

**STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS**

**TRANSCRIPT OF EVIDENCE TAKEN  
AT BUNBURY, WEDNESDAY, 16 FEBRUARY 2000**

**SESSION 4 OF 4**

**Hon M.D. Nixon (Chairman)  
Hon Ray Halligan  
Hon Ken Travers**

**GARDINER, MR JOHN,**  
**Primary Producer,**  
**Box 6,**  
**Dardanup, examined:**

**CHAIR**—In what capacity do you appear before this committee?

**Mr Gardiner**—I am a property owner. My reason for coming tonight is I was made aware by the ABC radio program "Country Hour" that this committee was meeting to hear grievances about the erosion of property and private rights.

**CHAIR**—You have signed a document entitled "Information for Witnesses". Have you read and understood that document?

**Mr Gardiner**—Yes.

**CHAIR**—Over to you with an opening statement.

**Mr Gardiner**—My main concern tonight is about water reform and the impingements that will occur with that legislation. Apparently your committee cannot listen to anything else.

**CHAIR**—We have a bit of difficulty because our policy is that as we get dozens of petitions we normally do not discuss something that will come, or has recently been, before the house. That limits us a little but you may find a way. Hon Ken Travers is an expert at putting a matter in such a manner that it fits the terms of our standing orders. You may be able to put it in a general form or something of that nature.

**Hon KEN TRAVERS**—A general form rather than specific reference to the legislation.

**Mr Gardiner**—I shall use the terminology "interfering with water flow". I have been farming for 45 years and I fear that creating a creek bed, which could be claimed as crown land, will open it to a native title claim. I do not know whether that is known by the people promoting this scheme. However, this legislation has been up and down for 10 years and it worries me, as a private person who has a property that was completely devoid of water that I had to get water out of a running creek from my next door neighbour. In 1978 I spent a great deal of money on an 80 million gallon dam. I am now told that under this new legislation I will be entitled to only 10 per cent of the water that falls on the property. That is a concern to me as I have an irrigation property.

**CHAIR**—We do not yet have the piece of legislation.

**Mr Gardiner**—We do not know what will happen with it.

**CHAIR**—I believe that is what happened in the east.

**Mr Gardiner**—The other grievance which has been well and truly aired tonight is a planning one — the definition of a viable farm. So often planning applications are knocked back under the policy that it will take good agricultural land out of the system. Only yesterday I heard a speaker from New Zealand, who was in Western Australia at a conference, say that the bottom 15 per cent of farmers will disappear. We have been hearing that for the past 20 years.

**CHAIR**—It has been happening too.

**Mr Gardiner**—That 15 per cent is now about 55 per cent. I believe it is a right for a farmer or any landowner to be able to obtain the optimum amount for his property when he sells it without causing a great deal of discomfort to neighbours. We are faced with a situation here, in a very sought-after area, of town planning policies that are about 10 years behind the times. I subdivided some land in 1992 which took eight years to obtain approval. One of the people in the planning office, after it was approved and up and running, said, "That is a pretty good development you have there; it is great." I said, "Thanks very much." He said, "The only trouble is you were 10 years ahead of your time."

I believe that town planning should be split into two divisions, an urban planning division and a country planning division, as there is no compatibility between the two areas. I have heard every planning minister say he is going to speed up the process of planning applications. One of the areas in which applications could be sped up is by creating a rural division with planners dealing with rural problems. Many properties in this area are not viable. People still want to live here. They want to be able to cut off enough land to live on and subdivide the rest of it. People are breaking their necks to live here but cannot because of the town planning policy of preserving good farming.

I saw a video the other day that was produced by the WA Town Planning Commission and Agriculture WA as a guide to the future policy. Our shire has just spent close to \$80,000 on a rural strategy. These two organisations have been working for the past two years formulating guidelines which could make our policy completely obsolete and nobody has known about it. One of my grievances is that more attention should be given to planning in the country for people who want to live here and bring up families. Most country shires are having a problem containing their populations. In places where there is an attraction, surely to goodness planners should be encouraging the ability to attract people to the country. Those are my two grievances. Thank you very much for hearing me out.

**CHAIR**—For those who do not know, Mr Gardiner lives in the dress circle of this area.

**Mr Gardiner**—The Kalamunda of Bunbury!

**CHAIR**—It is a magnificent drive up to the Ferguson Valley. What stage has it reached? Has quite a bit of it been subdivided?

**Mr Gardiner**—Yes. The demand now for land is for viticulture; it is far outstripping grazing. Grazing is no longer a feature in our country. I believe that if you have good land and it can be used, the planning should be based more on land capacity, not on its geographical situation. Many fellows in our area who have only seven or eight acres of vines are doing very well because

they can handle those acres themselves; and that is a good thing. Once you get more than that number of acres you have to employ labour and capitalise with the people here. I went through McLaren Vale in South Australia in 1979 and I saw that there. I am very pleased to see it is now happening in our area. Where there was once only one vacant holding, there are now 33 holdings, about 27 residences and about eight vineyards. Most of us know of the capital involved in a vineyard and of the advantage it must be to the local community and local business people for this type of industry to be coming our way. We should be encouraging it, not putting impediments in the way which say that the land must be kept for grazing, because grazing is no longer viable.

**CHAIR**—Your land is obviously a very beautiful part of the world. Looking at it in a different way, are small lifestyle blocks bringing as much as commercial blocks, whether they are vineyards or whatever?

**Mr Gardiner**—Yes, vineyard country now is up around \$10,000 an acre; that is probably in keeping with lifestyle blocks.

**CHAIR**—Can you buy a five-acre lifestyle block in your area?

**Mr Gardiner**—No.

**CHAIR**—How big are they?

**Mr Gardiner**—About 10 acres.

**CHAIR**—What is 10 acres worth?

**Mr Gardiner**—About \$100,000 to \$120,000. However, I am talking about close to the town site. There are landowners there who want to develop their land into smaller blocks, down to even half an acre. It is a helluva job, even to develop a town site, as landowners must go to the Town Planning Commission, pay all the costs associated with submitting an application and then get knocked back. People are just not prepared to do it. It appears that only the big developers can conduct intensive developing. It stinks, quite frankly, that a farmer must sell his property to a developer who then comes along and knows the ropes; whereas if he asks for help from the town planning people to arrange a development, they will not give him any help.

**CHAIR**—What do you say to those people who say that it is beautiful farming land, you should not be able to use it for residential purposes and it should be kept for produce or whatever?

**Mr Gardiner**—If people want to be able to drive through beautiful farming land and the poor sod who owns it is slowly going broke, it comes back to a situation of compensation. I hate the word "compensation" but we should apply commonsense. Look at tourism. The cheese factory in Margaret River was closed in 1969. I can still hear Eric Noakes saying that we were going to turn it into a ghost town. Margaret River is not a ghost town today.

**CHAIR**—Things change.

**Mr Gardiner**—Things change and that should be happening with town planning people. They are not really up with the changes in agriculture today.

**CHAIR**—What you are really saying is that all land must have versatility so that it can be used as situations change.

**Mr Gardiner**—Yes, I think so. If land lends itself to intensive farming or intensive residential development and it fits in with the views of the local people, they should decide if they have nothing against it. However, our country communities are flat out getting enough people to have a game of cricket now whereas we used to have two or three cricket teams.

**CHAIR**—There are two shires in my electorate which supposedly has had the largest fall in population in Australia. I have to go there in about a week.

**Mr Gardiner**—Thank you very much for hearing me.

**Hon KEN TRAVERS**—Some of the issues you raised relate to evidence that the committee heard earlier today around Margaret River where people are concerned about subdivisions of viable farming practices. They are now talking, particularly with viticulture, about having a 300 metre or 500 metre border around the land because suddenly the blocks next door are subdivided and people who want to use them as lifestyle blocks then start complaining about the farming operation. How does one deal with that issue?

**Mr Gardiner**—If an established vineyard exists and you know that a gas gun will go off every five minutes, that is not the right place to place an intensive residential development.

**CHAIR**—We heard evidence today of a court case that had been lost by the owner of a vineyard who was prevented from using a gas gun.

**Mr Gardiner**—In my opinion that is taking away a person's private rights.

**Hon KEN TRAVERS**—We are upper house members so it is easier for us but I agree with what you are saying. However, the difficulty is suddenly there are 20 lifestyle blocks with 20 electors versus one farmer meeting their local member in the lighthouse. I totally agree that they knew the vineyard was there when they moved in; however, there are these other pressures. Do you have any other suggestions? I do not disagree with your principles but are there mechanisms for protecting the rights of those other people who continue to practice what they have been doing for a long time on their land?

**Mr Gardiner**—No, I do not have an easy solution. I am not a town planner. One town planner told me that if you put 30 town planners in a room and asked them one question you would get 30 different answers.

**Hon KEN TRAVERS**—Like most professions!

**Mr Gardiner**—I believe that the rigidity of some of these policies, which may be 10 or 20 years old, are not moving in the way our industry is moving.

**Hon KEN TRAVERS**—I am not disagreeing with you. That was the evidence we heard this morning about the problems people are facing and the conflicts that are occurring now in Margaret River.

**CHAIR**—Thank you very much, Mr Gardiner. That concludes the proceedings.

[The witnesses retired]

THE COMMITTEE ADJOURNED

---