

STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS

**TRANSCRIPT OF EVIDENCE TAKEN
AT ALBANY, MONDAY, 14 FEBRUARY 2000**

SESSION 1 OF 2

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

WEATHERHEAD, MR ALLAN,
Farmer,
RMB 9299B,
Albany, examined:

Committee met at 5.37 pm

CHAIR—Good evening ladies and gentleman. Thank you for attending the meeting of the Legislative Council's Standing Committee on Constitutional Affairs. Mr Weatherhead, in what capacity do you appear before the committee?

Mr Weatherhead—Regarding the erosion of property rights -

CHAIR—As an interested landowner?

Mr Weatherhead—A landowner, yes.

CHAIR—These proceedings are being recorded by Hansard, and a transcript of your evidence will be provided to you. The 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. However, even if your evidence is given to the committee in closed session, the committee can still report your closed evidence to the Legislative Council if it considers it necessary to do so. In that case, your closed evidence will become public. It will be confidential in the short term, but when tabled in Parliament it could become public.

For the interest of people not involved with this petition - all petitions must be presented in a special form - the petition received by the Legislative Council reads:

To the President and members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We the undersigned residents of Western Australia respectfully draw attention to the erosion of private property rights without compensation due to Acts, Regulations and Policies including:

Bushplan
South West Wetlands EPP
Swan Coastal Plain Lakes EPP
Agricultural and Rural Land Use Planning Policy
Conservation Category Wetlands
Remnant Vegetation Protection MOU

Your petitioners therefore humbly pray that the Legislative Council will give consideration to how property rights can be protected.

And your petitioners as in duty bound will ever pray.

Do you care to make an opening statement to the committee?

Mr Weatherhead—I can speak only to issues affecting us. We have had to apply for a permit to clear land, which is a very involved and drawn out process with many objects put in our way. The situation for most farmers is too involved and the financial cost too great to pursue it too much. After all that is done, there is no guarantee that you will get the permit to clear land. You are told that caveats would be most likely put on your title, which is not acceptable. One-off compensation has been mentioned, but what is the good of that?

Visual pollution is another issue which we must address. Rural areas are classified by local authorities as being prime and good quality agricultural land. We must try to make the farm viable, but all this garbage makes it impossible. We have reached the stage that our application has no time limit. The above is ridiculous when one goes to the towns and cities and sees what happens to the bush when housing et cetera is required. The location has always been a farming proposition and always been a grazing property.

Issue number two is a subdivision of rural land. Being able to subdivide a small section of their land, which may be cut off by a road et cetera, could make diversification on the farm possible for some farmers. The process is too difficult and the cost is too great which makes it almost impossible to carry out.

CHAIR—Please outline roughly the area of your property, the area uncleared at present and how much you wish to clear.

Mr Weatherhead—The area of our property is 98 hectares, of which approximately 55 hectares, or 56 per cent, has been cleared. The remaining percentage is natural vegetation. Our original application was to clear 10 hectares. The total area of the catchment is 1,820 hectares, of which 640 hectares, or 35 per cent, remains under vegetation. I can table that information.

CHAIR—I would appreciate that. Only about two-thirds of the area in which your farm is situated is cleared. At this stage it is just over 50 per cent cleared. If you were granted permission to clear all the land you have applied to clear, how much would then be cleared?

Mr Weatherhead—It would leave 35 per cent uncleared.

CHAIR—In other words, the clearing on your property would be about the district average if you were able to clear the area concerned.

Mr Weatherhead—Yes.

CHAIR—Would you like to outline some of the steps you have gone through so far in applying for permission?

Mr Weatherhead—I have a sheet here that I can table outlining the process. First, we applied through the local office of Agriculture Western Australia. The initial application was reduced from 10 hectares to seven hectares. We then went to Agriculture WA in Perth, but our application was rejected. However, after a meeting with the people in the Perth office, the application was progressed to level three, at which time a full meeting reviewed the proposal. From there it has

progressed to the Environmental Protection Authority. It is there at the moment.

CHAIR—How long has that taken?

Mr Weatherhead—A bit over 12 months.

CHAIR—Have you had any indication of how long it will be before the next stage?

Mr Weatherhead—I understand there is no limit; it could be one or two years, or whatever. It has to go through another stage of advertising for public comment, and if any comment is received we must address it. We are required to supply further information to the EPA. That involves a flora and fauna report and a report on the soil and its capacity. We must also address issues about how we want to use the land. Those issues must be addressed by qualified people, which is a significant cost to us. At the end of all that we still get no guarantee that we will ever receive permission to clear.

CHAIR—You have outlined the problem. In what way do you think your property rights have been eroded by this restriction on clearance?

Mr Weatherhead—Our property right is being eroded because we cannot do what we wish to do with our land to make our property a more viable proposition.

Hon RAY HALLIGAN—It might be worthwhile recording a few other details. When did you purchase this property?

Mr Weatherhead—We purchased it in May 1997.

Hon RAY HALLIGAN—Were you aware at that time of this current policy regarding vegetation?

Mr Weatherhead—We were aware that a permit system existed. However, at no time had it got to the point that there was to be no clearing.

Hon RAY HALLIGAN—Was any adjustment made to the purchase price taking that into consideration?

Mr Weatherhead—I do not think so; no-one spoke about any of those issues. We bought the property as it was for the price on the day.

Hon RAY HALLIGAN—For the price offered and the price accepted?

Mr Weatherhead—Yes, on the day.

Hon RAY HALLIGAN—You are suggesting there was no discussion about these issues.

Mr Weatherhead—No, there was no discussion about those issues.

CHAIR—Do you believe you paid the current market price when you purchased the property?

Mr Weatherhead—Yes.

CHAIR—Do you think the value of the property has gone up or down since the clearing restrictions have been introduced?

Mr Weatherhead—I cannot comment on that.

CHAIR—There are many other factors involved in determining land values.

Mr Weatherhead—Yes. We have improved the property since we have been there, so I guess the value has gone up. Had we done nothing, the value would be the same.

CHAIR—I am making this point because people might have said, "You got that cheap because of the clearing restrictions." Was there any discussion like that?

Mr Weatherhead—No.

CHAIR—The property is zoned rural, which means it can be used for anything involving farming.

Mr Weatherhead—The property is zoned rural and at the time the Albany shire had a local rural strategy stating that the area was predominantly classified as prime to good quality agricultural land. The area is predominantly classified as having high land capacity for irrigated premium horticulture. Our application was for farming, horticulture and aquaculture.

CHAIR—Do you believe that your intended land use is within the guidelines as spelt out by the local council?

Mr Weatherhead—Yes.

Hon KEN TRAVERS—Please repeat the uses originally allowed or suggested.

Mr Weatherhead—The area was predominantly classified as having high land capacity for irrigated premium horticultural. Much of it is used for growing potatoes, other vegetables and grazing. A large area is used for potato cultivation, and that has been the case for many years.

CHAIR—Does that occur on the flats?

Mr Weatherhead—Yes.

CHAIR—From where do they get the water? Is there plenty of underground water?

Mr Weatherhead—Yes.

CHAIR—Is there plenty of fresh water?

Mr Weatherhead—Yes.

CHAIR—Is there any salinity in the area?

Mr Weatherhead—No, there is no salinity. We have a document here detailing the salinity situation. I can provide that information later. However, the salt content is less than that in rain water. Bore water samples were taken and submitted with the first application. The first application, which was done by the local office of Agriculture Western Australia, was a long document covering native vegetation, flora and fauna. We must now go through the same process again, supply all that information again and pay someone to do it.

Hon KEN TRAVERS—Do you see the uses you propose for the land having a greater impact on the environment than irrigated horticulture would have had? I am not a farmer, but I suspect that that would involve a greater nutrient input.

Mr Weatherhead—It would do. Part of our proposal was to go into horticulture in the long term. That question was asked of me by the EPA. I replied that that probably would not happen in the short term but that someone might want go down that path in the long term. That is why it was included in the application. We simply wish to sow perennials and kikuyu.

Hon RAY HALLIGAN—You mentioned that one of the reasons for clearing this additional land was to make your property and business a little more viable. I am not asking you to crystal ball gaze, but if you were not allowed to clear this additional area would your business cease to be viable?

Mr Weatherhead—It would make it more difficult, especially if the cattle price were to decrease, and that is more than likely to happen. The cattle price is high at the moment, but unfortunately it probably will not stay that high.

Hon RAY HALLIGAN—You are suggesting also that your margin for error is not great enough to give you confidence in maintaining the current situation.

Mr Weatherhead—There is no room for error in any farming activity today, and that is getting worse as the years go by. We need to be able to diversify, and to do that economically we need suitable land. Most of the land we have applied to clear is summer moist stock country, so we would not have to pump water on it to grow a crop. It would be much more difficult for us if the application were rejected.

CHAIR—The land you want to clear is some of the most productive on the property.

Mr Weatherhead—The area we wish to clear is the most productive land.

CHAIR—Has it been cleared for pasture?

Mr Weatherhead—It was all cleared many years ago, but it has been allowed to regrow. It has tea-tree and scrub. We do not wish to clear any of the karri country or the more heavily timbered country.

Hon KEN TRAVERS—If you do not wish to answer this question I will understand. How much has this process cost you so far and what do you expect it to cost you in the future?

Mr Weatherhead—The cost so far has not been very great - in the hundreds of dollars. However, to pursue it now will cost us \$3,000 or \$4,000. That will cover only the initial additional information requested. If it goes on and more public comments are received, we will have to address those issues. It will mean more expense.

Hon KEN TRAVERS—Is the EPA saying that if you meet certain criteria you will be allowed to clear the land, or is it still very much a matter of your proving that you can clear it but not knowing the criteria?

Mr Weatherhead—There is never any guarantee that we will get a permit even if we can give satisfactory answers to all the questions. Obviously much of it depends on the information supplied. However, the decision will be made by people in an office in Perth. I will leave it at that.

Hon KEN TRAVERS—So, you have no idea what criteria you are expected to meet.

Mr Weatherhead—We have a questionnaire that has to be filled in by the consultant we use to undertake this work. It will not be an issue of satisfying everything to get it through. There is no guarantee that we will get approval to clear seven or 10 hectares or whatever. That can be cut back to any figure.

CHAIR—We are talking about 25 acres. How much will that cost?

Mr Weatherhead—It will cost us \$4,000 to get to the next step.

CHAIR—What is that per acre?

Hon RAY HALLIGAN—It is \$80 an acre.

CHAIR—That is just for the paperwork.

Mr Weatherhead—Then we still have to clear it and get it to a productive stage.

Hon KEN TRAVERS—You said you were aware of some of the clearing bans when you bought the land. What was your expectation when you bought the property?

Mr Weatherhead—Three years ago it was different; they have changed the rules two or three times in the past two or three years. At that stage we thought we had a good chance. In the past 12 months the process has changed greatly, and it will probably change again in the next 12 months. We do not know and it is beyond our control.

CHAIR—The two basic barriers to clearing are, firstly, district clearing - you are well inside that limit - and, secondly, property clearing - you are well inside that limit also. There must be

20 per cent uncleared on both counts. You also had to demonstrate that the clearing would not cause salinity and other environmental problems. It appears that salinity is not a problem. Since then it has been topped up.

Mr Weatherhead—The rules have changed while we have been going through the process.

Hon RAY HALLIGAN—We still have no dual issue of flora and fauna here.

Mr Weatherhead—No.

Hon RAY HALLIGAN—It is a matter of how far one goes with that and who pays the cost of determining how far one should go.

Mr Weatherhead—We have to pay all the costs and we will continue to do so while people are asking questions.

CHAIR—Thank you for appearing before the committee.

[The witness retired]