

**STANDING COMMITTEE ON PUBLIC ADMINISTRATION
AND FINANCE**

LAND INQUIRY

**TRANSCRIPT OF EVIDENCE TAKEN
AT DANDARAGAN
WEDNESDAY, 2 OCTOBER 2002**

SESSION 4

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**

[11.43 am]

MARTIN, MR DENNIS GORDON
examined:

FERGUSON, MR JIM
Environmental Consultant,
Ferguson, Kenneison and Associates,
examined:

The CHAIRMAN: Mr Martin, welcome to the next session. Mr Ferguson has already been sworn in. You will have signed a document entitled "Information for Witnesses". Have you read and understood that document?

Mr Martin: I cannot say I have fully understand it, but I have been through it before with you.

The CHAIRMAN: Is there any part you want clarification on it?

Mr Martin: It is all right.

The CHAIRMAN: The proceedings are being recorded by Hansard. 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. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Until such time as 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. Would you like to start by making an opening statement to the committee?

Mr Martin: I have had seven or eight years of hassle through bureaucratic incompetence. I do not know whether this committee has got the evidence that I gave to a previous committee.

The CHAIRMAN: Just to clarify that point for you and the committee; the previous evidence that the you gave to the Standing Committee on Government Agencies, prior to the formation of this committee and this inquiry, has been passed over to this committee, so we are in possession of that.

Mr Martin: You have basically got the run-down of the history of it.

The CHAIRMAN: Yes. Just for the committee members' benefit, because I was the only member on that committee, would you give a very brief sketch of your situation?

Mr Martin: As I said in the evidence that I previously gave, in 1985 I purchased property, Victoria location 10641, with the financial backing of my mother and father. At the time approximately only 400 hectares of the property were developed. I submitted a plan to clear approximately 300 hectares to the Department of Agriculture in Moora. A representative, David Kessel, came out, inspected that lands and gave his approval. While he was there he said that I would have been better off submitting a whole-farm plan, because they would come back and expect it, saving their coming out every year, each time I wanted to do a section of development. I went home that night after he had been. I did a plan with my family and submitted it. They came back in 1988, inspected it and gave us approval to clear according to the whole-farm plan.

Hon DEE MARGETTS: How big is the farm?

Mr Martin: It is about 1730 hectares. The plan we did included land to be left uncleared. We thought we were right and that it had all been approved according to the required standard of 1988.

Hon MURRAY CRIDDLE: Did you get written approval?

Mr Martin: Yes, there was written approval for it. The 1988 required standards included just an inspection to make sure that the soil types were suitable for agricultural. We started on our development program that we had for the property. We were held up because of mining activity that was happening in the area. CRA was drilling for coal, which put some of our program behind. In 1995, the Government changed the rules to a 20-20 rule. My late father rang the Department of Agriculture on my behalf, because I was busy doing something else. He was told that I would have to resubmit to meet the new standards. We drew up virtually the existing plan and submitted it. In November 1995, Peter Whale, a representative from the Three Springs office of Department of Agriculture, came out, inspected the property, looked over previous data that he had with him and said, "Yep, she's all okay, you'll be right".

The CHAIRMAN: Was that verbally or in writing?

Mr Martin: He said it verbally, and then in December we received a small letter saying yes, everything was okay and that the application was going through. However, in January 1996 David Stanton rang me to say that the application for our land clearing had not been processed properly and that he would like to come back, discuss it with us and have the process done properly. We said okay. He came to our home property on 20 March 1996, discussed the issue with us and said that it would take about six to eight weeks for the application to be done properly. That was fine. Everything went along and we just waited, waited and waited.

Hon MURRAY CRIDDLE: Was it the Department of Agriculture or you who wanted to do it properly?

Mr Martin: It was the Department of Agriculture. The paperwork was never forwarded from the Three Springs office to Perth. Things were left with David Stanton and Martin Keen to sort out and to have it go through. At end of six weeks I rang David Stanton to find how things were going. He said, "We are going to have to an a reassessment of the property." I asked what it entailed. He said that they would send out another officer who would go around with me and just inspect the soil types, which he did. They sent out a bloke by the name of Terry Brooks. Terry Brooks came from Narrogin. He had been based in the south west all his life. His first comment to me when he got to the property was, "I do not know this land at all. I have got no idea of soil types up here." I drove him around the proposed area which was left to be developed. He went away, and nothing happened for weeks. I rang up Martin Keen and asked what was going on. He said, "We will have to do it again, because Terry has left the department and he never completed his study." I said all right. By this time it was February 1997; so it was May 1996 when he did it and it was then February 1997.

Hon KEN TRAVERS: During this time had you been working on clearing the farm as per the 1988 plan?

Mr Martin: No, I was told that I was not allowed to clear it by David Stanton.

Hon KEN TRAVERS: From 1988 until 1995 had you been progressively clearing the land and then when this started had you to put it all on hold?

Mr Martin: Yes. Martin Keen came back and did another study, and away we went through the whole process again. Eventually it was done. Then in April 1997 we received a letter from John Duff, the deputy commissioner for soils, stating that from their studies they could not find any land degradation issues. He said that everything would be okay to go but that they would like to do a declaration of rare fauna. I said that they could come and do a DRF whenever they liked. They said that I had to do the DRF. I said, "No, you can pay for the DRF." Eventually the Department of Agriculture did pay for the DRF to be done. Ben Carr, a representative from the DEP, came. He had two botanists who were working for Libby Matisky at the time. They came there on 4 November 1997 and spent about three hours on the property, assessing this area of vegetation.

When they were doing that, I said, "You can come back to the shearing shed. I will be around here or just shifting sheep. Wait here, and I will see you when I come back". A note left on my ute seat said "had to go". I was away from the shed for about 15 minutes. They could not even sit around.

I rang Ben Carr the next day and asked what was the story. He said, "It will take us about eight days to do the report." I rang Ben Carr after eight days and asked what was the story. He said, "There are a few faults in the report that need changing." I said that it sounded interesting and I asked when I would get a copy. He said, "I do not have to send you a copy." I rang Andrew Watson, and he got me a copy of the report. When I was speaking to Ben Carr, he said, "This will go to the working committee group and they will decide whether you need to have a formal EPA study" rah, rah, rah. After I got the report, I rang Ben Carr back and asked what was going on. He said, "You are going for a formal assessment. I asked why. He said, "It just is, it just is."

Then we went through the merry-go-round of going through a DEP-EPA. It went on and on through and eventually it ended up in the EPA's room. The EPA did a study and assessment. They did up a draft report. The chairman, Mr Bowen, asked for Robin, my wife, and I to meet the EPA to discuss the draft report. In their draft report document they had a map of the area of land on this section of the farm that could be cleared. In their report they said I could clear only half the area, but the map in their draft report was a map that I submitted in 1988. I had applied for more area to be cleared. We went down and meet with the EPA. They put the map on the highlight board. In their study they had priority 6 and 7 plants and a priority 3 that was in an area that I had never planned to clear. I asked them to show me which area I could clear, because they had not defined it because they had my map in their report. A representative from the DEP, Kim Taylor, hopped up. He just waved his hand up half of the map and said, "You can clear this half, but you cannot clear the other half." I said, "That's great. You just told me I could take out priority plants that I was never going to clear anyhow." There was deadly silence in the room for a couple of minutes after that. Then a representative from the EPA said, "I think we had better come back and reassess the areas to be cleared or not."

They sent Andrew Watson and Ted Griffin to go back over the property again. They required a corridor. I said, "All right, I will give you a corridor." I drew a corridor from one side of my farm through the area to be cleared and out the other side of it. After that they came up, spoke with me and looked at the property. The EPA then drew up another map. Their corridor followed along the guidelines of mine but came out wider and wider, so it came back to half the area to be cleared. Their corridor ended up running out into cleared paddock and going nowhere. I discussed it with Jim at the time. He said that perhaps we could leave some more land on another part of the area to be cleared and create the corridor, which would link into another existing area of bush on the property. This would give a corridor from the northern side of our farm through the southern side of our farm, which joins Mt Lesueur, which is the main issue and the crux of the thing, I think. We drew up the plan for this corridor and gave it to the EPA. The EPA commended us on our idea but said that they would make the corridors go back so that we had only half the area to be cleared. Eventually, we agreed on an area and the minister gave us permission to clear just over half the area. We have since cleared a little bit more than that; I have cleared it now.

The whole issue was that every time we meet something along the lines the goalposts got shifted. In the whole issue of bureaucratic incompetency, when the report was done for the flora study, Libby Matisky's group said - it was late in spring, being 4 November - that for a really good flora study to be done, it would be better if it was inspected in early spring. We met with the Environmental Protection Authority for a draft report in October 1998. It had done its original flora study in November 1997. There we were, basically 12 months later, and the EPA had never come back to do a follow-up flora study. This was a recommendation given to the EPA, and it never followed it up. Was the EPA really worried about the flora that was there, or was it just using this to give us the run-around? I have always said to the government bureaucratic agencies, "If you

want the land, you buy it," but I have never been offered a cent. I know of other people in this issue who have been offered a dollar an acre or whatever, but I have never been offered a cent. That is my run-down.

Hon MURRAY CRIDDLE: I understand it now.

Hon DEE MARGETTS: There are 1 730 hectares, and 400 hectares were developed to start with.

Mr Martin: As the farm is done up now, about 23 or 24 per cent of the farm is remnant vegetation. Our existing plan, which we submitted in 1988, was 21 per cent. That was before any Government or anyone came in. There was no farm adviser or anything. That was just a plan that my late father and I drew up for the farm. At one stage we had a meeting. Actually, the Chairman of the EPA and a heap of others had a meeting in Jurien, and the next day they did a run around the area. We were on site on our property. They asked, "Where are you clearing?" As we were standing on the side of the hill I said, "I'm going to do that area there." A representative who was there asked, "Why are you doing those areas?" I said, "Well, they are my better soil types." He asked, "How do you know that they are your better soil types?" I said, "Because of the vegetation that grows on them." He asked, "What studies have you done?" I said, "My father and I are pioneers. We've been in the area since 1966 and we know by the soil types what is and is not good land." However, he reckoned that I had to do studies to tell me which was the good land and which was the bad land.

Hon DEE MARGETTS: In 1988, how much cheaper was it for you to purchase a property that was still largely bush or remnant vegetation than a property of the same size that was mostly cleared land?

Mr Martin: At the time in 1988, I could have bought a three-quarter developed property, approximately the same distance away for me, for about \$300 000. I paid \$250 000 for this property, with 400 hectares on it cleared. However, the property that was for sale for \$300 000 was sold a little while ago for \$450 000 to \$500 000, I think. This property of mine would now be worth \$2 million.

Hon DEE MARGETTS: What would be the difference between the property -

Mr Martin: I bought a farm that will make me money. It is good soil. My next-door neighbour has a crop of canola that some people estimate could go three tonnes to the hectare this year.

Hon DEE MARGETTS: The property that was \$300 000 had less soil values than yours.

Mr Martin: Yes, it is a less soil-productive area than the property I bought.

Hon DEE MARGETTS: In terms of what you see as productive soil values, the cost to you was considerably cheaper than if those same soil values had already been cleared.

Mr Martin: If I could have bought a property, yes, the land was cheaper to buy as bushland than as developed land, but that developed land has not been let go by anyone. The same soil type has not changed hands. No-one is selling it. It is only the poorer soil-type farms in our area that are changing hands. The good soil-type farms in our area are not changing hands; they are held on to.

Hon KEN TRAVERS: At the time you bought the property, if you had got someone to come in and commercially clear it, what would it have cost so that it would have been the same size as the \$300 000 property?

Mr Martin: At that time, that would have cost me about \$45 to \$50 an acre.

Hon KEN TRAVERS: What would that work out to?

Mr Martin: If we cleared 1 000 or 1 200 hectares, we would be looking at \$50 000 or \$60 000.

Hon MURRAY CRIDDLE: It would cost a substantial amount as the years go by to put fertiliser and -

Mr Martin: Yes. I am looking at twice or three times as much now.

Hon KEN TRAVERS: When that is factored in, the land values are about the same, effectively.

Mr Martin: Yes, but the property that was worth \$300 000 will not ever be within a bull's roar of growing me anywhere near a bloody tonne and a half or a tonne canola crop. We have been in the area since 1966. This property was originally held for a long time - for 15 years - by geologists because they knew there was coal on the property, and then they had a bust-up between themselves and the property came on the market. That is why we went for it.

Hon DEE MARGETTS: Was an income associated with that coal activity?

Mr Martin: No. The only income that was derived was that we were given a slight amount of compensation when they did test drilling on the property. Apart from that, there has been no compensation because that coal mine never went ahead. Mt Lesueur had a portion of the coal on it as well.

Hon DEE MARGETTS: Can you remind me of what year Mt Lesueur was declared a national park?

Mr Martin: It was about 1988-89. When they started drilling, it was just a horse-breeding reserve. It was due to the mining activity there and the protests by some people against it that the Government of the day decided to gazette it as a national park.

Hon KEN TRAVERS: What corridor width do you have now?

Mr Martin: My corridor ranges between 150 and 400 metres wide. Jim has submitted some papers. In there is a map, and there is a large area of remnant vegetation in the middle. We have taken corridors from either way of that.

The CHAIRMAN: We may not have that in front of us, but we have it. The cost to you has been 10 years delay effectively in your plans to -

Mr Martin: Yes. I have land that I have sewed down to clover this year - the first year. If that country had been down to clover and producing for eight or nine years now, I could have, for example, had a canola crop in it. My farming enterprise is heavily into prime land production. I could have been turning out another 1 000 or 1 200 prime lambs this year. That is not coming back for three or four years previously; that land could have been in production, turning out -

The CHAIRMAN: That set you back at least a few years, possibly up to 10 years.

Mr Martin: Conservatively, five years, because I will take out a couple of years for that land to come up to its full potential of production. Therefore, I have lost five years of income off that area of land.

The CHAIRMAN: Dennis, thank you very much. Do you want to finish by adding anything?

Mr Ferguson: I want to make just a couple of quick comments on this. The clearing permit that they are operating on in the farm plan had been okayed. I believe that the department was acting against the law when it came and made them notify, no matter whether the 20-20 rule had come in or not. If you have put in a notice of intent to clear, providing you have done a part of that and have a program to work with, you do not have to keep notifying. I think that is where a very serious error has been made here; that is, that the Martins were even made to renotify. That is number one. With the Brooks' study, certainly information was withheld from Mr Martin. We will not go into it here, but that would be in the documentation. Another thing too is that a letter from the deputy commissioner, Mr Watson, to the Ombudsman made the statement straight out that Mr Martin had been informed that he could clear. Mr Martin said that he was never informed that he could clear. That is correct, is it not?

Mr Martin: Not since 1995.

Mr Ferguson: No, he was never informed. We would allege that Mr Martin was lied to there, because the Ombudsman was investigating the matter at that time. Mr Kenneison and I had nothing

to do with it at all back at that stage. To my knowledge and to his knowledge, he was never handed any documents. On how you will apply or notify to clear, the 1994 land clearing document, which is in one of these submissions, states specifically that the person will be given the documentation to allow him to go through the proper process for clearing. Alec Holmes has his name on that from 1994, and Mr Martin can have that. It is very serious when the deputy commissioner will lie to the Ombudsman and state that Mr Martin was told that he could clear. There are no two ways about it; he would have cleared. He would have cleared to exactly what it is today and left the land that he was going to clear to the original thing. That is all I have to say on this one.

Hon DEE MARGETTS: Who made the decision to employ the botanists? Was it AgWest?

Mr Martin: Andrew Watson. Originally, they told me that I had to do a flora study, and I went back to Andrew Watson and said, "No, you can pay for this flora study. You're the ones who have" -

Hon DEE MARGETTS: Andrew Watson is from where?

Mr Martin: He is the soils deputy commissioner or whatever.

Hon DEE MARGETTS: Therefore, the soil and land commissioner employed botanists employed by the deputy EPA chair?

Mr Martin: I do not know who paid the Bill.

The CHAIRMAN: These are the botanists who spent three hours on the property.

Mr Ferguson: It was \$1 890, I think.

Mr Martin: I do not know who paid the Bill. They told me that I had to do it, and I argued with them for two weeks or more that it was because of their incompetence, mucking around and losing paperwork - God knows what else - that it had snowballed on us down the line. I said that if they wanted to do a flora study, they could foot the bill themselves. They organised it, and I do not know who paid the bill. However, someone paid Libby Mattiske to do a flora study and draw up a report.

Hon MURRAY CRIDDLE: What does "ATR" on this map stand for?

Mr Martin: Agreement to reserve, and I have never signed one.

The CHAIRMAN: Why does it appear on the map?

Mr Martin: That was there; an agreement to reserve was in there. When the EPA and all that wanted agreements to reserve, they wanted me to submit a plan - this is one of the EPA recommendations - for feral animal management control, dieback control, weed control, fire control and water erosion control on that agreement to reserve area. I wrote back and said that I would do the exact same thing as my southern neighbour was doing. The EPA wrote back to me and asked who was my southern neighbour, and I said that it was the Department of Conservation and Land Management. I have heard nothing since.

The CHAIRMAN: Good point.

Mr Martin: I have rabbits and foxes. I have had the Agriculture Protection Board out to poison rabbits, and it will not go within 600 metres of my southern boundary. The APB will not poison the rabbits on CALM's land, so I just said that I would do the same as CALM has been doing, and I have had no response.

The CHAIRMAN: I think you made a very pertinent point then. Is there anything you want to say in conclusion?

Mr Martin: No.

The CHAIRMAN: Thanks very much for your input. Let us hope you get three bags to the acre of canola.

Mr Martin: It will not be me; it is my neighbour. Thank you.