

STANDING COMMITTEE ON PUBLIC ADMINISTRATION

**INQUIRY INTO PASTORAL LEASES
IN WESTERN AUSTRALIA**

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

SESSION TWO

Members

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

Hearing commenced at 9.57 am**Mr MARK FORRESTER,****Owner Manager, Kanandah Station, sworn and examined:**

The CHAIRMAN: I have to go through the same—you were here for the last hearing—thing. It is just that it is a process that we need to go through. Again, we would like to welcome you to the meeting. Before we begin, we will get you to take an oath or an affirmation.

[Witness took the oath.]

The CHAIRMAN: Would you like to state the capacity in which you are appearing in front of the committee today?

Mr Forrester: I am owner manager with Karen of Kanandah station and Balgair station on the Nullarbor.

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

Mr Forrester: Yes.

The CHAIRMAN: The 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 and try to speak into it, and ensure that you do not cover it with papers or make excessive 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 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 perhaps just make an opening statement to the committee about what your experiences are at the moment with regard to Kanandah station?

[10.00 am]

Mr Forrester: Well, Karen and I own and manage Kanandah station and Balgair station, which are both on the Nullarbor. We are certified organic beef producers. It is certainly the most numerous herd in Western Australia of certified organic beef, and Kanandah on its own is probably the largest certified organic property in Australia. I do not know that for sure, but I think it is the case. Typically, the southern rangeland, certainly of late, has not received too many positive stories. We see that it has a great future in producing a product that is currently in demand by around three per cent of people in the world that are prepared to pay a premium for that product. There is a great opportunity for the southern rangeland to participate in that, and certainly that is where we are headed with that enterprise. It is based on an independent auditing process, which is both appealing to the market, but appealing to, I think, the department as far as taking care of your environmental issues as well, and also animal welfare issues and so on. We are obviously concerned about the 2015 lease renewals. We see that there are numerous conditions in the draft lease that are additional to the previous lease.

The CHAIRMAN: Can you be perhaps a bit more specific, then, about those conditions?

Mr Forrester: I certainly will get to those. We were all offered a lease based on the terms of our existing lease. The new lease certainly contains many more conditions than the existing lease. The terms that specifically concern me and I think that will concern most are the terms in regard to right of termination and the way in which that can occur—I think specifically the terms surrounding the financial implication, or the implication if a company or an individual is in financial distress. For example, if this lease was in place in northern Australia currently—and I am talking about northern Australia across the territory and Queensland as well—there would be many, many leases that would be subject to termination now, and those leases —

The CHAIRMAN: On what basis do you mean?

Mr Forrester: On the basis that they have gone into administration.

Hon NIGEL HALLETT: Sorry, Mark. Have you gone back to your bank manager with this new —

Mr Forrester: I have spoken not to my bank manager as such, but someone in Rural Bank about it, yes.

Hon NIGEL HALLETT: And what was their reaction?

Mr Forrester: Their reaction supported my concern.

Hon NIGEL HALLETT: So being able to attract funding is going to be pretty difficult for you.

Mr Forrester: Well, a Western Australian pastoral lease in its current form is not as bankable as, for instance, an NT pastoral lease, which is a perpetual pastoral lease. The ability for the lessor to terminate that lease if the holding company is put into administration does not leave that bank any security whatsoever, whether that is the intention or not. It is there in black and white. The other specific area, of course, is the animal welfare. On two occasions since we have been at Kanandah, we have trucked cattle off during the drought. We had a drought from 2002 to 2009. We have had cattle at Kanandah and trucked them off. The drought-affected cattle looked skinny, and they were skinny. They went to farms—one at Hyden and one at Dardanup. Because they were in drought, we had to get our cattle off. But the farms in question got a visit from the RSPCA because they saw these drought-affected stock. So they came in with all guns blazing to our place of agistment. On both occasions they were completely satisfied when they realised what was happening, but under the terms of this new lease—it does not state who takes that action—if there is an action taken on an animal welfare ground, the minister has the right to terminate.

The CHAIRMAN: But the RSPCA took no action —

Mr Forrester: They took no further action, but they certainly inspected —

The CHAIRMAN: — except for the inspection and then they were satisfied.

Mr Forrester: Yes. I just make the point: at what point is action —

The CHAIRMAN: The definition of action is —

Mr Forrester: The definition of action. I sat on the Duncan review. As pastoralists, we have been endeavouring to increase our security of tenure, and the terms around 11.2 of this draft lease fly completely in the face of that intention, certainly the financial one. It effectively renders your lease unbankable. If you go to the head of ANZ, who are running out of pastoral leases as fast as they can, I might say, they will tell you that it makes no difference. As they have said on numerous occasions, a pastoral lease is as good as a freehold as far as bankability. But when you actually come to sign on the bottom line, it is a whole different story. So, I would be reasonably cautious about what weight you place in some bankers' assertions in that regard. The Rural Bank is typically a more reliable indication of the bankability of the lease—their interpretation of that.

Hon NIGEL HALLETT: What sort of penalty are banks putting in now for borrowed money above benchmark?

Mr Forrester: Or stock firms? That is entirely on a case-by-case basis and the level of risk that they see, but typically a stock firm will lend 50 per cent of the value of the lease, 50 per cent of the value of the stock on the lease and at probably a per cent and a half or two per cent above.

Hon NIGEL HALLETT: So in that eight to nine per cent bracket?

Mr Forrester: Yes, typically, but if the risk of that particular case was considered higher or lower, it is going to vary depending on what other security is held. The old lease, as we all heard, is a page and a quarter long; the new one is 15 or whatever. The new lease pulls out—unnecessarily so, in my view—conditions that are already in law in the Land Administration Act 1997 and spell them out here, totally unnecessarily because we are all subject to law and we are all subject to the Land Administration Act. It is there in black and white already. I am no lawyer and I have not exhaustively examined this, but the financial conditions and the animal welfare conditions are definitely in addition to any previous conditions of our lease agreement.

[10.10 am]

The CHAIRMAN: There is a school of thought, perhaps, that the draft lease really is just, if you like, a one-stop shop. The leases that you currently have at the moment are very limited in the actual amount of words that are in the few pages that you have. The draft lease is actually then just an extension of everything that is contained in the current leases, but all of that information—as you just said, you are subject to the Land Administration Act—just puts it into that draft lease so that you can then find out what all of those conditions are. At the moment, if you were to try to interpret your lease, you would have to go to the Land Administration Act and look at those sections. That is one school of thought that this is what this draft lease is. So you would not agree with what that view of what the draft lease is?

Mr Forrester: I do not know that it is any more difficult to go to your draft lease or the department's site and read between section 96 or whatever it is and section 130 of the Land Administration Act.

The CHAIRMAN: But also then the other environmental acts and things that would actually form part of your lease at the moment but may not specifically be noted in the lease; in this one they will be there.

Mr Forrester: I can assure members that the environmental parts of the lease are the least of my concerns.

The CHAIRMAN: Your product that you grow, is that for the export market or the domestic market?

Mr Forrester: It is both, but principally domestic at this stage.

The CHAIRMAN: At the time when the export of live animals was terminated, basically, overnight, how did that affect your business at that time and what have been the ongoing problems since then?

Mr Forrester: The ban on live export to Indonesia was perhaps one of the most short-sighted decisions that I have seen a government make—a kneejerk decision that insulted our major trading partner. Obviously, across northern Australia, it had a profound effect, but the flow-on effect of that is that you have a knockdown effect on stock prices. It does not matter whether you are producing organic beef to the local market or export market, or you are producing feedlot cattle into Harvey Beef for Coles or Woolies or whoever it might be, or you are producing fat lambs or whatever it is; the effect is profound on the livestock industry Australia-wide. It beggars belief that a government would react in such a way, in my view.

The CHAIRMAN: Are you still feeling the effects of that today, or has the industry recovered somewhat now?

Mr Forrester: No. Across northern Australia the effects of that continue; there is no doubt about that, but that was not the only reason that those businesses were struggling at that particular point in time. It was probably one of three major events, but that will take years to right itself, that decision. There are a few good signs around at the moment, but we will just wait and see how that goes. I think it is a real lesson for any government or anyone in that position as far as making a decision, because in many respects the damage to the trading partner is greater than what it is to us and the partnership.

The CHAIRMAN: Are dogs an issue on your pastoral lease?

Mr Forrester: Dogs are. We control dogs, but our large stock are not as affected as small stock, quite obviously. But if they get into numbers, particularly in dry times, they cause us an issue. We are in a situation where wild dogs probably are not our largest feral impact; there are other issues that are more important to us.

The CHAIRMAN: Could you talk to us about those issues, then?

Mr Forrester: Certainly, camels are a major impact on infrastructure. We have around 180 kilometres frontage to crown land on Kanandah Station and we have resident populations of feral camels, but we also have camels coming in from outside, on the Great Victoria Desert side. Just recently we have had a helicopter shooting; we spent one day there and did not do that well, actually, on Kanandah, as far as getting numbers. But just north of Kanandah, they shot quite a few; I am not sure of the total number.

The CHAIRMAN: I have to say I am not familiar with this, so could you give me some idea of numbers? Are we talking about a dozen camels or 3 000 camels?

Mr Forrester: They shot 100 on Kanandah, but we probably shot 500 to 600 in the last eight months ourselves, so that gives you a bit of an idea. There are still plenty of camels on Kanandah, but Kanandah is 2.5 million acres, so what you can do in a day in a helicopter is fairly limited. Outside the boundary —

The CHAIRMAN: What effect does a camel have? What do the camels do?

Mr Forrester: A bull camel when it is in rut, it does not take notice of much at all, particularly fencing. That is our biggest issue with fencing. They have a major impact on water infrastructure, if it is not designed in such a way that can withstand their impact. They have a large impact on certain types of flora, particularly quandong trees and plants like that. Certainly in the open country north, in any of the waterholes and rock holes in Aboriginal lands, they have a major impact up there because they dominate that area.

The CHAIRMAN: What is the solution?

Mr Forrester: You have to get rid of them. Like the day they came and—I have not spoken to Ross about this—shot down on Kanandah they flew down from an Aboriginal community up north, and on their way down on an area they described to me as being around about 300 to 500 acres, they shot 250 at Plumridge Lakes and ran out of time because they were heading to us. Plumridge Lakes is quite a large area—a nature reserve straight north of us. So they were heading back up there, and I do not know how they did. But there are significant numbers of camels in central Australia and they move freely and move over large areas, and certainly in pastoral areas they create major problems with infrastructure.

The CHAIRMAN: There is not a market for the camels? Certified organic camel?

Mr Forrester: We have been there 13 years, and I think for the first three years I thought that might have been the case. There is certainly a market in the Gulf states, but they are not too keen on

paying a lot for them because they are still an inferior product, or viewed as such. Camel meat is quite good, but they are viewed as, traditionally in those countries, inferior to beef, and from our point of view producing camels, although they look after themselves very well I have to say, they are very expensive to produce and transport. You can kill them in Western Australia, if you can transport them. A camel costs roughly about three times what a beast costs to transport.

The CHAIRMAN: So are there any other feral species on your property?

Mr Forrester: The forgotten feral—the rabbit. The rabbit is probably even greater than the camel; in southern Australia it is the greatest feral pest around but no-one talks about him anymore because we have sort of thrown our arms in the air—a bit like the cane toad up north, I think.

The CHAIRMAN: So what about other native fauna, have they been affected? Apart from kangaroos, do you have other native animals on your property?

[10.20 am]

Mr Forrester: We certainly do.

The CHAIRMAN: Have they been affected by the ferals?

Mr Forrester: I think there is certainly an impact, but probably on the Nullarbor certainly the biggest impact on native fauna would be the cats. The feral cats decimate the native population.

The CHAIRMAN: Feral cats?

Mr Forrester: Yes. From our production point of view the feral cats mean very little, but of course we happen to like the native animals and what have you. We have on our property a bird called the Naretha Bluebonnet. It is a species that lives only on the western side of the Nullarbor. For instance, in 2011 we had nine nesting pairs in the homestead area, and of course that was a good year. After the good year there was the mouse plague, and then the cat numbers built up and of course the birds are decimated. We see that, but we are not in a position that we can control that.

Hon JACQUI BOYDELL: I just had a couple of questions. Mark, I just want to go back to a couple of your comments around the lease and the impacts of the current draft lease.

Mr Forrester: Yes.

Hon JACQUI BOYDELL: I am just trying to get an indication from you of what your opinion is, say with the animal welfare issue, where you described your scenario, which to me actually sounded like that worked quite well. I would like to hear what your alternative for government to manage that process would be. Around the rights of termination, if the minister does not have the right, who should; and how better do you think that should be managed?

Mr Forrester: I think under the current Land Administration Act there is a process currently whereby you can be issued a default notice, and if you fail to act on that default notice, then you are in breach and you are liable to forfeiture; it is already there.

Hon NIGEL HALLETT: What is the time frame of that, Mark?

Mr Forrester: Let us see: what example would you like to go for?

Hon NIGEL HALLETT: No, of termination of the lease, once they have given you notice.

Mr Forrester: That is entirely up to the minister, but there has got to be a willingness to act. The tools are there currently to act if there is an issue. It does not have to be an immediate right of termination. I was going to bring up the fact that, for instance, there is a specific reference in section 11(2)(d) to Aboriginal and Torres Strait Islander corporations. I thought we were the same under one law in Australia; we do not treat one different from the other. I am aware of a couple of other examples, but there is two in particular at Windidda, and there is an issue on Billiluna and Lake Gregory. That has been going on for five years up there—in fact it has been going on for longer than that. The minister has the power to deal with it currently, but will not. In the case of Windidda,

I thought the minister—Alannah at the time—was going to act in that case, where there was a significant animal welfare issue. Do not get me wrong, I am not going to harp on Aboriginal-owned properties, because some white-owned properties are just as bad or could be in that situation. But there has to be a willingness to act, and currently, or historically, despite that the minister may have been given certain advice from the board because it is the process currently, the board makes that determination and then passes on that advice, or there has been a willingness to act. In many respects, the point of all this is to try to compensate for a shortfall in the relevant department's ability or willingness to act, rather than policing pastoral leases as such, or lessees. I sat on the Duncan review—Wendy is here—and I have had quite a few discussions with her. In my view, the security of tenure of pastoral leases should have been tied to achievable environmental or development outcomes, rather than trying to hit everyone over the head with the back of an axe; encourage compliance and improvement in practice by offering what we have been asking for, which is an improvement in tenure. But that has not happened. I do understand the difficulty of providing improved tenure with the Native Title Act—I do understand that that is difficult—but there seems to be a reversion all the time to the policing, rather than encouraging compliance. I do not know if that answered all your questions.

Hon JACQUI BOYDELL: Thank you.

Hon DARREN WEST: Another thing you just made me think of is that sort of about six, eight, 10 years ago there was talk of some sort of a rolling lease. Do you sort of have a view on the potential of that as an option, or have we sort of gone past that?

Mr Forrester: I think we have gone past that. That was a rolling lease with a whole lot of conditions attached to it that were not that favourable. We have been trying to encourage a perpetual pastoral lease. I am of the view that we are not really too bad off with the lease that we have, except we require a couple of changes and I think they are potentially going to be dealt with anyway. A perpetual lease gives a banker a far greater level of security when you are applying for funds. Also, it gives the lessee far greater incentive to invest. I am trying to throw it together. In 13 years we have probably spent about \$3 million out there. We are not wealthy people; we go away and contract so we earn money to put back into the lease on the basis that we have been offered renewal on the conditions of the lease that we currently have—a 47-year lease or a 43-year lease or whatever it is. We need to encourage people to invest. There has been a great move out of investing in pastoral leases. You can see that in the deterioration of infrastructure right throughout the southern rangeland, in particular. We need to encourage people to invest back into pastoral leases and rangeland care and what have you. You have to give them some security; it is as simple as that. Would you go and spend \$3 million on a house in Perth if someone could come into your backyard and if they saw your dog chained up and looking a bit skinny, you could lose your house?

The CHAIRMAN: I think you make a good point.

[10.30 am]

Mr Forrester: The southern rangeland has some wonderful opportunities that have to be grasped. Keith has focused on sandalwood. The sandalwood industry—Wendy Duncan will know where I am coming from here—is currently government controlled and is monopolised by one contractor, effectively; that is, the actual marketing of that sandalwood. I have made the analogy with the pearl industry when Mikimoto had control of it. Southern rangeland industry has been decimated by a number of factors; one of those is wild dogs, but that is not the only reason. Certainly, livestock grazing has had a major impact. With the sandalwood industry, if the government was fair dinkum about creating a vibrant sustainable industry out there, and it gave up a few million bucks that it gets—the department I think gets a few bob out of the sandalwood industry, which Mark would know about—and created a managed private sandalwood industry and allowed private operators to both harvest and market, you have got potentially a world-class industry there. It is a high-end industry, but FPC or the government cannot give it up. For me it is a no-brainer. We do not actually

have a lot of it, so we would not benefit because there is not a lot of sandalwood on the Nullarbor. For properties, particularly less viable traditional grazing properties from Kalgoorlie to Carnarvon, you have got an industry there waiting to happen.

The CHAIRMAN: Mr Forrester, thank you so much for coming today. I really appreciate the evidence that you have given us. It has given us quite a clear picture of what is happening on your property there at Kanandah.

Hon JACQUI BOYDELL: Madam Chair, I have one last question.

The CHAIRMAN: We will let Jacqui Boydell squeeze one last question in.

Hon JACQUI BOYDELL: It is really to gather your opinion. From a government perspective of how you are managing that pastoral lease and you are looking at financial viability, land tenure and re-investment back into pastoral leases, taking on board your comments. I completely agree. When I think, from a government perspective, when you have the lease in terms of the constraints you put in the lease which might affect your capacity to get finance, which clearly it does because that is the strong message coming through; surely, if you are living on the lease and you are investing in the lease, you are managing the property to the best of your ability. It would seem unreasonable to me that government would step in and take your lease off you because you are clearly managing the property. Is it more a question of the financial institution not understanding the industry enough? Is it more about making them aware that if you are investing in the property you are going to be looking after it and animal welfare issues? From a lease perspective, if you do not have those constraints in place, how do you encourage compliance—that was your comment; but also how do you encourage the financial institution to back you? I get that is the conundrum, but what is your thought on that? Do you think that in some aspects it is more the financial institution not understanding the pastoral industry at its best? Your comment was that rural institutions or banks are probably more an indicator of or understand the industry better. Is it about the industry pitching itself better to financial organisations as well?

Mr Forrester: The industry in northern Australia pitched itself to financial institutions recently fairly well—to their great sorrow now—a bit too well really. Typically, the big four banks claim to understand, but probably do not understand the pastoral industry that well and as soon as things get a bit tight or there is concern, they react, as they are now. This is playing out as we speak. The NAB, the ANZ and the Commonwealth have major portfolios of properties in problems at the moment, because they read in the *Outback* magazine how things are great and things are booming up north and they want to be in on it, and they jump in and back at levels that are unsustainable.

Hon JACQUI BOYDELL: Do you think that is attached to the lease? To me, it would not be.

Mr Forrester: No.

Hon JACQUI BOYDELL: It is about industry engaging.

Mr Forrester: It is perception.

Hon JACQUI BOYDELL: That is right.

Mr Forrester: As far as the actual lease, if you strip everything off, how bankable is it or not? Yes, whatever you like to say it will come back to understanding the industry that supports the ability to repay that loan. The banks typically do not understand the pastoral industry, or their thinking is perhaps too short-term—if you are struggling with drought or whatever. They understand cropping because you invest in May and you get it back in November—maybe.

Hon NIGEL HALLETT: Maybe!

Mr Forrester: The pastoral industry is a little bit different. They cannot see their cows all the time. You might not see your cows for two years. I do not think you are going to change that unless there is a more secure form of lease, because they require something to sell at the end of the day. If you

cannot repay, they want something to sell. They do not care about you; they want to get their money back.

The CHAIRMAN: I am afraid that is where we will have to leave it. Thank you, very much. Your evidence has been most useful to us today. I appreciate it.

Hearing concluded at 10.38 am
