



**TRANSCRIPT
OF PROCEEDINGS**

SPARK AND CANNON

Telephone:

Adelaide	(08) 8212 3699
Hobart	(03) 6224 2499
Melbourne	(03) 9670 6989
Perth	(08) 9325 4577
Sydney	(02) 9211 4077

PRODUCTIVITY COMMISSION

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

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

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON TUESDAY, 17 FEBRUARY 2004, AT 9.32 AM

Continued from 13/2/04 in Hobart

DR BYRON: Good morning ladies and gentlemen. If you could move in and take a seat, please, we can get the public hearing started. Welcome to the public hearing of the Productivity Commission's national inquiry into the impacts of native vegetation and biodiversity conservation legislation, following the release of our draft report in December. My name is Neil Byron, and I'm the Presiding Commissioner for this inquiry, and my fellow Commissioner is Prof Warren Musgrave.

The purpose of this round of hearings is to facilitate public scrutiny of the commission's work, and to get comment and feedback on the draft report. Any errors of omission or misinterpretation or inadequacies or incompleteness in our analysis, any ambiguity or misunderstanding in the recommendations and findings can be corrected through this process of public exposure. We've had hearings already everywhere from north Queensland to Hobart in both cities and country towns. We'll be in Geraldton tomorrow and the final hearings will be in Melbourne next week. We're working towards completing the final report, having it to the Commonwealth government no later than 14 April, having considered all of the evidence at the hearings and the submissions and all the discussions and field visits that we've had.

Participants in the inquiry automatically receive a copy of the final report once it's released by the Commonwealth government, which is usually within 25 sitting days of parliament from when we give it to them. We always like to conduct these hearings in a reasonably informal manner, but I remind everybody that we are taking a full transcript for the record, and so we can't really entertain comments from the floor because it's not possible to recognise who is speaking. So at the end of the day I always ask if there's anybody in the room who wants to make any comments to come forward and do so and put that on the record.

Participants in inquiries like this are no longer required to take an oath, but the Productivity Commission Act does ask that people should be truthful in giving their comments and remarks. Participants, as always, are welcome to comment on issues raised in other parties' submissions. As a matter of courtesy and to make sure that there are no errors of transcription, we do send the transcript to the people giving evidence for checking to make sure little words like "not" that change the sense haven't been left out. After the transcript has been checked for any errors in transcribing, it will be made available on our Commission web site and through the public libraries, and available on request by members of the public.

I think that's all the housekeeping I need to cover so I'd now like to start off the day's hearings by welcoming the representatives of the Pastoralists and Graziers Association of Western Australia. Gentlemen, if you'd introduce yourselves and then the highlights of your written submission on the draft report, which we've read, which we thank you for, and then we can discuss that. Thank you very much for

coming.

MR HYDE: John Martin Hyde.

MR DIVAL: John Dival.

MR WREN: Peter Alex Wren.

DR ESBENSHADE: Henry Esbenshade.

MR GARE: Geoff Gare.

DR BYRON: Thanks, gentlemen.

MR HYDE: Well, Mr Chairman, one small point that I'm determined to make - and I think we all are - can I congratulate somebody on the unusual clarity, particularly for a public report, of the exposition. It can be read at speed and you can understand it. I don't know who's responsible, but someone deserves to be congratulated.

We find ourselves in a good deal more than broad agreement with the draft report, and actually one of our worries of today is that we might sound carping, by only referring to the things that we think you might have done differently. I will start off by commenting on what I believe you should say about getting the science right. Mr Dival will discuss what we believe is the state government's failure to honour some of the COAG agreements. Then Peter Wren will discuss the problem of community interests and private justice. We were a bit surprised - well, perhaps not surprised - but we note that you, having an economic background, have concentrated on efficiency at points when you might also have mentioned justice in our view. We appreciate that basically you're composed of economists, not lawyers, and that's likely to be the case. We think the other might have been given more emphasis. We have the feeling that perhaps you have been slightly too polite in the draft and that you will be dealing with some people - not many but some - who wish to misinterpret what you've written, and that possibly you should spell some things out with greater clarity. That will probably clean our time up.

Mr Chairman, we would like you to say, with even greater clarity, that it is very important to get the science right, or otherwise even regulations that are perfectly efficient in the terms that you've discussed, perfectly effective in the terms that you've discussed, still might be directed to doing the wrong things. We appreciate that you cannot yourselves be the judges of the science. That's not the Productivity Commission's role. We merely want you to emphasise and, if you can, spell out the steps that ought to be adhered to, to ensure that those who are drafting regulations and policing regulations have first attended to the science to make certain

that they are, in fact, heading off in an appropriate direction.

You have cited Prof David Pannell, but in discussion with him, two of his papers that he thinks are more relevant - and he has not given evidence to you directly - on dryland salinity - and I'll table a piece of paper here because it has got the references on it - I don't think it says anything libellous - I believe you ought to attend to, merely to make the point that the science is in dispute. The contention is broadly that, yes, clearing the timber off the Western Australian wheat belt has given rise to salinity problems certainly. But his argument is - and he does have support for this, and it rings true to me as a farmer - that to overcome the problem, you would have to put the timber back, and if it's all covered in trees, no wheat either, that's not on. Planting a few trees is not a solution to this problem. Now, that is a contention that at least deserves further discussion. I will read just from the note that he gave me:

Dryland salinity has been conceived as a problem involving massive off-site impacts and therefore requiring coordinated action to ensure that land managers reduce those off-site impacts. In economic terms, salinity has been seen as a problem of market failure due to externalities including external costs from one farmer to another, and from one farm sector to the non-farm sector. In this paper -

which is where the extract is taken from -

we argue at least in Western Australia the externalities are much less important as a cause of market failure than has been widely believed. If all externalities from salinity in WA were to be internalised, the impact of this on farm management would be small.

I think that is all I wish to say. If you'll allow me to table this bit of paper that has got the references on.

DR BYRON: Thank you.

MR HYDE: Thank you. With that, I hand over to John, who will deal with another topic.

MR DIVAL: Yes. Thank you, Mr Chairman. My name is John Dival and I wish to talk about the inter-governmental agreements - the COAG agreements that have been signed by the states - and I raise the issue now - it's not in our submission, the PGA submission, and I take the blame for that - but however I've got the opportunity now and I don't want to miss it, because I think it's an important issue that really deserves a place in the report. My reading of your terms of reference would allow it

to come in under 3(c).

The significance, I guess, of it is that there is talk at the moment about a COAG agreement with regards to water rights, and I ask the question, "Well, what does it mean if previous agreements that have been signed by the various state governments and the Federal government have been ignored?" I'm talking about the most significant agreements which would be the intergovernmental agreement on the environment, the national strategy for ecologically sustainable development and the national strategy for the conservation of Australian biological diversity.

The provisions of these documents support the concept of sustainable economic development and the need to have productive land use. They also recognise the economic and equity considerations, and recognise land use remains a matter for the owners of the land. Importantly, there is a recognition of the need for fair adjustment measures for those whose property rights are affected. The selective quotation of excerpts from these various agreements has always annoyed us in as much as they - "they" being the agencies that are responsible for the conservation of native vegetation - choose the bits that suit their argument but totally ignore the bits that we believe should be recognised because they're actually dealing with private property in most cases. So could I quote, then, from the intergovernmental agreement on the environment, which starts:

And whereas the parties to this agreement acknowledge that the efficiency and effectiveness of administration and political process and systems for the development and implementation of environmental policy in the Federal system will be a direct function of -

and I've abridged this, of course, because I wouldn't want to bore you to tears with everything they say. But they say that:

The extent to which the total benefits and costs of decisions to the community are explicit and transparent.

Now, you've made that point yourselves in your findings, of course. They go on elsewhere and say that:

The parties consider the adoption of sound environmental practices and procedures as a basis for ecologically sustainable development will benefit both the Australian people and the environment and the international community and environment. This requires effective integration of economic environmental considerations in decision-making processes, in order to improve community wellbeing and the benefit of future generations.

Elsewhere it says:

Ensuring that measures adopted should be cost-effective and not disproportionate to the significance of the environmental problems being addressed.

Within the schedule of that agreement, it says at (5):

Within the policy, legislative and administrative framework applying in each state, the use of natural resources and land remain a matter for the owners of the land or resources, whether they are government bodies or private persons.

Now, that to me is pretty clear, and I get angry to think that they've signed up to that and then totally ignored it. In their actual strategy for ecologically sustainable development, in the guiding principles, it refers on one of the dot points to:

Decision-making processes should effectively integrate both long and short-term economic, environmental, social and equity considerations.

That has never happened in Western Australia. It goes on to talk about - in this it has the precautionary principle within the same set of considerations, which is often quoted, and goes on about global dimensions et cetera. At the bottom it says:

These guiding principles and core objectives need to be considered as a package. No objective or principle should predominate over others.

Now, again, that's a very, very clear statement that really never gets a guernsey over here and, from reading your report, doesn't get a guernsey in many other states either. From the national strategy for the conservation of Australian biological diversity, at 1.51, it says:

Incentives for conservation ensure that adequate, efficient and cost-effective incentives exist to conserve biological diversity. These will include appropriate market instruments and appropriate economic adjustment for owners and managers such as fair adjustment measures for those whose property rights are affected when areas of significant biological diversity are protected.

I believe that it would be appropriate for the report to contain reference to those agreements, just simply to highlight the fact that those agreements exist, and they really have never been adhered to. We have exercised our mind at length on what

mechanisms might exist within the federal system to bring about adherence. I could not, as a private individual running a business, go out and sign a contract and then turn my back on it, and I don't believe the state should be allowed to either and I think this would be an opportunity to say that.

MR HYDE: Peter?

MR WREN: Peter Wren. I take on a bit further and maybe more to the heart of the matter where John is coming from and the Commission has pointed out that there is this - John has highlighted a conflict between the state government's abilities to fulfil obligations representing community interests and then again the landholder, the person who is being, you know, at the short end of the stick, and then the concept of individual fairness. You have touched on it in your introduction and you've basically stated that the appropriate - this is from the draft - distribution of costs and benefits of policies designed to promote native vegetation and biodiversity conservation lies at the heart of the issues confronting this inquiry and critically is not pre-empted by the commission's guidelines. Further, you do have the powers under your operating principles to - provision of independent analysis and advice, and so you do have that ability to make this available, and I wanted to discuss a bit further the community interests and individual fairness.

Are we able to say have both? Are we able to say not, so to speak, sacrifice everybody, or do we just sacrifice a few, and how do we sacrifice them? The issue of the use of regulations as a means to try to control individuals - and you have stated that existing jurisdiction-wide regulations by designer accident has muddied the issue of landholder and community responsibilities. That has come out fairly clearly through some of your previous work. I just want to quote a portion out of the PGA's submission, not to this inquiry which we are tabling today.

We also have another process that we're involved in and that's with our state government, and they are just in the process of putting forward the Environmental Protection Amendment Bill 2002, and now we're at the stage of being consulted as far as the regulations and a portion of where we're trying to come from does fit in again with some of your observations on page 205. You have a way forward and that's trying to look - where can we go from here? In this you have stated that it would have been more useful to define landholders' responsibilities in terms of the environmental services provided and who benefits, not in terms of a particular action but whether the action is considered good or bad.

It's just a bit sad from our standpoint that the people who put together the regulations and this act had not had the opportunity to see this type of approach before they put their pen to paper, because what it has done - it has exacerbated the gulf between the farming community and say the community at large and certainly

has put individuals under a perceived aggravating of unfairness. It's not going to be any better for the individuals. From the PGA - just a section says - these are the quotes:

The PGA continues to oppose the introduction of this Act. Not only does it reverse rights and property ownership that have existed for centuries for us all and now only remain for the urban landowner; it abandons conventional legislative practice. It prohibits everything unless it is authorised and uses regulations to specify what can be done without authorisation. This is unacceptable law-making, which creates the potential for a widening gap between how the Act and its regulations could be interpretive and what the government's legal powers are to implement and enforce them; for example, how to define potential land degradation and how to prove that what is done today could cause land degradation in the future.

We are putting to the state government - and for the recognition of this process - that they have started off on the back track. Basically an uncompensated, regulatory taking is so convenient for society and it is so politically able to be, say, utilised to gain votes at a short time - and that's representing the community interests, sad to say - acts without a conscience by the supremacy of parliament, and that's without a conscience to the individuals that are affected. It acts as if no injurious effect can possibly exist or, if it does in any way exist, it is overlooked as being for the common good.

I believe this is a perversion of democratic principles and basic human rights. We need to try to find a better way and I think the Commission is aware of it. We need to find a better way to try to move forward with these issues. When you stated that the existing jurisdiction-wide regulations by design or accident has muddied the issue - well, they certainly have not brought clarity here today in this state of WA, not from the farming community's perspective - at least not from the Pastoralists and Graziers Association - because, on the other side of responsibility, the landholder is, say, through these regulations, spelt out prescriptively with their responsibilities, may or may not be, on the other side what are the responsibilities that are therefore the community interests? The community, as acknowledged through this process - or community groups, NGOs, bureaucratic agencies, in our state government process for the consultation with the regulations - the environmental defenders office is accepted as a peak consultative group.

The problem is that there is no established process or mechanisms for any of these community interests to be held to account for what are essentially no more than stand-over adversarial tactics toward individuals. This command and control system - it's predicated on abuse and threats to the landowner and fails to provide

responsible solutions. You have highlighted that and I believe it needs to be highlighted stronger. In the absence of these adequate ways to respond, to identify and fix the problem, such as John Hyde spoke to in terms of salinity - the regulatory approach breeds perverse environmental outcomes, and you have touched on this in your own work and it has been touched on regarding science and the interpretation of mapping and we could bring up many examples.

Now, NHT moneys was supposed to fix this but, in reality, in our state we find that these same state agencies that are empowered potentially with this regulatory state to bring the hammer onto the individuals in the farming community - and they're empowered by statute to enforce the regulations, they are utilising their positions of influence and decision-making to try to control the flow of federal government moneys allocated for the purposes of environmental protection for their own job creation and empire building. Politics prevail and therefore little money hits the ground for the landholders to be able to try to bring environmental benefits, so that's basically where I thought I would bring this to, and thank you for that.

DR BYRON: Thank you.

MR GARE: Mr Chairman, just a short comment to welcome your decision to take further evidence at Geraldton tomorrow. You may recall that in our first submission last year we did refer to the opportunity that exists at Binu, a little farming community north-east of Geraldton, to try to evolve a better system of dealing with landowners in a largely uncleared area where there are also emerging problems that are systemic in most of the state. It would be of interest to you to know that the state agency involved, the Soil Conservation Commission office, has as yet failed to forward the intent of that; in fact all that has been done is some drilling in the most likely saline areas on properties where clearing has taken place and the landowners themselves have been forced to actually do independent testing to try to discover what the real picture is in that area but, from our perspective, it is shaping up as an opportunity lost, mainly again through the unwillingness of the agency to really come to terms with this problem.

I would point out also that whereas the Queensland and New South Wales governments do appear to be moving to a more enlightened way of dealing with these issues and have put their money where their mouth is, in partnership with the federal government in terms of compensation and moving the way forward, this state still has a meagre \$1.2 million in kitty to look after the disaffected landowners in most of the state, who are affected by these new rules and regulations, and yet we have no problem at all in finding a kitty of 100 million for bush plan to accommodate people who live near the city and who may be losing access to their land or the use of it. Thank you.

MR HYDE: Henry?

DR ESBENSHADE: Nothing to add.

MR HYDE: John?

MR DIVAL: John Dival. Chairman, just to follow on from what Peter Wren was saying, relating to the new bill: we raise this as an issue now because, since your last hearing of course the bill has progressed through parliament and, as you obviously know, we are now arguing about the regulations. We believe it's important that you should be fully aware of what the situation is with the implementation or the attempted implementation of this bill because we are - well, it's no longer a bill. It's an Act waiting to be proclaimed, and we are now discussing, debating - "arguing" is probably a more accurate description - the regulations, and we particularly want to raise it because I notice in the submission from the Western Australian Conservation Council that there is a claim that there is no clearing ban in Western Australia.

Well, that's exactly how the Act works. It has banned everything. It does turn the legislative process on its head and of course now we are talking about the regulations, and to example the point you make in your report - that there needs to be clarity about the objectives and so forth - at a recent meeting we had at Pastoral House with representatives of the Department of Environmental Protection to discuss the draft regulations, we endeavoured to discover the objective when it comes to dealing with regrowth, as an example, and we pushed the point as hard as you could push it without being totally rude, but the answer was deafening silence. An objective could not be quoted.

The question was a simple one: what is the objective in reclaiming as native vegetation land that has been previously cleared simply because the regrowth hasn't been dealt with in a particular time frame? We just get totally frustrated at the fact that there is no recognition whatsoever of any rights within this issue and, at the very least, we should expect and be able to obtain an objective that goes along with the regulation, and of course that is impossible to obtain.

Elsewhere the Conservation Council talks about the consultation process that took place. I mean, this was a bill that was introduced just before Christmas. No, it was a bit earlier than that, but, nevertheless, an extremely busy period for farmers. It was a bill that by the government's own admission was rushed into parliament to deal with things. It was a bill that had as many amendments as it did clauses and, of course, we're in the unenviable position of having regulations that if they are not passed, everything is banned. So we believe that - well, how can I put this? We believe the Commission should be absolutely aware that nothing has changed and despite the government's recognition that this draft report of the Commission is out

and they claim recognition of it, well, it sure is not being seen in the negotiations we're having with them regarding regulations now. They could not care less and that's not putting it too strongly. I have got much stronger words.

MR GARE: From a different perspective on the same issue, we have contended on several occasions to this particular agency that in line with your findings a lot of the impacts of what they are proposing will be perverse. The classic exists with the complete ignorance and failure to accept the potential for farming technology advances. In this state there would be many farmers in areas of the state that are prone to salinity who are adopting new technology in such a way that their productivity from better areas of their farm can easily outweigh the productivity from the formal way of spreading resource over the entire property and taking an average production. The new laws that are being introduced in this state will have no other effect than to completely send people that may have been prepared to lock up more unproductive country and to concentrate on their better, safer areas, to do just the opposite.

DR BYRON: Thank you for that.

MR WREN: Yes, I would like to just give one more addition, if I can, and that is on the incentives side of it. The state government and some of the people got together with the World Wildlife Fund, the real estate industry people and soil land conservation and accessed NHT moneys and they put forward a bush brokers manual. And the state government actually had put into its submission to you in the previous round, amending this process and, yes, that's a good way to go, and that the aim of that is an increased market value of bush.

But I find it ironic that when I opened and studied the Bush Brokers Manual on page 4 it talks about bush values that people want and it has a whole list of the market. It describes who the people who want to own the bush blocks include. Among them are those who want to acquire cheap land. So here it is documented. I will table a CD copy for the Commission and it's right there, not only in writing but in Internet. So on one hand you have a system that supposedly is being, say, promoted to enhance the market value of land and they have made testimony to that extent, but, in effect, they're promoting it. In my belief, it's a form of land dealing that's ripe for corruption, anyway.

MR HYDE: Mr Chairman.

DR BYRON: Thank you. I was just wondering, before I comment on any of the things that you have raised this morning, have any of you had the chance to see the second submission that we have received from Western Australia government?

MR HYDE: No.

DR BYRON: It was probably not up on the web site yesterday because I think I only got it on Friday afternoon.

MR DIVAL: It wasn't up this morning either. I checked.

MR HYDE: You're dealing with a government department, Mr Chairman.

DR BYRON: Yes. Can I ask you, if you get a chance later, if you have a look at it. If there is anything that you - you might want to come back to us again, in writing.

MR HYDE: Thank you.

DR BYRON: Most of the points that you have all raised this morning are also raised by the Western Australia government in their second submission to us: the intergovernmental agreement on the environment, the National Strategy for ESD, the National Strategy for Conservation and Biodiversity. Those are discussed at great length in the WA government submission. They say that what they're doing is fully compatible. In fact, they rest on those very things that you're challenging.

In terms of your first point, John, about getting the signs right, I think it's a fair summary to say that they say there has been an enormous amount of work on the causes and treatment of salinity. They refer to major salinity studies and the enormous effort that the government and individual landholders have put into planting 450,000 hectares of new trees recently. I think that they would say that they have done the science: they know what the cause of salinity and secondary salinity is and what the solutions are and they're working towards that. I won't attempt to summarise their point of view on the issue that Peter raised about community interest and private justice because that would be leading you. I think you might find it interesting to read their response.

MR HYDE: I think we can undertake to, at least, get something back to you.

PROF MUSGRAVE: John, could I ask you to just go over that work of Pannell's again? I'm sorry. I didn't quite follow it. I think I saw you going down one lane and, in fact, you were going down another.

MR HYDE: Pannell argues there is not much doubt that clearing has allowed the water table to rise and that that has given rise to salinity. What he further argues is that this happened because of large-scale clearing, not because of a small amount of clearing around, say, the sites that have become totally salted. He also makes the point that you get these huge areas of the wheat belt that are said to be saline. If

you've got very accurate means of measuring it, that is, of course, correct. There is no doubt about that and no-one is lying. But it's not visible. The Mortlock Flats, for instance, were like that before the white man got here and by and large that hasn't changed much.

The productivity on our best land has increased so much that for Tammin Shire, for instance, it trebled the amount of wheat coming out of it in quite recent times and that sort of thing. The wheat belt is not going back. To reduce that salinity - and it does reduce yields and so on, no doubt about that - you would have to put the trees back more or less like they were. You're dealing with a lake of water underneath, not a flow of water. I argued with Pannell some time back, saying, "Well, yes, that's clearly right below the ground. Have you considered what's happening above the ground?" He said, "Yes, there are places like in the Mortlock Valley where above the ground flow has given rise to some problems, but in relatively narrow areas." Therefore, the solution cannot be to plant a whole lot of trees. You would have to plant too many of them, that's the problem.

We plant a lot of trees, we farmers. Frankly, we do it for aesthetic reasons. Salt land is so bloody ugly that we stick trees around to hide the damn stuff. We add to the values of our properties in doing that, but most of all we'll add to the comfort of living there and that's why we're doing it. A joke goes round Dalwallinu: you can tell when a bloke is going to get married, he plants the trees near the house. This has been going on for years. It seems to me, as a farmer, that Pannell's work adds up, but I'm not qualified to judge and I'm not attempting to do that.

All we are asking is that there be considerable emphasis on getting the science right because some things that are taken for granted are, in fact, disputed. The same, incidentally, applies to arguments about greenhouse. The science is, again, disputed. Now, you people can't sort out the science. That's not your job. I understand that. All we ask is that there is further emphasis in the report that encourages people to get the science right and to listen to alternative argument. There was a lot of argument in this state some years ago where the Department of Agriculture said that drainage wouldn't work. It's now more or less accepted that in some circumstances it does, but they went to enormous lengths to argue that that was a waste of effort.

MR GARE: And in some cases is still doing so.

MR HYDE: Yes. Clearly, in some cases it works. We're only arguing that the science is not all understood.

PROF MUSGRAVE: This is the point where I'm just not quite clear where we're at. As I read it, you're saying that you can't do anything about this salt, the rising water table and the salt that comes with it, unless you completely revegetate.

MR HYDE: We can't do it by planting trees. That doesn't mean some areas can't be drained. It doesn't mean that the value of the whole wheat belt can't be improved by doing things that are beautiful. It doesn't mean that we can't provide shelter for small bird life. It doesn't mean a whole lot of things, but we think there is one bum argument.

PROF MUSGRAVE: What does it mean in terms of the eventual landscape? You're not talking about complete salination of the landscape, are you?

MR HYDE: Experiences vary, so no. Experiences vary enormously from areas. Salt is still expanding in some areas. In my own or my son's property, salt has actually retreated. We have no salt on the property at all today, whereas we did have some back in the wet 60s. I wouldn't mind if the wet 60s came again, incidentally. So it ebbs and flows and the situation is variable. We're not going to lose the wheat belt. That's what you wanted me to say.

MR DIVAL: Could I just say that the government's - some of their own publications talk of revegetation levels of 80 per cent of the wheat belt to achieve the balance again; of course, bearing in mind that those trees would have to be planted on the already productive ground to produce an effect so that then, of course, results in the elimination of the wheat belt. The unfortunate misuse of science in this is the argument that is continually put, that if you remove any trees you're going to cause salinity. We've got huge areas of the state that are still uncleared, where, in fact, that just doesn't happen. That is the inaccurate science that we take great objection to.

The other aspect of the inaccurate science is the simple identification of a particular biodiversity value on the basis of large, broad-scale soil type maps without any on-the-ground proofing at all. It's known as a PUEA, a project unlikely - now I've said it I can't define it. But anyway unlikely to receive approval, let's paraphrase it. So the lack of science has continued and it's only just recently, when the department was actually pushed - that's the Department of Ag - that they did the drilling up in Binnu that you are aware of. That is not a normal thing to do and we believe that if you want to make broad assertions about a particular physical or topographical or hydrological aspect of something you should do more than make broad assumptions if you're going to be removing a person's asset and livelihood.

DR BYRON: That very much comes back to the question of onus of proof, which you have raised before. It seems to me that under the previous system, with notification of intent to clear to the soil commissioner, a layman's interpretation of the law was that landowners were allowed to clear unless the soil commissioner had strong grounds for believing that it was going to cause appreciable and unacceptable damage or harm, and so the onus of proof was very much on the soil commissioner

to demonstrate that "You can't do this because". Is it correct that the new Act really reverses that, so the onus of proof is now on the landholder - - -

MR HYDE: At great cost.

DR BYRON: - - - to try to demonstrate that the clearing that he proposes to do will not cause any appreciable damage?

MR HYDE: And the standard of proof requires high cost, both in terms of delay and survey work. Look, our central position is that if there is a taking, the person should be compensated for it. Once that happens the crown is forced to ration what it does, injustice is not done and some of these administrative problems sort themselves out. The ACF and the state government both assert that the major impacts will be very few. If they're right - if they are right - the costs will be very low. There is no problem even for the treasury. If they're wrong, of course, then widespread injustice is going to be done but we would contend that it's not reasonable to do an unjust action to even a single person. The fact that there are only a few doesn't alter the argument.

DR BYRON: Yes.

PROF MUSGRAVE: The legal advice that we have received is that governments are under no obligation to compensate for regulatory takings of part of the bundles of rights that constitute freehold land.

MR HYDE: You surprise us a bit there, in that we thought, and we may be wrong, that the Commonwealth government was under some obligation under 51.31, whereas the states are not.

DR BYRON: Yes.

PROF MUSGRAVE: That's true.

MR HYDE: That's not quite how your report reads.

PROF MUSGRAVE: That's for resumption of the whole title of land.

MR HYDE: There's a Northern Territory case that they actually found that a taking of a right involved the gold and platinum.

PROF MUSGRAVE: I think that equally there is nothing to stop them compensating, if they so wish, but there is no constitutional compulsion. Anyhow, that's preamble.

MR HYDE: I'm not competent to have a legal argument with you.

PROF MUSGRAVE: If you were to accept that fact - well, I presume that you might be sympathetic to the type of argument that is in the draft report where we emphasise that the vision of incentive arrangements - that is, we don't talk in terms of compensation but in terms of landholders providing environmental services and receiving payment of incentives to achieve that.

MR HYDE: So long as it is spelled out that the incentive payment in fact must cover the cost of the taking to the landholder. Our worry with the way it's expressed is that it will be interpreted that the sort of bush plan incentives and so on meet the crown's obligation in the matter. In fact, our broadest quarrel with the draft report is that not sufficient of the spirit of it is spelt out in the letter, so that deliberate or accidental misinterpretation is a little easier than we would like. Again, I'm worried I'm sounding carping because we're in broad agreement.

DR BYRON: A few landholders that we spoke to in rural Queensland and New South Wales, if I can paraphrase their points, say that they're not going to hand over perpetual title to a significant portion of their property in exchange for a couple of rolls of wire and, you know, a bundle of waratah stakes.

MR HYDE: No, but that's what we'll be asked to do.

MR WREN: I'd like to make just one more point, if I can, Neil. The other side again: the responsibility from a farming community is you have security to take action and those actions are like what we say are rights, so there is a certain lateral ability, whereas you have this regulatory approach that is prescriptive. First of all, no clearing and then, even on what you have cleared and even on the bush that's left, all of a sudden the farmer is looking over his shoulder what he can and can't do. You've probably seen evidence of that in the eastern states. So you really want to be able to go about your business of farming with open clarity, free of recrimination or threats of recrimination, and that's what is also under intense jeopardy at this time.

I believe that there is still this wide gulf between the commonsense of the landholder, his practicality, and we would say that these uses are established traditionally. They are uses, you could say, established in common law, to use your property for agrarian cultural purposes. On the other side we believe it is irresponsible of the communities, of the wider community, not understanding the nature of agrarian cultures. There is a wide divide there still. So that puts it immediately into this command and control regulatory approach but it's leaving the government wide open to - I don't know if you're familiar with the branch-breaking debacle that the Conservation and Land Management had.

This legislation and this approach leaves it wide open to the whole farming community. The government is leaving itself wide open. It's almost as if what is lacking from the debate is experience and understanding in the complexity of agriculture - the word "husbandry" - and that's farming. It's regarded as a science, a skill and an art, but you also have the economics. So how do you have that understanding to, say, the wider community, to be able to institute regulatory approaches and regulatory takings without having that understanding of what the agrarian culture is all about? With our shrinking political base - 3 per cent or 4 per cent are farmers today in Australia. After the war it could have been, what, maybe 30 per cent. That's part of the whole challenge, I'd say.

DR BYRON: In the draft report we suggest that there be greater devolution of responsibility for the attainment of community's objectives with relation to native vegetation and biodiversity.

MR DIVAL: Yes. It's the mechanisms of how it is to eventuate that is the challenge and what is missing.

PROF MUSGRAVE: Well, could I invite you, as well as visiting the Western Australian government's further submission, that you also visit the further submission of the Conservation Council of Western Australia. They have, I think, some very cogent suggestions with regard to that. I think that that's in the spirit of lack of enthusiasm for devolution but, as I read them, they do have some virtues, and that is that we have this devolution to regional and community bodies that do have intimate knowledge of their culture and their landscape and can bring this to bear on the problem of managing native vegetation and biodiversity; but that this be constrained clearly by the clear enunciation of the objectives sought by the state and the Commonwealth; that is, that we bring to bear the wisdom that is at the grassroots, so to speak; that it's done within the context of the broader national and state aspirations. I would be interested in your thoughts that there is such a situation emerging.

MR DIVAL: Could I just comment on that, though. The Conservation Council, in almost every recommendation, wherever they can fit it in, add the words, "supported by strong regulation" So that's the difference. The direction they are coming from is obviously quite different from the direction we're coming from and they do suggest, I think, and I had a very quick read of it last night, but they talk about funding or sources of funding and they quote all the various levies that apply to various agricultural activities like the cattle levy and so forth, which are all there for a specific purpose. I guess the bottom of that is that somehow some funding can be obtained to deal with the issue.

But at all times there is the avoidance of confronting the bottom line and that is, simply, if you want the use of our land for any purpose you have got to pay. The difficulty I had with the submission generally is that it comes from the direction that just about everything the farmer has done has destroyed the environment. Now, I mean, that is paraphrasing in a very severe way, but nevertheless, that's the reading I get from it. So there is the difficulty to know, once you go down that track, what is at the end of it? There is nothing that is clear cut and clearly stated that the word "compensation" shall be used. I mean, it is used in urban situations. Why can it not be used in rural situations?

You use it, of course, in the last line of your recommendation 8, "or even compensated regulation". I mean, I wonder why "even"? It sort of recognises, "Well, gee, if all else fails, we might have to pay for the land." That's not the way we see it, quite obviously, otherwise we wouldn't be here. Yes, I will certainly be having a closer look at what you are saying there and we will respond.

MR HYDE: Devolution should not be confused with flexibility, either. The difficulty with some devolved organisations exercising authority is that principles of natural justice, particularly the rule of law principles, are not always understood by them. What should be spelt out by the central government is not where it wants to get to in the end in land planning or something like that, but rules about process. That is what needs to be instructed to shires and committees and so on because I think our experience is they sometimes do not understand these things. No malice implied, they just genuinely do not understand. That needs to be got through to them. I think the end point that you want to get to can jolly well be left to them. The locals know better and have most to lose.

PROF MUSGRAVE: Thanks very much. Those are very interesting comments and we would be interested also if you do have further thoughts after looking further at the Conservation Council's suggestions. Just one last question. It's a very large topic but you might be able to comment briefly. In our travels across the nation one thing that has impressed us has been the reports of the quite - I use the word "astonishing" - regenerative capacity of the Australian landscape. Could such an observation be also applied to all or part of Western Australia?

MR DIVAL: Certainly for the central wheat belt.

MR WREN: It's my major problem.

MR DIVAL: Bush coming back, yes.

PROF MUSGRAVE: You look as if you are perched to say something.

MR WREN: You are talking about the amount of bush we have?

PROF MUSGRAVE: The ability of land once cleared to regenerate.

MR WREN: There is just so much misunderstanding there. Unless you're on the ground in your own particular locale, your own particular bush types - yes. I can see your regulatory people from Conservation and Land Management, they have a good handle. Most farmers do some way have that awareness too, you know, in their own locality.

MR HYDE: In 25 years our yields have doubled. The soil structure is much better today.

MR DIVAL: Also in the context that I mentioned, where farmers can better utilise the better productive soils and would be normally prepared to allow some of their poorer country to revert, they will not do that because reversion to them now officially means the loss of that land.

PROF MUSGRAVE: Yes. An associated point is that our ability to revert to the pristine landscape of 1788 or whatever the relevant date is after that is very, very low.

MR WREN: Look, I have just seen an account of two Aboriginals. They were called the last nomads, out of Wiluna and the deserts back of those. This is back in the 60s and they did something unlawful in terms of a relationship and they had to be more or less banned from their tribe. When they went back, the expedition went back to find them, I was amazed because the Aboriginal who was leading this chap out there in his landrover, he was jumping out, and the first thing they do is they start lighting the spinifex on fire. Yes, all through this expedition. I mean, they were going hundreds of miles through the desert to get there. They had no GBIs or anything. He knew where he was going but he wanted to put the spinifex on fire, and he kept on commenting on how degraded - not those words, because they wouldn't use those words - but how it's gone back, their bush. So that context of what the Aboriginals - they farmed this country. They farmed those deserts. What we see today in terms of pristine if you want, that's not pristine whatsoever. It's had 40,000 years of farming behind it changing the ecology in a continual way.

In the area where I come from, the south-west, we have magnificent stands of karri country there with this understorey of brush that you couldn't penetrate through it; yet the early settlers and the early people that forested that area would easily walk through and find caves and find holes in the ground. You could navigate through this bush. That's just in our period of time of being here, and that's bush that is supposedly pristine, so yes, that's the side of it - you did touch on it in your report,

this snapshot approach to pristine or what is supposed to be an ideal equilibrium I suppose you'd say in an ecological sense. Nobody knows that.

PROF MUSGRAVE: Instead it's something which is very dynamic.

MR HYDE: Yes, indeed.

MR WREN: It is; changing forever.

MR HYDE: And at sufficient cost we could produce most outcomes that you might want, but we would argue I think that that shouldn't be done rather than that it couldn't be done. It would make us all very poor trying to do it.

DR BYRON: In view of the time, gentlemen, I think we'll just have to leave it there. Thank you very much for coming and for your submissions. If there's anything else that you want to add, we don't have much time left. We hope to have the report to the printers within two months. It's getting a bit late in the day to digest new information, but if there is anything you want to add fairly quickly - thank you very much.

DR BYRON: Next we've got the Western Australian government gentlemen. Thank you very much for coming, gentlemen. Could I start by thanking you most sincerely and wholeheartedly for what has to be the most thorough, constructive, critical submission that we've received on the draft report. You've really done an amazing job. As I say, it's the most comprehensive critique we've had. I hope we might get some more, but thank you for that.

The reason that we issue a draft report, and the reason we have these second-round hearings, is precisely to get this sort of feedback: errors of fact, errors of interpretation, errors of omission, things that we haven't explained clearly. That's exactly what we're trying to fix up. The written submission that we got last week is extraordinarily helpful in doing that, so thanks. If you'd just like to summarise the main points you want to make and we can have some discussion. Thank you.

MR IRELAND: Thank you, and thank you for those comments on the submission. The government of Western Australia does have some concerns with the approach the Commission has taken to the inquiry and with the draft report. We feel that the terms of reference for the inquiry include reporting on the impacts of regulatory regimes on sustainability and they include both positives and negatives and the efficiency and effectiveness of those regimes in reducing the costs of resource degradation. As is appropriate to an examination of public policy, the Commission has the scope to weigh the effects on the entire community.

But in our view the draft report has been overly focused on the impacts on individual landholders and disproportionately focused on the negative impacts. We think that the commission, by taking that focus, is doing a disservice to a very complex and very important policy debate, by amplifying the concerns about short-term individual costs without assessing and recognising the extensive long-term benefits to landholders collectively, to regional communities, and to the ecosystems which all of us depend on. The commission, we think, needs to be extremely careful to avoid seeming to support adversarial or narrow sectional positions. Natural resource management can only become more successful if we can continue to build trust and a willingness of all the many stakeholders to work together for the common good.

The government was most concerned that the suggestion about dirty tricks made in our previous hearing was picked up and attributed with the authority of the Productivity Commission and quoted in the media and in correspondence to the Minister for Agriculture, Forestry and Fisheries. Those sort of instances reinforce the impression that the draft report has given the West Australian government, which is that the Commission has been focused on looking for problems and placing blame more than a balanced assessment of the efficiency and effectiveness, the positives and negatives, of the regulatory regimes in the context of the collective effort and the

need to improve the application of essential regulation in practice.

The framing of the draft report and the weight of discussion it gives various issues is important. If the report only makes passing reference to the imperatives and benefits of regulation to conserve biodiversity while devoting many pages to the costs, failings and difficulties, it can only be concluded that the Commission regards the costs as of proportionately greater importance.

We suggest the Commission reassess the weight of evidence behind the draft report's negative assessment of regulation - that it imposes substantial costs and has not been particularly effective - and the commission's preference for an approach based on stronger landholder property rights and public payments. This position is at odds with the slow but steady progress that all scales of collective negotiation on policy have been making towards decision-making systems that are inclusive and based on sustainability.

I'd like to quote from a paper by the Institute of Rural Futures, which recognised an urgent need to invest a substantial amount of public funds in maintaining the ecological integrity of rural Australia, but states that:

Property rights talk and compensation payments is a singularly unhelpful way of providing this investment, even if this talk is a successful, short-term tactic for winning concessions from governments that are susceptible to agrarian fundamentalist rhetoric. If governments acquiesce to the property rights talk and compensation demands, then a precedent will be set that places severe future restrictions on natural resource management in the public interest. The expectation of compensation will be capitalised into the value of the land, which will exacerbate the inability of agriculture to respond to changes. There is an urgent need for governments to reshape the debate over environmental issues away from property rights and compensation talk.

The central importance and the value of regulation to prevent exploitation of natural capital and degradation of natural systems has been widely recognised, because natural systems are massively connected, poorly predictable; and cause and effect can be widely separated in time and space. The systems are largely open-access, which means there is no economic incentive for an individual to limit their own impacts.

The cost of repair is one or two orders of magnitude more expensive than the cost of protection and, past certain thresholds, can have catastrophic and irrevocable impacts. Most agricultural areas in Western Australia have already been cleared well beyond the level that is seen as necessary to secure the long-term ecology and

productivity of those regions.

That value of regulation and the protection of that vegetation has been recognised by a huge range of studies and assessments, from OECD economists to the Wentworth Group, whose first recommendation to the New South Wales government last year was to strengthen and simplify native vegetation regulations. Regulation has been very effective in reducing clearing in Western Australia and to suggest that it is ineffective in achieving environmental goals would require very strong evidence as it contradicts a very large weight of scientific opinion.

The Prime Minister's Science, Engineering and Innovation Council in 1998 applauded government endeavours to protect native vegetation and recommended not only regulation but cross-compliance requirements for government funding. In 2002, PMSEIC recommended that the Commonwealth government urgently work with states and territories to limit broadscale clearing to those instances where the proponent can demonstrate that regional biodiversity and hydrological objectives are not compromised.

In fact, there's a vast weight of national and Commonwealth policy, prepared for well over a decade, supporting and, to a very large extent, driving state land clearing regulation. There is inadequate recognition of that Commonwealth and national driver in the report, and the suggestions that the states are largely responsible for the creation of regulation ignores things like the National Strategy for ESD, the IGAE, the Biodiversity Strategy, the objectives and targets for biodiversity conservation, et cetera.

It also ignores the links that have been made and the pressure that's been applied by the Commonwealth to states through links to funding programs by the Commonwealth, such as the National Heritage Trust. It's also only possible to say that there's been insufficient consultation and participation and consideration of the objectives if you ignore the enormous amount of work that has gone into the policies and the legislation over all that time; to say that the objectives haven't been sufficiently considered or discussed or that the costs and benefits haven't been sufficiently considered or discussed.

The final report of the Commission should assess the extent to which regulation has been driven by national and Commonwealth policy and it should report on the extent to which that regulation has reached the goals set by major national policies and community targets. It should consider whether the extended delays in introducing the regulation, mainly because of landholder concerns and because of strenuous government efforts to minimise the impacts on landholders - whether those delays were in the overall interests of the community. Did the regulation go far enough and fast enough? Given that the costs for repair are far

greater than the costs of too little clearing, surely regulation should begin by erring on the side of precaution, to be relaxed later when there is adequate regional and smaller-scale data and regional schemes are completed and validated.

Two important aspects of the report are that the landholders themselves suggested that they don't gain benefits commensurate with the costs that regulations impose. We suggest that there be a more thorough analysis of that suggestion. While it's true to say that the immediate benefits gained personally by a landholder from protection of vegetation on their own property may not equal the opportunity costs that they suffer, the individual's share of the huge avoided collective costs of impacts from salinity, loss of ecosystem services - such as pollination and pest control, et cetera, stream impacts, soil degradation and so on - easily outweigh the costs for the majority of farmers in areas where too much clearing has already occurred.

When you factor in the regional benefits such as avoided infrastructure costs, flood mitigation, amenity, tourism industry and those sorts of things, the picture is at odds with the draft report's assessment. Even in those cases where the benefits to the individual are less than the opportunity cost, that is not necessarily sufficient to justify a public payment. Other industries bear the costs of not releasing their wastes to air and water. Fishery and forestry industries bear the costs of maintaining the resource on which they collectively depend.

According to the Prime Minister's Science, Engineering and Innovation Council, Australia is investing over a billion and a half dollars a year in biodiversity and natural systems, of which 1.2 billion comes from the governments. There is a view in the collective policy, which has now been around for a long time, that people's decisions should include, take account of and avoid unreasonable impacts on other people's services and amenity.

The Institute of Rural Future says that by strengthening one person's property rights you reduce other people's property rights. There is no solution to improve the outcomes on natural resource management by reinforcing views that property rights - stronger property rights - will give the solution. Rather it is the track towards sustainability where natural resource management and environmentally-sustainable decision-making is seen as a collective responsibility that everybody has to take a share of. At that point I will pass over to David.

MR HARTLEY: Thanks, Rosh. Just by way of introduction, my name is David Hartley from the Department of Agriculture. I'm executive director with that organisation, but probably in the context of today's hearing I have the statutory position of the Commissioner of Soil and Land Conservation. I would like to start off by acknowledging the chairman's comments this morning. I appreciate the

feedback on our report and do acknowledge the purpose of a draft document is to allow us to make corrections. However there are just a couple of issues that I would like to emphasise, largely from the point of view of soil and land conservation in the state.

I was a little concerned about the comment on page 110 of the draft report about all jurisdictions appearing to seek to protect native vegetation and biodiversity well beyond that needed to provide net benefits to landholders. I would certainly take issue with that. The connection between land clearing and salinity in particular has been recognised for over 100 years. It was first recognised by engineers clearing for the railway lines and it was actually documented by Wood some 70 or so years ago, and particularly in the last 20 to 30 years our knowledge and understanding of what's happening and the connection between clearing of native vegetation and rising watertables is irrefutable.

It is clear that we are feeling the effects at the moment of that past clearing and that we don't have the native vegetation out there at the moment to maintain a hydrological balance and, for that reason, our rising watertable problem is continuing to get worse and therefore the salinity that's exhibited is going to continue to get worse. There has been a suggestion - sorry. The national land and water audit report quotes that we have less than 5 per cent native vegetation on our farmland. Previous reviews indicated that we probably need of the order of 25 per cent to get somewhere near a hydrological balance.

More recent work done by CSIRO and our own organisation suggests that that figure could be up as high as 70 per cent of perennial vegetation needed to get back to some sort of a hydrological balance, so that we don't continue to get a rising watertable. In Western Australia particularly the beneficiaries of retaining native vegetation from a rising watertable point of view is actually the farm. Because of the relative flat terrain here we don't have the deep, emphasised valleys that are in the west.

The very flat terrain means that there is very, very slow lateral movement of water underground, so the effect of perennial vegetation is to lower the water under that immediate property and, while there are some off-site benefits, the major benefits by far are to that individual property, so we would strongly refute that suggestion and argue that the real beneficiaries are the individual landholders, as well as there being some off-site impacts, but they are small compared with the benefits captured by the individual landholder.

The next issue I would like to deal with very briefly is consultation. There was a suggestion on page xxv that legislation has been introduced with little or no consultation. The last changes of any significance to the Soil and Land Conservation

Act were in 1991, where regulations were introduced, with the result of 18 months' exhaustive consultation, where the intent of them was made very clear and it was about the prevention of land degradation, soil erosion and salinity, in particular, so that was an 18-month consultation process.

More recently amendments to the EP Act have been the subject of extensive consultation and that period has just been extended here in Western Australia for those regulations relating to land clearing. I will let my colleagues from the Department of the Environment comment further on that, if they like, but certainly the period has been extended to allow even further consultation to go ahead, so it would suggest to me that when there has been any change of regulations in this state in the last 10 years or more to do with land clearing that there has been extensive consultation.

The final point I would like to make is about some of the evidence that has been submitted here. I do acknowledge the opening comments that this is the opportunity to correct those. There were quite a number of incorrect assertions about - there was a general theme mentioned several times about the Soil and Land Conservation Council being responsible for clearing, and that's simply factually incorrect. I'm not sure where that came from. It's actually the commissioner. The Soil and Land Conservation Council has been established by the governor to provide advice to the minister and the commissioner, but they have no direct role in notification of intent or assessing applications or managing the regulation process and, as I said, that was a constant theme.

There are certainly errors in there about soil conservation districts, implying that their declared area is sensitive to degradation, and that's simply not the case. They've been set up all over the state as a way of engaging with the community, or with landholders in giving advice on the management of the land resource. The evidence given by Collins, Harris, Beckingham and Wren we take issue with and we have documented in detail in our submission; errors of fact; in several cases claims were made that notification was in fact given where, according to our records, that's certainly not the case, and there were assertions about the application of soil conservation notices that are factually incorrect, so we're happy to provide any further information, as required, to make sure those errors of fact are corrected. Thank you.

DR BYRON: Thank you very much for that. I wonder if we're not in heated agreement here on most things. It seems to me that we, the commission, and you in the Western Australian government, have got some very similar tasks, in that we are trying to do much the same thing in terms of trying to find ways to deliver the levels of native vegetation and biodiversity conservation that society wants - ways that are effective. They did a job. They're cost-effective in that they represent good value for

money, and there is a reasonably equitable way of sharing whatever it costs, given that it is inevitable that there will be some cost. We try and minimise the cost, but then having minimised it, how do we share that equitably?

You really have got an incredible advantage over us in that this is a national inquiry. You gentlemen, between you, will inevitably have far, far greater knowledge of the WA situation than we can have in the next 100 years. You know much more about the detail, but what we have tried to pick up on - and, as you say, we don't have the ability to investigate in detail and validate everything we were told, but what we've been trying to pick up in those three areas - you know, is the current system as effective as possible or is there something constructive that we or you or anybody else can suggest to make it a bit more effective? Is there something we can do that would reduce the total cost of the system across the whole society in achieving that level of native veg retention that society and governments clearly do want to achieve?

You're not the only ones to take us to task for having not attempted to quantify the benefits of retaining native veg and biodiversity. If we'd been given another 10 years we might have had a chance of doing that but, I mean, in my previous life I have attempted to do that seven times in five different countries. I spent \$5 million of the World Bank's money trying to do it in three countries and \$2 million of the IUCN's money in another two countries, and I've failed totally so I was a bit reluctant to have another go here.

Moreover, to calculate the benefits of retaining veg and biodiversity through using legislation rather than other mechanisms, to me that just seemed an almost impossible task, so you're right in a sense that we have copped out and we have taken the easier path - which others have also criticised us for - of saying, we know governments and society at large value native vegetation and biodiversity conservation and they want to see more of it. We will never be able to calculate what the benefits and costs are of retaining vegetation on every site in every state.

We could dissipate all our resources and get nowhere on that, so what we tried to do - where we thought we could perhaps make a useful contribution - is this sort of cost-effectiveness approach: accept the government's targets as given that we want to achieve more and better biodiversity conservation, native veg retention. How do we do that in the most effective and cost-effective and equitable way? I think that's the same challenge that you gentlemen are facing every day. If the system as it is now in WA does those three things then I guess we don't have anything to say.

I think in the submission you've looked at all the recommendations and findings, which we have admittedly put in very sort of general or generic terms. Some people say we have been mealy-mouthed, but we have been putting them in

general terms. What we could easily have done in each one of those is say – except that this doesn't apply in WA - and we could probably add that to every single finding and recommendation and we could probably say - and Tasmania is different and Queensland is also different in a different way - and it would make for a substantially longer report - but you are right. There is an ambiguity.

If we make a sweeping generalisation across the entire country, and WA is substantially different, we should - we acknowledge that, and not only in your submission, but that and everything else that I've seen convinces me that in many ways, particularly the incredible salt problem you've got here, WA is just very, very different from every state and territory that we've been in, and I am in awe of the magnitude of that problem that you guys are grappling with. It frightens me. I was going to lead up to a question there somewhere.

The thing that most struck me about the magnitude of this problem - where you say, "It's clear that the levels of remaining native vegetation, in conjunction with the farming systems currently utilised, are insufficient and unable to maintain a hydrological balance to either reverse or maintain the present level of secondary salinity." That's out of the final report of the native veg working group. The problem is, according to all studies, only going to get worse. I find that sort of overwhelming.

MR HARTLEY: Yes, it is overwhelming. The problem at the moment is that we've got of the order of 2 million hectares of salt-affected land in the south-west corner. The predictions are that over the next 25 or so years, regardless of what we do, there is so much momentum in the system in terms of rising watertables that that will approximately double over the next 25 years, no matter what, ultimately reaching an equilibrium in 50 to 100 years of perhaps six and a half million or thereabouts hectares of salt-affected land. Now, I suppose we're arguing about the remaining two and a half million, and we still see that as important enough to try and address.

We've got a range of things in progress to address that, not only just the clearing regulation but a research arm through the Salinity CRC which is a national project, but based here in Western Australia, which is doing much research into plant-based solutions to try and get alternative farming systems or production systems or land-use systems, whether they be trees or conventional farming, that will use a greater amount of water. We've got techniques such as surface water management. We've got deep drainage. So the ultimate solution for us in Western Australia is going to be a combination of half a dozen different techniques for managing the salinity problem.

DR BYRON: And is it correct that the extra two to four million hectares is likely to

be amongst the most productive land currently?

MR HARTLEY: Well, it's certainly in the valley floors where it tends to be some very good soils that are quite productive. So, yes, I'd say that as a generalisation that's true, that it is going to be amongst our most productive lands, although not all of it is under agriculture. There's obviously a lot of nature reserves and conservation sites that are affected and there'll be water supplies and so on.

MR McNAMARA: If I could just add to that. Keiran McNamara. I'm the CEO of the Department of Conservation and Land Management. The agricultural production values at risk are certainly significant, but the biodiversity values and other values in infrastructure, towns and potable water resource impacts are also very severe.

DR BYRON: Is it the magnitude of that threat that basically leads to the position that any further clearing of native vegetation constitutes very serious risk? I'm trying to explain in my own mind the difference in what we were thinking. When we came here last time, I think we'd been in Queensland the week before, where they were talking about going from having 93 per cent native veg in a particular bio region to 92 per cent native veg, in an area where there was no recognised salinity risk. It may well have been that that was still in my mind when we got here, and this situation is to say the least, vastly different. If somebody in Queensland wants to reduce the native veg from 93 to 92 per cent in a region, which doesn't have a salinity hazard, you seem to say, well, why shouldn't he be allowed to, perhaps. But the picture that you're painting here is so starkly different from that, that you're - is it correct that you're almost reversing the onus of proof? It seems to me that under the old legislation with the notification of intent to the soil commissioner, landholders could basically clear or whatever, unless there was evidence to you that it was going to cause harm. Now you've got so much evidence that it's likely to cause harm, that you're reversing the onus of proof.

MR BANYARD: Can I have a go at that one? I'm Rod Banyard from the Water and Rivers Commission, and also representing the Department of Environmental Protection. The legislation that was talked about by the PGA that is now an Act and waiting for proclamation, sets up some criteria for assessing clearing applications. I think we have to recognise that WA, like Australia, has got diverse arrangements for vegetation. In some areas, clearing it will have dramatic impact on salinity, and we've got some very good models developed in our south-west where clearing controls have been in place for 30 years, where we've developed different zones according to salinity risk, and we take a different attitude to clearing for water quality protection on the basis of the hazard. That's under the Country Areas Water Supply Act.

Moving on to the Environmental Protection Act, the salinity risk of clearing is

one of the criteria that our CEO must have regard to when he determines whether an application is to be approved or not. We've got obviously good ideas about the risk of clearing, developed over years, so although the burden of proof - there may be a burden of proof on the applicant - it would be at the margin, where the science wasn't - well, where the knowledge wasn't clear. There might be a survey required and those sorts of things. So the approach would be to make assessments of the initial application and determine areas where there is further information required, and it may well be a requirement for the applicant to undertake work and make reports and get expert assessments to form the final assessment of that application. Does that answer the question?

DR BYRON: Yes. Thanks. That's very helpful. Warren.

PROF MUSGRAVE: Could we just continue with that, and could I just repeat Neil's observations about your submissions? If we had more of this quality, I think we would also have a different draft report. We've had the arguments attributed to David Pannell put before us. I don't think you had arrived when the Pastoralists and Graziers Association talked about it, so this may be difficult for you to cope with, but I was wondering if you had any response to it, any commentary that has been made. Perhaps if we could talk about the actual publication, you might tell us if there's some response that you could provide to us. Do you know what I'm talking about?

MR BANYARD: Yes. I was the only one of the team that was in the room when that discussion was on, but if I could have a quick word with David about that and give him some background, he might be in a better position to respond to that.

PROF MUSGRAVE: Okay. Excellent.

MR HARTLEY: It appears that the point that was being made was fairly similar to the one I made earlier on, that the flow-tube modelling done by CSIRO and our department and several others a couple of years ago did indicate that we'd probably have to revegetate about 70 per cent of the wheat belt to get a hydrological balance. I think Pannell was possibly saying that the system has gone. We're not going to get much of a benefit by saving what's left. Is that the sort of point that he was making?

PROF MUSGRAVE: Yes. That seems very consistent with what we were told, except that you've taken it a little further and it seems to me an implication of his argument is that you mine the area and keep on growing crops and mining it, and that the social costs and benefits are such that that's the optimal social policy to adopt, which seems a bit of a worry.

MR McNAMARA: That would depend, in part, on the values that one has a mind to in dealing with that issue. I mean, for example, the biodiversity values of the

wheat belt, while seriously threatened, are still very, very significant and at an international scale, the south-west of Western Australia is regarded as one of the mega-diverse areas in the world, and the only such area so regarded in Australia. We have a significant array of flora and fauna restricted to our wheat belt, in highly-localised occurrences these days, in remnant vegetation, wetlands, roadside vegetation and the like. The notion of what perhaps you're leading to of simply walking away from addressing some of the issues is not one that we would support on biodiversity conservation grounds, given our charter.

PROF MUSGRAVE: Yes. Thanks for that, because certainly that's the first time it had been drawn to my attention and the implication being said was, yes, walk away, and that's rather a startling conclusion to my mind.

MR HARTLEY: If I could just comment further on that, that may well be a rational economic decision by a farmer if he's not bearing the cost of the externalities. So it may be highly logical from an individual point of view, but we certainly wouldn't condone that sort of behaviour because of the externalities and the off-site impacts that Keiran is referring to. But I'd also like to mention that just to broaden out what David Pannell said, we're not just relying on vegetation to solve this. We're looking at surface water management, drainage, cropping systems that will utilise a lot more water than we currently have, a combination of trees and farming systems.

PROF MUSGRAVE: So you're optimistic that there might be an outcome which is less catastrophic than the one we've just been talking about, but also avoids putting 70 per cent of the area under trees.

MR HARTLEY: Yes. I'm optimistic that science will prevail, and we will come up with solutions that will prevent us reaching this equilibrium of six and a half million hectares which is about a third of our wheat belt.

PROF MUSGRAVE: Yes. Very important question. I wonder if you've got any reaction to some specific major points in the draft report which you haven't in your submission I think addressed in detail. One is, what is your position with regard to a two-stage approach - a sort of strategic approach? One is what seems to be practical - that is, to reform regulation to give greater transparency, more specific articulation of objectives, and the like, and then, as a second stage, consider to a greater extent the use of incentive schemes and particularly market-based instruments. Now, you comment on the latter to a degree in this second submission, but not to my mind to the same extent on the first bit - the scope for reform of regulation. Now, once again, I draw your attention to the fact that our recommendations are generic.

MR IRELAND: Can I go first? In terms of reforming regulation, regulation in

such a complex area, when you're dealing with such a range of scales and different circumstances, there are always going to be places where if regulation is simple enough to work, it's actually not going to work perfectly in all those situations. So there is a constant effort to reform and to improve that regulation. But it's necessary, in order to reform it, to accept the importance of the role that it plays and to accept that there are a lot of benefits from having regulation that is relatively clear, relatively simple and regulation that is equitable, yet at the same time is flexible enough to apply in all the different circumstances. So it's actually a very difficult job which a tremendous amount of effort has been going into from the stakeholders and from the government over a long time. We have new amendments to legislation. We've got clearing regulations being exhaustively consulted over at the moment, so that is an ongoing effort to improve the regulation and the transparency. All the other aspects of it that you've included in your general comments are always being worked on.

It's the suggestion that because the limitations of the regulation are so bad that you need to sort of radically overhaul it or do away with it, that becomes a problem from the government's point of view, because a regulation is such a critical part of an overall package which includes a lot of incentives and government expenditure. Again, those programs are constantly being worked on and improved and added to as well, and that's not just the state government, that's the Commonwealth government through NHT and NAP and Landcare and programs like that. So there's a constant seeking to improve the total package, and the advantages and disadvantages of legislation have to be assessed in the context of that complete package.

MR HARTLEY: I'd just like to make a comment about the economic incentives if I could. I think it's a very good point in that government really only has three policy instruments at its disposal: one is regulation; the other is education and persuasion; and the third is economic instruments. As a general comment everywhere, I think, across government nationally, the economic instrument is a grossly underutilised policy tool. This is being addressed under the National Action Plan program in that you may be aware there are about eight pilot projects running nationally that are looking at trialling some of these economic instruments. Two of those are in Western Australia. We actually were so committed to those we signed up even before we'd signed up to the National Action Plan on salinity and water quality, so we take your point. It's a good one, and we do have a commitment in this state to investigating economic instruments.

PROF MUSGRAVE: Okay, thanks for that. Could we just come back to this objectives question? You did touch on that in your submission. It seems to be a significant point with regard to landowners and people in communities in that there has been a widespread complaint uttered, as we move around the country, that by and large there is an inability to get a clear rationalisation of specific localised actions, in

terms of clearly articulated objectives. This, of course, has apparently led to frustration on the part of these people. What's your experience? Do you feel that this is a difficult thing to do, in your experience? Are you able to provide such clear rationalisations?

MR HARTLEY: It obviously is difficult because it appears that we haven't been effective. From where we sit I would have thought the Soil and Land Conservation Act was very very clear what the intention of that is. In the Act itself, right up front in the first couple of pages, it talks about the purpose being the prevention of land degradation and it defines what land degradation is. In all of the work we do, under the Soil and Land Conservation Act, we give reasons. We talk about either erosion occurring or about a rising water table resulting in salinity. If people are giving feedback that they don't understand what the purpose is. I guess that's a difficulty we have in our communication. We are clearly not being effective and it's perhaps something we have to go back and look at. Similarly - - -

PROF MUSGRAVE: David, I'm sorry, I wasn't saying that we had necessarily had those complaints from Western Australians. We may have. I would have to check in the transcript. Across Australia as a whole we have had this, particularly I would say in Victoria and Queensland; people who have been severely frustrated by this inability of regulators to explain decisions in relation to their particular holdings, in terms of objectives that relate to their farm, their region, the state and the Commonwealth. I suspect that you have had a greater ability in this state, if only because of the nature of the decisions you've had to make as commissioner, on individual properties. I'm not surprised at your response.

MR HARTLEY: At the previous hearing I did make a point of talking about the process we go through and the fact that we do give an explanation when we put a notice, a soil conservation notice, or we object. We give reasons. We talk about either a rising water table or a soil erosion or some other degradation issue.

PROF MUSGRAVE: We talk about great devolution of responsibilities and abilities to engage in management of native vegetation, biodiversity, devolution down to regional community levels, with accompanying accountabilities and so on. From this submission you don't seem to be all that terribly enthused by such thinking. I wonder if you could enlarge on that. I have in mind that in order to do that successfully you would need such clear articulation of objectives down to the regional level. Also, it would seem to me that there is a trend in this direction, anyhow, if we look at the recent decisions in New South Wales, I think, to the greatest extent. Victoria went there and walked away, to some extent. Queensland seems to be moving in this direction. I wonder if you could enlarge on your views on this because the reference in the submission was not of great length.

MR HARTLEY: It's certainly important that in modern government we look at engaging with stakeholders more than we have in the past. For that reason we are watching very closely what's happening in New South Wales; we are in constant touch with our colleagues over there. We have seen the Sinclair report and so on. We are very very interested in that concept. It has been discussed over here. At this stage there are absolutely no decisions that have been made whatsoever but we do recognise the merits of engaging with stakeholders.

Perhaps the NHT and NAP direction we are going towards accredited regional strategy, which is part of the national direction under NHT and NAP, will give us that platform. That certainly appears to be what New South Wales has done, by giving their regional groups responsibility for water allocation-type issues and approving vegetation management plans. All I can say at this stage is that, yes, we are interested in those sorts of concepts and we are monitoring what's happening in the other states.

PROF MUSGRAVE: That's going beyond consultation, isn't it? As you say, it's actually empowering those regional bodies.

MR HARTLEY: Absolutely.

MR IRELAND: We are enthusiastically supporting the push to get greater regional involvement in natural resource management and planning, through NAP and NHT. The government works very closely with regional groups on their natural resource management plans, which includes issues about vegetation and things like that. For natural resource management and vegetation management to be effective it has to be planned and managed on a large number of different scales. There are international aspects, there are national aspects, there are state aspects and there are regional aspects. Then the regions break down into subregions, and smaller and smaller subregions and within our regional efforts different problems in different regions exist.

It comes right down to paddock scale, where you have different soil conditions and hydrological conditions. The management of each of those scales has to be integrated and that's where the real difficulty comes in. The reason that state governments have the particular role of legislation and regulation is because that's where the constitution has placed that role and responsibility. So obviously the state is going to retain a very large responsibility with the regulatory part of natural vegetation management.

PROF MUSGRAVE: Thank you very much for that because I think that in that statement you have captured, to quite a degree, where we are at in our thinking. We haven't articulated those points as well or as completely in the draft report as you just

have. It does seem to me that we have a long way to go to get robust instruments to use at this level. We really don't have a fantastic track record of success with regionalisation, do we?

Springing from this are your observations about the hierarchy, if you like, of levels of planning needed. Just switching to duty of care, you dwelt on the significance of this issue in different ways in this submission and we share your concerns in relation to that. I for one - and I haven't talked to my colleagues about this - feel that many of your observations are warranted: the fact that we don't engage with the concept of duty of care to the extent that I would certainly wish.

In excuse we would say that we have encountered a lack of robust and clear definitions of what might constitute duty of care. I wondered if you had any comments on the concept of its operationality and so on. I'm starting to wonder if it might be easier to define duty of care down at the paddock level, or the farm level, or even the locality level; parish, local government area. To produce the robust operational generic statement at the level of, say, a state or a nation might be more difficult. I'm just wondering if you have any thoughts on the concept of duty of care?

MR IRELAND: I think duty of care is an extremely important concept, and building it into the policy framework and the planning framework used at every level I think is really important. Because of the variability, because of the number of factors, because of the fact that you are trying to deal with all kinds of different values that are not directly comparable, it does make it very very difficult to reduce duty of care down to a set of prescriptions that will apply. The application of duty of care through a regulatory framework I think would be very problematic. I don't know whether you could do that or not but I think the concept has to be there within the framework.

Perhaps the best way to put it into practice is again using those various layers but primarily at the most important decision-maker's level, which is the landholder's decision-maker level, if that duty of care is built in and given expression through a property management planning process which expressly takes into account sustainability and wider impacts and long-term impacts, and the preparation of that is assisted by governments and by regional natural resource management bodies and by landcare groups and people like that, by incorporating it into the individual landholder's decision making and planning I think that's probably the place where that concept will have the most value.

PROF MUSGRAVE: Thanks very much.

DR BYRON: Just in closing I'm afraid that we may have given you and others the

impression in the report that we don't see regulation as an essential part of that suite of policy instruments. That's certainly not the impression that we intended to give. There clearly is a role for regulation. I think I said to you, Rosh, with regard to land use in the Great Barrier Reef - before you moved to WA - there's an enormous spectrum of landholders, ranging from those whose practices are already as good as we could dream of, through those who are trying to do it as best they can, those who would if they could if they weren't a bit marginal, all the way down to those who would only do it if you beat them over the head with a rule book or a two by four.

To me the question is to have the right policy instruments to deal with each part of the spectrum of landholder attitude and behaviour. It's not a good idea to go to the guy who is already doing the right thing and hit him over the head with a big stick. You are wasting your breath if you go to the guy at the other end, the recalcitrant, with some educational measures because he probably won't even read them. It's a question of horses for courses.

I was very struck by the table in your submission of the Incentive and Assistance Schemes. I had never seen them listed like that. I guess I've heard of many of them, but when you list them like that as a table it's a hell of a long list. Apart from being impressed by the variety, the different types of measures - the advisory, the market-based instruments and the revolving funds and so on - is it possible that landholders either don't know of the existence of all these things or are confused about which ones they are eligible for or which ones they are not eligible for? I don't want to sound contradictory, but do you think it would be more effective if you had a smaller number of schemes with large funds? There is such a diverse array, in terms of assistance schemes, I'm just left wondering how widely used are they? Are they all fully drawn? I assume there's not much money left over at the end of the financial year.

MR HARTLEY: I think your point is a valid one. There is a very large number there and it comes across as a bit of a hotchpotch I suppose, of schemes, rather than having some focus. I know they are not your words. I think we probably do need to have some tighter focus in what we are doing because there is a large number of support mechanisms available, and to go back to one of your earlier points, I would think most landholders would be unaware of them unless they bump up against them in the process of dealing with the commissioner, for example. They may be told about some of them but the average landholder would be unaware of them and wouldn't know whether or not they are eligible or not. Most of them there have got relatively small amounts of money in them and most of them are trying to do slightly different things. There wouldn't be too much duplication there.

MR McNAMARA: I'll just add one remark there. There is a project under way currently to improve the entry point to these and steer people to the different

programs that suit their circumstances.

MR IRELAND: I think you will find that all around the country with these kinds of schemes there is a huge amount of experimentation going on. These schemes are being developed by all kinds of groups and people, and proposed in order to meet needs and find a better way of doing things. I guess we're in a kind of a point in the development of these assistance schemes and schemes to encourage and support grassroots activity that there is a tremendous range, and perhaps as we get better at picking the ones that work best and that last best and that are widely applicable, perhaps they will rationalise.

DR BYRON: The gist of what I thought we were saying in the draft report is that more governments should be looking at these types of measures so that it takes some of the load off the regulatory instrument. It's not to say that there shouldn't be clear, strong regulatory instruments but the regulations shouldn't have to do all of the lifting work. Many of these types of activities can, in many cases, encourage landholders to go above and beyond the minimum that legislation requires them to do. I think, from the magnitude of the task that we were talking about before, it's not just a question of getting landholders to comply with the minimum set by regulation. It's the question of trying to get as many as possible to do over and above.

MR IRELAND: We absolutely agree with that. The point we would want to see very clearly reflected in the final report is that the legislation and the regulation is a vital component of the overall package in which these other schemes - the regional schemes, the local landholder schemes, the Landcare schemes and these government financial incentive schemes and support schemes - all play integral parts. They are all very closely interlinked. A lot of the government expenditure and altruistic expenditure by landholders would be undone if other people in the catchment were able to clear indiscriminately beyond a certain level. So all the elements of the package work together and that would be what is important. You can always improve all parts of the package and that work on improvement is going on. You need to recognise that the legislation is a critical part of it.

PROF MUSGRAVE: Just a closing thought. You probably haven't looked at the Australian Conservation Foundation submission to the inquiry. If you have time, and I know you are all busy people, I'd invite you to do so because they raise the idea of developing a relationship between the Commonwealth and the states - the federals and the states, we should call them nowadays, I think - the federals and the state, that draws on the ideas of the National Competition Policy; that is, with agreements made between the two levels of government to pursue agreed objectives with a body equivalent to the National Competition Council to be the monitor and compliance body, with payments made by the Commonwealth to the states for the delivery of outcomes sought by the Commonwealth, and I would have thought those outcomes

would be reflected presently in the EBC Act.

Now, that's all good fun and so on and you might be interested to read it. I would like to have the thoughts of people in the situations such as you are placed in as to the translation of that into the states, in relation to the hierarchy which you, Ross, described, whereby the states can make deals with bodies down below it in the regions and communities for those communities to deliver outcomes defined by the state and in return for which payments can be made: contractual arrangements with provision for compliance and penalties for failure to deliver, but rewards for success. I close on that note. It is fairly radical stuff but it's implicit, I think, in the ACF submission but they don't go below the state. They don't talk about what should happen within the state, which I think is a great pity.

MR IRELAND: I think you're talking a lot about the model that is attempting to be used through NAP and NHT, where the Commonwealth puts in funds, the state puts in funds, it's delivered through a regional program. I guess the cost-effectiveness of that is yet to be seen. We're still working on the details to make that work. I would suggest that a system that through a duty of care concept or relatively simply regulation or landholder driven bottom-up stuff is going to be much cheaper if things are put into effect that way than the transaction and bureaucratic costs that are involved in having to step it down from the Commonwealth to the state to a regional group to a sub-catchment group to the landholder, and make payments and do accountability all up and down that chain. You want to keep the amount of that you have to do to a minimum - - -

PROF MUSGRAVE: Indeed.

MR IRELAND: - - - if it can be done in any other way, because the transaction costs associated with our current Natural Resource Management practices are huge and a huge source of frustration to both governments and to the people on the ground, that so much of their time and effort has to go into those processes, rather than into generating the outcomes.

PROF MUSGRAVE: I don't think we have the time to go further with this but my description of what I had in mind was inadequate, because it prompted your response. The sort of institutional arrangements I have in mind is calculated to reduce those transaction costs. So I agree with you, absolutely, in what you said.

MR McNAMARA: Neil, can I make one final remark. In your first comments, after Rosh and David had spoken, you talked about the efforts you had made to try and quantify the benefits of native vegetation and/or biodiversity in the past. I don't know, certainly from my personal perspective, that we were asking that the Productivity Commission would quantify those things fully or properly or seek to do

so, because I've been involved in some of those efforts to try and do so as well, as you know. The point I wanted to make, though, and that we made in our submission, is that the benefits that accrue from retention and management of native vegetation and biodiversity accrue to both the community and the landholder and I think the balance in your draft report wasn't right in describing those benefits almost entirely in the basket of community or public good benefit and understated or underestimated the degree of direct landholder benefit.

MR HARTLEY: It may reflect an eastern states influence where that may be more true, I think.

DR BYRON: I think that is the case, actually. I think there is a decidedly different situation here in WA, where the nature of the public - as I think you said earlier, the individual's share of the larger social benefit is, in fact, quite substantial. I think it might well be orders of magnitude different here than it is in the eastern states. We will think about that. Is there anything else that you wanted to say in closing?

MR BRIGGS: I haven't said anything yet. Ian Briggs from the Department of Industry and Resources. There is just one statement, a specific one, about the mining and petroleum industry being exempt from these things. From the statements that come through here that WA has had a fairly long history of looking at native vegetation clearance - and I have listed in our submission just a short number of pieces of legislation and regulation that affect this industry. This is only part of the - we should say "hurdles" that it needs to get through to get a final approval, but we are subjected to these pieces of legislation. Another comment that you had, or part of it, was "Improve existing regulatory regimes." Well, we certainly have taken a step in that direction with the Keating review to look at speeding up the approaches so companies, even though they have accepted that they do have an environmental responsibility, still have to get through that regulatory process. So we are addressing it, or the WA government is addressing that process as well.

DR BYRON: Those two points are well taken. Thank you very much. I guess all I'd like to say in concluding is that, well, we haven't had a chance to begin to go through all the things that I would like to discuss if we had unlimited time but we will be working through this line by line and giving very serious consideration to every point that you have made. I can assure you of that. I really do thank you very much for the intellectual fire power that you have put into pointing out the shortcomings of the report. That is why it was a draft. I mean, it will come as a shock to my wife, but I'm only fallible, you know. I think we should break now for morning tea. If we could just have five or 10 minutes and then resume. Thank you.

DR BYRON: Thank you, ladies and gentlemen. We now have a presentation from the Western Australian Farmers' Federation. Gentlemen, I think you have been here before and you know the ropes. If you just introduce yourselves for the transcript so they recognise the voices and put the names with them, summarise the points you want to make from your submission and we can talk about it. Thanks for coming.

MR NICHOLL: My name is Colin Nicholl. I am president of WA Farmers.

MR McMILLAN: Andy McMillan, director of policy with WA Farmers.

MR ENGLISH: Garry English. Land management conservation spokesman for the organisation.

MR NICHOLL: I think it best if Andy led off on this so I'll hand you over to Andy McMillan.

MR McMILLAN: Thank you. Gentlemen, first I would like to commend you on the report. From a farming perspective we certainly believe that you have touched on all the issues that have been major concerns for us, certainly since my time in the organisation. It's heartening to see that the issues are very common across Australia. We have provided a fairly brief submission, I suppose, due to time constraints on where things are in Western Australia at the moment.

The biggest issue we have over here at the moment is the current regulations in relation to land clearing under the EPA Amendment Bill. To give due recognition, the negotiations are ongoing to get the regulations into something that is workable for the industry, but at the current point in time we have some major issues. They range from being overly prescriptive to openly ambiguous. They go beyond regulating land clearing to imposing on a farmer's day-to-day management practices. There really is a long way to go.

We caught the tail end of the government presentation. I was interested in the comments being made under duty of care. I would tend to look at it as an issue of rights and responsibilities where a farmer's responsibilities are being legislated and regulated so it's very clear to everyone what they can and can't do, but there is no recognition at all given to a farmer's rights. I think that's a major part of the equation that needs addressing. It's an issue that we will certainly be taking up at our general councillors' meeting, as we speak, over the next two days. We would hope to have a fairly strong resolution coming out of that.

MR ENGLISH: I'll just make a few more comments. Yes, I was very impressed in reading your findings and certainly the recommendations. It's rather interesting when we reflect on some of the things that you have been doing. Your draft finding,

7.1, for instance, the effectiveness of regimes to protect native vegetation, I would question how much is enough? What is required? I don't think it's transparent what the regulations are even trying to do, other than it's never enough. We see this incremental creep that I have certainly been part of. I have been farming for 40 years now and things have changed from us being regulated to actually clear, to be able to keep our property, to now - the incremental creep keeps coming on. It's all for community good nowadays.

I think beside from - a land degradation perspective has been accepted and people like the commissioner for soils who was here just prior to us, I think everyone is quite - well, almost comfortable with the position they're coming from, but it's this shift now to the environmental goals which go beyond an individual landholder's capacity in many cases and even their desires in a productive property to have to maintain it. We, as an organisation, have accepted that we have a duty of care to maintain some of the biodiversity because we are a beneficiary, but it's going that extra step. Governments certainly in recent times, without taking the land and compensating, are actually imposing the expectation that landholders will maintain that land for the community good without compensation which does not go down too well with our people.

An interesting comment from the previous group as well, talking about the regional NRM plans are going to be the be-all, save-all. I have some real concerns. I am involved with one of those regional NRM groups and also at the state level, but I am concerned that there may be a devolution of decision-making to the community and the accompanying controversy that would go with it, and the stigma. I am a little bit concerned that maybe governments are trying a bit of buck passing there. That's a bit of a concern because we're dealing with individual freehold landholders and if they're being imposed on and a community is going to have to make decisions on behalf of a state I feel it's - I am quite happy that we are consulted and part of decisions but when the buck's passed I just think that's states passing their buck. That's probably all I've got to mention, Commissioners. You have got our letter which certainly covers most of the issues, dated 11 February. I hope you've got it there.

PROF MUSGRAVE: Talking about duty of care, I wonder if you have got any comment on Rosh Ireland's thoughts this morning, particularly in relation to the property plans.

MR McMILLAN: Yes, we're certainly aware of the various plans, these various schemes around the place. The government makes the announcements but we never see what's at the other end of it. I guess that's another part of the frustration of this whole deal. I was interested in the Commissioner's acknowledgment of a table that was part of the government's submission, detailing all the various assistance schemes

and measures they have got in place. To us, and, I mean, we're at a reasonably senior level in the agripolitical game - to the man on the ground, if we can't find out about these things, how is the poor bloke in the paddock going to find out?

PROF MUSGRAVE: When you say "these things" you mean the various schemes and the - - -

MR McMILLAN: The various assistance schemes that - - -

PROF MUSGRAVE: The assistance schemes.

MR McMILLAN: Yes. As I mentioned before, I think about 12 months ago the Minister for the Environment made an announcement about three different types of schemes. Garry would have all the details. But to the best of our knowledge they're yet to be funded by cabinet and certainly the details haven't been released, you know, in a format that we have been able to see and encourage our people to take up.

PROF MUSGRAVE: In general we have encountered an acceptance of the notion of duty of care, that farmers have some sort of minimal duty of care as stewards of their land which they should be expected to deliver on. You have no difficulty with that?

MR McMILLAN: Certainly not. Colin?

MR NICHOLL: No. As a farmer of many years - I mean, farmers are very mindful of the fact that we are dependent on the land for our living and we cannot afford to allow it to degenerate. In actual fact, I believe, particularly in Western Australia we have enhanced the value and the productivity of our land over my lifetime as a farmer, some 40 plus years. We have in actual fact doubled - on a long-term average we have doubled the grain yields that we get from our soil. We have in actual fact improved the production of wool and meat that we get from our soil. We have done that through advanced - the introduction of trace elements, more nitrogenous fertiliser. We have also done it through the implementation of no till farming methods that have been taken up very, very quickly.

I guess, by world standards we would farm some of the poorest soils in the world and yet we do it very well and we do it in the main without the enormous amount of subsidies. Just over east the other day, American farmers get something like a subsidy of \$A174 a tonne. That's incredible. We are able to hold our own in the world markets without any appreciable subsidies.

PROF MUSGRAVE: We have difficulty defining actually what this duty of care is. We had this discussion before the tea break as to how we might define it. Rosh

Ireland was suggesting that it could be defined on an individual property basis in terms of a property plan. That puts a further burden on the farmer, I assume you would think.

MR NICHOLL: It's rather interesting. We are more on our own than we used to be. For instance, the Department of Agriculture - we do have an issue with the government here in that the current government has reduced the funding and support to the Department of Agriculture which, in turn, has flowed back to the farming community where the department now have much less influence and much less contact with farmers. At one stage the Department of Agriculture did give strong advice and good advice and were in a position to draw up farm plans for farms. They are no longer able to do that. Farmers are now totally dependent on the private consultants to be able to draw up farm plans. This is part of a verbal submission in the negotiations we have had with the EPA over the regulations. We believe that if a farmer does have a plan drawn up by a professional consultant, landcare consultant, then he should be able to implement that plan without being bound up and tied up by all these regulations.

PROF MUSGRAVE: That's an interesting aspect of the proposals of the Wentworth group, which has been adopted by the New South Wales government. That is, if a farmer has such a plan, which is endorsed by the appropriate authority, then they can proceed to implement that plan for 10 years without any fear or favour in terms of the regulators. How does that appeal to you?

MR NICHOLL: Yes, a farmer should be able to do that, but at the moment he won't be able to do it because the way the regulations look like being applied, they will be extremely binding and will not allow that to take place.

PROF MUSGRAVE: Thanks.

MR NICHOLL: There is just another issue I would like to take and I think since you were here last time, of course, we have had some horrific fires. I think it just highlights - and I just use this as an example. They have burnt out a lot of farmland at Bridgetown and at Templin and one of the contentious issues there was vegetation under high tension powerlines, which has now become the subject of who is responsible? This is where certain trees interfered with the powerline and ignited a fire. My understanding, and I do stand to be corrected, is that landowners are now responsible for vegetation underneath high tension powerlines, but it seems that there could be limitations on our ability to be able to remove that vegetation.

PROF MUSGRAVE: To actually do the job.

MR NICHOLL: Yes. There is another area, too, where we have conflict. I am

glad to see you're going to Geraldton and I hope this comes out at the Geraldton meeting tomorrow, where a farmer has some weeds on his farm, I think saffron thistle, which he is bound to get rid of. They are intermingled with regrowth on his farm. One Act says he must get rid of it, but the other Act says he's not allowed to get rid of the regrowth.

PROF MUSGRAVE: This is not the first instance of that sort of conflict in regulation that we have encountered across the nation. I wonder if we could turn to Garry's point about the NRM committees and link that across to the discussions we have had so far this morning about devolution and regionalisation of management of native vegetation and biodiversity. I understand your concern at the prospect of the NRM committees having to do the sorts of things that you talked about. We have encountered similar concerns from other people giving evidence to us.

I get the impression that people who have these concerns are thinking about regional organisations where you have all responsibility to enforce regulation but no ability to temper the wind to the shorn sheep, no ability to provide incentives to people who might be affected in the community, no ability to refer to processes which are accepted in the community as being reasonable processes for arriving at outcomes which are accepted by the community.

If we turn to local government, we do have instances of local people making decisions which can have adverse impacts on members of their community and accepting that responsibility and the possible negative things that might bear on them socially and otherwise in the community. It's interesting to think why they are prepared to do that when Garry has the concerns that he has - respected concerns that he has - and whether it's possible to imagine regional organisations with those natural resource management responsibilities, where people would be prepared to accept office and accept those responsibilities willingly. Perhaps such a body could be local government - a suitably enhanced and authorised local government. That's a rambling, but does it stimulate any response from you?

MR ENGLISH: Certainly from my perspective local government wouldn't want to be involved. Even though they have got planning powers they are not a statutory organisation and in fact the NRM bodies within WA are not even statutory. They're just incorporated groups.

PROF MUSGRAVE: Yes.

MR ENGLISH: At the whim of the next government - which might only be less than 12 months away - they could be disbanded and we could be going down a different track. There is no security of tenure there for those. I certainly feel for some of the office holders taking on this responsibility. It's almost onerous being a

judge amongst your people and yet those bodies are not resourced to take on these things. I think if this is going to be the way of the world they are going to have to be resourced with very good technical back-up and certainly fund the people who are having to do the work.

It's quite a challenging thing and that's why I am rather surprised that some government officers are actually saying, "This is going to be the way of the world." It's not only biodiversity and native vegetation. It's also threats of a whole lot of other things being dumped there as well. Certainly all the onerous things, pre-election, look as though they are going to be dumped in there - everything from water allocation through to weeds and ferals to, you name it. It's all going to be dumped on these little community groups out there. It seems somewhat strange to me and I am just flagging that I am concerned anyway, and whether some of the groups have even thought about it yet - I don't know that they have necessarily seen what's coming.

PROF MUSGRAVE: I think your concern is warranted and it's logical, but we are encouraged by the thoughts of people we've talked with over the last few months - that it might be possible to achieve regional organisations with the sort of resources and tenure and support in terms of legislation and the like to make them work. Last week in Hobart we were very fortunate to have quite a number of local government people as councillors who turned up - mainly they turned up as landholders but were talking to us also as councillors and we started talking about perhaps local government could accept greater responsibility for natural resource management and various aspects.

There was a bit of your response but, as we talked about it, the people started to feel less negative about it, particularly when we started to talk about suitable resourcing: money, money to employ technical staff; empowerment, and the fact that the local government body has the consent of its community in the sense that the community is involved in agreement to local government exercising its powers. We're not saying that present council boundaries are the appropriate one - maybe we're talking about groupings of councils and so on - but we do have in councils the possibility of going this way. There seems to be a genuine thrust towards such regionalisation as you have commented and it seems to me that it's very appropriate that we start to worry about how we can do it in a way that avoids the sorts of concerns that you have, and that's why we're discussing it now.

MR ENGLISH: Could I just make a comment further on that.

PROF MUSGRAVE: Please.

MR ENGLISH: These regional groups - I'm very supportive of them. They have

certainly been a great avenue for people to contribute their ideas and what are the priorities for a region, and native vegetation in WA is our priority. I come from the south coast and it is one of the hot spots, as mentioned by the previous speakers - for the world, for that matter - and it's very important that we try and save the gems and jewels within that, but how we address individuals on a freehold property and compensation issues and the like - that's beyond their powers. They haven't got the resources to be able to compensate or to - and that's the nub of it. We've dealt with this for many years now. There's this "no room for compensation" - although, as I was talking about this incremental creep before - it has shifted from "having to clear" to now "maintain" and the expectation - the whole thing has changed over the years.

PROF MUSGRAVE: Maybe our conclusion has to be, by all means let's think about the sort of regionalisation, but any bodies you establish in this respect have to be suitably resourced to the extent that it can not necessarily pay compensation - we've discussed the difficulty with compensation already today - but it has the funds to be able to run appropriate incentive schemes; that is, it makes agreements, strikes contracts with individual farmers, or groups of farmers, to produce certain outcomes in relation to their land. It might be patterns of vegetation. It might be habitat outcomes and so on, but they're paid to develop these environmental services from funds which this local body has and has the authority to dispense in a contractual way with the landowners - funds which come from higher up in the system; that is, the landowner then is not carrying the burden of meeting these natural resource objectives and is being paid for the delivery in relation to them, so we might agree that this is a necessary condition for such organisations to work. I think maybe it is a necessary condition.

MR NICHOLL: We would concur with that because, as it is at the moment, it is grossly unfair on those farmers that have built conservation into their clearing practices and now have to stand the total cost. Any landowner that flattened everything has got no impact - or very little impact - by the current laws, and it's this inequity from one landowner to the other that - and the lack of availability of any compensation to the guy that has done the right thing - the landowner that has done the right thing - is the biggest bone of contention out there.

PROF MUSGRAVE: But a possible irony could be that the landowner who has flattened everything is then paid to fence off some of his land and let it regenerate. That would be unfair, wouldn't it?

MR NICHOLL: With that, a lot of those farmers have seen the errors of their ways and have replanted and revegetated a lot of their farms. I think it's important for the community to understand that, but that imbalance is still there. The guy who has tried to do the right thing is the guy that is paying the penalty.

PROF MUSGRAVE: Yes. We've noted this on many occasions.

DR BYRON: I would like to come back to the point that you raised on the last page of your submission about the - there hasn't been much reference to the role of previous government policies in relation to land-caring, and I think it was Garry who mentioned that before.

MR ENGLISH: I have mentioned it along the way. I started off with a conditional purchase block when I started - over 40 years ago now - and had to clear. In fact we had inspectors running around the bush who were checking up to see that we'd put our boundary fence in; we'd complied with our percentage of clearing every year, so it's gone from that extent - and in fact you could not freehold it until you had complied with the improvements - to what we are now. You wouldn't be allowed to clear.

PROF MUSGRAVE: The reason I ask the question is because it seems that a lot of conservation groups - and perhaps even government - are saying that because landholders have done all this terribly bad clearing in recent years we therefore have to bring in all this new legislation to control it. If in fact serious damage was done between 1950 and 1975, or something, where the government was actually driving the land-caring process, that completely changes the story, I think. Yes?

MR ENGLISH: Yes.

MR NICHOLL: I think that's the point we tried to make very briefly in those couple of paragraphs, yes. It's a convenient oversight of government to ignore past policies and then start talking about polluter pays for the current generation of farms.

MR McMILLAN: Yes.

MR NICHOLL: At that stage particularly, the state government was proud of the fact that there was a million acres of land a year being released in WA and in the agricultural areas, there was a million acres virtually being cleared every year, and the flow-on effects to the community were quite marked. It gave us, and the community, the machinery manufacturers and so on - fertiliser, all the things that were required - it was a wonderful boost to the economy of the state.

DR BYRON: It's interesting that the same government who sort of required that now has the power to sort of throw it in reverse. Hopefully, this time they know what they are doing much better than they did last time. That's not meant to sound derogatory, but the thing is that conditions and knowledge, science, continues to evolve, and we might think we have got the right answer, but there are always a few surprises around the corner, it seems.

MR McMILLAN: I think, Commissioner, one of the surprises around the corner we take up on the first page there where we talk about those farmers who are caught in the trap at the moment of being conservative over the years - for reasons such as providing land for future generations of farmers - also those that may have preserved stands of trees - jarrah, for argument's sake - for superannuation purposes. Several years ago it would have been quite all right to do that, knowing full well that they had a future involved there, but now these new regulations are coming in and shutting the door completely.

These people are completely out of pocket and there is no mention anywhere along the way in the negotiations we are having with government that they will be looked after, and that's the big issue that we'd like to see addressed in this whole debate - is these people who are caught up in the system, through no fault of their own - generally through being conservative - and they have just had the door slammed in their face now.

DR BYRON: Yes, well, that is severely ironic and unjust, that those who have, for whatever reasons, done what we now consider to be the right thing are the ones who end up wearing most of the expense, as you said before, but it's not only a question of inequity within the farming community between those who cleared and those who didn't, but there is a question of equity between the farming community and the rest of the wider society about who should pay for the cost of all this. One of the things that we have been thinking about a lot is, how would a system actually expose the costs that are necessarily incurred in doing this native veg conservation and management work? It's going to cost somebody.

At the moment the costs seem to be fairly well hidden, except to a small number of landholders who are wearing most of it. How do we make it transparent to governments and the public at large that there are costs in setting this aside and looking after it and protecting it from fires and weeds and ferals? At the moment the government doesn't have to set aside a million or 500 million or whatever dollars a year in the budget to say, "This is for management and protection, stewardship of native vegetation and biodiversity," so the rest of the public don't even know how much it's costing.

MR NICHOLL: I don't believe that sum has been done even in the minds of farmers. We have talked in our organisation from time to time about the wisdom of having an environmental levy across the whole of the community. Our concerns are that the political nature and political pressure would put that levy back onto landowners and we'd just be funding ourselves and the whole of the community benefits. There is also, too, the concern by us that any such levy, whenever there is money like this accumulated - that there would be a whole lot of community interest

groups in there wanting their piece of it and more than likely too much of it would be siphoned out to administration, looking after the noisy scrub birds and those things that are well away from the remnant vegetation and the problems associated with farming and agriculture.

DR BYRON: I don't think I have any other questions about your submission. What you have said is pretty self-explanatory. Is there anything you would like to say in closing?

MR McMILLAN: Perhaps just a question to the Commissioners in relation to where to from here, if you like. When we acknowledged the receipt of the draft report we raised the issue that we think this is a great report. There is some terrific stuff coming out of it but where does the Commission go with it from here? It finalises its report. It tables it in Canberra. What obligation is there on federal and state governments to actually take any serious note of it and implement some of the recommendations?

DR BYRON: It's a good question that we have been asked before. The Commonwealth government will respond and normally they do that within 25 sitting days of when we give it to them. The Commonwealth government can only respond to areas that are within their power, although in the past, when the Commission has done inquiries into things that involve state governments, there has subsequently been discussion in things like COAG. Whatever recommendations we make in the final report are in no way binding on state governments or even on the Commonwealth government. The extent to which governments do or don't take notice of any recommendations, I think, will depend largely on the body of the evidence and the analysis and information that we put in the report, but there is no compulsive power at all.

I wouldn't be at all surprised, and this is purely speculative, that the reaction might vary between states. Some states might say, "That's a good idea. We might change this and this and this." Other states may simply pretend the report doesn't exist - for a year or two.

MR McMILLAN: We believe it would be a great pity, considering the extensive nature of your report and the trouble you have gone to and the detail of your report - because it's difficult to make an extension and get detail - if your recommendations weren't implemented. I guess it is unfortunate that you aren't able to put the teeth into it that we would certainly like to see. We have put it to John Anderson at the water forum - and we realise that there are a lot of opportunities for politics to be played between the state and federal governments and a lot of environment laws fall, of course, into the province of the state governments - that if necessary we would like to see the federal government apply financial pressure to the states if they err or

are not interested in implementing some of your recommendations.

DR BYRON: Well, the report is purely advisory.

MR McMILLAN: Yes.

DR BYRON: That is basically all I can say. It has frequently been raised in the hearings already, including this morning, that the Commonwealth government is already through its programs encouraging state governments to move in certain directions. That may change, or the directions in which they encourage may change.

MR NICHOLL: We are mindful of the effect that National Competition Policy has on having state governments move where there are funds likely to be withheld. I don't know whether it's possible to put that as another recommendation in your report.

PROF MUSGRAVE: As we said, at least one submission has suggested a mechanism which reflects National Competition Policy thinking.

MR NICHOLL: Not that we endorse National Competition Policy from our organisation because we as farmers have felt the brunt of that. If I may, there are just a couple of other issues that I wanted to bring before you. Since you were here last time, and I just give this as an example, there were two cases of prosecution under the environmental laws - these weren't the new ones; these were the older ones - of two farmers well-known and renowned for their work in the environment, both for their work in salinity and one in land care work as well. One farmer was at Narembeen and the other farmer was from Esperance. The farmer from Esperance broke a limb off a tree in preparing an access way. The access way was there but it had overgrown. I don't know if you are aware of that.

The other farmer happened to drive across some lake country to show a journalist some more degraded land. Farmers generally were absolutely horrified at the fact that, for what we saw were just trivial offences, farmers were now being pursued by government agencies. In fact, so incensed were farmers that they did have quite a presence at the first hearing in court. Subsequently, sanity prevailed and the government department decided that it was better that they not pursue and proceed with them, so those charges have been withdrawn; but it is, I guess, a sign of what we see as things to come, where government agencies are becoming quite zealous in the way they are applying the environmental laws.

DR BYRON: Yes, we have been following those sorts of incidents through the newspapers.

MR NICHOLL: Okay, thanks.

MR ENGLISH: Just for my final comment: Commissioners, this is probably the most definitive and important issue to deal with - that we're certainly dealing with and my portfolio has been dealing with for about a decade now. It needs to be resolved. In our letter to you I have mentioned the incentive packages which the state government has put and covered each of those, but they are incentives on the edge. They are tinkering. They are not actually addressing the issue which we are trying to deal with. Balancing productivity and production concerns of the landholder versus biodiversity and conservation issues on the other side is a very difficult thing. I am concerned that the state at this stage, in WA's case, is just not addressing the real issue.

We support those little issues; things like land for wildlife support and biodiversity adjustment schemes. They are very much on the side, though. This is an extremely important issue and it just has to be resolved, certainly from a private landholder perspective. I thank you for your report because I found a lot of comfort in that you had addressed all the issues.

DR BYRON: Thank you very much, gentlemen.

DR BYRON: Next on the program is Mr Murray Nixon. Thank you very much for your second submission, Mr Nixon, and thanks for coming today.

MR NIXON: Thank you very, very much for the opportunity of being here and may I congratulate you on the draft report. I thought it was a very valuable document, but I would like just to add to a few of the comments that I made, particularly in my first one. Basically, I think that you can start on table 1 which is on page 24. There is a chart there which is not particularly clear, but what it indicates is that only 56 per cent of Western Australia is uncleared. Now, I have spent quite a lot of time trying to get an accurate estimate and I think my rule of thumb is about as good as I can get. There's something well in excess of 90 per cent of Western Australia that is uncleared.

Now, it probably goes further than that because much of the land that is uncleared, in the last 200 years - to use your terminology - has had thickening occur because of the change of land management practices since the time that the Aboriginal community dropped a fire stick or when they didn't have any bulldozers to put out the fire that was caused by natural lightning strikes. So that Western Australia, and presumably all of Australia, was very regularly burnt in the days before white settlement. There are certainly examples in Tasmania and Western Australia where the early explorers or settlers described how open the country was. The classic case in Western Australia is the Victoria Plains which in my youth were forest country and Salvado, who went to New Norcia travelling from Toodyay, called it the Victoria Plains because they were grass plains.

So that under that term of management there were natural grasses which in many places have now been replaced by imported grasses, whether it's capeweed or barley grass or wild oats or all the other grasses that inhabit Western Australia. Certainly, Western Australia must be one of the least cleared land masses in the world and we should remember that. Now, something like 7 per cent of Western Australia is freehold title. Very little land has been cleared except on that 7 per cent. Even if you take that area, that which is subject to salt is very limited in terms of percentage. You go to the eastern wheat belt and it's been referred to earlier as flat valley floors that are suffering from the problem of salinity. Even when you look at salinity I think that emotion has overridden science, that clearing the trees doesn't cause salinity. As one of the earlier speakers said it causes the watertable to rise.

In a dry continent like Western Australia that isn't always a disadvantage. Much of Perth's water supply is provided by bores these days. The dams only provide a very small proportion. The Gnangara pine plantation just north of here is going to be cleared of pines when they reach saw log stage and replanted with natives because the pine trees use a lot more water than natives, so by reverting to natives there will be far more fresh water. Somewhere along the line there seems to

have been a

situation develop - I heard one academic the other day referring to it as a state of mind where if it moved you shot it and if it was green you chopped it down. We've gone a long way since then but we've gone to the other extreme, where if it's a native tree it's a sacred cow.

I believe that what we need to do, if we're looking at land care, is use the types of trees that are most suited to the job in hand. The example of Garry English who was here a little while ago, and I've visited Garry's property - he has had wonderful success growing rows of pine trees on his property and he has lowered the watertable. The two things that came from that is that he only planted about 6 per cent of the area with trees and it lowered the watertable, and they only had an effect for about 150 metres from the trees. If we are talking about lowering the watertable, if the right trees are used a dramatic reduction can be produced and it's not always the native ones.

Indeed, in the Esperance area, because under Commonwealth funding you only get subsidies if you plant native trees - Esperance didn't have any native trees so once again, what was introduced in the interests of good soil management is completely inapplicable. As I mentioned, it's the eastern wheat belt with the large flat valleys that are the ones that are suffering from the rising watertable and hence salinity, but for various historic reasons the western coastal plain north of Perth as far as Kalbarri was never cleared, mainly because it's what was considered in those days infertile country. In conjunction with infertile country, biodiversity is always greater on infertile soils. So that on the west coast plain we have a combination of perhaps the world's most reliable climate, generally above about 20 inches. It's quite good rainfall country, very reliable, generally in fertile soils in their natural state, so they weren't cleared early in the settlement of this state. Today, with modern technologies, they have the potential to be some of the most productive grazing country and certainly the most profitable grazing country in Western Australia. These large land-clearing restrictions that have been imposed do nothing to solve the salinity in the eastern wheat belt where it is really a problem, but they are doing much to reduce the productive potential of the west coast plain where salinity generally is not a problem. One of the things it is blessed with, in many cases, are large areas of fresh underground water, which can be used for horticulture as well as supplying water for the city. Indeed, if it were cleared it would add to the resources of fresh water in Western Australia, which is also very very scarce.

I believe the government submission pointed out the fact that there are areas of the eastern wheat belt that will probably go to salt. I don't think anyone has a really good scientific estimate; I've heard figures as high as 80 per cent. I doubt whether it's as much as 30 per cent. What we are talking about is maybe 30 per cent of maybe 4 per cent, which is about 1.5 per cent of Western Australia, may suffer from a rising water table if nothing else is done. The point is that with modern

engineering techniques I'm sure that engineering methods can be used far more effectively than either retaining large amounts of forest, if it was there. It has already gone so it would be a matter of replanting it. This is by far the most effective way of restoring productivity.

One of the other points I made in my submission, of course, was in the forest debate that took place a few years ago. The move was away from the logging of native forests, which in my view correctly managed is the most environmentally friendly industry there is, to the growing of plantations. Now, few people seem to realise that there is no vacant land in Australia that's just sitting there on a coat-hanger doing nothing. When you are talking about plantation timber, what you are talking about is good agricultural country and the country that is being planted is some of our most reliable grazing country. If we move towards plantations to provide our timber supplies, what we are really doing is greatly reducing the agricultural potential of Western Australia.

The third area that I would outline - and it has been said that there was a stage when we were clearing a million acres of land a year, and there were areas which were assessed as being suitable for wheat growing but for various reasons were never released. With proper land management there are extra areas of Western Australia that could be developed. I think Colin Nicholl raised the point a moment ago, that in Western Australia we haven't any sustainable agriculture. In most of the agricultural region productivity is greatly increased.

As a member of parliament I became very very aware that there seems to be a philosophy about that: if it's cleared for agriculture it's always described as degraded. One of the most pleasant parks that we have in the near-metropolitan area is Whiteman Park, which was developed as a farm by a very successful gentleman and it is now a park. It's in the Swan Valley, not far from Perth; it's a beautiful big park. Various government departments have their eye on it for housing. The very best of the country is naturally grass - or not naturally, but it's acquired couch grass and it's green all the year round. It's about the only area in the metropolitan area that would be suitable for large open air activities. If you wanted to have a hunting event or something like that, over several kilometres, there's the area to do it.

It was described as degraded agricultural land, but the uncleared land which is the least fertile and most unsuitable, of course, is always described as pristine bushland. Although in reality it's often the other way around, that the agricultural land is far more productive than when it was first cleared and the bushland, for various reasons, has been thinned out to some extent if it's close to habitat.

They are really the main points I want to make. I did make the point in my submission that many of my constituents have their properties restricted in what they

can do with them and I found in many cases the bureaucracy had obviously made a decision that the land should not be cleared and that no more development should take place. They weren't really interested in the arguments of whether it was safe to do so from an environmental point or otherwise.

My final comment is that protecting the environment often costs money and most farmers are, I believe, the best managers of the environment. We have clearly demonstrated that government departments, through lack of resources - apart from the fact they don't live on the property - are perhaps the worst neighbours that you can ever have. If you have a property that adjoins a national park or a forest or anything like that you can be sure that it's full of vermin, it's full of weeds. If there's a bushfire there's nobody there that's available to fight it when you need them.

If we are going to have large-scale good management of resources it's going to have to be based on the individual landowner and it has also had a very good record of demonstrating that he or she is the best person to do it. If the community can't afford to look after the environment and wants to load it onto the individual, it's pretty obvious that the individual certainly won't be able to afford it.

DR BYRON: Thank you very much for that, Mr Nixon. I think that nearly everything you've said is pretty consistent with the lines we've been thinking along in the draft report and in updating revisions to that. Given your position and your ability to stand back and see the big picture on that, can I just try one question on you? It has been said to us that these issues that are the subject of our inquiry can be looked at at different levels. On the first level it's about how well do people understand, is there confusion, is there good communication, and all the rest of it, with the implication being that if you've got all of that sorted the problems will go away.

Others are saying, "Look, that's just the tip of the iceberg. There's another layer under that which is about the implementation of the regulations, the administrative procedures, the practice, whether there are appeals, whether there are good maps, and all this sort of stuff." Again you say, "Well, if you got all that sorted would that solve the problem?" They say, "Well, no, actually there's another layer under that and that's about the concepts underlying the regulation in regard to very fundamental things like property rights, the role of the state in intervening."

Under what conditions should the government require people to do things or prohibit people from doing other things - that sort of thing? Have you got any feeling, from where you sit, on the relative magnitude of those sorts of three strata in unbundling this problem? How much of it could be fixed by just having better communication and trust and understanding and education? How much of it is administrative practice and how much of it is just, look, there is something we have

to address in the fundamental concepts here?

MR NIXON: I did make the point in my original submission that at that stage the EPA amendment bills had not gone through the house. I believe it's the worst piece of legislation I've ever seen and I make that comment because under our system, which we inherited from the Brits, normally if you live in a free society you are allowed to do anything unless the law says you can't. This particular piece of legislation, when it was introduced, took place from that moment on and it effectively prevented you from doing anything unless, when spelled out in the regulations, that would define how you were able to clear. I think the draft is about number 13 at present. It is yet to be published. In other words it's still up for consultation.

Even more worrying than that is, what you were allowed to do, other than clear, was to be spelled out in a code of practice. As far as I'm aware that is yet to see the light of day. So as a piece of legislation I think that it has been exactly upside down. Obviously what should have happened is that there should have been some scientific assessments of what was required and then people prevented from doing those specific things, so that the rule of law applied. My experience from the way that the administration of the MOU was conducted was that there was no objectivity about it, that many of the bureaucrats had taken it upon themselves to ensure that no clearing took place.

I also mentioned in my first submission that I have a copy of the cabinet minute, which was agreed by the cabinet, and the MOU was distinctly different from that. I have a copy of both of those here today. Although I obtained the minute quite legally, like any journalist I wouldn't like to disclose my sources. I can provide that to you to demonstrate that this is what happened. What you seem to have is a group of people trying to impose their view on the farming community. I think that most farmers - and the Farmers Federation made that very clear - are good managers and they will do their best.

The trouble is - and if you are talking of drainage, which is the alternative to trees if you are going to solve the salinity problem - the hydrology is just not being done. There is no doubt that you can lower the watertable by engineering practices but of course the difficulty is always disposing of the water. So I suppose logically, if you are talking drainage, you have to start at the bottom and work up rather than at the top and work down.

I might draw your attention to the fact that if you were to just walk down here to the Swan River, that is sea water. You've probably noticed that Langley Park is only about a metre above it and the trees and the grass grow beautifully well. What I say is that contrary to general opinion - and we might have to change general opinion

- that you can put sea water or salt water into a river and it won't race up the bank and kill anything else. In other words it will stay defined in the river.

The other point is that whether you like it or not, if the watertable continues to rise the salinity is going to go into the river. Even if you drain it, all you are really doing is getting it there a little bit earlier than it would have come if you'd left it alone, that maybe you can save some of the agricultural land as well. So it's really a win-win situation. You are going to have a lot of trouble convincing people that you can put salt water into many of our rivers.

One of the biggest problems we have in Perth of course is algae on the Swan River every time there is a high rainfall in the hinterland. The main reason is that it's fresh water. If it had a bit more salt in it would certainly be an advantage. If you go to some of the New South Wales rivers, where there is coalmining, they are feeding enormous amounts of salt down the river in a carefully controlled manner. These are the sorts of things that are going to have to be developed but there's going to have to be some scientific work done in that area.

The other area, of course, is the planting of deep-rooted perennials, and certainly on the coastal plain there are many that have now been discovered that will grow there. So whilst generally there isn't a salinity problem on the coastal plain, certainly there are deep-rooted perennials that will grow there and elsewhere. There has been a misinformation campaign on a lot of these issues. We have gone from the days, not that long ago, where the community was proud to clear a million acres a year to the community that doesn't want one acre cleared. Somehow or other the balance has to be restored so that we clear where it can be done without environmental harm, and we should be looking at things like air quality and water quality on a scientific basis. As long as we can solve the problems, so be it.

One of the other points I made in my submission, of course, was endangered species. They can be a real pain if any landowner has one, and I think no sensible landowner would tell anybody if they discovered an endangered species on their property. The mining industry has suffered enormously from endangered species and as I pointed out, Kings Park have done a wonderful job of demonstrating how you can grow plants in an environment different from their natural environment. Now, rather than try and shift the mining enterprise, which just can't be done, I think it's pretty important that we need to preserve a rare and endangered species. We should look at moving the rare and endangered species, enabling the mining to continue. We have a huge problem. Half of it is technical and the other half is one of communication.

DR BYRON: Thank you very much.

PROF MUSGRAVE: I'd just like to get a couple of things clarified, Mr Nixon. The first one is your reference to the extent of clearing in Western Australia. "56 per cent of Western Australia has remnant vegetation, or more."

MR NIXON: That's right.

PROF MUSGRAVE: David Hartley this morning said we have less than 5 per cent of agricultural land - "Less than 5 per cent of native vegetation remains on farmland." Can you reconcile those two statements?

MR NIXON: Having looked at your chart I think how that figure has been arrived at is including our pastoral leases. In other words, if you take the freehold land in Western Australia and add the pastoral leases to it you come up with a figure - your chart, I think, says 56 per cent is unused. So in other words whatever that is - 44 per cent is used. That is how your figure was arrived at, but I'm not aware of the lease requirements in the other states. In Western Australia permission always had to be granted if you wanted to clear a pastoral lease, and it was usually only granted for around the homestead or something like that, so that nearly all our pastoral leases have not been physically cleared. Now, you could well argue that they've been interfered with with livestock and maybe this has thinned them out.

Certainly during a drought period quite a lot of damage has been done to some of the pastoral areas. In the first instance, none of them has really reached the stage where they can't recover, unlike the wheat belt which has been cleared for so long that it's unlikely to develop. I've got all sorts of figures, and I spoke to CSIRO who have satellite imaging of the bottom corner, and I asked for it in writing but they wouldn't give it to me in writing, but I have a verbal agreement that, yes, I'm right. Certainly over 90 per cent of Western Australia is uncleared. I did provide a little map which is an official map that has got a line drawn on it, basically on the east side of the agricultural region, that says "uncleared".

PROF MUSGRAVE: So David's farmland is probably the cropping land in the south-west.

MR NIXON: Even so, you see, that's not also accurate. I mean, there are areas in the wheat belt that have been very much over-cleared, and possibly in certain areas it's down to 5 per cent. Many of our shires for instance run east-west, and what happened was the inland bit was heavy country. On the east side of the escarpment, it was nearly all cleared for wheat. But the western part, which was coastal plain, was scrub and none of it was cleared. So you'll get shires like, for instance, Coorow. It goes from the inland from the east side of the wheat belt right out to the coast. The eastern half is over-cleared to glory and the western part is hardly cleared at all. So that the actual figure in Western Australia - I'm sure that over

90 per cent of Western Australia is uncleared.

PROF MUSGRAVE: So we've got a very heterogeneous picture of different areas. We've got heavy timber and in other areas we've got a lot of clearing. Thanks for clarifying that. I guess an implication of it is that if you've got a countryside which is made up of a mosaic of different vegetation associations, maybe you need a mosaic of regulations to deal with it. Then you refer to the overthrow of the regional forest agreement - that's the Western Australian RFA?

MR NIXON: Yes. Now, you may recall the history of it that an agreement had virtually been reached and then there was a campaign run in the media, so that the government - I was a member of the government party - backed away from the original proposal and were even more generous in locking up more forest. Now, the trouble with forest management is that it's a very simple matter, managing a forest. The trees live for about 300 years and they grow like mad for the first hundred years, which are their teenage years, then they thicken round the middle in their middle-age and then they lose their hair in the old age and drop off the perch. They're just like people. The more forests you lock up, the less forests that you can use for mills. So theoretically if what you want is productivity, you can log about 1 per cent of a forest per year, and that will give you pretty good productivity and pretty good quality timber. You can probably bring it down to once every 70 years, which will give you a little bit more productivity but not quite as good quality timber.

Now, Western Australia's forests were very, very well managed, but the community was not convinced that that was the case, so we put more into reserves and locked more up, which meant that to produce enough timber for Western Australia's requirements, we had to have more plantations which then spread out into the high-rainfall grazing country. So all I'm saying is that in well-managed forests - you can have your cake and eat it, because there's no way you lose biodiversity or habitat or anything like that. If they're well-managed you can have both. The community doesn't share my view, unfortunately.

PROF MUSGRAVE: Thank you very much.

DR BYRON: Thank you very much, Mr Nixon. Thank you, ladies and gentlemen. I think we can adjourn now for a lunch break and resume at about 2 o'clock. Thank you.

(Luncheon adjournment)

DR BYRON: Thank you very much, ladies and gentlemen. Can we resume with the public hearing of the inquiry into the Impacts of Native Vegetation and Biodiversity Legislation? Our next presentation is from the gentlemen from Ferguson, Kenneison and Associates. Thanks very much for coming again, gentlemen, and for the work that you've put into this inquiry so far. It's much appreciated.

MR FERGUSON: My name is Jim Ferguson, representing Ferguson Kenneison and Associates and Mr John Fernie will also give evidence, as a private landowner. Mr Kenneison, unfortunately, has got to leave in about 20 minutes so he is not going to give any evidence at this stage. I'll do the lot, put the whole thing through. We thank you for the opportunity of firstly answering and putting in a submission on the draft report. Basically our opinion of the draft report is that it's an excellent report. Maybe you could have been a bit harder on some, but I think we get the message and we're very satisfied with each of the seven recommendations that are put out there. Also the key points and the notations under the key points, I think they're well made.

I'll make a few comments in a minute, but we'll look at the Productivity Commission key points and comments and make comments on them, and the Productivity Commission recommendations 1 and 8. The Legislative Council Standing Committee - which nobody has mentioned to date, to my knowledge - the Inquiry into Land Use Issues, we lodged to that and recommended that be recommenced in 2001, heard its evidence in 2002 and there's no report out to date. It's quite interesting that - and this is probably all we can say on it, that it's important. We believed that it was quite important that there be a report out before the actual bill was passed to parliament and also before probably the regulations have gone to parliament.

A few comments on the EP Amendment Act 2003 and just a couple of comments there and the usefulness of it. The comments made by government are quite interesting; and where at the previous sitting, on I think 7 August, Commissioner Hartley waved this document around and was adamant that he adhered to that, I present this document and another one - November 2000. In November 1999 and May 2000 documents that came out of what they were acting on and they clearly put the onus of proof on the farmer to prove and set 70 or 80 pages out on how that was to be done. They deny that to date, so we'll have to submit further on that.

Also with that in mind, with their performance, certain things that we've said we weren't going to submit but we will, a seven-page one. It will be confidential and that will show you exactly how the process - it will be very easy for Commissioners and your people assisting to see how the process was progressed from the time of the cabinet directive on 10/4/95 to the agencies and what they did with it.

The other one is quite important too, a couple of other issues; but Mr John Fernie is here to give an example of how - somebody mentioned earlier, enough vegetation been preserved or when have we got enough of it? From the EPA's point of view there is never enough and Mr Fernie will point out that even though he had 54 per cent of one ecological system remaining on his property and 44 per cent of another, that still wasn't enough. That was the only thing preventing land-clearing taking place from the point of view of EPA, the commissioner having okayed it on the degradation points of view. They still wanted more. Mr Fernie wasn't allowed to clear. He'll run through the points there.

There are a few corrections needed in section G but we'll just forward those. There's no use discussing them because it's just a case of getting a few particulars right. One thing, too, we'll submit a 34-page document by email on the Admin Law of natural justice and the doctrine of ultra vires. I don't think we've submitted that to you. No. So that'll go over.

Also we have raised the issue that there needs to be a full-blown inquiry into the processes and actions used by the government agencies since the cabinet directive instructions came out to them; but that's not likely to occur because there are so many people involved and you've got to know the result of any inquiry you implement and who it will affect and the implications and who it will affect are pretty wide. That's actually what we'll run through. Are you ready to present yours, John?

MR FERNIE: Yes, okay.

MR FERGUSON: Then I've got some issues straight after you've run through yours.

MR FERNIE: John Fernie. I'm a landowner north of Perth. I purchased my property in 1980 and it was then owned by people that it was a conditional purchase block and so much clearing had to be done. The previous owners had let it grow back to a lot of native vegetation and we were forced then, and we pleaded with the government to allow us to leave it a bit longer before we had to clear it, but the situation was, we had to keep clearing. We did this and used up money we didn't have and then the native vegetation started taking over again.

We've always run livestock on the property. We fenced it off and put water troughs throughout the property. Apparently the animals just graze through the scrub and we also feed them additional food. They are actually clearing the land by knocking it over. Where we could only once run probably 100 head of cattle, now

we have to run 1000 to get the same sort of income. We want to plant pine trees, but to plant the pine trees we have to clear the regrowth off the property, which is about a third we want to put in on pine trees, leave about 24 per cent of native vegetation and the rest is parkland cleared, outcrops of big trees. That's the main situation.

MR FERGUSON: Do you want me to just run through these?

MR FERNIE: Yes, you go through those.

MR FERGUSON: I'll just run through the issues that apply to John. The EPA even got the area of native vegetation left after the notification of intent to clear wrong from that of the Department of Ag. The Department of Ag were okay, the commissioner's office got that right. The overall deep-rooted perennial native vegetation and planting of pines and sandalwood after firebreaks would leave well over 50 per cent of the property under native vegetation. The type of farming was, as John said, mainly fattening of cattle and sheep for the export and local markets, feeding of stock for various entities.

The EPA reasons for level of assessment of proposal unlikely to be environmentally acceptable for the proposal was that it did not meet the objectives for conservation of biodiversity as outlined in EPA Position Statement No.2, Environmental Protection of Native Veg:

The proposal is likely to further reduce the extent of viable and intact vegetation within affected vegetation types to below 30 per cent, the threshold level below which species loss is believed to occur at an exponential rate.

The EPA failed to reassess that proposal when in fact it was found that they'd been mistaken and in fact 50 per cent of the Carmel Complex South and 40 per cent of the Cullalla complex was still remaining in Western Australia instead of less than 30 per cent of the both, of two types. Therefore, they've soundly gone down this track all the time, promoting that 30 per cent of an ecological system is what is required to ensure its preservation and here they are, in the case of Mr Fernie, having 54 per cent and nearly 40 per cent of the other there; still no clearing. So that's an example and exemplifies their attitude.

DR BYRON: Sorry, could I just get clarification. When was the application put in and when was it knocked back by the EPA? You didn't tell us that.

MR FERGUSON: The notification of intent to clear went in on 18 June 2002. Yes, notified to clear 18/6/2002. The EPA wrote this document up, bulletin 1084, on the project. Mr Kenneison and I did an appeal, a comprehensive appeal, on that and

the following document was prepared for lodging with the Minister for the Environment by 5 pm, 23 December 2002. That afternoon a decision was made not to lodge the appeal, as we now had three appeals before the Minister for the Environment for up to one year without a result. They've been two years now, and with no indication of when a result will be forthcoming, so we didn't lodge an appeal at all on it:

As the process has no credibility whatsoever, as evidenced by the material presented in this document, we are left with no alternative but to progress this matter for Mr Fernie by other means.

So that's why nothing was done there. Further, the comparison we make with that is that they assessed 10 hectares of vegetation for clearing for urban purposes on lot 4, diagram 52498, Baldivis Road, Baldivis, on 5 May 2003, set a level of assessment not assessed and no advice given. There's less than 30 per cent of that vegetation remaining.

In fact, it was somewhere around about 12 per cent. So they couldn't care less in the metropolitan area. There is one major difference. If they rejected that one in an urban sphere, urban atmosphere, they have to pay compensation. There would be compensation payable by somebody. Not by the EPA. I take that, and Mr Kenneison takes that, as being the - the main results from that assessment: the EPA have one rule for rural and one rule for the city. I don't think there is much need to say any more on that. This can be presented to the committee if they want it. If you would like that document I can leave it here with you.

DR BYRON: Thanks.

MR FERGUSON: And also leave you a copy of this to save anybody getting it, if you have got any questions you want to ask on it. Furthermore, it's interesting, the EPA - we appealed the EPA, the assessment in Baldivis. The assessment on the Baldivis one was also appealed by the Department of Conservation and Land Management and by the Water and Rivers, I think it was. It was dismissed out of hand the same as our appeal was dismissed. But, no, there is no problem with them clearing there even though there is only 12 per cent or so of that ecosystem left and, I think, 2½ per cent in secure conservation reserves. That's a good example of the duplicity that operates in these areas. Have you got any questions on that so far?

DR BYRON: I just want to check that I understand the key points that you're making there. The notice of intent went to the soil commissioner and he had no objections on the ground of soil or water degradation. Then it went to the EPA who objected on the grounds of biodiversity.

MR FERGUSON: That's right. The Commission of soil and land degradation, Mr Hartley's office, turned around and said, "There are no land degradation issues." They would have a problem if it was going to pasture. Mr Fernie's notification of intent for pines and for sandalwood, a product that's in demand and growing in demand, they had no problems with it if it went back to pasture. Therefore, it's with the minister's office, has been there now for - it's a year and a month, a year and two months now and she still hasn't reported on this, not only - because we didn't submit that. We didn't submit it. That's the way they operate - the duplicity that operates within the agency. Like I said, it's one reason, too, why we'll submit a document that's got to remain with you people. It's only seven pages and there is one reason why that gets submitted, because of this of Mr Fernie and because of statements made today, further statements made today by the office of the commissioner. I've got a lot more to say on the directives and the - - -

DR BYRON: Okay. Keep moving.

MR FERGUSON: Right. One thing that has amazed us is the ability of the commission, the office of the commissioner, to come forward with virtually, in most cases, not just of Mr Fernie's and two of our others, and the EPA in their recommendations - to come forward without satisfactory evidence, scientific evidence, to prove what they say is going to happen. I mean, even now you hear the evidence where they're going to - they have started to drill at Binnu. Heaven's above. The Soil and Land Conservation Act is quite specific in sections 12 and 13, the functions and duties of the commissioner. Quite clear. They're the ones that have got to assist to deal with the degradation issues. If the degradation issues are going to happen, they're the ones that ought to assist with it.

The Soil and Land Conservation Act is structured for the productive use of agricultural land, not for the conservation and biodiversity or native vegetation or any other purpose. I can sincerely say that all our notifications of intent to clear and all those, 10 now, that we've got before you, bog down in this process, in a needless process. The methodology we have put forward - where required we'll balance the water issues. There is no two ways about it. We can balance the water issues and do better than that. Morgan's is a classic: blue gums. We'll improve it. You've got a time lag between when native veg is removed and the others go in, because once you've got 20 to 24 years of blue gums going in, or up to 40 years of pines, there isn't much of a problem. It goes the other way. In fact, you can refer to Mr Nixon's remarks on this type of thing, and the clearing of native vegetation in quite a few cases, contrary to what they keep saying, leads to an improvement in water quality and more water available.

I'll just run through the keynote points first. You are absolutely spot-on when you pointed out the key points in the whole of the document: the effectiveness of the

restrictions of clearing of native vegetation has been compromised by a lack of clear objectives, negative incentives for landholders to retain and care for native vegetation, and the inflexible application of targets and guidelines across regions with differing characteristics, such as - perverse environmental outcomes often result. We are seeing that totally within our notifications and in dealing with clients that we've got up before you. Your points, too - I've got in the submission to you. I have got there the issues relating to - where I set out where the lack of clear objectives are evident and negative incentives for landholders and the inflexible application. I have given you examples. I don't think there is any need to run through those.

Number 2 out of the key points: many landholders being prevented from developing their properties, switching to more profitable land use and from introducing cost saving innovations. Restrictions on clearing regrowth and woodland thickening are reducing areas that could be used for agriculture production. The regrowth one we totally agree and have argued that out with you. Not argued with you, but put our point of view. But the main part of that one, the regrowth one, will sort out. Many landholders are being prevented from developing their properties, switching to more profitable land use and from introducing cost saving innovations. That's the major result of the way they have gone and the way the agencies have gone.

The key points. We agree with the draft recommendations and there is only a couple of reservations. They apply mainly to things that we would like to see probably stressed a little bit more. But like I said earlier, we're extremely gratified - I will put it that way - we're extremely gratified that a document could come out such as this and virtually lay it on the line. I have got no problem with the document being 530-odd pages or greater. There is no problem there at all. If you want to get into it, it's all there for you. The first one, the regulation - before implementing a native veg and biodiversity policy, a regulation impact statement. An excellent idea. There are just no two ways about - that's putting the onus on the agencies and government at the time to come up with them.

I ran through a few of the problems there. Not as far as that goes, but the problems that those people who will be charged with doing that will have. One comment I made there. The assessment of alternative instruments to implement policy: in one instance the native vegetation working group recommended to the minister for ag the compensation paid to those refused clearing in the country area water supply catchment should have that compensation reduced to that on offer to those in the agricultural areas. I state: with friends like that recommending policy such as that one, the farmer doesn't need any enemies. There's no two ways about that. I couldn't believe when I heard them coming up with that. The then minister, the Honourable Monty House, tossed that one aside.

Recommendation 2: all policies should be subject to ongoing monitoring and regular reviews of all costs and benefits in the light of articulated objectives. Reviews of performance should be published. That, again, is excellent. Mr Kenneison has been a great promoter of the State Administrative Tribunal right through for a number of years. This system that's being forced upon the farming community is totally flawed. It's an appeal from Caesar to Caesar. It will not work. It will work probably from the agency's point of view but it will certainly cause a lot of problems. To be able to have an independent authority, like the State Administrative Tribunal, to go before is certainly needed. That's one thing that is certainly required.

Just on that point, in evidence we gave, I think it was in 2000, to the Standing Committee on Public Administration and Finance on the land use issues, Mr Kenneison was asked by a Greens party member of that committee where the Honourable Dee Margetts stated that the new bill should resolve many of these issues. Mr Kenneison turned around and said, "It won't resolve anything in the format that is being proposed. In fact it's got a good chance of making things worse," and then he explained why to her.

The draft recommendation 3: yes, an excellent one. Ongoing efforts to improve the quality of data and science on which policy decisions are based and required, particularly on the on-ground assessment to test the accuracy of vegetation mapping based on satellite imagery. It's not only the vegetation mapping, it's the - it has been up to the department to prove and they have not fulfilled their obligations under sections 13 and 14 although they argue otherwise. Only once they have argued otherwise. They have steered away from that. Yes, Mr Fernie's was a classic example of that one and where they got it wrong. They couldn't even get the area cleared right. Even though they had the figures from the ag department, they still got them wrong. You will see that in the documents I give you.

Draft recommendation 4 is interesting. Currently regulatory approaches should be amended to comply with good regulatory practice, including their specification of objectives in the light of the legislation, that guidelines and decisions link back to those objectives and performance of the regimes can be monitored and assessed. These people that are dealing with these issues have got no idea of doing that and they haven't been able to do that, so it's great to see that in. Yes, minimising duplication and inconsistency by amalgamating and simplifying regulations and permit requirements. Yes, that can work.

Assisting landholders to meet their responsibilities by providing accessible information about those responsibilities and about sustainable land management practices and environmental problems.

Well, an inclusion of statutory time frames - statutory time frames would get away from the one and two years that we're waiting for decisions on that.

Consideration of economic and social factors where applications to clear otherwise would be rejected on environmental grounds. A triple bottom-line approach with reasons for decisions to be given and reported.

An excellent approach on that. And the last one, extremely important:

Provision of accessible and impartial appeals and dispute resolution mechanisms.

On dot point 2, the "minimising duplication and inconsistency", I did state that point 2 will be difficult to implement with the recent performance of the EPA agency and the commissioner providing evidence that they can effectively combine over a period of years to prevent landholders from progressing their notifications of intent. Then I used one example that I used last year. That was Ms Powell, but there are other examples all the time.

DR BYRON: If I can interrupt you on that point that you were just covering. The Western Australian Government's submission, I think, argues quite strongly that they already have those things that you just read out from our draft recommendation in terms of reasons and appeal provisions and time lines and so on.

MR FERGUSON: This is to the "minimising duplication and inconsistency"? This is in the "assisting landholders to meet their responsibilities, providing accessible information" or the second dot point, "minimising duplication"?

DR BYRON: The second one.

MR FERGUSON: I better come down then and make - - -

DR BYRON: Sorry, it doesn't matter. I didn't mean to put you off your stride there.

MR FERGUSON: We argued that the expertise is not available in WA, in the government agencies and public service concerned with the EP Act 2003 in the regulatory approach to encompass good regulatory practice and provide the information about sustainable land management practice and environmental problems. It is probably difficult for those that are not being impacted upon to gauge the depth of incompetence endemic within those in the public service responsible for determining these matters. Now, we argued consistently that the competency level in

there is not sufficient to deal with these matters. We've had that one out. We had that one out, I think, prior to the last sitting, where their head of the native vegetation working group could not answer. He had been put up with the authority to answer questions on the 1800 number. I asked him three questions. He could not respond to those. I put it in writing to him then, and he said, "Some of these are for the commissioner, and one or two are for me." I said, "No, they're not. They're all for you - the ones I put in writing."

Finally, we got the response out of him. The response was unsatisfactory. It went to the media, and at the end of the day, he could not answer. I was called in by the chief executive officer of the Department of Environment, acting, and he was asked to deal with this issue with me. I said, "There's nothing to deal with, sir. He has demonstrated his incompetence for all to see, to the public in the newspaper. I'm quite satisfied. There's no use going any further with that." The same problem is going to come up right now, and it's very close to it, because we'll have to write again and say that there is incompetence by a public servant, and I did that two days ago and noted that.

Your draft recommendation 5 is excellent. "There is not the use being made of the extensive knowledge of landholders and local communities, and there should be greater flexibility introduced in the regulatory regimes to allow variation of requirements at a regional level." Those regional committees and bodies should be given greater autonomy. There's no two ways about that. You also mentioned the regrowth thing there, which is a sticking point, but I won't go into that.

Draft recommendation 6 - yes. Good. I've just responded briefly to that. 7 - in agreement with that - "Landholders should bear the costs of action that largely benefit them individually or as a group." You talk about the development of marketing mechanisms. I've said we support that with some reservation. In regard to all of our clients, the clearing for the purposes outlined in their notification will not lead to land degradation, therefore the retention of their vegetation will certainly be of no benefit to them. This is above what they would be retaining normally - 20, 25 or 30 per cent. Let's face it, they're not clearing to 10 per cent or 5 per cent or anything like that. I'm talking 20 per cent, 30 per cent. Therefore the retention of their veg, if it's perceived to be of value to other farmers or the community, then compensation should be payable to them. Our argument is that the determination of the value of the veg is a responsibility of those who are part of the present process, and the farmer would be foolish to subject himself to an assessment by known incompetents such as those, although designated by the minister of the environment or the previous CEO of the Department of Environment to have the ability to respond to questions on new clearing regulations. Or they've got the inability to reply; they've failed miserably, as I said earlier, to respond to submitted questions, and that is still evident today. I can assure the Commissioners of that.

There is an anomaly in one there. In the case of Powells, where they're being forced to keep their vegetation; their's would be perceived to be for the good of the farming community there - that's other farmers further west of them - and to assist the other farmers who have already cleared to not have to replant. It brings a bit of an anomaly in. So Powells - there has got to be some mechanism from the farming community themselves to deal with that, and I think in your report that is evident that coming from that, the farming community would have to sort that one out themselves. I'll stress again that we see the Act implemented with bias and against the tenets of natural justice - with bias, which is part of natural justice. In section 31(2) I think it is of the Act, they can put the soil conservation notice on the clearing or intended clearing. They have always put the soil conservation notices on in our cases, in all other cases I've seen, for the intended clearing that's going to take place, not the clearing that has taken place. So there has been a clear intent to bias and bias shown that way.

They didn't have the guts to go out and implement the Soil and Land Conservation Act as it's written. Dr Graham Robertson made that remark in 1986, I think it was, when he was Commissioner of Soil and Land conservation and also director of natural resource management. He is just retiring or moving to Muresk from being director-general of agriculture for 10 years nearly, and he made a statement on the Act. The Act has teeth but they're not used. The acknowledgment is there that they've had an Act, but they're not prepared to use it, and probably too frightened to use it.

Recommendation 8, "Over and above agreed responsibilities, conservation demanded by the wider community to achieve biodiversity or other greenhouse issues should be compensated". The farmer should be compensated. We certainly agree with that. Just of interest, we can submit to you in the next week a theological paper on the rights of man to use his land. That's theological and biblical obligations of stewardship. That's from the religious point of view. We can drop that in.

Also, from a person who admits he's an atheist, Prof Ian Plimer, who has taken a few of the senior gentlemen to task in The Australian newspaper of recent times, for presenting misinformation. He wrote a short history of planet Earth. I'll give you a summation of some of his things. So we've got a religious opinion on one side and we've got Prof Ian Plimer, who has got a segment on ABC Radio, been running for over 10 years, to school children and others, for a quarter of an hour. I can say that he wouldn't be there if he was presenting material that wasn't factual. In fact, his book should be compulsory reading for all years 10, 11 and 12 at school. It's an excellent book and I was able to steady the EPA down on their greenhouse things, and they don't use greenhouse issues against the farmers now for clearing. They just say refer Australian greenhouse office; well, they're nearly as bad as the EPA have

been, but still they put the responsibility across to them. I've said enough. I've probably said too much. Have you got any questions for Mr Fernie or myself?

DR BYRON: Yes, there are a few things. Just coming back to the question of the EPA and the decision on Mr Fernie's place, is it conceivable that about the time of that MOU, the government decided that they wanted to stop clearing native vegetation for biodiversity reasons, but when they looked around they discovered that the only control that they had was the soil commissioner, who could stop clearing if there was evidence of soil-water degradation, but not on biodiversity grounds, and therefore the MOU was a way to use the existing regulatory apparatus that they had, but for a different purpose. Is that your take on what was happening?

MR FERGUSON: Yes. Certainly so. In fact, I may not have enclosed it; no, it's not in the appendices here. In 2001, the Honourable Minister Chance acknowledged that there were sins of omission by the government agencies in the way they were operating, and that the farmers had not been informed, if you like - I'd probably have to qualify it a bit. They hadn't been told what their rights were in relation to the process. They hadn't been correctly informed. Mr Kenneison and I go far further than that, and you'll see in the document I've got here, which we'll put through on email to you. You can have a copy today if you like, but I think I'd prefer to email it with a separate cover, and you'll get that. In the six pages, you'll get a damn good idea of the MOU process and why it was structured the way it was.

DR BYRON: There is a brief reference to that issue on page 6 of your submission, but I'll look forward to getting the additional information on that.

PROF MUSGRAVE: Let's get the MOU process clear. I've gone some way towards understanding it fully, but I'm not sure that I fully understand it. The situation is that an application for clearing comes in to the commissioner.

MR FERGUSON: Yes.

PROF MUSGRAVE: The commissioner may find that there are no grounds for refusing the application under his Act, but he can direct the application to other agencies, because of the MOU, for their advice.

MR FERGUSON: Yes.

PROF MUSGRAVE: If their advice is that they don't like the application, the commissioner might then refuse the application?

MR FERGUSON: No. The commissioner can't refuse; the commissioner puts in abeyance. What has happened - and this has happened in the case of Beermullah Pty

Ltd - the commissioner can turn around. In the case of Mr Fernie, for instance, he's passed it on land degradation grounds - that's as good a one as any to work on. There are no - notice of intent. There are no issues on the land degradation deal. However he refers it to the interagency working group, who have already had their meetings within the 90 days. They then come up with - there'll be a conservation issue or some other issue, but generally conservation of the biodiversity issue, and therefore they will request him to refer it on to the - because of that CALM, request him to refer it on to the EPA. They'll express concern on that. It gets referred to the EPA.

In the case of Mr Fernie, the EPA then have come back - and I have given you the evidence there on that - that it doesn't matter what vegetation you've got - what he's got and what they've got conserved, it doesn't matter much, and they go down that track, but if they have got a soil conservation notice put on a property, they'll still refer it across for a nature conservation issue or - it's biological diversity, and the commissioner won't decide the soil conservation notice issue because he maintains he's constrained as a decision-making authority from dealing with that while the EPA are making a decision.

We argue strongly against that: if somebody is game enough to take them on in court they will be found wanting on that one - that he's got to determine on what he's got up there, and the fact that he has referred it over to the EPA doesn't constrain him from making a decision on the soil conservation notice. We argue strongly that he's got to make it. The same happened with Minister Chance. We have appealed several to him under section 33. The minister may vary or quash a soil conservation notice - quite clear - and he maintains that's a preamble.

We say, no, it's not a preamble to section 34. You can do it if you can see a soil conservation notice has been put on for some extraneous issues that are not relevant and - so he denies that, but yet when he referred one in point to the EPA he'd refused - yes, he'd refused to deal with it under section 33, but then wrote to the chairman of the EPA and said, "I'm referring this to you now because I've been requested to remove this soil conservation notice." Even though he'd written to us and said that he couldn't deal with it, he still referred it on, saying it was a proposal. It wasn't a proposal. There was no proposal, never was and never would be on that particular issue, but it's interesting how the whole thing has been twisted and I have got - I did submit it to you - land clearing.

Mr Chance conceded the MOU had caused problems, keeping farmers like Craig Underwood waiting for up to four years at great expense, describing some government agencies' actions as "sins of omission". He said, "The MOU process" - it's a bit worse than I quoted - "had been designed to mislead growers over clearing rights." The Honourable Minister was quite forthright - "designed to mislead them" - so that's of interest, too.

PROF MUSGRAVE: So under the MOU there's a capacity for an application to go around and around on the merry-go-round.

MR FERGUSON: Great. It's a well-designed document. That's what you will see in this six pages. It's a summary of the whole lot. Anybody who reads that is quite welcome to come back and ask us further questions, but that sets out a summary sheet - no. That's John's. It sets out actions of the public service and the EPA in the assessment process of notice of intention to clear; one page of A4. It sets out land clearing by the five agents of the EPA, and that gives a run-down of Dr Graham Robertson, Mr Kevin Goss, a previous commissioner, Mr David Hartley, the present commissioner, Dr Brian Jenkins and Mr Bernard Bowen, the chairman of the EPA.

Then we've got an A3 and that sets out the cabinet decision of 10/4/95 - the purpose of the cabinet decision - the implementation of requirements agreed on, and the following statements applying to it. Then we set out number 2, the memo U dated 6 and 7/3/97, the following statements apply, and then the EPA Bulletin 966, so in a matter of half an hour somebody will get a concise idea of how this whole convoluted process - or the process was made convoluted in Western Australia, and basically, as much as what they deny that they had to put legislation in, the cabinet directive made a clear statement that regulation is required to implement what we require - they turned around and implemented it without any change in the Act.

On 3 March 1999 at a symposium, which was a forerunner to the EPA Bulletin 966, Mr Bowen turned around and made some statements in that and then he made statements in the bulletin 966. He noted that the problems they were having were due to the failure to implement certain sections of that MOU of the cabinet directive. He outlined the cabinet directive and he noted the ones that hadn't been implemented and that were causing problems, and that was the failure to implement legislation, so Mr Kenneison and I have always maintained that they never implemented the legislation to back up what they were doing under processes and procedures, so the chairman of the EPA, effectively from that date on, had exonerated himself from the process.

PROF MUSGRAVE: Mr Ferguson, on page 6 of your submission you state in the second paragraph, "There has been a failure by the government to name benefits for those forced to retain their vegetation." Now, that's an interesting observation because it's not consistent with what Commissioner Hartley said this morning. He seemed to be saying that such - - -

MR FERGUSON: Just a minute. Page 6? Which one was it?

PROF MUSGRAVE: Page 6, paragraph 2.

MR FERGUSON: Impacts on our individual land - - -

PROF MUSGRAVE: Yes, in the second sentence of that paragraph, "There has been a failure by the government to name benefits for those forced to retain their vegetation." Mr Hartley seemed to be saying that all his decisions could be rationalised in terms of the achievement of the objectives of the Act.

MR FERGUSON: No, no. We wholeheartedly disagree there. We just can't accept that. You ask one of our farmer clients that for 2000 - the retention of 2000 - well, put it at 1000 hectares of veg - he was offered \$20,000 for a start - for retention of that - so that's a good mechanism, isn't it - they were coming out in the days of Mr Goss. It might have gone up to 50,000 by now. They're playing. They put \$1.2 million out. That's what they've got available. You've heard Mr Nixon - or somebody else - previously say about the bush forever - \$100 million, and I think with probably another 100 million to be followed there. I'm not completely sure of that. There isn't the mechanism.

We've dealt with the side of the Department of Agriculture dealing with these processes. Powells, for instance - 600 hecs of veg. It looked like, at best, they would have probably got 50 to 100 thousand dollars for six - four, at most. Now, for a start they were offered fencing - and assistance in that way to do it. Powells lost - it might be of interest - just under 40 per cent of their crop this year on that property of - I think it was about 300 acres or 400 acres of crop that they had in, and that was lost to emus and kangaroos before they could get them from their Dally property and harvest that - and they come across, and that's what they had left to harvest. They suffered an estimated reduction of about that much. They played the game correctly. They'd sown 200 hectares of vegetation (pines).

Powells would have been on 200 acres, or 200 hectares, of cropping. It would have been about four or five hundred acres of cropping, so - correct. It's 200 hectares. In the previous few years they've sown 200 hectares of pine in one block with the Forest Products Commission and some along the drainage lines, and that's the one that Mr Andrew Watson advised Mr Goss when he was - and this is withholding of information - perhaps - this is previously, before we came into it - in a previous notice of intent to clear in 1995-96. If Mr Powell had notified to plant pines perhaps we would have had to pass it, but they didn't tell Mr Powell, "You put in a notification of intent to plant pines, sir, and the odds are we'll pass it." No, they didn't tell him that. I think that might be in the material you've already got - that one. I see that as deceitful. You people can make your mind up on that.

PROF MUSGRAVE: Okay. Thank you.

MR FERGUSON: But certainly there has been no meaningful decision to get anything up in the way of a workable solution to redress the issues there. Mr Fernie would certainly like to hear it, wouldn't you?

MR FERNIE: Certainly.

PROF MUSGRAVE: Meanwhile, Mr Fernie, on your property, the thickening and regrowth continues.

MR FERNIE: I'm running livestock on it and, I guess, in 10 years' time it will all be gone.

PROF MUSGRAVE: The regrowth?

MR FERNIE: The regrowth, so it won't be a nice pine forest. It will be just sand.

PROF MUSGRAVE: Okay, right.

MR FERGUSON: One comment, too, that's worth making: the firing of native vegetation leads to much more productive use of that vegetation. If you had 1000 hecs and you were going to run stock in it, you can get much more out of it quite often over a period of say 20 years if you fire a section of it. I, Mr Kenneison and Mr Fernie, wonder how they're going to implement this and the regulations over here - when they come to large areas of land that have got stock running through it - and the Chittering hills are a good example, where it is quite picturesque.

You can drive up the Chittering Valley road; you're looking across, at the right time of the year, and you see grass this height in the trees. Under the regulations at present, if one tree goes off through a cow ring-barking it, or sheep getting stuck into it and giving it a tickle, the landowner is liable then for prosecution - the way these regulations stand at the present, and there are some awful problems going to come up in the future. I mean, that has been farmed like that - that country like that - since about nineteen - in the 1940s, 1950s, when aerial top-dressing, 1950s, came into vogue here, large areas - with fertiliser being cheap - were top-dressed, and the stock do an effective job on the lower storey, understorey, in removing that and leaving your other trees. At the end of the day, I think an environmentalist might be able to argue that at the end of 200 years what's going to happen - because those trees reach maturity, and there are lots of things to be sorted out there.

DR BYRON: Could I just ask one final simple question of clarification? In the submission on page 4, when you talk about the removal of regrowth over two years' old, is that what the definition of regrowth is now - anything that's - - -

MR FERGUSON: That's what these gentlemen had here. Quite frankly, they didn't know what they were doing because for a start they had the removal of regrowth on land that's been cleared more than two years. I think that's in this document, but it was there - on land that's been cleared more than two years. So that meant that the instant the regrowth popped its head up, you were gone. So then they changed it to regrowth over two years. Then you go to a document - I think it's in with yours - where they put a draft document out on the clearing of regrowth, asking for people to submit on it. I rang the deputy commissioner up, Mr Watson, and asked him what happened to the draft document. He said, "Oh, we had to can it. It was a bit unworkable."

But in among the three pages that went out, Mr Jim Dixon asked a question - and this is what really intrigued me - in a statement. And he's talking about regrowth. Perhaps the regulation prevails over the guidelines. Have you ever heard anything like that? Perhaps the regulation prevails over the guidelines. That's what they printed in their draft document, which was out for comment. That to me and Mr Kenneison and Mr Fernie, is the mentality of the people that we're dealing with. They're out to stop clearing per se, the same as what this new bill - and Mr Kenneison informed them in 2002, 2001, "It'll be ineffective."

DR BYRON: One of the things that has occurred to me frequently as we go round the country is that if legislation attempts to protect all existing vegetation but offers no inducement or incentive or encouragement for landholders to have it, if they still see it as a liability rather than an asset, what's going to happen is that, even if they do manage to protect the existing vegetation, the landowner is not going to allow more new regeneration to come up and get established.

So what that would do, to exaggerate a little bit - it's sort of a death sentence for all future generations of young seedlings. Inevitably the existing vegetation will get old and senescent and die and if the unintended consequence of the way the legislation works is that people stop all new regeneration from coming up, then 50 years of 100 years from now, we'll have big old dying trees in paddocks and nothing else to replace it.

MR FERGUSON: That's right, yes. That's a fair indication of what way it will go. It will depend on the individual farmer, but some farmers don't want the added problems of a large area of native vegetation. There are legal aspects to this. This is what is interesting from Kenneison's and my point of view. We examine where they're trying to say, "This is the maximum size firebreak you'll put in," a dangerous precedent that they're coming at, that reverses what is - "You can put the firebreak in you think that's suitable," because if a fire gets out of your property and does damage to another property or does damage to CALM, CALM have assured one of our clients they'll deal quite savagely with him if a fire gets out of his property.

At the same time, on Mr Morgan's property they have told Mr Morgan - and I've got the right letters there - that, "Look, we're not interested in you 2200 acres or 1000 hectares of veg. We've got stacks of that vegetation type, but we would like it - but we're not interested in purchasing it," because it's been under offer of purchase to them. Mr Morgan's would be one. Mr Fernie's would be another. They're around, all over the place. A person will fire them. I believe that the regulations and the Act in its present structure on the clearing side of it is going to have a really difficult time, and the point you make - it's not going to encourage the productive use of native vegetation at all, productive preservation and reservation of native veg. It's exactly the opposite of what's going to happen to it.

DR BYRON: I think in view of the time we'd better keep moving on. Thank you very much for all the material. I'll look forward to receiving the additional material from you.

MR FERGUSON: They've said that anything extra we should have in - I spoke to one of your people, and they should get it in before the end of February. We'll try and have it over there within seven or eight days, the extra material. Thank you very much.

DR BYRON: Thanks, and thank you very much for coming, Mr Fernie.

MR FERNIE: Thank you.

DR BYRON: Eastern Metropolitan Regional Council, thank you very much for coming and thank you for the written submission.

MR McCARTHY: Thank you for the invitation.

DR BYRON: Would you can just both introduce yourselves for the transcript.

MR McCARTHY: My name is Mick McCarthy. I'm the executive manager of environmental services at the Eastern Metropolitan Regional Council.

MS THOMAS: I'm Lesley Thomas. I'm manager of environmental services at the Eastern Metropolitan Regional Council.

MR McCARTHY: We've prepared a few notes here, which we're just going to review as we go through. I'm going to give a bit of an overview of the Eastern Metropolitan region and perhaps some of the role of local government in terms of vegetation management and biodiversity conservation. Lesley is going to deal with the Productivity Commission report and some of the issues that we've identified in there that may require some clarification. Then I'll just conclude with some final remarks, if that's acceptable.

DR BYRON: Thank you, that's ideal.

MR McCARTHY: The Eastern Metropolitan Regional Council was established in 1983 and is constituted as a regional local government under the West Australian Local Government Act. It provides services to its member councils, being the cities of Swan, Belmont and Bayswater, the town of Bassendean and the shires of Kalamunda and Mundaring. The EMRC provides environmental services, waste management, risk management and regional development services for its councils as well as other local governments. The Eastern Metropolitan region constitutes about a third of the Perth metropolitan area, which is about 2100 square kilometres. It contains about 20 per cent of Perth's population and includes the Swan Coastal Plain, the foothills, the Darling scarp and the Darling Range.

The region encompasses some significant land uses, including urban, rural, commercial, industrial and natural resources such as water catchments, forests, extractive industries. The region also contains significant biodiversity conservation values. In the total area, about half of the region is covered with native vegetation, mostly in the hills area, which constitutes about 208,000 hectares. We've got 26 species of declared rare flora, over 80 species of priority listed flora, 14 threatened ecological communities. Many vegetation complexes in our area, particularly on the Swan Coastal Plain, are below the 10 per cent threshold of their original extent, and this puts this plain area under most risk.

I thought also I might just talk about the Swan Coastal Plain area across the whole metropolitan area, just to give you an idea about what the current status of that is. The vegetation in this area has been mapped as part of the Perth Biodiversity Project, which is a partnership project between the West Australian Local Government Association, the 30 councils in the metro area and the Natural Heritage Trust. The Perth Biodiversity Project has developed biodiversity planning guidelines to assist local government to identify and protect biodiversity values.

Across the whole Swan Coastal Plain area in the Perth metropolitan area, there are about 52,000 hectares of bushland remaining, or remnant vegetation remaining. About 36 and a half thousand hectares of this vegetation is secure in a CALM estate and other reserves. About 15,000 hectares is mapped as local natural areas, and these have been the areas of vegetation outside those secure reserves that have been identified as a priority for local government to manage. About half of that 15,000 hectares, which is just 8800 hectares, is actually zoned for development and therefore the vegetation is likely to be cleared in the future.

This poses quite a serious consequence in terms of biodiversity conservation and in terms of catchment health. There's some data that's suggesting that, in order to retain catchment health, we need to try and retain about 30 per cent of the catchment in a vegetated state. Although our region has 50 per cent covered, that's mostly in the hills where the soils are pretty good; whereas on the Swan Coastal Plain it's much less than that and there are issues about nutrient enrichment into the waterways and into the Swan River, subsequent algal blooms; and so catchment health is seen as an area where we need to concentrate to reduce the problems of algal blooms in the Swan River.

In terms of the south-west of WA, which includes the Perth metro area, this area has been identified as one of the 25 biodiversity hotspots in the world. In terms of our region being relevant to the Productivity Commission inquiry, local government has a role in land use zoning and planning, through its town planning schemes and district planning schemes and this is actually a statutory function. It also approves land developments, manages reserves and looks at a range of biodiversity conservation issues. It also is involved in catchment management and has many partnerships with the community to help manage biodiversity and vegetation.

The Eastern Metropolitan Regional Council and its member councils have developed a number of regional initiatives that have assisted in this regard, such as the Regional Environmental Strategy, the Eastern Hills Catchment Management Project, the Local Government Natural Resource Management Policy Development Project, the Perth Biodiversity Project, the wildlife corridor strategies, tree protection

provisions in town planning schemes, environmental management strategies, environment plans and district conservation strategies. All of these initiatives seek to achieve the conservation of biodiversity at the local and strategic levels. In addition, a number of member councils such as the City and Swan and the Shire of Mundaring are currently looking at developing private land conservation strategies for the protection of biodiversity on private lands.

In terms of some of the key issues, most clearing in the region is for urban development and is not covered or captured by provisions in the Soil and Land Conservation Act or are exempt from the proposed clearing regulations with the proposed amendments to the Environment Protection Act. Local council decision-making regards to land use requiring clearing in the Perth metro area is governed at a state government level by the Metropolitan Region Scheme and is guided at the local level by the town planning schemes of the local councils.

These schemes are reviewed generally every five to 10-year period. However, this is a lengthy process and is not able to accommodate emerging opportunities and new developments related to vegetation protection or incorporate relevant and new data about the values of vegetation. This situation is resolved in zonings and provisions of schemes that rarely reflect current knowledge of environmental significance, either at the site-specific level or at the regional level.

Mandatory state of the environment reporting by local government, such as in New South Wales, has enabled environmental conservation issues to be more closely aligned with planning schemes and provisions. The proposed vegetation clearing regulations under the Environment Protection Act should assist in protecting vegetation on larger lots - that is, greater than 4000 square metres. However, this mainly relates to rural zoned land in peri-urban and rural councils and would not apply to lots smaller than 4000 square metres, mainly because of the exemptions.

Local government will need to develop council-specific policies, provisions and incentives to protect vegetation and to ensure that the proposed vegetation clearing regulations are complementary. In terms of context, local government is the layer of government closest to land use and development issues at the site and at the catchment level. It is also closest to the community and therefore collaborative approaches to protect biodiversity will need to involve councils. Across the board, local government approaches to land use differ from one council to another.

Councils in trying to balance environmental, social and economic factors in decision-making with very broad outcomes based on perspectives of the different decision-makers being the councillors: the EMRC member councils have been proactive in developing tools to assist our member councils in this process and the EMRC has identified the importance of managing human needs in a way that does

not degrade the local environment for future generations. I might just pass over to Lesley to give a few comments on the report specifically.

MS THOMAS: Thank you. First of all, we'd like to state that we really welcomed the inquiry and the research that's going to be generated out of your exploration of this issue and we'd like to draw your attention to a few issues of concern. What we've tried to do is focus on particularly your recommendations rather than comments made through the body of the report.

First of all, we'd like to note that we agree with you in terms of your comments that these landholders who have made submissions to your original draft report are self-selected and do not necessarily present or represent the full range of views within the community of landholders. It also follows then that the examples provided of the impacts of native vegetation and biodiversity regulations drawn on through your report, and again recognising that you were a bit limited in terms of the perspectives that were actually presented to you, that these are also skewed and therefore have not been balanced by those other perspectives.

For example, biodiversity conservation for future generations and the positive outcomes associated with vegetation protection, such as arresting salinity, reducing rising watertables, improving catchment health, et cetera, are not actually then reflected in the draft findings. This potential skewing creates the potential to undermine the credibility of the outcomes of the research process and need to be balanced in the final report by research with a rigorous and defensible methodology, data and assessment of the underlying assumptions to give a more accurate picture.

In terms of regulatory best practice, we support the Productivity Commission's comments on ensuring that the legislation and the regulations in all facets of public life should meet best practice standards and be testable against objectives, and it has actually provided us with a very good example that we can then work on when we're working on developing things at the local level in our sphere of work. But those objectives that they needed to be tested against, at least in WA, need to be based on sustainability principles and in accordance with the state's sustainability strategy which was announced just last year.

These objectives need to be agreed by all levels of government, including local government. Local governments in particular are usually expected to implement objectives. For example, we are currently implementing a range of national level objectives in environmental protection and biodiversity conservation, national local government biodiversity strategy, national action plan for salinity and water quality, natural resource management and the national greenhouse strategy. One of the things that needs to be considered though is that, where local government is strongly involved with implementing and improving the statutory and the legislative base, it

needs to be resourced to be able to do that, otherwise that burden falls on the ratepayers; which picks up on certainly one of the points that you've brought forward.

We'd also like to point out that in terms of developing a rigorous approach to reviewing the success of any regulatory or statutory mechanisms or tools that are out there that the time frames need to be appropriate and realistic, noting that some issues that promote or support particularly changes of mind-set and behaviour such as the voluntary private land conservation components which have been fairly broadly taken up in the last couple of years by governments, that in terms of those showing a significant outcome it will be measured in longer periods, including possibly decades. The taxations for conservation covenants might be one example and therefore the initial slow uptake rates which sometimes are misinterpreted as failures actually need to be reassessed because they are simply representing an early lag phase rather than a failure of the mechanism itself.

We'd also like to note that the high level of scrutiny of an environmental legislation would need to be balanced with the same level of scrutiny of all legislative tools so that this represents then an overall improvement of the standard of both environmental, economic and social policy and statutes rather than solely putting that requirement on the environmental legislation which would then represent perhaps manipulation rather than best practice.

The higher level of rigour would require again substantially greater resources both at the local, the state and surely the national levels as well in order to meet those standards and the danger is that the lack of resources could considerably either lengthen the process creating further frustration and significant time lags or that legislation would be completed without those standards being met and that's clearly a concern and I'm sure that's a concern across the board not just in our sector.

We'd also like to comment on the necessity for ongoing regulatory control of vegetation clearing or limits, picking up on the point that you've raised regarding limits of regulation and I'll move on in a minute to look at some of the positive aspects of incentives and more appropriate mechanisms for private land conservation. The initial rates of clearing before the introduction of regulation were clearly unsustainable. The WA wheat belt demonstrates that very clearly with the increasing effects of land degradation such as salinisation of watercourses, dryland salinity, erosion, waterlogging and soil acidification. Those clearing regulations were needed to halt the causal factor in many of the land degradation issues while solutions were explored. This is still required as the solutions are still being explored, identified and rigorously debated throughout wheat belts and increasingly on the fringes or our metro area.

The short-term gains of early economic returns before the longer term outcomes and costs of land degradation are apparent. This occurs particularly at the site level. This situation has led to a continued push for lifting or relaxing of these provisions, usually on the basis of personal loss or hardship regardless of the potential long-term impacts. It was interesting to hear the Four Corners report last night. I don't know how much of that is true or accurate but certainly it raises some issues to be explored.

In terms of this push, this is very much as true at the urban fringes where the push is perhaps more for land development rather than rural land use as it is in some sections of the farming community. However, the land care ethic seems to be developing at a population level in many areas of the wheat belt so I'm sure in other areas of Australia where there is very little left to be cleared and those long-term adverse outcomes are very apparent, whereas in the urban fringes that land care ethic has not perhaps been broadly adopted yet by developers, though there have been some very interesting and very positive developments here on the coastal plain, particularly where developers are actually working very strongly, very vigorously with high environmental standards and are finding that they can actually charge a premium for blocks and are using this as quite a strong tool for attracting people who want to live and work in an area that is more environmentally sustainable.

There is certainly a need to consider the triple bottom line of social, economic and environmental factors rather than focusing on the short-term bottom line, economic usually, and this needs to be recognised and articulated through all the decision-making processes. Any proposed lifting of regulatory control in order to implement potentially sustainable alternatives, and there may well cases where this is appropriate, they still need to be rigorously assessed on their merits as any other proposed development would be such as those that are proposed and assessed through the state's environmental protection approval system.

We also pick up on the Productivity Commission's emphasis on regional input into the decision-making process and agree that this is really important and we fully support the involvement of regional bodies, whether it's regional local government or regional NRM bodies in the decision-making at a regional level. However, this could create significant problems at the local government and community levels unless the decision-making process is consultative, rigorous, accountable and very much so transparent.

In terms of the removal of impediments referred to in your draft recommendation 9.6, the draft recommendation states that, "Government should seek" - and then there's a bit more and then following on the quote:

Removal of impediments to efficient farm rationalisation and/or

operation.

This is a serious concern for a number of reasons. The recommendation, as it's stated, does not reflect that any exemptions or variations from the current and still inadequate level of control would need to be within a clear and definite framework aimed at arresting long-term trends related to land degradation. As is increasingly apparent in the wheat belt, short-term economic benefits often have long-term environmental costs. These costs may be borne by the landholder at a future point in time or, more likely, some subsequent sequential landholder of that land but they are also borne by the broader community in terms of reduced water quality, damage to public infrastructure arising from rising salt levels and watertables and the loss of ecosystem services such as pollination and insect control.

Landholders' perspectives on farm rationalisation and operation can be, and sometimes are, based on short-term outcomes rather than this long-term perspective but again noting that there is an increasing push for long-term recognition within the landholder basis particularly in the farming sectors, and that's strongly applauded and represents a huge leap in understanding and change of behaviour in attitudes over a relatively short space of time. But again thinking both in terms of some rural areas and the outer edges of the metropolitan area, including things such as the horticultural or orchardists industries where this land care ethic is not quite so widely adopted, any arguments put forward for removing impediments would need to demonstrate that the proposed changes would result in greater sustainable land use and an environmentally neutral or positive impact off site and further research is certainly needed on how to quantify this and this level is required at a national level with a lot of input from local and regional levels.

Private provision of environmental services which is part also of your draft recommendation 9.6: the concept of reduced impediments to private land conservation is strongly supported, acknowledging that the costs involved in those impediments, usually land rates or land taxes, would need to be addressed, particularly at the local government level in regard to rates. Some local governments have a good resource base and the Gold Coast over on the eastern seaboard is a good example where you have got a strong rate base and those removal of impediments is more easily accommodated. But we also have here in WA quite a lot of local governments with an extremely small ratepayer base and any push to remove those impediments needs to be carefully balanced so that's it not undermining that local government's capacity to deliver the services needed through their region.

Local governments may be disadvantaged financially, as I have said, by programs associated with the protection of vegetation on private land and support from the Commonwealth, most likely through the existing mechanism of the local government Grants Commission and its funding formulas, needs to be assessed and it

would be certainly possible to build that in as what's called the disability factor picking up on other disability factors already covered, such as heritage, roads and also such issues as indigenous health.

Local governments are increasingly recognising the importance of private land conservation within their areas. This is reflected in the development of local biodiversity guidelines and local planning policies advocated within the Perth biodiversity project which is funded through the Natural Heritage Trust but also through a lot of local government programs. We've got some marvellous leaders here, particularly in Busselton and Serpentine and Jarrahdale that need particular mention and in more recent times the City of Swan in our own Eastern Metropolitan Region, the Shire of Mundaring and the City of Coburn and the areas of Rockingham and Kwinana.

Local governments are also providing a lot of support currently in ways that are not recognised and ways that are leading to changes in behaviour and these include things such as supporting local bushland management plans providing technical advice on bushland management issues to private landholders, providing free training courses. We run a series called Bush Skills for the Hills that provides free training for community group members and landholders so that they understand some of the environmental management issues and they are better able to then implement those management systems.

We also provide assistance in securing grants. We provide technical advice. We provide equipment and quite a lot of local governments also provide access to free or very low-cost seedlings and other resources needed in planting works. We also assist, in some cases, with local teams, Green Corps teams, to work on local reserves and I suspect that we will see that increasingly involved with some significant areas of private land set aside for conservation.

We strongly support the development of market based mechanisms for natural areas and have continued an interest in this area, particularly in relation to biodiversity credits of conservation auctions and noting that the World Wide Fund for Nature and the North-East Wheat Belt Regional Organisations of Councils, otherwise known as NEWROC, are trialling a system in the north-east wheat belt - a conservation auction system which is based on the very successful Victorian BushTender system which I'm sure you've heard about as you've gone around. I'll hand over back now to Mick to provide some conclusions.

MR McCARTHY: Thanks for that, Lesley. So I guess, in conclusion the Productivity Commission report needs to integrate sustainability principles into the impacts of native vegetation and biodiversity regulations, to reflect the true value of protecting our precious natural assets. The report focuses too much on short-term

economic factors related to private lands, which represent biodiversity conservation as a negative aspect. The report needs to identify the positive long-term benefits of biodiversity conservation. There will always be the choices about land-use activities and options to control and regulate these activities. However, there may not be native vegetation left for future generations to enjoy on the current rates of removal and degradation.

Local governments are continually in the position of trying to balance landowner desire to achieve the maximum possible return on their investment, mainly through the land development and economic use of their land within the community's desire for more sustainable environment. This is a fine line to walk. It is clear from past experience at the local, state and national scales that the precautionary principle is increasingly a factor in decision-making in order to keep as many options as possible open for future generations. Regulation of native vegetation clearing and biodiversity conservation are vital and will remain so whilst the community as a whole works to identify the future use of Australian landscape in ways that support healthy communities with viable economies, whilst ensuring that future generations are enriched, not impoverished, by decisions taken today. I'd like to thank the Productivity Commission for the opportunity to address you today, and look forward with interest to hearing the outcomes of your research. Thank you.

DR BYRON: Thank you very much, Mick and Lesley. That was very useful, interesting and informative, and I can't think of too much there that you said that I disagree with. I think we are certainly guilty of not explaining ourselves very clearly in a number of cases. The section you, Lesley, were talking about, the removal of impediments, you seem to have interpreted in a way that was completely different from anything that I had in mind, when we're talking about removing impediments to rationalisation and adjustment, but maybe we can talk about that a bit more too.

As I explained this morning, we decided fairly early on in this inquiry that it would be impossible for us to attempt to quantify the benefits of retaining native vegetation, or the benefits of doing so through regulation, rather than doing it through other mechanisms. So what we've done - and we've been told that this was a terrible cop-out - is to say, "Let's accept that governments and societies want to see a high level of native vegetation retention and biodiversity conservation," for all the reasons that you've both just outlined. We take that as given. We don't ignore it. We take it as given that that is the reason that this legislation was passed. We then ask: is the policy mechanism that's in place at the moment effective, in that it does the job? Is it cost-effective in that it gives good value for money and does it at relatively low cost, in achieving those environmental outcomes that we all seek? Are those costs, once we've got them down as low as we reasonably can, equitably shared?

I think that's my excuse or rationalisation for why we've concentrated on the questions of effectiveness, cost-effectiveness and equity, rather than trying - we thought it was unnecessary to spend another hundred pages on what is already a far too thick report, spelling out the demerits of native vegetation retention. You're absolutely right in that we have picked up on the grievances of a relatively small number of landholders. The Australian Bureau of Statistics tells us there are 115, 120,000 bona fide farmers in Australia. Of that it may only be 5 or 10 thousand in all states who see themselves as adversely affected by this sort of legislation.

My argument is, even if it's only five or 10 farmers, that doesn't necessarily mean that you can ignore them, or that the state is justified in imposing severe financial costs on these people, simply because it's a relatively small number. On the contrary, one could argue that if it's only a relatively small number who are adversely affected, it's not beyond the wit of man or government to figure out a way to treat that handful of adversely-affected people, in a way that resolves their grievance, and the whole of society is better off. It has been put to us that the 19 and a half million Australians who live in cities and towns are very much in favour of more native veg retention as long as all the costs of that are being borne by 5000 farmers.

One can have a long philosophical argument about the tyranny of democracy, that as long as someone else is paying for it, we're all in favour of it and want more of it. That's one of the reasons why the approach that we've taken in the report is to say it's inescapable that there are going to be some costs, somewhere, for retaining and managing, protecting and looking after remnant native vegetation. Let's try and make those costs as small as we can through smart regulation programs, and let's try and spread them relatively equitably.

You've made the point that councils can't afford to give concessional programs, rate rebates et cetera when clearing controls are imposed, because councils haven't got the money and can't afford to do that. I understand and accept that completely, but the landholders who see themselves as affected by those controls say, well, they can't afford it either. So somebody somewhere is going to have to pay. Now, what we've been talking about in the report - and it came out very clearly this morning when we were talking to the group from the Western Australian government - Rosh Ireland put it very beautifully. If you think of a sort of a series of cascading hierarchies where you've got international commitments; you've got broad generic national things that they would like to see - guidelines; and then the state has objectives for environmental outcomes, including biodiversity, soil and water that they would like to see; and then it comes down to a regional level, whether it's one of the regional NRM bodies or a regional grouping like yours; and then perhaps down to local government or subcatchment; and eventually down to what happens on an individual farm paddock. All of these things are somehow nested within each other, and the decision you make at this level is taking into account the obligations and the

framework that's imposed by the higher level.

We've had some excellent discussions as we've gone round all the other states with local government, with shire councillors and executives of local government. I don't think we've met anywhere else with a regional or multi-shire unit, so that's another regard in which we really value your input, because it's a level that's a bit under-represented so far.

MR McCARTHY: If I may just comment: when you talk about that regional structure and that integration through the hierarchy, if those national or international objectives were properly filtered down that hierarchy and supported with resources and programs and funding, you probably wouldn't need the regulatory control. You wouldn't need to assess the level of regulation at that level because federal government funds would be flowing through, and the local government would be coordinating landowners to say, "How can we assist you in offsetting the cost of greater vegetation protection?" So that's one factor, and I think the other factor when we start talking about reducing costs - it doesn't pick up the fact that the true cost of produce that we enjoy as people now does not take into account the environmental cost that's associated with producing that material.

So essentially if we were to pay more for our produce and have a mechanism to get that back to the farmer to say, "Here's your reward for keeping this vegetation, and here's your money for your produce you've got," then that, to me, would be a way of saying, "Well, people who enjoy the produce should actually pay. It shouldn't be the responsibility of generations of farmers to meet this cost. It should be shared by society." Unless we actually identify what those true costs are, and factor those into our economy, we are operating on a false economy which is the same issues we raise here, about short-term economic gain, trying to lower costs without recognising the broader triple bottom-line factors.

So I would say that part of this should be looking at - as well as the impacts of regulation - the impacts of the economic system in not recognising these true costs, and not looking at mechanisms to get some of the value of this back to the farm so that the farmer says, "I've received some income, or I've got some funds to protect this vegetation, to fence it off. It's a valuable asset, and I am getting funds to continually manage it into the future, because it's a benefit not only to my land and my productivity, but it's a benefit to the wider catchment and to society in general."

I guess there are some big issues there on how you would address that, just looking at regulations on vegetation protection, but it's forums like this when we need to get the opportunity to say these things, because if they're not said, and it's just assumed, just like the productivity report says, "We didn't get into all this because we just assumed," well, that needs to be stipulated so that everyone understands what

assumptions we're moving from. Even if those things can't be recognised or addressed, what are we going to do about them in terms of your scope or your terms of reference? If those issues are not part of the scope then what can we do with these to get these put on the agenda as something that needs to be looked at - not to address it through trying to remove impediments, but address it in trying to have the system more balanced.

DR BYRON: Fine.

MS THOMAS: I've got one more comment. You were talking about the costs and the fact that where farmers or landholders - whether it's developers, farmers or whoever - are unable to clear an area of their land to make perhaps the highest economic use of that land. In my role with the local governments, I've recently been working with some of the hills councils where we have situations where landholders want to be able to dam streams, particularly in a time of falling rainfall, so that they can actually capture the maximum that they need to be able to do what they want to do on their land. Often that's - along with rainfall - one of their only sources of water. That is governed in Western Australia through the Rights in Water and Irrigation Act, which says, "You have a right as a landholder to take from the common resource of that water, but you are not allowed to degrade that resource and reduce the flow so that it is significantly reduced for downstream users."

The way I see our native vegetation and our biodiversity, it's very similar. The owners own the land, but the vegetation is actually a common resource, and that's recognised through things like the Wildlife Conservation Act and the forthcoming Biodiversity Act which recognise that there's a common value and a common need for protection of those resources. I would see it in the same way that any landholder - whether it's a matter of taking a portion of the water out of a stream, but not impacting adversely on either downstream human or environmental users - in the same way biodiversity on their land. It's to me not an issue of compensation or cost, but there is a requirement to protect that common resource, and whatever you do, you have the ability to do it within reason, but without degrading that underlying resource base.

MR McCARTHY: It's how you get the economics behind that to support that which is more about the issue that I raised. It's bringing those two things together.

MS THOMAS: Yes.

DR BYRON: Well, wildlife has been considered a fugitive resource and the property of the Crown for the last thousand years in the British legal tradition, but plants or anything that grows in the soil have been considered in the common law for almost a thousand years to be part of the freehold title to the soil. So there's a major

difference there between flora and fauna biodiversity, in the legal treatment. I think the comparison with water you make is probably very appropriate, if you think of wildlife, of fauna, but a number of people have raised issues with us with regard to privately-managed native forests, for example, where people have managed and tended or regenerated or even replanted forests of native species, which, in some cases, new legislative arrangements may actually - not exactly expropriate - but deny them any commercial gains from the last 50 years of looking after a patch of timber, and those people are very firmly of the view that that is property which they own and that's why they've been looking after it for the last 50 years. I can at least understand why they feel aggrieved when they're told that, no, they don't own it and they can't use it any more or they don't have the right to sell it.

PROF MUSGRAVE: Thanks very much for your presentation and I look forward to reading your submission and digesting it. I have no particular questions at the moment, Neil, except to ask about NEWROC. Is that Western Australian or - - -

MS THOMAS: Yes, it is. It's the group of councils, as I said, through the north-east wheat belt. I'm not sure of exactly the full number that are in there but it involves Yilgarn, Westonia, Mount Magnet I think, and a number of others around that. I think there's about seven in total, if I remember correctly.

PROF MUSGRAVE: And what's the status of the plan you referred to?

MS THOMAS: Basically the NEWROC is a similar sort of regional collaboration between the individual local governments and they are working with the World Wide Fund for Nature and others to establish, as I said, a conservation auction system based on, I think, the underlying model behind the BushTender project in Victoria where they're sourcing grant funds at a federal level - - -

PROF MUSGRAVE: I'm familiar with the process, yes.

MS THOMAS: Yes.

PROF MUSGRAVE: Okay, thank you very much.

DR BYRON: Thank you.

MR McCARTHY: I can leave a copy, a hard copy, of our sort of notes if you like, if that would be of any value to you.

DR BYRON: Thank you.

MR McCARTHY: That you can have there and if you do require any further

information, they've got our details and contacts. So I'd be quite happy to furnish you with any other additional advice if that would be of assistance.

DR BYRON: Thank you very much.

PROF MUSGRAVE: That's very kind of you.

DR BYRON: Okay, I propose we take a break for about 10 minutes for a cup of tea and after that we'll have the final presentation on the program from the Conservation Council of WA. Thank you.

DR BYRON: Thank you, ladies and gentlemen. If we can continue now with the representatives from the Conservation Council WA, please. Thanks very much for coming, and thanks very much for your written submission. If you could just each introduce yourself for the transcript, and summarise the points you want to make, and we can talk about it for a while.

MR POUSTIE: Cameron Poustie. I'm the biodiversity officer at the Conservation Council.

MR DUGGIE: James Duggie, water policy officer at the Conservation Council of WA.

MR TALLENTIRE: Chris Tallentire, Conservation Council of Western Australia facilitator and supporter.

MR POUSTIE: I think in the absence of our coordinator, it falls to me to kick off, and I'll be looking for support from my colleagues as and when appropriate, but as we said last time as well, we'd also encourage you to chip in at any point and get a bit of free-flowing dialogue going, rather than just us speaking to our submission.

Essentially, as we discussed in the introduction there, we're concerned about the heavy emphasis that the draft report has given to concerns of what we would say, and what some farmers tell us, are the concerns of the minority of landholders, whereas on the other hand, the conservation aspects or the importance of retaining native vegetation, in our view, has in the report been de-emphasised in a lot of places. We think that there are a number of government reports on the extent of damage caused from previous clearing that have been, as I say, de-emphasised or perhaps omitted from the draft report.

One of the important philosophical differences between our approach and that taken by the Commission thus far is the fourth paragraph there. We'll go into this in more detail later on, but essentially the draft report assumes that if native vegetation benefited farmers, then it would have been retained by them in greater amounts. In our respectful submission, essentially that type of rationale would, if effectively taken to its logical conclusion, suggest that there never would have been damage in the agricultural zone in Western Australia anyway.

As further and further vegetation was removed and as the damage increased and continues to increase, that suggests that a number of landholders anyway, perhaps not all of them, have made decisions that were based more on short-term considerations than on the long-term viability of their properties. Given that differential between the decisions made by landholders and what we say is important for the long-term viability of the region, as well as for biodiversity

objectives, regulation has a role. So assuming that those decisions are not being made in a context that considers the long term adequately - and I appreciate the arguments here as to why that long-term consideration may be dealt with adequately - but we say that effectively the damage caused in the agricultural zone alone, in and of itself, illustrates that that assumption does not hold true.

I should also say that that comment is not specific to landholders. It has been a major feature of a number of industries that they have failed to consider longer-term consequences on the ecology as a result of their industries, and they have made decisions based on, more often than not, short-term considerations. It is that that in many ways has generated in a lot of the countries the world's environmental problems. So it's not an attack on landholders specifically, and people in the agricultural regions specifically, but it is a phenomenon that is common to a number of industries, and one that is, we say, adequately - well, a big feature of addressing that phenomenon in our view is regulation, fair regulation, regulation that is effectively enforced and consistently enforced - and we accept that that's not always the case in Western Australia - but strong regulation nonetheless.

DR BYRON: Can I - you invited me to come in?

MR POUSTIE: Yes. Sure.

DR BYRON: It raises one of the first points I wanted to talk to you about. There's a statement on page 4 that says, "The damage caused by broadscale clearing of recent years," and I was just wondering if you could explain a bit more about what you mean by "of recent years". Are you meaning of the last five or 10 or 20 years, since legislative controls came in, or are you talking about the very severe damage caused by broadscale clearing between, say, 1950 and 1980, when it was actual government policy to require it? We've spoken to a number of people who were actually kicked off their conditional title because they hadn't cleared enough. In fact, there were even some people in the room this morning who told us that.

Now, I think we're in complete agreement that some landholders and some industrialists have been very short-sighted. They haven't thought about long-term sustainability, but I don't know that we can absolve government of that same accusation either, that when you had a government that was proud of bulldozing a million acres a year, year after year after year, they're not entirely without sin, when we look at the consequences - the serious degradation and salinity issues that you've got here today, that arise from that broadscale clearing.

MR DUGGIE: I think we agree with your last point. The government played an important role in helping contribute to the current situation that Western Australia is in, and I guess we're not really interested in a blame game about what happened

historically. It is true that the current situation the wheat belt of WA faces is largely due to the broadscale clearing that happened before the 1990s in WA, and so as a community in Western Australia I think in a sense we're still coming to terms with the scale of that clearing, and the scale of the salinity problem, and the scale of intervention and landscape rehabilitation and management that is needed to address those problems. So it's in that context you need to think about the last 15 years or so.

Certainly since the early 90s state government policy has incrementally strengthened in terms of clearing controls. Our concern has been all along that despite the incremental strengthening in terms of recognition of need for stronger clearing controls, clearing for agricultural purposes of originally large scale was still continuing and, in some cases, further contributing we would argue to the land degradation problems and salinity problems that are already evident in many other areas.

If you look at the pattern of where dryland salinity has occurred and other land degradation problems, you can see the geographical distribution and the historical sequencing of clearing. In the areas that were cleared earlier, salinity tends to be showing up now. In the areas that were cleared more recently, it will take much longer for the salinity problems to occur, and that's part of the problem: the long time delay in the consequences of the clearing. So for some landholders - a minority I would say - these days, in areas that hadn't experienced broadscale clearing up until recently - it's in those areas where they haven't really experienced the devastation of salinity, that there still sometimes is a little bit of denial about what could happen if they overclear. Most people, I think, in WA, most landholders, understand the issue and are quite comfortable with the idea of the need for clearing controls and a sustainable approach to landscape management.

But what we're dealing with when we say that there is a need for regulation in terms of clearing controls, that's to deal with the people that in the end - with any industry you have the innovators and then you have the mass of people coming along, and then you have laggards - and in our view, the people that often are still wanting to do large-scale clearing are the laggards in terms of this issue. We need strong regulation in those cases.

MR POUSTIE: Another point - after you.

DR BYRON: No.

MR POUSTIE: Just another response to your point, and it's a valid point that the government was certainly not without sin and, indeed, was on some level driving a lot of these problems some time ago now, is that there is, in our submission, no clear distinction between government and landholders. Certainly the agricultural industry

has always been very powerful in terms of its political influence, and perhaps was more so in the past. I'm not aware of there being a significant backlash from agriculturalists at the time against those government rules, and I suspect if it was looked into adequately - and I confess that I haven't done this - a lot of those government rules would have arisen from agricultural lobbying.

So we really return to the point we're making. The political pressure at the time was for more clearing, and by pure economics, you would say landholders won't be able to make a mistake. They will make decisions based on their long-term best interests, and in our submission they did not. They clearly did not. Those decisions may have been on a particular piece of land. They may have been more about the government rules than some sort of separate consideration of their best interests, but collectively, as an industry, they were interested in those rules that required fairly heavy clearing, and they supported them. So collectively, we would say that they were not evidencing the assumption that seems quite central to the draft report that they would be adequately take into consideration the long term.

DR BYRON: The evidence provided by the Western Australian government in the first submission, I think was fairly clear in showing that the rate of clearing applications, the area and number, had already started to slow and moreover revegetation programs had started and were accelerating, on a strictly voluntary basis, before the controls came into place in 1986. Not all - of course, not all - but at least some landowners could already hear the alarm bells ringing and saying, "Hang on. This has already gone too far," and they had already started pulling it back. This was before Landcare and voluntary catchment management and all those sorts of things started to take off. As you say, there is probably a spectrum between those who could see the writing on the wall from a great distance, all the way through to those who will never see it. Sorry, I didn't mean to interrupt you before.

MR POUSTIE: That particular quote was one I'd highlighted to speak to anyway. Perhaps a related point: you talk about the rates of clearing and essentially seem to separate whether environmental goals are being achieved from the clearing rates being reduced and again, I guess we see - and I'd be interested in your comments - that reduced rates of clearing resulting from stricter regulations are evidence in and of themselves of the regulations having some positive impact. We acknowledge - and we make the point later on - that sometimes the nature of the regulations or the manner in which they are introduced can result in negative consequences, so-called perverse environmental outcomes, and you can have situations of unlawful clearing and so on. Even just the decreasing quality of relationships between landholders and government can cause problems in itself. We acknowledge that, but that does not in itself suggest that the regulations were inappropriate, just that they may have been introduced badly, enforced - - -

PROF MUSGRAVE: Could I suggest things could perhaps be done better?

MR POUSTIE: There's no question. I hope we make that point throughout this submission, and I think we made that point previously. There is no question that there's room for improvement. There's no question that there's room for improvement in terms of the way some of these programs are funded, in terms of how they are promoted, in terms of the corresponding incentives packages. That's a major gap. We acknowledge that incentive packages have not been adequately funded in this state.

They've often been considered on a formal level so we probably disagree with that particular draft finding. They've often been mooted but not well prioritised. The essential difference between our submission perhaps and the draft report is that the fact that there are problems with regulation does not mean you would introduce flexibility in regulation. It does not mean you would peel back the regulations. It means you would maintain strong regulations but also increase the relative emphasis, the relative funding, to incentive programs, and then be dealing effectively with a spectrum of landholders. The laggards, as James referred to them, would require strong regulations and well-enforced regulations, whereas people that are already inclined to do the right thing should be benefiting from programs that would encourage them to do so and would provide financial incentives for them to do so.

PROF MUSGRAVE: I think we might need to clarify the meaning of the word "flexibility". I've got a feeling you're using it in one way and we're using it in another. I'm putting words in your mouth here but I read you as saying flexibility in treatment of landowners and, when we're talking about flexibility, we tend to mean flexibility spatially or, to a greater extent spatially, so that rather than having a regulation which amounts to one size fits all over a whole state, like say Queensland which is not a small area, that you have regulation which is capable of administration which can be cut to suit the peculiarities location to location. Was I right in putting words into your mouth though?

MR POUSTIE: No, I think we understood the context in which you use "flexibility".

PROF MUSGRAVE: Yours is a valid use of the term but I just thought we should highlight the difference.

MR POUSTIE: Yes. The particular context - or the way we responded to that point is assuming that you were saying that there should be a regional approach to these matters. We don't disagree with the concept that regions have different requirements and would need different levels of regulation. Indeed, the draft regulations that are being mooted by the state government at the moment do

have a bit of a regional component. There are various areas where you are more able to do things and areas where you're less able to do things.

Even though this inquiry is dealing with regulations on a statewide level, it seems to be, we would say, concentrating its attention on agricultural related matters and we're concentrating our submission on agricultural related matters. In the agricultural zone in Western Australia we say there is no longer any room for flexibility. We are in a situation where the levels of vegetation remaining are at such a low point they are in many ways quite a bit lower than scientists would tell us are ecologically viable levels, not just for maintaining biodiversity, some sort of ethereal public good, but for maintaining the viability of the landscape, maintaining soil quality, water quality, those sorts of matters. The vegetation levels are already too low. They require significant public funding to bring the vegetation levels back up again and we accept there's a role for public funding in that sphere. What we don't want to see is flexibility that involves further clearing in areas that are already substantially damaged.

PROF MUSGRAVE: But is that true across the whole state? I don't know all that much about West Australia, I guess, but the conversation today seems to have described a situation where we have extensive vegetation in some parts and very little vegetation in others and that, where we have that very little, there are some very serious problems associated with degradation of land and loss of biodiversity. It hasn't become so clear in a discussion that that applies to this fairly substantial area which is fairly northern, I understand, where there is quite extensive vegetation. So when you say "in this state," do you mean the whole state or that sort of south-western area where - - -

MR TALLENTIRE: I think a reasonable way to approach that - - -

PROF MUSGRAVE: Sorry, would you start again. I missed that.

MR TALLENTIRE: A sensible way to approach that very question might be by taking the Environmental Protection Authority's definition of the agricultural region where they were wanting to address this matter of land degradation and biodiversity loss. So they defined the agricultural region in the south-west of Western Australia and, broadly speaking, that's a line from Kalbarri in the north across to Esperance in the south, and have said that within that area there's the agricultural area and, within that area on environmental grounds, clearing for broadacre agriculture could no longer be justified. So that was a statement they made and published in their Position Statement number 2. They published that in December 2000.

I think that's a useful working start - a place to start from - and indeed some people would argue within that defined agricultural region there would be

some shires where people would say, "On a shire scale, even though we're in the defined EPA agricultural region, our shire has close to perhaps 50 per cent native vegetation remaining, therefore we've got an abundance of vegetation and we should be able to clear it until we get down to some lower level.

Well, there's a few points to make to that; one is why should we constantly be looking to go down to the lowest possible level. Why shouldn't we be saying, "Okay, perhaps why, say, does the Shire of Dandaragan have relatively successful agricultural systems in place today?" One of the reasons is because it does have an abundance of native vegetation in the area and perhaps as well we need to look at it from the social and economic perspective and to think that, well, those regions have alternative enterprises; whether they're ecotourism or wild flower picking-type enterprises, they have other economic opportunities.

They're not just locked into the very dangerous farming enterprise of broadacre agriculture wheat and sheep farming or, in some instances, cattle grazing. It's important to think that an abundance of native vegetation is something that is actually an asset and therefore should be protected. So these few areas that are in the south-west of the state that do have more than 50 per cent of their native vegetation should be protected and recognised that they have a very valuable role to play in the environmental and agricultural health of the overall landscape.

More broadly, across the rest of the state, there may be similar issues that apply. Certainly the Kimberley region where the ecosystem health is good it is actually something that's a marketable commodity for those regions in terms of their tourism and, in some cases, combining tourism with pastoral activities. So I don't think the fact that some areas have more than say 50 per cent native vegetation remaining should be ever used as a reason to say, "Well, let's try and go down to 20 per cent and then see how we are," because after all the costs of rehabilitating are just so extreme. We know well the figures that have been put round by the National Farmers Federation who endorsed a program to fix up the landscape of Australia that would cost in the order of \$6 billion a year for 10 years, or \$60 billion. We can't afford that risk. If we have an area that's in reasonable health, let's keep it that way and not risk going down to some sort of notional minimum level.

PROF MUSGRAVE: So despite the spatial variation in the vegetative characteristics of the state, one size still fits?

MR DUGGIE: If I can - I wanted to make a comment. I don't think characterising the current or the proposed regulations for Western Australia in terms of native vegetation as one size fits all would be appropriate at all. Up until now the Soil and Land Conservation Act - up until the amendments to the EP Act were put in place - the Soil and Land Conservation Act and the Environmental Protection Act were the

two key pieces of legislation that were used for clearing controls. In both cases, specific proposals were examined. Often with the Soil and Land Conservation Act an agricultural officer would go and visit the site and the Soil and Land Conservation Commissioner would make a decision based on the recommendations of that officer.

So the idea that there was some golden rule that was set somewhere and applied automatically across the state, even for land degradation, is just not right and, similarly, when the environmental impact assessment process under the Environmental Protection Act was triggered, again the particular proposal would be assessed and there was quite a significantly detailed set of criteria, originally the Safstrom criteria, that were developed in cooperation between the Ag department and the Department of Environmental Protection against which clearing proposals would be assessed. I understand that that's going to be the case in the future. There won't just be blanket decisions, so this idea that there's some kind of one size fits all isn't an accurate way of characterising what's happening in WA at the moment.

PROF MUSGRAVE: And what's happening in WA at the moment is not a bad way.

MR TALLENTIRE: I think each case is going to be assessed. That's certainly been the case, that a person wishing to clear land would lodge a notice of intent to clear and, as James mentioned, the Safstrom Craig criteria would be applied to the clearing proposal which looked at all the relevant biodiversity and land degradation issues that could possibly arise from the clearing proposal. Into the future, similar criteria will be used and I think that's a very good and fair way to assess each case on a case-by-case basis. I suppose one difficulty - and I think getting back to the EPA's position statement number 2 - they didn't want landholders to get into a situation where they had false hopes, where they thought that they could eventually clear a piece of land in an area that was particularly vulnerable.

So they made a general statement. They said, "Right, we'll give you some general guidance. We'll say that, if you're in the agricultural area probably clearing 300 hectares for broadacre agriculture is going to be a 'no go'. It's not going to work," and I think that was being quite fair to landholders because, if you are talking about meeting criteria like the Safstrom Craig criteria. If you are talking about preparing some sort of environmental impact assessment work, you're actually talking about quite a deal of expense. It might involve engaging a botanist, somebody who's got hydrogeological background and expertise. That's all going to be expensive environmental consultancy work. So to make some sort of general statement is really a very fair way of indicating to people what the present situation is and then by allowing a system to be - or having a system in place that allows people to eventually lodge an application where their case can be considered. I think that's

very reasonable.

PROF MUSGRAVE: Thank you.

MR POUSTIE: If I may underline that point further, in effect there's a whole suite of exemptions to the new clearing regulations that are yet to come into effect. One of them operates really as a regional approach to this issue and that is the exemption for pastoral activities. So ordinary pastoral activities continue to operate as they have done in the past under this new clearing regime. In the agricultural area where there is much less native vegetation remaining, the net effect of these regulations is to take a stricter approach to further clearing but, again, even in that area there are a whole suite of exemptions, way too many in our opinion, but that's a separate topic.

So it's not the case that there's some general ban against clearing across the state and it doesn't factor in which bioregion you happen to be sitting in. The effect of the regulations is to take something of a regional approach and also to give quite a number of outlets, quite a number of opportunities for farmers and other landholders too to conduct what the government deems to be their ordinary business in a way that is unfettered by the opinion of the Department of Environment.

PROF MUSGRAVE: So there is a degree of flexibility?

MR POUSTIE: That's our submission.

DR BYRON: I don't want to labour this too much but if somebody was within that agricultural triangle and the soil commissioner had said that this clearing application does not present risk of appreciable land-water degradation and if the area of that vegetation type still existing was something like 50 per cent or more of pre-1750 levels, is it likely that such an application to clear a couple of hundred hectares could ever get through? I'm not saying it should or it shouldn't but I'm just trying to - - -

MR POUSTIE: If the question is whether applications like that in the past have been successful then the answer, I'm pretty sure, is yes. With further clearing applications where it's demonstrated that a particular vegetation complex is well represented, the CEO still has the capacity to say yes to a clearing application under this new regime. There are more hurdles. I guess you'd call them hurdles, perhaps. We would say that the appropriate criteria have been brought to the fore for making that sort of judgment, and we would hope the way this regime is administered is such that the CEO will be saying no perhaps more often than the commissioner for soil and land conservation was, but it's not a clearing ban we have here. It's just a better system of evaluating the impacts of further clearing.

DR BYRON: With a check list of criteria. That's great. Thanks very much for that.

MR DUGGIE: While you think of the next point, on page 3 of our submission we take an extract from your exec summary of the draft report, from page 31, and on the third paragraph of the quote we've taken out of your report, it says:

However, the weight of evidence indicates that landholders generally consider regulations and their implementation to be ill conceived and often contrary to long-term sustainable management of their properties.

We'd like to I guess really question that conclusion and we would certainly submit to you that is grossly inaccurate in terms of the situation in Western Australia. There's no doubt that there are some landholders that would share that view in Western Australia and some of them have, as we understand it, made submissions to you, but as is the way with a lot of issues, landholders that generally don't have any concerns aren't motivated to come and talk to inquiries such as yours, and our observation would be that there is a large, quiet majority of landholders that really do understand the importance of sustainable land management, have seen the devastation of overclearing that has occurred, and understand that it's important to make sure that that's controlled in the future. I think if you talk to participants in the Landcare movement, if you talk to some of the people within the WA Farmers Federation, probably - you'll get differing views amongst members of the WA Farmers Federation, I'm sure - but we've certainly to the people involved with them that really understand that clearing controls are needed.

DR BYRON: Well, we have talked to many of those people. We've talked to people who were Landcare farmer of the year in both New South Wales and Victoria, and they've made exactly the sort of statement that we've quoted there. It may well be that there's a fundamental difference between WA and the eastern states, I'll grant you that, but an alternative explanation of why perhaps 80 or 90 per cent of farmers are sitting quietly on their hands and it's only the other 10 or 20 per cent that we're hearing from is that all those who cleared fence to fence 20 years ago and got subsidies and tax concessions for doing so are laughing.

I mean, they're completely unaffected by the legislative controls on clearing. They're perfectly happy to see the neighbour down the road get absolutely constrained so that he can't do any more. I mean, sort of visual picture I'm trying to paint is that the one landholder who has retained a lot of native veg becomes sort of the sacrifice for his eight surrounding neighbours who got rid of it all, and they're not going to complain, especially if it means that they're going to now have to revegetate 20 per cent of the land at their own expense, for example. They would be quite happy to see this one guy being told, "You have to retain all the native veg on your

property because all your neighbours cleared too much 20 years ago." The suggestion is - this may not be a terribly fair way to go - - -

MR DUGGIE: If I can respond to that, first of all, I think the situation in Western Australia is dramatically different, for a couple of significant reasons. First, I think the rate of clearing and the proportion of clearing for the wheat belt seems to have been larger - well, I'm not sure if it's just because of the history sequence of it or the scale of it or just the hydrogeology of the wheat belt region, but the salinity problem, in terms of its devastating effect, has come forward more rapidly in WA than it has in other states and had stronger impacts, and I think that actually really has helped shift landholders' general perception of the issue of clearing and the importance of sustainable land management and the importance of native vegetation management.

I guess one of the concerns we'd have about your draft report is there are a lot of statements that are quite general in their nature, like that one I quoted to you, and, in effect, is implying that that's the case for all of Australia, and I think the situation in different states could be quite different, and qualification with respect to the states is going to be quite important.

DR BYRON: That's a good point.

MR DUGGIE: Getting to your point about the landholders that cleared fence to fence 20 years ago, in WA at least I think a lot of them are not actually smiling because they're looking at the creeping salinity problem affecting - well, not all of them but there's a fair proportion of farmers who in a sustainable framework would have overcleared. It was agreed at the time, that was policy, but they're actually feeling the negative impacts of salinity and other land degradation problems, and in Western Australia a lot of them are trying to do something about it.

They have the onus of trying to make their land more sustainable in the long term, so they are doing revegetation, they're getting involved with their catchment groups to do things. They're receiving federal funding and some state funding to do this work. So they have a very heavy burden, if you like, in the long term, to cope with the clearing that's happened in the past. So this is flipping that same story of yours to another perspective and saying the people that still have native vegetation in some ways are lucky because they won't have to do that same level of revegetation.

I know that might not be the perspective of all those landholders but that's another perspective that is equally valid for that same situation, and if I can add that when we're looking at that question of neighbouring landholders and what native vegetation is left, I certainly agree with you that that's problematic in the sense that - wouldn't it be great if everyone had had a fair share of clearing and could take a fair share the burden of revegetation or retaining. If we could have a system on a

catchment by catchment basis where the landholders got together and could agree on that, that would be great. Why don't we do that? It's a difficult thing to do for a whole lot of reasons you understand well, in that there will be winners and losers.

In the absence of that, on an interim basis, when you're dealing with such a crisis issue that salinity is, our first position would be: stop further clearing so we can sort out what to do. We've got an enormous problem which we don't have sufficient resources, capacity and funding to deal with in Western Australia. If you look at it like a war or some big crisis, we're losing it big time currently, and what we're arguing about is whether we should be allowing other people to exacerbate that problem or whether we should just stop the pressures for making it worse. That's our perspective on that.

DR BYRON: And that makes a lot of sense, that when you find yourself in a big hole, the first thing you should do is stop digging. But you've raised a really intriguing possibility, which is something that we've been kicking around in some of the other hearings; that if you can imagine where the Commonwealth sets some guidelines to the state. and state to region and region to catchment or subcatchment, and it gets down to 10 landowners in one valley - and say, "Well, fellas, our job is to get the water level coming out - the discharge at the bottom end of this valley down to less than 420 EC. How are we going to do that? There are rewards if we do it and there are penalties if we don't. Do we all have 20 per cent vegetation on our own properties or would those of us who have already overcleared - would it make sense for us to kick in to pay Bruce up there, who hasn't cleared anything to keep it like that, because that's the most cost-effective way for the whole 10 of us to deliver the bottom line outcome that the water that comes out of this valley has to be less than that target level of EC."

I can't even imagine what sort of schemes they'd kick up, or revegetating or digging holes or whatever, but the idea that they'd have some sort of contractual obligation to deliver an outcome with appropriate bonuses if they did better and penalties if they don't deliver might unleash all sorts of innovative new schemes for reducing salinity that we bureaucrats have never even thought of.

MR TALLENTIRE: Yes, it's very encouraging to hear you say that, and it was along that line of thinking that we included our attachment 1, where we started out with this idea that the principal beneficiary from a substantial area of bushland in a catchment - that the people who benefit the most are adjacent landholders because that's contributing to the health of the catchment. And then we said, "Well, what is it that really drives the economic activity in the catchment?" and it's agricultural production, so we've been trying to stimulate further research into the area, of looking at some sort of levy on units of agricultural production that could be channelled to a bushland conservation fund, so the person who does have all the bush

on their property isn't left in some sort of totally financially disastrous situation, that they can receive some sort of benefit for the contribution they are making to the overall health of the catchment.

DR BYRON: Because the thing that's bothering me is that the guy who overcleared 20 years ago is now getting paid Commonwealth taxpayers' money through NHT or Landcare or NAP or something to plant a couple of hundred trees on his farm, and meanwhile, the guy up there who's been retaining a million trees for the last 50 years - not only is he not getting anything, but he's actually having to pay in terms - he's even paying rates and feral weed control and fire protection on land that he can't productively use in many cases. So how do we get the most effective outcomes at the lowest cost globally and come up with a reasonable way of sharing that cost once we've minimised it further? That's all we're trying to do in this whole report, I think.

MR POUSTIE: I definitely agree that that should be the objective, and the way we're talking about it now sounds like there may not be a major difference between the two approaches, but the difference between our submission perhaps and yours is that, yes, let's get creative, let's spend some money and let landholders have the capacity to address those equity problems, because essentially I would just categorise that as an equity problem if you've got that scenario where surrounding landholders are benefiting from the native vegetation.

A couple of points to make, though: one thing this draft report doesn't, we say, do as well as it may do is emphasise the importance of that native vegetation, because in both the examples that we've been talking about thus far, all of the relevant landholders - and perhaps these are the people that aren't coming to these fora - all of the relevant landholders acknowledge the benefit of the vegetation. That's not questioned. So we would say in that scenario, tremendous. We need regulations to effectively lock that in, in the areas where landholders don't perhaps acknowledge the benefit of the vegetation.

Let's have some regulations that really provide the stick to go with the carrot, for example, and then once we've got that regulatory framework in place, then yes, we can be creative, and we need more carrots. We need to be much more creative and localised, regional, in actually addressing the equity issues. I'm not sure if I explained that particularly well, but the point is that the vegetation is now at such a level in the areas that we're focusing our attention on that there can't be any more clearing, and so regulations should illustrate that public priority and that regional priority that's not necessarily well handled by the relevant landholders - by some of them. So let's lock that in and have that regulatory base line, but then go in and introduce additional measure such as the sorts of things you're talking about, to try to address equity problems between landholders.

PROF MUSGRAVE: But a question that does arise in my mind when you talk about that is that there is always, it seems to me, the other side of the coin. You can regulate and the costs and benefits are distributed according to how things fall under the regulation, or you can pay someone to do it. I mean, there would be a price at which these laggards would do what you want. So it seems to me that there are always those options, and you in your statement of your position don't seem to acknowledge the payment option. I mean, you may think that there are difficulties with it, but you don't acknowledge it, and I wonder why.

MR TALLENTIRE: The idea of paying the levy to people to look after bushland? Does that not meet what you're thinking of?

PROF MUSGRAVE: No.

MR POUSTIE: I guess what - - -

PROF MUSGRAVE: You're saying that the big stick should be there to use, and I'm saying but there's a corollary. The big payment could be there.

MR POUSTIE: Yes. Who's paying who, though? That's what I need to clarify, because one of the key points we make in our submission is that if those surrounding landholders are benefiting from the native vegetation, strictly speaking they should be paying the landholder for those benefits. Then you've got the public policy question - do we require that payment to happen, or do we regulate for the greater good of that catchment or region, and ensure that that native vegetation is retained, and then perhaps address the equity issues with public money?

MR DUGGIE: If I could have a go at that and what I want to say harks back to your question of the equity issue with the neighbouring landholders. I guess part of our perspective, part of the base from which we should be discussing, is the question of what are the responsibilities of landholders to manage their land sustainably? Now, in Western Australia, there's legislation requiring landholders to not degrade their land, and the Soil Land Conservation Act provides the powers to regulate that when necessary. So the question of what are the responsibilities of landholders, before they get paid to do anything - - -

PROF MUSGRAVE: Don't we deal with this in our draft report? Duty of care? Regional benefits? Wider community benefits?

MR DUGGIE: I guess that's what I'm raising. What level of duty of care should there be before you start funding people to do stuff? In effect, what happens, where you've got the current situation, if you're saying in Western Australia, generally there's a good acceptance of the land-clearing regulations? There are a few people -

perhaps because of laggards, perhaps because they're really unlucky in their timing and their land-holdings and whatever - who are particularly aggrieved and are expressing that, but a lot of landholders have native vegetation, and as you identified some time ago, even since the mid-80s, they've decided to retain it.

Now, if you introduce a new system where, in effect, landholders who say they want to clear, if they don't clear, get compensation for not doing so, you introduce a perverse incentive. For all the landholders doing the right thing, to then say, "I've got this native vegetation here. I could say I want to clear it and then I'll get compensation as well" that becomes a huge sink for money. Yes, it might address the equity issue.

DR BYRON: That's why we haven't suggested that.

MR POUSTIE: But the emphasis - my understanding - I mean, I haven't read every word of the report but I think I've taken in most of it - the emphasis is in taking what we would say are fairly non-representative examples of the regulations not working, and attacking the regulatory approach in that way, and then saying, "Well, let's look toward paying for the ecological services that are provided by native vegetation." You could, of course, take that line across a whole suite of areas - you could require everyone in the city of Perth who benefits from lower pollution from our industrial areas to pay for air quality control.

PROF MUSGRAVE: Indeed you could.

MR POUSTIE: It's theoretically possible, and we would say - - -

PROF MUSGRAVE: It's a legitimate point of view.

MR POUSTIE: Well, we would say that when you start going across multiple people, multiple landholders in that sort of scenario, the greater the numbers, the more it becomes incredibly impractical, and that's really the role of government, to address what is a glaring market failure and introduce simple, effective, well-enforced rules, which we acknowledge in this context haven't always been the case.

PROF MUSGRAVE: Okay. Thank you.

MR POUSTIE: Just looking through some of the other points. on the bottom of page 4 – I accept that we haven't probably supplied a great deal of scientific reference on this matter - but essentially the point we're arguing there is that it's not simply a case of native vegetation that maintains the soil quality, maintains water quality in a particular catchment in the broad Australian landscape. Ultimately, the

long-term

viability of the Australian landscape will be ensured by adequate amounts of biodiversity generally. Is this not a point we have to - - -

DR BYRON: You don't need to labour that one.

MR POUSTIE: Fair enough. Perhaps just a question about - you used an example in the draft report of a situation where rules preventing paddock tree-clearing were impeding other strategies that were potentially environmentally beneficial. We wanted to pursue that. We haven't ever seen an example of that in Western Australia. We certainly don't have a paddock-tree ban here. It's specifically exempted under the new draft regulations.

DR BYRON: That's very interesting, because interestingly enough, in most of the other states, it tends to be threatened species legislation that deals with individual paddock trees, rather than the planning controls or the tree-clearing controls. But we can give you names, addresses and phone numbers for Queensland, New South Wales, Victoria, South Australia and in Tasmania, where I've been on the properties, I've looked at the trees that could not be cleared, the properties where they wanted to introduce things like - well, the laser-levelling and the machines that go on the constant track - - -

PROF MUSGRAVE: Pivot.

DR BYRON: No, as well as the centre-pivot irrigators, you want to use these big machines that use the same tramways all the time, and you've got scattered paddock trees that it's a bit hard to dodge around. The environmental and productivity gains of this constant tramway approach to cultivation have been very, very compelling, but you can't do it if you've got scattered paddock trees. In all those states, one or other of the different pieces of legislation that we've looked at has been used to say, "No, you can't clear eight trees in that paddock, " or four trees or whatever were necessary. The centre-pivot irrigators - by orders of magnitude - are more water-efficient in terms of irrigating than the irrigation system they've been using up till now. We've had landholders who offered to set aside in one case up to 40 per cent of the entire property as a perpetual nature conservation area under a covenant, if he could get permission to clear four red gums, when in fact there were thousands of other red gums within a few kilometres.

MR DUGGIE: That's certainly not - - -

DR BYRON: I know it sounds far-fetched, and it's interesting that that doesn't apply in WA, but it certainly applies with a vengeance in the eastern states.

MR POUSTIE: It's possible, if the paddock trees in question were actually

declared rare flora, that you could get yourself in trouble, but if they're just an ordinary tree that's isolated or a collection of trees that are isolated in a paddock, there's no way it's operated that way in WA that I'm aware of and certainly there's no way that the new clearing regime will operate that way.

DR BYRON: There could be a rare parrot that could want to nest in one of those trees one day.

MR POUSTIE: Sure, but even if you're operating under the EPBC framework, I'm not aware of a "No" to a development proposal being given on that basis, and it would be highly unusual for a particular set of paddock trees to be so critical to that particular rare fauna that it would be knocked on the head here.

DR BYRON: So that's yet another area in which we can say WA is quite different from the eastern states.

MR POUSTIE: Thanks for that. Just a brief one, I guess. There are a couple of comments at different stages about putting a brake on the community's demand for environmental services or similar sort of phraseology. We, as people that practise in trying to get the community more interested in environmental matters, find it quite amazing that it might be considered that the community has got an unreasonable expectation of environmental services or environmental benefits, so just a brief comment on that one.

DR BYRON: Sorry. What page of your submission is that?

MR DUGGIE: Page 6 of our submission, down the bottom.

MR POUSTIE: Page 40 of the draft report itself.

DR BYRON: I don't think we ever said anything about insatiable environmental demands.

MR POUSTIE: No. Those are probably my words, but you're talking about putting the community to task for having to pay - - -

DR BYRON: I think we used the phrase "exerting some discipline on" and I guess what I was thinking of there was, unlike the situation in Australia, in the UK if the National Trust wants to heritage-list an old mansion or whatever, the owner of that property, if he or she wants to, can come back to the National Trust and say, "Here's the valuation certificate before and after. The value of my property has dropped £250,000," and the National Trust is then required to compensate that owner for the difference in market value. Now, not surprisingly, that puts a certain discipline on

the National Trust when they're considering whether or not to declare a particular area. "How much is it likely to cost us? Do we really want it listed that much?"

Now, in some cases you might say, "Look, we don't care if we have to pay a million. We're going to list it." Bang. The reason I'm talking about this is that it makes it transparent to the public that these sorts of things are not costless, and you can then say, "Look, last year the state government set aside \$500 million for this. Was it great value for money? Yes. Well, let's double it next year." Or maybe you only want to increase it 20 per cent, or maybe you want to reduce it 20 per cent. But at the time when you don't know how much you're paying for this, you can't even have the public discussion about whether it's good value for money or not, or whether we should double it or halve it or whatever.

MR POUSTIE: Yes. I appreciate the argument.

DR BYRON: So the idea is not to restrict it, but the idea was to reveal.

MR POUSTIE: Yes. One point of distinction I would suggest is that here we're talking about biodiversity, native vegetation; we're saying the principal beneficiaries are the regional landholders, and they benefit in terms of productivity, the long-term viability of their holdings, whereas it is really quite a bit less quantifiable and less economic if you like when you're looking in the context of heritage. I accept the argument that in that situation perhaps the public body considering whether to lock things away, as it were, should be required to focus their attention through some sort of prioritisation system based on paying money like that, but we would say that the remaining biodiversity in agricultural areas is quite a bit different to your example.

DR BYRON: Yes. Okay. You're sure you're not falling into the problem of, if one aspirin is good for you, a thousand aspirins must be great, or because you enjoy having one icecream, you'd really enjoy having the one hundred and first one shoved down your throat? There is no doubt that having some native vegetation biodiversity on any one property is likely to be a plus from the landholder's own private commercial point of view. There's a lot of evidence that in all states landholders seem to be gravitating towards having somewhere between 15, 20, 25 per cent of their property under native vegetation, even without being forced, compelled or persuaded, simply because that actually makes sense. It's for all sorts of production and aesthetic and environmental habitat reasons. Now, because people will voluntarily set aside 15, 20 per cent of their property, because they can see the benefits themselves of doing so, doesn't necessarily mean that they would want to go from 90 per cent to 100 per cent native veg on their property. There's the difference between average values and incremental values.

MR POUSTIE: Sure.

DR BYRON: So I think we're in vigorous heated agreement that at least some minimal level of veg on a property is likely to be in the landowners' and the neighbouring landowners' own interest and we're arguing that they don't have to be compelled to do that because there's a very high probability that they will do it anyway, purely because it makes sense for their own private reasons, but that doesn't necessarily mean that they would appreciate being required to go to 50 or 80 or 90 per cent.

MR POUSTIE: Well, again the two points - we're below those ecological minima across the agricultural region already so we're not in the 90 per cent to 100 per cent sort of scenario. We're not in the multiple hundred ice-cream scenario. We're really down to a very low level at which the viability of the broader region will be compromised unless we protect what's remaining. In addition, we again made the point earlier that the evidence in the agricultural region was not those landholders, or at least enough of them were making long-term motivated decisions to retain that vegetation. They were either removing it because they thought it was the best thing for them, and they were wrong, or they were following government regulations, which they didn't oppose or actively promoted. So that's essentially - - -

DR BYRON: Okay.

MR DUGGIE: If I could comment further on that question of how much of native vegetation is required in any particular area, it's obviously an important one and I don't think we'd have any opposition to good scientific research into what are the requirements for agricultural productivity and for biodiversity conservation purposes and the other reasons that we might retain the bushland. Our position would be - well, first of all we would note that, when you clear native vegetation it's often a completely irreversible process in the sense that if you destroy enough of a particular ecosystem, certainly in Western Australia, we cannot replace it yet. It's not possible.

That's certainly understood and acknowledged in the scientific community here in WA, and Alcoa, who is a mining operator in the jarrah forest trying to meet completion criteria to do that, has had some very interesting debates about that issue, but it's not possible yet to recreate native vegetation in ecosystems once they clear it. To even attempt to do it and to do it very partially, not completely at all, is enormously expensive. So that whole thing about avoiding enormous cost to try and replace things if you need to should be avoided, especially when we've got such a big challenge to deal with the current situation. So I guess all what I was saying here is part of our reason for saying the precautionary approach to retention of bushland is absolutely essential and, if there can be strong scientific evidence about what should happen in the future, then we should look at that.

PROF MUSGRAVE: Yes, this is remnant bushland you're talking about, isn't it?

MR DUGGIE: Yes, I mean, if you're talking about clearing a small piece of, you know, a hectare within a 200-hectare remnant or national park and you leave it alone, then it will eventually grow back to what it was but, if you're talking - yes, certainly if you're talking about remnants in a matrix of agricultural land or if you're talking about a piece of bushland that's isolated from other pieces for other reasons, if you leave it it won't necessarily go back to what it was before and the species diversity and the speed at which the species diversity changes over the landscape within the wheat belt is quite remarkable.

One of the key problems we have in the wheat belt in terms of revegetation is having enough sources for locally indigenous and native species to be able to replant. That's managing the remnants that remain in terms of trying to take native seeds to do revegetation. That's a key issue because they can be under too much stress for people taking seeds to try and do their revegetation work because if you're wanting to revegetate a particular area with species that are native to that local area you have to get them from very close by. So whilst I acknowledge your point about, well, how much is too much, I think our approach would be, "Well, let's take a precautionary approach to that question."

DR BYRON: Just to elaborate on that, it seems to me that any one number, whether it's 30 per cent or 51 per cent, is likely to be imprecise or somewhat arbitrary on the questions that you raise because, you know, my experience is that it's not just whether it's X per cent of the landscape is under native vegetation, it's the spatial configuration and arrangement of that across the landscape. It's the age, the heterogeneity, the species composition or diversity, the structure of each of those fragments.

Whether you've got 30 per cent of it along the hills or 30 per cent along the river or 30 per cent scattered in the thousand small pockets across the landscape, it makes an enormous difference to its overall conservation, whether it's for habitat or salinity or whatever, probably not greenhouse, but for almost all the other environmental attributes we're interested in. Location matters. It's not just the quantity, the number of hectares, but it's how it's arranged and the diversity of that.

MR POUSTIE: That's absolutely true but my understanding of the work that's been done that's coming up with these sorts of 30 per cent targets factors those things in. It says that 30 per cent is the minimum. You can get situations where perhaps the arrangement of the vegetation is such that you would need higher percentages because their linkages aren't as strong. The characteristics inherent to that particular type of vegetation mean that you need higher percentages to remain viable in the longer term but 30 per cent is the minimum.

DR BYRON: Well, there will be many circumstances where 30 per cent is not enough.

MR DUGGIE: In terms of the hydrological research done for some of the wheat belt catchments there's findings that in some catchments up to 70, 75, 80 per cent of catchment needs to be under deep-rooted perennials for it to be stable in terms of salinity issue. That's quite a different situation from what we've got now with the average rate of clearing for the wheat belt shires of something like 93 per cent - yes, 92 per cent clearing.

MR POUSTIE: Are we supposed to finish I think at that stage?

DR BYRON: No, I'm really sorry but I seem to keep interrupting every time you get back into your train of thought there. I'm sure we haven't even begun to cover all the things that you wanted to say.

MR POUSTIE: Well, I feel like I've - you know, collectively we've addressed the major points.

MR DUGGIE: Yes, I guess if I could take you back to that point you're making about the UK example of the heritage process, one of the problems I see with that as applying to the native vegetation management is in effect if you're trying to do a transparent cost-benefit analysis of what's the appropriate thing to do, it's really quite complex. If we're trying to look at the biodiversity outcomes, the contribution to ecological services, you know, like flood mitigation or management and water quality control and nutrient filtering and management, it's a very complex question that raises, well, which ones can be quantified, which ones can't, what are the other values that aren't quantifiable that we should be taking into account, and all of those currently just aren't - they're not being assessed.

They're not being quantified and if you just start to put a figure on the change in market value of a property, what do you measure that against? It's a very potentially uneven kind of argument when you don't have any other quantifiable figures. There are all these important other contributions that they're making but we don't have them quantified and for some of them I personally would argue that we probably should never quantify some aspects, but it's a very difficult thing when you start saying, well, there's going to be this cost to doing this and we don't know what the benefits are but we do know that prevention of land degradation and salinity generally is an effective way to go in terms of cost effectiveness.

PROF MUSGRAVE: But transparency is not a bad principle, so perhaps it's a good idea to know what the cost is rather than not know it.

DR BYRON: We're not saying that we think for a second that the benefits of native vegetation retention are zero. What we are saying is that we don't know, I don't think anybody knows and I'm not even sure that it's very helpful to try and quantify that but governments and the public at large are telling us the benefits of retention are very high. We don't know how high but they're very high. Now, let's look at the cost side of it.

Irrespective of whether the benefits are high, very high or incredibly high, let's see what we can do about the cost to make sure that they're as low as reasonable and that they're reasonably equitably shared and I think we may have an explanation job of saying why we haven't spent half the report saying that the benefits of native vegetation biodiversity retention are very high or whether they're very high or extremely high or even higher than that. That I think is not really essential to resolving the question of what the most effective mix of policy instruments which of course includes regulation but what we're groping towards is ways of taking the pressure off the regulation as the main tool in the tool-box that's doing all the work and trying to find other tools to take up some of the load that might achieve results smarter than relying only on regulation as the main tool in the tool-box.

Now, I said to the WA government people when they were here this morning that there's a table in the submission that we got from them on Friday, listing all the incentive and assistance measures that are available in WA, and I was frankly amazed. It's an incredibly long list and very diverse. I honestly didn't know that there were so many different incentive or assistance packages already available. Obviously the WA government has been very busy in thinking up measures to complement the regulatory base of theirs.

Now, maybe we should be going on to say, "Well, which of the smorgasbord of measures seems to be the most useful, the most effective, the most readily adopted by landholders," and putting more resources into the ones that seem to really work and deliver goods. So, you know, the whole reason we have these sort of public hearings is that we learn a lot from the feedback that we get.

MR POUSTIE: Yes, I think it's absolutely right that - - -

DR BYRON: That's another area we're unchastened that - I admit that what was in the draft report was incomplete because we didn't know that.

MR POUSTIE: And we would certainly support - I would be very heartened to see a final report that perhaps spent less time attacking individual circumstances of regulatory failure and more in exploring ways to add tools to the tool-box. It feels to me in my detailed reading of the draft report it seems like the primary emphasis is to

attack the use of the one tool rather than add tools to the tool-box and we are essentially saying in our submission it's not a tool that you can always use. It's not a tool you should exclusively rely on, the tool of regulation, but don't take it out of the tool-box.

DR BYRON: I don't think we said that.

MR POUSTIE: And just add tools to it. As I say, that's the way primarily we have interpreted the draft report.

PROF MUSGRAVE: You had better read the last chapter.

MR POUSTIE: The very last chapter? I think I read all the chapters. I didn't read the bits that said New South Wales, Victoria and various other things. I read all the generic bits.

PROF MUSGRAVE: Our final strategic conclusion was that regulation could well be made better and then, while doing that, turn attention to other instruments and start thinking about implementing them and developing them and so on, like the MBIs. Okay?

MR POUSTIE: Sure.

PROF MUSGRAVE: There are sort of closing time sounds being made and before we close I'd like to just wonder if we could just have a minute or so on what I found the most appealing part of your submission and that's the discussion of regional involvement and hierarchical planning and what you call the binding of lower levels by the needs of the higher levels of government. This strikes a responsive cord from us, I assure you. I don't think we would like to use words like "binding". We would like to use words like "contracting", where lower levels contract to the higher level to deliver on certain targets and perhaps the higher level, as part of the bargain, pays for that; but then we are what we are and you are what you are, but we're very close in our thinking.

I must admit I haven't had the opportunity to read attachment 5 of your earlier submission. I'll certainly make sure I have a look at that. You may or may not have looked at the Australian Conservation Foundation submission, but they talk about a similar hierarchical arrangement between the feds and the states. They also suggest that this arrangement should be modelled on the precedent set by the National Competition Policy, so there are some very interesting thoughts there.

The disappointing thing in the ACF submission is that they don't go down that next step from the states to the regions, which we see as being the most difficult

thing to do. You seem to entertain that. I'm not sure to what degree you would entertain it because our line of thinking would be that there would be similar contracts between the states and the regions - that is, there's devolution of targets from the national level to state level down to the regional level, contractual basis throughout, payments made for the delivery, cuts transaction costs between the various levels of governments extensively, we hypothesise, and leaves it to those people who have the greatest knowledge of the regions - that is the local people - to use their ingenuity to develop ways in which they can deliver on the outcomes they've contracted to deliver on.

But what those regional bodies should be, how they're empowered, is not immediately clear, I suggest, to anyone. There's lots of scope for discussion. Should they be like the catchment management authorities being set up in New South Wales? Should it be local government? Should it be ad hoc? It's not immediately clear. So the remarks on this part of your submission - I wonder if you've got any response?

MR POUSTIE: I'm not sure whether we'd see the structure operating in quite the same way, but broadly speaking if we're talking about nationally important goals being translated, picking up extra detail and an extra meaning at a state level and then an analogous process happening down to the regions, that's the type of model that we advocate in a number of areas. We're more than comfortable with, if you like, devolution of responsibility downwards as long as all sectors, all levels, are working toward the same targets. Devolution where the region can ignore the biodiversity objectives of the state and the state can ignore the Commonwealth's is not the sort of thing that we're interested in.

PROF MUSGRAVE: That's axiomatic.

DR BYRON: They have to be nested within the framework.

MR POUSTIE: Yes, absolutely.. We're very supportive of the idea that targets are made more meaningful, then there's opportunity for creativity, for ingenuity at the lower levels, but effectively you're not having Canberra telling a local region how to do something, but you are having Canberra and perhaps Perth telling a region what it is that you want achieved. Our primary consideration in that respect is the biodiversity targets. Once those indications are given of where the region and the state can be headed, then the region can go crazy in how it best wants to achieve those targets and maximise social and economic outcomes at the same time.

PROF MUSGRAVE: An example I like to think of - one I'm of course familiar with - is New South Wales where we have the EPBC Act which states quite clearly what the Commonwealth's needs are in relation to biodiversity and the environment,

its constitutional responsibilities and how this translates into targets that need to be reached. These are visited on the states and there are arrangements for such visitation to be made, although perhaps not with the rigorous contractual basis that some might like to see. At the state level it can translate those EPBC targets down to the regional level in an appropriate way, but in addition the state has its particular requirements for, say, salinity levels in the Murray-Darling Basin and it translates those down to the relevant regions as well. That's an illustration of the way we're thinking about these things as we have chats over a beer and it would seem to me that we're not too far away in the models we have in mind.

MR POUSTIE: Yes, I think the model is similar. Perhaps the only reservation I would have there is that the EPBC is not a comprehensive list of everything, biodiversity-wise, that should be achieved.

PROF MUSGRAVE: No, but in terms of an expression of the Commonwealth government's perceived obligations under the constitution - - -

MR POUSTIE: Well, the various states and the Commonwealth have got together and produced National Objectives and Targets for Biodiversity Conservation, where you get targets such as the 30 per cent we've been referring to, that type of thing, where the agreement has already been made; then if we're talking about contractualising that and allowing regions to achieve those targets in the way that suits them the best, I think - - -

PROF MUSGRAVE: In detail I can't contemplate; I don't like detail. But I take your point, yes. That's an example. Perhaps if you read the ACF submission and have any thoughts, we'd be happy to receive them.

DR BYRON: One example we were told last week in Hobart where that breaks down is where Canberra and Hobart make an agreement and the funds are transferred from the Commonwealth to the state and then the state government just tells the local governments that they have to do all these things, but they don't get any of the money. Local government then gets fairly reluctant about having additional responsibilities but no resources and wherewithal to do it, so it's very important that not only the responsibilities are cascading down to the local level but the resources to do it have to cascade down too. I must confess I'm starting to get a bit "brain turned to blancmange" after a full day of this.

MR POUSTIE: We're definitely finished.

DR BYRON: But if there's anything else you want to say by way of closing or any follow-up points that you want to put in an email or something later, we would appreciate that.

MR POUSTIE: If we think of something, sure. Equally, if you have any further questions arising from our submission or areas where you think we should have been providing more evidence of the point we're making, then we'd appreciate your - - -

DR BYRON: I think this afternoon has been incredibly constructive and instructive for us. Thank you very much for your input.

MR POUSTIE: Thanks for your time.

MR DUGGIE: Thank you.

DR BYRON: I said this morning when we opened the hearing that when we got to the end of the advertised agenda if there was anybody else in the room who wanted to come forward and make a statement and put something on the public record, there would be an opportunity. That opportunity is now.

PROF MUSGRAVE: Do I hear a thunder of hooves?

DR BYRON: But if not, then I would like to thank everybody who participated today for the effort of coming and the effort of written submissions and declare the hearing closed. We'll reconvene tomorrow morning in Geraldton, I think, for a small meeting and then in Melbourne next week. Thank you very much.

AT 5.18 PM THE INQUIRY WAS ADJOURNED UNTIL
WEDNESDAY, 18 FEBRUARY 2004

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