

**STANDING COMMITTEE ON PUBLIC ADMINISTRATION
AND FINANCE**

LAND INQUIRY

**TRANSCRIPT OF EVIDENCE TAKEN
AT DANDARAGAN
WEDNESDAY, 2 OCTOBER 2002**

SESSION 5

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**

JOHNSTON, MR DONALD STEVEN
Partner, D.N. and E.J. Johnston and Son,
examined:

FERGUSON, MR JIM
Environmental Consultant,
Ferguson, Kenneison and Associates,
examined:

The CHAIRMAN: Welcome to the committee. Can you please state your full name, contact address and capacity in which you appear before the committee.

Mr Johnston: My full name is Donald Steven Johnston. I am known as Steven not Donald. I am a part owner of Victoria 10322 on the Watheroo West Road in the Shire of Dandaragan.

The CHAIRMAN: Mr Ferguson is appearing with you.

Mr Johnston: Yes.

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

Mr Johnston: Yes.

The CHAIRMAN: These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document to which you refer. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. 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?

Mr Johnston: I have tabled a letter that I wrote to Murray Nixon in 2000 when he was a member of the Government. It sums up our personal circumstances without going into too much detail. You would get bogged down if we went into all the detail. Jim also has tabled a document, but he has to give pages and pages.

I will start by explaining our personal circumstances as is written in the letter. We farm north east of Moora, in what used to be a very tightly held area. Land rarely came on the market. If it did, it was always highly priced. In 1979, in an effort to expand our operation and remain viable in the long term, we bought a partly developed property north east of Badgingarra - about 55 kilometres to the west of us. The long-term aim was to sell that property if and when land became available at home. We slowly developed the property during the 1980s, but the collapse of the wool industry, high interest rates, helping to fund my parents' retirement and the recession that we had to have forced us to stop clearing. At that time, no clearing restrictions were in place; we could do as we pleased. However, finances forced us to stop clearing. I add at this stage that in 1992, we cleared a further 40 hectares and all that was required at that time was a permit from the Department of Agriculture. We changed the way we farm, mainly by running fewer sheep and growing more crop, and slowly got our farming operation profitable again. By the late 1990s, we were in a position to clear more land. In August 1998, we lodged a notice of intent to clear. Because there was no problem with salinity or the soil type to be cleared, I presumed there would be a process to go through and within six to nine months we would be given permission to clear. By early 2000, I

realised that regardless of what the Government and the agencies were saying, a de facto clearing ban was in place. In an effort to resolve the situation, an offer was made to the Government on 8 June 2000 to buy the property for what I considered a very realistic price. Little interest was shown and the reply from the Department of Conservation and Land Management was that the purchase of the property was a low priority. You must bear in mind that this is a wonderful, beautiful, biodiverse northern sand plain that the Environmental Protection Authority has said can never be cleared. As no interest was shown by the Government in purchasing the property, on 25 June 2000 preliminary grounds of appeal were lodged against the EPA's advice to the minister, indicating that the advice was biased and a lot of it was not based on fact. A full appeal was lodged on 15 April this year. To date, no response has been received.

My family now finds itself locked into a situation in which it owns a property that does not have enough cleared land to be viable, it contains too much bush to sell, and we are fighting for something that we have owned for over 20 years. If I knew when we lodged the notice of intent to clear what I know now, we would never have lodged it. We would have just gone ahead and cleared, and I do not reckon anyone could have done anything about it. The only reason we lodged the notice of intent was that we thought we were doing the right thing. More than four years later, we find ourselves caught up in the bureaucratic nightmare.

I finish by saying that probably 50 per cent of the State is in drought this year. Already our two state farming organisations are calling for government assistance. The area in which our property is located is currently experiencing one of its best seasons in 10 to 15 years. We have not received, and do not expect to receive, any government assistance because the property is located in an assured rainfall area. I would like to know who will benefit from our not being able to clear our property.

The CHAIRMAN: Mr Ferguson, do you wish to say something now?

Mr Ferguson: I will make one point clear. The offer to sell to CALM - the letter is in here - was open until April this year. The Johnstons left the property on the market, and it was extremely good value. My advice was not to put it on the market or offer it to the Government at that price because it was too cheap. The price was \$498 000 for the whole property. This is what is so appalling about the whole matter. It sends a signal to me that remnant vegetation counts for nothing to the Government. The most recent letter stating that it was not interested in the property was received only last month. We wrote to Minister Edwards and asked whether she would make the move to purchase the property. By the time surveyors were called in, the cleared country was sold and the vegetation was retained, it would not have cost the Government any more than \$150 000 to put 1 500 acres of remnant vegetation with the Boothendarra nature reserve and sold the other off to an adjoining neighbour or to someone who wanted a small farm. It has unlimited water. It would be limited for irrigation, but the owners may get a licence. However, it has unlimited good water for stock purposes. There are no salinity problems. I find it hard to believe that the Government could not expend around \$150 000 to secure that property and put it with the Boothendarra reserve. It would have left 500 acres of remnant vegetation to go with the land the Johnstons own. It is a tidy little property that may have suited somebody. The offer to purchase the property was open until just the other day. Mr Johnston has done the right thing. The Johnstons have gone through the process and that is where they sit today. I will say more a bit later.

Hon DEE MARGETTS: You said that the amount of bush left on the land makes the whole farming property hard, if not impossible, to sell. Have you thought about a planning bulletin No 48 subdivision to sell the property separately as conservation?

Mr Johnston: Who would want to buy a property in north east Badgingarra?

Hon DEE MARGETTS: No; it was a question. Do you know about planning bulletin No 48 subdivisions.

Mr Johnston: No, I do not. However, my experience is that they would want it for nothing.

Hon DEE MARGETTS: Sorry. What is the price per hectare for the \$150 000?

Mr Ferguson: About 600 hectares would go into that.

Hon DEE MARGETTS: I know that farmers in Gillingarra are looking for something like that, and they are starting to work along that line at the moment. There is an unmet market for remnant bushland. There are farmers with remnant bushland who cannot sell or they feel that it is affecting the value of their farms. However, there is an area between farmers subdividing the property, leaving a little already cleared pocket and putting it on the market as a bush block. Has nobody ever mentioned that to you?

Mr Johnston: It is too far from Perth for people to buy it as a bush block.

Hon DEE MARGETTS: Are you sure of that?

Mr Johnston: I am almost positive of it. You should go to north east Badgingarra at the end of February.

Hon SUE ELLERY: Beautiful.

Mr Johnston: Or in January or March. It is too far away. At that time of the year it is 45 degrees in a water bag. The EPA has said that it does not want any further clearing. I can live with that. I do not enjoy it, but I can live with it. Here is the property, so the Government should buy it, take off the remnant vegetation and then sell the cleared area to the neighbours. I do not want to go to the effort of splitting it up and trying to sell 100 acres here or 500 or 700 acres there. I would be there forever trying to sell the place. My plan was for the Government to buy it from me so that I could get on with my life. We could have bought land elsewhere and continued farming. However, it has shown no interest in it. We cannot clear the property. The government agencies are not prepared to buy it. We cannot sell it as a unit because it is not big enough. It is not a viable unit to attract someone outside to buy it, so it can be sold only to a neighbour. The Government knows that and it is sitting there laughing. It will wait for me to go broke and get sick of it and then it will pick it up at whatever price it wants.

Mr Ferguson: I find this a particularly sad case. The Government has had two and a quarter years to do something. It cuts across both Governments. The Liberal and National Parties had the option for a year, and this Government has had the option for a year and a quarter. It makes no difference who is in government. I find it difficult to comprehend that the effort could not have been made.

Hon DEE MARGETTS: It has been almost impossible up to now to subdivide remnant bushland, especially in a lot of shires. That is why people have said that they have a property that is not viable because they cannot clear or use the remnant vegetation. In the past 12 months there has been a method to subdivide, which some farmers are using. However, I must admit that most real estate agents who are dealing with rural bushland do not know what to do with it. There is an unmet need and there is almost no information on remnant bush for people to access. However, this mechanism is now available. There is an expectation for any landowner. People are saying that they think the Government should buy the property, but there is not an endless budget. Perhaps there should be funding.

Mr Johnston: If the Government does not want to buy it, why can I not clear it? It cannot have it both ways.

Hon DEE MARGETTS: It is not; it is suggesting that there is the potential for you to sell the property privately, as with any other land.

Mr Johnston: No-one has suggested anything to me. We just keep running into this brick wall.

Hon DEE MARGETTS: So nobody in government in the past however many months has ever suggested the option for a planning bulletin No 48 subdivision?

Mr Ferguson: That is a single-lot subdivision.

Hon DEE MARGETTS: It does not have to be. Each piece of bush must be over 30 hectares to be viable. It must have a pocket of existing cleared land, not newly cleared land, so that somebody can establish a residence on it. Have you given any advice of that type to your clients? Is that part of the package that you provide to your clients; that is, to advise them of their options instead of having a go and ensuring that the Government buys it?

Mr Johnston: If the property were located at Gingin, I would say yes, maybe. However, we are two and a half hours north of Perth. People will not want to buy it.

Hon DEE MARGETTS: Farmers at Gillingarra are doing it.

Mr Johnston: Gillingarra is a lot closer to Perth than north east Badgingarra.

The CHAIRMAN: If Mr Johnston were made aware of some buyers who were prepared to pay a fair value, he might be interested.

Mr Johnston: Yes.

Hon KEN TRAVERS: The next question would be: do you have the skills to do a subdivision? However, I do not think we need to go into that today.

Hon MURRAY CRIDDLE: Before 1998, did you put forward a plan to the Department of Agriculture or to anyone else? Had you started the process?

Mr Johnston: When we stopped clearing, we did not have to submit plans. None of that was in place.

Hon MURRAY CRIDDLE: I just wanted to establish the situation as it was. You made your first approach to the Government in June 2000 to clear again. No notice of intent was made in 1998.

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[12.40 pm]

Mr Johnston: No. We lodged the notice of intent in 1998. Along with that, 10 went to plan of what was to be cleared and what was to be left uncleared. There was a plan there and then. The application was assessed in four stages. The first three stages are terrific and you can just fly through them because if approval is not given within 90 days, or if it does not pass through the next stage within 90 days, you get automatic approval to clear the land. However, when the matter reaches the Environmental Protection Authority, it is like walking into a brick wall; the process stops dead. We have been at that stage ever since.

Hon KEN TRAVERS: They are the same issues that we have heard and they have been well presented. I think the documentation covers it.

The CHAIRMAN: Do you have anything to follow up.

Mr Johnston: I do not know what other government departments are like, but it seems to me that the senior public servants in the government departments that I have dealt with dictate policy and the relevant minister must explain it to the media and the public. I think that government departments should be made more accountable. They do not have to go to the electorate every four years like members of Parliament. Public servants sit in back rooms and determine policy. After what we have been through, I assume that the same thing is happening across all government departments. Too much power is in the hands of a few senior public servants.

Mr Ferguson: Mr and Mrs Johnston could have cleared their land 18 months or two years ago when they first came under the attention of the EPA, but they chose not to; they chose to go along with the system and abide by it. There is no doubt that they could have cleared their land. Under the Act, there are no land degradation issues. Nobody from the EPA has looked at the vegetation on the Johnston's property. The EPA has not shown any interest. I have to bite my tongue when

government departments and other people say that we must preserve the biodiversity and that sort of thing. Those types of statements ring very hollow when a case like this arises. On 11 July I got the final letter from the Department of Conservation and Land Management, which states that there are some areas of remnant vegetation on the Victoria location that are of conservation value - some areas. However, it also states that the block also contains cleared land, which the department would be unwilling to purchase. What the hell is wrong with them? The bush is of no value to the Johnstons because the area is far too small to farm. I just cannot see -

Hon DEE MARGETTS: CALM is saying that the farmers are of no value to it. That is why I cannot believe that nobody has recently suggested subdividing the areas of land that CALM or private buyers might be willing to purchase.

Mr Ferguson: The next client to come before the committee went down that process. The policy document *DC 3.4: Subdivision of Rural Land* was released only very recently. An amendment was made to DC 3.4, which was promulgated just before the Liberal and National Parties lost office. The amendment provided for one conservation lot to be excised. Admittedly, what I can see coming up, which will definitely have value, but it will still take time to get the shires around to this -

Hon DEE MARGETTS: It is absolutely true. Some shires do not want people to buy land for conservation purposes. That has got to be part of the community consultation process.

Mr Ferguson: Shires are looking at the preservation of remnant vegetation as a land use, which they have not done before. That land use will enable landowners to cut down to a certain lot. In the Johnston's case, who own 1 600 acres - 600 hectares - they would be able to cut it down to something like 100 hectares lots. That is extremely difficult to do. The cost of putting in the infrastructure to do that makes it extremely difficult for the Johnston's.

The CHAIRMAN: I think we have got a pretty clear picture, Steven. Can you summarise what effect it is had on your life and your business?

Mr Johnston: I have deliberately let Jim handle a lot of these matters for us because I think I would go around the twist and tear out my hair if I got caught up in the nitty-gritty of it. When we first started, we dealt with the Department of Environmental Protection. At that time, we were seeding. For seven days a week, we woke up at 5.00 am knocked off at 6.00 or 7.00 pm. One day I got home to find a fax from a guy from the DEP who was handling our case. The fax said that he had tried to telephone me during office hours but did not get an answer. I had tea and then was on the telephone to Jim for three hours to try to work our way through the problem. The people who we have been dealing with get paid to do what they do because it is their job. They go to work at 8.00 or 8.30 am and knock off at 4.00 pm. It is not my job to fight this case. The biggest impact has been the cost of fighting these people who are supposedly only doing their jobs. Sometimes I go to bed and think, "Jeez, what I have done wrong to deserve this?" My next-door neighbour's farm went on the market last year. I would have given anything to have bought some of that land. That is a very good farm that will be viable forever and a day. If I had bought it, some of my kids might have been able to come back home and farm. However, because I cannot sell the property at Badgingarra, I cannot do anything. My hands are tied behind my back and we are locked into a situation that I cannot see any way out of.

The CHAIRMAN: Do you have anything else to add? I think we have got a good understanding of your situation, thanks very much. Do you want to say anything in conclusion?

Mr Johnston: Not really.

The CHAIRMAN: Your evidence will be a great help to give the committee a picture of government processes, which is what our inquiry is all about.

Proceedings suspended from 12.46 to 1.33 pm