

PROPERTY RIGHTS - it's about security

Farmers across Australia are asking what it actually means to 'own', or pay the mortgage on, a parcel of farm land.

Farmers purchase land so that they can use it to produce food and fibre. Understandably, they believe that title to the land provides the security they need to invest in the farm – as a real estate holding, in capital improvements and as their home.

But each year this security, the confidence that farmers hold regarding the foundations of their existence, is being eroded by the action and sometimes inaction of government.

Crisis point

The level of desperation among farmers at the front line of these issues is reaching crisis point, as we have seen with the recent hunger strike by Peter Spencer.

It is hard for people not directly involved in this to imagine the pain that farmers feel on a daily basis as they see their land being ruined by locked stands of stunted native vegetation that they cannot manage without committing a criminal offence, or their livestock being slaughtered by bands of feral dogs, cross bred with Dingos and multiplying in National Parks (over 30% of NSW is now wild dog affected) or the frustration over delays in implementing agreed solutions for managing fire risk.

It is hard to imagine how farmers feel when the government tells them that they have no right to prevent their land being mined, and no power to prevent a mining company destroying precious ground water systems, on which their farm and their neighbours' farms depend.

Or when a local government decides to rezone a farmer's land for nature conservation – effectively sterilising it from production - while at the same time selling off identical council-owned land for property development. Or when scarce agricultural water resources are taken away without compensation to meet ever increasing demands for urban water.

All around NSW there are farmers in genuine fear for their future, economically, but also for their way of life. This is not about grants or rescue packages – what farmers need, what regional Australia needs – is for policy makers to actually listen to farmers, and to establish environmental and planning laws that enable genuinely sustainable development and effective land and natural resource management.

It is essential that the policy makers developing laws that affect farmers have a strong grasp of the reality of farming systems. Farm land is the means of production for a farmer; it is not simply the site for a house, a shop or a factory. If you take away farmers' ability to effectively manage their land, you take away their ability to manage their business. If you take away or inhibit farmers' ability to manage native vegetation, weeds, feral animals and to control fire risk – or render them powerless to stop a mining company entering their property and damaging their land and water - you threaten their physical, emotional and financial security.

Restoring policy balance

NSW Farmers' Association is calling for a balanced, rational and equitable approach to policy affecting land and natural resources. One based on a true application of "triple bottom line" sustainability principles in which social, economic, and environmental outcomes are given equal consideration and which apply equally to all industry sectors.

For example, current NSW vegetation policy excludes any opportunity to consider social or economic factors in relation to clearing approvals. If the development will enable increased or more efficient production, that is irrelevant; if the development is vital to the economic viability of a farm, or the social viability of a farming region that, too, is irrelevant. This is in stark contrast to the rules that apply to property developers, mining companies or so called 'state significant' developments.

Biodiversity conservation on private land must be a partnership between government and landholders, based on collaborative landscape planning and with market rent paid to farmers for providing land for public conservation purposes when this goes beyond their normal duty of care (*see Native Vegetation Information Sheet*).

Mining

Right now, new open cut and underground coal mines are being planned in the Liverpool plains – one of Australia's most productive farming regions. Farmers are concerned that these mines may damage the precious underground water systems on which the productivity of the region depends. It is impossible to reassemble and rehabilitate an aquifer after mining. Open cut, and potentially, underground mining, will permanently alter the fabric of the natural resource system (*see Mining Information Sheet*).

Where is the balance or common sense in a policy framework that could put such a valuable and sustainable farming system at risk? Farming is an infinitely sustainable activity and can provide a healthy livelihood for farming communities forever.

Coal mining will produce royalty revenue for the government (\$500 Million in NSW in 2008) and some jobs for a few decades at best. Any doubt about the destructive impacts of intensive coal mining on a once fine agricultural system is dispelled by a visit to the moonscape that is the Upper Hunter.

The Association is not opposed to mining. We simply want equal treatment under the law, a balanced approach to deciding where and how mining occurs, and just terms compensation to all affected landholders when it does go ahead.

Why have property rights?

Property rights are the foundation of society and it is impossible for citizens to enjoy the security offered by a commonwealth in the absence of law protecting individual property.

Justice Heydon, in the recent decision of the High Court (*ICM Agriculture Pty Ltd v The Commonwealth*) defended the need for property rights to be stringently applied, quoting the prominent English Jurist, Jeremy Bentham:

"Property and law are born together, and die together. Before laws were made there was no property; take away laws, and property ceases.

As regards property, security consists in receiving no check, no shock, no derangement to the expectation founded on the laws, of enjoying such and such a portion of good. The legislator owes the greatest respect to this expectation which he has himself produced. When he does not contradict it, he does what is essential to the happiness of society; when he disturbs it, he always produces a proportionate sum of evil."

NSW Farmers' Association will continue to fight for restoration of the ability of farmers to sustainably manage and develop their properties, for market rent in return for provision of environmental services, and for other forms of just terms compensation to ensure that farming continues to be a vital part of Australia society and our economy.