

**STANDING COMMITTEE ON PUBLIC ADMINISTRATION
AND FINANCE**

LAND INQUIRY

**TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
ON WEDNESDAY, 25 SEPTEMBER 2002**

SESSION 2

Members

**Hon Barry House (Chairman
Hon Ed Dermer (Deputy Chairman)
Hon Murray Criddle
Hon John Fischer
Hon Dee Margetts
Hon Ken Travers
Hon Sue Ellery**

[10.05 am]

WALSH, DR JOHN RAYMOND
Manager/Owner, Walsh Family Winery,
examined:

The CHAIRMAN: On behalf of the committee, welcome to the meeting. You will have signed a document entitled "Information for Witnesses". Have you read and understood that document?

Dr Walsh: I have.

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 referred to. 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 the transcript of your public evidence is finalised, it should not be made public. Premature publication or disclosure of public evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

Welcome. Would you like to make an opening statement to the committee?

Dr Walsh: Thank you for the opportunity of speaking directly to you, Mr Chairman, ladies and gentlemen. My submission addresses points 1(b), 1(d) and 1(g) of your terms of reference; that is, the imposition of restrictions on the use of, the clearing of, and the lack of compensation for rights forfeited on, land that my wife and I own. The land in question is in Bickley, 24 kilometres east of Perth, in the shire of Kalamunda. It was bought in 1963, zoned rural agricultural and classified water catchment. One hundred and ten acres were bought. After two nominal 10-acre subdivisions, we now own 89 acres. The freehold bought in 1963 allowed clearing of land without reference. We cleared 12 acres 20 years ago and had access to water from a seasonal creek without reference. We built a 12-million litre dam on the creek line 20 years ago. We built our house there 26 years ago with freedom to build it almost anywhere on that block. In addition, there was an expectation of subdivisional potential. We have twice subdivided and seen neighbouring blocks subdivided to one-sixth and one-sixtieth the size of ours. Ours remains by far the largest block in the area. I hope to convince you that the rights mentioned above have been progressively lost to my severe detriment for a perceived common good and with no compensation. In other words, I have been robbed of assets. I deal with these issues under the headings: the shire, the water and rivers authorities, CALM, Western Power and other government agencies.

The shire: I have recently applied for a further subdivision. In the current town planning scheme of the shire, there is an appendix, of which I was unaware, which lists my property as not suitable for further subdivision. Such listing devalued my land by hundreds of thousands of dollars, yet I was never advised by the shire. I am,

however, consulted if the neighbour wants to keep an extra dog or start a bed and breakfast business. I get a letter from the shire. The shire opposed a 15-acre subdivision earlier this year, one reason given being the existence of this appendix. The shire alone, of all consulted agencies, opposed the subdivision. The shire, in spite of appendix 1, stated it would support a different subdivision. The appendix is, therefore, not absolute and need not have been invoked. This different subdivision is unacceptable for reasons I could give if the committee is interested. The existence of my property in the appendix implies that previously it was regarded as having subdivision potential.

In starting a vineyard upon my retirement in 1995, the shire approved clearing but imposed conditions not existing on neighbouring orcharding properties. The creek was to have bush left 15 metres either side of the creek line. The bush was to be left eight metres from the neighbour's boundary. These restrictions denied me the use of rich soil equating to income and have contributed to a severe vermin problem - kangaroos and silver eyes. In 2001 I lost my complete white grape crop to silver eyes and this year I lost a third of the red grape crop. Having netted the white, they moved over to the red. In all of the above, I believe the shire has acquiesced to Water Authority policies. It is the water catchment classification that is hitting me. I believe the shire has sacrificed ratepayers' rights rather than stood up for ratepayers and said it would implement the water policies only if its ratepayers are compensated. Finally, the WA Planning Commission policy on rural land use planning identifies the Shire of Kalamunda as one experiencing pressure for change in rural land use. To date, the shire has not prepared a local rural policy in response to the commission's recommendation. The shire requires not only that firebreaks be maintained - an expense I have borne ever since I have had the lands - but also that I now burn when ground fuel loads are high. The cost to me will be approximately \$3 000 every second year. I have an agreement with them to burn a quarter of the block, excluding the vineyard, which is very steep and heavily wooded, every second year. This year I burnt 40 acres, privately and without insurance, not for my own protection so much but as part of the wider community protection. I did not have \$3 000 to pay the volunteers to do it. I am forced if I wish to stay on my own block - and I do - to be an unpaid curator of native bush with no rights to that land, at costs prohibitive to me. The land value is such that I am denied any pension or anything that is means tested, so my children were never able to get Austudy or access any of the university schemes. The shire rates notice this year was \$2 200. All my superannuation is in that block of land. We have raised nine children there. We have lost a son, who was killed on the road. Why should we, for the good of the community's water supply, be forced off this land without compensation for loss of value?

The water authorities: the policies of the Water and Rivers Commission underlie my loss of rights. A creek, which is seasonal, flows through my property. It rises on a block about three properties up in the spring, flows into Piesse Brook which flows into the lower Helena Valley catchment and then goes to Mundaring, so I am part of the water collection scheme. It is its policies that underlie what is happening to my block and have probably been covered under shire discussions. If my block is wanted for continuance of water quality, I believe Water and Rivers should compensate.

CALM: I have attached a letter at the back of my submission which was submitted to the Planning Commission during consultation on my proposed subdivision. It turns out that CALM has created a national park in the Pickering Brook area with a boundary of perhaps 20 to 30 kilometres. I unfortunately have a 50-metre common

boundary with this national park. I understand that the national park is not even yet gazetted. The letter shows it has not been surveyed. The forest management plan, which was out for public discussion outlining this and other national parks, makes no mention of imposition on neighbours subsequent to a gazetting. I believe this letter is outrageous. It demands that I survey my common boundary and through a 100-metre offset that I sacrifice 20 per cent of the proposed six hectare subdivision to CALM's requirements. It denies me any building rights on 20 per cent of the subdivision. In direct talks with CALM, it said that the conditions are not negotiable yet it also said if the subdivision were smaller, the required offset would be only 50 metres. There are already seven homes within 100 metres of the national park within the immediate vicinity of my proposed subdivision. I might have supported the national park strongly, but not when I find CALM has concealed its intention to interfere with the rights of neighbours' land. The process of subdivision is being used by CALM as a means of imposing conditions it could not otherwise impose.

Western Power: Walnut Road runs the length of my block and divides it into two. It is an 800-metre frontage. The main powerline serving part of Pickering Brook and the Observatory runs up that road. I have been issued with orders to fell or prune trees close to the line. A friendly quote from a friend was \$1 000. This is outrageous. None of these trees was planted by me. All are native vegetation and were growing when the line was installed. I draw less power than the average household, having solid fuel for water and room heating. I draw no power for the vineyard because I gravitate from my dam. Why should I be ordered to maintain 800 metres of a line serving a whole community when most others pay nothing for the maintenance? If they live on the other side of the road, they do not pay. To me, this order was an outrageous offloading of costs. I am pleased to say that Western Power in the end agreed with me. They did the felling and pruning. Others of my neighbours, who did not challenge Western Power, paid; that is, people on the same side of the road as me. I make one other general observation; that is, probably the Environmental Protection Authority, or whoever, restricts the burning by CALM so as not to put smoke over Perth. My entire northern boundary, an 800-metre frontage, abuts state forest and part of my southern boundary joins this new national park. If these are not burnt regularly, others and I are under threat. The consequences of wildfires need no elaboration.

I turn 70 next year. My only asset lies in the 89 acres of land. For 40 years I have looked to retirement on a reasonable subdivision, allowing my wife and I to see out our days in Bickley and share its beauty with children and grandchildren. I believe that government agencies have denied me this future for a perceived common good; that is, the quality of water and with no compensation. That is the case I make.

The CHAIRMAN: Thanks. With reference to the appendix that was on your title, you were never advised of it. Who put it there?

Dr Walsh: CALM - the Acting Manager, Perth Hills District. That would have been the Mundaring office of CALM.

The CHAIRMAN: It did not advise you in anyway?

Dr Walsh: No. When I saw this letter, which I obtained from the Planning Commission, to know why my request had been turned down, I discussed it with two people - Caitlin Proust, named on the letter, and their legal person - and got absolutely nowhere.

Hon ED DERMER: Did I understand you to say in your opening statement that when you purchased the property in 1963 or 1964, it was then designated as a water catchment area?

Dr Walsh: Yes.

Hon ED DERMER: What specific restrictions were involved in that designation, if any?

Dr Walsh: None, to my knowledge.

Hon ED DERMER: If you were told your land is a water catchment area, when you purchased it, did you ask what the implications were of your land being designated a water catchment area?

Dr Walsh: No.

Hon ED DERMER: It was notionally designated without any specific restrictions involved in that designation.

Dr Walsh: Yes. I am not alone in being in a water catchment area. Most of the orcharding properties in Bickley and Pickering Brook are in water catchments. I bought a place that was undeveloped. For many years I could have cleared the whole block without reference to anyone in those days.

Hon ED DERMER: Despite the fact that it was designated water catchment?

Dr Walsh: Yes. I could have cleared across the creek in those days. Today I would not be allowed to clear. Clearing would be opposed. I would not be allowed to put a dam on the creek line, which I did then. I worked with the shire in doing so. I did not get its permission; an engineer gave his advice.

Hon ED DERMER: I was interested to learn that what was a designated catchment area did not entail restrictions. Thank you for advice on that.

Dr Walsh: I believe I was correct in thinking that no restrictions were given with that classification. They came in later.

Hon MURRAY CRIDDLE: I was interested in the other people around the area and the way they have been treated compared to you. I understand you said that other areas with the same classification in earlier days have been subdivided?

Dr Walsh: Yes. A block of 150 acres to the south of me, occupying about 600 metres of my southern boundary, divided 10 or 12 years ago into 10, 15 acre or six-hectare blocks but they were classified rural conservation, not rural agricultural. I am also suffering disadvantage in this present subdivision because the shire does not have a policy of converting rural agricultural to rural conservation. It does not have that local rural policy.

Hon MURRAY CRIDDLE: Did that land have that classification earlier or is that the way it was subdivided?

Dr Walsh: It is the way it was subdivided, but I am not absolutely sure.

Hon DEE MARGETTS: You mentioned the burning regime. How often would you like to be able to burn your property?

Dr Walsh: I think I have agreed with the shire that every eight years is quite reasonable. It is heavily wooded. It is native bush and the fuel load builds up rapidly and eight years is the correct time to burn so I burn in four sections, one every second year.

Hon DEE MARGETTS: Do you have a weed load on the property?

Dr Walsh: .

Hon DEE MARGETTS: Is it understory or weeds

Dr Walsh: It is fallen leaves from the high trees. There are a substantial number of black boys. It is general undergrowth. When we burn we attempt to burn all of that - not the canopy - and burn it in such a way as to burn only the undergrowth.

Hon ED DERMER: That is a fire prevention objective in mind is it?

Dr Walsh: The decision is really mine. I have an agreement with the shire's rangers to burn in four sections every second year.

Hon ED DERMER: I am trying to understand your purpose in the burning. I assuming it is to avoid fire hazard for your home and property in general

Dr Walsh: It does that, but generally it is part of the wider community fire control. The shire is trying to checker board the whole area so that sections are burnt and the fire will not be out of control.

Hon ED DERMER: So there is no continuous fuel.

Dr Walsh: Yes.

Hon JOHN FISCHER: What is the size of the average subdivision? I wonder why you would not subdivide into 10 acres.

Dr Walsh: I have a neighbour on the eastern boundary, with one acre but that predated my buying of the block. Since I have owned my block I have seen the creation of three blocks to the west of me which are about an acre and a half. I have seen the whole southern boundary subdivided into 15-acre lots. I have seen further up the road and deeper into Bickley valley, much smaller subdivisions than I am seeking.

Hon JOHN FISCHER: The shire opposed your 15-acre subdivision?

Dr Walsh: Yes.

Hon JOHN FISCHER: But then said it would have a smaller caveat if you went to 10 acres?

Dr Walsh: The shire proposed a subdivision down the road so the road divided my block into two separate titles. It is all on one title at the moment. That divides my vineyard in two and isolates the water on one side. If I wanted to put one on the market it would have to be zoned rural agricultural. If I sold one side there would be no water on that side, and any clearing by a new owner would be opposed. I would be trying to sell a block as rural agricultural, when it had no agricultural future.

The CHAIRMAN: With regard to the 100-metre buffer zone you talked about for the new national park, was the advice that came to you from CALM based on a draft document?

Dr Walsh: I do not know how draft it is. They have signs stuck in the ground saying "national park".

The CHAIRMAN: But it has not been formally gazetted.

Dr Walsh: I do not think so. My information is that it has signs in the ground saying it is a national park.

Hon DEE MARGETTS: We understand a lot of work is being done in relation to the salinity problem in the Helena river catchment. Has the quality of the water in your dam changed over time?

Dr Walsh: No. I had it analysed last year by a viticulturalist consultant, and the quality was perfect.

Hon DEE MARGETTS: Are you in a catchment that is less saline than the other parts?

Dr Walsh: There is no salinity at all.

Hon DEE MARGETTS: You might understand why there would be a particular effort to maintain some of the quality of the water perhaps to both your property and other people's property?

Dr Walsh: I can understand it all right. However, the requirements are excessive in the maintenance of the quality of water. I believe I would be devoting some of my land to agricultural use without changing the quality of the water. If they want to maintain the quality of that water by denying me use of the land they should be compensating me.

The CHAIRMAN: We have covered a fair amount of ground. Your presentation has been very thorough. Is there anything you want to say in than conclusion?

Dr Walsh: No thank you.