

**AUSTRALIAN PROPERTY INSTITUTE INC.**

**NATIONAL SECRETARIAT**

**INQUIRY INTO PUBLIC GOOD CONSERVATION –  
IMPACT OF ENVIRONMENTAL MEASURES IMPOSED ON  
LANDHOLDERS**

**SUBMISSION TO THE HOUSE OF REPRESENTATIVES STANDING  
COMMITTEE ON ENVIRONMENT AND HERITAGE**

**MAY 2000**

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## **ABBREVIATIONS**

API	Australian Property Institute
NSW	New South Wales
NGOs	Non Government Organisations

## **TABLE OF STATUTES**

*Valuation of Land Act 1916 (NSW)*  
*Land Tax Management Act 1956 (NSW)*  
*Hedgerow Regulations 1997 (UK)*

## INTRODUCTION

This submission responds to two documents released by the Standing Committee in respect of the *Inquiry into public good conservation – impact of environmental measures imposed on landholders*, namely:

- 1) *Terms of Reference* as detailed at [www.aph.gov.au/house/committee/environ](http://www.aph.gov.au/house/committee/environ)
- 2) *Issues for the Inquiry into public good conservation* as detailed at [www.aph.gov.au/house/committee/environ](http://www.aph.gov.au/house/committee/environ)

The Submission by the Australian Property Institute (API) is in response to an invitation contained within advertisements published in the Sydney Morning Herald for interested parties to make comments and submissions in response to the inquiry by the Standing Committee.

The Institute fully supports the inquiry by the Committee into the impact of conservation controls upon land holders, and notes with approval the intention of the Standing Committee to address the many and varied issues referred to in the document entitled *Issues for the Inquiry into public good conservation*, under the headings:

- *What is meant by public good conservation?*
- *Impacts of conservation measures and their costs*
- *Financial assistance for conservation by land holders*
- *Sharing costs*

It is also noted with approval that the Standing Committee:

*... will make recommendations to the Commonwealth government*

The API does not present this submission on the basis that the recommendations of the Standing Committee will be that the impact of conservation controls imposed on land owner. The API submission is merely that, should this view prevail, the Institute is supportive of those changes either constitutional or legislative that may be recommended to ameliorate any impact.

The Institute is happy to discuss any of the matters raised in its submission or to provide any additional information required. Arrangements can be made by contacting Ms Gail Sanders, API NSW Executive Officer on telephone no. 02 9299 1811.

This submission follows the order of topics in the two documents released by the Standing Committee referred to above.

## COMMENTS AND RECOMMENDATIONS

The following comments and recommendations have been framed to respond to the headings of the Standing Committee's document entitled *Terms of Reference*.

### 1. *The impact on landholders and farmers in Australia of public-good conservation measures imposed by either State or Commonwealth Governments (Extract from Terms of Reference)*

#### 1.1

The Institute notes that the notion of "impact" referred to in this part of the *Terms of Reference* is amplified in the ancillary document *Issues for the Inquiry into public good conservation*. In this latter document it is noted that mandatory or voluntary conservation measures are described in terms of either a cost or a benefit, so accordingly it is assumed that any "impacts" could be either beneficial or detrimental to the landholder.

In addition, the API notes that the Standing Committee in the ancillary document acknowledges that some impacts are such that they:

*...are not amenable to quantification, such as loss of certainty, a more pleasing landscape or a less polluted river that is good for swimming and weekend fishing. It also recognises that the benefits of conservation activities may be felt far from the communities in which they are carried out, for example, further down the catchment and even beyond that in coastal waters.*

(Extract from *Issues for the Inquiry into public good conservation* p.1)

The API is aware that some costs and benefits of conservation activities are difficult to quantify however, they however nevertheless are reflected in the overall market for land in a particular area. The Institute is also aware that some conservation activities may also be difficult to quantify, merely because their impact is neutral. Further, a specific property which demonstrates an appreciation of good conservation practice (i.e. soil conservation; Landcare participation) will evidence a market price greater than a property which shows little regard in its management regimes to sustainable land utilisation. It must be noted that costs do not necessarily equate an equal increase in market value. This situation is relevant to many conservation undertakings on land, indeed the more philanthropic the action the smaller the market response

### 2. *Policy measures adopted internationally to ensure the cost of public good conservation measures are ameliorated for private landholders (Extract from Terms of Reference)*

## 2.1

The API notes that policy measures in other common law countries in particular have been framed to assist private landholders in undertaking good conservation, which has a broader public benefit together with an obvious private benefit to the landholder.

## 2.2

The Institute notes that in the United Kingdom there has been for many years concern by NGOs such as the “Council for the Protection of Rural England” that the nature of rural land utilisation is viewed as a visual and environmental resource for the residents of large urban areas. The urban perception of rural land utilisation is not one shared by rural landholders, rural investors and rural workers.

The issue here appears to be one of efficient and modern rural land utilisation rather than the preservation of historic landscapes.

## 2.3

The character of contemporary land utilisation in England is however is constrained by the presence of hedgerows. The *Hedgerow Regulations 1997* are intended to protect the value of surviving hedges, from both an historical and wildlife standpoint however hedges are only protected if they are “important”. The criteria is that the hedge must be thirty years or more in age and mark an historic parish or town boundary, or incorporate an archaeological feature, or contain threatened flora or fauna species.

## 2.4

The API notes however that the protection of the visual character of rural England is to be addressed by the recently created Countryside Agency. The Agency is now addressing a number of questions, which are of relevance to the Standing Committee’s Inquiry. Notably the Agency is attempting to answer the question:

*Are there to be prescribed characteristics of rural settlements that distinguish them from urban places?*

*(Planning for the Natural and Built Environment (The Journal of the Royal Town Planning Institute) (2000) “Defining the character of the rural dimension.” 5 May, p.9)*

## 2.5

Importantly, there appears to be concern that the Countryside Agency ought not to be in a role of enforcing the preservation of the historic rural landscapes or “countryside character”.

The API believes that public good conservation measures such as the preservation of established rural landscapes in Australia ought not to occur without regard to the private costs that may have to be borne by a landholder if modern rural land utilisation practices have to be foregone.

## 2.6

The API is aware that in various common law countries the cost of good conservation measures incurred by landholders are recognised by way of rating and taxing offsets as a relief to landholders. Generally the Institute notes that it has been accepted in major Australian valuation texts for many years that the giving of such rating and taxing relief is confounded by the issue that:

*[t]he problem for the valuer arises through the allowances being based upon theoretical value, which is often hard to establish.*

(Hornby, D. (1976) *Appraisal One – Purposes and Concepts of the Valuation of Real Estate*, p.2.24)

However the problem essentially, is one of difficulty in obtaining market evidence for such allowances. There is a long history in Australian statutory valuation legislation of dealing with this problem by way of formulaic adjustments to market evidence in an attempt to provide an equitable means to assess offsets and allowances.

## 2.7

The Institute however remains of the view that such relief is an established feature of statutory valuation legislation in Australia, and this fact ought to be recognised by the Committee when considering any economic disbenefits incurred by a landholder arising from public good conservation practice.

### **3. *Appropriate mechanisms to establish private and public-good components of Government environment conservation measures*** (Extract from *Terms of Reference*)

#### 3.1

The API is of the view that activities such as soil conservation, shade tree retention and watercourse vegetation retention are a normal feature of good farm management practice. The difficulty however is in establishing at which point prudent management practices are overtaken by issues of public good conservation.

### 3.2

There is a difficulty firstly in seeking to identify this threshold, and secondly in devising a formulaic methodology, which seeks to compensate the landholder once, the threshold is passed. The critical question is at what point the economic return is being reduced for the sake of the public good, rather than for the short/long term land owners benefit. The API believes that this question is pivotal to the success of the current Inquiry by the Standing Committee, and believes that a market response can be identified for this threshold.

Some guidance is however provided by *s.58 Valuation of Land Act 1916* (NSW) and *s. 62(b) Land Tax Management Act 1956* (NSW), through the definitions of “profitable expenditure” and “added value” in respect of certain types of works carried out on land.

### 3.3

Given the above, the Institute is of the view that a national working group should be established to report back to the Minister for Environment on the issue identified in 3.2 above. The API as the peak national professional property body in Australia advises that it seeks membership of such a working group should it become established.

## **4. *Recommendations, including potential legislative and constitutional means to ensure that costs associated with public-good conservation measures are shared equitably by all members of the community*** (Extract from *Terms of Reference*)

### 4.1

The API believes that the Commonwealth government through the corporate and private income taxation regime is well placed to assist landholders in defraying some of the costs involved in good conservation measures, notably those which pass the threshold referred to in 3.2 above.

### 4.2

The Institute also considers that State/Territory and local governments should be encouraged to incorporate suitable rating and taxing offsets which recognise the cost incurred by a landholder over and above those normal prudent farm management practices. There is a need for the costs incurred to be part of recognised public good conservation practice, (i.e. Landcare) in order that ill conceived or inappropriate costs are not recompensed.

The Institute is aware of the recently completed Natural Heritage Trust Project No. 972719 which is entitled “Encouraging Conservation through Valuation”. Institute members provided substantial input into this project, and it is considered that this work provides an important benchmark for the Standing Committee.



#### 4.3

The API is of the view that an appropriate manner for this rating and taxing relief to be achieved is by a differential valuation conducted by a Certified Practising Valuer of the API, setting out the normative expenditure on conservation measures for a specific property, in contrast to the measures actually undertaken.

The difference between the two figures may be the value of the public good conservation measures expended by the landholder. This sum could then be used as the basis of income tax or rating and taxing relief, or as a basis accelerated depreciation for monies expended.

#### 4.4

It is noted however that further research needs to be undertaken to identify the threshold at which a Certified Practising Valuer can determine public good conservation becomes evident. The Committee is referred to the comments of the Institute at 3.2.

### **APPENDIX 1 AUSTRALIAN PROPERTY INSTITUTE INC.**

The Australian Property Institute, (formerly known as the Australian Institute of Valuers and Land Economists), has enjoyed a proud and long history.

Originally formed over seventy years ago in 1926, the Institute today represents the interests of more than 7000 property experts throughout Australia. As the peak professional property organisation the API has been pivotal in providing factual and dispassionate advice on a broad range of property issues addressed by the Commonwealth and State/Territory governments since the Institute was formed.

In addition the Institute's advice has increasingly been sought by overseas bodies such as the United Nations and the World Bank, evidencing a level of expertise within the API and its membership which is recognised globally.

However, as a professional organisation the primary role of the Australian Property Institute is to set and maintain the highest standards of professional practice, education, ethics and discipline for its members.

Institute members are engaged in all facets of the property industry including valuation, property development and management, property financing and trusts, professional property consultancy, plant and machinery valuation, town planning consultancy, property law, and architecture. Membership of the Australian Property Institute has become synonymous with traits and qualities such as professional integrity and client service, industry experience, specialist expertise, together with tertiary level education and life long continuing professional development.

Members are the Institute's greatest asset, and the Australian Property Institute is committed to maintaining a strong base for the future of the property profession through the broadening of the expertise, and knowledge of the membership.

### **Integrity**

The Membership of the Australian Property Institute is bound by:

- A Code of Ethics and
- A Code of Conduct

## **APPENDIX 2 SUBMISSION COMMITTEE**

Mr Michael Collins, FAPI  
NSW President, and NSW National Councilor  
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Mr Bill Hall AAPI  
Operations Manager, Land Services,  
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Mr Phillip Harris, FAPI  
Property Investments Manager,  
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NSW Department Public Works and Services, Sydney

Mr Grant Kennett, AAPI  
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State Valuation Office, Griffith

Mr Stuart Prowse, AAPI  
NSW Divisional Councilor  
Tremain Prowse Pty Ltd, Tamworth

Ms Gail Sanders (Committee Secretary)  
Executive Officer  
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Mr John Sheehan , FAPI (Chair of Submission Committee)  
NSW Vice President, and API national Native Title Spokesman  
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