



**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, Associate Commissioner
PROF W. MUSGRAVE, Associate Commissioner

TRANSCRIPT OF PROCEEDINGS

AT MELBOURNE ON MONDAY, 23 FEBRUARY 2004, AT 2.07 PM

Continued from 17/2/04 in Perth

DR BYRON: Good afternoon, ladies and gentlemen. Welcome to the public hearings of the Productivity Commission's inquiry into the impacts of native vegetation and biodiversity legislation, following the release of our draft report in December. My name is Neil Byron and my fellow commissioners are Brian Fisher and Warren Musgrave on my left. The purpose of this round of hearings is to get public scrutiny and feedback on the commission's work on the draft report. This is the last of these hearings on the draft report. We've been all over the country, from north Queensland to Western Australia and Tasmania. We're working towards finalising the report to have it to the government before the middle of April, and having considered all the evidence that has been presented in the hearings and the submissions, and in our field trips. Participants in the inquiry automatically get a copy of the final report, once it has been released by the Commonwealth government.

We always like to conduct our hearings in a reasonably informal manner, but we do take a full transcript of the evidence, and for that reason we can't really have comments of the floor, but at the end of the day I always provide an opportunity for anybody who wants to make a statement or comment to come and do so on the record. Participants in commission hearings are not required to take an oath, but the PC Act says that they should be truthful in their remarks. Participants are quite welcome to comment on issues in the other submissions, whether to agree or disagree. We'll make copies of the transcript available to participants for checking, to make sure there are no transcription errors, and then the transcript becomes part of the formal evidence and will appear on the commission's web site. The submissions are also available there.

I would now like to welcome the first participant of this final round of public hearings on the draft report. Mr Weatherald, if you could just introduce yourself and your affiliation for the transcript, summarise the main points of your submission which we've received, thank you, and then we can discuss it.

MR WEATHERALD: Thank you, Mr Chairman. My name is Robin Weatherald. I live at 23 Hunter Street, Euroa in central Victoria. I am currently a private business person in Euroa and I am also holding the rank of councillor in the Shire of Strathbogie. The submission that I shall present today shall be my personal opinion, and not that of the shire, although with your leave, Mr Chairman, I would seek permission to dash off back to my car and bring along a relevant paper from the shire which I picked up this morning which was a submission that I was party with in presenting to the Victorian parliamentarians' draft submission on road safety, and basically concerned road vegetation. So it was very relevant and would be of some value to this hearing. I believe it contains a very simple distinct problem, and it addresses that problem and seeks the Victorian government to address the problem. It relates to basically current law in Victoria whereby the issue of roadside vegetation

and its removal for whatever purposes - road building or safety or whatever - requires an extraordinarily long paperwork process, and it is becoming intensely expensive for local government. So with your permission, when Mr Sebire is giving his presentation, I'll dash off and come back with this, and I'd like to add it to my actual submission.

With your permission today I have drafted up a PowerPoint presentation which is probably somewhat amateurish, but I'm only just practising and learning this skill. I find it quite a good venue to be able to tell a story, and what I'm going to tell you today is a story about roadside vegetation and some of the problems that we experience in my small community. As a councillor I have an interest in the grassroots perspective of roadside vegetation. My shire is actively developing a policy and strategy for roadside vegetation management. That policy was actively on the go two years ago, and since the shire has started the process and they sought public submissions, that has now all been canned again because the Victorian government has changed the fundamental regulations and rules.

So council is starting again from scratch, which is a pretty difficult area because some of the issues that I've outlined in my submission later on will highlight the firefighting risks, the risks to farmers and primary producers who use the land and seek to make a living off it, and some of the difficulties that are caused to them by some of the native vegetation legislation which makes it reasonably difficult. This week council received advice which highlights the legislation changes, and we are now going through a process which is going to be extended out probably by another two years. I find this pretty hard to handle, but that's the sort of thing that local government is probably bound up in - a lot of red tape, a lot of bureaucracy, especially when dealing with perhaps the state government of Victoria.

Items that are of concern to me are numerous. Personally I am concerned at the cost of current regulations. Now, I've got up there 5.8 per cent. The paper that I'm going to present to you today details the actual cost as being \$417,999. These are items taken out of the shire's current budget, and the item numbers are listed. That represents actually 7.8 per cent of the shire's total rate income. It's not the shire's total budget, of course, but when you're talking rate income, an impost of native vegetation is absolutely horrific. I can illustrate to you quite simply by also referring to - I've got three copies of this. If I have permission to give each commissioner a copy, you can refer to it. If we look at the copy of the shire's budget, page 11, and at the top of the page we look at "sealed roads section", and there's the whole list of expenditures that the shire spent on sealed roads. If we look for the most expensive item there, where the most amount of money has gone, we see that the trees have got the winning bid by \$122,700.

What this is clearly saying is that there's an extraordinarily large amount of

money being required to be spent on roadside vegetation and its management. Just the removal of one tree basically has the estimated cost of approximately up to \$5000 in paperwork bureaucracy. We've had it explained to us by officers that in particular positions, the lopping of limbs off overhanging trees on roadways will require a planning permit to go through the Department of Sustainability and Environment process. That, again, comes up with these huge numbers of costs. When we have total avenues of overgrown trees where the limbs are overhanging most of our roads, there is a constant program of tree-trimming required.

It's totally unsustainable for local government in my opinion to continue on down this process. The trees are absorbing an awful amount of income. The other very significant factor in our area is that if you've got a piece of bare land and you leave it unoccupied for 12 months, you will see an absolute proliferation of native gums and species, which will occupy that area in no time flat. You don't have to actually physically go out and plant gum trees in our area; they will grow very readily and quite actively.

I'm going to dash off on a bit of a tangent now, and so that's enough of the hard stuff. I'm going to put a different perspective to you, one that sort of alarms me about the way the green environment carries on. I believe they should take a very serious look at themselves. I've driven down local roads in my area and killed total flights of native parrots. They seem to dart out of the long grass alongside the roads and make a beeline across it in a formation. At a 100 kilometres an hour you can write the whole family off. I think that's a sad indictment of encouraging wildlife to habitat our roads.

I point out to you probably one of the most significant wildlife birds in our area, and probably Australia-wide, is the magpie. In our area they actively do live in roadside vegetation areas because of its protected nature in lots of ways. I would say to you, sir, and gentlemen, that up to 90 per cent of all of those birds are roadside casualties. It's quite alarming, in September of each year, the number of magpies that are splattered, and that's a tragedy. It should not really be happening.

I can take you to a fairly lovable koala in our community. We do have fairly large populations of koalas because we have the gum trees to support them. They certainly are in fairly large numbers in our area. I would put it to you that they have terrible roadside manners, especially on moonlit nights; they do sit in the middle of the road. I have, as I've stated in my document there, an experience where I had an early morning meeting at Seymour and drove in the company of the chief executive officer. We counted 27 fresh kills in one night. Now, that's an astounding number of koalas to go under motor vehicles in one night and it really is mass slaughter. If you have all of these wonderful gum trees up and down the highways, well, then I would suggest that we should shift the road because roads and koalas and trees really do not

mix.

From a road safety perspective - I'm probably going to dart off on another tangent, and I go back to perhaps when I was a young man - when I was learning to drive, et cetera. The modern phenomenon of large trees along roadsides, I believe, are a non-acceptable danger to all motor vehicles travelling along them. I think it's an avoidable danger. Only this morning, on the ABC, we counted two young fellows who went from a party up near Horsham somewhere and ducked off to get some more refreshments, lost control of their vehicle and wrapped it around a tree. I think the comment was that they had lost traction, or whatever, and they eventually found a tree. How many times does this have to happen?

I think there's a strong argument for all trees to be removed for at least 20 metres from any roadside carriageway. I believe 20 metres are less than the safety margin required from a vehicle that loses control at 100 kilometres per hour. Large trees close to road surfaces have a negative impact on the road surface itself and they also hinder the maintenance. It especially has an impact on the drainage of the road, which I believe is an important part of any road structure.

Safety barriers for cars and trucks, and I'll use the Hume Highway as probably my measuring point because I go up and down it enough times. I believe there's an ideal opportunity there to move away from the large tree vegetation and replace it in many places with edge-type formations about 2 metres high, which has the ability to block off the other side's headlights but also provides safety barriers which are not offensive to the eye and has the ability to slow vehicles down in a more sustainable manner and would be much safer for the drivers on the roads.

I'm very annoyed with the Victorian government using the steel cable protectors on the highways. Those things shred motorbike riders, and I mean shred them. A bike rider that hits one of those is not a pretty sight after going through one of those cable things. They are not, I believe, an acceptable option from a road safety perspective. This is not about road safety but it's about native vegetation, so I should imagine I'm probably a little bit off the mark.

I say to you, where is the vision about our native vegetation on our major highways? I argue that the greenies are negligent in trying to build and extend native habitat along our major roadways and on the median strips. I believe it's creating a hazardous environment for not only the drivers but the native animals and birds that live there. I don't think I would be in favour of constructing a kindergarten and letting children loose on any major arterial highway. Now, I have to find my photographs. Excuse me, just for a second.

PROF MUSGRAVE: Don't worry, Mr Weatherald, you are way ahead of me in

your competence with PowerPoint.

MR WEATHERALD: This is a bitumen road in my shire. It's quite close to the Hume Highway and you can see there is a small gum tree there with the arrow on him - just here. It is within inches of the road pavement and I believe that is not an uncommon sight. We have a longer section of that same road, giving you a view of where this roadside vegetation is. I believe it's really a sad reflection on the way that native vegetation and so on is really invading our road surfaces.

Again, there is another corner there where oncoming traffic and the view of it is really hindered by native vegetation. You can see over here, this little sapling here is probably around five or six years old. Another fraction higher, if it gets up to around that, it will require a planning permit to remove him. Again, there's another intersection. It's just straight road. It's got a white line down the middle of this road and you can see there how the trees are overhanging it. This is a little bit prettier country, up in the Strathbogies. There you can see how the road wanders in and around the trees. There is a very large dead tree there, overhanging the road. It's left there because it's necessary to provide habitat for native birds.

Here we have trees quite close to the road affecting the drainage off the road and any engineering people will tell you that water and roads, especially like that, close to the edge of the road, causes the road to break up fairly rapidly. This is a shot of within three kilometres of the post office at Euroa, on a small minor road. Here the road wanders in and out amongst the trees. Again, the trees are incredibly close to the road surface. Here, this big large dead tree there, is interfering with the drainage from the road and they have had to cut around the back of it. Here we again see large trees far too close to the road and providing what I would call hazardous conditions. These of course are not roads that you drive quite quickly on. The native vegetation is quite thick there.

Again, this is another similar view. This is a major arterial road just on the edge of the township and these large - very large - gum trees there are quite incredibly close to the roadway. This one is not quite as clear as it should be but one of the parts of my submission I think I included there was some of the difficulties that farming communities face in maintaining fire breaks and fencing repairs and the necessary works. If you look up along that fence line there, the farmer, of course, in this particular instance, is able to maintain that fence from his side, in the paddock. He certainly can't do any work on the crown land side of the fence line because the vegetation comes right up to that fence.

There is a very strong argument in native vegetation legislation that property owners who have fences to maintain should be in a position to have clearing both sides of the fence so that they can work safely and so that they can also maintain

adequate fire breaks in that area. Once upon a time, some 10 or 15 years ago when Victoria was much more fire-conscious than it is today, local government used to have fire tracks graded pretty well on every minor road. Today, that has basically all gone by the wayside and we just have nothing but fire tracks. Here again, and this has not come up all that well on your picture up on the screen there. It looks a little bit more attractive on mine in front of me, but here is a tree that has fallen down. It's been dealt with. The brown material is the leaves and that, which are over in the farmer's property.

I don't know who is really responsible. I suppose it's the council. The huge trunk is left there, protruding out. Any vehicle that has a mishap or comes off and was to strike that could find it a very formidable object and that's the tree trunk that I'm referring to there, stuck in a very untidy mess, and that's on an entrance road into the township of Euroa, not less than 3 K's out of town, probably less than that. That appears to be all of the slides that I intended to show you, because we've just gone back to the first one. I would put it to you that roadside vegetation and native plants in Australia are a very important asset and nobody could underestimate its value and it needs to be protected - but it has to be managed. It has to be managed in a sustainable manner that local government can work with in a financially sound manner. It should not be required to get planning permits to remove limbs of trees or to remove roadside vegetation in the adjacent areas where it is impacting upon the roads.

I believe that from a primary producer's point of view the primary producers need a sure and secure position that they are allowed to remove necessary vegetation that interferes with their assets and that being their fence lines. I believe that there should be provision in setback to allow at least some fire break to be able to be used. I think when you are fencing in some of those areas you need to be able to have a line of sight, to be able to construct a fence efficiently and adequately. It does help. I think that these are areas that I would believe that when we are looking at future legislation in Australia we should be acting in a manner that takes into account, firstly, the value of the native vegetation. I don't think we should ever underestimate that.

We also need to take into value the cost of human life that can be lost through accidents. We need to certainly not encourage large populations of native birds, et cetera to habitat roadsides, which I think is a very dangerous area for them. I noted during the recent drought we had in our area the amount of kangaroo strikes that were caused in and around our roads was quite horrific. It was wonderful for panel beaters but it's not much fun to hit a kangaroo at 60 or 80 or 100 K's. It's quite a devastating experience. I think that there is a very strong argument that we need to look more deeply at our long-term goals; what we're trying to achieve in this country. We do need a sustainable environment, but we have to live with it, and we have to

move through it. We need to be able to do that efficiently and safely.

I think I probably covered my area quite sufficiently. I thank you for your time and appreciate the opportunity to come and make a short presentation. I think it was all due to a promotional item I heard on the ABC one early morning when there was a gentleman on there explaining that the Productivity Commission would like to hear from some people out in central Victoria. Nobody was putting their hand up. There was a general comment across the airwaves and I responded to it, because I usually like to pick up some changes and like to come at things from an unorthodox manner. My shire would probably be quite horrified to think I was even wearing this badge today because they wouldn't want to, perhaps, be associated with those views because they would fear the wrath of somebody who would think what I said was offensive. I'm prepared to have it put up on the net and if they think it offensive, let them take me on. I'm willing to argue and debate the situation with them. Thank you for the opportunity today.

DR BYRON: Thank you very much. Could we just ask you a couple of questions before you leave? You've made a very compelling case that roads and wildlife don't mix but what I'm really amazed by is that the shire has to keep going to the DSE to get permission for removing roadside trees that are a safety hazard, a fire hazard or damaging the roads. I would have thought that the whole rationale for local government was to decentralise and devolve that sort of local management to the people on the ground who knew, rather than having to run back to state capitals all the time. Should I infer from what you've said that the state agency, in effect, doesn't trust local government to be sensible in terms of looking after roadside vegetation?

MR WEATHERALD: Unfortunately, local government haven't got a very sound history of being altogether responsible. Some probably 10 years ago, when the amalgamation process occurred in Victoria, some local governments were not behaving in a manner that I think the crown was altogether pleased with. There was a little bit of cowboyism in some rural shires and trees of important public interest were chopped down, perhaps needlessly. What happened is, as a result of what you would call less than quality decisions, government have taken what you would call very stern action and the pendulum has swung violently against local government, and the cost is quite horrific.

DR BYRON: Well, do you think the pendulum is likely to swing back towards a more sensible, responsible position, where the local governments agree to react responsibly and the state government agrees that they don't have to micro-manage everything?

MR WEATHERALD: I think you'll find when you get the submission from my shire which was prepared - it's quite detailed and gives a very strong argument, and

has drawings and plans on it showing you the details - you will see that the shire is extraordinarily concerned about it. Basically, totally shire-wide in the whole state of Victoria, almost every shire is now afflicted with it. Rural shires of course feel the impact of it more than metropolitan shires because you're only dealing with street vegetation. In the rural areas the vegetation is a fairly common - like we hardly go through a council meeting without having to go through the process where council have to move that a tree be removed and that X number of trees be planted. That goes through as a minuted agenda item of council, plus a whole host of building and planning applications which were begun on an officer's authorisation, but that "one limb off a tree" has to have the moving and seconding and a vote and all of the rigmarole for council, and they say that it's a cost of up to \$5000 per exercise.

DR FISHER: This is a very nice brochure you've got here and this is a lovely road with a whole bunch of overhanging trees. If one of these dead trees falls on a car, is the shire somewhat legally responsible for that?

MR WEATHERALD: There's a duty of care. Unfortunately the branches are very good with their timing and they usually fall on the road before or after the vehicles. It's really quite rare for one to fall on top of a vehicle. I lived on a road back in a very attractive area called Sargoods Road in Euroa, and that was notorious for dropping limbs, especially on hot summer nights. We were always terrified that one would lob on the car, but they always lob in front or behind. You've got to be lucky.

DR FISHER: Is this a concern of your shire's that one of these days perhaps luck will run out and then you'll find yourselves legally responsible for not having maintained the roadway in a safe manner?

MR WEATHERALD: We've taken pretty strong steps now. We've developed a whole strategy to deal with this type of exercise. We have every asset in the shire documented and listed for maintenance programs, et cetera, and they will be in a document of area for attention at some time in the future. So the shire is doing, within its limited capacity, the best possible process to deal with these things in a responsible manner.

DR FISHER: So then practically there's an issue here but it's a cost to the shire, the shire is bearing it and you have effectively dealt with it. Is that what you're telling us?

MR WEATHERALD: I would think so. We have a plan to manage it and deal with it, and legal liability laws are basically sort of managed within the process. If you take adequate steps, you recognise your risk - what they call a risk management program - and we've recognised our risk. We've allocated funding to deal with this in an appropriate manner. It may take us 10 or 15 years to get all around the shire,

and they'll have grown again in the meantime, but we're suffering average - well, there have been 10 per cent rate increases - I think pretty common. Our projected minimum in the next five to 10 years is a 6 per cent rate increase, which will not hold the fort for the organisation. Local government, especially in rural areas, just does not have the capacity to fund the necessary works programs that we need to do.

DR FISHER: Effectively you're saying to us that the situations with respect to rural roads in your shire will deteriorate. We'll see more of these trees encroaching on corners and things like that, and the consequence is that people will have to slow down. Is that basically what's happening?

MR WEATHERALD: Exactly. You've probably got it in a nutshell. We're actively slowing down the traffic speeds quite actively because what we're saying now is that the roads are unsafe to drive at speeds and you should be looking, on lots of our rural roads, at driving at 50 and 60 kilometres per hour. It might horrify some oldies like me, but certainly we're not being very supportive of people driving at speeds that they used to drive at, because the road surfaces are deteriorating. We have been very fortunate, and we've got to give the Commonwealth government a really strong plug - the reinstatement of Roads to Recovery funding saved our shire a 20 per cent rate increase next year. Now, that was unsustainable; we may as well have closed the doors if we had to put it up 20 per cent. That's what Roads to Recovery meant to our shire - 20 per cent rate increase.

PROF MUSGRAVE: Thanks, Mr Weatherald. We've had quite a few mentions of the problems that local government has with the management of vegetation on roadsides, but yours is the most comprehensive I think we've had, so thanks for that. You referred to plans that the shire has. Those are plans that at least in part deal with vegetation biodiversity issues.

MR WEATHERALD: They don't really deal with biodiversity issues. They deal with, strongly, the issue of the planning requirements to remove native vegetation from the edges of roadsides, and they make a very strong appeal to the state government to look seriously at amending its local regulations and allowing some leniency. Where a tree is right against the edge of the road, it should not have to go through - it's as obvious as hell that it's a real road safety risk. It should not require a planning permit. Nor should you require a planning permit to lop those limbs that are overhanging the roadways.

PROF MUSGRAVE: Changing tack quite abruptly, can you tell me what the vegetative cover in your shire is? What proportion of the shire is treed?

MR WEATHERALD: I can't give you an authoritative answer. My gut feeling would be, say, that we've probably got, of our total area - if you look at it on an aerial

photograph you'd say that there's probably 50 per cent of it covered by trees. It's really a very rich and productive area; good rainfalls. Trees grow extraordinarily well.

PROF MUSGRAVE: So in a sense it's a well-vegetated area.

MR WEATHERALD: Extraordinarily well vegetated; rich habitat.

PROF MUSGRAVE: Yes. Do you have available to you from the state government a clear statement of the objectives that it would like to see achieved in the shire as far as vegetative outcomes are concerned?

MR WEATHERALD: I don't believe we do at this stage. State government, as I illustrated at the beginning of my talk - and perhaps Geoff Sebire will cover this a lot more adequately than I - has started a process off where they're looking at roadside vegetation and the management of it; an issue that pretty well is directly aligned to what I believe you people are looking at from a nationwide perspective. The shire has to draft up regulations to manage and control that. I would believe that that process was somewhere around 50 to 60 per cent completed at the beginning of last year. What's happened is in the meantime the state government has changed the draft regulations and the shire now has to go back to square one.

I had put in to the shire a detailed submission of my position on the roadside vegetation, and that was to do with trees on fence lines and firebreaks, and that sort of issue. That now has been put in the recycling bin and we've been advised that we have to start from scratch when council readvertises it. They're going through that process at the moment, so we would expect council to start seeking public submissions probably somewhere towards the end of this year.

PROF MUSGRAVE: It would seem to me that it would be almost impossible for a shire to develop operational meaningful plans for the management of native vegetation under its control, without a clear articulation of objectives by the state as to what outcomes it seeks within the shire.

MR WEATHERALD: I think you're correct and I believe probably they have that documentation now, and that's the material that they're using to redraft the - calling for submissions from the community to comment on it. Now, I'm not privy to that at this stage. I haven't read it and I don't know really what it consists of.

PROF MUSGRAVE: To the extent that it might meet that objective, that would be desirable.

MR WEATHERALD: I think it would. I think the state government is competent

enough to be assured that they know what they want, and they've issued statewide guidelines for all local governments to meet new regulations. They're pretty good at making solid policy decisions in that area - regulations and red tape.

PROF MUSGRAVE: Yes, when you look at the transaction costs that you describe in relation to individual trees and the road damage and other social costs associated with the problems you describe, and then you relate that to a shire with 50 per cent vegetative cover, you wonder to what extent it's necessary to incur those social costs in your shire.

DR BYRON: Can I just come back to the question of offsets. I think you said that if you remove a tree you have to plant a certain number of seedlings somewhere else.

MR WEATHERALD: Yes.

DR BYRON: There are two questions about that. From what you were saying about how easy it is to get natural regeneration of native species there, we've been told of various other parts of the country where people have had trouble doing the offset plantings because there are already so many seedlings and young saplings around, they can't find anywhere to stick the extra trees that they've got to plant.

MR WEATHERALD: We have that problem.

DR BYRON: The other question is I think with the upgrading of the railway to Bairnsdale - and there's some issue about that - they didn't have to do offsets because it would have added too much to the cost of the railway upgrade but apparently local governments do have to make the same offsets as a private landowner does if they want to knock down a tree.

MR WEATHERALD: Up to 100 trees planted for one removed, depending on - there are a number of formulas - it's 10, 20, 30 and 100, I think. We are looking seriously at encouraging private land-holders to set aside some areas that can receive these trees that the shire will actually go in and plant them. You not only have to plant the trees, you have to guarantee their life for up to two years. So it's really not only just the physical planting of 100 replacement trees - if he dies you are replanting and you guarantee his two years' existence and once you get a tree to two years, of course, really it's not going to be a question.

DR BYRON: These offset plantings, based on what you were saying about birds and koalas or something, it would be a good idea to put them away from the road, or do you put the extra seedlings right back in the main, right away?

MR WEATHERALD: Of course that's something that is policy that we are

looking seriously at - of giving encouragement to private land-holders who have some, what you call, land that would be best suited to trees, and we do have some of that land in our area, it's definitely an advantage, because we find planting large numbers of trees in and around our already roadways is not really an option because it is all fully occupied and one will grow there naturally. If there is a spare spot available they just populate.

DR BYRON: But if they ask you to plant seedlings on the existing roadway, within the right of way, it may just be a waste of money if, as you say, natural regeneration already has brought up seedlings there. So the way around the bird and wildlife problem might be, if you are going to plant seedlings, plant them somewhere else away from the road rather than attracting more birds to the roadside.

MR WEATHERALD: Exactly. That is really part of the process. Not all of the regulations that the Victorian government has got about roadside management and that are bad. It's just that the red tape and the cost, and the rigidity of it - once you fall into a category there is no give or take about it and there is no commonsense applied to the exercise. It's just rigid rule, number (1), 100 trees for that limb off; bad luck. Thank you.

DR BYRON: Thanks very much for coming. Mr Sebire, you can take one of the big seats over there if you like. Make yourself comfortable.

MR SEBIRE: Mr Chairman and the other gentlemen of the panel, ultimately I will probably cover some of the same area that Councillor Weatherald covered. By the same token I have a range on a very much wider ambit further on in the talk. I will stick pretty largely to the script for a start because I want to cover a lot of area; quite a lot of aspects. Perhaps I will run through the original short draft that I faxed through on Friday. This was all done in a hurry. I'm sorry it had to be at such a hurry but I wasn't aware of the time frames and of the whole system.

I'm sorry about that because I've been very interested and very concerned about what I see are some of the excesses, in this state anyway, of native vegetation regulations. While I don't argue about the need for regulation to some extent, and I certainly agree with biodiversity. I think we have gone a little bit crazy in this state in the political scene. I'll run through the response, which was a response to the Shire of Strathbogie made some 18 months ago, and I will be quick.

Strathbogie Ranges Massif, as an entity has thousands of hectares of native bushland. There is certainly very adequate harbour for wildlife. Roadsides in this area are therefore not critical for fauna and flora protective measures. Some nearby shires bear little geographic resemblance to the Strathbogie Shire and comparisons should not be drawn. Our opinions and judgments should be self-determined. The draft report - that's not your draft report, this is the shire draft report - does not differentiate sufficiently between the two main geographic components of the shire: the higher rainfall, higher elevation, hilly and plateau as compared with the lower elevation, lower rainfall plains.

If I might just comment on some of your discussions with Councillor Weatherald then. Certainly there is no problem in natural native regeneration of species in that rainfall area. It is slower, much slower when you get down on the plains. The generalisation, north of the freeway, south of the freeway, is loosely used at times in the context, however, the management differences of this draft are enormous.

Problem species: the silver wattle is not mentioned as such. It is an indigenous species which seeds, and more importantly, suckers prodigiously. It is fast growing, short-lived and sometimes a curse in high rainfall hill country, and I experience that. It is not threatened. It has a few short years of beauty. There should be no restriction on its removal either by authorities or by private individuals, particularly for fencing, maintenance, and construction.

Fire: when used sufficiently often, cool burns that is, it is a rejuvenation factor

with most native plant species; a benefactor indeed if used wisely. Now, we get to this matter of timber. You brought that up a short while ago. Ageing timber: That trees must inevitably grow old and create an unsafe nuisance is often overlooked. This problem will exacerbate with the passing of time and become a greater and greater cost factor to both municipal councils and private individuals alike. There is a case for environmental care and use, but to regard every tree or log as sacrosanct is stupidity, absolute stupidity.

I can show you - I haven't got photos with me; I have photos, but I can take you to many cases in point in the range country where that is just happening: trees are dying, declining, they will continue to do so. They are not going to stay up there; they are going to come down. Tree density and roads: Excessive eucalypt populations, particularly white gums and blue gums, have a number of problem effects, and the white gum is often called the candle bark. (a) Their annual shedding of combustible litter is enormous; quite unlike box and red gum or peppermint and messmate. You can't compare them; the amount of shedding is enormous per annum.

Their residue, when graded off gravel roads, using present grading methods, leaves unsightly heaps. These heaps are combustible; they are unsightly and quite importantly they represent a serious loss factor and a cost to the shire. They've changed their method of road maintenance over recent years. They go for a simple approach. They sweep the gravel roads, basically the two sides, the table drains. They sweep them usually with a large scoop, front-end loader scoop, and it doesn't matter how careful the operator is, they pick up an enormous amount of that gravel that costs money to surface that road, and it's happening all the time.

I've asked the shire to consider other options. As yet they haven't. We need to have some method - I'm just adlibbing now - we do need, I think, to have a mechanical appliance which could be quite simple and something like the old agricultural buck rake, only more robust, and use that to minimise the loss of gravel. The loss of gravel is costly. It's also the best gravel. It's the course material, rather than your fine that gets picked up.

Gravel roads with heavy overhead canopy are shaded roads. They have not the sun and air penetration as a drying factor during wet periods. This drying factor helps with road maintenance, and this is particularly applicable in rainfall country. On your less rainfall country, plains, probably not as applicable.

DR BYRON: Mr Sebire, we've got this one that you faxed to us on Friday afternoon.

MR SEBIRE: You've read through it?

DR BYRON: Yes, we've read that one.

MR SEBIRE: Right.

DR BYRON: And we can ask you some questions or discuss that one later, but could you move onto the other one.

MR SEBIRE: Yes.

DR BYRON: Sorry. I don't mean to cut you off there.

MR SEBIRE: That's all right.

DR BYRON: But we have already read that.

MR SEBIRE: It's pretty straightforward really. Okay.

DR BYRON: And we can sort of take that as given now. I'm much more interested in your response to our draft report.

MR SEBIRE: This one.

DR BYRON: Which I'm sure will bring in those same matters that you raise with regard to Strathbogie plan.

MR SEBIRE: You've already noted, I suppose, my few life experiences on the front page. The draft, scope of the inquiry: insofar as I had the time to study the draft I found much to interest me and much to agree with - not all of it, but quite a deal to agree with. The terms of reference and the scope seemed broad and motivational. I shall limit my remarks in general to Victoria. There are differences, of course, between the states - big differences. The reasons for regulation - that some regulation is needed will always be true, but their extent is questionable. I ask the question, "Is there a subservience to the ballot box vote and the green vote? Is the green vote based on pure science or accurate empirical - that is, practical - values, or aesthetic values?" I say, "Sometimes." Is it an emotively-based situation? Probably, very often.

Negative effects - Are the regulations onerous? Often illogical and damaging to farmers caught in the web of the mandatory regulations of 1989. These regulations are absolutely and totally discriminatory to some people and amount - and I'll use the word - to theft by the state of an individual's assets and what should be seen as an individual common law right. Hard words, but when you're affected -

and I'm one affected - you'll say it. I'm not ashamed to say it, nor frightened to say it, and you can put it on any public forum. There's no other word for it.

Compensation: in reality there is none, and compensation with strings isn't true compensation at all. I note the comments made by the late Mr John Halfpenny in the Sun Herald after the introduction of the native vegetation regulations, and I've never forgotten the little article. The government couldn't afford to pay compensation - that was the basis of that small article. I wonder how he would have performed if some of his union members had been short-sheeted.

Is it right that a few should be lumbered with this impositional loss, while those with clean acres - next door maybe - are totally unaffected? Are the areas involved necessary for flora and fauna protection? Occasionally, but generally no. Certainly in my particular area the answer to that would be "no" because we have a very adequate cover of native vegetation and also, of course, we have a large area of forested land and other crown land adjacent to our pastoral and general farming areas.

One must question the very need to create some but not all of the regulations. Consider human response mechanisms - Emotive response made out of the Fear response; Publicity in its many forms which plays upon the former, two - the accuracy or otherwise of the academic portion of society, and I say that because I've had examples where they have not been accurate. Political leverage again - does it seem to pay to be placatory, the fine line between truth and half-truth? Does personal integrity and debate become sacrificed by self-concern for promotion within a system? Is humility and commonsense sometimes sacrificed for baser ethics? Perhaps the truth is that many of those who provide the forcing factors on politicians have ready and able access to the multimedia. Many of we rural people - we'll call us "the bush" - just rarely have these options.

Now, I go into a number of impactors, because they do impact on the total draft. We're talking about conservation, native vegetation and biota. These impactors bear directly or sometimes indirectly on some or all of the elements under the terms of reference for the inquiry. Background (2), scope of inquiry (3)(a), (b), (c) et cetera. Perhaps now we take a quantum leap. Impactors - I won't deal with them all.

Impactor number 1: CO₂, greenhouse gas - the feared words. We sure couldn't exist without it. To do justice to this subject needs many hours, maybe days. The public is confused, academic debate wide-ranging, knowledge still being acquired, but we surely know that earth's CO₂ levels will continue to rise, as will earth's population - many of us have seen the graphs, and you gentlemen would be very well aware of them - as will the need to provide food for that population.

We know that enhanced CO₂ levels have multiple and synergistic positive enhanced plant growth effects. Do we ever argue or just plainly state to the people that these positives are real, and there are advantages? At this point in time, plant growth from these causes is claimed to be measurably greater than earlier time periods. The diminishing - not the expanding deserts - and I refer you to IDSO, tree-ring growth et cetera, and there are many other gauges. Does the public understand that trees and other biota are CO₂ cyclic? Does the public take on board that oceans provide the main carbon sink? Carbon credits should be discredited. The Kyoto protocol in this regard should be disregarded. Carbon credits should be restricted to direct industrial efficiencies in all polluting circumstances, not tied to - I've got here pine trees - but to trees necessarily in other realms.

Impactor number 2: Erosion. Yes, a problem, but more clear thinking is necessary here too. Greenhouse may help here. Man has created erosion but so has nature and we often mix the two. Do we understand or even try to decipher the two? Now, this little bit is quite interesting because I've done some measuring. Consider organic detritus. This is a form of silt, if you like, which impacts on our waterways, streams, rivers, reservoirs and I'm pretty much dealing with this sort of thing in my water use area, water interests. Without a fine screen, most people would be quite unaware of its presence in the stream at their back door. The farmer gets blamed for causing erosion. It's an over-statement. Sure, farmers create some erosion. A lot of other forms of erosion take place, too, outside the farmer's ambit.

Back again to organic detritus. Our reservoirs are being negated by it and farmers as land managers are blamed for so-called erosion creation. This detritus comes very largely from stream-adjacent biota or verge, as I call it. The greater the biota dynamic supplied by land care systems and catchment management authorities - we get the proliferation of trees and other species along these streams - the greater the amount of detritus and, of course, blackberries and, of course, vermin and other unwanted species, even to feral pigs.

I live in a part of Victoria where we see all of this. This is not something I don't see. I'm with it every day of the week. It is what you call very, very practical, empirical observation. Why I bring it up is because DSE, the river management systems, have a habit of throwing a great deal of criticism on the landowners, particularly in the upper catchments. Most of those upper catchments - not all - are very well managed today. The pastures are very well managed - not all - but speaking broadly, generally, yes, they are. They are not subject to excesses of erosion, either sheet erosion, gulying or any other erosion. You can always find exceptions to any rule, but basically that is the truth.

Impactor 3: Salinity. Such a problem, but still overplaying the farmer as a cause. Who created these initial huge schemes? The polities and their bureaucratic

institutions. I make reference here to a small booklet which is a summary of radio talks given by the late Prof Sir Samuel Wadham. You well know him, I guess. He might have lectured you for all I know - Dean of the Faculty of Agriculture at Melbourne Uni years ago. He was a pretty hard-headed nut, but he made some predictions about the probable ill-effects of the excesses of gravity irrigation in the Goulburn-Murray system - true enough. I mention here the Heytesbury Closer Settlement scheme. Who kicked that into gear? Who allowed mallee blocks that were unsustainable in earlier days? I mention the Snowy. These things have a habit of coming home to roost, don't they?

Dryland salinity: is it all created by dryland farmers and tree removal, or what went wrong? Does hydraulic back pressure - in other words, water movement uphill, as someone laughingly put it, due to raised watertables on adjacent irrigation areas - have an effect in this manner? I would think so.

If I may just very quickly and fractionally mention: the groundwater table adjacent to the Goulburn River in the Shepparton area which I understand was about 30 feet, before the days of irrigation. Now it has come up to virtually zero, in the worst places. With drainage they are taking it back now and spending a lot of money and doing good work. But if one raises the water table like that and take into account that the fall in the Murray Plains is round about a foot a mile - to use the old scale - I can put that in metric if you like, but about a foot a mile - and you raise the water table in some areas to that extent there must be an enormous impaction on the dry land adjacent to those irrigation areas. I very very rarely ever hear this mentioned or discussed.

I will make a jump. I mention here lucerne and perennial grasses, which I believe have been shown to have just as much capacity to remove soil water as trees. Don't get me wrong. I love trees, or used to. I ask you, gentlemen - and you've probably knocked about in some of our rough hill country, or not necessarily rough - a mature white gum robs an enormous amount of sustenance which may be otherwise used for pasture or crop or orchard. Now, I'm not against pure white gums; in fact I've got a lot of them. I made the big error of leaving one area, which had young white gum seedlings come up, and I left it there and I left it there and I left it there, and there's no way I can get rid of that now without major complications because of the native vegetation regulations. Bear in mind I've got 200 acres of bush; I know all about it.

Tourism. Another impacter. A magic word. If we could eat it we wouldn't need food farms at all, would we? It's all tied up with visual values; aesthetics, we will call it. All tied up with native vegetation, you say, that scrubby rubbish in your paddocks. Visit a vine-growing area almost any time. Just go out here, east of Melbourne. Go almost anywhere in Victoria, many areas in the other states, you will

see the expansion of the wine grape industry but you will also see expansion of orchard industries and other like production.

I have visitors come to me for fruit; in my case cherries. The Parlour tourist coaches come and buy and they talk. They are always interested to talk. Then they go on their way. Visit, for example, the Strathbogie Plateau and enjoy the wonderful meld. I use that word, meld. I've used it in other papers in earlier days. It's a good word for pasture, vineyard, orchard, berries, blueberries, cattle, and sheep and there is a good deal of remnant vegetation on roadways, in paddocks, along streams. Plus a great deal of Victoria, and not just our locality, has forested land and crown lands.

I mentioned pinus forests here because we had to battle - I've seen what they do to land. Unfortunately the state government, some 30 or 40 years ago, decided they would clean out some of our eucalypt land and plant pines. They didn't take the worst eucalypt land; they took some of the best. The cynics said they took that because it couldn't be seen from the main highways. It wasn't going to excite anybody.

Anyway, just to confound the issue and to debate cases in other areas, I've got a very very full video coverage of the whole plateau; by going up onto four of the higher spots, to Mount Piper and Mount Separation, Mount Wombat, and another one Sugarloaf. Swinging the video around, you could get a wonderful panorama of that area within the Strathbogie Ranges. I can truly say it's a very pretty area and it is not depleted of native vegetation. If you have the native vegetation, well, you've got the biota.

I'm getting towards the end. No compensation. Following the Victorian native Veg Rep - I mentioned John Halfpenny before. I mentioned him twice, poor fellow.

Improvements and philosophy of change. One, far less regulation. Put a bit of commonsense with science. A lot of the regulations are humbug and inhibits progress. They do. Two, improve educational processes in biological, natural and earth science processes. It's a hard call but we should try. Make information very truthful and above all interesting. That's a teacher's aspect.

I think if you are going to keep land care as it is - I call it a subject industry because that's just about what it has become. At least make it do something that is more useful. Many of the professionals lack experience and actual knowledge on the ground. That is the empirical arm of knowledge. So many of these young people who come out and are handling land care situations and advising are just out of a tertiary centre. They have motivation and they have the belief in many things, but I think they require a lot of hardened experience.

Four, if there is a house to be put in order the government agency should start with its own. Vermin and noxious weeds on crown lands, for example. Fire, now, you've heard this before but it has to be mentioned again. It's a shocking problem. Managed cool burns would save at least some of the savage detrimental effects of wildfire. A lot of poor, dull farmers knew that much. For example, north-east Victorian and the Canberra fires last year. Enough said. Cease any new areas of pine weed, as I call it. If they must replant it replant it where it already is. I've got it next to me. I see it. I live with it. I detest it. I fought battles to stop the tableland being intruded upon some 10 or 12 years ago by a very concerted push to put pines on our plateau, and it was a concerted push.

I've mentioned here the state of Maine, in the USA. There was a professor from the state of Maine out here some years ago. It was very interesting. He passed comment in a nice way about what he regarded as a pretty poor state of affairs in forest management here, which I would agree with. The state of Maine, USA, has lifted productivity enormously, without loss of fauna or flora, as he claims.

Here's one that's a bit of an outsider, but it's important and I think, gentlemen, that you could be interested in this cause because it is tied up with biodiversity. It's tied up with the living Murray presentations. It's tied up with the whole Murray-Darling Basin because one river system is not independent of any other, and you well know that. Because of modern upgrading, of risk analyses, projects - and this is for all dams, as you know - such as the upgrade of Lake Eildon should be carried out so that its full capacity may be used - I'm ahead of myself here - but it should not be just a state responsibility.

I think it should be also a federal priority, too, because of its importance within the whole system. I might be throwing out a pretty big ask here but I believe this. The state government is humbugging us about, relating to the cost of it. The scheme is virtually on the drawing board now. It's an ideal opportunity to work on it because, although a lot of people don't realise it, we still have a very dry time upon us. The ground water in a lot of this country is absolutely depleted. I think that it's very significant on a national scale and I believe that we should push for it and mention it in the report.

Number 8: I question the value of the present Landcare system in Victoria. It's a tough one, that one. There are very good people involved and I think there are some people who have the right motivation involved, but there's a lot of people just there to catch a quick dollar if they think they can get a little bit of money for some particular object. Also, from my experience when you are within a reasonable distance of a major town like Melbourne, you have a lot of buyers of small blocks and they know not the first thing about farming. They come along to these Landcare meetings, and probably, I think, they're worked upon a bit, and they make decisions

which, to some extent, affect everybody, and not always good decisions.

I was part of the old advisory committee for the Euroa Lands Department Section of years ago. I was sorry when that was submerged in the other larger bureaucracies. I think they did an excellent job with very small resources. They were there on the ground all the time. Number 10: Tell me to stop.

DR BYRON: Thank you very much, Mr Sebire. That is pretty comprehensive. Can I start at the end? You know, when you were talking about the old Lands Department and how that worked.

MR SEBIRE: Yes.

DR BYRON: What do you think was different? Why was it successful, helpful, useful, more so than its successor organisations?

MR SEBIRE: Well, possibly because it was more focused. It didn't have the complications. Well, it certainly had vermin and noxious weeds, but it didn't have the complication of such things as native vegetation regulations, nor some of the arguments relating to biodiversity. It was really for dealing with vermin and noxious weeds, which it did very well. They did have limited resources, but then Landcare groups use much the same resources today. For instance, the pumps that we used to spray blackberries or hire - if you hire. I've got my own, but if you hire - they are the same pumps, just repaired and repaired and revamped since 30 years ago. They still work if they are maintained.

They had limited manpower but there was, of course - every town had its Lands Department officers, usually only about three, four. Although it wasn't their mandate to spray weeds on the roadside, in practicality they did. I saw them over the years and landowners, I'm sure, were grateful because although it sounds a simple thing to go out spraying noxious weeds, it does require a rig. It does require certain skills. It does require handling, sometimes fairly - not really nasty - but sprays that were not the sort of thing you'd want to take a glassful of. I just think they were based on very experienced officers, too. They knew where they were going, but they didn't have the breadth of mandate, of course, that creeps into the Landcare system.

I have a lot of trouble with the Landcare system. I've seen so many anomalies, so many problems, not major ones, necessarily. Some Landcare groups, I believe, work very well. Others just do not. If, as it would appear from recent times, government is trying to use the Landcares as a pressure cooker to maybe force certain actions by their neighbours on others in the district, I don't know that that's the right way to go. I've never found the process of dobbing in to be a satisfactory one. I've mentioned the educative process. I've mentioned it in many forums before.

I believe in it, but it has to be well-conceived and presented.

DR BYRON: Would you agree with the previous presentation about the problem of mixing road traffic and native wildlife?

MR SEBIRE: Certainly. It gives you no joy to hit a koala bear when you come around a corner and he's sitting in the middle of the road, I can assure you - no joy whatsoever. It is a problem. The lovely old koala just sits there and if it's not a straight road you've got pretty well inadequate warning to evade that animal but many of them are killed, not only koalas but possums and - we have a lot of wildlife problems, really. You see, wombats are a major problem - They're a threat. They're an actual risk threat. There's so many of them these days. You'll find wombats all over the countryside. Things that were "lovely little wombies" to Clifton Pugh years ago become a hazard to many people who have to travel a lot, as are kangaroos and wallabies and suchlike.

I do basically agree with what Robin had to say, probably everything. In that formal paper of mine I mention the importance of fencing to landowners. That's critical to good farming operations and we shouldn't have to worry about having to get permission, permission, permission. I don't know - some farmers might not have a busy life but I certainly have and you're pretty well occupied without going to Benalla or to your centre, or something like that, and putting your case.

DR BYRON: The legal liability that has been raised before - if a tree that is on the council road falls over and damages a farmer's fence and his stock get out on the road and cause a traffic accident, then it's the farmer rather than the council who is liable.

MR SEBIRE: Yes. Well, there you've touched on a very touchy area, for sure. If a tree falls over a farmer's property I think the council is actually liable to clean that mess up. I've got three now, right now. I'll end up cleaning them off and I think that is what most farmers do, at their own risk. As far as liability for cattle - that is a concern. That is a major concern, for any stock for that matter but the larger the stock, the greater the risk. Liability - the way the world is today - is a major problem, in work or sport or play.

PROF MUSGRAVE: Just a couple of questions. First of all, thanks for your submission. I notice in particular your reference to trust, and we have had quite a few submissions made to us that trust has been seriously eroded.

MR SEBIRE: It has.

PROF MUSGRAVE: Trust between the farming community and the public agencies.

MR SEBIRE: It has.

PROF MUSGRAVE: We have not had much presented to us to rebut that. Could I just press you a little bit on this compensation question and your preoccupation with the late Mr Halfpenny?

MR SEBIRE: Don't put it like that.

PROF MUSGRAVE: You attribute to him the remark that, "Government could not afford to pay compensation." Then you say, "What rubbish." Now, I don't necessarily disagree with that remark but I'm not completely clear why you regard it as rubbish. I wonder if you could expand on that.

MR SEBIRE: Well, I suppose the attitude I take is that if government carries out that sort of act they should be prepared to compensate. Therefore, they ought to think of these things before they introduce those sort of regulations. I believe those regulations imply theft to people like myself; theft by the crown, I put it, and I've put that in other documents - theft by the crown. It's tough, it's hard words, but what else is it? If you have your assets stripped without recourse, what else is it? Can you tell me? You can use nice words if you like, but I won't in this case. I thought it was quite presumptuous and a quite unnecessary thing to say, for that man to come out and make that statement at that time. I cut the statement out at the time and I may have lost it, but I know that if I were to go to the public library and go through the Herald Suns, just in that post-regulation era, I'd find it - middle of page 3 or 4.

PROF MUSGRAVE: That's quite clear.

MR SEBIRE: Thank you.

PROF MUSGRAVE: It was that such a taking should be accompanied by compensation, to your mind.

MR SEBIRE: Yes.

PROF MUSGRAVE: Thanks very much. I think that's all I had.

DR FISHER: Geoff, I take it that you have been farming for a couple of years. Is that right?

MR SEBIRE: 1957 to today.

DR FISHER: Your farming enterprise is principally grazing?

MR SEBIRE: This requires a little answer. When I started farming out there, it was undeveloped land and it needed work and guts and money. Well, I never had much money, but I tried to work on the guts. You might remember, the wool boom was just declining in 57, and at the time I bought that property, the price of wool as it was, you could make a living; not a good living, but you could set yourself on the road. Now, wool declined. Fences were virtually non-existent on that farm. I couldn't run cattle at that stage. That's why I hate to see damaged fences. I had to build every single chain - metre, if you like - of fencing, internal and external, over a period of years - much work; much cost; some of it difficult terrain. So I've had a lot of experience in that area.

I built a small mill. I milled timber to get income for about four years, until the orchard that I subsequently planted came into production. I came out of the Yarra Valley, as you'll notice in - we'll call it the CV, to be proud. It's just experience, I call it, of life. But if you grow up at Wandin in the Yarra Valley, you have mixed with a lot of farming. My family were involved. It was no real effort for me to come back and establish what I believed would be a satisfactory venture on country that I understood; not overly rich but reasonably fertile, a reasonable rainfall, and basically a soil that was well drained - prerequisites for growing some stone fruit - and it has been successful. That's why I'm still there. I've built up the property and now I run cattle and, yes, I'm still at it.

DR FISHER: Is it your experience that the regulations that are embedded in the current legislation are making it more difficult or less difficult for you to make a living?

MR SEBIRE: It would make it more difficult. It would have to make it more difficult because I would have to go to a lot of humbug, I think, to get - let's put it straight. I've got about 200 acres across variable timbered country, bushland. Now, technically I'm not supposed to clear any of that. Technically I'm not supposed to clear understorey - I repeat, technically. But that's humbug too. That understorey harbours every form of vermin that the country can produce, which just lumbers you with the cost and extra work in every way. You see, sometimes they talk about covenants, taking a covenant, or this Bush whatever it is.

DR BYRON: Bush Tender.

MR SEBIRE: Yes. That's all right if you've got 600 acres and you've got 50 acres off on one corner like that that you can excise easily or forget about, but in a lot of country - and mine is like this - you have the headwaters and the valleys of the Sevens Creek coming up through your property. It's like this. You can't fence all that. It's unreasonable. It's very very difficult, even with satellite photography, to put an accurate measure on it for area. Placing a covenant on country like that is

quite absurd from the practical point of view. If you could consolidate that into one solid block and say, "Okay, I'll fence that off, shut my eyes and let trees grow," or whatever, okay, but life isn't like that.

DR FISHER: So the situation you face, basically, is you have 200 acres of - - -

MR SEBIRE: Wasteland.

DR FISHER: - - - bush.

MR SEBIRE: Yes.

DR FISHER: Not only is it unproductive; it also imposes some costs on you in the sense of trying to manage that. Is that correct?

MR SEBIRE: It does. Truly it does. One tries to manage it in such a way that you do get a few returns. One gets a certain amount of shelter factor; you can't be untruthful about that. But you certainly don't need that amount of bush for shelter for stock, or whatever, on your property. I try and utilise cattle in that bush to a limited extent to try and control it. But, you know, if you take the letter of the law to the regulations in this state, you're not supposed to clean up a log, you're not supposed to push out a stump over so high. This is a nonsense. It's an abomination. Sorry if I'm hitting it a bit hard, but I believe this. I live it every damn day.

DR FISHER: Are you in a position to make an estimate of the impact of the changes on your income?

MR SEBIRE: I could.

DR FISHER: Is it small or - - -

MR SEBIRE: It would be large. It would have to be large. If you take non-income, if you put it to the grazing potential - I mean, I won't be difficult to get on with and say, "Well, I'll put it as an orchard potential," but some of it would have orchard potential. You're talking about fairly high-value land now. But, yes, I could. I'm not going to now, for privacy purposes, but I could do that. It would be quite a considerable amount of money, both in direct loss and also in maintenance and upkeep. I don't dislike wildlife, but there have to be limits. When does a bird or a beast become a pest? When does it become over the odds?

I mentioned wombats a moment ago. I can remember when I was on the old Australian Primary Producers Lands Committee, and in those days, east of the Hume Highway was unprotected for wombats and west of the highway was protected,

barring the Otway; that was an exception, but in the northern areas this was the case. Now, these regulations have changed, and I'm not for one minute saying that every wombat should be eliminated, but I think it's like the kangaroo: whether it is now or whether it's a future time, there will have to be some rationalising about the amount of wildlife that we have on the Victorian scene, and probably the Australian scene too, but I did limit myself to Victoria out of knowledge of the area, although I've got a fair knowledge of South Australia and New South Wales. It's balance. It's a matter of balance, achieving balance, in so many things.

DR FISHER: Why did you end up retaining that 200 acres of bush?

MR SEBIRE: How would you excise it when it's right up through the middle of your property and on several corners?

DR FISHER: What I was driving at was not so much selling it, but why, over this period of years that you've held this farm, did you end up not clearing that?

MR SEBIRE: I cleared some of the farm in the earlier years of ownership, because I required that urgently. Bear in mind that when I bought it, it was in a hell of a mess; it had been neglected. And those were the days of rabbits as we knew rabbits. Sometimes people think they know rabbits today, but they don't - you know, serious stages of neglect and all that. Most of that was rectified, but one doesn't expect to have a state government suddenly say, "That's it." It's the mandatory - the unexpected effect of regulations such as Joan Kirner introduced. She was the premier at the time who introduced those regulations. She was quite capable of it. I knew her before she was in parliament. I knew her when she was a teacher on the Council of State Schools Organisations.

DR FISHER: Okay, thank you.

PROF MUSGRAVE: One last question: if you lock up some of the land in your area, what would the regrowth story be?

MR SEBIRE: It would vary of course, I suppose, with the proximity to uncleared areas and the matter of seeding. If you had trees like large white gums out in the middle of paddocks, the seeding rate would be enormous. You would lose your land very quickly if you didn't clean it up to some extent, so it doesn't pay - - -

PROF MUSGRAVE: If you don't clean it up, you just leave it.

MR SEBIRE: From my point of view, whereas once I enjoyed my bush to a point, even though it cost me - but bear in mind at that stage, if I wanted to fall a log to sell or to mill, I could do it without hassle, without question, without application - not so

today. I touch on another point. I draw your attention to - I presume you gentlemen are well-versed with conservation techniques and matters - from your CVs - but where you have this type of country, and I'm not just referring to Strathbogies, I'm referring to a lot of the range country in Victoria - and elsewhere, for that matter. You tend to get your best timber in your valleys where it's more fertile and more protected. That's where you tend to get your best timber, and while I have some sympathy with retaining some of that type of biota in the valleys, I think we've gone too far there, too.

We have a resource there that should be carefully tapped, particularly in the private field. A lot of my best timber would be tied up just because it's within so many metres of the centre of a waterway. A few years ago the Government was falling right into the waterways, and I can prove it. I've got photograph proof.

PROF MUSGRAVE: Thanks very much.

MR SEBIRE: I'm sorry if I was a bit - - -

PROF MUSGRAVE: Not at all.

DR BYRON: Okay, thank you very much for coming, Mr Sebire. I think we'll take a 10-minute break for a cup of coffee or tea and then we'll continue with the ACF.

DR BYRON: Thank you, ladies and gentlemen. Can we resume the hearing with the representatives from the Australian Conservation Foundation. Gentlemen, if you could each introduce yourselves so that the transcribers can recognise the voices, and then if you care to summarise what is in the submission - thank you very much for that and all the work you have put into it - and then we can discuss it.

MR SHERWIN: Thank you. Charlie Sherwin, biodiversity campaign coordinator for the Australian Conservation Foundation.

MR FISHER: Tim Fisher, coordinator of the land and water ecosystems program for the Australian Conservation Foundation.

MR SHERWIN: Just to lead off, if I may, I suppose I would like to thank you for the opportunity to have input again to this inquiry. It's very, very much appreciated, as always, the openness and breadth of consultation of the commission. Perhaps more regretfully we are disappointed with the draft report, and we need to state that upfront, I think. There are a variety of reasons for that, which are outlined in our submission. Principally though, it appears to us - this is our impression of the way the inquiry is going - that the commission would like to reduce the emphasis on regulation of matters relating to biodiversity and native vegetation conservation, as opposed to the emphasis on educational programs, voluntary measures, market mechanisms, et cetera.

In our view, particularly in regards to controlling native vegetation clearing, reducing the emphasis on regulation will not work. Without a regulatory approach native vegetation clearing cannot be controlled and has not been controlled in the past. So we would like to defend through our submission the legitimate role for regulation in these areas, not to say that those other policy instruments that one has in one's toolkit can't be used to complement the regulatory approach, and you need to get the balance right there, but in our view regulation is the foremost measure that should be used, particularly in controlling native vegetation clearing.

We are also a bit disappointed that the commission hasn't put forward a more tangible package of policy ideas to complement the regulations that exist and to protect biodiversity and native vegetation. There are, of course, discussion in the draft report of a variety of different areas of policy that could be drawn on, but we were disappointed in, if you like, a lack of tangibility, a lack of definition in some of the way-forward stuff. So we are hoping to see a little bit more of that in the final report.

We are disappointed in the adoption of certain language in the draft report, particularly the use of the term "compensation" which in our view is a very loose use of that term in this context. We believe it's inappropriate and indeed actually quite

loaded language to use to take the term "compensation" and use it throughout the report as has been done. You have recognised in the report that there is no necessary right to compensation as such where governments regulate land use or native vegetation or biodiversity issues. I think that recognition needs to be extended into the use of language throughout the report and alternative terms such as, for instance, "structural adjustment" or "financial assistance" adopted.

Very briefly to go through our submission in a little more detail - we would like to see the principles of ecologically sustainable development that we put forward in our former submission more clearly drawn on in casting recommendations in the final report. We are particularly concerned to see some sort of equitable outcomes for not only this but future generations of Australians and for the natural environment singing out, if you like, from the recommendations. At the moment we are concerned that the welfare of current generations may be really the principal focus of the recommendations.

We are concerned that there is a lack of rigour in describing the current situation in the draft report. There is a range of errors of fact and of exaggeration in some of the descriptions of the current situation in the report. For instance, the suggestion that regulation of native vegetation and biodiversity amounts to confiscation of private property or of an accepted property right - accepted by whom? I think one needs to be much more careful with language in light of the current situation under law regarding private property issues and regulation. We have outlined some other instances in our submission.

We are very keen and we made this point in our original submission to see the commission transparently verify any assertions and quantify any impacts that are claimed in submissions to the inquiry and we don't see sufficient evidence of that in the draft report. The commission itself admits that it relies heavily on the evidence provided by participants. We understand the need to do that, but at the same time, I think particularly when it is such a small sample of the land-holder community that have put forward submissions, and when one is putting together a document that could have very, very significant and important influence on policy into the future, one needs to be very careful that the information that one is basing one's thoughts on and one's recommendations on is sound.

We have had drawn to our attention confidentially some errors of fact in submissions put forward by certain people. We are not going to go into that, but we understand that some of those errors will be drawn to the commission's attention by other people during the inquiry. But it just seems very important to us that if some 100 or 200 people put forward submissions and there are some 140,000 farm establishments in Australia, that the commission get some sort of handle on not only the extent and the type of impacts that individual land-holders who have made

submissions are facing but also the extent to which the impacts described in submissions can be extrapolated to describe the situation at national level. We would like to see that done, perhaps, with a little more rigour in the final report.

We are concerned with the notion in the report that land-holders should only be expected to bear the costs of actions that largely benefit them as individuals or as a group, to quote the report. Unless we are mistaken somehow that implies to us that provided there are no net short-term economic impacts on an individual enterprise or a local or regional agricultural community, land-holders ought not to be expected to avoid causing dry land salinity, where it might, for instance, affect future generations of land-holders, or soil erosion and sedimentation where it might affect, for instance, an estuary and a fishery some hundreds of kilometres off.

Processes that could lead to species extinction or greenhouse emissions is another prime example. Surely there is some degree of responsibility there and some costs should be borne by the land-holder in preventing these things, beyond costs of actions which are in the land-holders or the local agricultural community's own interests. It seems like the balance is a little bit wrong there. So there is a question that perhaps the commission needs to ask which is, should all decisions in arenas that impact on the wealth or potential wealth of those who are regulated in a national or public interest require full compensation beyond the context of native vegetation and biodiversity regulation?

In terms of a way forward, we would like to see, as I said, much more discussion and clearer pointers to the future in terms of a mix of policy tools that can be used to complement a regulatory approach. In this context, we would like to see the commission go into more detail on the policies and programs that currently exist to complement the role of native vegetation and biodiversity regulations, how those might be improved; perhaps more particularly than defining the current situation, what policies and programs might be developed in future that can go beyond existing approaches to further complement the regulatory approaches.

What we're seeing in Australia in terms of both natural resource decline and biodiversity decline is something of a crisis that's going to involve - if we're going to get on top of it - major land-use change and landscape change. Merely describing current instruments, to our mind, is less than ideally helpful. We would love to see the commission put forward some big ideas and some quite tangible ideas about new or reinvigorated policy instruments used to complement regulatory approaches. We've put forward some further ideas along those lines in our submission. That's a brief summary. Tim, did you want to add anything?

MR FISHER: Yes, if I could, Neil. I think you've got the point that we are making a fairly spirited defence of the need for regulation, be it of land clearance or of

biodiversity conservation. That's not to say that there's not a case to recalibrate some areas of regulation where the outcomes aren't ideal or are perverse in some instances, and certainly can be better targeted to achieve better outcomes. I think there are a couple of strong points to be made. I think on the compensation issue, it's a simple fact. In law, land-holders don't have the right to do anything that they want to. It's a fact, and to try and create a right to compensation where it doesn't currently exist I think is not helpful and it's unlikely to be successful anyway, politically. It's quite a big liability that state governments would be taking on in that regard and there are dangers, as we said, very big dangers of that same principle spilling over into other arenas.

In terms of other arenas, the observation was made somewhere in the report, we made a comparison of this area of regulation in, say, land-use planning controls. We've made some others in our submission. The argument was put that in land-use planning there was a rough symmetry, I think the words are, of costs and benefits. Now, if you add the words "through time" then very definitely you could say the same thing about biodiversity and land-clearing regulations, because it's as much about impacts now but very certainly it's about future impacts as well. Any case of dryland salinity can take 40, 50, 80 years for it to eventuate as a result of land clearing in the past.

I think enough said about that. In this whole arena of environmental and natural resource management I think it's pretty clear to all those involved in this arena of policy that no one policy instrument will do the trick. You really need to have a suite of policy instruments, all worked out in symmetry, if you like. What we saw as an over-emphasis in the short failings of the regulation in the draft report I think needs to be corrected by a renewed focus on a whole suite of policy instruments - existing, new or potential - that should be considered for wholesale adoption. In doing so, we would add that there needs to be consistency between the national level and the paddock level and everywhere in between.

The big issue from here, I think, for your inquiry at the moment, is to try and get that mix of policy instruments right, to address the whole suite of biodiversity and native vegetation conservation policy objectives in an efficient and equitable way. I think we've really just started the ball rolling with the list of policies that we think should be explored, but we think there's a whole great area of untapped potential here. Currently the major policy instrument, particularly in the Commonwealth arena, is grants and of course we have regulations at the state level, but actually we don't see them as all that effective often in delivering conservation outcomes. You can have land protected from clearing but it can still be appallingly managed. You can have species notionally protected but if their habitat is fragmenting and declining, then they're pretty much a goner anyway.

There's a whole range of areas where we would like to see better outcomes and this is just a start, I'd like to think, of an integrated approach that needs to be taken to the development of policy and policy instruments. I think I'll leave it there and if you want to ask questions, go for it.

DR BYRON: Thanks very much, Tim and Charlie. I've been trying to group the main issues that we might usefully talk about for the next 45 minutes or so. I think the role of regulation and the other tools in the tool-box are a very important part of how do we go forward from here positively and constructively in the future in developing systems for sensible native veg management. I think we'll probably have to have some discussion about what we've said and what we've not said on compensation and on payments and transparency.

Well, let's start with the role of regulation. I think you're quite right when you said that what we propose is reducing the emphasis on regulation. Another way of saying it is to take the pressure off regulation because at the moment, in most states, regulation is doing most of the work. We may agree or disagree on how effectively it's working as an instrument and what the costs are and where those costs fall, but I think it's fairly accurate to say that at the moment most of the effort and the attention, and most of what is being achieved, is through regulation, requirement, tree-clearing and destruction permits and so on. What we're arguing is that, as you said, we need to use more of the tools in the tool-box, and that's a few more new, more creative tools.

I don't think we said anywhere in the draft report that we propose repealing or abolishing all legislation. I don't think we've even discussed that in private. The question is getting the right mix of instruments. It occurs to me that if you imagine the state or Commonwealth government wanted to put in place a comprehensive program to protect and manage and, where necessary, restore native vegetation and biodiversity, what happened I think in most states is that they've been hung up on the "protect" rather than putting much emphasis, interest and activity into the ongoing management and the restoration themes. They have also been hung up on trying to do that protection by relying primarily or solely on regulation legislation. That brings me to a focus on tree-clearing permits and under what condition a permit will be granted.

We've argued that a prohibition on cutting trees won't guarantee that that patch of native vegetation will be well looked after and well managed in the future. It also means that, out of all the farmers in the state, the only ones that the bureaucracy is dealing with, with regard to native vegetation, are those farmers who have substantial amounts of native vegetation on their property and who want to clear it, or some of it. All of those who have no native vegetation are not part of this dialogue. Those who have native vegetation but aren't interested in clearing it - they are also not part

of the dialogue. Now, if you were concerned about ongoing management and rehabilitation and restoration, they would be included in the dialogue but at the moment, because of the focus on, "Should we or shouldn't we issue a permit for tree clearing in this particular location," we're only talking to a small subset of land-holders.

I'm not trying to underplay the importance of protection but if you focus only on protection, and if you focus on legislation as the way of doing it, you are really only talking to a small subset of the rural population and only using a very small part of the potential armoury. Do you agree with that?

MR FISHER: Yes.

DR BYRON: Okay, so what I think we need to do is to think about the bigger question that includes ongoing management and rehabilitation that will engage all rural land-holders, that won't only or primarily be backward looking about whether or not you used to have a particular right and whether you don't have it any more, but something that will be forward looking about how is this remnant of that vegetation going to be looked after in the future.

MR SHERWIN: Can I say that sounds ideal, but there's a practical issue - and a very, very important practical issue here which no doubt you are aware of - but if I may. The reason, I think, that people have at times been hung up on protection rather than management or restoration of native vegetation and biodiversity, is because of the urgency of the issues that they are facing and the irreplaceability of the entities that we face losing if land clearing, particularly, continues at the rate that it has up until very recently and, indeed, even today. To my mind, one has to look at protection separately, to some degree, from the management and restoration issues. One has to look at protection of native vegetation, to some degree, separately from the protection of biodiversity.

Ideally, you would have a policy framework, including regulation and all the other tools in the tool-kit, that avoided punitive measures to the greatest degree possible; that encouraged education and voluntarism to the greatest degree possible; that avoided conflict to the greatest degree possible, and hardship, et cetera; but if we waited till that perfect tool-kit of policy instruments was available, we would still see hundreds of thousands of hectares of native vegetation cleared each year irreplaceably. We would see biodiversity lost irreplaceably. This just highlights the importance of having protective native vegetation regulations in place while the debate continues and until we can come up with an ideal set of policy instruments.

Now, these other aspects of policy can be clipped on and integrated with, and in fact are being clipped on and integrated with, the regulatory approach as time goes

on, as we develop more sophisticated and perhaps more ideal tools; but it's very important that the baby not be thrown out with the bath water. That is to say that we don't lose the very things we are trying to protect, in the interim, as we grow to learn how to live on this continent and not abuse its original biota.

MR FISHER: Could I just add to that. It's not a case of regulation being over-emphasised. It's a case of the other measures being under-emphasised, that with or without them you still need the regulation. You can still fiddle with it at the edges and make them all dovetail better but any suggestion that regulation can be replaced by other measures is, I think, fallacious because you will end up with a situation a bit like comparing the amount of vegetation cleared in Queensland to the amount of Commonwealth assistance given to revegetation. You know, you're in deficit 100 hectares to one on the recent averages of how much government money goes to revegetating versus how much vegetation has been allowed to be cleared. So that would just be silly. It's good money after bad.

In building up your complementary tool-kit, one of the key obstacles to doing that is a lack of resources, a lack of government funding. This is something that we're not unfamiliar with in the environment movement - stating the obvious - but it is pretty crucial to this whole debate. State governments and the Commonwealth, too, would like to get away with doing things on the cheap. What you are alluding to here is a need to go beyond the blunter instruments of protection to a smarter package of stuff that actually delivers some really proactive conservation outcomes. That is going to be limited all the time by the amount of resources you have got.

DR BYRON: That's the perfect lead-in to the next point I wanted to raise, which is about payment and the transparency of that. I think in your submission you have taken us to task a bit for not working out exactly what the costs or benefits are of native vegetation and biodiversity retention, conservation and management. I guess all I can say in our defence is I don't think we'd ever be able to come up with a plausible number, but what we were proposing was a system to make it perfectly transparent how much the government, on behalf of taxpayers and society, is spending. So that if there was an explicit budget line in the state budget every year that says, "This year we're going to spend \$500 million for biodiversity conservation on private land," then the state agencies went out to achieve the best possible conservation outcomes they could buy with \$500 million, at least then all the rest of us would know how much we are spending.

We would be able to have a rational argument about maybe it should be double that, maybe it should be triple that, or maybe it should be 10 per cent less; but at the moment we don't actually know how much it's costing us to achieve whatever level of conservation we are achieving out there on private lands, because the state isn't paying. The taxpayers aren't paying. It's the small subset of land-holders who are

getting saddled, in their view, with the management costs of looking after that land which in many cases they can't use. They are the ones who at the moment, it seems to us, are wearing the costs on behalf of all of us. Now, if that cost was made very clear and explicit, we could then say, "Well, that's terrific, but we want twice as much of this," but at the moment we don't even know how much we're spending.

MR FISHER: Well, just if I could address one of your points first, I broadly agree with you. I think that the question of whether or not or to what extent land-holders are copping the bill on behalf of the rest of us is an open question, when clearly, in a previous commission report, the argument has been put that land-holders have a duty of care. Now, where that begins and ends at the moment no-one has come close to defining. One of the examples we raise here is in the area of pollution mitigation. When EPA legislation came in around the latter half of last century there wasn't a call for compensation. If they were providing benefits to the rest of us then it's all at their cost.

I don't want to get into the real nitty-gritty of that debate because it's a never ending one, but to come back to your main point there about transparency in outcomes, I think that's very important. I think if you take an auditor-general type view of the world and apply it to programs like the Natural Heritage Trust and the National Action Plan for Salinity, you very quickly come to the conclusion that it's a totally unaccountable black hole; that there are no ways it can really demonstrate real conservation outcomes or changes in trends of degradation, for instance.

So I think there's a lot to be improved in that regard and one of the issues we have raised, albeit briefly in this submission, is the need to move to a better national or better federal framework - as I said before, from the federal government to the paddock scale - where we're much more accountable. The example we use is National Competition Policy, where there's a bucket of money and it's tied to outcomes and the states are assessed on outcomes, even though some of those assessments are pretty limp - sometimes they're not - and it has successfully driven change. Whether you like the change or not is immaterial; it's been successful.

We'd like to see, I suppose, the equivalent of a National Competition Council for the environment, with a national policy framework. You have the National Competition Council equivalent body assessing performance by the states, and indeed down to the regional level, and money dependent on accountability for performance. I think that's the direction we should be heading.

DR BYRON: Warren, it seems like a good opportunity for you to come in.

PROF MUSGRAVE: Let me just observe that perhaps as a result of our prompting we've had quite a lot of discussion of this notion of hierarchical arrangement between

the various levels of government in society, ranging from the federal level down to the state and down to the regions, and indeed down to the property level. What you're saying is of course of great interest to us because we have similar thoughts.

I was going to leave that but I just have a thought that you might be able to respond to. It seems to me, in thinking about such a nested hierarchy of plans and contracts and rewards and agreements as to targets, et cetera, that we're not inexperienced at the level between the Commonwealth and the state. The history of cooperative federalism in Australia is long and substantial, and marked by quite a degree of success.

DR BYRON: Albeit limited.

PROF MUSGRAVE: But some good success stories and we've learnt a lot about how to go about it. I would agree that I think the National Competition Policy is an extremely interesting and attractive example, but it occurs to me - and a lot of people we've talked to in this inquiry have agreed - that our experiences at the regional level, below the level of the state, are not as constructively useful. We've had a history of bad experiences; we haven't been terribly good. Our integrated catchment management story is not marked by great success; we're still fumbling towards robust institutions.

MR FISHER: It's still an experiment.

PROF MUSGRAVE: Indeed, in ways in which we do involve the grassroots of society in the decision process. The way we create institutions at the grassroots, which are empowered and have resources but are accountable in the way you suggest, is not entirely clear at the moment. I would certainly invite you to make any suggestions you might have about that to us - not immediately, necessarily, but at some stage that would be extremely helpful to this inquiry or in debate generally.

MR FISHER: I understand we have provided you with a paper prepared by Katherine Wells some time ago.

PROF MUSGRAVE: Is that the paper you circulated just after you spoke to us?

MR SHERWIN: That's right, it was very much a draft.

PROF MUSGRAVE: But my recollection of that is that you don't go into great detail below the level of the state governments.

MR SHERWIN: That's true, yes.

PROF MUSGRAVE: I'm not saying that that's bad; I think it's hard. It would have been great if you could do it, but I think it's not easy.

MR SHERWIN: Our contention would probably be there that - like we've participated vigorously in discussions about regional NRM delivery and so forth over the last 10 years. We've very much been urging a shift towards a regional delivery approach for Natural Heritage Trust and so forth; not to say that anything has been resolved to our satisfaction or necessarily to anybody else's at this stage. But taking a broader view, I suppose we'd be concerned that unless you've got the framework right at the state and federalist level, it may also be immaterial what arrangements you have in place at regional level until you've got an institutional framework that's robust enough to deliver the money where it's needed, to set the direction appropriately and to really support through legislation, through all the different policies that are needed from Commonwealth and state governments - the context in which those regions would operate.

PROF MUSGRAVE: The corollary of what you're saying is that, okay, it might be hard at the regional level, but that doesn't mean we shouldn't get on with the job between the Commonwealth and the states.

MR SHERWIN: I'm not quite sure what you're saying but I think so.

MR FISHER: Can I just go on in this vein: we have done a bit more thinking on the regional level of things in other policy areas, and I think you have a copy of our Leveraging Private Investment report by the Allen Consulting Group, which does look at the regional delivery of at least some services; in this case accreditation of commercial proposals for finance - accreditation of those against their catchment plan.

Now, at the moment I think catchment planning is still pretty formative and it's very difficult for a land-holder to go to a catchment organisation and say, "Well, tell me what to do," because they won't have the answer at that level of detail, at that level of resolution - even those that have really thought about it. But still, it's a great opportunity for catchment bodies to get their act into order here because under that leveraging approach, if they get more accredited projects up, then they get more investment.

Really, the concept is fairly simple, that you have a subsidised pool development fund where the interest return to investors - institutional investors in particular - is subsidised on the basis that the money goes to achieve commercial ventures that deliver a public benefit. The public benefit side of it is separately assessed through the catchment arena, and those sort of incentives for the catchment planning processes to, as I said, get their act into order will, I think, have a really

positive benefit in bringing catchment plans up to speed.

I would say, too, that a lot of this is taxation and if we're going to talk tax, then also let's talk about getting all your tax incentives in alignment here. We've given an example of the tax subsidies given to land clearing which I would say probably are greatly bigger in financial terms than either the NAP or the NHT.

PROF MUSGRAVE: Could I just change tack a bit. I just want you to enlarge on and perhaps explain what's going on to me. Charlie, you referred to us losing vegetation and what we lost was irreplaceable. It seems to me that certainly at the level of popular public discussion this is the thrust of the rhetoric. I'm not one to question this but in our travels we have been told repeatedly about the Australian landscape having tremendous regenerative capacity - sometimes not an admirable form of regeneration but still very regenerative. I think that in the minds of many - perhaps particularly in the urban sector, I guess - their picture of the clearing of vegetation is cleared open landscape, no more trees, and they don't appreciate the point that's been put to us that if you were to lock the land up, take the stock off, et cetera, you would actually get quite a degree of regeneration.

So when you use the word "irreplaceable", what do you mean in that context? I mean, you may not accept that point that there's regenerative capacity, and I would take your advice on board, but a lot of people have said it to us.

MR SHERWIN: There's no dispute that it varies across the country greatly. Some ecosystems in some climatic zones, subject to certain land uses, lead to regrowth of native vegetation. There's incursion of native vegetation in some areas into cleared areas and a variety of different responses to different land uses and climates.

I think it needs to be looked at on a regional or even a site basis because it varies quite substantially, as I've said. What you're suggesting is true, but it's not true of all regions in Australia. Overall, the history of land clearing in Australia has been of permanent conversion of native vegetation more or less rich in biodiversity into fairly non-biodiverse agricultural landscapes and urban landscapes. That's what I'm referring to there. We certainly agree that there needs to be sensitivity and flexibility in regulatory and other approaches to management and native vegetation clearing in regard to those issues of regrowth, et cetera.

PROF MUSGRAVE: Yes. We were particularly struck by the regrowth situation in the southern Brigalow Belt in northern New South Wales, where, without management of the regrowth, you eventually approach the situation of what was described as lockup.

MR SHERWIN: Yes.

PROF MUSGRAVE: It's a very sterile situation.

MR SHERWIN: Can I just say that the clearing of previously uncleared native vegetation is the issue of most concern to us in this arena.

PROF MUSGRAVE: Remnant, yes.

MR SHERWIN: That's right. But one also needs to take into account natural thinning as well as natural thickening.

PROF MUSGRAVE: Sorry, natural?

MR SHERWIN: Thinning of native vegetation, through drought, dieback, fire and various other nature processes, which is a phenomenon perhaps as equally widespread as natural thickening. It is often not mentioned in these debates, but there is a process of thinning and thickening that goes on. Some of the early explorers in southern Queensland had great difficulty getting through some areas; they took a day to get through a few hundred metres. In other areas it was an open landscape. This fluxes and changes through time, but really what leads to biodiversity decline - since the Industrial Revolution at least - is the rate of change of landscapes, the rate of change of habitats and ecological factors. It's not the fact that they change. Change happens. It always has, through the history of the world. It's the rate of change, and bulldozers increase the rate of change. That's the key point. There is some flexibility with those issues, but previously uncleared vegetation is where clearing is a very alarming prospect in terms of biodiversity.

MR FISHER: Jason Alexandra, who some of you may know, was telling me just very recently about a recent scientific workshop in Queensland on woodlands and woodland conservation. One of the theories posed about thickening and why it only takes place in Queensland, at least across the north, concerns the history of land tenure. One theory - and it is just that, a theory - is that the block size in Queensland pastoral subdivisions and so on was too small and so the stocking rates tended to be higher, especially when times were tough, and the response of that landscape could be explained in those terms: that certain trees could prosper in the absence of palatable matter. I think that's how it goes, but it would be interesting to have a look at some of those issues and see what really is behind trends like thickening. But just to come back to the point: when you do clear a landscape, it doesn't come back the way it was. It may do so over the very long term, but it needs seed banks of the sorts of things that don't tend to survive clearing so well.

PROF MUSGRAVE: Yes, this point has been made to us repeatedly. You might go back, but you're not going to end up where you started from.

MR FISHER: No.

PROF MUSGRAVE: Or where the Aborigines started from.

MR SHERWIN: After our last presentation to you I provided to you some printed matter regarding our understanding of definitions of terms like "encroachment", "thickening", "regrowth", et cetera. I could certainly provide that to you again if that would be helpful.

DR BYRON: I think the definition of "remnant" is particularly contentious. I'm sure Warren was thinking of the place that he and I visited where the remnant vegetation that's now being protected by the New South Wales legislation is 25 to 30-year-old regeneration on land that's been cleared on six different occasions over the last 150 years. They clear it, grow wheat for a few years, graze it for 10 years, then allow the bush to come back for another 20 years, 30 years; clear it again, grow two years of wheat, sow pasture for 10 years, then the bush comes back; and they're in the sixth cycle of this. What amazes me - and it's been through five wheat cultivation cycles over the last 150 years - it still has such high conservation values that we want to see it protected. That, to me, suggests an extraordinary resilience. Either that, or we're willing to accept a grossly inferior replica of what was there 160 years ago and say, "Well, that's still good enough for us to want to look after it as if it was a national park."

MR SHERWIN: Can I say clearing control regulations do not aspire to see bush looked after as if it were a national park. I'll challenge that one. We can come back to that perhaps. It's very important that a deep understanding of ecology be injected into the commission's thinking as it puts together the final report. I'm not suggesting that you don't have such an understanding, but just to ensure that such an understanding is injected into your deliberations. I'd be interested to see some evidence of the cycle of land use that's happened in an instance like that, to verify that that actually is the case. That's not to cast any aspersions on the person that's put this to you. It's also worthwhile getting the opinion of an ecologist as to the value of the vegetation that is there now, the 35-year-old regrowth, in terms of biodiversity.

You talk about a very high conservation value. It might not be so. It might be good, solid bush with 35-year-old trees, with some tree hollows potentially able to emerge in another 50 years if you're lucky, for arboreal marsupials and so forth, and maybe you've got some regrowth of some threatened plants that might be quite widespread but nonetheless rare. I don't know. But all these things have to come into play.

MR FISHER: It might be useful in salinity intervention.

DR BYRON: Indeed.

MR SHERWIN: But ecology is a very very complex and really increasingly exact science and it's very important to draw on ecological expertise, I think, in coming to an understanding of these issues.

PROF MUSGRAVE: Well, I liken the exactness of ecology to that of econometrics.

MR SHERWIN: Touche!

DR FISHER: Actually, I'd put my money on econometricians before ecologists, but that's perhaps bias. My impression is that the presiding commissioner has been a bit too diplomatic about the regulators. Sorry, presiding commissioner. The problem, I presume, is that what we need is some sort of optimal level of biodiversity and we need to determine what the optimal level of biodiversity is and how to get to that, and that's where Neil started when he started the discussion. What's happened, effectively, is we've got a bunch of regulators who spawn these sets of regulations and then this degenerates down to a group of individuals in the field who finally decide that they need to regulate a single tree or a single branch.

This is a long way actually from standing back and looking at the problem of getting the best outcome for the community, and in fact it seems to me that it's actually worse than that, in that we have heard evidence in both New South Wales and Queensland from some of the regional community groups who have spent an enormous amount of time in their vegetation management committees, et cetera, attempting to get community solutions to this inside the framework set by their states. In many instances these things are finally being put in the bin in capital cities.

So not only do we have people basically missing the forest for the branch, if I put it that way, we also have a situation now where we have alienated a whole bunch of individuals who have put in an enormous amount of their own personal time and in some cases they have said to us they will never be involved in this again. So the proposition that I'm left with is that the regulatory approach per se, which is where we have effectively got to, is actually very, very unconstructive indeed, and perhaps we need to consider starting in a broader way, in a more open-minded way, and we need, I think, to avoid a situation where we say things like, "Land-holders don't have a right to do anything."

That combined with a regulatory approach actually sets people up against each other and presumably what we need to do here is find a solution that is cooperative rather than confrontational. Is that correct?

MR FISHER: Could I have just a little go at this and then leave it to Charlie? We are not here to defend flawed process and I think with the case of Queensland it was pretty clear before they did it that it wasn't going to achieve the desired outcomes, and it was pretty clear that it was flawed process and so it is no surprise to us that involving people in flawed process would cheese them off, because sooner or later they would have to change it.

MR SHERWIN: I absolutely agree with that. I think we need to go back to the beginning of your probing question; the presumption that what we are out to achieve is an optimal level of biodiversity. That's again something where I think we need to be drawing on ecological advice, and that advice would be that biodiversity, if you like, is absolute; extinction is forever. Optimise it. What we are trying to achieve is retention of biodiversity. We are trying to protect Australia's biodiversity so it doesn't decline further.

I mean, if one wanted to come right down to tin tacks, one might look at the background rate of extinction that happened prior to European settlement, and there are various papers on this at the national and international level that might give you an indication of the rate of species decline versus speciation, of the emergence of new species, and you could perhaps shoot for that, but effectively we are looking at eliminating species extinction. So I think we need to start from that premise.

In terms of regional processes, particularly for native vegetation retention - and remembering that if you don't retain native vegetation; if you don't protect it in the first instance, all of the sophisticated policy tools that you might bring forward for the management of native vegetation come to nought because there is nothing to manage; regrowth excepted. But it's unfair, in our opinion, to ask regional committees, made up mostly of land-holders in most instances, to set levels of retention of native vegetation; to set the parameters for regulation.

State and Commonwealth governments need to be setting the parameters for regulation of native vegetation because local land-holders on local committees can't be expected to regulate their peers, their neighbours, et cetera. It fails. It has failed consistently, that approach, and that is what we have seen in both New South Wales and Queensland. With the Queensland regional vegetation management planning process, an analysis of submissions done by the Queensland Conservation Council showed that the draft plans that have been put together by these committees allowed for some 19 million hectares of land to be cleared, if the draft plans were introduced in the form that they had been prepared. 14 out of the 20 plans that were drafted at the time of this analysis recommended the continuing clearing of concern-vegetation types; that is, vulnerable vegetation communities.

If you are talking even about optimal biodiversity outcomes, you wouldn't be looking to clear vulnerable vegetation types. Only four plans made recommendations for the protection of areas of high conservation value. Large areas of land would have remained open for clearing in catchments identified as at risk from salinity, and rates of greenhouse gas emissions would not have been significantly reduced; very difficult for committees made up principally of land-holders or local people to really regulate on a local basis, to set those parameters for vegetation clearing issues.

Really the responsibility needs to be taken to heart by state government particularly, and regional committees, of course, do have a proper role in vegetation management policy, and we have put forward some ideas on what that proper role is in our previous submission, but essentially they have got a lot of knowledge and information which is helpful in refining mapping and on-ground management of native vegetation; how to deliver on the targets set by state government; how to properly adjust for any hardship that might be caused by those regulatory parameters set by state government. Some guidance on structural adjustment, for instance, could come from those regional committees and determining a process for delivering those clearing outcomes at regional level.

The point is purely that regional-based process, without a level of decision-making above that, will fail, particularly in terms of protecting native vegetation, and has consistently failed.

MR FISHER: Could I just add a brief comment here? You can't sort of frame this as an econometric question. You can't reduce biodiversity to an economic value for this present generation. Well, you can, but that's not telling the whole story. There are no economic tools for measuring the value of biodiversity as an intrinsic value. There are some substitutes and some of them work better than others, I suppose. There are no econometric tools for looking at the value of ecological services; the economic value of ecological services, most of which we have never even gone out to assess what they are, let alone assign a value to, and there are also no tools for comparing the benefits for the present generation and weigh that up against the costs for future generations, and when you get into discounting you just can't put any value on future generations.

So I think that you need to approach it from a whole different mindset, and that goes into the whole arena of how do you translate the principles of ecological sustainability into policy.

DR FISHER: That's given me a couple of things to think about. Just on these local vegetation groups, I think in the case of New South Wales there was much broader representation than land-holders, so I think my point is that basically this process -

the processes that we have and the proposition that I would put again - is basically these regulatory processes have spawned a bunch of behaviour that is non-constructive, and I think we have pretty strong evidence of that in the case of New South Wales, even where the local committees had broad representation, and in fact some of those local committees with broad representation came to produce plans that seemed to be perfectly acceptable, but they have still been rejected, and we still have this over-arching set of arrangements.

There are some broader more interesting questions here. When you talked about the - I guess I use the word "optimal" level of biodiversity and you question that proposition and suggest that what we want to do is - your premise is that we need to retain certain things - does this mean that you believe that every individual piece of biodiversity has an infinite value?

MR SHERWIN: I see what you are getting at. You are getting into these sort of diversity comparisons between one red gum and the next red gum, and they'll have different DNA.

DR FISHER: Or one species and the next even. I don't even necessarily want to do that. I just want to know whether these things have an infinite value.

MR FISHER: A really important concept, I think, to look at in terms of managing our planet as a whole, or your back paddock at the other level of the scale, is robustness and how robust the system is; how lasting it is; whether it's a management system that you impose on the environment or whether it's sort of a combination of use and conservation, whatever. I think that in terms of biodiversity, the conservation of species conservation, you have to assume that the fewer number of species you have got there, the less robust it will tend to be and, unless you know otherwise, then you have to assume that a species is important.

It's obviously very difficult to even know what species are there, especially when you get down to the little furry dots and so on. This is where I think the precautionary principle comes in. You exercise caution and you assume that everything has value. There are loads of different species, obviously, and they all play a different role in whatever ecosystem they live in, and some may be more important than others. I don't want to get into the debate that every species had an infinite value, but I think for all intents and purposes you have to assume that biodiversity has an intrinsic value and that, sure, there are some trade-offs, but ideally you want biodiversity and the ecosystems they live in to have integrity and to be able to continue to function.

DR FISHER: But that's our conundrum, isn't it? Basically I think you're saying exactly what we believe. Basically we're faced with a practical situation where

there's a bunch of trade-offs. There are economic trade-offs, there are trade-offs between species, there are trade-offs between the types of biodiversity that you might be able to afford to keep. So in the end this comes down to an economic question, doesn't it?

MR FISHER: No, it doesn't.

DR FISHER: It doesn't?

MR FISHER: If it has got to the state where a species is in trouble, where an action is likely to cause its extinction or continuing demise, I think there is no question of a trade-off. The choice is simple - you conserve it.

DR FISHER: So you would advocate that if we come to this situation - and I'm sure we do every day and we probably don't even realise it - you would throw the entire GDP of Australia at conserving this species, whatever it is.

MR FISHER: Well, show me a real world example here, Brian.

DR FISHER: No. You're putting the proposition.

MR FISHER: It's a bit too hypothetical.

DR FISHER: I'm asking you, does this mean that there's no trade-off in this case? So clearly you are saying there is a trade-off.

MR FISHER: No. I think that your proposition there, that we would throw the entire GDP of Australia at one species, is absurd. It's not a real-world example.

DR FISHER: So there must be a trade-off, then. There is a trade-off. If we're not prepared to throw the entire GDP of Australia at saving this particular species, there is clearly a trade-off - namely, we're saying that all of those things that constitute the rest of economic activity are worth more than that particular species.

MR SHERWIN: Can I suggest perhaps - not wanting to buy into this one too much - that the sustainability principles as put forward in our original submission provide some guidance here, particularly as they relate to the equity concerns to do with intergenerational equity. The entire GDP of Australia in 2004 or two bob in 2004 is perhaps immaterial to future generations 20 or 1000 years hence, and I'm not sure that the question is valid in that sense if one goes back to those sustainability principles about protecting biodiversity. For its own sake it has intrinsic value - ecosystem processes for their own sake and for the sake of the welfare of the country's ecosystems, and the interest of future generations. You can't just simply

put a dollar value on it and argue it in terms of current dollar values. It doesn't wash to me.

DR FISHER: But the situation is that basically we have overlapping generations and that there are several generations in the community. We just had the opportunity to speak to a farmer who has been around for a while; I've got a three-year-old daughter. The facts are that there are decisions being taken within society that impact on several generations at a time. It's not simply a fact that we are here with no concern whatsoever for the future. That's not the case, is it?

MR FISHER: Who is saying otherwise?

DR FISHER: Well, you are. You're saying that we can't make sensible statements about the future. You can't use discounting, you can't use these other tools that we have.

MR FISHER: I'm saying we don't have economic tools to compare those values.

DR FISHER: Well, I think we do. We have an enormous literature on comparing the present with the future and if you want me to refer you to that literature, I'm more than pleased to do so.

MR FISHER: I think that we've just got a difference of opinion on that matter, that I don't see a lot of evidence of economic thinking on key environmental and natural resource management issues that produces a robust analysis of what the costs are for future generations. I haven't seen much of that at all, nothing other than theory. But that's not the point. I think the philosophical and hypothetical example you're trying to pose there is not real-world. Generally speaking, the conservation of a species, insofar as it can be managed, involves habitat - management of that habitat, conservation of that habitat and, in some cases, a breeding program or something to prop up that species and try and find other bits of its habitat that it can be reintroduced into. Now, nothing like that remotely approaches the GDP of Australia.

DR BYRON: If I can just butt in, it seems to me that that was the point that Brian was making - that governments make that sort of decision all the time. If you look at the threatened species recovery plan for something like the mala, we're willing to spend \$20 million on it but we're not willing to spend 200 or 2000 or 200,000 million dollars on it, so that governments through their action have said, "Yes, this is important, this is valuable, we're willing to allocate a big slab of money to it," but certainly nothing like infinite; nothing like the total GDP of Australia.

MR FISHER: I made the point earlier that we don't believe that there are sufficient public funds in this whole area of environmental and natural resource management.

Part of it is that mala don't have an effective lobby group in Canberra, or at least not as much of a one as, say, the lobby areas in health or education or business policy. That's not to say that we shouldn't be spending more on things like that.

PROF MUSGRAVE: I think we're getting outside the terms of reference of this inquiry.

DR BYRON: We are.

PROF MUSGRAVE: The point is that our social decision processes have arrived at a set of purposes of the legislation and regulations in place. Certain public funds have been allocated to this activity. I'm not going to say the commission is told not to question the purpose of the legislation. Certain public funds are allocated to this activity. Certain costs are created in pursuing the objectives of the legislation. Those objectives are distributed in a certain way and an outcome is that a proportion of those costs are being borne by certain individuals in the community and we are invited to comment on the distribution of costs, ways in which the costs might be reduced and better ways perhaps of distributing those costs.

Now, a thrust of your very, very useful submission is, in effect, that that proportion of the total costs of pursuing those outcomes which private individuals bear, and many of those private individuals are landowners, are fairly allocated. That is a point of view that you support with certain observations, including the principle of polluter pays; but there are those who argue the other way around. As I think you, Tim, observed, this debate could perhaps go on endlessly because in the end it boils down to equity and fairness issues in relation to the cost of pursuing a particular set of outcomes as defined in the legislation, not what those outcomes should be.

MR SHERWIN: Just quickly, I don't think you were so far from the mark when you said "ethical". I think there is an ethical bundle there that we were approaching and it may even pay you - - -

PROF MUSGRAVE: In terms of the distribution of costs?

MR SHERWIN: In terms of the definition of what we use to decide how much we value biodiversity.

PROF MUSGRAVE: No, I'm inviting us to back away from that because the inquiry is not about that.

MR SHERWIN: Yes, I agree with you. That's what I'm saying. Can I just say quickly, a very important concept here, of course, is cost-effectiveness. There was a paper put out in our Tela series called The Business of Biodiversity by

Prof Hugh Possingham up in Queensland. It talks about the issues of decision theory and adaptive management in biodiversity conservation. It is quite critical of the way in which funds have been applied to biodiversity conservation in Australia and internationally in the past - and currently, in fact - and provides some good pointers on principles that you can use to ensure that your dollar gets bang for the buck.

On that note, I think it's very important to also point out again the Prime Minister's Science, Engineering and Innovation Council paper on protecting Australia's biodiversity, which makes it very clear, not for the first time, that controlling land clearing and taking structural adjustment into account is the most effective thing that one can do to protect Australia's terrestrial biodiversity. So in a sense, land-clearing regulations are directed in a cost-effective manner, arguably, from that broad principle at least.

MR FISHER: Can I add to that, too, that we're not saying that there's not a case for adjustment, assistance, some form of assistance payments that one way or another addresses concerns of equity, but it's not necessary that they be tied to the regulatory regime. I think that the issue of fairness is best seen in the bigger picture. What are your sweetening mechanisms to deliver the whole package of outcomes you want to get and how can they be most equitably and efficiently delivered? What I would say here is separate the question of regulation from the question of fairness and look at the fairness across the broad picture. It doesn't necessarily have to be tied to the regulatory regime, that you can only regulate if there is a law that says you have to pay compensation. We're not actually saying that regulation is always fair. What we are saying is that it's not always unfair.

PROF MUSGRAVE: We clearly would have to look at the words we have used. My understanding of what was written in the draft report is such that we're not at all removed, but clearly we haven't expressed ourselves adequately and we have to look closely at that and we have to pay attention to that. Thank you for forcing us to do this in your submission, but I think we're much closer than you seem to be suggesting we are. Could I just remark that, on reading your submission, I was roaring along through the first few pages and I thought, well, you're saying we've got to have strong regulation and anything else is pretty much not going to help us very much. Particularly on page 4, you say in the second-last paragraph, the second sentence:

It also recognised that trying to construct markets to address these objections is invariably, in both a policy and economic sense, inefficient.

Now, I don't want to debate that sentence with you. It just gives me the impression that you're saying there is no place for incentive-based instruments, market-type instruments, as part of the total package. You talk in these terms, Tim. Then I go on in your submission and I get the impression that actually you are fairly

comfortable with the idea that you have that within the regulatory context you can use an array of instruments and you've talked about this, this afternoon.

MR FISHER: That is perhaps not as well expressed as it could be.

PROF MUSGRAVE: We're all guilty of weakness in expression, perhaps.

MR FISHER: We all are, I suppose, from time to time. Regulation - how do I express this? Market mechanisms or other mechanisms in the absence of regulation may be a most inefficient outcome. There may be huge transaction costs or what have you, or it may simply not deliver the desired outcome. So as an alternative to regulation - yes, we think that it's not an efficient way to proceed, but in addition to regulation - I don't see the problem.

PROF MUSGRAVE: Once again, we seem to be very much closer than you appear to believe, particularly in the writing of your submission. Just finally, on page 7 - you haven't got the pages numbered; it's the second-last page of the submission proper. Could you explain the first paragraph to me? I just don't understand it:

One thing is for sure. There can hardly be a case for public funds to go to the expensive and inevitably compromised restoration of native ecosystems or ecological functions such as salinity control, if and where land clearing continues to take place on a significant scale.

I just don't understand that. I don't know what it's saying.

MR FISHER: We touched on that earlier when we were talking about comparing the rate of land clearing in Queensland with the amount of money going to programs such as Bushcare for revegetation programs. Why would you throw money at revegetation for restoration to Queensland where land clearing was taking place on such a huge scale? I mean, that's an issue of cross-compliance, if you like.

PROF MUSGRAVE: Yes, I understand that. Thanks for that. Just finally, is it possible to conceive of a targeted program which was based on restoration as well as the retention of remnant vegetation? It would seem to me that you would say that we don't have enough remnant vegetation. Would you argue that in addition to preserving the remnant vegetation we have, we should be going in for some restoration?

MR SHERWIN: Yes.

PROF MUSGRAVE: And that would add to biodiversity?

MR SHERWIN: It often depends on the area you're looking at. It's quite site specific. I mean, in southern Australia there has definitely been over-clearing and there are huge problems. In northern Australia it's a very different case.

PROF MUSGRAVE: This cypress, et cetera, stuff we saw in New South Wales - it was not necessarily a tremendous contributor to biodiversity, but other areas of restoration might.

MR SHERWIN: I just want to be sure that we're talking in the same language. The word "restoration" in your view means?

PROF MUSGRAVE: Revegetation. It might be through regrowth, it might be through other activities; I don't know. I'm not sufficient of an ecologist.

MR SHERWIN: Sure, okay. Thanks.

DR FISHER: Just for the record, I think the economic literature suggests that, generally speaking, market-based instruments are more efficient than regulation, so I just want to put that on the record. Now, going back to this question of communication, earlier in your evidence you seemed to be suggesting that we didn't take proper account of the cost of externalities. There was some reference, I think, Charlie, in some of your earlier words about the notion that we were happy to see people impose externalities outside of base and we wouldn't worry about that. Well, I think if that's the impression you have got, that's not my impression of what we've written. I think we are attempting to say - and maybe we said it ineffectively but we're attempting to say is that if there are externalities, then those persons who impose externalities should have those things sheeted home to them such that both the private and the social costs of an activity are properly accounted for by the private individual in their decision-making. In that way we would have an optimal outcome.

MR SHERWIN: I've given a page reference where I've made that comment in the printed report, and it's referring to the suggestion that land-holders should only be expected to bear the costs of actions that largely benefit them as individuals or as a group, and that beyond that the ecological services should be bought from land-holders. We saw that as really getting the balance right, if you like, because those words suggest that if a land-holder took an action caused dryland salinity which did not affect that land-holder or a group in society that that land-holder saw themselves as being a part of, whether it were land-holders in general or the agricultural sector, or whether it were a region or a locality, but affected, for instance, future generations on the same site - maybe 50 or 100 years hence - or affected urban communities downstream that had nothing to do with the agricultural

sector of that local area, we read it that you were suggesting that there was no duty of care, no responsibility on that land-holder to bear those costs.

DR FISHER: I think maybe we need to look at the words there, but basically the point we were making there was that if a farmer provides ecological services, then that's a service, and the community values that service, then the community should pay for that. We're not saying that if a farmer imposed an external cost on somebody then they shouldn't pay for that, because clearly they should. Effectively what we're saying is there are some other externalities there, both positive and negative ones, and they should be dealt with symmetrically, not that we should ignore one and compensate for the other - to use that word advisedly. But if that's a misinterpretation, then I think we should have a look at the words.

MR SHERWIN: Okay. It may be worth clarifying something here. The issue of retention of native vegetation, as opposed to management of it or restoration of it, and your recommendations, particularly 9.8 - I'm struggling with that. I'm not comfortable that retaining native vegetation should necessarily be cast as the provision of an environmental service.

DR FISHER: How would you cast it?

MR SHERWIN: Well, refraining from an environmental disservice, perhaps.

DR FISHER: But why not put it in a positive framework? I mean, you seem to want to put it in a negative framework. Isn't it much better to make these things sound positive, rather than negative? "Service" sounds more positive to me than "disservice".

MR FISHER: You end up in a circular argument. I think that the issue is how do you address - it's pretty simple. Using the broad suite of policy instruments available to you, how do you address both the need for biodiversity conservation, native vegetation retention and so on, and in the process make sure that it's as fair and equitable as possible. I think that if you try and debate that philosophy too much of what's a cost, what's a benefit, who's responsible, who pays, what are the performance standards, and all that sort of stuff - I don't think at the end of the day it's going to take you too far.

DR FISHER: I disagree with that because clearly there's a serious bunch of incentives out there that everybody is operating under, and unless we properly understand the incentives that face each of the individual actors, then we won't have a good basis for the policy that we implement.

MR FISHER: I didn't say you don't do that. I didn't say that at all.

DR FISHER: So to understand the incentives means effectively that you have to work out who are providing the services and what are the services, and who values those and how we should share the payment for those things across society.

MR FISHER: The incentive may not necessarily take the form of a straight-out grant.

DR FISHER: I didn't say it did. There can be numerous reasons for preserving something. Some people get private benefits out of it; other people in other cases - well, I'm sure we all get some sort of private benefit out of these things but that doesn't necessarily mean that I'm not willing to pay, as an individual, somebody in the mallee for preserving something. At the moment, however, there's no mechanism for me to do that - or there are mechanisms but they are pretty indirect.

MR FISHER: I wouldn't disagree with that.

DR FISHER: So really I think what we're struggling for here is a framework that leads us to the optimal allocation of those things in society, even though I know that that "optimal" word sort of conjures up bad karma for you.

MR FISHER: That's your words, not mine, Brian.

MR SHERWIN: It depends on the context.

DR FISHER: Okay. The one other thing - Mr Chairman, I'm sorry to delay you all but - - -

PROF MUSGRAVE: You're getting excited, eh?

DR FISHER: Yes, I am actually, because I find this an extremely interesting and exciting topic. The one other thing I notice here in your submission was the notion that we'd made a few errors, and I'm sure we potentially may have, but I know that there's one that we didn't, and that is this notion here about erosion under woody vegetation. Now, basically you're saying to us that woody vegetation always prevents erosion. Well, in fact the engineering, scientific and plenty of other evidence suggests that this is not the case.

Basically, once you get to a situation where woody vegetation has effectively denuded the undercover and the grass cover in the sort of scrubland that we see, say, in central western New South Wales, then you get increased erosion. So there are some technical issues here that are simply not properly reflected in your document.

MR SHERWIN: What we're getting at there is that trees don't cause erosion, not that they always prevent erosion.

DR FISHER: What I'm saying is that in some cases trees do cause erosion because what happens is that they crowd out the grass cover on the ground and, therefore, the erosion consequences in that landscape are different from what you get from an open woodland with a strong grass cover. That's scientifically established.

MR SHERWIN: Perhaps it needs to be cast in terms of a more qualified - - -

PROF MUSGRAVE: Hardly spurious.

MR SHERWIN: Pardon?

PROF MUSGRAVE: What we said was hardly spurious.

MR SHERWIN: Look, I'm prepared to concede that but I think it needs to be a qualified statement because there are spurious arguments around this that are circulating that I've come up against myself in discussions on these issues. Often soil erosion is caused by land use, whether it be fire management, grazing management, perhaps the size of the blocks that have been subdivided in the past, grazing intensity, the clearing of vegetation locally or regionally that might have led to changed hydrology increasing near the surface or groundwater run-off leading to erosion. It has nothing to do with the local native vegetation.

Where you've got regrowth of a single species in an area that's been grazed for many many years, I suppose it's possible that the crowding out of the grasses in the understorey could lead to greater impacts from precipitation and so forth.

PROF MUSGRAVE: The exceptions prove the rule, don't they, Charlie?

MR SHERWIN: The traffic from hard-hoofed domestic stock tends to be the biggest issue in these areas. It is the cows that cause the erosion, not the trees, is the point that I'm making. I admit that there are exceptions to the rule.

PROF MUSGRAVE: Perhaps this does raise a point about the problems involved in the rhetoric. You very usefully emphasise the focus on the preservation of remnant vegetation, but we have talked about regrowth and it would seem to me that the management of regrowth is a very, very different story to the management of remnant vegetation.

MR SHERWIN: Absolutely.

PROF MUSGRAVE: That tends not to come out clearly in the popular debate. It comes through to us as a very important issue which we've tried to reflect in the report, perhaps not as well as we should.

MR SHERWIN: I hope that we've reflected it adequately in our submissions and, if not, we'd just like to make the point that we agree with you on that issue, very much so, and certainly in ACF's public engagement over these issues, in recent years at least, we've made a very clear distinction between the management issues and retention issues around remnant versus regrowth vegetation.

MR FISHER: Just for the record, can we come back to the point about regulation and the fact that sometimes it is the most efficient outcome? I think that if you look at some areas like road traffic control, for instance, or land-use planning, you do come up with areas where regulation is the most efficient way to deal with it, with respect.

DR FISHER: Mr Chairman, I would be happy to debate this but I'm sure it's not appropriate to the terms of reference.

DR BYRON: Perhaps another time and place. If I could just come back to a point that we agreed to skip over earlier, about under what conditions does government pay compensation for regulation - I know I should be very careful as a non-lawyer here - but it seems to me that if government regulates because there is a clearly-perceived imminent threat of some sort of harm - environmental degradation, for example - then that clearly is where governments have an obligation, a responsibility to act to prevent that harm that would affect the wider society. However, if the government took the same action, or imposed the same restriction, but in the absence of any clearly-perceived threat, then that might be seen - well, it would be seen in the US courts as a regulatory taking, where the government is in fact simply confiscating. In the US, where there are constitutional guarantees against regulatory taking, that's probably where the difference lies.

In your appendix you've got the very good example of New York state and the Catskills, and I just invite you to have a look at that. As you say, the New York State Water Supply Authority bought the catchment. They purchased the land. The state government didn't just pass a law that said, "All land-holders in that catchment, from here on, must manage their vegetation a certain way, or destock it. or blah, blah, blah," because that would have been, I think, perceived as a regulatory taking. What they did was simply buy at market price and then manage it themselves at their own expense.

Now, a lot of the people that we've spoken to have said that their land is, in effect, quarantined from their commercial use. They have to continue to pay the

rates on it, they have to continue to protect it against ferals and weeds and fire, but they cannot use this land which they have the freehold ownership of because it's fully covered with native vegetation and they're not allowed to touch it. Those people see that as a regulatory taking, or one earlier presentation today used the horrible word "theft", but that's the way they are interpreting the change in their bundle of property rights on their land.

I think I see a way through this, that if there clearly was a serious danger to the wider community or society from salinity or whatever, then the government is absolutely justified in taking this action. In the absence of that, then you might question why it was necessary to change the land-holder's bundle of property rights. The final corollary to that is that we've had evidence from people in New South Wales, Victoria and Tasmania about privately owned and managed native forests which they have been managing in some cases for up to up to 50 years for commercial timber production. They see native vegetation legislation negating all the work that they've put in to managing that. In other words, they see it as expropriation. Their business was growing native timber for sale to the local sawmill and suddenly they can no longer carry on that business.

The other example of the ownership right is that people in Queensland who bought leasehold land in the 70s have shown me receipts from the state government when they bought all the native vegetation, which they had the right to sell to sawmillers, or to burn, or something else, and now we're saying, "Well, even though you have a receipt for having purchased that native vegetation, it's no longer yours. You're no longer able to manage that asset." Any reaction to any of that?

MR SHERWIN: I've got plenty.

DR BYRON: You've got another hour to go, have you?

MR SHERWIN: I would have thought where there's a receipt that makes it clear there was a sale of the native vegetation or a transfer of it, you're looking at a property right.

PROF MUSGRAVE: That's not very helpful.

MR SHERWIN: That's not very helpful?

PROF MUSGRAVE: For conversion.

MR SHERWIN: In any case, that's quite peculiar. I haven't heard of an instance like that before. That's a different kettle of fish to the normal situation that I'm aware of.

DR BYRON: Another exception that proves the rule.

MR SHERWIN: A terrible business. Look, where there's a serious danger to society or the community, regulation is warranted. There is plenty of evidence that land-clearing particularly posed a serious danger to biodiversity, to a value that the community held dear, to protection of natural resources from dryland salinity, protection of the Great Barrier Reef from sedimentation, putrefaction of our rivers and so forth and so on. This quite clearly, in our view, would have warranted regulation of native vegetation clearing by the federal government, and indeed depending - - -

DR BYRON: If somebody was sufficiently confident to say, "I'd like to clear part of my property and I'm willing to put up a million-dollar bond that says it's not going to cause any significant downstream or migratory bird or any other habitat destruction, it's of a vegetation type that's as common as dirt, and I think that I can clear this patch of vegetation without causing any serious harm to anything," should that be allowed to go ahead?

MR SHERWIN: That's a very good question. I'm referring to the overall situation in Australia where land-clearing, in terms of the debate around natural resource management and biodiversity conservation, has been a weeping sore for many, many decades. Decidedly from a national perspective and certainly a state perspective in New South Wales and in Queensland, indeed in the wheat belt of Western Australia and other areas, it has been something that is a screaming need and would certainly warrant a regulatory approach in terms of both the urgency and the rapidity with which vegetation was being cleared and natural resource decline debt was being incurred by future generations - but also on the irreversibility of the damage that was being done. I'm not referring to necessarily black gidgee or brigalow, but irreversibility is something that is innate where you are talking about biodiversity conservation. You can't get species back, despite what Mike Archer says.

MR FISHER: For a long time now we have supported the need for a Commonwealth and state funded package to go along with a Queensland vegetation control piece of legislation - whatever you call it. So we have advocated for that money to be on the table to deal with those sorts of issues. In terms of leasehold conditions and the clarity of resource rights and so on, this is an issue across the natural resources arena. As you know, Neil, there is an issue in fisheries, but it definitely needs to be sorted.

I note that at least in Victoria and probably elsewhere now, New South Wales and South Australia, I think, there is legislation that enables the separation of ownership of trees, in terms of plantations, from the land, which is a useful thing,

potentially, at least; maybe in dealing with regrowth, for example. There was an example in the New South Wales mallee lands where you had a successfully, as I understand it, negotiated process of working out which areas of these pastoral lands could be cleared for more intensive cropping and which areas would be conserved for native vegetation conservation.

I think that is a successful example of a negotiated outcome where you had willing participants around the table and a preparedness to move on all sides from the word go. So in a way that partially addresses those concerns about bad process, because good process, I think, is better than bad - obviously. Finally, too, there may well be other commercial land uses, especially when you are considering the public good component of them. It may, as we say, be a case for a form of assistance that encourages or promotes those different land uses that are more compatible with the conservation values that are there.

It may be something directly related to biodiversity conservation, like nature-based tourism, that is the go there. I should say, too, there are programs - some of them privately funded, some of them publicly, or a mixture of both - like the Bush Heritage trust, which actually goes and buys properties. Of course they have their own list of priorities that they buy. So it needs to have good conservation values to start with. I think there are a number of ways to work problems like that.

DR BYRON: Thanks very much, Tim.

MR SHERWIN: Can I add one more thing? I think you need to keep in mind the phenomenon of incremental loss as well, and the case that you cited of a property where the question arose it was not a rare vegetation type, it was quite common. There was a million-dollar bond that there wouldn't be any natural resource problems ensuing. It is an interesting one. It's a valid question and an important question, but it needs to be looked at not just in terms of that individual case but in the landscape context that one is assessing that case in, and we have seen incremental loss of native vegetation throughout Australia to the point where in many areas it has gone well beyond what anyone would think was reasonable in terms of natural resource or biodiversity decline.

One also needs to look at cumulative impact of different threats to biodiversity, not just clearing, but things that may be associated with clearing like, for instance, the incursion of weeds and feral pests, microclimatic changes and so forth. I don't know of any research that would give us guidance in this area where one is looking, say, at an entirely intact landscape and questioning whether one should permit some clearing of abundant vegetation types. That actually puts together the different impacts that might happen on initial clearing of that area. There is not actually a lot of research on what are the initial impacts on biodiversity of clearing a relatively

intact area.

We've got a lot of research in southern Australia on highly cleared landscapes and what impacts of further clearing would be, but we don't know what the impacts of that initial clearing might be. There may well be spin-offs from not just the loss of the habitat in a broad quantitative sense but a loss of keystone species that were there that were very, very sensitive to clearing, even if a small amount of what is left of the native vegetation; that have ecological repercussions for other species that they interact with in their lives, and again, take into account pests, weeds, all the different things; hydrological changes that might go with that clearing.

So cumulative impacts and incremental losses, but also I think one needs to nod to the concept of protective management that is drawn out in the national land and water resources audit papers, particularly the biodiversity assessment, protective management of largely intact landscapes being very, very much more cost effective and wise, than the clawing back of ecological function that we are trying to achieve in these largely cleared landscapes that we have created.

DR BYRON: I guess I was thinking of, particularly while you were talking, a landowner that we met who wanted to clear 300 hectares of his 1600-hectare freehold title that was adjoining the Snowy Mountains Kosciusko National Park and the way he put it is, "What is so special about my 330 hectares when you have got another 200,000, 300,000 hectares that looks pretty much exactly the same right over the fence?" and given that he has also got another 500 hectares of his property which he has been, for a long time, deliberately looking after for conservation purposes. His particular point was that, "Surely I deserve a little bit of recognition or credit for the conservation activities I have taken over the past 20-odd years on other parts of the farm when I want to look at clearing this bit which doesn't seem to be of particular conservation value."

Of course, every hectare is unique, but given it's mapped as the same ecosystem as most of the park area - his point of view was what's so special about this little bit.

MR FISHER: I couldn't tell you but I would ask, is it on granitic soils?

DR BYRON: I don't know.

MR FISHER: Because the history of the clearing on the granitic soils of, say, the Monaro are that it just - they just go.

PROF MUSGRAVE: Erodability.

MR FISHER: Yes.

DR BYRON: Okay. Can I change the subject because I just want to ask one last question, if my colleagues will allow me. We had two gentlemen here this afternoon talking about the Strathbogie area in Victoria, and both talking about management of roadside native vegetation, and both very, very strongly making the point that busy roads and wildlife, that's birds or koalas, simply don't mix. If somebody proposed building a freeway through a wildlife refuge we would all say he was crazy.

MR SHERWIN: I can see one out there actually.

DR BYRON: What we seem to be doing is, you have got a Hume Highway there, let's build a wildlife refuge around it by planting all these trees along both sides of the corridor and then watch the massacre.

MR FISHER: What is the point?

DR BYRON: Is the point correct that wildlife and busy roads don't mix very well?

MR SHERWIN: Yes.

DR BYRON: I know of many cases the roadside reserves may be the only part of the landscape that has still got remnant native vegetation on it, but given that that remnant native vegetation is attracting native birds or whatever, that end up as road kill, how do you propose we might separate them? Is the answer to build a road somewhere else, through a cleared degraded paddock?

MR SHERWIN: That sounds like a pretty good answer to me. Look, wildlife corridors have their problems. They are not the panacea that sometimes they are touted to be. They can actually be sinks for wildlife rather than an asset to wildlife; channelling wildlife through cleared landscapes to nowhere, or not functioning as a corridor at all, or acting as a sink, as you say, through road kill is definitely a problem.

DR BYRON: Yes.

MR SHERWIN: You are quite right where the native vegetation along a roadside is the only vegetation left in a cleared landscape, particularly where it tends to be in cleared landscapes with quite an unusual vegetation type in terms of current-day remnants. Really, you have just got to protect it because it is what you have got to work with.

MR FISHER: It's your seed bank.

PROF MUSGRAVE: That point is taken. These people up in the Strathbogies and where there is 50 per cent vegetative cover - and their argument was that managing these trees is costing us a lot of money, just the transaction costs of the regulatory process was, we were told, \$5000 a tree.

MR FISHER: The roadside trees, you mean?

PROF MUSGRAVE: The roadside trees, and perhaps given their particular situation where they do have this fairly vegetatively rich environment, that maybe there is an argument for releasing them from the requirements of the regulations with regard to their management of their roadside vegetation. Has that got validity?

MR FISHER: Releasing the land-holders from the responsibilities?

PROF MUSGRAVE: No, local government.

DR BYRON: The shire government. That was a bit from left field because it wasn't something that was within your submission.

MR SHERWIN: Just finally on that, planting along freeways or creation of wildlife corridors should be done judiciously - you are quite right. It may have no benefit at all to biodiversity.

MR FISHER: It's probably more an amenity issue in terms of how they justify spending money.

DR BYRON: But if you wanted to plant trees as an offset for future habitat, maybe the smart thing to do would be to put them away from the roadway where they are not going to lure native birds to their death.

MR FISHER: Yes.

DR BYRON: Sorry, that was, as I say, out of left field. I just wanted to get some feedback from you because this hadn't been raised in any of our previous hearings.

MR SHERWIN: It's one of many valid issues to do with landscape restoration and habitat restoration. David Lindenmeyer, I think, from ANU is very useful in that regard. He's an absolute expert on those issues.

DR BYRON: Good. Sorry, we have gone over time. Is there anything else you wanted to say in the way of summary? I would just like to say thank you very much for the time and effort that you have put in to giving us constructive feedback, and

there are a lot of places where, I think, our wording has failed to communicate to you what we had in mind. So we can certainly clean that up, and I think you have also given us some constructive areas of a way to go forward with market-based instruments, and we will try and be a bit more creative and innovative on that.

MR FISHER: Thanks very much for the opportunity. It was really useful actually finding out where you were coming from in the report. I hope you won't mind me saying it was easy to gain a range of impressions as to where you were coming from.

DR BYRON: Thank you very much. Is there anyone else in the room who would like to come forward? There will be another opportunity tomorrow.

MR TIPPETT: I'll have my say in the morning. I hope these two gentlemen are here.

MR FISHER: I'm in Shepparton tomorrow morning.

DR BYRON: Mr Tippett, we will hear from you in the morning. Thank you very much for coming, ladies and gentlemen. I will adjourn to tomorrow morning when Mr Tippett will speak to us.

AT 5.50 PM THE INQUIRY WAS ADJOURNED UNTIL
TUESDAY, 24 FEBRUARY 2004

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