

**STANDING COMMITTEE ON
ENVIRONMENT AND PUBLIC AFFAIRS**

**INQUIRY INTO THE SANDALWOOD INDUSTRY
IN WESTERN AUSTRALIA**

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 24 OCTOBER 2012**

SESSION ONE

Members

**Hon Brian Ellis (Chairman)
Hon Kate Doust (Deputy Chairman)
Hon Phil Edman
Hon Colin Holt
Hon Lynn MacLaren**

Hearing commenced at 10.37 am

McNAMARA, MR KEIRAN

Director General, Department of Environment and Conservation, sworn and examined:

WYRE, MR GORDON

Director, Nature Conservation, Department of Environment and Conservation, sworn and examined:

KEALLEY, MR IAN

Regional Manager, Goldfields, Department of Environment and Conservation, sworn and examined:

MELL, MR DAVID

Manager, Nature Protection Branch, Department of Environment and Conservation, sworn and examined:

The CHAIRMAN: I welcome you along today to the hearing before the committee. I ask you to take either the oath or the affirmation.

[Witnesses took the oath or affirmation.]

The CHAIRMAN: You will have 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 document you refer to during the course of this hearing for the record and please be aware of the microphones and try to speak into them. Ensure that you do not cover them with paper or make noise near them. I ask you to speak one at a time and not across each other otherwise it gets a bit confusing 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 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 that the publication or disclosure of uncorrected transcript of evidence may constitute a contempt of Parliament and may mean the material published or disclosed is not subject to parliamentary privilege.

Can you give an opening statement of DEC’s involvement in the sandalwood industry and what your role is so we can be informed of your position in the industry?

Mr McNamara: Can I make some other opening remarks as well?

The CHAIRMAN: Yes. That is really what I meant.

Mr McNamara: Thank you. We lodged a submission with the committee that I think was received on Monday. We are happy to have the opportunity to come here and answer questions and to speak to that submission. To introduce the staff who are with me today, Ian Kealley is regional manager in

the Goldfields region and has been so for more than two and a half decades. He has extensive practical experience in dealing with sandalwood harvesting over a long time. You will see his name as the author on some of the documents attached to our submission. Gordon Wyre is the director of nature conservation and he has broad policy carriage in the area of flora and fauna conservation. He recently had the role of representing the department in various pastoral rangeland reform processes that are being run principally by the Department of Regional Development and Lands. David Mell is the chief wildlife officer of the department and he has the enforcement and the compliance responsibilities that go with the Wildlife Conservation Act and the Conservation and Land Management Act. The submission we have provided—I will not make extensive comments about it—goes to several key issues. One is the legislative regime governing sandalwood harvesting, which is complex and spread across four acts of Parliament. There are a number of inconsistencies, overlaps and inadequacies across the different statutes, which we are happy to elaborate on, and those statutes are administered across two agencies—ourselves and the Forest Products Commission. There is evidence as is illustrated in our submission of illegal activity, and we believe increasing illegal activity in relatively recent times with penalties in the legislation that do not match the value of the product that is being harvested. There are legitimate grounds for concern about the ongoing sustainability of the species in the wild under the combined impacts of legal and illegal harvesting and also because of the basic biology of the species being slow growing and long living, with accompanying poor regeneration in the rangelands that have been extensively degraded over the pastoral history of the rangelands. Successful regeneration is being inhibited by the level of grazing by both livestock and introduced herbivores, including goats and rabbits.

Our submission points to the need for legislative reform. It outlines what we consider to be some of the key elements of such reform and it also suggests there needs to be an updated management plan governing both the species as a species and the management of its harvesting. My minister, the Minister for Environment, in discussions about this matter in recent months has certainly recognised that this will emerge as an area where legislative policy reform needs to be considered. That is all I have by way of introductory remarks. You asked about our role. Three of the acts that govern sandalwood harvesting in one way or another are the Sandalwood Act, the Conservation and Land Management Act and the Wildlife Conservation Act and are acts that we administer. The fourth act in play is the Forest Products Act, which is obviously administered by the Forest Products Commission.

[10.45 am]

The CHAIRMAN: A lot of the submissions to the committee have revolved around the illegal trade and harvesting. It has been put to us that the illegal harvest and trade is equivalent to the legal number of tonnes that is allowed. Is that your understanding?

Mr McNamara: I will invite my colleagues Mr Kealley and Mr Mell to comment on that as best they can. It is always a difficult question when one is asked how big the illegal activity is because, by definition, we do not necessarily know. We have to act on intelligence and information and make best estimates. We do not have full data obviously.

Mr Mell: The order in council limits the annual harvest to 1 500 tonnes of dead and 1 500 tonnes of green sandalwood, so the legitimate commercial harvest is in that order. In order to gauge the level of illegal activity, really all we have to go on is the interceptions we have made at this point in time. Going back prior to 2011, there were very few interceptions of illegally harvested sandalwood. We had one interception where a gentleman by the name of Mocher was successfully prosecuted. The quantity of sandalwood was in the order of less than one tonne. Since that time, the number of seizures have escalated in the order of 160 tonnes and probably in the order of about 20 incidents. All we can do is use that as a gauge to what might be occurring. We can only speculate about the tonnage of sandalwood being harvested illegally. We know from what we hear in the industry and

from the information that is circulating in the community that it may be in the order of 500 tonnes annually, but we really do not know.

The CHAIRMAN: It has been put to us up to 800 tonnes. How that figure is arrived at is speculation. How do you ensure that the harvesting licences comply with your licensing obligations?

Mr Mell: We are responsible for issuing licences under the Sandalwood Act and the Wildlife Conservation Act to pull sandalwood and to take sandalwood for sale. The Forest Products Commission has management responsibility for sandalwood on crown land. We issue licences authorising those contractors to take that sandalwood. In terms of private property sandalwood, applications are received annually between January and the end of February. During March, April and May we conduct inspections. District and Perth-based staff enter those private properties with the applicants. The applicants are required these days mostly to GPS the locations of each sandalwood tree. I will step back briefly: until recent years the vast majority of sandalwood that was taken from private properties was dead, and we were nowhere near the limit for green sandalwood being harvested from private land. That has changed for a couple of reasons. Market opportunities have opened up for licensees and there have been two significant applications from Aboriginal groups who have access to land and significant quantities of green sandalwood. They have entered the scene. In terms of private property assessments, we will verify the claims made by taking random samples of the GPS locations of sandalwood trees. If we are satisfied as to the quantities that they have claimed are present, the figures are basically accumulated, a report is put to the minister recommending licences be issued in the cases in which sandalwood is available. In situations in which the estimate has been in excess of what we think is there, we reduce the approved harvesting of sandalwood. This year for the first time we have introduced what we call a sandalwood transport authority notice. The intent is to provide accountability from the licensee harvesting the sandalwood. They are required to indicate the weight of the sandalwood that is being transported and the destination. That provides the department with an opportunity to verify the quantity of sandalwood that is taken and where it is going. One of the weaknesses in terms of the legislation is that we do not licence sandalwood buyers and dealers. The accountability in that respect is that there is an obligation on them to be satisfied that sandalwood has been harvested lawfully and they are required to make a record and keep a record for a period of 12 months.

Hon KATE DOUST: I note the four separate pieces of legislation to which you referred. The issue about legislation and lower penalties not being applied to the nature of the problem that is occurring has come up in previous hearings. Given that the core or main legislation has been around since 1929—having had a brief look at it, there does not appear to have been a lot of change since then—have there been discussions about updating it or incorporating it into other pieces of legislation and of addressing the penalties?

Mr McNamara: I do not have a complete knowledge of the history to answer the question. The Sandalwood Act is to be taken as one, or read as one, with what was the old forests act, which was superseded by the Conservation and Land Management Act 1984. There is a close association between those two acts. The Forest Products Act is a 2000 act, which introduced another statute into the space. At that point, with the creation of the Forest Products Commission, it became a two-agency function rather than a one-agency function across the mix of crown and private or freehold land. Some of the complication has emerged from that. It is probably fair to say—I can speak for the last 11 years or so that I have been the chief executive officer of CALM and, subsequently, the Department of Environment and Conservation—that this area has not been regarded as a priority for legislative reform until the last year and a half or so when the complexities emerged as creating difficulties, when there was evidence of increased illegal activity and when we have explored with the State Solicitor's Office a range of issues around some of the definitions in the different acts and how they interplay and are not all consistent and where some of the gaps and overlaps are. It has certainly emerged over the last year and a half that it is an area that needs legislative reform. We

developed a proposition in that space, which is reflected in attachment six of our submission to this committee. We have had discussion with the Forest Products Commission in the last number of months. I think there is agreement across the two portfolios that it is an area that needs clear policy analysis with a view to legislative reform going forward.

Hon PHIL EDMAN: Do you have a list of people or organisations that are suspected of these illegal dealings in sandalwood?

Mr Mell: Essentially you are asking if we can identify those people —

Hon PHIL EDMAN: Yes. Do you have a list of people or organisations that you think might be dealing illegally in the harvesting of sandalwood?

Mr Mell: There are those we have apprehended. There are people who have been prosecuted or who are currently before the courts. Mr Moocher was successfully prosecuted. A person by the name of John Peters is currently before the court. With the rest of the seizures, investigations are ongoing. In order for us to provide that information, we would probably need to do that in camera.

The CHAIRMAN: As I said at the beginning, if you wish to go into private hearing, just request it and the committee will make that decision. I am mindful of what you have said.

Mr McNamara: We do not believe it is appropriate for us to name people in public session other than those who are clearly already in the public arena.

The CHAIRMAN: That is okay and that opportunity is provided to you.

Hon LYNN MacLAREN: I have so many questions to ask. I will start with one of the suggestions in your submission that to stop the illegal harvesting we need to increase the penalties for it. One of the solutions you mentioned was putting it in the Wildlife Conservation Act, which currently has penalties of \$4 000. Can you comment on what you think is an adequate deterrent as a penalty for those who are illegally harvesting, because this is obviously a very lucrative business?

Mr McNamara: I will first comment by saying that we will not necessarily achieve the stopping of an illegal activity just by increasing penalties. We have outlined other measures in our submission, such as following the product through the chain through to dealing with its export as that would be crucial to substantially reducing or limiting illegal activity. As for the penalty figures, the penalties available under different statutes are in our submission. There is also a figure of what the value per tonne of product is. I do not know the rule of thumb, but clearly penalties of \$4 000 and \$10 000 are less than the value of the product. We need a penalty that is commensurate or has the right relativity with the value of the product. Once again, I will ask Mr Mell to elaborate on that.

Mr Mell: The value of the product has increased fairly dramatically over the past decade or so. The price per tonne will depend on the quality of the grade of the wood. Generally, the current maximum for the best quality desert sandalwood is in the order of \$15 000 a tonne.

The CHAIRMAN: On the same thing, I note in the submission you talk about some of the ways of improving the illegal harvest situation and you state that DEC officers could be provided with enforcement powers to allow them to detect much better. What sorts of powers are you asking for there? I refer to page 5 of the submission.

Mr McNamara: Once again, I will ask Mr Mell to elaborate as he sees fit. I will use an analogy. I refer to the kangaroo industry, for example, which is regulated under the Wildlife Conservation Act. The skin products are tagged, the dealers are licensed and it is licensed through to export. We can follow the chain through. It is licensed to export from Western Australia, and it is also licensed by the federal government to be exported overseas. So from shooting to chiller boxes to dealers to exporters, there is a chain of information and tracking of the product that allows us to have an improved chance of detecting illegal activity. That sort of chain is common in wild harvested resources around the world where there is a necessity for that because of conservation concerns or commercial value. If we go to amendments to legislation that might licence dealers and so on, then

powers in relation to those parts of the chain would become important. Once again Mr Mell might wish to elaborate on that.

[11.00 am]

Mr Mell: In terms of infield operations, the powers are adequate in terms of inspecting those sorts of operations. The most difficult area would clearly be at the buyer end; so, processors and dealers that are not licensed, gaining access to premises to do inspections is problematic. That would be one of those areas that I would highlight as being a significant improvement if we could enhance provisions that allowed us to gain access and to monitor the activities of buyers and processors.

The CHAIRMAN: You obviously work with the police, so to what degree of involvement are police involved in the investigating of the illegal harvest?

Mr Mell: Police are ex officio wildlife officers under the Wildlife Conservation Act, so they have those powers in addition to their police powers, but their priorities are generally not in the area of environmental crime. So, the expectation from Western Australia Police is that the department as the regulatory agency responsible for administering this legislation will do its own investigations. Police are of great support and assistance to us and, in fact, have been very cooperative in assisting us to detect consignments in transit. Four consignments have been intercepted by police; in fact, it is more—it is probably five. But of note, two of those were at Eucla—sandalwood being exported into South Australia—and one of those was at Port Augusta. The other actually involved a vehicle rollover on its way to Eucla and police attended that. So, we have distributed information alerts to police to be on the lookout for and describe the types of things to look for and the sort of paperwork that licensed and legitimate operations should have in their possession.

Mr McNamara: So the police cooperate and assist across a lot of our activities and certainly when we might be visiting or apprehending people who we suspect might be difficult for us. So they assist, but, as Mr Mell has said, they do not have a focus primarily on it, of enforcing our legislation, so we have to take the lead on that.

Hon LYNN MacLAREN: I am very concerned about the sustainability of this industry. I would like to know your view on pastoral lessees being able to harvest wild sandalwood on their own land subject to their pastoral lease without having to obtain an FPC harvesting contract, but they do have to obtain a harvesting licence. So, obviously, we are interested in seeking a better method of a sustainable long-term industry. What is your view about that?

Mr McNamara: The species has challenges in terms of its sustainability. As I said in my introductory remarks, its biology is such that it is in the arid rangelands country—Mr Kealley can correct me or elaborate a little bit if he wishes—and it is reliant on the right seasonal conditions, or sequence of seasonal conditions, for its recruitment. It is slow-growing and it is very susceptible in terms of the recruitment to the grazing that goes on. We have had significant pastoral rangeland degradation over the century and more than we have had pastoral activity in this state. There are altered fire regimes and other activities that impact on the species in the wild. So, that is of concern regardless of any of the other things we are talking about. Therefore, you can define a sustainable harvest limit if you have got regeneration coming through. At one level, it does not matter who harvests it; if you get the biology right, then you can use whatever mechanism you like to allocate the harvest. Now, at the moment, the Forest Products Commission has the carriage of that allocation on the pastoral leasehold land and my understanding is that there is a mix of individual pastoralists and others who have those contracted rights. Pastoral leaseholders lease crown land for the purposes of grazing. There is work going on in government, not led by us, around pastoral land tenure reform. But pastoralists do not own the sandalwood resources; it is the property of the Crown. I have an open mind about pastoralists benefiting from the resource by being part of the access chain to it, but sustainability in biological terms, if you have got the settings right, it really does not matter whether it is person A or person B who commercially harvests and benefits from it. You can then

argue, of course, that pastoralists as custodians and so on should share in the benefit and help have that custodial role, but once again Mr Kealley might wish to add to that.

Mr Kealley: I think there is a lesson from history in this one and, of course, sandalwood has got a long history both in Australia and in Western Australia. It has also got a history of government intervention and regulation, primarily to control the amount of sandalwood that is harvested, hence the Sandalwood Act 1929, which was the result primarily of overproduction and exploitation of the Western Australian producers and companies by manipulating prices. So I think if you have a totally unregulated industry two things would happen: firstly, I think the industry would collapse; and, secondly, the capacity to sustainably manage sandalwood would be almost impossible—we might as well just give up. So, there is a need for regulation in terms of quotas set by some sort of management planning process. I agree wholeheartedly that who actually harvests the sandalwood and how it is harvested is flexible. At the moment there is legislation that determines that, and a lot of pastoralists in the past, Aboriginal people, prospectors, people working in the outback have had sandalwood licences and orders going back through history. The current regime has a mixture of harvesting contractors—again, this is primarily managed by the Forest Products Commission—including small contractors, pastoralists, some contracts issued by private treaty and then some larger contracts as issued through the government supply process through a competitive tendering process. It is really, I suppose, coming up with the right mix of that in terms of the social and economic advantage to various groups that determines it. Sandalwood is owned by the Crown; it is owned by the state at the moment. To change that into a regime in which you had licences or leases where people paid royalties, I think, would be a fairly radical change to the current system and would require legislative change anyway.

Hon LYNN MacLAREN: I guess I would like you to comment on whether management techniques for encouraging sandalwood to flourish would improve if licences were granted to pastoral leaseholders; you are saying it is owned by the Crown, but really how the pastoralists manage their land affects whether it reaches maturity, so is there any way that we can intervene to assist sandalwood to reach maturity on pastoral leases?

Mr Kealley: Again, the history was that sandalwood was basically just harvested. In recent years, certainly since the 1991 management plan, a lot of effort has gone into trying to improve the regeneration and conservation status of sandalwood. That continues through licence conditions, post-harvesting seeding and a whole range of treatments that are put in place. But you are right: none of those will be successful if the area is still grazed. That has certainly been proven by the inventory work that says there is no regeneration of sandalwood in large areas. So, whether transferring that operation to other land managers, such as pastoralists, would achieve that, I am not absolutely certain. If it was part of some diversification process and there were incentives for them to do that and reduce grazing pressure through better management of sandalwood on their lease, one would hope so. But you have got to understand the pastoral industry is in serious decline at the moment and the majority of the pastoral lands are not managed to the extent that they were, say, 20 years ago. It would be problematic, I think, for one person on a 200 000 hectare pastoral lease to achieve all of those objectives, unless there were fairly substantial financial rewards. So, it would require a lot of management input, education input and financial incentives to get people to switch away from grazing stock, particularly goats, in favour of managing that block of land for sandalwood. I think another major restriction at the moment is that there is no legislative or legal process to do that. You basically would have to include sandalwood in the purposes of a rangeland lease, which would include sustainable management of sandalwood on that lease, so it is a fairly big shift.

The CHAIRMAN: Just on that then, how is the quota for each harvesting licence determined? How do you arrive at a quota figure?

Mr Kealley: We do not; there is an Order-in-Council which sets 3 000 tonnes per annum, of which 1 500 tonnes is dead and 1 500 tonnes is green, and that is divided between private property and crown land. The allocation to crown land is managed by the Forest Products Commission and DEC does not input into who harvests —

The CHAIRMAN: You have an input, though?

Mr Kealley: We do not input into what quotas or what amounts are allocated to particular areas or licences. That is the FPC process.

Mr McNamara: So if I could just elaborate quickly, on the private land where 300 tonnes or 10 per cent of that Order-in-Council limit is allocated—so, that is private land in the wheatbelt predominantly, but not entirely—the department has an inspection regime down to the level of auditing GPS coordinates of individual trees and so on. We go through an annual application process, an analysis process, inspections as required and advice to our minister on an allocation of that 300 tonnes across the number of private landholders. So, we manage that as our responsibility under the Wildlife Conservation Act and the Sandalwood Act. At the same time, if you like, the remaining 2 700 tonnes that is available under the Order-in-Council, the way that is allocated—who gets it and how it is spread around the rangelands—is managed by the Forest Products Commission. We issue licences that, if you like, enable or facilitate what the FPC has decided, but we do not do the decision making on those allocations.

The CHAIRMAN: I just thought you might have a bit more involvement; your expertise would be required for the Forest Products Commission to know how much timber is out there to provide a sustainable industry, but obviously by the sound of what you are saying, you do not have that much involvement.

Mr McNamara: That is essentially the case, I think. It is one of the products, if you like, of the separation out in 2000 of the Forest Products Commission from what was then CALM. That is what has happened. I think what our submission points to is that it is now time to revisit not necessarily that agency split per se, but the way that it is spread across four statutes. I think we have got a fairly clear view that comes through in our paper that this should be consolidated into one statutory regime that gets rid of those overlaps and uncertainties. Now it is a matter for government what that single regime would be, and the Parliament indeed. It is a matter for government and the Parliament as to who that is assigned to. But part of the problem that we currently face does arise from the separation of agencies and the fact that there are two agencies with different components of the overall sandalwood harvest. They are not insurmountable; I mean, we work with the FPC on arrangements to deal with those matters, but it has been an added complication.

The CHAIRMAN: So what are the main differences then between FPC selling the wood and someone else selling the wood? I did pick up in your submission what you have just said, but why could not someone else take over the selling of the timber?

Mr McNamara: At one level, there is no reason why not. I guess what happened is that, driven predominantly by native timber industry issues in the south west, the principal functions around the harvesting and selling of forest produce and timber and so on were allocated to the FPC.

[11.15 am]

So they do that as core business across a mix of forest products that is inclusive of sandalwood. But, equally, we do it in terms of native flora and fauna that are subject to commercial harvesting. There is a native flora industry—there is the kangaroo industry and so on. So any agency could have the processes and the procedures and the policies that give effect to an appropriate allocation arrangement.

Hon LYNN MacLAREN: In your view is the harvesting of wild sandalwood sustainable; why or why not?

Mr McNamara: In our submission we attach a couple of papers, one of which is the 1991 management plan authored by Mr Kealley. We have also attached a research bulletin from December 1990 on the research that has been done on sandalwood. We do say in our submission that in, I think, the 1991 document Mr Kealley recommended limits are not as high as what the Order-in-Council says. So, when you take that together with the other comments we have already made and what is in our submission, I think the only conclusion one can have is that the wild resource of sandalwood cannot be harvested at its current levels and be done so sustainably.

Hon LYNN MacLAREN: Yes; our concern is that that is the evidence we are hearing. We are also getting evidence of the huge quantity of unlicensed harvesting. For me, there are huge red flags about how quickly can we act to save wild sandalwood, because it is apparent that—even those reports are 21 years old. So how much wild sandalwood is left? Can we afford to sit back and watch this happen while we do another year or two of legislative review; or is this something that is critical because of the escalation in unlicensed wild harvesting that is going on? Are you keeping track? Do you have any idea of how much of the resource we have lost already; and how can we save wild sandalwood?

Mr McNamara: I will ask Mr Kealley to add to my answer in a moment, but clearly the escalation in the illegal activity, as Mr Mell has said, really is something that has become evident just over the last couple of years; we do not believe it has been anywhere near as extensive prior to that. Clearly, that puts a spotlight on the issue; there is no doubt about that. In terms of sandalwood in the wild, you have to look at the full spectrum. We do have a conservation reserve system in the pastoral rangelands, and we have national parks and nature reserves. We do have the pastoral properties that were acquired under the government's Gascoyne–Murchison strategy in particular, when there were some quite extensive areas of pastoral lease acquired for conservation. What I can say is that some of the properties I have been to in about mid-last year in the Murchison—where I spent several days on one visit—have been destocked and had their artificial waters closed down, and they were places where you could not possibly have gone without seeing thousands of goats; I saw none in two and a half days of driving across those leases. We have actually achieved some outcomes for sandalwood conservation on some of those areas that have been destocked and had their artificial waters closed and therefore do not sustain the kangaroo and goat populations that they were sustaining. The recovery is a long-term proposition, I do not deny that; but we do have some areas represented where hopefully sandalwood is secure. But in terms of overall inventory and so on, Mr Kealley is better placed.

Hon LYNN MacLAREN: Sandalwood does differ. The genetic sandalwood in the wheatbelt, for example, is quite different from the rangelands that you are talking about.

Mr Kealley: That is correct, yes. There has been genetic work done that shows that wheatbelt sandalwood is quite genetically different from rangelands sandalwood, and of course there is variation in sandalwood across its range. That is something that needs to be built into the conservation of the species. You have to make sure that you conserve all your genotypes, and conservation through reservation is just one of those tools.

Coming back to the inventory question, I think the biology and ecology of sandalwood is well understood from research and knowledge across its whole range. The quantities of sandalwood out there are also fairly well understood. You can never put a definitive number on the number of sandalwood trees or the tonnage of sandalwood because inventory techniques only take a sample, particularly across something that has a range as large as sandalwood. But the 1980 to 1984 inventory, which I was personally involved in—the first inventory of sandalwood—came up with some numbers based on the best inventory techniques at the time, and there have been two subsequent inventory efforts. CALM, which then became the FPC, did an inventory in the late 1990s up about to 2000 or 2001; and then the Forest Products Commission has been doing additional inventory work—what is called management level inventory work—associated with plot

work across the rangelands, and that informs some of their decisions in terms of their management plans for the industry. So we have a fairly good handle on sandalwood, limited by inventory techniques; across millions and millions of hectares there can only be a small sample—one, two, three or four per cent, something like that. So we have a fairly good understanding.

One aspect in terms of the tonnage of sandalwood is changing standards. When I was involved in inventory work and we did the management plan in 1991, we had harvesting standards of the time; improved utilisation means you now have larger figures per tree. Whereas we might have had 30 kilograms per tree, it might have gone now to 40 kilograms that is now utilised. So that increases your resource; it does not increase the number of sandalwood trees.

But what I can say in terms of the inventory is that it is very clearly shown in the inventory work that there is very little regeneration of sandalwood, and there has not been much regeneration for probably 80 years. Again, that varies from area to area—it is better on conservation reserves than on pastoral leases; it is better on crown land than on pastoral leases—but across the whole distribution of sandalwood the levels of regeneration are nowhere near what you would expect in a natural stand with all the factors. You also have a whole suite of threatening processes that occur, harvesting being one—both legal and illegal; fire, because sandalwood is very susceptible to fire. As Mr McNamara has already said, it is highly susceptible to grazing; it has specific regeneration requirements; and climate change across the rangelands is probably going to have an effect, if it is not already. Then you have infrastructure development, and obviously that has had a major impact with the development of farming; the pastoral industry has had a major impact; the mining industry has an impact; infrastructure; roads; tracks; powerlines—they all affect the resource. If we put all that together, there is no other conclusion than to say that in the longer term the current level of sandalwood harvesting is not sustainable, and the end result will be that there will be less sandalwood in the rangelands and it will continue to decline. There is some argument that it will continue to decline even in the absence of harvesting because of those threatening processes. But can it be turned around? I suspect you could improve the situation, but I think that the last 100 years of impacts in the rangelands have meant there will be a decline of sandalwood. We must remember that the sandalwood that is out there now is a reflection of what happened 100 or 200 years ago, so in 200 or 100 years' time the sandalwood resource will reflect the status of regeneration now. So that is the problem you have with long-lived shrubs that are declining across the rangelands.

The CHAIRMAN: Just moving off that subject: the FPC awards its marketing and sales contracts through a tender process. In your view, is that the best process; is it the fairest and open and accountable process?

Mr McNamara: I am not au fait with the way they go about that—the process they follow; the procedures—and I am also mindful that government, across the board, has policies around procurement and so on that may well be applicable. I do not think DEC is really in a position to authoritatively comment on the FPC's way of doing business in that sense. I am not sure that it is appropriate either, but I really do not have, at my level if you like, the intimate knowledge to make a meaningful comment in response to that. I do not know if my colleagues want to add anything.

Mr Kealley: Not really. It is largely FPC business, but, again, there are some interesting historical perspectives on the way sandalwood was harvested in the past compared with the way it is harvested now. The small licences that were issued to contractors, prospectors, pastoralists, people working in the outback and Aboriginal people, some of that still occurs, but some of it is now larger contracts issued through tender processes, which is a requirement of government going about their business. I suppose there are different options there, but you would have to talk to the FPC about the detail of how they issue quotas and tenders and the tendering process.

The CHAIRMAN: You have probably got the same answer to my next question. It has been put to us that the long-term contract FPC has with Mt Romance has been subsidised by about \$5 million because of the pricing. Do you have a view on that?

Mr McNamara: I have no direct knowledge of the detail of the contract or any real or implied subsidy. The only comment I will make—it is not about that contract—is that I guess where you have a ceiling or a quota on the amount of resource that one can harvest, and if a large proportion of that is tied up in one or a smallish number of contracts, and you have a situation where the product is valuable and the chances of being caught behaving illegally are not necessarily high, then others can say, “I want to be in that game, too.” That is an issue of judgement in the area your previous question raised. But I do not wish to pass judgement on that; it would be a consideration in how you go about that sort of business.

The CHAIRMAN: I have quite a few more questions, but I will indicate that I am going to request that we go into camera towards the end of the hearing. One that does come to mind goes back to illegal harvest: when illegal harvesters get caught and the timber is taken off them, it will still go through the system and get sold and treated. Do you have a view on whether perhaps that tonnage should be taken off the next year’s quota for the sustainability of the industry?

Mr McNamara: I will speculate on an answer: from a biological point of view in terms of sustainability you would jump to the answer yes. From the point of view of punishing legal operators for what someone has done illegally, you would be wary of that answer. Mr Mell might wish to comment, because we do deal with seizures, obviously.

Mr Mell: Essentially, because of the Order-in-Council limit, effectively what you would be doing is penalising legitimate licensees from future harvesting because it has already been harvested by illegal operators. So the only group that benefits out of that is the processor.

The CHAIRMAN: Okay. Actually, the committee has received evidence that in the illegal harvest of trees they are often cut off at the base, with the valuable roots left in the ground. What happens to these roots?

Mr Kealley: Yes, that is a fact. Most of the illegal harvesting operations are in-and-out very quick operations. We have investigated numerous illegal harvesting activities in the goldfields, where the way they are doing it is to go in with a four-wheel-drive vehicle or a vehicle and a trailer or a small truck, and chainsaws, and they will cut the tree off at ground level, take the best quality logs only—so all the roots and butts are left behind—and the majority of the branch wood is left behind. They are really creaming the best quality material out. Initially there was some barking operation, because the standard for delivery of sandalwood was de-barked; within recent months it is being taken out of the goldfields with bark on. We had a number of seizures where the sandalwood is good quality logwood—the best quality material cut off at ground level—that is transported with the bark on, which again reflects the smash-and-grab nature of these operations.

Hon PHIL EDMAN: As to these ones you have caught who have been prosecuted, how many, over the last 10 years or 20 years, have been prosecuted?

[11.30 am]

Mr Kealley: That question is a new one. I will just finish the answer in relation to what happens to the material left behind. The material that is left in the ground, the butt and the roots and the branch materials that is left on the ground, providing that is not burnt, could be salvaged. There is a market for deadwood and if someone could go in and using some mechanical means extract those roots, that 25 per cent weight of the tree that is left behind would still be quite marketable as deadwood or as butts. So, it is good quality material. It is not wasted as such if there is a way of harvesting. It is wasted by the illegal operations.

Hon PHIL EDMAN: Over the last 10 years, how many have we actually found out to be prosecuted through the system and if you have the constant what has been the penalties or the outcomes of successful prosecutions?

Mr Mell: There has been a large number of apprehensions but they are more recent and they are still in the process of investigation in a lot of cases. In some cases the people apprehended

absconded and it becomes a question of being able to obtain the necessary evidence to raise a prosecution. The last successful prosecution was of the person that I mentioned earlier, the person by the name of Moocher. Charges were laid under the Wildlife Conservation Act. I do not recall the penalty. I can advise you subsequently if you need to know that.

Hon PHIL EDMAN: I would like to know.

Mr McNamara: Chair, we are happy to take that on notice if that is the right term.

Hon PHIL EDMAN: The number of successful prosecutions you have had.

Mr McNamara: Over 10 years?

Hon PHIL EDMAN: Yes.

Hon KATE DOUST: Just listening to the discussion this morning, there seems to have been an upswing in the amount of illegal activity in this area. Any thought as to why over the last 18 months or so there appears to be this spike?

Mr McNamara: There is a view as to why that is the case and I will ask my colleagues again to elaborate on that.

Mr Mell: It is a combination of the outlets available for it. So, someone is providing a market and it is a relationship between risk and reward. The illegal operators generally operate in quite remote areas although we have received reports that I understand you are probably aware of as well where quite iconic old sandalwood trees on road verges in the wheatbelt have also been taken. There has been significant activity adjacent to and likely also on conservation reserves. If you could just perhaps repeat the question. I have lost my train of thought.

Hon KATE DOUST: I was interested why there appears to be a spike in the illegal activity.

Mr Mell: It is a question of people offering opportunity or accepting, being willing to accept sandalwood that is not necessarily taken lawfully. They provide a market for people to dispose of wood. They do not need to produce a licence. The wood can be processed and exported and sold, particularly overseas, and the market is essentially created as a consequence of other species of sandalwood being extremely limited. My understanding—and Mr Kealley might be able to comment on this—is that Australian sandalwood, *Santalum spicatum*, is ranked about fourth. It is down the line a little in terms of its quality and its value but the three species ahead of that are either extinct or nearly extinct and the demand is so high that people are willing to pay a higher price for a lower quality product. Essentially, the Australian sandalwood has been elevated and I believe will continue to increase in price. If you look at information on the web, for example, where you can get Indian sandalwood, the price is extraordinary.

Hon KATE DOUST: If they are harvesting illegally and you are saying there is a market, if they are not going through the normal channels, how are they getting it out of Western Australia and which markets are they getting it into?

Mr Mell: My understanding is that they are getting it into some of the established markets but they have also opened new markets in India. The fact that they can get it out of the country is a reflection of the lack of regulation both in terms of our ability to make buyers accountable in terms of where they acquire their sandalwood and in terms of the quantities they are processing and the quantities they are selling. I cannot speak with any great authority in terms of the federal position; however, exports overseas are governed by federal authorities. My understanding of the EPBC act is that sandalwood is listed as an exempt species so its export is not regulated. I understand the Department of Agriculture, Fisheries and Forestry has a licence for sandalwood exports but I cannot comment any further in that regard.

Hon PHIL EDMAN: I know we are going to go in camera, but obviously you are aware of those individual organisations that are doing that.

Hon LYNN MacLAREN: I just had two questions about the quotas. Why have you not reviewed the quota since it was first set in 1996, which was the 1 500 green and 1 500 of deadwood. Why has that quota been reviewed? Do you want to take it on notice?

Mr McNamara: No, we will answer it. I am just thinking. There has not been a management plan for the species that has been updated and put in place since the 1991 management plan that Mr Kealley was the author of and we normally have those plans go for about 10 years. There has been subsequent inventory work as Mr Kealley has explained. I think it is fair to say that while the Sandalwood Act administration rests with us, the spread across two portfolios of the carriage of the issue has probably not made it any easier to initiate a review of that ilk. It has been something that has been on our minds over a number of years but the sustainability of the wild resource in the long term is clearly problematic. We do not shy away from that at all. That does not mean it has been critical to take immediate action to rectify that, and perhaps also to amend the limit in the Order-in-Council downwards without the tools across the processing and export chain to regulate the industry might well be quite meaningless. Perhaps the evidence of the last couple of years of illegal activity would reinforce a view that that might be quite meaningless. You would simply be perhaps even encouraging the illegal activity. So, I think it is a valid question and I think it is one that the department and the Forest Products Commission should seriously examine.

I think as part of the thinking we have done over the last year or more and the fact that we have engaged with the FPC on the policy issues and the legislative reform issues and indeed the sustainability issues and the management plan issues, I would certainly anticipate that we will move in a number of directions next year and in my discussions with my minister certainly the fact that this committee has had this term of reference only in the last month or so will be an important input to our consideration and the government's consideration of what we should do.

Hon KATE DOUST: We do have a bit of a history of getting your minister moving on issues.

Mr McNamara: Do you want me to comment?

Hon LYNN MacLAREN: Perhaps you could take that as a comment. You did mention that the FPC is doing a management level sort of assessment of how much resource is there. Has DEC done any monitoring since 2001 when you reported today that you have done that inventory? So, since 2001 have you monitored the available wild sandalwood resource to help ascertain —

Mr McNamara: No, we get our information from the FPC.

Hon LYNN MacLAREN: So DEC even though it is a wild resource, has not monitored it since the split in 2001?

Mr McNamara: We need to be clear. The private land resource in terms of the allocation of licences to harvest that, we do monitor the resource as part of our processes but for the resource on the crown land that is subject to the FPC allocation processes, no, we do not duplicate their function.

The CHAIRMAN: I have just a couple more questions before we do go in camera. Do you see a need to put a quota on the harvesting of the deadwood?

Mr Kealley: The deadwood resource is much less than the greenwood resource. For many years there has been an emphasis going back to the management plan that was put out in 1991, one of the management strategies or one of the strategies in that plan was to increase the amount of deadwood harvesting in preference to greenwood harvesting from a conservation point of view and also a sustainability point of view. Of course because it is a limited resource, you cannot keep doing that forever and if you want to keep harvesting say 3 000 tonnes a year, eventually, unless you get big fires, deadwood resource will diminish. Deadwood also yields less revenue because it is not as saleable and it is very difficult to use deadwood in the sandalwood oil trade, for example. Getting oil out of deadwood is much harder and the yield is much less so deadwood goes primarily to the incense trade as opposed to going into sandalwood oil or other products. It is a matter of coming up

with the balance and I suppose this is what a management plan is all about, not only in terms of managing the species, managing the industry and sustaining the industry.

Of course, sustainability includes social and economic aspects as well. You have got long-term contracts. You cannot just put people straight out of their jobs. You have got sustaining regional communities and a whole range of other things that have to be built into transition. The 1991 plan came up with a plan that transitioned the industry away from wild harvesting to plantations. Some of that has been achieved but ultimately the demand rests with the wild sandalwood because plantation-grown sandalwood is nowhere near the quality of natural sandalwood. So, it would be ideal. You could probably replace the greenwood harvest with deadwood harvest for five or maybe 10 years. It would cost you more to harvest it. Your returns would be less and you would diminish the deadwood resource quite fast. I do not think that would solve the illegal trade. This is part of the problem with a management plan and managing the resource in a sustainable manner. If you brought the level of sandalwood harvest down quickly—let us say over five years—to what was deemed to be a sustainable level based on the current level of regeneration, you would probably be reducing the greenwood harvest to something like 200 tonnes a year. I think, as Mr McNamara has said, we would basically transfer more of the harvesting into illegal operations, so you have to come up with that balance.

Hon LYNN MacLAREN: Unless you can control the export and the transport.

Mr Kealley: That is right. Even then you would still get some illegal activity as people tried to dodge the system. It is a matter of coming up with the right balance of the species and the industry and transitioning it into something that is more sustainable over time.

The CHAIRMAN: I just have one more question before we go in camera. The committee has received information that the 1 500 tonne quota for the green sandalwood is interpreted to mean the green bole wood. Are you aware of that interpretation and are you concerned about it?

Mr McNamara: I am aware of it by virtue of the information that was provided to me that is reflected in our submission. That interpretation or approach has been adopted. I have not been party to direct discussion with the FPC about that interpretation. I would regard it as a matter that needs some discussion between the two organisations. At first flush, I am not convinced that the order-in-council limit and the apportionment between green and dead should be able to be interpreted that way.

The CHAIRMAN: Okay, then, I will just request that the gallery leave the room and we will go into private session.

[The committee took evidence in private]
