



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON ENVIRONMENT AND HERITAGE

Reference: Public good conservation

MONDAY, 20 NOVEMBER 2000

SYDNEY

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HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON ENVIRONMENT AND HERITAGE
Monday, 20 November 2000

Members: Mr Causley (*Chair*), Mr Barresi, Mr Bartlett, Mr Billson, Mr Byrne, Ms Corcoran, Mrs Gallus, Ms Gerick, Mr Jenkins and Mrs Vale

Members in attendance: Mr Byrne, Mr Causley, Mr Jenkins and Mrs Vale

Terms of reference for the inquiry:

For inquiry into and report on:

- the impact on landholders and farmers in Australia of public-good conservation measures imposed by either State or Commonwealth Governments;
- policy measures adopted internationally to ensure the cost of public good conservation measures are ameliorated for private landholders;
- appropriate mechanisms to establish private and public-good components of Government environment conservation measures; and
- 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.

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Committee met at 9.29 a.m.

CROZIER, Mr Matthew, Director, Conservation and Resource Management, New South Wales Farmers Association

KEOGH, Mr Mick, Policy Director, New South Wales Farmers Association

CHAIR—I declare open this public hearing of the House of Representatives Standing Committee on Environment and Heritage for its inquiry into public good conservation. Today's hearing is part of the committee's program of hearings and visits in different parts of Australia. The hearings and visits allow us to pursue some of the issues raised in the 249 written submissions to the inquiry with the authors of some of those submissions.

Tomorrow and on Wednesday the committee will be visiting Nyngan and Moree, God willing, to see first hand and hear about some of the problems and solutions associated with environmental measures imposed on land-holders. At today's public hearing, we will hear evidence in relation to submissions from groups involved with farming, conservation, local government and the New South Wales government.

I call the representatives of the New South Wales Farmers Association. Although the committee does not require you to give evidence under oath, I should advise you that the hearings are legal proceedings of the parliament and warrant the same respect as proceedings of the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. We have a submission from the farmers, but would you like to make some opening remarks before we ask questions on that submission?

Mr Keogh—Certainly. We have some spare copies here, if anyone does not have one. Thank you very much for the opportunity to present to this inquiry, which we believe deals with a very significant issue that has an impact on a lot of land-holders throughout the state. I guess at the core of the issue are the perceptions people have about land. I suppose we would argue that, to a large degree, urban populations have an amenity perception of land. They view land as a landscape, as an environment, as a refuge or a location where wildlife is, a perception of something of general pleasure, whereas land-holders have to have a different view of land. To try to reinforce that, we request permission to table some maps and some accompanying statistics that we have extracted from the Australian Bureau of Statistics.

Basically, what this shows is the average value of agricultural output per hectare of agricultural land. So what we are trying to impress on you is that this is how farmers first and foremost have to perceive land. They have to perceive it in terms of it being a business asset which generates income, and those figures there, as rough as averages are across regions that large, provide some assessment of the average output value that is from the statistics on a per hectare basis per year. We would ask the committee members, particularly over the next couple of days, to consider the land that they are looking at, not in terms of whether or not it is a nice landscape, but whether, in fact, the land that you are looking at has the potential to generate that sort of income. We think that is an important part of this whole inquiry.

As we have said in our submission, regulations aimed at achieving public good conservation outcome are having a direct impact on land-holder viability. The sort of public good issues that

land-holders are attempting to deal with are things such as regulations to preserve biodiversity and regulations that attempt to preserve threatened species and even more recently we have seen moves to impose fairly stringent regulations on land-holders to preserve the quality of water in the Sydney catchment. We believe this regulatory approach is wrong on two counts. First, in terms of equity, it very clearly imposes costs that benefit the whole community on a small section of that community, and good government principles suggest that unless you are achieving some degree of equity in those measures, then they are not fair.

The second reason we believe that these approaches are wrong is in terms of efficiency. We believe that, by and large, this regulatory approach leads to what is colloquially termed a shoot, shovel and shut up approach. In other words, to give you a simple example, if there is a threatened species present on your property and you are aware of it, the best outcome economically for you is to shoot it, shovel it under the ground and shut up about it, because otherwise you potentially face the situation where the productive capacity of your land and the income you can generate off your land will be restrained and basically you will bear the cost of the preservation of that threatened species for the benefit of the wider community. They are the main problems we believe that need to be addressed by this inquiry and I will hand over to Matthew now to talk about what we believe are some positive outcomes that could come from it.

Mr Crozier—Putting aside for a moment some of the equity and cost issues that Mick has touched on, and obviously you will hear a lot more of those in the next couple of days, I would just like to talk about the opportunity that is presented for Australia as a whole in terms of having a regulatory framework in the way we do. Very broadly speaking, you can say that there are two types of habitat out there. Firstly, there is the sort of landscape that needs disturbance to look after itself and to regenerate, and that disturbance used to be in the form of fire, but it can be done in a number of ways. Secondly, there are those genuinely fragile ecosystems that really do need protection. The problem we have is that we have a regulatory framework that aims only at those fragile ecosystems that need true protection, the fencing off approach. In fact, we have gone with a blanket approach that says all native vegetation is like this, but that is simply not true.

This has very serious consequences for the vegetation that does need disturbance. There are a range of results across different climatic and habitat zones around the place, but typically what happens is you get dominant species that come through and kill off, choke out, all of the other species, and this is particularly true in the lower rainfall areas. So in the grasslands you might see some of the hard tussock grasses on their own, in patches, with mud around them and nothing else. In the woody regrowth areas you might see a lot of cypress pine or a lot of bimble box coming through with stems about an inch thick or whatever, but coming through in great clusters with absolutely no understorey.

That means that if there are no grasses and no softer species, there is nothing for animals to eat, basically. So we are doing a disservice to biodiversity, we are getting monocultures through our landscape. This also causes a great deal of environmental damage. Erosion comes through. We will take you tomorrow to a couple of properties where you have got this sort of woody regrowth, where you will see for yourself there is nothing on the earth and there are great big erosion channels being chomped through the whole lot. Hopefully, if we can wade through the mud to that tomorrow, it will be a pretty good example for you. So we are losing an opportunity.

As Mick also mentioned, this sort of regulatory framework looks at just the fragile ecosystems that need to be really nurtured and protected, but it does not work for them either, we end up with the shoot, shovel and shut up approach. Those fragile ecosystems on land have a negative impact on the value of the land of up to 80 per cent. Farmers are not out there trying to destroy this stuff, farmers are proud of it, they will take you out privately and show you what they have got, but they will not want you to tell anyone it is there. Of course, their direct incentive is to make sure no-one ever finds it is there, which is really a ridiculous situation for conservation and for production.

In the US where the term 'shoot, shovel and shut up' came from, that was as a result of some of their threatened species legislation. They woke up to this. They therefore introduced a system of incentives in recognition of land-holders' rights. And as a result of that, they have turned the situation around. People can be proud of the high quality habitat they have got. They actually earn more money for high quality habitats. Not only do the rare bits get protected, but the rare bits become less rare because more people try and nurture landscapes through and return it.

The US, and Europe as well, has a well-known system of incentive payments for farmers. In the UK they attach pound sterling amounts and in the US they attach points. What it means is that in the UK they specify ecosystem services and farmers get paid a set amount for carrying out those services. In the US it is a bit different, and we can circulate this later if you would like, but they have farmers bid. So they attach points and farmers will put in a dollar bid to say, 'I'll give you 300 points in return for however many dollars.' They just draw a line across and get the most efficient package of measures, if that makes sense. There is more detail on that in our submission which I would urge you to have a look at. You will find it on pages 12 and 13 of the submission.

A similar scheme in Australia would offer us the opportunity not only to protect and to put back some of our delicate ecosystems and environment that are under threat, but it also offers us this enormous opportunity in the area of land that needs disturbance. It is currently locked up and it is no good to anybody. The farmers cannot do anything with it, and in terms of conservation it is next to useless, and this is widely acknowledged. The opportunity we have is to pay some incentive payments, to offer people the incentive to put back the really good stuff, but to allow them the freedom to manage the stuff that needs disturbance.

That does not mean putting a bulldozer through and turning it to crop forever—although that is obviously one of the options. We can do an enormous amount by going half-way: thinning out the regrowth, returning the land to its natural state—which, in most cases, was open, grassy woodlands—and allowing it to be grazed. It then may be able to carry only about half the stocking capacity of totally cleared land, but the incentive payment required would be considerably less than just locking it out. Also, think about what we get for the incentive payment. It is not just throwing money away: you get strong conservation outcomes and massive productivity gains. You are dealing with millions of hectares of land. If you can pull back, say, \$100 a hectare in productivity, you are dealing with very significant amounts for the economy.

I will leave it at that and go to questions. The only thing I would ask you to do before we go to questions is look at page 4 of our submission where we have outlined our recommendations

in detail. We will not read out those recommendations because we assume that you have read them.

CHAIR—Thank you. I noticed in your map that you talk about the value of production per hectare. It would probably help the committee if there were figures to show average income in those regions as well. We would get more of a handle on it because we could then start to understand what money is available from property owners for conservation measures.

Mr Keogh—Yes. We could go to those sorts of figures. In looking just at income, the difficulty is that, if you take, for example, an area of land that is a couple of hundred hectares and restrict what can be done on that land, you have both fixed and variable costs associated with it. If you want to go to net income figures, it is a little more difficult. We simply provided these figures as the available statistics on gross income per hectare. We certainly do not say that that is a net figure in any sense. The main point we are trying to make is that, from a farmer's perspective, land is about assets and business income, not about landscape amenity. We could probably go further and get some of those figures for you—I think some of the land-holders will do that in the next couple of days.

CHAIR—We do not want to know their income, but average income would be helpful.

Mr Crozier—I will see what we can find out. I believe average farm incomes are between \$20,000 and \$30,000 a year at the moment.

Mr Keogh—If you look at the slopes regions of New South Wales, for example, that land leases for in the region of \$50 to \$70 per hectare per year. The market establishes the value of that land on a leasehold basis. That would probably be a rough estimate of the actual commercial return that someone can generate from that land. We could probably chase up those figures throughout the rest of the country as well.

CHAIR—I noted what you said about the EU, in general, and also the US. Before we get to that, could you state for the record—I think I know the answer—what governments give at present in terms of support for public good conservation, both state and federal?

Mr Crozier—I would say that the answer is not much. In this state, since the introduction of the native vegetation conservation act, there has been a fund of \$16 million over a period of four years. Putting aside the recent new salinity announcement that we have not seen the full details of yet, obviously NHT was a significant part of funding—\$1 billion or whatever. However, a lot of that went directly into state government and it has been very difficult to track any of it going as incentives to land-holders for public good conservation. Some of it has gone through in terms of paying them to plant new trees and fence off some of their land, but I am not aware of any of it going directly to compensate land-holders. That takes us to other schemes—we addressed one of them through the Australian Bush Heritage Fund, which is obviously not a government organisation; it is an NGO. There are some small organisations like that around that are in a position to pay stewardship in a very small minority of cases. I am not aware of serious government funds going into public good conservation in this country.

CHAIR—My colleague Bruce Billson, who is not present, usually asks a question that I will ask for him. He is on greenhouse duty in The Hague at the moment. He says that of course most

farmers agree that management of their properties includes conservation to a certain extent. How do you differentiate between what farmers consider to be good management as far as the environment is concerned and what is termed 'public good conservation'?

Mr Keogh—Legally that differentiation is established in the concept of duty of care and nuisance. So if something that you do on your property creates a nuisance or a harm to someone else's property, the law has regarded that you are in breach of your duty of care and that you, therefore, are required by regulation to stop doing that. That is a well-tried legal precedent that has been established for quite a long while. Where land-holders, in particular, believe regulations go well beyond that is on issues like biodiversity, where no-one has been able to point out to an individual land-holder what private benefit they get from the conservation of biodiversity. You are right in that they would normally do, to some degree, measures that impose some sort of conservation values on land as part of their routine operations, but there is a limit to which they can do that. I guess the point we are making is that, for every hectare of land given up, there is that amount of gross income given up in terms of the money that a farmer can make. We believe that certainly in relation to biodiversity and threatened species the sorts of regulations we see go well beyond that duty of care—that line that says, 'Don't harm anyone else,' particularly anyone else's property, 'otherwise you are in breach of regulations.'

CHAIR—Mr Billson represents a city seat and he also says that city people have controls put on them through the EPA and they have to bear those costs.

Mr Keogh—Yes, and if you look at those controls, they are basically about prevention of harm to others: prevention of pollution, prevention of noise pollution, prevention of those sorts of things. So certainly that same standard applies there. We believe the case is that—particularly in relation to biodiversity and threatened species, as I said, potentially in relation to greenhouse—the imposition of regulations go well beyond what would be considered a duty of care.

Mr Crozier—I would like to add to that. We also have in New South Wales an open spaces trust that pays compensation to urban land-holders who are adversely affected to offer open spaces to other people. There is a direct precedent there that urban people are receiving compensation for what is a public good.

CHAIR—What is that?

Mr Crozier—I am not entirely sure. I believe it is a state fund. We certainly have that in place.

CHAIR—The state legislation, which started off with the state planning law SEPP-46, was then superseded by the Native Vegetation Conservation Act, I think. Is that correct?

Mr Crozier—Yes.

CHAIR—What consideration was taken and what consultation was entered into with property owners about the effects of that legislation on their property?

Mr Keogh—As you would be aware of the history of it, SEPP-46 was simply introduced overnight. I think it was introduced in 1995, but I might be corrected on that date. There was no initial consultation on that. The Native Vegetation Conservation Act went through a fairly exhaustive set of processes through a body called, I think, the Native Vegetation Advisory Council. Unfortunately, the recommendations that that body put forward were subsequently ignored in the regulations and the legislation that eventuated. In fact, little changed from the situation that prevailed under SEPP-46.

CHAIR—So there was a committee that gave recommendations to the government?

Mr Keogh—Yes.

CHAIR—Governments are fond of committees. Are you happy with the personnel that are appointed to committees from time to time?

Mr Keogh—I suspect it is not so much the personnel that are appointed to committees—although we certainly have some problems with some of them—but, more importantly, it is the way in which recommendations from those committees are treated. Those recommendations obviously become fodder for the political processes that end up, at a fine point, around the cabinet table. We believe that by and large they have been ignored from the perspective of any sort of protection of the interests of farmers in some of these regulations.

CHAIR—We have had evidence from CSIRO and from the Murray-Darling Basin Commission which suggests that—particularly in the Murray-Darling Basin where we have a problem with salinity—there are going to have to be some very big land management changes to the extent that people in areas that are well away from what is seen to be the salinity problem are going to have to change their management practices. How do you see that being addressed? How do you see those particular property owners that are up on the slopes being convinced that there is a problem down on the plains? How do you compensate those people?

Mr Keogh—We believe salinity is going to bring this issue to a very fine point, because exactly the problem which you speak about is going to be occurring fairly widely. If you look at the areas where salt mobilisation seems to be occurring, it is in areas that have been developed essentially for agriculture over the last 50 to 100 years. No government regulation, short of a mandatory requirement to revegetate large areas of farms, is going to be able to reverse that. Governments are going to have to look very seriously at the options of how to encourage or how to buy some environmental services as an output from that area of land. I think the US example, where there is an environmental benefits index generated that establishes the government's priorities and a market evolves under that whereby farmers can voluntarily put up land with a certain EBI on it for a certain commercial rent on an annual basis or on a more permanent basis, generates the sorts of changes that the government is looking for there. That model is going to have to be very seriously looked at, and we note that the Commonwealth actually referred to the need to consider these sorts of mechanisms in the recently released strategic plan that was discussed at the COAG meeting during the week before last.

CHAIR—Markets can be developed in these areas—they have been in the past. For instance, would there be enough financial ability to have a salinity market whereby people down on the flood plain can buy enough credits to compensate people up on the slopes?

Mr Keogh—No. If you look at salinity in a serious way, we do not believe that would be effective. What you would be doing is imposing a cost on one particular sector of the community there for a benefit up here. We do not think that is going to be successful in the long term. I think broader public funds will need to be introduced into that sort of mechanism for it to be successful.

Mr Crozier—One of the problems with salinity is that we have no certainty. You might well envisage a payment from one land-holder to another, but the change that that facilitates might take 20 or 30 years to come through—we really don't know—and it may not even come. It is very difficult to ask people to pay privately from their scarce income on a vague punt that there may be some improvement a generation or so down the track.

CHAIR—So we need more money for the science?

Mr Crozier—We certainly do, yes. There are some sensible measures we can take—enhancing the use of native grasslands and selective planting of really vulnerable areas with timber—but the money for that needs to come through government incentives because you are not going to be able to identify the direct beneficiaries down-catchment all that easily.

CHAIR—Would you agree that, if we do not know what we are doing and just rush into this with billions of dollars, we could waste a lot of money; that we should be very careful about how we go about this?

Mr Crozier—Absolutely.

CHAIR—We have had three or four different approaches suggested to us. We are not experts, but it seemed to me that it might be wise to have some subcatchments and try some of these things out to see whether they work. Would the organisation agree with that?

Mr Keogh—Yes, certainly. That is the approach that was announced by the New South Wales state government last Friday. They have identified four pilot plans that they are going to have a look at to just see how they develop. From what we have seen of those, we would certainly believe that is a step in the right direction. Ultimately, there is going to have to come a point when community funds, generally, are going to have to go into this issue in the longer term to try to overcome some of the problems that are arising.

CHAIR—Going back to your evidence where you talked about certain things that can be done on properties for conservation—and I think you gave some US and European examples—how do you define whether in fact these areas need that support; how do you come to that conclusion? Usually, if you put a pot of money out there, whether it is government or other, the bees are all over it. How do you get some sensible assessment about what does need to be protected; how do you come to a conclusion on that?

Mr Crozier—In New South Wales at the moment we have regional vegetation committees right across the state. They are struggling, frankly, because they have only one instrument at their disposal, and that is regulation. Peter Weston, who chairs one of those committees, would be able to tell you more about that. As part of that process, bioregional targets for vegetation types and various other priority mechanisms are being identified. Once you have those targets in

place—and, for sure the information is not all there yet—it is a small step to be able to say that the money is available and we need to start making property agreements with land-holders.

The property agreement issue is a difficult one. In New South Wales, the term is used as inviting the local officials onto your property to nominate what you cannot touch any more. That process will never have the support of the farming community. A proper property agreement would be done by an independent body with access to incentive payments and it would be something where the farmer would be actively seeking to show you what was rare and endangered on their property and what they could do with the rest of the property to enhance those communities.

Mr Keogh—I think this question goes broader, because the blunt instruments that we believe are being utilised in New South Wales are supposedly in response to community demands. But the unfortunate thing is that there is no community cost associated with that. So we believe that you are facing a situation where the demands are going to be insatiable—there is no cost involved. We are going to keep moving the hurdles and require more and more of land-holders at no cost. One of the benefits of the Conservation Reserve Program in the US is that it is a deliberate decision by taxpayers to say, ‘Yes, we are going to pay this much for this much benefit and we are going to continually weigh that up as part of the normal process of politics; whether we want to go further and what cost that might bring on the community.’

CHAIR—Would it be better with politics or with an organisation such as the CSIRO, which has the science to back it up?

Mr Keogh—We would certainly argue that in many cases the resource assessment process should be independent; it should be a technical process that looks at the objective values as much as it possibly can and makes that assessment. We have certainly seen in some of the processes that are going on—it is being discussed in the fisheries bill this week in state parliament—that you do establish some sort of objective assessment of some of these values. Sure, the politics comes into play in deciding whether or not those values are to be pursued, but you create some neutrality in terms of deciding whether or not those are there. One of the problems is that, under legislation in New South Wales for example, a lot of land-holders are told there is the potential habitat of a threatened species and therefore they cannot move. That is a very subjective sort of assessment. No-one is really sure what the potential habitat might be. But that is being used to restrict what can happen on land, as I think you will hear in the next couple of days.

Mrs Vale—I think your report said that, even though a particular species was not actually seen or observed, the habitat was considered to have been the kind of habitat that is frequent to them. I thought that was particularly interesting.

Mr Keogh—I think there are some people in the audience today that might tell you a little more about that.

CHAIR—I want to carry through with a couple more questions just to clear this up. Under the committee system, if a committee were working on behalf of the community, then you could have some confidence. I have to go back to my own area to get some feeling for what it is about and I see the chair of the Clarence Regional Vegetation Committee and I would say that 95 per

cent of the people in that area do not support that chair. How do you get anything out of quite a controversial person? How do you get any confidence in a community when you have that?

Mr Crozier—The Clarence committee is a shining example of how not to do it. We have always said that people on committees with a vote should come from within the area concerned, and so the practice that some of the green organisations have of flying people in from Sydney—and we have individuals who sit on four or five committees—should not really go on because they do not have the local stake or the local knowledge. We also believe that public servants should not be voting members. They should be there to offer expertise but voting members should be private members of the community. Our feeling is that if that were put in place these committees would carry with them the weight of local opinion. It is unfortunate that we do not have that. There are some committees that work reasonably well and some that do not. If you are familiar with the workings of the Clarence Regional Vegetation Committee, you will know exactly how it should not be done.

Mr Keogh—The other point to make about those plans is that the one example that is somewhat advanced, called the mid-Lachlan plan—which is a bit further east of where you are going to tomorrow—has been five years in the making and a plan still has not been gazetted and the paperwork is six inches thick. That is one of the difficulties—there are no parameters on the limits to what these plans can deal with. They end up being the world's collection of information on every conceivable aspect of the environment in the particular area and they basically end up strangling themselves in detail, which does not result in an outcome for anyone, at this stage anyway.

Mr BYRNE—What was the process undertaken in America to get a bipartisan incentive payment from the government?

Mr Keogh—I suppose you could say that, in one sense, it goes back to their Constitution and the Bill of Rights. The 5th Amendment and the subsequent 14th Amendment and the Supreme Court decisions since then, particularly since about 1980, have basically said that what they call a partial taking—in other words, taking away rights under a title without actually taking the title—is actually an acquisition under the eminent domain clause and therefore is subject to compensation. That effectively created a constitutional restriction that meant that if governments pursuing things like preservation of wildlife simply went in and put in a regulation, they would potentially be in breach of that particular constitutional clause. Therefore, the approach had to be: as a community, how do we buy that sort of outcome from the individual concerned?

Mr BYRNE—In America, how do they make an assessment about what should and should not be protected, and what the input is of the land-holders in that process?

Mr Keogh—Matthew might know a little better what the policy process is in determining what should be protected, but it is expressed by way of the environmental benefits index, which is published by the USDA. We would table that, so it is available for you to have a look at, if you would like. Basically, that puts a weighting on the various environmental priorities that the government is seeking and asks land-holders to say, 'How many points is what you're offering up worth and what sort of rental would you want per year to be prepared to do that?'

Mr BYRNE—Is there something similar in Australia?

Mr Keogh—Not that we are aware of.

Mr BYRNE—Would this be something you would be advocating as an independent model, as a starting point or platform point?

Mr Crozier—This would be one of a number of models that I think ought to be examined for delivering incentives. I do not think we would advocate taking the American model. We would advocate developing an Australian model.

Mr Keogh—Certainly the concept that they have there, where multiple environmental objectives can be combined in some rational way and given some value, potentially creates the market mechanism that allows that to occur.

Mr BYRNE—I take it that you might have some expert from the government that recommends that a certain course of action be taken which might be completely at odds with what the farmer would understand to be good conservation. Is that something that is occurring on a fairly frequent basis?

Mr Keogh—Yes. The classic examples of that are the grasslands in New South Wales where, if more than 50 per cent of the grass on the ground happens to be native, that is classified as native vegetation and potentially unable to be touched. So you have land-holders who are very restricted in what they can do. They face the ridiculous option of having to flog mercilessly any of the areas that they can prove to be ‘out’ in order to generate enough income because they cannot do anything on the other areas. We do not think that is a good conservation outcome; it is certainly not good from the point of view of the equity of the individual involved. I think you will see examples over the next couple of days where the outcome on the ground looks faintly ridiculous, but that is what we have got.

Mr Crozier—With regard to what incentives are paid for, obviously there is the scientific and expert approach, which would be strongly advocated. The other thing, of course, is that these are public goods and there is scope that if the public particularly valued one aspect or other, for rational or other reasons, this gives the scope for them to get that; it is there for all sides. We do see things, such as protection of koala habitat when the koala is not particularly endangered, that the public really do demand strongly. That would fall into this category too.

Mr BYRNE—I guess what you are saying is that in America there is some legislative framework for this and in Australia that does not exist through our Constitution, consequently we would have to set up a mechanism that would not override it but would skirt around it.

Mr Keogh—The readings on section 51(xxi) of the Constitution thus far have been that, by and large, unless the title is actually taken—and I think this was done to death in the Tasmanian dams case—then that section of the Constitution, the just terms provision, does not really apply. What we would be proposing would not be in any way contravening what is in the existing Constitution, but would simply be adding a legislative interpretation that was perhaps a bit more equitable than the one that exists at the moment.

Mr BYRNE—What do you think the timeframe is? I noticed in your submission you were saying you have got 44,000 farmers. It seems as though there seems to be a very grey area with respect to property rights. If the current system operates, how many of those farms are actually going to go out of business? What are we looking at as far as the long-term prognosis is concerned for some of these farmers if the existing situation continues, or gets worse?

Mr Keogh—Numbers is very difficult to get a handle on because obviously in a lot of the areas in the eastern half of the state the development has occurred years ago. Ironically, where technology has pushed the margins in terms of what can be done, and at the same time returns from straight livestock production have declined, is where a lot of farmers are starting to run into problems. It might be in the thousands, but it is very difficult to know. But in a more general sense, there are concerns right across the farm sector that these sorts of regulations are going to apply in riparian zones along creeks, or in the amount of water that can be harvested on farm dams. All those sorts of issues are built around the same general theme of where the duty of care stops and where the public good conservation approach starts.

Mr BYRNE—In legal terms, as soon as that happens, you will have a test case as sure as eggs that will test that out one way or the other.

Mr Keogh—As you may be aware, the difficulty is that the constitutional provisions only apply to acts by the Commonwealth. You will have seen in the world heritage case here that the Commonwealth claimed that the state took the action, that it was Neville Wran who actually declared that area a world heritage area. The state said, ‘No, you, the Commonwealth, told us that under our world heritage treaty provisions we had to take that action.’ So what we got was 17 years of ping-pong before those land-holders were ever dealt with equitably.

Mr BYRNE—What if governments were pressured by green advocacy groups, et cetera, and they started increasing the legislative rigidity. What then would happen? So rather than the US model that you were talking about there was a public push and all of a sudden they started becoming harsher with respect to the legislature, which is one view that is being put. What would then happen to farmers in New South Wales?

Mr Keogh—New South Wales does have just terms legislation. I think it will come to a point where that will be tested, certainly in the Land and Environment Court, potentially in the Supreme Court, and potentially in the High Court. I think that will be tested. There will be some judicial attempt to draw a line in the sand, if you like, about where—

CHAIR—Why hasn’t it been tested to this stage?

Mr Keogh—One of the biggest difficulties is that land use management has been, up until now, a state responsibility. However, increasingly we see the Commonwealth, through the external affairs powers to some degree but more broadly because of their taxation powers, starting to impose conditions on the states in relation to land use management. If you have a look at the salinity plan released a week or so ago, one of the conditions of the Commonwealth releasing the funds under that is that they are satisfied with the state regulations. Effectively, in that sense, it will be the state making the regulation. The state will say, ‘The Commonwealth forced us to do it.’ Anyone who wants to test the legality of the state regulation really does not

end up in the High Court because it is not a constitutional provision, it is a state provision, and I guess we will have to test that out in the state.

CHAIR—We have seen long-term grazing leases confiscated in New South Wales. We have seen milk quotas confiscated and yet New South Wales farmers have done nothing.

Mr Keogh—We have not seen many leases confiscated. The ones that we have seen confiscated have been on the basis of management imperfection, and they are provisions that are written into, for example, the grazing leases. If you are talking about occupational permits and licences on—

CHAIR—I am talking about 99-year leases which traditionally were rolled over to another 99 years which, at their renewal, were given an occupational permit.

Mr Keogh—Certainly the whole RFA process under way at the moment is doing those sorts of things. We are certainly opposed to that happening, but we are not making much progress.

Mr BYRNE—In your view, what is our timeframe? What would you like in the sense of setting up a proper consultation process? I talked to Wendy Craik from the National Farmers Federation about what appears to be happening in a public sense. You have a very strong and proactive media, a sort of green movement, that is talking about their concerns and articulating them. What I do not see—not so much as a counterbalance but in complementing—is the ongoing public explanation about what is happening from the farmers' perspective. What are you actually doing about that? The problem is—you are right—that you have a public that will have an insatiable demand for action to be taken based on a particular point of view that has been put forward. But, to some extent, you guys are going to have to be the realistic brake to that and say, 'Well, okay, if this happens and you get this wish list, this is actually what is going to happen.' So what are you doing to act not so much as a counterpoint but to put a framework of realism into the debate?

Mr Keogh—This particular issue is the number one priority of the New South Wales Farmers Association and has been for the last two years. In fact, it was discussions with Senator Hill that led to this inquiry being established. We are trying any avenues that we have available to get these concepts discussed more broadly. I would come back to the point that farmers in New South Wales number about 40,000, which is about the equivalent of one state electorate. It is very difficult to get these issues considered on a rational basis by the urban population. We will certainly get disaster or environmental horror stories on the front page of the papers every day of the week, but these sorts of issues do not get much coverage at all. In fact, we have offered to fly reporters from television stations to particular examples. I think we have been trying that for the last six months. Their response is, 'Well, if there is not a satellite uplink in the town or I can't get back by 3 o'clock, it is not worth filing the story, so we are not interested.' So it is a very difficult challenge and we have been working pretty hard to try to get some recognition of this problem.

Mr BYRNE—What do you think is the most appropriate forum to have this debate in? There appears to be a need for—and it is one of the things that we have discussed on the committee—a proper cost benefit analysis so that the public can properly consider it. What do you think is the most appropriate mechanism to conduct that debate?

Mr Keogh—It needs to come from the federal level because I think there are two points there. The primary point is the fact that it seems as if more and more taxation and revenue powers are concentrated at the Commonwealth level. I guess, as a result of the tobacco and business franchises case, the states effectively have lost revenue raising powers. They will argue with us until they are blue in the face that they would like to do this sort of thing but simply do not have the opportunity to raise the revenue. So unless it starts at a Commonwealth level—

CHAIR—They are getting all the GST.

Mr Keogh—They say they have been dudged. Particularly in relation to an issue like salinity, where we are now heading down the track of having the Commonwealth act in a coordinating fashion, the Commonwealth has canvassed this particular problem in its most recent draft plan. We would be working very hard to make sure that that is at the forefront of their considerations in negotiating the arrangement between the states that implement and the Commonwealth that funds.

Mr Crozier—I would like to quickly add to that. Through submissions to this inquiry, it has been amply demonstrated that there is almost unanimity, that incentive payments are the way to go. Until the money is on the table to work out how we develop the incentive schemes, it is difficult to go forward. The debate that you see about whether we should regulate, whether we should prosecute, and all the rest of it, kind of exists because there is no money and because there is nothing there for incentive payments. I think you will see, through the submissions that have been made to this inquiry, that the existence of a package of incentive schemes would sweep a lot of that debate away. Everyone agrees that that would be a better approach.

Mr BYRNE—Depending on its cost. It comes back to the point that if you are saying that you want \$65 billion—

Mr Keogh—We are not.

Mr BYRNE—No, but as a theoretical basis. I understand what you are saying. You will think it is far less. I understand the point that you are making. As I was saying, the debate has not occurred properly in the public domain with respect to there being a cost benefit analysis. I guess the question is that you are talking about incentive payments, but there has not been that sort of proper debate in the public domain about why they are actually needed. You have got a particular push from a particular lobby group and series thereof, but there has not been a proper ongoing public debate about this.

Mr Keogh—I would agree with that entirely. I come back to the point we made before: that legislation like the New South Wales Threatened Species Conservation Act does not consider that it might be imposing a real restriction on someone. I would go further and say that the Commonwealth Environment Protection and Biodiversity Conservation Act has the same deficiency. It creates the potential for the Commonwealth to say, ‘We think, on a trigger basis, that this is a national environmental concern and therefore we are going to act.’ But it does not say, ‘By the way, if this adversely impacts a particular group, we’d better do something about restoring some equity.’ It is not just the state that has that problem.

CHAIR—Point taken.

Mrs Vale—In your submission you suggest a private land impact review. That might satisfy some of the questions that Anthony has about having a public debate.

Mr Keogh—It has been done in relation to the protection of basic rights before—for example, gender rights and a whole range of human rights issues. There has been a concerted effort by government to go through its whole regulatory framework and say, ‘In any of this, are we looking at measures that are not equitable in terms of gender, or whatever?’ It has been done in relation to native title. There has been a very thorough review of the legislation done to make sure that it does not contravene native title. Here we are saying that something like a private land impact review could effectively be that mechanism for making regulations that impact on private land.

Mrs Vale—And looks at objectives that the legislation is supposed to achieve and, therefore, whether all the people involved actually want to pay for it. I hear what you say: that people in urban society who value some of the—

Mr Keogh—Amenities.

Mrs Vale—Yes. We all want to preserve our biodiversity, but the cost of that should not lie on just one sector. I understand your saying that. Another thing Anthony asked was: how many farmers may potentially lose their business because of these regulations and restrictions? Do you know how many have already walked off the farms since the regulations have been in? Is there any way of quantifying that?

Mr Crozier—We could make up statistics, but it is incredibly difficult to separate out people being driven off because of commodity prices and people being driven off because of a harvest in a particular year—or because of restrictions.

Mrs Vale—Nobody does a survey when they go.

Mr Crozier—That is right and, even if they did, it would be very hard to genuinely separate those factors out. So I am afraid those figures are not really there.

Mr Keogh—It would be no exaggeration to say that we have thousands of calls a year to our office from individuals who are stuck in particular positions. They may not be driven off their land, but they are in slow decline because of the income they are able to generate on the basis of the restrictions put on them. They are at their wits’ end, and I think you will hear from a couple more of those today.

Mrs Vale—On pages 14 to 16 of your submission, you talk about the drop in profits where native vegetation is conserved. Are those estimates based on actual cases, or are they based on modelling?

Mr Keogh—The only comment I remember we made on that was to quote Herron Todd White, the valuers, who have said on a number of occasions that they have seen a real impact of the NSW Native Vegetation Conservation Act, particularly, on land values.

Mr Crozier—To add to that, the Native Vegetation Advisory Council for New South Wales held a seminar a couple of weeks ago at which key bankers, the Valuer General and others spoke. All of them referred to specific examples of properties being devalued by restrictions.

Mrs Vale—Right. So there were actual cases.

Mr Crozier—Yes. You could probably call for the papers for that.

Mrs Vale—Will you give us any further background to the private land impact review? To me that seemed like a very logical next step to take. Is there anything you want to say to expand on that, for the record?

Mr Keogh—We have not developed that any further than to see it as the only logical way we can put some processes into place to try and overcome this problem. Ideally, you would like to see constitutional changes in some respects, but I do not know think that is all that likely in Australia on anything, let alone on this issue. Certainly, we think that is the germ of a mechanism that might be useful in trying to overcome it.

Chair—We do take account of socioeconomic effects in other areas though, don't we?

Mr Keogh—In New South Wales and at a Commonwealth level we had things like rural community impact statements but, unfortunately, they generally do not get done or get done after the fact on a lot of these issues. The ones in New South Wales, for example, are now cabinet confidential. Whilst it sounded like a good idea, no-one actually gets to see them.

Chair—I am sorry to interrupt, but there is an important point I want to raise on that point of accountability in the decision making process. It always seems to me that if governments take their responsibility seriously—I know the Constitution binds the federal government; states argue that it does not bind them, and that has to be tested, I suppose, in some way—if there is a cost, for instance, to the taxpayer, which is through Treasury, on these decisions, whereby the state pays the same as the affected property owner whether it be in the city or in the country, then surely there is some sort of concentration of thought that goes into that. At the present time, you can just make these decisions without any effect whatsoever, push the effect off on to someone else. Don't you think that is at the root of most of the problem?

Mr Keogh—Yes, we do, and that is basically where we are coming from. We are not naive about the political processes associated with government. Basically, you have to deal with constituents. There is no criticism of politicians in that. It is simply that the framework they operate in means that those demands for ever-increasing environmental regulation are easy enough to meet to some degree because they do not have a cost. You do not have Michael Egan or Peter Costello sitting there saying, 'Not on your nelly,' unless there is a cost benefit.

Chair—There is Treasury in behind it.

Mr Keogh—With Treasury behind it.

Mr Byrne—But to some extent there should be.

Mr Keogh—We are completely on side with you on that. We would argue that that creates the proper balance in these debates.

Mr BYRNE—If you are looking at, say, some of the industrial companies around my neck of the woods, they have to provide a statement. If the public are asked to fork out funds for something, there should be some sort of debate, as I was saying before, about a cost benefit analysis. Regardless of the mechanism, there should be some costing done. But to farmers it is going to cost this, this and this down the track, so that there is some sort of collaborative approach. So people understand that if these certain measures are not taken there is an economic cost down the track. Surely this should be argued not just in environmental terms but in economic terms as well.

Mr Keogh—Certainly, that is just as important, and that is why—

Mrs VALE—Are you aware of any approaches that have been put to the federal government to assist farmers in the restructuring?

Mr Keogh—Yes, these issues have been discussed with various ministers. I think this inquiry is probably the mechanism that has been the most focused approach to this debate but, certainly, individual ministers and individual members of parliament have been approached quite forcibly on these sorts of issues.

Mr Crozier—They usually tell us it is a state issue.

Mr JENKINS—Who does the science best? We have questions about whether the science is adequate enough or whether it is off in the right direction. You have expressed a view that is very cautious. Others might be of the view that, based on the so-called precautionary principle, we should be out there doing things. I think one of the areas where treasuries, at whatever level, can help out is to make sure that not only are we funding the science appropriately but also we have the science being done by people that both sides of an argument can look up to.

Mr Keogh—I do not think we would have much argument with the science that comes out of public institutions, such as CSIRO, for example. I think if you talk to people like John Williams and Mike Young, they do not have any qualms at all about what the science tells them and also about the inequity in the arrangements that are in place at the moment. I think both those have come out quite repeatedly and said, ‘We know the science is telling us that there is a problem,’ and there is reasonable confidence in what they are being able to determine out of that science, but both of them have been quite forceful in saying, ‘The way we are doing it is inequitable at the moment.’

Mr JENKINS—On the dilemma of the precautionary principle, there is the argument that if we do not start now, we are losing 10 to 20 years.

Mr Keogh—That is very much at the fulcrum point of public debate. It is determining how that precautionary principle should apply, at which point we should activate it and the equity that is required after that decision. That basically is what we are talking about. I think if public policy gets to a point where there is a greater reliance on the precautionary principle, I suspect these sort of mechanisms are going to come to the fore even more because you are really

ratcheting up the potential hurdles that land-holders will face. Basically this is going to be more rather than less of a problem if you rely more heavily on the precautionary principle.

Mr Crozier—The other thing to say about that is that the precautionary principle is used as a general argument to ratchet up the level of regulation. We have got a very regulatory approach and it does not work, for the environment as much as for anything else, and no doubt the green groups you talk to will acknowledge that point. A precautionary approach therefore would be to look at bringing in some of the other angles of this and looking at achieving some environmental goods through incentive payments. However, we would say a cautious approach and we do not want billions just chucked at the issue overnight in a haphazard attempt. I think there is a need to move quite quickly to put something in place that can allow some of these missed opportunities or some of this habitat loss to be stopped or slowed at least.

Mr JENKINS—We had a discussion about how the US interpretation of property rights has driven or assisted what they are doing. What are we learning from the British interpretation of property rights and its overlap with what they are doing, as set out in the box in your submission?

Mr Crozier—I think the British system, obviously modelled on a European system, was from a history less about regulation. There actually is not any native vegetation left, apart from on some of the upland areas. It was more about farming being needed for the environment. For instance, if you look at the heather moors on Exmoor and various other sensitive areas, they require farming and it is acknowledged that farming is part of the landscape. That is what happens when, I suppose, you have a human altered landscape. I would argue that is what we have in vast areas of Australia at the moment. It is less about regulation and more about paying farmers for ecosystem services and so the rights issue has not really come into it. The government have come along and said, 'Here's a countryside stewardship program, for example. There are nine programs; we're prepared to pay farmers X amount to deliver these services.' Those programs have always been oversubscribed because, frankly, farmers like to look after the environment when they are allowed to do it.

Mr JENKINS—Can you just explain this one aspect of it? You talk about the set aside areas under the European cap. Is it that they took the opportunity that having set aside areas gave for regeneration?

Mr Crozier—The policy of set aside areas is not the policy that we advocate. It does not do environmental good. There are agri-environment schemes to take what have previously been set aside areas and to enhance their environmental quality because at first set aside was just about leaving the paddock alone and, if the weeds grew through, tough. That was all about reducing quotas. So what they have now are agri-environment schemes so that rather than just setting it aside, they want to grow some farm woodland or do something that is positive and beneficial with that land.

Mr JENKINS—Chair, I did not want to take this too far; I think you know why. It is suggested from time to time that trade issues are the drivers of what is going to happen with the way in which environmental concerns impinge upon rural industries. I think it is better that we understand the effect of what the EU is doing. I am sorry that we really do not have more time to go into that.

The third area that I want to revisit concerns the box in the submission which discusses the experience of a couple who were landowners at Willandra Lakes. I think we have to acknowledge that Willandra Lakes is an example of worst practice and I have no argument with that. But are you suggesting that, if another Willandra Lakes were around the corner and Bob Carr were to get in contact with Howard and we had another heritage thing off and running, we have not learnt from that experience or that the legislative base that we have in place is better?

Mr Keogh—I would argue that very strongly. If you have a look at the EPBCA Act provisions dealing with world heritage listing, we have moved to the extent that the minister is now required to consult with the land-holders and that is as far as it goes. So Willandra Lakes could happen all over again at, for example, Lake Eyre and all that has to happen is that the minister has to demonstrate he has consulted with the land-holders involved.

It has not gone any further than that, so, yes, I would argue that we have not moved on from that. We have not learnt from that in a strict legislative sense. Perhaps we have learnt from the implementation of those decisions in a bureaucratic sense. Environment Australia might have learnt some lessons out of it. But in a strict legislative sense, no, I do not think we have moved at all.

Mrs Vale—In response to the question about any measures or approaches to government for offering restructuring packages to farmers, you said that there had been approaches to several ministers. I did not ask you about the response. What kind of response have you had?

Mr Keogh—I suppose ultimately the response has been this inquiry. I think, as Matthew said, they say, ‘The states are doing that,’ or the states say, ‘The Commonwealth is forcing us to do that.’ We have ended up in that sort of black hole between the states and the Commonwealth, and certainly the initiation of this inquiry is my understanding of at least the first positive development in getting something done.

CHAIR—It was certainly the federal minister who wrote to us and asked us to do the inquiry.

Mr Crozier—We have quoted Warren Truss on the first page of our submission talking about the moral right land-holders have to compensation, but he has said on a number of occasions that he believes that is a state issue.

CHAIR—Not always, but wherever the responsibility lies. I am going to have to draw this discussion to a close. The committee resolves that the statistical information and the *US Farm Service Agency sheet for environmental benefits* from the New South Wales Farmers Association be accepted as exhibit No. 7. Thank you very much for your evidence.

[10.33 a.m.]

GILL, Mr Nicholas Philip, Group Commercial Manager, Twynam Agricultural Group

McLEAN, Mr Mark, Southern Regional Manager, Twynam Agricultural Group

CHAIR—Welcome. We have your submission, but would you like to add to that submission before we ask some questions?

Mr Gill—Yes. As you are aware, I am the Group Commercial Manager of Twynam Agricultural Group, responsible for the group's assets, both land and water. Mr McLean is the regional manager of our southern properties, and deals daily with the issues we are here to discuss. In the audience is our group CEO, Christine Campbell, and the regional manager of our central properties, Bruce Finney. The reason that Mark and I are presenting to this committee today, not the group CEO, is that the group believes the increasingly complex issues with respect to the environment require a better understanding at the asset management and farm level—hence the need for us to increase our participation and ownership of the decisions required to environmentally enhance our properties.

As background, the Twynam Agricultural Group is a family farming company that owns 16 properties spread over 400,000 hectares of land in New South Wales. This equates to about 0.13 per cent of the Murray-Darling Basin catchment area in New South Wales. The operations are both grazing and dry land and irrigation farming. The properties are located across all river valleys in the state. We grow cotton, wool, cereals, beef and rice. We gin and market our own cotton, and we market some of our other produce. At times these operations require land development for our irrigation crops, and therefore we are very attuned to the requirements of New South Wales legislation.

As a family owned company, we, like our owner and most farmers, are passionate toward our industry and the environment that we operate in. We share the duty of care with all stakeholders so that our next generation can enjoy their participation in our industry as much as we do.

Despite our being the largest farmer in the state, the environmental issues we face are no different from those facing a small struggling farmer down the road. The difference is we have our own capital, but we all impact on each other. Unfortunately, as with the weakest link in the chain analogy, the level of success in combating existing environmental problems would be dependent on ensuring all farmers participate. These cash-strapped farmers, who I am sure have the instinct and the desire to participate, cannot afford to commence to environmentally enhance their property, or even in some cases just maintain them. These farmers need to be supported.

In our submission we addressed our desire for a proper balance between productive use of land and the protection of our environment. We believe that the increasing imposition on farmers by regulations is no longer the answer to combat the environmental problems we all inherited. They have achieved their primary goal, prevention. Now we need to move forward together in a more cooperative and affordable manner for remediation while still permitting sustainable development.

One of our major concerns has been the dated research that has driven state government policy. This dated research has driven their precautionary principle approach to on-farm sustainable development. We are therefore now pleased to see over the last few years a considerable increase in federal funds and produce grower levies being spent on environmental research in regard to policymakers and farmers. Provided that funds remain available for research, particularly extension, and education, and the environmentalists and farmers all climb together on the same train, we believe the light at the end of the environmental tunnel is much closer than everyone thinks. Then the word 'sustainable' can once again then relate to both regional and social sustainability, not just the environment.

CHAIR—Thank you. Mr McLean, would you like to make an opening statement?

Mr McLean—No.

Mr JENKINS—Can I pick up on a point that you highlighted towards the end of your opening address about outdated research. Can you give an example of outdated research?

Mr Gill—A good example has been in relation to the plains wanderer. In the past there has been a lack of good research on what sort of country the plains wanderer thrives in. Back in 1980 in the Riverina the view was that the plains wanderer, a small quail like bird, liked high vegetation country. Therefore, there was a view that locking up land was most suitable for the plains wanderer. It has been now shown that land that has been locked up is not the sort of habitat that the plains wanderer prefers. In fact, the plains wanderer thrives on land that has been grazed lightly so that it can hide yet also see predators, like foxes. So in 20 years we have gone from a lock-up approach to a sustainable grazing approach for the plains wanderer. That is their perfect habitat.

Mr JENKINS—Was the conclusion about sustainable grazing reached on the basis of further research?

Mr McLean—Yes, by Birds Australia. Habitat mapping was the question that we had. When we initially went out there to develop certain areas of the Riverina plains, which is all pretty much the same to the naked eye, the original mapping that they had given us was not accurate. To be fair to Birds Australia, they did not realise that come one day when species impact statements were to be conducted on properties, that their mapping of this habitat would actually be under the microscope. The frustration that we have had is that we have had to develop the science, along with National Parks, to accurately map the areas of habitat. That has cost us a lot of money. Our first SIS has taken three years, and we are only at the stage now where National Parks and Wildlife is happy with the mapping and where we can start to talk trade-offs. To be fair to National Parks, they and DLWC were aware that the original mapping of habitat, the science, was not accurate. This is a case where the legislation was faster than the science. It comes down to individual issues of species. Obviously, the science is not up to date.

Mr JENKINS—In the development of this base data, was your involvement formalised, or was this because they had a good bloke, you were good blokes, and it all happened? Is there something of a developing culture where we, as bureaucrats, understand this has to be the case?

Mr McLean—It is very much a developing culture. At first, it was very adversarial: our consultant versus their consultant. It was only through meeting over the table and having discussions with National Parks face to face that we brought the issues to a head. We have been funding consultants upwards of \$100,000 for our first species impact statement. But then National Parks have also been funding along with us to get the science right. Whereas, first, it was very adversarial, we have now come to a good understanding about where we are going. The frustration is that a lot of land-holders still question the science: ‘Why are these people coming onto my place; my property. There is going to be a hook in this for me. If I show them some area of habitat, they are going to lock it up.’ I do not think that is really the case; I think we need to work together.

Mr JENKINS—In his opening statement Nicholas mentioned extension officers. This point has come up continually during this inquiry. For a lad from the northern suburbs of Melbourne, my understanding of what has been happening is that the number of extension officers throughout Australia has been reducing. That has always puzzled me because they seem to be the best at interchanging between what is being driven from Sydney, Melbourne and Canberra—from the cities—and what is actually happening in the field. They are also the people who are most respected and trusted, and therefore can get the type of change intended with cooperation. Are extension officers on the decline or making a comeback?

Mr Gill—There are quite sound extension services. However, in some areas people have questioned the ability of getting feedback regarding what the farmer needs back to the researchers, which is an extension rule. A good example of where extension services are very important—in fact, the federal government in their funding insist on good extension work—is the cooperative research centres. I sit on the cotton research centre board and one of its key areas is extension services. It is all very well to do research but, if you do not get that research back onto the ground where people can react to it, you are really wasting your time. That link between the research and the farmer is important: you can do research all day long but, if it is not applicable, then it is a pointless exercise.

Mr McLean—One point that we are finding on the ground is that they are a bit short on people to do this research. Inevitably, when a development application goes in and an EIS or SIS is called, it is the proponent who must provide the information through their consultants and list of experts. It then comes back to us feeling that National Parks and DLWC are information-gathering services done by the public, and we are funding them.

CHAIR—Are they short on people to do research in universities, experimental stations under the state auspices, CSIRO or private organisations?

Mr McLean—We have to ask Charles Sturt University to come on board with us to do the research: it is a circle.

CHAIR—Do you pay for that?

Mr McLean—Yes, because we are the proponents. Inevitably, because we are going through the groundbreaking areas of mapping and technique of species impact statements—we could have said we will give up and not develop this, but we have said that we will push it and come to an outcome—we hope that that information will be used on a regional level.

Mrs VALE—You are providing a resource to government any way.

Mr McLean—Exactly.

Mr Gill—Our organisation has a larger capital base than the small farmer. I have no idea how a smaller farmer could undertake any development, do any work or understand the environment better on their property.

Mr McLean—The smaller landowners in their land care groups are still in a tight circle of recrimination, unease and not knowing where they are going. We had that to start with, but we said, ‘Let’s go and check out the issues.’ We went straight to the director-general of National Parks and the regional director of DLWC to find out the issues. We created a one-on-one communications area where we could start to work through the system, but it still costs us a lot of money.

Mr JENKINS—Are you involved, on different properties, with the local land care groups?

Mr McLean—We empower our managers to become members of Landcare, certainly, and then they report back to us on certain issues on their property.

Mr JENKINS—Are you suggesting that the land care groups do not have the critical mass to get to the decision makers?

Mr McLean—I think that might be the case.

CHAIR—What happens within the group?

Mr McLean—It is hard to go to a land care meeting where they talk positively and look for outcomes—where we need to go. I was talking to the Northern Conargo Land Management Council just the other day, and they are still on issues where we were two years ago—letting agencies on their land to do surveys. They are still at the point of saying, ‘No, we don’t want them to come on our land because we think they are going to find something and it will be the fine shovel approach.’ One of the things that we have found interesting in our process is that, yes, we look at a development, we look at a gross margin—we think profitably—and there is our outcome. But, now that we have the native vegetation act and the threatened species act, besides looking at that outcome we have broadened our view and we have also seen, ‘Okay, there is a threatened species here. There is a flora problem here. There may be an issue with sodium in the ground water that we use in our storages.’ So it is making us look at it a little more holistically, in that we are not just focusing on development but also on a sustainable area. Therefore, if the science is done properly—

Mrs VALE—It will profit you in the long term.

Mr McLean—It has to profit us in the long term. We still argue with National Parks on the economic impacts. They come to us and say, ‘We want 6,500 hectares of your land as a trade-off for that.’ We will go back to them with the economic impact on that 6,500 hectares, and it may come down considerably. But they do take that on board. It is reasonably positive for us, I feel.

Mrs VALE—Do you receive any Commonwealth government or even state government assistance for the conservation measures you take as a company?

Mr McLean—Not in my region. And we have not been seeking them, because we still feel that the development process that we have got is enough to allow us to do discretionary spending for that. Some of the developments have cost us—for consent—from \$20 a hectare to \$100 a hectare, but we can still see a benefit at the end.

Mrs VALE—I know that you said in your submission that it actually can take you two years to get a development approval for land clearance.

Mr McLean—Yes, it is clicking up to three years now.

Mrs VALE—That is a lot for small farmers. You are a big company—you can sustain that.

Mr Gill—We are at the point where we find it difficult to sustain. Even though we have a large capital base, we still have the same return parameters. We still have to pay bank interest. So, at the end of the day, in fact, it has just as much impact. In some respects it is a pity, because development can be quite good on the basic resources that surround that development. Certainly if you look at getting a return for a property in the Riverina as we have developed for rice, we have been able to re-look at our livestock and the returns required off that other land, so in fact we can achieve greater returns by not necessarily carrying the same number of stock across 100,000 hectares, because of this development. So there is a plus that can evolve certainly a much larger area, and certainly with native vegetation, rather than the perceived harm you do if you are undertaking development. And I do not think the development does any harm, either.

Mrs VALE—You spoke about trade-offs before, but could you expand on those concerns? On page 2 of your submission you said:

There is no workable policy on property agreements with “land trade-offs” in circumstances where flora/ fauna may be affected by a proposed development.

But, even though there is no workable policy, you are saying that are developing it on the run, are you?

Mr Gill—I am pleased to say that since we wrote that submission—when we were at the height of our frustration—we have now nearly come to a workable agreement in regard to the plains wanderer and having an area of land which is set aside. We would then manage a surrounding area of 5,500 hectares in a grazing sense where there could be impact. But, interestingly enough, out of this process, there came the threat of foxes. In fact, now we are putting together in our management policies a way of keeping foxes down in that particular area to enhance the environment for the plains wanderer. So it is interesting how it is moving along. One issue turns up another issue. Of course, it is a cooperative manner that we are now working in, and I think that could only benefit everyone. We are all learning.

Mr McLean—Certainly the selling point for us is that National Parks are not asking us to lock up the area; they are asking us to manage the area and at certain times of the year to destock. When we look at the economic impact on that, it is not a big concern. If they do not

impose too many economic restrictions on how we run our business, we are fine. We are happy to conserve that area.

Mrs VALE—That is probably a very positive outcome with, if you like, a bureaucracy working with farmers on the land.

Mr McLean—Certainly. Although it has taken us three years, it has been frustrating but it will be productive. We see that our next developments or even future developments within the region would be able to use that as a template and more very quickly. It just comes down to the mapping and what the trade-off is.

Mrs VALE—There has been a lot of discussion in this committee about duty of care and exactly how far you take it and how far into the future a duty of care goes. Just by what I am hearing here today, even though you might not have thought of it as a duty of care, you are certainly extending it considerably. Is it just in the process and that is how it is evolving?

Mr McLean—That is because the processes evolve. As I said, we are looking at a development and now that we have been opened to these EISs and SISs, although it is frustrating, yes, it has opened our eyes. Three years ago, we went to National Parks and we said, 'We've got a problem here with this plains wanderer. We want to develop 3,000 acres. Here's a thousand acres of plains wanderer habitat.' They said, 'That's a great idea.' They took it up the next step and they said, 'No way. Go through the species impact statement because the amelioration process is covered in the species impact statement.' So three years later, the wheel has finally turned and now we are here to say, 'Here's this thousand acres. Do you still want it?' But we have learnt a lot.

CHAIR—You had no option. You had to go through this process.

Mr McLean—We could have gone to a voluntary conservation agreement, but the sticking point—

CHAIR—Do you mean a voluntary conservation agreement on your own land?

Mr McLean—Yes.

CHAIR—So that would have restricted your ability to operate that way.

Mr McLean—It could have, but now that we have gone through the science and developed a science, a voluntary conservation agreement will not really restrict our economic impact on that land. We will have to destock at certain times of the year, but we just have to fence it off and then run it.

Mr Gill—Can I just make a comment about duty of care? Yes, we do have a duty of care. We believe as a company we have a responsibility to enhance our properties, so our duty of care for most farmers should be that you should maintain it to at least the level it was at when you actually took over that property. Some people cannot afford to maintain, some people can afford to enhance, whatever. But with the regulation and legislation we actually have to contest with, the duty of care is shared more and more as regulations come in, which goes back to property

rights. The fewer property rights you have, the more we are sharing our duty of care on, say, developments. We are sharing that with government because, if 20 years down the track, we were deemed to have caused some damage to the environment from a development which went through National Parks and the Department of Land and Water Conservation, you would say that they were sharing in our duty of care because of their regulations. We all argue that we would love more duty of care and hence less regulation, and we will take on the responsibility of duty of care and that is entwined with property rights. Give us back our duty of care and release some of the regulations, because we can cope with duty of care probably better than five agencies working out whose responsibility it is. This ties down really quite closely with property rights and duty of care.

Mrs VALE—In view of the conservation activities that you are undertaking—and I suppose you have not really been looking at it from a duty of care perspective; you have actually been looking at it as getting the job done and coming up with the right outcomes—is there any way that you could quantify then the cost to your company, regarding the private expertise or the private responsibility that you have undertaken vis-a-vis the public good outcome? Is there any way to cost that?

Mr Gill—I suppose the SISs and the EISs, provided they are shared with everyone in the local Riverina area, could add up to a quarter of a million dollars perhaps. That is life. We get a benefit because we are growing irrigation crops off it, so we are not going out there and raising our hand. I think some of that is private good; it gives us a private benefit and the world is a better place if, in fact, there is public good attached to that. The work that we are undertaking is quite precise to certain locations. So there are greater private benefits, so we are probably a little bit different. If we were in a catchment area that was treeless, then that would be a different scenario totally.

Mrs VALE—I cannot help getting the feeling—and this is not a question, just a comment—that we should have actually allocated the brumby problem to you. There might have been a better outcome.

Mr BYRNE—With respect to your future plans for land clearing, what is your projected land clearance on your properties over the next five years?

Mr Gill—If you look at land clearance, I suppose it depends how you define clearance. Cutting trees down is very minimal. If you talk land clearance, the perception people have is that of sending in a big Queensland bulldozer. When we talk land clearance, we are probably talking about native vegetation of similar land of 200,000 hectares that we may have down in the Riverina area or we may be talking 2,000 or 3,000 hectares in the Riverina and, dependent on other areas, maybe in the Macquarie Valley we may undertake 1,000 hectares. But in each of those instances, there are enormous amounts of land surrounding those particular areas so we do not have really great desires, mainly because water obviously is the big issue and we do not know what is happening with water at the moment.

Mr BYRNE—So to some degree you are reaching a fairly static point with respect to any potential further development of the land, shall we say?

Mr Gill—Yes.

Mr McLean—And that is driven by our resource of water which, at the moment, is a little bit undecided as well. To justify capital expenditure at the moment, or capital development, one has to be pretty good with the sums.

Mr BYRNE—What is your impediment with respect to water, particularly at the present period of time? State legislation?

Mr Gill—Obviously our property rights over the water.

Mr BYRNE—So we can expect the property rights again?

Mr Gill—Yes, obviously. It is being debated in the Upper House at the moment and we do not know what the future will be after the first term of management plan—whether in fact the New South Wales government will be reducing the bulk water entitlement or not.

Mr BYRNE—Just focusing on that particular piece of legislation, how much would that actually cost your organisation? If you get what is categorised as a reasonably unsatisfactory outcome, what will that cost your organisation?

Mr Gill—I would say even a five per cent reduction would have an impact of substantial millions. I could not really give a precise figure, but it would be profits of somewhere between zero to \$10 million maybe.

Mr BYRNE—So just with respect to this particular piece of legislation in the New South Wales parliament, what consultation has occurred with respect to your organisation?

Mr Gill—Mainly via Cotton Australia, the New South Wales Irrigators Council and Macquarie River Food and Fibre. So we basically rely on those entities.

Mr BYRNE—So you have had an opportunity to make a contribution?

Mr Gill—A contribution? There has been a feedback process. Whether that was totally listened to is probably the argument we have. Once again, as Mick Keogh said, you can have the discussion, but it eventually does not change the outcome.

Mr BYRNE—Yes, it is sort of like a microcosm to some extent of what may happen in the future, is it not, with legislation federally in the sense of consultation with respect to the impact of, say, some potential conservation measure?

Mr Gill—In respect of—??

Mr BYRNE—There might be, say, federal legislation that may be put through because of public good—call it whatever—and what you are experiencing is potentially a microcosm of what might occur in a broader sense later on. Is that a fair comment?

Mr McLean—We are certainly getting that through the cap now, and our allocations have been reduced considerably from 120 per cent in the Riverina down to 80 per cent or 85 per cent.

What it is doing at a company level for us is focusing on our farms and our water use and are we putting that resource to the best position? So then we have to look at our rice, which is a big water user. We have to think, 'Can we get efficient or do we do other things?' because we know that the change is on, the culture shift is on with the water.

Mr BYRNE—With respect to the things that you actually produce, how much of that do you export?

Mr Gill—We export all our cotton. Forty per cent of the rice would end up in Papua New Guinea via the rice growers cooperative. Our wool is generally exported, and our wheat is exported.

Mr BYRNE—In turnover terms, what is that in dollars per annum?

Mr Gill—I am not sure whether in fact I could divulge that, being a private company, but it is considerable.

Mr BYRNE—Consequently, with these future water restrictions—let us stick to this scenario—you are saying that will take five per cent off your annual turnover?

Mr Gill—Potentially; of profits, yes.

Mr BYRNE—Has any potential compensation been offered with respect to any deleterious commercial effects?

Mr Gill—There is discussion at the moment that, in fact, if the bulk water amount is actually reduced, then in fact there would be compensation during a certain water management plan and then compensation, which would be based on the Valuer General's valuation. So there is recognition, I know, also by the environmentalists and by the New South Wales government, that at that particular time compensation is fair and reasonable. However, there is a big question mark with regard to compensation during water management plans. Therefore, if I were the government, I would reduce our water rights at the end of a water management plan, so that in the end compensation is not the recognition that we would really want, purely from the wording.

Mrs VALE—Mr Gill, that compensation would really only be a one-off compensation payment, wouldn't it?

Mr Gill—If it were a purchase of a water licence, for instance, to be used for the environment, yes, it would be a purchase of that water licence at market licence.

Mr BYRNE—In your view, with respect to some of the stuff with threatened species, is there enough research out there at the present period of time to be making decisions that create a framework for the next 20 to 30 years? If the government acts, say, in the next year or two—regardless of what political persuasion it is—is there enough solid research out there to come up with a comprehensive national plan to some extent, obviously based on subregional components?

Mr Gill—The answer is probably no because, just on what we have experienced, we are paying for research and therefore, if we are paying for research, which is new, then there must be a lot of other parties doing the same things; so the answer is no.

Mrs Vale—Is the cost of that research tax deductible in any way?

Mr Gill—It is for, ultimately, the irrigation development, so I am pretty sure that 33 per cent over three years is deductible.

Mr Byrne—I presume it would be difficult for smaller consortiums and smaller farmers to take that out.

Chair—If you are not making a profit, it is not much good to you.

Mr Gill—Yes; and if the floods continue up in western New South Wales, the rain will not help us, either.

Chair—You basically manage about 4,000 to 5,000 hectares in New South Wales, I gathered from what you were saying: is that the total area of your properties?

Mr Gill—It is 400,000 hectares.

Chair—What sort of employment level is there; what sort of work force?

Mr Gill—We employ 350, going up to 450 with casuals in the peak season, which is the ginning period.

Chair—That is for the north-west and also the MIA?

Mr Gill—Yes, and in the central area too.

Chair—Around Forbes?

Mr Gill—Yes; Warren and Forbes.

Chair—So there is significant money generated into those local communities?

Mr Gill—Enormous. They always say that the multiplier effect is three to one, so it is a substantial employer. Also, there is the multiplier effect into local economies. Certainly, in the Collarenebri region and around Forbes and Hay, we are big employers.

Chair—I have been very interested in your comments about the plains wanderer. The voluntary conservation agreements, I assume, come out of the Native Vegetation Act.

Mr McLean—And the New South Wales National Parks and Wildlife Act.

Chair—‘Voluntary’ would seem to be a misnomer?

Mr McLean—Yes. A lot of people feel that it is not voluntary; it is like having a gun at your head. In order to do development, this is what you need to do. So it is a misnomer.

CHAIR—If the National Parks and Wildlife Service believed that there was an area on your property that had some value as a habitat for either a bird or flora, they can come in and put a voluntary conservation order on that area?

Mr McLean—No, the two parties have to agree.

CHAIR—What if you do not agree?

Mr McLean—Then you do not develop.

CHAIR—So there is no option?

Mr McLean—Yes. We have gone through the options of not developing, and that is not a scenario. Firstly, National Parks came to us with a 6,500 hectare management claim over the area. We said, ‘That’s unsustainable. That’s 12 per cent of our property. You can’t do that to lock it up.’ It was not locked up forever; it was to be managed. But the economic analysis that we did over the 6½ thousand hectares was quite substantial because it meant destocking in a drought period, destocking between August and November. The economic impact on that area was quite significant for us. Once we came back with those figures to National Parks, they were quite willing to look at it. They said, ‘That is substantial.’ Then we started to tailor it down and we had more science done on what areas were impacted versus the trade-off areas. We are starting to fine tune, or coming down to a fine line, where we think we agree on areas of impact as against areas that need to be conserved, and then how we are to manage it. We are coming down to that area where we feel that that is okay and that we can agree on it.

CHAIR—What has been the cost to National Parks of this exercise?

Mr McLean—They contributed \$8,000 to some of the survey work.

CHAIR—To something that might have cost a quarter of a million dollars?

Mr McLean—No. This particular business of ours, in this first exercise, has cost us over \$100,000.

CHAIR—And they have contributed \$8,000?

Mr McLean—Yes. They say to us, ‘You’ve got a benefit of putting 600 hectares of rice and getting \$600,000 a year out of that business.’

CHAIR—Yes, that is true, but if we had not found an environmental benefit, you would not have had to do that.

Mr McLean—No, that is correct.

CHAIR—So it is all forced from the fact that there is an environmental benefit out of this?

Mr McLean—It is driven by the legislation.

CHAIR—I know that you are a bigger operation and you are not necessarily more profitable than anyone else, but a smaller entity, obviously, cannot afford \$100,000 to go out and do that.

Mr McLean—No. That is why we feel that we need to get through this to an end point so that, with the next two studies that we do—because we have done one species impact statement and I have got two under way now, and I have an environmental impact statement going as well—we should get to a manageable level where they only cost us \$30,000.

Mrs Vale—Because you have all this background data yourself?

Mr McLean—That is right. We are using the same consultant, and National Parks eventually—

CHAIR—A small entity would also know that it was in their interest to go ahead and do this but they just cannot afford to do it?

Mr McLean—If that small entity is looking to develop irrigation, they should be able to afford it.

CHAIR—Even the \$100,000 study?

Mr McLean—No, certainly not. By ratio, our areas of clearing or areas to develop are probably a little larger than normal.

CHAIR—Studies do not often get any smaller.

Mr McLean—That is exactly right. That is why we are in a groundbreaking area and why we said we have got to keep going.

CHAIR—So I can assume that someone in that situation would just be less viable, sit back and slowly die?

Mr McLean—Or put stress on other areas of their enterprises that they do not really wish to put stress on. The irrigation areas in the Riverina take up 2½ per cent of our land area, but they contribute 50 per cent of our trading profit. That is quite substantial. It has enabled us to lower stocking rates on our dry land areas, lift the fertility of our sheep and cattle and destock better when dry times come. When the drought comes, we can start selling off; we do not have to hang on to that stock and suffer bad or short-term economic decisions.

CHAIR—You mentioned something like a land swap that was part of this. I heard that you can now do a limited grazing of it so that you have not lost the land completely.

Mr McLean—Yes.

CHAIR—But if you had lost it completely and the best habitat was to be completely ‘leave the land alone’, what sort of title is on this land? What did you own again—freehold, leasehold? What was the title?

Mr McLean—It was a freehold title. To conserve that area they want the conservation agreement placed on title forever. They want it conserved forever. When you look at their arguments, that is probably fair enough too. They can say, ‘In 10 years time, if you sell that property, somebody else could come in and say, “Pooh-pooh to you, we will put in a development application and take it out.”’

CHAIR—If someone else comes in with that caveat on title, they would not pay you as much for it, would they?.

Mr McLean—Correct. But we have done the economic analysis, and it is still small.

Mr Gill—If we sold the property, the value of that land would be zero. They would be valuing the irrigation.

Mr McLean—Unless there is a certain credit.

Mr Gill—There is a value impact; there is no question of that. The value to us was to develop the irrigation in the first place; we see it as no value to the next person.

CHAIR—Torrens title certainly means a whole different thing.

Mr Gill—Absolutely.

CHAIR—You have been saying that you do have management plans in place. In riparian areas or areas that you see as important bird habitats and important to agriculture as well, what sort of plans do you have on your properties to say that those areas will be conserved and protected, not just for environmental benefits but for your own benefit?

Mr Gill—There are two factors. Obviously, with the cotton best management practice—that is, working with the environment—we have guidelines that we adhere to. The second issue is the culture of our owner: he wants to see birds and wants to see native vegetation. So there is an inherent culture that says: do not disturb unless you have to. When you say ‘plans’, yes, we have plans via the cotton BMP program, as it is called. Then there are the inherent laws of the company in some respects.

CHAIR—They are not written down, but they are able to say that this is what our policy is.

Mr Gill—In BMP it is written down, but there are strict policies in the company of not dam0aging the environment. But you might have your own on-farm—

Mr McLean—Also, through the process of these impact statements, we are developing QA manuals for our properties for undertaking effective pest control and the management of those areas so that, even if the management changes, they have still got the manual there. In areas

where they are not affected by threatened species, where there are timber reserves, we are undertaking independent surveys to establish a credible harvesting quantity of timber. Then we will develop that into a QA as well for that property. Rather than take it on the advice of a timber cutter that this is what is sustainable, we will get an independent person in, and he will tell us what is sustainable.

CHAIR—You will have heard some of the questioning earlier with farmers and discussion of the European-American system. Do you think it would be an advantage to property owners to be paid for certain environmental management measures?

Mr McLean—Very much so. If those systems were put forward to the smaller landowner groups, they would then start taking that on board. I think that is very positive, and that is what needs to get out to the farmers, some positive measures that they can take, that it is not all doom and gloom. But certainly the science needs to be perfected before that is established.

Mr Gill—Also, in the catchment areas of, say, Macquarie and Lachlan, it is essential. There are some pretty horrific figures coming out of the salinity reports and if those catchment areas are not wooded pretty quickly, then I would say there is going to be some substantial detrimental problems because irrigators down the valley are going to start putting more salty water on to land and there will just be a snowballing, exponential problem. I would hope that in the catchment areas where the maps are showing substantial damage, and increasing damage, there should be some payment to those farmers now. That area is particularly marginal, so somewhere a system of payment is needed. Whether it is jointly funded by the community, by riparian users, that is all up for debate.

CHAIR—What about a system of credits?

Mr Gill—There could be salinity control credits, or greenhouse credits. I think there is a good opportunity for that type of thing.

CHAIR—The Americans have not ratified Kyoto yet.

Mr Gill—Neither have we.

CHAIR—Carbon credits have been mentioned to this committee before, and we have also done an inquiry into carbon trading, but obviously there are a few things to be agreed to before that does happen.

Mr Gill—Obviously, carbon is another issue. The Macquarie Food and Fibre group is doing a 100 hectare trial program with State Forests in respect to salinity control credits, which are being transferred through. If that works it will be very exciting because there you could see irrigation associations starting to look after their future, with assistance from the community generally. The more stakeholders who are impacted, the better. Obviously, if the catchment areas are salty then local communities, riparian users and Australians generally are impacted, just on export dollars. To me, that is one area. If you look at all the problems such as salinity and the problems with other native species, et cetera, the biggest concern New South Wales has is salinity in catchment areas. We are struggling through all the other issues, but we have no control over salinity. We have one property where we have planted 5,000 saltbush plants and we

are doing some remedial work, which is good, but we cannot control what is happening up in the catchment zones. That is the priority, because if we say goodbye to irrigation because of the salt, we are also saying goodbye to the total river systems. That is where we really have to zoom in and work out a process that can start treeing up those salty catchment areas.

CHAIR—It begs the obvious question: how much can you pay for salinity credits?

Mr Gill—We would have to work it out and say that if in 20 years time we cannot use that water, what is the impact on our group? What is the impact on the whole industry? What is the impact of having salty water getting into Adelaide, for instance? What is the cost of them actually having to put more dams in the Adelaide zone. So what could we pay? We have not done the work.

CHAIR—But you could pay something, or contribute?

Mr Gill—Yes, I think we could contribute, but I do not think we can pay alone. I do not think a treeing program of 100,000 hectares would cost an enormous amount of money.

CHAIR—That is what I am trying to get at, I suppose, because if you listen to the CSIRO and the Murray-Darling Commission, they are saying certain things have to be done. I am asking, 'How will they be paid for?' There is probably a spread of things that can be done, but one of those is salinity credits and how much that can contribute.

Mr Gill—Yes, that is probably where greenhouse will have the major impact as well. Payment of salinity credits is one issue. Greenhouse is another form of funding in respect to selling off benefits. So there will be an incentive for somebody like our group to tree up a certain zone or a certain area of one or two properties up there. There are salinity control credits. There are potential greenhouse credits. That is all part of the funding process. And there are obviously the tax deductions that would exist indirectly as a community funded program, but there is also recognition that somewhere else we are paying tax. That is an important point.

Mrs VALE—You have had your development application in for nearly three years—for land clearing. Whereabouts is it and how many hectares is it?

Mr McLean—It is in the Riverina and it is to do with 600 hectares of native grassland and pasture.

Mrs VALE—And you want to clear it, do you?

Mr McLean—Yes.

Mrs VALE—You were saying earlier that the EIS and the—

Mr McLean—It was done under a one-species impact statement. As I said, the science was not developed enough to do the habitat mapping, and we have had to develop that and work it out.

Mrs VALE—That is that particular development application, and that is why it is taken so long.

Mr McLean—Yes, certainly. We have further applications pending as well. They are being done with species impact statements, but we are using the information just overlapping it and it should be a lot speedier.

CHAIR—Thank you very much for your evidence.

[11.22 a.m.]

ROBERTS, Mr Gregory Paul, State President, New South Wales Apiarist Association and National President, Federal Council of Australian Apiarist Association

CHAIR—Welcome. We have a presentation from you, which I think some members may have just received. Would you like to make a presentation, and then we can ask some questions.

Mr Roberts—I will go through it very briefly. Thank you for fitting me in here today. I should mention up-front that I have done quite a lot of work on beekeepers' access to our native resources. About 80 per cent of honey in New South Wales is produced off native flora; 70 per cent of that is eucalyptus. As you probably well understand, we have had quite a problem with the national park policy over the past years. That has now changed to full transferability of bee sites.

Beekeepers do need an older type tree for honey production. We cannot get honey production off plantations. A tree of at least 30 years of age is needed for the simple reason that nectar produced by a tree has to be over eight per cent sugar, which small trees do not produce. About \$30 million worth of honey is produced in New South Wales per annum. Of that, about 50 per cent is produced off private lands, and about 50 per cent of that is produced off agricultural crops such as canola and clover, and what have you.

We have a very good relationship with land-holders. An area of our industry that is probably misunderstood by the public is the pollination value. The value of production of seed or food products to horticulture and grains is about \$346 million of crops that need cross-pollination by honey bees.

Beekeepers do move bees; we are a very mobile industry. A commercial beekeeper will move his bees from one area of the state to another about six times a year. As I have said, there are the pollination values, but we have two areas outside of pollination and honey production that are growth areas. One is packaged bees, which go overseas to countries such as Canada and other cold weather countries, where the honey bee cannot survive over winter; they are used for pollination values overseas. The other area that we may fit into plantations, especially on private lands, is the production of medical honeys. I do have some brochures on medi honey.

Canberra Hospital, at this moment, is experimenting with certain honeys from the leptospermum, which is the jelly bush tree, to control golden staph in hospitals. This is an area where I feel that plantations could be grown quite easily in conjunction with addressing soil salinity. Leptospermum is a subspecies, it is not a eucalyptus. And it is a possibility in the future that companies such as Capilano Honey could get involved with research and develop not only this type of honey but also help with soil salinity.

The normal type of honey returns to a beekeeper about \$1.60 or \$1.70 for the eucalyptus type honey. The leptospermum honey brings \$9 a kilo, so there is room there for profit sharing between farmers or State Forests or whatever. It is a very interesting and new area. We cannot produce enough of this honey at the moment. In New South Wales, we produce only about 10

tonnes per annum. The reason is that it is a wetland type plant and a big percentage of that plant is locked away in conserved areas on public lands that we do not have access to. But in the future plantations may be one of the **solutions**.

We have developed a code of practice for beekeeping on forested lands. That was in conjunction with State Forests, National Parks and Wildlife Service, Rural Lands Protection Board and some private property owners and the New South Wales government. It has been accepted by the New South Wales government and all the other bodies. I have not brought any copies with me. I had some meetings this morning where I had enough paperwork to bring but, Mr Chairman, I will have my secretary send you enough copies for your committee.

One thing I should have mentioned up-front is that I sit on the New South Wales government's Resource and Conservation Technical Committee to advise them on beekeeping issues. We have been heavily involved with the regional forest agreements. I believe that in relation to state forest lands and national parklands we probably have some of the best beekeeping policies in Australia. I would like that to continue over into private lands. I predict one problem with voluntary conservation agreements for private lands: that beekeepers may be excluded just by the fact that they have access to some of these areas that may be cut off or fenced off as far as conservation is concerned.

There is no evidence at all that the honey bee is detrimental to the environment. There have been only claims and counterclaims, but there has never been any proof that the honey bee is an environmental villain.

CHAIR—I might carry on from that. From memory of my former experience in the state, I think one of the great arguments at the time was the fact that the bee you use—which is the European bee, is it?—

Mr Roberts—Yes.

CHAIR—is an exotic insect and, therefore, competes with native insects. That is why some of the areas were restricted in New South Wales to beekeepers. Has that changed?

Mr Roberts—I think it was more along the lines that it was a precautionary principle keeping us out—nobody could prove that. The European honeybee was brought into Australia in 1822. I think you know the reason why: we had exotic crops—we are talking about clover and legume crops—and there were no native pollinators that could pollinate those crops. As far as the denial of the beekeeper's access to conserved areas goes, it was more a precautionary principle rather than any science. I did present to you, Mr Chairman, our economic and environmental document. I will also have my secretary send you a copy for each of your committee people.

CHAIR—So what legislation, either state or federal, at the present time impacts upon the bee industry?

Mr Roberts—We do have some concerns with the Threatened Species Act. There is a nomination now that not the commercially managed honeybee but the feral honeybee is a threatening process regarding the region honeyeater. It is virtually—

CHAIR—That is the state act, is it?

Mr Roberts—That is the state act, yes. The claim is that the feral bees nest in hollows that are used by the region honeyeater. Ben Olroyd's research from Sydney University, however, rejects those claims. This nomination has not been decided yet. It has not gone public; it is still private and has been there for quite a while. It was nominated probably 12 or 18 months ago.

CHAIR—Do you have any statistics from the commercial operation that show how many swarms actually occur from commercial operations?

Mr Roberts—No, there are no statistics. It does happen, I would not deny that. However, it is a management practice of beekeepers not to let that happen. For example, if a swarm flies from a hive, you have lost 40 per cent of production from that hive. I will explain what the swarming process is first. The swarming process is the natural process of a beehive replacing a queen bee. They will rear a young queen inside the hive and the old queen then flies with about 40 per cent of that hive. Beekeepers try to bypass that situation by killing the queen about every 18 months, no longer, and replacing it with a young queen. It does work well and it also helps with honey production. Like I say, it does not always overcome the problem.

CHAIR—So most of the swarms that would occur would be coming from the wild population that is already out there?

Mr Roberts—Dr David Paton did some work on Kangaroo Island. The conclusion from that was that, in that particular area where he did research, the feral bee was a self-perpetrating problem, not caused by the commercial beekeeping industry. All that research is stated in our environmental and economic document, which I will get out to your committee.

CHAIR—So what about your sites? I know that sites are very important for the bee industry in the old forest areas—many of which are now national parks. I note that the former Minister for the Environment changed the policy in national parks in New South Wales, which I must congratulate her on. Are you restricted in any way now?

Mr Roberts—There are to be no new sites within national parks but all existing sites are to be honoured. We are happy with the policy but there are a lot of people out there who are not happy with my being involved in changing that policy, because it took 3½ years of negotiations to get that changed. Under the regional forest agreements and the comprehensive regional assessments, I think we all know the massive amounts of lands in New South Wales that have gone across to national parks. Without those changes, I do not believe the New South Wales industry would have survived. I think we now have close to about five million hectares of national parks in New South Wales. I think we are down to about 2½ million in state forests, which is a big change. It was a policy that had to be changed, and it would have flowed on to forestry management zoning in state forests. On behalf of the beekeeping industry, it was a crucial policy to change. It was not easy to have it changed.

CHAIR—Basically, I am getting the message that the conservation measures proposed in some of these would be beneficial to the beekeeping industry.

Mr Roberts—Yes. We have no great problem with acts such as the Native Vegetation Act. Everything you have presented in that probably is beneficial to the beekeeping industry as long as we maintain access. We are quite prepared to hang on our code of practice that we have developed on private lands to maintain access.

Mr JENKINS—The Victorian apiarists came before us in Victoria. They gave us an example of what was a recurring theme across industries, which was they believed they were going to be frozen out of a certain national park—I think it was—on the basis that it impinged upon a habitat of, I think, the swift parrot. They put a case to us that the scientific basis for this action was incorrect in that the science did not really indicate how the habitat worked in the ironbark for the swift parrot. Do you have similar concerns about decisions being made on the basis of a lack of proper understanding of what is actually happening?

Mr Roberts—When we are talking science, is science always right? It depends on who does the science, doesn't it? If there is a very sensitive area, and we all agree that it is a sensitive area—maybe it is not the bees causing the problem; maybe it is the trucks or whatever—we do have a relocation policy where that beekeeper will be relocated to another national park somewhere else where this problem does not occur. But it is a full negotiation between the individual, the association and the National Parks. I am not familiar with what is happening in Victoria on the swift parrot.

Mr JENKINS—It was more really just the principle of similar situations where, as apiarists, you are being asked to do something because it is on the basis that it—

Mr Roberts—We have not come across any of these problems yet in New South Wales. The only one that I have mentioned is the nomination before the threatened species people that feral bees are a threatening process. With feral bees, it is no different from feral pigs; I do not think we can be held responsible for that.

Mr JENKINS—I think we were given a lesson in genetics about bees down in Melbourne.

CHAIR—Yes.

Mr JENKINS—We might be experts on this by the end of the inquiry.

Mr Roberts—If you are an expert, you might teach me.

CHAIR—We know what experts are. Thank you very much, Greg, for that evidence. Does anyone who has been sitting in want to make a statement to the committee? You have an opportunity to do so. Since nobody wants to do so, I will adjourn for the present time.

Proceedings suspended from 11.41 a.m. to 1.09 p.m..

GOMEZ-FORT, Ms Rebekah, Executive Officer, Native Vegetation Advisory Council

INALL, Mr Neil James, Chairman, Native Vegetation Advisory Council

CHAIR—Welcome. Although the committee does not require you to give evidence under oath, I should advise you that the hearings are legal proceedings of the parliament and warrant the same respect as the proceedings of the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. We do have a submission, but would someone like to make an opening statement before we ask questions?

Mr Inall—I think the main thing to advise the committee of is that this advisory council advises the state Minister for Land and Water Conservation in New South Wales about the operations of the act. At times that could be about ways in which the act might be changed and how the act is, of itself, operating in the field.

CHAIR—Having regard to that, obviously these committees are community based. What do you take back to the committees and what is the interface between government and the committees on, say, the native vegetation act—which is one of the issues in New South Wales?

Mr Inall—There are six farmers on the council at the moment and a number of people representing various conservation groups, government departments and the Aboriginal Land Council. Those various interest groups bring issues to council meetings and, as a result of our deliberations, we give advice to the minister.

CHAIR—Do those meetings tend to be adversarial because of the different interests?

Mr Inall—Not really. As you well know, the management and conservation of native vegetation in this state is, at times, a prickly issue. You will know that the New South Wales Farmers Association has not, until now, taken up the two seats that are available to it under the act.

CHAIR—Is that a protest?

Mr Inall—The annual conferences of the New South Wales Farmers Association have voted twice not to take up those seats, and that might be interpreted as a protest, yes. However, at its last meeting in July, the conference voted to join NVAC—as the council has shortened it to—‘so long as a satisfactory deal could be brokered.’ As I understand it, the New South Wales Farmers Association is still considering who it may appoint and when that appointment will occur. Of course, that matter will have to be discussed with the minister, Mr Amery.

CHAIR—I know that you are the chair of this council and obviously politics are involved, but can I take you to a point that I made this morning? When you look at these types of committees and their potential effectiveness, you always go back to your own turf—your own backyard—and have a look and say, ‘Is this going to work?’ Take, for example, the Clarence Regional Vegetation Conservation Committee. I will not use names, but I have lived in the Clarence all my life and I know there is no way that the local community relates to that

chairman. So there is a real problem. You are not going to get farmers involved on a committee when you have a chair who is a high-profile person with an obvious position.

Mr Inall—I have no idea which person you are talking about: I have not met him or her. I know nothing about the politics that may be involved—whether it is party politics or perceived differences between farmers and conservationists—so I really cannot help you there. But, as you would know, under the act, the minister places advertisements in state wide and regional newspapers calling for nominations to the regional vegetation committees and, in the end, he appoints people to those regional committees.

CHAIR—I understand that; I used to do it.

Mr Inall—Yes, I understand that. As far as I know, there is no politics involved in the council itself.

CHAIR—You are saying, in effect, that it could be that people did not put their names forward to offer an alternative to the person who is now in this position?

Mr Inall—Yes. There is a public notice calling for people to put their names forward.

CHAIR—Would you agree it is very important that, if you are to get a general consensus with the community on these issues, there must be a feeling of credibility in these areas?

Mr Inall—It certainly helps. I have personally told the minister that I believe NVAC is far too big. Having 18 people on an advisory council makes it very difficult from an administrative and a workability point of view.

CHAIR—On the committees there are representatives who obviously have a rural background, what types of comments are there? Do they see some of the legislation that is being introduced, both federally and on the state scene, as detrimental to their economic viability? Do they see it as difficult to implement on their own properties? What type of feedback do you get?

Mr Inall—About last Friday fortnight, our council held a forum here in Sydney at the Australian Museum. We entitled this day, ‘Native vegetation: how do we value it now?’ There were some really important contributions made at that forum by people from New South Wales, but also from Western Australia, particularly from an organisation called Bush Brokers in WA. I do not know if you have come across them yet in your investigation, but I want to recommend them to you because they are doing very innovative things. There were farmers at that forum who said that they believed that their balance sheets were badly affected by the Native Vegetation Conservation Act. I have met other farmers who say, ‘Well, we should have had this act years ago.’ There are a number of varying views, as you would believe. If I were to divide the state into half—go right across it—I think that there is general support. I must only say ‘general support’ in the south of the state for the operations of the act, but it is difficult in the northern half of the state.

CHAIR—Have government decisions in the past ever been raised with you? I think back to conditions of leases where people were required to clear their lease or, in fact, some of our settlement leases which restricted people to a particular block of land and they had to get

bureaucratic approval if they wanted to increase their holding, or whatever. Has that ever been raised as being a problem? They have only been lifted in recent years.

Mr Inall—Nobody has raised that matter at any of our council meetings. With other hats on, I have certainly heard people air those views in the past. Of course, we could add to that that the taxation concessions and all the encouragement that was given through the fifties and the sixties to clear, come hell or high water, or indeed you were penalised if you did not clear, was a very interesting situation that we have been through, especially in this state, South Australia and Western Australia where there were severe penalties if you did not clear. I cannot be held to these words, but I think you could have lost your Mallee block in WA if you did not meet the conditions. We are seeing a total change in thinking because, after all, you would appreciate as well as anybody, we are dealing with an incredibly complex matter—that is, the biology of the operation of a piece of land. We have learnt a lot in the last 40 years, I hope, but I think we have got a lot more to learn in the future as well.

CHAIR—I think our knowledge is dynamic. You have been around rural Australia and farmers for a long time. I suppose I am asking for a bit of crystal ball gazing, but how do you see getting cooperation with the land-holders to understand, address and help them in this whole environmental area?

Mr Inall—I have to say that I think it is a very tough task. It is not something which is done by one broadcast, one television program or one brochure. It is about giving a lot of people the task of being part of that process. Let me explain that a bit further. As you know only too well, there are a very large number of extension workers in the New South Wales Department of Agriculture who, in my view, are very narrowly focused, but that is how they have been employed. They have been employed as a sheep person, a cattle person or an agronomy person, but I want to suggest to you that their roles have to change in the future. That might not only be within the Department of Agriculture, it is all those people out there who work for Elders or Dalgety—they are all carriers of messages. We have a big job to do in the next 10 years, getting them all involved in carrying those messages about our latest knowledge in terms of care for the land.

CHAIR—Is it important not to point fingers?

Mr Inall—It is very important not to point fingers or to blame anybody, because we will not make the progress we need to make.

Mr JENKINS—I have a question that relates to the legislation that you are set up under. There are other pieces of legislation where there is overlap. Some people have put it to us that one of the first steps that we need to do to help everybody is to look at consolidation of legislation. From the work of the council, does that bring difficulties? Are there provisions of an endangered species act or something like that which might cause difficulties.

Mr Inall—In terms of the workings of the council to date, I do not think those overlaps have concerned it, except that we are worried, potentially, about overlaps. Indeed, quite recently we held an informal meeting with the chairman of the water advisory committee in this state, with the biodiversity advisory people, and with the wetlands advisory people, to see if we could bring it all together. I feel that the person out there managing a single piece of land is utterly

confused by all the pieces of legislation that are out there, and by all the different agencies that are involved in the administration of various acts. If I can speak personally, I believe we have to try and bring it all together because the confusion out on the ground is enormous. But it is not something which our council has dealt with in a formal way.

Mrs VALE—I would like to go back to the beginning. I understand from your submission that you represent 120 different member groups and that you are a peak body organisation. Who are the members of your group? Have you provided us with a list of the members who you represent?

Mr Inall—Yes.

Mrs VALE—I will have a look at that later. There has been a lot of discussion in this committee about the concept of duty of care. You refer to Carl Binning and Mike Young who distinguished between the land-holders' duty of care for sustainable land management and their provision of non-marketable public conservation services to meet conservation objectives. How does your group define the land-holders' duty of care to the environment?

Mr Inall—We have discussed it, but we have not taken it very much further, yet. It is an issue that concerns us greatly. It ought to concern anybody who is involved in this whole area. Do you mind if I just refer to this?

Mrs VALE—No, that is fine.

Mr Inall—You will find within these documents, which we have only just released in the last fortnight or so, that we want to develop an agreed position on a duty of care. We want to investigate a process to implement it. Neither of those things are easy, as you would appreciate, I am sure.

Mrs VALE—So that is in a dynamic situation with you at the moment?

Mr Inall—Absolutely, yes.

Mrs VALE—Do you have a dividing line then between the duty of care and activities that go beyond that? Is that part of the focus of your deliberations?

Mr Inall—It will be one of the foci.

Mrs VALE—Would you consider it to be difficult to make that kind of distinction?

Mr Inall—Between the actual—

Mrs VALE—A dividing line between a duty of care and activities that go beyond that duty, for the farmer.

Mr Inall—It would be very difficult.

Mrs VALE—Also, Binning suggests that the following principles should underlie cost sharing:

... no financial assistance for meeting duty of care ... one off financial assistance where duty of care changes significantly over a short period of time—payment under these circumstances assists the transition and maintains community support.

There was something else too. Binning refers to:

... ongoing payments when land-holders are required to maintain native vegetation to a standard over and above that required for regional planning processes.

Does the Nature Conservation Council endorse Carl Binning's suggestions on that?

Mr Inall—The Native Vegetation Advisory Council has not discussed that particular matter, but it is one of the things that we ought to be dealing with.

Mrs VALE—It will be up for discussion.

Mr Inall—Yes, sure.

Mrs VALE—Another one of those focuses. In connection with ongoing payments for conservation on private land, would you be able to explain what is meant by a 'standard over and above that required for regional planning processes', or is it too early to do that?

Mr Inall—I think it is too early to do that as well.

Mrs VALE—Okay. Thank you very much.

Mr Inall—I was not able to help you a lot, I am afraid.

Mrs VALE—That is all right.

Mr BYRNE—Do you have an inventory of what native vegetation is based where?

Mr Inall—That process involves intense activity in New South Wales. Although I cannot give you the exact figure, the state government has allocated quite a deal of funds for mapping the whole of the vegetation in the state. You would appreciate what a huge task that is.

Mr BYRNE—So it is a work in progress at present?

Mr Inall—Very much so.

Mr BYRNE—Is the end point—we will confine this to New South Wales—basically to have an existing map of the native vegetation? Is there then some sort of progression into a desired outcome?

Mr Inall—Yes. One of the major roles of the regional groups is to develop what they believe ought to be the outcome. The process is that a regional group develops its own strategy for its region, which it submits to the minister. The minister refers it to our council and we give him advice—as, I am sure, does the department. Then, depending on what the minister decides, those outcomes will be adopted as part of the regional strategy. I think I must add to that. It must be a dynamic process too because, based on our knowledge today, the situation could change. We ought to be flexible in this whole business: our scientific knowledge could change, and therefore the outcomes that you talk about and the assessment process must change as well.

Mr BYRNE—It seems to me that there is a piecemeal approach: we are talking about some sort of pilot project somewhere. If there were some sort of documentation or comprehensive plan that basically said this is what it is and this is what could be achieved, that would be useful for farmers and give them an idea, in an holistic sense, of what they are confronting.

Mr Inall—Of course, it is not just farmers: a lot of other people are involved as well. We must make that point. I do not want to suggest that developing these plans on a regional basis is an easy business; it is not. You have the dynamics of the group making those plans to start with, let alone the very difficult situations that they have to deal with on a regional basis.

Mr BYRNE—What would happen if the government were to implement that policy? Previous witnesses proposed setting up an independent body that would assess something like potential vegetation plans. What are your views on that?

Mr Inall—My personal view is that that would be something of a pity, in a way, because there is already a state advisory council and a number of regional ones. I would hate to add any more layers than are necessary.

Mr BYRNE—A comprehensive plan may be required as part of a national framework, rather than taking a piecemeal approach—particularly in order to bring the farming community and other communities along with it.

Mr Inall—You will appreciate that there are a number of farmers on the regional committees and on the state advisory committee. People will debate whether there are enough land-holders, but I think farmers are well represented on most of those committees. I am speaking generally.

Mr BYRNE—So in a sense, where you have some representatives from farming groups who are saying, ‘We don’t really know what we’re supposed to be doing, and that might change,’ are you basically saying that the sorts of committees you are setting up obviate what they are saying?

Mr Inall—I must make this point strongly: I am not setting them up and neither is NVAC.

Mr BYRNE—I am sorry, yes.

Mr Inall—In the end, the minister decides who will be on those various regional committees. I think that the balance is pretty right, but, as I say, you will get into a lot of debate about that.

CHAIR—On that point, why should you have more than one environmental group on a committee?

Mr Inall—The act says so, if I remember rightly.

CHAIR—I know, but they just form another environmental group to be on, so it creates a problem. We did an inquiry, before this one, into catchment management. Basically, we were looking at how we were using our funds, where the duplication was, what the federal government was doing, what the state and local governments were doing and where we were crossing over. It is probably outside the scope of the council, but it would seem to me at the present time that we have this plethora of committees—we have Landcare, we have Rivercare, we have Coastcare, et cetera. Are we coordinating? Are we just throwing money at this lot and throwing money at that lot? Are we coordinating our efforts? Do we have a plan? Do we know where we are going?

Mr Inall—There is a state catchment coordinating committee, as you all know. It was recently reconstituted when the state catchment management boards were reconstituted. It has been a concern of mine, and of the chairmen of other advisory councils, that we do need to have greater coordination, and I know that within the department at the present time there is an enormous amount of work occurring in that direction. But I think—and again I am talking personally—that there are far too many federal programs and state programs. That is why I say that the person trying to manage a given piece of land has got all these different programs and he or she is totally and utterly confused by it all—and I think a lot of the people advising them are as well.

Mrs VALE—How does your council relate to the catchment management boards?

Mr Inall—We talk a lot to the chairman of the state catchment management committee.

Mrs VALE—So there is a strong link?

Mr Inall—I think it could be stronger—and it has to be stronger. Amongst the visions, I am sure, are that the state catchment management boards will be the authorities and they will absorb the regional vegetation committees, the water committees and whatever other ones there are. I think that would be the preferred model.

Mrs VALE—So that would simplify it?

Mr Inall—That would simplify it for everybody, from a bureaucratic point of view, but also for the customers on the ground.

CHAIR—Has your state committee been briefed by either the CSIRO or the Murray-Darling commission on the problems with salinity in the basin?

Mr Inall—The council has been briefed by departmental officers about that.

CHAIR—Did they talk about revegetation of the catchments?

Mr Inall—Very much so.

CHAIR—From that, were there any discussions or suggestions about how that could be addressed from, say, land-holders on committees?

Mr Inall—There are land-holders on our council who are actually putting a lot of the advice into practice. Yes, most certainly there are.

CHAIR—We were talking about revegetation of hundreds of thousands of hectares of land.

Mr Inall—Yes, I know. I was recently on a farm east of Wellington, where people are faced with this enormous dilemma that you are talking about, who are told that they have to totally change their farming practices. That is a huge jump in thinking, financial management and farm management—the whole lot. We have a big ask there at the present time.

CHAIR—I can see a big issue. Firstly, I can't see how you are going to convince some people at the present time that their particular property is going to be targeted to help the overall catchment. That is something on which we seem to need a lot more education and thought as to how those people, as well, can be compensated. I do not know whether that has even been dealt with at the present time.

Mr Inall—Yes. Our council has looked at stewardship payments to people, and we have advised the minister about that. You may know from your briefing notes that there is an act before, or about to go before, the New South Wales parliament for the establishment of a conservation trust similar to the one in Victoria. The minister has already decided to kick it off with a million dollars from the native vegetation fund.

Mr JENKINS—On what basis do you envisage a stewardship payment?

Mr Inall—I do not think we have worked that out very well yet. We see that, where there are areas of vegetation which are of high conservation value, we really ought to be moving towards considering paying people for looking after that in perpetuity. As you know, within this state there are already a number of schemes, one run by the National Parks and Wildlife Service and one run under the Native Vegetation Conservation Act where people are being paid for fencing off and looking after, for all time, areas of high conservation value. There are a number of schemes like that operating in the state now.

Mr JENKINS—For the public record, just take us through the deliberate use of the word 'stewardship' to describe the payment.

Mr Inall—I would see it as a government body talking with the land-holder and their deciding that those particular species in that particular region really ought to be preserved for all time and their coming to a written agreement that that landowner would be paid for looking after that species, looking after those grasses.

Mr JENKINS—It is an acknowledgment that without somebody looking after it in these situations we would not be getting the public good?

Mr Inall—A lot of landowners have already done that off their own bat—probably hundreds of them have done it on their own because they have that feeling in their heart, if you like, and in their system. Others have to be given a bit more encouragement.

Mr JENKINS—In your broader dealings with land-holders, how often do you think they see that the health of native vegetation might be a reflection upon the health of the wider land-holding, or that a ‘holistic’ approach—this morning’s word—may be what they consider to be the proper use of their land?

Mr Inall—You get the whole spectrum of feelings about that from, ‘It’s my duty to mankind,’ if you like, ‘and to God to really look after these species,’ to ‘from down here these species are in the road of me making a living; let’s get rid of them.’ It is trying to get a balance, to inform and to help people reach a decision about the value of their piece of land and what is on it. That is why I emphasised to the chairman that information—and I do not want to use the word ‘education’ but I cannot find another word at the moment—is a very long-term process. We are trying to turn away people’s views that you were given tax concessions 20 or 30 years ago to pull down as much timber as you possibly could. There are still people who believe that that ought to happen. There is nothing simple about it.

Mrs VALE—Your council has not yet established a working definition for the term ‘stewardship’. Is that what you are still working on at the moment?

Mr Inall—Yes, we really are talking about the next level up, if you like.

Mrs VALE—You have not yet articulated exactly what you mean by ‘stewardship’ so that a member of the general public can read it and understand your objectives.

Ms Gomez-Fort—It is above the standard that would be expected of a duty of care.

Mrs VALE—You have not yet worked out what you consider to be the duty of care?

Ms Gomez-Fort—That is right. It is still a work in progress in that sense. It is a difficult term—as is ‘duty of care’—because it has multiple meanings.

Mrs VALE—Your submission directs us to the concept of stewardship, and I wanted to follow on from Harry’s question. Thank you.

CHAIR—Thank you.

Mr Inall—May I say just one thing before I go—I want to talk wearing Neil Inall’s hat not as Chairman of the Native Vegetation Advisory Council. I really do not see how we can manage the sorts of things we are talking about today without some form of environmental tax in Australia.

CHAIR—We have not raised that point today, and I guess that I should have. We have discussed other questions, such as an environmental levy, which is one of the platforms. We are

looking at a number of issues, including tradeable rights and corporate involvement. But, at the end of the line, we would obviously have to consider an environmental levy.

Mr Inall—Yes. I think that is the only thing that we, as Australians, can do. That is the bottom line, in my view.

CHAIR—Thank you very much for your evidence.

Mr Inall—Can I table these documents?

CHAIR—You certainly can.

Mr Inall—This is the draft native vegetation strategy for the state, and these are the background papers on which the final draft was developed.

Mrs VALE—Mr Inall, how often does your council meet?

Mr Inall—There are a number of subcommittees that meet very regularly, but the council meets once every two or three months.

Mrs VALE—Thank you.

Mr Inall—In the new year we plan to consult with all the regional committees—if we possibly can—on this draft strategy and get their feedback.

Mrs VALE—Thank you.

CHAIR—The committee will accept the document *Draft Native Vegetation Conservation Strategy for New South Wales*.

[1.43 p.m.]

BATESON, Mr Paul, National Local Government Bushcare Facilitator, Environs Australia: the Local Government Environment Network

CHAIR—Welcome. Although the committee does not require you to give evidence under oath, I should advise you that the hearings are legal proceedings of the parliament and warrant the same respect as the proceedings of the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. We have your submission. Would you like to make an opening statement?

Mr Bateson—Thank you. Public good conservation includes the impact of environment measures imposed on land-holders. I think it probably is a bit blurrier than that, and I like to think that, rather than imposing costs on land-holders, opportunities might come out of this sort of inquiry and other related initiatives. We believe it is in our national strategic interests to get natural resource management right. It is fair to say also that, over the past decade or so, much of the funding for conservation measures on private land has not been strategically focussed.

Natural resource management based upon the principles of sustainability—economic, social and environmental—sets a framework for most of the terms of reference of this inquiry. The National Action Plan for Salinity and Water Quality recently announced a \$1.4 billion funding package to be shared between the Commonwealth and the states. However, we believe that, for this to work effectively targeting catchments or regions, local government, in particular, must be recognised, engaged and supported as a genuine strategic partner to deliver sustainable on-ground outcomes.

There are some key documents to consider in terms of the role of local government. I have a full set to distribute. Would you like that now or at the end? I have copies for everybody. This is the National Local Government Biodiversity Strategy Survey, which really gives us a snapshot of where local government is at the moment in terms of conserving native vegetation and biodiversity under its jurisdictions with a heavy emphasis on conservation on private land. It compares the different states and how they are going.

I think it is clear that integrated approaches work best when delivering NRM, as natural resource management is often called, across all land tenures. Certainly it has to be combined with planning, regulation, incentives, education and working in partnership with the community and other agencies, but strongly taking into consideration regional priorities agreed to by all major stakeholders. I have an example of the sorts of things that local governments initiate in a partnership with the Commonwealth and other agencies. It is a regional example from the Gippsland area using financial incentive mechanisms and other incentives targeting private landowners. I think the key to this is that, in terms of cost sharing, it also means landowners have to sign up to something in terms of agreeing to manage their property in a more sustainable manner so it is a partnership.

One of the things that is impeding local government though is the legislation in many states. There are a lot of inconsistencies such as the option of using local environmental levies. In

Queensland you can use them very readily, in New South Wales it is a little harder and in Victoria it is virtually impossible. Management agreements such as covenants, rate rebates, along with the land taxes, valuation methods and local rates are, in general, heavily biased against the conservation of native vegetation on private lands. It is a disincentive to private landowners to do their bit. I have mentioned in our submission that the CSIRO's pioneering research and the recommendations of *Opportunity denied* and *Beyond, roads, rates and rubbish* and *Conservation hindered* need to be strongly considered. I would certainly hope that ANZECC and COAG might look more closely at those recommendations to perhaps work with the state associations, state agencies and governments to address that and, where possible, correct a few things.

In terms of local government's ability to deliver effective NRM as part of core business, I do not think it is good enough to have big stick legislation. That, in itself, is not going to go down very well with local government. Under the devolution of responsibilities to councils, it needs to be backed up with the right sort of support, resources and funding. Even with councils that have local environmental levies there definitely needs to be ongoing Commonwealth and state cost sharing arrangements. We also need to move beyond the sunset clause of so many Commonwealth and state assisted local and regional conservation projects which are often tied to one or three years. In this regard, the MAV—Municipal Association of Victoria—have just done their homework and have made a submission to a state inquiry and I think it is very timely for this inquiry. I would like to table a submission to the Public Accounts and Estimates Committee follow-up inquiry into environmental accounting and reporting. That touches on a fair bit of what I have already mentioned and what I will mention in the next few minutes.

A national environmental levy is one means of sharing the burden of natural resource management conservation measures, but unless the use of funds or revenue from whatever sources the money comes from is strategically focused then it will fail to meet community needs for a sustainable natural resources base with long-term conservation outcomes. I would also refer you to a couple of articles in the journal of Environs Australia at page 3 which covers land clearance and the turning point. It is an independent perspective which touches on much of this including the notion of a national environmental levy, and also some views on the EPBC Act which we do not believe goes far enough in recognising the role of local government. It is a start, but I think it can be improved. I would like to table copies of that. Page 3 specifically is what we are talking about there.

To wrap up, we hope that the recently emerging NRM strategic and funding initiatives announced by the Prime Minister through COAG and ANZECC, such as the native vegetation framework, strongly consider the results of this standing committee inquiry. There needs to be a lot more dovetailing and consistency there. There are so many strategies and initiatives out there that local government and a lot of other people are very confused. This includes embracing local government as a genuine partner in NRM to deliver the sorts of things we want for our community and for the benefit of private land-holders.

Mr BYRNE—How many members do you actually have in your environment network?

Mr Bateson—We are undergoing some restructuring of our membership at the moment. We had over 200. We are an NGO—an independent association—but our primary membership

comes from local government. I could not tell you what the latest figure is because we are undergoing a whole lot of restructuring.

Mr BYRNE—If I asked, ‘How many are in Victoria?’ would you have that figure?

Mr Bateson—No, the origins of Environs Australia, formerly known as the Municipal Conservation Association, are from Victoria, so there is a great strength there.

Mr BYRNE—So which representative from council actually goes on this? Is it a council officer or someone on the council?

Mr Bateson—It varies tremendously. Sometimes we have the mayor, who is the main person who provides input, receives material and networks. Sometimes it is the council’s senior manager and occasionally it is at the practitioner level. Increasingly, we are getting councillors involved.

Mr BYRNE—They have a difficulty in the sense that they stand for re-election at a set period of time. Isn’t there some potential conflict of interest in informing regional strategies or getting involved?

Mr Bateson—We want to engage councillors to think beyond their term, and I think the regional approach is strategically a good way to do that. I have just come back from the Murrumbidgee area and meeting with the regional organisation of councils there. One of the mayors there is really keen to get all the mayors in that region together with some funding assistance from the Commonwealth to commit to this natural resource management, which goes well beyond their terms. Quite often we find they are land-holders themselves there as well, so there is obviously an interest there, and they are in touch with a lot of the natural resource management issues.

Mr BYRNE—Is there a uniformity of view with the member organisations as to what is actually required as far as natural resource management goes or is there a disparity of view?

Mr Bateson—We debate certain things. We do the rounds right throughout Australia—I have just been in south-west Western Australia and the Kimberley. We have not been out there lobbying or firing people up—people have been coming to us and saying, ‘Where is the money? How is it going to be shared?’ and so on.

Mr BYRNE—But is there a discussion about how much actually needs to be done with respect to natural resource management—how much, say, more revegetation might need to occur? There must be some key sticking points other than just the environmental levy amongst a group people who have disparate interests like that.

Mr Bateson—Definitely. That is very important when setting some targets and some milestones for local government. We are very keen, and we have been talking with our stakeholders and others about developing a national campaign which gets some tangible targets and milestones that local government can commit to. Then we can work out the arrangements of how the resources and support can be fed to local government to achieve that. The main thing is to get the sign up so we can focus on, ‘What are we trying to achieve?’ so it is not just ad hoc.

We are in the process of talking with the Commonwealth, Environment Australia, and we hope to talk with AFFA as well about developing this national campaign. It is very much a partnership.

Mr BYRNE—Has there been some sort of figure put on a national environment levy at all?

Mr Bateson—No, not at all. We have had experience with what local levies have come up with, and we have written these up as case studies—for example, Eurobodalla shire on the South Coast of New South Wales, which levies \$20 a year per rateable property, has raised a lot of funds out of that. But no calculations have been done. I think probably the ACF, the NFF and other peak bodies have been really taking that further and doing the calculations.

Mr BYRNE—We have been getting some varying costings with respect to that, Chair, as I recall. Do you see the councils, rather than catchment authorities—you were talking about a COAG structure—as being the end point of administration and coordination in various regions? Is that what you are proposing?

Mr Bateson—That is critical in the delivery. Local government is closest to the community. Eighty to 90 per cent of land use planning decisions are made by local government. The use of financial incentives. There is a whole lot, including education. The surveys and research show that they are the first point of contact for the community if they have environmental problems. Often local government cannot help them. They will refer them on, but they are typically the first point of contact. We all pay rates; most of us use libraries and so on. So it is the first. But it should not just be local government being told, ‘Here’s the strategy. Go ahead and deliver it; we’ll give you this and that.’ It should be to engage local government as a strategic partner at the national level, certainly through COAG—the Australian Local Government Association is involved with that; hopefully, local government might get a place on ANZECC—but also at the state level with this regional delivery emphasis, which I agree with in terms of the salinity action plan initiative and NRM. I do not think there is any one model for all the regions. Local government is often in a very powerful position to deliver as a strategic partner. Regional organisations of councils are already getting involved, and there are other good partnerships involving the Commonwealth and the states in some regions as well.

Mr BYRNE—So, in a sense, do you see state government as an impediment to that process?

Mr Bateson—At times, yes—some states more than others. There is very much a talking down of local government. I know the major land clearance issue is in inland Queensland but, within the capacity of local government, there is a lot of recognition for local government’s role in natural resource management. It is no accident that they are able to apply local levies more readily. But contrast that with, say, Western Australia and there is very much a talking down to local government. Just recently we tried to engage a forum of state agency heads—rubbing shoulders with local government—so maybe that will help to progress things. But if we are serious about addressing what is in the terms of this reference and the salinity action plan, we need to get recognition from the states for the role of local government as a strategic partner. I see there is a weakness there.

Mr BYRNE—What informs local government about what actually constitutes viable national resource management? God knows how many councils there are. How do they come to what you have just put to me as a uniform view?

CHAIR—There are 633.

Mr BYRNE—Thank you, Chair.

Mr Bateson—Going down, probably day by day.

Mr BYRNE—Yes, exactly. Given the number of individuals, are you saying that each of them virtually has the same view about what needs to be done nationally?

Mr Bateson—No, definitely not. There are great differences between the levels of commitment, interest and capacity. Compare, say, a high rate base urban council that is well educated and has a whole lot of factors that encourages it to commit to sustainable initiatives with a small wheat belt council that might have 10 staff, a rate base of \$3 million and all the pressures. It is barely dealing with its own roads. I would really encourage you to look at the national local government biodiversity strategy, because it taps into that. I think most councils are interested and most councils do have someone who is potentially a champion—a councillor or a senior manager. Any assistance to local government to encourage them and build their capacity is not an across-the-board thing. There are great variations.

Mr BYRNE—Yes, exactly. How do you come to terms with the fact that you might have a particular region where you have a series of councillors and a group of staff that might say that revegetation is a load of rubbish and that they do not believe in it? Within that framework how would you execute a strategy?

Mr Bateson—I do not think I have come across very many, if any, who just said that it is a lot of rubbish.

Mr BYRNE—That is a gross exaggeration, but you know the point I am making.

Mr Bateson—I think there is giving them a few tools, putting them in touch, perhaps building some sort of trust, and feeding them into the opportunities to link in with other councils. There is state or Commonwealth funding they have not thought of or even corporate funding outside the government purse. There is a whole range of things. Good tools are now being provided. We have been involved with putting together some of that material linking up. I suppose we have an advocacy role with other state associations as well.

Mr BYRNE—If I was a farmer I would be horribly confused with respect to the layers of government and various committees. You are getting various bits of information. Is it something that you should just distil right down to local government because they are, as you say, the first port of call for a lot of people in rural regions and elsewhere? Is it something that you should percolate to try and much as possible to condense it into local government supervised by some sort of COAG process?

Mr Bateson—That might work, but only if there is there that capacity in the region that they operate in with the right sort of resources. That consistency of language would help when dealing with stakeholders in the community. I think local government cannot do that alone. I think it is a whole of government approach. It cannot just be left to local government in that regard.

Mr BYRNE—But in a sense, like you were saying, they are the port of call. They are the people that have built the relationship up with farmers and people in the regions.

Mr Bateson—I think you would say you have not established an agreed strategy with which all the main stakeholders in a region are happy. Even if it is a Commonwealth or state position to coordinate and facilitate why not put that in local government? Why not put it in the council front office which is, as you say, often that front port of call? Why not have a unit which is closely associated with one of the councils in that region? We have just found out in the Kimberley that East Kimberley and West Kimberley think they are very different. Sometimes, strategically, if you have expert staff or facilitators, you have to look at differences and accommodate those, so you might have a couple of positions.

What has been advocated in the national local government biodiversity strategy, which ALGA put together with Commonwealth funding assistance, is a sign-off of local government unanimously. It has been costed out there. You asked me about costs. Environmental resource officers can work in the councils. Sometimes regions could share. Others would be for each council. It would depend on the sort of situation. Those funded positions are critical. Some councils will just need a bit of assistance to establish those positions and some already have them.

Mrs VALE—Some of the bigger councils have their own environmental officer and their environmental unit within the council.

Mr Bateson—Yes, but some remote and rural councils do not have an environmental officer on a \$3 million rate base.

Mr JENKINS—It is interesting that three months ago this inquiry actually started in West Wimmera Shire. Everybody involved was reasonably onside, but their great difficulty was that they thought they were confronting the state bureaucracies that were dragging them in one direction. As the people on the coalface and the ground they thought they could have made it easier. Their rate base is such as you described. They barely keep their heads above the water to do the roads and things like that. They had the problem of keeping abreast of what changes were in legislation and the information required. They were willing to be partners but, as they said, they do not even have the ability to police any of the agreements that might be made under planning. You have talked about municipalities like that needing to be brought together on a regional basis to increase their capacity. What level of government should take the responsibility of giving them the opportunity to do that?

Mr Bateson—I think it is a whole of government responsibility. If they are signing up to this salinity action plan, for example, that needs to be sorted out. You have 20 or so large catchments/regions. That has to be sorted out strategically. I do not think one model fits all the regions. In some cases it could be a more strongly Commonwealth led thing, especially in some

remote regions, but one would hope it is a state-Commonwealth agreement. Rather than get too much ownership, it is regional ownership which is the key. If it is demonstrated to the stakeholders and the landowners that it is a common agreement or approach, such as Gippsland, that goes a long way.

Mr JENKINS—How does the Gippsland municipality and other bodies get together? Who actually brought this together?

Mr Bateson—I need to follow up more on that to find that out. That is a good question. I talked with a couple of people in individual councils about three years ago when we were developing the incentives guide for sustainable land management, which is mentioned in our original submission, which I authored. When we were doing the research there was a lot of interest then in using incentives. It was between when they were thinking as individual councils and when this has come out recently that this regional partnership emerged. The Trust for Nature, which is an NGO, was critical about the use of covenants. They have really led Australia in the use of covenants, targeting private land-holders. That can be a condition of receiving incentives in that example.

CHAIR—It is a very important point. You mentioned in your submission that you believe that local government should be given more powers to do some of this. But the point that keep on coming up, from my experience, is that local government is a state government department with delegated authority. That is what it is.

Mr Bateson—I would challenge that.

CHAIR—You grew out of the Department of Local Government. That is the problem we have under the Constitution. Therefore, we have to go through the state to deal with that.

Another point is that when I was a lot younger, local government was rates, roads and rubbish. However, most planning laws have now been hived off to local government, but with no money to deal with it. The cost to local government is such that no money goes to roads any more because it is all done in this. If you take on more responsibilities, where is the money going to come from?

Mr Bateson—So much has been devolved down to local government in health, community services, and a whole range of things, and not just by the states but to some degree by the Commonwealth too. But I think the Commonwealth is recognising a little earlier than the states the role of local government in natural resource management. Senator Hill has also recognised this through the —

CHAIR—I am not arguing that point, I think you are right on that point. Obviously, there is going to have to be some funding come through to local government because the local ratepayers are not going to be able to cover all of this.

Mr Bateson—The National Local Government Biodiversity Strategy sets out a lot of that. It picks up a lot of what you have been talking about.

CHAIR—There is always this great argument between state and federal government. When money is allocated to a certain resource or area it goes through the state government and it does not necessarily end up where it is supposed to go. There is a certain cynicism that develops here. With Natural Heritage Trust funding, there has been fair evidence before this committee where the money has not got there because it has been siphoned off by the state, or the state has moved its money out.

Mr Bateson—To pick up on that, there have been some examples recently where devolved grants have gone to regions. More recently in the last round of Natural Heritage Trust funding it has gone to implement Greenweb Sydney and it has gone directly to three ROCs, three regional organisations of councils. They are going to link closely with the state agencies to make sure what they are doing complements what the National Parks and Wildlife Service is doing. That empowers local government. If we are talking about incentives under a region, then devolved grants are a very good way of making sure it hits the target more effectively so that the regions deliver without a state bureaucracy dominating.

CHAIR—Is that constitutional?

Mr Bateson—To my knowledge I do not think there is anything inhibiting that. There is a heavy emphasis here on legislative and financial mechanisms. But what is strategic? Things are open to interpretation. I certainly do not see it in conflict with any specific—

CHAIR—Given the fact that we argue about what local government is all about, if I was correct in saying what I did—and we will not argue that—it is no different to the federal government trying to deal with a part of another department in the state, and I am sure the state minister would say, ‘You can’t do that.’

Mr Bateson—We have not heard too much about, for instance, Greenweb Sydney. In fact, with regard to Greenweb Sydney, we are hearing that one of the state agencies is interested in coming in as a partner and there might be some top-up funding. It has just been done a little bit differently to what was typically done before, which is what you have touched on. These regional arrangements, under the salinity action plan or whatever NRM initiatives with large amounts of money, need to be sorted out. I see some states being more open to engaging local government as a partner and with the delivery and the money side, whereas with others, such as WA, there is going to need to be a lot more work to sort that sort of thing out. That is a challenge for the Commonwealth and the states to sort out, regardless of the amount of money that is available.

Mrs Vale—Further on that, you say the National Local Government Biodiversity Strategy:

... identifies a number of elements to which the Commonwealth should contribute, including supplementary rate rebate schemes.

Has the Commonwealth government contributed additional funding to local government for biodiversity, as suggested?

Mr Bateson—It has through the Natural Heritage Trust and various components, including Bushcare—

Mrs VALE—Which is direct.

Mr Bateson—Yes, and specific schemes. The Greenweb Sydney initiative is more regional, with incentives as a component, such as potential rate rebates. Wherever the money comes from, Commonwealth and state, it is helping local government. If they are making rate adjustments, there is a transition period to make those adjustments so it is spread equitably, typically over, say, three to five years. It cannot be seen as ongoing funding just coming from the Commonwealth to pay for the rate rebates. But it probably would be best if there was a package for all of local government that is interested in using this mechanism, such as rate rebates, to help with that transition. In some rural and remote councils, the rate base is so low it is not practical, but there could be other forms of incentives and natural resource management initiatives with the right sort of funding support from the Commonwealth and states. It is a question of getting the mix.

Mrs VALE—It is how it is done.

Mr Bateson—In terms of putting local government in a better position to use a range of mechanisms, it is giving them the options rather than saying, ‘You have got to do this.’ Some of the legislative impediments from different states—and there are various ministers and different portfolios involved in that; it is not just one within most states—certainly need to be addressed. I think ANZECC might be a good forum for that. The homework on that has been done by Carl Binning and his colleagues at CSIRO.

Mrs VALE—As an NGO, were you created by the state government?

Mr Bateson—No.

Mrs VALE—You are a national body?

Mr Bateson—Eleven years ago some concerned people working in local government in Victoria established what was known as the Municipal Conservation Association, which helped to get positions in local government in Victoria with a focus on conservation, and it evolved from there. It came from a grassroots level.

Mrs VALE—That is interesting.

Mr Bateson—Successive Commonwealth governments, from the previous Labor government to the coalition government, have been very supportive as well of a number of programs and things that we have tried to initiate.

Mrs VALE—Have you set up some formal structures to relate to state governments?

Mr Bateson—Formal structures in what sense?

Mrs VALE—How do you actually work with state governments?

Mr Bateson—We are a small NGO in terms of staff—we have five, with a strong network—so we are probably a bit opportunistic in what we pick. But if there is a particular national program we might be running, such as the role I am in, then we obviously have to talk to state agencies to help to advance things like the National Local Government Biodiversity Strategy.

Mrs Vale—So there are informal channels that you have set up yourself as the needs arise?

Mr Bateson—Yes. We are asked by state agencies, though, from time to time, to sit on committees, advisory panels and so on.

Chair—We recently took evidence in Cardwell and Tully, near north-eastern Queensland, where 60 to 70 per cent of the shire is now world heritage listed or national park. How do government decisions that affect land tenure—like leases and some private property that might be taken over or bought by government—affect local government?

Mr Bateson—I do not know specifically how it is being applied up there. I can speak for maybe one or two of the councils there that are trying to complement any bigger initiatives, in terms of takeover of land involving state and Commonwealth agencies or the Wet Tropics organisation up there. Some of those use incentives and there are communication channels there. I am probably not very well equipped to speak on behalf of that regional organisation of councils in Far North Queensland. I do not know whether Mike Berwick, who is the author of—

Chair—I am probably looking at loss of rate base more than anything else.

Mr Bateson—Queensland councils generally have taken more of a view of the opportunities that come out of offering rate rebates. Some of them have used levies to top up, to be able to provide rate rebates or make some adjustments. Queensland councils probably have the highest take-up of rate rebate schemes and environmental levies in Australia. In Victoria quite a few councils offer rate rebate schemes.

Chair—Who funds those?

Mr Bateson—Sometimes it is a local levy and sometimes it is just making adjustments based on the rate base and/or Natural Heritage Trust funding which has come in. There are a number of examples, like Cooloola shire and Cairns City Council. There are a lot of other interests further north and in south-east Queensland. In Douglas shire, the mayor has led a more regulatory approach to achieve conservation outcomes. He admits he is really interested in the notion of levies and offering incentives, too.

How that complements what the state or other bodies are doing in terms of negotiation with land-holders is critical. It is also very similar to an example in Tasmania that I am touching on, where there are councils that feel their rate base might be eroded because of a change of land use to timber plantation, for instance, which I believe in some circumstances is exempt from rates. So that is a different sort of change of land use. There is concern in areas like New South Wales, where voluntary conservation agreements under state legislation automatically qualify for total rate relief, or a whole cluster in one area could erode a low rate base—also, if they are not brought in at local governments early on, in terms of how this is sorted out with negotiation of arrangements for some sort of compensation or just strategically. At early communication I

think local government gets very much a feeling of angst when it is top down from a state agency and they hear about it later. Then there is not the communication.

Mrs VALE—Could I just clarify that. What you are saying is that the state legislation causes the council to actually have to take a rate rebate.

Mr Bateson—In some circumstances, yes.

Mrs VALE—And the council are wearing that cost?

Mr Bateson—Yes.

CHAIR—Not funded by the state?

Mrs VALE—Not topped up?

Mr Bateson—Yes.

CHAIR—Magnanimous legislation.

Mr Bateson—For a higher rate based council with a few agreements, it would not be a problem. But if there is a cluster in, say, Bega shire—which there is—and there is not the communication or the trust early on, then it can cause a lot of angst.

CHAIR—You were talking about the local government being close to the people, and I do not argue with that. When you get situations in some shires where the elected councillors probably do not represent land-holders, then the councillors seem to be as big, if not bigger, a problem than anyone else, than some of the local government laws or decisions they take. I think of councils such as Byron or Bellington in New South Wales. How can you argue that you are closer to the people and you would probably be accepted more readily by the people when you get situations like that?

Mr Bateson—I agree. Local government—we are all ratepayers here—is the best and the worst in so many things, and natural resource management is one of those. Byron, for instance, has done some fantastic things in terms of natural resource management, but if there are other contradictory decisions that come in, obviously that can aggravate and cause a lot of—

CHAIR—What I am saying is that they might have made some marvellous decisions in natural resource management but taken no heed of the effects on land-holders.

Mr Bateson—I talk about potential, and some councils are a lot further along the line of really committing to public accountability regardless of whether there is legislation that says that the council has to do such and such while taking the community or whatever into consideration. So there are great discrepancies, but I think the potential is there in all local governments with the right capacity, support, encouragement and a big stick as well. I agree there has to be a strong legislative framework to address that sort of thing and to be effective in terms of being responsive to the community and individual land-holders, but there is a broader

national interest as well, which I suppose is part of the terms of reference of this inquiry. It is getting that balance. It is going to be really hard to please everybody. Rural Queensland, with this land clearance thing, is just one example. Local government is probably glad it is not responsible for sorting that out.

CHAIR—We have had farmers at Cardwell arguing that. I do not know the full detail of it, so I will not comment. With local government, you probably have in many areas some of the last remnant vegetation, particularly along local road reserves. What is local government doing about protecting those areas?

Mr Bateson—Some local governments—Wollondilly shire is one in New South Wales, but there are quite a few in Victoria and Western Australia—are doing some fantastic things. Wollondilly is using, if you like, an environmental management system type approach, where the whole organisation is committed to conserving it through the strategy for roadside vegetation. They are also—it is a triple bottom line—saving money out of it. So it goes right down to the grader operators, the engineers. They are not clearing the same way they used to; it is not just ad hoc. They are saving money and they are conserving biodiversity more effectively, and they are reducing soil erosion as well. We need further encouragement to celebrate those great examples. They are patchy at the moment, but there is a lot of recognition that quite often those road reserves are where, in some local government areas, your remaining threatened species and grasses are actually occurring. I think that is where there needs to be national and state coordination and assistance to get some national training programs going. With that training, especially if you can use the economic hook, you can save money out of more responsible roadside vegetation management and also adjustment of some of the fence boundaries with some compensation into adjacent private property to make those corridors more viable. There are lots of good examples. It does need a strategic approach. I think that is where state and Commonwealth programs can take that beyond just the few great councils that are actually implementing it.

CHAIR—How much of that management is warm and fuzzy management and how much is based on science?

Mr Bateson—A lot of it on the economics is definitely based on science. You can show an economic return. A lot of the important species and communities in those roadside reserves have been identified in various surveys. That is the first process—to make sure you have got that data. I do not see it as warm and fuzzy, and I do not think others do. I think it contributes to the off-reserve, outside national park conservation effort.

Also, with road reserves, if they are expanded and widened they can assist with the salinity issue in some areas, and also with wind erosion. There is a whole lot. They also encourage natural predators and so on, especially when you are looking at a wheat belt, say, in south-west Western Australia, which has lost 95 per cent plus of its vegetation in most areas.

CHAIR—So local government is controlling the noxious weeds in those areas as well?

Mr Bateson—There is a lot of ground to cover. If you have thousands of kilometres of roads in your shire, to get around once a year, twice a year, or three times a year is often very difficult. In terms of agency responsibility for weed management, I think it is patchy in terms of state and

local government and other land managers. Declaring noxious weeds is not enough. Where are the resources to actually implement keeping them under control? That is right across all land tenures and all land managers, it is not just local government.

CHAIR—Local government usually go onto private property and do it and charge the owner.

Mr Bateson—There are some good examples. In Nillumbik Shire it is a joint effort in terms of weed control, and there are incentives. There are quite a few other councils that provide incentives for private landowners and give them training and assistance in how to do it. The back of the incentives guide for sustainable land management mentions some of those councils and case studies, but there are lots of others as well.

CHAIR—As there are no further questions, thank you very much for your evidence. We have four documents presented by Environs Australia which are to be accepted as exhibits.

Resolved (on the motion by **Mr Byrne**);

That the four publications: *National Local Government Biodiversity Survey: Executive summary; A bush partnership: protecting Gippsland's natural heritage; Environmental accounting and reporting, by the Municipal Association of Victoria to the Victorian Public Accounts and Estimates Committee; and Local Environs, Volume 11, No. 3, September 2000*, be accepted as exhibit No. 9.

Proceedings suspended from 2.28 p.m. to 2.46 p.m.

WALLACE, Ms Leanne, Executive Director, Regional and Commercial Services, Department of Land and Water Conservation, New South Wales

CHAIR—Welcome. The committee does not require you to give evidence under oath, but I should advise you that the hearings are legal proceedings of the parliament and warrant the same respect as proceedings of the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. We have received a submission. Would you like to make some comments before we ask questions?

Ms Wallace—Yes, I would. I thought it might be worthwhile highlighting some of the aspects of the New South Wales government's submission, but I would also like to add some additional material that has become available since the submission was placed, which the committee may want to be informed about. The New South Wales government recognises that conservation of the environment has costs and benefits to both land-holders and the broader community. We also recognise that agriculture depends on the sustainable management of natural resources and that it is unfair for land-holders to be expected to bear the total cost. Obviously, the cost needs to be shared between the individual and the governments. The New South Wales government submission to the inquiry provided some examples of a number of incentive schemes that the New South Wales government supports which encourage land-holders and fund them to do conservation works on the ground. That includes the Native Vegetation Management Incentive Fund that Mr Inall talked about earlier, the New South Wales Water Use Efficiency Scheme and voluntary conservation agreements.

Since the New South Wales government's submission was made to the committee, the New South Wales salinity strategy was released in August of this year. That includes a number of important initiatives where additional funding will be provided to land-holders as a component of the strategy. There is a total of \$52 million of new New South Wales government money available over a four-year period. There will be an environmental services investment fund established under the salinity strategy which will finance management actions necessary to manage salinity and other environmental issues. It is recognising that, in New South Wales, the government needs to put in some money for the public good component. There will be a pilot project kicked off in the Liverpool Plains area in the north-west of New South Wales. That will be happening in the new year to trial market mechanisms, strategic investment and the use of the fund itself.

The strong message that we have from land-holders as we work with them on the various committees throughout the state and having talked to them in other forums—particularly from an investment point of view—is that they need to see a one-stop shop. There is a plethora of investment mechanisms available to people—both government and non-government based—and I think the land-holders generally are getting quite confused about how they can get access to those funds and how they can be aware of what is available to them. The environmental services investment fund established under the salinity strategy is aimed at delivering that one-stop shop to land-holders.

The other issue I wanted to highlight is that obviously public funding is limited for improved natural resource management outcomes. It must be targeted and strategic. As part of the salinity

strategy, New South Wales has recently reformed the catchment management process in New South Wales, establishing 18 new catchment management boards across the state. These boards—most of whom have now had their first meeting—are to develop catchment plans within the first 12 months which will have quite clear targets and objectives. It is those catchment management plans that New South Wales sees as the avenue for directing strategic investment into rural New South Wales in terms of natural resource management. The work that the catchment management boards are doing will complement the work of some of the other community based regional committees—the regional vegetation committees and the water management committees that are in various stages of development. Essentially, the boards will provide the overarching strategies for developing work on the ground.

The other thing I wanted to highlight was that all of those planning processes are meant to deal with the three key issues: the environmental outcomes that we want to see achieved, but also the social and economic outcomes. None of those plans will be considered by the minister unless they have dealt with those three issues. Mr Chairman, that is a summary from me.

Mr JENKINS—This submission is on behalf of the whole state government?

Ms Wallace—Yes.

Mr JENKINS—How many other departments are involved?

Ms Wallace—In the particular aspect that the committee is inquiring into?

Mr JENKINS—Yes.

Ms Wallace—The Department of Land and Water Conservation, the National Parks and Wildlife Service, the New South Wales Department of Agriculture and a number of other natural resource management agencies—State Forests of New South Wales are particularly looking at carbon training and some of the aspects of that and incentives to land-holders through their programs. They would probably be the four key agencies.

Mr JENKINS—This next question is not just a New South Wales question because we get it in other states as well. You would have heard me raise a question about the plethora of different pieces of legislation, the boards and everything, and the response of the land-holder was, ‘This is very confusing.’ That is really what we find wherever we go. There starts to be a bit of confusion. There seem to be several bits of the jigsaw that people have to get the pieces to. Is the government looking at those aspects? How does it go about mitigating the effect of that confusion?

Ms Wallace—Yes, it is. I think the whole issue of having better delivered integrated natural resource management is something that every state government continues to look at. If you had a clean slate and no legislation in place you might set up a quite different legislative framework from that that is there already. What the government has attempted to do through the reforms to catchment management boards is to try to get some better coordination into the process using the existing legislative mechanisms. For example, the salinity strategy identified that there would be changes to both the Native Vegetation Conservation Act, and the new Water Management Act currently going through the New South Wales parliament will actually require

committees established under those acts to take account of any targets or objectives that are developed by the catchment management board, so there will be a clear legislative link between the three processes. While, if you had a clean slate you might set up one single piece of legislation, the government of New South Wales has made a number of moves to try to better coordinate the legislation that is already there and link it in much more closely.

Mr JENKINS—How would you characterise the role of local government?

Ms Wallace—I think it is varied across the state. In some of the coastal areas you have very large and well resourced councils that are in a very strong position to be able to deliver outcomes very clearly on the ground. In other areas, particularly in the western parts of the state, you have very poor rate bases and very poorly resourced councils that do not have the skills and experience to be able to do that and they are having great difficulty coming to terms with the range of environmental legislation that they have to deal with where the powers have been delegated to them.

Mr JENKINS—How do we give people an interface that is local enough in nature but resourced enough that they can respect it and cooperate and work with it?

Ms Wallace—The feedback we have from land-holders is that to some extent—and it is a generalisation—they are not as concerned about who is delivering it but that it be delivered in a way that they understand and that it be coordinated. No matter what you do you are going to have a range of players in the process. I do not think you will ever get down to one particular delivery mechanism. Recognising that, you have to get all the players working together in the best way possible. I suppose we see the catchment management board process as a good way of doing that. It includes local government on the boards as a way of actually targeting what you are going to do, how you are going to do it, and what sort of money might be spent to deal with the issues that you are dealing with.

CHAIR—Let me go to this committee system, because I am not just targeting the state government—governments are fond of committees. If you do not get a well balanced and representative committee then you are not going to get a result that the minister or the community is going to like. It is very important to try to get some very knowledgeable and respected members of the community on committees.

Ms Wallace—It is, and the committee processes in New South Wales have a range of different mechanisms both to get people on committees and to get the chairs appointed to the committees. The Clarence Regional Vegetation Conservation Committee has been mentioned previously in proceedings. The process under the Native Vegetation Conservation Act is that nominees are sought for the committees in accordance with the act, and the chair is actually elected by the committee. For the water management committees and the catchment management boards the chair is appointed by the minister of the day, a quite different process. So, ultimately, you perhaps end up with a different outcome. All of the committees, however—

CHAIR—Wouldn't you get that, though, if you are going to put about eight environmental representatives and four farmers on there?

Ms Wallace—There is a range of interests on the committees and I think there is a range of views in the community. Whenever the legislation is established it looks at committee membership. They try to reflect the views in the committee. Everyone will argue whether or not they have got the balance of views. One of the strengths about the New South Wales process, particularly on the regional vegetation committees, is that it is consensus decision-making. They do not vote. They basically have to try to come to some agreement at the end of the day. A lot of the committees are actually working quite well in that process. It is taking quite a lot of time, because we are also asking them to go out and get feedback from the community. Many of the regional vegetation committees actually hold their meetings in public. Others go out and talk to the community on a regular basis to make sure that they are picking up the range of views in the community.

CHAIR—I have seen those in action. I have seen two in my local area where we have this consensus, and \$750,000 later we still do not have a decision.

Ms Wallace—There are pluses and minuses of a community based planning process. It means that quite often you need to take more time to get the range of views that are around in the community, to make the decisions that you need and to make those recommendations. That is the nature of that process.

CHAIR—It has been put to me on several occasions—and we heard this morning from the farmers who said that there are basically 40,000 farmers in New South Wales, which is just over one state seat—that they are expected to belong to all these committees. They have to attend meetings day after day when they should be out looking after their properties. Other people on the committees are either professionals from organisations or have other income. But the farmers are expected to go out there with no benefits just to protect their position. How do you expect them to do that?

Ms Wallace—They are in a difficult position. Certainly, for the natural resource planning process, people are paid for the time that they spend participating in the committee process. For those people who forego an income to be able to do that it is very difficult. We put in every effort to support the people participating in the process. It is a difficult position, though, because if they are interested in making sure that they influence the outcome, it is important to be there as part of the process. That takes a lot of effort, and we recognise that for some committee members it is more effort than it is for others. I am not sure what we can do other than to continue to support them in being part of the process.

CHAIR—We talk a lot about assessing social impact either in forest decisions or in some of the other decisions on natural resources. How much do we really do in the socioeconomic area? Do we take any consideration of it?

Ms Wallace—It varies. Because they are at various stages of the planning processes, each of the committees operating in New South Wales is looking at different ways in socioeconomic information. For example, the Riverina Highlands Regional Vegetation Committee, which is in the area just above Holbrook and right through to Tumut in the south-west part of the state, have done a profile of the social and economic indicators within their community. As part of being informed about what the committee is and how it works, they have contracted Charles Sturt University to look at economic values and native vegetation as part of their plan making

process. In other areas of the state, committees are not so far advanced. They are having some difficulty in separating the social impacts from what they are doing from the general social changes in the community itself. That is something that we are still grappling with in terms of how you help the committees to work through that process.

At the end of the day the minister will not make a plan unless the committees demonstrate that they have dealt with social and economic issues in some way. There will inevitably be some members of the committee who feel that has not gone far enough and that the balance has always been towards the environmental side and social and economic issues are sometimes considered an afterthought as opposed to a key part of the process. I suppose it is part of our responsibility, as the department responsible for administering the acts, that we have to make sure that we try to get the balance better than it has been.

CHAIR—But you could not say that the socioeconomic effects were taken into consideration in the regional forest agreement.

Ms Wallace—There was a lot of money spent on social and economic studies.

CHAIR—I know, but they were not considered.

Ms Wallace—They were part of that process. I know the New South Wales government certainly considered impacts on towns and mills and whether mills were likely to close or not much. That information was provided to them at the same time as the environmental information was provided. But, at the end of the day, governments make a decision about which way they want to go.

CHAIR—With the natural heritage funding—and we have asked this of other states as well—how much did you siphon off?

Ms Wallace—None that I am aware of.

CHAIR—We have had evidence to suggest that, when the federal money came along, the extension work being done by the state governments was withdrawn and the natural heritage funding was used to do that. So we did not get extra money into the area that we wanted.

Ms Wallace—To the best of my knowledge, there is no money being siphoned off out of the NHT agreements. We have a number of staff employed full-time out of our budget on NHT helping communities put together NHT bids and administering the funding. I think there is a general issue in the community about extension services and the extent to which they are supported on a permanent nature by state governments and the Commonwealth government. Landcare is a good example. The Commonwealth has essentially funded the Landcare Program as the major funding provider over the years and the state government has probably been the minor partner in the process. A continuing issue for both the state and the Commonwealth is how we get the information out to land-holders on the ground and provide cooperative funding for that. Certainly, to the best of my knowledge, there has been no funding siphoned off by New South Wales.

CHAIR— I am sure you would say something if there was. Has the government taken into consideration the effects of native vegetation act? We heard this morning of voluntary conservation agreements where people had to spend \$100,000 on studies and they were given \$8,000 by the state. Surely that is a cost that most people could not bear.

Ms Wallace—And most people are not asked to bear it. Under the Native Vegetation Conservation Act, if you apply to clear vegetation, there is a three-tier approach for a small, medium or large application. It is only those companies or land-holders that fall within the large category that are expected to go out and spend money on surveys of threatened species or social and economic studies. So some of the companies like Twynam, who are putting in for clearing fairly large areas of native vegetation, have had to justify that by going out and spending money on getting additional information to substantiate their applications. Those large applications would be of the order of less than five per cent of the total applications that we receive. Many are in the small to medium category. They are not required to go out and pay additional money to get additional information.

CHAIR—How do they do it then?

Ms Wallace—We go out and do the work for them on the ground. They put in an application which says they wish to clear a particular piece of vegetation. Our vegetation managers go out and assess the nature of the vegetation and undertake some surveys to see whether there are any threatened species there or not. There may be additional information required. On some occasions that means that the land-holder may have to pay some money out but that is certainly the minority of the cases rather than the majority.

CHAIR—Do you know how many have been approved?

Ms Wallace—Applications?

CHAIR—Yes.

Ms Wallace—I could not tell you off the top of my head. There have been a substantial number.

CHAIR—I never expected to have been able to do so. Maybe you can get back to us on that.

Ms Wallace—I certainly can.

Mr BYRNE—Can you define what your understanding is of the meaning of ‘duty of care’?

Ms Wallace—The New South Wales government Department of Land and Water Conservation has been working with the Native Vegetation Advisory Council attempting to define ‘duty of care’. There are different ways you can define it. You can define it from a legal perspective or from the perspective of pure moral responsibility. The big question is where it stops being your duty as a land-holder and where what you are doing becomes part of a benefit to the broader community. That will differ depending on what you are doing and what area of the state you are in. No matter how you define ‘duty of care’, how it applies on the ground is

going to vary across the state. That is an issue for us in terms of how we put duty of care into place.

Mr BYRNE—Given that you have just had difficulty in actually defining it, how then does the farming community have an understanding of what 'duty of care' means?

Ms Wallace—It is very difficult for them. You cannot define it in words. You have got to define it in the way that actions have been put in place on the ground. You have got to say, 'In this area of the state, you will need to retain X per cent of native vegetation on your property as your duty of care. If you retain more than that, then it is a public benefit and we will pay you to manage that.' That is the level of detail that you need to get down to, so that people understand what it means for them as an individual land-holder on their property. That will vary across the state. We have got some regions of the state where there is only five per cent of the vegetation cover left on the whole of the landscape. That is a bit different to the north west where you have got substantial areas of vegetation left. The duty of care there will be different because of the nature of the vegetation.

Mr BYRNE—In the synopsis of your submission, you say 'the principles indicate that government investment is not appropriate where a duty of care applies'. So that, to some extent, will vary. At this point of time you are saying that it will vary from region to region. When will a farmer or producer have a consistent idea as to what that actually means in their area?

Ms Wallace—One of the reasons for doing this pilot program in the Liverpool Plains area is to try and use that as a way of testing how you might work through that on the ground. Some of the US models look at an auction based approach, and this is where it starts to link in to stewardship payments. They use an environmental benefits index and say, 'Your duty of care is X but, if you want to increase that, we will pay you a certain amount of money—which you have to bid for—to manage your property over the next 10 years, or whatever.' The difficulty of defining it in words is that we have come to the view that we have got to get some pilots under way, do those cooperatively with land-holders and articulate what it means.

Mr BYRNE—Doesn't it create a difficulty if you are arguing that the farmer is not abiding by duty of care? What is going to happen if you have a dispute? Are we going to take this to the High Court every time the state government has a fight with a farmer with respect to whether or not they are fulfilling their duty of care on the land?

Ms Wallace—That is why it gets down to the issue of whether you define 'duty of care' in a legal sense or from a policy perspective and actually articulate what it means on the ground. You could go the legal way of defining 'duty of care'—some legislation has actually done so. The Native Vegetation Conservation Act does not: it does not go down that path.

Mrs VALE—It all depends on what happens if they breach their duty of care. That determines how it is going to be interpreted, doesn't it?

Ms Wallace—That is right. In discussions that New South Wales has had with the Native Vegetation Advisory Council, the inclination has not been to define it in legislation. The onus of proof is difficult in terms of whether the onus of proof is on the land-holder or on somebody else who is looking at the land-holder. The other issue is that we have had over the years a fairly

strong regulatory environment. We have seen the benefit of having an incentive based approach—that is why the government has put in a lot of money into funds like the Native Vegetation Management fund. We would rather work from that incentive based approach rather than from a straight regulatory based approach. We do not necessarily see having duty of care enshrined in legislation and enforced through legislation as the best mechanism.

Mr BYRNE—But doesn't it provide some sort of certainty for farmers? Are we going to have a varying duty of care that for five years will be according to the region and then it might change in five years time to become another duty of care?

Ms Wallace—That is right.

Mr BYRNE—If it is not legislatively prescribed, then a farmer who is thinking about developing their land for 15 years is going to have this potentially changing every five years.

Ms Wallace—The move certainly is to giving far more certainty for land-holders in any regulatory mechanism that they are dealing with. For instance, the new water management bill that is being debated through the New South Wales parliament at the moment—it has to go through the Upper House with various amendments—provides for a 10-year water licence, which is far longer than is currently available, so there is some certainty that in that period of time you can undertake operations on your property with some degree of knowledge about what you are able to do. It is trying to extend the security of what you are doing, but understanding that in 10 years time that may change. The New South Wales water management legislation has some compensatory provisions in it—for example, if a water licence is resumed by the government. Whether that stays or not as it gets debated through the parliament will be another issue.

Mr BYRNE—From what I understand just from a very quick perusal of the New South Wales Farmers Federation submission, they have a concern that it is not clearly articulated, and that is creating a lot of uncertainty because it is used in various bits of legislation in various ways.

Ms Wallace—Yes.

Mr BYRNE—The issue of property rights has been raised. Eventually there will be some fairly substantive legal contest—one way or the other, the environment movement against the farmers—and so you are going to have this layered level of definitions of duty of care. You just had difficulty articulating it, so what the hell must it be like on the ground for these people who are supposedly administering it?

Ms Wallace—As I say, the New South Wales legislation does not define duty of care. The legislation describes the things that you would take into account when you deal with an application for development under that legislation.

Mr BYRNE—Definition is built into various bits of legislation, and it varies, so they come back and say, 'You have not exercised duty of care under a certain piece of legislation.'

Ms Wallace—We do not use the term ‘duty of care’ in the New South Wales legislation. It is difficult to articulate. We do not have a ready solution as to how you give that certainty but, at the same time, take account of the fact that you will get new information. Things change, and you have to be able to take action as things change. That means that there is less certainty. It is difficult to enshrine certainty in legislation over a very long period of time.

Mr BYRNE—Would you acknowledge, then, that we could have what I would call a potential Mabo with respect to property rights and duty of care for farmers in the next five or 10 years, with a decision being taken by the High Court on what it actually means?

Ms Wallace—I do not feel qualified to answer that. I do not have a particular view about whether that is likely to happen or not. I do not get a feeling for that in New South Wales at the moment.

Mr BYRNE—On another topic, SCARM identified overarching principles for determining whether an activity should be considered for government funding and said that, in general, governments should only contribute where there are significant public benefits. Have those significant public benefits been defined?

Ms Wallace—No. They are general overarching principles, so it is a matter of how each state articulates those principles.

Mr BYRNE—So they could be different?

Ms Wallace—Yes, and they will be different. The Native Vegetation Management Fund in New South Wales is \$15 million worth of funding that goes directly to land-holders for doing works on the land. Whether we provide money to a land-holder in one area compared to another depends on the type of vegetation they are going to be improving and managing. There are some overarching principles and there are some general priorities that are identified, and then we basically work with land-holders on the ground. Generally, when you are looking at the incentive side of things it is reasonably straightforward. It is when you get to the regulatory side that it becomes much more complicated.

Mr BYRNE—Given Premier Carr’s statements about the environment, how much do you see the New South Wales government contributing, other than what they have already contributed, over the next five years or so?

Ms Wallace—There has been a strong commitment already through things like the Native Vegetation Management Fund. There is a large amount of additional money provided through the New South Wales salinity strategy. Obviously there is going to be discussions between New South Wales and the Commonwealth in terms of the Prime Minister’s statement. There will be a decision made by the government as to the additional funding that may or may not be provided as part of that process. There is a very strong understanding in the government that government funds have to be provided to deal with the major degradation issues that we are facing in New South Wales, salinity being one of them. It is a matter of where that money should go and how it should be best targeted. We do not want to be spending money in an area where it is not a priority, for a whole range of reasons. That is why we see the catchment management boards as an important part of the process—to try and target that investment and money.

Mr BYRNE—There was also a point that was made by the farmers association that new Commonwealth and state environment legislation that has an impact on private land must be subjected to a private land impact review prior to being enacted. What would your assessment be of that? It would be an independent expert body that would be set up to assess the actual impact on land-holders. It will be taken away from governments. Do you have a view on that?

Ms Wallace—It depends what the nature of the review might look like. In New South Wales, if we are putting in place new regulations, we have to go through the process of developing a regulatory impact statement. I am in the process of doing one of those at the moment for a new piece of legislation that is coming in. That goes out on exhibition with the regulation that we are preparing. It actually goes through the costs and benefits of what is being done and how it adds on to the other regulatory processes. We have in place in New South Wales a process at the regulatory level of actually looking at that. That is not dealt with at the legislative level. The way that the impact of the legislation is dealt with is through the cabinet process. There is not an independent review of the legislation of what its impact on land-holders will be. In New South Wales, we have rural impact statements that are prepared for advice to cabinet when any new legislation goes up to cabinet. So there has to be some analysis of the impact on rural communities as part of the initiative. But it is not done independently of that process.

Mr BYRNE—Do you think that might foster a more collaborative approach to legislation—if there was an independent body or an independent ombudsman that might assess banking or something like that? You have independent bodies that assess state government programs. Given that we have taken some testimony today that indicates that they would have a preference that a body removed from the governments that were setting up the legislation conducted independent assessments of what the cost benefit analysis would be, what do you think?

Ms Wallace—It is always useful to have some sort of scrutiny on how new legislation will operate with other existing legislation and what additional burden that puts on different parts of the community. At the moment, that is dealt with through the government processes. If you were setting up a separate process, you would have to be able to demonstrate what value that was going to add to the existing processes.

Mr BYRNE—You have got ACOSS with social services, which is perceived to be an independent body. Given the magnitude of the task we are confronting here and that we are trying to get all the relevant stakeholders together on this, would a body like that not be an option?

Ms Wallace—If that was possible to do. At the moment, we work on a process where the relevant stakeholders have their opportunity to lobby through the various parliamentary processes. Sometimes they come together on issues. That has happened in New South Wales with the new conservation trust, for example. We have been working with New South Wales Farmers, the Nature Conservation Council, the World Wildlife Fund and the state government agencies drafting legislation. That has been a bit of a first, I must admit, from my perspective—that is unusual. You would have a great deal of discussion about how that body was formed and whether it was seen to be representative or not. It would be a fairly interesting debate, I would imagine. It seems to me that in natural resources, and in forestry even more than natural resources generally, the views tend to be quite diverse on a lot of issues. Getting a body like that established which people would recognise and accept as independent would be interesting.

Mr JENKINS—What about post-legislation? One of the problems with land clearance is that the land-holders have the view that they have to sit down and negotiate a course of action with those that are actually policing the legislation as well. There is no middle step. From time to time in other jurisdictions—I know you have got one yourself—the environment court is floated. Sometimes they are seen as synonymous with great cost and something that is way beyond the means of a single land-holder.

In some of the examples that we have been given throughout Australia, it would appear that if an independent person could be the mid-person that could assess all the contra advice that is being given, that would be good. I will give you one example. There was an example in Victoria where the people wanted to clear a paddock. They had the department come down and started marking up all the trees, but in the end they could not clear anything. The point is that there was an opportunity for a trade-off where it would have been a win-win. There were some comments made earlier today about trade-offs creating win-wins. In this case there was no other body that they could go to to get independent advice. In this case the local council was saying, 'If we were resourced then perhaps we could take that role.' Is there something like that here in New South Wales, or is that something that could be explored?

Ms Wallace—There is no independent body. At the end of the day, whoever has responsibility for making the decision about whether the application is refused, amended or agreed to has the call. Quite frequently we do call in independent experts if there is a question about whether we have got the call right or not, but that is not required of us, we just choose to do that in some cases.

Mr JENKINS—But you see the problem. The land-holder is sitting down with the people that are going to make the decision and they are trying to negotiate. There just cannot be trust and cooperation built up in that type of atmosphere.

Ms Wallace—It is probably fair to say that in the three years since the Native Vegetation Conservation Act was introduced that that process is a lot easier than it was before the act was introduced. There was a lot of antagonism by land-holders at that stage. That is not to say that it happens well. Twynams is a good example where there has been some discussion on the ground in terms of the plains wanderer habitat. There is an offset allowed under that process and it is working reasonably well. There is some acceptance by both parties that each has a different contribution to make to the process. Those trade-offs are done all the time in terms of the individual land-holder. I can understand though how the land-holder might feel not totally empowered as part of that process because they are the ones that are trying to get an outcome at the end of the day.

Mr JENKINS—Is this plains wanderer miracle just a particular thing, or is it really a change in the way the bureaucracy approaches these things?

Ms Wallace—Our staff guidelines, in terms of the way people assess clearing applications, encourage them to trade off, basically. The guidelines encourage them to say, 'If you want to clear this particular area we will allow that, but the quid pro quo is we would like you to put this area aside or to replant some trees elsewhere.' That is done as a condition of the consent in a lot of occasions. In some cases we refuse outright the application, we do not deny that, because there are not any trade-offs possible. It may be a particularly important piece of vegetation and

within the things that we have to consider when we deal with the application it is not possible to trade things off.

Mr JENKINS—Do you think that the base information is there to be able to build on that natural resource management?

Ms Wallace—It varies across the state. The question was asked earlier about whether New South Wales knew where all the vegetation was. We do not. The government has recognised that by putting \$8 million into a program over the next four years to better map the vegetation across the state. We learn something all the time. You will never have enough information. The nature of species and biodiversity is such that it is very difficult to get perfect information. We have got to make decisions with the best information that we have got, and sometimes that means you make a more precautionary decision.

CHAIR—Can I get back to the water board, which is at the core of some of the decisions we will be taking on the Murray-Darling Basin. You mentioned that a 10-year licence was better than what irrigators have at the present time. Is it not true that since about the 1970s those irrigators had a volumetric allocation, which they had yearly, and since 1990 or 1991 they had transferability? How can 10 years be better than that?

Ms Wallace—I am not an expert in the water legislation. You probably know a hell of a lot more about it than I do. The issue in terms of some of the licences is that while you might have had an annual allocation that kept the same year after year, it was not guaranteed that it would stay the same.

CHAIR—No, allocations will change and perhaps the cap interferes. On that issue though, it seems to me that you tend to get better government decisions when you allocate a value for the resource to everyone and not just the irrigators. If there is water needed for the environment or flood mitigation or recreation, then the government have to put in their share of the cost of managing the resource, based on the amount of water that has been allocated to those areas. It tends to focus attention a little more when one side of the argument does not get away for free.

Ms Wallace—You are right. That is one of the difficulties with something like native vegetation. How do you compare the value of native vegetation with water? Water is a commercial resource. It is a lot easier to value it in some way and to allocate that value across all of its uses. With some of the other natural resources, like native vegetation, it is very difficult to do that. We are doing some work at the moment about how you might value, in dollar terms per hectare, what native vegetation is worth. Then you can make some more informed decisions. It is much more complex than something like water.

CHAIR—There has been a lot of evidence before the committee, and again this morning, that to address these issues. We are probably going to have to have a whole raft of different issues. We might have to have trading nights, voluntary conservation agreements and probably get the involvement of the private sector et cetera. At the end of the day there will have to be some government money come into it. How do you see this? As a fifty:fifty state and federal government contribution?

Ms Wallace—That is what the Commonwealth are keen to see—dollar for dollar of actual money. Do you mean in terms of how much state government pays?

CHAIR—I am not talking about the quantum. I am just talking about the share and whether the state puts in half and the Commonwealth puts in half. I suppose I am asking you to give me a decision that should made by government.

Ms Wallace—I do not know that I am in a position to give you that decision. It depends on what the issues are within each states. Some states are in better positions than others. It all varies. I would find it difficult to put an arbitrary figure on it. We provide more funding to some areas of the state to improve native vegetation than we do to other areas. In some areas we desperately need to get more trees into the ground, for example.

CHAIR—The states claim they are the land managers.

Ms Wallace—I think everyone claims a right to land management from the Commonwealth all the way through to the land-holders. I think everyone would like to put their finger in the pie.

CHAIR—I suppose the states would have no argument with an environmental levy as long as they did not have to collect it and it did not come out of the GST moneys.

Ms Wallace—I imagine that would be an issue for some state and Commonwealth discussions.

Mrs VALE—I just wanted to ask about this duty of care because it was raised considerably this morning. I thank Anthony because he has explored it quite a bit. If there is no mind in the state government to define a duty of care, so farmers can understand exactly what responsibilities they have, would the state government consider putting out some guidelines for the legislation it expects the farmers to observe—even if they are priorities or considerations—so they know that they are not going to totally breach the required legislation, even if it is different all over the state, as I understand it is?

Ms Wallace—That issue has been raised. We are doing exactly that at the moment for the plantation industry, for example. We are getting some information together about the range of legislation that they have to deal with so they are aware of it. It has also come up with the Commonwealth legislation with the Environmental Protection and Biodiversity Conservation Act. We are certainly getting a lot of inquiries at the land-holder level about what peoples' responsibilities are under that legislation where that fits in with state legislation. That is one particularly we are conscious of at the moment where we are going to need to work with the Commonwealth to provide some better information.

When you start to go through all that, it seems it is probably going to be a horrifying document in terms of listing all the various pieces of legislation people need to deal with. We attempt to do that in some of the guideline material. For example, we try to point out to land-holders who are wanting to clear any other associated licences or permits that they may need to get as part of that process. There is not one single publication you could go to as a land-holder and find out all the various things.

Mrs VALE—If you find that duty of care requirements or considerations or guidelines cannot be defined because of the different areas of the state—which would therefore have different impositions on the land-holder—perhaps it could just be a part of each piece of legislation that actually sets out guidelines. That is just a suggestion. From what we have gathered, the land-holders really do want to comply to the degree that they can, but there is this level of confusion about the requirements.

Ms Wallace—About what it actually means.

Mrs VALE—Yes.

CHAIR—As there are no further questions, thank you for your evidence.

Resolved (on motion by **Mr Byrne**):

That, pursuant to the power conferred by section (a) of standing order 346, this committee authorises publication of the evidence given before it at public hearing this day.

Committee adjourned at 3.31 p.m.