

STANDING COMMITTEE ON PUBLIC ADMINISTRATION

INQUIRY INTO PASTORAL LEASES IN WESTERN AUSTRALIA

**TRANSCRIPT OF EVIDENCE
TAKEN AT PORT HEDLAND
WEDNESDAY, 6 NOVEMBER 2013**

SESSION FOUR

Members

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

Hearing commenced at 10.02 am

Dr ANTHONY RYAN,
General Manager, Operations, Gumala Aboriginal Corporation, sworn and examined:

The CHAIRMAN: Perhaps we will start with the formalities. I welcome you to the committee, and ask you to take an oath or affirmation.

[Witness took the oath.]

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

Dr Ryan: I have, 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 and try to speak into it, ensure that you do not cover it with papers or make a 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?

Dr Ryan: I would. Gumala Aboriginal Corporation was formed in 1996 to represent the collective interests of traditional owner groups who were negotiating with Hamersley Iron Pty Ltd. The three language groups represented by Gumala Aboriginal Corporation are Nyiyaparli, Banyjima and Innawonga. In March 1997, the traditional owners, Gumala Aboriginal Corporation and Hamersley Iron, signed the Yandi land use agreement. This agreement primarily relates to the Yandicoogina iron ore project. It was a historic agreement because it was the first land use agreement to be signed in Australia with traditional owners. The agreement also represented a win-win for all parties as it enabled Hamersley Iron to proceed with developing the Yandicoogina mine located in the Hamersley Ranges of the Pilbara region. As part of the agreement, the traditional owners have benefited from receiving land use compensation from Hamersley and Rio Tinto. Gumala Aboriginal Corporation uses the compensation funds to deliver education, training, employment opportunities, health and wellbeing programs, heritage protection work, and work in-kind assistance for community development. Because of this agreement, there has been significant improvement in the life conditions and opportunities to a large number of traditional owners. At the moment we have about 1 200 members in our corporation.

When the agreement was drafted in 1997, it was the intention of all parties and also the intention of the then titled Minister for Lands for Gumala Aboriginal Corporation to be granted a lease in perpetuity under section 83 of the Land Administration Act 1997 over specified areas of land located in the Rocklea and Juna Downs pastoral leases, which are currently held in Hamersley’s name. Section 83 states that —

- (1) The Minister may for the purposes of advancing the interests of any Aboriginal person or persons —

...

- (b) grant a lease of Crown land, whether for a fixed term or in perpetuity, to that person or those persons, or to an approved body corporate, on such conditions as the Minister thinks fit in the best interests of the person or persons concerned.

Section 5.1 (b) of the Yandi land use agreement states that Hamersley agrees to —

- (i) obtain the approval of the State to excise the two areas marked in blue on Plan 7a annexed to Schedule 7, —

I am holding up that plan —

from the Juna Downs and Rocklea pastoral leases; and

- (ii) procure the agreement of the State to grant Gumala leasehold tenure for those areas, ...

This was an agreement back in 1997. The specified areas indicated on the Juna Downs and the Rocklea pastoral leases are of significant cultural importance to the traditional owners. Gumala Aboriginal Corporation has assisted in maintaining homeland communities on these areas since incorporation.

“Homeland communities” can be defined as small, decentralised communities of close kin, established by the movement of Aboriginal peoples to land of social, cultural and economic significance to them. They are established so that Aboriginal people can maintain a connection with their traditional land. The traditional owners have a strong connection with the areas of land identified in schedule 7. Homeland communities were already there before the Yandi land use agreement was signed. By raising their families on homelands, the traditional owners are able to maintain a deep spiritual connection with the land. In signing the Yandi land use agreement, Gumala Aboriginal Corporation and the traditional owners requested that section 5.1 be included in the Yandi land use agreement. Unfortunately the land has never been excised from the lease.

Sixteen years after signing the agreement, the traditional owners’ desire for leasehold tenure of the three homeland locations in the two leases remains strong. Three Gumala Aboriginal Corporation homeland communities will be affected by the expiry of the pastoral leases. In the Rocklea pastoral lease, there are two homelands—Bellary Springs and Ngumee-Ngu. Bellary Springs is located just off the Paraburdoo–Tom Price Road in Western Australia, about 1 010 kilometres north-north-east of Perth. Bellary Springs is home to approximately 40 to 50 traditional owners. Gumala Aboriginal Corporation has invested in developing a sustainable Bellary Springs homeland community. In 2012, Gumala Aboriginal Corporation assisted the community in building a community centre, which is now used to host community functions, and learning, cultural and education programs. The community centre also enables support programs to take place for health initiatives such as dental health and paediatric support. Ngumee-Ngu is located 25 kilometres out of Tom Price and is five kilometres from the Wakathuni community on Innawonga country. A Gumala Aboriginal Corporation member, Dawn Hicks, is an elder of Ngumee-Ngu, and her mother, Lola Young, is responsible for bringing their family back to this traditional homeland. Lola Young wrote a book about this journey to the homelands titled *In My Mother’s Name*.

On the Juna Downs pastoral lease is the Windell Block homeland. Windell Block is on Banyjima country. It has come to Gumala Aboriginal Corporation’s attention that a potential outcome of the possible expiry of pastoral leases is that part of the Juna Downs pastoral lease may be excised and the boundaries of the Karijini National Park extended to include the Windell Block. This would in turn potentially have adverse effects on the local community.

The CHAIRMAN: Is your statement much longer?

Dr Ryan: Yes.

The CHAIRMAN: Did you intend to read the whole thing into evidence?

Dr Ryan: Yes, I did.

The CHAIRMAN: I am not sure whether that is the appropriate way to continue.

Hon DARREN WEST: We will not have much time to ask questions.

The CHAIRMAN: I think that was really just an opportunity for you to give us a bit of background. Perhaps if you give us that copy, we can take that into evidence, if you are happy with that

Dr Ryan: Sure. I will just go through and summarise.

The CHAIRMAN: If you just give us the main points.

Hon DARREN WEST: That would be good.

[10.10 am]

Dr Ryan: Homeland communities are important because they have a range of significant positive impacts on Indigenous communities. It has been shown that there have been more positive health and social outcomes for Indigenous people in those homeland communities compared to the more condensed populations. To date there has probably not been as much consultation with our members and the government about what is going to happen with the expiring of the lease. The position for Gumala —

The CHAIRMAN: You say “not much consultation”, but what level of consultation has there been?

Dr Ryan: It has been going on for 16 years since we signed. I know there have been times—this was before my time, so I do not have the complete history—but we are coming to a point where it is about to expire and the traditional owners are wondering what is going to happen. It is the uncertainty with that which is really worrying for them and also that affects investment in those areas as well.

The CHAIRMAN: The 1997 Yandicoogina agreement stated that those two areas of blue, which you called the homeland communities, were to be excised.

Dr Ryan: That is right.

The CHAIRMAN: And then kept in perpetuity.

Dr Ryan: Yes. That was the goal.

The CHAIRMAN: What has been the barrier to that actually happening? Why has that not happened over that period of time?

Dr Ryan: It is something which Rio supports. It is something that we support. I am not sure about —

The CHAIRMAN: What stopped it happening? Why has it not progressed further than an agreement that everyone thinks is a good idea?

Dr Ryan: I think one of the barriers is the support for the homeland movement. A real question about the homeland movement is the economics behind it. I believe we are transitioning into a new economy with Indigenous corporations. It is a different world to what it was like 10 to 20 years ago when the homeland communities were originally starting up. I think that is one of the big questions as far as —

The CHAIRMAN: Who is not accepting of the homeland communities? If you say Rio is onside and the corporation wants it to happen, where is the barrier?

Dr Ryan: I do not know where that barrier is, but this is a position that we have had ever since we got incorporated. It is in our trust deed to have homeland communities. We do not have that at the moment.

Hon DARREN WEST: Do you deal with the Department of Aboriginal Affairs? Do you deal with Lands? Who are you trying to deal with on this?

Dr Ryan: I have stepped in to look over this, but as far as us dealing with people for the land that we are talking about, I am not aware that we have had recent conversations on this. Coming here is really to put on notice what our intentions are with the leases expiring.

The CHAIRMAN: Rio is actually the leaseholder?

Dr Ryan: Rio is the leaseholder. GAC's position is that it wants the two leases to be put into Gumala Aboriginal Corporation's name for a period of 10 years.

The CHAIRMAN: The two homeland community sections that are to be excised to go from Rio to Gumala?

Dr Ryan: That is right, for 10 years. The two homelands represent—one is for the Banyjima group and the other is for the Innawonga group. Both of those groups do not have fully functional corporations yet. The Innawonga Corporation has been recently created and the Banyjima corporation is yet to be created. But Gumala is seeking to have the title put into Gumala's name for a period of 10 years but then to work with the appropriate corporation for it to be transferred.

The CHAIRMAN: Rio is supportive of that position?

Dr Ryan: That is right.

The CHAIRMAN: It would be for Rio, presumably, as the land tenure holder, to make that approach to say, "We want these two pieces of land excised." That is what has not happened?

Dr Ryan: That is probably what has not happened, but in our conversations with Rio they have indicated that they are supportive of it. In the initial signing of the document, that was also a key term.

Hon DARREN WEST: The blue piece of land you have identified that you want to transfer, what is the proposed use of that by the Gumala Aboriginal Corporation or the people who intend to go there? Is it commercial land use or is it just a place to go—what is the plan?

Dr Ryan: It has cultural significance. It would not be densely populated, although there would be people living on it, and there currently are people living on it.

The CHAIRMAN: Is that lore ground?

Dr Ryan: Some of them are lore grounds, but there are also communities living there. It is very symbolic for the groups. These are places of great importance. It is symbolic not just for the people living there; it is symbolic for the whole community. Even though it would cost money to maintain these homeland communities, there is support from the wider Gumala membership because it represents greater empowerment to have access to that land. Once that occurs, it opens up a world of possibilities. There is a thirst for Indigenous products not only in Australia but around the world. If you have a group that is very closely connected to the land, all of a sudden you have an area for cultural awareness or for artwork. It also has health benefits. It opens up a world of possibilities for benefits and what can be done.

Hon JACQUI BOYDELL: If that area is excised, what is Gumala's land management process—apart from the homeland communities—from an environmental perspective? Along with the pastoral lease, how will you manage that? Do you have a framework in place?

Dr Ryan: We do not have a framework in place for that at the moment. That would be a strength of the communities. For example, we recently got invited from Rangelands to put together a traditional

owner ranger team. We are working towards something like that. That would be in the Karijini area looking at feral animal species and land care. There is a very natural predisposition and motivation for the traditional owners to care for the land. We do not have that framework in place because we have not had the homeland leases.

Hon JACQUI BOYDELL: What steps are you taking to get the lease?

Dr Ryan: A motivation for attending today was to put it back on the agenda, to say this is something that we want.

Hon DARREN WEST: You are suggesting that at the 2015 changeover time, that would be an ideal time to make these arrangements, or do you think it should be done before that or have it as part of the —

Dr Ryan: The motivation is the expiry date. The sooner the better, but it makes sense if the lease is about to expire, that that is an appropriate time.

[10.20 am]

Hon JACQUI BOYDELL: Rio is the current leaseholder. When you say the lease is going to expire, it is actually going through a lease renewal; it is not potentially going to expire. Is your organisation dealing with Rio in terms of whether they are going to sign that lease, because that is the only thing that will continue your interest in trying to excise that land?

Dr Ryan: That is right. Under the assumption that Rio is going through that process, again, I have stepped in to come here today.

Hon JACQUI BOYDELL: Yes, I appreciate that.

Dr Ryan: I know that going out to some of the Rio lease lands, I have not heard anything about the lease expiring. It still is a concern for our membership because there is a history of members going back generations being disposed from land. When they sat down to sign the agreement, this was one of the things that they stressed: they wanted a homeland community. It has been on the agenda from day one. I am not aware of the full history of how come it has not actually happened, but I can certainly reiterate that the membership wants it.

The CHAIRMAN: The Department of Lands, to our best understanding, in part of this process of the renewals at 2015, has already planned and put out that plan in relation to those areas to be excised. You are not aware of whether those homeland communities are already in that proposal that the Department of Lands —

Dr Ryan: When the agreement was initially signed, there was support for this. But that was 13 years ago. With the upcoming plans, no.

The CHAIRMAN: We do not have that in front of us here to see what is there.

Dr Ryan: This is where I say there is lack of engagement. There may be things happening that we are not aware of.

The CHAIRMAN: I am failing to understand your involvement in all of this on behalf of Gumala, if plans for excision are already out and whether or not you know that the homeland communities are part of that proposed excision. You do not seem to be aware of what stage they are at. One would assume, if Rio has agreed to it—Rio being the leaseholder—it would then have negotiated with the Department of Lands, “When you do the excisions, we want these two pieces excised in perpetuity or for the 10-year period or whatever.” There would have either been an agreement or not an agreement to that. But you have no knowledge?

Dr Ryan: I know that Rio is supportive, but where they are with their agreements I do not personally have that knowledge.

The CHAIRMAN: Are you actually conducting the negotiations on behalf of Gumala with Rio, or who is actually doing that then?

Dr Ryan: That would be the CEO, Steve Mav, who would be doing that.

The CHAIRMAN: I do not have any further questions.

Hearing concluded at 10.23 am