

STANDING COMMITTEE ON PUBLIC ADMINISTRATION

INQUIRY INTO PASTORAL LEASES IN WESTERN AUSTRALIA

**TRANSCRIPT OF EVIDENCE
TAKEN AT PORT HEDLAND
WEDNESDAY, 6 NOVEMBER 2013**

SESSION ONE

Members

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

Hearing commenced at 8.27 am

MR DAVID STOATE,
Director, Anna Plains Cattle Company Pty Ltd, sworn and examined:

The CHAIRMAN: I declare the hearing opened at 8.27 am. I would like to welcome everybody here. First of all, can I just ask everybody to turn their mobile phones either off or on to silent during the hearing; that would be terrific, thank you. Good morning, if I could firstly just introduce our committee. My name is Liz Behjat, I am the Chairman of the Standing Committee on Public Administration. To my far left we have Hon Nigel Hallett; Hon Darren West; Dr Julia Lawrinson, our advisory officer; Hon Amber-Jade Sanderson and Hon Jacqui Boydell; we make up the five members of the committee. We need to do some formalities for the whole process, so if you would bear with us while we do that and then we can get underway.

On behalf of the committee, I would like to welcome you to the meeting. Before we begin, if you could take the oath or affirmation—if you want to use the Bible, you say the oath.

[Witness took the affirmation.]

The CHAIRMAN: Terrific. Thank you. You would have signed a document entitled, “Information for witnesses”. Have you read and understood that document?

Mr Stoate: Yes, I think so.

The CHAIRMAN: You think so?

Mr Stoate: Yes, there is one thing I should point out to the committee, that is, I am a deputy member of the Pastoral Lands Board.

The CHAIRMAN: The lands board?

Mr Stoate: Yes, I am certainly appearing as myself and anything I say has nothing to do with the Pastoral Lands Board.

[8.30 am]

The CHAIRMAN: Thank you for clarifying that for us. These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, if you could 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 microphone there and try to speak into it, ensuring that you do not cover it with papers or make noise near it, which will assist our Hansard recorder greatly. 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 the publication or disclosure of the uncorrected transcript of evidence may constitute contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

I know that you provided the committee with a written submission. Is there an opening statement that you would like to make to the committee with regard to that submission?

Mr Stoate: Yes, just a brief opening statement, if I could. The pastoral industry has enormous opportunities in this part of the world and our location near markets in Asia is at the heart of these opportunities. These opportunities exist both for the products we produce now and also for different

products, such as horticulture and aquaculture, and possibly things that we have not even thought of, such as carbon credits. But they will not be just handed to us on a platter. We have to go out there and get them. My view is that the role of government is not to pick winners or provide handouts; it is to provide the environment where business can flourish. Unfortunately, for the pastoral industry in WA, this has not happened over the past five years. We basically copped it in the neck from all three levels of government. Everyone knows about the action of the previous federal government, but this state government has also stuck it to the pastoral industry by jacking up pastoral lease rents by up to 700 per cent. We now pay lease rents at a rate 10 times that prevailing in the Northern Territory and Queensland. There has been no reform to the land tenure system, meaning that we pay these higher lease rents for a poorer form of tenure than exists in other states. Local government continues to push rates higher and higher and provides minimal, or in our case, no services for the rates that we pay them. This all means that the industry faces an unprecedented level of sovereign risk and the state government can take steps to mitigate this sovereign risk at the two levels it can impact on, state and local.

The CHAIRMAN: Thank you for that. Perhaps we can get you to expand a little bit there on your thoughts with regard to how the state government could mitigate those risks.

Mr Stoate: Well, the issue of pastoral lease rents is a big one. In 2009, they were jacked up to 700 per cent in some cases. In our case, they were put up 400 per cent.

The CHAIRMAN: Do you mind quantifying that for us as to what you are paying.

Mr Stoate: I can use my own figures. So the previous lease rent was \$14 000. It went up to \$72 000.

The CHAIRMAN: That is per annum?

Mr Stoate: Yes. That is exclusive of GST.

The CHAIRMAN: Did that go up over a period of time? Or was it in one year it went from \$14 000 to \$72 000?

Mr Stoate: It went from \$14 000 to \$72 000. Belatedly, the government amended legislation so it could be phased in and then it has been claimed that the government saved us money by phasing in these increases, which is somewhat disingenuous considering the magnitude of the increases, I think. There has been no reform to that system of lease rent; so the next review of rents is due next year so that there is nothing to say it could not go up by any additional percentage—like a 1 000 per cent or whatever figure because of the arbitrary nature of the system.

The CHAIRMAN: Prior to those increases taking effect, was any consultation carried out with the industry or any warning that this was likely to happen or you just received this new notice?

Mr Stoate: There was a warning a couple of months before the notice came out saying that there could be bigger increases.

The CHAIRMAN: When they gave you that notice, was there anything that they attributed to the increases?

Mr Stoate: They attributed it to increases in land values, which there is no way that land values went up by that magnitude over that period. There are a number of other pertinent issues, but it came at a time of falling cattle prices, increase in input costs and, generally, a fairly difficult time for the industry. It was before the major catastrophes for the industry, but the industry was still on a downward path despite the bigger issues that came after that.

Hon NIGEL HALLETT: David, in relation to the lease rates where you had unimproved value increase in the shire, how did that affect you? If the shire revalued their percentage of the dollar of rating to compensate or what chance —

Mr Stoate: Well, to some extent they did, but our shire rates still went up by 90 per cent, I think. They did move it—riding the dollar down somewhat, but there was still a substantial increase.

Hon NIGEL HALLETT: If it is not personal, what sort of figure are we talking about?

Mr Stoate: Shire rates?

Hon NIGEL HALLETT: Yes.

Mr Stoate: We are lucky enough to pay rates in two shires, so we pay about \$25 000 to the Shire of Broome and about \$4 000 to the Shire of East Pilbara. Again, it is not as if they are collecting our rubbish or we can go and use the library or anything.

The CHAIRMAN: What services did you get from the shire?

Mr Stoate: Nothing. In some shires they do grade the main entrance road—some of the Kimberley shires, I believe, but they do not do that in the Shire of Broome.

The CHAIRMAN: One of the terms of reference of the inquiry relates to the impact that the ban on live exports had on the industry. As yet, the evidence that we have taken from people is that there does not seem to be a direct impact because they have been in areas where they have not really been involved in that live export market. I assume now that where you are located and what you have just said that that certainly has had an impact on you. Is that impact still being felt today? What we are interested in is not only the direct impact on you, but also on other businesses that you know of who would have been reliant on what was happening on your pastoral lease.

Mr Stoate: Yes, certainly the impact is ongoing. As you probably know, Indonesia introduced quotas after the ban came into play; so they have taken a lot less cattle since the ban was enforced. So that has obviously flowed on to the prices that we get, and what happens is the buyers will come and take some of your sale cattle, not all. That affects both the price you get and the volume of cattle that you sell; so it has a double whammy. That is certainly ongoing. It was dramatic when it happened, but it is certainly ongoing now. We are still feeling the effects of that. Hopefully, that will wash out of the system, but there is no guarantee of that.

The CHAIRMAN: Feral animals are obviously a large problem on pastoral leases. What are your experiences and where have you seen them being successfully controlled?

Mr Stoate: I am not sure that I have seen them successfully controlled. We, on our lease, we do not have—we have a wild dog problem, so we use baiting and shooting where we see them. That is the major—there are camels and donkeys, but not in great numbers where we are. That could increase in the future, but other parts of the Kimberley—I believe there are bigger problems with donkeys.

Hon NIGEL HALLETT: David, does the department of agriculture—where are they sitting now? Are they giving a service to you guys or has this dropped right away?

[8.40 am]

Mr Stoate: It has dropped away a fair bit. It is now done by the regional biosecurity groups. This year, a plane turned up and we provided them with baits and it seemed to work okay. I think the new system is still in a state of flux; we will see how it works.

Hon NIGEL HALLETT: Where do you see the camel–donkey issue going? As a pastoralist, are you going to let it get to the point where it is a real issue or is the industry addressing it?

Mr Stoate: It is hard to say. I know that the department of agriculture has done aerial culls of camels. As a pastoralist, all you can do is shoot them when you see them. It is not really possible to do anything else. There has been work on quantifying the number of camels. Hopefully, they will not be allowed to build up until they are out of control.

The CHAIRMAN: The proposed 2015 leases, what are your thoughts with regards to the way that that process is being managed and what is contained in those leases?

Mr Stoate: To me, the document was fairly disappointing. This Liberal government did have a policy of trying to reduce red tape and generally reduce the regulatory burden placed on business. But it just seemed to be rhetoric that comes from politicians; when push comes to shove, you get a document like that, which is about 10 times longer than the previous document. It will put a whole lot of extra burdens on pastoralists. There are a lot of clauses in there that I do not think are necessary, like the animal welfare clauses. There is plenty of provision for animal welfare to be prosecuted in other areas of law; I do not see why that has to be in the lease document. Also, the provisions in the document about going into receivership are unnecessary, I think. If that happened, you would want people to try and trade out of their problems rather than just forfeit their lease. Generally, it is a very disappointing document with a whole lot of unnecessary things in it.

Hon NIGEL HALLETT: What effect has it had on you, David, with your financial institution? How have they viewed it?

Mr Stoate: I have not spoken to them directly about it. It is another document to undermine confidence in the industry. It may make financial institutions wary of lending to the sector in the future, but it probably will not have any direct effect straightaway.

The CHAIRMAN: In your opening statement, you talked about diversification being really the future and the way that people need to be looking at doing things in the industry. Do you think that under the terms of the new lease that is going to be an easy thing to do or more difficult?

Mr Stoate: I do not think the lease document will change that at all. Diversification has been touted as a saviour for the industry; it will work for some people but not for everyone. There are opportunities for some but not all. Hoping that diversification will save the whole industry, I do not think that is realistic.

Hon AMBER-JADE SANDERSON: What do you think are the major barriers to diversification?

Mr Stoate: Certainly, the regulatory environment does not help. You have to jump through a whole lot of hoops to diversify now. Some of that could be peeled away.

Hon AMBER-JADE SANDERSON: Can you give us some examples?

Mr Stoate: You need to go to about half a dozen different government departments, such as the Pastoral Lands Board, the Department of Water and the department of environment. If some of that could be streamlined a bit more, that would help. If you get a permit for diversification now, it is not automatically transferable when you sell the property—things like that.

Hon AMBER-JADE SANDERSON: Is it just an application to transfer, or does the purchaser have to start a new application?

Mr Stoate: It depends on the nature of the business. It is an application. That can happen in a fairly straightforward manner in most cases, but it may still make a purchaser wary, particularly if the size of the diversified enterprise grows. Some of the other barriers are just the capital required by pastoralists to diversify. That is always going to be a big barrier, particularly if the tenure is not that great and they cannot get security.

The CHAIRMAN: As you say, quite often you have got to deal with up to half a dozen departments just to get one thing achieved. What has your experience been like dealing with those departments? We had some evidence yesterday, given to us in a different place, where it seemed that some of the departments do not actually make it very easy to communicate with pastoralists and seem to put barriers in people's way rather than assisting them through processes that they may not be familiar with. Do you have any experience in that regard?

Mr Stoate: Is that not the job of a public servant?

I did apply for a permit to grow 40 hectares of fodder, a few years ago. I did get a letter at one point saying, "You can't have a water licence until you get a clearing permit from the Department of

Water.” Then the department of environment sent me a letter saying, “You can’t have a clearing permit until you get a water licence.” But, I mean, generally —

The CHAIRMAN: You would not happen to have copies of those letters, would you?

Mr Stoa: Yes, I have.

The CHAIRMAN: Would you be prepared to provide those to the committee?

Mr Stoa: I can, yes.

The CHAIRMAN: If you could take that on notice from us, that would be really terrific. So that is a copy of the letter from the department of environment and the Department of Water. That would be very useful to us; we are trying to get evidence in that regard.

[Supplementary Information No B1.]

Mr Stoa: Generally, the individual staff were not too bad, I have got to say, apart from instances like that. I have not acted on the licence, so there is a whole lot of conditions now—because I have not acted on it—that the Department of Water have put on it, so I may have to just surrender that licence.

The CHAIRMAN: So, no 40 hectares of fodder?

Mr Stoa: No, not yet.

Hon JACQUI BOYDELL: How did you work that situation out? Was it purely an error from the officer you were dealing with? How did you move it forward?

Mr Stoa: Yes. I just spoke to them, and they did sort it out.

Hon JACQUI BOYDELL: Environment or Water?

Mr Stoa: Both.

Hon JACQUI BOYDELL: So, it was an oversight; it was not —

Mr Stoa: I guess so.

Hon JACQUI BOYDELL: David, in your submission you talked about the fact that you do not think the lease is the issue, it is the land tenure. Can you give us an idea of how you think land tenure can be improved and what you would like to see as an operating environment?

Mr Stoa: The most obvious change, which I believe is underway, would be the automatic right of renewal. That would, obviously, be a big help and give a lot more confidence to the industry.

Hon JACQUI BOYDELL: Do you feel confident with that process that is happening to go to automatic renewal?

Mr Stoa: I would not say confident, because it has been talked about for a long time and nothing much has happened. I mean, I am hopeful not confident. There is an issue about the terms of leases, where some people have a much shorter term than others, that also needs to be looked at. Whether that can happen, I am not sure, but that would be important for those people who have a shorter term. There is a whole lot of regulatory things in the act which are not necessary, so some of those could be taken out without any detrimental effect—things like writing to the Pastoral Lands Board if you want to agist cattle. There are also other things like getting the permission of the minister to sell your lease. Again, I do not think things would be worse off if things like that were removed from the act. That may just streamline the process of lease transfers a bit, which would again help the industry. They are not major things, but all those little things do add up.

[8.50 am]

Hon NIGEL HALLETT: What do you view as the ideal length of a lease?

Mr Stoa: Well, ideal would be perpetual, I guess.

Hon NIGEL HALLETT: Yes, but —

Mr Stoate: If you had an automatic right of renewal, that would help. A 50-year term would be —

Hon NIGEL HALLETT: It gives you very good collateral, a bit of paper, does it not—50 years?

Mr Stoate: Yes.

Hon DARREN WEST: David, the minister for agriculture and the PGA have suggested that pastoralists not sign the new draft lease agreement. Are you intending to sign; and, if you are not, why? How would you like to see it changed in such a way that you would?

Mr Stoate: I talked about some of those clauses before that I do not think need to be in there. If they could be taken out, that would give everyone a lot more competence to sign it. When push comes to shove, pastoralists may have to sign it. If I have to, I will, I guess, even if I do not like it. I am not—yes, I am, you know —

Hon NIGEL HALLETT: You are not happy about it?

Mr Stoate: No.

Hon JACQUI BOYDELL: David, can I ask you a question. There are those sections of the act that are in the lease—your opinion on this, I am seeking—that you are concerned about, but you are regulated in other areas already, so those laws, say, like animal welfare, which you alluded to. You are already subject to those requirements, so do you think that makes the lease less tenable or more tenable? You are still subject, whether it is in the lease or not.

Mr Stoate: It makes the lease less tenable because you are subject to animal welfare laws but if you breach those laws, they are going to fine you or put you in jail, not take your lease off you. So if those clauses remain in the lease document, then they can fine you, put you in jail and take your lease off you. It is an extra measure that other farmers are not subject to which seems to me to be unnecessary. You can imagine, if that ever happened, what that would do to the confidence in the sector. Banks would be withdrawing straightaway, basically.

Hon JACQUI BOYDELL: Based on the fact that people might have animal welfare issues?

Mr Stoate: Well, based on the fact there is an extra risk they can take the lease off you; it is not based on animal welfare issues. But that is an extra thing that can happen to you in addition to all the other penalties.

Hon JACQUI BOYDELL: So it is your opinion that government should allow people to continue a lease where they might not be managing the land or their animal welfare issues—is that what you mean?

Mr Stoate: No; I did not say that, no. If you breach the animal welfare laws, you will have the full force of the law come down on you, hopefully. So that should be sufficient, going to jail —

Hon JACQUI BOYDELL: And the lease should continue?

Mr Stoate: Yes. If that lease is forfeited, it is removed from the pastoral estate, as I understand it, which would be unfortunate.

The CHAIRMAN: Is there not an argument that forfeiture of the lease should perhaps be the ultimate punitive measure available to the minister and that there perhaps should be a staged thing? At the moment, it would seem that in the new lease, it is that the minister “will terminate” and there is no “may terminate”—I think that is the wording that might be used there. But, obviously, you are bound by animal welfare acts and things like that. Perhaps there should be almost like a system of demerits, if you like, so that you would receive a warning and then after that, a fine, and then after that something, and, ultimately, if there are continual breaches under the animal welfare cruelty acts, then the minister would have that ultimate right to terminate. Would that be a fairer thing to have in a lease than what is there now?

Mr Stoate: Yes. In a case of animal welfare, I am not sure. I still cannot see why you would need that in the lease document because you are subject to all the other animal welfare laws. You are still going to go to jail and be fined, so that is a fairly significant penalty. What you just mentioned may be applicable to other areas, such as land management, where if you are seen to be degrading the rangelands, then there could be a series of penalties, rather than the current situation where, “We will just take the lease off you.” That may have applicability to the land management issue, not so much something like animal welfare.

The CHAIRMAN: What are your thoughts on the way environmental damage at the moment is measured on pastoral lands? Do you have any ideas in that regard?

Mr Stoate: Yes, certainly there is the system of WARMS, which does give an objective measure of rangeland condition across the whole rangelands.

The CHAIRMAN: You do not think that is too simplified a method that is used?

Mr Stoate: No, I do not. I think that is quite rigorous. That operates at a rangeland level, not an individual lease level. There is certainly the issue at lease level now where the department of agriculture is no longer doing those lease-level inspections, and there is nothing in its place. That does represent a risk to rangeland management.

The CHAIRMAN: What measures do you take yourself on your property?

Mr Stoate: It is part of ongoing management of a station. We certainly do photographic monitoring and the objective measures to look at the condition of the range, including forage budgeting and that sort of thing. We are certainly doing the photo monitoring now to manage rangeland condition.

Hon AMBER-JADE SANDERSON: When you say the department are no longer doing lease-level inspections, is that because they do not have the resources to do it?

Mr Stoate: I do not know. It is, presumably. They are certainly withdrawing—they are doing—like most government departments are doing less and less. As you know, the Pastoral Lands Board proposed a system for leaseholders to do that monitoring, but that has not come into force as yet.

Hon NIGEL HALLETT: David, just going back to the animal welfare issue, as I see it, it is two different things. It should not be attached to the lease—the animal welfare issue. It is no different to a city person that mistreats their dog in the backyard; they do not forfeit their house. You do suffer the full weight of the authority if you mistreat animals, but it should not be tied to the lease, would you agree?

Mr Stoate: Yes. It is a good summation, yes.

Hon JACQUI BOYDELL: I just have a couple of further questions, if that is okay. David, how are you, as a pastoralist and the industry, given the 2015 lease is burdening down on industry, engaging with the Department of Lands to raise your concerns? Do you think that process is working well; are you getting any feedback; what is your thought on that?

[9.00 am]

Mr Stoate: Remembering I am on the Pastoral Lands Board, so I have a connection, generally the communication has not been that good between the Department of Lands and leaseholders. Probably the view of leaseholders is that 2015 will come along and everything will sort of happen automatically. That is probably how most leaseholders feel about it and hope it will happen. But there are a whole lot of issues that need to be addressed that do not seem to be being communicated terribly well to leaseholders—things like the security that banks hold, new documents and those sorts of things. The leaseholder would hope that that will all happen in a streamlined fashion. Whether it does or not, we do not know.

Hon JACQUI BOYDELL: Those concerns are definitely why we are having the hearings. You would say that you are not feeling like those concerns are being raised with the Department of Lands or you are not getting any feedback back?

Mr Stoate: A bit of both.

Hon JACQUI BOYDELL: You talked about your rent increases based on land value. Ten years ago what was your property worth, if you do not mind me asking, for a rent of \$14 000 and what would it be worth in today's market for a rent of \$72 000?

Mr Stoate: Remembering the lease is done on unimproved value, you can do the figures—\$72 000 divided by two per cent will give you the unimproved value, which is about \$3 million, I think. That is unimproved. This is where there are a whole lot of problems with the methodology used by the Valuer-General. We have 80 border points on our lease and there are no natural water sources. We have got 180 kilometres of poly pipe. The property is worth a lot of money, but it is worth a lot of money because we put all those improvements there. The methodology used by the Valuer-General does not take those things into account. The other problem with their methodology is that it is based on the carrying capacity of the lease. If you carry more stock on your lease than your carrying capacity, you are not penalised in any way by the rent. It provides an explicit encouragement to exploit the resource base through that system of rentals. The soil commissioner's report outlined that somebody is carrying four times their carrying capacity now.

Hon JACQUI BOYDELL: Is it your opinion that rents are affordable and being paid?

Mr Stoate: Again, I am on the Pastoral Lands Board, so I know they are being paid. Some people have more trouble than others. People will pay them because they are law-abiding citizens. The issue is they are paying 10 times the rate that they do in Queensland and the Northern Territory, and the whole sovereign risk issue. The last time they went up 400 per cent; next time it could be 1 000 per cent because of the arbitrary nature of the way the Valuer-General goes about it.

Hon DARREN WEST: David, clearly the issue of lease and tenure is the next one, because you need to provide security of tenure for pastoralists so they can have a surety to go forward and borrow money, as you point out, and also for protection from the landowner, which are the citizens. There was talk a few years ago about a rolling-type lease, where a lease was granted and if there were not any grounds for dispute, I guess you would say the lease would extend on. I think the proposal was for 30-year rolling leases; and, if there was a breach of the lease, 10 years were not renewed. What are your thoughts about such a proposal?

Mr Stoate: Certainly, the rolling lease or perpetual lease would be a great step forward and give a lot more confidence to the industry. If that could be introduced, I think that would be a big help to everyone in getting some more confidence to the industry. Native title is always raised as an issue in changing lease tenure, so whether that could be overcome will be a question, but it certainly would be a big help if we could do that.

The CHAIRMAN: I think that has brought us to the end of our questions for you, Mr Stoate. Thank you very much for taking the time to appear today. We appreciate that. As I said, you will be sent a transcript of your evidence, which you can go through and see whether it is correct and make minor corrections and things to it. Thank you.

Hearing concluded at 9.05 am
