

STANDING COMMITTEE ON PUBLIC ADMINISTRATION

**INQUIRY INTO PASTORAL LEASES
IN WESTERN AUSTRALIA**

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 20 NOVEMBER 2013**

SESSION FOUR

Members

**Hon Liz Behjat (Chairman)
Hon Darren West (Deputy Chairman)
Hon Nigel Hallett
Hon Jacqui Boydell
Hon Amber-Jade Sanderson**

Hearing commenced at 11.07 am

Mr ROBERT GILLAM,
President, Pastoralists and Graziers Association of Western Australia, sworn and examined:

Mrs JANO FOULKES-TAYLOR,
Executive Member, Pastoralists and Graziers Association of Western Australia, sworn and examined:

The CHAIRMAN: You have been in the room all morning, so I will not go through the introductions. You are both familiar with who we are. Now we are going to find out who you are. On behalf of the committee, I would like to welcome you to the meeting. You will have both signed a document entitled “Information for Witnesses”. Have you read and understood that document?

The Witnesses: 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 documents you refer to during the course of this hearing for the record. Please be aware of the microphones and try to speak into them, and ensure that you do not cover them with papers or make noise near them. If you speak in turn, that would be helpful for Hansard.

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. I advise you that publication or disclosure of the uncorrected transcript of evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

Is there an opening statement that you would like to make to the committee?

Mr Gillam: We have put in a very substantial submission, and I would probably prefer to answer questions. Mrs Foulkes-Taylor has just lodged some documents with you, I believe, in the break and she perhaps may wish to.

Mrs Foulkes-Taylor: Yes, please, Madam Chairman. I do wish to make a few opening statements. Greetings to you people and thank you for having us at your place. I have read and agreed with the comprehensive submission that has been put by the Pastoralists and Graziers Association. I have had quite a bit of input into that but I have also written a submission myself which has been viewed by the pastoralists and graziers executive et cetera, and they have agreed with the things that I have said. I would like to go through some of these points if I may.

The CHAIRMAN: You have copies of those for the committee, I understand.

Mrs Foulkes-Taylor: Yes, I have. The points that I have made are following comments that I read in a letter that was sent out by Hon Wendy Duncan, who gave the various headings of the requirements of this hearing, so I just answered those ones.

The CHAIRMAN: You do understand that Hon Wendy Duncan comes from the other place. She is not part of this inquiry.

Mrs Foulkes-Taylor: I understand that.

The CHAIRMAN: She is not part of this Council. Any correspondence that she may have sent out to anybody regarding this lease was not put through this committee. It did not go out with the imprimatur of this committee and so is not to be regarded by anybody with regards to this inquiry.

Mrs Foulkes-Taylor: There were no comments in Ms Duncan's letter, simply a brief statement of the various headings that may be required by this hearing. That was my only guidance because we have a very, very poor mail service so I utilised those points. I have been through those with the chairman of the pastoralists association.

The CHAIRMAN: So you are saying that until you saw the press release from Hon Wendy Duncan, you were not aware of the terms of reference of this inquiry.

Mrs Foulkes-Taylor: No, I was not, but I do know them now, obviously, and I follow those closely.

The CHAIRMAN: I find that to be quite a strange statement for you to be making considering you are part of the executive of the PGA. As one of the major stakeholders in the pastoralist industry in Western Australia, the PGA was certainly sent notification of the inquiry as soon as the terms of reference were set for this inquiry and it was then requested to make a submission. I am concerned now that you as an executive member were not made aware of that correspondence that was sent to the PGA. I would perhaps ask you, Mr Gillam: did you not disseminate that to the other executive members once you received that correspondence and seek submissions from your board?

Mr Gillam: At the time of receiving the terms of reference, certainly we told pastoralists and members of the executive from that area that we wished to have their input into this. I cannot tell you whether we disseminated the terms of reference to it.

The CHAIRMAN: If you asked for input, why would you not put out the terms of reference for what you were seeking input on?

Mr Gillam: I am just saying to you honestly that I cannot believe if we did or did not but we certainly received a lot of feedback.

The CHAIRMAN: Do you have a copy of the letter that you sent out or the correspondence or email or whatever you did in relation to informing your members of this inquiry?

Mr Gillam: Not with me now.

The CHAIRMAN: Can you provide that for us?

[11.15 am]

I have to make it clear to you, Mrs Foulkes-Taylor, that we cannot accept this as a submission to the inquiry. The inquiry clearly had a period of time when submissions were being accepted, with 17 September being the cut-off date. In some instances people contacted us to say they could not meet that date and were given an extension to 30 September. During our hearings around the state other people tried to make submissions to the committee. We also had to reject those submissions. The document that you have given us today cannot be accepted into our submissions. In fact, you are appearing in front of the committee as a member of the executive of the PGA. You are not appearing as an individual. What you have provided is an individual submission that is separate from the PGA. The only submission that you can speak to today is the official submission that was put in by the PGA.

Mrs Foulkes-Taylor: I am prepared to do that, Madam Chairman, because my points are exactly as the pastoralists and graziers' executive. Is that okay?

The CHAIRMAN: We cannot accept this document.

Mrs Foulkes-Taylor: That is fine.

The CHAIRMAN: We will move on to the questions we have for the PGA about this matter. Mr Gillam, I go back to the beginning. I want you to step us through the process that the PGA undertook in negotiations with the government about the current draft lease.

Mr Gillam: Very simply, we were certainly aware that the Department of Lands was allocating additional resources to get the lease ready for when we got to the changeover point.

The CHAIRMAN: When did you become aware of that?

Mr Gillam: I would have been aware of that at least two years ago, but we had no input. Occasionally members from the Department of Lands and even the PLB would address the pastoral committee. At a meeting at one time—I think it was at least 18 months ago, if not two years ago—they made us aware they were allocating resources for the lease renewal project. We understood that. The first we knew of the draft lease or had any opportunity to see it was when I received it towards the end of July. We read the lease and obviously reacted quite adversely to what we read in it very quickly. The letter that I received was posted to me as confidential. I then started thinking about whom I might be able to trust in the organisation to remain confidential because, as you might understand, once a group of people know something it quickly goes beyond that.

The CHAIRMAN: The letter from the department was marked confidential to you and you only, not to the board?

Mr Gillam: To me as the president of the Pastoralists and Graziers Association; but within two days I knew that was not the case, because pastoralists were ringing me saying they had received it. Automatically, we knew straightaway that we could involve a much greater group of people—within a few days. We continued to receive complaints.

Hon DARREN WEST: When would that have been?

Mr Gillam: We received that letter about 20 July. It was in July; somewhere about there. I heard today the department said it posted it on 12 July. It may have been a couple of days after that. We continued to hear from pastoralists who were unhappy, and then I think it might have been during September we learnt of this inquiry. At that time, we still had not had anything. We had not put in our response to the lease. Eventually, we requested a meeting with the acting director general, and I took three representatives with me. They also had three there. Mrs Corker was at that meeting for some of the time. We tackled the terms of the draft lease. It probably would be understating it to say that that meeting was robust—it was beyond that. Although we argued for some time, we had by then well and truly had feedback from our pastoralists that the threshold issue, really, was whether or not the state had the right to renew the lease, because of the fact that under Minister Shave, at the end of the 1990s, all pastoralists in the state were offered a renewal process. All of those pastoralists who wished to renew—almost everybody—took that up. They had a year to do that. Those pastoralists who were targeted to have excisions from their lease, such as the proposed two-kilometre strip along the coast and other various sites that various bodies could make claim to, did not get to go through that process—it was completed early in the time of Minister MacTiernan. That was the problem. When we went to that meeting we said that we did not think they had the right to give us a new lease; we should have a lease that is rolled over under the terms and conditions that were offered in our letter back in the 90s and which were accepted. They did not agree with that, obviously, and that is why we had a very robust meeting. Eventually, at the conclusion of the meeting—I think it was early October I think; I looked in my diary because I thought this would come up—we said we needed to meet again. They would have their solicitor with them to explain to us why none of these terms and conditions needed to be changed. Very much as Mrs Corker has already told you, they had a very strong position they felt that was the lease that would be offered and we would need to accept that and it would be a new lease. Since then, we have had negotiations with them. At this stage—although under confidential circumstances, I am prepared to talk about that meeting—we have a much better understanding and they have accepted some of the points that the pastoralists and graziers put forward.

The CHAIRMAN: On the Doug Shave offer—let us call it that—have you sought, on behalf of the PGA and its members, a legal opinion about whether it was a valid offer?

Mr Gillam: That was the threshold issue that we wished to discuss at the meeting we had a week ago today, 13 November. There was a meeting with the Department of Lands. We insisted, because we were told that it had lots of legal advice. We certainly had legal advice from our solicitor who has at least 50 per cent of her business on native title issues, so she is very strong on land issues. Our advice was very, very clear. All pastoralists who signed that letter and had accepted that offer had entered into a contract with the state, which should have been enacted on 30 June 2015.

The CHAIRMAN: Was that written legal advice?

Mr Gillam: We have received written legal advice.

The CHAIRMAN: Are you prepared to table a copy of that advice?

Mr Gillam: I am prepared to table that, if necessary.

[*Supplementary Information No A4.*]

Mr Gillam: That meeting nearly broke down on the Tuesday afternoon, simply because we said that unless you have independent advice to table at the meeting or a representative from the State Solicitor's office, it was not worth us attending. That meeting with the State Solicitor representative did go ahead. We agreed to keep confidential the outcomes of that, but we expect an outcome that is acceptable to pastoralists, which will be announced by Christmastime.

The CHAIRMAN: Are you prepared to discuss those matters with the committee in private?

Mr Gillam: Yes.

The CHAIRMAN: I ask the room to be cleared so that the committee can deliberate as to whether we will go into private session.

Proceedings suspended from 11.24 to 11.28 am

[The committee took evidence in private session]

[11.48 am]

The CHAIRMAN: Mrs Foulkes-Taylor, did you want to seek a point of clarification?

Mrs Foulkes-Taylor: The comments on this so-called submission relate to the Pastoralists and Graziers Association's submission, which is the main one. There is nothing different. I wrote these notes down to help me present as a witness.

The CHAIRMAN: It is nothing different. It is the same submission and we are dealing with the PGA. Is there problem between you and Mr Gillam?

Mrs Foulkes-Taylor: Absolutely not, madam.

The CHAIRMAN: Then we will continue the way we are using the PGA submission.

Hon AMBER-JADE SANDERSON: In your submission you state that the PGA had no indication of environmental damage occurring in the rangelands and no reports of significant stock increases. What monitoring did the PGA undertake to arrive at that conclusion?

Mr Gillam: The PGA does not undertake any official monitoring. However, I travel around the state a fair bit. I was in pastoralism like Mrs Foulkes-Taylor for a long period of time, but I have been out of it for three years. We take anecdotal evidence from our members. I watch the country as I travel around. If one was to go back to 2009–2010, we went through a pretty severe drought, particularly from the Gascoyne north, and cattle numbers—it is exclusively cattle in that area, there is only a tiny strip of sheep down the Carnarvon coast—were absolutely decimated. I am sure that some of the talk about welfare comes from that time. I fail to see how they can say that numbers are at a level at which they are doing damage. I have driven between Broome and Halls Creek and

Newman and Mt Magnet and Geraldton and as far as Carnarvon and out to the junction but I have not seen leases that have been badly damaged.

Hon AMBER-JADE SANDERSON: While acknowledging your very extensive experience in the industry, it is not a scientific or methodical approach to examining environmental outcomes.

Mr Gillam: No, it is not. I have been through some pretty hard times myself. You would be aware there was a royal commission into the pastoral industry in 1940 because of a large drought. It was the general consensus that the pastoral industry was finished then. The Jennings report was done in the late 1970s because of another savage drought that we had from 1976 to 1981. Once again, the pastoral industry was written off. I have sat at the rear of the committee room today and heard people writing it off yet again. I am very confident that the pastoral industry will continue and rebirth.

Hon JACQUI BOYDELL: There are different interested groups involved. There is the PLB, the PGA, the pastoralists and the government, which is an interest group involved in managing the land and providing an environment in which pastoralists can prosper. Given the evidence we have heard in this committee and my involvement with pastoralists who have shown a willingness to diversify—possibly where tourism might become a principle income earner that has previously been on a pastoral lease—how does the government manage that and allow traditional pastoralists, who are really business owners, to grow their business? How does the PGA play a role in giving feedback to government? My concern is that if you stick with the old lease—we have heard evidence that pastoralists want to diversify—there is no flexibility and you will have to move to something else. How do you do that?

Mr Gillam: I believe we can diversify under the current lease. I heard Mrs Corker also say that it has become easier in the past couple of years. There is no doubt that for a long period people who wished to diversify had to go to the Department of Water and the conservation department. In some cases they would have to go to half a dozen different departments that would add comment on their diversification. Of course, if one of them changed the conditions, it had to go back to the others to be endorsed. People became exhausted. It cost too much and they just said, “Bugger it; it’s just too hard” and gave it away.

The debate about leases and tenures gets very mixed up at times. We have had continuing debate about tenure for at least two to three years. Quite obviously we should have had more discussion or been asked our opinion about where to go with leases. The minister wishes to see tenure go forward. That was the case the last time I knew about it and I think it is still the same. Tenure is not tied to 2015 exclusively—it does not have to be—but 2015 has become a bit of a milestone date for so many areas. Under tenure we are supportive of giving pastoralists the option of having a traditional pastoral lease, which they now have and on which they can get diversification permits if they wish. I am sure that the diversification process will become more streamlined. It will deal with people going there in the future. The minister also put up a rangeland lease. This is very divisive among many of our members. I am personally in favour of them because I do not believe that pastoralists can enjoy the sole privilege of the rangelands for the next 50 years in the way that they have for the past 120 or 130 years. The traditional pastoral lease will not invoke future acts of native title. The rangeland lease proposed by the minister will invoke future acts and native title. But under the rangeland lease, once a person applies for it, he has the right to diversify. People will go for a rangeland lease when they seek to diversify and the level of income from their new business exceeds 50 per cent or becomes the majority of the income. I have no problem with that. It is a good proposal. Some people will take it up. But when we talk about diversification, we are really talking about a group of people who live fairly close to Perth and who can attract weekenders from Perth during the wildflower season for about two to three months during winter. It is very pleasant in the southern rangelands from July through to the end of September. But the majority of people who wish to diversify will either have a coastal environment or a large river that is attractive

and has good water supplies. That is not quite as abundant as some people might make out at times. My feeling is that a maximum of 20 or 30 businesses might take up a rangeland lease and go through the bother of native title. We have been assured by the Department of Lands that we would need to meet those costs ourselves. I think the vast majority of leases will remain traditional pastoral leases. The third option under tenure was a perpetual lease. The conditions under a rangeland lease do not apply to a perpetual lease. You can only graze stock on it. I have never been given an explanation as to why that was included. Ever since I was a small boy pastoralists have said that they wanted a perpetual lease. It is my suspicion that that is why he put it on the end of the list—as something that might be attained but, quite frankly, once again it would invoke future acts. I cannot see anybody wanting a perpetual lease because I cannot see the gains from it. The minister has said that he would like to see the automatic rollover of leases. In other words, he would like to remove the right of the minister at the time of rollover to remove the right of renewal, subject to two caveat areas. The first is environmental sustainability, so making sure we are not flogging the lease, which is referred to in the first term of reference. The second is ensuring that we have met our financial obligations as far as paying rent and those things. We have no problem with that at all.

Hon DARREN WEST: Along a similar line, when you say that your position at the end of that meeting was one of some compromise of either a new lease or the existing lease, surely there would not be a lot of cases in which neither of those are acceptable. We have heard from a lot of pastoralists and I know you are speaking on behalf of your members today who are a very diverse group of people with a very diverse set of circumstances. Can I put it to you that other options could be pursued?

Mr Gillam: I would not say that there are no other options. We believe that what was offered as a compromise would be acceptable to the vast majority of pastoralists. I would not exclude fresh and new ideas that come in; indeed, we would look at them.

[12.00 noon]

Hon JACQUI BOYDELL: Referring to evidence that was given earlier—we have certainly heard this in other public hearings—there is concern about the minister having the right to terminate under animal welfare conditions or from a lack of payment of rent or severe land mismanagement. If the minister on behalf of the state, who has an obligation to the taxpayers of the state, does not have that right, who should have that right?

Mr Gillam: It should not be anyone but the minister. I said that with the conditions of tenure we talked of as the two areas for which he would hold caveat. I do not have a problem with the minister being the right person. The trouble with the draft lease is that a pastoralist could be accused of something under the animal welfare act and the minister would have the right to terminate his lease. I know it is all very well to say that he cannot do that, but the fact of the matter there is no right of appeal. He has the right to terminate the lease. If I go back to the period of 2009-2010, I received many complaints about animal welfare issues in the pastoral sector. Some of those came from very well-meaning people who had driven past a windmill and saw a dead cow and a couple of downers, which are those that have not got up but have yet to die. It is not nice to see. But these things happen out there. It is because of those situations that we need to have the termination rights removed from the proposed draft lease. There is no grey area; no right of appeal.

Hon JACQUI BOYDELL: I seek clarification that the terminology of the draft lease is “upon action of animal welfare”? It is not an accusation; it is where there is a result.

Mr Gillam: I am very happy to have a look at that.

Hon JACQUI BOYDELL: That is certainly my understanding, but your comment is different.

The CHAIRMAN: It reads “if any action is commenced or taken”. The problem is the interpretation of “action” and “commenced”.

Hon DARREN WEST: It is a bit grey though.

Mr Gillam: I do not think anybody—certainly not our members—If somebody was accused of a grave offence and it was a second occurrence, we could see areas that you might. We are not saying that pastoralists have got a God almighty right. What we are saying is that if these people raise finance, have mortgages and get loans from banks and all the things that are required, a banking institution will not be particularly impressed and give any leeway when a lease is cancelled and there is nothing left.

The CHAIRMAN: That brings us to the end of today's session. Thank you both for coming today. Ladies and gentlemen, that ends today's hearing. We thank you for your interest in coming along today.

Hearing concluded at 12.04 pm
