

**STANDING COMMITTEE ON PUBLIC ADMINISTRATION**

**INQUIRY INTO PASTORAL LEASES  
IN WESTERN AUSTRALIA**

**TRANSCRIPT OF EVIDENCE  
TAKEN AT KALGOORLIE  
MONDAY, 4 NOVEMBER 2013**

**SESSION FIVE**

**Members**

**Hon Liz Behjat (Chairman)  
Hon Darren West (Deputy Chairman)  
Hon Nigel Hallett  
Hon Jacqui Boydell  
Hon Amber-Jade Sanderson**

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**Hearing commenced 11.51 am**

**Mr PATRICK HILL,**  
**Manager, Mt Weld Pastoral Station, sworn and examined:**

**The CHAIRMAN:** On behalf of the committee, I would like to welcome you to the meeting. Before I begin, if you would like to take the oath or affirmation.

[Witness took the oath.]

**The CHAIRMAN:** You will have signed document entitled “Information for Witnesses”. Have you read and understood that document?

**Mr Hill:** Yes.

**The CHAIRMAN:** These proceedings are being recorded by Hansard. A transcript of evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this record for the record. Please be aware of the microphone and try to speak into it, and ensure that you do not cover it with paper or make noise near it. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today’s proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that publication or disclosure of the uncorrected transcript of evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege. Would you like to make an opening statement to the committee?

**Mr Hill:** Yes. Thank you very much for the opportunity to speak—I really appreciate that. We have had a look at the draft new agreement or the draft lands act that has been put forward to us. There are a couple of concerns. I might just say that I have been associated with the pastoralist industry most of my life. I was born and raised on Bandy Station, my father owned Lake Wells Station, and now I am managing Mt Weld Station out of Laverton. I am fourth generation around the Laverton area, so I sort of understand the industry and what it been through and the hardship of it over the years.

Having had discussions and that about the draft new agreement, it is a little bit wavy in respect that we do agree with a couple of the items there around the payment of rents in six-monthly advance. I think that gives a bit of ease on the pastoral owners to make arrangements in that time as it is hard with the prices of stock and that down at the moment. Another thing, too, is that we would like to see item 11.2(a)(iii) of the draft lease agreement deleted because the ramifications of it are basically, as I think it has been described here this morning, it comes back on the minister having the right to revoke the lease for animal cruelty. We believe that if a leaseholder wants to lease out the lease for some time and the person having the stock on there perishes or causes some death to stock, then it should not come back on the owner of the property. The animal cruelty act should be put to the person who actually owned or is in charge of the stock. I think to revoke a lease for that is not right, especially for the investment that the stations go into these days and the cost of a station. So did you understand what we are saying there?

**Hon JACQUI BOYDELL:** I have a question on that. Your scenario is that you have the pastoral lease, for example, and you lease that out to somebody else who comes in.

**Mr Hill:** Yes.

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**Hon JACQUI BOYDELL:** Then, if there is a problem with the stock et cetera, as the person with the original you are responsible and can have the lease revoked as a consequence of the way the stock is being managed by somebody else?

**Mr Hill:** Yes.

**Hon JACQUI BOYDELL:** Do you think it is a fair comment that the person who has the lease is responsible for the property and the conduct of what is occurring on the property?

**Mr Hill:** Yes, they are; and under some circumstances I think they should be. But the whole point is that the lease should not be revoked. I do not think it should be revoked—like, fines applied or to that effect. Under this new act, the minister has got the right to revoke the lease. That could be through some innocent—I could read something out, if you like.

**Hon JACQUI BOYDELL:** Yes.

**Mr Hill:** It says —

- under clause 11.2(a)(iii) of the draft lease, the lessor can terminate immediately “*if any rights are exercised, or if any action is commenced or taken under the Animal Welfare Act 2002 concerning animals on the Land or in the care of the Lessee*”. This provision is in our view unreasonable and onerous. An action under the Animal Welfare Act could be an infringement notice or a cruelty charge. The person against whom the action is taken may not be the lessee and/or may have a defence to the action (e.g. under the specific “stock fending for itself” defence provided in the Animal Welfare Act). We see no reason —

**The CHAIRMAN:** Can I just get you to identify the document that you are reading from? I do not know what document that is and we need you to identify it for us.

**Mr Hill:** It is a document that has been prepared for myself—by Frances and professional people—for the owners of the lease. Is that okay?

**The CHAIRMAN:** We need to know who has prepared it and what the document is.

**Mr Hill:** Our legal team in Barrick; we talk over the phone and have talked this through, and this is what we have come up with. This is how we want it interpreted. It is all right for me to say it here, but we would like to see it in the act.

**The CHAIRMAN:** So, that is a legal opinion from Barrick that you commissioned for Mt Weld.

**Mr Hill:** For them to do; yes, that is right.

**The CHAIRMAN:** Can you give us the date of that document? We need to be very clear about the documents we take into evidence.

**Mr Hill:** It would have been prepared on 13 August 2013.

**The CHAIRMAN:** Can you leave us with a copy of that? Or, are there facilities here for us to take a copy?

[12 noon]

**Mr Hill:** Yes; no problem at all. As I was saying —

We see no reason for this to be a specific termination event and would have thought that the general “compliance with laws” requirement should be sufficient.

We suggest that ... clause 11.2(a)(iii) of the draft lease be deleted ...

With respect to default under/termination of the lease generally, the provisions of the LAA (in particular sections 35 and 129–131) apply. Under section 35, the lessee of a pastoral lease is entitled to appeal against a decision of the Minister to forfeit the lease for a breach of condition. The forfeiture provisions of the LAA would in our view apply to qualify the

lessor's termination rights under clause 11.2. However, for clarity, we suggest ... and request that clause 2.1(b) of the draft lease be amended so that it reads "*the provisions of this Lease do not in any way affect, alter or derogate from the Lessor's, the Minister's, the Lessee's or the Board's rights or powers conferred under the LAA.*" ...

That is how we see it. We want to see the animal cruelty act probably increased, but we do not see that the pastoral lease owner should lose their lease because of someone else's actions. I can provide a copy of that for you. The other thing, too, that I heard this morning was people bringing up wild dog problems. We have a huge problem on Mt Weld station with regard to wild dogs. We do work in with the biosecurity group. We do four baiting runs a year and we do our own trapping up there as well. Mt Weld used to have on average about 8 000 sheep on it a year. We do not have any up there at the moment; we have all cattle. I might say, going back to 1968, the Shire of Laverton had 16 pastoral properties within it and 63 000 sheep; today it has none whatsoever at all.

**The CHAIRMAN:** Do you say that is directly attributable to dogs?

**Mr Hill:** Yes, absolutely.

**Hon JACQUI BOYDELL:** That is why you have cattle, and why you have made that decision.

**Mr Hill:** Yes, and you have got to keep control of the wild dogs for cattle because they kill the calves. I know when my father managed Mt Weld about 10 years ago, he went down and wondered why there were no calves at all. The next thing he saw was that the calves had been mauled in the mouth and the udders and their stomachs ripped out and everything. That is pretty shocking. We have always done feral animal control and dog control, and we have emphasised and been quite active in the baiting programs and the traps. I have caught 17 dogs in the last three months on Mt Weld, and there are still a lot there, so they still have an effect. Management is the biggest thing with the stations. Obviously, while they are doing that it does take time. There has been the suggestion of the biosecurity fence and the wild doggers, they do play a major role in the control and management of wild dogs. I know when I was on Bandy Station—I grew up on the station—there were doggers coming through every two to three weeks. They would do a circle of the property and the station owners would also do the property. Bandy Station, the one we had, had as much crown land on the east and northern end as Mt Weld has got now. We used to run an average of 15 000 sheep on that property. There was crown land to the north and east of us, but we could still manage that; whereas, today on that same station there is no way you can put sheep, or small stock as it is called. All the goats have been eaten out. There are patches around mining places where there are some on dumps there, but not a lot. Basically, the dogs have eaten them out. The population of wild kangaroos varies; it depends how many packs of dogs are getting around the place and how quickly we can keep control of them.

In regard to feral camels, we often have great mobs of camels coming in on Mt Weld station; they do a lot of damage to fences, tanks and troughs. The biggest thing is they come down from unallocated crown land, where there is virtually no control over them whatsoever; so we are the first ones to cop them. People go and say to shoot them. The trouble is if you go and shoot them, then the cattle go and chew the bones of the dead carcasses and they get botulism. We do inoculate for botulism each year, but there are a lot of cattle there that you do not get. My father has seen 20 dead cattle around a bullock carcass on Lake Wells when he was up there; they got botulism. It is okay to shoot them and eradicate them, but you have got to get rid of the carcass. That is the other thing we have to put up with there. Where there are feral animals, there needs to be some costs rewarded back to the pastoralists for that control because of those sorts of things. Someone has got to go and bury the carcass to stop stock getting killed.

There is also a lot of talk around about the insecurity of the current pastoral lease of the stations, where it is not bankable and you cannot borrow. Unless you have got the cash, it is very hard to go and buy a station now because the banks cannot pre-sell under this new draft, as I understand. There needs to be a lot more security in the tenure of the pastoral lease as far as being a bankable, saleable

document. As it is now, it is a pretty loose title. There are arguments for and against that, I suppose. There needs to be a lot more security on the tenure of the lessee of the pastoral lease.

The other thing that we would like, especially up at Mt Weld, which we have talked about and looked into a bit, is that we would like to see the pastoral leases have the opportunity to diversify. I think it has been talked about here this morning—the options of tourism, fruit growing, aquaculture, horticulture and all that sort of stuff. I know you can get permission now, and there is talk about native title ramifications. It is not too bad, but there is always that shadow. I think it is time the government actually took the step to extinguish native title over a change of the pastoral lease. I think the government should clarify that and sort it out. I do have another little reading here that I would like to read out, if I can find it.

It states —

*“due to the legal constraints of both the Land Administration Act 1997 and the Native Title Act ... it will be very difficult to make substantial changes to the draft new pastoral lease”.*

That is in regards to the native title ramifications on pastoral leases if you are changing the use of the land under the current lease. Out there in the pastoral lease someone has to manage the land. You have to have a manager on the land out there and for someone to invest a lot of money into it, they need security on it and if there is some way else of making money on that land from stock—you need stock as well—there should be the opportunity for people to do that without the risk of native title and the ramifications on that from the government. I think that is pretty important.

**The CHAIRMAN:** Over the years that you have been on the station, have you looked at diversifying the industry at all?

**Mr Hill:** At the time I was up there, my father did sandalwood on the property at Lake Wells Station—that is another thing I would like to mention, too, in a minute. There are people around Laverton who do tourism, and used to do tourism. They had a bed and breakfast-type thing out there and it was very successful. They used to get a lot of people coming from Kalgoorlie up into Laverton and stopping overnight. That has a big economic effect on the whole region, the town and the station and makes the station viable. But there is always that shadow of risk underneath where it could be challenged at any time. Now that this new draft act has come up, the minister can make a decision rather than the pastoral board. They should have a lot more options there to be able to do things without the risk of the forfeiture of the lease for something they are just trying to do to survive, basically. The sandalwood: we believe that to harvest sandalwood in the pastoral station you should have consent of the pastoral owner and that is it. We get a lot of people travelling through Mt Weld Station up there, whether it be prospectors or people shooting for kangaroos and stuff like that. A lot of prospectors do the right thing. They do a good thing and they put an application to us at the mine site. Obviously, that is much appreciated because that takes the onus as far as litigation is concerned, as we understand, off the station, as far as claims go. There are people there trespassing on pastoral stations without permission and there should be a lot more fines or heavy emphasis put on that, because there is going to be a day when someone gets hurt and they do not have permission to be there. There will be a litigation case and the pastoralists will probably go broke defending it. There should be a lot more emphasis put on that. People should be fined a lot heavier or something should be done by the government.

[12.10 pm]

**The CHAIRMAN:** With regard to consent from the owners to harvest the sandalwood, do you think that should be by way of giving the pastoralists the first right of refusal to actually harvest that themselves?

**Mr Hill:** Yes, absolutely.

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**The CHAIRMAN:** Earlier we had evidence from somebody else who said there should be freeing up of that industry and it should be perhaps handed over to private industry rather than the way it is managed at the moment.

**Mr Hill:** Sandalwooders can come in. My father did it and I know it is hard work, but it kept the station viable. The pastoral owners should have the opportunity to diversify on the pastoral station at any opportunity possible, including the harvesting of sandalwood. They are the ones who are going to manage it for an ongoing crop, whereas with these ones you get now, they come and rip everything out and you are left with nothing, whereas the pastoralists will go and pull 10 or 20 tonnes out this year and a bit more the next year, and you will not degenerate the rangelands in a short time. It will have time to regenerate by the time you get to the other end of it. It is a bit like managing stock on different paddocks. You rotate them around the station so that the station and the grasslands are being managed—it is the same thing with sandalwood. The pastoral owner should have a lot more say in who goes on the property and what happens on the property—that is what we feel. Obviously, if something goes wrong, it all comes back on the pastoral owner as to what permission he gives, and the way things are going these days with litigation you have to be very careful. All those loops have to be closed up.

The other thing I would like to say as well is that the agricultural board or, as it is now, the biosecurity group, I think right back since the end of the Brian Burke and Richard Court days, has been cut back and back. I think I heard Ross say today that there is just basically an office attendant these days and an officer just taking notes about what is going on. It should be used as an assistant from the government and it should be able to do a lot more for the pastoral owners out there. The board do the best they can with the finances they get, which is not very much. The only real finances they get is upping the pastoral rates, which is just killing the people who are trying to make a quid out there—on the economic survival of them. The government should look at a new system where they take a more helping role in this agriculture board. I know when they went from the Agriculture Protection Board down to the biosecurity group, it sort of shifted the onus of responsibility off the government to assist the industry being viable. It took the onus off the government and shoved it back on the pastoral owners to make their own best work practice work, which in some sense is really good, but it took the responsibility off government to make this industry viable.

The industry has to survive because of the fact that you just cannot have every pastoral owner in Western Australia walking off their property because they are going broke. You could imagine the chaos of animal rights and everything else going on—the infrastructure just falls to bits. Someone has to manage the land and people living out there, as I heard Ross say today, they have the love of the land; they understand the land; they have been on the land; they have grown up on the land; and they do know best practices for that land to survive and be good. The government has to reinvigorate the agricultural boards and maybe make them into some sort of commission where they are there to assist the people who are out there on the land and make their properties viable. The pastoral industry is really in its worst state ever. Basically the banks own, practically, a lot of the pastoral stations right from the Murchison to the Gascoyne, everywhere. If we have a banking crash in this country, it is just going to be absolute chaos and you are going to have people walking off the land. It is just about to that effect now and the government has really got to step in, federal and state, I believe, and assist these people to get back on track. They should provide some sort of assistance. Going back about 20 years ago, the Mid West Development Commission put out a grant for the stations up there to do capital works on the station to get them viable again. They used the cattle stations out east of Wiluna, Carnegie, Windidda and Wongawol Stations and Prenti Downs to put boreholes down—develop bores—on the pastoral stations so they could put cattle out off the existing bores to build the herds up to make the stations more payable. Those sorts of practices are good.

**The CHAIRMAN:** That was a grants program; it was not a low interest loan?

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**Mr Hill:** Yes, a special grants program.

**The CHAIRMAN:** Do you know what the value of those grants were offhand?

**Mr Hill:** No, I do not. I know Prenti got about four boreholes put down. I know we priced four boreholes to get done at Mt Weld recently and it was about \$120 000 just to put the bores down without equipment, so I would say you would be looking at quite a bit.

**Hon DARREN WEST:** How long ago was it that those grants were floating around?

**Mr Hill:** I think it was about at least 15 or 18 years ago—quite some time. I can find out for you.

**The CHAIRMAN:** We can do that.

**Hon JACQUI BOYDELL:** I have a question or I seek your opinion on something. With the lease, today we have had a lot of people concerned about the minister of the day having the right to veto the lease. I agree with you that 99 per cent of pastoralists are managing the land. They love the land and actually do reinvest in the land, and that is valued by government. Therefore, most pastoralists would not need to have the concern that they get to the point of having their lease potentially terminated by the minister. Where the one per cent of pastoralists are not managing their station particularly well, do you think that really potentially protects the industry by the minister being able to terminate the lease? If that is the neighbouring station of yours and you are being impacted by mismanagement of the land and feral animals, because they are not looking after them et cetera, do you see that as potentially a protection?

**Mr Hill:** I think what should happen is that the pastoral board should be—I think personally that too many interested groups run the pastoral board. There should be bona fide pastoralists on that and there should be a set code of practice for a pastoral lease, which I suppose there is in some sense. I know there are some pastoral stations around that are like that, but I do not think the minister should have the right to revoke it. I think that pastoralists themselves should be able to set the criteria of the management practice and put in place the fines and the rules about what should happen, come someone who does not do the right thing. There should be lots of avenues put up where they can go in and, say, do the dogs and muster them and then take the cost of doing the dogs or clearing whatever problem is there out of the proceeds of the sale of the stock or something like that. I do not think the minister can fix it, put it that way. The pastoral board should be made stronger, more stringent, set more stringent rules, have a code of practice set in place and that should go to them. Obviously, the minister will have to sign-off on and somebody will take responsibility from the ministerial department. I think the onus should be set back on the pastoral board and they should be able to set the rules of the game. It stops there I believe.

**Hon DARREN WEST:** On that, by extension, we should also be mindful that a third of leases or thereabouts are not run by pastoralists as we know. There are a lot of conservation groups and so on.

[12.20 pm]

**Mr Hill:** I work for a mining company myself, but we will still come under the same rules. We are all under the same guidelines out there. For me, I have not invested in the dollars to buy the property, I know. But the code of practice should be set up quite stringent, “This is how it is run and this is what has to be done.” If the others around you agree with what you are doing, as long as it goes through the board, the minister should not just be able walk up with the stroke of a pen and take it off you. That is how we feel.

**The CHAIRMAN:** I think that is it then for today, Mr Hill. Thank you very much for taking the time.

**Mr Hill:** Thank you very much for the opportunity.

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**The CHAIRMAN:** That concludes the hearings for today in Kalgoorlie. I would like to thank those of you who came along to observe the proceedings. We will call the meeting closed.

**Hearing concluded at 12.22 pm**

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