

STANDING COMMITTEE ON PUBLIC ADMINISTRATION

**TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
WEDNESDAY, 9 AUGUST 2000**

**Hon Kim Chance (Chairman)
Hon Cheryl Davenport
Hon Dexter Davies
Hon Helen Hodgson
Hon Barry House
Hon B.M. Scott**

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Committee met at 2.10 pm

MARTIN, MR DENNIS GORDON,
Farmer,
Toe-ee Downs,
Badgingarra, examined:

MARTIN, MRS ROBYN MARIE,
Farmer,
Toe-ee Downs,
Badgingarra, examined:

The CHAIRMAN: You have signed a document entitled "Information for Witnesses". Have you read and understood that document?

Mr Martin: I have read it but I would not say I completely understand it.

Mrs Martin: I have read it too, but I am not a lawyer. We are comfortable with it.

The CHAIRMAN: We can deal with issues if they arise. These are only quasi-formal proceedings; that is, they are formal proceedings conducted informally. If you are uncertain about anything, just say so and we will work it out.

These proceedings are being recorded by Hansard. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of the hearing so that it can be on the record. A transcript of your evidence will be provided in a couple of days. I remind you that your transcript will become a matter for the public record and it is posted on the Internet. If for some reason you wish to make a confidential statement, please request that the evidence be taken in closed session. However, even if your evidence is given in closed session, the committee may still report the closed evidence to the Legislative Council if it considers it necessary to do so, in which case it will become public evidence. Do you have any queries?

Mr Martin: We will go with that.

The CHAIRMAN: Would either of you like to make an initial statement to the committee?

Mr Martin: It is difficult to determine in what capacity we are appearing. The whole issue has become very clouded and frustrating for our family. It has put us under extreme stress. For four and a half years we have been able to get very little assistance from any department or agency dealing with this issue. I asked for help from Ferguson Kenneison and Associates to get some direction about where I could go.

The CHAIRMAN: Can you explain the circumstances that have brought you here? The committee would like a summary of your situation; that is, when you first made application to clear; what proportion of your farm you have given notice of intent to clear; how long it took to process that application; and what difficulties you ran into during that process, if you ran into difficulties.

Mr Martin: This list of events is in volume No 2, which was forwarded to the committee in December 1999. The document is entitled "Conduct of government agencies relating to a clearing application for Mr Dennis Martin of Toe-ee Downs, Badgingarra WA 6521 for the period August 1995 - present".

A media release was issued in May 1995 stating that a 20 per cent order would be put on remnant vegetation on properties and shires. My late father said we would have to check that. Because I was busy seeding, my late father rang Agriculture WA at Three Springs on my behalf and asked about the situation. He was told that we would have to reapply. The paperwork was sent to us and we reapplied in August 1995. Later, on 14 November 1995, a representative of Agriculture WA from Three Springs - Peter Whale - came to the property and we discussed the issues. He then went away.

I received a map from him in November showing the area to be retained. That was all I heard. Then I had a telephone call from Martin Keen asking whether he could come and meet my family and me. He and David Stanton turned up on the property on 20 March.

The CHAIRMAN: Who are they?

Mr Martin: They are Agriculture WA officers. They were supposed to arrive at midday on 20 March 1996, but they turned up at 4.30 pm. They said that my application had not been processed properly and that they wanted to sort it out. We asked how long that would take, and they said it would take about six weeks and everything would be right. David Stanton said that in the meantime we could not clear because permission had not been signed off by the commissioner. We said that that was fair enough and that they should go and do what they had to do.

They sent an Agriculture WA representative to the property in May to do an inspection, which he did. I did not hear anything for a few weeks, so I rang to inquire what had happened. I was told that he had not completed his report because he had left the department and that another inspection would have to be done. In February 1997, Martin Keen came onto the property, did his inspection and went away to compile another report. When his report came out, I found that Brooks' and Whale's reports had both been completed.

The CHAIRMAN: But you were informed that they had not been completed.

Mr Martin: I had never laid eyes on them.

The CHAIRMAN: As I understand it, the Act or the memorandum of understanding requires that stages 1, 2 and 3 - that is, those within the ambit of the MOU before you get to the EPA referral, which is stage number 4 - have to be completed in 90 days. Are you aware of that?

Mr Martin: I was not then, but I am now.

The CHAIRMAN: Did Agriculture WA ever inform you of that?

Mr Martin: No. When another person I know applied for permission to clear, he was given a booklet on the procedures. I have never received that booklet.

The CHAIRMAN: I will go back a little. In February 1997, Martin Keen returned to your property and did a formal assessment.

Mr Martin: Yes. His report came out and it contained a "Brooks report". Keen had signed off on the Brooks report as well.

The CHAIRMAN: Was it signed by Keen?

Mr Martin: Yes.

The CHAIRMAN: Please move ahead.

Mr Martin: After that, it was a stalemate for a while. I was trying to find out what was going on. I was dealing with Martin Keen and he told me to ring a person in the

Environmental Protection Authority. I rang that person's number on numerous occasions, but she was never in and I never got a response.

The CHAIRMAN: At what stage did you become aware that the application had gone to the EPA?

Mr Martin: In June 1996. I was given a phone number to ring at the Department of Environmental Protection by Martin Keen.

Hon HELEN HODGSON: You said June 1996, but the Martin Keen inspection was in February 1997.

Mr Martin: I am sorry about that; I have lost my place. Martin Keen inspected the property in February 1997.

Hon HELEN HODGSON: It was definitely after that inspection that you were told to deal with the EPA.

Mr Martin: No; I was told to deal with the DEP.

Mrs Martin: The memorandum of understanding was in early 1997.

Mr Martin: So I went from there. Martin Keen gave me that telephone number, but we were run around in circles and could not get responses.

I then had a telephone call from Martin Keen asking permission for a group to come onto the property because they were holding a notice of intent conference at Jurien. They wanted a property to visit to help them with their process and to bring it together. I said I would do anything to help get the process sorted out. On the day, my late father and I met with a busload of people plus another person. I have a list of the participants, but there were others whose names I did not get. We had several discussions during the day about the issues.

We then received a letter saying that they would like to have a flora study undertaken on the property and that I would have to do it. After several telephone calls with Andrew Watson from the Soil and Land Conservation Commission, he agreed that the DEP, the EPA or whoever would pay for the study because of the lack of due process. The EPA or the DEP sent a couple of botanists and a DEP representative onto the property. They drove around for an hour or so and then left. I rang the person from the DEP asking for a copy of the survey. His first response was that it was not ready and that it had to be sent back because of some mistakes. I contacted him about a week later and he said it was not right and that he could not give it to me. I contacted Andrew Watson and he managed to get the report for us.

Then I rang the DEP representative and said I wanted to meet with the working group to discuss the issue because the letter sent to me stated that if there were any priority or rare plants on the property and no agreement could be reached between me and the Department of Conservation and Land Management, only then would it need to go to the EPA. I thought I would meet with the working group, discuss it and see whether we could sort it out. That DEP representative said there was no need for me to meet with the working group because the issue was going to the EPA.

I then made contact with my local representative, Hon Eric Charlton, and tried to organise some discussions to find out what was happening. He had several meetings with other people and we went around in circles. I went to see solicitor Michael Whyte and gave him some information and he wrote to the Ombudsman. The Ombudsman wrote to numerous people and the cycle went on again.

We had a meeting in Moora with members of Agriculture WA, the Water and Rivers Commission, CALM, DEP and the EPA. At that time, my application had been sitting on a desk at the EPA for some time. I had been told about the EPA procedures and the time frame

to assess a project. When I asked the chairman of the EPA why my application had been sitting for so long without a level of assessment having been set, he turned on me and said that if that was my attitude the EPA would assess my application. We had a number of other heated discussions. I then asked when it would be assessed. They said they were waiting for the outcome of Mr Craig Underwood's assessment.

The CHAIRMAN: Was he another applicant?

Mr Martin: Yes; he has been through the process as well.

That went on, we left it and the EPA set out a formal assessment process. When the assessment was completed, the EPA did a draft report. Robyn and I were asked to attend a meeting with the EPA. We came to Perth and met with six, seven or eight people, but not the chairman - he was away or had other things on.

The preferred option in the draft report was for the Government to purchase the land. If it was not purchased, we could clear half. I asked which half. The EPA's draft report contained a map that was completed by Martin Keen showing that I could clear the area I applied to clear. I asked which area I could clear given that the map indicated I could clear the area that Peter Whale had originally drawn up. The map was put up on an overhead projector and a DEP representative stood up and wiped his hand up one side of the map, and said I could clear one side but not the other side. I pointed out that that would not achieve much because he had just wiped out priority plants on that side of the hill in an area that was going to remain uncleared anyway.

The CHAIRMAN: Were you given any indication of a scientific basis for that decision.

Mr Martin: He just said I could not clear that half.

The CHAIRMAN: Were you provided with documentation?

Mrs Martin: No. Dennis said he was prepared to give a bit, but not half of it. There were some sandy hollows he could make corridors. DEP decided to send another botanist to negotiate with us to leave corridors.

The CHAIRMAN: Are we now talking about August?

Mrs Martin: It was July 1998.

The CHAIRMAN: It was more than two years after the application had been lodged, when presumably a heap of scientific work had been undertaken in assessing your application. However, you were still not provided with any scientific reason for the decision.

Mrs Martin: Is biodiversity a reason?

The CHAIRMAN: That is a word, not a reason.

Mr Martin: The upshot of the meeting was that a member of the EPA said we were in a stalemate. He decided to send some representatives to negotiate with us. The EPA sent a botanist, a member of the DEP and an Agriculture WA officer - Andrew Watson. Ted Griffin, Kim Taylor and Andrew Watson came to the property. We drove up to a hill that overlooks the whole area. I said I would create a corridor up through the valley and link up to the top of the hill and go through another sandy valley. I would create a corridor through the middle about 100 metres wide. The maps had marks showing the priority plants. We were parked in very close proximity to one of the plants. The DEP representative asked the botanist to show him the plant. The botanist said he could not and that one plant was fairly insignificant. He never pointed it out. At no stage has any botanist shown me where these plants are.

The CHAIRMAN: Were the plants identified by name?

Mr Martin: Yes.

The CHAIRMAN: Were they identified on the ground?

Mr Martin: No. He never bothered to look around in the bush. If it had been in the area, we would have been within 50 metres because of the tracks previously created by other activities on the property. It would have had to have been within 50 metres.

The CHAIRMAN: You are not a botanist, but you get a feeling for that kind of country and what grows in that soil.

Mr Martin: Yes.

The CHAIRMAN: Was there anything unusual on that patch of land?

Mr Martin: I could not see anything different. The vegetation was the same for 100 or 200 metres around where we stopped.

Mr Martin: We met with them and they drew up the map. The map I submitted came out in the EPA's final report with the corridors much wider.

Mrs Martin: It was still only half the amount we wanted to clear. They did not negotiate with us.

Mr Martin: I created a corridor, but they extended it out and came back to half the amount we wanted to clear. We lodged an appeal against the EPA's recommendation. That took a while because I was unsure of what I was doing. I asked Mr Ferguson for assistance in lodging an appeal because of the legal ramifications and the information we would be required to provide. During the process of writing up the appeal, Mr Ferguson said that he would try to make things better because the corridor ran out into open paddocks covering approximately one kilometre to the national park. Jim suggested that we shift the corridor over to the western side of the hill and go down along a fence line that links into other areas of uncleared land. That would create a corridor from the northern side to the southern side to link into Mt Lesueur. We made that submission. The EPA came back commending us for our foresight in creating the corridor, but it wanted it a certain width and reduced the area to no more than half. The previous corridor was rejected and the EPA accepted our corridor, but increased the width to not more than half.

I was left in total frustration so that the area to be cleared was not more than half. I have been in the area since 1966 - my father was the original conditional purchase owner of the farm. We had seen mistakes made. We purchased a property that was only 12 or 13 per cent cleared, but we have cleared more land. If we had been able to clear what we originally applied to clear, 21 per cent of the farm would have remnant vegetation.

The CHAIRMAN: The conditional purchase agreement was between your father and, I imagine, the Minister for Lands.

Mr Martin: That was on another property of my father's.

The CHAIRMAN: Presumably the property in question was also CP land at some stage.

Mr Martin: No, it was war service land. It had been sat on for a long time.

The CHAIRMAN: Are you aware of any requirement to clear that land?

Mr Martin: I am not sure whether it was CP land. I know the adjoining property was, but the northern property was a war service farm.

Hon B.M. SCOTT: What is the requirement on CP land?

Mr Martin: Conditional purchase required the purchaser to clear a number of acres each year, to construct a boundary fence, to live on it within so many years and so on. My late

father was allocated a CP block in October 1966 and his only tool was a hand piece. Five years later, when I was helping on the farm, we had a visit from a land representative. My father seemed to be upset afterwards. I asked him what was going on and he said they were going to take the land because we had not cleared enough. Here I am, 25 years later, getting hassled for doing that very thing by the same sort of people.

The CHAIRMAN: I appreciate that we have barely touched the surface of this issue. Today's hearings are effectively to open up the issues for the committee's initial inquiry. To that extent, you have described the situation. Given that your comments are supported by a comprehensive submission, you have done a more than adequate job of opening up the issue. The committee may well need to hear from you again, if that is acceptable, depending on where we go. I will now invite questions, because we have Mr Ferguson and Mr Kenneison due to begin their evidence in a few minutes.

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Hon BARRY HOUSE: It might seem a silly question but I want to establish the history of your farming operation from the beginning. Mr Martin, what did you intend to do with the cleared land?

Mr Martin: The farming operation involved beef, sheep and grain.

Hon BARRY HOUSE: Do you intend to pasture it?

Mr Martin: Yes. I was planting some areas with tagasaste for beef production, and some areas were for cereal production.

Hon BARRY HOUSE: How central to your farming business was the extra land that you would have had available?

Mr Martin: If that land had been available, it would have been a viable farm for my wife and me to move onto and live off.

Hon BARRY HOUSE: Is it viable as it is?

Mr Martin: No.

Mrs Martin: The property on its own is not.

Mr Martin: My mother and father have another farm that we live on. However, working this other farm would not be viable.

Hon BARRY HOUSE: Was it your intention to work on the new property?

Mr Martin: When we purchased the property with my father's backing, we intended to develop it to make it viable for Robin and me to work on and live off.

Mrs Martin: Dennis' father has since died, so that is not likely to happen now.

Mr Martin: I have a 13-year-old son who has shown an interest in farming. I am not sure whether that is good or bad in the present climate. It is not a viable proposition with 38 per cent bush left on it, as is the case now.

Hon BARRY HOUSE: Can you estimate what it cost you both in direct costs and in benefits forgone over the five years you have been pursuing this?

Mr Martin: We will bring the time back to, say, four years, because there was a year of development during which no production could occur. I would be looking at somewhere between \$60 000 and \$70 000 of lost income per year.

Hon BARRY HOUSE: Can you estimate the direct cost to you and your wife to pursue this?

Mr Martin: I cannot put a financial value on some of the stress it has caused the family.

Mrs Martin: The costs have increased substantially over the four years. We would now have to pay more to clear it, buy fertiliser and fuel and pay contractors to develop it.

Hon BARRY HOUSE: You have had other costs in terms of solicitors and consultants have you not?

Mr Martin: Yes, we have spent at least \$10 000 on solicitors' advice.

Hon BARRY HOUSE: Do you know the percentage of remnant vegetation in your shire?

Mr Martin: It is approximately 38 per cent over the whole of the Coorow shire, which runs from east to west and is 125 by 25 miles wide. The 38 per cent of remnant vegetation is a large proportion of the western half of the Coorow shire.

Hon HELEN HODGSON: Is there not much remnant vegetation on the eastern half?

Mrs Martin: That is right.

Mr Martin: The eastern section of the Coorow shire is an older, more developed area.

The CHAIRMAN: Is the Coorow shire due west of the Moora shire?

Mrs Martin: It is north of the Dandaragan shire.

Mr Martin: There is the Three Springs shire and then the Carnamah shire. Coorow and Carnamah shires are approximately the same shape and size. They were split in half. They would show as one shire because they were one shire 30-odd years ago.

The CHAIRMAN: We have a map from the Environmental Protection Authority that shows those shires which have more than 20 per cent retained vegetation.

The CHAIRMAN: A few more issues need to be explored but we can do that perhaps at some other stage with you directly or perhaps with Mr Ferguson and Mr Kenneison.