

Overview

... private and public good conservation measures are actually connected or two sides of the one coin. There is no escaping the simple fact that what hurts our physical environment ultimately ends up hurting every single one of us, sooner or later.¹

Introduction

- 1.1 This is an interim report. The issues surrounding the capacity of landholders to implement environmentally sustainable management of the natural systems in their care, and their participation on public good conservation programs, are very complex. However, an early response from the Committee is required. Most of the evidence presented to the Committee came from landholders who were dissatisfied with current arrangements and who believed that the contributions asked of them raised financial concerns.
- 1.2 The Committee has not been able to analyse the financial circumstances of the landholders as these relate to their farming enterprises and the link between farm viability and the take-up of sustainable production practices, natural systems management principles and public good conservation activities.
- 1.3 In some cases, the landholders went so far as to say that the rights they believed they had as property owners had been diminished without compensation. These landholders deserve a considered response and as much information as can be reasonably provided to them.

1 Submission no. 52, p. 3.

- 1.4 The Committee received some evidence from government agencies but these agencies did not, in most cases, assess the impact of the large array of existing policies, programs and regulations that impinge on private land use practices. In some cases, these measures are intended to enhance sustainable land use. From the evidence provided it has not been possible for the Committee to evaluate these policies and programs in any systematic or comprehensive way.
- 1.5 In presenting this report, the Committee is mindful that without a comparative analysis of existing domestic and international programs, it has not been able to identify the elements of successful and effective programs that should be carried forward into public good conservation policy recommendations.
- 1.6 The Committee has therefore largely limited its report to discussing possible responses to the issues placed before it by the landholders who gave evidence.
- 1.7 The inquiry terms of reference limited the Committee's evidence gathering to specific areas of interest, and the terminology involved – such as 'public good conservation' and 'duty and of care' – failed to provide an agreed basis for consideration of the issues. These concepts are discussed in this report but clear and agreed definitions have proved elusive. Inevitably, these terms are used with some imprecision. The Committee has decided therefore, for the purposes of making a timely report, to go beyond the pursuit of definitions and to respond to the evidence presented to it.
- 1.8 The Committee wants to respond to the evidence it has received. Clearly there is a perception among some landholders that their concerns need to be aired and that something needs to be done. The Committee agrees, and has therefore decided to present its findings in this interim form. In so doing, the Committee acknowledges that there is a need for more work to be done to explain why some landholders are more able than others to participate in public good conservation programs, or more easily make the transition to more sustainable management of natural systems. The best way forward will be clearer when more work has been done to answer this question.
- 1.9 At the end of the report the Committee makes a recommendation for further inquiry. It is hoped that this will allow the interim findings, conclusions and recommendations made in this report to be taken to the next stage. The Committee has done what it can to draw conclusions and make recommendations based on the evidence it has received. The Committee wants to make it clear that the findings outlined in this report may warrant further consideration in the light of the proposed

continuation of the inquiry. The Committee may well want to add to its findings or make further recommendations.

- 1.10 Australia is experiencing an environmental crisis.² Governments at all levels, non-government organisations and many individuals have implemented a considerable number of programs to address the environmental problems facing the nation and foster the transition to a system of ecologically sustainable land management.
- 1.11 Many individuals, groups and communities have given much hard work. There have been some localised successes. However, as this Committee has previously reported, the environmental problems facing the nation still have not been addressed by systemic, national co-ordinated programs.³
- 1.12 The issues considered by the Committee in this inquiry are complex and, in preparing this report, the Committee has relied heavily on the evidence presented in submissions and at public hearings. This evidence is overwhelmingly from landholders who believe that they have been adversely affected or who are having difficulties in pursuing better conservation outcomes on their properties. There is scope for more research on the impacts of government programs and the options for facilitating private conservation, but this has been beyond the capacity of the Committee in the context of this inquiry. The conclusions and recommendations presented in the following chapters reflect the concerns of the landholders as expressed in this evidence.
- 1.13 Efforts to lay the foundation for a national and comprehensive approach appear at times to be thwarted by regional differences. One example is indicative. In October 2000, the Prime Minister, the Hon John Howard MP, announced a national action plan to address salinity and water quality in Australia.⁴ Funding would be provided to the states and territories,

2 Senator the Hon. Robert Hill, *Natural Heritage Trust - Repairing the damage*, Media Release, 18 June 1997, <http://www.ea.gov.au/minister/env/96/mr18jun96.html>; *Growing a sustainable economy*, An address to the CEDA "State of the Nation" Conference, 22 June, 2000, Canberra, <http://www.ea.gov.au/minister/env/2000/sp22jun00.html>; *Achieving the triple-bottom line*, An address to the John Stuart Mill Society, Adelaide, June 13, 2000, <http://www.ea.gov.au/minister/env/2000/sp13jun00.html>; T Hatton (CSIRO Land and Water), A Campbell (Chair, National Dryland Salinity Program) and D Wheelwright (Deputy Chair, Lachlan Catchment Management Committee), *Salinity crisis - how big, who pays?*, National Science Briefing, 23 June, 1999; G Harris (Chief, CSIRO Land and Water), *Damaged Landscapes*, National Science Briefing, 2 April, 1998; Allen Consulting Group, *Repairing the country: Leveraging private investment*, A report prepared for the Business Leaders Roundtable, Canberra: August 2001.

3 See *Co-ordinating catchment management*, Canberra: Parliament of the Commonwealth, 2001.

4 The Hon. John Howard MP, Prime Minister, *Our vital resources: A national action plan for salinity and water quality in Australia*, www.pm.gov.au/news/media_releases/2000/media_rel_474_sup.htm, accessed 8 August, 2001.

provided that the other jurisdictions in the Commonwealth agreed to provide matching funds and accept various targets, approaches, governance frameworks and programs. As of 7 May 2001 only three of the eight jurisdictions in the Commonwealth had signed the agreement – South Australia, Queensland and the Northern Territory.⁵

- 1.14 The importance of all Australian jurisdictions entering the agreement offered by the Commonwealth is thrown into focus when the extent of environmental degradation is understood. For example, the effect of salinity alone is enormous. According to the *Australian dryland salinity assessment 2000*, compiled by the National Land and Water Resources Audit:⁶
- Approximately 5.7 million hectares are within regions considered to be at risk or affected by dryland salinity. It is estimated that within 50 years the high risk area will increase threefold to 17 million hectares.
 - About 20 000 km of major road and 1600 km of railways are in regions mapped to have areas of high risk. By 2050 this will increase to 52 000 km of road and 3600 km of railway.
 - Up to 20 000 km of waterways could be significantly affected by salt by 2050.
 - 630 000 hectares of remnant vegetation and associated ecosystems are within regions considered to be at risk of dryland salinity. This is projected to increase by up to 2 million hectares by 2050.
 - 200 rural towns are likely to suffer damage to infrastructure and other community assets from dryland salinity by 2050.
- 1.15 These figures refer only to the effects of dryland salinity. There are, however, numerous other, and as serious, environmental problems.⁷
- 1.16 Recounting figures such as these may disguise the impact that the environmental problems facing the nation will have on our national economy and the lives of our fellow citizens.
- 1.17 For example, in the Murray-Darling Basin, agricultural production is valued at about \$10 billion per annum. This is approximately 40 per cent of the gross value of Australia's agricultural production. Mining and mineral production contributes about \$1.66 billion, or about 5 per cent of the Australian total. Wood and paper production, according to 1991-1992
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5 AAP Report, 'SA: Federal govt doubts states' commitment to salinity plan', Monday, 7 May, 2001.

6 Canberra: Commonwealth of Australia, 2001, p v.

7 A partial recounting occurs in the Committee's report, *Co-ordinating catchment management*, Canberra: Parliament of the Commonwealth, 2001.

figures, accounts for about \$1.218 billion. The value of tourism and the recreation industry in the Murray-Darling Basin is valued at about \$3.44 billion. In 1991-1992, there were some 3 280 manufacturing locations, which employed over 62 400 people, with sales of produced goods exceeding \$10.750 billion, or 6.4 per cent of the Australian total.

- 1.18 In the 1996 census, the Murray-Darling Basin had a population of almost two million people, or almost 11 per cent of the total Australian population. Outside the Murray-Darling Basin, another million Australians are heavily dependent on the River Murray for their water supply.⁸
- 1.19 The social and economic consequences that will arise if the environmental problems facing the nation are not addressed will affect the entire nation. As the Committee noted in its earlier report:
- The expectation within the community is that legislators will act – sooner rather than later; decisively, rather than timidly. Australians want the talking to stop and the action to begin.
- Furthermore, they do not want a piecemeal approach, but a national approach, co-ordinated at a national level, and founded upon a national policy to which all stakeholders should subscribe and in which all Australians have the opportunity to participate.⁹
- 1.20 Many of the reasons for the failure to address environmental degradation by way of systemic and co-ordinated programs have been previously identified by this Committee, as well as in a number of reports and inquiries by other parties.¹⁰ The solutions required are now broadly agreed

8 South Australian Select Committee on the River Murray, *Final Report*, Adelaide: Parliament of South Australia, 2001, pp. 22-23.

9 *Co-ordinating catchment management*.

10 Industry Commission, *A full repairing lease*, Canberra: Commonwealth of Australia, 1998, C Binning, M Young and E Cripps, *Beyond Rates, Roads and Rubbish: opportunities for local government to conserve native vegetation*, National R&D Program on Rehabilitation, Management and Conservation of Remanent Vegetation, Research Report 1/99, Environment Australia: Canberra, 1999; E Cripps, C Binning, and M Young, *Opportunity denied: Review of the legislative ability of local government to conserve native vegetation*, National R&D Program on Rehabilitation, Management and Conservation of Remanent Vegetation, Research Report 2/99, Environment Australia: Canberra, 1999; C Binning and M Young, *Conservation hindered: The impact of local government rates and State land taxes on the conservation of native vegetation*, National R&D Program on Rehabilitation, Management and Conservation of Remanent Vegetation, Research Report 3/99, Environment Australia: Canberra, 1999; C Binning and M Young, *Talking to the Taxman about Nature Conservation*, National R&D Program on Rehabilitation, Management and Conservation of Remanent Vegetation, Research Report 4/99, Environment Australia: Canberra, 1999; Steering Committee, National Natural Resource Management Policy Statement, *Managing natural resources in rural Australia for a sustainable future*, Canberra: Commonwealth of Australia, December, 1999; Steering Committee, National Natural Resource Management Policy Statement, *Steering Committee report to Australian governments on the public*

across the community and enjoy bi-partisan support.¹¹ Even contentious suggestions, such as the need for an environmental levy, appear to have broad community support, with one newspaper poll suggesting that over two thirds of those polled would support such a measure.¹²

- 1.21 As important as initiatives such as an environmental levy, national laws or a national catchment management authority may be, it remains true that environmental degradation occurs on a whole of landscape basis. In contrast, land management occurs according to a framework determined by people. This may include state and territory – jurisdictional – boundaries, municipal, county and shire boundaries, and ultimately, property boundaries.
- 1.22 In many cases, the ultimate responsibility for land management - who actually delivers a program to a specific area – will fall to the landholder managing a specified portion of land. Management programs developed and approved at a higher land management level will only be effective if landholders have the financial capacity and the requisite information, and are willing to implement the programs.
- 1.23 Moreover, landholders will often have to implement conservation measures for which they believe they receive little or no direct benefit at the time, or where they do not anticipate a benefit in the future. In some cases, the conservation activity required will produce a smaller benefit than some other, less sustainable activity.
- 1.24 Some benefits will not accrue to landholders but may be felt some distance away and, in the case of some conservation measures, in other jurisdictions. A case in point is the need for landholders in the Murray-Darling Basin to make a transition to more ecologically sustainable land use practices, in order to preserve the health of the river system and the access of downstream river communities to potable water.
- 1.25 Such activities are often referred to by the phrase ‘public good conservation’. What this phrase means will be discussed at greater length in chapter 2.

response to Managing natural resources in rural Australia for a sustainable future, Canberra: Commonwealth of Australia, July, 2000.

11 The Committee’s *Co-ordinating catchment management* received support from both Government and non-Government Members and farming and environmental groups.

12 *Melbourne Herald-Sun*, 28 February 2001.

- 1.26 Evidence received during this inquiry suggested that there are at present many public good conservation programs in operation. This evidence is supported by the statement by the Minister for the Environment and Heritage, Senator the Hon. Robert Hill, *Investing in our natural and cultural heritage*.¹³
- 1.27 The programs listed by Senator Hill include activities to protect Australia's atmosphere, which includes greenhouse programs; programs to conserve and manage biodiversity; and programs for Australia's coasts and oceans, inland waters, the land, natural and cultural heritage and Antarctica. A number of well-known programs fall under these broad themes, for example, Landcare, Bushcare, Coasts and Clean Seas, as well as Endangered Species. These programs have funded more than 10 300 projects. The programs, and the projects they fund, receive varying amounts of money through the Natural Heritage Trust (NHT). In addition to the NHT, which will continue until 2007 to provide funding for projects to address environmental degradation, there is now also the National Action Plan for Salinity and Water Quality.
- 1.28 Evidence also suggested that landholders are keen to undertake more, if they are in a financial position to do so and have easy access to information and expertise.
- 1.29 As well, the evidence indicated that much of the effort needed to repair the environment would include public good conservation works. As a result, the amount of public good conservation would need to increase if environmental degradation is to be addressed and reversed on a whole of landscape basis.
- 1.30 Evidence given to this inquiry suggested that some landholders were experiencing considerable hardship as a result of the burdens that public good conservation programs, mandated by one or other level of government, had imposed upon them. A lack of information and, importantly, a lack of financial capacity, according to the submissions received, limited the degree to which landholders could engage in conservation activities.
- 1.31 In addition, many submissions indicated that landholders considered it unfair that they should undertake public good conservation activities when they derived only limited benefits or no benefit at all, and often did not possess the financial capacity to carry out the works required.

13 22 May, 2001, pp. 63-75. Released as part of documentation accompanying the 2001-2002 Commonwealth Budget.

- 1.32 As a result, according to evidence received, in many cases the necessary encouragement (and motivation) for landholders to undertake any form of conservation activity, whether public or private, did not occur. Therefore, the foundation of a comprehensive approach to addressing environmental degradation was being eroded through policies that fail to motivate landholders.
- 1.33 The Committee makes the point that it is not unreasonable for the community to expect property owners to bear some of the cost of transition to new management practices. This occurs when businesses in urban areas are required to comply with new environmental protection laws, or householders are prevented from burning autumn leaves. Another example is the transition to unleaded petrol. It is important to keep in mind the size of the transition, the nature of it and the capacity of a property holder to bear it. Often there will be a transition time or an assistance program to attain specified outcomes quickly. The issue that faces the Committee is to determine the criteria to use to specify what cost is reasonable and what is not, and what will motivate compliance and what will not, in order to attain the conservation outcomes needed.
- 1.34 In addition, what this inquiry revealed, and what will be shown in this report, was that many landholders appear to believe that the potential effect of public good conservation requirements has not been fully understood in the design of much conservation policy. In fact, one of the major reasons that systemic programs have not been successfully implemented across landscapes is that the administration of the present arrangements intended to foster public good conservation are in many important cases not encouraging conservation. This will be discussed in chapters 3 and 5.
- 1.35 Acknowledging the importance of public good conservation and the need for more effective policies are the missing ingredients in developing a comprehensive approach to ecologically sustainable land use. Consequently, this report examines the criticisms that have been made of existing public policy in this area, and makes recommendations that address them, to thereby better promote the ecologically sustainable use of Australia's natural systems.
- 1.36 All levels of government must address with greater energy and urgency the environmental problems facing the nation and, in particular, the implementation of appropriate and effective policies. Policy delivery must be revised to focus on obtaining outcomes. Institutions must be created to ensure that programs are devised and delivered, and funding must be raised equitably and allocated appropriately. The Committee, therefore,

reaffirms the recommendations made in its report, *Co-ordinating catchment management*.

- 1.37 This report takes the process begun in *Co-ordinating catchment management* to completion, by taking account of the realities of land management, and recommends policy settings that will promote public good conservation to foster the ecologically sustainable management of Australia's environment.
- 1.38 The Committee acknowledges that it has not considered the human cost of public good conservation measures. It notes that submissions made reference to personal stress, family tensions and the need for off-farm incomes to maintain the viability of farms subject to public good conservation measures.¹⁴ The Committee has seen, from testimony, evidence and meetings, that landholders and their families experience considerable personal strain, and public good conservation measures only add to those pressures. While noting that many landholders are under considerable strain, and not wishing to dismiss or ignore it, the Committee has focused this report on the policy and program changes necessary to alleviate the stresses landholders experience from public good conservation measures.

Inquiry background

- 1.39 On 8 December, 1999, the Minister for the Environment, Senator the Hon Robert Hill, wrote to the Chair of the House of Representatives Standing Committee on Environment and Heritage, the Hon Ian Causley MP, requesting the Committee undertake an inquiry into the impact on landholders and farmers of public good conservation measures imposed by state and Commonwealth governments.
- 1.40 At the time, the Committee was conducting an inquiry into catchment management.¹⁵ The Committee found there were considerable linkages between the inquiries, and agreed that some of the matters arising from the catchment management inquiry would be further addressed in the public good conservation inquiry.

14 For example, submission no. 124, p. 5; submissions no. 170, 177.

15 The report of that inquiry, *Co-ordinating catchment management*, was tabled in the House of Representatives on 28 February 2001.

Conduct of inquiry

- 1.41 The inquiry was advertised in national newspapers and newspapers with a rural and regional focus in April 2000. The inquiry generated a considerable amount of interest across the community. At the finalisation of the report over 260 submissions had been made and over 100 exhibits received.
- 1.42 Submissions were made by state and Commonwealth government agencies and authorities, peak industry bodies, policy lobby groups, community groups involved in conservation activities, and many individuals. Submissions from individuals included landholders as well as other people who had particular expertise. The scope of the information received ensured that the Committee had access to a diversity of views, experiences and expertise.
- 1.43 The Committee conducted a program of public hearings and visits to different parts of Australia. The Committee held public hearings in Melbourne, Brisbane, Sydney, Perth, Adelaide and Canberra. In all, over 80 witnesses were examined.
- 1.44 The Committee also visited regional areas to view public good conservation activities and meet members of regional communities engaged in public good conservation programs. These visits provided the Committee with direct information from people implementing conservation activities, and the Committee was able to see first hand the benefits and burdens on landholders of public good conservation requirements.
- 1.45 The regional areas visited included country Victoria (Edenhope and Colac), regional areas of Queensland (Nambour and Cardwell), western New South Wales (Nyngan), Narrogin in Western Australia, and the Riverland district in South Australia.

Relationship to *Co-ordinating catchment management*

- 1.46 The inquiry into catchment management revealed that effective conservation strategies in Australia were hampered by a piecemeal approach that resulted in a lack of co-ordination between catchment regions, between catchments and between jurisdictions.
- 1.47 In the report arising from that inquiry, *Co-ordinating catchment management*, the Committee made specific recommendations for the creation of a nationally co-ordinated approach that had access to ongoing and adequate

levels of funding. In effect, the Committee's report set out the institutional arrangements that are necessary in order to effectively plan and implement programs that will deliver the ecologically sustainable use of Australia's environment and its resources.

- 1.48 In the course of the catchment management inquiry, it became apparent that there were deficiencies in the current policy approaches to conservation that had been adopted in all Australian jurisdictions. Conservation outcomes were not being reliably promoted or encouraged, and considerable hardship was being imposed upon landholders who did not, in many cases, possess the information and financial capacity to meet the new and additional burdens of ecologically sustainable land management.
- 1.49 In the course of the Committee's inquiry, it also became clear that remedies would occur not only through appropriate institutions and funding, but also through programs that promoted conservation outcomes. However, while these activities would of necessity generally be focused on specific geographic locations, typically within the control of a single landholder, the intended beneficial results could potentially occur hundreds or thousands of kilometres away. The benefits arising from conservation works would often accrue to people other than the landholder undertaking the conservation work. This raised issues of equity and motivation.
- 1.50 The public good conservation inquiry provided the Committee with the opportunity to examine these issues. In particular, the Committee has been able to examine policy anomalies in this area. The Committee will recommend changes that will address the equity and motivational issues that have been put to it.
- 1.51 The present report focuses on the cost to landholders and farmers of mandatory public good conservation measures. It also examines the measures that have been adopted overseas. The report reviews the current policy settings and provides recommendations for reform, so that more public good conservation programs are implemented. The aim is to construct these programs so that they are less of a burden on individual landholders.
- 1.52 As a result, the present report identifies the policy shortcomings in the current policy arrangements and recommends remedies as well as effective programs for the environmental problems facing the nation.
- 1.53 Together, the two reports will set out the institutional and policy arrangements that Australia requires to address the environmental challenges facing the nation.

- 1.54 The proposals made in these two reports address an ongoing tension: using our natural environment to contribute to our national prosperity, while at the same time ensuring that the environment is repaired, preserved, and protected for our own future and the benefit of future generations. They too must be able to enjoy our unique heritage and prosper from it.
- 1.55 We must act now, not only for their sakes, but because the problems are immediate and will affect our own immediate future and prosperity.
- 1.56 However, as is clear from these two reports, only sensible, practical programs, based around what people can reasonably achieve, focused on obtaining outcomes, and adequately supported both financially and through national institutions, will assure the outcome the nation wants.

Structure of the report

- 1.57 The inquiry into public good conservation raises many diverse issues. There are conceptual issues, such as the meaning of the phrase 'public good conservation', and the entitlements and rights that property ownership and control are thought to convey. This is particularly important as mandated public good conservation programs appear to many who made submissions to this inquiry, to undermine what some landholders believe to be traditional and accepted notions of property rights.
- 1.58 As well, there are practical issues. For example, the effect on landholders of policies that have been implemented, and the design of appropriate policies in order to ensure public good conservation outcomes are attained while not imposing hardship on landholders, will be examined. This report deals with these issues.
- 1.59 In chapter 2, the notion of public and private good is examined. As well, the nature of land tenure in Australia and property rights and responsibilities over land are discussed.
- 1.60 Chapter 3 focuses on the impact of public good conservation measures on landholders. The majority of landholders who provided submissions to the inquiry had experienced considerable hardship and dislocation as the direct result of what they regarded as poorly formulated or improperly implemented conservation programs imposed upon them by one or other tier of government.

- 1.61 In chapter 4, public good conservation measures that have been implemented overseas are examined. The Committee does not claim that this examination is exhaustive. In order to limit the examination to a manageable size, the Committee focused on public good conservation measures in the United States, the member nations of the European Union and also at the level of the European Union itself.
- 1.62 As noted, the Committee heard claims that poorly formulated or ill-conceived policies were imposing adverse effects on landholders. In chapter 5, the Committee examines these policies and identifies a number of policy developments that are required to promote public good conservation, without imposing unreasonable burdens upon landholders.
- 1.63 In chapter 6, the policy developments identified in chapter 5 are translated into recommendations for specific programs that will promote public good conservation, while preventing undue hardship falling on landholders and clarifying their land use rights and obligations.