

Submission To : House of Representatives Standing Committee on Environment
and Heritage

Regarding : Inquiry into Public-good Conservation – Impact of
Environmental Measures Imposed on Landholders

From : Gorton Timber Company Pty Ltd. (ABN 67 000 032 342)

Summary

This submission, supplementary to others by Australian Forest Growers (ACN 000 694 904), is largely confined to addressing the following two of the Inquiry's Terms of Reference –

- the impact on landholders of conservation measures imposed by governments.
- recommendations to ensure that costs associated with public-good conservation measures are shared equitably by all members of the community.

Information herewith may, nevertheless, be also relevant to considering the Inquiry's other Terms of Reference.

Gorton Timber Company Pty Ltd. (GTC) is the longstanding owner of 4,000 hectares of native forest at Stroud, NSW – some 80 kilometres north of Newcastle.

Since the late 1970's conservation measures imposed by governments have increasingly affected GTC's management of its forest for timber production. These effects have come to impose substantial commercial costs without conveying any offsetting compensation.

The commercial costs effectively imposed by governments' conservation measures extend far beyond mere operational constraints upon harvesting our forest.

This extension of commercial impact arises in relation to both a diminution of resource security and impediments to marketing the ecologically sustainable yield of GTC's resource.

Relative to other natural resources, native forests have acquired the status of icons in the perception of conservation ideals. The consequent restraints upon timber production from public resources have themselves contributed to the commercial impacts experienced by GTC in managing its own private resource.

This Inquiry's Terms of Reference apparently anticipate that, increasingly, recruitment of private resources for public-good environmental benefits has so far been sought inequitably. We submit that such has indeed been our experience, and that the result is quantifiable

Background

The 'Gorton' forest at Stroud NSW has been owned by Gorton Timber Company Pty Ltd. since its 1936 incorporation. With family antecedents, this freehold estate has now been in the same ownership for some 80 years. Present management extends back to the mid-1960's. Gorton Timber Company Pty Ltd. (GTC) thus submits as follows from direct experience spanning the entire development of present conservation measures imposed by governments.

Submission re. Public-good Conservation Measures – Landholder Impact

Prior to 1936 ‘Gorton’ was managed principally for cattle grazing. However, some timber was also harvested to supply a modest sawmilling enterprise which closed during the Depression.

In 1942, responding to wartime family exigencies, ‘Gorton’ was leased for 20 years to Allen Taylor & Company. This period witnessed a wholesale and largely unsympathetic harvest, firstly to meet wartime demand and, then, the postwar building boom in nearby Newcastle and Sydney.

By the mid-1960’s, and following expiry of the Allen Taylor leasehold, Gorton’s forest resource was considered virtually exhausted. This appraisal, however, related only to the high quality large sawlogs sought by “Crown sawmillers” as their ‘quota log’ entitlement from State Forests.

In reality, despite the 1942-62 harvest, Gorton was very far from deforested. Its then timber stock had, nevertheless, been severely degraded to consist of excessive quantities of small or low-grade sawlogs, chiplogs (e.g. masonite feedstock) and only some active regrowth in areas virtually clear-felled.

Responding to these circumstances, including some unacceptable conditions for supplying low-grade and small sizes to domestic pulpwood and mining timber markets, GTC undertook a salvage sawlog harvest between 1965 and 1980. These low-grade sawlogs were acceptable to millers having no entitlement to high-quality supplies from State Forests.

From 1980, and the advent of an export pulpwood demand out of Newcastle, our sawlog harvesting virtually ceased in favour of low-quality pulpwood. This new demand was perceived as a long-overdue opportunity to re-balance our timber stocks to a more natural proportion of higher-quality sawlogs as against defective stems.

Regrettably, the silvicultural benefits initially promised by that early-80’s export pulpwood demand soon diminished as quality specifications changed. By 1988 the roundwood – as distinct from sawmill residues – pulpwood specification had increased to the equivalent of sawlog quality. This situation was clearly at odds with our key management objective – the upgrading of our standing timber stocks by minimising sawlog harvest.

After some unsuccessful attempts to retrieve the situation reached in 1988, our harvesting operations ceased in 1992. This financially painful decision was made in preference to again subjecting our forest to an environmentally damaging ‘sawlog-driven’ harvest.

Those marketing conditions which led to our 1992 decision, and which still subsist, have largely derived from government-imposed environmental controls. These, and their ramifications for both managing and marketing our resource are outlined below.

Submission re. Public-good Conservation Measures – Landholder Impact

To conclude this section, and to illustrate the divergence of marketing opportunities from imperatives for a sustainable harvest of native forests, we summarise the 1997/98 Inventory of our timber stocks. This inventory, exclusive of rainforest and steep (>30° slope) areas, was as follows –

	<u>Vol ('000M³)</u>	<u>Value (\$'000)</u>
• Sawlogs		
- Hi-qual. Large	44	2,420
- Hi-qual. Small	24	504
- Low Quality	<u>67</u>	<u>871</u>
<u>Sub-total</u>	135	3,795
• Chipwood	<u>318</u>	<u>2,226</u>
<u>Product Sub-total</u>	453	6,021
• Waste	<u>297</u>	<u>nil</u>
<u>Merchantable sub-total</u>	750	6,021
• Non-commercial species	<u>217</u>	<u>nil</u>
<u>TOTAL</u>	<u>967</u>	<u>6,021</u>

The complexion of these stocks is broadly similar to those previously-harvested resources in both public and other private native forests. Note that sawlogs are only 18 percent of merchantable stock.

Relative to the above predominance of non-sawlog stocks, environmental policies directed to a 'sawlog-driven' industry are clearly a recipe for further degradation of our forest.

Environmental Controls

Since 1938, the Soil Conservation Act had the potential to affect GTC's management of Gorton. However, that measure generally concerned itself with preventing harm outside Gorton's boundaries. It was not until 1980 that such potential was realised, as noted below.

In reality, 1974's National Parks and Wildlife (NPW) Act was the measure which first constrained GTC's control of Gorton's natural resources. This legislation introduced the need for a licence to 'take or kill' protected species. Having in 1971 had Gorton declared a Wildlife Refuge, no impediment to GTC's management objectives arose in this event. Nevertheless, our previously voluntary concession – revokable at our option – had overnight become obligatory.

Submission re. Public-good Conservation Measures – Landholder Impact

The following history of environmental controls which, since 1980, have affected the management of GTC's resource is set out to also indicate the exponential increase in their effects.

- i) **1980** – following unilateral declaration of half of Gorton as Protected Land, a logging licence became necessary for such areas. This licence, reviewed biennially, imposed conditions directed only to minimising soil erosion. These conditions were met without any need to alter our then-existing management objectives. Nevertheless, formally imposing those conditions amounted to the first incursion upon GTC's control of Gorton's management.
- ii) **1986** – pursuant to the 1979 Environmental Planning and Assessment Act, Great Lakes Council instituted a Local Environment Plan (LEP). This Plan required development consent for Forestry – and then zoned Gorton as Agriculture.

That zoning, which excludes forestry without consent, is nothing less than spurious in the case of Gorton and similar neighbouring forest properties. We have since had to rely on a tenuous exemption for pre-existing use. This event constituted a major diminution of our resource's commercial security.

- iii) **C'wealth Export Controls** – contemporaneous with ii) above, our pulpwood supplies to Sawmillers Exports became subject to approval by the Commonwealth. As the applicant for such approval, this conveyed to Sawmillers Exports a commercial preference which placed GTC at some disadvantage. In reality, our chipwood resource was rendered captive to Sawmillers Exports' licence from the Commonwealth.
- iv) **1991** – Endangered Fauna (Interim Protection) Act. This (EFIPA) legislation extended the National Parks & Wildlife Act's definition of "take or kill" protected fauna to include "disturbance of habitat". Accordingly, we immediately became liable to implement harvesting prescriptions which, despite their silvicultural impediments, required maintenance of habitat irrespective of the actual lack of inhabitants.
- v) **1991-96** – during this period, the scope and complexity of previously-introduced conservation measures compounded. Their scope increased as EFIPA (see iv. above) was replaced by Threatened Species Conservation Act (TSCA) and the ambit of such as Clean Waters Act, air-quality legislation etc. was extended. More importantly, previously discrete measures such as Soil Conservation logging licences (see i. above) now came to be mechanisms for administering later but largely unrelated measures such as TSCA.
- vi) **1996** – consistent with hitherto administering species conservation measures by instead enjoining habitat retention, controls focussed on native vegetation itself were introduced as State Environmental Planning Policy (SEPP) 46. These controls were applicable only to private rural land. Despite SEPP 46 exempting native forestry, this exemption operated only for 'sustainable' harvesting, itself undefined. Thus the onus of proof was also reversed.

Submission re. Public-good Conservation Measures – Landholder Impact

- vii) 1997** – as foreshadowed by SEPP 46 (see vi. above) the Native Vegetation Conservation Act was proclaimed. Again applicable only to private rural land, the exemption of native forestry/sustainable harvesting was also retained – but only pending adoption of a Vegetation Management Plan in the region. This Act requires such Regional VMP’s to incorporate measures proxy for earlier measures such as Soil Conservation Act and Threatened Species Conservation Act.

At present, mid-2000, there is no immediate prospect of a Regional Vegetation Management Plan covering Gorton. Consequently, rather than relying on either that outcome or the existing qualified exemption/ protected land logging approval, we are currently negotiating with NSW Land and Water Conservation for a Property Agreement, accompanied by development consent, under the Native Vegetation Conservation Act.

Conservation Measures – Impact

From about 1980 to date (May 2000), GTC’s confidence in its freehold rights has declined in the face of those steadily more intrusive conservation measures outlined above. Previously, we had regarded the ‘Gorton’ resource as an asset to be managed, at our risk, for the benefit of GTC and its shareholders.

Apart from obligations to avoid harming others in pursuing our objectives, and liability to various taxes levied for community benefit, we once perceived no restraints beyond any specified in the title to our real estate. Since 1980, our earlier perception of the ambit of our freehold title became increasingly dubious.

Without separately recounting the incremental impacts of conservation measures since 1980, we submit the following summary of their total effect as presently accrued. This totality is comprised of various elements –

- habitat conservation – once part of our resource, native flora and fauna proclaimed protected are now to be accommodated on Gorton for the public good, with no compensation for either ‘resuming’ those species, or for such habitat retention being detrimental to GTC’s commercial objectives.
- resource sequestration – despite freehold title to those natural resources extant from time to time on Gorton, a substantial proportion of those resources (whether or not protected species) is now sequestered for the public good – again without compensation.
- administrative hazard – each of the various conservation measures at issue has been authorised by one or another of several levels of government, and is then administered by one of various departments. One such entity is eventually nominated informally as the “consent authority” proxy for all others.

Submission re. Public-good Conservation Measures – Landholder Impact

Because the respective measures' objectives are generally indefinite/subjective, their implementation is excessively dependant on subsuming uncertainty with precaution. Equally, outcomes are ignored in favour of process. Thus the administration of conservation measures is too often a triumph of form over function.

- commercial confidence – pursuing GTC's commercial objectives necessarily depends on marketing the goods/services yielded by our Gorton resource. Interaction with market counterparts has been severely compromised by the political disapproval implicit in proscriptive conservation measures. By rendering our supplier-role both limited and uncertain, potential demands are stifled and market development made virtually impossible.

In combination, these elements have come to amount to a substantial diminution of our resource security. This incursion upon our rights, as conveyed by freehold title, to deal with Gorton and its component resources has become very costly.

Considering our timber stocks summarised in the preceding section, the economic costs of these conservation measures are estimated to be -

- capital discount – as against comparable plantation resources established at a cost of \$ 2,500/hectare, the market value of similarly stocked native forests is generally less than half. In the case of Gorton, this lesser value amounts to a discount of some \$ 5 million.
- revenue diminution – market opportunities for non-sawlog stocks have become so limited that an ecologically-sustainable harvest has been impossible since about 1990. Rather than degrading our resource by harvesting only sawlogs, GTC has foregone revenues exceeding \$ 1 million during the past 10 years.
- regrowth devaluation – additional to revenues foregone, suppression of sawlog regrowth has seriously reduced the value of regeneration. This has remained skewed to an excess of low-quality stocks. This is estimated to have cost a further \$ 500,000 since 1990.

Of these costs, less than half arises from specific constraints on harvesting. The majority derives from market impediments, themselves consequent upon the excessive sovereign risk perceived as resulting from conservation measures.

In Search of Equity

Is it not ironic that, having chosen to not clear Gorton, GTC has since been penalised for its environmental responsibility? The quantum of costs incurred is undoubtedly arguable, but the fact remains that public-good has been sought entirely at GTC's expense.

The claims made on private resources are, in many respects, similar to reallocations of public forests from timber production to habitat preservation. Nevertheless, such reallocation of public lands has involved merely transfer from one to another Crown entity. Ownership remains essentially unchanged.

Submission re. Public-good Conservation Measures – Landholder Impact

Imposing conservation measures on private holdings, without compensating their owners for consequent loss, is plainly inequitable. Worse, because such imposition is not compensated, these measures are essentially irresponsible. That is, no regard to their economic cost is needed in promulgating such measures.

Under normal circumstances, when one party seeks another's property, negotiation of a sale ensues. As prospective acquirer, the Crown enjoys some negotiating advantage arising from itself being the source of that title sought. Nevertheless, this ultimate power must be exercised circumspectly – lest public confidence in private ownership be undermined.

By effectively resuming private resources without equitable compensation, governments reveal their lack of confidence in the value of public-good so obtained. Were these benefits genuinely regarded as commensurate with the costs imposed, there would be no objection to compensation from the public purse.

Reduced to essentials, public-good conservation measures will remain unequitable until their benefits are invested with a commercial value – as distinct from merely crude political kudos. Otherwise, the current perception of excessive sovereign risk will continue to undermine the economic value of natural resources in private ownership.

Faced with excessive sovereign risk, the private sector cannot be expected to confidently invest in natural resources. This applies not only to native forests but extends to plantation developments. Consider the difficulties NSW faces in attempting to 'sell' hardwood plantations as a viable investment with acceptable resource security.

Without equitable compensation for public-good conservation measures, the private sector will remain resistant to natural resource investment. Offsetting tax concessions and other encouragements themselves impose a substantial charge on the public purse. This charge would be much more cost effective if, by reducing sovereign risk, the security of natural resources were to be enhanced by a willing provision of proper compensation for the private cost of conservation measures imposed for the public-good.

Conclusion

Public-good conservation measures imposed since 1980 have increasingly impeded GTC's management of 'Gorton' for an ecologically-sustainable timber harvest. The economic impact has been greatest with respect to marketing our excess low-quality stocks. That consequence derives from sovereign risk having become unacceptable to potential sources of demand.

Apparently governments have lacked genuine belief in the value of public-good to be expected from conservation measures imposed on private resources. Other resumptions for such as roads have usually been properly compensated, with public approval. Indeed, without such equity, confidence in private property would evaporate.

Faced with uncompensated conservation measures, private natural resources have become excessively risky investments. This outcome is surely counter-productive to policies seeking to encourage private capital into the forest and wood-products sector.

In conclusion, we submit that commercial confidence in the conservative management of private natural resources is urgently in need of restoration. So far, uncompensated conservation measures have ill-served not only resource owners but, through foregone commercial activity, the public at large.