

**STANDING COMMITTEE ON PUBLIC ADMINISTRATION  
AND FINANCE**

**LAND INQUIRY**

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

**SESSION 10**

**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**

**MORGAN, MR JOHN**  
**Property Owner,**  
**examined:**

**PETCHELL, MR ROBERT**  
**Adviser to Mr Morgan,**  
**examined:**

**KENNEISON, MR CHARLES JAMES**  
**Adviser to Mr Morgan,**  
**examined:**

**The CHAIRMAN:** Welcome to the committee. You will have signed a document entitled information for witnesses. Have you read and understood that document?

**The Witnesses:** Yes

**The CHAIRMAN:** These proceedings are being recorded by Hansard and a transcript of your evidence will be provided to you. To assist the committee and Hansard, please give the full title of any document you refer to during the hearings. It is also important to speak into the microphones. 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 such time as the transcript of your public evidence is finalised it should not be made public. I advise that 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 Mr Morgan, would you like to make an opening statement to the committee?

**Mr Morgan:** My grandfather purchased this property in 1919 and in the late 1940s, he built a timber mill and started logging. The property was logged up until about 1971. I commenced clearing the adjacent area in 1972. In 1999, the Department of Conservation and Land Management approached me about growing blue gums. The property was drilled and it was found to be good land for blue gums and it was duly planted. Subsequently, I reassessed the remaining area of bush and prepared a plan for some of that to be cleared and some to remain in natural vegetation. There was a total of 1 100 hectares and I proposed to clear 760 hectares for blue gums leaving 340 hectares, or 31 per cent of the land, under natural vegetation mainly consisting of the creek lines and areas that I thought should be kept because they were least affected by the logging. The purpose of the application was to increase the area of the plantation in association with CALM. In early January 2001 I lodged a notice of intention to clear. I was then told it had been rejected and a soil conservation notice had been imposed. I was given no opportunity to challenge this position. When the notice of intention to clear was knocked back, I was told it was for salinity reasons. There is no evidence of any salinity on my property or this land. The land is surrounded on three sides by state forest No. 15, which has now been put into the land pool reserve that consists of tens of thousands of hectares of land. My intention was to clear logged areas of sucker so that I could prepare the land over three or four years and then plant blue gums. This three-year period is required to prepare the land for planting. I proposed to discuss this with CALM, who would manage it. However, now the Environmental Protection Authority asked me to do a public environmental review on this property and I have been reliably told that this could cost more than \$200 000. It is the same type of PER that they expect mining companies to do. I feel that the EPA has made this review as expensive as they possibly can for me and priced me right out of it just to

shut me up. Over the past 25 years, I have spent at least \$100 000 on rates for this particular area of land with an 18.5 kilometre boundary. I am expected to look after the land and I can be prosecuted or fined if I make a mistake. This will just go on for an eternity.

**The CHAIRMAN:** Thank you. Do the other two witnesses have anything to add?

**Mr Kenneison:** Mr Petchell can now comment on what happened during and after the negotiations meeting prior to and subsequent to the imposition of the soil conservation notice.

**Mr Petchell:** John Morgan's family and my family have been friends and associated for over 100 years. My role in this matter occurred inadvertently. John asked me to assist him partly because of his hearing impediment and partly because of his location. I am located in Perth but I have a farm near John and I also sell rural real estate. Due to my situation, the opportunity to assist him arose and I offered him secretarial services and to run around in Perth for him and so on. The job has since become more involved, which is why I am here today.

The whole thing started because of what we perceived to be a lack of information and, in a lot of cases, public servants giving us the wrong information or telling us lies. I will start with the first instance because I was involved. I had lodged a notice of intent to clear some time before John did. I was messed around for about two and a half years and gave up. During that saga, I was advised by an officer at AgWA Narrogin by the name of Ian Wardell-Johnston that if I lodged an application of notice of intent to clear for the purpose of a blue gum plantation, it would not accept the application. That was the first time I felt that the situation was not right. The amount of land I was clearing was only relatively small compared with Mr Morgan's. Therefore, I just let the matter go. After I became involved with John and a soil conservation notice was imposed upon John, I made an appointment to see AgWA and the Department of Environmental Protection to sort out a couple of issues to see if we could bring this thing to a head. On 5 March 2001 we had an appointment with Ben Carr and Chris Tallantyre from the DEP. They advised us that there was a presumption against clearing for plantation timber in rainfall areas below 600 millimetres per annum. However, they would support this application because we were in an area receiving about 700 millimetres per year, as long as we arranged a trade off. We offered to maintain this area as a private forest forever, with guarantees such as covenants against the property. We left there with the understanding that John's clearing application would not be referred to the EPA because it could be sorted out between AgWA or the Commissioner for Soil and Land Conservation. We then saw Jim Dixon, who was acting as the deputy commissioner of soil and land conservation as Mr Watson was away at the time. He said that once again, the presumption was against clearing for plantation timbers such as blue gums. However, he said that if the DEP were prepared to accept our proposal, then the Soil and Land Conservation Council would go along with it as well. Since that time, Mr Morgan has received this hugely expensive shock. We believe that the agenda set by these bureaucrats is to procrastinate until we give up. We have no any intention of doing that because of the costs that have been incurred to date and the future costs. This PER, as Mr Morgan mentioned, is estimated to cost in excess of \$200 000. As the land is at the moment, it is not worth anything. I have approached CALM to buy the land and to include it as part of its forest so that it can manage it. It has told us in writing - copies of the letter are in the submission - that it does not want the land because it does not have any special features on it. CALM has plenty of similar land and it is well represented in its forestry areas, which amount to something like a million acres in the area.

All in all, the whole situation denies Mr Morgan natural justice and his right to farm has been taken away from him. Thank you for listening.

**The CHAIRMAN:** Mr Kenneison, would you like to say something?

**Mr Kenneison:** Mr Chairman, can the committee look at figure 1 headed application for discharge of soil conservation notice, which is in the document that we submitted. It was lodged with the Commissioner for Soil and Land Conservation on 14 June 2002. It sets out the picture quite graphically. With regard to the application for notification to clear, on 5 December 2001, Mr

Morgan was informed that the application to clear would be rejected and that a soil conservation notice would be imposed. Mr Morgan was not given any opportunity to find the basis for imposing a conservation notice, the opportunity to be heard and rebut any adverse allegations or the opportunity to have a hearing. He was not able to call witnesses or present any scientific data or information. It was a fait accompli. This is something that requires some serious questioning on behalf of the chairman of the Environmental Protection Authority, especially as to his integrity, or probably lack of integrity, in this whole matter. On 12 December 2001, seven days after being told that the application to clear was rejected, the chairman wrote to Mr Ferguson informing him that he was insisting upon a public environment review, which is the highest grade of assessment under the Environmental Protection Act. This applies to multibillion dollar mining projects, for goodness sake. We are talking about a little blue gum plantation to provide timber for the south west timber workers who are bleeding.

The interesting part is that it was not until 21 December, nine days later, that the soil conservation notice was imposed. The chairman jumped the gun, as it were, in his keenness to embarrass, humiliate and make life difficult for Mr Morgan. Why did he want a PER assessment if not for any other ulterior purpose? We were told that we would be up for all the costs of the assessments - hydrological, geological, anthropological, archaeological, you name it. There is a detailed list of all the matters that had to be addressed including water issues and the like. A copy of this letter is attached to the documents that we have tendered to the committee. Why should Mr Morgan be responsible for this cost? He does not want to do a PER. All he wants to do is grow gums. If the committee members look at the map they will see that a substantial area has already been cleared in collaboration with the Department of Conservation and Land Management. It has been planted and is not causing any environmental hazards whatsoever. Mr Morgan has told you that this area has been logged since the late 1940s to 1971. All he wants to do now is to clean up this area in association with CALM which, I submit, is a capable and credible government agency. We are not dealing with some Mickey Mouse half-beat. Mr Morgan is not a forestry expert so he would need CALM's assistance to do the extended pine plantation. When Mr Petchell was told by Mr Ian Wardell Johnston that it was not permissible to clear to grow blue gums and that was followed up by Mr Dixon's comments on 5 March 2001, one must really question the lack of integrity on the part of these public servants. Are they so guilt ridden with bias that the people of the south west will be allowed to knock down every timber tree in the south west forestry area but, by God, they will not be allowed to grow alternative sources of timber for the milling industry? Is that government policy? If it is it should be made public. I put it to the committee that these two public servants are either working completely outside their area of authority, acting unilaterally in a despotic, arrogant manner, or they were implementing government policy, in which case the production of blue gums - one would assume that would be pines - is not to be encouraged in this State as an alternative source of timber. You cannot have it both ways. Why impose this PER on Mr Morgan? He was given no opportunity, as I said, to defend himself or to answer to any allegations. This is another tragic scenario that I am sure William Shakespeare, were he alive, would have a harvest in writing about. People are being subjected to trauma, anguish and mental turmoil and they are not been given the opportunity for fair play.

Our submission deals with natural justice and the rules of ultra vires. In Mr Morgan's case we have the most blatant transgression of every rule that is in the book; not just one, two or three, but 28. There is no justification that anybody could find for this sort of conduct; that is, to subject this man to the problems that he has had to face. The family have had this property since 1919, nearly 90 years. They have managed this property in a good stewardship and maintained the property. Mr Morgan has worked with CALM and he has endeavoured to do what is morally, ethically and - I would even say spiritually - right. Would a family with 90 years tradition suddenly change its leopard spots and become an environmental vandal? Mr Morgan has stated that the areas that he wanted to retain for vegetation were areas that were not severely damaged from the logging operations. He also wanted to retain areas that were in the creek beds and were sensitive. The only

area he wanted to clear was to be used to plant blue gums. It was not for pastures. There is no argument here about putting pasture on cleared land, increasing salinity and causing all sorts of environmental nasties. The Department of Agriculture's own publication, "TreeNote" No 35 of May 2002, which I will tender, talks about the problems that it is having in the Wellington catchment with coppice stems harvesting. It also states that the production of timbers is falling because the first harvest removed more water from the catchment area than was replaced. It was then deficient for the second rotation of timber that was grown after the first lot of blue gums had been removed. Even in their own publication the department is damned. How can this planting of blue gums create salinity? Mr Morgan has said there is no evidence of salinity. He is slap bang in the middle of nearly one million acres of state forest No 15. CALM does not want this land because it has a sufficient amount of this type of land. It does not want any more thank you very much, plus it probably does not have money to buy it. However, it is interested in leasing the land, as it did with the first blue gum plantation - if I can call it that - which is the right-hand side of the plan. It wants to lease this land in conjunction with Mr Morgan and jointly develop it for some ultimate purchaser. I am absolutely aghast in trying to fathom the logic, if there is any logic, in what has happened to Mr Morgan. Is that an exhibition and example of capricious behaviour by arrogant public servants who think themselves above the law, and who think that if anything goes wrong, it will be nothing to do with them, because they will blame the minister and he can be answerable. I heard on the radio today that under the Westminster system it is the minister who is responsible and not the public servant. The Commonwealth Minister for Defence should be answerable, not the secretary of the Department of Defence who was removed yesterday. If that is their reasoning then it is despicable that they should be setting up Mr Kim Chance and Dr Edwards as wood ducks. I put to this committee that Mr Morgan's case will be one of the most blatant travesties of justice that will come before this committee. There will be a couple of others from Dandaragan, which have been resolved after a protracted time. However, Mr Morgan's case is absolutely despicable to say the very least and a travesty of justice. The other thing is, do we want blue gum plantations to replace native forest? If not, then make it public. If yes, then why can he not grow a plantation? There is no evidence, and no evidence was submitted by Mr Watson, that there was any salinity in the area that had been cleared and planted with blue gums. He said "I think there will be salinity." Under the Soil and Land Conservation Act it does not matter what he thinks. The commissioner or his delegate must form an opinion. In our submission we noted that to form an opinion you must have proven data and proven facts, and I have given you the legal authorities for that proposition. There is no evidence here. No hydrological testing has been carried out or examination whatsoever. If there is salinity on Mr Morgan's property, why is there not salinity in the blue gum plantation area when, even by its own admission, it stated that the blue gums absorb a considerable amount of water? There is no evidence of salinity in the state forest which abuts three sides of Mr Morgan's property. Why should God, in his infallible wisdom, want to put salt in the middle of a million acres plus just to contaminate Mr Morgan's land? Do we have a vindictive God here? I do not think we have. I think we have a very honourable and charitable God. I say that this salinity argument is nothing but the machination of a misguided person who probably needs psychiatric treatment. I feel quite annoyed about this particular case. If my annoyance has come through, I apologise to the committee for it but this situation and other situations have gone on far too long.

I think some of the public servants should take heed of what Oliver Cromwell said to the Long Parliament of 1649. He said that the members of Parliament had sat there far too long for the good of the Commonwealth and that they should be gone and depart for the peace of the realm. Maybe we should send the public servants to the Curtin Detention Centre, which is now vacant for possession. Thank you Mr Chairman.

**The CHAIRMAN:** Thank you Mr Kenneison. Mr Morgan, will you outline what this matter has cost to date and what it is likely to cost you in money, time and in other factors?

**Mr Morgan:** Do you mean to contest - just that alone?

**The CHAIRMAN:** Yes, what it has cost to work through the process.

**Mr Morgan:** I have employed both Bob and Ferguson Kenneison and Associates and even though I have asked them, neither has given me a bill. Is that what you mean?

**The CHAIRMAN:** Partly, yes. The committee would like to know what it has cost you in time because you have had to put your life on hold.

**Mr Morgan:** As I stated earlier, going by today's money values, I would have spent at least \$100 000 in rates over the past 25 years. I am responsible for looking after that land, which has 18.5 kilometres of fire breaks. If lightning strikes and there is a fire, it is my job to put it out. It would not be the responsibility of the Department of Conservation and Land Management. I am liable. If I am doing protective burning, I have to notify the Department of Conservation and Land Management. I rang CALM and said I wanted to do a certain part of the land. It said that was okay but if it got into its land it would go me. As far as a loss of production is concerned, that would be quite considerable. If it was into blue gums I would be earning about \$150 000 annuity on the land. At the moment it is just costing me money.

**The CHAIRMAN:** In a sense, that is an opportunity cost. It is a benefit that you may have received.

**Mr Morgan:** Yes.

**Hon DEE MARGETTS:** Will you clarify what CALM asked or suggested you do back in the early 1990s? Did CALM suggest that the remnant land - the land that had not been cleared - should be cleared to put in blue gums or did CALM suggest that other parts of the land be put to blue gums?

**Mr Morgan:** I became involved with CALM because it was called in by my brother to drill his place; it drilled my land, not the area of bush, but the cleared area where I have planted blue gums. It came up well for blue gums and CALM never left me alone about growing blue gums. CALM offered me a price and I knocked it back, but it offered me another price the following year, which I knocked back. Ten days later they came back with another price and I thought I should probably take it. Therefore, I planted blue gums.

**Hon DEE MARGETTS:** CALM was suggesting that you use your cleared land for blue gums - is that correct?

**Mr Morgan:** CALM is a forest manager, mainly for Hansol Australia Pty Ltd, a South Korean paper manufacturer that backs the whole show. CALM is paid to manage it for it, but it is CALM's responsibility to find suitable areas for planting. It receives competition from Timbercorp Limited and other companies are in competition against them. They were keen to get mine.

**Hon DEE MARGETTS:** Did CALM suggest, in any way, that you knock over your remnant to put in blue gums?

**Mr Morgan:** No.

**Hon DEE MARGETTS:** It was keen for you to use the already cleared land to put in blue gums?

**Mr Morgan:** It was keen to use the already cleared land but it did not suggest that I knock over -

**Mr Petchell:** I would like to add to Mr Morgan's comments. After I became involved I contacted CALM on several occasions for various reasons. One reason related to the issue of tree planting for both now and in the future. It was made clear to me that if we could get the land cleared, it would certainly be interested in managing it for tree plantations, because Mr Morgan's property is in a rainfall belt where it changes dramatically from something like 450 to 500 millilitres on one side of the road - believe it or not - to in excess of 600 millilitres on the other. There is a huge shortage of that type of country that close to Perth for tree planting.

**Hon DEE MARGETTS:** What kind of vegetation is it?

**Mr Morgan:** It is mainly jarrah forest where the blue gums are.

**Hon DEE MARGETTS:** Did CALM suggest that you knock over jarrah to put in blue gums?

**Mr Petchell:** They did not suggest that we knock it over. It stated that if it was knocked over it would be very happy to take it on. However, it was not in a position to buy it.

**Hon JOHN FISCHER:** But all that country had been logged previously.

**Mr Morgan:** Yes, it has been logged and logged. The timber mill ran for many years and cut it all out.

**Mr Kenneison:** Mr Fischer, Mr Morgan did say that his purpose was to clear the suckers that had regrown?

**Hon JOHN FISCHER:** I wanted to clarify whether the area had been logged.

**Mr Kenneison:** It was not pristine jarrah country or anything like that. The mill ceased operation because it ran out of timber.

**The CHAIRMAN:** We have been given a thorough understanding of Mr Morgan's situation. Mr Morgan would you like to make any comments in conclusion?

**Mr Morgan:** No.

**Mr Petchell:** In my role as a real estate person, I have approached Mr Morgan's property from a saleability point of view. It has been valued by the Valuer General. Since we have gone through this scenario, the value of the total property has been downgraded and we cannot get any interest from any green group to take on the responsibility of looking after the bush or preferably to buy it so that Mr Morgan does not have that hassle. This issue has created a situation in which the property not only cannot be farmed but also cannot be sold. It has a hugely reduced value. Thank you.

**The CHAIRMAN:** Gentlemen, thank you very much for your time. We have come to the end of today's hearing and I record our thanks to our committee staff, Hansard and all those who have made submission.

**Hon DEE MARGETTS:** Mr Chairman, I place on record my apologies about the mistake I made in the calculations during the testimony of the last witness. Definitely from that calculation even on market values they would have lost out. I do not want people to think that I misrepresented that.

**The CHAIRMAN:** Thank you all very much.

**Committee adjourned at 3.26 pm**