



SUBMISSION

to the

Productivity Commission Inquiry

into

impacts of native vegetation and
biodiversity regulations

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**PRODUCTIVITY COMMISSION INQUIRY
INTO THE IMPACTS OF
NATIVE VEGETATION AND BIODIVERSITY REGULATIONS**

UNDERLYING PRINCIPLES

The PGA agrees with all of the “Key points” at page xxii, especially with the implied underlying principle (stated even more explicitly elsewhere) that a public benefit should be obtained at public cost and a private benefit at the cost of he or she who benefits. Our further comment should be read against that background.

The following quotation from the Draft Report on page xxiii seems to us to be an accurate summation of the all too common effect of current practice.

The commission has concluded that the current heavy reliance on regulating the clearance of native vegetation on private land, typically without compensating the landholders, has imposed substantial costs on many landholders who have retained native vegetation on their properties. Nor does regulation appear to have been particularly effective in achieving environmental goals—in some situations, it seems to have been counter productive.

We believe that those selectively imposed costs falling on only some unlucky individuals are damnably unfair and we prefer the Commission to say so with even greater emphasis.

THE DRAFT RECOMMENDATIONS

The PGA agrees with all of the draft recommendations, save that we think that recommendations 2 and 5 would benefit from some expansion.

Draft recommendation 2

However appropriate the performance criteria, monitoring and review are unlikely to be consistently effective unless undertaken by people at arm’s length from the regulating authorities and the people being regulated. Practice elsewhere probably offers a model that would demonstrate the practicality of arm’s length review and which might be followed.

The objectivity of all departmental officers cannot be relied upon. For instance, The Department of Environment, in a media statement on December 19, 2003 stated:

*We are mindful of the recently published Productivity report, which pointed to perverse outcomes of clearing laws in some other states, and ensuring that our regulations deliver improvements to environmental protection in Western Australia.
(Our italics)*

At p.5 The Commission states:

Where policies promote whole-of-community well-being (that is, increase the size of the 'pie'), there will be at least the potential to ensure that each member of the community is made better off or at least no worse off. The appropriate 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."

This is indeed the case but the Final Report will be interpreted by people unfamiliar with the theory that supports the contention, sceptical that order can be achieved by voluntary interaction, with various axes to grind and, in the cases of the bureaucrats, with an interest in the status quo and their own authority. We therefore request the Commission to spell out what is implied, namely, that the statutes that allow uncompensated takings open the way for injustice and environmental and economic inefficiency and are therefore not in the community interest. You might make the point that uncompensated takings from civil servants' savings (mostly their superannuation) would raise a scream that would be heard from Perth to Darwin and Sydney.

Draft Recommendation 5

While some across-the-board rules, particularly those currently applying to native vegetation regrowth, should indeed be relaxed, others applying to natural justice and the rule of law require greater emphasis and understanding, particularly by members of committees with little experience of the exercise of authority. We believe the two types of across-the-board rules should be clearly separated in your advice.

DRAFT FINDINGS

Again, in nearly all those cases where it feels that it is itself adequately informed, the PGA finds itself in more than broad agreement with the Commission. We comment only upon exceptions.

Draft finding 7.3

Although it is easy to imagine circumstances where a flexible definition of regrowth would minimise disruption, the PGA's experience of individuals in authority causes it to look upon 'flexibility' with at least caution. We believe the Commission should distinguish more clearly between local rules which we favour and rules that permit the discretion of one person with authority over another, which we do not favour.

Draft finding 7.15

A more useful finding would specify the means of monitoring that would ensure objectivity. We believe that the recommendation should, among other things, specify procedures that will result in the application of the best available scientific principles.

REQUESTS FOR INFORMATION

Short of an independent and expensive audit of the circumstances of people who have already submitted evidence it is difficult to see how evidence of higher quality might be provided. The PGA could however encourage members to provide further case studies. Some, however, find the proceedings daunting.

Your approach, data and assumptions are of a type with those normally adopted by the Commission. We feel that any departure from established practice would in fact be wrong.
