

Appendix F.

Case Study – Tripod Farmers Pty Ltd (Victoria)

What was?

Tripod Farmers are a family owned company that is the largest growing operation of ‘fancy lettuce’ in Australia. Since 1990 their farming business has grown from an 8 hectare family property operation supplying the Footscray Wholesale Markets, to a 79 hectare operation employing 75 people supplying major supermarket chains in inter-state and international markets. Bacchus Marsh is ideal for lettuce growing due to the highly fertile floodplain soils.

What happened to Tripod Farmers?

In a bid to increase production and access markets in NSW and Hong Kong, Tripod Farmers purchased 28 hectares adjacent to their existing properties for \$880 000. The purchased land was weed infested and undeveloped despite its considerable potential to support intensive agriculture. The proposed development required the removal of 11 mature red gum trees scattered on the property and isolated from vegetation corridors. The tree removal was necessary as the trees in question would result in shading and water uptake lessening the quality and shelf life of the lettuce produced. The trees in question were also likely to restrict the ability to laser profile the property and construct economically efficient and environmentally-sound irrigation systems

Prior to the purchase Tripod Farmers sought legal advice as to any planning restrictions that existed on the proposed farming land. At the time of purchase, no permit was required for the development of farming Activity. In the period following purchase, the law changed and Tripod Farmers were advised that now a permit would be required to remove native vegetation on the property. It is important to note that whilst there was this new requirement there was no relevant Vegetation Protection Overlay (VPO) in the region that would specifically impact on the area of proposed development.

When Tripod farmers spoke to developers about the need to get a permit to clear any native vegetation they were advised by one developer that it might be better to go ahead and clear all the trees without the permit and pay the expected fine of \$40 000 so as not to incur the cost and delay of the application process. Tripod farmer’s did not follow this advice and instead believed that they could work with the then Victorian Department of Natural Resources (DDNRE) to develop their business whilst also providing environmental protection consistent with the ‘net-gain’ principle of the state *Native Vegetation Framework*. Following their experience with the development application process they seriously reconsider the decision to not follow the advice of the first developer.

Tripod farmers lodged their application to council in July 2000 before DNRE advised the Moorabool Shire Council in October 2000 that they objected to the proposed clearing of the isolated trees. Following a period of negotiation with DNRE, Tripod Farmers compromised and advised that they only sought to remove the three trees in the middle of the proposed paddocks. As part of this compromise Tripod Farmers advised their willingness to revegetate approximately 1.2 hectares adjacent to the Werribee River. Moorabool Council granted the permit to clear based on the compromise agreement in January 2001.

Shortly after permission was given by the council to proceed with the development DNRE advised that they objected to the council's decision. The permit application therefore was sent for review to the Victorian Civil and Administrative Tribunal (VCAT) leading to further cost and delay for Tripod farmers.

The VCAT hearing was held in May 2001 and it was only during the hearing that Tripod Farmers was made aware that a VPO had been placed over the area of their proposed development. Without warning, on the day prior to the hearing, the Victorian Government gazetted an amendment to the Moorabool Planning Scheme which created a VPO seeking to preserve River Red Gums in the region. The specific provisions of this new VPO now required Tripod Farmers to demonstrate that their proposed development "cannot proceed" without removing River Red Gums. The Overlay had been introduced without any consultation of Tripod Farmers despite the significant impact this would have on their proposed development. The introduction of this overlay proved crucial in the VCAT decision;

'If the Tribunal was required to make a decision on the basis of planning controls in place at the time of the Responsible Authority made its decision, it would, on balance, have upheld the Reasonable Authorities decision which required the retention of 4 of the northernmost River Red Gums

However...the gazettal of the VPO2 [the vegetation overlay] added a new dimension to the issue. The VPO2 gave strong weight to the need to protect River Red Gum species."

Overnight the Victorian government effectively introduced further planning controls to strengthen their VCAT case against Tripod farmers without any concern for their rights or business interests

At the VCAT hearing DNRE sought to justify their objection to the proposal based on the aesthetic values of the River Red Gums in creating the 'impression of rural tranquillity DNRE claimed that the 'community would miss them particularly in a flat bland paddock which will be either ploughed or full of lettuce plants for most of the year.' It is unclear why an issue of aesthetics should be of any relevance to concerns regarding sustainable native vegetation and biodiversity

management. DNRE also sought to rely on evidence that the trees provided habitat for a range of fauna dependant on the hollows in the trees such as the Brush-tailed Phascogale. It should be noted that the supposed existence of the Brush-tailed Phascogale was dismissed as unlikely during the hearing. When it is noted that a recent council vegetation survey identified 100 to 120 mature River Red Gums in the region it is largely unclear how the loss of 3 isolated trees (or 2.5% of all trees in the region) could have such a significant impact on fauna habitat and biodiversity intensity in the area.

VCAT ruled that Tripod Farmers could remove one tree but only if they prepare an environmental management plan and enter into a 'voluntary' Section 173 agreement to undertake conservation works along the Werribee River. This decision failed to acknowledge the practical difficulties and economic impacts that the existence of mature trees in the middle of the proposed horticultural operation would have.

Following the VCAT decision, Tripod farmers entered into negotiations with DNRE regarding the 'voluntary' section 173 conservation agreement. The proposed agreement was to require Tripod Farmers to engage in specified activities involving plantings, the building and maintenance of nesting boxes and restrictions on land use simply to remove one tree. Tripod Farmers decided not to go ahead with the clearance of any of the River Red Gums.

What has been the impact on Tripod Farmers?

"The fear of the development being delayed further, the pressure to sustain repayments to the bank, the fear of not being able to fulfil commitments projected to clients, the fear of the increased cost of consultation fees, the staff that had already been trained ready for their positions, all these factors pressured us" - Frank Ruffo, Tripod Farmers

Tripod Farmers have proceeded with the proposed lettuce growing operation albeit at significantly reduced potential.

Direct Costs

Consultation fees and legal costs incurred by Tripod farmers during the application process have been in excess of \$52,000.

Despite the loss of expected income, Tripod Farmers still had to make repayments on the \$1.5 million borrowed for the purposes of the development during the long and seemingly endless application process.

Tripod farmers had also recruited and trained staff in September 2000 in readiness for the new development. These staff had to be kept on unnecessarily at an approximate cost of \$260,000.

Opportunity Costs

Of more concern is the fact that the protracted application process and actions of the DNRE has stopped the first crop being harvested for 18 months where the development should have taken 3-4 months in total to complete. Tripod farmers estimate that this in itself has resulted in a turnover loss of \$2-\$3 million. The uncertainty over whether or not development could go ahead meant that the immediate opportunity to begin supplying the lucrative Hong Kong market was lost.

The lost opportunity in terms of future production levels continues where flowers and leaves falling into produce creates rot making some product unsaleable. Shading problems continue makes the product unsaleable especially during the key months of winter

Where does this leave the environment?

“I would never ask DNRE for their assistance because of my personal experience” – Frank Ruffo Tripod Farmers

Tripod farmers have been leading participants in voluntary conservation and sustainable land management practices with the region over a number of years. They were personally responsible for the introduction of the *Enviroveg* environmental audit program to the Moorabool region. The program requires the adoption of stringent European environmental audit standards to horticultural projects. 90% of other vegetable growers in the region have adopted the *Enviroveg* management program. Furthermore, even though Tripod Farmers did not enter into a conservation agreement, they have voluntarily removed boxthorn, willows and other noxious weeds that were choking rivers adjoining their property at a cost of 4 full time people for 2 weeks. Tripod farmers have provided the local council with a further \$3,000.00 to continue this management program.

These conservation and management programs have been achieved without either direction or support from DNRE. The programs are representative of a conservation ethic and capacity of many farmers across Australia. It is however an ethic and capacity that is being eroded by governments as a result of the manner in which they appear to disregard the legitimate interests of Australian Farmers. If society is to achieve optimal natural resource policy outcomes, there is a need for government and farmers to constructively work together in an on-going manner. The ability to achieve this is on-going relationship is significantly diminished where farmers undergo experiences similar to that of Tripod Farmers.

Appendix G.

Case Study – The Blennerhasset Family (Queensland)

What was?

The Blennerhasset family, through their family trust Gradrum Pty Ltd purchased the 'Goshen' Station pastoral lease in August 1997. The company is owned by three related families. The previous owners had lodged an application in July 1996 to renew and upgrade the existing pastoral lease to a Perpetual Homestead (PH) lease and the Blennerhasset family sought to continue with this lease renewal and upgrade.

What happened to the Blennerhassets?

The Blennerhasset family commenced negotiations regarding the upgrade of the lease initially in October 1998 with officers from the Department of Natural Resources (DNR) and the National Parks and Wildlife Service (NPWS). During these negotiations, NPWS advised that they were not interested in making any conservation claims over the 'Goshen'. On 3 December 1998 an officer from the NPWS advised that he had heard unofficially that the lease upgrade had been referred to the Environment Protection Agency (EPA). The Blennerhassets were told that the EPA was interested in the potential conservation value of 10,460 hectares of the total 19,684 hectares of the property or 53% of the entire land holding. As they were concerned that they had received no official notification of such 'interest' from the EPA, the Blennerhassets contacted DNR to seek reassurance that this was not the case. They were told that they would be notified when the department was 'ready' and that there was no reason as to why they should be included in consultation at this stage.

The Blennerhassets were extremely concerned by these conditions as they had received no formal notice of what these requirements would mean for their property. All development plans were put on hold. The Blennerhassets wrote to the Minister for Environment and Heritage and Natural Resources to ascertain EPA intentions and were advised:

"The application is still in the process of being investigated and you will be officially advised of the outcome of these investigations by officers of the Department of Natural Resources. The Minister apologises for any inconvenience caused by the delay in considering this application." – letter from Minister for Environment and Heritage and Minister for Natural Resources to Ross Blennerhasset 28 January.

The Blennerhassets retained the services of a Property Consultant to assist with the development process. In a meeting with EPA, two options emerged that were put to the Blennerhassets as possible ways to move the application process forward. The first option for the family was to proceed with the upgrade

application but they were advised that such an application would be long and drawn out and would require significant areas of 'Goshen' being placed under a Voluntary Conservation agreement (VCA) which would prevent land use on extensive sections of the property. The second option for the family was to apply to continue the current lease (PH) arrangements as long as it was noted that the EPA had an on-going interest and that a VCA was signed over 133 hectares of the property. The family agreed to the second option and wrote to the EPA in April 2000 advising their decision. The family received a letter from the EPA in May 2000 advising that the EPA would consider the issue of a Term lease if the VCA was entered into over the agreed land. The Blennerhassets were of the opinion following this letter that the renewal process was in progress and the lease renewal was only a matter of time.

During 2000, 'Goshen' was the location for "Survivor: Australian Outback" television series and the Blennerhassets subsequently received a number of enquires regarding the possibility of 'Goshen' being suitable for limited tourism operations. The family lodged an application for low-key tourism operations with DNR in February and received approval for these operations in April 2001. Whilst this approval had been obtained, the Blennerhassets were concerned that they had still not heard whether their lease had been renewed. Their Property consultant enquired with DNR only to be told that as the "Survivor" program was shown worldwide and 'Goshen' had received world exposure that the renewal process had to begin again. In a subsequent meeting in March 2002, the Blennerhassets were told that in this new renewal process there was a requirement that all previously involved government departments as well as the Queensland Film Industry and Queensland Tourism Commission would now all have to be consulted in the process. There was no indication that any of the relevant government departments had changed their position in regards to the proposed lease renewal. The Blennerhassets contacted the EPA and were advised that as long as they signed the VCA over the agreed land, they would give approval for the renewal.

The property agent regularly contacted the departments to follow the progress of the new assessment before he was advised in November 2002 by DNR that they were hesitant about renewing the lease based on the attitude of the individual EPA officer who had been involved in the assessment process. DNR advised that the responsible EPA officer had been claiming that the renewal should not be allowed as the Blennerhassets were 'environmental vandals.' This supposed vandalism was founded in the Blennerhassets' application to clear a part of their property which the EPA had previously advised that they had no interest in. The Blennerhassets repeatedly attempted to contact the relevant officer and when they did contact him he continued with his allegation that they were 'environmental vandals' who because of the clearing application could not be trusted. The officer went on to allege that the proposed clearing would impact on the gorge located on the edge of the property despite the fact that the proposed area of clearing was 5km from the gorge. The officer proposed that the Blennerhassets place the whole of their property under a VCA. The Blennerhassets rather proposed that the EPA officer come and visit the farm to get a better understanding of the issue. The EPA

officer repeatedly advised that he was 'too busy' to visit the property. After 10 phone calls he agreed to come and visit the farm.

On 22 January 2003 representatives from NPWS, the Department of Primary Industry (DPI) and the EPA (including the abovementioned officer) inspected 'Goshen'. Over the day of inspection the EPA officers noted that the proposed clearing activity was not near the gorge and thus would not have the alleged detrimental environmental impact. The NPWS and EPA officers were reportedly also impressed with the cleanliness of the camping areas on the property adjacent to the Herbert river were. At the end of the day's inspection the EPA officers advised that they could see no reason as to why the lease renewal could not go ahead.

Despite the apparent agreement on the day of the property inspection, the Blennerhassets received a letter from EPA on 14 March 2003 repeating their claim that the certain previously discussed conditions would need to be complied with together with even more restrictions if the renewal of the lease was to be allowed to go ahead. The EPA had effectively done a complete turn-around on their position and now required a VCA on 66% of the property in return for approving the lease renewal. On 18 December, the Blennerhassets received a fax sent from EPA to DNR outlining a list of demands that were to be placed on 'Goshen' prior to the continuation of the lease. EPA advised that the proposed renewal of the lease would only receive required EPA approval if the following conditions were placed on 'Goshen':

- No broad scale clearing of remnant vegetation;
- No further introduction of exotic pasture species;
- No vehicle or camping within 500 m of the falls with current activity and infrastructure to be removed. Visitation needs to be regulated in a manner that protects and recognises the risks associated with this very exposed site. The falls are nationally significant and require management to preserve their integrity, and the scenic amenity of the gorge and adjoining park;
- Tourism activities to be kept as low-impact, with camping limited to a maximum of 15 sites with infrastructure limited to current busk camping facilities; and
- Declared Plant species to be actively controlled

When Ross Blennerhasset brought this issue to the attention of the Queensland Minister for Natural Resources and Mines, the arguably unsatisfactory reply stated:

"I suggest you continue to negotiate with the EPA in an endeavour to reach a mutually acceptable outcome, which will allow you to continue your business enterprise, while at the same time protecting the environmental values of your land"

What has been the impact on the Blennerhasset families?

The Blennerhasset have faced 6 years of discussions, negotiations and uncertainty as to whether they will be able to farm their land in the future. The EPA has continually changed its position, ignored the repeated and constant requests for adequate consultation and ignored the social and economic impact that this process has had on the three families who rely on the 'Goshen' property business. The Blennerhasset families cannot develop a solid business plan and invest in the future development of the farm business when they still don't know whether their lease will be renewed and what restrictions will be placed on them.

The EPA requirements on 'Goshen' would render it unviable and require the Blennerhassets to conserve and manage vegetation despite that fact that they could not guarantee adequate income.

“With these demands in place, ‘Goshen’ would not be a viable grazing property and with an environment order covering it, nor is it a saleable property. The process has gone on for far too long, a lot of valuable time and money has been spent on the process, not to mention the emotional and mental stress of the indecision of not knowing if/how or when the lease is going to be renewed.... Do these environmental planners realise that these decisions affect the livelihoods of three families and that their income will be substantially reduced” – Letter from Ross Blennerhasset to Minister for Environment and Heritage and Natural Resources dated 15 March 2003.

Appendix H.

Case Study – Gordon and Sally Moon (Victoria)

What was?

The Moon family has farmed in the Wulgulmerang area in East Gippsland since 1932. Following dissolution of the family partnership in 1987, Sally and Gordon Moon purchased the 976.6 hectare 'Benambra Road' property as the first step in developing a farm of 1400 hectares. Sally and Gordon purchased 165 hectares at \$358.00 per hectare followed the final purchase of the 258 hectare "Hill Paddock" property in 1997 for \$348.00 per hectare. The Moons purchased both 'Benambra Road' and 'Hill Paddock' with a view to developing a sustainable and economically viable sheep and cattle grazing property. Each block of land purchased was in the process of development. Similar cleared land in the area had market value of approximately \$1,485.00 per hectare.

What happened to the Moons?

In November 2000, the Moons approached the then Victorian Department of Natural Resources and Environment (DNRE) to seek information regarding the development of 120 hectares of uncleared land on the "Benambra and "Hill Paddock Properties." The Moons planned to increase the carrying capacity of currently uncleared land on their property from ½ dse to 15 dse in a bid to increase the productivity and economic viability of their farm. The proposed clearance left 430 hectares of vegetation uncleared for conservation purposes across the two properties.

In discussions with the Department, the Moons were advised that clearing would only be allowed pursuant the East Gippsland Native Vegetation Plan. The plan, formulated under the Draft State-wide Vegetation Framework, provided that Sally and Gordon would be required to 'demonstrate that a Net Gain of biodiversity attributes will occur as a result of approving and implementing any clearing planning permit.' The draft framework at this time was still undergoing consultation and further development. Because of the plans requirements, a DNRE officer advised that Sally and Gordon's permit application was likely to be successful only if they agreed to clear 'less than one-tenth of the vegetation in return for a conservation covenant over the remaining nine-tenths.'

Sally and Gordon were concerned that such an arrangement would remove their ability to develop their farm business in the future. They were largely dismayed at the way in which a draft non-legislative framework, over which they were not consulted or even made aware prior to its introduction, could result in the effective "handing over control of their property." When the Moons permit application to clear the desired 120 hectares was denied in February 2001 they entered into protracted negotiations with the DNRE.

During the negotiations Sally and Gordon compromised and sought to clear only 60 hectares of vegetation as part of proposed development. This is despite the fact that this already significantly reduced the expected return on capital envisaged when they bought their farm.

Rather than agreeing to this compromised position, DNRE demanded even further concession from Sally and Gordon. The department advised that it would allow the clearance of 60 hectares only if the Moons entered into a 'voluntary' agreement under s 173 of the *Planning and Environment Act*. Under the terms of the draft agreement, Sally and Gordon would be required to conserve up to 2-4 hectares of forest for every hectare cleared for pasture. This would have the practical effect of placing all remaining vegetation under an agreement that removed future development potential. The agreement also required Sally and Gordon to fence off all areas governed by the agreement. Grazing restrictions were to mean that no sheep or cattle were to be allowed graze on any of the protected land between the months of September and January. The unworkability of such an arrangement was ignored by the department. Under this grazing restriction Sally and Gordon would be required to reduce their current stocking rates as without the ability to place sheep in the 'locked-up' areas during these months they would be unable to rest improved pasture in readiness for the prime cattle grazing season.

At no time during the application process were there any offers of compensation for the lost development potential and the reduction in land value faced by the Moons. The direct and on-going management costs involved in maintaining vegetation under the agreement was largely ignored by the DNRE. Furthermore, the Section 173 agreement would still require Sally and Gordon to pay rates on vegetated land that they were not allowed to develop.

After months of uncertainty, antagonistic negotiations with the Department and the unlikelihood of a positive outcome, Sally and Gordon decided not to proceed with the proposed development of their farm. The Moons have now had to look for alternative means of income and have recently been granted a Log and Regenerate permit from the East Gippsland Shire. This will allow selected logging of some the vegetated area but the land will not be allowed to be used for a period of 8 to 10 years following clearance. The logging permit, whilst providing some possible short term benefit will not compensate for the lost grazing development potential faced by the Moons.

What is happening to the environment?

The Moons experience of attempting to work within the command and control regulation framework has significantly undermined their capacity and ability to provide conservation services for the protection of biodiversity and native vegetation.

Ironically the land that was deemed to be unsuitable for clearing due to its 'pristine' nature by the department was cleared approximately 50-60 years ago by

members of Gordon's family. The land is not pristine and is currently in its 'good' condition largely as a result of on-going land management practices carried out by the Moon family over previous decades where it had been constantly grazed and has been regularly burnt out.

The Moons have been involved in Landcare for a number of years and prior to the application to clear had received Landcare funding to enable the planting of 700 native trees on another area of their farm as part of a re-vegetation program. Since the refusal of the clearing permit and as a result of the way in which they were treated by the department, Sally and Gordon have not only cancelled their plans to be involved in the voluntary tree planting program but they have also left the Landcare program.

What has been the economic impact?

The Moons have lost the potential to develop 550 hectares of land that they would have been able to develop prior to the introduction of the *Native Retention Controls* and the subsequent East Gippsland Native Vegetation Plan. The Moons must continue to pay rates on land without any potential to reclaim the cost through developing the land. Even where the Moons can make short term profit out of a log and regeneration permit, this is insignificant when compared to the lost income potential that would have resulted from increasing the productivity of the sheep and cattle grazing operation.

Appendix I.

Case Study – Helen and Daniel Mahar (South Australia)

What was?

The Mahar family has managed their property near Bookabie near Ceduna in South Australia for over 110 years mainly running sheep with a small cropping operation. The property is heavily vegetated and runs along 16 km of coastline.. The Mahar property was until recently 16 000 hectares when 6000 hectares of pastoral lease was recently sold to another family member

What happened to Daniel and Helen Mahar?

(Please note that Mr Mahar is now deceased)

The experience of Daniel and Helen Mahar under the successive South Australian native vegetation management regimes represents a litany of legislative and administrative disaster that has significantly undermined their ability to manage their farm business.

Since 1983, the Mahars have attempted to expand the size of their grazing area from 4500 acres to the 6000 acres needed for a viable cropping enterprise. When the original regulations under which the Mahars applied were declared invalid by the High Court, their application was processed under the *Native Vegetation Management Act 1985*. Under this Act, clearance could only occur where it did not seriously offend planning principles founded on the conservation of fauna and flora as well as the preservation of scientifically and socially valuable areas. Daniel and Helen were advised in December 1986 that their application was considered to not be at substantial variance with planning principles however clearing consent would only be given for 40% of the application area (612 acres). Under this arrangement, Daniel and Helen were also required to place 60% of the application area (978 acres) under a heritage agreement together with all the land between the application area and the coast. Daniel and Helen were concerned that such an arrangement would result in a loss of valuable grazing land undermining the viability of their farm. As they would not agree to the unrelated Heritage Agreement clearance consent was refused.

Daniel and Helen subsequently entered into protracted negotiations with the Native Vegetation Authority (NVA). During these negotiations the NVA repeatedly refused to provide clearing consent unless the Mahars entered into Heritage Agreements over land that was external to the land under application. It must be noted that Heritage Agreements in South Australia under the *Native Vegetation Management Act 1985* provided that where clearance consent was refused on farm land where the farmer had at least 12% of native vegetation and the land was otherwise suitable for agriculture, the farmer would be compensated for diminution in value between the cleared and uncleared value. The agreements were designed to be voluntary and separate to the application process. Through requiring Helen and Daniel to place land under heritage agreements prior to it

being subject to a clearing refusal, the NVA removed the ability of the Mahars to receive compensation for lost land value under the Act. It must also be noted that the lost value did not take into account the lost income from forgone production.

The mishandling of the Mahars case by the NVA eventually saw the a Conciliator award the Mahars a Section 33(3) 'hardship' payment of \$70 000 to cover grazing income losses incurred as a result of the NVA delay in recognising the exempt grazing status of application areas. Of concern was the fact that the NVA still tried to force the Mahars into placing un-related 'buffer zone' land under a heritage agreement prior to the receipt of this hardship payment. Eventually in 1992 under economic pressure, the Mahars signed the heritage agreement over the buffer zone and received a further small Section 33(3) payment to account for the unique value of the site that was being protected. Daniel and Helen later signed a voluntary heritage agreement over old growth scrub that they never intended to clear. This agreement provided the Mahars with enough money to survive until the end of the 1990s' when they were able to use matured superannuation and share windfalls to pay off their crippling farm debt.

The *Native Vegetation Act* 1991 replaced the *Native Vegetation Management Act* in 1991 and saw the replacement of the NVA with the Native Vegetation Council (NVC). The NVC assesses proposed clearing with reference to similar principles as the old Act but it now has power to allow clearing at variance with principles where the landholder takes 'net-gain' regeneration activity. This effectively legitimises the use of heritage agreements or forced planting as leverage mechanisms over farmer's clearing applications. Of concern is the removal of the automatic compensation mechanisms for diminished property value that existed under the old Act.

What has been the impact on Helen and Daniel Mahar?

The South Australian Native Vegetation Legislation has cost our business a lot on money. Money that could have been used for upgrading machinery, land purchase, off-farm investments, retirement/generation transfer, or conservation projects. We have had to put back everything- and more- into the farm to survive' – Helen Mahar

The Mahars never were able to develop the cropping land they intended. Daniel and Helen calculate that their losses as a result of lost grazing and cropping potential at more than \$477 000. This figure assumes a nominal interest rate of 10% despite the fact that at times they were servicing a debt with interest rates of 19.75%. Daniel and Helen further faced the prospect that access to credit was becoming increasingly difficult to obtain as their debt to equity ratio became worryingly high. As well as this lost income the Mahars also incurred significant legal, travel and associated costs through simply participating in the 'negotiation' process.

In her personal submission to the Commonwealth House of Representatives Standing Committee on Environment and Heritage Inquiry into Public Good Conservation on Private Land, Helen Mahar commented;

For me, the cost of 'public' benefit conservation can be counted tangibly in denial of sufficient cropping land to be viable, in outstanding grazing losses, and in costs incurred through trying to negotiate as asked...[as] well as the intangible values like loss of trust.... And in doubts about the wisdom of trying to do the right thing in a complex sensitive land management situation"

The Mahar family no longer trust the institutions or regulations that exist to promote the protection of the environment. They are a key example of the failure of a system that identifies itself as consultative and incentive based yet still operates within a command and control framework.

Appendix J.

Case Study – NAMES WITHELD FOR COMMERCIAL IN CONFIDENCE
(New South Wales)

What was?

A and B Smith are the sixth Generation owners of 'XXXXX' in south-western NSW. In response to the NSW State Government Water reforms to the Murrumbidgee River, A and B proposed to install an innovative spray irrigation system on 56 hectares of their farm at a cost of \$130,000. The proposed irrigation system would improve water efficiency and in turn ensure long-term farm sustainability.

What happened to A and B Smith?

The proposed installation of the irrigation system involved A and B removing 19 isolated River Red Gum and Yellow Box Trees. As part of their application, the NSW Department of Land and Water Conservation (DLWC) required A and B to undertake a 'targeted fauna survey' across the entire 610 hectares of their farm at a cost of \$3,315.00 despite the fact that the development covered an area of only 56 hectares

A and B were also required to 'off-set' the removal of every tree through the planting of 400 new trees. Following negotiation, the number of trees to be replaced was reduced to 5000. The estimated cost of planting 5000 trees in terms of seedlings, labour and fencing materials is \$25,000. It is important to note at this stage that clearing has been so minimal on 'XXXXX' during the past 50 years there are not any areas suitably big enough to plant 5000 trees. A and B proposed that they plant 1000 new trees in compromise yet the department rejected this proposal

What has been the impact on A and B Smith?

The cost and delay created by the uncertainty and length of the application process to clear just 19 trees has been significant to A and B. Had A and B been able to immediately develop the irrigation system they would have been able to grow and sustain a Lucerne pasture with a carry capacity of 2000 prime lambs during the current drought. The irrigated Lucerne crop could have produced up to 200 tonnes of hay that has been desperately needed in recent months to sustain core-breeding stocks.

Rather than facilitating development of economically efficient and environmentally sustainable irrigation systems, the NSW command and control regulatory system has led to lengthy and costly delay for A and B making it difficult for them to manage their farm business and drought proof their property.

Appendix K.

Case Study – Arthur Sleeman (Victoria) – See Attached Correspondence

Mr Arthur Sleeman
PO Box 121
Jerilderie NSW 2716



30 January 2003

Contact Name:
Our Reference:

Dear Mr Sleeman

Application for Clearing Vegetation under the Native Vegetation Conservation Act 1997

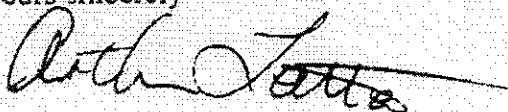
"Riveresdale" Jerilderie.

Your application for development consent to clear native vegetation, registered number AL0223 lodged under the *Native Vegetation Conservation Act 1997* has been **refused**. The reasons for the department's decision are stated in the attached report.

If you are dissatisfied with this decision, section 97 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court within twelve months after the date on which you receive this notice.

If you have any questions about this determination and the associated reasons for refusal please contact Arthur Latta, Resource Access Manager, at Albury, on telephone 02 6041 6777.

Yours sincerely



Arthur Latta
Resource Access Manager
Murray Region.

Attachment No. 1: Reasons for Refusal

Introduction

Your development application was assessed using current procedures developed by the Department of Land and Water Conservation (DLWC) and other resource information. This includes:

- the requirements of Section 79C(1) of the *Environmental Planning and Assessment Act 1979* in accordance with Part 2 of the *Native Vegetation Conservation (NVC) Act 1997*:

Section 79C (1) Matters for consideration - general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) *the provisions of:*
 - (i) *any environmental planning instrument, and*
 - (ii) *any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and*
 - (iii) *any development control plan, and*
 - (iv) *any matters prescribed by the regulations that apply to the land to which the development application relates*
 - (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments and social and economic impacts in the locality,*
 - (c) *the suitability of the site for the development,*
 - (d) *any submissions made in accordance with this Act or the regulations,*
 - (e) *the public interest.*
- field inspection and liaison between officers of the DLWC and NPWS.

This determination has been made having regard to the objects of the NVC Act 1997 in accordance with the principles of ecologically sustainable development.

DLWC's reasons for the REFUSAL of the application, registered number AL0223, are as follows:

1. ~~The proposal contravenes the provisions of a draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority~~
2. There is likely to be significant impacts on migratory and nomadic species, particularly in the availability of habitat. (Section 79C (1) b. of the EP & A Act.)
3. The Biodiversity significance of the proposed development particularly the condition of the vegetation in the area under application.
4. The proposed development would have a detrimental impact on threatened species (S.5A. EP & A Act, Significant effect on threatened species, populations or ecological communities, or their habitats)
5. Socio-economic value of the proposed development does not justify the permanent or semi-permanent removal of native vegetation.

Appendix L.

Case Study – The Holmes Family (New South Wales)

What Was?

The Holmes family purchased the 3000 hectare 'Loxley' property near Nyngan with a 20 year business plan to develop a 2000 hectare cropping enterprise. The property was bought prior to the enactment of the NSW Native Vegetation Conservation Act. At the time of purchase, only 400 hectares of the property was cleared (less than 15%) with the remaining area of the property covered by bimbil box and pine. The Holmes family have always managed their property sustainably. In addition to a six-year rotational cropping system to maintain soil fertility, the Holmes have actively managed the native vegetation on their property for conservation purposes. Some of the critical functions they provided were control of feral animal species, invasive weed control (both exotic and native – including regrowth) and fire management.

What happened to the Holmes Family?

The Holmes family were advised that they were not allowed to go ahead with proposed clearing. The Holmes are now restricted to continue cropping the existing 400 ha and are facing severe land degradation as livestock carrying capacity reduces from 1600 to 600 head of sheep. They are required to manage the native vegetation that cannot be cleared and will receive no on-going assistance to develop their property.

What is the impact on the Holmes?

The Holmes have been prevented from developing the uncleared land on their property. If the Holmes had been able to develop their property as planned they expected to receive a return on investment that would sustain both the family and the environment, inject around \$2 000 000 into the local economy and increase the capital value of the land by \$700 000 over twenty years. Instead the direct financial impact of the Act on Loxley's value will be an increase in value of just \$75 000 over twenty years and a steady decline in the relative value of their income.

The Holmes family is now wedged into an untenable position and face two choices, neither of which are sustainable for 'Loxley'. Instead of having a range of cropping and grazing options, they can either sell up now and leave the farm at a loss, or continue with business as usual, which will see their land degrade and their income steadily decline to a point at which Loxley will no longer be viable.

What is happening to the environment?

The Holmes capacity to manage their remaining 2600 ha of native vegetation adequately is compromised by the severe impact on their income and its threat to the farm's overall viability.

While the native vegetation appears on paper to be 'protected', the reality is that without either compensation or on-going stewardship payments to enable farmers to continue actively managing for conservation values, the legislation will in fact bring about the opposite outcomes. The ecosystem will continue to lose its integrity and diversity as it simplifies and degrades in the face of existing pressures - of feral pests, uncontrolled regrowth, invasive exotic and native weeds, and uncontrolled bushfire. Even one of these factors can cause irreparable degradation of woodlands. For example, uncontrolled woody regrowth causes soil erosion, as thickening reduces vital groundcovers that perform three critical functions – reducing rain-splash velocity, binding the soil together and maintaining soil biodiversity.

Appendix M.

Case Study – Valuation Report “Lowesby” (Queensland) attached

Rockhampton
R-20142 (JCC:jo)

VALUATION REPORT

"LOWESBY"

Located At

**ROLLESTON,
CENTRAL QUEENSLAND**

As At

21 JUNE 2001

Prepared For

GRAHAM CORE

TABLE OF CONTENTS

1. EXECUTIVE SUMMARY	1
1.1 Instructions	1
1.2 Definition of Market Value	1
1.3 Date of Inspection and Valuation	1
1.4 Synopsis	1
1.5 Assumptions and Qualifications	2
1.6 Recommendation	3
2. TITLE DETAILS	4
2.1 Real Property Description	4
2.2 Registered Proprietor	4
2.3 Title Reference	4
2.4 Encumbrances	4
2.5 Land Area	4
2.6 Lease Details	5
3. STATUTORY DETAILS	6
3.1 Local Authority	6
3.2 Council Zoning	6
3.3 Unimproved Land Valuation	6
3.4 Vegetation Management Status	6
3.5 Chemical Residue Status	7
4. LOCALITY AND SERVICES	8
4.1 Location and Access	8
4.2 Services and Amenities	8
4.3 Climate and Seasonal Conditions	8
5. LAND DESCRIPTION AND DEVELOPMENT	9
5.1 Land Description	9
5.2 Land Development	9
5.3 Fencing	10
5.4 Water	11
5.5 Carrying Capacity	11
5.6 Present Use	12
5.7 Alternative or Potential Use	12
5.8 Environmental Statement	12
6. STRUCTURES	13
6.1 Buildings and Yards	13
7. VALUATION CONSIDERATIONS	16
7.1 Market Comments	16
7.2 Vegetation Management Policy – Impact on Lowesby	16
7.3 Outlook for Beef	18
7.4 GST Statement	19
8. COMPARATIVE MARKET DATA	20
8.1 Market Evidence	20
8.2 Sales Commentary	20
9. VALUATION APPROACH	22
9.1 Introduction	22
9.2 Valuation Methodology	22
9.3 Valuation	22
10. VALUATION	24

ANNEXURES (1 to 9 including photographs)

1. EXECUTIVE SUMMARY

1.1 Instructions

We have been instructed by Graham Core to assess the market value of the property "Lovesby" which is located at Rolleston.

Our valuation has been prepared for:-

- (i) sale purposes; and
- (ii) to assess loss in market value due to proclamation of broadscale tree clearing policy for leasehold lands on the 16 December 1999 which restricted clearing of remnant endangered scrub and forest ecosystems on the property.

The report may be relied upon by the owner and his advisors.

The interest being valued is the unencumbered leasehold.

Specifically it should be noted that the valuation is not prepared for mortgage purposes, nor is any recommendation made or referred to in relation to the suitability of the property as a security for mortgage purposes. Finally, it should be noted that in accordance with the terms and conditions of our company's professional indemnity insurance policy, any other third parties proposing to rely upon this report, must first seek our authorisation formally in writing.

1.2 Definition of Market Value

The estimated amount for which an asset should exchange on the date of valuation between a willing buyer and a willing seller in an arms length transaction, after proper marketing, wherein the parties had each acted knowledgeably, prudently and without compulsion.

1.3 Date of Inspection and Valuation

21 June 2001

1.4 Synopsis

"Lovesby" is a 4866 hectare scrub grazing property held under Perpetual Lease tenure, located 22 kilometres north of Rolleston on the Comet Road. Access is good by formed earth/gravel and sealed roads. Power and telephone are connected. Mail and school bus services are provided.

The property comprises principally good quality brigalow blackbutt scrub with softwood, bottle tree and box influence, broken by small shaded plains and box/softwood scrub in the northern part. An area of box ironbark forest with softwood influence occurs along the frontage to Canary Creek through the southern part. Soils are generally brown clays to duplex clays in the scrub country and brown to red loams and duplex clay loams in the forest country. All of the country is suitable for development of improved pastures including limited arable potential in the scrub soils.

1.4 Synopsis Continued

About 3740ha of principally brigalow scrub has been pulled, including about 420ha originally cultivated or blade ploughed. Buffel grass pasture is established in all of the developed country. About 1410ha of the improved country remains open, 380ha carries moderate regrowth and 1950ha has dense regrowth established. About 850ha of virgin scrub country in the northern part and 230ha of virgin forest/scrub in the southern part is now classified as "endangered remnant vegetation" which prohibits development. 780ha of scrub regrowth, now about 20 years old, has "disturbed" classification which could contain endangered ecosystems and prevent development.

The property is enclosed on all boundaries and subdivided into 11 paddocks by mixed description, principally 3 barb wire conventional fences. Water supplies obtained from an equipped bore at the homestead and six dams are adequate in average seasons for present carrying capacity. Structures are basic including a lowset home, highset quarters, steel framed machinery shed, old timber cattle yards and horse yards. Generally the buildings and yards require maintenance to upgrade.

Present carrying capacity of the property is assessed at 900 head of mixed cattle on a breeding/growing basis (weaners up) with limited potential to finish cattle due to the extent of the regrowth established in the pulled country. Economic potential is now severely limited by the broad scale tree clearing guidelines for leasehold lands which restrict further development of areas classified "endangered".

Due to the central location handy to Rolleston on the formed road, Lowesby would attract strong interest from established graziers if listed on the current market. However value would be limited by the tree clearing guidelines which now restrict potential of the partly improved scrub and forest country.

Our valuations are summarised as follows:

A. Valuation Under Original Lease Conditions	\$1,400,000
Valuation After 16.12.99 Proclamation of Broadscale Tree Clearing Policy for Leasehold Lands	
B. With 1080ha of "endangered" ecosystems protected	\$1,160,000
C. With 1860ha of "endangered" and "disturbed" ecosystems protected	\$1,000,000

1.5 Assumptions and Qualifications

1. That clearing of a total area about 1080ha of remnant virgin scrub classified as "endangered" regional ecosystem will be prohibited.
2. A tree clearing permit will be available to allow re-chaining of about 2330ha of scrub and forest regrowth not classified as "endangered".
3. That fencing along both sides of the Comet Road will be completed prior to sale.
4. That the property has a clear chemical residue status.

1.5 Assumptions and Qualifications Continued

A New Tax System (Goods and Services Tax) Act 1999

In the most part, the sale of genuine rural properties will be GST free under the relevant provisions of a New Tax System (Goods and Services Tax) Act 1999 the "GST Act" or under this Act the purchaser will be expected to claim back any GST charged as an input tax credit.

The supply of a freehold interest in, or the long term lease of, farming land is GST free if:-

- A.** (1) the provisions of Subdivision 38-0 of the "GST Act", which refers to farmland supplied for farming are satisfied.
Separate sales of livestock, plant and equipment are not GST free under this Section.
- (2) the provisions of Subdivision 38-J of the "GST Act", which refers to supplies of going concerns are satisfied

- B.** The purchaser is able to claim back any GST paid as an input tax credit if the provisions of Division 11 of the "GST Act" are satisfied
This excludes rural properties purchased under the Margin Scheme, Division 75 of the "GST Act".

Reference should be made to further GST assumptions specific to the subject property, as set out at Section 7.4 of this report.

Where any doubt exists as to the GST status of the transaction, then suitable clauses should be inserted into a Contract for Sale of the subject property to protect both the purchaser and the vendor.

If any of these assumptions are found to be incorrect, or if the party on whose instructions the valuation is provided wishes our valuation to be based on different assumptions, this valuation should be referred back to the Valuer for comment and in appropriate cases, amendment.

1.6 Recommendation

We recommend that a property management plan be prepared and application for a tree clearing permit be made to the Department of Natural Resources and Mines to clearly identify and confirm potential for further development, before the property is offered for sale.

2. TITLE DETAILS

2.1 Real Property Description

Leasehold land situated in the County of Wooroona, Parish of Lowesby being:-

- GHPL 37/3635 and Lot 3 Crown Plan No. WNA33.

A Titles Office search of the subject property has been carried out.

2.2 Registered Proprietor

Graham Bruce Core.

2.3 Title Reference

The Title Reference No. is 17646014

A copy of the Title Search is annexed to this report. Refer to Annexure 5.

2.4 Encumbrances

None detrimental to title of which we are aware.

Our search of Mining and Petroleum Tenements over the property reveals only PP 337 taken out by Santos Petroleum is registered over the property.

Copies of the Title Search and Mines Map are enclosed in the Annexures of the report.

Our valuation is based on the assumption that there are no other easements or encumbrances which would otherwise have an adverse affect on our valuation. Should any such easement or encumbrance become apparent, we would reserve the right to review our valuation.

2.5 Land Area

4865.698 hectares.

2.6 Lease Details

Term

Perpetual

Conditions

M175 Subject to the condition of Occupation as defined by the Land Act.

M76 The lessees shall maintain during the term of the lease, the parts of the holding on which trees were previously destroyed in the improvement of the land, free from all suckers and undergrowth as well as all seedling growth in respect of which a Permit to Destroy is not required.

M78 **The lessees shall, within a period of five (5) years from the commencement of the term of the lease and to the satisfaction of the Minister, develop the remaining brigalow scrub on the holding by:-**

- (a) destroying by ringbarking or otherwise in accordance with a permit granted by the Land Commissioner such scrub in equal proportions during each year of such period and thereafter maintaining such area free from all regrowth, suckers and undergrowth; and
- (b) Sowing such cleared area to improved pastures with artificial grasses.

Annual Rental

\$3,680.00

3. STATUTORY DETAILS

3.1 Local Authority

Bauhinia Shire Council

3.2 Council Zoning

The subject land is zoned "Rural" under the current Bauhinia Shire Council Town Planning Scheme which was gazetted on 16 October 1995.

The existing improvements comply with the provisions of the zoning.

3.3 Unimproved Land Valuation

The unimproved land valuation as assessed by the Department of Natural Resources as at 1/10/98 effective 30/6/99 for rating and taxation purposes is \$460,000.

Revaluation dated 1 October 1998 effective 30 June 1999.

3.4 Vegetation Management Status

- A. Queensland Legislation: Revised broadscale tree clearing guidelines for leasehold land under the Land Act 1994 proclaimed 16 December 1999.

Our search of EPA regional ecosystem maps (Version 2.0) at Department of Natural Resources and Mines (DRM) Emerald for Lowesby confirmed that significant areas of remnant endangered regional ecosystems remain on the property comprising:-

About 1080ha of virgin brigalow scrub with Dawson gum (blackbutt), belah and areas of poplar box and silverleaf ironbark influence on clay soil and alluvial clay loam plains; and also

About 780ha of "disturbed" brigalow scrub originally pulled in 1980, now dense regrowth – possibly classified as remnant endangered being 70% of the height and 50% of the canopy of the original extent.

IF both these areas are classified endangered under the Vegetation Management regulations for leasehold lands and are protected from clearing, this will cause substantial loss of productivity and value to the property.

This valuation assumes that there are no further restrictions on reclearing other regrowth areas on the property (about 1550ha in total).

3.4 Vegetation Management Status Continued

- B. The Commonwealth EPBC (Environment Protection and Biodiversity Conservation) Act 1999.

We are aware that Lowesby is located within the Queensland Ecological Communities listed as threatened (endangered) under this Act on the 4 April 2001, being:-

- The brigalow dominant and co dominant communities
- The bluegrass dominant grasslands of the north and south brigalow bio regions.

This listing confirms the protected status of the remnant endangered virgin scrub and forest areas and possibly extends control over clearing the "disturbed" regrowth areas approaching maturity where reclearing may possibly be considered a significant impact under the Act, requiring approval.

3.5 Chemical Residue Status

Property Identification number EB80097.

We are advised that the property has a clear chemical residue status allowing unrestricted livestock trading. This valuation assumes that to be correct.

4. LOCALITY AND SERVICES

4.1 Location and Access

The property is located 22 kilometres north of Rolleston on the Comet Road. Access is good by principally formed earth and gravelled road which has been upgraded in recent years including a short section sealed towards Rolleston. The Rolleston/Comet Road bisects the property for a distance about 7 kilometres.

Also located about 96 kilometres south of Comet on the Capricorn Highway.
92 kilometres south east of Springsure, Shire commercial centre.
160 kilometres south east of Emerald regional centre.

Access for livestock to and from the property to the central regions is good via the Capricorn Highway and Dawson Highway at Rolleston which link with sealed highways to other regions of the State.

The property valued herein is the same as described within this report and is shown highlighted on the cadastral map annexed to this report. Refer to Annexure 2.

Whilst we have physically identified the boundaries upon inspection and there does not appear to be any encroachments, we are not surveyors and no warranty can be given without the benefit of an identification survey.

4.2 Services and Amenities

The property has telephone and power connected to the homestead complex. Two SWER power transmission lines traverse the property which would allow connection of supply to other points if required. There is a twice weekly mail service from Rolleston and school bus service to Rolleston along the Comet Road is available.

4.3 Climate and Seasonal Conditions

The property lies within a 650mm isohyets on published rainfall maps. Currently the property is dry and feed is short after good early season rain. Stock are in fair condition and there is adequate water in the main dams.

5. LAND DESCRIPTION AND DEVELOPMENT

5.1 Land Description

The property comprises principally gently undulating, good quality brigalow scrub country north of forest frontages along Canary Creek inside the southern boundary. Small areas of broken shaded black soil plains occur in the scrub country in the northern part and also an area of red loamy bottle tree, softwood forest in the north western corner.

Most of the property was originally densely timbered with brigalow blackbutt scrub containing bauhinia yellowwood and wilga influence, also scattered areas containing bottle trees, lapunyah and box with softwood scattered throughout. Soils are generally brown clays to duplex clays containing some melonhole country but no tight puggy clays. These are generally good pasture soils containing areas with arable potential, as has been realised on "Somerby" adjoining the north eastern boundary.

The forest country on the southern end of the property and the softwood forest in the north western corner provide a balance of country types, being light or loamy soils which are also good pasture country. This country is timbered with box, silverleaf ironbark and has wilga, sandalwood and dead finish bean tree and bottle tree influence throughout, some Moreton Bay ash along creek flats, also currant bush and areas of turkey bush. Our classification of principal country types includes:

4040ha brigalow blackbutt scrub interspersed with small softwood forest and broken plains
 126ha softwood scrub and forest in the north eastern corner
700ha forest with softwood scrub influence on the Canary Creek frontage
 4866ha Total
 =====

5.2 Land Development

All of the developed country was originally pulled during the 1980's, the latest being in 1989, then burnt and seeded in 1991. Areas adjacent the homestead cultivated during the period 1986-92 have now reverted to pasture. An area blade ploughed in Road Paddock remains open and well grassed with buffel. All of the pulled country has buffel grass established throughout including the areas of dense regrowth. Generally the improved country has not been well maintained and except for about 1410ha of scrub and forest development has now reverted to moderate/dense brigalow and blackbutt regrowth.

Our classification of land development includes:

220ha blade ploughed scrub, good buffel pasture, only light regrowth
 200ha scrub and forest originally cultivated, now good buffel pastures established and open to shaded, with areas of light regrowth
 2000ha pulled scrub, burnt and seeded, pasture established (1989/91) comprising:-
 450ha light regrowth with good buffel established
 380ha moderate regrowth with buffel established
 1170ha dense regrowth with buffel established.
 780ha pulled scrub (1980/82) now dense regrowth (classified disturbed)
540ha forest/softwood/brigalow scrub pulled, burnt, buffel and native pastures established
 3740ha Total area originally developed
 1126ha balance lands including 1080ha protected endangered scrub and forest

5.3 Fencing

BOUNDARY

The property is securely enclosed on all boundaries by 3 barb wire fences, generally in good condition except for sections of old 3 barb wire fences in boundaries with Nimala, Somerby and The Lake.

Description of the principal fence types noted on the property sketch enclosed as an Annexure to this report includes:

- A – B Somerby – new 10m panel, rosewood posts, 4 barb wire fence in good condition
- B – C Somerby – about 2.2km **old** 2 barb 1 plain wire fence in poor condition
- C – D Brooklee – 6m panel, steel post, 4 barb wire fence in good condition
- D – E Coonabar – 8m panel, steel post, 3 barb wire fence in good condition
- E – F The Lake (about 1.4km **old** 3 barb wire fence in fair condition)
- F – G The Lake – 6m panel, steel post, 3 barb wire fence in good condition
- G – H Sirius – 8m panel, 3 steel 1 wood post, 3 barb wire fence in good condition
- H – A Nimala – About 1.7km **old** 3 barb fence in poor condition

In total, we estimate about 5.3km of old fencing is to be rebuilt. Somerby has a half share liability in this regard.

INTERNAL

The property is subdivided into 7 main paddocks plus 4 small paddocks about the homestead and yards and the large Bush Paddock, about 2067ha, in the northern part of the property which contains the area of virgin scrub country. Internal fences are mostly old 6m panel rosewood post 2 barb/1 plain wires, now only in fair to poor condition containing the sections to be renovated or rebuilt. Newer fences are 6 metre panel steel post 3 barb wire fences in sound condition.

Further work is required to construct new fences along the western and part north eastern frontages to the Comet Road, now upgraded through the property after resurvey to vary the original plan.

About 1.4km of old laneway from the Road Paddock to the homestead yards is to be upgraded or replaced.

5.4 Water

NATURAL

Only seasonal supplies are available in the creek, gullies and melonholes.

IMPROVED

Stock and domestic supplies are obtained from an equipped bore at the homestead, 3 good dams and 3 small dams. Equipment on some of the dams has not been maintained. All dams are open to stock.

A brief description of water improvements includes:

1. Road Paddock Dam – estimated 5000m³, not equipped. Reported a permanent supply
2. Five Mile Paddock Dam – estimated 11500m³ excavation. Reported 4.6m deep and a permanent supply. Equipped with a turkey nest, 8 x 40 mill and 2 concrete troughs. The equipment is working and in use. Also waters Bush Paddock.
3. Goodwin Dams watering Bush, Long and Goodwin Paddocks.
The older dam, estimated about 2000m³ effective and a new dam estimated about 7000m³ is reported to leak but is a permanent supply. Equipped with a 10 x 25 mill, poly pipe to 10000 gallon corrugated galvanised iron concreted tank and 3 concrete troughs in 2 wire squares. This equipment is working and in use.
4. Small brigalow dam in the Cultivation Paddock
5. Jacks Dam – estimated 5000m³ excavation. Reported to be leaking but remains a permanent supply. Equipped with a 14 x 40 mill, not in use, originally pumped to the homestead.
6. Small dam in the Horse Paddock.
7. Homestead bore – reported 97.5m deep, PVC cased, pumping from about 82m. Good supply of brackish water but suitable for stock and domestic use. Equipped with electric submersible pump, poly pipe to a 5000 gallon concrete tank on the ridge from where supply is reticulated to the house, buildings, yards and 4 paddock troughs.

More water will be required when the pulled country is improved to realise potential carrying capacity.

5.5 Carrying Capacity

As improved at inspection: 900 head (1-5.4ha)
Economic potential: 1600 head (1-3ha)

Economic potential after:
1080ha protected 1300 head (1-3.74ha)
OR 1860ha protected 1000 head (1-4.86ha)

5.6 Present Use

Breeding and growing, limited finishing, on native and improved pastures.

5.7 Alternative or Potential Use

Growing and finishing on improved pastures, with crop assistance.

5.8 Environmental Statement

1. The property contains a cattle dip which would contain contaminants. The present use of the property for grazing cattle is not affected by the presence of a dip. However in the event that the land use was required to be changed or the dip was shown as harming the environment the area of the dip and its surrounding land may require remediation.
2. While the land appears suitable for the existing use, no soil tests or environmental studies have been made available to me. Please note therefore that my valuation is subject to there being no surface or sub-surface soil problems, including instability, toxic or hazardous wastes or building material hazards in or on the property that would adversely affect its existing or potential use or reduce its marketability. Should any problem be known or arise then the valuation should be referred back to me for comment.

6. STRUCTURES

6.1 Buildings and Yards

House

This home, about 70 years old and renovated since has a total floor area approximately 128m². The home is constructed on low round bush timber posts with timber frame and floor, fibro external walls, timber framed casements and louvre windows, corrugated galvanised iron roof and is lined and ceiled with fibro. Accommodation provided includes one main bedroom, three enclosed sleepouts, office, lounge, kitchen/dining room, bathroom, toilet and laundry.

Fixtures and fittings installed are basic including kitchen floor and wall cupboards, single bowl stainless steel sink, four hot plate electric upright stove, slow combustion wood heater in lounge, shower, vanity, septic toilet, laundry tubs. Carpet and vinyl floor coverings.

The home has not been maintained and is now in poor condition, requiring maintenance, painting and floor coverings to upgrade. Appears structurally sound.

Appurtenances include an old 2000 gallon corrugated galvanised iron rainwater tank and old timber/ripple iron storeroom with concrete floor

Old 4 bay round bush timber/corrugated galvanised iron garage/storage shed approximately 16m² covered area.

Old 5 bay garage constructed with round bush timber/corrugated galvanised iron, approximately 118m²

Old lighting plant shed constructed with round bush timber/ripple iron, approximately 4m²

Comments: The home adds limited value to the property in view of the work required to upgrade.

Added Value

\$40,000

6.1 Buildings and Yards continued

Quarters

This old single men's quarters building relocated to the property from a Blackwater coal mine in 1986 and erected on site has a total covered area about 170 square metres, comprising:

84m² living area on the top floor including covered verandah

43m² enclosed area under

43m² open carport area under

170m² building area

The building is constructed on high RHS posts, has timber frame, plywood to top floor, part concrete slab to ground floor, fibro external walls, glass louvre windows and is lined and ceiled with fibro. The verandah to the top floor is covered, ceiled and enclosed with timber railing. The carports are open and have earth floors.

Accommodation includes two bedrooms, kitchen/dining room, shower/toilet on the top floor, single bedroom and meathouse enclosed on the ground floor.

The standard of fixtures and fittings installed is basic including a small electric stove, single bowl stainless steel sink/floor cupboard unit, shower, hand basin, septic toilet and electric hot water system.

The building has not been well maintained, now requiring minor maintenance, painting and floor coverings to upgrade.

Comments: The building adds minimal value to the property in view of the reduced potential of the country under tree clearing guidelines in place, which would probably dictate market values to the extent that the property would be acquired as an additional area for an adjacent property not requiring extensive structures.

Added Value

\$17,500

Machinery Shed

Covered area approximately 129m²

This 3 bay Cyclone galvanised steel frame shed is constructed with 4.67m high pipe and fabricated columns, fabricated gable truss frame, hardwood purlins and girts, corrugated galvanised iron roof, enclosed with Trimdeck on 3 sides and has a concrete floor extending to a 2m apron across the front of the shed. Power connected. Sound condition.

A coldroom is located inside the shed and a mezzanine timber floor constructed in half of one bay. Sound condition.

Added Value

\$25,000

6.1 Buildings and Yards continued

Cattle Yards

These timber yards have been partly rebuilt to provide a sound working section with the balance old panels reinforced and extended with portable steel panels. The yards contain a total approximately 147 panels and gates. Principal components include:

- 32 panels round bush timber post 5 lancewood rails in sound condition
- 39 panels round bush timber post 4/5 lancewood rails in poor condition
- 45 portable steel cattle yard panels
- Old drafting pound with attached covered calf pen in poor condition
- 1 panel round bush timber 5 lancewood rail loading ramp with earth rise, steel top gates and 2 panel race in sound condition
- 4 single pipe gates with steel caps, sound condition
- 3 panel 4 rail race to steel weigh crate on slab
- Warwick cattle crush on slab under cover
- 3 panel old lancewood rail calf race and Morrissey branding cradle undercover
- 3 panel 4 lancewood rail race with 1 sliding gate to
- An old concrete plunge dip not in use
- 1 concrete water trough in yards

The yards provide a basic cattle handling facility for the property.

Added Value **\$20,000**

Horse Yards

These yards with attached camp drafting arena contain a total approximately 104 panels and gates including

- 23 panels round bush timber posts 4 lancewood rails,
- 13 panels round bush timber posts and cap rail with 6 cables
- 3 single steel gates
- 1 double steel gate

Large round camp drafting arena constructed with 63 panels and gates, round bush timber posts and cap, 9 plain wires and 1 rosewood strainer.
Water connected to the yards to 1 black poly trough

The yards remain in sound condition and provide an adequate facility for the property.

Added Value **\$5,500**

Total Structures **\$108,000**

7. VALUATION CONSIDERATIONS

7.1 Market Comments

A feature of the rural property market during the past two years and particularly since January this year has been exceptionally strong demand for most descriptions of grazing land, extending into the central west and central northern regions. About the only exception has been coastal forest breeding country. The emphasis has been firmly on improved pasture country suitable for finishing cattle. Our outlook for beef comments pick up pertinent industry trends which are reflected by the sales listed on the Schedule of Grazing Sales included in the report.

7.2 Vegetation Management Policy – Impact on Lowesby

The Crown implemented policies for management of native vegetation on leasehold and freehold lands in Queensland during the period 1999/2000 with the purpose of achieving ecologically sustainable development by maintaining or enhancing the conservation status of regional ecosystems.

Central to this policy is the protection of "endangered" and of "concern" regional ecosystems from clearing and protecting other areas of high nature conservation value from clearing including those areas identified at a regional level. (Reference Broad Scale Tree Clearing Policy for Leasehold Land, Section 4).

Legislation enacted to implement this policy included:

- the Vegetation Management Act 1999 which makes vegetation clearing on freehold land assessable under the Integrated Planning Act 1997 – proclaimed 14/9/2000; and
- the Land Act 1994 which governs vegetation management on leasehold and other state land.

The revised broad scale tree clearing policy for leasehold land was introduced under Section 271 of this Act on 16/12/1999.

The essential difference between the policies for freehold and leasehold land is that no clearing of remnant "of concern" regional ecosystems is allowed on leasehold land, whereas clearing is allowed subject to application on freehold land down to a minimum 10% of the pre clearing extent remaining.

Lowesby is entrapped by this legislation being comparatively undeveloped by district standards with significant areas of "endangered" ecosystems classified within the boundaries.

Prohibition on clearing now severely diminishes the economic potential of Lowesby to the extent that viability is threatened on a stand alone basis.

7.2 Vegetation Management Policy – Impact on Lowesby continued

In this respect it is pertinent to reflect on –

- The original Crown lease conditions that required all of the brigalow scrub to be cleared and maintained free of regrowth which was fundamental to the owners taking up the block with a view to achieving long term viability.
- Crown "Living Area Standards" publication (Reference DNR Q990031, 1999 – Tony Caltabiano, Peter Hardman and Russ Reynolds) which -
Defined "living area" under The Land Act 1994 as:
"the area of grazing or agricultural land that will be adequate to enable a competent person to derive from the working of the land, according to the use for which the land is suited, an income adequate to ensure a reasonable standard of living for the person, the person's spouse and dependent children, as well as provide a reserve to meet adverse seasons and the cost of developing and maintaining the land at a sustainable rate of production throughout average seasons, having regard to:
 - (a) the locality of the land; and*
 - (b) the nature of the land; and*
 - (c) the potential of the land for sustainable development; and*
 - (d) the distance of the land from transport facilities and markets."*

These standards recognized herd of 2000 adult equivalent beef cattle was the minimum required for a living area in the best scrub/forest country in the Bauhinia Shire.

By this standard even assuming a permit can be obtained to treat the scrub regrowth now established on original pulled country, the property is not capable of sustaining a living area herd under average seasonal conditions.

Consequently, current market value of Lowesby is significantly diminished due to:

- Prohibition on clearing 1080ha classified as remnant "endangered" regional ecosystems
- The limited potential of the property now restricted to development of 3000ha of scrub and forest country which we assess reduces potential carrying capacity from -
1600 head of mixed grown cattle, breeders to bullocks on a "weaners up" basis (about 1600 adult equivalents) to
1300 head of mixed cattle, (about 1300 adult equivalents)
on completion of economic development to district standard.

This would incorporate some areas blade ploughed and possibly others cultivated for forage crop assisted grazing.

Diminution in current market value of the property due to implementation of the Vegetation Management policy as enforced by the revised broadscale tree clearing policy for leasehold lands is assessed by:-

- determination of market value of the property under the original lease conditions which permitted full economic development to realise potential; and
- determination of market value of the property as now affected by Vegetation Management policy which restricts development and potential.

Our detailed valuations quantify this loss.

7.3 Outlook for Beef

All indices of the Australian Beef industry are trending strongly positive at this time when the industry is without doubt producing the best returns for cattlemen since the period 1984/86 when prices peaked prior to the price crash in March 1996.

Meat and Livestock Australia are now calling Australian beef prices at an all time high as the low AUD combines with a surge in world beef prices.

As well, all industry commentators appear to hold consistent views that prospects for the industry in the short term are positive as export demand remains strong, with prices continuing to firm during 2001 due to tightening world supply.

We note a recent review published by the Commonwealth Bank reported:-

- Export beef prices in USD terms up 19% over the past year
- Australian beef exports in June 2000 at 79,350 tonnes close to the record of June 2 years ago

A comparison of the Cattle Market Index for the period 1984 to the present time reflects current high prices. Highlights are:-

June 1984	127 Points *(index base adjusted downwards in 1986)
June 1998	119 points
June 1999	120 points
June 2000	135 points
June 2001	173 points

Other relevant industry indicators include:-

- Number of cattle on feed at 31 March 2001 was 653,000 head, up 7.3% on December quarter– ALFA/MLA National Feedlot Survey – due to the increased number of cattle destined for domestic markets (about 25% up)
- Northern live cattle exports increased strongly into 2000 as new markets opened up in the Middle East and supply continued to Indonesia, the Philippines and Malaysia.

1997	948,000 head
1998	620,000 head
1999	845,000 head
2000	895,743 head

High domestic prices have affected growth in 2001 as store cattle are directed south to traditional fattening districts.

- Confirmation of sound medium to longterm prospects for the industry can be interpreted from expansion and proposed additional investment to lift processing capacity at major export meatworks including:-
- reconstruction of the new Dinmore Abattoir by Con Agra at a projected cost of \$100M with plant capacity of 3100 head/day
- Recommissioning of the Murgon Meatworks after closure, sale and refurbishing.
- \$25M expansion at the Rockhampton Lakes Creek Meatworks by the CMG Group to lift capacity from 2020/day to 2500 head capacity following a \$12M revamp.

7.4 GST Statement

In most instances sales of genuine rural properties intended for continued "farming use" are assumed to be free of GST.

As this property has been used for the business of primary production (farming) for the last five years and will most probably sell for continued use for farming, we do not anticipate any impediment to sale at the value applied exclusive of GST.

8. COMPARATIVE MARKET DATA

8.1 Market Evidence

The eleven sales listed on the Schedule enclosed in the Annexures of the report have been considered in arriving at the valuation. Sales 1 and 2 are Perpetual Lease tenure. The others are freehold tenure.

8.2 Sales Commentary

Sales 1 and 2, having similar leasehold tenure, should be the best indicators of value, but occurred prior to the general increase in value for scrub grazing properties in the central region which commenced during the second half of last year.

At best, they now establish bottom line parameters for valuation of Lowesby after recognizing the generally inferior standard of development on the subject property.

Sale 1 Sagittarius is further disadvantaged due to the large number of severances by road, rail, power and pipeline easements as well as the close proximity to Blackwater which is not considered to be a benefit.

Sale 2 Allambee, although being a larger/superior property with a high standard of development, probably is the best supporting evidence of achievable value for the subject leasehold property. Although the smaller Lowesby property requires further improvement to achieve economic potential as now permitted, it is likely to attract strong competition from local graziers for development as an additional area property.

Sales 3 to 6, being all freehold scrub blocks sold during the period July to December 2000 with areas reasonably comparable to Lowesby, establish a sound basis for valuation for well improved properties with carrying capacities in the range 1 – 3ha to 1 – 3.5ha, in the range \$400ha to \$450ha and \$1300 to \$1350 per beast.

Sale 7 incorporating two blocks, confirms these beast rates but at a lesser value per hectare in view of the area of undeveloped tableland.

Sale 8 Crescent located 10 kilometres south of Lowesby on the Comet Road is a good comparison to establish achievable value for small areas of well improved scrub and forest country in the district. The sale at \$425ha ex structures establishes an upper parameter for valuation of Lowesby, but quantifies diminution in value due to loss of development potential, particularly when considered in conjunction with Allambee which shows \$440ha ex structures for the 6465ha of available country developed to pasture.

Sales 9 to 11 are the most recent sales and confirm the increased value levels now accepted by the market for improved scrub and forest grazing properties capable of finishing cattle.

Sale 10 Telemon at \$348ha ex structures, 4044ha of partly improved scrub and forest country is basic in view of the area of timbered country remaining on the property, albeit country that has limited further potential and complements the improved pasture country on the block. The beast rate of \$1390 for country inferior to Allambee at \$1210/beast indicates the escalation in land values during the past year.

8.2 Sales Commentary continued

Sale 11 Kurrajong at \$355ha ex structures, being located in the Rolleston district, is an indicator of market current interest in and achievable value for improved scrub and forest country, relevant to valuation of Lowesby.

It is our opinion that the current market value of the 3000ha of scrub and forest country partly improved to native and buffel pastures on Lowesby, which is valued at \$300ha/\$1200BAV, is soundly supported by Sales 2 (Allambee), 8 (Crescent), 10 (Telemon) and 11 (Kurrajong) which indicate "ex structures" values in the range \$350ha to \$400ha for country with carrying capacities in the range 1 – 3ha to 1 – 4.5ha.

Market data has been obtained, in part, from documents at the Lands Department and at Councils, or as reported by real estate agents. As well as using such documented and generally reliable evidence of market transactions, it was also necessary to rely on hearsay evidence. Except as noted herein, a reasonable attempt has been made to verify all such information.

9. VALUATION APPROACH

9.1 Introduction

The "highest and best use" may be defined as the most profitable legal use to which the property may be put.

In this instance the highest and best use is considered to be grazing on improved pastures with crop assistance.

9.2 Valuation Methodology

The property has been valued by direct comparison with the sales on the basis of analysed values per hectares and per beast. Carrying capacities are assessed at district standards determined by the nature of the country and prospects for sustained stocking under average seasonal conditions.

The use of beast area values interprets economic worth by relating improved land values to current productivity determined by recognition of achievable district standard use, i.e.: the carrying capacity assessed reflects our opinion of highest and best use and, multiplied by improved land values ex structures analysed from the basic sales, produces a value of that economic unit which we contend is a fair indicator of what the market is likely to pay for comparable property.

Although a more subjective number than analysed values per hectare, we accept the use of beast area values as a useful tool in rural valuation to establish relativity and support values determined by applied rates per hectare, providing the carrying capacities adopted are assessed consistently.

9.3 Valuation

Our valuation is assessed as follows:-

A. Before Revision of Vegetation Management Policy / Under Original Lease Conditions

Leasehold land values as cleared, fenced and watered	
3006ha partly improved scrub and forest @ \$300/ha	\$901,800
780ha regrowth scrub @ \$200/ha	\$156,000
<u>1080ha</u> virgin scrub and forest @ \$225/ha	<u>\$243,000</u>
4866ha	\$1,300,800
=====	=====
Applied as \$4866ha @ \$266/ha	\$1,294,356
Plus Added Value of Structures	\$108,000
	\$1,402,356
	=====
	Rounded to \$1,400,000
	\$287.71/ha

9.3 Valuation Continued

B. After revision of Vegetation Management Policy, implemented 16.12.99

Leasehold Land Values as Cleared, Fenced and Watered	
3006ha partly improved scrub and forest @ \$300ha	\$901,800
780ha "disturbed" regrowth scrub and forest @ \$200ha (potential realisable)	\$156,000
<u>1080ha</u> "endangered" virgin scrub and forest @ \$25ha (no potential)	<u>\$27,000</u>
4866ha	\$1,084,800
=====	=====
Applied as 4866ha @ \$220ha	\$1,070,520
Plus Added Value of Structures	<u>\$90,000</u>
	\$1,160,520
	=====
	Rounded to \$1,160,000
	\$238ha

OR

C. Leasehold Land Values as Cleared, Fenced and Watered

Leasehold Land Values as Cleared, Fenced and Watered	
3006ha partly improved scrub and forest @ \$300ha	\$901,800
780ha "disturbed" regrowth scrub @ \$35ha (no potential)	\$27,300
<u>1080ha</u> "endangered" regrowth scrub and forest @ \$25ha (no potential)	<u>\$27,000</u>
4866ha	\$956,100
=====	=====
Applied as 4866ha @ \$190ha	\$924,540
Plus Added Value of Structures	<u>\$75,000</u>
	\$999,540
	=====
	Rounded to \$1,000,000
	\$205.50ha

We consider the overall market value of the property would be further diminished in this instance by the large areas of protected country within the boundaries which would compound management difficulty and increase working costs.

Diminution in current market value considered to be \$240,000 in the first instance and \$400,000 if both the endangered and disturbed areas are protected.

10. VALUATION

Subject to the assumptions and qualifications contained within the body of this report, we have assessed the value of Lowesby on the current market as follows:-

Valuation under original lease conditions	\$1,400,000
Current market Values as affected by revised Vegetation Management policy: with 1080ha protected country, OR	\$1,160,000
with 1860ha protected country	\$1,000,000

All values exclusive of GST.

JC COMPTON FAPI
CERTIFIED PRACTISING VALUER/DIRECTOR

This valuation is for the use only of **G Core and Agforce** to whom it is addressed and for no other purpose. No responsibility is extended to any third party who may use or rely on the whole or any part of the content of this valuation. No responsibility will be accepted for photocopied signatures.

Neither the whole nor any part of this valuation or any reference thereto may be included in any published documents, circular or statement, nor published in part or full in any way, without written approval of the form and context of which it may appear.

This valuation report does not purport to be a site or structural survey of the land or improvements thereon, nor was any such survey undertaken.

ANNEXURES

1. General Locality Map
2. Cadastral Map or Plan
3. Property Sketch
4. Regional Ecosystem Map
5. Current Title Searches
6. Copy of Original Title
7. Mining Tenement Search – EPP337
8. Sales Schedule
9. Photographs