

**STANDING COMMITTEE ON PUBLIC
ADMINISTRATION
AND FINANCE**

**TRANSCRIPT OF EVIDENCE TAKEN
AT MANDURAH
ON TUESDAY, 27 AUGUST 2002**

SESSION 7

Members

**Hon Barry House (Chairman
Hon Ed Dermer (Deputy Chairman)
Hon Murray Criddle
Hon John Fischer
Hon Dee Margetts
Hon Ken Travers
Hon Sue Ellery**

MANEA, DR ERNEST
examined:

The CHAIRMAN: Welcome to the committee. We are a committee of seven members, three of who are unable to be with us today. However, it is a committee representing all political parties in the Legislative Council and five of the seven regional areas. You will have signed a document entitled "Information for Witnesses"; have you read and understood that document?

Dr Manea: Yes, I have

The CHAIRMAN: These proceedings are being record by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, will you please quote the full title of any document to which you refer and please be aware of the microphones. 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 premature publication or disclosure of public 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 Manea: Yes, thank you. In Australia there is no bill of rights. In legal circles when you query the provision of this, as I have done at conferences, they say your right is to contact your parliamentary representative. I am glad to have the opportunity on behalf of the landowners of Stratham to speak to members of Parliament and to address the problems that we are having, which are really general problems in relation to the activities of government departments. Although the individual landowners in this State have no rights above that of the State Government, the State Government has, through the Acts of Parliament, given considerable power and authority to some government departments such as the Department of Environmental Protection, the Department for Planning and Infrastructure and the Department of Housing and Works that have the right to take lands without any thought to or consent of the landowner. This is causing considerable problems, particularly in the rural areas of Western Australia. Therefore, my remarks at first will be general.

An approach to the landowner is never made before these plans are put forward. Often, as with the south west region plan, the first time a landowner knew about it was when he got a letter through the post outlining the amount of land he would lose. A social impact study is never carried out on the effect of the plan on the community at large, apart from the individual. When I was Mayor of Bunbury, when the council instituted works within the city, we were required to do a social impact study on the effect of putting in a new road or a change of direction of traffic so that we could appreciate the impact it would have on the general community as well as the individual landowner. It is absolutely disgraceful that the landowner is not spoken to before his land comes under consideration for resumption, and that no impact study is done on its effect on the people in the area. These problems do not occur overseas, particularly in Canada, which has a much better planning Act than Western Australia.

In Canada, the issues are discussed with the landowners and are dealt with in a proper way before they are discussed. I put the proposition to the committee that that is something that must be done. When I was a member of the LandCorp board for five years, I was involved in the activities of that organisation. At the same time, I was a member of the then State Planning Commission and later on the South West Regional Planning Commission. It became obvious that many of the difficulties in relation to planning could have been solved if an organisation such as LandCorp were given the authority and power to negotiate land. I will not specifically mention areas but there were two cases in the Margaret River-Busselton area where exchanges of land between someone who had land that CALM wanted and a landowner who wanted to subdivide his land, could have been arranged. The land had been in the landowner's family for generations and he wanted to sell it and retire. We worked out a proposition whereby that land could have been exchanged for some poor quality land that CALM owned. CALM rejected that proposal saying it did not want to give up any land and just wanted to get this landowner's land. However, the whole matter could have been resolved on a negotiating basis by someone who had the expertise and experience to handle it.

On another occasion dealing with the bay south of Busselton, someone had a huge amount of land that he was prepared to exchange in a deal, provided he could get approval for a certain residential development. That matter could have been negotiated to the benefit of the State and its people. However, there is no such body and no such attempt to do so and the government departments have no expertise in land dealings. They just draw lines on a map and proceed to take what they want. I put it to the committee that that is not acceptable in this day and age and the impact on the individual can be considerable.

The area of land that I represent is on the ocean side of Bussell Highway. It is in one of the great horse-breeding areas of Western Australia and has been so for 100 years. It is a great horse-breeding area because it has green grass all year round, on top of limestone undergrowth. This is the sort of country there is in Kentucky, Ireland and New Zealand where the great horse-breeding States are. It is hard to get such land in Western Australia because most of our land is not like that. It is sandy or sandy loam.

An industry has been built up in that area over several generations; it has not happened in my generation. I acquired some land there in 1980. Soon after that I became aware of the environmental value of my land. Mr Bernie Masters had done a survey of the area in 1977, and had strongly recommended that the Government acquire this land because it had nine unique species of fauna and 49 unique birds. I put it to the Department of Conservation and Land Management that it should purchase the land. CALM said that it could not afford the property and did not want to buy it, so I decided to go ahead and set up my industry there. I then found out that the public works department was draining the lake. That drain had been put in without there being an easement for it; it was done on a right of entry basis. In effect, it was draining the wetlands. I complained about that, but did not get an answer. In the mid 1980s the land between all the properties and the sea in that area were mined for mineral sands. Every one of us objected to the proposal. The mining was approved by the Department of Environmental Protection on the basis that the area would be restored. It has never been restored. The primary dune system has dropped by between 3.5 and four metres. A lot of the sand blew over to both my property and the adjoining property. From that time onwards, all the birds have gone; there are no birds on the lake now. We have been delighted to find that three pairs of swans have

this winter moved back to the area. We had quokkas on the property, but I have not seen any quokkas for four years. I believe that the mining activities and the clearing of trees and bushes in the area has led the feral animals - foxes and cats - to move from there onto our properties. Those feral animals have cleaned up the native fauna, which is no longer seen. This has created doubts about the efficacy of the Environmental Protection Authority and its ability to handle the situation. Following receipt of the requirements of the South Bunbury region plan, which in effect took all the green land from the properties and left them with a sandy frontage to the main road, which is quite valueless because there is no prospect of subdividing that area under the Capel planning scheme, we made submissions on this matter and various stages of the planning scheme. As Laurie O'Meara found in the early 1980s when he investigated the rezoning of quarter-acre blocks anywhere in Western Australia, the minimum time the rezoning can go through is 11 months. The minimum time for these planning schemes is between three and four years, and most go well beyond five. The result is that the people whose land has been resumed are placed in an invidious position. The Department for Planning and Infrastructure's statement to them is that they can go on using the land as they did before. However, they cannot do that because they have to spread fertiliser, maintain fences and spend money to maintain the properties. Farming is not a static industry. As with any industry, it must expand, follow the markets and meet certain requirements. We are now faced with a proposition, and have been since mid June 2000, that we must stand still or spend money in the belief that if the land resumptions take place, our properties will be worthless and we will have to move.

No similar land is to be found around the area. There may be some suitable land south of Busselton. Mr Chairman would probably know more about that than I do. This sort of land is unique and hard to get. In effect, the industries of these landowners will go. The chap next to me buys breeding horses and sells them overseas, which produces a considerable income for Western Australia. What is the landowner faced with? Firstly, if all the land is taken, he will have nothing left. The Government will not pay for his industry, but will just buy the land. He will be put out of business. He does not know what to do. I have been trying to sell my property, but to no avail. The buyers come in, see what may be taken and just go away. We have had several meetings with the various departmental officers. The last one was held just a couple of months ago. At that meeting we were told that only one officer of the Department of Environmental Protection was available to carry out the environmental assessment of the submission, and that he had to carry the burden for the whole of the south west region scheme, which is a very big area. There were many submissions and he said that he was not sure how long it would take him to do it. When they came to look at my property, we were told that before it was resumed, they would have to get an environmental expert to see whether the land was worth taking.

[Malfunction of tape.]

Dr Manea: Before the planning started, there was to be an investigation of whether the land they wanted to take was ready for taking.

Hon ED DERMER: Was the sand mining occurring during those seven years?

Dr Manea: No, it was not. The sand mining occurred in the mid 1980s.

Hon ED DERMER: Was it before the seven years?

Dr Manea: Yes. This leaves the landowners nowhere. It is a bad thing for the State of Western Australia, which has a democratically elected Government, that the powers given to the various authorities are not used in some way that shows some concern for the individual Western Australians who live on the land. I do not know of it happening to this extent in other States. I have checked around Australia, and some other States are far friendlier towards these sorts of things than is Western Australia. This inquiry is a great light shining through the darkness, because these activities will just go on and on. The government departments feel that certain things should be done in the interests of the State. I am not criticising them for that. However, the interests of the State must be balanced somehow with the interests and rights of the individual. The rights of the individual must have some presence in this. At present, they do not. All the power and authority lies on one side and there is no way of avoiding that, except by taking legal action. I have reason to believe that legal action could be successful in a couple of cases because of the rights of the individual having some presence in the court, if not in the Government. This committee has a unique opportunity to revise something that is causing a lot of problems for people around the south west of Western Australia. I note that when Alannah MacTiernan spoke to the Press earlier this year, she stated that the Peel scheme was being held up because the Department of Environmental Protection did not have the resources to fully review the submissions that had been made, and she did not know when it would be completed. However, she thought that there must be some way to streamline it. I agree with her; there should be some way to streamline it. However, when the Government reduces the allocation of funds to departments and then entrusts them with more activities, the two things do not balance out. When one man is left to do the environmental submissions for the whole of the south west region scheme, with all the problems that are involved, it is unacceptable government activity. Something should be done urgently about that, because all these people are being left in the air with no prospects and no vision of what they can do for the future. I am talking about people with families, and people who have lived on the land for generations. Suddenly they are in a no-win situation, unless they want to buckle to the Government. That is not what should happen. We should work together to solve the issues and problems, and to try to get the best thing for the area and the State. That is my submission to you. I do not know how you will solve the immediate problem, but at least we may be able to secure from the committee a report that would give my children or grandchildren the opportunity to live here without fear of government activity removing from them the comfort of their lives. The ball will be in your court. I understand that there have been a couple of these committees in the past; however, a report has not yet surfaced. You look a pretty formidable lot, so I hope that you do produce a report.

The CHAIRMAN: A couple of committees started work on this issue. However, Parliament was prorogued before they could report. This committee was formed 18 months ago, and will run for the life of this Parliament - another two and a half years. We have a strong commitment to report well before then. Our goal is to report in about the middle of next year.

Hon ED DERMER: The committee was constituted quite early in the life of this Parliament, which has given us a good chance to develop a strong report within the life of the Parliament. Shortly after we were constituted, the decision was made to start this inquiry.

The CHAIRMAN: Dr Manea, I thank you for your explanation of the situation. Could you outline what role you think time frames and an independent dispute resolution mechanism would play in your vision of a better system?

Dr Manea: For example, Toronto, Canada does not have individual rezoning of lots and that sort of thing. They just define an area in which certain things can occur. When someone puts forward a proposition to build something that will be used for a certain purpose, he is given a yes or no answer up-front. That seems to be a more efficient process than the way we do things here. In regard to expediting the whole process, the current process is too democratic. A three-month advertising period is given for the rezoning or change of use of an area. In the case of the regional planning scheme, we were given six months in which to make submissions. All the submissions are then individually processed. Having done all that in this case, the Department of Environmental Protection asked the Department for Planning and Infrastructure to get this land. The DEP will then also review the submissions. You know as well as I do that no-one goes from one submission to the next on the same day that he is finished with it - it lays on the desk and it goes on and on and on. There needs to be a sharpening up and shortening of the system, by having one body doing the whole lot. At present there is no such thing, and the departments transcend one another. If something involves the Water and Rivers Commission, it goes to them as well, and will vanish there for three months. It goes on. This is all set out in Laurie O'Meara's report. Western Australia is a big State. These requirements transcend the State. Governments enter into agreements with industrial bodies, which isolate them from all other law. That transcends the rights of landowners as well. My submission is that the landowner does not have a voice in what is being done. He has to put up with what is done to him. There has to be some way that he can meet the people concerned, talk it through and work out a deal. The same thing happens if I want to sell my property. I get a real estate agent to sell it, he gets an offer and I can say whether the offer is acceptable or is too low. I meet the guy and say that I will give this and this if he will give me that and that, and the deal is settled. That does not happen with this. The democratic process of land planning and the environment is that people keep putting submissions in, the submissions are evaluated without the landowner being involved, and it goes on and on. There is one man to do the environmental submissions for the whole of the south-west scheme. Until we objected, he was not going to talk to the landowners.

Hon MURRAY CRIDDLE: Obviously timing and the decision-making process are the two issues that need to be addressed. That is what Dr Manea has pointed out.

Dr Manea: There is also a lack of planning for the social impact on local people when the schemes are put in. That is significant.

The CHAIRMAN: Taking your piece of land as a case study because I am familiar with it, having been there with you some years ago, from your explanation today, it would appear that it has changed since I was there with you. What is your current wish for that land?

Dr Manea: We as landowners put up the proposition that we are the best people to look after the land that the department wants. I have noted that overseas, particularly in the United States, when they want a desirable piece of land, they will approve a subdivision right the way around it so that no-one can get in there except the landowners who own the houses.

We feel that we know the land. I have been there for 35 years. Most of the others have been there much longer. We have fenced off the swamp, so our grazing animals do not get into the swamp. None of us puts fertiliser on the ground, because we do not want algae on the lake surface. We feel that we can handle it from here. We feel angry that the area is not as pristine as it was when we were first there, not because of our efforts but because of government efforts in allowing mining next door and then draining the swamp with a drain. That is not our fault. The land is not as it was. As to whether it could be restored, I am not sure how to restore a piece of wetland. The wetland is still wet. I think that the mining activities have caused the interface between salt and fresh water underneath the ground to change, because that water, as you will remember, was fresh. I do not think that it is fresh now. I think that there is salt in it somewhere, because a lot of the trees are dying for no apparent reason. Our proposition was, "Leave it to us, tell us what you want, and we will endeavour to do it. If we want financial help, you give us financial help and we will give you a work force that you have not got to look after it." I would love to see the quokkas back there. I do not know if they are still there. They are very timid and they are probably hiding somewhere, but we have not seen one for a while.

As for the bird life, six swans have come back. I suppose that we may get the rest of them back. When Bernie Masters did his study of 49 different sorts of birds there and I used to encourage the kids from the Bunbury Cathedral Grammar School, they used to camp there and draw up maps, count the birds and all that sort of thing. They have not been there because there are no birds to do that with now. Bunbury ornithological society wrote a report on the birds of Muddy Lake for an international organisation, but it does not go there any more because there are no birds. That is not our fault. We have not touched the lake and we fenced it off. Our proposition to the department was, "Leave us with the land. Instead of taking three-quarters of it, leave it as it is. We will embargo any development in there" - we have already done that - "and you tell just tell us what you want to do to try to restore it." The department does not have the funds to restore all these wetlands right through the south west. Surely you all know that; there is not enough money in the world to do that.

The CHAIRMAN: With proper management, do you contend that the current land uses and the environment can coexist?

Dr Manea: They have there for a hundred years. It was not until the mining activity that the birds went. The horse that ran second in the Melbourne Cup was bred next door.

The CHAIRMAN: Rogan Josh?

Dr Manea: He was bred farther south in your area.

The CHAIRMAN: We are digressing. Is there anything else you would like to add in closing?

Dr Manea: I feel that it needs urgent attention. I do not think it will save us from the situation as it is. We are hoping that there may be some decision on this by Christmas. If the department is going to take the land, all of us will be looking for financial compensation for the land we lose, but we will not get compensation for the businesses that we lose. We will have to look at litigation to try to achieve that. I have never been happy during all the time I have been in public life when I have been in the position of fighting people. We are all Australians. We should all be able to sit down, talk it through and work out a good way to deal with things. These sorts of

things create anger and division in the community, which is bad. We should all be working towards the one goal.

The CHAIRMAN: From what we are hearing, Dr Manea, if you get to the stage at which you start negotiating on compensation, you might well be in for another saga, which would also be regrettable. I wish you luck with your particular case and thank you very much for your input.