SENATE ENQUIRY INTO NATIVE VEGETATION LAWS, GREENHOUSE GAS ABATEMENT AND CLIMATE CHANGE MEASURES.

The Pastoralists and Graziers Association (PGA) represents a broad spectrum of landholders ranging from pastoral lease holders, broadacre grain farmers, to major irrigators in the high rainfall regions of Western Australia.

The PGA has been integrally involved in Private Property Rights at both State and Federal levels since the early 1990's and argues that failure to recognise rights of ownership is the cause of both unnecessary financial stress and injustice.

We believe that the vegetation management regimes adopted by State and Federal Governments has been collaborative and has changed the definition, equity and security of all rural land ownership in Australia.

The removal of key land ownership rights from the bundle of traditional rights to manage the land and make it productive has seriously undermined the legal rights and equity of land ownership.

The PGA strongly supports the view that rural landowners have been forced by successive Australian Governments to bear the brunt of the cost incurred in the compliance of the Kyoto and other climate change-related protocols.

The imposts by the States on private landowners - without State or Federal compensation in most cases – by way of vegetation clearing impediments have been estimated to be worth in excess of $80 billion in 'global credits.

The property rights focus of the PGA in Western Australia over a number of years has been on the "blighting" or downgrading of private land and the loss of rights through constraint by changes in regulations.

Legislation claimed to be in 'the community interest' empowers State Government agencies to take private land or exert substantial new powers over it without compensation. This now forms the basis of most acts relating to land, water and environmental management in the State, with massive penalties now in place to deal with transgressions of land clearing regulations.

A perverse flow-on from these regulations has been that State utilities now often prefer to resume private land for power, water and other utilities rather than to traverse public vegetation. This practice avoids public conflict, leaving the landowner to fight for compensation.

Numerous State and Federal inquiries and reports, including one by the Productivity Commission in 2004 clearly document this 'official theft' of private rural land by Government.

There are also many individual accounts of PGA members with adverse experiences and situations caused by bans and defacto bans on land clearing. These are environmental constraints that restrict farming activity.

The impact of such over regulation on the discretionary use of that land as an asset is considerable, and many of the consequences of these regulations were surely neither intended nor foreseen. In our opinion these unintended, unforeseen consequences arise from:

1. The diversity and complexity of the activities that the Government sought to regulate within tight financial and political parameters, prevented those who designed the regulations from considering the circumstances of the people whose property they sought to regulate.

2. Many of the new laws are open to wide interpretation and are of an unsatisfactory standard.

3. Those who make and administer the regulations are widely perceived to have little or no respect for private land ownership and scant regard to due process.

4. The tendency is for individual land owners to bear the cost for the testing and bedding down of new regulations and this cost seems to increase at an exponential rate.

5. The perception is that regulators show contempt for court judgements against their claims and processes are drawn out to incredible and unreasonable lengths.

6. The extreme impacts on landowners of their diminished equity and sustainability have left a largely untold and unseen trail of destruction throughout rural society.

7. The excessive licence allowed bureaucrats to make decisions without due process or a proper impartial appeal process.

8. The Government agencies tend to regulate with the view that they know what is best, when in many cases it can be shown that the owner's position is at least equally valid. It is difficult to have that view considered particularly for smaller, non corporate owners because the process is convoluted and expensive.

9. The zealous and dogmatic lobbying by publicly funded NGO's over generations has swung the "conservation" political pendulum to a point where the impact of some of the new regulations serves no positive purpose to conserve the environment. Much of the regulations offer "feel good" benefits in areas away from the bush but are in fact detrimental to those directly involved. Much of it is unsupported by science. In some cases where the science is lacking the precautionary principle is invoked as the science.

Despite claims by State administrators to the contrary, agreements to preserve native vegetation have been translated to bans on all new land clearing for farming purposes. This is so even where in our view there is very strong justification in most cases for further development to proceed – that is, there is little potential risk to the environment for higher value land use.

It is hardly surprising that Government denies itself the co-operation of an increasing number of farmers as they see their cohorts decimated in economic terms by the worth of environmental bureaucracy.

It is a sad irony that changes in land clearing regulations mostly affect those who have in the past preserved much of the native vegetation on private land, and who in many cases have also planted tens of thousands of trees. As such, many of the most environmentally friendly farmers have been left to bear the heaviest financial implications of the new regulations.
Breaches of laws relating to "Environmental Harm" are now interpreted by environmental officers on wide criteria and landholders are liable for large fines, even for a trivial offence representing little more that "twig-snapping."

In WA, regulations on regrowth are already throwing up new interpretations, leading to litigation and unnecessary cost and hardship to land owners.

There is also a highly negative impact where in the past progressive farmers may have been tempted to lock up their less productive land, allowing it to regenerate, while focussing on their more productive areas; now they will not choose this option because they know that it will cost them ownership of the land and the right to any appropriate development.

In many instances landholders have decided against seeking permission to develop land, realising that there would be lengthy processes leading to little or no chance of approval and that the formal application process could invoke a Vegetation Conservation Notice on their entire property, adversely impacting on their equity

Generally, landowners with native vegetation on significant portions of their property would prefer to develop these areas to make them productive, rather than to seek compensation - even if it was readily available. This applies especially to family farmland where pre-clearing ban sub divisions left some family members with undeveloped land as their share, with the expectation that development to cleared land was a right upheld by the law, only to find that right extinguished with the proclamation of the new amendments to the EP Act in 2004 without any compensation.

PROPERTY VALUES AND RETURNS

Bans and over regulation reduce overall enterprise returns- sometimes to zero on land directly affected. Property values are therefore also reduced.

Economies of scale are important to any enterprise and certainly to agriculture. When production is prevented on part of a property it often affects the type of enterprise, the equipment and the services that may be justified for the whole enterprise.

This has an effect on entire rural communities. Regulations that restrict production flow through to the social structure and fabric of whole communities.

FUTURE DIRECTION

Native vegetation control regulations along with water reform and other processes in Australia have moved rapidly 'out of sync', but all of these processes now combine to deliberately obstruct private landowners in their pursuit of sustainable production and economic self determination.

The misuse of power by Government agencies as authorities by way of undue delays, the lack of impartial avenues for appeal, recourse or compensation lack of due process generally and over-regulation against land development will continue as a serious and increasing disincentive to private ownership of rural land.

Few landowners would argue against the need for measured policies in respect of native vegetation and land management. Many have contributed substantially to conservation via tree planting and better farming techniques.

Instead of being recognised for innovation and climate change credits which they have generated for the nation, rural landowners are being increasingly penalised in the name of 'community interest,' through damaging State actions in collaboration with the Federal Government via COAG and other avenues.

Careful future consideration will need to be given to the ongoing impact of these controls on private farm ownership and production as the 'murky outlook' for Australia's climate change direction, becomes clearer.

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