

# ACT SUSTAINABLE RURAL LANDS GROUP INC

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The Committee Secretary  
House of Representatives  
Standing Committee on Environment and Heritage  
Parliament House  
CANBERRA ACT 2600  
Via Facsimile 6277 4424

## **Inquiry into public good conservation - Impact of environmental measures imposed on landholders**

Dear Standing Committee Members,

Thank you for the opportunity to provide comments to this inquiry. This inquiry must achieve an outcome that provides for Australia's future well being. In our view, it is important to achieve appropriate 'public good' conservation on land held by private individuals and companies in a way which ensures that these stewards of the land remain viable and sustainable.

The ACT Sustainable Rural Lands Group Inc is a group of long term ACT rural lessee's who can demonstrate above average environmental care. We want to ensure that our rural businesses can be viable in a sustainable rural environment, and we acknowledge that this may include public good conservation activities on our leases. However, the basis of this must be equitable in line with the values enshrined in Australia's Constitution.

In late 1999, by legislative fiat, the ACT Government acted to unreasonably impose conditions, primarily driven by environmental desires, on our leases which will reduce their future viability and sustainability. The outcome will be worse in respect to environment and much more costly to the community and will antagonise all stakeholders. The misguided actions of the ACT government are offensive to the principles of equity. As the majority of rural land in Australia is held under leasehold and our lands are owned by the Commonwealth our situation makes a perfect case study for your inquiry. We have spent much time and resources in fully understanding our rights as leaseholders and how they relate to the Constitution. This submission cannot embrace all aspects of our concerns and we hope that you will accept our willingness and ability to assist the Committee in its deliberations.

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ACT Sustainable Rural Lands Group Inc

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All comments are made without prejudice

Our Group supports your 'Terms of Reference'. It raises some very important principles of responsible Government - just and fair treatment of individuals as part of achieving the community good.

We note the Terms of Reference reminded readers that the Commonwealth Parliament has limited power over state and territory conservation programs. However, the Commonwealth Parliament does have a significant contribution to make in providing funding grants to the states and territories. Further, in the case of the ACT, the Constitution ensures that the Commonwealth retains crown title to the land and it binds the ACT and Commonwealth Government's in many aspects including the just compensation for the acquisition of property. 'Property' has a very broad definition and encompasses reductions in allowable land use such as may occur when some environmental measures are applied.

We are most disappointed that the ACT Government has departed from equity principles when forming its rural policies for the new 99-year rural leases. The final product from the ACT Government for the ACT rural community and broader community is not only a disappointment but unable to foster the outcomes necessary to provide a sustainable future for many lessees. Indeed our adviser's advise that the ACT legislation offends the ACT Self-Government Act (and Constitution) and is therefore invalid. The community will ultimately suffer because the ACT Government has not adopted best practice in natural resource management.

We have provided more comments in relation to the terms of reference of the inquiry for your consideration in the attached submission.

In closing we wish bring your attention to points made on page 63 and 64 of the 'Managing Natural Resources in Rural Australia for a Sustainable Future' (a discussion paper by National Natural Resource Management Task Force). "As it is structured at present, agriculture in many parts of Australia is incapable of supporting the necessary level of investment in, for example, salinity prevention, and it cannot be assumed that voluntary responses under the current structure will make an appreciable difference." What is needed is positive incentives, as noted on page 64 "fundamental land-use change will need the support and assistance of Governments".

We would be happy to provide the Standing Committee with any further assistance that our Group can provide.

Yours Sincerely

John Lowe President

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## Submission - ACT Sustainable Rural lands Group Inc

This submission should be read in conjunction with the covering letter and attachments A, B and C.

We agree, with the definition of public good conservation adopted by the Standing Committee. Similarly we agree that the examples of imposed public good conservation are all valid.

One other policy tool we would raise as a concerns would be the adoption of 'Conservation Action Plans' used by the ACT Government to identify and set down conservation actions for a range of 'high-risk' environmental communities. So far, the ACT Government has adopted some 24 'Conservation Action Plans'. (A list of the current ACT Action Plans is attached at Attachment A.) Most of these impact or may impact in some adverse way on rural leaseholders, at no point has the economic impact on the lessee been adequately addressed.

We know from experience that when the economic aspects were raised they were ignored. Also when historical facts about the nature and extent of previous native vegetation was shown to be inconsistent with Government's claim of 'remnant' status for the woodland, no adequate response was provided.

Further, and perhaps more importantly when one of our members (Mr Lowe) asked about the changes imposed upon the lessee and how that contributed to the 'woodland' on his lease, three different and contradictory views were provided from within the same Agency. It should be noted that the woodland in question exists because the lessee chose to allow it to develop and took action to enhance it – it is not representative of the original condition of the land. Its prime purpose was to provide a shelter area for breeding livestock.

Now the ACT Government has served notice that it will be treated differently under any future lease and it cannot be grazed as the lessee intended. The economic cost to the lessee of this reduction in use is some \$87,000 per year. In our view this is not fair or reasonable treatment of the lessee.

Another of our members, Mr Tanner, has regenerated a stand of native pines on his lease in order to provide shelter and stabilise an area above a river gorge. This area of native pine was milled many years earlier and the new stand contains trees that could be milled. The ACT Government has attempted to change the Territory plan to disenfranchise the lessee without any compensation for either the lost grazing or the trees. This is despite contractual obligations to pay compensation for any improvements resumed by the Government (and that the ACT Self-Government Act mirrors the Constitutional 'just terms' provisions).

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It is becoming significant burden for a farmer to try to keep across the imposed conservation policies and increasing restraint on lessee activities. Further, many of these are developed without effective consideration of the impact on landholders, knowledge of the financial impacts, or even an understanding of the environmental impacts in real terms.

For example, the ACT Nature Conservation Strategy proposes that off reserve conservation protection arrangements be imposed on ACT rural leaseholders in some detail. All future occupancy arrangements are to include Property Management Agreements (which are not actually agreements) where landholders are ‘advised of conservation requirements and statutory protection measures are applied’ and penalties provided for non-compliance. And that; all ‘permanent streams in rural lands fenced out or otherwise separated from unrestricted stock access’. Yet, there are little or no regard made for the financial burden imposed on the landholders by these actions.

In the most blatant and recent breach of just treatment of landholders by the ACT Government in the name of improved environmental outcomes is the removal of the right to renew our existing rural leases and the impost of very restrictive operating arrangements on any future lease. There has been no regard to the Constitutional Right for just compensation for lessees. Further, a Mandatory Land Management Agreement process has been imposed (which is not an agreement) where the lessee’s rights are secondary to the conservation requirements. Under this process the Minister can vary the Land Management Agreement against the lessee wishes and then imposed ‘orders for compliance’ which can lead to very large fines or can result in cancellation of the lease. Attachment B is a copy of the Land Management Agreement form adopted by the ACT Government.

Only very limited financial assistance is proposed and that is once only funding and limited to some \$350,000, held in the Rural Conservation Trust Fund. The \$350,000 trust fund is the total assistance offer to make major changes to the operation of some 200 rural leases. The on-going costs to the lessee are not addressed.

Our members have in effect been served an eviction notice and we are being forced into either legal action or accepting more restrictive leases where the landholder loses management prerogative to ministerial direction, where the lessee must fund the upfront costs and ongoing costs involved. Our legal options include seeking compensation for breach of contract and loss of property rights, which may involve leaving our ACT long-term rural businesses (and homes), or seeking to have the legislation declared invalid – an unreasonable burden for individuals.

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It is important to try to understand the impacts of proposed policies and to provide for ongoing assessment of the validity of the policies. Human history shows that many examples of best practice are subsequently found to be poor practice. In these conservation processes there needs to be a control loop and methods to provide redirection, including redistribution of funding. It is unreasonable for individual landholders to bear the costs of earlier practices (eg widescale land clearing) now found to be less desirable. The community has obligations to provide assistance to ensure both environmental sustainability and economic well being of its food producers and export earning activities, for its own sustainability. If the rural sector cannot become economically viable it will fail to be ecologically sustainable – you cannot be green when you are in the red.

In Attachment C we have provided comments on positive aspects that may assist public good conservation measures on private land.

We are able to provide far more detailed input if the Standing Committee wishes but this submission is necessarily limited as our immediate aim must be to protect our homes, businesses and investments. The ACT Government has forced us into a legal dispute that will involve the Commonwealth Government, as our leases are issued by the Commonwealth but administered by the ACT Government. It is the ACT Government who have exceeded their constitutional powers and acquired our property without consideration just or otherwise, but the Commonwealth entered into the contract with us.

Our circumstances are the ideal example of how a Government can destroy viable and sustainable farms in the name of unfettered enthusiasm for environmental conservation without consideration of the rights of landholders. The circumstances in the ACT must be a concern for all of rural Australia and the community generally.

John Lowe  
President

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ACT Sustainable Rural Lands Group Inc

**Themes that would in our view represent sound practices to support public good conservation measures on private lands include:**

- It is important that sound priorities are set and resources are focused in a strategic way.
  - Government support for innovation and re-focusing of rural activities is needed to provide a sustainable rural industry and sound environmental outcomes.
  - The policies desired include shared responsibility, agreed roles, relative contributions that reflect the long-term private and public costs and benefits (this may require short term positive assistance or seed funding to change behaviour), and transparent decisions processes devolved as low as possible.
  - An openly positive and supportive environment will assist in changing the image of ecologically sustainable development in the eyes of many farmers. Again it is disappointing to see the ACT Government resort to policies of command and control in it new 99-year rural lease package. These practices failed in the 1930's and 40's in the ACT, and will fail again.
  - Market based instruments and incentive are more likely to be effective if they are positive and encouraging rather than imposing cost on the farmers and promoting negative reactions. We support promoting synergies between production and the environment and the linkages between government support and continuing change.
  - Some key areas where reform would result quickly are: respecting property rights in leases, removing lease conditions which are impediments to innovation, education of the synergies between production and environment and positive support for more thinking regionally/globally but acting locally.
  - The partnership role of Government should be reflected in more of these indicators. Eg, if rural landholders are to increase their expenditure Government expenditure on adjoining lands must be supportive of the environmental goal concerned, eg weed control need to occur on both sides of the fence.
  - The concept of agreed needs should be reflected in these discussions. Just as Governments will only invest to levels consistent with the possible public benefit, the fact that landholders need to receive a return on investment must also be respected.
  - Principles of shared investment, we support the process policy whereby such 'Agreements should state expectations and mutual obligations of all parties including financial contributions, and in meeting milestones and targets. Processes should be put in place so that funding is responsive to the rate of progress in meeting targets'. This however, should not prevent targeted funding to address specific issues if justified.
  - Stewardship payments are a very important concept to get farmers on board. Annuity payments will ensure continued viability for the farmer where the on farm conservation reduces income from traditional sources.
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- We strongly support that such agreements must be voluntary and reflect partnership arrangements to be effective. They must also be true agreements between equals. This is the area of greatest failing by the ACT Government as they have introduced legislation mandating land management agreements, which they can change without consultation and impose penalties for no compliance. The degree of command and control will be more likely to negate any possible benefits.
- It is important to note that many leasehold titles are in fact continuing leases and compensation will be payable where property rights (such as the right to renew for same purpose) are reduced. Performance contracts approach may be effective in short term non-renewable leases. It is unlikely to be effective in continuing leasehold circumstances. The early history of the ACT leasehold systems demonstrates this. Restricted titles and control practices in the 1920's to 40's resulted in land damage. It is import to reflect on an old saying, giving clear title to land results in good management practices, restricting title will promote a wasteland.
- Mention must be made of the competition policy relationships and need to promote innovative and sustainable agriculture for the good of all.
- We support expanding the range of taxation incentives. Consideration should be given to not only rate rebates but also land rent rebates. Conservation trusts and covenants need to account for existing property rights, ongoing viability, and the need to reflect a changing knowledge base (what is best practice today may be come an undesirable practice later on).
- Environmental management and production accreditation has been raised as an option but it needs careful consideration as accreditation can lead to market distortion and unintended adverse impacts. The relative capital costs of accreditation between large operators and small operators can readily disadvantage the small operator.
- Attempts to control outcomes using leasing conditions must be tempered where leaseholders have significant property rights (such those in the continuing leases in the ACT leasehold system) to respect these rights while promoting good practice. The promotion of best practice need to occur irrespective of tenure but it must be mindful of property rights. Such rights are held dear by our community and reflected in the Constitution accordingly.
- Landholders' and community have a duty of care - Governments must be bound by the same duties.
- Water management - the contribution and consumption of urban areas needs to be part of this process. It is incongruous for Governments to demand action from rural and business sectors while allowing urban areas under their control to go unchecked. The ACT government is seeking to have the riparian vegetation zone re-established on rural parts of rivers, where as the city's storm water flow freely into the same stream. Similarly they are attempting to remove water rights from rural users but ignore urban residential leaseholders that are drawing far more underground water.
- Vegetation management - Positive incentives are more likely to achieve results. The concept of land rent rebates should be in the instruments available in the future. The possible linkages to greenhouse related benefits and carbon trading should be strengthened.

- Weed and pest management should account for the contribution of native animals that have reached pest levels to weed spread. Having a balanced outcome will be important to long term sustainability.
- The service industries to the rural community need to adopt to the new times. This should included enhanced land valuation practices. A leading valuer said to our Group recently, 'the biggest challenge to the valuation industry is the need to change the traditional thinking and starting to think outside the square' to deal with the broader impacts.
- There are links between government support and continuing land management change. If policy objectives are poorly understood the resultant polices are poor. As noted above the ACT Government has failed to understand the objectives and as a result has delivered poor policy outside the directions of the best policy approach, being explored by the Standing Committee.
- Innovative production systems are necessary to support Australia into the future. We are disappointed the ACT Government has restricted innovation in it latest policies.
- The concept of harvesting wildlife and pests could be explored more. Again we can demonstrate departures from good practice by the ACT Government which is disadvantaging ACT farmers and which are not producing the environmental results expected.
- Raising public awareness is essential, we strongly support the view long term change needs individual landholders to become committed and that to achieve this we must only not create division between the community and landholders but mend the existing gaps urgently.
- Increasing the uptake of sound research and innovation must include valuing the knowledge of experienced landholders. Government officials with predisposed views too often reject the views of experienced farmers.

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