

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

**TRANSCRIPT OF EVIDENCE TAKEN  
AT BUSSELTON  
ON WEDNESDAY, 28 AUGUST 2002**

## **SESSION 2**

### **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**

**SAW, MR ANTHONY**

**Farmer, Landowner and Developer,  
examined:**

**The CHAIRMAN:** You will have signed the document entitled “Information for Witnesses”. Have you read and understood that document?

**Mr Saw:** Yes, I have.

**The CHAIRMAN:** These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to, and please be aware of the microphones in front of you. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today’s proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that, until such time as the transcript of your public evidence is finalised, it should not be made public. 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. Do you wish to make an opening statement to the committee?

**Mr Saw:** I run a beef cattle stud at Redgate Road, and I have also put much time and work into a proposed development there. I am here to address what I believe is a lack of legislation or statutes and severe enough penalties to compel local government to progress its obligations under the Local Government Act, the various planning Acts and government policies. I did not make a written submission to the committee because I feared it would be taken purely as the opinions of a vested interest. However, I assure the committee that my concerns are for all in our shire in this regard and as regards our local government. The best way I can illustrate my instance is in narrative form. Hopefully, the committee will accept this not as a complaint but as a simple narrative of how things can either go wrong or not go ahead at all.

The Leeuwin-Naturaliste ridge statement of policy review started in May 1994. I attended the first meeting and I have attended every other forum to do with government and local planning since, as well as every council meeting since. As a result of matters that were raised in that review, the Augusta-Margaret River Shire Council adopted a new model for combined rural and residential development based on a submission I made which was in compliance with proposed government policies. A local review of the shire’s draft district planning scheme included this model. The draft district planning scheme of the Shire of Augusta-Margaret River, which was concluded in September 1996, was approved for advertisement by the planning minister in May 1997. Both those documents made provisions for my model to be progressed. However, the difficulty was that it was a new model and there were not sufficient opportunities to explain it to the bureaucracy. Suggestions about the new concept of rural residential development were made and councillors were required to prepare enabling local strategies, particularly for the townships of Cowaramup, Witchcliffe and Karridale.

The draft district planning scheme approved for advertisement by the minister in 1997 was thrown out by an incoming council in May the same year. The new council and

the new planner decided that they would throw it out and start again. There is a bit of *deja vu* in that the existing Margaret River council has determined that it will start with a new brush. It has made absolutely no reference to that scheme and has consciously determined to not even read or consider that draft district planning scheme, although it contained four years of public opinions, requests and requirements. It not only totally reflected the requirements of the population of Margaret River but also agreed with what was put into effect in Busselton. It was thrown out in our area because there were objections to some conservation clauses. We have never adopted a district planning scheme. The new council is working on a new scheme at this moment. Last Thursday it held a workshop in Margaret River which was attended by representatives of the planning ministry who evidenced absolutely no knowledge whatsoever of the requirements of that draft scheme. They had obviously decided to make their own determinations, because after the meeting, they decided that they would not admit any members of the public to workshops advertised in today's newspaper.

Because the draft district planning scheme in reference to our model was thrown out, the council lodged an amendment to the existing draft district planning scheme No 11 of 1985 with the ministry in October 1997. Because there was no supportive strategy, the ministry wrote to the council in February 1998 and on many occasions after that requesting that such a supportive strategy be completed. Successive councils endorsed and approved our model for rezoning our land as what was deemed by council to be an exemplary model to cover the new concept of rural subdivision. Although various councillors approved of it, the planning staff seemed incapable of progressing the required local strategies until a final demand from the minister in December 2000 persuaded the commissioners, who had then been put in place to run the shire, to progress the matter, which they did to the extent that the final draft policy and a revised amendment went to the ministry in July 2001. That draft policy was progressed and returned to the council for final advertisement at the end of 2001, when a new council was elected. The new council also progressed the matter until January 2002 when, in the course of the final advertisement of the policy, and under pressure from a couple of powerful lobby groups, the council decided to throw out not only our amendment but also the policy and start all over again.

Between December 1995, when the policy was first adopted, and today there has never been any opportunity whatsoever for either me or the minister to force local government or its staff to get on with the job that it is statutorily obliged to do. There are no penalties. There is no force. My amendment will eventually go through in a direct application. We have established that all the policy is there, but it will go ahead as a lone development. All those years of work - there should be provision to put that work into effect within a reasonable time - have been thrown out by a new council that is making its own rules without any reference to the public. Nowhere in this six-year saga has there been any room for me or the ministry to force any council staff to do anything. Are there any questions?

**Hon KEN TRAVERS:** I want to clarify one point. Are you telling us that the Shire of Augusta-Margaret River does not have a district town planning scheme and has not reviewed it every five years as required?

**Mr Saw:** No. We are still operating on scheme No 11 of 1985. Even though policies have been adopted officially by resolution by the council, they have been rescinded. There was even an attempt at last month's council meeting to rescind the whole rural strategy. The only reason it did not go ahead is that a couple of the staff persuaded

the shire not to rescind the rural strategy. The rural strategy was adopted by the council in 1991, but it is only a policy. It was intended that it be completed and brought into a district planning scheme. A change of planner prevented that. The draft district planning scheme, which should have been adopted in 1997, would have encompassed the policies of that rural strategy.

At this point nothing is being observed. No policy in relation to rural land is being observed by council, other than the district planning scheme of 1985. As I say, the staff persuaded the shire not to throw out the 1991 rural strategy policy, because if it were thrown out, the shire would have absolutely nothing to work with until the new district planning scheme is completed. The new town planner is working on the new district planning scheme now, and he has a strange feeling that he will complete in the next two months what the previous town planner was unable to achieve in five years. It will probably take another two or three years before we get a proper district planning scheme. We have no rural policies. The policies are there. The public need is there. The council and the staff can be obliged to address the needs, even though there are no policies. Obviously they can be obliged to adopt and enforce policies, but there is no way to force a council to do anything. The statutes say that it must be reviewed every five years, but there is nothing to make them do it.

**The CHAIRMAN:** Thank you very much. I am pleased we were able to hear from you. If there is any further information that you would like to provide to the committee to support any of the arguments you have made today, please feel free to submit it in writing to the committee.

**Mr Saw:** Is there anything at all within this hard luck case that you are interested in?

**The CHAIRMAN:** The general issues and the points you have raised are valuable to the committee.

**Mr Saw:** Is there still an opportunity to put something in writing to the committee?

**The CHAIRMAN:** Yes. You are welcome to follow up what you have said today with something in writing.

**Mr Saw:** At this stage the only avenue open to me is the Ombudsman. There is nothing that the local government department or the planning ministry can do. The Ombudsman's office has agreed that it is worth pursuing, but that was two months ago. Things work very slowly.

**The CHAIRMAN:** Please be aware that this is a parliamentary committee and our brief is to look at the processes of government; it is not to sit as a tribunal deliberating on your problem.

**Mr Saw:** I am well catered for in that respect. I hope that somehow or other, legislation that will save many others and me from experiencing this problem in the future can be put into effect. I hope that things can be hurried along and that the statutes can be enforced. There is nothing in them that can be enforced.

**The CHAIRMAN:** That message is quite clear to us. Thank you.