

STANDING COMMITTEE ON PUBLIC ADMINISTRATION

INQUIRY INTO PRIVATE PROPERTY RIGHTS



**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 30 OCTOBER 2019**

SESSION TWO

Members

**Hon Adele Farina (Chair)
Hon Jacqui Boydell (Deputy Chair)
Hon Ken Baston
Hon Kyle McGinn
Hon Darren West**

Hearing commenced at 10.54 am**Mr WAYNE GOWLAND****Private Citizen, sworn and examined:**

The CHAIR: Wayne, I have a few formalities I need to go through first and then we will become far more informal after we have completed this. Wayne, I require you to take either the oath or the affirmation, and the sheet with the details on it is just near you.

[Witness took the oath.]

The CHAIR: Thank you very much, Wayne. Wayne, you will have signed a document entitled “Information for Witnesses”. Have you read and understood the document?

Mr GOWLAND: Yes.

The CHAIR: Thank you. These proceedings are being recorded by Hansard and a transcript of your evidence will be provided to you in due course. For the purposes of the hearing, if you refer to a document, could you please state the full name of the document so that we can identify the document? Also, can you just talk into the microphones and not cover them with paper.

I remind you that your transcript of the hearing will be made public. If for some reason you wish to make a confidential statement during today’s proceedings, you should request that evidence be taken in private session before you give it. If the committee agrees to your request, any public and media in the room will be asked to leave so that you can give your evidence in private. Until such time as the transcript of your public evidence is finalised and has been made public by the committee, 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. Do you have any questions in relation to any of that?

Mr GOWLAND: No, that is quite clear.

The CHAIR: Okay. Would you like to make an opening statement, Wayne?

Mr GOWLAND: Okay. I will do that. The reason I made this submission—there were several reasons. I will give you an example. On the Torrens title system if we are to purchase a block of land to build a house, on the title we will see if there is an easement. For example, it might be a Water Corp easement for a drain. So, we are aware of where we can build our house. The builders are aware of the limitations—the distance to the drain. Under environmentally sensitive areas, important vegetation areas et cetera, that is not clear on the title. Because it is not on the title, you can find yourself building a house in an area that even though the house can be completed, you can be living in there, it is ambiguous as to when you will receive notification. So, you can have your house built. You can have been living there for a year. That is illegal if it is on an ESA or within the buffer zone of an ESA, which makes everyone involved—builders, tradesmen et cetera—having conducted illegal activity. You are committing an illegal act based purely upon the assessment of the title with no other notification and the notification can become post-building.

My other concerns are without proper notification on the title, which is the basis of our Torrens system, people hesitate to invest. I myself am hesitant to make any investments in property because you might invest and you might set it up. You can invest millions of dollars. Six months later, you can find a regulation applied to your property whether for important vegetation or wetlands or environmentally sensitive areas that nullifies your investment. And there is only one person taking

the loss, because there is no clear avenue for compensation. The Torrens system does provide for compensation in these cases. I do not know if it has ever been trialled.

The CHAIR: Have you had a personal experience of having a property right limited by a government action or government legislation?

Mr GOWLAND: Many years ago, my father had, yes. He was running a property in the Upper Swan, not large, about 400 acres, bought with the intention of irrigation to grow feed for cattle. Prior to the purchase, he was told that there would be no problems with approval. When the approvals were finally entered, they were denied. This is after a significant amount of money was spent. He overcame it because he had other properties, but that made me aware of what can happen and the financial burden that places on people. As you know, only about seven per cent of the land in this state is freehold. All the rest is owned by the Crown.

[11.00 am]

The minority are unfairly impacted by covenants related to environmental prevention of land clearing, wetlands and important vegetation. The problem is—and I have contacted several government departments over this—there is no accurate maps. There is no reflection on the title. When you buy a property in the south west, you are buying a pig in a bag. A verbal conversation with a chap from the ag department did advise me that all the properties south of Mandurah meet the definition of “wetlands”.

The CHAIR: And thereby there are restrictions on what they can do with that land?

Mr GOWLAND: Wetlands apply a lot of restrictions. Once again, it is impossible to find, because I have tried, the areas that are covered by this. It is somewhat ambiguous. Whether this is simply unintended consequences of legislation, which you see a lot of, or there is some structured point behind this for the future, I do not know, but what concerns me—and I know this is a little bit off key to my submission; I did come across it after—I have put a copy in there. It is a snapshot of a social media page, which is what some environmentalists appear to be seeking, which is applying to property. Property is land, it is house. Your TV set is your property. Your car is your property. They are pushing for every bedroom in the house to be filled. So, if I live in a three-bedroom house and as per the ABS we know there is a lot of single-person households, they want to force you to have someone in the bedrooms as a way of reducing the carbon footprint of building houses. The problem is that as they have come along and they have told farmers, “You still have to pay for that bit of land, you do not have vehicle access, you have to put in a buffer zone, you are not allowed to use the land that you have paid for, the land you have bought, the land you pay insurance on, the land you pay rates on.” They have literally removed your rights to a portion of your land. If they smooth that or leapfrog that across to housing under the name of an environmental emergency, we can find ourselves forced to accommodate a stranger in our own bedrooms. I know how that sounds. That sounds a little bit outrageous and you might think that will never happen. Forty years ago, the prospect of someone coming along and telling you, “You’re not allowed to use that portion of your land because there’s a particular flower there, and because somebody somewhere considers it’s an environmental area, you are forced to put in a buffer zone of 400 metres around that area”, that would have sounded as outrageous as what I have just said about being forced to have someone live in your bedroom.

The CHAIR: Wayne, what sort of outcome would you like to see from this inquiry in relation to the issues that you raise? Is it just greater transparency?

Mr GOWLAND: I think we need a review of how much land is covered by environmental constraints—wetlands—and how much land is covered by ESAs. And I think once we have that, I

think we need to be able to see that on the title so that a purchaser is fully aware of what they are purchasing and there are no surprises because, you see, a lot of money is invested.

My family all own farms and operate farms. A couple of them are grain farms. When you are talking about equipment alone, or pick one seeding rig, the seeding rig itself is in excess of 25 metres in length and it is in excess of 14 metres in width. It is pulled by a tractor, where you are sitting about three metres off the ground. The tyres on the tractor, of which it has eight, are as tall as I am. Under the environmental clauses put through by the state government under Colin Barnett some years ago, we can be fined if we run over a lizard and kill a lizard. Harm to the lizard, depending on the type of lizard, can be between \$50 000 and \$250 000 in a fine. The lizard can be this long. In a machine, where you are sitting, you could not see the lizard. The problem is the onus of proof, once the allegation is made, comes on you—prove that you have not run over a lizard.

The CHAIR: Members, do any of you have any questions? I apologise; we have a lot of people that we are having a hearing with today, so I need to keep us to a pretty tight schedule. Are there any closing statements that you would like to make to the committee in terms of where you would like this inquiry to go or any other aspect that you have not yet had an opportunity to raise?

Mr GOWLAND: I do not know the entire reference of this inquiry, how far it extends, but, if possible, I reiterate that I think it is important that we adhere to the principles of the Torrens title system. As far as where people are denied use of their property, they receive compensation, and also, if we can implement a survey of where all these environmental constraints are, wetlands are, and if we can get those acknowledged on the property titles. I think that is very important to investment, because if we do not do this, this will grow. It will get to the point where, I think in some cases—well, I can tell you banks will simply not loan on country properties. I have had that experience, quite amusing, myself. If the banks will not loan on something that contributes billions and billions of dollars a year to the economy of this state in grain, livestock et cetera, and also gives this state and this country food security, then we face very great headwinds and it is the exact opposite to what the federal reserve is trying to do at the present time—endeavouring to get people out there to invest. To invest, we need certainty that something is not going to happen in three months' time that is going to wipe our investment.

The CHAIR: Right. Thank you for that, Wayne. I think you have delivered a very clear message to the committee and emphasised the value of the Torrens system if it is actually used properly. I need to let you know that a transcript of your evidence will be provided to you. It will probably come out to you in the next couple of weeks. You will be given an opportunity to make any corrections to the transcript that you feel are necessary. You will also be invited to provide any supplementary information to the committee that you may wish to provide, and with that, and on behalf of the committee, I thank you for your very clear message to the committee this morning. It certainly will help us with our deliberations on this matter.

Mr GOWLAND: Thank you. If there is anything further, you are most welcome to contact me.

The CHAIR: Thank you, Wayne.

Hearing concluded at 11.10 am
