

*Select Committee into Mining on Pinjin Station — Final Report —
“Inquiry into Mining on Pinjin Station” — Motion*

Resumed from 14 October on the following motion moved by Hon Kyle McGinn —

That the report be noted.

The DEPUTY CHAIR: Hon Kyle McGinn is not in the chamber, so I give the call to Hon Robin Scott.

Hon ROBIN SCOTT: Thank you, Madam Chair. I believe that the motion that the report be noted has been moved already. I rise to talk about the final report of the Select Committee into Mining on Pinjin Station, tabled on 14 May 2020. I begin by acknowledging and thanking the members of the committee who carried out their duties very diligently. Those members are Hon Robin Chapple, Hon Kyle McGinn and Hon Jacqui Boydell, as well as Hon Michael Mischin, who was deputy chair of the committee. I would like to briefly acknowledge and thank Hon Michael Mischin who made a special effort to assist me in my duties as chair, and for which I am particularly appreciative.

This was my first experience as a committee chair and it was described to me by some people as being a baptism of fire. That is because many people considered this to be a quite unusual inquiry. Normally, inquiries, particularly those of select committees, investigate a specific issue and make recommendations to the government about future actions to address the impact of that issue. This committee was formed on the back of a long-running commercial dispute between two parties, a pastoral leaseholder and a mining company, in a remote area of the goldfields. Prior to the committee being formed, I had tabled in Parliament a series of photographs showing racist signage and described allegations of racist behaviour, which I know was shocking to many members of this chamber. The Select Committee into Mining on Pinjin Station was therefore formed to inquire into the mining operations on Pinjin station with reference to the actions of mine operators, pastoral leaseholders and government agencies. The committee was to have particular reference to allegations of intimidation, abuse and racial discrimination alleged to have occurred from 2012 onwards. Ultimately, the committee narrowed its focus to two main areas. The first area of focus was to look at the government’s involvement, particularly the actions and decisions of government in the lead-up to the dispute at Pinjin station and how those agencies managed the dispute. The second area of focus was on parts of the dispute between miners and pastoralists that were specifically raised with the committee. I would like to talk briefly about each of these.

In respect of government agencies and their conduct, the two departments that had the most involvement were the Department of Mines, Industry Regulation and Safety and the Department of Planning, Lands and Heritage. The committee found that DMIRS largely acted appropriately in its actions and decision-making. On behalf of the committee, I would like to formally recognise the time and resources that this dispute consumed for DMIRS and I thank its staff for their cooperation. The committee makes two recommendations on how DMIRS can improve its internal processes. I must admit that I was a bit disappointed with the government’s response to those recommendations. It could not even fill one page to address both recommendations. In effect, the response was, “Don’t worry about that. We’ve already got it sorted.” There was not much more detail than that.

The committee found that DPLH acted appropriately in its involvement in matters under dispute. The report states —

The Committee is confident that the Department of Planning, Lands and Heritage understands the issues at the root of the dispute and the steps required to address them for the future.

That is all I will say about the committee’s focus on government agencies and their involvement in the dispute. I encourage all members to read the committee’s final report for further details.

I will now turn to the second focus of the committee: the issues raised by the parties to the dispute. One party to the dispute was Tisala Pty Ltd, an Aboriginal corporation that held a pastoral lease over the land. The other major party was Hawthorn Resources, a company with mining interests on the pastoral station. From the outset it became clear that the committee was dealing with parties that had an imbalance in sophistication and knowledge of mining and pastoral matters. On one hand, the mining company was very sophisticated and experienced with such matters, whereas Tisala relied very heavily on the advice of certain individuals. The committee came to the view that this over-reliance may have been to Tisala’s detriment. For example, the language used in correspondence from Tisala to the committee and to other entities varied substantially. The committee felt that multiple voices were speaking for Tisala, despite all correspondence being signed off by its directors.

Generally speaking, and not on behalf of the committee, I would suggest that many people in the regions are giving very bad advice and offering extremely dodgy consulting services to Aboriginal people. There is a serious problem in the community with the quality of the financial and legal aid advice being provided to Aboriginal corporations. Both state and federal governments should take up more action in this space. This committee unveiled what I believe is one example. In fact, I fell under the spell of this very same bad advice and the extremely dodgy information that was supplied to me. I went into this inquiry convinced that I was going to be the judge, jury and hangman. Nothing could have been further from the truth. If only I knew at the beginning what was expected of me. For a while, I believed that I was a shag on a rock. I felt that the committee was against me. Everything I said was questioned.

Looking back, I am so glad that Hon Kyle McGinn, Hon Jacqui Boydell and Hon Robin Chapple kept me on a straight and narrow path. They basically wheelbarrowed me through this inquiry and I will always be grateful for that. Hon Michael Mischin, with his razor-sharp legal mind, would dissect everything I said and all the evidence that came in, and that is why I am very happy with the final report.

My feelings at the beginning of the committee inquiry were strengthened by the first trip I took to Pinjin station long before the inquiry started. I was greeted with a hostile reception from the mining company, which only reinforced my thoughts that the mining company was the bad guy and the Aboriginal corporation was the good guy. But I am happy to say that thanks to the committee members, that was all straightened out for me right from the beginning. Ultimately, the committee made a series of findings with regard to racist signage that appeared at Pinjin station in June 2018. The committee considered there to be insufficient evidence and no obvious motive to suggest that the mine operators were responsible for the signs. Although there was insufficient evidence regarding the signage, there were plenty of other committee findings that were beneficial and will assist a range of stakeholders moving forward.

I would like to again commend the other members of the committee who carried out their duties to a high standard. I came into this inquiry having very little understanding of what a parliamentary committee does or how it operates, but after 38 hours of hearings, including listening to a lot of evidence, I have learnt a lot and I can honestly say that the committee function of this chamber works—it really does work! It allows members of the political spectrum an equal opportunity to ask questions and seek the truth. It has a level of cooperation between committee members that allows the truth to be revealed to the greatest extent.

To conclude, I sincerely thank Mr Sam Hastings, the committee's legal advisory officer, for his help and guidance throughout the inquiry. I also thank Mr Mark Warner, the committee clerk, for not only his clerical duties, but also his logistical skills in organising the accommodation, vehicles and supplies required when we travelled to Pinjin station. Last but not least, I thank the Hansard ladies Ms Melissa Pilkington and Ms Sandra Stockman who must have thought we were going to drive off the end of the earth on their trip out to Pinjin station. Thank you.

Hon KYLE MCGINN: I thank the Chair of the Select Committee into Mining on Pinjin Station, Hon Robin Scott, for those comments and his summary of what was quite an interesting inquiry to say the least. I made some brief comments a couple of weeks ago that I really did not get into, so I might firstly thank everyone who was a part of the inquiry, particularly all the members that Hon Robin Scott mentioned. Being my first term in Parliament, it comes as no surprise that this inquiry was a new experience for me, particularly with Pinjin station being in my electorate. When we travelled to Pinjin station, it was quite an experience. I had heard plenty about the road before we went out there and I can categorically say that Hon Robin Scott is a better off-road driver than Hon Robin Chapple if the cleanliness of Hon Robin Scott's car and the absolute dirtiness of Hon Robin Chapple's car is anything to go by! It looked like we had both driven along a separate route, to be honest. There are some photos flying around, so hopefully I can find them to show members—it is quite an image!

The first time this inquiry was brought to my attention was when Hon Robin Scott raised the issues within Parliament about the mining company and the argument around the pastoral lease and crown land, which then turned into some hostilities between the mining company, Hawthorn Resources, and Tisala Pty Ltd, which has the pastoral lease on Pinjin station. I will try my best to go through the report in stages. I think it is really important for members in the chamber to get an understanding of the challenges we faced through this inquiry and some of the committee's findings in the report and how they differ from the original positions put in this place. After listening to Hon Robin Scott, it is clear that the direction of the committee took a completely different turn from what was originally expected. That is reflected in some of the findings, particularly the dealings of one individual, which members will find is a theme throughout the report. That individual is Mr Steven Kean, who, at the time of launching this inquiry, was an electorate officer for Hon Robin Scott, the Chair of the Select Committee into Mining on Pinjin Station.

From the beginning, starting at page 7 of the report, I refer to the involvement of Tisala Pty Ltd in pastoral operations. Tisala had acquired Pinjin station. I originally understood that Pinjin was a station that ran cattle. The owners drove and sold the cattle and that was how they maintained themselves on that lease. On 2 May 1991, the pastoral lease was transferred to Tisala and Pinjin station was acquired with the financial assistance of \$730 000 from the Aboriginal and Torres Strait Islander Commission, pursuant to section 15 of the Aboriginal and Torres Strait Islander Commission Act 1989.

During the inquiry, the committee received correspondences from the Menzies Aboriginal Corporation. Menzies is about 130 kays out of Kalgoorlie. The corporation provided the following background —

Tisala Pty Ltd was established as the Trustee of the trust by deed between Maurice Eugene Trichot and Tisala dated 25th January 1991.

The original beneficiaries named in the Deed of Settlement were: The Eastern Goldfields Aboriginal Advancement Council, the Ninga Mia Village Aboriginal Corporation, the Menzies Aboriginal Corporation and the Tabu Bindalunga Aboriginal Corporation.

After a lot of work, the committee determined not to inquire into whether Tisala was a trustee company and the terms of any such trust, as such matters were outside the committee's terms of reference. However, it was clear from two sources that Tisala was set up primarily as an Aboriginal corporation for the benefit of Aboriginal people. We also heard that the main activity on the station was pastoral activity. However, as at November 2018, mustering had not taken place for over four years. Tisala receives income through an agreement with Saracen Mineral Holdings for the use of parts of the Pinjin pastoral lease for mining-related activities. Saracen was another mining venture in that area close to Pinjin, which Tisala was to work with to ensure that it could work on that land.

It was quite interesting delving into working out where the office holders were. Management of Tisala has been largely consistent since 2010. At the commencement of the inquiry, Tisala had three directors: Mr Lawrence Thomas, who became a director of Tisala on 4 November 2004, and Mr Leo Thomas and Mr Keenan Thomas, who had been directors since 1 April 2010 and 10 September 2010, respectively. As I said, Mr Lawrence Thomas had been a director since 2004. That was going back well before issues had come up with Hawthorn Resources and before discussions between Hawthorn and Tisala. We wrote to Tisala inviting its managers to make a submission to the inquiry and received submissions from both Lawrence and Leo Thomas. We also heard oral evidence from Leo and Lawrence on Pinjin station. When we got there, it was a real eye-opener to station life. We met in half a tin shed. Full credit to the Hansard people, who did a fabulous job ensuring that they picked up everything we said in half a shed, and it was quite hot out there. I must make mention of Hon Michael Mischin's beautiful dress wear for the day. He wore a fabulous hat and looked like he was geared up to go bush for a few days. We had absolutely no interaction with Mr Keenan Thomas, who was also said to be a director. As it says in the report, we could not find time, and his name was barely mentioned throughout the disputes. It was clearly Mr Leo Thomas and Mr Lawrence Thomas who played the major role as directors.

The Thomases obviously ran Tisala. We discovered that they paid \$730 000 to purchase Pinjin station, which was quite the investment to start with. At first, it seemed the intention was to run and potentially diversify the station. We saw that in 2007, Tisala, through the directors, had plans to diversify the operations of the pastoral station and work with government agencies to facilitate this. Through our hearings, we met Mr Karel Eringa from the Department of Planning, Lands and Heritage. I have to say that he was a book of absolute knowledge, particularly around this issue. He had been involved from as far back as 2007 and provided some great facts that the committee had been searching for to get an understanding of where this sat.

I will quote Mr Eringa at page 8, where he says —

In fact, in the period between 2007 and 2012, when I was dealing with Tisala then, it came up on a number of occasions that they wanted to change some of the tenure to suit some other activities—to improve their pastoral business but also to allow for some other activities that they were planning to do. This has been a conversation that is been going on for a number of years.

Way back in 2007, diversification was on the agenda for Tisala. As we progress, members will see that things did not seem to progress in the way discussions had been put to the department. Mr Eringa also recounted to the committee his work in 2007 and 2008 to engage different government and non-government agencies to assist with the components of Tisala's plans, including the Department of Agriculture and Food's Indigenous landholder service and the Goldfields Land and Sea Council, an organisation based in Kalgoorlie, but which I believe is no longer there. This was consistent with what Leo and Lawrence had said and that they wanted to see different uses on the land.

The CHAIR: The question is that the report be noted. Hon Kyle McGinn.

Hon KYLE MCGINN: Something said by Mr Lawrence Thomas when the hearing was held out there was that this is land and land is very important to Indigenous people. We always need land; we love land and we worship land, and we do everything on the land. His thinking was that he had a lot of respect for his uncle and there was an idea to potentially bring people from the City of Kalgoorlie–Boulder out to country. At one stage, Lawrence talked about a drug and alcohol rehabilitation centre. These were the issues we were confronted with when we first went there and commenced the hearings.

I now move on to the key figures assisting Tisala. This is where it gets a little bit murky and a little bit sad. What Hon Robin Scott said about bad advice and listening to the wrong individuals is absolutely true for Mr Steven Kean. There is no doubt in my mind that over the years, based on advice Tisala had been given, people thought they were doing the right thing. However, as members will see in this chapter on page 11 under the subheading "Key figures assisting Tisala", there are some very heavy questions to be asked. Mr Kean, who is currently employed as an electorate officer in the office of Hon Robin Scott, the Chair of the Select Committee into Mining on Pinjin Station, is also a prospector from Kalgoorlie with extensive knowledge of the mining industry. The committee heard that Mr Kean had been in Kalgoorlie on 7 and 8 June 2019, and that is when we heard from him. Lawrence Thomas explained to the committee that Mr Kean had become involved in Tisala's affairs, and this was interesting to me. I quote Mr Lawrence Thomas —

Mr Kean has been a friend of the family ... The Thomases and Keans, you know, we are all prospectors. We all respect each other. We live in the same place, so same thing. You have problems, you talk. People can help you and that is where we got hold of Steve. Steve is very brainwise with the Mining Act, so I thought to myself: I better start using this man with all his knowledge to fight these buggers or to get myself right in my head so that I can tackle Hawthorn. That is how we came about with Steve.

In an internal email sent in November 2017, the Department of Planning, Lands and Heritage discussed his understanding of what Mr Kean's role was. I quote from this email —

Steve Kean has been a contact for Pinjin Station since 2013 —

Members, Mr Kean had been engaged with Tisala since 2013. That was not my understanding going into this inquiry, but it was discovered. It is plainly clear right here that since 2013 he was engaged with Tisala in some capacity. The email continues —

and is listed in the Development Plan approved by the PLB [Pastoral Lands Board] in February 2015. He is described in the ... plan as providing administrative and financial advice, support and assistance. In an earlier version of the development plan from August 2014 he was listed as a member of a Tisala sub-committee, being the secretary/minute taker.

He was hugely involved in Tisala —

Mr Kean has been present with the lessee, Lawrence Thomas, at inspections conducted in November 2013 and November 2015 and Mr Thomas has often requested that I follow up information with Mr Kean rather than himself.

He would rather Mr Kean represent the interests of Tisala. The individual who was dealing with these issues and in 2017 was working in Hon Robin Scott's office had had involvement in 2013, so much so that the department was going to him instead of the director of Tisala. That is astonishing. The email continues —

... I spoke to Mr Keane regarding the application to incorporate a number of Reserves into Pinjin Station and he advised that he was now working as a Research Officer for the Hon Robin Scott, Member for Pastoral and Mining.

That was on 1 November 2018.

As we proved in this report, Mr Kean was also employed by Tisala, so he was not doing this just out of the kindness of his heart. He was employed as a consultant in 2013. We heard of the beginning of his involvement with Tisala; however, he was unable to clearly articulate with any precision what work he was doing for Tisala during this period—believe it or not. There is an interesting passage I will read now of an exchange between the deputy chairman of the committee, Hon Michael Mischin, and Mr Kean. It is important for members to understand this, because working our way through, we will start to see what is developing here. I quote —

The DEPUTY CHAIRMAN: have you ever received remuneration from Tisala?

Mr Kean: In the past, yes. I had an hourly contract rate, which was signed off by three of the directors.

The DEPUTY CHAIRMAN: For what sort of work?

Mr Kean: Well, contracting consultative work.

The DEPUTY CHAIRMAN: In relation to what subject?

Mr Kean: It was doing all sorts of things out there. It was a whole range of things. That contract ceased upon when I commenced working as an electorate officer. That ceased. It does not exist.

Mr Kean told the committee at his hearing that he was consulting to Tisala until the time that he became Hon Robin Scott's electorate officer. He also said —

I would have to go back and check because what happened—I did not always have an agreement. Look, Lawrence is the sort of person, and Leo, when they have problems or concerns or whatever, they ask various people, not just myself. So, they talk to people and if someone can help them, then they ask you some queries and then eventually they say, "Can you help us?" A lot of people will not help not them—not just them, not just peculiar to Tisala; I am talking Indigenous people. As I said, I have always helped them—not just them. I help a lot of ... Aboriginal people even before I worked in the electorate office and I do not get remunerated from it.

The deputy chairman asked —

Could you please—just so we can put it in context—find out from your records just when you were remunerated by Tisala? You say that it finished when you became an electorate officer for Mr Scott; is that right?

Mr Kean replied —

That is right. Because part of it was that I served a formal notification on them that I no longer am employed. It is a requirement as part of my contract.

It was very interesting to see that he had quite a recollection of ceasing his employment, but not a recollection of exactly what he was doing. We discovered that under the consultancy agreement, Mr Kean was remunerated at \$250 per hour for what he was providing to Tisala. I find it very interesting that someone could be paid \$250 an hour for something they do not recall doing. They cannot quite tell a committee what they were providing to this organisation, but they were being paid \$250 an hour to do it. It is quite astounding, and, again, very telling of Mr Kean. A letter from Tisala dated 10 January 2014 suggested that the consultancy agreement with Tisala lasted more than two months from 1 November 2013. Irrespective of what Mr Kean was paid for consultancy work, it ended in 2014, but he continued to provide support to Tisala right through this entire process. Mr Kean described his assistance to Tisala as “administrative support”. This included assisting Leo and Lawrence to prepare correspondence to mine operators and government regulators; providing advice, when sought, on matters relating to Tisala; attending and typing up resolutions from Tisala’s director meetings; handling corporate governance paperwork on behalf of Tisala; providing administrative support in relation to matters such as GST compliance, copying receipts for expenditure and reconciling bank statements; acting as an intermediary between Tisala and its lawyers; acting as an intermediary between Tisala and mining companies in negotiation; and acting as an intermediary between Tisala and government departments. That administrative support was now done all without pay, and it is very, very telling to read this report. That was a lot of things that Mr Kean was doing for Tisala during that period.

The CHAIR: The question is that the report be noted. Hon Kyle McGinn has the call.

Hon KYLE MCGINN: Thank you, Mr Chair. I assure all members that this is a great report. Please get up and have some input!

Again, we can see that a lot of questions from that period have been left unanswered, particularly about Mr Kean being paid for acting on behalf of Tisala and then not being paid but still acting on behalf of Tisala as an intermediary with lawyers. It is such a high-level position for someone to be an intermediary between the legal advice and where they are heading with the organisation. As we said at the start, for an organisation purchased for \$730 000, that is quite some trust to put in an individual without remuneration.

Other parties who assisted Tisala over the years with correspondence and advice came up through discussion between Leo and Lawrence Thomas and the committee. After a lot of questioning and delving into matters, particularly from Hon Michael Mischin, we managed to get a few names out into the open. These were names of people who had frequently sought assistance through Tisala. They are Hans Bokelund, Ray Kean, Judy Sambo, Steven Kean and Jan Taylor. Other names came up through correspondence, which I will read into the record as well: Len Boladeras, Gerard Brewer, Brad Jennings, Dru Pratt and Eddie Oxenbridge. Nicholas Cukela was involved as well. Witnesses spoke to people who helped Tisala over the years by assisting in the preparation of correspondence and deciding how to respond to the challenges that Tisala was facing. Steven Kean told the committee —

I certainly know Gerard Brewer, Brad Jennings, Dru Pratt. They also helped with letters. There was another guy, Len Boladeros, and some other people that I do not know. There are some other people in town that Lawrence is, let us just say, friends with.

An exchange from the hearing between Mr Kean and I is reported on page 16 of the report. I will let members make their own assumptions on this. Mr Kean states —

Because with both Leo and Lawrence, nothing was ever straightforward. They would always consult with a range of people and get people’s ideas on how to do things. Even if you had a draft letter, someone would always say, “We can do it this way or that way”. It is a bit what you asked about earlier. You would offer some advice, but they had their own way of doing things. Whether you liked it or not, that was just the way it was.

I then said —

You liked it that way, obviously, because you stayed on there.

Mr Kean replied, “I did not like it that way.” I responded —

Did you offer advice that it should be more succinct and open?

Mr Kean said —

I told them there should be one person, generally, doing it.

The deputy chairman chimed in and said —

I find it a bit strange that you can even operate like that, where every letter is drafted —

I believe he was referring to its being drafted by everyone. Every time a letter came in, a group of people would get together and draft a letter to send back. As members go through this report, they will see the number of letters that were sent, to not just Hawthorn Resources, but also the department. The amount of correspondence that was sent over the years is staggering. Mr Kean said that it was dysfunctional. Finding 2 in the report states —

The language in correspondence from Tisala Pty Ltd to the Committee and other entities varied substantially. There are multiple voices speaking for Tisala despite all correspondence being signed off by its directors.

The majority of correspondence was signed off by Leo and Lawrence, but, as finding 2 indicates, the committee found that multiple voices were heard in those letters—they were not just Lawrence and Leo. I refer back to the comments by the chair, Hon Robin Scott, about taking bad advice. Members should remember the names that are constantly flowing through now.

Some people would like us to believe that the mining tenements is another amazing coincidence. The committee became aware during this inquiry that mining tenements in the immediate vicinity of the mining operation at Pinjin were held in the names of, lo and behold, Mr Steven Kean and Mr Nicholas Cukela. We had the station on one side and the mining company on the other. In amongst that were the pegged tenements by Mr Steven Kean, very interestingly placed. Mr Kean told the committee that he had pegged those tenements on Tisala's behalf. Again, I am not a prospector, but I think it is quite bizarre that a prospector would have someone else peg their tenement. I thought a prospector would peg it themselves.

Page 17 reports another interesting exchange. It is important to understand the themes that run through this report. I quote —

The DEPUTY CHAIRMAN: Can you tell us about the circumstances in which that transfer occurred? What was the purpose of it and whose idea was it?

Mr Kean: The tenement that was originally pegged was part of Tisala. Basically, I got my costs back, and, if you want to call it, the reason why it was put in Mr Cukela's name was because basically he was seen, if you want to call it, as a person that could not only work the ground; he has experience in working the ground like with machinery and various things. My understanding is that him, Leo and Lawrence were also going to do some alluvial work and some other stuff on the ground as well.

Hon Michael Mischin, the deputy chairman, then says —

So originally that was Tisala and you got it to pay for your expenses?

The transcript continues —

Mr Kean: Well, it cost me—when I pegged it, it cost me a substantial amount of time and money to peg it. They knew that the ground was coming up. They actually asked me to peg it. They did not want it to go—it is the same thing; they did not want it to go in their own name in terms of being able to take it through, if there was an objection, to the Warden's Court. That is how it transpired.

That comes from the individual who has been acting on behalf of Tisala. It cannot go in Tisala's name, but it can go in Mr Kean's name. It is very interesting. I continue —

The DEPUTY CHAIRMAN: Why did not they want it in their own name?

Mr Kean: Well, I have just said to you, they are not experienced in dealing with Warden's Court matters.

The DEPUTY CHAIRMAN: So was it being held in trust by you?

Mr Kean: I beg your pardon? Oh, effectively, yes. That is why I transferred it out. It is transferred in—my understanding is that they have an agreement with Mr Cukela. They have also said they will receive whatever percentage, I think it would be 40 or 50 per cent, with that tenement.

It was then discovered that Mr Cukela told the committee that he purchased the two pegged tenements from Steven Kean for \$5 000 cash each. I am not sure how much time, effort and resources go into pegging a section, but Mr Kean received \$10 000 for those two tenements. It was also discovered in correspondence that to settle matters with the operator, Hawthorn Resources, Nicholas Cukela offered to sell the two tenements that he purchased for \$5 000 each back to Hawthorn Resources at \$150 000. It is interesting how quickly the cost of those tenements went up.

Many things came out of this report that make me re-read it because it was one of those inquiries in which each time we thought we were getting somewhere, we ended up hearing something different. Members will see in this report that the committee went through a lot of battles over how we could get this report together. In all, we have come up with some really good findings. It is important to state that the original fears that were put in front of this house prior to the inquiry about the department's role were put to bed in this report. The department played a critical role and ensured that the right information was being forwarded to Tisala.

The CHAIR: Members, the question is that the report be noted. Hon Kyle McGinn.

Hon KYLE MCGINN: It is important to note that the original pretext to the discussions in this chamber around the department's role is cleared up through this report, particularly through the findings. Finding 3 states —

There were significant difficulties within Tisala Pty Ltd concerning the role of directors and the issuing of shares.

I might not delve into that issue yet, because there is some more exciting material further in the report. I will come back to that, around shares that were given to an individual as payment and then some complications that arose around having those shares.

Finding 4 at the end of the chapter states —

Leo Thomas and Lawrence Thomas relied heavily upon the advice of several individuals as to how to run the station and to guide their dealings with mining companies and the Department of Mines, Industry Regulation and Safety. The assistance provided by Steven Kean in this regard was more than what would commonly be considered administrative in nature.

We could not say it was administrative, and that is in finding 4. This is while also being engaged as an electorate officer, which to me is just absolutely unbelievable. There were obviously a lot of mining interests in the area of Pinjin, which is the reason we originally got into this dispute.

I mentioned correspondence earlier. To give members an idea of some of the engagements that have been sent over a period to the department, it is important that I go through paragraph 3.14 on page 26. Members should take note of this. It reads —

The Committee obtained from the Department, a copy of Hawthorn Resources' Stakeholder Engagement/Consultation Register. This document was provided to the Department along with an application to amend the mining proposal for tenements, including M31/79. The document lists each engagement by the joint venture with stakeholders, the overwhelming majority being with Tisala or its representatives. Almost 190 pages of the document are dedicated to the period between 2012 and the commencement of mining. Table 1 provides a summary of the joint venture's contact with specific stakeholders between 2013 and 2017.

Between 2013 and 2017, which is the so-called period that Mr Kean was not being paid to operate Tisala, he alone contacted the employer 53 times; Mr Leo Thomas, 52 times; and Lawrence Thomas, 195 times. Again, going back to the finding, it is very hard to understand who was putting the information into these letters, so I take it that whoever has been acting for Leo or Lawrence in that space could also have had some involvement.

It is not as though we see it as unreasonable or unusual for the mining company to have contacts with these individuals. However, Hawthorn described this period as one of the most frustrating and delaying periods that it had. Mr Kerr mentioned a pattern. He said that they would run through a legal process for as long as possible with many, many questions; they were saying they were not prepared; they were saying they needed some more time; and it was constantly dragging out. But there was always the expectation that if they could not get past these delays, they would end up in the Warden's Court, and then they would revert at the last minute and change position. Mr Kerr said —

The Warden's Court matter had to go on because we'd just run out of options ...

They went to the Warden's Court to get a decision on whether the land that the homestead was on was common land or part of the pastoral lease. This is the dispute, and at its core is that the homestead itself was alleged to be not on the pastoral lease but instead on crown land or common land, and that common land was obviously where Hawthorn Resources had discovered its deposit and where it was setting up its mine site. When we visited, we saw that it was almost like when one goes to Kalgoorlie and sees the super pit right next to the city. This was much smaller and a more isolated location with the homestead very close to the blast wall, I think it is called, that protects the mine site. It is basically a big heap of dirt. We could see the operations happening right there before our eyes, which was quite amazing.

There was a lot of discussion on what would happen to the homestead when mining commenced, and attempts to come to a financial settlement were also made over that period. This is another interesting twist, because the joint venture sought to enter into a financial settlement with Tisala that would provide it with what were presumed to be the necessary consents to conduct mining operations. We saw eight documents from 2014 to 2019 that set out offers from the joint venture to Tisala to enable mining to take place without objection. The financial value of the offers decreased as time went on. The first offer was in August 2014, and that was at a sum of \$550 000. That was to relocate the homestead onto the pastoral lease and was quite a significant offer of money. That offer was not accepted. Two years later, in October 2016, there was an offer of \$450 000 plus \$4 000 a month for rental of a building and employment of Leo Thomas and Steven Kean at \$25 000 a year. This offer came from Hawthorn, and negotiations had been taking place with representatives of Tisala. We know that Mr Kean was a representative of Tisala. In 2016,

when he was presumably not being paid by the contract, which had terminated, in a deal that had been put to Tisala, he was to receive \$25 000 a year I am assuming for all the administrative duties that he was doing at the time. That offer was not accepted. We fast forward to November 2017, when there was an offer of \$170 000 plus \$20 000 each year during mining and no claim for costs in court proceedings. That was not accepted. We move to December 2017, when there was an offer of \$270 000 plus \$20 000 each year for mining and no claim for costs in court proceedings. We move to October 2017, and an offer of \$270 000 plus \$20 000 for each year mining and no claim for costs of \$50 000 in court proceedings. In November 2018, there was an offer of \$300 000 plus \$20 000 each year during mining and no claim for costs of \$50 000 in court proceedings. Then, in January 2019, when this committee was operating, we see an offer of \$550 000 again, put to Tisala by Hawthorn.

Finding 7 at the end of this section reads —

As the length of the dispute between the joint venture and Tisala Pty Ltd grew between 2014 and 2017, the value of the offers of compensation decreased from those originally presented.

As one reads this report, one gets an understanding that Hawthorn was of the view that it was common land and that it had the right to proceed with what it was doing. Originally, it made an offer of \$550 000. We then have all this correspondence, \$192 000, \$52 000 from here, \$53 000 from there, constant questioning, constant requests for consultation, and then we see the offers go down. Then major issues happened out at the homestead, at which Mr Steven Kean was present, as Hon Robin Scott raised in this chamber, as he sent his electorate officer out to site.

The CHAIR: Hon Kyle McGinn.

Hon KYLE MCGINN: Thank you, Mr Chair. What a great day! All these things were going on, and then all of a sudden, Mr Kean, who was working as an electorate officer, who was apparently no longer being paid by Tisala to act on its behalf but was still acting on its behalf, got an offer in 2016 of \$25 000 a year from Hawthorn as well. It is very, very murky, as I said from the outset. I hope that members are getting an understanding of how difficult this inquiry was to embark on.

Just to make things even more interesting, we are about to get to another twist. One of the things that was coming through was how long Tisala had known that the homestead was on common land. One would think from all the correspondence and from what was raised in this house that it was made aware of it only when the mining had taken place. That would be a fair assumption, remembering again that Mr Kean was involved in 2013. We heard from the Department of Planning, Lands and Heritage, and I will read this quote from Mr Eringa, who, again, as I said, has been involved in this situation since 2007. It states —

In fact, in the period between 2007 and 2012, when I was dealing with Tisala ... it came up on a number of occasions that they wanted to change some of the tenure to suit some other activities—to improve their pastoral business but also to allow for some other activities that they were planning to do. This has been a conversation that is been going on for a number of years.

...

Hon KYLE MCGINN: My question is around the discussions you were having with Jan Taylor, Lawrence and Leo. Were you talking about the homestead being on common land at that stage?

Mr Eringa: I remember it coming up because the nature of the discussions was that we had a map and we were pointing out what could happen in different parts of the station ...

Hon KYLE MCGINN: So all three of them —

Referring to Jan Taylor, Lawrence Thomas and Leo Thomas —

would have been clearly aware that the homestead was on common land?

Mr Eringa: If you look at a map of Pinjin station, you cannot not be aware that that is the case; it stands out very clearly and they had the same maps—we were looking at the same piece of paper.

Hon KYLE MCGINN: Was there any advice or recommendations at that stage to try to get title or to move away from that common —

Land? It continues —

Mr Eringa: Yes, the advice was the standard advice that if you have an asset that is on a piece of land that you do not have tenure over, then it is an unprotected asset and from a business perspective, it is not a good idea to have. Those discussions were tied up in the broader discussions about future uses of Pinjin station and, depending on their business model, in the longer term a pastoral lease may or may not have been the correct vehicle.

These issues had been discussed in 2007. Mr Lawrence Thomas was the director in 2007 and he was aware of it then. Then, in 2017, the Warden's Court made a decision and we saw things spur off into an amazing dispute that managed

to turn into an inquiry by a committee of this house. Again, the electorate officer who was involved represented the organisation against the mining company has been seen to have money given to him for representing that organisation, and is also a part of offers that have come from the mining company! There are way too many arrows pointing in the direction of Mr Kean in this process. To think that he was working in the office of the member who raised these issues in Parliament! I believe the member was unaware of his involvement, but Mr Kean was still systematically representing Tisala whilst working in the office of Hon Robin Scott.

It is absolutely astounding that we could see that happen when not only the Warden's Court said that Pinjin station was on common land, but also the directors were aware of that in 2007! In 2007, they were told that they were on common land and they needed to diversify and look at trying to get tenure over the land. We saw a complete change in 2013 when along came Mr Kean to represent their interests. Again, I go back to what Hon Robin Scott said in his opening address: it was bad advice. They were listening to the wrong individual. It looks as though this person has dabbled in trying to create a dispute even though the directors were made well aware in 2007 by the department, that they did not have the right to that land. It was common land and they had to seek tenure. It is astounding. I feel really bad that individuals have been affected by the dealings of this man.

Finding 10 states —

Tisala Pty Ltd was, or ought to have been, aware by 2007 or 2008 that Common Reserve 10041 did not form part of the Pinjin pastoral lease.

This committee was able to establish that, as was the Warden's Court and as was the department back in 2007. This committee was able to reiterate that in this report to ensure that once and for all it is very clear that it is common land and does not form part of the pastoral lease.

Such a huge part of this process was trying to understand why the offers from Hawthorn reduced. Back when I negotiated as a union official, offers reduced as your leverage disappeared. If we were getting fewer offers than before, the employer obviously had something up on us and had something coming for us or knew that they were in the right and we were in the wrong. It is sad to see that the offers, which were substantial, that were put forward dwindled all whilst Mr Kean was acting as an agent for Tisala. Again, it is interesting to see that his name disappeared from getting any financial assistance in future offers after the original one.

The report comments on the legal reasoning behind the Mining Warden's decision. It states —

The Committee makes no comment on the legal reasoning behind the Warden's decision. The Committee understands that several parties are aggrieved by it, including Tisala and the residents at Williamstown. The Committee has been told that the decision is currently the subject of an appeal to the Supreme Court of Western Australia.

I am not 100 per cent sure where that one is at, but, obviously, we did not want to delve into the decision that the Warden's Court made, and it was very clear, broken down within that decision, the reasoning behind the land being common land and not on the pastoral lease.

The CHAIR: Members, our time for consideration of that report today has now expired under temporary order 4. Noting the time, this is a good opportunity for me to report.

Consideration of report adjourned, pursuant to standing orders.

Progress reported and leave granted to sit again, pursuant to standing orders.