

MR GARY TREMAINE, SALE OF PROPERTY

Grievance

MRS C.L. EDWARDES (Kingsley) [9.37 am]: I have a grievance today to the Minister for the Environment and Heritage. I raise the case of Mr Gary Tremaine. The minister is well aware of this case through correspondence and meetings. It is an example of an individual being totally frustrated by bureaucracy. The case revolves around Mr Tremaine's unsuccessful attempts to sell his property in Gingin, and raises serious questions about the activities of the Water and Rivers Commission. Mr Tremaine has owned the property since 1975, when he had the expectation of establishing a limestone quarry and subsequently subdividing. The limestone quarry was subsequently established. However, a portion of that land has been part of the Gngangara water reserve since 1973, although the relevant zoning, P1, was not declared until 1992. The future of the land is further complicated by the possibility of the land being rezoned to parks and gardens. This possibility raised by government, together with the inability to use the land as a landfill, has effectively prevented Mr Tremaine from selling the land to anyone except government.

I suggest to the minister that the negotiations between Mr Tremaine and the commission have gone back and forth for far too long. The minister has been involved personally in a number of meetings. Offers have been made and withdrawn by the commission; counteroffers have been made by Mr Tremaine and rejected by the Water and Rivers Commission. In June 2002 the Minister for the Environment and Heritage advised Mr Tremaine to accept the commission's offer of \$350 000 and a lease-back for the limestone resource. In September 2002 Mr Tremaine suggested either a purchase of the land, plus a five-year licence, for \$830 000, or arbitration of between \$680 000 and \$1.2 million. That \$1.2 million is even less than some of the private negotiations for sale that he had previously had. The minister advised me in writing that the first option was significantly higher than the valuation by the Valuer General of \$680 000; and, secondly, that it did not resolve the commission's position that buying the limestone resource was not a proper use of funds. Although I understand that that is the advice the minister has received from the Water and Rivers Commission, I suggest that the fair approach would be to take this matter to arbitration. The Valuer General, through an independent valuer, valued the land at \$680 000, which is far less than Mr Tremaine owes on the land. If the commission believes that it is correct - that it is not a proper use of resources to purchase back the limestone resource - the fair thing would be to take this matter to arbitration. I also understand that the prospect for land values in the area is improving, as market gardeners move their operations from the fringe of the metropolitan area.

The toing-and-froing by the commission has left Mr Tremaine in limbo. There is no time frame for any possible rezoning of the land as parks and recreation. This man is not unlike many in Western Australia. However, he cannot deal with his own property as he would like because of the various restrictions or potential restrictions that have been or will be placed on it. The commission is not remotely interested in going to arbitration, even though Mr Tremaine would be happy to accept the verdict of the arbitrator. It is not good enough to say that there are processes to deal with compensation after rezoning. That may be 10 years away. This man cannot be left in limbo for 10 years. He has already suffered emotionally and financially from this process. It is un-Australian. I will use the words that the Premier just used: it is mean-spirited. The bank has given notice, no-one will buy the land and private negotiations have been under way. It is unfair, un-Australian and mean-spirited to discriminate against the landowner purely on the basis of location and the size of the agency budget. If this property had been in the metropolitan area - it is just outside the metropolitan area, even though it is zoned as a priority 1 source protection area - and if LandCorp or the Western Australian Planning Commission had wanted the property, the situation would have been totally different.

All Mr Tremaine has asked is for this issue to go to arbitration. Compensation should be based on a fair market valuation plus any improvements to the land. If there cannot be any agreement, it should go to arbitration. That is the only fair way in which to resolve such a dispute. In this case, compensation clearly cannot be agreed upon. The commission has refused arbitration. In a letter dated 22 October 2002 to Mr Frank Borrello, who has been acting on Mr Tremaine's behalf, the commission stated -

In respect of the proposal to enter into arbitration, the Commission is not prepared to arbitrate in respect of this issue.

Why not? What is wrong with a government agency being fair? All Mr Tremaine wants is fairness. The commission's take-it-or-leave-it approach is neither fair nor reasonable. To use the Premier's words, it is mean-spirited. I urge the minister to intervene. I know she has offered her sympathy to Mr Tremaine and fully understands the situation. However, the commission has again taken over the issue. The minister must take control of this matter and ensure that fairness prevails. This is not just about Mr Tremaine and his property; it is also about the entire approach of the bureaucracy and government to individuals, equity and giving someone a fair go. It is time the Government acknowledged that people are more important than any department. The minister should get involved when a department cannot resolve an issue and such an issue goes on for a long

time. The minister has been involved. She knows the issue and the gentleman concerned. He has followed a hard road with government departments and agencies for a very long time. This department is showing clear signs of being bloody-minded. I ask the minister to give Mr Tremaine a fair go. This issue should go to arbitration. The minister should take hold and control of this issue instead of allowing the commission to continue with its take-it-or-leave-it approach. It is not fair.

DR J.M. EDWARDS (Maylands - Minister for the Environment and Heritage) [9.43 am]: I thank the member for her grievance and also for the correspondence on Mr Tremaine I have received from both her and the member for Wanneroo. I have had a number of meetings with Mr Tremaine and I endorse many of the comments the member for Kingsley has made about the difficult position in which he finds himself. I will put on the record some of the history of the issue. At the end of my response to this grievance I will make some more positive comments in response to what the member has said. I must make it clear that the Water and Rivers Commission is committed to purchasing private land in priority 1 source protection areas. That policy arose as a result of a select committee of this Parliament, and has been adopted by a number of Governments over a number of years. We all know that the Gngangara underground water control area is an important public drinking water source protection area for the metropolitan area. The difficulty is that the subject property lies within the priority 1 Gngangara underground water pollution control area.

In August 2001 a submission was sent to the Water and Rivers Commission board and negotiations commenced with Mr Tremaine for the purchase of his land for not more than \$480 000, which was the market valuation provided by the Valuer General's Office. The commission was unable to reach agreement at that price and a consultant was subsequently appointed. In October 2001 the consultant advised that the property was valued at \$680 000. This included \$330 000 allocated for the land and improvements and \$350 000 for the limestone resource. The valuation disregarded the priority 1 classification. Since that time there have been many meetings and much discussion with and consideration of the issue by all the parties. In December 2001 the Water and Rivers Commission board determined that it would withdraw its offer because it considered that it could not justify using consolidated funds to purchase a resource - that is, the limestone - the value of which could not be realised by the commission. I met with Mr Tremaine, a number of other parties and the Water and Rivers Commission towards the end of December 2001 and got the board to look at this issue again. A fresh proposal was put to Mr Tremaine: the commission would purchase the land and allow him to extract the limestone over a period of five years. There have been ongoing negotiations, which I will not go through because the member has alluded to those.

I will make a couple of points. The first is that limestone extraction is a compatible use within the priority 1 area and several extractive industries continue to operate within this area. They can operate provided that the base of the quarry remains three metres above the water table and proper precautions are in place for the on-site storage of fuel.

The notes I have been given inform me that in September 2002 Mr Borrello, who is Mr Tremaine's agent, provided the Water and Rivers Commission with two final options. The first was for the Water and Rivers Commission to purchase the land, together with the five-year licence to extract the limestone resource, for \$480 000. The second was to go to arbitration, but with the amount specified. My understanding of this second option is that there was a bottom line Mr Tremaine would not go below in arbitration.

The member is correct in saying that there is little scope for compensation for Mr Tremaine. Under the Town Planning and Development Act, if the Shire of Gingin had zoned this property parks and recreation, as recommended under the Gngangara Land Use and Water Management Strategy, compensation would be provided. However, the shire zoned the property as general rural, and the activities Mr Tremaine is thinking of undertaking can be undertaken within that zoning.

In recent times, I think within the past week, Mr Borrello has contacted one of my policy officers to say that Mr Tremaine would like to go to arbitration. As the member has said, this time it would be without setting the lower figure. That is a much more encouraging sign. My policy officer has followed this issue up with the Water and Rivers Commission, but she has been sick for the past two days and we have not been able to contact her. I will follow up this notion of further arbitration, which, from my notes and previous understanding of the situation, is more optimistic, given that Mr Tremaine is saying that it is more open than it was previously. The advice I previously received from the commission is pretty valid. The commission genuinely felt that it could not, morally or legally, meet the sum set by Mr Tremaine as his benchmark, which was above what had been recommended to the commission. If he is now willing to look further, I will go back and tell the commission exactly what the member for Kingsley has said: that this appears to be mean-spirited. It certainly is causing problems to Mr Tremaine and his family and it should be resolved. In addition, I understand that the member for Wanneroo has been working separately with Mr Tremaine to see what other help we can provide him and his family to get over what has been a very difficult situation. We all need to look at this in a more general policy

sense. I will follow up the member's grievance, and I hope we can work together for Mr Tremaine's benefit and arrive at an outcome that is better than the one he faces at the moment.