

**STANDING COMMITTEE ON PUBLIC ADMINISTRATION**

**INQUIRY INTO PASTORAL LEASES  
IN WESTERN AUSTRALIA**

**TRANSCRIPT OF EVIDENCE  
TAKEN AT FITZROY CROSSING  
THURSDAY, 7 NOVEMBER 2013**

**SESSION ONE**

**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 at 11.10 am**

**Mr CHRISTOPHER KLOSS,  
Tour Operator/Driver, Windjana Tours, sworn and examined:**

**The CHAIRMAN:** Good morning, ladies and gentlemen. I officially declare open this hearing of the Public Administration Committee, which is inquiring into the pastoral lease industry at Fitzroy Crossing. I welcome you all to the meeting. It is great to see a good number of people here. Fitzroy Crossing was not originally on our agenda to visit, but because submissions and requests were made to us, it was thought that this would be a good location to come to. Obviously, with the turnout today that was the correct decision, so thank you for taking the time to come here.

My name is Liz Behjat. I am the Chairman of the Public Administration Committee. I will introduce the committee members. To my far left is Hon Nigel Hallett, Hon Darren West, the advisory officer Dr Julia Lawrinson and Hon Jacqui Boydell. A committee member who is not able to join us today is Hon Amber-Jade Sanderson.

For those who have attended public hearings before, there are a number of formalities we need to go through each time we call a witness to the table, so please bear with us. By the end of the day I will have said the opening screech five times and there will be a test at the end for all of you to say it back to me, so please listen carefully!

We will start with our first witness. On behalf of the committee, I welcome you to the meeting. Before we begin I ask you to take the oath or affirmation.

[Witness took the oath.]

**The CHAIRMAN:** Would you state your full name, contact address and the capacity in which you are appearing today?

**Mr Kloss:** My full name is Christopher Kloss. I am a land-based tour operator. I am currently employed by Derby Bus Service, but there is a tour arm to the company. I have been in land-based tourism for 20 years and live in Derby.

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

**Mr Kloss:** Yes.

**The CHAIRMAN:** These proceedings are being recorded by Hansard. A transcript of your 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 hearing for the record. Please be aware of the microphone in front of you, try to speak into it and try not to put any papers or make any noise near it because it makes recording difficult. 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. Those are the formalities out the way.

You did not make a written submission to the inquiry, so would you like to make an opening statement to the committee?

**Mr Kloss:** Yes; I was away from the area during the written submission period.

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**The CHAIRMAN:** That is fine.

**Mr Kloss:** The only opening statement I would like to make is, as I have said, I have been involved in land-based tourism in the Kimberley for 20 years. During that time there have been a number of opportunities for me and my family to get involved in tourism on pastoral leases, but we have struck difficulties with the conditions under which we can do that, apart from directly negotiating with the pastoral lessee. We have only ever run tourism as a separate business unit on a pastoral lease with the agreement of the lessee, but we have struck some problems with that. The other place where tourism has some potential and some infrastructure would have to be developed by private enterprise but cannot be developed at the moment, is also in conservation parks in the Kimberley region. They are the two subjects I would like to raise for this committee.

**The CHAIRMAN:** In an ideal world, what needs to happen?

**Mr Kloss:** In an ideal world people like us who know a little bit about tourism and nothing about the pastoral industry could potentially run a successful tourism operation on or within a pastoral lease. That requires infrastructure that may be existing or may have to be developed. A problem at the moment is that while there might be an agreement with the pastoralist landlord, if you like, it is difficult to have a sublease that is legal for that tourism to be undertaken. Another problem is if at some time down the track the pastoralist decides to get out of the industry, the person running the tourism operation has to renegotiate with the new owner of the property in terms of that tourism operation, because the tourism operation cannot continue if there is a change of ownership of the pastoral lease.

**The CHAIRMAN:** Is it difficult or impossible for a sublease under the current law?

**Mr Kloss:** I suggest impossible for people who do not have patience, yes.

**The CHAIRMAN:** But it is not illegal to do it?

**Mr Kloss:** From what I understand, it can be done, but it is extremely onerous and takes a long time. As I said, the other problem is that while that sublease may be able to be negotiated with the agreement of the current lessee of the pastoral lease, the situation arises that if that person wants to get out of the pastoral industry or sell his pastoral lease, then from what I understand under the current legislation the tour operator does not have any consequential rights with the new owner; that has to be renegotiated.

**The CHAIRMAN:** What is the potential tourism market?

**Mr Kloss:** In terms of?

**The CHAIRMAN:** The size of it?

**Mr Kloss:** Land-based tourism is seasonal up here because of the type of country we live in, so you are basically looking at a main peak period between May and the end of September. But, on some of the pastoral leases, with a bit of imagination, tourism can run quite successfully for probably 10 months of the year.

**The CHAIRMAN:** Could you explain to the committee what would the tourism experience be?

**Mr Kloss:** The first experience would be to have a bit of contact with the pastoral industry, but most of the tourism in the Kimberley, whether land, air or sea based, is nature based; so the short answer would be it is nature-based tourism—going to attractions that would be on that property and perhaps neighbouring properties or neighbouring conservation or national parks.

**Hon DARREN WEST:** Coming back to possible solutions, I presume negotiations would be done in good faith with pastoralists who would benefit from a tourism venture so that good outcomes can be worked out for everyone. When you say that you are going to run a tourism-based venture, are you saying that you as the tour operator would have exclusive use of that venture or are these areas

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open to the general public? What are the public liability implications of applying a tourism venture on pastoral leases? Who is liable?

**Mr Kloss:** The reality is that even with the way the tourism industry works in this region at the moment, some of the attractions that we as town-based operators take people to are on pastoral lease land, and that includes the land in the King Leopold Ranges Conservation Park, which is actually a state government conservation park, but legally the ground is pastoral lease. We actually take people to pastoral lease country at the moment, some of which is held by the state government, as I said, as conservation parks and some which is on pastoral properties. In terms of public liability, we have to have all sorts of licensing to operate a tourism business and part of that is having public liability, so the onus for the public liability falls back on the operator.

**Hon DARREN WEST:** What about general public access? Are these ventures you are setting up in these areas that you are proposing as tourist destinations generally accessible to everybody or is it just tour operators who have put the money in?

[11.20 am]

**Mr Kloss:** No, no—at the moment they are open basically to anybody who want to hire a car or use their own four-wheel drive to access places. There is no restriction on that. My family and I have looked at running an operation in which we would have a base so that we would provide, for example, not only a camping-tour experience, but accommodation, meal preparation and other aspects of tourism. We would provide them all in a complete package. I am sure we are not the only people who have thought of that.

**Hon DARREN WEST:** We have come across this before with general public assets and access on pastoral leases. Some pastoralists have stopped people coming in because they are liable for the idiot element that does the wrong thing on that lease. There would be a mixed bag there; the leaseholder would be liable for anyone who came in under their own volition, but anyone who goes with you would be covered by your appropriate public liability coverage.

**Mr Kloss:** The other point is that, as I have said, we have been doing this for 20 years. There are some pastoralists who will let us into certain parts of their property, but not other parts. We respect that as part of a good neighbour-type policy. We have to live here as well work here. I do not have a problem with that. At this stage, developing our business to another level—where we would have to commit finances to developing infrastructure—cannot be done because there is no security of either a sublease or a similar type of legal title that would convince a financial adviser to give us the money to start a venture.

**Hon DARREN WEST:** There are various types of pastoral lease holders—there are traditional pastoral families, larger companies and multinational corporations. When you enter into negotiations do you have difficulty with the different types of owners or is there a different course for each lease?

**Mr Kloss:** In short, I cannot really answer that because basically the people we have spoken to have been family-based pastoral enterprises.

**The CHAIRMAN:** Do you have formal agreements with the pastoralists or is it done with a nod and a wink?

**Mr Kloss:** We gave up. We do not have any particular agreements at this stage. At the moment we restrict our tourism activities to the recognised conservation and national parks and to properties that welcome us as an operator. Negotiations with properties that take us in as an operator are very informal.

**The CHAIRMAN:** But you do pay them fees for going in?

**Mr Kloss:** Yes, we pay camping fees, entry fees and access fees and things like that on some of the properties. It varies a lot. But, yes, it is very informal.

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**The CHAIRMAN:** Have you had any discussions with Tourism Western Australia with regard to the opening up of this tourism market?

**Mr Kloss:** One of the interesting things is that the tourism ministry, if you like, has a plan to develop infrastructure in the conservation parks and national parks. But—and I can only speak here about the west Kimberley and in particular, the King Leopold Ranges—at this stage, the actual ground is still a pastoral lease. A number of years ago all that happened was that the state government resumed a couple of pastoral leases. There are signs up to say that it is the King Leopold Ranges Conservation Park, but in reality the land is still held as a pastoral lease. There has been no change to the official land title of that land to a special purpose lease or some other sort of operation that would enable us as private operators to go to Tourism Western Australia and say, yes, okay, we will develop some infrastructure at Bell Gorge or Lennard Gorge or something like that. “Frustrating” is a word that comes to mind.

**Hon DARREN WEST:** You just said before that you gave up on them because you were banging your head against the bureaucracy wall. This is coming up at every hearing for different reasons. Is there a lack of willingness to get things done or is it just that everybody shovels you off onto everybody else. What have you found?

**Mr Kloss:** There is a bit of handballing by various departments. I guess the other cold-hearted reality is that—as I said, I have been doing this for 20 years—I am getting to the stage of life at which another 20 years will see me out of the tourism industry. But certainly the next generation in our family are interested in tourism. At this stage unless you do it on freehold land or in the towns, it is pretty much impossible. There is certainly a market for nature-based tourism where the headquarters of that operation is based in the bush. Of course, in this particular region a lot of land is under pastoral lease.

**Hon DARREN WEST:** So in your eyes the best way to get around this is to have a designated subleased area that the pastoralists could lease to you —

**Mr Kloss:** With the agreement of the pastoralist who has the overall pastoral care.

**Hon DARREN WEST:** But some sort of semiformal agreement?

**Mr Kloss:** Yes. A more formal agreement that would be bankable.

**Hon DARREN WEST:** Before we finish up, how are things ticking along in the industry?

**Mr Kloss:** Fine, fine. We are very happy. I suppose one of the things to emphasise is that in this particular region virtually all of our tourism is nature based. There are no man-made parks, no Sea World or that sort of thing—it is all nature based. We should be able to, I think, develop that potential without mucking up that nature.

**The CHAIRMAN:** Thank you very much for taking the time today, Mr Kloss. We appreciate you giving us that evidence.

**Mr Kloss:** Thank you for letting me have the time.

**Hearing concluded at 11.26 am**

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