

40TH PARLIAMENT



Report 57

STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS

Overview of Petitions 1 July 2020 to 31 October 2020

Presented by
Hon Matthew Swinbourn MLC (Chairman)
November 2020

Standing Committee on Environment and Public Affairs

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EXECUTIVE SUMMARY

- 1 The Standing Committee on Environment and Public Affairs (Committee) is pleased to present this overview of petitions finalised between 1 July 2020 and 31 October 2020 (reporting period).
- 2 Petitions remain a popular method of informing Members of Parliament about issues that affect the community and the Committee's enquiries enhance transparency of government policy and decisions.
- 3 This Committee of the Legislative Council is unique in Australia in considering all petitions tabled. The nature and extent of enquiries relating to each petition will vary depending on the issues raised.
- 4 A petition will not always achieve the specific objectives desired by petitioners however the Committee's enquiries may provide petitioners with an explanation for government decisions or actions.
- 5 During the reporting period, 15 petitions were tabled in the Legislative Council and the Committee concluded its enquiries in relation to 9 petitions. At the end of this reporting period, enquiries into 14 open petitions were continuing.
- 6 The Committee also tabled a final report regarding its inquiry into its functions, processes and procedures.
- 7 The Committee's webpage at www.parliament.wa.gov.au/env contains copies of public documents including the terms of each petition, submissions, government responses and transcripts of evidence.

CHAPTER 1

Introduction

History and function of the Committee

- 1.1 The Standing Committee on Environment and Public Affairs (Committee) was appointed by the Legislative Council on 17 August 2005.
- 1.2 The functions of the Committee are outlined in the Committee's terms of reference in Schedule 1 of the Standing Orders of the Legislative Council:

The functions of the Committee are to inquire into and report on –

- (a) any public or private policy, practice, scheme, arrangement, or project whose implementation, or intended implementation, within the limits of the State is affecting, or may affect, the environment;
- (b) any Bill referred by the Council; and
- (c) petitions.

Petitions

- 1.3 A petition is a formal request for action from individuals or groups. The petitions process, through which the general public can bring issues of concern to the attention of the Parliament, provides a fundamental link between the community and the Parliament.
- 1.4 All conforming petitions tabled in the Legislative Council by a Member of the Legislative Council, except those raising a matter of privilege, are referred to the Committee. While a petition only needs one signature to be tabled, most petitions contain many signatures.
- 1.5 The Committee's consideration of petitions serves to enhance transparency and to inform the Parliament and public about current issues of concern to the community.
- 1.6 A petition will not always bring about a change of policy by the government or achieve the specific objectives desired by petitioners however the Committee's enquiries may provide petitioners with an explanation for government decisions or actions.

Petitions process

- 1.7 The nature and extent of enquiries relating to each petition will vary depending on the nature of the issues raised. In most cases, the Committee will request a submission from the principal petitioner and tabling Member. These submissions enable the Committee to better understand the issues involved and the action, if any, already undertaken by the petitioner to resolve the matter.
- 1.8 Once submissions are received, the Committee will usually request a response to the petition from the relevant government Minister. The Committee may also seek responses from other organisations (such as local governments) and carry out other investigations as required.
- 1.9 In many instances, the Minister's response to the petition will provide an explanation for the policy or action in question, although sometimes the Committee will need more information to clarify the issues to its satisfaction. These enquiries may take the form of further correspondence with the relevant parties or a hearing to obtain more detailed evidence. On occasion, the Committee will resolve to conduct a formal inquiry into the matter.

Overview of petitions

- 1.10 This report provides an overview of petitions finalised by the Committee during the period 1 July to 31 October 2020 (reporting period).
- 1.11 Fifteen new petitions were tabled in the Legislative Council between July and October 2020 and the Committee concluded its enquiries into 9 petitions, some of which were tabled prior to the current reporting period.
- 1.12 At the end of this reporting period, enquiries into 14 open petitions were continuing.
- 1.13 On 17 September 2020, the Committee tabled a final report regarding its inquiry into its functions, processes and procedures.¹

Committee webpage

- 1.14 The Committee's webpage at www.parliament.wa.gov.au/env is a central source of information about petitions tabled in the Legislative Council. It contains copies of public documents including the terms of each petition, submissions, government responses and transcripts of evidence. Hard copies are made available on request. It also advises the status of the Committee's consideration of each petition.

¹ Western Australia, Legislative Council, Standing Committee on Environment and Public Affairs, report 54, *The functions, processes and procedures of the Standing Committee on Environment and Public Affairs – are they clear for petitioners and do they reflect its core petitions role?*, 17 September 2020.

CHAPTER 2

Finalised petitions: 1 July 2020 – 31 October 2020

Petition No 128—Dust emissions in Port Hedland

Number of signatures:	448
Date tabled and Tabled Paper (TP) number:	4 September 2019 (TP 2993)
Date finalised:	12 August 2020
Principal petitioner:	Gary Wightman
Tabling Member:	Hon Jacqui Boydell MLC

2.1 This petition supports moving the monitoring station for dust emissions in the West End of Port Hedland from Taplin Street to further westward in Richardson Street.

2.2 The principal petitioner submitted that the high dust levels in West Hedland caused by resources activity had a serious impact on the health and property rights of residents. Consequently, accurate and reliable dust level measurements should be obtained at Richardson Street which is closer to residents living near Port operations:²

Richardson St is a far more accurate location for the residents in the West End of Port Hedland. Would you test for noise at a music festival 3km from the nearest residence? It does not pass the "Pub Test" that testing at Taplin St is the compliance point. The point of compliance is to protect the community and should be reflected by the fairest & most reasonable monitoring station – which right now is Richardson St.³

2.3 The principal petitioner regarded a voluntary buy-back scheme, which is part of the government's response to the report of the Port Hedland Dust Management Taskforce (Taskforce),⁴ as 'an admission West Hedland is not a safe place to live'.⁵ The petitioner also supported the use of 'accurate, relevant West End measurements when considering compliance and the community's livelihood'.⁶

2.4 The tabling Member, in her submission in support of the petition, also drew the Committee's attention to the dust levels and the need for accurate monitoring:

Dust is an ongoing, and now critical issue affecting the people of Port Hedland. The business owners, the property owners and the residents are all impacted.

...

Of great concern to those who live, reside and invest in Port Hedland is the accuracy of the dust monitoring. I acknowledge the suspicions of the community

² Submission from Gary Wightman, 4 October 2019, p 1.

³ *ibid.*, p 2.

⁴ Government of Western Australia, Department of State Development, *Port Hedland Dust Management Taskforce Report to Government, August 2016*. See: https://jtsi.wa.gov.au/docs/default-source/default-document-library/port-hedland-dust-taskforce---2016-report-to-government---for-public-comment.pdf?sfvrsn=dc8c6d1c_0. Viewed 18 September 2020. One of the Taskforce's recommendations was to cap the number of permanent residents in dust-affected areas of Port Hedland.

⁵ *ibid.*

⁶ *ibid.*

regarding the credibility of the air monitoring network, given that industry funds, maintains and provides the data from the network.⁷

2.5 The Committee sought responses to the petition from the Town of Port Hedland (Town), the Ministers for Environment, Health, Planning and Regional Development as well as the Port Hedland Industries Council.

2.6 The Town advised that the Department of Water and Environmental Regulation (DWER) will assume responsibility from the Port Hedland Industries Council for operation and maintenance of the air quality monitoring network, as part of the government's response to the Taskforce's recommendations. The Town also provided details on the development of an improvement plan and scheme to resolve land use planning conflicts, prohibiting sensitive land use and restricting population growth in the West End of Port Hedland.⁸

2.7 The Minister for Health provided advice from the Environmental Health Directorate of the Department of Health (Directorate) on the issues raised by the petition. He also pointed out that dust monitors were installed in various locations throughout the town:

It is incorrect to characterise the Taplin Street monitor as the only monitor that triggers dust mitigation activities for compliance purposes. Dust triggers apply to a number of BHP boundary monitors (~15 stipulated in the licence) as well as the community monitor at Taplin Street.

A network of seven monitors, of which Taplin Street is one, was installed to collect data for the HRA. DWER will use data from these monitors to assess compliance against the guideline when DWER takes over the network.⁹

2.8 The Minister for Planning advised that the Western Australian Planning Commission (WAPC) had completed *Improvement Plan No 50: Port Hedland West End* and was currently preparing an improvement scheme aimed at restricting population growth and prohibiting sensitive land uses in the West End of Port Hedland. Finalisation of the improvement scheme was expected at the end of 2020 where after, the WAPC would become the responsible authority for administering the scheme.¹⁰

2.9 The response from the Minister for Environment provided details on work being undertaken to develop a dust management guideline and the establishment of an Industry Working Group to work with port operators to develop and implement best practice bulk ore handling improvements.¹¹

2.10 In response to the Committee's request for information on the proposed industry funded voluntary buy-back scheme, the Minister for Regional Development advised that on 12 June 2020 the government announced that it will institute a Port Hedland Voluntary Buy-back Scheme (scheme) and that:

- development of the scheme was in response to representations from local landowners following the government's proposed planning controls in the West End;
- the (voluntary) scheme will be open to all residential landowners between Taplin Street and the Port;
- settlement price will be calculated on the basis of agreed market value plus 35 per cent;

⁷ Submission from Hon Jacqui Boyde MLC, undated, p 1.

⁸ David Pentz, Chief Executive Officer, Town of Port Hedland, letter, 30 October 2019, p 2.

⁹ Hon Roger Cook MLA, Minister for Health, letter, 4 November 2019, p 1 (Attachment).

¹⁰ Hon Rita Saffioti MLA, Minister for Planning, letter, 6 November 2019.

¹¹ Hon Stephen Dawson MLC, Minister for Environment, letter, 27 November 2019, p 4 (Attachment).

- the scheme will be funded by industry and administered by the Pilbara Ports Authority and governed by a board of directors;
- it is envisioned that the scheme will be open for at least three years; and
- delivery of the scheme will not lessen industry or government responsibility for dust mitigation in the West End.¹²

2.11 In light of the information received by the Committee, and noting that DWER will be assuming responsibility for the air monitoring network, the Committee concluded its enquiries into the petition.

Petition No 148—WA planning system

Number of signatures:	2036
Date tabled and Tabled Paper (TP) number:	31 March 2020 (TP 3737)
Date finalised:	12 August 2020
Principal petitioner:	Clive Ross
Tabling Member:	Hon Simon O'Brien MLC

2.12 This petition expresses concern about the manner in which planning decisions are made by the Minister for Planning, the West Australian Planning Commission (WAPC), Development Assessment Panels, the Metropolitan Redevelopment Authority and local government authorities. The petitioners contend that the current planning system lacks proper oversight, is often implemented contrary to legislative requirements and community interest, and does not provide procedural fairness and natural justice through third party appeal rights.

2.13 The petition calls for the Legislative Council to inquire into the current planning system framework.

2.14 In his submission, the principal petitioner outlined his criticism of the Western Australian planning system, including:

- a lack of certainty in the interpretation and application of planning rules;
- ignoring opportunities for increased densities in suburbs close to the city such as West Perth and Highgate;
- the lack of third party appeal rights; and
- the membership of development assessment panels.¹³

2.15 According to the principal petitioner:

Development at any cost is the new norm. The Minister's focus on development as the only way of saving the economy has led to the abandonment of long established and proper planning principles. These principles include minimum setbacks, prevention of encroachments and undermining of adjacent property, stranded assets, overshadowing, privacy, compliance with Australian Standards, safety, driveway sightlines, over densification and the imposition of significant losses of value on adjacent property, as well as an over-supply of dwellings which if the WAPC projections are correct will only be required in 25 to 30 years-time.¹⁴

¹² Hon Alannah MacTiernan MLC, Minister for Regional Development, letter, 26 June 2020, pp 1-2.

¹³ Submission from Clive Ross, undated, received 1 May 2020, pp 1-2.

¹⁴ *ibid.*, p 1.

2.16 The tabling Member submitted that:

The petitioner and the many signatories reflect major concerns held in the community and feel that their voices are simply not being heard. On many occasions the sense of being "fobbed off" has given rise to frustration.¹⁵

2.17 In her response to the petition, the Minister for Planning outlined the government's vision and agenda for improving and strengthening the planning system:

The State Government, with independent expertise and wide-ranging engagement, has developed a comprehensive reform agenda for the planning system to ensure that it continues to sustain liveability and prosperity. Implementation of the reform agenda is being prioritised and accelerated in response to the COVID-19 pandemic to ensure that the planning system supports the State's economic recovery and does not hinder job creation, while making it easier for the community to have an early say in how they wish to see change occur and their community develop.

It is acknowledged that there is a need to make the planning system more outcomes focussed, more user friendly and accessible to the community, and more consistent, efficient and streamlined.¹⁶

2.18 The Minister gave details of the government's [Action Plan for Planning Reform](#):

The Action Plan for Planning Reform was developed and released in August 2019 and articulates the State Government's vision for the planning system and reform agenda.

The Action Plan also proposes the fostering of a more collaborative and inclusive planning culture between State and local government, industry and the community with the aim of:

- making the planning system easier to understand and enabling the community to be more engaged in strategic planning
- supporting new ways of working to reduce red tape, increase cooperation and create more consistency and efficiency in how the planning system operates
- ensuring that the planning tools and processes are fit-for-purpose to respond to the challenges of the next phase of WA's growth.

The reform agenda is ambitious, wide-ranging and comprehensive, with a clear focus on making the planning system deliver better outcomes in a more efficient and streamlined manner, while also making it easier for the community to understand and be involved in the planning process early to help shape and set the vision for future growth and development.¹⁷

2.19 In addressing the specific concerns of the principal petitioner in relation to development assessment panels, third party appeal rights and community engagement, the Minister advised that:

Development assessment panels

It is acknowledged that there is scope for improvement to the OAP system and several changes are outlined in the Action Plan which will address perceived

¹⁵ Submission from Hon Simon O'Brien MLC, 15 April 2020.

¹⁶ Hon Rita Saffioti MLA, Minister for Planning, letter, 18 June 2020, p 1.

¹⁷ *ibid.*, p 2.

conflicts of interest and promote more consistent processes and decision-making. Key changes include:

- a reduction in the number of DAPs from nine local and regional panels to no more than three geographic panels,
- the full-time engagement of a reduced number of OAP specialist members,
- greater transparency through audio recording of meetings and improved governance support and administrative oversight by the Department of Planning, Lands and Heritage.¹⁸

Third party appeal rights

The State Government does not intend to introduce third party appeal rights into the Western Australian planning system. Doing so would add substantial uncertainty, complexity and red-tape to the planning process and, as has been seen in other states, create a system that would become increasingly legalistic, ultimately alienating community members from the process. These outcomes are in direct conflict with some of the key objectives of the Action Plan. It is my firm belief that the community can have greater influence in the decisions that shape their local communities by being better engaged earlier in the process at the strategic planning stage to set the vision for the future growth and development of their local area.

Interested parties can presently seek to join or make submissions regarding proposals that are the subject of an application for review to the State Administrative Tribunal. The current system strikes the right balance in providing certainty for proponents that their proposals will not be delayed by spurious or vexatious appeals, while also providing an appropriate forum for interested parties to make their views known.¹⁹

Community engagement

The package of planning reforms being pursued by the State Government seek to improve community engagement and consultation and both the strategic planning level and at the development application level.

Strategic level planning effectively sets the framework within a local government area for which development is considered against. Given its importance in this regard, the reforms are seeking to extend the minimum community engagement period for local planning strategies and ensure there are meaningful opportunities for the community to have their say in shaping how their local areas are developed.

In addition to this, for the first time the reforms will introduce minimum standards for community consultation on development proposals that will apply state-wide to ensure a consistent approach. These standards will include a radius model for major development applications and scheme amendments. The reforms also provide minimum requirements for the provision of information on proposals including the online publishing and on-site signage.²⁰

¹⁸ Hon Rita Saffioti MLA, Minister for Planning, letter, 18 June 2020, p 3.

¹⁹ *ibid.*

²⁰ *ibid.*, p 2.

- 2.20 In addition to the submissions and responses received, the Committee noted that planning decisions are made by reference to an established decision-making process over which the Committee has minimal influence.

Petition No 149—Noise barriers along Yalinda Drive, Gelorup

Number of signatures:	65
Date tabled and Tabled Paper (TP) number:	12 May 2020 (TP 3843)
Date finalised:	12 August 2020
Principal petitioner:	Glenys Malatesta
Tabling Member:	Hon Colin Holt MLC

- 2.21 This petition calls for the installation of traffic sound barriers along Yalinda Drive in Gelorup for the mitigation of traffic noise associated with the construction and operation of the Southern Bunbury Outer Ring Road (BORR).
- 2.22 In her submission to the Committee, the principal petitioner explained that Gelorup was promoted as a quiet, semi-rural area when it was developed in the 1980's, however:
- Heavy vehicles and the associated traffic noises involved with road construction, do not meet that criteria.²¹
- 2.23 A Socio-Economic Impact Assessment recognised that there would be direct and permanent impacts (such as noise) for residents in close proximity to the BORR and the principal petitioner maintains that as a consequence, 'it is incumbent on the Main Roads WA (MRWA) to offer noise mitigation measures'.²² She points out that the undulation of the terrain will result in trucks changing gears to traverse hills within metres of her house and the lack of dwellings and other solid masses in the semi-rural area will provide little sound absorption to diminish the traffic noise.
- 2.24 The principal petitioner is dissatisfied that a noise study has not been conducted for the southern section of the BORR and there has been no assessment of the noise impact to her property:
- MRWA have told me that my home will be 75m from the Southern BORR and, that I should not expect to have noise mitigation measures installed. At 75m from the Southern BORR, the noise coming from the road will exceed 50dcb, which is unacceptable.²³
- 2.25 The tabling Member's submission notes that the southern section of the BORR was originally planned as a two-lane highway but it had developed into 'a four lane freeway with large interchanges, allowing no natural buffers along the edge of the road within the corridor'.²⁴ As a consequence, the road is much closer to residents than was previously anticipated.²⁵

²¹ Submission from Glenys Malatesta, 27 May 2020, p 1.

²² *ibid.*

²³ *ibid.*, p 2.

²⁴ Submission from Hon Colin Holt MLC, 8 June 2020, p 1.

²⁵ *ibid.*

2.26 The tabling Member points out that:

Many properties adjacent to the BORR route have been acquired by Main Roads WA. However many properties remain and many will be impacted by the construction and the increased traffic on the BORR. Yalinda Drive in Gelorup is especially impacted in this regard.²⁶

2.27 A response to the petition from the Minister for Transport advised that a Transportation Noise Assessment for properties close to the BORR, including Yalinda Drive, will be undertaken. Pre-construction monitoring has informed the development of a noise model which will identify properties that may require noise mitigation measures.²⁷

2.28 The location and dimensions of noise walls required in Gelorup will be determined during the detailed design stage of the project:

Main Roads anticipates that noise walls will be required at the edge of BORR through the majority of Gelorup, and some of the properties along Yalinda Drive will benefit from these noise walls. The road profile of BORR near the proposed Yalinda Drive Bridge is below natural ground levels which will also reduce noise levels for adjacent properties.

The final location of noise walls, and details of their height and construction, will be reviewed during the detailed design stage of the project.²⁸

2.29 The Minister also advised that the Transportation Noise Assessment Report for the southern section of the BORR will be made available for public consultation through the Environmental Protection Authority.²⁹

2.30 In light of the government advice regarding future noise monitoring and abatement measures, the Committee concluded its enquiries.

Petition No 150—Cockburn Cement Ltd factory

Number of signatures:	804
Date tabled and Tabled Paper (TP) number:	13 May 2020 (TP 3863)
Date finalised:	19 August 2020
Principal petitioner:	Gregory Hocking
Tabling Member:	Hon Robin Chapple MLC

2.31 This petition calls for action to be taken to limit dust and toxic gas emissions from the Cockburn Cement Limited (CCL) factory at Munster by:

- a halt to the burning of coal at the facility;
- removal and remediation of all coal stockpiles;
- covering lime kiln dust waste dumps and shell sand stockpiles;
- fully enclosing the Portland cement operation;
- installing effective pollution reduction technology;

²⁶ *ibid.*

²⁷ Hon Rita Saffioti MLA, Minister for Transport, letter, 3 August 2020.

²⁸ *ibid.*

²⁹ *ibid.*

- requiring the Environmental Protection Agency (EPA) to review CCL's activities; and
 - removing CCL from the special legislation relating to the Kwinana Industrial Precinct.
- 2.32 The principal petitioner submitted that residents close to the CCL premises 'are suffering in numerous ways' from the factory's activities.³⁰ The petitioner explains that operational changes which occurred in the 10 years since the Committee's previous inquiry into CCL (Inquiry)³¹ had helped to reduce emissions of large particulates and toxic gases, however emissions of smaller and more dangerous particulates had not reduced, nor had the toxic gas and heavy metal emissions resulting from the burning of coal.³²
- 2.33 The principal petitioner is critical of the government's failure to conduct a comprehensive health study of local residents to assess the health impacts of exposure to emissions from the factory. As a consequence:
- residents and their children have been exposed to toxic gas, heavy metal and particulate emissions for another 10 years which they believe are continuing to have adverse impacts upon their suburban lifestyles but, even more importantly, upon their health and the health of another generation of children.³³
- 2.34 The principal petitioner explains that toxic pollutants enter the community in two ways:
- Toxic pollutants escape from the Factory and enter the local community in two ways; namely, emissions from the kiln tower and 'fugitive' emissions, being windblown particulates from the Portland cement processing area, coal stockpile, lime kiln dust dumps and shell sand stockpile. Toxic gas emissions from the kiln tower include sulphur dioxide, carbon monoxide, carbon dioxide, oxides of nitrogen, hydrogen chloride, hydrogen fluoride, volatile organic compounds (VOCs), polycyclic hydrocarbons, dioxins, and furans, in addition to particulates and heavy metals. Particulate emissions from the kiln tower result from coal burning and, periodically, from kiln management practices which allow CCL's quicklime product to escape into the air and drift over resident's homes where it is deposited like a carpet of snow, always at night. All of these substances are associated with adverse impacts on human health.³⁴
- 2.35 The petitioner expresses concern that CCL does not publically disclose details of toxic emissions from the premises and that it is allowed to self-regulate its emissions monitoring and measurement.³⁵
- 2.36 A summary of the comprehensive response to the petition from the Minister for Environment (Minister) is provided below, with the full response available on the Committee's webpage.

Release of commercial-in-confidence information

- 2.37 The Minister advised the Committee that much of the information relating to recent work by the Department of Water and Environmental Regulation (Department) and CCL to resolve odour and dust impacts from the facility is deemed to be commercial-in-confidence:

Since the Information Commissioner's 2017 determination [regarding the release of data associated with the production process], CCL has objected each time the

³⁰ Submission from Greg Hocking, 25 May 2020, p 1.

³¹ Parliament of Western Australia, Legislative Council, Standing Committee on Environment and Public Affairs, report 24, *Inquiry into Cockburn Cement Limited, Munster*, 20 October 2011.

³² Submission from Greg Hocking, 25 May 2020, p 1.

³³ *ibid.*

³⁴ *ibid.*, pp 1-2.

³⁵ *ibid.*, p 2.

Department has intended to publicly release newly available information that has arisen from investigations and reviews that guide future assessments and upcoming licence reviews.

It has not been possible to publicly release recent investigation results or reports. CCL's representatives have indicated that legal action will be considered if information is released in part or in full, due to claims that the reports contain information that is commercial in confidence.³⁶

Health concerns

- 2.38 Consultation with the Department of Health (DoH) for the 2016 Licence Review identified odour and dust impacts as the primary health concerns and it was determined that the public health impacts were not unacceptable.
- 2.39 In regard to concerns about the inhalation and ingestion of heavy metals, advice from the DoH is that hair sampling testing obtained by some members of the community may not provide an accurate biomarker of either exposure or potential health effects from metals. It is recommended that any concerned community members seek medical advice regarding their concerns.³⁷

Previous Inquiry by the Committee (2010-11)

- 2.40 In noting that a number of the Committee's Inquiry recommendations related to CCL's licence, the Minister advised that the licence had since been amended:³⁸

The Department considered the Inquiry recommendations in determining the regulatory controls for the 2016 Licence Amendment.³⁹

- 2.41 Dust emissions from the kilns, which were the subject of recommendations by the Committee in 2011, had been reduced with the installation of a baghouse on kiln 5 and the imposition of dust emission limits. In relation to odour, a community odour survey and an intensive source testing program was undertaken and informed the licence review in 2016.⁴⁰

Licence review

- 2.42 The Department's risk assessment for the licence review concluded that odour emissions from the facility did not pose a risk to human health and that the proposed controls and monitoring of stack gas emissions were designed to mitigate the amenity impacts of odour.⁴¹
- 2.43 Dust emissions were found to have improved since the installation of baghouses, however dust levels in the community still exceeded relevant health guidelines on occasion. Consequently, the amended licence required additional boundary dust monitoring to determine the extent to which the facility contributed to overall dust levels.⁴²

³⁶ Hon Stephen Dawson MLC, Minister for Environment, letter, 30 July 2020, p 1 of Attachment 1.

³⁷ *ibid.*, p 2 of Attachment 1.

³⁸ *ibid.*

³⁹ *ibid.*, p 3 of Attachment 1.

⁴⁰ *ibid.*, pp 2-3 of Attachment 1.

⁴¹ *ibid.*, p 3 of Attachment 1.

⁴² *ibid.*

Implementation and regulation of the licence requirements

2.44 A peer review of CCL's 2019 odour investigation report was obtained by the Department but is subject to a non-disclosure agreement to protect commercial-in-confidence matters.⁴³

2.45 In addition to the above, the Department conducted its own investigations to better understand the odour and dust emissions at the facility:

The Department's review indicates that the likely main source of the odour is the preheating of the shell sand and that the most likely solution is the installation of a regenerative thermal oxidiser.

The use of coal as a fuel source was not considered a likely contributor to odour emissions.

The full review has yet to be publicly released but is intended, subject to commercial in confidence matters, to be appended to and support future licence review processes.⁴⁴

2.46 The Department implemented the Cockburn Area Air Monitoring Plan and is currently assessing the data obtained from dust samples with the assistance of the DoH. Data obtained from the new dust monitors will also inform future licence reviews and consideration of additional controls.⁴⁵

Current status

2.47 In relation to odour, the Minister advised that:

The Department has advised CCL, through its review documentation that it considers the main cause of odour is likely organic material within the shell sand used as the raw material for lime production. As the raw material is heated through the start of CCL's process, these organic materials are volatilised causing odorous compounds to be released to the ambient environment.

...

the full review has yet to be publicly released but is intended, subject to commercial in confidence matters, to be appended to and support the upcoming licence review process.

The Department will continue to engage with CCL and seek further specialist advice with respect to these matters.⁴⁶

2.48 The Department intends to complete its odour and dust reviews before the end of 2020 and a review of the facility's licence will be conducted. In May 2020, all registered stakeholders for the premises, including the principal petitioner, were invited to make submissions to the review in relation to odour impacts:

As part of the Department's licence review on odour conditions, should additional controls be required the Department will consider the use of a thermal destruction approach. It is anticipated that this kind of additional control would require a lengthy planning, procurement and technical review before implementation.

⁴³ *ibid.*, p 4 of Attachment 1.

⁴⁴ *ibid.*

⁴⁵ *ibid.*, p 5 of Attachment 1.

⁴⁶ *ibid.*

A resolution to odour impacts is not likely in advance of the 2021-22 summer period. The summer period is historically the time when odour impacts are greatest.

Following the licence review, if the licence is amended, all stakeholders will be notified and the decision advertised on the Department's website. Amendments to licences are subject to the appeal provisions under the EP Act. The decision will be advertised for the 21 day appeal period.⁴⁷

- 2.49 In regard to dust emissions, the Department will consider the impact of dust and whether further controls are needed once the relevant studies are finalised.⁴⁸

Alleged breaches of the Environmental Protection Act 1986

- 2.50 The Department has commenced a prosecution under section 49(5) of the *Environmental Protection Act 1986* for 15 separate odour offences occurring between January and April 2019. Investigations are continuing in regard to further alleged odour emissions from the facility during the summer of 2019-20.⁴⁹
- 2.51 Following consideration of the information provided, and noting that ongoing work is occurring to measure and address emissions, the Committee concluded its enquiries.

Petition No 153—Mount Pleasant bowling club

Number of signatures:	313
Date tabled and Tabled Paper (TP) number:	9 June 2020 (TP 3918)
Date finalised:	9 September 2020
Principal petitioner:	Joy Pollard
Tabling Member:	Hon Simon O'Brien MLC

- 2.52 This petition opposes the redevelopment of the Mount Pleasant Bowling Club for housing or other non-recreational uses.
- 2.53 On 18 October 2016 the Council of the City of Melville (Council) endorsed a Lawn Bowls Strategy that recommended the merger of the Mount Pleasant and Melville Bowling Clubs and their relocation to a new purpose built bowling facility at Tomkins Park in Alfred Cove.⁵⁰ The Council subsequently approved the redevelopment of the current site of the Mount Pleasant Bowling Club.⁵¹
- 2.54 The principal petitioner submitted that the 2016 Bowls Strategy (which concluded that the City of Melville (City) only needed one bowls facility north of Leach Highway) did not adequately take into account increasing social membership of bowls clubs. The Bowls Strategy was:
- based solely on a decline on pennants bowlers, but took no account of the trend of increasing social membership and the social benefits which bowling clubs provide to the wider community.⁵²

⁴⁷ *ibid.*, p 6 of Attachment 1.

⁴⁸ *ibid.*

⁴⁹ *ibid.*, pp 6-7 of Attachment 1.

⁵⁰ City of Melville, Minutes of Special Meeting of the Council, 22 August 2017, p 6.

⁵¹ *ibid.*, p 18.

⁵² Submission from Joy Pollard, 28 June 2020, p 1.

- 2.55 The principal petitioner explained that the Council rescinded the decision to build the new Tompkins Park Bowls facility following the termination of the Wave Park development and Melville Bowling Club's subsequent decision not to relocate.⁵³ Despite this change in circumstances, the 'Council administration is still intent on medium density development on the land, so the community is pushing hard to retain the whole site for public use'.⁵⁴
- 2.56 The tabling Member submitted that:
- Questions over the future of community facilities such as bowling clubs and seniors' centres have been a cause of disquiet in Melville in recent years. The Mount Pleasant Bowling Club is a fairly typical example of the changing profile of bowling clubs, with questions of how such premises might evolve to cater for other recreational needs while maintaining their own viability and identity. It is also representative of the conflicts local governments have to work through in identifying priorities and allocating resources.⁵⁵
- 2.57 A response from the City advised that previous Council decisions regarding the relocation of the Club and development of the site are under review. The implications of the Council rescinding these decisions will be presented at its 20 October 2020 meeting.⁵⁶ In light of this recent development, the Committee concluded its enquiries.

Petition No 154—Glen Iris Golf Course

Number of signatures:	2417 (total)
Date tabled and Tabled Paper (TP) number:	16 June 2020 (TP 3955)
	23 June 2020 (TP 3988)
Date finalised:	9 September 2020
Principal petitioner:	Mihael McCoy
Tabling Member:	Hon Nick Goiran MLC

- 2.58 This petition opposes the redevelopment of the Glen Iris Golf Course in Jandakot for residential housing and questions whether there are adequate mechanisms within the planning system to enable reasonable consultation with local residents and procedural fairness.
- 2.59 In his submission, the principal petitioner maintains that there has been a lack of transparency and accountability in the planning process, particularly in regard to the City of Cockburn's (City) decision not to purchase the golf course.⁵⁷ The petitioner points out that the local communities of Glen Iris and Jandakot feel very strongly about the issue:
- The prospect of losing this local amenity and environmental asset has been distressing to many.⁵⁸

⁵³ *ibid.*

⁵⁴ *ibid.*, p 2.

⁵⁵ Submission from Hon Simon O'Brien MLC, 15 June 2020.

⁵⁶ Marten Tieleman, Chief Executive Officer, City of Melville, letter, 2 September 2020, p 2.

⁵⁷ Submission from Mihael McCoy, 17 July 2020, pp 1-2.

⁵⁸ *ibid.*, p 1.

2.60 The tabling Member submitted that the sale and proposed development of the golf course would negatively impact local residents:

Residents who purchased land and houses surrounding or near the golf course, did so on the basis of its existence. These residents paid more for their residential properties because of their proximity to the golf course and its open spaces.⁵⁹

2.61 A detailed response to the petition was provided by the City with the following key points:

- the Glen Iris Golf Course was a privately owned and operated golf course—the City had no involvement in its ownership or operation;
- the previous owners of the golf course were seeking to sell the land for its residential land value rather than its value as a golf course;
- the City did not make a decision to not purchase the golf course—rather, it was unable to undertake due diligence in respect of a purchase because the owners did not provide the City with details of the financial accounts for the business;
- the landowners subsequently sold the land to a development company who intend to redevelop the land;
- there are currently no development proposals before the Cockburn City Council for the site;
- the recently passed *Planning and Development Amendment Bill 2020* will not impact the usual planning process and procedure that will apply to a future redevelopment proposal, including a scheme amendment and structure plan;
- a requirement for public consultation is built into the process for scheme amendments and structure plans through the *Planning and Development (Local Planning Scheme) Regulations 2015*;
- the public were not consulted about the sale of the land because private land sales are not bound to any consultation requirements;
- the City has a dedicated webpage to provide the public with information;
- given community interest in this matter, a background information report has been prepared and will be considered by Council on 10 September 2020;
- any application to rezone and develop the land will be required to address issues including environmental assessment and impact on neighbourhood character; and
- the landowner has a legal requirement to report any known or suspected contamination to the Department of Water and Environmental Regulation.⁶⁰

2.62 In light of the information provided by the City, and noting that a development application to the City had yet to be made by the new owners of the golf course, the Committee concluded its enquiries into the petition.

⁵⁹ Submission from Hon Nick Goiran MLC, 13 July 2020, p 1.

⁶⁰ Daniel Arndt, Acting Chief Executive Officer, City of Cockburn, letter, 2 September 2020, pp 1-5.

Petition No 156—Preservation of Lady Lawley Cottage

Number of signatures:	473
Date tabled and Tabled Paper (TP) number:	11 August 2020 (TP 4067)
Date finalised:	23 September 2020
Principal petitioner:	Kalieha Ryan
Tabling Member	Hon Peter Collier MLC

- 2.63 The petition opposes the permanent closure, selling of, demolition or renaming of Lady Lawley Cottage and asks the Legislative Council to recommend the land and building continue to serve the needs of children with disabilities.
- 2.64 The Committee did not receive a submission from the principal petitioner within the requested timeframe and no further enquiries were conducted.

Petition No 161—Prescribed burning practices in WA

Number of signatures:	213
Date tabled and Tabled Paper (TP) number:	19 August 2020 (TP 4133)
Date finalised:	14 October 2020
Principal petitioner:	Bart Lebbing
Tabling Member	Hon Diane Evers MLC

- 2.65 This petition seeks a review of prescribed burning practices in Western Australia and calls for the government to:
- remove the prescribed burning area target for the South West;
 - investigate alternative approaches that cause less damage to the environment;
 - increase research and monitoring into the impact of prescribed burning and bushfires;
 - conduct research into selective, risk assessed, strategic mitigation activities compared to broad scale prescribed burning;
 - research and implement fire management technologies such as early detection and the fast suppression of bush fires;
 - end broad scale prescribed burning in the Conservation Estate; and
 - protect long unburnt country from the impact of fire.
- 2.66 The principal petitioner questions the effectiveness of an annual target for prescribed burning and requests that a formal inquiry be conducted into the harm caused by broad scale prescribed burning practices in the South West:

We need to know whether selective, risk assessed, strategic mitigation activities close to infrastructure would more effectively protect people and property and WA's biodiversity and at less cost than current prescribed burning.⁶¹

⁶¹ Submission from Bart Lebbing, undated, received 17 September 2020, p 1.

- 2.67 He is also critical of a lack of transparency by the Department of Biodiversity, Conservation and Land Management (DBCA):
- there is no formal consultation process in either the design of the burn program, or the planning of individual burns. The plans are only available for viewing during office hours at DBCA offices, and there is no independent assessment of burns. With a single agency responsible for planning the burns including writing the success criteria, doing the burns and subsequently judging their success, there is an obvious failure of oversight.⁶²
- 2.68 In relation to prescribed burning in the conservation estate, the principal petitioner points to the increasing number of threatened flora and fauna species in Western Australia and questions whether prescribed burning is exacerbating the situation:
- Prescribed burning in the conservation estate should focus on ecological objectives to conserve and protect the unique flora and fauna within these refuges for biodiversity. For this to be achieved, we need to know the frequency and intensity of fire that will enable our native species to regenerate, reproduce and thrive.⁶³
- 2.69 There is very little of the south-west forest region that has remained unburnt for more than 20 years, despite some species of flora and fauna needing such conditions to survive. The principal petitioner believes an investigation is urgently required to determine whether long unburnt vegetation is less flammable as some research suggests:
- We need research into more accurate indicators of flammability than the single measure of ‘fuel age’ and the related assumption that the likelihood of fire increases with increasing time since the last fire.⁶⁴
- 2.70 The submission from the tabling Member supported a review of bushfire mitigation practices in Western Australia, expressing the view that:
- Although prescribed burns have their place, research suggests they should be tailored to suit. Furthermore, they are not the only way of mitigating fire risk. In many cases, the practice of broad-scale burn-offs endangers biodiversity and lives, while the scientific evidence in support of benefits from prescribed burns in controlling the extent of bushfires is inconsistent. The petitioners’ analysis that ‘prescribed burning, based on target instead of strategic assessment, is having detrimental and irreversible effects on threatened species and on the health and resilience of ecosystems’ is based on recent scientific research.⁶⁵
- 2.71 The tabling Member highlighted recent scientific research that suggests that ‘a simplistic target of burning 200,000 hectares per annum’ is not the most effective approach:
- Given the obvious mismatch between current prescribed burning policy and the latest scientific evidence, it is imperative that the State Government undertake a review of its prescribed burning practices and adjust its policy and key performance indicators accordingly. It should not be necessary to petition the Government to do this.
- The petitioners’ request that the State Government consider removing the burning area target, increasing support for research and monitoring of the ecological

⁶² *ibid.*

⁶³ *ibid.*, p 2.

⁶⁴ *ibid.*

⁶⁵ Submission from Hon Diane Evers MLC, undated, received 10 September 2020, pp 1-2.

impacts of fire, encouraging research into the cost effectiveness and efficiency of a range of mitigation activities and fire management technologies, ending broad scale prescribed burning in the Conservation Estate, and protecting long unburned country to study fire management, biodiversity, health and flora and fauna. These requests are sensible and should be considered. Furthermore, the Government should fully explain its response to each of these requests.⁶⁶

- 2.72 In response to the petition and submissions, the Minister for Environment affirmed his support for the prescribed burning program, adding that the government had no plans to undertake a review of current fire mitigation practice:

The McGowan Government strongly supports prescribed burning as the primary means of reducing the risk of bushfire faced by our community, industry and the environment. The prescribed burning program undertaken by the Department of Biodiversity, Conservation and Attractions (DBCA) is supported by peer reviewed research.⁶⁷

- 2.73 The Minister advised that Aboriginal cultural fire practices and contemporary prescribed burning are complementary and the government is committed to continuing its engagement with traditional owners.⁶⁸ Similar to traditional practice, prescribed burning seeks to create a mosaic of burnt and unburnt vegetation:

DBCA uses prescribed burns to develop and maintain a mosaic of recently burnt and long-unburnt areas of vegetation. From a biodiversity perspective, prescribed burning is undertaken to maintain a range of wildlife habitat types. This is achieved through the creation of low-fuel areas in a mosaic of burnt and unburnt patches across the landscape, just as traditional owners have demonstrated for thousands of years. Prescribed burns have been specifically carried out to protect critically endangered species such as the western ground parrot, mainland quokka, and many threatened plant species.⁶⁹

- 2.74 The purpose of prescribed burning and its benefits to the community and the environment were outlined by the Minister:

It is important to recognise that in the south-west forests, prescribed burning is undertaken at a landscape scale to manage bushfire risk, protect community, commercial and environmental assets and protect biodiversity values by varying the burn season, fire intensities, and interval between fires. These prescribed burns occur in more favourable conditions than intense summer bushfires, enabling animals more opportunities to safely move into areas of unburnt vegetation and various plant species opportunities to regenerate. Prescribed fires also contribute to reducing the impact of severe bushfires on vegetation, soils and water catchments.

Drier and warmer conditions associated with a drying climate are likely to be associated with an increased likelihood of more frequent, high intensity bushfires. Without areas of low fuel across the landscape to slow the progress and lower the intensity of large bushfires running under extreme weather conditions, the chance of keeping these fires small or arresting the progress of them is negligible even with low fuel buffers immediately adjacent to some of these assets.⁷⁰

⁶⁶ *ibid.*, p 2.

⁶⁷ Hon Stephen Dawson MLC, Minister for Environment, letter, 8 October 2020, p 1.

⁶⁸ *ibid.*

⁶⁹ *ibid.*

⁷⁰ *ibid.*, p 2.

- 2.75 Following consideration of the information obtained, and noting that prescribed burning is the subject of conflicting scientific and political opinion, the Committee concluded its enquiries into the petition.

Petition No 165—Police Accountability

Number of signatures:	211
Date tabled and Tabled Paper (TP) number:	23 September 2020 (TP 4304)
Date finalised:	21 October 2020
Principal petitioner:	Margaret Howkins
Tabling Member	Hon Tim Clifford MLC

- 2.76 This petition opposes the current system of accountability for Western Australian police on the basis that it results in unfair and unjust outcomes for communities, citizens and police themselves.
- 2.77 The petitioners oppose internal investigations of complaints about police and support investigations by independent, third party investigators from other states and countries.
- 2.78 The submission from the principal petitioner, in addition to calling for independent investigators, also supports:
- Western Australia Police Force (WA Police) undertaking an ongoing cultural change training and education program;
 - diversity within WA Police, with supervision, management and leadership including Aboriginal people, women and high profile community members; and
 - continuation of investigations into serious charges against retired or resigned police.⁷¹
- 2.79 The Committee noted that the petition raises similar issues to those raised in Petition No 60—*Accountability of Police and corruption oversight agencies*, for which responses were obtained from the Joint Standing Committee on the Corruption and Crime Commission (JSCCCC), the Parliamentary Inspector of the Corruption and Crime Commission, the Corruption and Crime Commission (CCC), the Minister for Police and the Attorney General.⁷²
- 2.80 The Committee also noted that the JSCCCC's recently tabled [Report 15: If not the CCC...then where? – An examination of the Corruption and Crime Commission's oversight of excessive use of force allegations against members of the WA Police Force](#) makes findings and recommendations relating to the issues raised in the petition.⁷³ The government's response to the report is due on 24 December 2020.

⁷¹ Submission from Margaret Howkins, 16 October 2020, pp 1-2.

⁷² Western Australia, Legislative Council, Standing Committee on Environment and Public Affairs, report 53, *Overview of Petitions 1 July 2018 to 31 December 2018*, 20 August 2020, pp 17-20. See: [https://www.parliament.wa.gov.au/Parliament/commit.nsf/\(Report+Lookup+by+Com+ID\)/B05ED521A3429426482585CA0017BDD7/\\$file/48257480.pdf](https://www.parliament.wa.gov.au/Parliament/commit.nsf/(Report+Lookup+by+Com+ID)/B05ED521A3429426482585CA0017BDD7/$file/48257480.pdf). Viewed 28 October 2020.

⁷³ Parliament of Western Australia, Legislative Assembly, Joint Standing Committee on the Corruption and Crime Commission, Report 15, *If not the CCC ... then where? An examination of the Corruption and Crime Commission's oversight of excessive use of force allegations against members of the WA Police Force*, September 2020. See: [https://www.parliament.wa.gov.au/Parliament/commit.nsf/\(Report+Lookup+by+Com+ID\)/9FDED9EBA162F742482585ED0005358E/\\$file/20200916%20Report%20POST-ADOPTION%20FOR%20TABLING.pdf](https://www.parliament.wa.gov.au/Parliament/commit.nsf/(Report+Lookup+by+Com+ID)/9FDED9EBA162F742482585ED0005358E/$file/20200916%20Report%20POST-ADOPTION%20FOR%20TABLING.pdf). Viewed 28 October 2020.

- 2.81 In concluding its enquiries into the petition, it was the Committee’s opinion that further consideration of these issues are most appropriately undertaken by the JSCCCC.

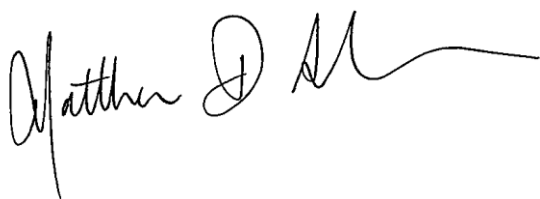
CHAPTER 3

Open petitions

Petitions subject to ongoing enquiries

3.1 At the end of this reporting period (31 October 2020), the Committee was continuing its enquiries into the following petitions:

- Petition No 152 Classic car and street rod registration discount
- Petition No 155 Midwest based rescue helicopter service
- Petition No 157 Proposed boating facilities and carpark at entrance point in Broome
- Petition No 158 Ocean Reef marina development
- Petition No 159 Buy back scheme for regional taxis
- Petition No 160 Biosecurity levy imposed on residents of Boyup Brook
- Petition No 162 Change of land use in premises of Iluka Plaza
- Petition No 163 Midland railway workshop
- Petition No 164 Bayswater train station
- Petition No 166 Closure of tier 3 rail lines
- Petition No 167 Tonkin Gap Project
- Petition No 168 Pinjarra Alumina Refinery
- Petition No 169 Dardanup waste precinct and landfill
- Petition No 170 Proposed realignment of the south west freight rail line.



Hon Matthew Swinbourn MLC
Chairman

Standing Committee on Environment and Public Affairs

Date first appointed:

23 May 2017

Terms of Reference:

The following is an extract from Schedule 1 of the Legislative Council Standing Orders:

'2. Environment and Public Affairs Committee

- 2.1 *An Environment and Public Affairs Committee is established.*
- 2.2 The Committee consists of 5 Members.
- 2.3 The functions of the Committee are to inquire into and report on –
 - (a) any public or private policy, practice, scheme, arrangement, or project whose implementation, or intended implementation, within the limits of the State is affecting, or may affect, the environment;
 - (b) any Bill referred by the Council; and
 - (c) petitions.
- 2.4 The Committee, where relevant and appropriate, is to assess the merit of matters or issues arising from an inquiry in accordance with the principles of ecologically sustainable development and the minimisation of harm to the environment.
- 2.5 The Committee may refer a petition to another Committee where the subject matter of the petition is within the competence of that Committee.
- 2.6 In this order "environment" has the meaning assigned to it under section 3 (1) and (2) of the *Environmental Protection Act 1986*.'



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