



Australian Property Institute

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Gail Sanders Executive Officer

21 March 2007

Sue Holmes
Assistant Commissioner
Productivity Commission
PO Box 80
Belconnen ACT 2616

Dear Ms Holmes,

Re: Review of Regulatory Burdens on Business - Primary Sector

Thank you for providing an opportunity for myself and David Hocking, the Chief Executive Officer of the Australian Spatial Information Business Association (ASIBA) to meet with you today to discuss the proposed joint submission by our two bodies after I return from overseas on 26 April.

I note that the Commission will be looking in its initial study at the primary sector for the Annual Review of burdens of Australian Government regulation on business. The Terms of Reference for the Review list in Attachment B the following ANZSIC codes for primary sector industries that the study will be addressing, namely:

- 01 Agriculture
- 02 Aquaculture
- 03 Forestry and Logging
- 04 Fishing, hunting and trapping
- 05 Agriculture, forestry and fishing support services
- 06 Coal mining
- 07 Oil and gas extraction
- 08 Metal ore mining
- 09 Non-metallic mineral mining and quarrying
- 10 Exploration and other mining support services

From our joint perspective, many of the primary sector businesses listed in the above ANZSIC codes such as rice growing, cotton growing, grape growing, and general horticulture are significant users of water resources, and hence the notion of a nationally consistent approach to water access for these businesses is one class of regulatory burden that could clearly be ameliorated. As you are aware, on 25 January the Prime Minister released The National Plan for Water Security, and whilst the regulatory burden upon water users in the States is currently the responsibility of the States, the prospect of ceding of such powers: of the Commonwealth will necessitate the conceiving of nationally consistent regulations for water access.

Except for Victoria, the other States have announced that they agree in principle to ceding the powers to the Commonwealth which are enunciated in s.100 Australian Constitution, namely:

The Commonwealth shall not, by any law or regulation of trade or commerce, abridge the right of a State or of the residents therein to the reasonable use of the waters of rivers for conservation or irrigation.

With this foreshadowed agreement by the States (except Victoria) to allow the Commonwealth to manage national water resources, the study by the Commission of the regulatory burden of Australian Government regulation provides an opportunity to firstly assess the stock of State Government regulations pertaining to the management of water, and secondly to provide guidance on the content and nature of the necessary Australian Government regulations for water access. The conceiving of these new Australian Government regulations ought to be undertaken in a manner such that the overall body of regulatory control over water usage is not unnecessarily burdensome, or particularly complex for resource users. The prospect of a nationally consistent basis for water regulation foreshadowed in the National Plan for Water Security strongly suggests that the Australian Government in seeking ceding of the powers under s.100 already recognises that the fragmented six State Jurisdictions for water management are burdensome, jurisdictionally complex, and resulting in compliance costs for water access which are unnecessarily burdensome and costly.

It is our strong joint view that the Commission in undertaking the study of primary sector businesses is uniquely positioned at this juncture to provide unprecedented guidance to the Australian Government as the regulatory framework for national water management is developed. Our two organisations previously placed before the Commission on 17 July 2006 a joint submission in response to the Discussion Draft Rural Water Use and the Environment: The Role of market Mechanisms, a copy of which is attached. Importantly, we note that our submission was extensively quoted from in the subsequent Commission Research Report of 11 August 2006 entitled Rural Water Use and the Environment: The Role of Market Mechanisms.

In the 2006 submission by our two organisations, we observed that inefficiency to business continues to exist in the current fractious regulatory State-based framework for the management of water, a natural resource which does not recognise historic State boundaries. Such issues were comprehensively examined earlier in a research report conducted by Land and Water Australia and the Department of Agriculture Fisheries and Forestry entitled An Effective System of Defining Water Property Titles. which was prepared by consultants ACIL Tasman in association with Freehills, and published in March 2004. The Steering Committee for the research project was chaired by the writer as the (then) President of the NSW Division of the Institute, and in the "Foreword" to the research report, the writer stated:

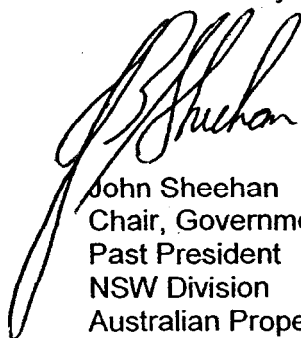
The need to establish appropriate water-titling regimes promises to underpin the long-term productivity of irrigated agriculture and sustainable management of Australia's water resources. The nature of how those water entitlements are registered, their security, ease of transfer, cost of administration, and public accessibility of information on trades and pricing, will be fundamental to establishing public confidence in the operation of the entire water industry.

The necessary disciplinary collaboration between property valuation and spatial information reveals that the business activities of the members of our two organisations, fits well within the definition of "agriculture, forestry and fishing support services", and also within the mining categories as "support services" (vis ANZSIC codes 05 and 10). Spatial information, for example is critical to mineral exploration, and it is our view that Australian Government regulations which may frustrate attempts to provide better industry access to spatial data need to be seriously questioned. Similarly, measurement of water and measurement of ore bodies is a task for which property valuers must rely wholly on spatial information professionals, and the measurement of such resources is critical to permitting the ascribing of worth to water and minerals by members of this Institute. I have attached for your information a copy of an article entitled "The Valuation of Water Property Rights"

which is to be published shortly in the forthcoming volume of the Institute's national publication Australian Property Journal, which describes in detail issues which have arisen in the area of defining and valuing water.

Understandably, property valuation has led the valuer members of the Australian Property Institute to be described as the "gate keepers" for the provision of debt or equity funding by banks and other financial institutions when development of natural resources SUCH as water and minerals is proposed. I trust that the above information will provide a brief overview of the content of the foreshadowed submission by our two organisations in May, and a useful aide memoire for our meeting today.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J Sheehan', with a long, sweeping underline that extends down and to the left.

John Sheehan
Chair, Government Liaison
Past President
NSW Division
Australian Property Institute