

**DR BYRON:** Well, equally, we can come back to you and say we expect those who argue along the lines that you argue to come forward with robust, logical and practicable policy instruments of the nature you describe.

**MR GRAHAM:** You are asking a lot of small community conservation groups, to take the responsibility for serving up to the Productivity Commission - - -

**DR BYRON:** Well, my understanding of the state of knowledge that humanity has in relation to this type of policy instrument is that you are also asking a lot of the Productivity Commission.

**MR GRAHAM:** Indeed. Unashamedly.

**DR BYRON:** I think we should accept the challenge and see how far we can go on that. I have found this morning's discussion extremely useful, Alistair, and thank you very much. I understand what you are upset about now, much better than I did yesterday and that in itself is very helpful. As to whether you are reacting to ghosts that are in the report that we don't know are in there, that's another question that we'll have to think about more. All I can say is that we'll certainly go back and look again at the original submission and make sure that we are satisfied that we have given full and thorough consideration to it as we try to do to every submission.

**MR GRAHAM:** Thank you very much and my apologies for the polemic, but as I say, as ever I am delighted with the time and the attention mentioned. The process is a fantastic one, whatever the results may be.

**PROF MUSGRAVE:** Thank you, Alistair.

**DR BYRON:** Thanks very much for coming. Next, we have Mr Oldaker. Thank you very much for coming. When you are settled, and make yourself comfortable there, if you would like to just introduce yourself for the transcript and thank you very much for the written submission. If you would like to just elaborate on that a bit and then we can discuss it.

**MR OLDAKER:** Thank you, sir, for this opportunity to appear before the commission. My name is John Oldaker and I am a dairy farmer from the far north-west, in the heart of the real dairy country of this state. I have also been involved in agricultural politics for the last 20 years and held a number of positions from the top to the bottom in farm organisations. I am also an elected member of the Circular Head Council. So whilst I'm here representing - speaking as a dairy farmer today, I certainly have a fair handle on what happens in our community and in farming circles in general.

I thought that the report was - it is very daunting when you receive a document as thick as that to try and come to grips with some of those things. You read press articles about your findings and then we were able to get a draft summary and the recommendations and to - just to go through some of those things. But I specifically spent a bit of time reading in your report about what affects Tasmania because that's what we're about. Whilst you were critical, very critical in your draft findings of the Victorian government and rightly so, when you read, you know, the Weekly Times about all the sort of things that they're imposing, particularly on the farming community, and expecting the farming community to pay.

Just before I deal with the non-forest vegetation, some of the legislation that we have in this state dealing with the forest vegetation, to expect the farming community or anybody else that has bush ground who own that property - and it might only be in heath country that we would talk about in non-forest vegetation - to expect them to have to put in log harvesting plans when there is no commercial timber there is just absurd to say the least. I spoke very vigorously at the time against that and whilst I didn't get too much support, people are starting to understand now that what John Oldaker said at that time is correct because they understand if somebody wants to clear a bit of ground and now they've got to get a log harvesting plan and then you have some forester who comes to say, "Well, we'll do the plan for you, but we want you to plant that with trees" and not put it into pasture ground that might be beneficial to the dairy industry.

So there are some anomalies in there that have to be addressed at some stage somewhere, but in dealing with the non-forest vegetation issue most of our country is the same as what's on King Island and you have had some submissions from those people, is about the heath country and what you might find in that heath country. As I said in the submission, unless there is compensation paid for private landowners

based on commercial reality you won't get one thing protected that you're trying to get protected. But the most important issue in my submission, I believe, is that linking this to local government and linking it to their planning schemes and as at the present time, rural zones, agriculture is a permitted use as of right.

If you alter that to just agriculture is a permitted use and not as of right you will open it up to this third party appeal business, and that's the gain that the conservation people are really targeting at, about particularly the forest issues with plantation timber. They don't give a damn whether they trample all over the farmers or how much their land is worth or anything else, but that's the reality to it. And the third point that I did make was that we have been informed that these people have a so-called scientist within the environment movement, have a draft list of flora and fauna that should be protected. They use the line, "But we've only got a percentage of this since European settlement." The question that I pose and I continually will pose to people is: how do you know what was here before European settlement? They can't answer you.

It's a very valid point to make them justify why there should - and furthermore, there is one just round the corner that nobody's touched on in this, but it's the game the conservation people are playing - threatened communities. While we've got threatened species legislation in this state, we don't have threatened communities. To give you an example, and I used this one at a local council meeting once and the general manager looked on in disbelief that I could think of such a thing. We used the orange-billed parrot as a so-called threatened species. In threatened communities, if you put that up, that means everything that that orange-billed parrot feeds on then becomes part of a threatened network. It might be from rye grass to some berry that there is heaps of and they're imposing that cost not only on the community but on farmers in general without any compensation to them.

I am happy to answer any questions you've got. I have a great passion for the community that I represent. Sorry to get emotionally worked-up, but that's the nature of the person I am. I do wear my heart on my sleeve. I can't help that. That's John Oldaker.

**DR BYRON:** Thank you very much for coming, John. Warren, did you want to pick up something?

**PROF MUSGRAVE:** Thanks very much, John. It was very interesting and very helpful. Just to clarify something. The bilateral agreement that you're referring to, which one is that?

**MR OLDAKER:** The bilateral agreement was something that was signed by Environment Australia and the state government which it had to have - Minister

Brian Green was the minister at the time. There has been a change in portfolios now. The primary industry minister and the environment has been split apart and it's now Steve Kons is the minister for primary industry and Judy Jackson is the minister for environment. But Brian Green signed that bilateral agreement and with no consideration about what the cost might be to getting these things done, we have a bureaucracy now running around saying, "This is what has to happen because Environment Australia - the Commonwealth are imposing this."

Now, the Commonwealth - Environment Australia, incidentally, have far too much power and that's an issue that somebody has got to address somewhere because they got that power, thanks very much, in a political process, to Meg Lees. I don't wish to degrade her in any way, but it was a way of getting the GST through; they gave her that power. It was like when Harradine had the balance of power, you know. They got all this NHT money for Tasmania, and incidentally all that done was employ people. It didn't really put any real groundworks in place. And the NHT money was employing up to - and that came out in the budget estimates in this state at the time, that the NHT money was part of the government's funding to employ as many as 115 people within the departments which was the Department of Primary Industry and the Environment Department.

We had this state where it reduced the politicians and, you know, I don't have a problem with that, but what they did was increase the bureaucracy three-fold and you know have all these people. This electorate here in Denison is actually the greenest electorate in Australia. The greenest electorate in Australia. That's a big call, but it is. Here we have - they're all in the bureaucracy running round and I refer to them as "paper shufflers" because they're all trying to find something to do, got all the time in the world to do it and here we are, as farmers, trying to earn a living and got to try and watch what they're doing all the time at my own personal expense, but at the community's expense somewhere else in the state. I find that very hard to deal with. I have some very strong views about some of those people.

**DR BYRON:** John, can you give us an example of how something that has come through under the bilateral agreement from the Department of Environment in Canberra has actually influenced what you can or cannot do on your property?

**MR OLDAKER:** What is happening right now - and that's brought about the non-vegetation because they said that they would have to do these certain things and they've used - because they have got the forestry one in place. But just use the forestry one at the present time, farmers, whether they have got under that forest protection legislation that's there and the regional forests - what we can't do is that you can't cut a tree down that grows more than five metres without a plan. Right? You can clear one hectare per year without a plan, but you've got to have a log harvesting plan if you want to clear anything more than that. At your cost to go and



get that log harvesting plan done. Now, that was there before this bilateral agreement was signed, but that's part of them being able to get that money.

With the non-forest vegetation they're saying, "You will comply with this" and particularly - and you'll hear later from speakers from the northern midlands and the southern midlands people are here. You know, they're dealing not with the heath country but with native grasses. They're saying to those people, "Well, you will be able to continue to do what you're doing." Right? "There won't be any effect. It won't affect you but we want this protected." Now, what happens is they get the legislation through, some legislation through to say that, "We're going to protect all these sort of things," and use the words, and then you have this business where the bureaucracy can change the regulations without an act of parliament. Now, that's part of the powers that this bilateral agreement will have. Now, to me, that is an absolute nonsense.

**DR BYRON:** The sort of chain that you're painting for us is that Canberra puts something into an agreement with the state. The state passes legislation and then asks the councils to implement it through the planning controls. Then the council has to go out and deal with the rate payers and tell them what they can and cannot do.

**MR OLDAKER:** Yes.

**DR BYRON:** And that it's basically somebody in Canberra who has started this.

**MR OLDAKER:** Yes, it is. That's basically - that's the chain, but in this state from the time that agreement was signed, they have three years in which to have that system in place. Right? Now, the legislation will change, that council planning schemes will have to comply. That's what it will - that's how the state government will get round it. And the political fall-out of that: it is not the ones that are making the decisions who are going to wear the political brunt of it, it's those who have been elected around council tables will wear the political brunt of it. To me, that is totally unfair.

**PROF MUSGRAVE:** So it seems to me that this bilateral agreement was in relation to the NHT funding.

**MR OLDAKER:** Yes, it was. The bilateral agreement was more about getting the funds for the NHT to keep those people employed within the government.

**PROF MUSGRAVE:** Was that specifically mentioned, or do you think that was an unwritten agenda item?

**MR OLDAKER:** That has not being specifically mentioned. Right? But I can tell

you that that is - you know, anybody that you like to talk to and if you really got down to the questions of those people who do know, you'll find that that is the answer.

**PROF MUSGRAVE:** Yes. So we have an agreement between the state and the Commonwealth under which the state agreed to - - -

**MR OLDAKER:** To do certain things.

**PROF MUSGRAVE:** - - - to do certain things. For this they received NHT money. Your point is that that was then swallowed up by the state bureaucracy. The people who actually did the job, to deliver the goods to the feds, didn't get a buck.

**MR OLDAKER:** The people who have got to deliver, that they're asking to - for this native vegetation - because that's part of, you know, the criteria that they had to deliver on, is they're being asked to lock that up without any compensation. Now, at the present time the debate is still going on about the compensation issue with the state government and they have said, "Well, there is no compensation at this stage," but they are just starting to change their thoughts a little bit on it simply because of people like myself making some noise. I heard the previous gentleman talk about squeaky wheels. I can tell you those people squeak more than anybody in this state. Let me tell you.

**PROF MUSGRAVE:** But you're not recalcitrant?

**MR OLDAKER:** You can call me recalcitrant. They can call me a redneck. Call me whatever you like, right, but I have a specific view because I represent the heart and soul of the community.

**PROF MUSGRAVE:** Indeed. I am just trying to pin down the money trail, you see. The money stopped at the state bureaucracy. The farmers didn't get any, nor did local government.

**MR OLDAKER:** No. Local government haven't got anything out of it. The money has gone straight into consolidated revenue to pay the bureaucracy as we would see it from where we sit.

**PROF MUSGRAVE:** Okay.

**MR OLDAKER:** At this point in time.

**PROF MUSGRAVE:** The situation may change in - - -

**MR OLDAKER:** It may change but if the political process - look, the state government in this state react to any adverse publicity, as all governments do. Right?

**PROF MUSGRAVE:** Indeed.

**MR OLDAKER:** And you talk about the squeaky wheel. Conservative people have for a long time just kept their mouth zipped for peace's sake, to get on with life. The average farmer out there that's all he wants to do, is to get on with life and make an honest living and not be annoyed by bureaucracy. That would be a thought right across in Australia. I have no hesitation in saying that. But, my word, when you start to impose things on the farming community that they have got some dim views about, the phone rings, you know, "What are you doing about this? Let's get into them," all those sort of things. It's easy enough to get emotional about things, but I've been around a long time and I understand those whole processes quite easily.

**PROF MUSGRAVE:** From where I sit, apart from the issue of compensation - or Alistair would have said, I think, incentive payments - to farmers, just looking at the mechanism that you're talking about, it seems to lack appropriate accountabilities and auditing, in the sense that a bucket of money is lowered from Canberra down to Hobart for certain things to be done. The bucket is emptied into the department's bucket. Nothing is emptied into local government's bucket for it to do its part of the job. Nothing is put into the farmers' buckets to do the job and we don't seem to have a system of auditing and monitoring whereby the federal government blows a whistle and says, "We gave you the money to get the job done, but it's not being spent to get it done. It's being put into the state bucket."

**MR OLDAKER:** Sir, if I can be so bold, you have just summarised the whole thing in a nutshell. You have summarised it in a nutshell, sir.

**PROF MUSGRAVE:** The state might say, "Well, we need those 100 bureaucrats in order to get the job done." I think your response would be perhaps, "Will they come and milk the cows for us?"

**MR OLDAKER:** Yes, ask them to do that. I have - and it's in this briefcase here, sir - a document that you touched on, NRM committees. It is unbelievable the nonsense that's in that. That's not what your part's here about, but just let me tell you, that is just - when you read through that, you would say, well, these NRM committees are nothing more than a branch of the Green Party. Now, you know, that's a pretty bold statement to make, but I don't walk away from making a statement like that, because when you read that document, that's an absolute fact.

You know, it's somebody with a wish list wanting to impose things and all

these environmental issues come back to the original thing that I saw wrote, about the terms of reference for this inquiry - and you may correct me if I'm wrong - "Have we gone too far with environmental issues?" The simple answer, as I said in my submission, is, yes, we have. You have the people who will stand, like Mr Graham did, saying, "The community want this." Look, I get around in the community. I don't hear anybody saying, "We want all this sort of thing." Nowhere.

Coming back to what I said in my submission, I know for a fact that if farmers are not paid compensation based on commercial reality, you won't get one thing protected. The gentleman that has been running the program for the government, a gentleman by the name of Mr Gilmore, and his offsider is Penny Wells - I don't know whether you've come across them, but I did say that at a meeting down the West Tamar; that if you want these things protected, unless there's compensation on the table, you won't get one thing protected. That view stands today. We have an obligation to the environment, a duty of care - a duty of care, as I said, 5 per cent, not 105. I still stand by that.

**DR BYRON:** You probably heard me say before to Mr Graham that a lot of people see the native vegetation controls as the government trying to do conservation purely by law, rather than putting any money on the table. It probably looks to them like it's a cheap way of doing it. As I say, if it doesn't work or if it has the opposite effect, it's not cheap. The lawyers have said to us that technically state governments don't have to pay compensation even when they take a property for a new road or a hospital or something, but if they just nibble away at the rights of what you can do on the property, they don't have to pay compensation for that.

What we have been arguing in our report is, whether or not they have to, the reality is, as you said, that if they don't put some money on the table they're not going to get the results that they're after.

**MR OLDAKER:** Absolutely.

**DR BYRON:** I mean, that's one of the reason that we haven't sort of spent too much time in the legal debates about whether they have to. In a practical sense, whatever the law says, they might need to put some money on the table.

**MR OLDAKER:** They have certainly got to, otherwise they won't get anything protected, sir. Can I just say that when you talk about the legal process. You have some very highly educated people with university degrees sitting in all these departments and they are unaccountable to what they're imposing on the community because they're not elected; they're appointed to those jobs. The people that we elect to protect our interests are the people who are in parliament and quite often, if you really went down and analysed everybody that sits in parliament today, you will find

that a good many of them are teachers and solicitors who really don't understand a lot of these issues because - let me say to you I have a saying: the cow has never kicked them.

**PROF MUSGRAVE:** So an implication of the need to have people who have been kicked by cows involved is that certainly as far as native vegetation and biodiversity is concerned, perhaps we do need to have management of these things closer to the ground; closer to the people who have been kicked by the cows. This is something we are suggesting in our draft report; that local communities, regional bodies, should be more involved and resourced to undertake the planning of actions taken to meet the desires of the community for native vegetation and biodiversity. Now, you mentioned in your presentation, a bird. A parrot, was it?

**MR OLDAKER:** An orange-breasted parrot, which is a bird that has been classed as endangered. The Woolnorth wind farm had to do a huge study to justify putting it in because it was in the line - Mr Hammond is here today and he might want to talk about that a bit later in the day if he's still about. They've had to go through this whole process, because where they're proposing to put up a wind farm, is that bird is in their wind towers - private business - is in the flight of these orange-breasted parrots.

**PROF MUSGRAVE:** I see, yes, okay.

**MR OLDAKER:** I use that as an example. There would be many others. Like it could be some sort of bee or it could be some sort of insect. The list goes on. I use that only as an example.

**PROF MUSGRAVE:** Yes.

**MR OLDAKER:** But when you put it into threatened communities, they use that as the centrepiece of the threatened community and then everything that that bird feeds on then becomes part of a threatened community. That's where it's flawed, because there might be heaps of what that bird feeds on. They might identify one specific thing that he might feed on, but that's not necessarily the case.

**PROF MUSGRAVE:** Do you feel that if the people who live in that area where that parrot is had a greater involvement in developing strategies to deal with the problem of its being threatened, we would get a better outcome?

**MR OLKAKER:** Yes, you would. You would get a better outcome. The minute you start to put that threatened communities one in there and say, "This is what it is and you will do this," the hackles come up people's necks really quickly.

**PROF MUSGRAVE:** How should we organise the local communities so that it can be effective in this way? You couldn't just have a meeting one Monday night at the local hall, could you?

**MR OAKAKER:** Well, in our particular region - and Mr Hammond is part of a group that call themselves a wetlands group. They were able to deal with some other issues there within that wetland to take it away from - and they've run the agenda to make sure that somebody of the conservation people didn't come in and just start to do that. So they took the initiative to do that; but that was at their expense, I might add. Whilst they've had some funding to be able to do some of those things now, the initial thing was at their expense to do that, rather than have it imposed on them. It wasn't legislation that imposed them to do something, as I understand it.

**PROF MUSGRAVE:** But that was a voluntary group then that just came together to deal with that issue?

**MR OLDAKER:** That is a voluntary group that came together to be able to run the agenda, so that they've got control of it; not somebody from down here or from Canberra.

**PROF MUSGRAVE:** So did it make recommendations? To who? To the local council or to the state government?

**MR OLDAKER:** You would have to ask Mr Hammond about that; what those recommendations are. I haven't been involved in that sort of thing.

**PROF MUSGRAVE:** Okay, sorry.

**MR OLDAKER:** That's not walking away from the question, sir.

**PROF MUSGRAVE:** No. I'm sorry, I was pushing beyond the scope of your knowledge. That's all right. Perhaps could we take a case study in Victoria which was referred to us. We might be able to talk about that, because I think it's a bit simpler than the parrot. That's the black-tailed cockatoo in Western Wimmera.

**MR OLDAKER:** Yes.

**DR BYRON:** The red-tailed black.

**PROF MUSGRAVE:** The red-tailed black.

**DR BYRON:** I was just thinking of that.

**PROF MUSGRAVE:** Yes, that's quite a nice thing. The West Wimmera Council have made a submission to us and a number of the councils came and talked to us. It just so happened that they also tend to be land-holders. Anyhow, they argued that it was in the interests of the red-tailed black cockatoo that they not divulge any information about the occurrence of habitat or the occurrence of the bird to state agency people, because as sure as that happened, the state agency people would move in to do something about it and that would be the end of the red-tailed black cockatoo in that particular locality. They argued that the better people to produce a plan which looked after their interests - that is the farmers' interests and looked after the interests of the red-tailed black cockatoo, was them - that is, the West Wimmera Shire Council. What they're suggesting is that they have the regulatory power and also the budget to do this. Do you think that that sort of thing could be repeated in Tasmania?

**MR OLDAKER:** That's the sort of thing that could be repeated, because it's giving that shire, or council, the resources to do something about it; but more importantly, the shire would know and the people who are elected and who sit around those tables would know the right people to have in that committee to make sure that the sort of thing is done in the interests of everybody. You are right to say that if they identify - and the same thing; my example is only something I've just used to demonstrate the sort of nonsense that will go on. But in essence, what you have just said is something that I don't have a problem with, and the people I represent wouldn't have a problem with - if they have control and have the resources to do it.

You just have to be a bit mindful that in local government now, of course, that's another level of bureaucracy and it has some people in it where you've just got to put your foot on their neck - for want of a better way of describing it.

**PROF MUSGRAVE:** Appropriate accountabilities and monitoring.

**MR OLDAKER:** Absolutely.

**PROF MUSGRAVE:** Which has its costs, of course.

**MR OLDAKER:** Absolutely.

**PROF MUSGRAVE:** In your opinion, would the structure of local government in Tasmania be strong enough, if it was given such responsibilities and the appropriate budgets, to do the task or not?

**MR OLDAKER:** The problem with local government in Tasmania is that you have a voting system where the urban councils have more votes than the rural regional council. That is a problem in itself, because if you took Hobart itself - where they've

got Hobart and Glenorchy and Clarence, and you've got Launceston which is one - like, they are the big vote winners. In any vote around a table, they are the big vote cardholders, right?

**PROF MUSGRAVE:** Yes.

**MR OLDAKER:** And they actually outnumber the votes that the like-minded councils - there might be eight or 10 of us who have to deal with all these problems - at the end of the day, a council like ours who has about 8000 people in it, only with about 5000 - we have one vote at that table, where the Hobart City Council, I don't know what the number is, but there are others here who will tell you what that is - but the voting system is outweighed, and you would have to make sure that if you're giving the resource to local government, that those councils that it affects be the only ones that be allowed to control that, right?

**PROF MUSGRAVE:** Yes.

**MR OLDAKER:** Not just give it to some bureaucracy in local government.

**PROF MUSGRAVE:** You could earmark the funds and the council has to ensure that it delivers the results that the funds are given for. If it doesn't it's taken out of the council's hide in some way or other.

**MR OLDAKER:** If they're given funds to deliver it, you'll get some sensible outcomes but it comes back to what I said before - the farmer, though, at the end of the day has got to get some compensation out of this whole process.

**PROF MUSGRAVE:** Yes. We're not talking about that; we're just - - -

**MR OLDAKER:** I know we're not, but - - -

**PROF MUSGRAVE:** That's axiomatic.

**MR OLDAKER:** I know we're not talking about it, but I just thought I'd better put that in there before you get too carried away, sir.

**PROF MUSGRAVE:** At that point I'll finish that line of discussion.

**DR BYRON:** I just wanted one last final thing. You made a big point then in both the written submission and in your opening comments about the possibility of changing agriculture from being permitted as of right, to just being permitted and how this would give third parties the right to object to them. Could you just elaborate on that a little bit more, please?



**MR OLDAKER:** Okay. Under the present planning schemes agriculture is a permitted use as of right. It requires no planning. On your land you can plough the paddock, you can put a drain in, all those things that relate to how you farm - apart from putting buildings up where you have to have a planning application and put all those sorts of things in - but to do what is agriculturally based farming practices, you do not have to have a planning scheme to be able to plough the paddock or dig a drain, whatever, providing it's within your farming practices.

If you allow that to change from it being permitted - so, in other words, you're allowed to do it but you have to put a plan in to the local council as to what crop you might grow - and the plantation timber industry, that is where they are coming from, because there's been this angst within the community about plantation timbers being grown on agricultural ground, right? It is a commercial operation and if the timber people come along and offer somebody a price for their property they ought to have the right to sell out.

Plantation timber is an agricultural crop, right? The conservation people want that - that's the big one that they want. There is no question about that. If that is allowed to happen, you will not get one investment, not only in forestry, but you won't get it in agriculture because people won't do the developments and take a property like Woolnorth and over the last 10 years we've seen - we've learnt how to grow grass and work that heath country enormously. Some will argue that it doesn't grow very good grass; it takes a lot of rain because it's plainer country and you've got to treat it differently - but with due respect to the Kiwi people, they have learnt to grow grass and grow it successfully in that country.

If that has to come under - if you change the planning scheme to bring agriculture out of permitted as of right to just permitted, then you won't get that sort of development. Incidentally, Woolnorth, over the last 10 years, didn't have a dairy farm on it. It's now got 10 on it, milking 15,000 cows, and there wouldn't have been one of them developed. It's now got, on each of those farms, about three homes on them. They have to have a special school bus run go down there now to pick the kids up. If this sort of thing had been in then, that wouldn't have been there. So it's been a huge benefit to our community to see that sort of development. That is a clear example of what will take place if that is allowed to happen.

**DR BYRON:** Yes, I was up at Woolnorth last year, so I know what you're talking about.

**PROF MUSGRAVE:** Can I ask one short question and make one brief statement? The question is: what does DPIWE stand for? I presume it's Department of Primary Industries something.

**MR OLDAKER:** Water and Environment.

**PROF MUSGRAVE:** Water and Environment, okay.

**MR OLDAKER:** Incidentally, I don't know it will be now - but the Department of Primary Industry will be one and the environment will be something else now because the two departments have been split apart. They should probably never have been together in the first place, because they were in conflict. As to how the new ministers are going to handle things - the primary industry minister, I don't think will be a problem. The environment minister is a very volatile lady and that's another issue.

**PROF MUSGRAVE:** I see. The short statement is, John, that I have been kicked by a cow in my time.

**MR OLDAKER:** I'm pleased to hear, sir.

**PROF MUSGRAVE:** But it was some time ago.

**MR OLDAKER:** Can I just say I have been around for a long time, as I said, in agricultural politics, from the top to the bottom, and it's very easy as farmers to get caught up in the euphoria of politics when you're dealing with the high-ranking people, and I've been on trade missions and all that sort of thing, and then forget about what's at home. But I can tell you, when you walk back in that cowshed and that cow kicks, reality strikes immediately.

**PROF MUSGRAVE:** Yes. On that note we'll break for a cup of tea or coffee and resume again about half past 11 with Don McShane. Thanks.

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**DR BYRON:** Ladies and gentlemen, we will continue with the hearings. Mr McShane, when you're ready; just take your time, and if you can introduce yourself for the transcript and then we'll take it from there. Thanks for coming.

**MR McSHANE:** Thank you very much, and thank you very much for the opportunity to present this submission to the Productivity Commission today. I'm a retired farmer. I'm not nearly as colourful as our friend John, but I have been in a shearing shed perhaps more so than a cowshed, and that's the main difference between us; otherwise there's not a lot of difference in our philosophies, I would think.

I've had a lifetime of experience with sheep and cattle grazing, and that has been largely in non-forested vegetation, native vegetation type situations, as well, of course, as considerable experience in forested areas in the north-east of the state. My submission is going to relate more to the signed bilateral agreement between the state and federal governments, and that is for the protection of non-forest native vegetation communities, but some of my statements will be seen as addressing issues in a more general sense, and I believe that this inquiry today is of a slightly more general sense than just the bilateral agreement.

In relation to the bilateral agreement, then, I think there's two big questions, two very important questions that we have to answer that haven't in my opinion been answered. The first is: where is the problem in Tasmania with non-forest vegetation communities? Have those problem areas, has that problem, been identified? Where is the need and what is the need for protection? Who's answered those? Who's stated those? Where have we read it? We haven't heard anything about that. Where's the cost benefit study? The cost benefit statement - where's that? That hasn't come forward either, and I think that that's been quite clearly expounded in your draft report, as I read that draft report.

So apparently, without any studies or consultation, the state government has arrived at a figure of 80,000 hectares to be protected. There's another word you can use for "protected" and that could be "sterilised". 80,000 hectares. Now, that's a lot of land for a state the size of Tasmania. It's 200,000 acres or thereabouts, and that's going to be sterilised from further development. Half of that area is on private land. Here we are: nearly 100,000 acres of private land to be sterilised for the future.

As a farmer and as someone who's interested in this situation, I've got to ask these questions. Where is it? We're told it's going to happen. No-one has told us where it is. Which properties are affected? Who knows? What area on each property, when eventually they do say, "Well, the properties are going to be in the northern midlands, the southern midlands, the central highlands" - and they're the main ones, I believe, and the two islands - what area on each property? And, more

importantly, or just as importantly, what are the threatened species on each property?

They say that it's generally in those areas. It's generally silver tussock and kangaroo grass. But then when we say that silver tussock and kangaroo grass are prolific - in fact they're so prolific they're widespread through the state and they're the main native grasses that we have in Tasmania, there's no need to protect them at all, they're so abundant - oh, it's not the grasses, the government says, it's also the communities that the grasses support. So let's have it all spelt out. Let's know where we are.

I'd like then to move to the next question that I've been asking and, by the way, I've been to Canberra, I've spoken to Warren Truss's office about this situation, and also the state government on several occasions: is this a fair and just methodology for the federal government to allocate funds to state governments? That is, "If you, the state governments, introduce regulations and restrictions on landowners' activities, we, the federal government, will give you a share of NHT part 2 money."

Now, to my way of thinking, that's little more than bribery or blackmail. "You put a lot of stringent regulations and conditions on your farmers and landowners, you give them a hard time, and if you give them a hard time, we'll give you a bucketful of money" - a few million dollars, about \$13 million, I think it was. Is that what Australia should be all about? It's not the way I'd like to do things if I was in government and if I had any say in those sort of matters. The main so-called threatened species in our areas - and Mayor Howlett here will back me up, as would Central Highlands - are silver tussock and kangaroo grass.

We know as farmers that they are the most prolific and widespread native grasses in Tasmania. They are just about everywhere. I've retired now, I live in Perth. I've got a few acres at Perth, just outside Launceston. When we had a meeting at Longford on this issue some months ago, I thought, well, maybe some of the councillors, some of the people may not know what silver tussock or kangaroo grass is, so I went outside my back door at Perth and I had no trouble getting some, and I took it along to the meeting. I said, "There it is. It's everywhere, and this is the so-called threatened species that our government is so worried about." And it's not verified. When are they going to verify it?

It's my contention that instead of locking up 100,000 acres, as I call it, but they prefer to call it 40,000 hectares, because it sounds a lot less - instead of locking up 40,000 hectares of private land, and another 40,000 on public land, why not lock up 40,000 hectares of public land? Surely that's enough? Surely in a state the size of Tasmania, 100,000 acres locked up, sterilised, taken away from production, is enough? I just can't believe that we need any more to sustain the future of those so-called threatened communities.

Apart from that area, we do have some landowners, and good luck to them, who are generally large landowners who can willingly afford and are willingly able and willingly desire to lock up some of their own land. They want to put covenants on their own land. It's good. Good luck to them, and they can do that, and if they did that, and I have heard of some people who would want to do that, that could then be in addition to the 40,000 hectares. I don't know what we'd end up with, but something in excess of 40,000 hectares locked up. Surely that's enough. And, by the way, I have got an area of my own property locked up under covenant, so I'm not the redneck. I'm not one that's not contributing or cooperating in this issue, but I don't see why we should have to be forced into doing this.

The compensation issue: when I was in Canberra, as I've already said to some - I mentioned to Mr Truss's office about compensation, how vigorously did the Tasmanian government pursue the compensation issue? I was told that it was not mentioned. Compensation was not mentioned. There was no money even requested for compensation, and because that has not been requested, it hasn't been granted, and I don't think it is intended in any way. There are some murmurs lately of another word. It's not "compensation"; I think it's "incentive" they're using now. They certainly won't use the word "compensation". There may or may not be some incentive but the word "compensation" is a no-no, up until this point at least.

The main problem that I see with this whole situation is the inflexible end result. We know what's happened in the other states, how hard it is for farmers to carry on their normal practices, to do what they're justly entitled to do on their properties. If that comes here, then God help us. That's all I can say. The farmers do have to retain a flexibility in their operations. Who knows when wool is going to crash, crash even lower than it is now? Goodness me, it's bad enough now - if it crashes even lower.

If we have some areas of this poa grass or kangaroo grass we might have to utilise them. We might have to develop that area and put in some lucerne, wheat or pasture. For example, it might mean utilising stony or steep ground with methods such as aerial introduction of seed and fertiliser, or direct drilling with machinery adapted for rough conditions. I have had considerable experience with both of these methods. The so-called experts say that you can continue the same practices as you are carrying on at present, so you are not to be disadvantaged. I say you are going to be disadvantaged because you never know the time when you will need to change your practices to suit market demands or trends in price structures.

If farmers were compensated, the areas to be protected would become much more realistic. It's all very well for the government to come along and say, "We're going to lock up as much as we want. It doesn't matter. It might be 80,000 hectares or it might be a bit more, a bit less. It doesn't matter - open-ended. It's not going to

cost us anything anyway." Let them pay for what they're going to lock up and then the area becomes much more realistic. They'll only protect, lock up, sterilise, whatever you like to call it, exactly what is really genuinely needed, and I can assure you that when that happens and if it happens, then the area will be much less, I believe, than 80,000 hectares in a little state the size of Tasmania.

The government is also saying at this stage that the whole system is voluntary. That is a whole lot of rubbish. Voluntary, my foot! They say that all you've got to do is to enter into a voluntary vegetation management agreement and then you don't have to conform to any of these council planning scheme directives. It's voluntary. What if you don't sign a voluntary agreement? What then? That's when of course we find out how voluntary it is. It's not voluntary one bit. You are then tied and you are forced by a planning scheme directive imposed and structured by the government. You are forced to adhere to that. So the whole system is not voluntary and I think the sooner the government is held to account on that statement, and they're saying it all round the state, that it's voluntary - the sooner they're held to account on that, the better.

Local government to bear the burden: our Tasmanian government has forced local government to implement the controls. Why have they done that? Well, there are several reasons, I think. Firstly, it's unpopular. They don't really want to be unpopular. It's going to be very unpopular with the people who are going to be affected by this new system of control. They'd like to hive it off onto someone else. It appears to me that it's a cost shifting exercise and, as we know, we've had a report by David Hawker, chaired by David Hawker, released only late last year - in November, I think it was, or October 2003 - rates and taxes, and a big section of that has to do with cost shifting, cost shifting onto local government, and if this is not an exercise in cost shifting, I don't know what is.

Local government will be financed, they tell us, for a short period. After that the whole system will be in place and it won't cost anything. Just imagine that! I can't believe that. In fact, if, after 30 months, the planning schemes have not been fully altered to accommodate these new controls then the government will put a directive into our planning schemes and the councils will then have to take full responsibility. That's after 30 months, and that's written in the bilateral agreement.

That, to my way of thinking, is a very interesting document. I got that in Canberra when I was at the annual Local Government Association meeting, in late November.

In conclusion I would just like reiterate four or five points. Where is the impact statement and how imperative are these new regulations for Tasmania? Where is the assessment of the likely costs and benefits, weighing the economic benefits against the environmental considerations? You see, we have two sides to this question: one is environmental, one is economic. They have to be weighed up.

They have to be considered. Now, where is that study? It's not.

Conservation demanded by the community should be paid for by the community and then the issue becomes more realistic. It could even be that entire properties may be considered, to be purchased. There's nothing wrong with that, as long as the purchase price is realistic. It's good. If the people are happy with the negotiations then why not purchase a whole property? Lock that up, if needs be, for the community. Let the community buy it. The public has a right to a precise disclosure of areas to be protected, and the reason why 80,000 hectares is needed.

Now, I think that's crucial, that 80,000 hectares. Why? I'm saying that 40,000 hectares of public land, plus the amount of private land that the landowners are willing to sacrifice, should be ample for a state the size of Tasmania. The government should not try to deceive landowners that voluntary agreements are going to be put in place. If they are not voluntary then don't have a bar of it, any of us that have a say in the issue. Take them to task every time.

Regulations reduce returns and property values. Those of us that have had a good look at this. A very, very important part of that draft report is the effects these regulations are having on returns to landowners and the property values. The property values must be maintained. The banks require them to be maintained. If they are not maintained then we all know where we are, or where we are likely to be.

In conclusion I'd like to say that Tasmania has a highly developed conservation ethic. Now, don't get me wrong. It doesn't matter what you hear from people that might have been sitting at this table earlier today, or the press that those sorts of people get throughout this state - and they get a lot of it - Tasmania has a highly developed conservation ethic and farmers are at the forefront. We farmers, we are not rednecks. We are not going to destroy our environment. We've had our farms, many of us, in our families for generations, and I'm quite sure that my farm is no worse; it's better, in fact, than it was three generations ago and it will continue to improve without these controls.

Tasmania should not be forced to follow the conservation plans and restrictions of some other states, which are extremely unpopular, restrictive, and generally limit the income earning, both for the individual landowner and the state's economy. I can only say to people, "Read that," [the draft report] and if that can be - I don't say it can be improved on much - reinforced by the final report I think we have something that is well

worthwhile. If our government will take some notice of that report - government: I'm saying both governments; the Tasmanian government and the federal government - then I think we are on the way to achieving something that is realistic and fair to all of those concerned. Thank you.

**DR BYRON:** Thanks for the kind words about what we are trying to do, in the draft report at least. I think you would agree that what we are trying to flesh out in there is a better process whereby if the government, or even a conservation group, thinks that a particular area of land is of exceptionally high conservation value then they go and talk to the landowner and negotiate some sort of commercial deal, rather than trying to do it the back-door way; simply through regulations. Your submission, I guess, supports that idea. Do you have any more suggestions? We've had a look at the private forest reserve system in Tasmania. Do you have any specific suggestions or hints that you could give us on the sorts of deals that would lead to genuine voluntary conservation on private land?

**MR McSHANE:** Are you meaning conservation of non-forest vegetation, non-forest native grasslands, or are you meaning forest as well?

**DR BYRON:** I was thinking generally all of them. My understanding is that the Forest Practices Code is supposed to deal with at least commercial native forest. But as we have already been told this morning, it's a particularly inappropriate instrument to use the Forest Practices Code when you are trying to deal with heathlands or grasslands.

**MR McSHANE:** Yes.

**DR BYRON:** Let's take the case of heathlands and grasslands and rather than going for the planning-controls approach have you got any more sort of specific suggestions on how these sorts of negotiations might be done?

**MR McSHANE:** Firstly, as I've said, the government can identify 40,000 hectares on public land. That's a start. 40,000 hectares locked up, in Tasmania, of public land, of non-forest grasslands and heathlands. Add to that a well publicised - what would you say? - campaign throughout the state asking farmers if they would get involved, or become involved, with voluntary vegetation management agreements; and I am sure there would be some who would be only too pleased to do that. They would generally be some of the larger landowners who would be quite happy to say, "Now, that land, I have a couple of thousand acres there that I'm never likely to plough. I would just like to keep continuing to graze my sheep there. I'm growing some good fine wool there now and I will continue that. I've done it for three generations now so there's no need to change it. Yes, we can commit that."



They are the sorts of things, I think. But to come along to a smaller farmer, who is probably finding it much more difficult to - well, to crudely put it - make ends meet, but he has to change his practices quite often sometimes to satisfy the bank manager. So to go and tell him that he can't plough that paddock because you've got some silver tussock, I think that's just completely over the top and unnecessary. If it were necessary, okay. But I don't think it is. Not in any sense.

**DR BYRON:** As you were saying, if it were very public, transparent to everybody, that it was going to cost X hundred million dollars to go out and negotiate these commercial deals, then presumably taxpayers across the state could ask the question, "Is this good value for money? Do we want to do more of this? Do we want to do less of it?" At the moment those costs are all hidden away somewhere. Nobody really knows how much it's going to cost land-holders if all of these rules are imposed.

**MR McSHANE:** That's right. There is no study done, you see?

**DR BYRON:** Nobody can even say, "Well, is it really necessary to lock up another 40,000 hectares."

**MR McSHANE:** That's right. That's what I'm saying.

**DR BYRON:** "Or would 20,000 do, given that we now know how much it's going to cost to do it?"

**MR McSHANE:** That's right. The total suggested is 80,000 hectares. Actually it was more; it was 107,000 hectares. That has been modified in the last few months, back to 80,000: from 107 back to 80. Now, the basis for that, I haven't got any idea and I don't know who has. Anyway, it's back to 80,000 hectares. It has to be justified. If that's completely justified then I think we would have to look again. I'd like to see the justification before it goes any further. I have said to the government several times - or the government representatives - the first thing to do is to justify that, tell us where it is, tell us which properties it's on, how much on each property and what are the threatened species, so that we know where we are. Instead of going around just ringing the alarm bells the whole way around the state. And we are all looking, then, to Victoria and other states, thinking that this is what's going to happen to us.

**DR BYRON:** You can spend a lot of money trying to solve a problem before you have even worked out what the problem is.

**MR McSHANE:** That's right.

**DR BYRON:** Or even whether there is a problem.

**MR McSHANE:** That's correct. That's what I'm saying.

**PROF MUSGRAVE:** Thanks, Don. Thanks for the kind words. I think that when you are urging people to read the report you should draw their attention to the overview because the overview is a lot thinner than the total document.

**MR McSHANE:** Yes.

**PROF MUSGRAVE:** And it summarises everything. You heard the conversation that I had with John Oldaker, about local government?

**MR McSHANE:** Yes.

**PROF MUSGRAVE:** It was all very hypothetical, of course, but - - -

**MR McSHANE:** Excuse me a minute. I'm not sure that I did say I'm a councillor. I am in local government myself.

**PROF MUSGRAVE:** Yes, okay. You are better equipped to answer the question. Thank you, yes.

**MR McSHANE:** Yes.

**PROF MUSGRAVE:** Under item 7, in your submission, you are arguing that local government should not bear the responsibility of regulation that is being thrust upon it. Now, John and I, in our conversation, canvassed a possible situation in which local government was involved but it would be very different to the circumstances which prevail at the moment. Did you understand what we were talking about there, about resourcing and accountability and so on, of local government?

**MR McSHANE:** Yes. I have a great problem with local government being involved at all; a great problem, because no matter how it's structured, how much money is coming in, it means that - it probably won't be me for much longer, but it could be me sitting at that table deciding what my neighbour is going to do in the paddock next door to me, because I'm on the council. That's the sort of thing that is just not right. If it comes from a non-local government authority, then it's independent of personalities and I think that's how it should be.

**PROF MUSGRAVE:** Okay. You are not alone in saying that. Quite a lot of people around Australia have voiced this concern about any local entity having this

sort of executive responsibility.

**MR McSHANE:** Yes. That's right.

**PROF MUSGRAVE:** Despite that urging we are pursuing this line of thought, if only to get good reason for not advocating it. We have no such good reason, at the moment, apart from thoughts such as you have suggested. I wonder if there could be ways of not putting councillors in such an invidious situation? Local authorities do have responsibilities for all sorts of decisions, where they are distributing benefits and costs in their community. So individual councillors, in the local government, they are not foreign to this sort of experience. That encourages me to keep on thinking about a local body having such executive responsibility.

I wonder if also, in helping local councillors or their equivalent in other bodies - regional bodies of this nature - if we had an appropriate consultation and discussion within the community. Let me talk about a hypothetical situation again. Let's go to our West Wimmera people up in north-west Victoria, with the red-tailed cockatoo. Let us say that the West Wimmera council was charged with the responsibility of ensuring the preservation of sufficient habitat to maintain a certain-sized population of red-tailed cockatoos, and the council is charged with the responsibility of making arrangements within its shire to bring this about.

It's resourced to develop the plans and negotiate with land-holders. Included in those resources are the funds - as you say, we can't use the word compensation; to provide incentives - to command the expert advice it may need from ecologists and ornithologists and the like. There is a transparent arrangement between the council and the state government in relation to these objectives. Similarly the council has transparent arrangements in negotiating with the community and people within the community. Finally, there is a plan agreed to, which has every probability of delivering on what the state government requires and it then can disburse the funds as needed, provide the necessary incentives and to monitor the way in which things are done. Does that have some air of practicality to it, to you?

**MR McSHANE:** You were saying then that the councillors, as personalities, are left out of it.

**PROF MUSGRAVE:** As members of the body corporate, which is the shire council. They are not left out of it. They carry the legal responsibility for delivering on the contract that the council has with the state government.

**MR McSHANE:** As far as individual situations and individual permits, or conditions or fines, or whatever, are concerned, they are not involved there. This also has to have its penalties too, you know? It's not just imposition it's penalties. If

councils are going to impose penalties - and I believe that the council, as a corporate body, can be fined up to \$50,000 if it doesn't implement the directive that the government has imposed on it - the council has an obligation, and the fine is \$50,000, or up to \$50,000.

What you're saying is okay up to a point but then I think you're going to find that there is going to be more of the implementation, more of the decision-making in these instances is going to be taken away from councillors who have, in many cases, practical experience in these fields, given to - dare I say it - bureaucrats who have no practical experience in rural and farming - - -

**PROF MUSGRAVE:** You mean council staff?

**MR McSHANE:** Yes, council staff.

**PROF MUSGRAVE:** Yes.

**MR McSHANE:** Who, as good as they might be, have got no practical experience - and they are first to admit it - in silver tussock or kangaroo grass or - - -

**PROF MUSGRAVE:** Or red-tailed cockatoos.

**MR McSHANE:** Yes, whatever - or the wedge-tailed eagles or whatever. I just don't think it could work, but I see what you're saying. It's going to be another imposition and if it goes that far, if it is implemented in that way, then why impose it on local government anyway. Why not leave it with DPIWE?

**PROF MUSGRAVE:** Indeed, why not? Our argument is that the very reason for doing this is that there is a considerable amount of wisdom and understanding of the local area which local government - or some entity; it could be a catchment management authority or some subcatchment management entity - which can tap more effectively than a bureaucracy with its head office in that capital.

**MR McSHANE:** I would be very concerned then also that it might devolve into the hands of a group of people who were more conservation minded than - you know, farm oriented in that case, if it were to be given to a group within a community. Sometimes they are not fully understanding of normal farm practices and outcomes, desires and economies of production and all that sort of that thing.

**PROF MUSGRAVE:** Yes. We could go on talking about this for a long time - - -

**MR McSHANE:** I know that, yes.

**PROF MUSGRAVE:** I don't think we should take up everyone's time about it, but let me just close - if you'll let me close - by saying that I still have in mind that if your local council has good farmer representation on it, they would feel inspired to set in process a process which would guard against the dangers; that you'd stop the local bureaucrats - and we might have some comment on this sort of thing later - from acting mindlessly and ignorantly because they don't know about red-tailed black cockatoos or something, or some of the other dangers you warn against. But we're a long way from resolving these issues and I think we have probably pursued it enough for the moment.

**MR McSHANE:** Yes.

**DR BYRON:** The only other point I wanted to come back to very briefly is, as you say, one that we have considered in the draft report; the loss of flexibility in farming operations that come with regulations or even with signing a long-term management agreement. The one thing that seems to be true of Australian agriculture is that the markets and technology is continuously changing. What seems like a great idea this year might, in five or 10 years, turn out to be not such a great idea. Can you elaborate a bit more on the consequences of either using regulation or using a long-term truly voluntary covenant in taking away flexibility to change your agricultural practices? You know, if somebody wants to be grazing one year and cropping a few years later and that sort of thing - or changing the type of crop; even some of the regulations we've seen would restrict people who wanted to move from sheep to cattle, or back again.

**MR McSHANE:** Yes.

**DR BYRON:** How important is this flexibility to actually manage a farm and how critical is the loss of flexibility?

**MR McSHANE:** It's extremely important. It's unknown; it's an unknown situation that can develop and I've lived long enough to know that I've changed my practices many times in many different directions and many diverse directions and in extremely different ways to satisfy the hip pocket. I think it's very important that we should not be tied down to a plan, a vegetation management plan which is going to keep us along a narrow path that it's going to be grazing or it's going to be cropping or it's going to be four sheep to the acre, or maybe it's going to be three sheep or whatever it is. I just don't think that we should be tied to that.

Another thing that has changed so much over the years is that in the 70s and early 80s we - and I can say I and many of us - used to use a lot of fertiliser applied from the air to establish improved (ie non-native) pasture and to encourage native pastures. That, because of the cost of fertiliser, gradually diminished and, in my case

now, I don't do any aerial top-dressing. Who knows that in another five or 10 years that may not come back again? We may start all over again, doing these same practices. But if we're tied to a management plan and we have to preserve these native pastures, then we won't be able to do that, and that's the sort of thing that I don't want to see restricted, regulated, controlled and, you know, it's just a matter of natural justice and the things that farmers are used to being able to do without, in my opinion, doing any great damage to their properties anyway. I think that's about all I can say on that, unless there is something specific.

**DR BYRON:** No, that covers it very nicely, thank you. I think we need to move on. Are there any closing comments?

**MR McSHANE:** I don't think so. Thank you very much for your time.

**DR BYRON:** Thank you for the trouble that you've put into preparing your submission and coming today.

**MR McSHANE:** Okay, thank you. Good.

**PROF MUSGRAVE:** Thanks, Don.

**DR BYRON:** Thank you very much for the submissions. Up to three now, and it's good to see you're on the job. If you could each just introduce yourself so that the transcript can recognise the voices and then summarise the main points you want to make, then we can discuss. Thanks for coming.

**MR THOMPSON:** Thank you, Neil. Good afternoon, Warren. Brendon Thompson is my name. I'm the president of the Tasmanian Farmers and Graziers Association.

**MR WHYTE:** My name is Ian Whyte and I'm the natural resource management consultant for the Tasmanian Farmers and Graziers Association.

**MR THOMPSON:** As you mentioned, Tasmanian Farmers and Graziers Association put in a submission to the original hearing that was held here last year and we have had a look at the draft document that you've circulated. We've put in a further submission which basically confirms the findings that the Productivity Commission has recorded in relation to the issue of the impacts of native vegetation and biodiversity regulations and we are pleased that it appears that many of the points that the Tasmanian Farmers and Graziers Association raised have been picked up.

We want to add some comments a little further to reinforce some of the things we have said before and to pick up some issues that we believe need some stronger weighting in the final document. If we can just go through our final submission, draft recommendations 1 and 3, "Regulation impact statements should be prepared before implementing native vegetation and biodiversity policy." I won't go right through all of our submission but basically, we want to say that it's invariable in the society that we are working with today that those who are not carrying the financial burden of change are those who appear to be wanting change, and it's leaning towards them having more say than those who have to bear it.

So we believe that that is an imbalance that needs to be addressed and that is very, very important to the members that we represent, that there appears to be a direction coming from afar by those who are not being asked to carry the burden of change financially. That is something that we believe the Productivity Commission should record very strongly in its final document. Until good data is collected to demonstrate the actuality of native vegetation or biodiversity problems and the need for specific regulatory measures, regulations should be maintained at a general level, with a view to limiting the economic impact on individuals and landowners.

To expand on what that really means is that the precautionary principle is fine, but in our view there is a growing tendency to apply that precautionary principle just to the environmental side of it, without due regard to what implications there are

financially, property rights, land values and so on. So if the precautionary principle is to be applied to the environmental side of this debate, we believe it is appropriate that that precautionary principle be applied to the social and economic effects as well, so that it's not one-sided at the expense of an important group in the community in a place like Tasmania.

Our second point is that greater use should be made of the knowledge of land-holders and local communities. A recent experience that we have had is that in putting together a water management plan for the forestry river catchment in the north-east of the state, there hasn't been enough information gathered from local people about managing the streams. They are a resource that is living with that river. The farmers who are possibly going to be affected by changes in non-forest native vegetation in this state are those who live and have worked with it for many, many years, and so I think that there will be extreme resistance if it, again, is forced upon people, whether it's local government or it's the landowners; but there needs to be a degree of cooperation, ownership and incentives. We want to reinforce that.

The arguments about lifestyle versus livelihood are important ones, and we see people moving into rural areas for lifestyle reasons and invariably they question the practices that have been carried out by farmers and so on and when they do them and whether or not they are appropriate from their point of view. So change to farm practices versus lifestyle need to be carefully managed. With more boats coming to Tasmania, and this is a local situation that I'm talking about. We're getting more and more people coming into this state and this problem of lifestyle versus livelihood is growing and it's going to become more difficult to manage. We find that people who are here visiting like what they see.

Our secret is out and they are wanting to buy properties here and settle, because it's quiet and there is a lifestyle that is quite different to where they've come from in a lot of cases. So then we have the conflict about the livelihood issues of those who are operating their businesses nearby. Farmers are likely to respond a lot more cooperatively if their resources and knowledge are drawn on and that they feel that they have some ownership. Also, we believe that if there are incentives paid to farmers to manage the natural resources that we've got, including non-forest native vegetation, there will be a win-win situation for both sides of the equation. If there's a forcing then there will be strong resistance and my judgment is it will be extremely strong. We don't want that to happen.

There are questions about whether any of this is necessary at all. So we believe that good data and information is absolutely critical. Our final point, the triple bottom line, as it's known - again, I want to reinforce that economic, social and environmental factors in policy development must be weighted equally. Wherever we go, as the farmer representative body, and we're discussing these types of issues,



we find it incredibly difficult to get the focus away from the environment in isolation. In the water situation, the national principles for water management include balanced consideration of those three factors but it's extremely difficult, in practice, to get the focus adequately on economic and social factors. It's always driven by the environment.

That is an imbalance we won't accept. We don't believe our members will and unless that's addressed there will be problems going forward with managing the natural resources. I think I'll leave it there.

**DR BYRON:** Thank you very much, Brendon. That's a very clear, concise summary. Ian, did you want to add anything to that at this stage or just help answer questions?

**MR WHYTE:** I guess the only additional point I might add relates to the second point that Brendon covered. Specifically there is reference in the draft recommendations to the use of community knowledge, skills and the rest in addressing issues. There is a tendency to use the term "community" as a single group. The point behind this was as much as anything to say that we can get as wide a division within communities, particularly as baby-boomers like me move in and lifestyle components become more important, so that there is a value-for-policy thinking to distinguish within local communities between those two subsets and, in particular, our concern is that the correct focus - weight - should be attached to the livelihood subset there.

**DR BYRON:** I think that is a very valid criticism, that we often use the word "community" very, very loosely without thinking or without defining what we mean and as you say, often there are many different communities who happen to live in the same area but don't necessarily see eye to eye on very much. Could I start off by saying that somebody else accused us in this report of being much too polite. In fact, they went on to say that we had pulled our punches. Would you agree with that?

**MR THOMPSON:** I thought it was succinct. It's up to you how you write the report, the way in which you couch it, but I think it's important to us that the views and the basis on which we put those views to you is reflected in the document.

**DR BYRON:** Okay.

**MR THOMPSON:** We felt that it was. If we get into the emotional side of it I don't think we'll make the right decisions. It's easy for emotions to come into these situations where, in our case, our members are being confronted with something that is likely to have a major impact on them, unnecessarily in our view, if it's not managed correctly. I suppose it's difficult for you to get the feeling of all of the

hearings into your document, but on a factual basis we believe that you did capture at least the points that we put across quite well. So I can't say any more than that, Neil.

**DR BYRON:** Okay.

**MR THOMPSON:** I don't want you to be emotional - at least we can say that.

**DR BYRON:** As you say, we accumulated an extraordinary amount of information, input and experience from people from all sorts of diverse points of view from all over the country and that's one of my excuses for why the report is so fat. It is a very big subject and there is a lot of evidence there. I guess there are many different ways of slicing it up. Now, one of the things that we gave a fair bit of emphasis to is the question of, I guess, at what level these sorts of decisions about land use and native vegetation and biodiversity conservation and things should be made. We started from the idea that, you know, Australia is such a big place and it's so diverse that there is no way you can micro-manage it all from Canberra, or from Sydney or Melbourne, or even from Hobart and that every time there is a change in soil type there is likely to be a change in veg.

So even within one property you don't have a one-size-fits-all. That has taken us to say, well, rather than just having uniform statewide blanket rules, can we devolve it down? We have had lots of discussions in here and in other hearings about whether that should be at a regional level that might cover, say, four or five shires or whether it should be at the shire council level. Other people have said no, that's still too big a scale, that what you really need is three or four farms. Have you got any thoughts at all on at what level you are likely to get the most sensible and balanced decisions about these sorts of, I guess, production and environment balances?

**MR THOMPSON:** I suppose at local level, yes, there has got to be input. If you work it back from the ground level up, okay, from where the species are growing, who has got the best knowledge to make the judgments? Obviously the landowners have got to be part of that. Who has got the ability to facilitate a forum that will bring out objective decision-making? That is probably at local level. Who is going to sit over the top of the lot of it? State government, I suppose, but they are driven by money and that's a clear view that we have at TFGA, that a lot of these problems that we are heading into - or potential problems - have been forced by the fact that our state government is reliant on money from Canberra and can't live without it. So they will sign anything to get that and then deal with the consequences later.

So it's very difficult. In the NRM committees that are around the state there are concerns about the fact that those who are able to participate, and this quite often happens at local government level - the only ones who have got time to participate

are the lifestylers who are out there with their feet up, with all due respect, while the rest of us are trying to make a living with this sort of shadow hanging over our shoulder. So I'm not quite sure. I can't give you the direct answer. There's a mix there somewhere and it may be a compilation together around landowners and - you won't get it on a state basis, because in this state, if you go from King Island to Oatlands to the far north-west, you will be dealing with different situations. So there isn't a one-size-fits-all. We're clear about that.

How we put it together at local level and get the confidence of everybody to be part of it, without allowing undue influence one way or the other - I think that's probably where you have to go but, yes, I'm not a hundred per cent sure whether it will be effective, but I think that's where you've got to go. I don't believe the local governments should be forced to do it. If they don't want to do it it's not going to work well anyway. It's got to be cooperative, have some ownership, people who are involved have something at stake. They have got to agree that there is a reason to do what is necessary, if there is a reason at all, you know - if it's necessary to have change.

So it is at local level, I think, but you'll obviously need something sitting over it so that there is a set of guidelines delivered to this group, whoever they are, to say what their objectives are. This is where we get into trouble again with the NRM groups and other groups we've had to deal with. They're not clear why they're there and everybody in the group has got a different view of what their objectives are.

**DR BYRON:** Yes. If you don't have a clear objective at the start - - -

**MR THOMPSON:** Yes, so then you go into trench warfare, you know. We'll all split. What are we trying to achieve here and why? How do we determine if there is a need for any change at all? Then, at local level, there is some decision-making recommended. You might have to go back up and say, "We need to vet this a little bit to make sure you have actually followed the rules." That's roughly how I see it, I think. I don't believe local government is the appropriate place. We don't want to see a reinvention of the wheel in every municipality in this state, because you will get inconsistency. At the same time you've got to recognise that there are variations in the agricultural pursuits, the communities, how they are made up and so on, around the state. That would be no different on the mainland, I wouldn't think. So I'm sort of homing in on that local level in a general sense, not forcing local government with a gun at their head or a huge fine if they don't do it. I mean, that's not the way we ought to approach something like this.

**DR BYRON:** One of the variations on that which has come up is that, in the other states at least, once upon a time we had agricultural extension officers and field staff who could go out on a particular property and discuss it with the owner and say,

"Well, normally you shouldn't do this, or you would be better off to do that. You could probably get away with doing this and this, provided you did it that way." You would talk about it and eventually you would come up with something that was workable, practicable, reasonable and wasn't going to lead to any sort of land degradation or whatever.

What we have been told in those states is that those sorts of people have gone and they have been replaced by people who are either called facilitator or coordinator of a Landcare or Greening Australia group, or there is somebody who is more like a policeman who says, "The environmental regulations say you're not allowed to do that and if you do it we're going to slap a fine on you." So it seems to me that part of getting sensible practical workable solutions on the ground is having people who go out in the field, who are knowledgeable, and can have that discussion and work something out. Yet a lot of state governments seem to have shed those people.

**MR THOMPSON:** Yes, I agree that in lots of areas they have and there are a lot of people with a high degree of "education", but little practical experience. This is where we are concerned that we will be subjected to the policeman approach that you've mentioned, and it won't work, because it will be the gun at the head, "The regulations say this is what you will do, because Canberra decided it was the way to go, the state government needed the money and you're the meat in the sandwich." That won't work. You start at the ground level and determine what is needed.

You don't start at Canberra and tell someone what is needed unless it's an obvious situation where there is degradation that is in need of urgent attention. This kind of change is incredibly hurtful to people on farms who have managed these properties for a long, long time. Some of the native vegetation that we're trying to protect wouldn't be there if they hadn't done the job pretty well. So there needs to be recognition for that. That is really important and I don't believe there will be any difference to that view right around the country at farm level.

**DR BYRON:** That's a frequently-voiced complaint that people are being told, "Even though you've done a fantastic job in looking after that part of the farm," or, "Even though you've done this for the last 50 years, if you do one thing over here we'll throw the book at you."

**MR THOMPSON:** Yes.

**DR BYRON:** What they are saying is that, "We would like to get at least some recognition of credit for all the good things we've done, either at a different time or a different place." But, you know, the policeman mentality doesn't often extend that far.

**MR THOMPSON:** No. There must be a reason to do it and there must be an answer to the question, "What's in it for me?" That's human nature. An incentive that you can see will do two things: it will not impact on me as a farmer, or the members that I represent. It allows me to be a responsible community member and contribute something, build on the things that my father did before me and not say they're wrong and you've got to stop, unless it's obviously wrong. So I think we're looking for some sort of cooperative approach, guidelines that will direct that to a certain level, but if you don't get people on board there's just too much pressure on landowners from all sorts of areas in NRM issues, whether it's water or this one.

We've got to find a way through that allows the landowners to participate rather than be the victims. That's how they see it at the present time in terms of at least perception. They are frightened. I think that our main concern about change in native veg here is about the ability to make that change between what's a profitable crop to grow today and something new coming along in the future, and the fact that we've locked up the potential for our farmers to diversify and to grow. We've got to try and manage that as well.

**PROF MUSGRAVE:** Thanks, Neil. Thanks, Brendon, and thank you very much for your target comments. That's good. It directs us to specific things for us to respond to. I would just like to pick up on two things that you raised: one is the idea of what you call successive approximation with initial broad policy settings being followed by a progressive finer setting and some thoughts that that prompts. The other one was that you were talking about someone sort of setting the broader rules of the game for community bodies and you said presumably that would have to be the state government, but they are driven by money.

**MR THOMPSON:** They are driven by money from Canberra.

**PROF MUSGRAVE:** Yes.

**MR THOMPSON:** And I think Canberra might, in the end, set the rules and that's what's worrying us a little bit.

**PROF MUSGRAVE:** Yes.

**MR THOMPSON:** But because of the money incentive for the government, and Canberra a long way from the coalface deciding these are the rules, government will force compliance so they can get money.

**PROF MUSGRAVE:** Yes, and then associated with those two issues you raised is the general coverage, or musing, on your part about the nature of a community group. What will it be like? What should it be? Perhaps it shouldn't be local

government and so on. I think in relation to that last area the uncertainty that you're pronouncing in relation to this is shared by us, and anyone who has thought about it I think would come to the conclusion there is no glib resolution to this problem of what is the appropriate way of getting local expertise tapped and enabling it to also manage its affairs in a way which is accountable to those who give it resources from above. This is an extremely difficult thing and I think that in Australia, and I think all around the world, this is not being managed successfully and the answer is not immediately obvious.

Anyhow, one of the useful submissions we've had in relation to this question has come from the Australian Conservation Foundation. Perhaps you've read it with great interest, but I'll refresh your memory. They suggested that we borrow from the National Competition Policy to think of a structure for sharing the responsibility for managing native vegetation and biodiversity or perhaps, even more broadly, natural resources in general in Australia. But they, unfortunately I thought, just focused on the relationship between the Commonwealth and the state, where I think the real problem is between the state and the broader community down there on the ground.

But apart from that, I think their thinking is quite relevant and helpful, and that is that, as with the National Competition Policy, the states and the Commonwealth strike a deal as to what the states will achieve in relation to deregulation and, as a result, making the economy perform more efficiently. Then, in response for doing this, the Commonwealth gives them a share of the efficiency gains through the tranche payments that they pay. There is an appropriate procedure through the National Competition Council for monitoring and auditing what the states do. The Australian Conservation Foundation suggests, "Why can't the states and the Commonwealth strike a similar deal in relation to natural resource management whereby the states undertake to put in place policies which will meet the needs of the Commonwealth?" The Commonwealth has genuine needs in relation to the environment under its international agreements and so on, and all things that are embodied in the EPBC Act, and the state pays for that.

The state has to consume resources in delivering on these Commonwealth needs, and the Commonwealth has to pay for them. That's pretty well where the ACF stops, and it's good thinking I believe. But couldn't we carry it further and say, "Why couldn't the state, in turn, make a deal with appropriate regional bodies, for those regional bodies to deliver on what the state perceives as being state objectives for natural resource management and paying for the delivery for these environmental services by that regional body?" The regional body, in turn, then can negotiate with members of its wide community about how they might deliver in order to enable that regional body to meet its contract with the state. That's nice. It's very simple, the way I put it but there's a certain appeal, it seems to me, in that sort of proposal. Certainly it would put a discipline on the states, wouldn't it?

They're not just then out there fishing around for ways in which they can get NHT money or NAP money. Rather, they have negotiated a contract with the Commonwealth, they have signed a deal and they have to deliver something in return for which they are paid. Perhaps you could think of a similar model to that rather problematic area of the region. How does that sort of thinking appear to you?

**MR THOMPSON:** Well, someone who has had a lot of close contact with deregulation and National Competition Policy, COAG agreements and that sort of thing - when you started talking about it I shuddered a bit. One of the problems with that arrangement is - I think it still exists and we are concerned about the relationship between Canberra and Hobart again; the objective of the funding from Canberra isn't the same destination where the funds end up. In other words, out of deregulation there are tranche payments under the COAG agreement and National Competition Council oversees and does the monitoring, "Did you meet the guidelines?" We tick the box and send you a cheque. There is no guarantee that the industries that have to go through change receive the benefit of that funding, and that's a glaring error in that process.

The carrot is there for the state and that's why it was set up in 1995: "We will give you buckets of money if you will make changes. You wear the flack, we will pay you." The state governments since that time have successively gathered that funding and used it for virtually everything else but what it was intended for. We see a real danger in any funding coming from Canberra through state governments, that unless it is clearly stated in the agreements it won't end up, at least in its entirety, where it should be. Now, the funding and incentives that farmers need to make change and be part of it, and carry out the stewardship roles for community, they need to be rewarded.

If they have to make changes which restrict their business they have got to be compensated. The money starts in Canberra and it ends up in Hobart, Sydney, Melbourne or Adelaide, but not much of it filters through to the ones that are affected. In my own case, where I was one of six people involved in getting a package for dairy farmers, it was totally separate to the COAG payments and we had to fight tooth and nail to get it. Yet when we approached the state government of the time and asked them, "Can you assist the dairy industry with some of this money that you're receiving from Canberra?" they just smiled at us, "Sorry, we've got that in other little pigeonholes, and there is no obligation on us to pass it through."

So that's a concern. I mean the words "NCP" and "deregulation" worry me, but the principle of what you're saying is that Canberra will provide the money. Hobart will receive it. If you want change to happen in an amicable way then it has got to end up being provided for incentives, compensation, that sort of thing. That makes

sense to anybody. Any reasonable person would see that. It's not for state governments to gather it up and use it for everything but and expect the citizens out there to carry major change and be happy about it. No.

**DR BYRON:** I think that's why Warren was trying to suggest the back-to-back contracts sort of thing, so that the state government couldn't just pocket the money and not do anything. You know, the only way that they're going to get results on the ground is to deal with landowners, regional organisations or shire councils or someone and, you know, pass the money on all the way down to the people who are actually going to have to do the work and bear the costs - if you had that whole sort of series of linked arrangements that you don't get the money unless you do the work, or the guy who incurs the cost is going to get reimbursed for it all the way up.

**MR THOMPSON:** If we go back to the ground level and say, "I would want to operate it the other way," I don't want Canberra coming down on top of my members and say, "You've got to do this." I want that data collected to justify that there's a reason to do something. The guidelines are there to determine whether or not that's the case. The guidelines are there based on the magnitude of change as to whether there is compensation needed. That has got to be done on a commercial rates basis, not whatever the valuer-general in each state thinks ought to be done.

Then we go the other way and we say, "This is the amount of change that's been agreed and necessary in Southern Midlands. Here's the bill to Hobart. Here's the bill to Canberra." That way then society in general picks up what they should pick up; not Canberra saying, "We've got \$15 million for Hobart and that's what you will use to make vegetation changes in Tasmania."

**PROF MUSGRAVE:** The way you described it was very consistent with the way that I would think about it and I think it's a flaw in the ACF submission that they leave it at the state capital and don't go down within the state.

**MR THOMPSON:** I think it's coming the other way: this is what it has cost at ground level and that's agreed. We're up the chain, not Big Brother down.

**PROF MUSGRAVE:** Yes. It's all a bit glib and simplistic the way we're discussing it at the moment, because it's terribly complex and I think we all understand that; but, to continue the glibness, the neat example is the Murray-Darling Basin and the problem of salt in the river system, whereby the targets are set for the basin as a whole, which then put obligations on the state to deliver their share of that target which, in turn, puts its burden on the basins within the state to deliver its share of the state's target. There is a devolution of responsibility for delivering on those targets and the appropriate payments made.



Now, that's a nice simple way of describing it, but anyone who is familiar with the Murray-Darling Basin would know that even to do that is going to be terribly difficult, so let's not be glib; but it seems to me that we do have the germ of how we could possibly proceed in relation to that. It does bring me to the next of the two points you made, which was the - - -

**MR WHYTE:** Could I perhaps just make an additional comment there, based on my own particular background, Warren? I guess it occurs to me that the sort of thing you're talking - and you used the NCC and dollar compacts as the model that the ACF had suggested. In fact, it occurs to me it's a subset of a broader model, which is simply a comprehensive signed agreement between various levels of government with deliverables on both side, which are auditable and against which obligations flow - commitments flow.

**PROF MUSGRAVE:** Yes.

**MR WHYTE:** There is a current example and that is regional forest agreements.

**PROF MUSGRAVE:** Yes.

**MR WHYTE:** Basically what the regional forest agreement for Tasmania was - as for other areas - was an agreement between Commonwealth and state whereby each got what basically they were looking for in return for conceding what the other was looking for. The Commonwealth was looking for various commitments from the Tasmanian government in relation to largely things biodiversity/conservation and the state was looking for the Commonwealth to get off the patch for a long enough period to allow the benefits of certainty to work for commerce and the economy within the states, so the 20-year term was what was negotiated there.

The RFA is some 50 pages and there's an entire attachment which is a list of things which the state had to deliver in return for what the Commonwealth delivered. Parts of that - and picking a particular subset - was funding from the Commonwealth and we would have liked more, but over 30 million, which was provided quite specifically for private native forest conservation initiatives; the Private Forest Reserve Program. That was quite specific in its objectives; to secure some form of certainty of conservation management in priority native forest systems on private land in return for payments either for stewardship-related or for outright purchase or for anything in between those.

That now is in about its fourth or fifth year of life. Something like 20 out 30 million has been allocated and 15 million has been committed. I don't think it has been run perfectly and I was personally involved in the original design of it, but there are ways, so there's a measurable delivery system. The funding is quarantined to

that. It can't be hijacked by some other area. Local government is not brought closely into that, but there have been moves to see if they can be hooked in through rate recognition and that sort of stuff.

There is a model of sorts, which has sufficient mutual checks and balances all the way through, which is, I think, where the weaknesses come; with trying to make a single model where you have to have those mutual groups on the short hairs all the way down the chain of government, otherwise the system - you have to have the negative feedback as well as the positive feedback signals all the way through.

**PROF MUSGRAVE:** Indeed.

**MR WHYTE:** I don't think it's undoable. That took some 10 years of negotiation from the forest policy statement to the - - -

**PROF MUSGRAVE:** Yes.

**MR WHYTE:** 10 years ago.

**PROF MUSGRAVE:** Thanks, Ian, very much, for drawing our attention to that. Those who are thinking about this type of thing should, I think, look at the RFA arrangement to see what they can learn from it. Your reference to the time it took is also well taken and those who have been involved in anything like this - and I have close involvement in the land and water management plans with irrigation areas in New South Wales and I know Neil has had a close look at the Fitzroy situation in Queensland, which have degrees of flawed success associated with them and they all took a very long time to get there.

I wonder if an implication of our observations about natural resource management and these sorts of responsibilities is: don't expect to get an outcome quickly. It's going to take a long time, as well as being a lot more expensive than some of the advocates imagine.

**DR BYRON:** You can get a bad outcome very quickly. If you're getting a good outcome, it will take time.

**PROF MUSGRAVE:** Yes. The other point was the successive approximations idea that you had, and I understand that. I would see the very good sense in proceeding adaptively, as in feedback, and you referred to feedback just now, Ian. It does bring a cost, doesn't it? It does reduce certainty, because you delay the final decision and so people who are managing resources are never quite sure where they stand, because the decision-makers get the feedback and might move the goalposts. That is a cost of that sort of thing, isn't it?

I am reminded in that respect of the New South Wales Water Management Act, which allows for licences to be issued for a 10 or 15-year period - I can't remember the exact time period - within which the licence holds but the state reserves the right to change the conditions of the licence at the end of that period, without compensation. Of course, that certainly provides for adaptive management, but also preserves uncertainty for the resource owner. In fact it's less certain than the situation that previously existed. That seems to be a cost of the successive approximation approach.

**MR THOMPSON:** I think it would be - not irresponsible, but improper not to have a mechanism in whatever is developed that didn't allow constant monitoring of what the situation is. As others have said fertiliser was used, land was used. It was the thing to do. We wanted a productive environment for farmers and land developed and grow the economy. All those things were equally as strong then as the push the other way is now. The mechanism that has developed has to allow for that constant change and I do say in my view that some of these things are more fashionable than practical, in a political sense, and that's why there's a response on high.

We need to make sure that we don't lock up and equally do damage the other way and prevent us from being productive in the name of environmental preservation and wreck things that have taken a century or more in this state to develop. The place is like it is because of people who worked hard before us. Suddenly we want to reverse a lot of those things or at least put them on hold. That seems to be the impression, but at some point we've got to have a re-look again and say, "Have we done the right thing there? Do we need to make some adjustment one way or the other?" and I'm not saying to open it all up again is the answer.

I don't know what the answer will be then, but those who follow us need to have the ability - and those on the land now need to have the ability - and the confidence to say, "Well, if we do something now, it's not forever if things change. Can somebody have a re-look and say, 'What do we do now?'" It's important. We could quickly develop a mechanism which goes bang, and shuts the gate and then we look back in 25 years' time and say, "Oops, we made it too restrictive," or whatever. There has got to be that monitoring.

**MR WHYTE:** I will perhaps add a couple of observations there as well, on picking up that very last comment of Brendon's. The Meander Dam is a proposed project in the central north of the state at the moment. That went through the Commonwealth process, because it involved what was thought to be a threatened species on the Commonwealth's list. In the last week, two weeks, the key taxonomist on that particular tax has just published a paper - it was out two weeks ago - which has reclassified that group of plants out of what it was notionally put into and into

another species, which is not on the list and is nowhere near going on the list. I guess what we've seen there is an example, if you like, of a precautionary principle which has been taken at that level. In other words, one major step back theoretically could have prevented the dam. After having done that, a matter of weeks or months later, it was found to be a chimera that simply didn't exist, in that there was an issue; so you have got a violent swing by taking an extreme view.

It also occurs to me though that really we're talking about a question of degree here. Whether we have five-year steps, if you like, of certainty, or 10 to 15 years' steps as you were talking about with the New South Wales water example or whether in fact you take the steps and subdivide those, basically what we're talking about is hedging impacts so that two-thirds of the water allocation for that 10 or 15 years could have been given a 20-year certainty and the other third some sort of revisitation system.

I think also, speaking from my background again, the timber industry - and I would guess that farmers are the same - what people want is certainty in absolute terms for a sensible period. It is going to be shorter or longer, depending on the issue, but certainty of process as to how those decisions will be revisited so that they can make informed risk judgments themselves. It's exactly what a farmer does now when he's thinking about whether to put in an irrigation dam and if he knows the rules in relation to threatened species, artefacts and whatever else and he knows his patch, he can make an informed judgment as to whether the cost is worth it. In other words, the uncertainty is worth the outcomes. There are ways of managing risk, which is basically what you're talking about, which, as you know, there are volumes written on it in business. The whole science of hedging is applicable in one way or another to this and really is what should drive some form of successive approximation.

**PROF MUSGRAVE:** Thank you, Ian. Yes, that's helpful.

**DR BYRON:** I am reminded of the discussion over the last few days about superannuation for judges and politicians, but the comment has been made that, "Oh, you can't possibly change the rules partway through because that's unfair to the people who made their decisions based under the old rules." I am just wondering if that same argument might apply to changing the rules about managing native vegetation on private freehold land; so if you do decide, for whatever reason, that you want to change the rules, there needs to be some quid pro quo or whatever you call it. The inequality of retrospective decisions is very clear in some cases, but when it's a retrospective decision involving native vegetation on freehold land, it doesn't seem to be so clear.

**MR WHYTE:** No.

**MR THOMPSON:** Could I please, Neil, go back to your comment about maybe you haven't been firm enough or banged the table or whatever in your report. I just want to say that it needs to be strong enough that the decision-makers who read it will take notice, because there are enormous pressures, I believe, on decision-makers in the political arena which are very strong the other way. That's why this is taking place. Could I ask that in writing your final document you do stress the seriousness of the issue and the risks that are attached to it, so that those decision-makers who look at it pick up the message. I think you've gone a long way to that point in your draft, but I don't want to see any of that lost in the final document.

**DR BYRON:** I think it may partly be a question of different audiences reading the report.

**MR THOMPSON:** Yes.

**DR BYRON:** You know, bureaucrats in Sydney or Canberra know how to read bureaucratic language and they know between the lines. A plain-speaking farmer would look at it and say, "Oh, you're just slapping them over the wrist with a feather." Now, different people read the same words and interpret it in a very different way. As you say, with this report there are many different audiences, including government officials, governments, politicians and land-holders and environmentalists and all sorts of people; so trying to get the language in a way that's clear to everybody is probably a bit of a trick.

**MR THOMPSON:** It is.

**MR WHYTE:** Rather like negotiating a free trade agreement.

**DR BYRON:** Not that bad. Unless you have got anything else that you would like to say in concluding or wrapping up, I think we can call it quits.

**MR THOMPSON:** No.

**DR BYRON:** Thank you very much for coming and for your submissions; the amount of time and effort that you've put into all this. I think we can adjourn for lunch.

**MR THOMPSON:** If I could just wind it up by saying on behalf of the Tasmanian farmers and graziers and its members, thank you for taking such a strong interest in what is happening on this issue.

(Luncheon adjournment)

**DR BYRON:** Thank you very much. Councillor Downie, from the Northern Midlands Council. Make yourself comfortable and whenever you're ready if you could just introduce yourself for the transcript, so they can put a name to the voice.

**MR DOWNIE:** Councillor David Downie from the Northern Midlands Council. I'd like to first off give an apology for Mayor Polley who is unable to give our submission today. I take it that you've read our submission.

**PROF MUSGRAVE:** And thank you very much for that.

**MR DOWNIE:** To start off, to make a few comments to that submission, I'd like to highlight the fact that the area of the Northern Midlands is very important to the state of Tasmania with regards to its agricultural production both present and future and the effects of biodiversity regulations could have an immense impact on that area. I think that is important to say from the start.

The Department of Primary Industry, Water and Environment have highlighted priority areas of some 40,000 hectares in the Northern Midlands, Southern Midlands, Central Highlands, Flinders Island, King Island and Circular Head. The Northern Midlands has hosted a meeting which took place on 27 January 04 with representatives from the Northern Midlands, Southern Midlands, Central Highlands and Circular Head and it was agreed - amongst the representatives who were at that meeting and I know some are here today - first off to discuss with the state government the non-forest threatened vegetation project and, in particular, the need for compensation, based on commercial realities, to be made available where adverse impacts arise from the implementation of the project.

It was also accepted that changes to the local government planning schemes that would remove agriculture from "permitted as a right" use, would not accept changes to remove agriculture as a permitted use. The third point that was agreed was that we request the minister for DPIWE, the Honourable Steve Kons, to expedite the preparation of a list of threatened communities and the list must be transparent, robust, vigorous and clearly understood with community input sought into the methodology to be used in the preparation and definition of that list. Clearly, greater use should be made of the knowledge and willingness, voluntarily, of landowners and local communities in the compilation of this list; thus better ownership and outcomes will be achieved, if locals have input.

We should not rely on academic scientists with specific guidelines on what is threatened. Half the species that have become extinct since white settlement would have been extinct anyway. Just through the evolution of time species are created and species become extinct. The list of threatened species guidelines must not be rigid, it must be moving, et cetera. An example of this would be the heath that was found at

the Warner's Creek Dam, or the quoll. Residents in part of the Northern Midlands area will say quoll are in abundance. I know of one person who shot 12 from the roof of his house in over a week period. Scientists are saying they are rare and endangered but there are local people who could provide evidence that that is not true.

Development or progress must not be held up by rigid or unrealistic environmental rules. An example would be that if you have a wedge-tail eagle nest in a forest that a certain square metreage of valuable forest has to be locked up. It leads to the farmer going around in - or the landowner going in and identifying an eagle's nest before the permit for timber harvesting is implemented and cuts the nest down, which has a detrimental effect on the population of the wedge-tail eagle. I do know of another case where a person wished to put an application for a dam in, found that there were some rare and endangered tussocks and tree species on the dam site; removed those and then proceeded with the dam site. So, you know, where regulations are rigid, I believe there are problems.

The Northern Midlands Council has said before it has a huge potential that shouldn't be limited by biodiversity regulations. If agricultural production in the state is to double, as outlined by the Bacon government, then the Northern Midlands will provide a vast resource in land, which leads to production which will deliver an increase in economic activity. The majority of this will be achieved through the storing of some of the excess water that sheds in our catchment. Dam developments large and small on farm must not be hampered by biodiversity regulations in order to stop populations on farms and in small farming communities from becoming extinct themselves.

There is a need to have a balance of sustainable economic and environmental outcomes. The majority of areas of rare tussock and native pastures in the Northern Midlands have basically been left because landowners have voluntarily left these intact, as they are unsuited for any other sort of land use anyway. An example would be low-lying flood areas against rivers. They are of no use to plough up because a minor flood can take the soil, and it's just not worth the risk. Rocky areas are used for grazing - that's the best land use they're suited for anyway. There are a lot of superfine wool growers in the area that have left their country intact because they see that that is a valuable resource for fine-wool growing.

I believe a far better way than having regulations would be to have voluntary agreements with landowners. I'd like to cite an example which I only came across yesterday in a magazine that was delivered called "Prograzier". There is an article in there about a fellow called Henry Foster. The article, to quote:

Central to farm management is a property nature conservation plan.

So here is a farmer who has already implemented his own plan and if others are encouraged to do the same thing voluntarily, the outcome could well be the preservation of these native rare species without having to regulate people. In summation I'd like to present to you, on behalf of our council, our submission. I would ask that you take on board the comments that have been made. Thank you.

**PROF MUSGRAVE:** Thank you.

**DR BYRON:** Thank you very much. One of the points you raised we have been giving quite a lot of thought to, and it's this definition of threatened species and by what criteria. There have been many land-holders we have met who said, "We know where this plant or this particular animal is occurring, but we're not going to tell anybody from the government, because if we tell them they will just come and put all sorts of restrictions and regulations and tell us we can't use areas or can't do things there." So that suggests that the government departments may not know very much about where these plants or animals occur, or it may appear that they're very rare isolated occurrences, but in fact they don't have all the information.

That suggests that some of the things that are being officially classified as rare or threatened or whatever, may not in fact be so. I guess your suggestion that anything that's listed - there needs to be a clear description of why it's considered to be rare or threatened or endangered, or what evidence and so on there is. It's probably a good starting point to get the facts right, before we go any further.

**MR DOWNIE:** Yes. I also believe that it's up to the community to have input and for them to recognise that a species is rare and endangered. It's like: how do you define who an Aboriginal is? The Aboriginal community themselves, as part of the recognition, is that if they recognise that someone is Aboriginal, that is accepted, so why should a scientist, who sits in an academic institution in another world, have all the say? I think that's the point. Some of the best managers of land are actually land-owners. The very reason why these species are still here today in our municipality is because the landowners have preserved them themselves, for whatever reason, and now you have an example of landowners actually recognising the rarity of those species and are interested to preserve them.

**DR BYRON:** We've actually had other landowners come to this hearing and bring the property management plan that they have prepared themselves, showing quite a large area - about 400 hectares - that they themselves had set aside and were not grazing, because of plants that they recognised as rare and endangered. They had done this long before anybody from the government knew about it, which is another example of the sort of thing you're talking about. It contradicts the notion that farmers are just waiting to see what they can bulldoze next.



The non-forest threatened vegetation - my understanding was that part of the background to that was that during the regional forest agreements process and looking for the comprehensive, adequate and representative reserve scheme, that somebody decided there were certain types of plant and animals that occurred on fertile, agricultural soils that typically weren't represented in the national parks or government-owned conservation areas and that because all the best fertile agricultural land was freehold, if they wanted to protect those systems, they would have to make some accommodation with the freehold landowners. Is that the start of all this?

**MR DOWNIE:** I'm not exactly sure. Where we're coming from is that we don't believe that the cost of protecting these rare and endangered species should be borne by the landowners; they should be borne by the wider community.

**DR BYRON:** That's pretty much where we've come down to.

**MR DOWNIE:** I guess if there are species on those improved and fertile country that people perceive need protecting or need building back up, then perhaps government should go and buy a piece of this country and lock it up to preserve it on behalf of everyone, and that's probably the better way of achieving that result.

**DR BYRON:** But there may also be examples where locking an area up and excluding all stock from it, has the opposite effect, where it doesn't actually preserve it, but the weeds or the grass or something takes over and kills the plant that you were trying to save.

**MR DOWNIE:** Exactly.

**DR BYRON:** So in many cases people are arguing that country has to be looked after; you can't just fence it off and walk away. So then the question is: who is best equipped to look after that? If you want to manage it for conservation, should it be done by National Parks rangers, or should it be done by landowners who live there? There are many different points of view on that.

**PROF MUSGRAVE:** I can't remember if you were here this morning - - -

**MR DOWNIE:** No.

**PROF MUSGRAVE:** We had a lot of discussion about the possible role of local government or the actual role of local government and the possible future role of local government in relation to managing native vegetation, biodiversity or other natural resource, environmental problems, and one suggestion - a hypothetical

arrangement we considered was that local government be empowered and suitably resourced to undertake commitments that it had made to the state government to deliver certain environmental outcomes. This would involve the local government negotiating with land-holders to take certain actions to deliver these environmental outcomes in return for payments such as you've suggested should be made.

What is your reaction to that sort of thought? I'm saying it's purely hypothetical, so don't think that we're going to rush off and say this should be done. Let me just go on a bit: it's couched in the broader problem that if local communities are going to be empowered and resourced to deliver environmental services to the wider community, how do you organise the local community to do this? What sort of body should do it? Local government could be one such body to do what I've described. What is your response to that?

**MR DOWNIE:** I suppose local government is always the closest government to local communities, to the people. If it was fully resourced, I suppose it would be a good way to implement that strategy, but there will be other people who would probably be opposed to that because it's another impost on local government. I think if people wish to put forward the idea that they want local input, then they've got to participate and make sure that they step up and have an input into the results.

**PROF MUSGRAVE:** The proposal does contain within it the thought that if it costs local government to do this, then local government is paid for doing it. So the impost is an additional responsibility, not in terms of an extra demand on an existing body of resources. We were talking to Don McShane - do you know Don?

**MR DOWNIE:** Yes.

**PROF MUSGRAVE:** Are you a councillor?

**MR DOWNIE:** Yes, we're both on the same council.

**PROF MUSGRAVE:** There you go. So unfortunately we can't have a three-way conversation because of the transcript, but Don was very concerned that you put in - well, how do you keep councillors who are farmers actively involved in this process, but shelter them from the difficulty that's created by them making judgments on what their neighbours, the people in their own farming community may or may not do. Would you see this as a difficulty, and if it is, a way in which it could be handled?

**MR DOWNIE:** It would take a bit of working out in thought. If you're talking about something different than the compiling of the list or what are recognised as being rare and endangered - - -

**PROF MUSGRAVE:** No, it's more than that.

**MR DOWNIE:** You're talking about the implementation of that?

**PROF MUSGRAVE:** Yes, implementation. So if the council is charged with the responsibility of preserving sufficient of the habitat of a threatened species as decreed by a state government, then it's the responsibility of that council to work with the community to develop some plan which will deliver the outcome with appropriate incentive payments to landowners but, presumably, the plan developed in such a way that it minimises the damage that's done to the farmers' businesses.

**MR DOWNIE:** I think the implementation, the working with the local communities, can be handled, but to actually work out what is rare has to be done on a bigger scale, because what is rare in one area might be in abundance if you looked at the state as a whole. I think it's a bit difficult to have it brought down to that level.

**PROF MUSGRAVE:** But if the council or an appropriate committee that it creates is involved in negotiation with the state as to what that target should be, or the rarity of the species and what should be done to counteract the threat to the species - in other words, if the council or whatever the local body is was empowered to strike an agreement with the state, this could involve denying an ability to deliver what the state is demanding, and the state is denied the possibility of mandating that the local community should accept that responsibility.

**MR DOWNIE:** It wouldn't work, would it?

**PROF MUSGRAVE:** You don't think it would?

**MR DOWNIE:** Not if you - no, I think the guidelines would have to be set up by a body that's bigger. Are you talking about implementing policy through the local government?

**PROF MUSGRAVE:** Indeed, a policy which is a local policy which has been developed by state and the local government body through a negotiated process - in other words, it's got a say. The local community has a say through the council in what should be the target of a policy with regard to that threatened species as it bears on that community.

**MR DOWNIE:** It could be done, could be achieved.

**PROF MUSGRAVE:** Yes.

**MR DOWNIE:** I suppose whichever way, there will be problems.

**PROF MUSGRAVE:** Yes. We're talking about something which I think is very hard, and I'm not joking. Yes, I think it would be very hard, but we're also seeking ways of doing it. I think there is general agreement that if local communities could be more involved, not just in the consultative sense, but in an executive sense, with resources, with responsibilities and accountabilities, that would be a good thing. You would agree with that?

**MR DOWNIE:** Yes, definitely.

**PROF MUSGRAVE:** So I think we have a task: what's the best way of doing it? A suggestion is that local government would be a way of doing it; others would say catchment management authorities; others would say ad hoc committees. We're going to hear from someone later talking about a particular instance of such an ad hoc grouping of landowners, but how we'd do it is not exactly clear, so I was just sort of bouncing some things off you to see what you felt about it. I think what you're saying is what I would expect - that is, it sounds good, it could be practical but it would be pretty difficult.

**MR DOWNIE:** Yes, I think so. I was more targeting on how that list is actually compiled.

**PROF MUSGRAVE:** Yes. No, we're going beyond that; a bit more ambitious than that.

**MR DOWNIE:** Yes.

**DR BYRON:** But it seems to me that there would need to be some sort of negotiation or discussion or whatever between the state government and either local government or local community people or whatever, about what, if anything, is the problem; what needs to be done; what could be done; how much might it cost, who would pay for it; who would do it. When you find out how much it might cost, you might decide maybe it shouldn't be done here; maybe it should be done somewhere else. But it seems to me that in many places in Australia we never actually have that discussion. If the state government just passes a law and it says, "Everybody everywhere must preserve a certain type of species or tree or grass or heath or shrub or something," some places might be able to do that relatively easily at a relative low cost; in other places it imposes horrendous costs on people to try and do it.

If we had a system whereby you could talk it through in different parts of the state, the government could then say, "There's people here who think that they've got a way of achieving the conservation of this species much more easily and quickly and safely and securely and inexpensively than anyone else," so we make it a

contract with them to go out and manage and secure however much of it we agree on. To me that seems far more likely to achieve the conservation outcomes the government wants at very little cost, and the people who actually do it get paid to do it and therefore do it reasonably willingly rather than because they're forced to.

**MR DOWNIE:** Exactly.

**DR BYRON:** But it might be a bit complicated to have those initial discussions because, as a number of people this morning said, the government seem to be spending large amounts of money to save things but we're not even sure - as you also said - that they're rare or they need to be saved. There have been dozens of examples of that sort of thing. We spend a lot of money saving things that were actually doing very nicely, thank you, by themselves. But we're rushing into implementing the answer without having worked out what the question was first.

I appreciate the point that you make in the submission about a need to clearly define: is there really a problem, or what is the problem? How big is the problem? Where is it, and why is it a problem? We need to do all those sorts of things first, before we rush into throwing lots of money at it, or rush in to imposing very serious costs on a small group of land-holders for what may be negligible results. I don't think I had any other questions.

**PROF MUSGRAVE:** No. I think we've got it all quite clearly in the submission and in your presentation. I don't think I have anything else I want to explore.

**DR BYRON:** Was there anything else you wanted to say?

**MR DOWNIE:** No.

**DR BYRON:** If that's the case, thank you very much for coming and thank you for the effort that's obviously gone into the submission. We appreciate the feedback and the instructive suggestions.

**DR BYRON:** Mr Innes-Smith.

**MR INNES-SMITH:** I just thank you, commissioners, for allowing me to address you today. My name is Peter Innes-Smith. I farm out on the west coast, a property called Temma Farm, in the middle of the Arthur highland conservation area. My apologies for not have this typed and to you before, but something happened to my secretary, so if I could just read this through and go from there.

**DR BYRON:** Thank you.

**MR INNES-SMITH:** I've travelled a six-hour trip to have my say because my serious concern is beyond expression as to freehold land title being tampered with, and we're rapidly being denied development, with a process of manipulation imported and reinforced by the media, the education system and the environmentalist radicals. Our property is well endowed with vegetation and gentle sloping gullies secured with fencing to allow the maximum of regeneration to gain its full potential of growth to play my part of greening Australia. I just add there, our property is three and a half thousand acres and I think we have about 400 acres actually fenced off that we consider for water quality and allowing the regeneration of the bush for shelter in these areas.

My goal is to have a property that is sustainable to provide a living for myself and staff with food production values. This community makes a living from farming activities by the services they provide. Destroy a farmer and/or farmers and you will destroy a country community. What would the city urban people have to say in Tasmania if a quarter of their sections were possibly taken without payment to set aside for native vegetation planting compulsorily because it was there in days gone by, and wildlife corridors with rabbits, possums and everything else going through the towns? Would they vote for and would they protest? I am sure we would be going in the same direction: balanced, not radical, ideology.

The government departments working in this area have an extremely poor performance to demonstrate their capabilities and honesty. The Meander Dam was a glaring example. Wildlife experts were found to be wrong; also the assessment of flora and fauna. The decisions made on native vegetations will have repercussions to the people on the land and the economy and laws. I believe the magnitude is not understood. We have and are already seeing developments being opposed with no logical reason but to stymie projects with credibility and commonsense progress.

The Arthur River Road is a glaring example. The Arthur River Road was sealed from the Marrawah end to the Arthur River, and it's a job that the council would normally have taken six weeks to do, and they were held up through people saying quolls would be run over and they had to put culverts underneath the road for

quolls, and then there were all these hold-ups, and a six-week job ran out to six months. They actually ran into wet weather, so the sealing was not completed, but to get their money they still had to seal over a wet road, so they were put down as trial areas, but this summer they have to go back. I would hate to think what that cost overrun was, and it fell back on people having their say for their environment.

The ratepayers pay twice for these issues, leaving less money for hospitals, health, education et cetera. Now the farmers are the target for land grab by regulation laws upon laws. The eco-radical ideas have come out of United Nations treaties and laws. The non-human species are taking precedence over the needs and desires of humans. Biocentrism, a simple explanation: save a whale, but the same person might abort a foetus. You must not disturb a rabbit burrow if you don't get a government permit - this is coming out of Queensland. Immediately you're slapped with a heavy fine. Are the bureaucrats going to inspect the hole? A permit at an unaffordable cost for resource management, a permit to register your cat, the latest topic, what's happened with the feral cats?

The costs being incurred on farmers will run them off their farms. Not only will we be loaded with covenants and laws, councils will be overrun by bureaucrats and watchdogs. The load will be so great that the salt of the earth, the farmers, will depart and the wilderness will reign. Karl Marx said, "No man should own land or property and this is the road to doomsday."

Just carrying on with property rights. We believe individual property rights are one of the most basic and vital elements of our modern Western democratic economy. Individual property rights must be the building block around which everything else is constructed and due process must be upheld at all times. In our country the law acts to ensure that a person's property cannot be arbitrarily removed by government without a good reason and due process. Agriculture, like other industries, requires secure access to specific resources and conditions if it is to operate efficiently, compete effectively in the marketplace and meet broader environmental objectives.

Land is the main resource required and hence land use planning has a vital role in ensuring that agriculture has access to those resources and conditions that are conducive to sustainable development. Without these you don't get the money for infrastructure, export works, vital fertiliser works, schools, hospitals and all the rest of it. Where it has been mentioned earlier that the plan is to have councils put this into their planning scheme this is where the thin edge of the wedge comes in and they can start to tamper with freehold title. Planning and environmental considerations are generally given as justification for the anti-property owner. The policies are used to influence land ownership and control.

Where actual title to a property is acquired by government for a public purpose, the owner of that property is presently entitled to fair compensation - such as with the construction of highways and powerlines et cetera. Economically, however, the value of land may be reduced by legislative restrictions placed upon it, therefore reflecting the ability of the owners to finance their farm business, for example, bank loans, et cetera. Where the issue of individual property rights is less clear is when the title to a property is not taken away but restrictions are placed on the land for that, in the interest of the wider community.

We believe where restrictions are placed on the use of productive agricultural land in the interest of the community, the landowner should be entitled to compensation from the community that stands to benefit from the restrictions. Environmental objectives such as the protection of an endangered species, clearing embargoes to preserve native vegetation, the conservation of biodiversity and the reduction of greenhouse gases are benefits that the entire community enjoy. However, these outcomes are often achieved via the imposition of restrictions on the use of land that can have an adverse impact on farmers. Similarly, the ability of owners to use their land can be compromised by the existence of gas pipelines, telecommunication cables, phone towers and the like, and the creation of associated easements.

It is easy to see how a landowner could be left with a meaningless title. A farmer could own land but be unable to grow crops, graze livestock or, in the case of pasture land, being home to a threatened species. The farmer may even end up by being unable to drive across that area. Such restrictions can also affect the value of property because of the uncertainty and delays. A landowner may be forced to wait an unacceptably long time for a determination to be made in respect of an environmental conservation or planning issue, or in respect of an easement over the land. The status of the land may be left in limbo and its productivity impaired for many years.

This is why the signing of the regional forestry agreement in Tasmania has been so important, because they give the forest entity some certainty in the resource of former property rights, but I totally disagree with that same agreement being signed off on agricultural land. The two just don't work, but that is what has happened. Farm management is also affected by uncertainties created by new and complex restrictive laws. Decisions made about the use of land may increasingly be driven by the need to try to avoid laws that remove or restrict property rights, rather than by economic considerations.

There are also wider economic implications for the rural and regional communities of which the affected farms are part. In the absence of better protection of property rights, landowners may be discouraged from really the existence or



conserving of endangered species of fauna or rare flora on their property. Have investigations ever been made why some of these rare species can't be cloned for reintroduction in later years if necessary? Landowners may also be discouraged from making long-term investments in the environment health of their property if there is a danger that these investments, such as planting trees, may result in them facing further restrictions on their property rights in the future.

As this forest agreement stands at the present time if I am to plant 50 acres in trees, from that date onwards when I harvest them I have to put trees back in there again. Consideration must be given not only to the economic and financial considerations of profit but also to social and environmental issues that are affected by economic development. It is essential that a set of clearly defined property rights be established relating to both ownership and use of agricultural land, backed up by legislative recognition if necessary. Owners of private property are in danger of becoming the enemy and bearing the brunt of a range of regulations.

At the present time we have 64 per cent of Tasmania tied up in national parks and World Heritage. I feel that until a minute study is done of that 64 per cent to establish exactly what is in there in the way of all these endangered species - how can we be told that a species on our land is endangered when we have 64 per cent of the country tied up that we have got no idea what is in it? If you want to lodge an application to clear some land they'll come in there with a microscope at your expense and they can't help but find something, but across the boundary there might be 50,000 acres of it. Yes, I think I have spoken enough there. Thank you.

**DR BYRON:** Thank you very much. I see you have got a copy of our draft report there with you. From what you have said I gather that you don't disagree with a lot of what's in our draft report.

**MR INNES-SMITH:** Look, this is 100 per cent better than what we were getting before, but I am just wanting to reinforce that - just keep tightening it up.

**DR BYRON:** Okay. Thanks.

**MR INNES-SMITH:** I am not condemning this, but I am saying this is what could slip through if we don't just make sure.

**DR BYRON:** A lot of people in these other hearings that we have had in the last two weeks who have taken us to task for not being firm enough with the importance - some have said, you know, sacredness of property rights. I mentioned this morning that we had had a long discussion with various lawyers on this issue. I have in front of me a decision from the Supreme Court of Queensland where a guy had a vegetation protection order put over his property. He appealed and appealed and

appealed and eventually it got to the Supreme Court. There are, to me, some rather surprising statements in there:

This land has been struck with sterility in relation to the uses he can now lawfully make of it. Except with council approval there is practically nothing he can do with it except continue to grow native vegetation and, perhaps, walk on it. For this severe limitation of his rights as owner he has received and will receive no compensation, although he continues to enjoy the privilege of paying rates to the council -

et cetera. All three judges - this is the Queensland Supreme Court - agreed and as one of them concluded, "Despite feeling a measure of sympathy for" - Mr So-and-so:

for the scant respect with which his rights as owner have been trampled on, an appeal against the decision below cannot and nor will succeed. The application for leave to appeal must therefore be dismissed with costs.

He got no satisfaction at all even though all three judges thought that it was - they used the word "unfair". As I say, it was debatable whether he could even walk across his freehold land without council permission. He still had to pay the rates on it. He was still legally responsible to protect it from weeds, feral animals and fire. Some of us might think that this is a rather unusual interpretation of what freehold title or state in fee simple ought to mean. All the lawyers that we have consulted about this issue are basically saying, "Well, that's the way the law is." Maybe we think it shouldn't be that way, but that's the way it is.

Rather than debate with the Supreme Court or go to the High Court on this we have taken, in this draft report, a somewhat different approach and said, "Well, maybe state governments have to pay compensation when they lock up land for native vegetation purposes." We are not lawyers, we are not going to go there, but we will argue that unless they pay something, they're not going to get the results they're after. Whether they have to or not, it would be wiser to work with the land-holder rather than trying to force him to do something which is so fundamentally against his self-interest.

That's why we don't have chapters in here going on and on about how important property rights are. It's not because we disagree with that sentiment at all. Our entire market economy is based on property rights. It's a fundamental in our entire market economy system that the people who own property have the best incentive to look after it and manage it, and not ruin it. We have tried to take what we think is perhaps a more pragmatic line, but that's by way of explanation of, or reaction to your comments on property rights. Do you want to take issue with us

further?

**MR INNES-SMITH:** I just say those three judges, they - - -

**DR BYRON:** We have to be very careful in criticising judges.

**MR INNES-SMITH:** It obviously comes back to a political decision like: is freehold land freehold or isn't it? If they can come at your property like that because of some native fauna or something that is perceived to be endangered, when the banks hear about that they're not going to classify land as good collateral, are they?

**DR BYRON:** That's right. It has implications.

**MR INNES-SMITH:** How do we get that one sorted out?

**PROF MUSGRAVE:** The problem is that freehold is not a single indivisible right in law. It's regarded as a bundle of rights and when we're talking about the conservation of native vegetation or biodiversity, we're talking in the ensuing regulation about taking away some of the bits of the bundle of rights and not the whole lot. Apparently, in law - and this is law as interpreted by scholars of law - the state is not obliged to compensate. To change that, I understand, not being a lawyer, would be very, very difficult. We're being pragmatic. I must admit we're not addressing that very, very fundamental principle in law because as non-lawyers it's very difficult for us to do so.

In relation to this particular problem we're being pragmatic and saying, "Well, let's not talk about compensation. Let's be forward looking and talk about ways in which we can provide incentives to landowners to provide the environmental services the communities wish." The value of such incentives could, of course, be equal to that of any compensation that might have been payable, or judged to be payable if it was to be paid.

**DR BYRON:** Thank you. That's what I meant to say. After all that sort of explanation and excuse-making - sorry.

**PROF MUSGRAVE:** I didn't quite follow what you were saying, Mr Innes-Smith, about the RFA process not being appropriate for agricultural land. An interpretation which I thought I picked out, but I'm not sure that it's what you meant, was that it was not appropriate to tree farming on agricultural land. Did you mean that or something broader?

**MR INNES-SMITH:** From what I understand - and I have got forestry working and it fits very timely on one boundary - it leaves a little strip of bush between the

forestry land and our land. I thought it was a good time to tidy the whole thing up. That is when I was told, "If you tidy it up" - because I thought I would be putting it into grass to the boundary, you see - I was told, "No, it will have to go back into trees."

**PROF MUSGRAVE:** I see.

**MR INNES-SMITH:** The Forestry Act is exactly the same on agricultural land as it is for forestry. This means that every little depression of a certain width and depth - and different widths and depths require different corridors set aside - so if you're clearing 100 acres - if you're logging 100 acres of bush to replant it, it's relatively simple to go in and with blue tape and pink tape mark the exclusion zones. Then the area is cleared and then it's replanted. But if I'm wanting that for grass and all these little bits have got to be excluded, it's uneconomical for fencing, it's uneconomical to get the stock from A to B - but the same conditions apply. The same conditions. I am not against protecting waterways and all this sort of thing but just because it's a hollow and it only runs water for three months of the year, it's just crazy fencing it out of a grass paddock.

**PROF MUSGRAVE:** Okay. Thank you very much.

**MR INNES-SMITH:** The shade factor - trees come up and roots and suddenly, you know, five acres of bush protection here affects the grass for another couple of chain either side.

**PROF MUSGRAVE:** I understood you correctly. Yes, that's what I wanted to establish.

**DR BYRON:** Coming back to helping us try and finish off, to improve and tighten up and make the clearest possible recommendations we can when we do a report to governments, do you have any further suggestions? You've heard the conversations we've had about clarifying what native vegetation needs to be conserved, why and where and then who's going to do it and who's going to organise it and who's going to pay for it. It seems to me that some of those are scientific questions and some are administrative or organisational questions. It seems to us that the people who live on the property, the land-holders, have a very fundamental integral role in all of that discussion and yet they are also very busy trying to run their farms and they don't have huge amounts of free time to go to endless committee meetings.

What we're trying to grope toward are constructive suggestions on something that would be workable and reasonable that would give the community at large good value for money in terms of the environmental results that they would pay for; that they would know how much they are paying for it and they could see how much they

are getting and they could decide whether they want to have twice as much or half as much. If there were any more hints or clues in that direction you could give us, it would be helpful.

**MR INNES-SMITH:** I'd have to completely agree with earlier speakers that we are really working in the dark because we don't know what they want and what the costs and what the end benefits are. I say with 64 per cent of Tasmania tied up now, how do we know that anything is endangered? That has to go under the same microscope as if you put an application in to do a block on your farm and that's when they really find the things that we don't want to hear about. The average farmer today - his farm is his lifetime investment and I don't know any farmers that rape them. They farm them to their best ability, to get the maximum grass, the maximum production out of it, minimise weeds and all these other things.

Once again, to finance these things - because we have another element that is wanting to shut these things up - I believe we should have what we call a greens tax that the government introduces to fund all these things, so that people know they're paying this tax, to fully understand what the environment is and what the dangers are out there because it's going to cost a lot of money. I, as a ratepayer, don't want to foot it but I'm prepared to pay a greens tax for it so. If I have a profit, I pay accordingly.

**DR BYRON:** One of the points that you raised, and I think Councillor Downie raised before, is the question of scale. I have heard many times over the years, somebody will say, "We've got to protect this patch of native bush because it's the only one in this district," or "It's the most northerly occurrence" - or the most easterly or westerly or southerly occurrence - "of this species". As you say, you might have 100,000 hectares of it over the back fence in the national park but this particular one is the most easterly occurrence of it. As you were just saying, if it was made clear to all the citizens of this state how much it is going to cost to set that aside and to manage it and look after it and to stop it being infected with weeds and stuff, the taxpayers might say, "Well, actually, we've already got a couple of hundred thousand hectares of that; we've lost interest in this bit." But at the moment - - -

**MR INNES-SMITH:** The spotlight's on that.

**DR BYRON:** - - - that seems to be free, because the taxpayer is not paying and the state treasury isn't paying. It's only the person who owns it who is paying, at the moment.

**MR INNES-SMITH:** Yes, so until a minute study is done, we really don't know what is endangered. Then when you come back to endangered species, what would we be like today if we still had blooming dinosaurs running around? They do come

and go, don't they?

**DR BYRON:** In the longer or short term.

**MR INNES-SMITH:** One other problem that we have here with this influx of tourism is that the forestry put roads into remote areas to work timber and, of course, the tourists like to go down that area to see these big trees. So why don't we suggest to government, with this \$15 million that they're sitting on, that they put a road from Dover, shall we say, to Queenstown, through that World Heritage park, select where all of the best trees are and all the best things and encourage the tourists to go through and see what a pristine area is actually like? Don't go down a blessed forestry road where they are actually cutting secondary growth, but there are some old, burnt skeletons sitting there and the media coverage that gets. Let's get the cameras out and let's develop something that will really bring tourists to Tasmania and make it a world drive. Is that in your area, or not?

**DR BYRON:** Not really, but I imagine that some people would be violently objecting to that because their view of a natural area is something that you have to walk there for 10 days with a good sturdy pair of hiking boots.

**MR INNES-SMITH:** I believe that is very selfish because we aren't all able and fit enough to enjoy it. There will still be huge areas they can walk out to. I'm just talking one little chain strip winding through the interesting part of it.

**DR BYRON:** That's an interesting proposition.

**MR INNES-SMITH:** That might be outside the power of this committee but it's got to be brought up somewhere at some time.

**DR BYRON:** One of the other points you mentioned that made me prick up my ears was the question of the costs that the legislation imposed on the road construction. Our terms of reference ask us not only to look at the impacts of the regulations on land-holders but also on infrastructure development and mining and various other things, but this is an infrastructure example. We've heard a few other examples around the country of where road construction costs or railway construction costs have been very greatly increased because of the native vegetation regulations. Any idea how we could try and get a handle on how much extra that road had cost?

**MR INNES-SMITH:** I would say the council - you'd have to go and ask Councillor Oldaker there but it was just ridiculous. They talked about wanting white chips, you see - so that you could see the wallaby - when driving down in the headlights and you could dodge them. They have bitumen - the plastic thing on the

side of the road and when you go over it, it squeals. They have sealed this road. We used to be able to do 100 km per hour before Louisville and now it's sealed we can only do 80, and that's in the middle of the day when there's no vermin out there. It is 24 hours a day. They've put these plastic culverts underneath on the high parts for the quolls to congregate and then walk through, like school children crossings.

**DR BYRON:** Do they know how to use the crossings?

**MR INNES-SMITH:** There has been delay, delay, delay. They'd get plant in to do the job and then the plant would have to go - another objection. This was the Conservation Trust, was it not, John? We're plugging these all the time. When I go back, if you like I will endeavour to find out what the per kilometre cost would be because we had the same thing happening in the forestry. We had two roads to town, one through Edith Creek and one through Arthur River. Forestry were sealing a similar stretch road and they were in today and gone tomorrow and the job was finished, whereas with Arthur River they started before Christmas and it was July before 17 K was done. It was pathetic. Everybody was frustrated about it.

This doesn't give you a good feeling about the people who are trying to impose these restrictions on us. Unfortunately with Arthur-Pieman, for instance, that went from crown land to conservation land and with what Parks and Wildlife told us before and what they told us afterwards, nobody will trust a word they say. Yet these are the people that are going to be telling us what we can and what we can't do on the farm when it comes to rare species - or the same type of person - they have show their hand and they lie and they cannot be trusted.

**DR BYRON:** That's another recurring theme, now that you mention it, which has come up in every single hearing we've had, the breakdown of trust.

**MR INNES-SMITH:** Yes. It's just not there.

**DR BYRON:** In New South Wales there are people who have barricaded their farms to stop government officials coming on and that sort of thing. Again, we are arguing that if you want to get good, long-term, sustainable land management, ultimately farmers and government departments need to be able to at least talk sensibly to each other like intelligent adults. That breakdown of trust is going to take some time to restore, I think.

**MR INNES-SMITH:** It would be nice to get a couple of these young environmentalists, freshly out of college, to come and actually work with you for a couple of months, to actually see the other side of the picture and see that we are environmentalists.

**PROF MUSGRAVE:** Be kicked by a cow, perhaps.

**MR INNES-SMITH:** At least once a day. That is so true. What John is saying there, you don't need to explain what it means, do you?

**DR BYRON:** Okay. I think that covers it very well, Mr Innes-Smith.

**PROF MUSGRAVE:** I was just wondering if you have any comments to make on the discussions that we've had so far today? We've ranged far and wide.

**MR INNES-SMITH:** I'm pleased that we have attended the full day of hearing, because if you don't, you don't really know what is going on. I would be most disappointed - because the first speaker spoke and bolted and I think he would have learnt a lot from what was said afterwards. I'm pleased the speakers here are not - you can read a report afterwards and really, it's not the same as going to that meeting. That first speaker would have been - and yet tomorrow you'll pick up the paper and you'll see what he says and you'll wonder if that was really the same meeting we went to?

**PROF MUSGRAVE:** Would you encourage us to persevere with our efforts to try and identify ways in which communities can be more effectively empowered in the management of trees and biodiversity?

**MR INNES-SMITH:** If you haven't got people talking - we've got to be around the table, achieving the same ends and we'll get there. What's happened to date has been dropped on us like a bomb; we had no warning. We went through practically an identical hearing six months ago with the upper or lower council - I'm not too sure which one it was. I should have had that information with me today. They actually came to Smithton and heard us there. I've been chasing them to get the finding of that report. I don't think they are going to release it until after you release yours. It's out, but it's not for my eyes, only for the politicians' eyes.

Without any warning we suddenly had these. The excuse has been - in Queensland they gave the people a warning that this was going to happen, so they were out with their bulldozers and chainsaws and levelling it. Tasmania said no, we won't tell the people what's going to happen until it's law. Now everything that we're trying to do, there will be a \$25,000 instant fine for doing this, there will be a fine for doing that, there will be a fine for doing this. That's not really the right way to get onside with farmers, or anybody.

**PROF MUSGRAVE:** I can't understand why.

**DR BYRON:** Thanks very much. Is there anything else you wanted to say, just to



wrap up?

**MR INNES-SMITH:** I think we have hammered that one hard enough. Agriculture must remain as a permitted use on any district scheme.

**DR BYRON:** As of right?

**MR INNES-SMITH:** As of right. I know a lot of people that it has saved their lives being able to sell land to tree - to gums. If they hadn't been there what would their properties have been worth? They were able to sell and come out and re-establish. Now people are squealing because a lot of valuable land has been taken for trees. But there are a lot of farmers happy because they are relocated. Then the farms that they have bought, those people are happy because they have - it has a chain reaction, and if you suddenly stop this - yes. Thank you for your time. It has been good.

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

**PROF MUSGRAVE:** Thank you.

**DR BYRON:** Thank you for coming such a long way.

**MR INNES-SMITH:** It has been pleasure.

**PROF MUSGRAVE:** At personal expense.

**MR INNES-SMITH:** When I say, "It has been a pleasure," it just worries me why that room is not full of farmers, county councils. It's good to see one or two councils here, but every council in Tasmania should be here fighting this.

**DR BYRON:** Thank you. Speaking of councils, Southern Midlands Council, please. Thank you very much for coming, gentlemen. If you could just introduce yourselves for the transcript and then take it away.

**MR HOWLETT:** My name is Colin Howlett and I am mayor of Southern Midlands Council. I would certainly like to introduce the Southern Midlands Council's development and environmental manager.

**MR MACKEY:** My name is Damien Mackey. As Colin said, development and environmental services manager, Southern Midlands Council.

**DR BYRON:** Thank you very much for the submission.

**MR HOWLETT:** First of all I'd like to, on behalf of my council, congratulate the commission on the report which we believe is very encouraging because we believe that the report issued thus far by the commission is certainly taking into account some of the traumas and problems which property owners face. We would like to reinforce that we appreciate what we interpret as being a very fair report thus far. Can I also congratulate the commission for not being bullied by the anti-farming lobbyist that seem to be very prevalent at this point in time.

I'd certainly like to make a few dot point comments before I pass over to Damien to actually go through a number of matters that we would like to reinforce, that were in our original report. From my point of view I would say that our community is certainly very disappointed with what appears to be the state's rights issues being taken away from the state of Tasmania, and I say this. I believe and we believe that this particular regime that appears to be in place at the moment is certainly not reflecting the intent and the spirit of the way in which the federation was formed.

The federation was formed, as we understand it, on the basis that states would have the right to represent their communities and territories. However, in this particular case we would contend that the states' rights have been taken away by the federal government offering buckets of money. We believe that the state government - in this particular case, in Tasmania - has been lured by the bucket of money which has been offered to them, with no compensation or no intended compensation for any imposts that may well be placed upon the affected people.

It's quite clear that there is an alliance between the federal government and the state government, which appears to be scheming to handicap property owners and in particular farmers. We know there are mechanisms, in the public's interest, for the government to put into place notices to treat, where compensation is paid, and that's a

common practice at the moment for any issue that might arise; that superior governments and state governments have that right to be able to issue a notice to treat. That clicks in a procedure and process, which allows appropriate compensation to be paid. So we are arguing that there is no need to reinvent the wheel.

If the government is honest enough to come out and be transparent enough to say, "Well, look, we know that many of these regimes that we want to put in place are going to handicap property owners," we believe that the regime is already there and in place, and if they were honourable they would use that procedure which has been used for many, many decades.

A regime is already in place for federal government and state governments to have interface with these particular issues. I say that because at the moment there seems to be a deal between the federal government and state government, whereby the state and territory governments are actually grabbing the funds and putting them in a black hole. The people that are suffering the handicaps never see any results from the amounts of money paid from the federal government to the state government.

A good example is the national competition policy, and Prof Hilmer says that he was totally misunderstood by people representing governments. State governments are paid buckets of money. That's put into the states' black hole, and the people who have to fund those regimes never get any compensation for doing that. So it's just an added source of taxation because it comes back onto the local shareholders. Many people call them ratepayers, but in the terms of local government I'd like to call them shareholders because I see a distinct difference between shareholders and stakeholders.

The anti-farming lobbyists, they don't have as much investment, although they would argue they do. I would certainly argue that they don't have the investment that shareholders have, in the context of farming. Farmers may well invest many hundreds of thousands of dollars in a particular investment program, where, with a stroke of a pen, that investment is most likely wiped out. Whereas my understanding of stakeholders, and my council's understanding of stakeholders, is that anybody who lives in a state or territory is a stakeholder and it's okay for them to have these glorious shopping lists, where they want to introduce everything but they don't have any ways and means of financing those programs. Some of these programs can bankrupt an organisation very quickly if they don't have the opportunity to be able to put in a business plan and fund it.

Even Prof Hilmer said that he represented an organisation that had a five-year plan. That five-year plan was moved to a 15-year plan and they were able to put in a

blueprint and a business case study, which allowed them to be able to implement a successful business plan over a 15-year plan, whereas the five-year plan was just financially impossible to be able to achieve. So that's the point that I would like to make there.

The federal government has a regime, and a good example of it is that there is a regime between local government and the federal government called the Roads to Recovery Program. The Roads to Recovery Program has just been revised; I think it goes out to the year 2009. That has been fought against very vigorously by some of the hierarchy in state and territory governments because they have argued that local government is incapable of being able to get the best value for the buck.

Of course those people that have been arguing against that particular regime – have certainly lost that argument until 2009, because it has been proven beyond reasonable doubt that that arrangement has been producing some very good outcomes and is financially affordable for the community. But that has been resisted fairly strongly, and I'm suggesting that maybe there is an opportunity to be able to set up a similar regime so that the finances are not channelled through state and territory governments but are channelled directly from federal to local government. I think there are certainly some really good and affordable outcomes there.

The anti-farming lobby appears to be over zealous in presenting its shopping list. As I heard a speaker, just a moment ago, say, they are very good on quantifying the shopping list but when it comes down to actually identifying and producing evidence on that shopping list, very often they fall short of coming up with the goods. At this particular stage I will stop at this point and I now ask that Damien make some comments emphasising some of the issues that we have already mentioned in our earlier report. Thank you.

**PROF MUSGRAVE:** Could I just ask a question of fact, just the one question of fact? The bilateral agreement that you've referred to, and a number of people have referred to today, I'm not clear just what is that in regard to. Is it a bilateral agreement between the state and the federal government, in relation to NHT, NAP or the EPBC Act? Damien, can you - - -

**MR MACKEY:** It's in regard to NHT, and specifically in regard to non-forest native vegetation.

**PROF MUSGRAVE:** Yes. Okay. I just needed to ask that, because we have to have particular regard to the EPBC Act. So I was concerned whether it might be that. Thanks very much.

**MR HOWLETT:** You realise, sir, that that agreement was signed without

involvement of the other shareholders? It was actually signed, and after it was signed our state government came back and said, "Well, in effect, we have to make it work. It has already been signed, so they are now looking for the frameworks and structures which will attempt to make it work after the signing of it." It was important to our state government to get that bucket of money.

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

**MR MACKEY:** Mr Chairman, my comments will be more directly related to the brief submission that we have just handed to you, and I will start off with general comments. We want to get on the record that council certainly generally supports all of the recommendations of the draft report. As Colin said, we congratulate the commission on producing what we would believe to be a balanced view, and distilling the views of a large number of submissions, I would imagine, and from a very wide range of stakeholders. We certainly believe that the consultation process has been a good one and we thank the commission for that.

There are just a few points that we have raised before in our previous submission that have some bearing on some of the recommendations that we would like to reiterate. In regard to the first recommendation:

Before implementing a native vegetation biodiversity policy a regulation impact statement should be prepared that includes an assessment of the problem being targeted, the expected costs and benefits of the proposed policy and assessment of alternative instruments. And this assessment should be made public.

Council would like to suggest that the recommendation include specific reference to economic, social and environmental factors in regard to the analysis of costs and benefits. We think that's important to get that on the record, that we are not just talking about environmental issues and that when we do introduce these regulations they do have impacts upon the economic and social benefits and that the recommendation could specifically refer to those three factors; the triple bottom line. I'm told by some people that those terminologies are becoming out of date, and so whatever other terminology is used or coming into fashion.

In regard to recommendation 4, "Current regulatory approaches should be amended to comply with good regulatory practice," and there is a whole range of dot points under that recommendation. Under this point, firstly, council reiterates its point that it made in its previous submission, that regulation should be considered as a last-resort-type mechanism and in favour of partnership, and voluntary approaches should be tried first to try and resolve issues regarding native vegetation and biodiversity. That's just a point right at the start. However, once it is decided to

adopt a regulatory approach we again repeat the importance of the principle of clear democratic accountability.

We spoke about this previously. Where regulations and rules - whatever you'd like to call them - are developed by levels of government below the level of the elected representatives then there must be a clear demonstration of compliance with the will: ie, the policy of the elected representatives. Again we refer back to Tasmania's resource management and planning system within which state policies were meant to be a cornerstone - more so than a cornerstone: the engine room of the system, whereby the will of the elected representatives of parliament, in fact, could be put through the whole system.

At the moment we have three state policies. Several are arguably not very good, I would suggest. What we have overarching everything is this principle of sustainable development and we all agree we want sustainable development, but it's a very broad concept and no-one really know what it means. The idea of state policies was that for particular cases, for particular issues, what sustainable development actually means on the ground in practice would be given some direction by, in fact, parliament.

The fact that we only have three state policies with no more on the horizon as we speak, to my mind means that we have a system which is largely flying blind, below the level of the elected representatives. Organisations such as the Resource Planning and Development Commission have to get on with approving planning schemes and so on, but they do not have the policy direction from elected representatives of the people and in that situation they effectively have to make policy on the run, as they have to approve planning schemes and deal with many issues the planning schemes raise, including biodiversity and vegetation issues.

In this policy vacuum, very vocal minority groups are able to bring undue influence to the decision-making processes through the public notification processes that revolve around the advertisement of draft planning schemes, amendments to planning schemes or in fact actual decisions at the planning level when developments and so on are advertised. We would hope that perhaps the commission might emphasise the importance of democratic accountability basically; whether it's at the state level or at the local government level.

All big planning decisions are political decisions. No matter what a lot of people might say, they are political decisions more than any other discipline that we have. Just speaking from personal experience, I originally trained as a land surveyor. It's a very exact science, of course. There's one right answer and every other answer is wrong. The one right answer you can prove beyond doubt is the right answer. With planning, it's a very different kettle of fish.

There is, in any complicated decision, a mixture of expert evidence or expert recommendations, but that is only 50 per cent of the input into any decision. The other 50 per cent of the input are value judgments and they are brought by, in most cases, the elected representatives of the people. There are also public consultation processes in there as well, but we must recognise, I think, if our society is to go forward, that the elected representatives of the people are still the primary way in which the will of the community at large is brought into those decisions. We need to remember that.

Just in regard to recommendation number 8, I think many other people have covered that in the submissions I've heard today, and in regard to the possibility where compensated regulation may be appropriate; that council just certainly wants to enforce that. There are certainly situations, we believe, where compensation is appropriate and it's not reflected in the current system at the moment. Thank you.

**DR BYRON:** Thank you very much for that. As I say, we have already talked about the compensation. Even if there isn't a law requiring states to pay, it's frequently much wiser to do it if they want to get results. Can I just come back to the question of the Commonwealth-state bilateral. I presume there is some sort of outcome or performance that Tasmania is expected to achieve or produce in exchange for this bucket of money.

It just occurs to me, hypothetically, if the state was to realise that say it was actually going to cost 20 million to achieve these results and the Commonwealth was offering 10 million, it wouldn't look like such an attractive deal, would it? Maybe they're thinking they can take the 10 million and do it for nothing.

**MR HOWLETT:** State government, sir, is in a win-win, because what the state government is intending to do and they will do it, is transfer the responsibilities - other than some interim up-front finance to employ individuals with special skills to get it up and running, my understanding is that the state government has no intentions of putting any resources into it whatsoever, other than employing people in the interim with special skills to get it up and running and then they will simply - as I understand, they will certainly legislate then to transfer the responsibilities of the management and the jurisdiction part of it over to local government. Now, local government, certainly in general terms, won't have the resources to do that, unless they go and employ specialists to do that.

**DR BYRON:** So you will be lumbered with the responsibility, but not given the appropriate resources to do it?

**MR HOWLETT:** Well, it's a very, very clear example of cost shifting. If the cost

shifting continues, it's going to bring about the demise of rural communities. That is certain. It will bring about the demise of rural communities. Now, it's very difficult to get across to people who live in cities that the majority of wealth is generated in rural Australia. Obviously we do have wealth-producing organisations in cities, but generally we would contend that cities are service industries. It simply will mean that it will bring about the reduction of people who live in rural Australia. They will have to move to the cities and more populated areas. In turn, that will bring about the requirement of additional public utilities, such as sewerage, water, roads and other commodities.

**DR BYRON:** Are you suggesting that there's also a sort of vicious spiral; that if some people are forced off the land, people start to move out of a rural area. The rates burden for those who remain goes up and makes them less viable and that sort of thing. The smaller number who are still there, you know, end up having to pay for all the infrastructure costs of roads and so on.

**MR HOWLETT:** Unfortunately, rural councils are confronted with the infrastructure costs. It's widely known that councils are having pressure put on them. They need to maintain rural roads. Many of the rural municipalities have substantial road lengths. They have to be maintained. Development costs in these rural areas are very, very similar in a subdivisional - and we won't be talking about subdivisional, because people will be moving out, but the costs generally are greater to live in a rural area than what they are in city areas. The finances will bring about the demise of rural communities.

**DR BYRON:** Could I take you back to the other point that you raised with the Roads to Recovery idea. I would like to hear a bit more about this sort of direct mechanism for funding from the Commonwealth to the local. Now, that process obviously works for road funding. How would you see it working for funds for local government to deliver in terms of native veg outcomes?

**MR HOWLETT:** I believe the principles can work equally well as it has for the Roads to Recovery, but it won't happen because you will have state and territory bureaucracies fighting that. They won't want it.

**DR BYRON:** But they didn't want it for roads either, did they?

**MR HOWLETT:** No, they didn't want it for roads. They fought that rather vigorously. However, you know, commonsense prevailed in this particular case and local government did have some very good outcomes and some cost analysis which proved very strongly that the program was worthwhile. That's my understanding as to why it has been extended to 2009. We don't have that benefit. All we have is the principle of how it's worked and quite clearly it's certainly worth considering. I



believe that there would be some very interesting outcomes if there was a financial study done on that basis, similar to the Roads to Recovery; use the similar principles.

**DR BYRON:** I guess one difference is that we know pretty much how much it costs to build a kilometre of road to a certain standard and it's very easy to see whether it has been done or not done, whereas the whole native veg biodiversity area tends to be a lot more fuzzy. You know, nobody seems to know exactly how much it costs or what exactly you're going to do or how you measure how well it has been achieved and these sorts of - - -

**PROF MUSGRAVE:** Or what should be done.

**DR BYRON:** Yes, or even what to do. I can imagine that it's much more straightforward to make a sort of contractual deal between the Commonwealth funding agency and local government that says, "We're going to build X kilometres of road from A to B to a certain standard and, you know, you can come and see it when it's finished," whereas if you say, "Well, we're going to arrange for a group of land-holders to manage various patches of native vegetation for flora and fauna outcomes and water quality and catchment and" - blah, blah, blah, it's not as simple, is it?

**MR HOWLETT:** I think it is. I think it's arguably as simple, because, first of all, we need to put the cost benefits onto these regimes that are proposed. Now, once we put the cost benefits in the public's interest - and this is the point that I was making about the notice to treat. Being a layperson, I have some difficulties now in coming to grips with what you said about the Queensland that has been made, because I - and many other people - believe that private titles are sacrosanct. Private titles have been used for decades and decades. It's probably similar to gold bullion in the banking industry - land; because so much hinges on it. That Queensland supreme court decision is frightening. I'd say it's really, really frightening to private title owners, because of the implications of what I understand is the judgment on that particular issue.

But I see it that we come back to the basics again; we then make an assessment of these regimes and programs that the anti-farming lobbyists want to put in place, and the environmentalists. A lot of that is dressed up. There is no doubt in my mind whatsoever that there is an agenda there and that agenda is simply to attack the farming industry and make it less viable than it is. I think if we can then make an assessment, the federal government should produce that material and give us what would perhaps come to a business case study. They have obviously identified - by putting these regimes in place - that there is a value.

I would argue that that value - on their argument - is going to be in the public's

interests. Then I would like to assert that if it's in the public's interests, and it's justified, it should be the public that is paying for that. It comes back to, once again, it's fairly easy to make assessments on what is an appropriate compensation. That will vary. It depends on the degree of the property owner's handicap that has been placed on him or her. Getting back to the Roads to Recovery situation I don't think it's any more difficult than the regime that's been used for the Roads to Recovery. Obviously in the Roads to Recovery there is base, subbase, costs put on thicknesses, widths, transitions of curvatures in the road seal and obviously we can go back to the basics and then start putting costs on the benefits to the public. From that point, I believe the regime is just as easy to manage as the Roads to Recovery Program.

**DR BYRON:** Good, thank you very much.

**PROF MUSGRAVE:** Just pursuing the same line for the moment, in your introductory remarks, you talked about states' rights. That was in the context of the bilateral agreement, wasn't it? Could you just repeat those, or explain it again?

**MR HOWLETT:** Yes. I commenced by saying that federation was formed, the colonies were formed without spilling a drop of blood, as I understand it. As I understand when federation was formed it accepted that states would be able to govern in their own right, and I think there were also mechanisms put in place where states could have free trade without penalties, between states. My argument is that by the federal government offering state and territory governments buckets of money, they've overridden those states' rights. That's a simplistic equation, but that's my understanding. That minimised any further discussion between the federal and state governments to achieve the outcome that they now want to achieve. I'm simply saying that I believe it's questionable, what they've done. I think it's wrong.

**PROF MUSGRAVE:** Yes. Thank you very much. Without being an expert in such matters, I note that our Federation has a history of the Commonwealth eroding state rights, if we use that phrase casually, in that way. Take education, which constitutionally - well, I don't know if it's constitutionally - but it has been a state responsibility and it's now been transferred to the Commonwealth effectively through the use of Commonwealth funds, and in many other areas, such as health and so on. But I wonder if we're not also seeing an erosion of state rights if we have this bypassing of the states through direct transfers from the Commonwealth to local government as you're suggesting, if we model our policies on the Roads to Recovery Program. I am not saying we will, I am just wondering.

**MR HOWLETT:** I guess it's a matter for debate. It's a matter of making an assessment of how that is done. It's possible - I wouldn't argue that they are not, because I don't understand it intimately. I certainly know that it is being done legitimately. Things are happening between the state government and the local

government where local government is becoming the whipping boy. It's mainly with cost shifting, where these responsibilities are being moved from the state government on to local government and, in turn, it has been suggested to me that there is some need to discuss about the taxation regime because it means that we all pay our taxes to the Commonwealth. We all pay our taxes in one way, shape or another and then, when it comes down to the local level, down to the shareholders in the municipal areas, it is suggested that there is argument that maybe they're being taxed again - they're taxed on a tax, on a tax, in fact the local councils have put their contribution up to make the municipal area viable.

**PROF MUSGRAVE:** I wonder if, in the case of environmental management - we'll use that wider phrase than native vegetation and biodiversity - we were to put in place arrangements where the Commonwealth was to directly fund local government, if we need to be careful that we don't bypass legitimate state interests. Once again, if I can talk about something that I'm familiar with - the Murray-Darling Basin - if say, the Commonwealth, as it tends to with the NAP, was to fund directly local government in relation to salt strategies without the states being involved. The states could claim that they have a legitimate interest in such arrangements because the state has its overall statewide responsibilities for salt management within the catchment, the total catchment, or the total basin. I think we could find similar arguments advanced in respect to native vegetation and biodiversity just because of the wide spread of the vegetation and plants and animals generally. I wonder if that couldn't be a bit of a difficulty.

**MR HOWLETT:** It may do. It perhaps ought to be discussed with a lot of due care, but obviously if it's discussed with the state government and it's transparent, the state government would know exactly the way in which the discussion was headed; whereas I would argue that that is a distinct difference between what happened with the bilateral agreement and the federal government. I mean, the federal government and the state government signed the bilateral agreement. Up to this point of time the state government has made it clear that they're not going to pay compensation but they're simply going to cost shift the cost and the expense on to the local shareholder. In this particular case there is little fairness and equity because it's not shifted right across the board.

Obviously the cost is not going to be as great for the people in the - we'll use the City of Hobart. It's not going to be as great as what it is going to be in the Southern Midlands or Northern Midlands. It's self-evident. When the state government has already nominated municipality of Circular Head, King Island, Flinders Island, Northern Midlands and Southern Midlands - they're the ones that have been chosen to be involved in this at the moment. Other than those municipal areas, the others have very little interest in those other municipalities. In those other municipalities are where the greater population is. If we talk about fairness and

equity there is no fairness and equity in it, because if it was right across the board one could accept an argument much more readily than one can in this particular instance, because it's predominantly the lower-populated area.

I mean, Southern Midlands, 2500 square kilometres with a population of less than 6000 people in a predominantly farming area, relying on the production of wool, some essential oils, but predominantly wool; a lot of those enterprises are aimed or focused on wool and farming and tourism. So it has a great effect on our small rural area. I come back to the point: one doesn't have to be a rocket scientist to know that if this cost shifting continues, rural councils are just simply not going to be able to coexist.

**PROF MUSGRAVE:** Let's just change the focus a bit. Let's say that we don't have to worry about the states and we have such direct relationship between Commonwealth and local government, we then have a situation where local governments accept buckets of money from the Commonwealth to do certain things in relation to the environment, right? We now seem to be approaching a situation a bit like that we discussed with Don earlier today and so on, where local government is accepting the responsibility to plan out and meet the targets set for it by the Commonwealth, in return for which the local government body has accepted this money.

So they have to plan for how their community will deliver these targets and that will mean the councillors and their staff accepting the responsibility for allocating or determining winners and losers within the council boundaries - a situation which Don was concerned about - and we thought perhaps we might raise it again with you two. It seems we have a good heading under which to raise it. What are your thoughts?

**MR HOWLETT:** If I can have first go on this. First of all, I would say it's certainly possible. I would say if the local communities are doing it with adequate budgetary considerations - and that goes without saying - it just can't be thrust upon us like it's intended that it will happen, as it stands at the moment. With proper budgetary and adequate budgetary considerations, I would say that the community would most likely embrace it and have ownership of it, rather than have big brother come in and just say, "You're going to do this." I think with adequate budgetary connotations I'd say it's worthy of discussion.

**PROF MUSGRAVE:** But there could be some hard decisions to make. I can't comment on your position because I'm not familiar with it, but a situation which was explained to us in Queensland was that in a number of locations the seeming requirement of the state government was that wildlife, vegetative corridors be established between the upland and the coastal systems, which would run through

areas of established cane farms.

Now, if that responsibility was divulged to local government it would have to make a decision which farmers' land would have to be allocated to this corridor. That is, which farmers in the shire would have to give up some of their land for the corridors. Mind you, we're entertaining here, I presume, the possibility of some sort of payment for doing so, but I - - -

**MR HOWLETT:** I think, with the greatest of respect, we should entertain fair and just compensation. It's like a partnership arrangement. If 99.9 per cent of the partnership arrangement is on one side and there is .1 of a per cent on the other, it's not really a partnership in most communities' views. But if there is adequate compensation paid it's a decision that I feel generally local government would make. But it's this other regime where - if you put the proposition to me where the council is going to come in and force people off the land, or handicap them from earning their livelihood, I really don't believe that local government would have the capacity to do it, because there would be war declared.

**PROF MUSGRAVE:** And presumably that could well be the sort of situation that Don would be concerned about. Damien, I cut you off there.

**MR MACKEY:** I just want to suggest perhaps that local government, being closer to the people, perhaps wouldn't sign up for these buckets of money with the federal government unless there was some adequate level of compensation in there.

**PROF MUSGRAVE:** Yes.

**MR MACKEY:** It seems that perhaps the state government are willing to sign up without enough thought in that direction, perhaps because they are a bit more removed from the people.

**PROF MUSGRAVE:** And could I observe that perhaps we could not entertain such arrangements between state government and local government. If the Commonwealth and the states could enter into such transactions why, in principle, couldn't the same thing happen between the state and local government?

**MR MACKEY:** Yes, I don't think there is any principle that would stop that. Going back a few points before, in talking about direct agreements between the Commonwealth and local government, I was going to suggest that perhaps what needs to be thought about is genuine tripartite agreements between state, local and federal government. The problems seem to occur when two parties get together and exclude the other.

**DR BYRON:** It's agreed that the third one will do all the work.

**MR MACKEY:** Yes, it has happened. The national packaging covenant is one. Yes, but perhaps genuine tripartite agreements, although local government seems to be always on the back foot, I guess, because ultimately local government only exists because state government says it does. So it's fundamentally in a lower bargaining point, but if the federal government, as a third party to the agreements, were there, that could - - -

**PROF MUSGRAVE:** Counter voting power.

**MR MACKEY:** Could counteract that and perhaps keep all parties honest if there are three parties involved.

**PROF MUSGRAVE:** Yes. Now, Damien, have you got any comment on Don's lack of faith in bureaucrats in local government, or if they have responsibility for implementing the policies which council has decided was part of this agreement?

**MR MACKEY:** I think it's important that local government is resourced to achieve whatever tasks it is allocated. Certainly at the moment local government wouldn't be geared up to implement such a regime that we've been talking about at the local level; so in any agreement that needs to be taken into account that local governments need to be resourced adequately to undertake whatever tasks they are given.

**PROF MUSGRAVE:** I think that Don had more, or less - I'm not sure - in mind than that. He is not at the microphone, so I - but I read him as saying that as soon as it's handed over to the staff of the council you lose that local expertise that the farmer members of council bring. He seemed to be very anxious that the staff be responsible for implementing the policy, because of the difficulty of making decisions dealing with people by the councillors, but the councillors bring this wisdom.

**MR MACKEY:** Again, it comes down to democratic accountability I think, at the local level this time. The councillors need to establish their policies to direct their staff and also make it very clear to what level of delegation they are giving their staff. Which decisions can be made by staff on their own under which circumstances, and which must come back to the council table.

**PROF MUSGRAVE:** I'm certainly very comfortable with that response.

**DR BYRON:** I don't think I have anything else, except to thank you for the constructive suggestions on those recommendations in your written submission, which we shall give all full due consideration to. Is there anything you wanted to

say, either of you, in summing up?

**MR HOWLETT:** No, sir.

**MR MACKEY:** I'm finished. Thank you.

**DR BYRON:** Thank you both very much for coming. Thank you for your input.

**MR HOWLETT:** Thank you.

**MR MACKEY:** Thanks for the opportunity.

**DR BYRON:** At this point we always offer the opportunity to anybody in the audience who would like to come forward and have their say on the record to please come and do so.

**MS SWAN:** I will, thank you.

**DR BYRON:** If you could just introduce yourself for the transcript.

**MS SWAN:** Yes, thank you, commissioner. My name is Denise Swan. I would like, after having listened to the evidence, to take up the invitation to make some comment, because it seems to me that there are a number of matters that I've been able to observe in my past career as a minister for local government and also a member of the farming community, with regard to some of the things that have been said. Also as a former shadow treasurer for the state of Tasmania I probably cover a range of areas that might be pertinent to some of the matters you were discussing in the sense of the implementation of the regulations that we are dealing with today.

**DR BYRON:** Absolutely.

**MS SWAN:** I wanted to reflect on the ability of local government to deliver in a program such as this, and I think there were some comments made by Mr Whyte earlier in the day with regard to the way the RFA is carried out. I know that at our level we have had an approach, in the contractual sense, to provide a component of the RFA suite of species that are being looked at, so an invitation has been extended for a response in the full market sense, if you like. You are able to reply if you wish to or not if you do not wish to. It seems to me that in the nature of a free market, and also in the nature of property owners, that that is a most amenable way of going about providing a service that the Commonwealth, and indeed the public, are seeking. There is a sense of land ownership, control and respect for management principles that I rather like in that style.

If it comes to the implementation of local government, having been earlier than in my ministerial capacity, a mayor of a local government area in the state I have been able to observe I think the great difficulty that exists in local government to occasionally deliver very tough decisions if, in fact, they are forced to implement regulations. If they are going to exist in a different arena, and are recruited by the state or by the Commonwealth to go out and find those services in the nature of looking for people who would enter a contractual arrangement, then they may do that quite well. They may well be well and truly aware of the species that are being hunted, of the people who are willing to come forward. They may have access to the community in a way which would allow them to obtain the contracts, if you like, that are being sought by the Commonwealth in order to fulfil the biodiversity arrangements.



If, on the other hand, it is to be viewed in the nature of the imposition of a series of regulations, then I think in fact that can be quite difficult for local government. I've sat in councils where you have to deliberate on the future of maybe even adjoining neighbours' lands. That can be an extremely difficult arrangement and, indeed, I think any member of local government here would back the suggestion that I make that on occasions this is a level where personal antipathy, personal emotion or indeed personal pressure can be exerted. So a family you know in straitened circumstances - good people - deserve an additional chance, there may be an emotive response to something that probably should steer clear of emotive response. So I note only that I think that there can be a personal difficulty at that level.

I think everybody from local government here has made comment with regard to resource and I can only back that up. They would say, of my period, I didn't provide it either, but on the other hand it is absolutely immutably necessary, if you're going to carry out a service on behalf of someone, that the local government format is not weakened by having to hire for itself additional expertise. That, of course, in an economic sense, brings up another problem. That is that the hiring of a number of these experts at the small level, at the local level, can of course be seen as economically inefficient unless there can be coagulates of bodies to do exactly that, or indeed there is some reciprocity with the state government to provide that sort of service at the state level, so that we can identify data as being correct and true.

I must say that I found it particularly invaluable to sit here today, to hear what is a most concerning note in this whole format. That is the uncertainty, in many instances, and the reliability of data. In other words you have the data, but that's not always going to be the full summation of all knowledge and, as was mentioned I think by someone else who sat here, the Meander Dam case where there has been a change in classification only just recently of course is an excellent case in point. So of course we can face the future with farmers struggling to make their way in a highly competitive open market system because they, of all areas of the economy, subject themselves to free market principles, and they may find themselves in very difficult circumstances if they cannot rely on data, if it is not given to them as you, commissioner, have noted and also your fellow associate commissioner has noted - if there isn't certainty about data so that management can then plan and act accordingly.

I think my reflections on the local government scenario are simply that it can be difficult. I think arguably you might say there is a degree of economic inefficiency in the hiring of many experts that won't necessarily be present in the local government fabric. I certainly endorse what has been said by those members of local government who have spoken so far, and that is that if you were to do that then of course it would have to be fully resourced. But I simply argue about the economic

efficiency of doing that in some respects unless it were to be on the basis of a recruitment by local government to go out and find those who would participate in a contractual arrangement and thereby would be known to local government, may well be more than happy and would be easily identified by them. So they may be very good recruitment people in the sense of local knowledge. I would be worried about having to leave them with the job of implementation of a series of regulations, but I think the contractual arrangement I would feel quite comfortable with.

**DR BYRON:** Or particularly a sort facilitative role rather than as the regulator.

**MS SWAN:** Very definitely. I think they have a true ability in that area, but I think the sense of having to regulate can impose lots of difficulties at that level.

**PROF MUSGRAVE:** The McShane problems.

**MS SWAN:** Yes, indeed.

**DR BYRON:** One of the reasons that we've been sort of going on about this is that to a certain extent it is now proposed that there will be these regional natural resource management bodies in every state in Australia, and yet it's far from clear exactly how they are elected or appointed and by whom and, you know, what's their constituency? Who are they accountable to?

**MS SWAN:** Yes.

**DR BYRON:** To the local ratepayers or to the minister and the state capital side of it. So although there may be some difficulties with using the existing local government structure there are probably different difficulties in plonking in an overlapping regional NRM Board.

**MS SWAN:** I couldn't agree with you more. In fact, I think that's absolutely correct and carries with it huge dangers, I think. I think at least in a fully-elected representative body there for the purposes of carrying out a multitude of functions, you're likely to get a better overall local government aspect that would be more favourable and more careful of the local government area that it was judging and working for, than any catchment board could be. Also in small populated areas - and the regions of Tasmania are certainly thinly populated when compared with other more suburban centres, but certainly other regions of in Australia would fit into the same category - we are sometimes at pains to find people who will actually be able to participate in these sorts of areas.

I make one observation. We have had in the last decade, I suppose a little bit over a decade, a change in the land use planning legislation here in this state which

was done on an environmental basis which introduced the third party system into the appeals arrangements and into the general discussion of land use in the state. Before there had been a specific categorisation of a thing called material use, or material effect, basically, so that those who were materially affected by a land use change were permitted to come before an appeal tribunal and put their case and were allowed, therefore, to have a judgment on their behalf should they prove that they were materially affected.

There has been quite a huge change in the flavour of the legislation and I think that has, in many respects, acted to the detriment of those who hold land and those who farm in the state as a result, and they have found themselves somewhat unprotected as a result of that change. Catchment boards and other groups of that nature, I suspect, are going to be once again subject of the same sort of flavour where those who are indeed materially affected won't always hold the prevailing view on those boards. That can leave them at a massive disadvantage unless the other component that you're investigating - that is, incentive - is not properly attended to.

I know that's something you have already deliberated on and will go on to deliberate further, but to me the multiplicity of bodies and thinness of the population imposes additional pressures on those who are already heavily involved in their productive enterprises, some of whom, as has been mentioned earlier, may well be riding very thin on the edge of their sustainability and probably simply have not got the time to give to these things, although they may in the end be massively affected by them.

**PROF MUSGRAVE:** Thanks. That's very, very useful. Just a question - it's a thought that arose in our discussion elsewhere of regional community bodies having greater responsibility in this area. The thought was expressed that one local government entity may not be sufficient to deal with a particular local problem, that several local government entities should be involved, which implies cooperation between councils. I know we have instances of such cooperation across the Federation, but I wonder if you have any thoughts on that.

**MS SWAN:** Tasmania has been quite good at being able to combine local government resources. In fact, two councils that we have represented here have done quite a lot of work between the two of them in setting up tourism propositions, in working in other ways to benefit their general communities. We also have regional bodies in the state. We have regional collections of councils which, as you would know, debate and work conjointly over a number of propositions which they - - -

**PROF MUSGRAVE:** What about sharing resources?

**MS SWAN:** There is a little of that. That was something that was pressured some

years ago and there was some development of resource sharing in the state. There would be members now who would be able to tell me whether or not that's proceeding much of a pace currently, but there has been some work done by more active councils in that area. That remains a possibility. I am really still, again, looking at that aspect of economic efficiency and how far you have to go to get the data reliably looked at and what arrangements may, in fact, be made with the state to transfer knowledge for payment or whatever the case is, or how the Commonwealth, indeed, would deal with the state in providing expert data to local government so that they could perhaps go out and recruit people. I see local government in the role of recruitment probably quite happily. Again, I can hear them echoing in my ear and they would say, "Well, even in that area it would require some manpower." They would see a need for resource which is entirely proper. At that level they may be extremely useful and would be well and truly alert to what is happening within their local government area, of course.

**PROF MUSGRAVE:** It would seem to me that if there was a seriousness about achieving clearly enunciated objectives and meeting the necessary costs in doing that by the holders of purse strings at all levels of government, then it would not be beyond the wit of man to conceive of ways in which the skills could be made available to the relevant levels of decision-making within government.

**MS SWAN:** Indeed. I agree with you totally, I think that's perfectly possible. Given the one thing that appears to have been illuminated by many who have given evidence here today is satisfied - and that is that data is more and more looked at before moves are made that may have economic implications for farmers, then I think there would be a greater deal of satisfaction in the farming community particularly.

**PROF MUSGRAVE:** Yes. So you've got discipline on sort of ambit claims?

**MS SWAN:** Yes.

**DR BYRON:** Thank you very much for that. That was most helpful, especially considering your experience at various levels.

**MS SWAN:** Thank you kindly.

**DR BYRON:** We will take a two-minute comfort stop break.

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**MR HAMMOND:** For the record my name is John Hammond. I'm a beef farmer in the far north-west of the state. Our family have been operating a cattle operation on a coastal situation up there since about 1958. I was asked to relate a case story, which is one that has actually happened and is still an ongoing situation, regarding a situation that came about in the late 1990s when Birds Tasmania put in for an NHT grant to do a feasibility study for Ramsar listing a coastal wetland in our municipality.

Just to explain: the area I am talking about is on the north coast of the Circular Head municipality and it's an intertidal area with a rise and fall of the tides of about three and a half metres. According to the World Wildlife Fund analysis it's one of the top five coastal wetlands in south-eastern Australia, particularly for migratory wading birds that breed in Siberia, come down the east Asian flyway and then spend October through April feeding and resting and building up their fat reserves before they migrate north for their breeding season in Siberia.

Most of the locals, including myself, had no idea what a Ramsar listing meant, apart from - as it was explained and went through the process - it was an international listing for the protection of wetlands that had international significance. The public consultation was conducted by one lady who was engaged through this NHT funding. It was a very minor sort of consultation. Of the 27 land-holders between Woolnorth Point and the Stanley Peninsula, that actually bordered this area they were talking about, only four were actually personally visited and discussed on a personal one-to-one basis about their views regarding it.

There were several public opportunities for the general public to come in as well, but when you're starting from a zero base of understanding about the implications of a Ramsar listing on an area, most people read the words and don't take any notice as to the importance of attending those sort of meetings. What happened in the end was that Birds Tasmania were saying, "We must Ramsar list the area in order to then get funding to do an impact assessment or a management plan for the area." We were saying, "That's a case of you saying, "Trust me and everything will be all right." We were saying, "Why can't you do the management plan first? Let us have our input and then we'll either support it or not."

There were a whole host of stakeholders, apart from Birds Tasmania, that had an interest in this wetland. It's a very important recreational area for the Circular Head municipality. There are farming activities along the coastal strip. It's very important for recreational use and tourism. There is also abalone diving and other marine activities that occur. There was a wide range of interest as the issue became more apparent that, as a local community, we needed to have a look at it. We got to a point where - with a Ramsar listing it is very easy to become established. In fact, all the state minister for the environment, who was David Llewellyn at the time, had

to do was to actually sign off on it. It would then go to Canberra to be rubber-stamped and then registered at the international headquarters for Ramsar listings, which I believe is in Switzerland.

From our point of view there was no right of appeal and there was no input into that initial proposal put to Minister Llewellyn. We decided we must lobby against that and there was a local group formed to lobby the government. This was leading up to, I believe, the 2001 state election - that we should lobby the government but not just say no to them about this area, about looking after it, because obviously it's our own backyard and we love the area and we're interested in looking after it as much as anyone else. We're interested in looking after the birds just as much as the Birds Tasmania people are, but we didn't agree with the style of management and the conditions and extra layer of bureaucracy that could be put on the local community because, with these Ramsar wetlands, anything that occurs in the catchment area above the wetland also has to be considered.

In our municipality we have three main catchments and essentially 90 per cent of Circular Head flows north with the drainage catchments into this wetland so if someone wanted to develop a little bit of land, put in a dam or whatever, they might have to do an assessment or feasibility study to see how it would impact on the Ramsar wetland. Of course, the proponents for the listing were not accentuating any of these points. We had a media day; we had a well-organised campaign and in the end we were able to exert enough political noise to the minister, so that he had to take a serious look at the proposal we put forward.

The proposal we put forward was that we would form a Landcare Coastcare group to manage the area in partnership with the National Parks department and the local council because Parks have jurisdiction over coastal foreshores and some of the islands in the wetland area. The minister, to his credit, accepted that proposal and decided to knock back the Ramsar listing. What has happened since then is that the locals have actively done the right thing. We've had a very successful group going. We turned around immediately to Birds Tasmania and offered a peace pipe. We said, "Look, we have no dispute about looking after the wetland or wanting to look after it. You recognise that it's the best wetland in the state and that's partly because the locals haven't spoiled it."

Over time we have maintained it just through our natural course of activities. So we now have a relationship which is much stronger than would have existed had we had the Ramsar forced down our throat. In fact, one of the senior Birds Tasmania people has actually publicly stated that the situation that now exists, with this partnership and this cooperation between the locals and their group, is better than the Ramsar listing because they are actually getting more outcomes, favourable outcomes for the wetland than they would have received in a hostile environment.

We have been able to work with the World Wildlife Fund which have put money into the program to do a value-mapping exercise. We made sure as locals that the values mapped were not just the environmental values, but they were the historical, the cultural, the recreational, the indigenous, the farming activities, so that at some stage in the future if someone wants to look back and assess that situation, as of 2003 we will have a documented report showing what all those values to the community were, not just the environmental. We've been trying to take a very balanced approach. Our membership is open to anyone who wants to join.

We've had interplay with the TCT, Birds Tasmania - they have all supported Enviro Fund applications we have put forward for funding to do projects in the wetland. Over the last two and a half years we have been able to attract nearly \$100,000 worth of funding to do projects in the wetland, so it has been a win-win situation and it's an ongoing partnership which is still going on in a happy, cooperative environment. I know that doesn't represent a blueprint to solve all the problems we've been talking about today but it is just a case history that I'm pleased to be able to relate to you today.

**DR BYRON:** That's a lot more than a glimmer of light. It's a big glimmer of light, because as you say it demonstrates what can be achieved through a cooperative partnership type of approach, rather than trying to use the big sledgehammer to ram through.

**MR HAMMOND:** Yes, and it's important that the best environmental outcomes will be achieved by the locals having ownership of part of the process - the decision process - which has been reiterated by other speakers today. I agree with Brendon Thompson, too. I thought a lot of his viewpoints were valid, that the locals on the ground are the ones that can identify a lot of the issues that need to be addressed and then go from that bottom-up approach.

**DR BYRON:** You have also got a very strong incentive to get it right, because you live there.

**MR HAMMOND:** Yes, that's right. The differences between what were perceived to be the positions initially of the environmental group, Birds Tasmania, so to speak, and the local, you would have thought they were far apart, but after working together for several years we're almost side by side with the objectives that we wish to achieve and the objectives they wish to see achieved. There is a fundamental shift since the Landcare movement started. In my opinion, that's when basically a lot of environmental awareness in the real community started to escalate and, yes, I think we're all moving closer together with regard to our environmental objectives.

**DR BYRON:** What sort of composition - you said that the group is open to anybody.

**MR HAMMOND:** Yes.

**DR BYRON:** At the moment, is it mainly farmers or people who live on the coast?

**MR HAMMOND:** We have a lot of oyster production in our area, so we have a mix of oyster growers, a few abalone divers involved, we have a few of our councillors who come along to meetings, we've got Birds Tasmania people who are members of our group as well and the rest are made up of farmers, but it's certainly not heavily weighted with farmers at all. It's a pretty good mix which I think, for us, is a lucky mix, but just naturally is occurring.

**DR BYRON:** That's great. Warren?

**PROF MUSGRAVE:** Is it all contained within the one municipality?

**MR HAMMOND:** Yes, it is.

**PROF MUSGRAVE:** Was that an important thing, do you feel?

**MR HAMMOND:** Yes. The wetland didn't extend over a municipal boundary into another council. Circular Head, by its nature, has always been an isolated municipality. In a sense it has a very strong sense of community because of that. The community, although my American accent must sound funny to you, but - - -

**PROF MUSGRAVE:** Not at all. We've heard it before.

**MR HAMMOND:** It is a very "look after your own community" type of place. The locals will get off their backsides and look after local issues, if they need to.

**PROF MUSGRAVE:** That would have helped, I guess.

**MR HAMMOND:** Yes, and I don't know if what happened in our area, in our particular situation, would naturally replicate in other areas. It requires a lot of maturity amongst our Landcare committee to be open-minded and mature enough to offer that peace pipe back and to be open-minded to listen to what the Birds Tasmania people have to say, because we actively said, "We need to learn from you guys as well." It has been an enriching process for me personally to learn more about these birds and the natural cycle that they have because it is truly quite an amazing feat - these little birds and what they do.



**PROF MUSGRAVE:** So you formed a Landcare group?

**MR HAMMOND:** Yes, that's right, and by being an incorporated group we could then apply for funding through Enviro Fund, grants from the Commonwealth and things like that.

**PROF MUSGRAVE:** And you continue as an incorporated group?

**MR HAMMOND:** Yes. That's correct.

**PROF MUSGRAVE:** You have certain executive responsibilities then, performed by the group?

**MR HAMMOND:** Yes, that's right. We have to do acquittal forms and final reports and things once the grant expenditure has been done.

**PROF MUSGRAVE:** Who are you accountable to? The Commonwealth?

**MR HAMMOND:** The Commonwealth, we signed an agreement for the funding.

**PROF MUSGRAVE:** That's for the funding. The municipality - any formal accountability?

**MR HAMMOND:** What we're doing is playing a role of actually probably saving some headaches for the local council, because if we weren't doing it then there would still be stakeholder interests from outside the area putting pressure on somebody, and it would be undoubtedly the local council to look after the environmental values that they are concerned about. We have been able to actually take the heat off the local council by having our own incorporated group.

**PROF MUSGRAVE:** That is trust, not accountability, isn't it?

**MR HAMMOND:** That's true.

**PROF MUSGRAVE:** Which is a nice thing to have. What about the state? Is there an accountability to the state?

**MR HAMMOND:** No. Most Landcare Coastcare groups aren't locked into targets they have to meet and a lot of them are very inactive groups. We felt that if we didn't take an active role we would have outside interests hitting us with a stick to drive an agenda that we may not have a role in helping to set.

**DR BYRON:** You did engage with both National Parks and the Circular Head

Council?

**MR HAMMOND:** Yes.

**DR BYRON:** So that they are partners in this exercise. They are involved.

**MR HAMMOND:** They are.

**PROF MUSGRAVE:** You seem to have built up very strong relationships with bodies at different levels and, once again, the trust element is terribly important with all of them.

**MR HAMMOND:** Yes. That's true.

**PROF MUSGRAVE:** Have you lost anything through not having Ramsar listing?

**MR HAMMOND:** No, I don't think so. I think that the amount of funding we've been able to gain for the projects, we've been able to achieve anyway because of the importance of the area.

**PROF MUSGRAVE:** Perhaps if there was a human threat to the wetland, if you were Ramsar listed you would be protected under the EPBC Act.

**MR HAMMOND:** We're already protected under the EPBC Act - - -

**PROF MUSGRAVE:** Okay, so you've got that.

**MR HAMMOND:** - - - because a lot of these migratory species are listed for protection under that.

**PROF MUSGRAVE:** Of course, yes.

**MR HAMMOND:** That is what we were saying in our initial case, "Look, the EPBC Act already covers the issues you are concerned about. The EPBC Act has teeth, so why do you need a Ramsar listing on top of that, apart from it being nice and fuzzy to be able to list on the wall that we have another Ramsar site in Tasmania?"

**PROF MUSGRAVE:** Ramsar really wasn't that important.

**MR HAMMOND:** It wasn't really going to add any more protection.

**PROF MUSGRAVE:** Finally, how long has it been since you got your agreement?

**MR HAMMOND:** Essentially, we have been incorporated for three years.

**DR BYRON:** Just a tiny thing: this is something that is going to continue indefinitely.

**MR HAMMOND:** Yes.

**DR BYRON:** There is no sort of sunset clause in your incorporation - you have got yourself a job for life there. This is not something you just do for three years then walk away from, is it?

**MR HAMMOND:** No. It's a typical volunteer organisation so it's all up to the volunteers in the end, I suppose, as to how long it goes for and how active it is. It's such an important area for our community and there are so many of our locals who feel so strongly about it, that if a few of us fall out of the system along the way there will be others to replace us.

**PROF MUSGRAVE:** So you haven't felt the need for some sort of safety net, if I could use that phrase in the current - - -

**MR HAMMOND:** I don't know what the other safety net would be.

**PROF MUSGRAVE:** Abstracting from what seems to be the extremely sound community agency setting you have, it would seem to me that good management would call for a safety net. You know, a plan B that you can fall back on should the wheels fall off your existing organisation.

**MR HAMMOND:** That's a good point. I'll take it on board and discuss it with the committee.

**DR BYRON:** I would just like to thank you very much, John. I agree with you that this is not a template for how every other resource issue could be handled in Australia. What is really positive and encouraging about it is that, with good will and cooperation and trust and so on, people can work together and come up with things that are both very acceptable to land-holders and delivering environmental outcomes to everybody's satisfaction. At least, it's one more good example that it can be done if it's done right, so congratulations.

**MR HAMMOND:** Thank you for the opportunity to tell that story.

**DR BYRON:** That's fantastic. Thank you very much for making the effort to come down here and tell it.

**PROF MUSGRAVE:** Thanks, John.

**DR BYRON:** Is there anybody else who would like to make any last comments? If that's the case, then I can declare the public hearing closed and Warren and I will continue next Tuesday in Perth. Thank you very much.

AT 4.40 PM THE INQUIRY WAS ADJOURNED UNTIL  
TUESDAY, 17 FEBRUARY 2004

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