



**TRANSCRIPT
OF PROCEEDINGS**

SPARK AND CANNON

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PRODUCTIVITY COMMISSION

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

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

TRANSCRIPT OF PROCEEDINGS

AT MELBOURNE ON TUESDAY, 24 FEBRUARY 2004, AT 9.26 AM

Continued from 23/2/04

DR BYRON: Good morning, ladies and gentlemen. Let's continue with the public hearings of the inquiry into the impacts of native vegetation and biodiversity regulations. Our first presentation this morning is by Mr Gilbert Tippet. Thank you very much for your written submission and thank you for your attendance yesterday and today. Would you like to make the points you want to make and then we can discuss it, please.

MR TIPPETT: Gilbert Tippet. I've been farming ever since 1927, except for three years I put in with the air force. I still have a property - still have a house on the farm and attend there fairly regularly, although I came to Melbourne - because of ill health - with my wife. These regulations seem to me to be, having attended the previous meeting and having read through some of the interim report, all aimed at the farming community to save the - there is 30 per cent of Victoria that is still publicly owned and I've asked several people if there is any native plant that needs to be saved that is not found in the publicly owned country. If these plants are saved for the good of the future or what they might produce, that they can easily be multiplied up.

For an example of that there are none of the plants that are used for food are native to Australia, and they've all been multiplied up and there is improvement in plants, it's not long before we farmers have got them to sow as a crop, particularly wheat, oats and barley and cannola - it used to be rape. All of these plants have been improved and the same could be done with native plants. I asked the two chaps that were here yesterday if any of them ever used any native plant for food. One looked at the other and said, "No, we don't."

These regulations to me look as though they're only there to humbug farmers producing food. If any of these plants have got any value at all, they will be saved. Personally, I had a swamp on the property that I had up in Horsham and it had been leased ever since the days of settlement. It was leased on a grazing lease. Two years ago the department said, "No, we're not going to issue, it's wetlands. It has changed from being a swamp to being wetlands." So then they said, "Well, you'll have to fence it." I said, "Well, when it was surveyed, there was a road surveyed through it. It must have been surveyed in the year of a drought and there was a road survey through it." There are two or three swamps in the area that all had roads surveyed through them.

So they said, "Well, you'll have to fence it, because now that you haven't got the grazing rights of it, you must fence it." There was about 60 or 70 acres in it. I said, "If it's fenced, the fence will have to go through the swamp. When it does rain it will deteriorate." They said, "Look, if you give us" - and it turned out to be 30 acres of land - "we will put the fence up but you can't do anything to that land." I did manage to get them to agree to the fact that if they put the fence - I gave them the land and still paid the rates on it - that they would fence it and I would be able to

plant stuff in it - native stuff in it that could be harvested. That was built.

The other thing is that with farming, of course, we've made a lot of mistakes. I've seen them happen with various methods. But one of the greatest mistakes that was made in farming in Victoria was the clean fallow. There was the director of agriculture who advocated this clean fallow. He dreamt it up and it was a good idea; that you fallowed the country for one year and then you used the rainfall, mainly in the mallow, for the second year and you got a good crop. But when the dry seasons came, the fallow shift went. This director also gave a cup for the best clean fallow. Now, the Mullet Clean Fallow Cup - I haven't been able to trace who has got it.

DR BYRON: Probably wouldn't admit to it.

MR TIPPETT: Then only last week, speaking to a neighbour who - the latest we've been through a ploughing and turning it over, then we've got on to minimal tillage, or no tillage, direct drilling and we direct drilled. We went to a lot of expense and trouble to convert our seeder, our end seeder so that it would sow one row of crop and one row of pasture - one row of wheat and one row of pasture. We did 80 acres of this and unbeknownst to us, for a start, was that the cockatoos found out that where this one row was they could get wheat before it had even germinated. We never got a bag of wheat off that paddock. Once they got into it, and got started on it, there was nothing. I used to go up one end and shoot at them and go up the other end and shoot at them, because you can't get near enough to shoot them, because they've always got somebody up a tree keeping yell. But then of course we found that we could direct drill, but harrow heavily so that they can't see the track.

Now, the latest thing that has come to our district is raised beds, in country where we're often more troubled with a good wet season than we are with drought, because the country will get flooded, will get waterlogged. But with this method of making raised beds for cropping, first of all you've got to get the country surveyed and level a little bit of it out - not very much - and then it makes a tremendous difference. My neighbour had done this for a couple of years and there was another paddock he was going to do, and so he'd been to the shire council and he thought he'd do the right thing and get a permit from the council to do this. A carload of chaps came out and they said, "Oh, no, you can't do this here because look at that plant there, that's a native wetland plant." That was only last week. I sent him a copy of the draft report.

A lot of the native grasses - I have often thought that some of these native grasses - they grow right up in various places; they will survive where other grasses will not, particularly up in New South Wales, I believe. If you get a shower of rain in the summertime they'll pick up, but a lot of them - their food value is not as good as the introduced grasses. You see, the best of the native grasses were probably eaten out in the early days of farming, because there was set stocking, but now that a

lot of people are doing their stocking - you eat out a paddock and then give it a spell, and it's remarkable the results you can get that way. I think that's about the end of the introduction.

DR BYRON: Thank you very much.

PROF MUSGRAVE: Mr Tippett, listening to those two chaps from the Australian Conservation Foundation yesterday, it became fairly clear that their concern was the presentation of remnant vegetation to provide habitat for biodiversity rather than to save particular species of trees necessarily, which would mean that your idea of cultivating or managing the scarce species of trees in particular locations, like parks and so on, is not necessarily adequate from their point of view; that wherever you find remnant vegetation it should be preserved because that means we're preserving habitat and therefore promoting biodiversity. That would be a weakness in your suggestion, wouldn't it?

MR TIPPETT: Yes, the government have 30 per cent of Victoria and how much more do they want for native habitat? With the native and - if you farm native animals you still can't market them.

PROF MUSGRAVE: There's no doubt about that, yes.

MR TIPPETT: The 70 per cent of cleared land - I don't know whether that takes in roads as well, whether the roads are in the 30 per cent or only in the parks and gardens and reserves.

PROF MUSGRAVE: That I don't know.

MR TIPPETT: I haven't found that out yet.

PROF MUSGRAVE: Yes. But what about the grasslands, are they adequately represented in the 30 per cent of public lands?

MR TIPPETT: Yes, I believe there are 2000 acres of park that has the native plants in them.

PROF MUSGRAVE: Native grasses?

MR TIPPETT: Native grasses, yes.

PROF MUSGRAVE: 2000 acres doesn't seem to be very much, though.

MR TIPPETT: No, but it would be enough to be a pool; that if those grasses are found to be valuable from a farmer's point of view, they could soon be bred up.

PROF MUSGRAVE: But, getting back to my initial point, I would assume that the Conservation Foundation people would argue that we need to have more extensive areas of grassland because it provides habitat for certain species of fauna.

MR TIPPETT: Yes, the species of fauna - I don't know whether it includes cockatoos and the corellas, the galahs and the sulphur-crested, but when I went up to Horsham 30-odd years ago, a few of these birds were about and they seemed to be - they were quite ornamental and quite something to see, but they became protected and they were - particularly the corella was put under the endangered species. Well, now those birds are not only annoying us up in the capital of the cockatoos, but they're all over Victoria. They've spread and last week at Horsham they were annoying people so much in Horsham that somebody poisoned a lot of them.

There was a terrible fuss in the local paper about it and the department said that anybody that knew who was responsible for this poisoning to notify either the department or the police or the council. Now, I maintained - I wrote a letter to the paper maintaining that it was the responsibility of the department - the department were responsible for it because they'd done nothing to eliminate the pest that these things have become. They were pulling - over the years they've pulled clouts out of roofing iron, particularly on the racecourse in Horsham. They take the cedar windows to pieces and make a terrible mess, and people planting trees, often when a shrub is up about a foot or 18 inches, they'll come and cut him in half. They have become a pest.

I've been trying to persuade them that if you overstock with sheep, that you will soon go broke and be a nuisance to yourself and your neighbours, whereas if you market your product - there was one year that we had no market for elderly sheep and had to shoot them because we had no feed. If we had kept them on, we would have lost the whole flock. But this isn't the right thing to do. They are trying to control the numbers by trapping and gassing them, but it's only fiddling with it.

PROF MUSGRAVE: You're talking about corellas now?

MR TIPPETT: Yes.

PROF MUSGRAVE: Have you got government or local government trapping and gassing?

MR TIPPETT: Local government are doing it now. It's too dangerous for farmers to do. They might trap too many. They did have the trapping, but I advanced an idea years ago - that was before the ideas of trapping - to soak grain in alcohol and grog them. The main objection to trapping is that you poison other birds than the ones that you're allowed to destroy, and so I said, "If you grog them, you could sort them

out." I got a permit to try this idea. I spent a fair amount of time and I got four gallons of alcohol and soaked grain in it, but I found out that the grain wouldn't take the alcohol up.

The idea came from a migrant from Somerset who was working for an uncle of mine, and he used to tell me stories when I was a small boy. He used to soak peas in whisky and feed it to the lord of the manor's pheasants, and all he had to do was go and pick the pheasants up. So I thought this would be a good idea for the cockatoos. But then I found out that whisky had a fair amount of water in it, and that that was the reason why the grain wouldn't soak it up - because I didn't put water with it. By this time my permit had run out, and so I applied for a second go at this idea. Dr Biggs said that the department were dead against poisoning animals, and that under the Pharmaceutical Act alcohol was classed as a poison, and so he wouldn't issue me with a second permit. At that time I could buy poison anywhere, so long as I signed the poison book, so I asked him would he get a poisons book; could we get legislation through to get a poisons book on every bar counter, because I was a teetotaller.

DR BYRON: Brian, was there anything you wanted to comment on?

DR FISHER: No, thanks, Neil. I'm very taken by the notion of having a bunch of drunken cockatoos.

DR BYRON: I don't think I've got anything else that I particularly needed to ask you at the moment.

MR TIPPETT: In the note that I sent to you I said that there are four acts. These acts seem to overlap each other, and what you're allowed to do in one you're not allowed to do in another. As far as I can see, the act that governs the amount of vegetation that you should plant, if you destroy any of the vegetation, is that you should plant a reasonable amount. This reasonable amount is being interpreted by people that threaten us with all sorts of trouble. Some say you should plant 10, some 20, and some have even gone up to 100. In the report, there was a piece that said about the PA Act, and these examples exempt - and 10 or 12 items on page 315. I think that we could live with those, but the thing is that there are other acts that say, "No, you can't do this and you can't do that." You can't use the exemptions.

Clearing on properties of less than a quarter of an acre is exempt. You can clear on a quarter of an acre without - well, that's the size of a building block in a town, and clearing regrowth less than 10 years old you don't need a form for. I'm sure that this grass that they found in Geoff Hird's paddock wouldn't have been 10 years old. You can use a reasonable amount of wood for personal use. People have been exempt. Clearing vegetation: a medical risk of personal injury. Clearing to make fire breaks up to six metres wide: people have been complaining that they

weren't allowed to clear along a fence line, let alone six metres.

Clearing as a result of grazing domestic stock while moving stock along the road: there are not many stock that are moved on the road, but it has made a tremendous difference to the amount of vegetation that is growing on the road. There was a chappy come our way one time and was saying, you know, "How is it that all these she-oak trees look to be about 30 or 40 years old and the whole" - there was a couple of miles along the road with these trees, all the same age, and then we got talking about it and came to the conclusion that it was because of the myxomatosis - that the rabbits had been killed out and the trees had grown from that time on.

Clearing dead vegetation: there was a pipe put in from Horsham to the research station for the water from the sewage treatment plant, and this pipe was surveyed straight up, and there was a dead tree in the middle of the paddock, and the shire engineer was going crook because he was made to take this pipe around this dead tree. Somebody said, "The cockatoos might want it to nest in." But, according to this, he could have knocked the tree over. How is it that these things we can't do?

DR BYRON: As you say, there's different legislation with different clauses, and what the planning controls might let you do, the threatened species legislation - or the Flora and Fauna Guarantee Act - won't let you do. I think the point that you make about the complexity giving rise to a lot of confusion, not only amongst land-holders but even amongst the public servants who have to administer it, that it becomes very difficult for anybody to keep up with what is allowed and what is not, especially when the interpretation of the rules changes. A number of people have said to us that the planning controls haven't changed since 1987 or 89, but the way they're interpreted has changed.

MR TIPPETT: Yes, well, they've got the advantage: if they take us to court, they've got our money to pay for it, whereas if we go to court, we've got to pay for it ourselves.

DR BYRON: Yes.

PROF MUSGRAVE: It seems to me, Mr Tippet, that there are two important points you've made: one is the amount of legislation and the conflicting nature of that legislation that confronts landowners, and the other one is the costliness of the appeal process. These are both points, I think, that are made in the draft report.

MR TIPPETT: Yes.

PROF MUSGRAVE: Is it your opinion that we don't make them strongly enough?

MR TIPPETT: I don't think you can make them too strong. But I've got great hopes that you people will be able to do something for us. But after hearing yesterday's submission that - it says in the state legislation - I've got a copy of the state legislation here - that the minister has got to be guided by what his secretary says:

The minister must not amend or confirm orders without considering the recommendations of the secretary.

It looks as though we don't elect our people to make laws:

The secretary must administer this act in such a way as to provide the flora and fauna conservation and management objectives.

So we're hand-tied.

DR BYRON: Thank you very much, Mr Tippett. It's been very interesting, as it was last time you came, and thank you for sharing your many years of practical experience with us.

MR TIPPETT: Yes, 93 per cent of 100 years of farming.

DR BYRON: Ian and Sue Jack? Thank you very much for coming back again and for the efforts you've put into preparing some comments for us. If you'd just like to introduce yourselves for the transcript and then go ahead and make the points you want to make.

MR JACK: Good morning. My name is Ian Jack. This is my wife, Sue. Thank you for the opportunity to make some observations and considerations to what I think is a very important issue. I've sat through two days of hearing of grievances, as I call them, from the last hearing in Melbourne and have suffered, to some extent, considerable financial losses due to inappropriate - I think - interpretation of the rules. That is, the native vegetation rules.

What I've tried to do is to present some ideas as to how some of these issues can be addressed. My first heading is Certainty for Farm Businesses. I think if you enter into a business you certainly should be aware of all the ground rules, and to have those ground rules changed some way along the line is very poor practice and it can't be tolerated by farmers in general.

One of the requirements that was imposed on me, when I applied for an extension to a groundwater licence, was the requirement to prepare what is called, by the then DSC, a Whole-of-Farm Plan. I included a copy of the plan that I had prepared and it essentially shows all of the existing features: the roads, the contour lines, the existing vegetation, together with the proposals of what you wanted to do on that particular development.

I think to some extent that certainly sets the ground rules as to what you want to do. Providing it fits within all of the acts and legislation and rules that are current at the time then it should be a sacrosanct document that stays in place until you've completed the works or there has been some requirement to have changes at your discretion but not subject to any retrospectivity in relation to legislation. It's grossly unfair to find yourself in the situation of going down the path with one set of rules and then somewhere along the line the rules get changed.

The next point that I'd consider is that both water and conservation issues are interrelated. I don't think that they should be considered on a statewide basis; they should be on a national basis. They are national concerns with national regulations. If you don't have that situation you have the discrimination that leads to unfair advantages and it is contrary to the Australian constitution, which I cite later on in the document there under clause 1.1.17. I won't read it, but it does go on to say that the rights of the states should be equally treated if they were in another state. What we are seeing now, with legislation between the states and not only between the states but within the states, is that there are considerable discrepancies. My next point is the bureaucrats' responsibilities. The comment is:

As with any authority that is attached to bureaucrats' duties, the responsibility of correct and legal interpretations must also apply. Bureaucrats should not be exempt from personal litigation when found to have erred.

In our own personal situation it has cost us a lot of dollars because of some misinterpretation having been forced upon our development. There's discrimination outside of a planning zone. Gilbert touched on one point there, where he said that the properties of 0.4 of a hectare or less are exempt from the native vegetation retention requirements. That's grossly unfair because then the biodiversity in conservation's responsibility becomes solely upon rural landowners; anybody in excess of 0.4 of a hectare. It becomes an unbalanced responsibility then. It is not the small lot owner's responsibility. It rests, unfairly I feel, on larger holdings; farmers.

The enforcement of conservation regulations is, in effect, a restraint of trade. If a property is within a rural zone then rural activities should be permitted, but they are not entirely and they are, as I said, a restraint of your trade. The discrimination within a planning zone; a farm - and I think this has been touched on before - that has been cleared and put into production alongside a farm that still contains native vegetation is discriminated against. Both farms are zoned rural and equally serviced, but the uncleared farm has no income and consequently suffers a potential economic loss. Where a restriction to pursue any form of increased production or more efficient operation is forced upon that farm, the resulting losses should be borne by the community as a community cost. It's a loss to that person and I think the community should wear that cost.

The sale of Telstra is an interesting one. One billion dollars was promised for conservation works if the full sale of Telstra was transacted. There are two observations of mine that come from that and two conclusions. One observation is that the conservation is a recognised cost to the community, to the whole of the community. The second point is that conservation is conditional. The conclusion that I come to is that conservation is an emotive issue. It is not conclusive within scientific considerations. We have quite a debate over the Living Murray document at the moment, and the grazing within national parks will go on forever as to whether it's good or bad. The second conclusion is that conservation has considerable potential for political manipulation. They are cynical views, but they are part of the feeling of what I feel the issue is about.

My next point comes onto lousy legislation. As a result of a challenge to an amendment to the Victorian Water Act in 2003, Gillard J's determination ruled that farmers had only a privilege to the water and not a right, and as such no compensation should be paid from this loss of ability to harvest run-off for irrigation. The challenge was not a frivolous challenge but cost a group of concerned farmers in excess of \$50,000 for their legal challenge, together with another \$54,000 for the

State expenses.

Clause 101 of the Australian Constitution - and if one has the conviction that if an injustice is seen to be done it's not only the right to challenge the injustice but it's his duty as a citizen to take on all legitimate actions to convince of this injustice. In this case it is just lousy legislation. There was a right, under clause 101. It was subsequently deemed to be only a privilege and no compensation was paid. You can't win. This is another adjunct to that particular legislation challenge.

It was reported to the group - that is, the group that challenged the legislation - that during a casual dinner just prior to the hearing the defending counsel commented to the group's counsel that should the case lose, legislation would be changed again so as to get what the State Government wanted. Now, that was reported in the paper as such. It hasn't been challenged. I believe it to be true. It is hearsay on my behalf but I understand that there is a fair basis of truth in that comment.

The second point - and I referred to snouts in the trough in my earlier submission and this is the point that I referred to - is that the firm of solicitors acting on behalf of the group had previously been engaged by the State Government to advise on conservation issues. Here we are, we are going down the path of paying them \$50,000-odd to represent us in a case that sided with the government on other issues. It was unannounced to us that they had taken that particular view and the whole lot is just a lousy situation.

I will get onto a brighter note. The recent concerns over the reduction of firewood for north-east Victoria has an effect not only on farmers but on communities in general. Last Wednesday evening I attended a meeting in Beechworth. It was pretty well represented by people from Beechworth, of all ages, but predominantly elderly, and male and female, but predominantly male. It was very well represented; probably about 80 people. They were there to listen to the North-East Catchment Management Authority Firewood Strategy, and I've got a copy of the particular strategy that I will leave with you. It just indicates to me that the outcome of creating a national path that was once a state park and now has no access to firewood has created an enormous problem, not only for north-east Victoria but it's throughout Victoria as well. That's an issue that covers not farmers only but the wider community.

There are permits to be able to collect firewood from roadsides within our particular shire, but they maintain that you have to get a permit before you can remove that wood for fear of damaging the habitat of the organisms that live under the wood. The situation then to me is that once you get a permit the habitat no longer becomes an issue. It doesn't seem to make sense. It just seems to be that it's just a permit system for raising revenue.

The points that I've raised so far are within the existing government requirements, but there is a body of people who believe that the titles and rights, particularly when you've got a title containing the words "fee simple" as part of the transaction between the previous owner and yourself, where Isaacs J, back in the very early days, described fee simple - that is, freehold land - in the language of the English law. The word "fee" signifies an estate of inheritance as distinct from a leased estate. A fee simple is the most extensive in quantum and the most absolute, in respect to the rights that it confers. It confers, and always has conferred, the lawful right to exercise over, upon and in respect to the land every act of ownership that can enter into the imagination.

If you took that view - and I understand there is about to be a challenge in the Queensland Supreme Court, just on the interpretation of a fee simple and whether it does exist and whether there is a right that is attached to that terminology. There is a body of people who believe that that is the case and the piece of land they have purchased they own the title and everything within that title and that any of the laws that have been created in relation to native vegetation clearing, et cetera, are not applicable.

I think that just about concludes what I can remember of my issues, apart from one other thing. Within our municipality we have a roadside management plan that gives more credence to protecting the vegetation and the habitat than the actual users of the road. There is no consideration given to life or limb - that is, body limbs - to the persons using the road. It is contrary to the CFA Act, and as the previous speaker mentioned there are a lot of inconsistencies between different acts. Whilst the roadside management plan is not an act it contains words and clauses in there that are incorrect; that do not accord with either the planning scheme nor the CFA Act. That's concluding. Thank you.

MR BYRON: Thank you. Ms Jack?

MS JACK: Sue Jack. I would just like to make one brief point. I guess we're living all these Acts. We have a stack of Acts this high that we try to wade through and see what's what. I think that there needs to be legislation that enshrines the right of country people particularly, as we saw with the fire, to protect their properties from fire, to protect their lives from fire; to have free access, you know, to and from their properties and to be able to have services put to their properties. We have seen recently in the paper the lady wasn't allowed to have her electricity. We weren't allowed to have our phone. We came up to a neighbour's property and we have not got a high conservation road. We've got a few black wattle regrowths, you know, and when they do grow they fall over the fence. It's just not commonsense.

I think that we have to start to turn the legislation around, where people have some right. We were very fortunate in the fires that no-one got killed. Well, one

lady did, but, you know, on the road access; but we had fire people come - CFA from New South Wales came to our property later on and said they were terrified going up our roads. The trees meet like this; nowhere to turn around. That's not responsibility and it says within the CFA Act, which I've been reading for the last couple of weeks, that it is a municipality's responsibility to keep the roads clear.

We saw within that danger period - well, we knew it wasn't happening and people have been trying to get it to happen. You have to have a balance between native vegetation and people's rights to a safe access to their property and to protect their assets against fire. This is not happening. You're not allowed to clear around your fence lines. Not even three metres where we live and even then they get hysterical and then tell you, "Oh, yes, but you're allowed to do it."

The legislation re the clearing of the boundaries between national parks and private property owners has to be enshrined in federal legislation, because the federal overrides the state legislation. I've been reading that that is actually, you know, according to the constitution. It's amazing what you read when you start getting involved in all these sorts of things, but the federal act comes first. If we can't get the states - because I guess it's a political thing, you know, and it's the green vote, to act responsibly.

We're not asking to clear all our vegetation. We've got more vegetation on our property than the rest of the valley put together, but we believe we have the right to have some protection and that has to be enshrined in legislation, because we have at the moment a manipulation of the legislation or a manipulation of the interpretation of the legislation within local municipalities and it's happening all across Victoria, you know. It's no good going to the state legislation. It's not going to happen. You know, we have to come from the federal level, I believe, where it's less politically - political dynamite, I guess, for the local government. I believe that people have as much rights as the native vegetation.

MR BYRON: Thank you very much for that. You have raised a lot of very interesting and important points there. Could I just have an update? Has there been any progress on your property since we talked to you about six months ago?

MR JACK: There haven't been any repercussions, which we're quite fearful of, but there hasn't been any activity either. Now, my concern is that we have proposed a development that required, in my estimation, at least 200 megalitres of ground water stored; the ability to be able to store that ground water. I have purchased rights well in excess of 350 megalitres. I can't get any permission - I can't get permission. I can't get even contact from the persons who make those decisions as to where I can build a dam. What they're saying is that everywhere I want to build a dam is on a waterway or a watercourse, or close to a watercourse or something or other that has some impingement.

The situation is that it has stifled development. I'm about one-third of the way through the development. I'm reluctant to proceed on the basis of the uncertainty of the future and I really don't know where to go; who to go to. If I go to my local member, who happens to be the opposition spokesman for water, it then seems to be - or appears to be - a political situation. I don't want that to happen. I have written letters seeking some further consideration to the points that I've offered for consideration in resolving the issue, but I've had no response. What does one do in that situation - but, no, I've had no repercussions.

MR BYRON: Has there been any reaction from any of the agencies involved to this plan that you have put before us?

MR JACK: The concept of the plan I thought was pretty good. It was required, as I said, by one part of the Department of Conservation - or Environment and Conservation as it was then - to prepare this plan before they would grant an extension to the ground water licence. When the issue of removing trees without proper authority arose through an infringement to the planning regulations on the local government issue, it turns out that that plan I had prepared was not submitted to the other section of the DS and E, who were the tree people, who had already, on another issue altogether, approved the removal of the tree.

Their letter to the planning department of the shire at that particular time indicated that they had no concerns about the tree removal proposed, but the planning officer didn't include that as a requirement or didn't include the recommendations of DSE on the planning permit. When I proceeded to clear trees within the area that the local authority had given me permission to build a dam and in the endorsed plan, I was charged with removing trees without the proper authority, so it's sort of going around in circles.

All the departments - all departments that we are associated with in having to get a planning permit and that's the local government, the catchment management authority, which by stealth has stepped in as almost a statutory authority now, the DS and E, Goulburn-Murray - they're all the same people that we deal with in every issue of a planning application or a water application or - - -

MS JACK: Fisheries.

MR JACK: - - - agriculture development. They're the same people.

MS JACK: If I could say just one thing here. I was on the Internet looking at the catchment management authority's draft report for their vegetation removal. In that they admitted that they had used manipulation and bullying. It was a culture and they were trying to stop it. That's a pretty big admission and I've been trying to surf

the Net to find it yet again, but it would be in one of their drafts. This bullying to get people to put covenants on their land, to replant X amount of trees - in our case it was something like 1300 or something - and you go to a solicitor and they say to you, "It's cheaper to plant than to go to court," and it is.

I feel that these people realise that and all the letters that we get now from DS and E say it's a requirement of the council. They admit, now that we've had several meetings with them - we have reports from them that say, yes, we could remove the trees, because we had to retain this - what were they called?

MR JACK: Cadens. Yes, eucalyptus cadens.

MS JACK: Cadens, and we retained those. The balance was that we could do this other thing, but then in retrospect we see people who are clearing and not getting permits and they're doing the right thing. I would do things very differently if I did it a second time, because to do the right thing you open yourself to repercussions that are never ending. You can't blame people for doing the wrong thing from where I'm sitting, because there's no - they have no responsibility to enact what was stated would be enacted. That's what has happened to us.

MR BYRON: Would it be fair to conclude that you have been caught up in a lot of - what's the polite word for it? The administrative relationship between all these agencies that you've mentioned, doesn't seem to work like a well-lubricated machine and so, you know, there has been - - -

MS JACK: I think you're wrong. I think it works like a well-lubricated machine.

MR JACK: Too well a lubricated machine.

MS JACK: Too well. It is almost collusion. What we ended up with was you did not get on your - we did not ask for plans for the trees to be removed, right? You would think if you asked for a dam permit and there were all these letters on file at the local council that said, yes, you could remove the trees, you know, we would save this and to do this dam we had to plan whatever - 10 trees per 16 that were coming out or something. You would think that was enough. If the officer was there on our property, all this was being stated, right, but it's time and time again.

Another dam that we went back for, right, we didn't fill. We were held up for months - nine weeks to be exact, just in the drought. You know, we lost our 40 megalitres water licence. It had massive financial ramifications for us. We found out what the hold-up was later. It went back to another section of DSE and tried to have the same parcel of land declared a wetlands. Now, if that's not unethical, irresponsible or whatever else, I don't know what is. That has to be stopped.

It's almost to the stage where - and some people say to us, "Well, we hire a planning officer, a solicitor, a water consultant." You know, this is crazy. Our planning lady said to us, "A lot of people would have just given up," and I said, "Well, we won't give up. We will fight them," you know, because it's wrong. If you get a plan to put a dam in, you get a plan. Everyone knows that trees do not grow on water, right? That's commonsense. This manipulation has to stop and you can't stop it, I don't believe, in State Government. The Federal Government - which it says in the constitution and I've read the constitution - takes the right over the local and it's up to whether - no matter what it is; boundary fences.

It has to be enshrined there somewhere so people have the right to protect themselves. Not to get rid of all native vegetation, I'm not saying that, but you have a right to clear access for fire, to have the facilities on your property, all that sort of thing.

MR BYRON: Brian, did you want to raise anything?

DR FISHER: Yes. I am just a bit taken by this notion, Mr Jack, that you think more legislation is the solution rather than less.

MR JACK: Certainly one more act should be incorporated and that's the Right to Farm Act. I understand it is current in the United States of America. I don't know which state or whether it's national, but I believe there is such a thing as a Right to Farm Act. Now, if all the legislation were consistent, it would be workable, but as it is, it's not - - -

DR FISHER: But that's the issue. It's really an issue of consistency rather than an issue of more. Isn't that the case?

MS JACK: No, I don't believe so, because I think that the different - like you've got the CFA Act, right, and the Biodiversity Act seems to overrule the CFA Act. I thought the CFA Act would have been - you know, we lost, I don't know how much of our state last year through fire? It's getting worse, because we have the Biodiversity Act and the native and flora and everything, right, and it has to be managed properly; but you just can't keep on going saying, well, you know - and then when something really drastic happens - like small towns. Small towns should have a clearance around them.

We shouldn't have this mad panic that we had last year where, you know, towns were nearly burnt to the ground. You see people in there then with bulldozers, clearing. The local municipality is going up there and saying, "Oh, well, we'll get rid of some of the trees now." That's acting after the fact and that's irresponsible.

MR JACK: Within the CFA Act there is provision for that, but it is overridden by

the local roadside management plan, for example, and that's only a - well, it's a pretty sophisticated document for roadside management.

MRS JACK: We can get you a copy of that, if you like. It's quite interesting reading.

DR BYRON: We were talking this afternoon about other shires' roadside management plans and the point was made, very forcefully, about busy roads and wildlife don't mix very well. Also the risk to human life and limb, with having so much vegetation so close to the pavement on rural roads. Yes, we certainly appreciate the point there. As you say, it does seem that the native vegetation protection legislation is being interpreted as taking priority over both CFA or road safety.

MR JACK: Anything else. Or any other act.

MRS JACK: It's even the - you know, if you have an electric fence, you are not allowed to clear inside your own property - or at least we are not - to protect your fences; 3 metres is not going to protect your fences from overhanging trees even if you could get rid of the trees that hung towards the fence, but also the roadside fences. If you read the Fencing Act you are responsible, even though you have no rights to do anything to protect the start of a fire or anything. You have no rights. That is, in this day and age, irresponsible. We haven't had our electric fence on for six months. We just haven't had it on.

DR BYRON: Can I bring us back to the subject of our draft report?

MRS JACK: Yes.

DR BYRON: Do you have any criticisms, comments or complaints? We don't go far enough; we go too far?

MR JACK: I read through it once, and what I concluded was that it needed a study that I didn't have time for. I would like to participate in some way, of fostering the ideas, but the ramifications of some of them are probably beyond my comprehension: I can't name any at the moment. What I tried to do was to put that aside and come up with some idea of how I think the system would work with the whole of the farm-planning concept. It has some problems, I certainly agree.

DR BYRON: If I can sort of summarise it. Your situation is largely that you have been affected by the way the existing legislation is interpreted and implemented at a local level by various agencies.

MR JACK: Changed, interpreted and implemented, yes.

DR BYRON: If there was a system where you could show something like this to all of the local and state and regional - CMA - authorities that are involved and get some sort of sign-off, get explicit recognition for the fact that you have large areas of retained vegetation, that you've got buffer areas and the like, so that there was recognition that a significant proportion of your property was going to be under that, then presumably you would then like to be able to just get on with this, unless something really extraordinary happened, whereby the plan needed to be renegotiated with the agencies.

MR JACK: Yes.

DR BYRON: Either something you found that was unexpected or something that suddenly they discovered that nobody had anticipated before.

MR JACK: Absolutely.

DR BYRON: Barring something really out of the box, you could get everybody to sign off on that and then you could go ahead.

MR JACK: And proceed, yes. I think in conducting a business that is the only way that you can proceed. The banks, the financial institutions, are looking to something like that so that they have some guarantee. They don't want to see just a title; they want to see the title to the water as well, because you can separate the two now and flog it off and lose all your security because a piece of land without any water, if you are in a dry country and haven't got any water, is valueless. They are now considering including the native vegetation clearances, so you can say, "Well, look, if this is what you want to do you'd better get the proof of what you want to do before I can approve your business plan. "It has to be a surety on behalf of any farming activity, to be able to know - heaven forbid there are any uncertainties with farming, but at least the legislative requirements are going to be consistent.

MRS JACK: It should be illegal to retrospectively apply legislation to farmers. Like you find that they will bring in something today, talk to you about it tomorrow and they will apply it to something you did two years ago. That's happening. That's happening for us. There is so much confusion about whether they can actually do it or not because I read in the paper the other day - I don't know what paper it was; it was probably the Sun or The Age - where if you had something approved before 2000, right, then they couldn't retrospectively apply legislation to it. Now, I don't know whether that's true or not but that's certainly not what's happening to us.

My belief is that if you buy a property and it had - what the property was when you bought it is the legislation you have to abide by. That's fair because you know what you are buying. You can buy something today and then they can come in

tomorrow, make a new lot of legislation, backdate it, and you've got a whole new ball game. You wouldn't buy an ordinary business in town and do that, to the extent that the farmer is having to fund conservation. And I believe that is what's happening. The rural sector is funding conservation right across the state.

There is room within the act for farmers to be rewarded, or whatever - financially rewarded - but that is not a track they go down because they don't want to give anyone money. They enter into what they call an agreement. I don't call it an agreement when you come at someone with a sledge hammer, saying, "You will put a covenant on your land, or you will do this or that." And that is what is happening; you only have to read the Weekly Times.

The fact that it hasn't been touched on here today - and I guess I feel this way because what I'm taking about is - I'm living the acts; Ian is talking about the acts, I'm talking about actually trying to live with the acts - is the stress that it has placed farmers under. The stress that these farmers who are being attacked for taking trees down that are hanging over their fence line - it has always been commonsense is right. But then the Fencing Act says, "We won't pay to fix the fence if it falls over." It's out of control.

PROF MUSGRAVE: Thanks for telling us more about your continuing saga and thanks for the map. Are you familiar with the Wentworth group's proposals in relation to farm plans?

MR JACK: No, not as such.

PROF MUSGRAVE: It's interesting. They propose that farms be able to produce plans and have them signed off by appropriate agency authorities and once signed off then they can, for 10 years, implement that plan without interference from the agencies. The New South Wales government is contemplating introducing such a provision. It's interesting in the context of your proposal.

MR JACK: Yes.

PROF MUSGRAVE: The vegetation on your farm, is that remnant or regrowth?

MR JACK: There's one part of the property that is regrowth. There is probably 19 hectares in that area there. About half of that area is regrowth. The rest of it is remnant vegetation.

PROF MUSGRAVE: Remnant, being never cleared or cleared and regrown and become old enough to be retitled as remnant?

MR JACK: No. It has been progressively cleared over the years and what has

remained there is remnant. The history of the property is that it was in the one ownership for about 100 years or so and then it was compulsorily acquired, in the early 1980s, by the Department of Defence, as a rifle range; not a shot was fired. It was subsequently leased to the adjoining property owner who managed it by neglect for 20-odd years. So that regrowth in the part that I've just mentioned is subject to that. There was no more firewood removed from that part of the property, as the previous owner had carried out.

PROF MUSGRAVE: I find this categorisation of vegetation, as regrowth and remnant, as an interesting concept because it does seem that we have bureaucratic lines drawn, whereby once regrowth reaches a certain age or it has certain dimensions and certain properties it becomes remnant. That's of interest because we heard yesterday - you weren't here yesterday?

MR JACK: No.

PROF MUSGRAVE: You would have heard, yesterday, the Australian Conservation Foundation people being adamant that the issue is remnant vegetation, that Australia has a diminishing stock of remnant vegetation and that this diminution should be stopped; that this was the principal point of the native vegetation regulation because by preserving that remnant vegetation we were preserving habitat for biodiversity.

MR JACK: Yes.

PROF MUSGRAVE: This seems to be in conflict with the other provisions of legislation, that regrowth becomes remnant if it reaches a certain age or attains certain physical characteristics, which implies in fact the stock of remnant vegetation is not static or diminishing; it could be managed to grow by preserving regrowth until it achieved the status that converted it, bureaucratically, to remnant. We seem to be confronted with bits of dilemmas here, in rationalising the justification regulation and the implementation of regulation.

MR JACK: Yes.

PROF MUSGRAVE: Sorry, that's a bit of a rambling set of observations. Could you just clarify some of your thoughts and observations in relation to the legislation? I'm not clear, when you talk about the unfair advantages resulting from differences between the states in their legislation.

MR JACK: Fair enough. I have a neighbour - and I guess I have many neighbours that I can cite also - who has a vineyard, who has a dam that is on a creek and he harvests his water from that dam at no cost. I have a groundwater licence that I pay, that I'm only to extract the water out of in some parts of that property over the winter

period and I've got to pay for the water. Now, I've got to compete with him, and that's only my neighbour; that's in one very isolated case. In another part of the state, in Victoria, if you were to build a dam now you are required to purchase the water from an irrigator; you have to buy the water before you can put the water in the dam - buy the rights to the water before you can put it in the dam. In other parts of the state you only have to register that dam. There's a cost difference that has to be borne by somebody and that's where the unfair or discrimination comes in.

MRS JACK: State by state they are allowed to harvest a percentage that falls.

PROF MUSGRAVE: So it's the inconsistency between the states that confers some competitive advantage on landowners in one state versus landowners in another state?

MR JACK: Yes.

PROF MUSGRAVE: I thought that's what you meant, but it wasn't entirely clear to me. Well, thanks for that.

MR JACK: I'm sorry I missed the hearing yesterday. In the views of the ECC - is it, that presented yesterday?

DR BYRON: The Conservation Foundation.

MR JACK: The Conservation Foundation. Who did they think was responsible for the cost of retaining that native vegetation? Does it fall solely on the landowner, the farmer? Where is it caught up with? Why is it not a public or a community cost?

PROF MUSGRAVE: When pressed on that and in their submission the implication is that they see the landowner as a polluter, as the manager of the land creating the loss of habitat or other adverse environmental consequences of vegetation loss and that, as the polluter, the landowner was responsible for meeting the costs. That's a bit of a simplification of their position, but - - -

MR JACK: I understand that, but then if you extend that to - everybody that grows anything is a pollutant - is a polluter, not a pollutant.

PROF MUSGRAVE: I can't comment on that. That may be right, yes.

MS JACK: You've only got to look out the window today.

PROF MUSGRAVE: Yes. I am not one either for them or against them.

MR JACK: No, but I - - -

DR BYRON: Or anybody who chooses not to retain all main vegetation on the property is - - -

MR JACK: Is now a polluter. Not before, but is now a polluter. It is quite illogical.

PROF MUSGRAVE: I just wanted to discuss a little bit further this legislative, discriminatory constitutional question that you raised. We've established that your concern is the way in which legislation in different jurisdictions confers competitive advantage and disadvantage and therefore you think it would be better if the Commonwealth was the one body to legislate uniformly across the nation, and so we would avoid such discriminatory outcomes. This of course is quite a constitutional issue.

MS JACK: It is a constitutional issue.

PROF MUSGRAVE: And the history of Australia's attempts to change the constitution has not been all that successful, but let's not go into that. What I don't understand properly is why do you think the Commonwealth would be less political - you used the word "political" - than the states? It seems to me the Commonwealth governments have as great a capacity to be political as states.

MS JACK: But at least the political would be even across all states. At the moment we've got, I believe - and I may be incorrect - that the legislation in Victoria on water and native vegetation is a lot stricter than across the border in New South Wales. Right?

PROF MUSGRAVE: So once again we come back to this competitive advantage/disadvantage.

MS JACK: Yes, that's right, and this new net gain - you know the last letter I got from the shire - and interestingly enough, the shire used to always retype the letters and sign them as their own. They're not doing that any more. They've got a little bit cluey. Required us to propagate from trees that are growing on our property and it goes on and on and on - this net gain thing. It's really quite offensive - I guess I find it - and why should we have all that additional cost when our neighbour doesn't - our neighbouring states don't?

Why shouldn't we be allowed to harvest 10 per cent? If we harvested 10 per cent of the water on our property - we buy in a high rainfall area, so we'll have water. That's why you pay extra money for good land, and all of a sudden, because of legislation that has come in since you bought the property you've lost that advantage that you paid for, so I'm saying the federal legislation will even the

playing field across the states. I guess that's what I'm coming to.

DR BYRON: But eventually if a whole combination of things - whether it's native vegetation legislation or water legislation or high rates or whatever - means that somebody producing a certain product in Victoria can't compete with someone producing the same product in Queensland or New South Wales or South Australia - eventually you'll see that production will migrate and Victoria will realise that they have actually squeezed out those industries by making them non-competitive. Now, that's no help at all to the people who get hurt in the process. I think the point there is that governments and urban populations, in pushing this sort of legislation, may not appreciate that that's where it's heading. They assume that you can put more and more controls on without reducing the commercial viability of primary producers in this state, but there may come a point where it is simply not viable to stay here.

MS JACK: I have no doubt it will turn around in the long run, but you only have to look at what is happening in Victoria at the moment with the toxic waste dumps. I mean, if I, as a farmer, said, "Hey, I want to put a toxic waste dump here on my property," I would get clobbered like you wouldn't believe. The Victorian government has picked out three beautiful lots of farming area, right, and said, "We're going to put a toxic waste dump there." Where is DSE then? Where are they all? They've all gone into their holes. You either have principles or you don't.

MR JACK: Just further to Warren's point about why it should be Commonwealth legislation: I see you fellows have got a terribly onerous task at the moment. Here we've got a Liberal federal government presiding over this inquiry and trying to come up with reasons why all state Labor governments should comply. Do you think you'll get a resolution on a political basis? Does it not become then a political football; ie, are the Libs trying to create problems for the Labor states? Cynical again.

DR BYRON: What I'm trying to come up with is a report that will argue a case on its merits, irrespective of who is in power anywhere, and I am trying to be deliberately colour blind to the politics of who is sitting where because, as Sue said before, you argue on principles, not on who happens to be sitting in which seats this week. Our report will be based on evidence and principles.

MR JACK: I understand that, but it is - - -

DR BYRON: Because it is conceivable in three or four years' time that the situation could be reversed in which case - - -

MR JACK: Could be reversed. It might take three or four years.

DR BYRON: - - - but if you are arguing on the basis of principle then it should be

enduring. You do what's right; not what's - - -

MR JACK: Convenient.

DR BYRON: - - - convenient, yes. One more question in clarification. You mentioned - was it a Queensland Supreme Court appeal that was coming up?

MR JACK: Yes, I understand that's the case. I haven't got much detail of it. I got a flier handed to me from somewhere and I think the name Len Harris was sort of associated with it. There's a challenge in the Supreme Court of Queensland on the rights to farm or farmers' rights or something along those lines. I've not much more information than that. I don't know when it is to take place. The wording that I've included on the fee simple came from that brochure.

DR BYRON: Yes. I've seen that same quote a number of times in this inquiry. Various people have quoted Isaacs J.

MR JACK: Right, and the S4 of the Legislative Standards Act of 1992 I think refers to Queensland's state laws.

MS JACK: I think it's a sorry state when you've got a situation - when you have people who are running around having to look at what it says on their title - and I've looked at our title and it says, "Fee simple." It also makes reference to us owning 25 feet under the ground in some places and 75 feet under the ground in some places and 75 feet under the ground in other places. People have shown me their titles that say amazing things. The older the title goes back the more it says and it appears to be worthless. You own a piece of land, but you don't really own it. You own all the responsibilities that go with it, but you don't have any rights or privileges that go with it. I think that's wrong. I believe it's wrong.

I believe that in the long run there will probably be a lot of farmers who get together to prove it is wrong, unless something can be done about the sheer stupidity, or lack of commonsense, that is happening from what Ian has told me from the last submissions and what I sat through - the bushfire submissions, and they were horrific - what had happened to people, you know, because they weren't allowed to protect their assets. It's the same sort of thing, just in a different - people will get together and will - unless something can be done to - commonsense to prevail, or a farming act. We might need another act - a right to farm.

MR JACK: I'm hearing terms like "revolution, revolt, it's time" and it's coming from people who would not expect to have those sort of words in their vocabulary - from the farming community. It is a worrying concern.

DR BYRON: Thank you very much for coming, Ian and Sue.

MR JACK: Thank you.

DR BYRON: I think we should take a short coffee break and then we'll resume afterwards with Sally McKay.

DR BYRON: Thank you very much, everybody, we can resume. If you'd like to just introduce yourselves for the transcript, then take it away.

MS McKAY: Sally McKay. I'm a landowner. The first thing I'd like to correct is, I omitted on page 2 of our submission to the draft recommendations third paragraph up from the bottom, "be located a minimum distance of 50 metres" from a stand of native vegetation before we have the right to horticulture or anything else. It's now 50 metres, which is a fair whack. If you happen to be bounded by government roads, 50 metres all around your property can be quite a chunk. Jim's got the more detailed things. There are a few things I'd like to say. I am and will be all over the ship a little bit.

The gentleman who was talking earlier about grasslands - one of the things I've noticed in the Adelaide Hills is the grasslands now are still only on the properties that are grazed. What used to be grasslands, ie, Para Wirra National Park and the forest lands, are now much thicker with scrub, especially a short-lived - I don't know its name - wattle. The orchids and the grasses have gone. In the old days if a fire ripped through there, nobody put it out and I suggest that all the deer and goats that were let go or escaped into that national park kept a lot of the bushes down so the grasslands and the orchids survived.

To protect grasslands, or say grasslands are important, then they're looking at grasslands that farmers have maintained because of the grazing and not government maintenance of what may have been grasslands but their maintenance is such that they are no longer grasslands. So if the conservationists want to preserve grasslands, they have to look after the land they've got and create what used to be grasslands, if they're so smart at working out pre-European vegetation. I doubt. I think they're looking at our hard work of maintaining a little bit of native grass in our pastures as what may have been there a long time ago.

With the change in the suburbs and the pastures, we've now got large parrots coming up to our part of the Hills and the small hawks that should have lived on the plains where there are now houses; and they are driving out the smaller parrots, so we're actually reversing the balance of what used to be on the property. We now have the large corellas, sulphur-crested, much less of the lorikeets and the Adelaide rosellas, and the kurrajongs have come from somewhere. That was the end of the small blue wrens and the finches, as soon as the large birds moved in.

PROF MUSGRAVE: Sorry, when you say "kurrajongs", do you mean kurrajong trees or birds?

MS McKAY: The birds, big black things. Chooks of the bush, I think they call them.

PROF MUSGRAVE: Currawongs.

MS McKAY: Currawong or kurrajong?

PROF MUSGRAVE: Currawong, yes. Sorry about that.

MS McKAY: Yes, well, that's been the end of the blue wrens and the small birds. As you can see, I don't know much about birds, except I know what I don't see any more.

PROF MUSGRAVE: I know about currawongs, yes. They're nasty things.

MS McKAY: So a lot of this loss of habitat, which is again talking about the grasslands, I find a little insulting from the conservation-type people because we have no control on our properties over what has already happened in the suburbs, which is why these birds have lost their habitat. We're asked to provide a habitat that we can't possibly replicate anyway. The birds have learnt to adapt, but we shouldn't do all the bending and changing of the rules because their habitat has gone for housing. Therefore, stopping us doing things is not going to bring back their original habitat. You just can't turn back the clock, so we can't pick up the slack from what's already happened.

The other thing to draw to your attention, I went through the Native Vegetation Act after we'd put in our original submission. Under the various heritage agreements in here, it says:

23A(2)(f) Provide for the minister to pay to the owner of the land an amount in respect of the decrease in value of the land resulting from the execution of the heritage agreement -

which is an admission by our native vegetation department that native vegetation plus a heritage agreement equals loss of value of your property. I find that abhorrent, that a government should knowingly reduce anybody's asset or value. Again, when it comes to control of clearance, if you commit an offence and cut trees down it says that - section (b):

Land that has been or will be affected in any way, including by increase in its value by reason of the commission of offence -

faces a fine. To commit an offence you must cut a tree down and by that they infer you increase the property's value because you got rid of a tree. I'm sorry, but I just take exception to that: that they knowingly are keeping us and our properties undervalued.

In agreement with Sue, I have been misled by the native vegetation staff. They inferred that I could only clear a 30-centimetre gap outside my property. Under the law I could do one metre. They gave a copy of our discussions in a letter to the local council, who have been anti-me ever since, trying to stir up the district to pay me back for sticking to my metre. Everything we have tried to do with the vineyard and the winery and change the farm use has been manipulated by documents having gone missing. Council would sit on a document until the last possible day for its referral to another department. That department would say that they didn't get it all, but they wouldn't tell me that for three weeks, until it was a case of, "Oops, we haven't got your application. Like to try again?" All of this took three years.

It's not that they don't know their acts. They know them very well and they know exactly how to slip-slide between departments to stop something that they don't want to happen if they have a particular interest in a property and they want it to be pristine. In my case they called it pristine. It hadn't been pristine since 1851 but they weren't prepared to be wrong. But they have held me out, to stop me developing that land. So I agree, documents go missing, government documents, records, go missing and that's how the game is played.

The local doctor in the Adelaide Hills is slightly depressed. He has handled more suicides in the last 10 years since the native vegetation things have changed and planning has changed - that native veg gets a say in any change of land use. The suicides have increased in our area, tremendously in the 35 to 20-year-old age group. The family farm now has no future and the younger members are, unfortunately, just committing suicide, which is extremely sad.

Being in the Adelaide Hills subdivision isn't an issue. It's just not allowed. Most of it is in water catchment, therefore change of land use is very strictly controlled. You cannot increase your holding of stock without permission from native veg, which requires yet another management plan to be judged by people who have absolutely no idea about your property or any farming experience at all. I think management plans are a worry. They're a waste of time and the people judging them are not necessarily farmers.

These people have absolutely nowhere to go. The children have nothing to do on the farm. There is no work locally and the farm is now going to end up really just a park for their parents to die on. That to me seems very wrong. Perhaps Jim could give a more structured thing. One of the members of One Tree Hill sent me a letter saying that their concern on the rainfall issue, that the urban community are the least sustainable part of the community. They like looking at our views. They drive cars. They build on every inch of the footprint of their titles. They're not required to put any trees or anything back into their housing.

All their water, stormwater, runs off to the sea. There's no containment. It's

not their fault, that's government; but at least in rural areas it tends to be used for production and any excess off after that goes into the water courses which have the necessary habitat. Dams will only hold a certain amount before they run over and the environment gets the water anyway, so we're not quite sure why the water is being charged for. If it evaporates it's still going back to the environment. The air is part of our environment. It doesn't seem to be a major problem. Thank you.

MR McDOWALL: Jim McDowall. I'm president of the One Tree Hill Landowners Association. Much of what I'll say will probably reiterate a lot of what you've heard today and previously, but there are a few things I'd like to flesh out a bit. The operation of the Native Vegetation Act which has been changed relatively recently means that broadband services, for example, won't be available to approximately 5 or 6 hundred people, because the local council refuses to give Telstra permission to lay the cable through the roadside vegetation.

Now, given that a number of these people are self-employed, they're obviously at a competitive disadvantage compared to people who are located in more urban areas. The situation used to be that activities of the crown were not subject to the Native Vegetation Act and in the strictest definition Telstra is still an agent of the crown; but they've now changed the act so that the act is binding on the crown and only maintenance of the existing facilities receives exemption in the regulations.

In respect of roadside vegetation, analysis of the CFS annual report indicates that about 50 per cent of the fires in South Australia are started on roadsides. By and large since 1981, I think it was, when native vegetation management was legislatively mandated, councils have been abandoning the management of roadsides for two reasons: (1) because it saves money; and (2) they can claim the roadside as being part of their commitment to the environment. You know, it's something that they view as being highly desirable. They're aided and abetted, of course, by an army of public servants whose role it is to undertake environmental improvement, whatever that might be. So we have the fire situation which has a large cost, just to maintain the existing infrastructure of the Rural Fire Service, but also there's a lot of money and production that's forgone in terms of wages.

There's one guy in our district who during the fire season doesn't work. He's very active in the CFS and he regards that as being his community responsibility, but if I was a plumber I wouldn't want to dig holes all day, either, in summer. But there's also the social cost, the devastation which Sue spoke about earlier, after a fire. Fortunately in South Australia we haven't had it in large areas since Ash Wednesday but it's going to happen, and it will largely be facilitated by the lack of management of roadside vegetation.

MS McKAY: They're just funnels for fire.

MR McDOWALL: A lot of the time they're on ridges and they're just funnels for fire. Last night I drove from Woodside to Lobethal and on the side of the roads there is vegetation six feet high. For the width of the road verge on the other side of the fence, there's bare paddock, so obviously the fire is only going to one way because it's uphill all way into the town of Lobethal.

The other aspect of roadside vegetation is the cost to the community of road accidents. There was a report produced for the Motor Accident Commission in South Australia by the National Health and Medical Research Road Accident Research Unit, which discovered that between 25 and 30 per cent of road fatalities in South Australia were as a result of striking trees. The police estimate that the cost to the community of road accidents is \$800 million, and even 25 per cent of that is \$200 million, and I don't know of any politician who would not sell his soul for save or promote the concept of saving \$200 million, and that's what we can do. By reducing the volume of trees within - their suggestion is nine metres of the road edge, and it's supported by a lot of international studies. The document is available from the Motor Accident Research Unit.

Every city in Australia has a water supply problem which is becoming increasingly evident as our populations grow and the seasons change. In my memory it's at least 20 years since a major urban reservoir system was developed in Australia and I think it's a striking lack of commitment on the part of our politicians to have the foresight to look far enough into the future to see that the supply of the very necessary stream of life is there for us in the future. Instead, they'd rather spend a few dollars from the National Heritage Trust with tree planting initiatives, which lower run-off, which means that they have to impose water conservation measures which are going to be effective to some degree but after a while - let's just say what's 80 per cent of 80 per cent of 80 per cent of 80 per cent? At the end of the day you'll start to impact on the quality of life.

One only has to visit cities which are in deserts to realise how impressive an oasis is in the middle of a desert. I'm looking down here at a nice green park. If that was a sandbowl, I don't think there would be too many people wanting to work in Melbourne, and that's where we're heading if the politicians of today don't bite the bullet and don't pay any attention to the greenies and create some new water supply situations.

I understand that there was a recent Federal Court case which upheld an appeal brought under the Environment Protection and Biodiversity Act, stopping a new dam in Queensland. Now, whilst that might have been for primarily agricultural purposes, that having been the case, I can't imagine too many politicians in Australia who are going to have the confidence to tell people to get lost, don't worry about the environment." We really need to do this, particularly after the victory that was won in the Franklin and that recent court case. So I think that by getting into these cleft

sticks of putting the environment over everything else, we're cutting our own throats - maybe not personally our own throats but definitely our kids' throats - and if water is an issue around the world for our ever-increasing population, and we have water, that makes us a more powerful nation in the future, because we can support industry, we can support the sort of societies that we'd like to live in.

On the subject of water, you made reference to the Wentworth Group. Personally I think that the Wentworth Group had one glass too many of chardonnay when they all got together, because they missed the essential point of what really is the River Murray. The River Murray really is just an intermittent stream and we have changed the nature of the Murray by putting in these locks and barrages. In other places in the world and in Western Australia, if you have a salting situation, they cut drains through the salted area, drain the water out of it and run it off to sea or to evaporation ponds or whatever. That's the function that the River Murray performed for the plains behind the Great Divide. It drained the subsurface moisture.

The South Australian state water plan even observes that; that the salinity level of the River Murray rose during periods of low flow prior to the implementation of barrages. As a child I remember going to Mannum and seeing pictures on the wall of sharks that had been caught from the wharf there. Mannum is about 100 kilometres from the sea. Somehow they got there, and the conditions must have been saline enough for them to be able to get there and survive. I hope they're not there still!

There's been some interesting views put forward by Jennifer Morrissey in *The Land* recently, and it put the view that Charles Sturt commented on the nature of Australian rivers:

falling rapidly from the mountains in which they originate into a level and extremely depressed country, having weak and inconsiderable sources and being almost wholly unaided by tributaries of any kind. They naturally fail before they reach the coast and exhaust themselves into marshes or lakes or reach it so weakened as to be unable to preserve clear or navigable mouths or to remove the sandbanks that the tides threw up before them.

I think if we don't look at the Murray more as it was than as we'd like it to be, and some sort of topped-up drain - because from my view most of the pictures they show us of trees that have died on the edge of the Murray - they haven't died from salt; they've died from enervation, and I think that the cod and all those other native fish work best when the rivers are going up and down, and I don't think anyone in his right mind is going to say to the governments, "Blow out all the locks and barrages," but I think there's room for a system where there's a program of draining the Murray between the locks through all the way to the mouth, and I don't think that it's in South Australia's best interest to carry on about saving the Murray whilst we have created

an unnatural lake system in Lake Alexandrina and Lake Albert, because all that is doing is creating a vast area for evaporation. It's nothing more than an evaporation bowl. If they were really serious about opening the Murray, they'd blow the barrages out and let those lakes go, but it's socially untenable. But I think we can in some ways mirror the natural performance of the Murray by clearing out the areas between the locks from time to time, maybe every five years or so, to really give it a working life.

MS McKAY: The money that's going into the native veg in small amounts to all these small groups all over the place and stopping farmers being productive - as Jim points out, there are far more important things to spend money on, and water has to be one of them, and more trees around the Murray isn't going to help, more native veg in that area.

MR McDOWALL: We've got a tokenism of a politician who I know personally and regard him as a friend, of starting a campaign called Save the Murray, which is really nothing more than - it could have been duplicated by a "Let's save water and shower together" approach. I mean, it really didn't put the money - and even the budget line for it now is pretty weak and shows an incredible lack of commitment, particularly when you weigh it up against other things that governments seem to have as a high priority, and I know that governments are stressed so I'm not going to labour the point.

But the tokenism is reflected in your report, where the native veg people submitted that the South Australian government - or your report says:

The South Australian government displays strong commitment towards community engagement in conservation of native vegetation evidenced by strong public debate over the clearing of native vegetation in the 1980s.

I don't think there really was any strong public debate. They had no chance. The debate was settled before the question was asked. The legislation was brought in under cover of darkness, so after that all you had was basically more of what we've heard today, where people are complaining about something that they haven't got.

The other point they raised: community involvement in the preparation and implementation of regional biodiversity plans. I've never seen one and I spend a great deal of my time looking at these reports, and if they do exist they're buried somewhere because of some other reason. The property management planning program includes conservation modules and extension services promoting conservation of native vegetation by land-holders and just quite frankly is nothing more than playtime for a bunch of people who have nothing better to do. They might be well-meaning but if they spent less time meddling and more time learning about

what they should be doing, then we'd all be a bit better off and probably be better off without a lot of them, because I have not yet seen or spoken to anyone who has actually had a property management plan. So how widespread is it, or is it just another form of political tokenism?

You talk at some length in the report about regional implementation strategies, I think it was. Well, this is an example of a regional implementation strategy. It's the Mount Lofty Ranges Regional Revegetation Strategy. I would say that not one farmer has ever seen it. The report lists the people who have participated and were consulted in the preparation of the strategy. There's two pages of the people, three columns wide. There's not one farmer or farming organisation represented there, and they're the people who own the land.

MS McKAY: And it had been in print for quite some time before any of us, the One Tree Hill landowners, managed to get a copy. It was not easily obtained.

MR McDOWALL: You may recall that in the last submission I made to you that I claimed that there were variations in what percentage of native vegetation existed in the Mount Lofty Ranges. This report claims 10.8 per cent. This report claims 8.14 per cent. The Native Vegetation Council in their submission to you claimed 15 per cent. South Parra biodiversity group which is funded by the Australian - basically it's a cobbling together of all the catchment boards and the councils in the Mount Lofty Ranges - claim that less than 5 per cent of native bush is now still existent.

So who is telling the truth, or is there a truth, or is there just an impression, or is it just a subjective assessment? We don't know that. This is an example of the tokenism of politicians; funding this group to do their conservation works has only set one land-holder against another throughout the district, and they have done it by making claims that, "By preserving and enhancing the biodiversity of our area in a strategic manner, financial and other benefits can be achieved." Clearly the Native Vegetation Act doesn't agree with them. They also quite blatantly say, "Can we help you improve the value of your property?" That is quite clearly wrong.

MS McKAY: Can I just interrupt here? On that issue, there are a lot of 20-acre lotters around me who are only now getting sheep occasionally for lawn-mowing and know nothing about sheep; don't know they have got to be shorn, but these biodiversity people have got them planting all sorts of native grasses, like wallaby grass and spear grass, and those poor animals spent most of the summer with grass seeds in their eyes until they are blind, and then I get a phone call, "Would I please go and put their animals down?"

A lot of that native grass is not suitable for sheep or alpacas; horses and cattle maybe, but those animals - and these people are promoting it and encouraging them

to then put sheep in; it's animal cruelty.

MR McDOWALL: Anyway, they also frustrate - you have probably got groups in your area who have been shown in a little chart here - and I will leave these here for you to have a look at - how changing land use changes water flow regime and decreases in water, soil and air quality and it causes chemical trespass and it causes loss of animal and small species, and automatically a loss of vegetation and habitat. Now, it's a rural area. People and farmers have accepted change in the nature of their farms for 150 years in the area. In Sally's case her change of land use actually saved water; actually reduced the volume and toxicity of the chemicals, but do you think we could convince a dozen neighbours of hers that that wasn't the case.

MS McKAY: Members of this organisation.

MR McDOWALL: They had all been encouraged by this mob. So it doesn't help us when people think they had the imprimatur of government because their organisations are being funded by the National Heritage Trust and God knows who else, to go out and - - -

MS McKAY: But they must be right and I'm wrong.

MR McDOWALL: - - - do these good works. Because of the hand in glove relationship between state and local government - yes, you do have a collusion between agencies. That is the only way they can get on with the limited resources. If they operated independently they wouldn't work, and the best example I've seen lately is the access point for Sally's winery. She was granted planning approval for the winery 18 months ago, provided she moved the access point 60 metres up the road. 60 metres up the road happens to be some native cherries that are probably worth saving and a few other things.

The only trouble is there is a little sliver of land owned by the local council and the hundred or so of square metres of land that would have been lost or native vegetation would have been lost has held up the development of that property for 18 months and everything that follows from that; loss of productivity and the cost - yes, you are right. You do have to front up with a traffic management consultant, a planning consultant, a lawyer and a vast array of supporters just to help you get over the psychological hump, and that is the problem.

The thing that amazes me constantly is that the people who are running this process consistently underestimate the determination of rural people. They seem to think that if you spend time out there with your sheep or whatever, that you might be like a sheep, and I think that they just don't understand the nature of the relationship of a farmer with his land and how much it means.

MS McKAY: That we actually care about it, not vandalise it.

MR McDOWALL: So where are we at? Our thoughts on your recommendations are there, but I think it really comes down to this, that the Environment Planning And Biodiversity Act came about principally because of an international treaty. There is another international treaty which is the International Convention on Human Rights, and your human rights are supposedly protected and you shouldn't be discriminated against on, amongst other things, property, and that is really what I think a lot of people are being discriminated against.

You are at a competitive disadvantage if the characteristics of your property are different as defined by the vegetation and whether you can alter the deck chairs. I think to override one international treaty with another, which governments always have to balance things up - I realise that - so the Australian population has to come to terms of how do we compensate land-holders for the loss of property rights. I don't think that we can legislate for morality at the end of the day. Farmers are a pretty commonsense lot. They move with the attitudes of the day. We have seen that in South Australia, for example, with attitudes to irrigation. I think we are pretty much leaders as to water use because apart from the lower regions of the Murray you don't see flood irrigation any more. It's all pretty much drip. You very rarely see sprinklers.

I think people can pick up on things and move with the times and I don't think that farmers are Luddites. I think the Luddites in this argument are the conservationists who seem to think that every farmer is the same sort of farmer as existed in 1890 when they ploughed everything because we had a series of rainy years and then there was a series of drought years.

MS McKAY: The average conservationists - if you ask them, "Where is the land degradation; name a property, show me the place; where's the erosion?" - they can't. It's everywhere. They cannot actually take you - it's a mantra - to an area that's a problem.

MR McDOWALL: My biggest concern with property management issues if they are going to be funded on some sort of method is that they are perpetual and the only people who can provide perpetuity are governments. We have seen the situation where earth sanctuaries are listed publicly and to all intents and purposes the first tranche of funds were insufficient. We have seen the situation where major life insurance companies are struggling. It doesn't matter at a public company level, with a vast array of resources, there is no guarantees of the future. So when you are binding up land with a legislative instrument on the basis of a flow of funds or their other commitments that are matched by it, the only group that can back that commitment up is the government at the end of the day, because no private agency can do it. No one can guarantee the continuing existence of a private agency. Even

the Queen found that out when Baring Brothers Bank went to the wall.

So I think we need to have those, but we need to define meaningful reserves; define the areas that are considered to be environmentally sensitive and compensate the land-holders in those areas if they desire it or compulsory requirement if they want to get out, and hands off the rest, because in this environmental mantra we keep hearing "sustainability". I don't think there is a hell of a lot that is unsustainable in the totality of Australian agriculture. Sure, the cane farmers have markets move against them and they will adjust, just the same way as sheep farmers have to from time to time, and cattle farmers do. It's the nature of markets. But is what they are doing sustainable? At the end of the day you have to say that Australia is a far more productive place today than it was 20, 30, 40, 50 years ago. So if that is the case, then isn't what we are doing sustainable?

The key to the whole thing then is defining property rights. Until property rights are adequately defined then we can't really have a right to farm. It doesn't work in California where two per cent of people are involved in rural industries; then 98 per cent still has legislative control. It doesn't really protect them from all sorts of interferences. I made the comment during our break that time is the biggest issue for farmers and it has been reached before. The change in the nature of local government and the deregulation of hands-off approach of state governments mean that we have to apply more of our time basically watching our back.

Planning acts change with rapidity. There is new legislation coming out in relation to biodiversity. Councils have all sorts of reviews for all sorts of reasons that have unforeseen consequences, and almost certainly it's the unforeseen consequence of legislation or policy that are exploited by people who want to move things in their direction, because they're the people usually that work most in the system. They're aware of the pitfalls or they're aware of the opportunities that exist within it.

Farmers have had a traditional approach - if you trust the bank manager, he's gone - you trust governments to do the right thing and farmers today are the most disenfranchised group in Australia because they really probably lack enough electoral muscle to be able to be truly heard now in Canberra. It's quite different to the day of Black Jack McEwen and co. So I've had enough to say for the moment.

DR BYRON: Thank you very much, Jim and Sally. I've got a couple of points I would like to talk about on your oral presentation and one out of the written submission, but do you want to start, Brian?

DR FISHER: Yes. Jim, I was interested in this question about Telstra and access. Can you expand on that? Is that one limited example or is that something more widespread? I thought that in many instances actually Telstra went through farmers'

paddocks principally because they were nice and clear and it was easy to cable there.

MS McKAY: There is a farmer who says, "Not in my paddocks," and that upsets the system.

MR McDOWALL: Sally's farm is the farming case. Telstra already laid two cables through the property; moving into the property, in one place, over 30 metres. Within - it varies - 50 or 80 metres of those cables is an overhead powerline. So Sally decided she had made her contribution to the community - and by the way there was a suitable site adjacent to the property which was the old road that used to service, which has been replaced - which went for most of the area. That old road is owned by the local council. So for about 400 metres Telstra proposed to trench along the side of the road. The road is under the control of the state Transport Department. Once it got off the main road it had to go for another 150 metres on a council road, and the council - it didn't even get to the elected member level, the decision was made by the greening staff, the environmental staff. So at a very low level it was blocked.

Am I aware of other circumstances where that has happened? Yes. When you start looking at what Telstra tells you you can do and can't do on top of the cables that they lay through your land - you can't drive a vehicle of over three tonnes - well, that's just about every tractor out, I think. It was frustrating - or would have frustrated the development of Sally's vineyards, and really we may as well have just sliced off 30 metres and - - -

MS McKAY: Given it to them.

MR McDOWALL: - - - given it to them. That's what it boiled down to.

MS McKAY: So I said, "No", and they actually took it eventually.

MR McDOWALL: Now, if we were in the city, the services would be laid down the roadway. There was no real impediment, apart from a few shrubs and bushes, to the laying of that cable. Telstra, I must say, in my discussions with them, were prepared to bend over backwards - do everything short of get out the shovel and dig it by hand.

DR FISHER: In the case of the Mount Lofty Ranges plan, who were the groups that were consulted in that process?

MR McDOWALL: You might like to take a copy of it later, but there were - mostly government people, Greening Australia, SA Water, University of Adelaide - mostly government employees - pest plant control boards, some native grass people, local government - basically the normal people who you'd see turn up at those sort of

things, that sort of almost inter-government level.

MS McKAY: Nobody from the Ag Department.

MR McDOWALL: Yes, they were there.

MS McKAY: Were they?

MR McDOWALL: Yes.

DR FISHER: I was just curious - there's been a number of occasions, I think, in this inquiry where there's been suggestions that communication isn't good enough between governments and farmers - I'm just curious to know whether you think there's a solution, or what is the solution to that problem. In some senses I guess we've probably also experienced that in the sense of trying to disseminate some of our material to farming communities, and people say, "Well, we just haven't heard about this." What is the problem there? What's happening here?

MR McDOWALL: My view is that people are basically overwhelmed with compliance issues, just communicating with statutory agencies. In the early 70s Alvin Toffler wrote a book about Future Shock, and I think that's what a lot of people - not just farmers - are in, that they are just overwhelmed with information, requests for information. Trying to participate in the process requires a commitment that people just probably don't have the time for, or the resources, and it takes a lot of commitment.

Fortunately in our group we have a few recently retired people who are quite eloquent and articulate and they have sufficient skills to be able to quickly get across the issues and make phone calls. They've developed a degree of trust with the members of the group so that what they say doesn't have to be checked up on. Does the farmers body keep up with things? Well, I think they're just as overwhelmed as everyone else. I mean, keeping your skill level up and keeping across these issues and trying to write report after report - I mean, that's what you guys do, and it's hard to keep up, keep across the issues, communicate, and doubling up the consultation all the time, settle political issues sometimes. I mean, it can't be easy for the farmers federations. I think the major issue is that - you know, it's just what Alvin Toffler wrote about really.

MS McKAY: And I add to that - we're about seven K's from post offices in either direction, yet we're metropolitan Adelaide. We have to get the Bunyip, the Gawler paper, the Courier, the Adelaide Hills paper, the Messenger from both areas because they're two separate editions, there's the Stock Journal, there's the Advertiser, and if we want to catch up with the rest of the world, it's the Australian - and that's every week, because you miss a week and the Adelaide Hills could have put in an ad for

something or the Gawler people could have put in an ad for something, and you've missed the information, and that's just to keep up with our small area.

MR McDOWALL: I don't think the newspapers are capable of following issues through and raising levels of consciousness, apart from alarmist headlines about a car smash on the front page or something like that. They lack the journalistic input to be able to raise community awareness in the way that may have been the case 50 years ago or whatever. So television, the short hit - and these are issues that you don't get in a 30-second grab.

PROF MUSGRAVE: Thanks very much Sally and Jim. I'm left feeling a little unsure of your position in relation to how the regulations are implemented. As I hear you, you are rejecting greater regional involvement, greater devolution of responsibility to regional groups, which leaves us with the implication that we have greater centralisation. You'd better correct me if I've read you wrongly.

MS McKAY: Well, for me the disadvantage of that is - - -

PROF MUSGRAVE: Of what?

MS McKAY: Of any regional discussions.

PROF MUSGRAVE: Yes

MS McKAY: Whilst 200 metres up the thing, it's Adelaide Hills Council, which is again Mount Lofty Ranges rural. We are in the same area, but we are Playford Council which is the old Elizabeth City Council, with metropolitan councillors. If we do it on a regional thing, Playford Council will want their pound of flesh of involvement, therefore I'm the only farm in that particular area - I think we've got 120 neighbours on one side and 50-acre lots down to the main road on the other, before we hit another property.

PROF MUSGRAVE: Sorry, Sally. I'm not asking you to persuade me of your point of view, but what is your point of view, and it is that - - -

MS McKAY: Yes. Well, the region has its disadvantages. Whilst in a main farming area it would be good, in ours, when we're a minority anyway, the 10-acre lotters would at any meeting howl down the few farms that are left. It's horses for regions, I think.

MR McDOWALL: I think there's a parallel here, and that's things like water catchment boards, economic development board, regional development boards - whatever you want to call them. Gough Whitlam kicked off regional development boards. They never worked. The evidence is they haven't worked. Catchment

management boards are just another place to put a bunch of public servants with nothing better to do, basically. I don't know about you guys but they just invent work. They actually haven't really changed the water supply regime, apart from making it harder to get hold of. They haven't - at least in South Australia - had a great deal of effect. That might be through deficiencies in the act, but I don't think so.

MS McKAY: They just get another levy, I might add.

MR McDOWALL: So what happens is, they become highly politicised, and local government politics makes the local football club politics look really bad.

PROF MUSGRAVE: So you're reinforcing what I read you as saying, that is - - -

MS McKAY: It depends on the area very much.

PROF MUSGRAVE: - - - you think regionalisation is not a particularly attractive option?

MS McKAY: No.

PROF MUSGRAVE: That centralisation policy is therefore the preferred option?

MS McKAY: And then again you have a group that have - well, the Farmers Fed in South Australia have a problem because they tend to carry the bigger farmers in the wool and wheat areas, and really haven't up until recently listened to the fate of the small hills farmer, who has the vegetation problems and are being hit by all these regulations - I don't think they're really aware of how bad it was for us. So making it too widespread is not going to - - -

PROF MUSGRAVE: So Hanrahan prevails.

MR McDOWALL: If I can just offer by way of a solution.

PROF MUSGRAVE: A bit of light in the tunnel, that would be very very helpful.

MR McDOWALL: It seems to me that the smaller the constituency, the more difficult it is to manage.

MS McKAY: The more political pressure.

MR McDOWALL: You see the regional areas in - regionalisation management of native vegetation controls in Victoria, for example, you're getting differences in interpretation between regions, and you can see the same thing in other areas of

government endeavour - education and health would be two instances. I think that - you know, am I arguing for getting rid of state or local government? I'm all for getting rid of local government, but I think we need to - the less visible the applicant is or the subject of the area is to the people doing the viewing, the more level-headed they are or likely to be about what it is they're trying to achieve, because they see the bigger picture. When it gets down to an isolated pinprick, everybody can see it. But I realise there are constitutional issues involved.

PROF MUSGRAVE: Yes, indeed. You did refer, Jim, at one stage, to change in the nature of local government. I'm not sure what you meant by that.

MR McDOWALL: Well, almost every state has had a review of local government legislation in the last five years or so.

PROF MUSGRAVE: Yes.

MR McDOWALL: Instead of local government being locked into sort of - for example, debt levels, people to such-and-such a percentage of rate revenue, the hands have come off and now all the administrators have to do is produce a financial management policy. It doesn't really matter what it is - it could be, "We'll deal in derivatives" and run the place broke, like they did in Orange County, or, "We'll just put all the money in the piggy bank, we'll break it open when we need some."

I mean, they have gone for a very much - the state governments have gone for a very much hands-off, self-regulatory approach to local government, but in the case of South Australia's local government system, there is no mechanism for bringing local government to account short of taking them to court, and the ministers are going hands-off at 100 miles an hour, because they're afraid of the supposed electoral power of local government.

They produce - in Playford Council's case, they have a social development policy, they have a strategic policy - a strategic development policy, they have an open-space policy - they have a policy for everything, and every one of those things has to be statutorily reviewed every three or five years. That involves a community consultation process. Now, in a democracy you either participate in the process or you go to the pub and have a few beers and grumble, because if you want to participate you just wear out, because those guys go to work - the public servants or the local government bureaucrats go to work, get paid to do what they're doing, you have to go and play their game, assemble groups, be articulate and you make yourself a target for their displeasure later on.

So that's what has happened to local government. It has been basically unregulated and I'm not sure about this state and the other states but definitely in South Australia, local government ministers are always junior and they don't really

have any powers to put in administrators or whatever or to correct poor administration. I know that because I've tried.

MS McKAY: And in my case, the local government staff, as a way of - one assumes - stopping my vineyard and winery, were in phone call contact with all the relevant departments to see what they could do to stop it - no official channels, no written correspondence, but the system fell down because in the answer to that phone call: "In response to your phone call of such-and-such asking what you can do about Mrs McKay," and the answer would come back in a written form. So local council staff were manipulating my property because of a - they know it probably better than I do. They've probably spent more time running up and down the hills.

PROF MUSGRAVE: I have no further questions.

DR BYRON: Could I just come back to one of the things that was in your written submission about the time frames for dealing with applications. You suggest that the only functional method is a negative response approach; that is, if the application is not determined within the statutory time then it should be considered approved. I was wondering if that was the way the regulations were set up. Mightn't that just lead to the agency automatically rejecting everything that came in and then you start again?

MR McDOWALL: Well, probably not, because in most cases there is a review system usually through the RD Court, which would mean once they started to get their case loads up and there is feedback in the system - it's got the status of a district court but in some ways it's a tribunal- and the backlog would be identified and probably redressed administratively, because there it's no good clogging up the system with cases without merit.

MS McKAY: Can I go back a step. The problem with them, and certainly in my case, is they would not answer me but until they did I had no grounds to go to the RD Court to make things happen, so they just didn't talk to me and that kept the case out there forever. So this way they have to - they've got a deadline in which they have to write back to you or the game is over and you can do what you want to do.

MR McDOWALL: I mean, in commerce it works that way. You owe me some money. I send you a letter saying, "Pay up within 14 days or I'll set the bailiffs on you," and day 15 the bailiffs are there. That's the way the world works.

MS McKAY: That's the only way to make them be honest and not put it in a bottom drawer and pretend they haven't got it when you ring and ask where they are up to with your application.

DR BYRON: We have been trying to get some, I guess, monitoring-type statistics

on how many applications are made, how many are in the system, what's the average time they have been waiting in the system, what percentage have been processed without modification, what percentage are eventually processed after modification. It seems to us that in most states, and I don't immediately recall the South Australian situation, but in most states no figures like that have ever been recorded. Nobody actually knows.

MS McKAY: They're probably all lost in the bottom drawer.

DR BYRON: It seems to me that good administrative process requires some sort of recording of how many applications have been received, how many have been dealt with and how many were rejected or amended or approved.

MR McDOWALL: I agree with you, but you are talking about organisations that are under stress for a variety of reasons. Usually, they're undermanned. At a local government level, if you don't really have to be accountable why keep the statistics that are going to cut your throat?

DR BYRON: Yes. It may be that they are undermanned because they are trying to do far too much with the resources available.

MR McDOWALL: We're all in the same situation. If you haven't got the resources to do - they are public servants. They are there to serve the public, presumably. Therefore, if they can't do the job with the resources they've got, they've got two options: they change the job or they get more resources. If changing the job involves reducing regulations, or maybe my negative response approach, then maybe everybody will be a little less stressed and a little happier.

MS McKAY: And the world might keep turning.

DR BYRON: As I have said on a number of occasions over the last six months, it seems to me that we can look at communication-public relations type issues. We can look at administration or legislation issues and lots of people have come to us with grievances about how the legislation is actually administered, but underlying that again is "Why is the legislation written the way it is?" and why are those structures set up the way they were, that enable that sort of administrative problem to arise. I think it is like an onion. Every time you peel off a layer there is another one underneath.

MR McDOWALL: Well, the reason is that the native vegetation regulations and act were probably drafted by the same people who are administering them. They retain their own in-house counsel.

MS McKAY: They write them to serve their own aims.

MR McDOWALL: In relation to the native vegetation people - in relation to water, I know they retain their in-house counsel because I've spoken to the guy that does it. It's all about setting the game to the rules you need in order to play the game to get the results you want.

DR BYRON: What you are suggesting, and many other people have suggested, too, is that your average farmer is systematically disadvantaged in dealing with a large, complex, diverse public service which knows the rules of the game, may have the capacity to change the rules of the game, where people are professional in the sense that they are working on that full-time for a salary; whereas the farmer is very much a part-timer and playing on somebody else's turf. So that in any tension or a conflict or disagreement between a typical land-holder and the state or even local government agencies, the scales are not evenly balanced in terms of the resources and the expertise, and intimate knowledge of the subject matter of what you can and cannot do in the regulations. The farmer may know a lot more about farming but the regulator or the administrator typically knows far more about the legislation they are administering than the farmer who may only come up against it once in a blue moon.

MS McKAY: But if you correct them on the property, on the day, and say, "Excuse me. You are wrong. That is not what the regulation says," you're in for the high jump and they will stand there and they will lie and look you in the eye and tell you how wrong you are.

MR McDOWALL: I'll give you a case in point. Section 25 of this act says that the Native Vegetation Council must prepare guidelines for the management and maintenance of native vegetation. Section 28 says that those guidelines should be available to anyone preparing an application under the act. There are no guidelines. There haven't been for 12 years.

MS McKAY: Never been done.

MR McDOWALL: They've been making it up on the run.

MS McKAY: This will probably become public knowledge now, won't it?

DR BYRON: Yes.

MR McDOWALL: The downside for the government is huge. Denials of natural justice, denials of procedural fairness, damages claims. It's huge.

MS McKAY: And damn them.

MR McDOWALL: And every person, every senior person who had anything to do

with this act should have known about it because it's how you make an application. It's just as plain as the nose on your face, and they had the temerity to enact a whole lot more regulations. There are about 26 regulations that require you to conform with those guidelines. No-one possibly can because they don't exist.

MS McKAY: No, and all they did was send me a scrap of paper saying what they would like to see happen in the state and they called them guidelines when I asked them to send me the information to put in an application for removal of trees.

MR McDOWALL: The application form does not even say that the application should be prepared in conformation with the management practices outlined in the guidelines. There is no mention of the guidelines in the application form or any information document associated with it.

MS McKAY: So how could any farmer in South Australia, anyway, trust that organisation or its staff? Why should we? The battle lines will be drawn.

DR BYRON: Okay. Well, the word that has come up in every day of every hearing that we have had is the word "trust" and the breakdown of trust or the loss of trust between land-holders and agencies. That's probably the South Australian Farmers' Federation. Can we come back to you perhaps later after we've taken this call from them.

MR BYRON: Good afternoon, Scott and Kent.

MR DONNER: Good afternoon.

MR BYRON: Thank you very much for joining us for this hearing. Would you like to make some comments on our draft report and any other related matters and then maybe we can have some discussion.

MR MARTIN: Yes, Neil. I would actually like Scott to do it. I would like Scott to do it, because he got access to the documents in organising this.

MR BYRON: Okay, that's terrific. Scott, if you want to take that away.

MR DONNER: Our overall position is, I guess, one of support. Our view is that the whole Commission document actually demonstrates the difficulty that the various farming communities around the country have had with native vegetation regulations and their impact on their productivity. There are a few probably minor issues, but I think I would like to just say at that level we think you're heading in the right direction. That's sort of the take home view that I have.

MR BYRON: Thank you very much for that. We have just got the written comments from you and I'm struck by the observation about how the current regulatory approach has failed to develop past the lock-up and leave policy to a more flexible system. Could you give us any suggestions or hints at how we could hasten the development of that evolution to a more enlightened approach?

MR DONNER: Kent, would you like me to lead off?

MR MARTIN: Yes, Scott, please.

MR DONNER: Okay. Look, I guess what we wrote in our notes for today was rather than go through the minutia of your document to say, "Look, this bit was wrong," or, "That bit was wrong," I took the view that we should see what we could do into the future.

MR BYRON: Good.

MR DONNER: In a quick note that we've put to you today, I guess we would like to remind everyone that agriculture has to make money so I think that's very important. When a community complains about land practices, they have got to understand that farmers are struggling with budgetary lines and they suffer from the natural drive to try and get a return from their investment.

Really we have been trying to look at ways you could go forward through the regulations and what I've written today mirrors efforts that we have been trying to undertake with native veg and the state government to try and, if you like, walk our way through the difficulties. Their overarching view is they can find ways of achieving the sort of native veg biodiversity outcomes that the act is purporting to achieve - or actually is attempting to achieve - and resolving land-holders' problems. I mean, do they have to be a conflicting position? Why can't they be compatible and co-existing?

Certainly part of our position would be that the biodiversity environment side has to demonstrate its outcomes, in the same way that agriculture has to itself from an economic point of view. We have been trying to work out ways, or policy directions, to resolve that kind of problem. Basically you need to farm and you need to manage the environment together.

MR BYRON: Yes, but ultimately you're not going to be able to achieve all the agricultural productivity objectives and all the biodiversity or environmental objectives on every property all the time and so I guess, as one would expect of a group of economists, we have started looking at trade-offs and how you would decide under what circumstances environmental protection or biodiversity conservation might be more important or more valuable to society than agricultural production and vice versa. A mechanism for making those trade-offs or a mechanism where the public at large, who seem to be asking for more environmental protection and biodiversity conservation, would know what the price tag is on that.

MR DONNER: Look, I can understand that and there are two sides to it, I guess. The bit-by-bit price, whether it's protecting a species or acquiring land and their demonstration that they're going to achieve that - so I guess in our view we need some sort of mechanism to say if we lock up this piece of country or bring in that regulation, will it achieve that specific outcome? It's a bit easier with very endangered species, to say, you know, species X needs 15 trees per hectare or whatever. On a broadacre situation, with more complex environmental issues, it's not so straightforward.

MR BYRON: Sure.

MR MARTIN: Neil, if I may, could I just add a comment to Scott? There's also this sort of premise that all biodiversity can't be part of your productivity on your farm and it seems to me we should be - we talk about things should be good business. The first thing you need to look at is, is there potential for the biodiversity you want to protect on your farm to actually be part of your business? It seems in many places it could well be, so that becomes part of your productivity, but then you actually get down to these other trade-offs and this gets down to good planning. This is what we're trying to work through with the South Australian government; what

actually are your goals?

If you've actually got set goals at a regional level, then there's some potential to actually work through with land managers how you actually achieve these, so that it doesn't necessarily impact badly on individuals.

MR BYRON: I guess the question of goals is very important, but if one party has a position that they want to maintain every bit of remnant native vegetation that exists and expand it or increase it, it makes it fairly difficult for the other side to negotiate with that.

MR MARTIN: I guess that gets back to what need to be clearly defined, attainable and scientifically backed goals about how you do intend to maintain biodiversity and what's practical and possible. I'm actually working with the state government at the minute trying to define what regrowth is. The state government's position is quite clear, they want to maintain the current state, but when the act was introduced in 83, people had part of their land that they were producing from and part was under biodiversity or native veg. That's the balance the government basically wants to keep.

In the intervening 20 years, everything sort of encroaches and gets a bit bigger and it's quite a difficult and complex question to sort of get back to the balance of what is regrowth. These are quite difficult issues, Neil, and, as I said, it's costing me a lot of time at the minute - - -

MR BYRON: Yes, I'm sure it is.

MR MARTIN: - - - to actually get people - to actually answer your question, people's aspiration is that you maintain this biodiversity estate, but people who farm the land, their ability to go on doing exactly what they were doing and maybe do it better. I don't mean to cause degradation issues, but if they had 80 per cent of their farm arable, they have a reasonable expectation to be able to go on with 80 per cent of their farm arable. It's about proper trade-offs; how you keep this and get this to the best advantage.

MR BYRON: Sure.

PROF MUSGRAVE: It seems to me then that you would be in full agreement with our suggestions that there should be clear articulation of the objectives of legislation and the resulting regulation, such that those objectives can be translated down to the region and then to the farm.

MR MARTIN: If I could answer that. Absolutely, yes, because this has been the difficulties. Our members say to us, "We don't know what people want." If you

actually articulate what they want and what the aims are, then you can actually start to plan for everybody's benefit, because this is about win-win. This is not about one side imposing on the other. This is about win-win and that has exactly been the problem.

PROF MUSGRAVE: We talked to conservationists about the situation and they are adamant, it appears, that the existing stock of remnant vegetation should be maintained and possibly increased. That is, from their point of view, not negotiable. On the other hand, we have the regrowth story that you have just referred to and the difficulty of relating it to that attitude towards remnant vegetation and the aspirations of land-holders to farm. As Neil said, this implies that we should be instituting mechanisms to facilitate the achievement of the appropriate trade-off.

I wonder if the legislation and the regulations are such - at the moment they're a bit weasel-worded in that they don't want to accommodate this insistence of the conservation movement that the existing stock of remnant vegetation should be maintained or in fact increased and the difficulty that creates for the pursuit of the optimal trade-off, so we have a very fundamental problem.

MR MARTIN: Scott might like to answer that, but the first comment I would make is that you made a very interesting use of words. They want the area increased and really we're talking about it being improved. It's about quality of what you have, it isn't just numbers. It's about quality. Scott might like to add to that.

MR DONNER: Yes, I think there are a couple of things there. The use of "weasel-worded" is an interesting description of how difficult the whole process is. I guess as to what you're really saying, everyone should be up-front and agree on some defined outcomes. Implicit in your statement is that if there's more biodiversity or native veg, that's bad for farming. It's bad for farming if it's out of their pocket. It's not bad for farming if there was a process that they were paid for that; either managing the current remnant vegetation, which is a cost to them now, or else if they have to increase it with defined biodiversity outcomes, not just some sort of haphazard reveg, but an organised process, then there's no reason why they shouldn't be paid for that process. If they have got to increase and manage the national estate, then it may well be in that the country has to pay people for it. It will happen.

MR MARTIN: But implicit in what was the first statement about they want every bit maintained, I mean, always with farming practices it has been promoted that you may well be better off with 80 acres of well managed crop than 150 of badly managed crop. I think that concept needs to be taken into account. It's about quality as much as area. People are paranoid about the last tree and that seems a bit silly. You need defined goals about what you're actually trying to do.

MR DONNER: Can I just extend on that a little bit, as well. The goals for the

conservation side of it would have benefits like, for instance, in protecting single trees. I mean, a value of a couple of trees against the businesses associated with irrigation and central pivots, for instance, are probably out of proportion. You can achieve a lot of agricultural output out of those structures, as opposed to very little biodiversity out of one tree.

A view that is put also by some conservationists is no matter how beautiful a great big red gum is, it's close to death; where are the new ones? In sort of the longer time line, protecting that tree is a wonderfully emotive brawl and a battle for the common good, but you've kind of missed the point. We should be looking to have something to replace it. That's where the argument falls down.

MR BYRON: Yes, well, that's something that we've commented on, too; that there seems to be so much concentration on attempting to preserve in aspic, what currently exists, without realising that those same legislations may deter people from allowing regrowth and future generations of native veg to come through. The very act of preserving the current generation of big old trees might mean that you don't have future generations of them.

MR MARTIN: That sort of fits in with what I said. I think that people would be very concerned about that. You know, I have heard a leading conservationist in Adelaide saying, "Oh, most of the state is stuffed." Well, I object to that. I would like to see it not stuffed. I am sorry if that is on the record, but they were the direct words.

PROF MUSGRAVE: Unstuffed, perhaps.

MR MARTIN: Just to hark back to that bottom line about some sort of value for the native veg: in previous conversations you might remember that we had some involvement in the South-East Drainage Scheme and there the government was proposing a levy for putting in the drains to the land-holders. After a lot of trading we have been involved in developing the concept of management agreements for managing the native veg. Under that structure - or proposed structure, I should say - the stage of the common good gets management control over the remnant native vegetation (telephone disruption) of its biodiversity value.

But the really important upshot of all of that is without having land-holders saying, "Oh, look, this native vegetation is valuable. Shall I buy a piece of land with some scrub on it because I might be able to do some trading on it?" All of a sudden they're seeing a business opportunity in native vegetation. To me, that's a fundamental change in thinking and I think it's really, really important for the country.

DR BYRON: Yes, that is a very significant change when retaining native veg is seen as an asset rather than a liability, which seems to be the situation in most places

we've been.

MR MARTIN: This is a small but - you know, large small-scale project. It's 30,000 hectares of the South-East and it's \$11 million worth of federal funding (telephone disruption) developed. I mean, that's a pretty important outcome for the region and if it was done on a wider basis then it could have a lot of implications. Basically it's a question of the political resolve to fund that sort of process.

DR BYRON: The funding might be the key part of that whole - what makes it different from other places we've been.

MR MARTIN: Absolutely.

DR FISHER: I just wanted to come to this funding issue, I guess, and the political economy of the problem. Basically it seems to me that what we have is a group of people typically urban based and with a view about retaining certain amounts of native vegetation, or getting certain environmental outcomes. Some of them value individual trees at an infinite level so - in other words it's very difficult for them to make trade-offs - and in addition to that, there is an incentive for governments to keep all of this off budget, except for the cases that you've just cited. Now, under those circumstances, how do you propose, or what sort of solution do you see to this problem?

MR MARTIN: The question is how you fund it, whether the federal government wishes to pick up the tab on this - and it may well not do so. The NFF has, in the past, raised the question of an environmental levy on a national basis and that hasn't made any sort of practical agenda as yet and the Prime Minister has objected to that, I understand. A possible alternative approach is through regional NRM delivery. That may well be a sort of a simpler approach to the problem. Each region has an NRM plan or state has a plan and it has some defined biodiversity outcomes which are defined on the state basis, the regional basis and integrated and then the whole community can through, you know, a learning process contribute to that. It could well be that they contribute to that process to improve those rural lands, which is (indistinct) landscape.

DR FISHER: So are you advocating a state based environmental levy? Is that what you are suggesting?

MR MARTIN: That may be an outcome. It would be a bit strong to go to a complete policy statement on that, but that is certainly one of the ways you could go.

DR BYRON: What about the idea that - I think we've mentioned in the draft report of having a sort of nested hierarchy or cascading down, where the Commonwealth sets some very broad general guidelines of outcomes it would like to see achieved,

and defines a specific bucket of money which they then enter into sort of performance contracts with each of the states. The states could add more of their own money if they wanted to and then the money goes down with matching contracts to deliver to regional groups, or local government - who could also add some more of their own money if they had any, or wanted to and perhaps environmental organisations could put more money into a particular regional NRM board if they thought they were doing a great job - and eventually it comes down to a bucket of money that can be distributed at a local level to deliver the specific performance outcomes that are in the contract. Everybody can see how much we're paying for biodiversity conservation and what we're getting as a result; it's transparent.

MR MARTIN: That sort of mirrors - I mean, it doesn't matter what you call it, it's a mirror structure to what I was sort of just suggesting and it has some significant merit, I think.

DR DONNER: Yes, and that gets back to your fundamental principle at the beginning, you need clearly defined goals and outcomes of what you want. This is always been what has been lacking. Nobody quite knew what they wanted, except the lot, you know. "We want to look after the lot." Well, you have to actually be very clear and quite scientific so that things are achievable, otherwise it doesn't help biodiversity and it certainly antagonises farming communities.

DR BYRON: Yes. It's not only clear about what you want; it's also clear about how much it costs to get it.

DR DONNER: That's right, and that's needs to be very transparent; the actual cost of this.

DR BYRON: Then people can decide "We want to double it, or triple it, or 10 per cent less or whatever." But, at the moment, we're not sure exactly what we're trying to achieve and we've no idea how much it's costing us to do that, which sort of gives us the worst of all possible worlds.

DR DONNER: We absolutely support your observations.

PROF MUSGRAVE: If we go back a bit in our conversation, in talking about the stock of remnant vegetation and then the regrowth issue, we've been struck by the dynamic nature of the vegetative cover in Australia and its great capacity to regenerate. The fact that regrowth, according to the legislation even, can eventually take on characteristics such that it becomes reclassified as remnant - that means we're dealing with a dynamic situation which, as you say, needs management. Once again, this brings me back to a concern about the legislation and then the regulation; that the period seems to be expressed in terms of this constant, this stock, part of which - when lost - is lost irretrievably. We're getting, shall we say, conflicting impressions

as to the nature of the ecosystems we're dealing with.

On the one hand we're being given the impression that we're dealing with these dynamic entities which are capable of regeneration, particularly if managed well; on the other hand we're being told about this inherited stock which, once depleted, cannot be restored. I think I know where you'd come down, but I just wonder what you say in response to that.

DR DONNER: I think you have sort of hit the nail on the head. There are two conflicts in the legislation; in the argument one is that remnant vegetation has no biodiversity value, except it's protected and so I think there is a dual position there on what you might call the conservation side. One of the things that is coming out of - I think will come out, at least, of the biodiversity trading assessments in the South-East of South Australia with the drainage scheme is a template or a tool that will measure what I guess is the complexity of the ecosystem or the native vegetation there - how many species, et cetera.

That sort of gives a fairly straightforward device for saying what the biodiversity value of it is and down in the South-East it will change how much you pay for actually managing that vegetation. I think, once again, a scientific and straightforward process can define or answer the sort of problems that you're talking about. If remnant vegetation has no biodiversity values other than emotive ones, then it's not as precious as something that is vibrant and regrowing and has a bunch of species in it. That sort of argument also applies to managing national parks with fire, et cetera. The same argument applies there.

PROF MUSGRAVE: Okay, thank you.

MR MARTIN: That's a particularly important issue because you've actually got to discriminate between the sort of politics of the situation and people's ethical view, and actual practical management decisions that you need to make to save a species or save an ecosystem. Sometimes they get blurred. I will just quote you koalas on Kangaroo Island. It's not about good management - the argument - any more; it's about a whole range of emotive and other issues coming into it. The scientific community is deeply divided about it.

DR BYRON: Yes, that's a good example, Kent. I don't think we've got any other questions that we particularly wanted to put to you at the moment. Is there anything either of you wanted to say?

PROF MUSGRAVE: Perhaps one question that had occurred to me, if I could get back to that phrase, weasel worded: some people have accused our draft report of a degree of weasel wordiness. What's your position on the weasel wordiness of our draft report?

MR DONNER: The thought of weasels in your draft report didn't come into my mind.

PROF MUSGRAVE: Excellent.

MR MARTIN: I agree with Scott about that. I thought it was reasonably clear, but that's a very good observation because if you look at a lot of the legislation and the way it's interpreted, it tells people what they want to hear on all sides. This is wondrous stuff until you actually come to implement it and that is where all the problems start.

PROF MUSGRAVE: Yes, okay. I guess if I could just make a final comment: a number of the issues that you've raised I'm actually working on with the state government at the minute, trying to resolve them, and if we had a really simple answer we'd have done it yesterday.

DR BYRON: Yes, sure.

MR MARTIN: You've got major difficulties in getting this trade-off and this government at the minute is really trying to work with our organisation to come up with resolutions. But it's about goodwill and science and clear goals, I guess, and that's what our little document - that's what we tried to put forward.

DR BYRON: Okay, thank you very much, Kent. I wish you every success in your discussions with the state government. If you can work out the regrowth regeneration remnant spectrum, we'd love to hear what the answer is.

MR MARTIN: We're really happy to keep you informed of our project because we've actually got a very tight time frame on this. The government has got some political agendas with the NRM legislation and it needs this clarified, because they are actually asking some good questions. We had a meeting with John Hill and his CEO just prior to Christmas and the CEO said to John Hill, "Why do we want, as a government, to shut up large tracts of pastoral country when you've got 4 million hectares of this in a national park next door?" And John Hill said to his adviser, "Why do we?" The answer was they weren't really sure. You know, it was a very interesting little conversation and that - - -

PROF MUSGRAVE: To some it would be shattering.

MR MARTIN: Yes, but it's where we're going now to actually try and resolve that issue.

PROF MUSGRAVE: Yes.

DR BYRON: I'm very glad to hear that you are working on it constructively and amicably, Kent. That is very good to hear.

MR MARTIN: Don't get much farming done, though.

DR BYRON: No. Is that the last word for now, Kent?

MR MARTIN: Thank you, yes.

DR BYRON: I'd just like to thank you both for going to the trouble of putting something down on paper and for talking to us today.

DR BYRON: If we can go back to Jim and Sally, where we were before, there are two possibilities. Any comments that you might have after having heard what the South Australian Farmers Federation have to say - and I think we might still have one or two other points you wanted to raise that - before we were interrupted.

MR McDOWALL: I will just say one thing about the negotiations that have been had with the government. The NRM legislation isn't at all linked to the native vegetation legislation.

DR BYRON: It remains outside the NRM boards.

MR McDOWALL: Yes.

MS McKAY: Totally.

MR McDOWALL: So someone is confused.

DR BYRON: I must say, I find it hard to imagine how you can have a natural resources management board that deals with everything except native vegetation.

MS McKAY: We've done it. All by ourselves, we've done it.

DR BYRON: No other questions?

MR McDOWALL: Can I just make one point that came a little bit out of what Kent was saying. In order to agree that there are biodiversity requirements or whatever - preservation - you would have to agree that the land is degraded and that the land which is so degraded isn't actually being more useful than it would be if it was locked away for the preservation of biodiversity. I think those questions have never really been asked or answered. Minister Kelly, I think it was, came back from Rio de Janeiro having signed an agreement and no-one knew what the hell was going on, and it was all based on a fear about global warming and somehow it was related to trees. That's basically what it boiled down to.

DR BYRON: Surely that's a question of, as Kent was saying, making sure that you have clear objectives of knowing what you're trying to achieve and why and having a comprehensive, thorough diagnosis of the current situation. What, if anything, is the problem; is there really a problem; and, if so, what are the alternative ways of fixing it? But if you haven't done that sort of diagnostic question of making sure you know what, if anything, the problem is, attempts to tinker with it may actually make it worse.

MR McDOWALL: Okay, I will answer that. Geologists and others who have studied climate change for millennia agree that the earth is not as warm as it has been

in the past. Notably, the Vikings colonised Iceland and were able to sustain a colony there for 100-odd years, growing fruit and all sorts of things, but a mini Ice Age came through and wiped out the colony. There are people on the plus side, the minus side, but the science says - this has happened before, it's not new - the problem is who pays for a lot of the science that goes on now? It's governments. The governments of Europe are in fear of the green coalitions. Is it really science, determining the process, or is it politics?

I think that there was a hint of that in what Kent was describing as the panic on the part of the government to get some resolution of those issues because they had a political agenda. It wasn't about really fixing the problem or identifying it or whatever.

MS McKAY: Nobody has yet explained to me in simple terms why we need this remnant vegetation; why we have to take land out of production. Animals have adapted. I've got blue wrens in the roses. Technically, they shouldn't be there. They should be out in the bush. We're not giving animals credit for adaptation and are we actually going to put them back in lap-laps in the cold by taking away the habitat they have learned to live with?

MR McDOWALL: My last word: we all know what the cause is. It's too many people on the planet. No-one yet has raised any objectives in terms of population control because of largely political influences. Until we confront that, we won't have really confronted the loss of species, global warming or any of the other things we've talked about.

DR BYRON: I think that's just getting on the fringe of being outside of our terms of reference at this inquiry. On that note I think I had better adjourn for lunch and we will resume at 2 o'clock with the Victorian Farmers Federation.

(Luncheon adjournment)

DR BYRON: Thank you very much, ladies and gentlemen. We will now continue with the hearings on impacts of native vegetation and biodiversity regulations with the delegation from the Victorian Farmers Federation. Thank you very much for coming. If you could introduce yourselves for the transcript and then go ahead.

MR HARDS: Thank you, Mr Commissioner. Ron Hards is my name. I'm chair of the land management committee.

MR MANNERS: I'm Clay Manners. I'm general manager, policy, with the Victorian Farmers Federation.

MS TISCHLER: I'm Cathy Tischler. I'm policy adviser for land management with the Victorian Farmers Federation.

MR HARDS: First of all, I would like to thank the Productivity Commission for the opportunity to speak here again today and to add further comment to our submission made in August last year. You can expect our presentation today to be a lot shorter, as we believe that the draft report released in December picked up well on the areas of concern we have, and also provided some sound recommendations for improving the equity of the costs associated with native vegetation retention in Victoria.

There have been a number of changes to the native vegetation regulations in Victoria since last August that we would like to bring to your attention. By far the most unnecessary and unreasonable change imposed on farmers was the decision by the Department of Sustainability and Environment to require each farmer seeking to remove native vegetation for vermin control to have a letter of permission from the Department of Sustainability and Environment. There is an exemption under the regulations for clearing native vegetation for vermin control, but this can now only be exercised with written permission from the department.

In theory, this means that farmers seeking to destroy a rabbit burrow or a foxhole require a letter of permission from the DSE, as their destruction usually involves some damage to native vegetation. These letters of permission can be obtained by the farmer from the nearest DSE office without the farmer's property being inspected. They are designed to be simple, with minimum turnaround on processing. If the whole process is so simple and involves no inspection of the site in question, we wonder why farmers need to go through the rigmarole of obtaining permission.

The answer to this is quite simple: if the DSE ever decides native vegetation was inappropriately cleared in the process of cleaning up rabbit burrows, they can take immediate action if the farmer did not have the appropriate letter of authorisation. This change in procedure was started following the department's

unsuccessful attempt to prosecute a farmer who had removed native vegetation in the process of removing rabbit burrows.

The fact is, few farmers will bother going to visit DSE to get a letter of permission to clean up a rabbit burrow. A farmer sees a burrow; gets rid of it while they are there. They don't go home, change, head off to the nearest regional DSE office, ask for a letter of permission and wait a number of days until it's approved and then go out and do the job. It's just another level of bureaucratic nonsense. Unfortunately, the change was gazetted without consultation with the VFF.

The DSE in Victoria has also been working on improving the user-friendliness of its draft operational guidelines for native vegetation. These guidelines, which we like to call the "DOGs", are designed to provide practical interpretation of the framework which was designed to provide practical interpretation of the policy. Very largely, as a result of pressure from the VFF, the DOGs are now much more user-friendly than they were initially. They can now be read without requiring a PhD. They are still based on flawed native vegetation principles that unfairly impact on farmers.

Nevertheless, emerging through this process is a double standard. Farmers are subjected to stringent permit requirements, with large offsets for tree removal, but some infrastructure companies operating for government are not required to provide offsets for tree removal. For example, along the Bairnsdale rail upgrade, the offset required was for the company undertaking work to cut out some radiata pine trees from an area of native grass pasture. The Ballarat rail upgrade, which has required the removal of significant native vegetation on private land to change the alignment of the rail, has simply been required to collect seed from the native vegetation removed and make it available for future revegetation works. However, I must stress that this is only for some infrastructure developments. Others, such as VicRoads, face crippling offset requirements that make it almost impossible to conduct upgrade activities.

Regional native vegetation plans compiled in 2000 have still not been released. However, the VFF is aware of the drafts being used to determine offset requirements for one of our members. This is despite the farmer being unable to access the criteria or the document being used to determine the offsets. The VFF still has serious concerns that these documents have been considerably changed internally to conform to state objectives without further consultation.

The VFF has serious concerns with the figures being used to determine the rate of net clearing loss of native vegetation in Victoria. Figures used by the department estimate ongoing clearing loss at approximately 2500 hectares per year. These figures are determined using satellite imagery. Anecdotal evidence would suggest the amount of native vegetation on farms is increasing. Many thousands of farmers

are involved in restoring native vegetation on private land. Many farmers can point to an area of native vegetation set aside or protected, or to a revegetation project. We suspect this is not showing up on satellite imagery.

We also do not know why native vegetation is removed. Is it for urban development, infrastructure development, forestry or agriculture? We have no assessment of the quality of the vegetation removed either. The bad news story being publicised by the green movement and the government needs to be independently tested. The VFF believes that the Commonwealth should audit the accuracy of vegetation mapping undertaken by the states. This assessment should include an assessment of the ecological significance of the vegetation removed and also the purpose for which the land was cleared.

We note in the draft report that the Productivity Commission was seeking further information about the impacts of clearing constraints on farmers. Our previous submission went some way to outline the costs to individuals in lost production and opportunity, as well as ongoing management costs. Our supplementary submission outlined the key areas where costs are incurred by landowners. These were unrealised potential. This is the loss of opportunity for the landowner to develop a portion of the property for agricultural industry, use more efficient technology or intensify farm practices.

This often results in the loss of wider environmental benefits as a result of a permit application being refused. The example we commonly use is the issue of spray irrigation as opposed to flood irrigation, which would kill the trees in question over the long term anyway but use a lot more irrigation water in the process. However, there are plenty of other examples, such as tripod farmers, who, in return for the removal of 11 large red gums, were prepared to revegetate a whole creek frontage. In cropping areas, scattered trees can also prevent the shift towards no-till farming.

Farmers also incur management costs. These are easier to quantify, and include things such as pests and weed control, fire management, grazing management, and payment of rates. Farmers also lose out with the regulations preventing harvesting opportunities, which would give the native vegetation a value, and can also lose production due to native vegetation being the harbour for kangaroos and pest animals. Permit applications to remove native vegetation are also a source of significant cost, financially, in time and in stress. In Victoria, it can take years to get a permit assessed.

There are also wider social impacts. What happens to rural communities who miss out on development opportunities because the regulations prevent native vegetation removal. Tourism only offsets this cost in a few small areas of the state and, even then, the benefits are unlikely to be distributed to those who are required to

protect native vegetation on private land. Then there are also other externalities - the unintended impacts. These include public safety issues as a result of the protection of native veg, and the additional cost infrastructure developments that are required to offset native vegetation or even move freeways to protect valued environmental assets. It is impossible to put a Victoria-wide figure on the cost of native vegetation regulations to farmers.

Our view is that our current system of native vegetation management is flawed. We need to step back and seek to introduce a new system for native vegetation management that appropriately values native vegetation and shares the cost of management equitably amongst the whole community. Native vegetation should only be protected when the environmental benefits exceed the economic and social cost. At the moment there is no process in place to balance costs and benefits. We believe this is best done by removing the current regulations and applying a system with some flexibility, so that landowners must manage their native vegetation to ensure that they do not create environmental impacts for their neighbours. This would lead to a landowner choosing to protect the vegetation that is optimal for the sustainability of the property.

Where the community wants to protect additional vegetation and biodiversity above and beyond what the farmer requires, then this additional area must be purchased by the community or the landowner paid to manage it. We see little value in continuing to work with the government in Victoria to try and put bandaids on what is a fundamentally flawed policy. In conjunction with this, we would like to see the Commonwealth government encourage the states to adopt the best practice approach to native veg management.

The Commonwealth should encourage an intergovernmental agreement, through the Council of Australian Governments, addressing native vegetation. The agreement should address cost-sharing arrangements for native vegetation protection, procedures to ensure that environmental gains are balanced against the economic and social cost, and clear specification of the objectives of any regulations. Any regulations should also be monitored to measure their success against the objectives, and the agreement should also include a process for low cost, impartial dispute resolution. Thank you, commissioners.

DR BYRON: Thanks very much, Ron. There are a number of very interesting points that you've raised there, but there are two that I would particularly like to pick up - and I think they may be related: the last point you were making about some sort of national intergovernmental agreement, COAG type arrangement, and the point you mentioned earlier about some sort of mechanism for auditing the accuracy of the native veg assessments. The idea that we've floated in the draft report - and I guess we've been developing further as we've gone around the country in these hearings - is, if you imagine the Commonwealth government setting very broad general

framework type guidelines of what it would like or expect to see in the area of native veg and conservation and allocating a bucket of money and then negotiating performance outcome-based arrangements with each of the states, who in turn would then negotiate with catchment management authorities or regional NRM boards or local government, and all the way down the system.

If somebody else wanted to throw extra money into the bucket, they could. But you would end up with a very clear specification of what was supposed to be achieved at each level as you come down from Commonwealth, state, regional, local to paddock, and the money would flow with that responsibility, and at every point along that system you could see how much we are getting and how much we are spending to achieve that. It seems to me that that would provide the accuracy of assessment problem that you were talking about, better than having the National Audit Office or somebody else who would come in and do the occasional survey, because if you imagine that sort of hierarchical system it would be obvious to everybody that, "In this area we're spending X million dollars every year to achieve this, this and this. Is it good value for money or isn't it?"

It wouldn't just be the expert auditors, but everybody who read a newspaper would know how much we're spending and what we're getting as a result. That seems to me a system that generates a whole lot of mechanism - it reveals information. It's not just some new agency somewhere that's got some experts who have done some spy satellite stuff; it would be public information on what we're doing and how much it's costing. Any reaction to that?

MR HARDY: A set of key performance indicators. All other businesses use it; why shouldn't we? I think it would be an excellent means of indicating what has been done and certainly the benefits that are being accrued to the community and the costs of that - the social costs to the community, as well.

DR BYRON: Maybe that's the type of intergovernmental agreement, so that it's not just between the Commonwealth and the states - something like NHT2 or the National Action Plan for Water Quality and Salinity. It would go all the way down to giving clear direction, with different performance outcomes for every different region in the country. But at least then people would know what they're trying to achieve and how much money has been set aside to achieve it.

MR HARDY: I think that's what we're talking about, and we've only just started to approach the National Farmers Federation with those ideas. Hopefully, in the not too distant future, some good thoughts and good ideas will come through that system.

DR BYRON: Could I take a different tack now. Just reading through your written submission, I was wondering if you're implying that we were too polite in our draft report. A few people have said to us in hearings that we pull some punches or we're

a bit too tactful or diplomatic and we could have been a bit more explicit or forthright.

MR MANNERS: I don't know whether we would go quite so far as to say that. We are very supportive of the thrust of the issues that you raise in the draft report. They parallel very closely the problems we see with native vegetation management in Victoria. It's very much a state government responsibility - it's a planning act, it's a state government act - to ensure that the views that are put forward are not simply ignored. The key is, what can the Commonwealth do to ensure that the states don't ignore these issues? So that's why we thought about this question of ensuring that where we talk about - I guess we are covering back the ground - the need to check on this figure of 2.5 hectares, and clearing every year which, to put it mildly, we don't believe that the recommendation should be firmer and says that the Commonwealth agency should do that because if it's the state agency it won't happen.

In relation to the changes you recommended - that's why we've suggested this approach involving an inter-government agreement so that that can cascade down, as you've indicated, from the Commonwealth. Otherwise, if it's just left to - logic itself will not win the case, you know? We believe the draft report sets out the logic of the issues very well, but logic itself is not going to solve this problem. There needs to be some mechanism to ensure that it cascades down from the Commonwealth. That's a round about way of saying the issues. Whether you call that being not polite enough or not, I wouldn't say that. I'm too polite, yes.

PROF MUSGRAVE: With the cascading down claim, when fully articulated, it would seem to have an internal logic; that the higher levels have their objectives and strike a deal with the lower level.

MR MANNERS: Yes.

PROF MUSGRAVE: And also they undertake to put up some bucks if the lower level can deliver on the higher level's objectives, and then that next level in turn has objectives. It can translate down to the level below it, the regions, in the same process.

MR MANNERS: Yes.

PROF MUSGRAVE: There seems to me to be a pretty compelling logic in that.

MR MANNERS: I agree. Another parallel to that is the national water initiative and the Living Murray processes, whereby the Commonwealth have set some broad objectives for the Living Murray. They have set out a national - well, a draft national water initiative is being discussed. The intention is that the two be linked, and the money will flow when the national water initiative is signed off between the states

and the Commonwealth. That model, that framework, I think provides an approach in this - - -

PROF MUSGRAVE: National competition policy is - - -

MR MANNERS: Of course. It's one that has been going for a long time. The national competition policy has been going for a long time.

PROF MUSGRAVE: Yes. So that's still logical?

MR MANNERS: We would think so, yes.

DR FISHER: Can I just follow up on this? I'm a bit confused, actually. On the one hand we've had evidence in this inquiry about the need to engage local communities more in these decisions. On the other hand you are now advocating, I think, having somebody in Canberra in charge and cascading down. What's the balance, what's the optimal balance between all of these levels of government in making sure that we've got people on the ground who actually know what problems are engaged in the process so that we get sensible, logical outcomes that are practically implementable?

MR HARDS: I think the flow-on effects - there would be as much going up as what there would be coming down, in the management of the whole process. You've got the control of the major objectives and the funding from up the top. Then you have all the project management on the ground. I think that could be married up quite successfully.

DR FISHER: What is it about the new system that you are advocating that's different from the current system? Currently you have two levels of government. Now you are suggesting we have three levels of government involved. This just sounds to me like more levels of government, if I can be the devil's advocate here. So it might actually be three times worse rather than three times better.

MR MANNERS: Well, there is always that risk. However, the key issue is for each level of government to stick to the degree of intervention that is appropriate for it. So at the Commonwealth level one would imagine that there would be a need to have some clear principles enunciated about a best-management practice, a best regulatory approach to native vegetation management in terms of issues particularly which are not addressed in the current Victorian schemes. You know, some of the cost-sharing issues, the balance of benefits and costs, the provision of impartial and low-cost dispute resolution. Some of those higher level principles, and those principles flow down at an operative level to the state government, which isn't that much different, and then through to an operative level, as to what are the benefits and what are the costs of very much local-level issues.

So providing there is a clear understanding about the relative roles, in terms of the big-picture approach at the Commonwealth level, landscape-type issues at the state level, or regional issues at the state level, and then paddocks and landscapes at the local level, I don't think there is this risk of three levels of government tripping over each other. We certainly don't oppose a Commonwealth involvement at a local level in an administrative program. I don't think the Commonwealth is particularly good at service delivery at a local level, but the Commonwealth has a very strong role, in terms of setting these principles. If that is understood I don't think the risks that you enunciated about over-government - or those risks about over-bureaucratising the system can be managed.

DR MUSGRAVE: This is changing the tack a bit, so I hope I don't pull the rug out from underneath you. The legislation seems to be couched in terms of absolutes, or on the assumption of absolutes. That is, we have a stock of native vegetation and any depletion of that stock leads to irreversible loss and this must be prevented. To the extent that's true, that denies scope for negotiation of outcomes. That is, the determination of trade offs. What's your reaction to that sort of contention about legislation? I'm saying this is true across the nation and in all jurisdictions.

MR HARDS: I don't think enough emphasis is put on the quality of the protection of native vegetation or the retention or the implementation of native vegetation plantings that the rural industries do. I battled to get recognition of, particularly at the state level, what the farmers are doing. If you get out there and have a look at what they are doing and what they've done over the last 15 or 20 years, it's quite immense, but there doesn't seem to be any recognition that that's having an impact on the overall native vegetation in Australia. I'm disappointed at that because I believe that there has to be huge recognition for the work that has been done and the efforts that have been put in.

DR MUSGRAVE: And the work that could be done if there was suitable incentive provided.

MR HARDS: I think we have made examples of people who have pulled away from planting native vegetation because of some of those things that happened, because of the non-recognition or the risks that they may lock themselves into because of not being able to do something with that vegetation in the future. I think we've got to be very careful how we provide funds and the long-term recognition and benefits that that might achieve in the future.

DR MUSGRAVE: An assumption that seems to be present in the attitude that remnant vegetation should be preserved at all costs, that our stock of remnant vegetation is therefore of infinite value, is that it's not possible to mimic the qualities of remnant vegetation by the encouragement of managed regrowth. What's your

response to that?

MR HARDY: I think it's rubbish, because everything lives and dies. Everything is finite. To suggest that regeneration or managing native vegetation can't overcome some of those problems I think is ridiculous. I have a lot of arguments, at state level, at government level, that revegetation can't in some way or in some time take the place of some remnants that are there now.

DR MUSGRAVE: Provide the services and provide the habitat that - - -

MR HARDY: In the overall management of properties I think the farmers need the flexibility of being able to perhaps move vegetation from one area to another for centre-pivot irrigators, for instance, and that type of thing. In the broadacre scale, where you are looking at bigger machinery, to retain productivity and sustainability on the farm financially you need to take up this new technology and you may need to change the landscape, as it were, and move some vegetation. I just can't accept that what you do today isn't going to mimic something that happened a hundred years ago. Everything has got a time.

DR MUSGRAVE: I guess to the extent that regulation provides for offset activity, they too are accepting that you can manage - - -

MR HARDY: They don't really by the ridiculous amount of offsets you are supposed to have. You know, you replace one tree with 40 new ones. That's not really accepting that one can replace one.

DR MUSGRAVE: The numbers do seem to be large.

MR MANNERS: Indeed, in negotiating the DOGs - our euphemism for draft operational guidelines - we had enormous difficulty in persuading the department that a planted tree could replace an existing old tree. The original draft said that the removal of a large, old tree cannot be replaced by equivalent protection of planted trees. We had to work fairly hard to get that sort of shift in thinking around. One of the issues that I think is - we are all human and we see things with our own time horizon and our time horizon is five years or 10 years or something and after that the memory fades.

If you look at old photographs - that I sort of like to do as I travel around Victoria - you see very clearly that there have been enormous changes in the vegetation and in the landscape that happened over a hundred years. You know, areas that were quite bare a hundred years ago now have what to my eye look to be mature forests. A hundred years in the life - it's a long time from my perspective but in terms of management of these issues and natural resources it's not such a long time.

DR BYRON: That's one of the things that we talked a bit about this morning, that if people focus on trying to protect by putting a big glass bubble, metaphorically, over a particular piece of vegetation and to keep it there exactly as it looks today, for ever and ever amen, it won't work because the trees will inevitably die and fall over or get hit by lightning or something. Also the regulations that we've used to try and achieve that protection of the current generation may actually discourage the emergence of future generations of trees.

As we have discussed last time, that if trees get to be more than 10 years old that means you can't touch them after that, it gives an incentive for people to get rid of them when they are nine and a half. So in trying to preserve the big, old trees it's actually a death sentence for all young saplings. It is giving people an incentive to prevent future generations of native trees emerging, and that's one of the things that bothers me. It comes back to that very static time perception we have that the landscape has always looked the way we see it this week and last week, without realising that 20 or 50 or 100 years ago it looked very very different.

MR HARDS: Yes.

MR MANNERS: That's exactly right. An example of what Clay just said, and what you've said too, is an area of the Murray River between Swan Hill and Tooleybuc, which is only a few K's by road. A significant revegetation happened along that area - or vegetation because there was nothing there at settlement. Yet now, you will all know what that looks like. There is significant vegetation along the river stretch there. That's an example of what can happen over a period of time. A lot of these rules and laws and regulations seem to discount that; that these things can happen and that revegetation - replacement of old with new - is happening all the time.

DR BYRON: Yes.

MR MANNERS: It would be a pretty ordinary human race if we all just stayed the same, wouldn't it?

DR BYRON: Yes. If I could just jump back to the question I forgot before. When we were talking about the sort of cascading and agreements and so on and that Canberra would have the sort of big picture, broad guidelines. A number of people have said to us in other states - they have complained about what they see as Canberra sort of dictating or micro-managing, particularly in the form of the NHT and the NHT and the NH2 money - the bilateral agreements between the Commonwealth and the state that basically says, "If you want to get access to this very large bucket of money you have to agree to" - and then it comes down to very specific things about which vegetation on which pieces of land. Now, that sort of micro-managing from Canberra is very inconsistent, I think, with the principle of

subsidiary of - you know that each level only does what it does best. Have you got any observations about the way programs coming out of Commonwealth money have attempted to over-control or direct in Victoria or is this only something that has occurred in other states?

MR MANNERS: I would agree that with NHT and some of those programs, to the extent that we're involved - our organisation is on the fringe of that issue - we would agree that sometimes the Commonwealth does have a tendency to micro-manage. Off the top of my head I can't think of an example, but I am sure when I walk back to the office they will pop straight into my mind. That just means that you have to design it well and you can point to issues where I think it is designed well. I mean, the National Competition Policy Council doesn't micro-manage the issue. They set broad parameters and the states essentially manage their electricity competition and whatever.

In general terms we have the approach that seems to be evolving in terms of the national water initiative. I think it doesn't appear to be the Commonwealth micro-managing the issue. There seems to be a role for catchment management authorities in terms of managing the environmental objectives in the areas that they have. Now, that has to play out and we do have some problems of course with the Living Murray but, in general terms, you wouldn't say that the Commonwealth is micro-managing at this stage. Where there are examples of a problem there are also examples I think where it works.

DR BYRON: Thanks.

PROF MUSGRAVE: In that context, what about the EPBC Act?

MR MANNERS: Again our experience with the EPBC Act - and I might ask my colleague, Kathy, who is much more directly involved with this - our example is the proposed declaration of grasslands in Western Victoria. I think we have to see how that operates. One of our issues with that is - I mean, the contention is that there are very small areas of remnant grassland left in Victoria, and I think that is probably a fair assumption. If that is the case our view would be, let's identify them and let's work out a management system for that amount of land - said to be something in the order of 5000 hectares, of which probably half is on public land.

If we are talking about two and a half thousand hectares of grasslands on private land, let's identify them; go out and talk to the farmers and we'll work out a way to manage it properly, rather than declare some millions of acres of native grassland to be subject to the EPBC Act; impose administrative burden on some thousands of farmers in order to protect two and a half thousand hectares of land. Now, that's the argument we put to the Commonwealth. We will draw judgment when we see how that process plays out in Victoria.

PROF MUSGRAVE: But from your point of view it's a sledgehammer to crack a peanut?

MR MANNERS: Yes, but I think you could use the EPBC Act to handle the two and a half thousand hectares. I think we could get a good outcome on native grass management if you took a very pragmatic - okay, let's identify the farmers. We'll go out and help you identify the farmers. We'll go and help you talk up a management regime for those particular parcels, and I think there's the potential to get a really good outcome, but if you say every farmer in Western Victoria who wants to do something on their land has to get approval from the Commonwealth minister, well, the world will fall - I mean, the ploughs will come out, the sheep will come out, the fertiliser will come out, and there won't even be two and a half thousand hectares left, so it depends on how it's managed.

PROF MUSGRAVE: Yes. You're suggesting that much more could be done through voluntary negotiated cooperative agreements, not only for the protection but for the ongoing management and possibly even in some cases, rehabilitation or restoration, provided people were to approach it as a cooperative exercise for mutual benefit, sort of thing?

MR MANNERS: I am absolutely convinced that with a bit of smart management you could get a real good outcome. Smart management, with a little bit of money, you could get a real good outcome on native grass, but whether that happens - we'll see.

DR BYRON: I wonder if the Commonwealth could be encouraged in thinking about its implementation of the EPBC Act to devote attention to avoiding situations where it does blunder into micro-management where it would be best not to. In other words, think about how it deals with these things. I mean, the nature of the legislation - which is not to be criticised - is that the Commonwealth is trying to meet its international treaty obligations in relation to say wetlands or threatened species, which does lead it to deal with micro-issues and the question is, how can it do that effectively without blundering into a micro-management situation where it's not the best organisation to do that. Kathy, I guess?

MS TISCHLER: I think, as Clay and Ron have already put forward fairly clearly here today, our view is that the Commonwealth needs to get the principles right for how we manage our environmental issues and it's probably the role of the local people in the local areas to decide which environmental things we value the most that should be protected and then the approach can go down, as Neil said, from the Commonwealth, funded through the states.

DR BYRON: Yes, and we have the mechanism, don't we, through the bilateral

agreements that can be made under the EPBC Act between the states and the Commonwealth for that funnelling down, and then the states can translate the Commonwealth's needs into local targets, which can then be negotiated and funded and we might have the sort of outcome that Clay's describes as being desirable?

MS TISCHLER: Yes. I think there's real potential, by getting the Commonwealth involved, we can have more of a nation-wide approach to native vegetation. At the moment it's quite haphazard. In Victoria we do it this way and in South Australia it's quite different.

MR MANNERS: Certainly in terms of the native grasslands we've put those views to the Commonwealth. We don't know whether they have been listened to, but we certainly put those views quite clearly to the Commonwealth.

DR BYRON: Okay.

DR FISHER: Just following up on that. The approach you are advocating with respect to the Commonwealth and the grasslands sounds extremely sensible to me. What do you think is the difference between - is that where you're starting and how does that relate to the situation in which you now find yourselves in Victoria - basically where you have - it seems the situation has deteriorated to people getting bits of paper to clean up a single rabbit burrow. Now, that seems to me to be a long way from a voluntary agreement, so what is the difference between the circumstances you face in Victoria at a state level and the position you find yourselves in now with respect to the way you are dealing with native vegetation and the approach you're advocating with respect to the EPBC Act and the Commonwealth?

MR HARDS: Political influence has got a lot to do with the position we're in at the moment. I'll elaborate on that if you wish me to, but I think the politics of the whole situation is creating probably behind-doors agreements and where we should be going and where we should be heading and, as you say, a-sledgehammer-to-crack-a-nut situation is quite clear there. The green movement is adamant that they want particular things out of the environmental management and the government has obviously gone down that track, so then the farmers are copping the brunt of it.

DR FISHER: We heard some of the views from the ACF yesterday. Do you have a view about how you actually progress past the situation where we have - it seems to me that we effectively have two sides here as far apart as you can possibly get in a negotiation. You have farmers saying there's a problem and pointing out what seems to be a reasonably rational sort of approach and you have another group of people saying, "We need to retain native vegetation; in fact probably increase it," and not necessarily being too concerned about the quality - just effectively that there is not

enough and we should have more of it, and you're poles apart. How do you get from the situation you are currently in to a more rational conclusion?

MR HARD'S: To a degree I think the farmers through the VFF need to lead the debate, and develop a compatible arrangement where self-management can happen and can be done, and I believe that's achievable. I don't think we need the big stick approach on all of these issues. In fact the carrot and the stick works very, very well in a lot of instances and I think that could be used too. I think we have been discussing in the last little while ways and means of putting a proposal forward to government that will meet their objectives and also meet our criteria as well, and we will be working on that in the not too distant future.

MR MANNERS: In a philosophical sense though, I think you are right in identifying the huge gap between farmers on the one hand and the environmental movement on the other in terms of the way in which the regulations would be applied, and one of the problems we face in Victoria is the Victorian government cannot be seen politically to watering down native vegetation clearance regulations. That would be politically costly, I would expect, for a government. But in a philosophical sense I don't think you will find farmers and the green movement that far apart.

Most farmers, in our experience, recognise the value of native vegetation management. The farmers that we had here in front of the Productivity Commission a few months ago - I think every one of them recognised the importance of managing native vegetation. Most of them were able to point to areas where they had actually improved native vegetation management in the issue. The problems arise in terms of the flexibility, you know, when they want to do something, and so I think if we can develop this flexibility and recognise the importance of the gains that are being made on the farms and recognise that sometimes farming is not a static business; you have to move.

If a farmer doesn't install the latest spray irrigator or do whatever he has to do, he is going to go broke in some way. That's an example, but if he doesn't adopt productivity which, from time to time, means changing his business he will go out backwards. If those sorts of things can be understood I think we could then move to an area where there is more flexibility in the regulations, and I think that is really what we are about, is a bit more flexibility and recognition of costs and benefits.

DR FISHER: So your challenge is communication, you think.

MR MANNERS: It's a pretty big challenge but nevertheless I think there is - in philosophy they are not as far apart as it would appear in terms of talking about the specifics of the regulation.

DR BYRON: Can I just ask about the shortened and amended version of the DOGs? Is that coming along reasonably well? Are you optimistic about that?

MS TISCHLER: We still have quite a number of concerns with the document. It's, of course, based on the principles put forward in the framework which is that farmers must provide very large offsets to cover any native vegetation removal. It's also putting in place another level of rigmarole, should I say, that the farmers will now have to go through in order to get their native vegetation application through and a whole lot more documentation that a council planner will have to read in order to assess an application.

DR BYRON: That seems to be going away from the direction of that sort of mutual trust and accepting that the farmers have both the incentive and expertise to manage their properties sensibly.

MR MANNERS: It's certainly an improvement. Just in terms, we are at 88 pages of close type and we are now down to 33 of fairly spread out type, and in a very simple sense that's a pretty vast improvement. There are some philosophical problems with it; some of these issues about the degree to which offsets are required - 40 trees as to one. They are philosophical problems. We are arguing about the price and we can't agree on a price, sort of thing, in terms of the offset provisions. But one of the reasons for progressing it is because local government had very different interpretations of the approach between local governments in terms of if you had a planning officer who was very green in a particular shire, the farmers had one hell of a job trying to get a sensible outcome, and in a sense if we can get the DOGs right - I mean, or better - it will hopefully remove a lot of the discretion that applied back at the local government level and make less opportunities for a very enthusiastic local planning officer to interpret the regulations extraordinarily tightly.

DR BYRON: Okay.

MR MANNERS: So it's a bit of a trade-off in a way between those two approaches.

MR HARDS: The original document was if you satisfy point (a) then go to point (b) and then onto point (c) and then onto point (d) and you would find yourself five years down the track and you still wouldn't be to point (m), you know. It was just impossible; all of the stages and steps that you had to do to comply with those regulations were ridiculous. So they had to be sorted out, and nobody could understand them anyway. So hopefully it gets a bit more simple. We might even develop a better one yet.

MR MANNERS: We're not sure if we have shot ourselves in the foot trying to make it better and that sort of thing. It might have been better to just let it go out as

it was.

DR BYRON: Okay. I think we are going to have to move on in view of the time, but any closing comments or remarks that you would like to make?

MR HARDS: No, I don't think so. Just thanks for the opportunity. It's appreciated.

MR MANNERS: We certainly do appreciate the interest on this issue and we hope it will lead to a better outcome.

DR BYRON: Thank you very much.

MR HARDS: Thank you.

DR BYRON: Next we have got the representatives from Timber Towns Victoria. Thank you very much for coming. If you'd just like to introduce yourselves for the transcript and then we look forward to seeing your presentation.

MR HOLE: Thank you, Mr Chairman. I'm Malcolm Hole, chairman of Timber Towns Victoria. With me I have Phil Millar, who is one of the executive members of Timber Towns, and we have with us also Naree Atkinson, who is the executive officer. We're going to be tag-teaming today so we hope we can do a good job for you. What we're going to do is run quickly through the association. We were established in 1985. We're an incorporated local government association. and our primary objective, as it says up there, is to provide a forum for local government to address common issues relating to forests and forest industries and the impacts on local communities, and we have here a document that Naree will give you that sets out in a broader aspect where we are and where we're coming from.

We comprise 20 councils at this stage and they're all inked in there. Currently there are three other councils that have made representations to join us and along the Murray quite a few of the councils up there have approached us to see what our ideals are, because sometimes - there's another organisation out there called Timber Communities Australia, which is an industry organisation, and we do get confused on occasions with their ideals, but we are a local government association and so therefore more councils are starting to take an interest in us and the work that we're doing.

We provide a collective voice for local government on specific issues through submissions and representative positions. We do have access to state and federal government. We are currently working with Senator Macdonald, to establish a national timber towns organisation so that the federal government can have the opportunity to deal with timber towns and local government on a national basis rather than just ourselves, who is the only organised body in Australia as an organisation through local government.

Our credibility with the state government of Victoria is A class, and we do have the opportunity to meet with ministers and ministers do come to our meetings for an exchange of ideas because they realise that we're out there working on behalf of the people and not on behalf of one particular sector of the community.

The things we would like to deal with today is the role of private land, native vegetation as an asset, the appropriate land management. We're going to show you photographs of some invasive species that are causing us concern. We're going to talk about forestry and particularly its impact on rural communities and we're going to talk about local government assistance schemes and a proposal that we believe may aid and assist in the biodiversity of rural Victoria. Are you ready to go on this?

MR MILLAR: Thanks, Malcolm. Basically, as it says here, Australia's reserve system is not adequate to protect our biodiversity and native vegetation at this point, and society has an expectation that a certain level of biodiversity and native vegetation would be retained. However, this should not occur without the appropriate compensation to land-holders for the provision of a public good. It's actually getting our heads around what the true cost is.

Land-holders should be encouraged to use indigenous vegetation in reveg activities - unfortunately current regulations are proving to be a disincentive. In many cases there is certainly the concern that if you restore or revegetate areas with native vegetation that you may actually be impinging on future land use situations, so there is that detriment to encouraging people to use native and indigenous vegetation. The introduced vegetation and mechanical measures that were outlined within the report should not be promoted over indigenous vegetation for those other values that you would actually get from native vegetation.

This slide is just an indication of some introduced vegetation. The promotion of introduced species shouldn't be taken lightly. Introduced vegetation has the real potential to become a weed and create an additional economic burden on land-holders. These are just a small number of plants that have been introduced for useful purposes that have gone on to become major agricultural and environmental weeds. Currently weeds cost Australia in excess of 3.3 billion in lost agricultural production alone and promoting introduced species over species indigenous to the area and provenance could exacerbate this financial loss, actually costing more in lost production than indigenous vegetation in the long term.

Through appropriate land management, the Australian landscape has been managed by humans for 60,000 years. Two hundred years of European settlement has resulted in the loss of most of the traditional knowledge, however. We need to revisit land management techniques suited to Australia and suited to regional areas as well. The controversial techniques that deliver results should not be avoided in favour of less effective but more socially acceptable practices; for example, grazing for conservation. I just have one more comment about the last slide: getting it right will involve some form of manipulation of natural vegetation, so in the mix there, to get it right we'll need to still manipulate vegetation and ecological classes. Here's an example of blackberry and gorse infestation at Golden Point. I presume Golden Point near Bendigo?

MS ATKINSON: Yes.

MR MILLAR: We've also got quite a number of examples south of Bendigo in the Hepburn Shire where grazing with goats has been proven to be very very effective in gorse control. Small plots, but it takes a long time and it's not a short-term fix. It is really a long-term option.

MR HOLE: Before we go on to that slide there, in relation to appropriate land management, the government departments in some of their recommendations on what you can do with land and what you can't do - and I'm going to refer here to the West Sale Aerodrome which five and half, nearly six years ago - the council down there was preparing to bring in a subdivision on the airport to encourage growth and development of industry into rural Victoria, and somebody happened to discover a patch of kangaroo grass and what they call Gippsland dandelions or one of those native grasses, and reported to the DSE or DNRE as it was in those days, and they immediately slapped a black ban on the subdivision, even though the subdivision was nowhere near this particular remnant grass - Gippsland remnant grass as they called it - and the councils one hell of a lot of trouble trying to get that land subdivided, and they came to an arrangement where about three hectares of Gippsland remnant grass would be exchanged for some nearly 60 hectares away to the far side of the airport, and then the DSE as it is now will approve the subdivision, even though the subdivision is nowhere near this grass.

It worries us in rural Victoria that sometimes the enthusiasm of people in government departments might read the rules and regulations a bit too stringently and it's very hard when somebody is sitting with the power above you to convince them that there's some sensibility out there that needs to be looked at, and the biggest problem in land management - and here again I'm referring to the airport - was the fact that every time it was getting near a conclusion, the manager from the government department tended to be shifted and the person coming in had a different aspect and different requirements, and so the overall management of particularly crown land needs to be looked at, and we'll go through that now as we go through some of the things that have affected us in relation to the recent fire and the biodiversity.

Here I want you to see the results of eastern Victoria after the 2002-2003 bushfires. The photo on the left shows you the total devastation, where everything was burnt out; a heap of cattle trying to escape from the flames of course. The picture on the right - and you see by the colour of the soil, it's not the same lot of cattle, it's in another part of the national park, and that was the result of cattle getting caught up in a bushfire that just got out of control through lack of good management practices or biodiversity or whatever else you want to call it these days.

That's the regrowth that has happened since that bushfire, and this is why cattlemen are asking for grazing rights to be put back into the high country and, I might say, with the support of Timber Towns Victoria. The growth you see is horrific. When it dries up you're looking at a similar bushfire potential because all the trees in the background - most of it probably ash and mixed species of timber that was burnt in the last fire, but it's now going to provide the fuel for another major bushfire if something is not done up there very quickly.

The photo on the left is a stand of mountain ash, alpine ash, that would have gone into the middle of Heyfield. The fire destroyed approximately 25 to 30 years of resource. On the right-hand side we actually got a photo of the workers at the Heyfield mill there and Neville Smith's. There's 250 people employed in that mill and it's the lifeblood of that town. The wage bill is currently about \$170,000 a week that goes into the community, not only in Heyfield but in Sale, Maffra, because the workforce comes from around that area.

One of the biggest problems we're getting with the closing up of harvestable timber and turning it into native park is the fact that timber mills are closing. In rural Victoria it's very very hard to get industry to shift out from the metropolitan area because so many people like the luxury of public transport, movies, the football is close handy, and you've got an industry like timber and timber gathering that is only located in rural Victoria, and we are asking that whatever recommendations they come up with, that the lifeblood of that industry be looked at, and we believe that sustainable logging is there and we state that three years ago the federal government and the state government signed off on the RFAs, and then we find that the state government's figures were not up to scratch, and all of a sudden the timber industry had to be ramped down, and that has caused serious economic consequences of course in rural Victoria.

One only has to look at most of the shire population figures that came out in November at the ALGA conference in Canberra to see that rural Victoria is slowly dying, because people are coming down, and particularly the younger ones - schools and access to schools and all the amenities that these new suburbs are providing, and it's interesting that those new suburbs are clearing every bloody tree they can lay their hands on - pardon me - clearing every tree they can lay their hands on, to put building blocks on the land. And yet we've been asked in rural Victoria to provide the heart-throb that they want with native parks and native forests and greenery, at our cost.

That is a fire - to go back to 97-98, that's the Caledonia fire, which is up at the back of Licola. The picture on the left is a piece of private property and it's one of the few pieces of private property out in that country, where it's been managed by a farmer. He does cold burns in the autumn to minimise the grass, and of course runs cattle on there to keep the vegetation down. The place next to it, on the right-hand side - well, it says 100 metres away, I didn't think it was quite that far - that's a national park where no maintenance is done, and it was just let grow wild, and in that fire where - but for a change of wind one Thursday, that fire would have ended up down around about Warragul. Yes, it was very very close, and that's where that big Elvis - that helicopter that came into notoriety - that was the fire that he got his reputation on, and it could have had horrendous effects.

One of the things that we are asking is to try to convince governments to stop introducing new national parks. It's now time to start managing what we have got and this is not happening with the national parks we've got. You've probably heard it from - I don't know how many submissions you've heard, and you're probably going to hear it again from me, too - the fact that weeds and vermin are just taking over because there is nobody out there, other than a few rangers who drive through to see whether there are any koalas hanging around the place, but as far as cleaning up the mess, maintaining it in a good, pristine state, that's just not happening. Of course, it's all very well prior to an election for any government or prospective government to turn around and say, you know, "We're going to close up a national park or create a new national park," and everybody loves it, but nobody wants to pay for it. We all know that it's a big expense on the public purse.

That's another case of bad management in relation to parks. That's after the fire of 96/97. The eucalypts have been replaced by wattles and that is not regenerating the forest, as you can see. I don't know much about this one. We were talking about the invasion of native vegetation - "native", of course, being in inverted commas. That is Dixie Station Flat. We could have done Wonnangatta Station. I don't know whether you gentlemen know Wonnangatta Station, up in the back of Dargo, in the Mitchell River Valley. Many years ago, about 30 years ago, it was run by the Guy family. It was another piece of private land, one of the few bits in that sort of country. Extensive acreage, used to turn out probably the best fat cattle in Victoria, and that was recognised through the markets when they were auctioned off.

The government bought the land and turned it into a national park. It's now overrun with blackberries and vermin, foxes and everything else and that's one of the saddest things. That is Dixie Station, which I know very little about, but Wonnangatta Station has gone the same way. Just total mismanagement of our ecology.

MS ATKINSON: One of the things Timber Towns is calling for is that native vegetation should be indigenous vegetation and not just any species that is from anywhere in Australia. We want to see land managers able to manage invasive species such as this one without onerous permit processes required.

MR MILLAR: This is where some flexibility needs to be applied in utilising local knowledge and local capabilities to identify what is endemic to the area - and truly endemic - and being able to manage the potentially invasive other - not indigenous - well, indigenous to the country but not endemic to the area. It's becoming more of a concern because native vegetation is being widely promoted in nurseries. However, it's not of that provenance or that locality, therefore it has the potential to create a weed situation.

This is probably a photograph of forestry activities in Tasmania, a clear-fell

operation. One thing, I suppose, to keep in perspective when looking at clear-fell operations like that is that Tasmania does have a very good rainfall and fairly steady guaranteed seasonality, where clear-fell operations in other parts of Australia have proven to be a little bit indifferent as far as their applications. Certain species would respond well but you've only got to get certain climatic conditions to upset the regeneration, et cetera. That was just an indication of where it was successful in terms of clear-fell operations.

To move on from our current situation with state and Commonwealth governments committing to expanding Australia's plantation base, investors in plantation operations are concerned changing policies regarding native vegetation will impact on their ability to harvest their crops. In essence, we're going to promote this. However, after 10 years it may be that native vegetation and therefore the harvest capability may not be there. So guaranteeing a right to harvest is one way to reduce anxiety and increase investment, whether that be through local government mechanisms - they can certainly enter into section 173 agreements at this stage, which would then ensure that it is a viable crop in the future. If for some reason the right to harvest has to be revoked, the land-holder or plantation owner should be guaranteed a payment for their crop, which is the actual market value of the crop, not on a percentage base of this.

Many Victorian rural councils, as we've agreed, are not sufficiently resourced to undertake large-scale incentive schemes without guaranteed and ongoing financial assistance. There is a lot of concern within the farming sector that they would like to undertake land rehabilitation programs and projects. However, they are not adequately compensated, whether that be through rate rebates or whether that be through direct financial assistance, for the loss of that productive land. There is quite a concern there that the incentives are not realistic. Possible ways to address this resourcing issue, either through a small statewide levy - that I would be strongly encouraging if it was resourced that way because that way it bypasses other bureaucracies and goes straight through to local government, where it can be applied. Quite often, many of these types of levies are eaten up in bureaucracies and by the time it's actually spread out on the ground it's only a very small percentage of what was actually raised - and allowing local government to access existing funding such as NHT2 or NOP, as far as salinity goes.

We have five recommendations that Timber Towns is putting up. Governments must adopt transparent regulatory programs accompanied by other tools, such as incentives and education. I would probably emphasise the education. Governments need to adopt regulation that both protects significant stands of vegetation but also allow land-holders to sustainably use native vegetation for profit. Governments must undertake investigation into equitable and viable markets for environmental services. Extensive training of staff - I would even say at council level and community level - within responsible authorities, is needed to ensure

consistent interpretation and implementation of the Victorian state government's native vegetation operational guidelines.

I think the VFF were also indicating that from one local government to another, you may get varying degrees of interpretation. Governments need to undertake further investigation into appropriate land management practices for biodiversity outcomes suited to the unique Australian environment. This is taking that extra level to a localised situation. We have very good baseline data that could have been further enhanced by taking it and ground-proving it and applying it at a localised level. We're finding that decreasing the area which you are looking at, in terms of vegetation management, really gives you then the focus, rather than broad scale regulation or policy. Flexibility will allow it to be applied appropriately at local levels.

In conclusion, the protection of native vegetation and biodiversity is important for Australia's social, economic and environmental wellbeing. Current regimes are inadequate. Ongoing financial and physical resources are required to manage Australia's biodiversity and native vegetation. Land-holders should not have to be solely responsible for the conserving of public good. Each Australian should take on the responsibility of protecting our biodiversity for the health of the environment for present and future generations. I think that's also accepting that it is going to cost and socially accepting that it's going to cost. I think there's a long way to go before we get there. However, in the meantime we need to be a little bit flexible in the way in which we apply some of our regulations. Thank you.

MR HOLE: Mr Chairman, I think that covers us. I hope that we've been able to give you some insight as to where we're coming from and where we'd like to be going. We thank you for the opportunity to come and present our case.

DR BYRON: Thank you very much for that. I suspect that where you are coming from and where you are going to is not very different from where this inquiry is coming from and going to.

MR MILLAR: We're approximately on the same train.

DR BYRON: Yes, approximately. Similar directions, at least. I couldn't think of too many things in your five recommendations and conclusions that we would disagree with in any way. Just to pick up on some of those last points - the continuing exploration of appropriate land management practices. I think we're probably in heated agreement that there is enormous scope for innovation and if governments tried to prescribe exactly what each land-holder must do, they close off those opportunities for landowners to think of God knows what crazy, new, brilliant ways of achieving the required outcomes much better than what any of us bureaucrats ever imagined. The specification of outcomes and results as

performances that are to be achieved rather than how to get there, I think, is a very important part of this process.

MR HOLE: Agreed.

MR MILLAR: You won't have too much disagreement, I think. It brings to mind the phrases, "Necessity being the mother of all invention," and that opportunity in allowing people to be "Thinking outside the square" and coming up with positive solutions to problems. The use of goats 15 to 20 years ago would have been a little bit out there but now it's quite common that people are accepting they provide a very good service in weed management. It's just, I suppose, encouraging lateral thought.

DR BYRON: The one thing that really struck me after reading your submission the first time, is that ideally what needs to be in place, Australia-wide or statewide, is some sort of comprehensive mechanism for looking at the protection, the management, the improvement, restoration and rehabilitation, as necessary, of native vegetation on public land and on private land. That is what I see as the big picture and out of all of that we focus down to clearing permits for bulldozing vegetation on private land. That's the protection issue, but all that private land that doesn't have native vegetation seems to be left out of the discussion. All that private land which has native vegetation but where nobody has put in an application to clear, that's left out of the discussion. We're not really engaging with those people.

All the questions of how you manage native vegetation on crown land - well, there's not much discussion of that, although you have raised it. Out of all this suite of issues, probably 90 per cent of what we have encountered in this inquiry is the question of "What do you do when somebody applies for a clearing permit?" Now, to me, it may be an important part but it's only one part of the much bigger picture. I'm trying to think of ways that we can go past trying to protect in a glass bubble what happens to be there today to making sure that the stuff is continuously managed and looked after for future generations, and also rehabilitating areas that have been flogged to death. As you said in the submission, it's not just a question of area, it's a question of quality. That is often forgotten. So thanks for that.

How do we get to a system to encourage people who perhaps don't have much native vegetation on their property to put some back? Do you agree with me that the discussion has been heavily distorted just to dealing with clearing permits when there are other issues of ongoing management and protection that need to be looked at too?

MR MILLAR: Absolutely. The particular issue that - just say you've got a permit up for dozing of vegetation in one particular area, now, that vegetation may be under no threat whatsoever in the broad landscape; however, if you get too focused on that, you may miss opportunities where revegetation in a saline or depleted area may prove to be extremely beneficial. Now, if you can apply some lateral thought and

say, "Well, look, here's some sort of method of calculation," where that could be put through. The offsets certainly do it to a degree but again they're a bit too broad, in terms of allowing that individual local government or bi-regional area to deal with.

It's probably not the ideal case, it's there for protection and enhancement or no net loss; however, it certainly has impinged on simple things like roading upgrades. We'll put in an application to do a stretch of road; however, we have to clear 90 trees in a particular EVC that's considered rare or threatened, doubled the price of the road and it turned out that Vic Roads actually said, "No, we can sign it and reduce the speed." We can still do the works, but because the trees would be so close to the road, we've saved the trees but they're now using signage as warnings to save the trees that are so close to the road, because the cost of finding the offsets for these - and quite significant vegetation too, we're talking close to 600 yellow box and red gum species - threatened to EVC, but in effect they basically said, "No, leave the trees there, we'll allow you to put the road in." We're within what the guidelines are as far as where the tarmac should finish and where the clearing should be, but they are starting to really rethink.

In the Hepburn Shire we've had two cases where we've had, for road upgrades, pretty extensive vegetation clearance. Now, the vegetation clearances to meet the offset requirements has cost more than the road, so basically we would have had two roads stopped had we had to go through the offset arrangements, but with Vic Roads allowing us to tarmac out to very close proximity to the trees and just put up road signage - warning signs and speed signs - they've now left the mature trees there, which is fantastic from our perspective, but at the same time it's also fantastic that we've had the road upgraded.

We've managed to come out of a win-win situation, but it was an extremely difficult process. You had the community wanting the trees there and the other half of the community saying, "Well, we want a better road." So, yes, these are the difficulties with some of these simple things.

MR HOLE: I'd also like to run with the native vegetation clearing, particularly on private land - private land that's classified as agricultural. People have a bad habit in this country, they like to eat, and it's all very well to have the urban sprawl spreading out further and further and using up some of the good agricultural land we had, and people's lifestyle today is to work in the city for two or three or four days - particularly with new IT stuff - then go out onto their five-acre block somewhere out in the middle of the never-nevers to get away from everything, but somehow we've still got to produce a food chain.

In Victoria we keep promoting the fact that we're producing clean and green. When we come down to making allowances for vegetation removal, I think there should be some thought put into helping it happen on agricultural land, rather than

putting up every single impediment that we can, because unless we want to bring all the food in from overseas - and unfortunately we get bad outbreaks of food poisoning and that's a matter of - any media you want to read - I think we should be bending over a little bit to protect the rights of our rural industries.

PROF MUSGRAVE: To be mischievous, it does occur to me that bringing our food in from overseas could be one way we could help the developing countries, but still, that's the other side of the coin.

MR HOLE: Yes, that's - create jobs overseas.

PROF MUSGRAVE: Thanks for your submission. I thought it was very very good and very helpful. You emphasised some aspects that needed emphasising to us. We took on board particularly your indication that we neglected the issue of quality. You're not the first one to mention this, but certainly we take that on board. A point that interests me in your presentation is the emphasis on the management of regrowth. Now, just to make a point - I might be being unfair to them - when we talked to the ACF people yesterday, the Australian Conservation Foundation, they came across as saying that the only thing that really mattered was remnant vegetation and that we had a stock of remnant vegetation which must be preserved at all costs. Any loss of remnant vegetation was an irretrievable loss.

It's a bit of a caricature probably of their positions, but the implication of that is that first of all you can't replace your losses of remnant vegetation - depletion of the stock is depletion of the stock, gone forever - and you can't expand it, which means that Victoria's net gain policy, under that rubric, is incapable of implementation. Judging from what you've said in your presentation, suitably managed regrowth can put us in a situation where we need not regard depletion of remnant vegetation as an irreplaceable loss of habitat and that we can expand the supply of habitat by regrowth and its management. Is that correct?

MR HOLE: Proper management. We have these fences these days that you can put around that sort of stuff, like if you're going to be doing, say, grazing or keep people off it. That in itself would allow - as a bloke who hates mowing lawns - it would allow the grass to self-seed and generate itself. But the thing is, how far do we want it to go? Are we talking - in your question, are we talking in state parks, are we talking on private land?

PROF MUSGRAVE: No, I was talking just about biological possibilities.

MR MILLAR: I think to answer that, it will depend on the EVC that you're actually talking about.

PROF MUSGRAVE: Sorry, the what?

MR MILLAR: The ecological vegetation class.

PROF MUSGRAVE: Yes.

MR MILLAR: The different EVCs in Victoria - with box ironbark species there's only 17 per cent left in the state, I believe, most of which occurs on private land. So that's where remnants are quite important - roadside reserves, or where you can grab them.

PROF MUSGRAVE: Yes.

MR MILLAR: Now, that's where I was indicating the significance of these trees on a particular road that we intended on improving, was that they were a rare or threatened EVC, therefore we went through a fairly gruelling process to try to save them. With forest management currently we are looking at - most of the wombat forest is regrowth forest, so over 150 years of management it has seen two to three crops grown out of it now - and I will call them "crops" because it was - it was managed for timber resource. However, now it's to the point where over-logging has really had significant impacts.

PROF MUSGRAVE: That's bad management.

MR MILLAR: Yes. Probably since the 1970s the industrialisation of the operations up in the wombat - there were some figures that were - at one stage the sustainable yearly cut was 86,000 cubic metres; it has now been reduced to 8600. Just rationalising that would be, well, perhaps someone put a decimal point in the wrong spot initially, and after 20 years of cutting it at the prior rate they've basically realised that it's only a few years' time before there won't be a stick left.

So what they've undertaken there is the community is involved in forest management, in determining how to best manage 22,000 hectares in essence, for values other than timber. Timber is basically a by-product of the management regime to actually restore the forest health, so it's sort of turning the thinking upside down and sustaining the local industry through a by-product of forest restoration. So we're sort of looking at new ways, and at the moment the Department of Sustainability and Environment are working very closely with a group called the Interim Stewardship Council - the Wombat Forest Interim Stewardship Council, of which I am a member, and we are trying to look at new ways of forest management to alleviate some of the pressures with fuel.

In terms of fire, we have many communities - small communities within the forest, et cetera. There's a lot of issues there that - regulation and over-policing will impede the progress. However, at the same time the state government is working

very closely and collaboratively on this, so we're hoping to develop some sort of model there.

PROF MUSGRAVE: Yes. We've come across some - just making an observation - we've come across regrowth in some areas where the only sustainable policy appears to be its elimination as part of an agricultural or grazing enterprise. I refer in particular to some of the cypress, ironbark forests up in northern New South Wales and under-thickening in Queensland. But that's just an observation.

You've referred a couple of times to the utilisation of local knowledge in the development of management regimes for forests. I've got a feeling that if I was to ask you how do we mobilise this local knowledge, you might say, "Through local government."

MR MILLAR: Well, it seems to be - I'll probably be a little bit crass here, but it seems to be that both levels of government like to shift cost to local government but not actually give it any real power to play in the game. This is where the great problem is, because the communities expect more from us - - -

PROF MUSGRAVE: "From us" being local government?

MR MILLAR: From local government. As a councillor from Hepburn Shire, we have a multitude of different issues and things that we really need to deal with. Now, we're sort of toying in state government policy and federal government, and delivering certain services on their behalf. However, when it comes to policy determination or direction, we're not really consulted, and yet a few years down the track we'll be given the job and a wad of cash to initiate it, and then a few years later the cash will be withdrawn and we'll expect to provide the service. So it's extremely frustrating when you can see that so much can be achieved at a local level, and yet doing it with both hands tied behind your back is extremely difficult, and extremely frustrating.

PROF MUSGRAVE: You were here when the VFF made its presentation this afternoon.

MR MILLAR: Yes.

MR HOLE: Came in during those, yes.

PROF MUSGRAVE: And you would have then heard the discussion about the cascading down business.

MR MILLAR: Yes.

PROF MUSGRAVE: Would you see local government as somehow being lodged somewhere at the lower levels of the cascade?

MR MILLAR: I think the opportunity is certainly there. However, again I'd have reservations as to how long the funding and the assistance would be for and we're quite apprehensive when it comes to be given a new responsibility.

PROF MUSGRAVE: Yes. When questions of this nature have been asked of local government people in our travels around the country, we've had answers similar to that. But I think that what is in mind when we're talking about this type of arrangement is one where there are adequate resources supplied and where the appropriate authorisation's powers exist with the regional or local body that's receiving these funds, that we've got good clear transparent arrangements made, contractual-type arrangements, with proper accountabilities - - -

MR MILLAR: Yes.

PROF MUSGRAVE: - - - and of course the ability of higher levels to kick the lower levels in the bottom if they don't deliver. When the situation is put in that way, the people we've talked to from local government have tended to relax a bit and say, "Yes, we can see that happening." But of course the regional bodies need not be local government, need they? We could perhaps think of other entities - catchment management authorities.

MR MILLAR: Exactly.

PROF MUSGRAVE: So we've got a number of possibilities here.

MR MILLAR: Yes, and I can certainly see that that would work. I would even go as far as to say that adding the catchment management authorities in at that third level would be a good way to go and creating that fourth level, being the onground works - local government having a hand in the onground works. Some CMAs are quite large and quite diverse in their nature. So administered through the CMAs would be good to a point, however I can certainly say that they have some limitations as well as far as personnel and getting stuff done on the ground, is the difficulty.

PROF MUSGRAVE: I can see a value in local government playing parts along the lines we discussed is that it is a representative organisation and an important healing task to be undertaken in this area is the restoration of trust. There seems to have been a severe erosion of trust in rural communities as a result of the implementation of the regulations and local government may be better placed to do that than, say, a CMA which has appointed membership.

MR MILLAR: Yes, I would certainly support that.

MR HOLE: Yes, I would agree with that too.

MR MILLAR: It's something that I have witnessed through the community forest management system where there are 12 people from extremely diverse backgrounds; the local sawmiller is a member and the locals that were fundamentally responsible for tying themselves to bulldozers and trees and stopping operations in the wombat are also sitting at the same table. So we have had three months to really develop a level of trust amongst those 12 people and it is making very good headway.

After nine hours of meetings yesterday I walked out last night more confident that the community could get on with it and just do their job and manage the forests to a pretty diverse range of values as well, and as I said, timber has - we have deliberately gone back to, "No, we'll take timber out and put it last," and manage it for water value, as biodiversity and a multitude of - the history and the cultural values and things, to the point where we were talking to the local indigenous representatives and they are very keen for us to continue managing the forest on their behalf as well.

So it's state government saying, "We would like the community to have it," and the indigenous representatives are saying, "We would like you guys to manage it. We've seen your manifesto and we like where you are going to." It's just a different mentality in management regime and I liken Landcare - it was so successful, simply because it was people that just wanted to get out there and do it; get the work done on the ground and they just did it, and that's why Landcare has been - with the assistance of the Commonwealth and the states, of course, but at the same time they were committed to doing the job, and volunteerism, to a point, you can tax pretty hard when it comes to volunteerism but at the same time, the reason they have volunteered is because their heart is in the right place and they want to be able to restore and improve the environment, and particularly the one in which they live, and this is why Landcare was so successful; it was surrounding their homes, et cetera.

PROF MUSGRAVE: Okay.

MR HOLE: Can I just add that local government is probably the best, I suppose, chariot in which to put your funds and I think they proved with the roads to recovery money where the government gave them the money and it was administered; probably the best value for the dollar that any federal government has ever got in spending, and in a case like this you set your guidelines up and allocate the money and some of it, of course, would be allocated on - I don't know whether it will be on a needs basis and how you determine that, or whether you do it on a per head of population or the amount of territory each shire has to cover, and that will be an argument in its own right, but to get your best value for your dollar, direct to the local government is the way to go, and keep the catchment management to one side.

I slightly differ from Phil here, but in some quarters catchment management authorities are not looked on with a great deal of affection purely and simply because they are not elected people and they are making decisions sometimes, whether rightly or wrongly, that are deemed to be government initiatives and may not always be to the benefit of what the local people want.

PROF MUSGRAVE: Thanks very much for your responses to my questions.

MR HOLE: Right.

DR BYRON: Is there anything else you want to say by way of conclusion? I think we are, as I said before, in pretty vigorous agreement on all the points that you have raised there.

MR HOLE: Right. Thank you. We thank you once again for the opportunity to be here representing rural Victoria and our councils. We do cover a big part of the state, as you saw from our map, and the arguments and the items came from a consensus of those 20 councils and so you are seeing what we believe is - what we would like to see is the best outcome for our people.

PROF MUSGRAVE: Thank you very much.

DR BYRON: Thank you. I think we've got about 10 or 15 minutes now for a cup of tea. We have got another telephone link-up with the chairman of the Threatened Species Scientific Committee and someone from the Department of Environment and Heritage in Canberra at 4 o'clock. They will be phoning in. Then after that, at about 4.30, we've got Mr Murray Davis who wants to speak. I'm not sure if there is anybody else who wants to add their name to the program, but that's what I've got on the program at the moment. We will just break now. Thanks.

MR BYRON: Thank you very much for making the effort to contact us, Anne-Marie and Robert.

MR BEETON: Bob.

MR BYRON: Bob, okay. I wasn't sure how familiar to be in the - - -

MR BEETON: You can be very familiar with me.

MR BYRON: We've only met once before, Bob.

MR BEETON: I know, I'm easy.

MR BYRON: Would you like to make the points you wanted to make? Thank you for the submission on the draft report. That was most useful.

PROF MUSGRAVE: Could I just say - Warren Musgrave here.

MR BEETON: G'day, Warren.

PROF MUSGRAVE: G'day, Bob. Haven't seen you for many years.

MR BEETON: True.

MR BEETON: Would you like me to sort of address what we sent to you and perhaps make a couple of auxiliary comments? Would that be helpful?

MR BYRON: That would be most helpful, thanks, Bob.

MR BEETON: I am coming to you particularly in my role as chair of the threatened species scientific committee, but you may or may not have caught up - since I wrote to you, it's been confirmed that I will also be chairing the next national state of environment report 2006.

MR BYRON: Good.

MR BEETON: So that is exercising my mind as well and it's quite relevant to some of the stuff.

MR BYRON: Yes.

MR BEETON: I have had a very close look at the draft report. I hadn't had the opportunity as early as I would have hoped, I guess. There are a couple of things that you might think about as worth looking at. One is the actual SOE 2001 and

particularly some of the comments it makes on the way forward and the issue of regulation, which are relevant. I notice that you have used the land chapter that Anne Hamlyn did.

MR BYRON: Yes.

MR BEETON: That was the auxiliary material and then there's the substance of the short report itself. Another thing that could be of interest is some of the more advanced regional plans that have been developed, which I guess highlight some of the issues between the Commonwealth-State interaction in regulatory terms. The ones I'm most familiar with are the Murray-Darling Basin ones up here and then, I guess, some of Young and other people's work on incentives. If I could make just a general comment. Looking at the report - are you happy for me to proceed like this?

MR BYRON: Yes, sure.

MR BEETON: Okay. Looking at the report, these are following up on issues that we raise in the letter that I sent to you. In the report in the submission from the Queensland Farmers Federation, they comment on issues to do with planning and the like. In the report, on page 81 in the first instance, where they're referring to the Mary River tortoise, the issue of recovery planning is complicated and it's something which has been given a lot of attention by TSSC over the last 18 months. Most recently it was fairly constrained by advice we've been giving to the Minister.

What I think I can say now is that TSSC is going to be making recommendations to the Minister about potential conservation actions that could be taken immediately at the time when a listing recommendation goes forward. That was agreed to in the last matter of weeks. That would assist, although there are still legislative requirements that Anne-Marie might like to comment on later, in relation to recovery planning. It is recognised that there's been a bit of a hiatus there and I think that's what they're getting at.

Similarly, in that submission that you quote, again on page 84 where you're saying the business about socioeconomic considerations, they are genuine legislative constraints and the import of what might arise from that would actually require amendment to the Act. I guess that's something you may or may not want to discuss. That's in terms of socioeconomic assessment or some committee parallel to ours. I have acknowledged the constraints, but also there are the practical issues of what you do if you start amending legislation.

MR BYRON: If I can just interrupt there, Bob. I think what we were getting at is that in some States advisory committees were sort of required to take socioeconomic considerations into account and in other States they were forbidden from doing so. In some States the committees couldn't, but the Minister may and all these sorts of

things.

MR BEETON: Yes. Sorry, Brian, yes.

MR BYRON: No, that's all I wanted to say.

MR BEETON: No, I agree with you. I think in the letter we were aligned to it and again we are more advanced than we were when we wrote you the letter. I will say more about some of the possibilities of Commonwealth-State stuff in a moment. I think cutting to the chase and cutting straight to your conclusions and looking at page 195, you talk about the nature of the native vegetation and biodiversity conservation problem and then you talk about the strong emphasis on regulation, et cetera. It's true - and in fact the state of environment report talks about that also. In fact we have made more progress on regulation and other things.

The problem is that it's some sort of hierarchy that is probably needed if you are going to have incentive systems, which I would support - and another modern word I've learnt is "suasive" systems. There's going to have to be some sort of regulatory model sitting underneath that. That, I think, is relevant to some of your other recommendations and conclusions, so that's just an observation.

MR BYRON: That's precisely what we had in mind, Bob. Did it not read that way? We weren't suggesting that suasive or incentive measures were a substitute for regulation, but additional parts of the toolkit.

MR BEETON: It's not for me to give you gratuitous advice, but I read 8.6, which is four paragraphs long, as zeroing in on the shortcomings of the regulation, where it's really about improving the regulation and building a hierarchy of strategies. That is, I guess, just an observation I make.

PROF MUSGRAVE: Yes, well, I think that means, Bob, that we should look closely at that particular recommendation and make sure that it says exactly what we mean to say.

MR BEETON: Moving over the page to 97 now, where you've got your actual formal conclusions and draft recommendations, I mean, again - and your terms of reference sort of talk about it. Part of the reason we have the problem we have is we're undergoing a progressive change in our understanding of property rights and the whole business of our social cost benefits of regulation. There's a bit of a winners and losers game going on, where people who are traditional rural property owners are feeling a level of erosion of rights and urban people who previously didn't see themselves necessarily in an overt sense as environmental stakeholders are saying they are, so how you're going to deal with some of the, I guess, economics of that, could be interesting. That is again quite relevant to that last point you made in

terms of that conclusion.

Recommendations 9.1, 9.2 and 9.3 all talk about implementation of native vegetation biodiversity policy, a regulatory impact statement, etcetera. My previous comment that there are all sorts of stakeholders out here, I think is what's relevant, because there are definitely impacts on rural people and, to some extent, in the most extreme situations regulation asks them to provide a free good. On the other hand, there are other people who are looking for certain biodiversity and other outcomes, that they may place some value on it, and the opportunity is here to point the way towards - when you look at environmental regulation impact statements, is to look at, I guess, the implications in policy terms of such a regulation. Does it lead to suasive and/or incentives of some sort, if that's what we are really wishing to achieve. The impact, to my mind, cuts two ways.

MR BYRON: There's a symmetry in terms of responsibilities and obligations, I think, too.

MR BEETON: Recommendation 9.7 is totally relevant to what I've just said, so I shouldn't take any more time on that, where you say they shouldn't bear the costs - well, where there's an individual benefit they should pay for it, but where there's a collective benefit we've got to find much better mechanisms to do so. The same applies to 9.8, where you're talking about regional responsibilities. I think that's something you really would benefit from, having a quick look at some of the regional groups, and they may have actually talked to you. Actioneers that we've got - which are horrendous in terms of Commonwealth, state, who does what, who sets the framework for the plans, etcetera. Now, I know that's exercising ministerial council, but it's something that has just got to be moved along. Part of the problem I think arises from our inability to get some of these ducks lined up.

MR BYRON: Bob, when you talk about regional plans and regional groups, are you talking about regional bodies or regional vegetation management committees or - - -

MR BEETON: Well, there's a constellation of them, depending on where you are in Australia. The ones that the Commonwealth is interested in are the ones set up under NAP and NHT2.

MR BYRON: Yes.

MR BEETON: I think the legislation calls NHT extension.

MR BYRON: Yes. Well, I mean, I've had quite a lot to do with the Fitzroy Basin Association. Is that sort of typical of the regional body?

MR BEETON: That's typical. Yes, there's a range of them and in some cases they're nested. For instance, out here you have got the Queensland Murray-Darling Basin committee and then nested within that is a couple of other committees, just to make life more interesting. Okay, so they're my general comments, I guess, on the thing, and I'm happy to come back and answer questions.

In terms of our letter - to bring you up to date - the things I talked about was the issue of aligning threatened species listing processes between the states and the Commonwealth.

MR BYRON: Yes.

MR BEETON: We had a meeting in December, 12 months ago, with all the states. A document was prepared from that which proposed making more rapid progress. There was quite a lot of support and then one of the states fell back a bit. I think the situation now is that we can probably make quite good progress with Tasmania, potentially with WA. The situation in New South Wales has changed over the last four or five weeks and there are possibilities there and with Queensland. I think there's an inquiry of the minister's office or whoever you spoke to, might help, but I think the progress is picking up.

The challenge is that the Commonwealth system is open and transparent and, as you know, we publish all our reasons - and have from day one - on the Web. Some of the state committees just issue their recommendations for listing without that, so if the states are now in with the Commonwealth, the way both legislation and precedent now stand, they would need to be aligned in a way where criteria were published and reasons were published against the criteria.

MR BYRON: Sure.

MR BEETON: That's not impossible.

MR BYRON: I was just wondering, is there a difficulty for the states in emulating that open and transparent process?

MR BEETON: Some of the states say that it would be more expensive to do that and undoubtedly they would be looking for some resourcing.

MS DELAHUNT: Also, Bob, if I might offer as well from the meeting we had with the state scientific committee, some of them are extremely constrained in terms of their timetable for assessment, but also in terms of the confidentiality of data. At least one committee is not able to publish any of the data that it uses to make its decisions, which makes it fairly difficult for the community to have a clear understanding of what's happening.

DR BYRON: Yes, I guess the angle I'm coming from is if you don't have that transparency that enables the community to have a clear understanding of what's happening and why, then there are likely to be serious implementation problems subsequently.

MR BEETON: I agree with you, but what Anne-Marie is telling you is the factual situation.

DR BYRON: Yes, but the - - -

MR BEETON: How the committee has put it to us.

DR BYRON: Sure, so it would actually require a change in that state's legislation to enable them to change their process?

MS DELAHUNT: That's certainly true, but I think also a difference that occurs between numbers of the legislation with the Commonwealth and the states, although some states are moving, is that the Commonwealth's - the threatened species aspects, if you like, of the EPBC legislation do have obligations for government and the community to protect threatened species. That obligation is not emulated by some of the state legislation, so the implications of listing are vastly different at different levels of government as well which, I think, means that there is a far greater incentive on the Commonwealth to be transparent, but also to explain in each case the implications of listing and, I suppose, if you like, the sensitivity of the entity to various activities. There's not that requirement at the state level because you don't have the same follow-through for high levels of protection.

MR BEETON: An example of where it works, and I think it supports the point you were making in there about transparency - when the Brigalow and bluegrass decisions came down in Queensland, it was pretty exciting but the point was that in all the discussions I had with Agforce, QFF, et cetera, there was never any challenge to the science. Because they could see the science, that wasn't their problem. Their problem was what happens subsequently. So it's good practice, in my view, but as Anne-Marie says, states have the right under the constitution to legislate how they wish. All we can hope is to try and get to a more cooperative process.

From the point of view of the threatened species scientific committee, if we have listings - and this is in the documentation from our meeting with them - coming through from the states where they considered entities within the boundaries of that state and listed them and recommended to us that they be listed, it would greatly speed up the process and greatly simplify people's understandings of what was listed and what wasn't and why.

DR BYRON: Yes, but I'm just wondering if there is a small role that we might possibly play in pointing out to the states the advantages of having open, transparent explanations of criteria so that they will get much better compliance subsequently. The best practice is not only best practice when Commonwealth agencies do it, I think.

MR BEETON: I agree and I think that fits really in your term of reference (b) about - and I guess (c) - that comment lines up with very nicely.

DR BYRON: Thanks.

MR BEETON: Would you like me to go on?

DR BYRON: Please.

MR BEETON: The other thing I mentioned to you, issues of sustainability: it's fair comment that with species it's not so bad, as long as you stick to some reasonable definition of a species, but when you get into communities some of the science gets difficult. The three examples I've drawn to your attention - all of which are on the web site if you wish to look at them, and I might just indulge myself and go to them very quickly to give you an idea of the problem - with Brigalow, for instance, which extends across into New South Wales, we've had this happen; different states with different mapping, with different names and different levels of splitting of the same entity, which makes it interesting.

We, in that recommendation, when you look at it - what we recommended - we said to the minister, "We recommended that this community be listed and this is what its characteristics are and it includes all the following things" - so we went to a high level in the ordination. Now, we're talking about something that stands at 10 per cent or less of extinct, but even so, we had to go through that exercise. When we had to deal with mound springs, which are where water discharges naturally from the Great Artesian Basin and has been doing so right through the Pleistocene and God knows how long before that, each mound spring is in fact often composed of different species and even with different structures. So you can't actually say that they are collectively an ecological community as such. Do you see the problem?

DR BYRON: Yes.

MR BEETON: So we recommended to the minister that a whole bunch of nominations be rejected and be replaced with an entity which was referred to as "the community of native species dependent on natural discharge of ground water from the Great Artesian Basin". The reasoning behind that was we weren't in any doubt that these things were under enormous pressure and threat - they were - but you would never be able to go anywhere near a court and claim that something at the

back of Thargomindah was the same as something to the west of Mount Isa, in a technical, ecological sense. So we've had to go through some difficult exercises.

We've tried to do the same thing with native woodland communities, which are the communities that extend pretty much down the eastern fall of the Dividing Range from Queensland to Victoria. And we've had a very exciting time with some of the groups that nominated us, where they've taken quasi legal action to try and put pressure on us to not try and go to that automated approach. So I think it's a fair comment that we have a very difficult situation with the ecological communities and with a science that is inexact and, within the constraints of the act, we're trying to adapt. Now, that is not as hard with species - and it was one - can we talk about river snails, Anne-Marie?

MS DELAHUNT: Yes.

MR BEETON: Yes, okay. I'll give you an example with species where it gets complicated. There is a species of river snail which, as far as we can tell, if it's not extinct in the wild, it's very, very close to being extinct in the wild and would warrant listing under the act, apart from the fact that it occurs in superabundant numbers in subirrigation pipes which farmers have to brush out in order to use their fixed underground pipes.

DR BYRON: Yes.

MR BEETON: And that has occupied us in terms of trying to work our way through that problem for over 12 months. Because here is something that is superabundant in an artificial environment, but nearly highly endangered in the wild.

DR BYRON: Sounds like the animals have found a preferred habitat and migrated to it.

MR BEETON: No, I think they've found a habitat which they were able to massively expand within and that's fine, but it is pretty inconsistent with what you'd regard as normal farming practice.

DR BYRON: Yes.

MR BEETON: But that doesn't happen very often with species; it's more complicated with communities and it's where a lot of the angst is; interpreting how it works. But none of the listings we do actually say that if something has got an existing land use practice and that is allowing it to continue to exist (telephone interruption) that continue to happen.

DR BYRON: Sorry, could you just say that again, the phone broke up a bit.

MR BEETON: The bluegrass is a good example. If it qualifies for listing under Commonwealth criteria and is recommended and subsequently listed, that doesn't mean that existing land use practice has to change; it means that major changes to land use practice may be a trigger. That's getting outside the ambit of our committee; that's really getting into Anne-Marie's area.

MS DELAHUNT: I think the point you're making, Bob, which is within - partially within the scientific ambit of your committee, is to be able to say at the time of listing with any entity, to clarify what is the thing that is threatening it and how this entity works. For example, with bluegrass the committee was clear from the beginning, the nature of that type of grassland community means that sustainable grazing is compatible with the existence of the community, whilst conversion to crop land obviously would not be compatible.

DR BYRON: Yes, obviously.

MS DELAHUNT: So that sort of knowledge about how to protect an entity is one that I think is quite significant new work that the scientific committee is doing, where they are talking about how does this work in the landscape, acknowledging human activity.

DR BYRON: Is it conceivable that in some cases the human activity is not only consist with but may actually be beneficial for the conservation of those target species?

MR BEETON: No doubt. In fact, I was listening to a presentation today about bridled nailtail wallabies, where there is now apparently more nailtails on the properties adjoining Thornton than on Thornton, which was the original core reserve.

DR BYRON: Yes.

MR BEETON: That can happen; that is not inconsistent. It just is a question as to what the practice is and the real challenge nationally is by what mechanisms do we get to those practices and who pays for them?

DR BYRON: Yes, exactly.

MR BEETON: That finishes most of - they're the major points I had, just my comments in relation to the letter and making you aware that there is movement on recovery planning. I'm more than happy to answer any questions. I'm sure Anne-Marie is, too.

DR BYRON: Thank you very much. That has actually been very helpful already.

Warren has got to duck off now to catch his plane, since it's 4.30. I didn't have any questions that I'd written down based on the letter that you sent us in December and I think what you've actually said today has been an extremely helpful elaboration. There were a couple of things that both you and Anne-Marie said we might come back to later, and I thought I'd jotted them down so we wouldn't forget.

MS DELAHUNT: I think particularly from me - I know Bob was keen to ensure that you were aware of where the - what we're calling the alignment of lift activity is up to.

DR BYRON: Yes.

MS DELAHUNT: Because certainly the committee's work was very positive about identifying what the relationships between Commonwealth and state listing processes are, which is I think what the committee is concentrating on, and part of that exercise has been very much showing up the need for there to be an administrative and, I suppose, political response to that issue as well. The various committees are, of course, appointed to do the job of legislation at the time and so the department has had discussions with our committee about where to go from here and we have initiated separate discussions with each of the jurisdictions to try and start building that process a little bit. But that obviously the role of your draft recommendations are quite helpful in that regard as well.

DR BYRON: So even with the best will and cooperation there is a bit of a limitation on how much further it can go unless some of the legislative constraints on some state committees is amended. Is that right?

MS DELAHUNT: Certainly, and also there is the issue of the resourcing available to those state agencies to make decisions. I think the department here, in combination with the threatened species committee, seriously take that end of the responsibility and put fairly substantial resources into ensuring that not only the listing work, but understanding of the entities is well presented, if you like. There isn't that requirement on many of the states at this point in time, so I think that that different resourcing is going to be a challenge as well.

DR BYRON: Yes, that makes sense, Anne-Marie, yes. If I could just change the subject slightly and raise something that you haven't, it's been put to us in some of the hearings that we've had, that there are land-holders who know that there are rare and endangered species of flora and fauna on their freehold land but they're not going to tell anybody - not even us - because from their perspective it simply meant a whole regulatory apparatus would descend upon them and would impose some sort of rules and restrictions.

But the corollary to that is that we might well have state government agencies who are making decisions on the basis of - you know, there are only three reported occurrences of this plant in the world but, in fact, there are dozens of other places but they've never been reported. Is that possible?

MS DELAHUNT: Of course it's possible.

MR BEETON: Yes, it's possible.

DR BYRON: That means that the administration of the regulation is somehow preventing the accurate information about the extent of particular rare species from surfacing.

MR BEETON: Let me just pick up on that. There are a couple of issues. One is that there are regulations at a state level, regulations at a Commonwealth level, and even within the states there are overlapping regulations in relation to some entities, as you're probably aware.

DR BYRON: Yes.

MR BEETON: One of the things that our committee does is, we're required to look at things in terms of their genuine national extent. We've had entities come up for listing where the entity is described as XYZ occurring within such-and-such a place in Queensland, and the committee knows that it occurs in other parts of Australia, and we've moved hell and high water to find out what that entity is before we'll proceed to listing. That's been the cause of some excitement in some of the interactions with the agencies at times. We try as best we can to address that.

Secondly, you'll sometimes come across a nomination where there's an uncanny relationship between the alignment of roads or rivers or access tracks for protected areas and what is the proposed extent of a species or entity. In some cases we go back and ask a lot of questions before we'll agree to anything; in other words, a level of healthy scepticism, shall I say, is the only defence we've got. You get a feel for it after a while, especially if you know that everything between two points of the extent of something has been cleared. It's probably a reasonable proposition that what you're looking at is an accurate picture.

On the other hand, if in fact what you've got is purely search effort or restricted surveys, then you're going to ask a lot more questions of the nominator and seek more information and, in our case, we've convened meetings of known national experts to make sure that the information we've got is reasonable and you can make a judgment on it. But you can never ever be certain that errors don't occur.

DR BYRON: That's extremely helpful. Thank you both.

MS DELAHUNT: If I might just add to that answer as well from the regulatory end of our department, in the circumstance that you were positing, Neil, about having a landowner with information in relation to a certain listed entity, if it was the case that there were decisions made under the national legislation in relation to that, the current knowledge is used by the decision-maker - be it the minister or the department on his behalf - so that the existence of the additional populations is taken into account. So it's current knowledge that you use the whole time, so that's one point.

The second point of course is what the significance of any individual development activity is. That significance is assessed against the national population, so those two factors, I suppose, suggest that, at least in terms of how the national legislation works, it's probably not terribly helpful for an individual to hold back on the knowledge when, in fact, it would make more sense for them to be open about it.

DR BYRON: Yes. I can agree with you from where you and I sit, but for a number of land-holders - they always talk about a neighbour or someone they've met in the pub.

MR BEETON: Yes, that's right.,

DR BYRON: It's never they themselves who are sitting on it - well, not always. What I'm worried about is what the Americans call "the shoot, shovel and shut-up syndrome" - that sort of very perverse behaviour of people who think that having a rare or endangered plant or animal on their property is the worst thing that could possibly happen to them - whereas I'm trying to conceive of a set of rules where finding something like that would be better than winning lotto.

MR BEETON: To some extent, it's a matter of regulation, persuasion and incentive. The model we talked about at the start is the only likely model to change some of that behaviour.

DR BYRON: Yes.

MR BEETON: Just while you're on about that, you probably also have come across the extraordinary problems the Americans have with critical habitat.

DR BYRON: Yes.

MR BEETON: Just in passing, our committee has been - to the frustration of many stakeholders - extremely reluctant to nominate critical habitat unless we're absolutely

convinced of its criticality - for that reason, where it has this absolutely perverse outcome.

DR BYRON: That's great. I think I should let you both go, unless there's anything else that either of you would like to say by way of wrapping up. No?

MS DELAHUNT: No, thank you, from me.

MR BEETON: I'm fine, thanks very much, Neil. I appreciate the report and I appreciate the time you've given us.

DR BYRON: Thank you both very much.

DR BYRON: Thank you, ladies and gentlemen. Right, Mr Davis, thank you very much for your patience of waiting.

MR DAVIS: You're welcome. Thank you very much, Mr Chairman, panel and participants. Yes, Murray Davis from Dergholm in western Victoria. Good afternoon. It is late in the day. My comments will be brief but as a participant at the first round of submissions last August I have come along to reinforce my original submission which I presented at that hearing, and also my written one which came earlier than that. I congratulate the panel on its draft report, which is fairly comprehensive actually. It highlights the cost to local communities and to a number of land-holders who have native vegetation on their properties who wish to develop their land for primary production.

We seem to have different interpretations of the rules and regulations by the various government departments, bureaucrats and shire councils. It has been so confusing to a number of land-holders that they make decisions which are not in the best interests of their long-term farm development and repair and maintenance; example, fence lines, the problems we've had there; power lines - shire councils seem to be very confused. Quite often they value the trees more than lives because of the trees growing so close to the edge of the roads.

Since we last met timber companies have purchased more land at high prices for planting blue gums in western Victoria. While this is a fledging timber industry it has taken up thousands of hectares in the south-east of South Australia and south-west western Victoria. No land has been developed for grazing purposes during that time but they have taken up this land which was grazing land. Whereas the land-holder, if you can get a permit to knock down one tree he has to plant many trees. So maybe, because the blue gums are planted over thousands and thousands of hectares, we should be able to perhaps reciprocate and clear a little bit of our native vegetation and have a balanced development, rather than all one-sided.

We only want a fair outcome from these regulations. Maybe one government should be controlling the body, not three as at present and with so many different interpretations of the rules; one set of rules maybe, with no overlapping. Pressure should be put on governments to take up and implement the recommendations in your report. I thank you very much for your time and opportunity to speak to you today. I just thought I would reinforce my earlier submissions. That's what I came along to do today. Thank you very much.

DR BYRON: Thank you very much, Mr Davis. We have heard a lot today and yesterday about how the current legislation is administered and whether it's complex or whether inept or whether the people aren't sufficiently trained, or whether some people are running private agendas and all the rest of it, but would you agree with us that most of the issues are actually far more fundamental than that; that it's not just a

question of how the public service behaves?

MR DAVIS: I think some of it is not really clear-cut and every individual shire or local government body, or whatever, seems to just interpret it a little bit differently, and not just one set of rules. So people are a little bit apprehensive to, yes, how it really works and what the laws really are in some instances.

DR BYRON: The question of flexibility and discretion is always a bit controversial because, I guess, bureaucracies always like to run according to rules. We've actually been arguing that there should be some flexibility - you know, what makes sense in east Gippsland doesn't make sense in west Woomera, and so you wouldn't want to have exactly the same rules applying; that you have got to have horses for courses, but is what you are saying that within a region there should be both consistency across that area and also consistency over time, that what was okay last year should still be okay and predictable?

MR DAVIS: I think maybe commonsense. I can see your point of view where Woomera - whereas we say we are the western district, the higher rainfall area, where the blue gums are growing, where there is more timber; yes, in hindsight we can see the first settlers came out, they did what the English did back in 1700, 1800s and as times of old, and we can see our mistakes. So we have gradually adapted to change. I guess we will be forever changing. So yes, it's hard to foresee in the future, mistakes we are making today, in 10 or 20 years' time; like back in the 1800s, they didn't realise - or early 1900s - just what mistakes they were making.

We were led by, maybe, the Department of Agriculture, for example, that's what you did in 1930 and 1940 and 1950 - 1970 and 1980, well, the slant was different.

DR BYRON: Clear fallows as we heard this morning, yes. But you raise the question, I guess, as one of scale that if you take the broad landscape of multiple properties and a couple of them have been planted up very densely with blue gums does that mean that the requirement for vegetation across the whole broad area has been met there and therefore other plantations could be 100 per cent grazing land? Or is there still an argument that you need a certain amount of vegetation on each property even though there is a big block of blue gums over the fence?

MR DAVIS: I would say also land type would come into consideration there. I'm not saying you go in holus bolus, clear it all, but if the land is suitable for the grazing industry and will sustain permanent pastures. I think also, yes, as I mentioned here, 20 per cent of land still in a native vegetative state is quite acceptable, providing the land around it is sustainable to permanent pastures.

DR BYRON: We may well decide in another 10 years' time that some of the area

that has been planted up with blue gums shouldn't have been and it probably would have been better off under grazing or something else. But I guess that is what you are suggesting before, over the last 100 years where we are groping towards getting the right land use on the right topography and the right soil type, and probably still haven't got it perfect.

MR DAVIS: That's right, if we ever will, because great examples of land that maybe the blue gum companies - several of them - trying to outdo one another; outbid one another and of course land that was marginally suitable, maybe as you say, for blue gums, but good grazing land has gone under blue gums and given the full cycle of that tree-growing time of 10 or 12 years, people might decide different, that it was wrong. So that still remains to be seen.

DR BYRON: It depends on what happens to cattle prices and wood prices, I guess.

MR DAVIS: A lot of variables, aren't there?

DR BYRON: Yes.

MR DAVIS: Yes, the rural industry - no matter what gambit of farming you are in there is always those variables. People, I guess, take up the challenge, do what they think is right at the time, and in hindsight, yes, maybe it should have been different.

DR BYRON: Isn't there a contradiction there: on the one hand we are saying that we want a clear set of rules or maybe we have got a management plan for a property, we get someone to sign off and then we can carry on with that - so you've got certainty, but on the other hand we're saying we know conditions are going to change over the next five, 10, 20 years, and so we have got to have some flexibility as well. So getting the right amount of certainty on one hand but ability to be flexible on the other hand is another interesting balance.

MR DAVIS: No doubt, and I know the best of farmers can have their farm plan there and from time to time those farm plans are changed. You know, you get an aerial photo of the farm and you put in your laneways and watering points and all that sort of thing, and a number of years later you can say, "Well, it could have been better if it was further south or further north," or whatever. So we are always changing; everything is adaptable; nothing is set in concrete.

DR BYRON: As many other people have said, that means that the landowner has to have some flexibility to be able to adjust as circumstances change and shouldn't be micro-managed from somebody sitting in the state capital or Canberra.

MR DAVIS: Yes, I take your point there. I guess it's on the ground decisions - you know, that aspect of various properties where those management decisions should be

made in cooperation with these rules, yes, in cooperation with the landowners, rather than the bureaucrats dictating them from further afield.

DR BYRON: Okay. Thank you very much for that, and thank you for coming today.

MR DAVIS: Thank you, Mr Chairman. It was a pleasure, and all the best with it.

DR BYRON: It's good to see you again.

MR DAVIS: Thank you very much.

DR BYRON: Thank you. Anybody else? That being the case, I think I can declare this round of public hearings at an end. We don't have to go on the road any more and we have now got about six weeks to finalise the report and hand it over to the government. I would like to thank you all and everybody else who has participated in the hearings because without you it wouldn't have been possible. So thank you very much, ladies and gentlemen.

AT 4.48 PM THE INQUIRY WAS ADJOURNED ACCORDINGLY

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