

Peter Swift



To:

The Standing Committee on Public Administration
Legislative Council Committee Office
Parliament House
4 Harvest Terrace
West Perth WA 6005

Dear Committee Members,

Thank you for this opportunity to submit my views on the **"Inquiry into Private Property Rights."**

Most of you will be aware of my situation, so I will not go into great detail. I would like however, to request to appear before the Committee to provide support to the Inquiry.

In 2007, I purchased a 485ha rural property at Frankland to run a few cattle and sheep on whilst continuing to work up North until I retired. In 2009 I was charged with illegal clearing on the property, which after a 3 year trial, I was subsequently found innocent. During the Court Case, which cost me around \$360,000 in costs and lost work time, I became aware of a restriction called an 'Environmentally Sensitive Area (ESA)', which applied to 200ha of the property. There are 27 land uses not permitted in an ESA, one of which is livestock grazing. A permit can be granted, but they only apply for between two and five years, can be revoked at any time and an ESA is not static and changes according to rainfall, so cannot be effectively fenced. I have sought the assistance of numerous State and Federal representatives in an attempt to find a resolution to my problem. The application of the ESA has adversely affected my property value and following the court case and subsequent effect of having an ESA on my property, I suffered a mental breakdown and continuing mental health issues. This resulted in me not being able to continue working up North or pursuing other employment.

There are currently 98,042 parcels of privately owned land in WA with an ESA restriction. Owners are not notified of the restriction, which were applied using dated aerial imaging and the areas were never ground proofed.

In Western Australia under the Land Administration Act 1997 (WA) compensation is only payable when land was compulsorily acquired or reserved for public purpose. It is not paid to WA property owners when the government restricts the landowner's property rights by declaring an ESA, and nor is it mandatory to document and ESA on the Certificate of Title.

New South Wales and Victoria provide compensation to landowners when their property is declared an ESA.

The other issue is that the Bank commenced legal proceedings to recover the debt owed as the property was deemed unsaleable and the value could not be determined due to the ESA restriction. As the property has a stand of Forest Products Commission (FPC) Pines on it, the FPC made an offer to purchase to increase the pine plantings. Unfortunately, the Cranbrook Shire opposed the purchase and the FPC are now appealing the decision with the WA Planning Commission. This leaves me currently in a precarious position with the Bank.

I therefore respectfully request that this committee consider the information I have provided and:

- a) Conducts an inquiry into the matters as described in the Committee's terms of reference as their terms of reference and reports to the house within nine months of the date of the referral with a focus on:
 - a. The registration of an ESA, bush-fire prone area and implied easements for Western Power on the Certificate of Title;
 - b. Pay fair and reasonable compensation to the owner of private property affected by these uses if the value of the property is diminished by a government encumbrance or resumption in order to derive a public benefit.