

# **STANDING COMMITTEE ON PUBLIC ADMINISTRATION AND FINANCE**

**TRANSCRIPT OF EVIDENCE TAKEN  
AT NORTHAM  
ON WEDNESDAY, 11 SEPTEMBER 2002**

## **SESSION 4**

### **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**

**POSSELT, MS GLORIA**  
**Company Director,**  
**Posselt Nominees Pty Ltd,**  
**examined:**

**FERGUSON, MR JAMES**  
**Consultant,**  
**Ferguson, Kenneison and Associates,**  
**examined:**

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

**Ms Posselt:** Yes.

**Mr Ferguson:** 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 identify any document you refer to or quote from. 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 the request, any public or media in attendance will be excluded from the hearing. Please note that unless, and until such time as the transcript of your public evidence is finalised, it should not be made public. I advise that commercial 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 either of the witnesses like to make an opening statement?

**Mr Ferguson:** Thank you for the opportunity to present a submission in the hope that some progress will be made in the quite vexatious circumstances Posselt Nominees finds itself in. We realise this hearing is about addressing processes and procedures. We are having a very difficult time gaining what we ascertain as fair and just compensation for land taken from us. The issues at stake are related to the terms of reference: the adequacy and effectiveness of compensation practices and procedures; the obtaining of fair, prompt and cost-effective remedies and/or dispute resolutions between landholders and state government departments and agencies. The main issue affecting Posselt Nominees is a refusal by Main Roads to adhere to the doctrines of natural justice and legitimate expectations when determining the matter of fair and just compensation and its acting in what we can best describe as a cavalier fashion on the matter of fair, just and adequate compensation.

It is our intention to bring to the attention of the committee the issues relating to the failure of Main Roads to take into account the value of the underpasses. That is the real sticking point - the removal of the underpasses with only a pittance offered in settlement. We also note the readiness of the agencies and authorities to facilitate and work together in a manner between each other that is lacking in relation to the public, especially when those in the public have matters to be addressed. A comparison is the assessment carried out by the Environmental Protection Authority for land-holders and that required for Bulletin 968.

As this matter will be ongoing, we have noted that the committee is willing to take more information at a later date. We will have more information to provide because we have requested that Main Roads give us an indication of if and when it will reopen negotiations for a full and final settlement.

**The CHAIRMAN:** For the committee to fully understand those points it will help if we know the full story.

**Mr Ferguson:** Gloria will run through it.

**Ms Posselt:** I will give you the story to the best of my ability. I am the daughter of Ronald and Valerie Posselt and a director of Posselt Nominees Pty Ltd who, as owners of part Avon locations R and Q and part Avon location 8, are affected by a Taking Order registered on 21 September 1999. As you would be aware, the Taking Order - H556529 to the State of Western Australia - covers an area of just under 26.5 hectares of the land required for the construction of the Northam bypass. The family property adjoins the Northam townsite and is the first sizeable farm out of Northam on the Northam-Pithara road, better known locally as the Goomalling Road. The farm is 85 kilometres north-east of the Perth CBD.

Avon location 8, covering about 322 hectares, was purchased by my father in the late 1940s. That is more than 50 years ago. At the time, it was exclusively farmland although there was one small cottage. My father transferred his trucking and earthmoving business, which had been based in the heart of Northam, to the newly purchased property. He built a substantial workshop and associated offices. Over the years, he established a shearing shed, yards, a hay shed, and put up huge storage and machinery sheds. The machinery shed was large enough to hold headers, tractors, several trucks and other farm equipment. In addition, there was a slaughterhouse and a super shed. These structures catered for both the farm and the trucking and earthmoving operations.

Even though water from the goldfields scheme was connected, we built no less than 18 dams to provide water for stock and constructed numerous grade banks across the property's many paddocks. In the 12 years after it was purchased, virtually all the fencing on location 8 was replaced. This added up to many kilometres, as you might imagine. It was also an expensive operation. In the early 1950s, a comfortable family homestead was built on the property by my father who oversaw the construction and employed subcontractors to carry out the work.

In 1970, Posselt Nominees purchased an adjoining property. Known as Clarke's Farm, it incorporated part of Avon locations R and Q and covered about 390 hectares. The farm has a frontage to the Northam-Pithara or Goomalling Road to the east and Irishtown Road to the west, and has the boundary of the town of Northam to the south. This purchase not only allowed for a rise in both stock and cropping capacities, but also increased the acreage, improving the farm's economics. As it is now the first farm out of town, the overall value of the property has increased substantially. After purchasing this additional land, the existing home on Clarke's Farm was completely rebuilt. It was transformed from being just a small cottage to become an impressive modern family home. I have lived in it for over 30 years.

Dams and grade banks were constructed so that the property would have no reliance on scheme water for stock requirements. Another fencing project was also carried out. Clearly, my father was a resourceful and hard-working farmer with great vision for the future of his land and his many business ventures. During this period, Main Roads purchased land in the area to add to other land the department already owned.

Our understanding was that this was to enable the construction of route 6 as the Northam bypass. To the best of my knowledge, the appropriate legislative measures have been put in place and route 6 has been gazetted as the chosen route for the bypass. By 1993, Main Roads had acquired about 40 per cent of its land requirements for that route. It was then more than reasonable to assume that the bypass would actually follow that route.

My mother was the owner of two lots on the Goomalling Road, just above what is known as Doctors Hill, on the outskirts of Northam. She purchased these as an investment several years earlier, long before any plans for a bypass were first suggested. These blocks were also required by Main Roads when it was planning to proceed with gazetted route 6. I am told they were compulsorily acquired from my mother for this purpose. What is pertinent is that I understand Main Roads has since sold these properties or is selling all of the properties they purchased for route 6, no doubt at a very handsome profit for the Government. Not only has my mother's investment in her two lots been thwarted by the purchase by Main Roads for route 6 - which never eventuated - but we are now being denied adequate compensation for the taking of our land for route 9 and the subsequent losses that my family has incurred. When it was decided, after much controversy in the area, that route 9 would be the bypass route, my father, in his wisdom, suggested that it could follow the southern boundary of our property closest to the town. This would have had two positive effects. Firstly, it would have meant that the farm would stay as an intact unit; there would have been only minimal loss of land and there would have been less disruption to farming operations. Secondly, as it was a shorter route, Main Roads' budget for the project would no doubt have been less. In addition, this would have obviated the need for the two underpasses for the bypass agreed to by Main Roads so that both sides of our property would be linked for easy operational access. As a consequence, this would have made the compensation issue easier to resolve. I believe that the issue of the underpasses is important to raise in this forum.

Main Roads agreed that two underpasses would be constructed so that there would be ready access between both sides of the farm. That is so that stock and machinery could be moved efficiently across the property. This is especially important at shearing time and at seeking, spraying, harvest and baling time. However, as the bypass gradually took shape, it became very evident that the undertaking for the underpasses were not being honoured by Main Roads and it was failing to live up to its agreement. I am aware that this has saved Main Roads a substantial sum of money, which should be a major part of our compensation package. The shearing and machinery sheds, and everything relevant to farm operations, all ended up on one side of the bypass. This is not only inconvenient but also time consuming. The lack of underpasses could have a significant bearing during the fire danger season, cutting access for not only stock and machinery, but also firefighters. This could affect our farm and others in the area.

**The CHAIRMAN:** I am sorry to interrupt, but the underpasses were not put in. Is that what I heard?

**Ms Posselt:** Yes. I cannot finish without drawing to the committee's attention the incredible impact that all this has had on my parents. My father was a committed and dedicated farmer, who was well known in the district for his hard work and his farming and business skills. He is both respected and well liked. He is a man with a community conscience and has contributed much to the Northam area over the years,

in particular to the Northam Aero Club and many different community projects. However, this issue has caused both him and my mother an incredible amount of trauma and emotional stress. Imagine, if you will, spending 50 years developing one of the prized farms of the region and then having to watch it being split in two by what we think is an ugly monstrosity. How would you react if your whole life and personal wellbeing were totally disrupted by something out of your control, and you were then presented with a compensation offer that could only be described as insulting, unjust and inadequate?

My father and mother became completely undermined and powerless over what was happening on their own property. It seems that owners of freehold land have few rights once the Government decides it wants to take their property. The subsequent effects on their health and lifestyle become irrelevant. Just for a moment, put yourself in my parents' place. How would you feel?

The effects have been ongoing. These events have, in my opinion, contributed substantially to the rapid downturn in my parents' health and wellbeing. They are no longer well enough to enjoy the fruits of their labours as they had intended. Their condition has not been assisted by the unwillingness of Main Roads to demonstrate fairness on this issue and to provide an acceptable level of compensation for the taking of our land.

This issue has taken up countless hours of our time. I have already attended two meetings with Main Roads and its representatives, and was extremely disappointed at their inability to take on board calls for a fair and just outcome to this matter. I have personally had to fight every inch of the way on my parents' behalf to attempt to gain adequate redress for the damage caused to us.

With the bypass now a fait accompli, the issue is no longer as pressing for Main Roads, but the problem remains for us. I call on you, as committee members, to closely examine our evidence, and then assist us in achieving an equitable outcome. The underpasses are nonexistent, the overall compensation is massively unfair and inadequate, and my parents' health and wellbeing continue to suffer!

There is one other interesting matter that the committee might like to be aware of. There were a lot of problems between the shire and the town council over the road issue - with routes 6, 9 and 6A. Many meetings were held, and a map was put on display in one of the big places in the main street area. That was a very long map - probably as long as this table - which showed all the terrain, but it really did not show exactly where the road was going. There were several meetings. I just want to bring to the committee's attention that the minister for transport at that time made a very quick visit one Saturday to attend some meetings in Northam over the bypass issue regarding the gazetted road, route 6; route 6A that was coming in; and route 9 as the alternatives. He first went to a meeting in the town, at which he told those gathered that he was helping them and was in favour of route 9, because the townspeople did not want the road to go through Forrest Street at the time, and they were pushing for it to go out to the farming area. Less than an hour later, he addressed a meeting of farmers in one of the farmer's chaff sheds. He told them that he was working very hard on their behalf to see that the gazetted road 6 would still go ahead, and the valuable farming areas and property would not be disrupted. How do I know? I was at both meetings. It is little wonder that the public has little or no confidence in the

politicians when one of them can tell two blatantly different stories to the town and shire members of the community. In this instance, the gatherings were being told what this person thought they wanted to hear, rather than the truth. That is very fascinating, I think. I do not know what the committee thinks about that.

**The CHAIRMAN:** I will just clarify where the committee sits. This committee is investigating the processes of government actions and their effects on individual landowners. We are not a tribunal that will investigate your particular case, but your case study is valuable to us to give us an idea of the effect of government processes across the board. What understanding did you have or what commitments were you given? Were they firm, written undertakings that two underpasses would be included in the new bypass road?

**Ms Posselt:** As far as I am aware, they were. Jim would know; he was dealing with it.

**Mr Ferguson:** I can answer that. Yes, the bridge drawings were all done and right to go.

**Hon ED DERMER:** Do you have those, Mr Ferguson?

**Mr Ferguson:** Not here with me today, but I -

**Hon ED DERMER:** However, you have them in your possession?

**Mr Ferguson:** Yes.

**Hon JOHN FISCHER:** We have one here that shows a stock underpass and a machinery underpass. Is that correct?

**Mr Ferguson:** Yes. That is just the rough one that was done.

**The CHAIRMAN:** Why were they not put in at the time the construction was occurring?

**Mr Ferguson:** I can take that on. The date of taking of the land was 19 September, I think; it was advertised on the twenty-sixth. Therefore, I think the public servants smelt a saving for the Government in there. I am a great believer - I might have mentioned it in Erin Baker's submission - that the public servants actually drive government; it is not government driving the public servants.

**Hon SUE ELLERY:** Was a statement made at some point that "We're not going to proceed with the underpasses for this reason"?

**Mr Ferguson:** It was worse than that. One of the letters that I have here, which I will give the committee, states that I agreed with them that the underpasses could come -

**Hon SUE ELLERY:** It states that who agreed with whom?

**Mr Ferguson:** It states that I agreed, on behalf of Posselt Nominees Pty Ltd, that the underpasses could come out. No way in the world did I agree in writing with that at

all. In fact, one of the letters I have here refutes that. This whole issue comes back to the method that Main Roads has used.

**Hon SUE ELLERY:** I am sorry to keep interrupting you, but I want to get clear in my mind the reason that was given for Main Roads deciding not to proceed to put in underpasses.

**Mr Ferguson:** Right. Posselt Nominees' property was split in two, with approximately 160 hectares on one side and, say, three-quarters on the other side. Therefore, it decided in its wisdom that it would remove the underpasses.

**Hon SUE ELLERY:** Main Roads decided to do that?

**Mr Ferguson:** Main Roads decided in its wisdom that it would be a good thing to remove the underpasses.

**Hon SUE ELLERY:** What reason did it give for that?

**Mr Ferguson:** Because the property was split in two. The only reason the underpasses were needed was for traffic between the two properties. Therefore, Main Roads assumed that if one side was sold - later on, well after the taking date -

**The CHAIRMAN:** However, it could not be sold separately if the title was not separate.

**Mr Ferguson:** Ultimately, I finished up getting it divided. Hon Murray Criddle would know that if property is cut now, it is just about automatic that it will go onto a second title. I think that is the way it is now.

**The CHAIRMAN:** One can do that. I do not know whether it is automatic.

**Mr Ferguson:** It is close to it now.

**Hon MURRAY CRIDDLE:** It is certainly not automatic, but it has happened.

**The CHAIRMAN:** It should be.

**Mr Ferguson:** I had to fight like hell to even get that done. It is quite abhorrent that Main Roads then presumed to delete them. I told Main Roads that we wanted them reinstated.

**Hon ED DERMER:** The underpasses?

**Mr Ferguson:** Yes. Main Roads gave us a final date in October to reinstate them, and it would not reinstate them. I will give the committee the value, which will be of interest to it. The underpasses are put in at a net cost of, say, \$600 000 - that is after drawings and that sort of thing - so government has lost some money. There is a net cost of \$600 000 in there for deletion of the underpasses. Those underpasses are put in for the good running of the farm. What Posselt Nominees does within a few weeks, a month or whatever after the taking date is really up to it; and that is it. We look at that underpass as part of the compensation package; there are no two ways about it. The underpass was going in to make it much easier to work two sides of the property,

so it is part of the compensation package. Posselt Nominees then sold one side. The valuation for the deletion of the underpasses is around \$70 000. The total amount offered to date is \$208 000. That is horrendous when one looks at 26 hectares of land taken straight through a property. The owner had previously offered Main Roads the opportunity of going much closer to the southern boundary. The airport would have been in the way, but the airport should never have been located down where it is anyway. If one tried to locate an airport there now, one would be unable to do so; the Environmental Protection Authority would stop it. This is what I see as really abhorrent.

The worst feature of all this is that we commenced negotiations - Posselt Nominees was not greedy - with Main Roads on a total package of \$400 000. That meant that roughly \$300 000 or \$400 000 would go to the taxpayer, if you like. We agreed to that. That was correct, was it not?

**Ms Posselt:** Yes.

**Mr Ferguson:** The amount would have been \$400 000, because Main Roads would have come up with about \$150 000 for the land. Therefore, Posselt Nominees was getting less than one-third of the value of the underpasses. As things stand today, the offer is \$75 000, and I think it is damned disgraceful.

**Ms Posselt:** I would like to add something. At no time did we give a reason for selling the farm. This bypass issue has been ongoing for several years. When it was finally decided it would be route 9, we had a lot of anxiety. My father just could not handle watching his farm being completely split and bulldozers coming in. It was a very emotional time for him. I used to live on the other side and the farm was run as one farm. If they could not have stayed there we would have had to shift them off the place because of the emotional stress. My father said he absolutely had to have underpasses in. It does not matter what we did after it was agreed upon. We could have done anything; it was their property; they could do anything. If the people who purchased it wanted to buy both sides, what would they do? If they wanted to sell the other side, there are no sheds, no nothing, because there is just a house. The value on that side has dropped and this side has everything on it. What I want to really stress is that we did not want to sell the farm. My son could have come in - we leased it - but it was the stress and the trauma of watching it. Aged people find it very difficult to watch their life being cut up.

**The CHAIRMAN:** What we need to know for our understanding is the sequence of events between the agreement about the underpasses and the splitting of the title into two separate titles, and then what happened to produce the end result with a road without underpasses.

**Ms Posselt:** The meetings I attended at Main Roads with Mr Ferguson were well before this farm was sold. The agreement was that underpasses would go in, as far as I understood it. I never had any thoughts about them not going in. It would be commonsense to put underpasses in, because the farm goes from one road to the other. To my knowledge it was never said at any time that the underpasses would be taken out. When I could see the road being built I said, "There are no underpasses going in." We did not decide to sell the farm until the road was well under construction.

**Hon SUE ELLERY:** When did you separate the titles?

**Ms Posselt:** The titles were separated only after we decided to sell the farm. We had this one piece.

**Hon SUE ELLERY:** Were the titles separated before, during or after construction of the bypass?

**Ms Posselt:** The titles were separated during construction, because the bypass has just finished. It was probably in the middle. This side of the farm had the bypass going through almost the middle, but we could not have a section of land with nothing on it - no water, electricity, nothing.

**Hon ED DERMER:** What we are trying to establish is whether the titles were separated before or after it become obvious that the underpasses were not going to be in place?

**Ms Posselt:** We had no intention of separating anything.

**Hon ED DERMER:** If I have it right, the answer is that you only separated the title once you could see that the underpasses were not going to be in place. Is that correct?

**Mr Ferguson:** No.

**Hon ED DERMER:** Did you separate the titles before?

**Mr Ferguson:** From memory, the split of the titles took place in January-February 2001.

**Hon ED DERMER:** When did it become obvious that the underpasses were not going to be in place?

**Mr Ferguson:** When they said they would not put them in and they said I had okayed it.

**Hon SUE ELLERY:** When was that?

**Mr Ferguson:** They were still talking about putting them in in December 2001.

**Hon SUE ELLERY:** Do you think this is a reasonable way for me to understand what happened? I am not supporting either side here. Is it possible that this happened: Main Roads made a commitment to put in underpasses; Main Roads found out that the titles were now separate and said that if that is the case it will not proceed with the underpasses? Is that a reasonable explanation of what would have happened?

**Mr Ferguson:** Yes, you can take that view, but I believe it is totally wrong. They can take the underpasses out, but for Pete's sake give the Posselts fair recompense. Those underpasses were certainly part of the deal.

**Hon SUE ELLERY:** I was trying to understand the timing.

**Hon ED DERMER:** The timing gives us an idea of what occurred - not just the dates, but the order of events. We understand from Ms Posselt's presentation that you had an undertaking from Main Roads to include underpasses in the construction work for the bypass.

**Mr Ferguson:** Yes.

**Hon ED DERMER:** What I would like to know, first of all, was the nature of that undertaking. Is there a document that says that Main Roads is undertaking to include the underpasses in the construction of the bypass, or were you told verbally?

**Mr Ferguson:** It is in the drawings.

**Hon ED DERMER:** But I want to know whether there are words in the document saying the department undertook to include the underpasses.

**Mr Ferguson:** I have correspondence here for that.

**Hon ED DERMER:** Will you make sure that is provided to the committee? That is very important.

**The CHAIRMAN:** One member of our committee has had a fair bit of involvement in this matter.

**Hon MURRAY CRIDDLE:** I do not think I was in the hayshed, though.

**Ms Posselt:** No, you were not the one.

**Hon MURRAY CRIDDLE:** No, I did not get involved in the choice of the route. That was already set down. The contract was signed just before the election was called, which is the date that you were talking about. The separation of the titles is the issue my colleagues are talking about. I would obviously have concerns about the underpass not going in, because a contract was written, and if it was in the contract and it has not been built, obviously there is a major problem. What happened previously is the issue. I was not involved in the conversations you are talking about. I was involved with other people. I visited the Martins and we came to a conclusion.

**Ms Posselt:** I think you had a conversation with my parents.

**Hon MURRAY CRIDDLE:** I cannot remember clearly, but I may well have.

**Ms Posselt:** I think you went and looked at the farm because I think my dad drove you around to show you exactly where the road was going.

**Hon MURRAY CRIDDLE:** What has happened since that time is the splitting of the property and the two titles, which, as my colleague the chairman says, is unusual. I have been involved in several of these issues and sometimes the title is not split, even if a road goes through the property. I did not get down to the detail of what happened at the final stage about whether the underpasses should or should not have gone in. I would like to know what went into that contract.

**The CHAIRMAN:** Can you do some more research for us and follow up this meeting today with some more detail itemising exactly the dates on which things happened?

**Mr Ferguson:** A time line?

**The CHAIRMAN:** Yes, a time line, and a copy of the contract with a copy of Main Roads' specifications, so the committee has a full picture of whether there has been a breach or not.

**Hon ED DERMER:** You had a written document that included the undertaking about the underpasses. I understand that the first time you realised that Main Roads did not intend to abide by that undertaking was when you saw the construction work occurring but not including the underpasses.

**Mr Ferguson:** No. They were quite offensive. They wrote and said that I agreed to it coming out.

**Hon ED DERMER:** That was when you first found out that the underpasses were not going to be in place, is that right?

**Hon JOHN FISCHER:** If the department wrote to you saying that you agreed that the underpasses come out, the department must have agreed to put them in in the first place.

**Mr Ferguson:** That is right.

**Hon ED DERMER:** Did you receive the letter saying that they were not going to be put in place before or after the splitting of the title of the land?

**Mr Ferguson:** That would have been after the splitting of the title.

**Hon ED DERMER:** Why did you move to split the title when you thought the underpasses would be in place?

**Mr Ferguson:** Why?

**Hon ED DERMER:** If you were advised that the underpasses would not be in place at a date after the decision was made to split the title, I am interested to know why you decided to split the title before you were advised that the underpasses would not be put in place.

**Mr Ferguson:** I will give you the answer to that. Gloria was talking about the devastation of the parents when they were living there. The underpass takes a while to get through. To try to sell the whole property with the scar, if you like, and the earthworks taking place is much more difficult. It was substantial; three-quarters of the property.

**Hon ED DERMER:** Did you reach that decision at a time when you thought the underpasses would be there?

**Mr Ferguson:** Yes.

**Hon ED DERMER:** The idea was to sell the property separately, the existence of the underpasses notwithstanding?

**Mr Ferguson:** When you see the correspondence from Main Roads you will notice that they have not recognised that there would be a need for the underpass. The value of the property to the people who purchased the other side - they were well-known broadacre farmers - is much greater than the paltry \$70 000 that has been offered.

**Hon ED DERMER:** The underpasses were still important, even if you were selling the two parcels of land as separate entities?

**Mr Ferguson:** If Main Roads plays the game and you look at the documents, they will tell you something about the circumstances. They will give you a fair indication. I have them with me.

**Hon ED DERMER:** While you are here I would like to establish that. You were given an undertaking in the document that the underpasses would be there. You decided that, with the underpasses still in place, the value of the property would be greater if it were split into two titles either side of the roadway. For that reason you decided to split the titles, is that correct?

**Mr Ferguson:** No, not really.

**Hon ED DERMER:** Why did you decide to split the titles?

**Mr Ferguson:** Exactly what I said. Mr and Mrs Posselt wanted to move out, they would need the finances to purchase a unit or something in Perth -

**Hon ED DERMER:** So they would sell part of the property?

**Mr Ferguson:** That is why they sold that portion. If you go to buy a property and there is a bypass the length of that one going through it, it is not as good to look at.

**Hon ED DERMER:** What difference would the underpasses make for the two different properties owned by two different people?

**Mr Ferguson:** When you look at it, it would have a value far above the amount of \$70 000 or \$75 000. The person who is purchasing that property can move stock across because they have everything set up over there, shearing sheds and everything. They could move stock across straight through the underpasses. It means that contractors and the owners could move across and do spraying.

**Hon ED DERMER:** You use your neighbour's facilities, probably at a cost.

**Mr Ferguson:** Yes. The people who currently lease the property may be interested in eventually purchasing this side, or the Posselts may decide to keep it for the next 15 or 20 years or so, so its value on a lease basis is -

**Hon ED DERMER:** So the underpasses are still valuable, even when there are two different owners.

**Mr Ferguson:** That is right, or if they purchase it.

**Ms Posselt:** I will go back to when the bypass was going to be put in. The underpasses were supposed to go in because we owned the whole farm. We had no intention of selling anything at that stage, because the underpasses were to be built. The issue of the underpasses came up later on, when my parents were finding it difficult. We were still not going to sell the farm because my son and I could have been there, but it was leased anyway. However, it was not viable for the land to be cut in two without any underpasses being provided. The underpasses should have been put in. Main Roads Western Australia did not know what we were going to do with the land back then anyway. This is my opinion; what I understand the situation to be.

**The CHAIRMAN:** In the end you had no option.

**Ms Posselt:** We had no intention of ever selling the farm.

**Hon ED DERMER:** Did any part of the document in which Main Roads undertook to include the underpasses include any suggestion that a condition of that undertaking would be that the property remain under one title?

**Mr Ferguson:** I would say that there was not; however, I cannot be absolutely certain about that.

**Hon ED DERMER:** Can you see that it is an important point?

**Mr Ferguson:** Yes, I can definitely see that. I would say that there had not been. The Posselts have farmed the property for 35 years on that side and have owned the other property for 55 years. There would be no valid reason to sell.

**Ms Posselt:** As I explained before, the whole reason for purchasing the other property closer to town was to make the farm more viable for the family. That gave us more acreage. The road went through that property at the point that was closest to town, and left this other piece against that farm. As I explained before, that piece of land did not have anything on it. If, further down the track, the decision were made to sell the farm, there would be one title here and another there. The bypass went through the middle of one property and took a little bit off the other. The most sensible thing to do once the bypass was built was to make that side there and that

side there, if you were going to sell it. However, we had no intention of selling anything. That is one of the major issues. My parents would still be there if they had not been so traumatised. They came and bulldozed their house, pool and everything else. That was their lifestyle. This all happened when my parents were at a late stage in their lives. We all must go through the aging process. We do not realise, until we are dealing with it, how traumatic it can be.

**Hon ED DERMER:** Will you provide us with the documentation that shows the undertaking and also the documentation in which you were advised that the undertaking was being withdrawn?

**Mr Ferguson:** Quite frankly, I do not think there is a document that outlines the undertaking as such. It will be in the maps that were drawn up, and the various things that they said.

**Hon ED DERMER:** I thought you said earlier that there was a document.

**Ms Posselt:** I imagine that the architectural drawings would have been put on a map and would have set out what was supposed to have taken place in the beginning.

**The CHAIRMAN:** We should get hold of them. We have to move on.

**Hon ED DERMER:** The central cause is not very clear.

**The CHAIRMAN:** We can stay here until three o'clock if you like, but we are not going to clear it up. Are there any other questions?

**Hon ED DERMER:** You made the point that Main Roads admitted that it was going to take out the underpasses, so that indicates that they were planned in the beginning.

**Hon JOHN FISCHER:** They must be in there. I can see the point that my colleague is making, but, to my mind, if Main Roads said that you agreed to take them out, it obviously must have initially agreed to put them in. That question is relevant only when it comes to deciding whether that decision was made after you sold the property or split the title, but it is important to back up that the underpasses were initially going to be constructed.

**Mr Ferguson:** They were definitely going to be there.

**Hon JOHN FISCHER:** I do not see that there necessarily would have been a letter saying that this was definitely going to be done when it was in the drawings. That is where my colleague is having a little trouble about whether he could see the letter.

**Hon ED DERMER:** I am just asking whether there is a letter. I am still not clear on that point.

**Ms Posselt:** The point I am trying to make is that the farm was not going to be sold. The bypass was going through and the underpasses were supposed to be included. If the bypass had been built in the way that it was supposed to have been built and we had then chosen to sell the land, it would have had a much higher value because each side could have been used in the way that we had been using it. As it turned out, it is still not good, because the people who bought the other side would perhaps like to buy this side, which they are leasing. They now have the problem of the underpasses.

**The CHAIRMAN:** Clearly, part of the value of the property is in having access to the other part of the land. That access, prior to the bypass, is the important point.

**Ms Posselt:** I return to the issue of compensation. The amount that my parents were to be compensated - \$200 000- would not go anywhere in relocating to Perth.

**The CHAIRMAN:** I assume that you are exploring your options for that compensation offer in terms of appeal rights, tribunals and so on.

**Mr Ferguson:** Yes.

**The CHAIRMAN:** I want to go back one step. We have to wind up the committee. I refer to route 6 and the two lots your mother had owned that were resumed. That land is now being resold. Are you aware that there are provisions within, I think, the Public Works Act that provide that if the resumed land is not going to be used for the purposes for which it was resumed, the original owners are able to seek to have the land returned? You might want to investigate that. I provide that for your information.

**Ms Posselt:** The value of that land is now much higher than it was 20 or 30 years ago.

**The CHAIRMAN:** There are provisions in the legislation that will allow you to follow that through. Somebody might be able to do that for you.

**Ms Posselt:** Thank you.

**Mr Ferguson:** I have known the Posselts for 38 years. I hold the record for the person who has worked longest with Ron Posselt. I got on well with him, and it is quite devastating to see this sort of thing happen. What is so appalling about this matter is that the Posselts would have been prepared to walk away with \$400 000 at that stage and just call it a day. If you consider what was left out of the figure of \$650 000, which I reckon was still in there after the costs for the drawings, the Posselts were due about \$175 000 or \$200 000. They were prepared to take \$200 000 - one-third of the value of those underpasses - and walk away. That was good value for the State. That was a good gesture by the Posselts. Now we are faced with -

**Hon ED DERMER:** If the underpasses had been in place.

**Mr Ferguson:** No; if the underpasses were deleted. The State would have saved \$600 000.

**Ms Posselt:** They have now taken them out.

**Mr Ferguson:** There is a \$600 000 saving. The Posselts have been offered \$75 000. The Posselts would have taken only \$200 000 from that \$600 000. Most people would have turned around and said that they wanted three-quarters or seven-eighths of that figure, but that was not the case here.

**The CHAIRMAN:** I am sure those valuations, in terms of the compensation, are being pursued. It is not our job to do that.

**Mr Ferguson:** No. I know that.

**The CHAIRMAN:** We have to wind up the committee because Parliament is sitting today. Is there anything else that you would like to say in conclusion?

**Mr Ferguson:** I have said all that I needed to say.

**Ms Posselt:** I would like the committee to investigate this matter further to see whether we can get some justice for my parents. Thank you very much.

**The CHAIRMAN:** Thank you for your time. I thank everyone who has taken part in the committee today, including our committee staff and Hansard.

**Committee adjourned at 1.10 pm**