

SUMMARY

- The existing State native vegetation laws are unjust, are in effect theft of property and are inefficient in terms of meeting their stated objectives. They should be thrown out. If the community wants to achieve objectives of this type – new laws need to be developed transparently based on a cooperative and incentive based approach so that landowners will be creatively engaged in the process.
- The Commonwealth Government must pay the affected farmer landowners for what has been stolen before it enters into any future trading arrangements for carbon reduction.
- Any new laws made by the Commonwealth in the area carbon pollution reduction MUST be transparent and equitable.

1) The impact of native vegetation laws and legislated greenhouse gas abatement measures on landowners
a) Diminution of land asset value and productivity as a result of such laws

Anecdotal evidence from discussions with affected farmers and from web discussion forums (e.g. Agmates) are that diminution of land asset value in terms of future sale and bank lending is in terms of the loss of productivity. Loss of productivity is typically severe “productivity growth and annual clearing rates, estimates suggest that prohibitions on broad scale clearing could reduce the present value of expected net returns (2003 dollars) to land, capital and management (over a 40-year period) in Moree Plains Shire (NSW) by \$27-\$84 million, depending on the productivity of newly-cleared land, and by \$42-\$124 million in Murweh Shire (Queensland)” [Productivity commission 2004 findings, Attachment 1 http://www.pc.gov.au/__data/assets/pdf_file/0004/77863/overview.pdf]

The losses to individuals is often severe and devastating, for example in his conclusion in the Supreme Court of NSW in October 2008, Judge Rothman said “it is a most unfortunate aspect of the operation of the scheme (agreement between the Commonwealth and New South Wales) that a person in Mr Spencer’s position is effectively denied proper compensation for the restrictions imposed upon him by a scheme implemented for the public good. As earlier stated, **ultimately that is a matter for government.**”

b) Compensation arrangements to landowners resulting from the imposition of such laws

Anecdotal evidence is that there is typically no compensation made – in fact the States are not required to make compensation. Compensation is sometimes offered as a result of the landowner taking the State to court. For example it is reported that Peter Spencer was offered \$3.1 million for the purchase of property (Cooma Monaro express, February 23, 2010 Steve Whan – letter to the editor). It is my understanding that this offer was made during one of his court hearings by a solicitor representing the State of NSW.

c) The appropriateness of the method of calculation of asset value in the determination of compensation arrangements

Not appropriate based on the above example – assuming that \$3.1 million was offered this was a gross undervaluation of Spencer’s property – reflecting its value after imposition of the NSW Native Vegetation laws. Spencer’s property is approximately 6,400 ha (16, 000 acres) – Spencer had the property independently valued at approximately \$8 million; the 100 square house on the property is insured for \$2.5 million.

d) Other related matters

2004 PRODUCTIVITY COMMISSION FINDINGS CONCLUSION

“Over the past twenty years or so legislation to prevent clearing of native vegetation on private land has been relied upon heavily to achieve biodiversity and other environmental objectives. The current evaluation

suggests that this approach has serious design and implementation deficiencies, in many cases leading to inefficient, ineffective and inequitable outcomes.

The Commission considers that progressive implementation of the reforms outlined, by building on private effort and landholder knowledge and goodwill, could reduce the need for government intervention over time, would better clarify landholder and community responsibilities, provide better incentives for landholders to retain and manage native vegetation, and introduce greater policy variety, flexibility, accountability and transparency.

A crucial thrust of the Commission's recommendations is that policies that fail to engage the cooperation of landholders will themselves ultimately fail. In addition, greater transparency about the cost-benefit trade-offs involved in providing desired environmental services would facilitate better policy choices."

ENACTMENT OF STATE NATIVE VEGETATION LAWS WAS DRIVEN BY HOWARD FEDERAL GOVERNMENT – CONTINUES TO ENABLE AUSTRALIA TO MEET ITS KYOTO GREENHOUSE GAS TARGET COMMITMENT – IS IN EFFECT THEFT OF STORED CARBON FROM THE AFFECTED LANDOWNER FARMERS

The attached document (Attachment 2) shows:

- Enactment and application of the "Native Vegetation" laws after 1997 was driven by the Howard Federal Government.
- This enabled the Howard Government previously and now the Rudd Government to claim Australia is meeting its Kyoto greenhouse gas target commitment.
- The stored carbon has been and continues to be worth \$billions to the Australian Government but not one cent of payment or compensation has been paid to the farmer landowners who are providing the stored carbon.
- This is equivalent to ongoing THEFT and is against the stipulation of the Australian Constitution Clause 51 (xxxi).

2) The committee must also examine the impact of the Government's proposed Carbon Pollution Reduction Scheme and the range of measures related to climate change announced by the Leader of the Opposition (Mr Abbott) on 2 February 2010

COMMENTS

- The Commonwealth Government needs to first pay the affected farmer landowners for what has been stolen before it enters into trading arrangements for future carbon reduction.
- The current situation – imposition of State Native Vegetation Laws – "meeting " Kyoto greenhouse gas commitment shows a clear injustice being inflicted on the affected farmers. Any new laws made in the area MUST be transparent and equitable.