



**THIRTY-EIGHTH PARLIAMENT**

**REPORT 17**  
**STANDING COMMITTEE ON ENVIRONMENT AND**  
**PUBLIC AFFAIRS**  
**OVERVIEW OF PETITIONS**

Presented by Hon Brian Ellis MLC (Chair)

November 2009

## STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS

### Date first appointed:

17 August 2005

### Terms of Reference:

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

#### 1. Environment and Public Affairs Committee

- 1.1 An *Environment and Public Affairs Committee* is established.
- 1.2 The Committee consists of 5 members.
- 1.3 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 House; and
  - (c) petitions.
- 1.4 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.
- 1.5 The Committee may refer a petition to another committee where the subject matter of the petition is within the competence of that committee.
- 1.6 In this order “environment” has the meaning assigned to it under section 3(1), (2) of the *Environmental Protection Act 1986*.

### Members as at the time of this inquiry:

Hon Brian Ellis MLC (Chair)  
(appointed 4 June 2009)

Hon Lynn MacLaren MLC  
(appointed 4 June 2009)

Hon Phil Edman MLC  
(appointed 4 June 2009)

Hon Sheila Mills MLC (Chair)  
(until 4 June 2009)

Hon Paul Llewellyn MLC  
(until 4 June 2009)

Hon Kate Doust MLC (Deputy Chair)  
(Deputy Chair since 4 June 2009)

Hon Colin Holt MLC  
(appointed 4 June 2009)

Hon Bruce Donaldson MLC (Deputy Chair)  
(until 4 June 2009)

Hon Wendy Duncan MLC  
(5 November 2008 to 4 June 2009)

### Staff as at the time of this inquiry:

Suzanne Veletta, Advisory Officer (General)  
(since 10 August 2009)

Dr Vincent Cusack, Advisory Officer (General)  
(until 4 March 2009)

Amanda Gillingham, Research Officer  
(since 11 March 2009)

Linda Omar, Committee Clerk

### Address:

Parliament House, Perth WA 6000, Telephone (08) 9222 7222

lcco@parliament.wa.gov.au

Website: <http://www.parliament.wa.gov.au>

ISBN 978-1-921634-19-2

**Note**

**The Seventeenth Report of the Standing Committee on Environment and Public Affairs consists of a Report of the committee and two Minority Reports of Hon Paul Llewellyn MLC**



# CONTENTS

<b>EXECUTIVE SUMMARY .....</b>	<b>I</b>
EXECUTIVE SUMMARY .....	I
<b>CHAPTER 1 INTRODUCTION.....</b>	<b>1</b>
HISTORY AND FUNCTIONS OF THE COMMITTEE .....	1
PETITIONS.....	1
COMMITTEE PROCEDURE .....	2
<b>CHAPTER 2 PETITIONS CONSIDERED BY THE COMMITTEE.....</b>	<b>5</b>
REPORTING PERIOD DATA .....	5
PETITIONS FINALISED .....	5
PETITIONS THAT LAPSED UPON PROROGATION OF THE THIRTY-SEVENTH PARLIAMENT ON 7 AUGUST 2008.....	7
LAPSED PETITIONS RE-TABLED DURING THE THIRTY-EIGHTH PARLIAMENT .....	9
ONGOING PETITIONS .....	10
FORMAL INQUIRIES ARISING OUT OF THE COMMITTEE’S CONSIDERATION OF PETITIONS	11
<b>CHAPTER 3 REVIEW OF PETITIONS FINALISED .....</b>	<b>13</b>
PETITION NO 1 - REINTRODUCTION OF TRANSPERTH BUS ROUTE 155 .....	13
PETITION NO 2 - EXPORT OF LEAD THROUGH FREMANTLE PORT .....	14
PETITION NO 3 - INCREASED FUNDING FOR SOCIAL AND COMMUNITY SERVICES ORGANISATIONS .....	20
PETITION NO 4 - SPEED ZONES AROUND WESTERN AUSTRALIAN SCHOOLS .....	24
PETITION NO 5 - ING DEVELOPMENT ON VICTORIA QUAY, FREMANTLE.....	27
PETITION NO 6 - LEGAL AID COMMISSION FUNDING.....	30
PETITION NO 7 - WESTERN AUSTRALIAN BIOMASS PTY LTD PROPOSAL TO CONSTRUCT A BIOMASS GENERATOR AT THE DIAMOND MILL SITE .....	32
PETITION NO 8 - SCAEVOLA SPINESCENS (MAROON BUSH): GRANTING OF COMMERCIAL PRODUCER’S AND COMMERCIAL PURPOSES LICENSES.....	35
PETITION NO 9 - PROTECTION OF MATURE TREES ON PUBLIC LAND.....	40
PETITION NO 10 - SHIRE OF AUGUSTA-MARGARET RIVER DISTRICT PLANNING SCHEME .....	43
PETITION NO 11 - GENETICALLY MODIFIED (GM) FREE FOOD STATE .....	47
PETITION NO 12 - REZONING OF A CLASS RESERVE IN CLAREMONT.....	48
PETITION NO 14 - YALGORUP NATIONAL PARK .....	53
PETITION NO 15 - OPPOSE ROYAL PERTH HOSPITAL CLOSURE .....	59
PETITION NO 16 - PROTECT KIMBERLEY COAST: LIQUEFIED NATURAL GAS PROCESSING HUB .....	59
PETITION NO 17 - REGIONAL RESOURCE RECOVERY CENTRE, CANNING VALE.....	64
PETITION NO 18 - WESTERN AUSTRALIAN ELECTORAL COMMISSION .....	65

PETITION No 19 - SHOWROOMS BEING CONSTRUCTED ON LOTS 1, 2, 3, 4, 13 AND 15 EWEEN STREET, WOODLANDS .....	66
PETITION No 20 - DAYLIGHT SAVING BILL 2006 .....	69
PETITION No 22 - WESTERN AUSTRALIA AS A GENETICALLY MODIFIED (GM) FREE ZONE .....	70
PETITION No 27 - CRIMINAL CODE AMENDMENT BILL 2008.....	72
<b>CHAPTER 4 CONCLUSION .....</b>	<b>73</b>
<b>APPENDIX 1 PETITION PROCESS .....</b>	<b>75</b>
<b>MINORITY REPORT OF HON PAUL LLEWELLYN MLC IN RELATION TO PETITION NO 10 .....</b>	<b>79</b>
<b>MINORITY REPORT OF HON PAUL LLEWELLYN MLC IN RELATION TO PETITION NO 11 .....</b>	<b>83</b>

## EXECUTIVE SUMMARY

---

### EXECUTIVE SUMMARY

- 1 This report provides an overview of the petitions considered by the Legislative Council Standing Committee on Environment and Public Affairs (**Committee**) from 1 July 2008 to 30 June 2009 (**the reporting period**).
- 2 This is the eighth *Overview of Petitions* report tabled by the Committee.
- 3 This report informs of the petitions the Committee considered during the reporting period and includes a review of each of the 21 petitions the Committee finalised during this reporting period. The report also notes the petitions that lapsed when the Thirty-Seventh Parliament was prorogued on 7 August 2008, and the ongoing petitions before the Committee as at 30 June 2009.
- 4 During the reporting period, 34 petitions tabled in the Legislative Council were referred to the Committee.
- 5 Petitions remain a popular method of informing Members of Parliament of a wide range of issues and concerns. The petitions considered by the Committee dealt with a number of matters including environmental, planning and development, road, transport, agricultural and health issues.
- 6 The Committee's inquiries into petitions provides Parliament with the assurance that petitions that are tabled to the Legislative Council are being scrutinised and enhances the transparency and accountability of decisions made by State and local governments.



# CHAPTER 1

## INTRODUCTION

---

### HISTORY AND FUNCTIONS OF THE COMMITTEE

- 1.1 The Committee was appointed by the Legislative Council on 17 August 2005.
- 1.2 The functions of the Committee, as provided by terms of reference 1.3(a) and 1.3(b), are to inquire into and report on any public or private policy, practice, scheme, arrangement or project in Western Australia whose implementation, or intended implementation, affects or may affect the environment, and to inquire into and report on any bill referred by the Legislation Council.
- 1.3 A further function of the Committee, provided by term of reference 1.3(c), is to inquire into and report on petitions. The Committee's petition function occupies a significant part of the Committee's work.

### PETITIONS

- 1.4 This report provides an overview of the petitions considered by the Committee during the reporting period 1 July 2008 to 30 June 2009.
- 1.5 A petition is a request for action by the Legislative Council from a citizen or resident or a group of citizens or residents.
- 1.6 The Committee considers petitions that have been tabled by a Member of the Legislative Council on behalf of a person or groups within the community.
- 1.7 Petitions allow interested persons, or groups, to bring their concerns to the attention of the Legislative Council. The Committee's processes ensure that petitions, and the issues raised in petitions, are considered and inquired into by Members of Parliament.
- 1.8 The Parliament of Western Australia Legislative Council is the only State House of Parliament in Australia that refers all petitions to a committee for inquiry and report.<sup>1</sup> In some other jurisdictions, petitions are recorded in Hansard and no further inquiry is undertaken.
- 1.9 All conforming petitions tabled in the Legislative Council, except those raising a matter of privilege, are referred to the Committee.

---

<sup>1</sup> In February 2008, the Parliament of the Commonwealth of Australia House of Representatives established a Standing Committee on Petitions.

- 1.10 It is important that the formal requirements for the tabling of petitions, set out in Legislative Council Standing Orders 133 and 134, are followed. If a petition does not conform to the Standing Orders, it will not be certified by the Clerk of the Legislative Council. A non-conforming petition may only be tabled if the Legislative Council grants leave.
- 1.11 A petition need only have one signature in order to be tabled, but most petitions contain many signatures.
- 1.12 Certain issues or matters raised in a petition may come under the Parliamentary Commissioner for Administrative Investigations' (**Ombudsman**) jurisdiction as set out in the *Parliamentary Commissioner Act 1971*. The Committee has previously liaised with the Ombudsman's office in recognition of the fact that a matter raised by a petition may have been previously considered or could currently be under consideration by that office.

#### COMMITTEE PROCEDURE

- 1.13 Upon receiving a petition, the Committee undertakes an initial assessment of the subject-matter of the petition and may resolve to not inquire further into the petition in the following circumstances:
- if the issues raised in the petition have been or will be considered and/or debated by the Legislative Council; or
  - if the Committee considers that the issues raised in the petition have been or are being adequately dealt with.
- 1.14 Where a petition concerns subject matter that is within the terms of reference of another standing committee of the Legislative Council, the Committee may refer the petition to that committee for inquiry and report, as provided by the Committee's term of reference 1.5.
- 1.15 If the Committee proceeds to investigate the matters contained in a petition, it usually writes to the principal petitioner and tabling member inviting a submission for further information on the matters and issues raised in the petition. The Committee often writes to the relevant Minister(s) seeking comment on the content of the petition or specific matters arising out of submissions or other information before the Committee.
- 1.16 The Committee may also obtain information from other relevant sources, including government agencies, private organisations and individuals, and undertake its own research. The Committee may also conduct hearings into matters raised in a petition.
- 1.17 The Committee then considers the submissions and all information before it and resolves to either:

- finalise the petition; or
- undertake a formal inquiry into the issues raised in the petition.

1.18 The Committee may resolve to finalise a petition at this stage if the Committee:

- has not received a submission from the principal petitioner in response to its invitation to provide further information;
- considers that the evidence obtained indicates that the issues raised in the petition have been or are being adequately dealt with; or
- considers that the issues raised in the petition have been taken as far as possible at the time.

1.19 When the Committee resolves to finalise a petition, it advises the tabling Member and the principal petitioner in writing.

1.20 The Committee's review of each petition is set out in its next *Overview of Petitions* report to the Legislative Council.

1.21 If the Committee resolves to conduct a formal inquiry, it may advertise for public submissions, conduct hearings and gather further written and oral evidence. The Committee then prepares and tables a separate report in the Legislative Council.

1.22 The petition process is also outlined in the diagram attached at Appendix 1.



## CHAPTER 2

### PETITIONS CONSIDERED BY THE COMMITTEE

---

#### REPORTING PERIOD DATA

- 2.1 Thirty four petitions were referred to the Committee during the reporting period.
- 2.2 The above number does not include repeat petitions. A repeat petition is a petition that is identical in its terms to a petition previously tabled in the Legislative Council (that is before the Committee or has not lapsed due to prorogation). Repeat petitions contain further signatories to the petition and are not recorded as a new petition. Legislative Council procedures do not limit petitioners' ability to present repeat petitions.
- 2.3 Nineteen petitions carried over from the previous reporting period lapsed when the Thirty-Seventh Parliament was prorogued on 7 August 2008. Nine of these 19 petitions were re-tabled during the Thirty-Eighth Parliament and referred to the Committee during the reporting period.<sup>2</sup>
- 2.4 The Committee finalised 21 petitions during the reporting period. As at 30 June 2009, 13 petitions were the subject of ongoing Committee inquiries.

#### PETITIONS FINALISED

- 2.5 The Committee finalised the following 21 petitions:<sup>3</sup>
- Petition No 1 Reintroduction of Transperth bus route 155. Petition tabled by Hon Simon O'Brien MLC on 11 November 2008 (Tabled Paper No 225). This petition was finalised on 11 March 2009.
- Petition No 2 Export of lead through Fremantle Port.<sup>4</sup> Petition tabled by Hon Kate Doust MLC on 11 November 2008 (Tabled Paper No 226). This petition was finalised on 24 June 2009.
- Petition No 3 Increased funding for social and community services organisations.<sup>5</sup> Petition tabled by Hon Kate Doust MLC on 11 November 2008 (Tabled Paper No 227). This petition was finalised on 14 January 2009.

---

<sup>2</sup> These nine petitions are referred to as 're-tabled petitions' in this report.

<sup>3</sup> These 21 petitions are reviewed in Chapter 3 of this report.

<sup>4</sup> Petition No 2 was a re-tabled petition.

- 
- Petition No 4 Speed zones around Western Australian schools. Petition tabled by Hon Ed Dermer MLC on 11 November 2008 (Tabled Paper No 228). This petition was finalised on 14 January 2009.
- Petition No 5 ING development on Victoria Quay, Fremantle. Petition tabled by Hon Paul Llewellyn MLC on 11 November 2008 (Tabled Paper No 229). This petition was finalised on 5 May 2009.
- Petition No 6 Legal Aid Commission funding. Petition tabled by Hon Barbara Scott MLC on 11 November 2008 (Tabled Paper No 236). This petition was finalised on 20 May 2009.
- Petition No 7 Western Australian Biomass Pty Ltd proposal to construct a biomass generator at the Diamond Mill site. Petition tabled by Hon Barry House MLC on 12 November 2008 (Tabled Paper No 281). This petition was finalised on 13 February 2009.
- Petition No 8 *Scaevola spinescens* (maroon bush): granting of commercial producer's and commercial purposes licences. Petition tabled by Hon Brian Ellis MLC on 12 November 2008 (Tabled Paper No 282). This petition was finalised on 1 April 2009.
- Petition No 9 Protection of mature trees on public land. Petition tabled by Hon Giz Watson MLC on 12 November 2008 (Tabled Paper No 283). This petition was finalised on 14 January 2009.
- Petition No 10 Shire of Augusta-Margaret River District Planning Scheme.<sup>6</sup> Petition tabled by Hon Giz Watson MLC on 12 November 2008 (Tabled Paper No 284). This petition was finalised on 4 March 2009.
- Petition No 11 Genetically modified (GM) free food State. Petition tabled by Hon Giz Watson MLC on 13 November 2008 (Tabled Paper No 305). This petition was finalised on 11 March 2009.
- Petition No 12 Rezoning of A Class Reserve in Claremont.<sup>7</sup> Petition tabled by Hon Peter Collier MLC on 25 November 2008 (Tabled Paper No 363). This petition was finalised on 13 February 2009.
- Petition No 14 Yalgorup National Park.<sup>8</sup> Petition tabled by Hon Sally Talbot MLC on 25 November 2008 (Tabled Paper No 365). This petition was finalised on 13 May 2009.

---

<sup>5</sup> Petition No 3 was a re-tabled petition.

<sup>6</sup> Petition No 10 was a re-tabled petition.

<sup>7</sup> Petition No 12 was a re-tabled petition.

- Petition No 15 Oppose Royal Perth Hospital closure. Petition tabled by Hon Simon O'Brien MLC on 26 November 2008 (Tabled Paper No 371). This petition was finalised on 3 December 2008.
- Petition No 16 Protect Kimberley Coast: Liquefied natural gas processing hub. Petition tabled by Hon Giz Watson MLC on 26 November 2008 (Tabled Paper No 372). This petition was finalised on 13 May 2009.
- Petition No 17 Regional Resource Recovery Centre, Canning Vale.<sup>9</sup> Petition tabled by Hon Simon O'Brien MLC on 3 December 2008 (Tabled Paper No 409). This petition was finalised on 13 May 2009. (This petition was the subject of a formal inquiry. See paragraphs 2.12 to 2.13 and 3.186 to 3.189).
- Petition No 18 Western Australian Electoral Commission. Petition tabled by Hon Ken Travers MLC on 9 December 2008 (Tabled Paper No 424). This petition was finalised on 11 March 2009.
- Petition No 19 Showrooms being constructed on Lots 1, 2, 3, 4, 13 and 15 Ewen Street, Woodlands.<sup>10</sup> Petition tabled by Hon George Cash MLC on 11 March 2009 (Tabled Paper No 530). This petition was finalised on 12 August 2009.
- Petition No 20 Daylight Saving Bill 2006. Petition tabled by Hon Barry House MLC on 11 March 2009 (Tabled Paper No 531). This petition was finalised on 18 March 2009.
- Petition No 22 Western Australia as a genetically modified (GM) free zone. Petition tabled by Hon Matt Benson-Lidholm MLC on 18 March 2009 (Tabled Paper No 582). This petition was finalised on 17 June 2009.
- Petition No 27 Criminal Code Amendment Bill 2008. Petition tabled by Hon Barry House MLC on 6 May 2009 (Tabled Paper No 716). This petition was finalised on 17 June 2009.

**PETITIONS THAT LAPSED UPON PROROGATION OF THE THIRTY-SEVENTH PARLIAMENT  
ON 7 AUGUST 2008**

- 2.6 As previously noted, 19 petitions the subject of ongoing inquiries by the Committee lapsed when the Thirty-Seventh Parliament was prorogued on 7 August 2008 and nine

---

<sup>8</sup> Petition No 14 was a re-tabled petition.

<sup>9</sup> Petition No 17 was a re-tabled petition.

<sup>10</sup> Petition No 19 was a re-tabled petition.

of these petitions were re-tabled after the commencement of the Thirty-Eighth Parliament.

2.7 In August 2008, the Committee advised each principal petitioner that their petition had lapsed due to the prorogation of Parliament and that if they wanted the Committee to continue to inquire into the petition, the petition would need to be re-tabled in Legislative Council (with only one signature on the petition being required).<sup>11</sup>

2.8 The following ten petitions that lapsed due to prorogation were *not* re-tabled during the Thirty-Eighth Parliament:<sup>12</sup>

Petition No 47 Proposed high voltage transmission lines - Muja to Wellstead. Petition tabled by Hon Giz Watson MLC on 20 March 2007 (Tabled Paper No 2382).

Petition No 64 Western Power transmission lines, Narrikup. Petition tabled by Hon Robyn McSweeney MLC on 28 August 2007 (Tabled Paper No 3024).

Petition No 76 West Coast Demersal Scalefish Management Plan, metropolitan fishing zone. Petition tabled by Hon Bruce Donaldson MLC on 20 November 2007 (Tabled Paper No 3510).

Petition No 80 Western Power Eastern Terminal Substation. Petition tabled by Hon Helen Morton MLC on 4 December 2007 (Tabled Paper No 3574).

Petition No 84 Dalyellup Beach Estate: Remnant Bushland. Petition tabled by Hon Sally Talbot MLC on 26 February 2008 (Tabled Paper No 3694).

Petition No 92 Subiaco China Green site development. Petition tabled by Hon Simon O'Brien MLC on 10 April 2008 (Tabled Paper No 3902).

Petition No 93 Design scenarios for the Fremantle Harbours Policy. Petition tabled by Hon Paul Llewellyn MLC on 13 May 2008 (Tabled Paper No 3975).

Petition No 96 Busselton Hospital site recommendation. Petition tabled by Hon Robyn McSweeney MLC on 19 June 2008 (Tabled Paper No 4106).

---

<sup>11</sup> For example, see letter from the Standing Committee on Environment and Public Affairs to Mr Richard Grenfell, 21 August 2008.

<sup>12</sup> In paragraph 2.8, the petition number in the left hand column refers to the petition number given to the petition tabled during the Thirty-Seventh Parliament.

- Petition No 97 Proposed upgrade of Millinup Road, Shire of Plantagenet. Petition tabled by Hon Matthew Benson-Lidholm MLC on 26 June 2008 (Tabled Paper No 4167).
- Petition No 98 Proposed dam on the Spots Brook tributary of the Ferguson River. Petition tabled by Hon Paul Llewellyn MLC on 26 June 2008 (Tabled Paper No 4168).

#### **LAPSED PETITIONS RE-TABLED DURING THE THIRTY-EIGHTH PARLIAMENT**

2.9 The following nine petitions, lapsed due to prorogation, were re-tabled during the Thirty-Eighth Parliament:<sup>13</sup>

- Petition No 59 Regional Resource Recovery Centre, Canning Vale. Petition tabled by Hon Simon O'Brien MLC on 26 June 2007 (Tabled Paper No 2835). The re-tabled petition is Petition No 17.
- Petition No 63 Rezoning of A Class Reserve in Claremont. Petition tabled by Hon Peter Collier MLC on 28 August 2007 (Tabled Paper No 3023). The re-tabled petition is Petition No 12.
- Petition No 83 Export of lead through Fremantle Port. Petition tabled by Hon Simon O'Brien MLC on 19 February 2008 (Tabled Paper No 3640). The re-tabled petition is Petition No 2.
- Petition No 85 Yalgorup National Park. Petition tabled by Hon Giz Watson MLC on 17 June 2008 (Tabled Paper No 4073). The re-tabled petition is Petition No 14.
- Petition No 87 Showrooms being constructed on Lots 1, 2, 3, 4, 13 and 15 Ewen Street, Woodlands. Petition tabled by Hon George Cash MLC on 19 March 2008 (Tabled Paper No 3791). The re-tabled petition is Petition No 19.
- Petition No 89 Shire of Augusta-Margaret River District Planning Scheme. Petition tabled by Hon Giz Watson MLC on 1 April 2008 (Tabled Paper No 3832). The re-tabled petition is Petition No 10.
- Petition No 91 Shortage of abattoir capacity in Western Australia. Petition tabled by Hon Brian Ellis MLC on 9 April 2008 (Tabled Paper No 3879). The re-tabled petition is Petition No 13.

---

<sup>13</sup> In paragraph 2.9, the petition number in the left hand column refers to the petition number given to the petition tabled during the Thirty-Seventh Parliament.

- Petition No 95 Emu Point, Albany redevelopment. Petition tabled by Hon Giz Watson MLC on 17 June 2008 (Tabled Paper No 4071). The re-tabled petition is Petition No 28.
- Petition No 99 Increased funding for social and community services organisations. Petition tabled by Hon Sue Ellery MLC on 26 June 2008 (Tabled Paper No 4165). The re-tabled petition is Petition No 3.

**ONGOING PETITIONS**

2.10 As at 30 June 2009, the following 13 petitions were the subject of ongoing Committee inquiries:

- Petition No 13 Shortage of abattoir capacity in Western Australia. Petition tabled by Hon Brian Ellis MLC on 25 November 2008 (Tabled Paper No 364).<sup>14</sup>
- Petition No 21 Roe Highway Stage 8. Petition tabled by Hon Sally Talbot MLC on 17 March 2009 (Tabled Paper No 539).
- Petition No 23 Dalyellup Beach Estate. Petition tabled by Hon Adele Farina MLC on 18 March 2009 (Tabled Paper No583).
- Petition No 24 Passenger Rail Service to Geraldton. Petition tabled by Hon Brian Ellis MLC (Tabled Paper No584).
- Petition No 25 Esperance Residential College: Upgrade and Expansion. Petition tabled by Hon Wendy Duncan MLC on 31 March 2009 (Tabled Paper No 629).
- Petition No 26 Turner Caravan Park: Redevelopment by the Shire of Augusta-Margaret River. Petition tabled by Hon Barry House MLC on 6 May 2009 (Tabled Paper No 716).
- Petition No 28 Emu Point, Albany Redevelopment. Petition tabled by Hon Paul Llewellyn MLC on 13 May 2009 (Tabled Paper No 762).<sup>15</sup>
- Petition No 29 Blair Street and Koombana Drive Lots 707, 681 and 723 Retain Parks and Recreation Reserve. Petition tabled by Hon Paul Llewellyn MLC on 13 May 2009 (Tabled Paper No 763).

---

<sup>14</sup> Petition No 13 is a re- tabled petition.

<sup>15</sup> Petition No 28 is a re- tabled petition.

- Petition No 30 Collie Shire Council's Town Planning Scheme No 5 (TPS5) and Associated Planning Strategy. Petition tabled by Hon Paul Llewellyn MLC on 19 May 2009 (Tabled Paper No 775).
- Petition No 31 Scarborough Beach Road - Lack of adequate pedestrian crossings. Petition tabled by Hon Liz Behjat MLC on 2 June 2009 (Tabled Paper No 824).
- Petition No 32 Legislation of a Voluntary Euthanasia Bill for the rights of the terminally ill. Petition tabled by Hon Robin Chapple MLC on 2 June 2009 (Tabled Paper No 825).
- Petition No 33 Deep sewage in Cockburn area. Petition tabled by Hon Lynn MacLaren MLC on 2 June 2009 (Tabled Paper No 826).
- Petition No 34 Geraldton Foreshore. Petition tabled by Hon Phillip Gardiner MLC on 24 June 2009 (Tabled Paper No 908).

#### **FORMAL INQUIRIES ARISING OUT OF THE COMMITTEE'S CONSIDERATION OF PETITIONS**

- 2.11 The Committee pursued two formal inquiries arising out of petitions before the Committee during the reporting period.
- 2.12 On 26 November 2008, the Committee resolved to commence a formal inquiry into Municipal Waste Management in Western Australia. This arose out of consideration of re-tabled Petition No 17.
- 2.13 The Committee reported on the inquiry into Municipal Waste Management in Western Australia in *Report 16: Standing Committee on Environment and Public Affairs Municipal Waste Management in Western Australia*, dated 19 May 2009. (See paragraphs 3.186 to 3.189 of this report).
- 2.14 On 16 September 2009, the Committee resolved to commence an inquiry into Deep Sewerage in the Cockburn Area, arising out of the Committee's consideration of Petition No 33.
- 2.15 The Committee intends to report on its inquiry into Deep Sewerage in the Cockburn Area in the near future.



## CHAPTER 3

### REVIEW OF PETITIONS FINALISED

---

- 3.1 This Chapter summarises the Committee's inquiries, and evidence received, in relation to each of the 21 petitions the Committee finalised during the reporting period.
- 3.2 The summary of each petition outlines issues raised during the Committee's consideration of the petition, and may not refer to all correspondence and evidence received during the course of the Committee's inquiries into the petition.
- 3.3 The number of signatures to petitions identified in this report relate to the original petition as first tabled in the Legislative Council during the Thirty-Eighth Parliament. On occasion, repeat petitions with further signatures were tabled.<sup>16</sup>
- 3.4 On 14 November 2008, the Committee resolved to adopt all evidence obtained during the Thirty-Seventh Parliament, in relation to petitions that lapsed when Parliament was prorogued on 7 August 2008, to be used as evidence for any identical petition re-tabled in the Thirty-Eighth Parliament. Therefore, in summarising evidence received in relation to the nine re-tabled petitions, this Chapter may refer to evidence obtained during the Thirty-Seventh Parliament.
- 3.5 A copy of documents referred to in this Chapter, granted a public status by the Committee, may be obtained from Committee staff. Transcripts of public hearings are also available from the Committee's website at [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au) (choose Committees, Current Committee / Environment and Public Affairs Committee / Miscellaneous Proceedings).

#### **PETITION NO 1 - REINTRODUCTION OF TRANSPERTH BUS ROUTE 155**

- 3.6 On 11 November 2008, Hon Barbara Scott MLC tabled a petition in the Legislative Council containing 92 signatures on behalf of Hon Simon O'Brien MLC.<sup>17</sup> The petition made the following request:

*We the undersigned residents of Western Australia support the provision of public transport according to the needs of the local community. Many residents of the Lynwood-Ferndale-Langford area are elderly, and depend on public transport for local travel. A major destination for these residents is the Herald Avenue Senior Citizens'*

---

<sup>16</sup> See paragraph 2.2 of this report.

<sup>17</sup> Hon Barbara Scott MLC, Legislative Council, *Parliamentary Debates (Hansard)*, 11 November 2008, p34.

*Centre in Willetton. With buses no longer traveling along the former 155 route, and the alteration of the former 877 route, many of these residents are no longer able to access a very important service for them. Your petitioners therefore respectfully request the Legislative Council to support the reintroduction of the former 155 route for Transperth buses to enable the residents of the Lynwood-Ferndale-Langford area to travel to the Herald Avenue Senior Citizens' Centre in Willetton.*<sup>18</sup>

- 3.7 The Committee sought comment from Hon Simon O'Brien MLC, Minister for Transport, in relation to the petitioners' concerns. The Minister informed the Committee that alternative routes were available for commuters and were designed to provide similar coverage as the cancelled Route 155. The Minister advised that the frequency of services within the region would continue to be monitored and further action would be implemented if necessary.<sup>19</sup>
- 3.8 Based on the Minister for Transport's advice that the impact of the changes would be monitored, the Committee finalised the petition on 11 March 2009.
- 3.9 Subsequent to finalising the petition, the Committee received further correspondence from the Minister for Transport to advise that he had re-examined the issues raised in the petition and, as a consequence, a decision was made that 'a new route 205 will operate on a trial basis for a period of 12 months' that would travel 'along the route of the previous route 155'.<sup>20</sup>
- 3.10 According to the Minister for Transport, the decision to trial the new route was 'in response to ongoing requests by community members'.<sup>21</sup>

#### **PETITION NO 2 - EXPORT OF LEAD THROUGH FREMANTLE PORT**

- 3.11 On 11 November 2008, Hon Kate Doust MLC tabled a petition in the Legislative Council containing one signature.<sup>22</sup> This was a re-tabled petition. The previous petition (Petition No 83, tabled on 19 February 2008), which contained 4,994 signatures, lapsed when Parliament was prorogued on 7 August 2008.
- 3.12 The terms of the petition were:

*We the undersigned residents of Western Australia are opposed to the export of lead through the Port of Fremantle.*

<sup>18</sup> Legislative Council, Tabled Paper No 225, 11 November 2008.

<sup>19</sup> Letter from Hon Simon O'Brien MLC, Minister for Transport, 25 February 2009, pp1-2.

<sup>20</sup> Letter from Hon Simon O'Brien MLC, Minister for Transport, 16 April 2009, p1.

<sup>21</sup> Ibid.

<sup>22</sup> Hon Kate Doust MLC, Legislative Council, *Parliamentary Debates (Hansard)*, 11 November 2008, p34.

*Your petitioners therefore respectfully request the Legislative Council oppose the proposal from Magellan Metals Pty Ltd to export containerised lead concentrate through the port of Fremantle, as outlined in the Environmental Protection Authority's [EPA] Bulletin Report No 1276, as it would put the health of the Fremantle community and environment at risk and is a breach of the United Nations Basel Convention relating to the movement of hazardous cargo.*<sup>23</sup>

- 3.13 The submission from the principal petitioner, Mayor Peter Tagliaferri, asserted that the City of Fremantle did not support the proposal by Magellan Metals Pty Ltd to transport lead carbonate concentrate through the Port of Fremantle and the City of Fremantle.<sup>24</sup>
- 3.14 The submission contended that Magellan Metals' 'Proposal and Project Conditions Review' failed to demonstrate that the proposal would not pose a potential risk to the health of the Fremantle community and the local environment. The submission stated that the proposal did not adequately address a number of key issues including:

*Options for processing lead carbonate at source prior to transportation. More specifically, no reasoned justification was given for dismissing the option of building a lead refinery at the mine site despite references to this option in the original proposal given approval under Ministerial Statement No 559;*

*Options for improving infrastructure at other ports to enable transport of product in containerized form through less densely populated areas;*

*Demonstration of fully developed, comprehensive independent monitoring arrangements; and*

*Demonstration of a fully developed emergency response plan with clear detail of the roles, responsibilities and capabilities of all parties involved in the transport of the product, including transport contractors.*<sup>25</sup>

- 3.15 The submission outlined the reasons for opposing the export of lead through the Port of Fremantle:

<sup>23</sup> Legislative Council, Tabled Paper No 226, 11 November 2008.

<sup>24</sup> Letter from Mayor Peter Tagliaferri, City of Fremantle, 19 March 2008, p1.

<sup>25</sup> Ibid.

*It is the City of Fremantle's position that there has been no technical or scientific justification to support the EPA [Environmental Protection Authority] position that the environment and public health will not be adversely affected by the containerised transportation of lead carbonate concentrate in bulk bags from Wiluna to Fremantle for export from the Port of Fremantle. ...*

*Magellan Metals Pty Ltd's proposed methodology for handling and transporting lead carbonate has not been trialled or tested to prove conclusively that it will pose no negative impact to the environment and human health.<sup>26</sup>*

3.16 The submission further stated:

*The Section 46 Report and Recommendations by the EPA to the Environment Minister did not adequately consider the outcomes of the Parliamentary Inquiry into the Cause and Extent of Lead Pollution in the Esperance Area ...<sup>27</sup>*

3.17 The submission questioned why the option of processing the lead carbonate powder into solid form was not pursued and suggested that '[t]he EPA appears to have put economic considerations ahead of environmental and public health considerations'.<sup>28</sup> According to the submission, Magellan Metals Pty Ltd's claim that processing the powder before transportation was uneconomical and impractical 'does not appear to have been thoroughly investigated in the EPA's report.'<sup>29</sup> Rather, the EPA should have:

*investigated this option further as it is a critical consideration in terms of reducing risks from lead carbonate transportation. Less environmental and public health risks (and also greater profit margin) are typically associated with the export of refined products.<sup>30</sup>*

3.18 On 18 March 2008, an urgency motion on exporting lead through Fremantle was debated in the Legislative Council.

3.19 The then Minister for Health, Hon Jim McGinty MLA, responded to the Committee's request for comment with the following advice:

---

<sup>26</sup> Ibid, p2.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

[The Department of Health (DOH)] *has provided advice to the Environmental Protection Authority (EPA) that would allow the proposed shipment of lead via Fremantle in a way that public health would be protected.*<sup>31</sup>

3.20 According to the then Minister for Health, DOH informed the EPA that:

*comprehensive independent monitoring arrangements need to be in place, as well as a fully developed emergency response plan for any export of lead through the Port of Fremantle.*

*In providing advice to the EPA the DOH did take into account the cause and extent of lead pollution seen in Esperance.*<sup>32</sup>

3.21 The then Minister for Health pointed out that the method of transportation in Fremantle would differ significantly to what occurred in Esperance:

*The method of transport and the prevailing environmental conditions differ markedly between the Port of Esperance and the Port of Fremantle. In Esperance, lead was transported as the ore and loaded onto ships using an open conveyor system. The prevailing weather in Esperance for part of the year has winds blowing from the port into residential areas of Esperance. The potential for exposure of the general community to lead dust was therefore greater. Currently, the Port of Esperance does not have the infrastructure to handle large volumes of containerised ore. For the Port of Fremantle, the lead ore will be transported and shipped via a double containerised system which should result in no exposure of the general community to lead dust.*<sup>33</sup>

3.22 The then Minister for Health concluded:

*In order to gain more community assurance it could be worthwhile considering requesting Magellan Metals to undertake a blood lead monitoring program for Fremantle. The program could include a baseline (before export) survey followed by two post export surveys at five year intervals.*<sup>34</sup>

3.23 Correspondence from Hon David Templeman MLA, the then Minister for the Environment, advised the Committee that he had requested the EPA under section 46

---

<sup>31</sup> Letter from Hon Jim McGinty MLA, Minister for Health, 28 April 2008, p1.

<sup>32</sup> Ibid, pp1–2.

<sup>33</sup> Ibid, p2.

<sup>34</sup> Ibid.

of the *Environmental Protection Act 1986*, to inquire into a proposal by Magellan Metals Pty Ltd ‘to change environmental conditions of its environmental approval to enable it to export lead through the Port of Fremantle’.<sup>35</sup> The EPA released its report and recommendations on 14 December 2007 and ‘concluded that the proposal could be managed to meet environmental protection objectives’.<sup>36</sup>

3.24 The then Minister for the Environment announced in-principle approval for the proposal on 17 January 2008, subject to certain conditions. The Minister advised the Committee that:

*These conditions are unprecedented for any proposal and are beyond world best practice.*

*They are:*

- *lodgement of a \$5 million bond;*
- *the appointment of an independent auditor approved by the Minister and funded by Magellan to inspect each bag and container at the mine and port;*
- *the completion of a comprehensive health, hygiene and environmental management plan to be prepared to the requirements of the Minister, on advice from the Department of Health, the Department of Consumer and Employment Protection, the Department of Industry and Resources and the Department of Environment and Conservation; and*
- *baseline testing to be conducted along the route prior to the first movement of lead and then regularly after that.*

*In addition, the following conditions must be adhered to:*

- *the lead must be sealed inside double-laminated bulk bags at the mine site, vacuumed to remove any dust and then locked inside shipping containers;*
- *every bag and container to be inspected and verified at the mine and the port;*

---

<sup>35</sup> Letter from Hon David Templeman MLA, Minister for the Environment, 7 May 2008, p1.

<sup>36</sup> Ibid.

- *the installation of dust monitors in randomly selected containers by the independent auditor at the mine and checked at the port for the presence of dust;*
- *monitoring reports and independent auditor reports to be published and reported to the Fremantle Port Authority's Inner Harbour Community Liaison Group;*
- *Magellan to be subject to a full performance review after the first 18 months, to determine whether the shipments can continue; and*
- *Magellan's chief executive must personally sign off on environmental compliance under the State Government's tough accountability measures.<sup>37</sup>*

3.25 The Minister for the Environment or the Director General of the Department of Environment and Conservation can use the powers available under the *Environmental Protection Act 1986* to require the operation to cease at short notice if necessary.<sup>38</sup>

3.26 The then Minister for the Environment further advised that the Port of Fremantle was chosen over other ports because:

*At the time of the assessment of the proposal, Fremantle was the only port within Western Australia with the capacity to handle shipping containers with appropriate shipping routes.<sup>39</sup>*

3.27 The then Minister also informed the Committee that refining the lead concentrate before export was not feasible because:

*The proponent has asserted that a lead refinery is not viable and, on this basis, proposed transport and export of lead carbonate. Magellan has not provided specific information to support that assertion.*

*The Environmental Protection Authority examined the environmental acceptability of the transport and export of lead carbonate and I have decided that it would be acceptable subject to significant conditions.*

*I considered the proposal that was referred and made my decision based on the information that was provided.<sup>40</sup>*

---

<sup>37</sup> Ibid, pp2-3.

<sup>38</sup> Ibid, p3.

<sup>39</sup> Ibid.

<sup>40</sup> Letter from Hon David Templeman MLA, Minister for the Environment, 20 June 2008, p1.

- 3.28 The Committee considered the following information regarding the composition of the bags that will be used to transport the lead concentrate:

*The bags' double lined walls, with a plastic moisture-proof internal lining and a tough woven polyester external lining, prevent the escape of concentrate and moisture. The concentrate in the bags will therefore remain damp and have the consistency and non-dusting characteristics of damp sand. Once filled and sealed, the outside of each bag will be vacuumed to remove any dust on the exterior.*<sup>41</sup>

- 3.29 In late November 2008, the Committee sought comment on the terms of the petition from Hon Donna Faragher MLC, Minister for Environment. The Minister's response advised:

*In January 2008 the then Minister for the Environment accepted the recommendations of the Environmental Protection Authority that shipments could proceed under a number of strict conditions, but considered that extra conditions were required. The decision-making process on this was not completed prior to the election.*

*I am required, under the Environmental Protection Act 1986, to complete the process started by the previous Government.*<sup>42</sup>

- 3.30 The Minister was at that time considering advice from the *Environmental Protection Act 1986* Appeals Convenor, following which she would make her decision on the proposal.
- 3.31 On 2 February 2009, the Minister for Environment announced that the Magellan Metals Pty Ltd proposal was approved subject to a set of strict conditions the company must comply with.
- 3.32 Given the Government's decision to approve the proposal, the Committee considered that the issues raised in the petition had been taken as far as possible at that time and finalised the petition on 24 June 2009.

### **PETITION NO 3 - INCREASED FUNDING FOR SOCIAL AND COMMUNITY SERVICES ORGANISATIONS**

- 3.33 On 11 November 2008, Hon Kate Doust MLC tabled a petition in the Legislative Council containing 60 signatures.<sup>43</sup> This is a resubmitted petition. The previous

---

<sup>41</sup> [www.magellanmine.com/pdf/factsheet.pdf](http://www.magellanmine.com/pdf/factsheet.pdf) (viewed on 22 May 2008) or [www.magellanmine.com/operations/sealed-shipments.aspx](http://www.magellanmine.com/operations/sealed-shipments.aspx) (viewed on 24 November 2008).

<sup>42</sup> Letter from Hon Donna Faragher MLC, Minister for Environment, 8 January 2009.

<sup>43</sup> Hon Kate Doust MLC, Legislative Council, *Parliamentary Debates (Hansard)*, 11 November 2008, p34.

petition (Petition No 99, tabled on 26 June 2008) was before the Committee when the Parliament was prorogued on 7 August 2008.

3.34 The petition stated:

*We the undersigned residents of Western Australia support increased funding to the Social and Community Service organisations so they can pay salaries commensurate to the State Public Sector workers, enabling organisations to attract and retain qualified, competent staffing in order to continue their work for the people of Western Australia who require their services.*

*Your petitioners therefore respectfully request the Legislative Council support submissions for increased funding to the Treasurer.<sup>44</sup>*

3.35 The Committee received a lengthy submission from the principal petitioner, Ms Pat Branson, Organising Team Leader, Australian Services Union (ASU), which included a number of attachments.<sup>45</sup> The submission expressed concerns about the ‘lowest paid employees’<sup>46</sup> and sought an increase in funding for ASU members and potential members to give them ‘a decent standard of living’.<sup>47</sup> The submission states:

*The lowest paid employees, whether it is in organizations providing support for people with disabilities, mental illness, drug and alcohol abuse, seeking refuge from domestic violence, or other reasons causing them to seek accommodation or support are the very people who work day to day with the most vulnerable members of our society. These employees are always the lowest paid, and are more likely to be a part time worker.*

*The salaries for coordinators of these services are little more. In fact most people working in the Social and Community Services Sector are paid at a lower rater than their counterparts in Government and private industry. ...*

*ASUWA research shows that 20% of workers in the industry were seeking to leave within three months, because they could no longer*

---

<sup>44</sup> Legislative Council, Tabled Paper No 227, 11 November 2008.

<sup>45</sup> Attachment to letter from Ms Pat Branson, Organising Team Leader, Australian Services Union, 29 July 2008.

<sup>46</sup> Ibid, p4.

<sup>47</sup> Ibid, p5.

---

*afford to continue to work and live, given the cost of living in Western Australia.*<sup>48</sup>

3.36 The submission took issue with the fact that the ASU had no input into the Industry Round Table which, they understand, comprised of parties within the Social and Community Services Sector.

3.37 The submission added that ASU members:

*deserve to have their salaries increased so that the work they do is properly recognised and remunerated ... The employees in the sector are professional workers, who provide professional services. There are people with university degrees, who could earn up to \$30,000.00 more per annum if they chose to work in State Government agencies.*<sup>49</sup>

3.38 The submission outlined the ASU's six point claim for an agreement with the State Government. The first point sought:

*An agreement with Government to increase funding to non Government services for salary increases, [exclusive of the CPI increases paid, and protected], so that there are salaries paid to workers in the Social and Community Services Sector that is commensurate with similar work in the Public Sector. That is an increase of \$25,000.00 to \$30,000, depending on the work.*<sup>50</sup>

3.39 The Committee received a response from Hon Robyn McSweeney MLC, Minister for Community Services.<sup>51</sup> The response began by acknowledging the important work of the non-government sector in providing essential services to the community and the increased cost pressures those organisations face which impact on their capacity to attract and retain staff.<sup>52</sup>

3.40 The response referred to some of the earlier funded services initiatives supported by the Departments for Child Protection and Communities. These included the whole of Government Indexation Policy and the joint Commonwealth/State Supported Accommodation Assistance Programme, both resulting in an increase in State Government funding. The response from the Minister for Community Services added:

---

<sup>48</sup> Ibid, p4.

<sup>49</sup> Ibid, p7.

<sup>50</sup> Ibid, p10.

<sup>51</sup> Letter from Hon Robyn McSweeney MLC, Minister for Community Services, 31 December 2008.

<sup>52</sup> Ibid, p1.

*In July 2008, financial counselling services received a significant funding increase of \$15.9 million over four years to deliver their services and a new utility hardship grants scheme. Funding levels were calculated to allow payment to staff commensurate with similar positions in the public sector. As a result, financial counselling services funding increased from an average funding of \$69 000. The increases for full time equivalent financial counselling services are:*

- *metropolitan area increased to \$95 000 per annum*
- *regional areas increased to \$100 000 per annum remote areas increased to \$110 000 per annum*

*In 2008-09, as part of the package to facilitate mandatory reporting of child sexual abuse, an additional \$5.64 million over four years is being provided for the Department for Child Protection's non government Child Sexual Abuse Treatment Services (CSATS). This additional funding will assist existing CSATS to build viability, meet the costs of clinical support and expand service provision. The proposed three new regional CSATS will also ensure a greater coverage of services across the state. As a result the existing CSATS total budget will be increased approximately 90 per cent. Funding levels were calculated to allow payment by staff commensurate with similar positions in the public sector. The increases for full time equivalent CSATS services are:*

- *metropolitan area increased to \$125 000 per annum*
- *regional areas increased to \$130 000 per annum remote areas increased to \$140 000 per annum.*

*In 2008-09, an allocation of \$3.2 million over four years was also allocated to support SAAP services to meet increasing costs. This was designed to improve the viability of youth SAAP accommodation services due to the support needs associated with providing accommodation for young people aged 15–25 years.*

*In 2007-08, the Department for Communities provided \$40 000 to WACOSS to engage a consultant to undertake the Workforce Planning project. The project will identify strategies to meet non government sector needs to recruit and retain staff.<sup>53</sup>*

3.41 The Minister for Community Services concluded by stating:

---

<sup>53</sup> Ibid, p2.

*While I appreciate the sentiments expressed in the petition, the total cost of such an initiative has been estimated by the Western Australian Council of Social Service Inc (WACOSS) to require an additional 30 per cent on top of existing funding levels. This would cost the Department for Child Protection and Department for Communities approximately \$22.5 million and \$5 million per year, with a total cost of \$137.4 million for the state for all Community Service Providers.*

*Given the current economic climate and the requirement on all government agencies to reduce government spending by 3 per cent the Department for Child Protection and Department for Communities are unable to meet this request.<sup>54</sup>*

- 3.42 The Committee noted that the Minister for Community Services appeared to have formed a clear position on this matter.
- 3.43 On 14 January 2009, the Committee considered the evidence received in relation to this petition and decided to finalise this petition.

#### **PETITION NO 4 - SPEED ZONES AROUND WESTERN AUSTRALIAN SCHOOLS**

- 3.44 On 11 November 2008, Hon Ed Dermer MLC tabled a petition in the Legislative Council containing 784 signatures<sup>55</sup> in the following terms:

*We, the undersigned residents of Western Australia, support the changing of the speed zones around Western Australian schools from the current two time slots of: 7.30am to 9am; and 2.30pm to 4pm for every school day; to one time slot of 7.30am to 4pm for every school day.*

*Your petitioners therefore respectfully request the Legislative Council to support the changing of the speed zones around Western Australian schools to 40 km/hour from 7.30am to 4pm for every school day.<sup>56</sup>*

- 3.45 The Committee received a submission from the principal petitioner, Mr Scott Amy, which began by stating that the safety of primary and secondary school students was the reason for the petition. The submission continued:

*Many schools' timetables and activities programs currently fall outside the designated reduced speed zone times. The Distinctive*

---

<sup>54</sup> Ibid.

<sup>55</sup> Hon Ed Dermer MLC, Legislative Council, *Parliamentary Debates (Hansard)*, 11 November 2008, p35.

<sup>56</sup> Legislative Council, Tabled Paper No 228, 11 November 2008.

*Schools Policy and its desired outcomes are in direct contradiction to the current edicts and policy of the speed zone times. The Government needs to be clear about what is important to them, specified speed zone times (which are not enforced), or the safety of students involving themselves in education and socialization activities the government is encouraging to be used.<sup>57</sup>*

- 3.46 The submission provided a list of off-campus activities that occur outside of the designated time speed zones. The submission continued by stating:

*In the interests of safety for all WA Schoolchildren, it needs to be recognized that many schools do not sit in quiet suburban back streets where traffic is quiet, slow and at a low level. Some are situated on major roads, which have a speed limit of 70 km/hr outside of the current restricted times. Whilst the majority of motorists exercise care during the current periods of reduced speed limits, outside of these periods they may even be unaware that they are passing a school, and so would not be alert to the danger of groups of children moving around.<sup>58</sup>*

- 3.47 The Committee received a response from Hon Simon O'Brien MLC, Minister for Transport. The response began by stating that Main Roads is responsible for the policy governing the installation and maintenance of school zones.<sup>59</sup>

- 3.48 The response from the Minister for Transport provided a brief background on school zones that were introduced State-wide in 1997. The current designated times were adopted to provide protection for the greatest number of students in the metropolitan area.

- 3.49 The response from the Minister for Transport provided the following in support of the existing time zones:

*The previous Minister for Planning and Infrastructure, Hon Alannah MacTiernan MLA, convened a working party in October 2006 to investigate and provide recommendations on a range of issues in respect to road safety around schools and Children's Crossings across the State. The working party comprised representatives from Main Roads, the Department for Planning and Infrastructure, the Department for Education and Training, the West Australian Police, the Office of Road Safety, RAC and Local Government. The then*

<sup>57</sup> Letter from Mr Scott Amy, Chairman of Currambine Primary School Council, and Ms Karen Izard, President of Currambine Primary School P&C Association, 23 December 2008, p1.

<sup>58</sup> Ibid, p2.

<sup>59</sup> Letter from Hon Simon O'Brien MLC, Minister for Transport, 31 December 2008, p1.

*Minister asked the group to consider a number of issues including the hours of operation of 40 km/h School Zones. That group decided that based on information supplied by Department for Education and Training there was no justification to extend current school zone hours.*

*In July 2008 at a meeting of the Children's Crossing and Road Safety Committee, the Department for Education and Training indicated there was no support for changing existing times. The Police, whilst able to manage to enforce school zones within the existing times, did not have the manpower to enforce these over an extended period and Main Roads indicated this increased the potential for reduced compliance over the whole period compromising the effectiveness of the School Zone times at the critical opening and closing times.*

*This successful initiative has been in place for a number of years. It should be noted that school zones only operate on school frontages during peak arrival and departure from schools and there is high parent vehicle activity in the area and a higher concentration of children in the area. There is no evidence in support of any problems for children occurring between these peak times on school days that warrant the proposed extension of times.<sup>60</sup>*

3.50 The Minister for Transport concluded:

*You are assured children's safety is important to me and Main Roads. With this in mind, in an effort to increase the conspicuity (sic) of School Zones to motorists, new developments allow for usage of Electronic School Zone signs at selected locations as well as the progressive installation of high visibility School Zone signs at the entry to school zones.<sup>61</sup>*

3.51 The Committee received a response from Hon Elizabeth Constable MLA, Minister for Education, which concurred with the Minister for Transport's decision.<sup>62</sup>

3.52 On considering the Ministers' responses the Committee noted that the issues raised in the petition had been taken as far as possible at this time. Therefore, on 14 January 2009, the Committee resolved to finalise this petition.

---

<sup>60</sup> Ibid, pp1-2.

<sup>61</sup> Ibid, p2.

<sup>62</sup> Letter from Hon Elizabeth Constable MLA, Minister for Education, 8 January 2009, p1.

**PETITION NO 5 - ING DEVELOPMENT ON VICTORIA QUAY, FREMANTLE**

3.53 On 11 November 2008, Hon Paul Llewellyn MLC tabled a petition in the Legislative Council containing 295 signatures.<sup>63</sup> The petition stated:

*We the undersigned residents of Western Australia are opposed to the ING development on Victoria Quay, Fremantle, going ahead in its present form. The development pays no respect to the Quay's cultural Heritage or its industrial history. We seek restoration, rather than demolition of the CY O'Connor centre, a building provided to improve working conditions for wharf workers during World War II by then Prime Minister and Member for Fremantle John Curtin. We are opposed to the site of the death of lumper Tommy Edwards on Bloody Sunday 1919 being built over, and seek protection and recognition of the site. We support the use of the historic Immigration Centre for a use linked to its important place in the State's post-war Immigration programme (for example an Immigration Museum) rather than its conversion to commercial use.*

*Your petitioners therefore respectfully request the Legislative Council to move to ensure that, should the development go ahead, the above conditions are met by ING, Fremantle Ports and the WA Government.<sup>64</sup>*

3.54 The submission from the principal petitioner, Dr Ian Alexander, explained that a number of community groups had joined together to form the Victoria Quay Taskforce and the group was opposed to the development because it was:

- *Totally out of scale and character with its historic surrounds on the Quay;*
- *Of a scale and nature that denigrates and diminishes the Quay's heritage buildings;*
- *In breach of the Fremantle Waterfront Masterplan in several important respects;*
- *An ill-located commercial threat to the Fremantle CBD.<sup>65</sup>*

3.55 The submission explained the petitioners' position:

---

<sup>63</sup> Hon Paul Llewellyn MLC, Legislative Council, *Parliamentary Debates (Hansard)*, 11 November 2008, p35.

<sup>64</sup> Legislative Council, Tabled Paper No 229, 11 November 2008.

<sup>65</sup> Letter from Dr Ian Alexander, Chair, Victoria Quay Taskforce, 22 December 2008, p1.

---

*We reluctantly accept that, economic conditions allowing, the ING commercial development is to go ahead on Victoria Quay. However, we are still keen to see further changes to the design and layout of the commercial complex so that it will have a less deleterious impact on Victoria Quay's Heritage.*<sup>66</sup>

- 3.56 A response to the petition from Fremantle Ports pointed out that the proposed development had undergone ‘*extensive consultation over several years and the design has been significantly scaled down and adjusted in other ways in response to community concerns over height, bulk and impact on view corridors*’.<sup>67</sup> Further, the Western Australian Planning Commission (WAPC) had approved the development subject to certain conditions:

*The WAPC conditions cover aspects such as heritage, design, landscaping, infrastructure and services and ING Real Estate (the proponent) has addressed most of the specified conditions and is working on the outstanding ones. Significant consultation on the proposed development has also taken place with the Heritage Council of WA over a number of years and the Council has also formally approved the development subject to conditions accepted by the developer.*<sup>68</sup>

- 3.57 The Committee took note of the statement issued by the WAPC regarding the approval of the development:

*Although the WAPC endorsed Fremantle Ports' waterfront masterplan in 2001, strategies and plans for the quay left significant aspects open to interpretation. There is consensus that the proposal as originally submitted exceeded the commonly understood intention of the masterplan. The WAPC recognizes that many people including experts and the City of Fremantle consider that the project may still be inconsistent with the masterplan.*<sup>69</sup>

- 3.58 The WAPC statement reported that the development proposal had undergone ‘*significant reductions in scale and changes in design*’ following which ‘*independent*

---

<sup>66</sup> Ibid, p1.

<sup>67</sup> Letter from Mr Chris Leatt-Hayter, Chief Executive Officer, Fremantle Ports, 4 February 2009, p1.

<sup>68</sup> Ibid.

<sup>69</sup> Government of Western Australia, Western Australian Planning Commission, Media Statement, 21 December 2007, p1: Attached to the letter from Hon John Day MLA, Minister for Planning, 4 March 2009.

*expert advice*’ to the WAPC was that it now met ‘*the objectives and guidelines of the masterplan*’.<sup>70</sup>

- 3.59 The Minister for Planning, Hon John Day MLA, explained to the Committee that the Heritage Council had played a significant role in the design modifications:

*Subsequent to this decision [by the WAPC], ING has over the last twelve months worked collaboratively with the WAPC and the Heritage Council of WA (HC) to reach agreement on the design modifications to satisfy the conditions of approval that the project must meet.*<sup>71</sup>

- 3.60 Further, the Heritage Council’s involvement in the development would continue:

*Pursuant to the provisions of the Heritage of Western Australia Act 1990, the WAPC is obligated to ensure that the terms of any planning approval are consistent with the advice of the HC. ING and the Fremantle Port Authority continue to work closely with the HC to ensure that the proposed development satisfies the specific requirements of the HC for the retention and enhancement of heritage buildings and spaces and to suitably acknowledge historical events.*<sup>72</sup>

- 3.61 The Committee noted that the petition sought to have the following conditions imposed on the development:

- restoration, not demolition, of the CY O’Connor centre;
- protection and recognition of the site of Tommy Edward’s death; and
- the Immigration Centre should be used for an appropriate purpose such as an immigration museum rather than commercial use.<sup>73</sup>

- 3.62 In its consideration of the stated objectives of the petitioners, the Committee was mindful that planning approval for the development had been granted (with conditions) and the Heritage Council had been closely involved in the approval process. The Committee was also satisfied that the conditions on the development that had been requested by the petitioners had either been met or appropriately considered, in particular:

- the Heritage Council had approved the removal of the CY O’Connor centre;<sup>74</sup>

---

<sup>70</sup> Ibid.

<sup>71</sup> Letter from Hon John Day MLA, Minister for Planning, 4 March 2009, p1.

<sup>72</sup> Ibid, p2.

<sup>73</sup> Legislative Council, Tabled Paper No 229, 11 November 2008.

- the WAPC approval contained a condition that ‘*arrangements are to be made with the Heritage Council of WA for appropriate acknowledgement of the memory of Tom Edwards and the Fremantle Wharf riot of 1919*’;<sup>75</sup> and
- ING had participated in heritage consultation undertaken by Fremantle Ports and were aware of ‘*the opportunities for heritage interpretation*’.<sup>76</sup> Displays and information for the public regarding immigration were available at the Maritime Museum on Victoria Quay.<sup>77</sup>

3.63 Consequently, the Committee resolved to finalise the petition on 6 May 2009.

#### **PETITION NO 6 - LEGAL AID COMMISSION FUNDING**

3.64 This petition was tabled on 11 November 2008 by Hon Barbara Scott MLC and contained one signature.<sup>78</sup> The petition reads:

*I, the undersigned resident of Western Australia, support an investigation into why Legal Aid receives minimal funding to defend their clients, whereas the Director of Public Prosecutions has access to considerable funding to prosecute the accused, for example to pay for expert witnesses, whereas the accused are denied the same rights because of minimal Legal Aid funding.*

*Your petitioner therefore respectfully requests the Legislative Council to support an investigation into additional resourcing for Legal Aid in Western Australia.*<sup>79</sup>

3.65 The submission from the principal petitioner, Mr Brian Bremmer, expressed the view that defendants seeking legal aid should have access to the same amount of funds available to the public prosecutor to prosecute an alleged offender. The submission claimed that:

*when a person applies for legal aid for the first time legal aid in their own wisdom refuse aid as they feel that the person who has applied would be unsuccessful even before he or she fronts court for a trial.*

---

<sup>74</sup> Letter from Mr Chris Leatt-Hayter, Chief Executive Officer, Fremantle Ports, 4 February 2009, p2.

<sup>75</sup> Letter from Hon John Day MLA, Minister for Planning, 4 March 2009, p2.

<sup>76</sup> Letter from Mr Chris Leatt-Hayter, Chief Executive Officer, Fremantle Ports, 4 February 2009, p2.

<sup>77</sup> Ibid.

<sup>78</sup> Hon Barbara Scott MLC, Legislative Council, *Parliamentary Debates (Hansard)*, 11 November 2008, p33.

<sup>79</sup> Legislative Council, Table Paper No 236, 11 November 2008.

---

*They have also stated in letter form that legal aid would not be granted to a person who applied for legal aid so he may appeal. The reason given for not granting him legal aid was in their opinion the person would only get a reduction to his sentence so aid was denied (which has happened to this petitioner).<sup>80</sup>*

- 3.66 The principal petitioner raised the issue of equality before the law with the following question:

*Why is it that the police and the Director of Public Prosecutions are intitled (sic) to a share of \$9.5 million dollars over the next 2 years, which gives them the right to access unlimited funds to convict a person and funded lawyers are only granted limited of funds to defend their clients and makes it hard for lawyers to call for experts opinion...<sup>81</sup>*

- 3.67 The tabling Member, Hon Barbara Scott MLC, supported a parliamentary inquiry into the low levels of legal aid funding and asserted in her submission that:

*In many cases the defendants are poorly educated and lack the financial resources to engage expert assistance. In many cases Legal Aid is denied, usually because of limited funding, placing defendants at a severe disadvantage.<sup>82</sup>*

- 3.68 A response from Hon Christian Porter MLA, Attorney General, advised the Committee that funding is administered in accordance with State Financial and Eligibility Guidelines:

*These guidelines are in place to ensure that the funds are provided on a priority basis. To achieve this, Legal Aid must be satisfied that matters subject to a grant of legal aid are an appropriate expenditure of public funds.<sup>83</sup>*

- 3.69 Applicants who were refused legal aid could have their matter considered by an independent Review Committee.<sup>84</sup> The Attorney General also pointed out that:

*Any increase to legal aid funding would be supported by the Legal Aid Commission, however to ensure tax payer funds are being utilized*

---

<sup>80</sup> Letter from Mr Brian Bremmer, 6 December 2008, p1.

<sup>81</sup> Ibid, p2.

<sup>82</sup> Letter from Hon Barbara Scott MLC, 23 December 2008, p1.

<sup>83</sup> Letter from Hon Christian Porter MLA, Attorney General, 25 February 2009, p1.

<sup>84</sup> Ibid.

*appropriately, the requirement to satisfy eligibility criteria would not change.*<sup>85</sup>

- 3.70 The Committee sought comment from the Law Reform Commission of Western Australia, Aboriginal Legal Service, The Law Society of Western Australia and the Western Australian Council of Social Services. The Law Reform Commission of Western Australia advised that it was not in a position to comment as it has a policy of only commenting on matters that are related to references it is currently undertaking.<sup>86</sup> The Committee did not receive a response from the other agencies.
- 3.71 Due to the lack of response from relevant agencies, the Committee finalised the petition on 20 May 2009.

**PETITION NO 7 - WESTERN AUSTRALIAN BIOMASS PTY LTD PROPOSAL TO CONSTRUCT A BIOMASS GENERATOR AT THE DIAMOND MILL SITE**

- 3.72 On 12 November 2008, Hon Barry House MLC tabled a petition in the Legislative Council containing 457 signatures<sup>87</sup> which stated:

*We the undersigned residents of Western Australia respectfully support this petition on the following grounds:*

*In late 2007, Western Australian Biomass Pty Ltd announced its intention to construct a biomass generator burning up to 380,000 tonnes of plantation waste per annum at the Diamond Mill site in the Shire of Manjimup. On the 7<sup>th</sup> July 2008, the Environmental Protection Authority announced its provisional approval for the project.*

*We contend that, should this project be allowed to proceed, it will have a lasting, major and deleterious impact upon one of the most productive regions in the State of Western Australia.*

*The proposed plant would, we believe, permanently damage the clean/green image of the region and adversely affect its reputation and the desirability of its produce in increasingly sensitive international markets. Products thus affected would include wine, fruit vegetables and aquaculture products. Developing and highly*

---

<sup>85</sup> Ibid.

<sup>86</sup> Letter from Ms Heather Kay, Executive Officer, Law Reform Commission of Western Australia, 22 January 2009, p1.

<sup>87</sup> Hon Barry House MLC, Legislative Council, *Parliamentary Debates (Hansard)*, 12 November 2008, p119.

*promising truffle and green tea industries would doubtless be severely and adversely affected in this manner.*

*The development of a polluting biomass generator in a highly productive agricultural region would be in conflict with the Western Australian Government's food policy as stated in food Strategy WA (July 2007).*

*It is probable that producers in the vicinity of the biomass plant would have difficulty in obtaining organic certification for their produce.*

*The development would not conform to the Western Australian Government's planning policy as stated in the WA Planning Commission's "Warren-Blackwood Regional Industrial Sites Study" of July 2007 which specifically recommended against the use of the Diamond Mill site for expanded industrial purposes on account of its proximity to prime agricultural properties.*

*Concerns raised by the WA Department of Water as to possible contamination of the Eastbrook, have not been given adequate consideration.*

*Concerns raised by the WA Department of Health and a highly credentialed researcher in the field of child health as to negative health impacts of the proposed plant on the regional population have not been given adequate consideration.*

*Your petitioners, therefore humbly pray that the Legislative Council will undertake an examination of all the facts relating to the Biomass proposal and its potential, negative and very serious impacts on one of our State's most fertile and productive regions.<sup>88</sup>*

3.73 The submission from the principal petitioners, Dr William Pannell and Mr Daniel Pannell, in support of the petition advised the following:<sup>89</sup>

- They are vigneron and winemakers who have grown grapes for around 15 years in an area less than seven kilometers from the site of the proposed biomass plant.

---

<sup>88</sup> Legislative Council, Tabled Paper No 281, 12 November 2008.

<sup>89</sup> The following summarises the submission attached to the letter from Dr William Pannell AM and Mr Daniel Pannell, Picardy, 11 December 2008.

- Their business and sole source of income is threatened by the proposed plant. They perceive the plant emitting pollution over 25 years to be a threat to their long term quality goals (the best wines are usually produced from 80 to 100 year old vines).
- The Pemberton area represents some of the most desirable viticulture soil types in the world. The proposed biomass plant places a major source of serious pollutants in close proximity to vineyards and wineries. The Pemberton wine industry employs in excess of 600 people and injects more than \$45 million per annum in to the regional economy. The proposed plant places in jeopardy the long term sustainability of the wine industry. The proposed generator will employ only 20 people and bring about \$12 million per annum in to the region. Is this worth the risk?
- Data supplied by Connell Wagner suggests that the biomass plant will produce polycyclic aromatic hydrocarbons, lead and dioxins. The concern is these emissions will be deposited on vines, in rain water used, and end up in the wines.
- The proponents of the proposed plant do not address the short or long term effects of emissions that can contaminate fruit and vegetable crops. The Manjimup-Pemberton region is suited to meeting increased demand for fruit and vegetables in Perth and becoming the food bowl of Western Australia. The area supplies a number of fruits and vegetables. Further, marron and trout are the centre of the developing aquaculture industry. Fresh water crustaceans are extremely sensitive to pollutants. Some dioxins are carcinogenic. Most authorities agree that the only acceptable level of dioxins in emissions is zero.
- The proponents of the proposed plant do not adequately address public health issues. Town water supplies are within seven kilometers of the proposed plant. There is convincing evidence that the same pollutants which the proponents predict will be produced by the proposed plant are linked to increasing morbidity and mortality from respiratory and cardiovascular diseases. (Studies demonstrating the negative effects of pollutants are referred to.)
- The increase in load and traffic levels will be a significant impost on the local community and raised safety concerns.
- It is misleading to claim that a biomass plant, which produces 50 per cent more green house gases than a 'polluting' coal-fired power station is 'greenhouse friendly'. The Gaunaut report affirms concerns in this area.

- 3.74 On 13 February 2009, the Committee resolved, by a majority, to finalise this petition. Hon Paul Llewellyn MLC dissented from the Committee's decision to finalise the petition.
- 3.75 At the meeting on 4 March 2009, Hon Paul Llewellyn MLC asked that the minutes record that the Committee is not precluded from inquiring into a matter because a Minister has made a decision relating to that matter.

**PETITION NO 8 - SCAEVOLA SPINESCENS (MAROON BUSH): GRANTING OF COMMERCIAL PRODUCER'S AND COMMERCIAL PURPOSES LICENSES**

- 3.76 On 12 November 2008, Hon Brian Ellis MLC tabled a petition in the Legislative Council containing 1 665 signatures.<sup>90</sup> The terms of the petition were:

*We the undersigned residents of Western Australia are in support of Commercial Producer's and Commercial Purposes Licenses being granted for picking Scaevola Spinescens (Maroon Bush), due to strong demand and a long history of use in Western Australia. The Health Department has supported the picking of Maroon Bush for many years. This will give patients who choose to use it as an alternative treatment for their health, a choice. A personal license is not an option for those people too unwell to pick it themselves and may not be able to identify the correct plant.*

*Your petitioners therefore respectfully request the Legislative Council to support the granting of Commercial Producer's and Commercial Purposes Licenses for picking Scaevola Spinescens (Maroon Bush).<sup>91</sup>*

- 3.77 The submission from the principal petitioner, Mr James Staniforth-Smith, asserted that maroon bush had been used safely in Western Australia since the 1950s as an alternative cancer treatment and had in some cases been supplied by the Department of Health. The submission stated that there were no known adverse effects from the plant's use and the petitioners sought to have commercial producers licenses reinstated to enable people to access the treatment.<sup>92</sup>
- 3.78 The principal petitioner requested:
- clarification as to why the plant was classified as a Schedule 4 poison;

<sup>90</sup> Hon Brian Ellis MLC, Legislative Council, *Parliamentary Debates (Hansard)*, 12 November 2008, pp119-120.

<sup>91</sup> Legislative Council, Tabled Paper No 282, 12 November 2008.

<sup>92</sup> Letter from Mr James Staniforth-Smith, 15 December 2008, p1.

- a clinical trial to be conducted by the Department of Health or a University regarding the efficacy of maroon bush; and
- re-classification of maroon bush as a food supplement so it could be used as a tea.<sup>93</sup>

3.79 A submission from Ms Jeanie Crago informed the Committee that from the 1950s to 2005 maroon bush ‘was made by the Health Department into a tea (extract) and supplied to cancer patients who had written approval from their doctors’.<sup>94</sup> Ms Crago claimed that in 1991 the Health Department started to phase out the use of maroon bush and its use was discontinued in 2005.<sup>95</sup>

3.80 In 1994, *scaevola spinescens* was classified as a Schedule 4 poison, making supply illegal without a prescription. Ms Crago stated in her submission that:

*As far as I know there is currently no process or system in place whereby anyone can obtain a prescription to use Scaevola spinescens in any form.*<sup>96</sup>

3.81 Ms Crago’s submission asserted that the Schedule 4 classification resulted in the withdrawal of licences by the Department of Environment and Conservation for the purposes of picking the plant.<sup>97</sup> According to Ms Crago, if maroon bush is used as a tea, the Therapeutic Goods Association could classify it as a food supplement, ‘however this cannot be done while the S4 classification remains’.<sup>98</sup>

3.82 Ms Crago requested that the Committee make a finding that:

*the S4 classification is without basis as the plant is not being made into a medicine as such, in that it is not a pill to swallow or substance to inject and from the experience of myself (3 years of regular use) and numerous other people non toxic?*<sup>99</sup>

3.83 Ms Crago attached a number of documents to her submission including a letter addressed to her from the Director General of the Department of Environment and Conservation relating to Ms Crago’s application for a Commercial Producers and a Commercial Purposes licence for the harvest and sale of *scaevola spinescens*:

---

<sup>93</sup> Ibid, p2.

<sup>94</sup> Letter from Ms Jeanie Crago, 4 February 2009, p1.

<sup>95</sup> Ibid.

<sup>96</sup> Ibid.

<sup>97</sup> Ibid, p2.

<sup>98</sup> Ibid.

<sup>99</sup> Ibid.

*The Department of Environment and Conservation is unable to issue any licence which permits general members of the public to sell plants listed under section 23(2)(e) of the Act. Consequently your licence applications have been filed without action ....*

*Historically the harvesting of this species has generated some concern amongst authorities. Commercial licences for Scaevola spinescens were not normally issued, unfortunately however your previous licences ... for harvest and sale of the species were issued in error. The Department will only consider the issue of licences for the collection of Scaevola spinescens for non-commercial personal use only.*<sup>100</sup>

3.84 The Committee sought comment from the Minister for Health, who explained that commercial licenses for picking the native plant scaevola spinescens (maroon bush) were issued by the Department of Environment and Conservation.<sup>101</sup>

3.85 The Minister for Health pointed out the following:

*There are controls over the supply of Scaevola spinescens through the Poisons Act 1964 following the inclusion of the plant in Schedule 4 (prescription medicines) of the Poisons Schedules. This means that for an individual to access preparations containing Scaevola spinescens they must have the preparation prescribed by a medical practitioner or other authorized prescriber. It also means that a licence issued pursuant to Section 24 of the Poisons Act 1964 is required to sell by wholesale and retail, preparations containing Scaevola spinescens. These licences would be issued by the ... Department of Health (DOH). Such licences are quite distinct from the type of licences referred to in the petition.*<sup>102</sup>

3.86 The Minister for Health disputed the claim by the principal petitioner that the Department of Health endorsed the use or picking of maroon bush. Rather, he explained, in 1969 the Chemistry Centre supplied an extract of the plant to individual patients who provided a submission from their medical practitioner. It was not considered by the Government of the day as an endorsement of the plant, or as an indicator of any commitment to further research.<sup>103</sup>

---

<sup>100</sup> Attachment to the letter from Ms Jeanie Crago: Letter from Mr Keiran McNamara, Director General, Department of Environment and Conservation, to Ms Jeanie Crago, 21 February 2008.

<sup>101</sup> Letter from Hon Dr Kim Hames MLA, Minister for Health, 17 March 2009, p1.

<sup>102</sup> Ibid.

<sup>103</sup> Ibid, p2.

3.87 The supply of the extract was phased out from 1991, prompted by strong recommendations from the Cancer Foundation of Western Australia, the Royal Australasian College of Surgeons, the Royal Australian College of Physicians, the Clinical Oncological Society of Australia and other expert groups. While expert opinion was that there was no scientific evidence to support the use of the extract as a therapeutic agent against cancer, there were claims by some people who sold the extract that it could cure many diseases, including cancer and AIDS (acquired immune deficiency syndrome).<sup>104</sup>

3.88 The principal petitioner's request that maroon bush be reclassified as a food supplement was dismissed by the Minister for Health on the basis that:

*It is not the form in which Scaevola spinescens is administered but rather the claims about its effects that make it a medicine.*<sup>105</sup>

3.89 The Minister for Health explained his concerns:

*My concern is that those wishing to promote use of a tea prepared from this plant are doing so in the belief that it has anticancer properties. The tea is not being sold as a food but rather as a medicine or 'therapeutic good'. There is no clinical evidence from studies in humans that the plant has beneficial effects in cancer and the safety of the use of any preparations of the plant by humans is similarly unknown.*<sup>106</sup>

3.90 Inclusion in Schedule 4 of the *Poisons Act 1964* is currently the only way to control sale of a product as a medicine by a sole trader operating entirely within Western Australia:

*Treatment of cancer is a highly emotive issue and the inclusion of Scaevola spinescens in Schedule 4 protects the public from those who may wish to promote the use of this plant in the treatment of a serious medical condition without supporting scientific evidence.*<sup>107</sup>

3.91 There is currently no impediment to a medical practitioner writing a prescription for use of the plant in treatment, however:

*for this prescription to then be dispensed by a pharmacist, a manufacturing or wholesale supply source would be necessary. The DOH is only aware of the previous preparation of the extract by the*

---

<sup>104</sup> Ibid, pp2-3.

<sup>105</sup> Ibid, p5.

<sup>106</sup> Ibid.

<sup>107</sup> Ibid.

---

*Chemistry Centre and, at this stage, has not issued a licence for the manufacture, wholesale supply or retail supply of Scaevola spinescens or any preparations containing Scaevola spinescens.*<sup>108</sup>

3.92 The Minister for Health explained to the Committee that patient safety must be the overriding concern in relation to the issue of unrestricted access to untested medicines:

*I have no objection to the DEC issuing a licence to collect Scaevola spinescens. I also support a patient's access to treatment of their choice. However, this access does need medical supervision, especially as the potential adverse effects of Scaevola spinescens are unknown. The challenge is to enable patient access to a treatment where no commercial medicinal preparation is available while limiting their exposure to an untested medicine.*<sup>109</sup>

3.93 The Minister for Health agreed with the principal petitioner that a clinical trial would be useful in determining the efficacy of the plant as a cancer treatment and identifying any risks or side-effects associated with its use. However, he pointed out that such trials were usually conducted by universities or pharmaceutical companies and he did not consider it appropriate for the DOH to conduct a trial.<sup>110</sup>

3.94 The Committee considered the information obtained in relation to the petition and concluded the following:

- There is no impediment to a medical practitioner providing a prescription for maroon bush, however, the medicine must be dispensed by a pharmacist and no licences have been issued for the manufacture, wholesale or retail supply of the maroon bush or preparations containing it.
- Established medical groups have expressed concern about the (unproven) claims made by some people regarding the therapeutic benefits of the plant in treating cancer and other serious illness without supporting scientific evidence. Essentially, the product is an untested medicine.
- Clinical trials would assess the efficacy of the plant as a cancer treatment and identify any significant risks or side-effects, however, such trials are usually conducted by universities or pharmaceutical companies.

3.95 The Committee did not consider further action warranted and finalised the petition on 1 April 2009.

---

<sup>108</sup> Ibid, p3.

<sup>109</sup> Ibid, p6.

<sup>110</sup> Ibid, p4.

**PETITION NO 9 - PROTECTION OF MATURE TREES ON PUBLIC LAND**

3.96 On 12 November 2008, Hon Giz Watson MLC tabled a petition in the Legislative Council containing 954 signatures.<sup>111</sup> The petition reads:

*We the undersigned residents of Western Australia are opposed to the lack of protection for mature trees on public land, the removal of street trees, the clearing of urban bushland and the use on public land of toxic herbicides and pesticides. There is national and international evidence that the effects of these activities are detrimental to the health of the natural environment and the community.*

*Your petitioners therefore respectfully request the Legislative Council to support the urgent introduction of legislation to ensure that state and local authorities protect the community's health and environment, and to support the guiding principle that the Ministers for Environment, Planning and Infrastructure, Local Government and Health exercise their full legislative powers to:*

- a. Stop the clearing of urban bushland, the removal of mature trees from public land in urban areas, and*
- b. Provide a Model Tree Policy to protect and preserve public native and non-native trees in urban areas, and*
- c. Stop the sale and availability to the general public of all synthetic chemical herbicides and pesticides because of their globally recognized serious risks to our health and environment, and stop the use of these herbicides and pesticides, by both private residents and contractors, on areas such as footpaths, verges, medians, drainage sumps, parkland, playing fields, play-grounds and bushland.*

3.97 In September 2006, the Committee received another petition, Petition No 34 tabled by Hon Giz Watson MLC, in similar, but not the same, terms.<sup>112</sup> The Committee reported on Petition No 34 in *Report 10: Overview of Petitions*,<sup>113</sup> tabled on 27 September 2007, where the Committee made the following recommendation:

---

<sup>111</sup> Hon Giz Watson MLC, Legislative Council, *Parliamentary Debates (Hansard)*, 12 November 2008, p120.

<sup>112</sup> Hon Kate Doust MLC, Legislative Council, *Parliamentary Debates (Hansard)*, 11 November 2008, p34.

<sup>113</sup> Legislative Council, Standing Committee on Environment and Public Affairs, Report 10, *Overview of Petitions*, 27 September 2007, pp51-56. This report may be viewed on the Committee's website at [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au), choose Committees / Current Committees / Environment and Public Affairs Committee / Reports / Report 10 (viewed on 9 November 2009).

*The Committee recommends that the Minister for Local Government with the support of the Minister for Planning and Infrastructure in conjunction with local governments develop a model tree policy for protecting mature trees in urban areas.*<sup>114</sup>

- 3.98 The Government Response to the above recommendation from Hon Ljiljanna Ravlich MLC, then Minister for Local Government, was tabled in the Legislative Council on 11 March 2008.<sup>115</sup> The response advised:

*I have recommended to my colleague, the Minister for Planning and Infrastructure, that officers from the Department for Planning and Infrastructure, the Swan River Catchment Authority and the Department of Local Government and Regional Development jointly examine how a model tree policy would fit within current legislation, policies and programs. I have further recommended that this examination be done in conjunction with the Western Australian Local Government Association.*

*The effect of a model tree policy will depend on the extent to which it is adopted by local governments. ...*<sup>116</sup>

- 3.99 In relation to Petition No 9, in December 2008 the principal petitioner, Ms Alex Jones, provided the Committee with a submission in support of the petition.<sup>117</sup> The principal petitioner expressed her disappointment at the response to the Committee's previous recommendation:

*[The Committee's 2007 recommendation] was clearly wasted on the previous Ministers who apparently made little or no attempt to take decisive action to protect our public urban trees.*<sup>118</sup>

- 3.100 The principal petitioner added:

*The tree replacement policies of our local governments are a total waste of our communities' resources on policies that are misguided and environmentally destructive. Mature trees are known to sequester as much as 80 times the CO2 of young replacement trees and their*

<sup>114</sup> Ibid, p56.

<sup>115</sup> Legislative Council, Tabled Paper No 3738, 11 March 2008. A copy of this Government Response may be viewed on the Committee's website at [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au), choose Committees / Current Committees / Environment and Public Affairs Committee / Reports / Report 10 (viewed on 9 November 2009).

<sup>116</sup> Letter from Hon Ljiljanna Ravlich MLC, Minister for Local Government, 22 February 2008, p1.

<sup>117</sup> Letter from Ms Alex Jones to Hon GM Castrilli MLA, Minister for Local Government, 6 December 2008.

<sup>118</sup> Letter from Ms Alex Jones, 6 December 2008, p1.

*destruction also releases into the atmosphere the CO2 that is otherwise locked inside the living tree. The practice also has a negative impact on wildlife habitat, air filtration, urban shade and cooling, ground water retention, urban salinity and urban run-off. The policies contradict the principles of environmental sustainability that local governments espouse.*

*It is not a matter for individual councils or residents to elect to remove and replace our public urban trees. Politicians must show understanding and leadership in protecting our environment for future generations. It simply takes too long for replacement trees to provide the same environmental benefits of mature trees. Often replacement trees do not survive and need to be replaced several times.<sup>119</sup>*

3.101 The Minister for Local Government, Hon John Castrilli MLA, responded to the terms of the petition, and advised:

- The Minister does not have the legislative power to either prevent the clearing of trees from public land or to control the sale of herbicides or any other chemical.<sup>120</sup>
- While the development of a model tree policy, as proposed in the petition, could be coordinated under the Minister's portfolio, its effectiveness would depend on the extent to which it was used by local governments. It is doubtful that a model policy would be either particularly useful or an effective use of resources.<sup>121</sup>
- The *Local Government Act 1995* provides local government with significant decision making autonomy. The Department of Planning and Infrastructure has developed a *Draft Bushland Policy* and the *Liveable Neighborhoods Policy* under town planning legislation, which relates to the placement and protection of trees.<sup>122</sup>
- The Department of Local Government and Regional Development, after discussing this matter with the Department of Local Government, Department of Planning and Infrastructure and the Western Australian Local Government Association, recommended that developing a model tree policy need not be

---

<sup>119</sup> Ibid.

<sup>120</sup> Letter from Hon John Castrilli MLA, Minister for Local Government, 22 December 2008, p1.

<sup>121</sup> Ibid.

<sup>122</sup> Ibid.

progressed at this stage.<sup>123</sup> In arriving at this decision, the department was mindful that local government already has adequate information to develop a new, or review an existing, tree policy if it chooses. Local Government has been provided with a circular of this decision (*Circular 07-2008*).<sup>124</sup>

- *Circular 07-2008* (A circular forwarded by the Minister which refers to Petition No 9) concludes ‘*While I do not consider it necessary for the Government to intervene in this matter, I encourage all local government, particularly those in established areas, to ensure that your approach to the preservation of mature trees on private and public land is in accordance with the wishes of the residents and other stakeholders in your area and incorporates effective measures to achieve this outcome*’.<sup>125</sup>

3.102 In light of the response provided by the Minister, the Committee resolved to finalise this petition on 4 January 2009. The Committee noted that the Minister had encouraged local governments to ensure their approach accorded with the wishes of residents and stakeholders in their area.

#### **PETITION NO 10 - SHIRE OF AUGUSTA-MARGARET RIVER DISTRICT PLANNING SCHEME**

3.103 On 12 November 2008, Hon Giz Watson MLC tabled a petition in the Legislative Council containing one signature.<sup>126</sup> This was a re-tabled petition. The previous petition (Petition No 89, tabled on 1 April 2008) lapsed when Parliament was prorogued on 7 August 2008.

3.104 The petition stated:

*I, the undersigned resident of Western Australia, respectfully request the Legislative Council inquire into the activities of the Augusta Margaret River Shire Council in relation to the District Planning Scheme for the Shire (DDTPS1)*

*The Shire of Augusta Margaret River has frustrated the adoption of a long overdue District Planning Scheme for the Shire (DDTPS1) through the making of comprehensive changes against the advice of Shire staff and the provisions of State Government Planning Policy.*

---

<sup>123</sup> Ibid, pp1-2.

<sup>124</sup> Ibid, p2.

<sup>125</sup> Attachment to letter from Hon John Castrilli MLC, Minister for Local Government, 22 December 2008, p1.

<sup>126</sup> Hon Giz Watson MLC, Legislative Council, *Parliamentary Debates (Hansard)*, 12 November 2008, pp120-121.

*They have endorsed proposed scheme amendments within the Shire on the basis of unilateral changes they made to the DDTPS1 that were against the advice of Shire staff, have yet to be endorsed by the WAPC or Minister and have not been commented upon by the public.*

*In respect of townsite planning for Margaret River they are ignoring the submissions of their community and have confused the community over population growth and supply of land within the townsite of Margaret River.*

*The Shire is engaged in closed door negotiations with landowners to trade development opportunity for contributions to a road that has been found by consultants to serve no useful purpose.*

*The community is upset over the opportunity missed by Council to comment to the WAPC [Western Australian Planning Commission] over proposed development at Gnarabup.<sup>127</sup>*

- 3.105 In May 2008, the Committee received a submission from the principal petitioner, Mr Richard Grenfell, which began by stating that:

*The current Council of the Augusta-Margaret River Shire has deliberately frustrated the timely adoption of Draft District Planning Scheme 1 (DDTPS1) and the associated Local Planning Strategy (LPS).<sup>128</sup>*

- 3.106 The submission stated that the Draft District Planning Scheme 1 (**DDTPS1**) and the associated Local Planning Strategy (**LPS**) were approved for advertising by the Minister in 2004.<sup>129</sup> The submission addressed a range of associated planning issues and was extremely critical of the process and some people currently or previously involved with the Shire of Augusta-Margaret River.

- 3.107 The Committee received a response from Hon Ljiljana Ravlich MLC, then Minister for Local Government, which began with the following:

*The Department of Local Government and Regional Development originally received a complaint referral from the Corruption and Crime Commission (CCC) in May 2006, which raised concerns about the process undertaken by the Shire of Augusta-Margaret River to adopt the Draft District Town Planning Scheme No 1 (DDTPS1).*

<sup>127</sup> Legislative Council, Tabled Paper No 284, 12 November 2008.

<sup>128</sup> Letter from Mr Richard Grenfell, 1 May 2008, p1.

<sup>129</sup> Ibid.

*The Department advised the CCC that it was not in a position to comment on statutory procedures undertaken pursuant to planning legislation and that it may be appropriate, if it wished to refer the matter to the Department for Planning and Infrastructure (DPI) for further assessment. The Department did, however, examine the decision making process undertaken by the Council in relation to the DDTPS1 and considered that there were no apparent breaches of the Act.<sup>130</sup>*

3.108 The response from the then Minister for Local Government concluded by stating that the Department of Local Government and Regional Development advised the Corruption and Crime Commission of Western Australia (CCC) that the financial interest allegations were unsubstantiated.

3.109 Hon Alannah MacTiernan MLA, then Minister for Planning and Infrastructure, provided the further information about the planning process involved for the DDTPS1:

*The Shire of Augusta-Margaret River Council has resolved to make changes to the advertised version of their draft DDTPS No 1 having given regard to the 894 submissions made during the public advertising period, advice provided by their planning staff and incorporating the collective views of the currently elected members.*

*The making of changes, following the Scheme's advertising period, is entirely consistent with the scheme review process provided by the Planning and Development Act 2005 and the 'Town Planning Regulations 1967'.*

*While it is important for the Council to have regard to the professional advice provided by their planning staff, they are not obliged to follow this advice, particularly where this advice relates to non-statutory or non-legally binding matters. The merits of decisions of elected officers are ultimately tested in the ballot box and this provides accountability.<sup>131</sup>*

3.110 The then Minister for Planning and Infrastructure stated that the Department for Planning and Infrastructure and the Western Australian Planning Commission (WAPC) were at the time giving detailed consideration to the content of DDTPS1. The Minister continued:

<sup>130</sup> Letter from Hon Ljiljana Ravlich MLC, Minister for Local Government, 1 May 2008, p1.

<sup>131</sup> Letter from Hon Alannah MacTiernan MLA, Minister for Planning and Infrastructure, 5 June 2008, p1.

*In particular, detailed consideration is being given to compliance with State Planning Policies and legislative planning requirements.*<sup>132</sup>

- 3.111 After Petition No 10 was tabled in November 2008, the Committee invited further submissions from the principal petitioner and the Shire of Augusta-Margaret River.
- 3.112 The principal petitioner noted that there were over three years history of complaints about the handling of the DDTPSI made to the Ministers for Planning and Local Government.<sup>133</sup>
- 3.113 The Shire of Augusta-Margaret River acknowledged that it had taken a long time to progress their new District Planning Scheme and stated that *'it is our highest priority and [we] look forward to it being finalised during this calendar year'*.<sup>134</sup>
- 3.114 On 13 February 2009, the Committee conducted a hearing with the principal petitioner and another member of the public, and received further documents from the witnesses. It was submitted, among other matters, that:
- [The Shire of Augusta-Margaret River] has gone to extraordinary lengths, over the past four years, to delay the implementation of a 15 year overdue Town Planning Scheme for the AMR Shire and has used that delay to distort the scheme to serve the ends of a few, rather than the community.*<sup>135</sup>
- 3.115 The Committee noted that the witnesses had made a number of allegations of misconduct and inappropriate administrative practices. The Committee was of the view that allegations of misconduct and inappropriate administrative practices should be more appropriately considered by either the Ombudsman or the CCC.
- 3.116 The Committee noted that administrative anomalies in population estimates had been addressed in a revised town planning scheme that is currently before the South West Planning Commission.
- 3.117 On reviewing evidence received in relation to this petition, and after making the above observations, the Committee resolved, by a majority, to finalise this petition on 4 March 2009. Hon Paul Llewellyn MLC dissented from this decision.
- 3.118 Hon Paul Llewellyn MLC tabled a minority report in relation to this petition. The Minority Report of Hon Paul Llewellyn MLC in relation to Petition No 10 is attached to this Report.

---

<sup>132</sup> Ibid.

<sup>133</sup> Letter from Mr Richard Grenfell, 8 December 2008, p1.

<sup>134</sup> Letter from Mr Stephen Harrison, President, Shire of August-Margaret River, 6 February 2009, p2.

<sup>135</sup> Document tabled at hearing on 13 February 2009 by Mr Jamie McCall, Burnside Organic Farm, p1.

**PETITION NO 11 - GENETICALLY MODIFIED (GM) FREE FOOD STATE**

- 3.119 On 13 November 2008, Hon Giz Watson MLC tabled a petition in the Legislative Council containing 2 623 signatures.<sup>136</sup> The petition read:

*We the undersigned residents of Western Australia are opposed to commercial growing of GM crops in this State as GM crops will inevitably contaminate non-GM crops and result in the loss of our 'clean green' image. Furthermore, no adequate, independent health studies have been done to prove that GM foods will not cause health impacts for current and future generations.*

*Your petitioners therefore respectfully request the Legislative Council to introduce a strict liability regime to ensure all parties involved in bringing GM crops and/or food into Western Australia (including growers and patent holders) will be held legally liable for any contamination incidents causing market and economic loss, health impacts or environmental damage associated with GM crops/food.*

*Your petitioners respectfully request the Legislative Council to extend the moratorium on the growing of GM crops in Western Australia until above issues have been addressed.<sup>137</sup>*

- 3.120 A similar petition, Petition No 60, was tabled on 26 June 2007, during the Thirty-Seventh Parliament. The Committee finalised Petition No 60 on 17 October 2007.<sup>138</sup>
- 3.121 Further, a petition relating to GM Canola was tabled by Hon Matt Benson-Lidholm MLC on 18 March 2009. That petition, Petition No 21, which opposed GM Canola trials in Western Australia, is reviewed at paragraphs 3.209 to 3.215 of this report.
- 3.122 In relation to Petition No 11, Hon Terry Redman MLA, Minister for Agriculture and Food, advised of the Government's election commitment to GM crops:

*You are no doubt aware that the Western Australian Government's election commitment on GM crops is to allow immediate planting of GM cotton in the Ord River Irrigation Area and to consider limited commercial-size trials of GM canola. ...*

---

<sup>136</sup> Hon Giz Watson MLC, Legislative Council, *Parliamentary Debates (Hansard)*, 13 November 2008, p224.

<sup>137</sup> Legislative Council, Tabled Paper No 305, 13 November 2008.

<sup>138</sup> See Legislative Council, Standing Committee on Environment and Public Affairs, Report No 12, *Overview of Petitions*, 20 March 2008, pp27-30, for the review of Petition No 60. This report can be viewed on the Committee's website at [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au), choose Committees / Current Committees / Environment and Public Affairs Committee / Reports / Report 12 (viewed on 9 November 2009).

*Australia has a rigorous regulatory system that ensures only GM crops which the Commonwealth Office of the Gene Technology Regulator (OGTR) has assessed to be safe to human health and the environment are released. ...*

*The Government recently announced the decision to lift the moratorium on the commercial production of GM cotton in the Ord River Irrigation Area (ORIA). This decision was made after extensive consultation with industry, the community, and review of the results of GM cotton trials in the ORIA over a period of ten years. The decision to lift the moratorium on GM cotton in the ORIA has provided a new opportunity for growers, and the potential for a major new profitable industry for Western Australia. ...*

*The issue for liability for contamination was considered during the 2005 independent statutory review of the Commonwealth Gene Technology Act 2000. The issues raised for discussion during this review were similar to those raised during the review of the respective Victorian and NSW Acts relating to a moratorium on GM crops in 2007. ...*

*In view of these past activities, the Western Australian government is not considering the introduction of strict liability legislation.<sup>139</sup>*

- 3.123 The Committee noted that a policy decision had been made by the Government and that trials of GM foods would be proceeding.
- 3.124 On 11 March 2009, the Committee resolved, by a majority, that no further action would be taken in relation to this petition and finalised this petition. Hon Paul Llewellyn MLC dissented from this decision.
- 3.125 Hon Paul Llewellyn MLC produced a minority report in relation to this petition. The Minority Report of Hon Paul Llewellyn MLC in relation to Petition No 11 is attached to this report.

#### **PETITION NO 12 - REZONING OF A CLASS RESERVE IN CLAREMONT**

- 3.126 On 25 November 2008, Hon Peter Collier MLC tabled a petition in the Legislative Council containing one signature.<sup>140</sup> This was a re-tabled petition. The previous petition (Petition No 63, tabled on 28 August 2007) lapsed when Parliament was prorogued on 7 August 2008.

---

<sup>139</sup> Letter from Hon Terry Redman MLA, Minister for Agriculture and Food, 23 December 2008, p1.

<sup>140</sup> Hon Peter Collier MLC, Legislative Council, *Parliamentary Debates (Hansard)*, 25 November 2008, p335.

## 3.127 The petition stated:

*We the undersigned residents of Western Australia are opposed to:*

*a) The rezoning of the A Class Reserve for the use of high density housing at the corners of Davies Road/Shenton Road/Shenton Place in Claremont*

*b) The relocation of the Claremont Tennis Club onto the Par 3 Golf Course at Lake Claremont*

*c) Removal of the Par 3 and Long Nine Golf Courses which would reduce the recreational facilities in the Lake Claremont Precinct*

*d) Any further disturbance of the environment in this valuable wetland area*

*Your petitioners, therefore, respectfully request the Legislative Council to oppose the rezoning of the A Class Reserve on which the Claremont Tennis Club and the Par 3 Golf Course are currently situated.*<sup>141</sup>

3.128 In October 2007, the Committee received a submission from the Mr Peter Stannard, principal petitioner, with appendices, including a *Lake Claremont Precinct Association Inc Report*.<sup>142</sup> The report summarised the work of the Lake Claremont Precinct Association, the background of the Lake Claremont Precinct, the recreational users of the area, and the lifestyle reasons for using, improving and retaining the Lake Claremont Precinct in its current form.

3.129 In November 2007, the Committee received a submission from the Town of Claremont which began by advising that the petition relates to ‘The North East Precinct’ (NEP) project and the ‘Future Use of the Lake Claremont Golf Course’ project.<sup>143</sup> The Town of Claremont advised that the NEP project is the result of six years planning and will produce significant environmental sustainability benefits. The Town of Claremont added that NEP is an urban renewal project consistent with Network City and Transit Oriented Development policies. The main objectives of NEP are to:

- 1. Better utilise vacant State Government land within the railway reserve;*

---

<sup>141</sup> Legislative Council, Tabled Paper No 363, 25 November 2008.

<sup>142</sup> Letter from Mr Peter Stannard, Chairman, Lake Claremont Precinct Association, 26 September 2007, p1.

<sup>143</sup> Letter from Mr Arthur Kyron, Chief Executive Officer, Town of Claremont, 16 November 2007.

2. *Meet the State Government's Transit Oriented Development (TOD) objectives;*
3. *Upgrade the degraded Claremont Football Club Grandstand and facilities;*
4. *Provide a new community facility for this part of Claremont and*
5. *Generally revitalise the whole North-east area.*<sup>144</sup>

3.130 In January 2008, the Committee received a submission from Hon Alannah MacTiernan MLA, then Minister for Planning and Infrastructure,<sup>145</sup> who advised that:

*There is currently no formal rezoning proposal affecting the subject A Class Reserve at the corners of Davies Road/Shenton Road/Shenton Place. Should such amendment come before me for a decision, I will consider the proposal on its merits and have careful regard to community views.*<sup>146</sup>

3.131 The then Minister for Planning and Infrastructure added that the Claremont North East Precinct concept is looking to increase the accessibility of existing public 'open' space reserves, and continued:

*I am aware there is some potential conflict between different users of the Lake Claremont recreation area and it would appear that further investigation in this regard may be necessary from user safety and environmental perspectives. Under no scenario is it being proposed that urban development occur on the Lake Claremont public reserve which includes the 18 hole golf course.*<sup>147</sup>

3.132 The Committee noted that the response from the Minister did not mention the Par 3 golf course and only briefly mentioned structure planning. However, the Minister's Media Statement dated 1 February 2008 referred to the structure plan as follows:

*LandCorp, which is managing the process, will proceed to develop a structure plan.*

*After listening to public comment, Ms MacTiernan asked for the plan to exclude the Claremont Lawn Tennis Club site. However the*

---

<sup>144</sup> Ibid, p2.

<sup>145</sup> Letter from Hon Alannah MacTiernan MLA, Minister for Planning and Infrastructure, 23 January 2008.

<sup>146</sup> Ibid, p2.

<sup>147</sup> Ibid.

*structure plan would be prepared in such a way that if the community supported development of that site at a later stage, it could be expanded to include that site.*<sup>148</sup>

- 3.133 The Committee noted that the Claremont Lawn Tennis Club is presently located on land that is classified as A and C Reserves and that any proposal to change the status of A Class Reserves is required to be laid before each House of Parliament under section 42 of the *Land Administration Act 1997*. The Minister must advertise his or her intent to cancel, or change the purpose or classification of, a Class A reserve in a newspaper circulated throughout Western Australia.<sup>149</sup>
- 3.134 The Committee held hearings with representatives from the Town of Claremont and the principal petitioners on 2 April 2008.
- 3.135 It appeared to the Committee that the central issue relates to a land conflict involving the Claremont Lawn Tennis Club and the Par 3 golf course which are on A and C Class Reserves.
- 3.136 The Committee wrote to Hon Alannah MacTiernan MLA, then Minister for Planning and Infrastructure, seeking further answers. In June 2008, the Minister advised:

*The Claremont Lawn Tennis Club and Par 3 Golf Course are not included in the draft North East Precinct Structure Plan area. However, the structure plan will recognise these locations as 'framing' the structure plan area and providing the planning context. The structure plan will proceed based on these adjoining sites retaining their current uses and current reserve status. ...*

*I understand the Western Australian Planning Commission (WAPC) refused the proposed 25-year lease for a portion of the Lake Claremont Golf Course (known locally as the Par 3) in March 2005 because redevelopment of the adjoining area was being investigated and a long-term lease was therefore not supported. I have attached a copy of that refusal for your records.*<sup>150</sup>

- 3.137 The then Minister for Planning and Infrastructure continued:

*The Town recognises the course's use for golf restricts other forms of recreation and it currently runs at a loss prejudicing the proper management of Lake Claremont. The Town confirmed during its*

<sup>148</sup> Hon Alannah MacTiernan MLA, 'Claremont Rail Station development progresses', *Media Statement*, 1 February 2008, p1.

<sup>149</sup> Section 42(5) of the *Land Administration Act 1997*.

<sup>150</sup> *Ibid.*

*presentation to the Committee that rehabilitation of the Lake Claremont environs for bushland and parkland recreation is the only alternative being considered to its use for golf. The Town has a strong commitment to improving the environmental and recreational quality of the lake.*<sup>151</sup>

- 3.138 The Minister stated that the draft structure plan was scheduled to be advertised for public comment in September 2008, and subject to any modifications and approval by the Town in December 2008, the plan will then be referred to the Western Australian Planning Commission (**WAPC**) for endorsement in early 2009.
- 3.139 After Petition No 12 was tabled on 25 November 2008, the Committee wrote to Hon John Day MLA, Minister for Planning, requesting his views on matters raised in the petition.
- 3.140 The Minister for Planning advised that the following three actions would be necessary to use the A Class Reserve in question for residential development:

*First, action would need to be taken under the Land Administration Act to excise the land from the reserve, which includes the tabling of the proposal in both Houses of Parliament with an opportunity for a disallowance motion.*

*Second, the Western Australian Planning Commission's Metropolitan Region Scheme (MRS) would need to be amended to change the Parks and Recreation reservation affecting the subject A Class Reserve. The process for this provides the opportunity for community comment and may, if considered to be a major amendment to the MRS, involve the tabling of the proposal in both Houses of Parliament with an opportunity for a disallowance motion (this does not apply for minor amendments).*

*Finally, the Town of Claremont's local planning scheme relating to the relevant portion of the subject A Class Reserve would need to be amended to include an appropriate zoning to provide for residential development. This would also require public consultation and my final approval, as Minister for Planning.*<sup>152</sup>

---

<sup>151</sup> Ibid.

<sup>152</sup> Letter from Hon John Day MLA, Minister for Planning, 4 February 2009, p1.

- 3.141 The Minister for Planning also noted that the Claremont Tennis Club, which is owned by the Town of Claremont in freehold, was not included in the finalised project. The Town, however, is reviewing the future of the golf course.<sup>153</sup>
- 3.142 The Minister understood that the Town of Claremont had endorsed the plan and the WAPC had initiated a corresponding amendment to the Metropolitan Region Scheme.<sup>154</sup>
- 3.143 On 13 February 2009, after considering the Minister for Planning's response, the Committee resolved to finalise this petition. The Committee provided the principal petitioner with a copy of the Minister for Planning's letter dated 4 February 2009.

#### **PETITION NO 14 - YALGORUP NATIONAL PARK**

- 3.144 On 25 November 2008, Hon Sally Talbot MLC tabled a petition in the Legislative Council containing 216 signatures.<sup>155</sup> This was a re-tabled petition. The previous petition (Petition No 85, tabled on 17 June 2008) lapsed when Parliament was prorogued on 7 August 2008.
- 3.145 The petition stated:

*We the undersigned residents of Western Australia are conscious of the rich biological diversity of the Yalgorup National Park, Ramsar-listed wetlands, Lakes Clifton, Preston and others in this group. We are aware that threatened ecological communities such as the Lake Clifton thrombolites are vulnerable to falling water tables and pollution and we are therefore alarmed by reports of large scale urban development proposals in the vicinity. We believe that it is essential to include in the Yalgorup National Park the whole area between the eastern side of the Lakes and the Indian Ocean from the northern end of Lake Clifton to the southern end of Lake Preston, as a green break in the urban sprawl along the coast between Fremantle and Bunbury. We believe that this area should be dedicated primarily to conservation and compatible recreation and education activities.*

*Your petitioners therefore request the Legislative Council to support the extension and consolidation of the Yalgorup National Park through the acquisition of private enclaves so that the Park is compact and manageable and viable for the long term.*<sup>156</sup>

---

<sup>153</sup> Ibid.

<sup>154</sup> Ibid, p2.

<sup>155</sup> Hon Sally Talbot MLC, Legislative Council, *Parliamentary Debates (Hansard)*, 25 November 2008, pp335-36.

<sup>156</sup> Legislative Council, Tabled Paper No 365, 25 November 2008.

3.146 The submission from the principal petitioner, Ms Hilary Wheeler, described the ecology of the Yalgorup Lake system and the surrounding coastal plain as a ‘*unique area of rich biological diversity of worldwide significance*’.<sup>157</sup> The principal petitioner was of the firm view that this area will be threatened by development:

*If any development at all should take place on top of the sandy, highly porous dunes chemicals, nutrients, contaminants will filter down through the sand into the freshwater aquifers. There are no “ifs and buts”. It will happen. The contaminated water will then feed into the Lakes killing the fringe vegetation, killing the tiny microbes that the birds feed on, killing the living thrombolites, and killing the Tuarts.*<sup>158</sup>

3.147 Past developments in the area included a subdivision to the east of Lake Clifton in the early 1990’s and the Dawesville cut in 1992. According to the principal petitioner, the Chairman of the Friends of Ramsar Action Group for the Yalgorup Lakes Environment Inc (**FRAGYLE**), Yalgorup Park’s tuart forest began to show the first signs of stress following these developments and salinity in Lake Clifton rose significantly.<sup>159</sup>

*With those two small developments the water balance of Lake Clifton was changed and the thrombolites are threatened, the Tuarts of the Yalgorup Park are under serious threat and a recovery team has been set up to try to save them. Allow any further development in the catchments of these lakes and the whole ecosystem will be destroyed.*<sup>160</sup>

3.148 The petitioners sought the following outcomes:

- a moratorium on building or development within the catchments of the lake system from the Mandurah Eaton ridge to the coast;
- Government purchase of all private land in the area for inclusion in the Yalgorup National Park; and
- a gradual opening up of the area as an educational and geo-heritage park.

3.149 A submission from Mr Mark Newman, Chief Executive Officer, City of Mandurah, outlined the planning considerations that applied to Yalgorup National Park including

---

<sup>157</sup> Letter from Ms Hilary Wheeler, Chairman, Friends of Ramsar Action Group for the Yalgorup Lakes Environment Inc, 2 April 2008, p1.

<sup>158</sup> Ibid, p2.

<sup>159</sup> Ibid.

<sup>160</sup> Ibid, p3.

Mandurah's Town Planning Scheme No 3, the Peel Region Scheme, environmental management plans, and strategic planning and guidance documents.

- 3.150 According to Mr Newman's submission, expansion of the National Park needed to be considered in terms of the private property at the northern end of Lake Clifton.<sup>161</sup> A moratorium on building or development would require a modification to the City's Town Planning Scheme or a restriction placed on the City to be able to consider developments within the area since '*[a]t present if development within this area complies with the City's Scheme, the City would almost certainly issue the relevant approval*'.<sup>162</sup>
- 3.151 While public purchase of private land for incorporation into the national park had not been formally considered by Mandurah City Council, Mr Newman's letter indicated that such a move may be '*favourably considered*' and was a matter that could be investigated within the context of the Coastal and Lakelands Planning Strategy review process.<sup>163</sup>
- 3.152 The Committee sought comments from Hon John Day MLA, Minister for Planning, who pointed out that the petitioners' objective of including privately owned rural holdings between the coast and the Yalgorup Lakes within the Yalgorup National Park would require government acquisition of 4 000 hectares of private land. Further, modifications already made to the rural holdings meant that there '*may be no significant benefit from an ecological view point to purchase such large areas of rural land*'.<sup>164</sup>
- 3.153 The Minister for Planning advised the Committee that recent development proposals in the area included developments at Clifton Beach, the Shire of Waroona's Preston Beach Townsite Strategy and Local Planning Strategy. Policy advice from the Environment Protection Authority (EPA) regarding the coastal strip from Binningup to the Dawesville Channel was expected later in the year.<sup>165</sup>
- 3.154 The Minister for Planning explained that he did not support the proposal that the Government purchase all of the land between the coast and the Yalgorup Lake system because:
- *it would be cost prohibitive [to buy the land];*

---

<sup>161</sup> Letter from Mr Mark Newman, Chief Executive Officer, City of Mandurah, 12 June 2008, p2.

<sup>162</sup> Ibid.

<sup>163</sup> Ibid.

<sup>164</sup> Ibid.

<sup>165</sup> Letter from Hon John Day MLA, Minister for Planning, 10 March 2009, p3.

- *significant portions of the rural holdings have been cleared and would most likely have no significant ecological value;*
- *there would be substantial cost in rehabilitating any modified rural land and implementation of any required park management plans required for the inclusion of substantial areas of rural land within the existing Yalgorup National Park; and*
- *the owners of the rural land would most likely oppose the acquisition of their land by the Government.*<sup>166</sup>

3.155 The Minister included, as an attachment to his letter, a copy of a letter from the Western Australian Planning Commission (WAPC) to the Shire of Waroona regarding expansion of the Preston Beach settlement. Conditions of the policy position adopted by the WAPC include:

- the future population of Preston Beach ‘*will be limited, for the long term, by the constraints and assumptions in the Coastal and Lakelands Planning Strategy*’;<sup>167</sup> and
- urban development will be limited to 1600 dwellings.<sup>168</sup> Various factors will determine whether that limit is changed, including:
  - material improvements in the quality of surface and ground water flows into Lake Preston (e.g. improvements to stormwater drainage and tertiary treatment of all sewage);
  - avoidance of further detrimental impacts on any of the lakes or wetlands and Yalgorup National Park and which improves the long term biodiversity status of the park;
  - maintenance of an economic base for the settlement while minimising the proportion of the population dependent on jobs in the district or elsewhere to minimise long distance commuting;
  - a settlement size that can be served by the existing Preston Beach Road as a two-lane, single-carriageway road;
  - a settlement size that can be served by a single neighbourhood or local centre; and

---

<sup>166</sup> Ibid.

<sup>167</sup> Letter from Mr Jeremy Dawkins, Chairman, Western Australian Planning Commission, to Mr Ian Curley, Chief Executive Officer, Shire of Waroona, 4 November 2008, p1.

<sup>168</sup> Ibid, p2.

- a settlement size sufficient to support a single primary school without generating the need for additional educational resources or overflow to another primary school in the district.<sup>169</sup>
- 3.156 In March 2009, the Committee received a response from Hon Donna Faragher MLC, Minister for Environment, in relation to the petition. The Minister for Environment advised that the land in question was the subject of a strategic environmental planning exercise by the EPA. EPA officials had recently visited the area and met with various stakeholders, including members of FRAGYLE.
- 3.157 The Minister further advised that the Department of Environment and Conservation (DEC) had prepared ‘*an ecological character description for the Peel-Yalgorup Ramsar wetland which establishes limits of acceptable change for all of the biological components of the site, and importantly the processes that maintain them*’.<sup>170</sup> DEC had also commenced a review of Yalgorup National Park’s management plan:
- The review will include an assessment of the current park boundary and consider recommendations for possible additions to the park where appropriate. I anticipate that the outcome of the EPA strategic environmental planning exercise and the guidance provided by the ecological character description will contribute significantly toward determining recommendations for any additions to the park.*<sup>171</sup>
- 3.158 Inquiries with the DEC indicated that the review of the Yalgorup Park Management Plan was anticipated to be a two-year project and would probably include an extensive consultation process since there were a number of community and other interest groups that had a strong interest in the Park.
- 3.159 On 1 April 2009, the Committee wrote to the Director General of DEC with a recommendation that the issues outlined in the petition be considered in relation to the ongoing management of the national park and surrounding area.
- 3.160 On 4 May 2009, the Committee received a copy of the EPA document, *Environmental Protection Bulletin No 4: Strategic Advice—Dawesville to Binningup* (May 2009) (**the Bulletin**) which recognised the important international, national and regional environmental values of the coastal strip between Dawesville and Binningup. The Bulletin noted that increasing development and land use expectations in the area necessitated a strategic approach that would take into account both environmental protection and planning for development in the area:

---

<sup>169</sup> Ibid.

<sup>170</sup> Letter from Hon Donna Faragher MLC, Minister for Environment, 23 March 2009, p1.

<sup>171</sup> Letter from Mr Jeremy Dawkins, Chairman, Western Australian Planning Commission, to Mr Ian Curley, Chief Executive Officer, Shire of Waroona, 4 November 2008, p1.

*The EPA is undertaking a review to clarify the environmental values of the region and the state of current knowledge and scientific data about these values. This information is necessary to identify additional areas of conservation significance, and the areas that may have potential for development and land use that are compatible with the environmental values. This review will result in strategic advice from the EPA to guide future directions for both environmental protection and planning for development in the area.*<sup>172</sup>

- 3.161 The Bulletin outlined the environmental values in the area including Yalgorup National Park and its lake system, coastal landforms, hydrology and hydrogeology, geoheritage and the impacts of climate change. The EPA's review of the area would consider land use pressures, agriculture, tourism, fire management and the provision of infrastructure and services.<sup>173</sup>
- 3.162 The EPA's review would be informed by current environmental studies being undertaken in the area by DEC, as well as previous studies and reports, planning documents and research. The EPA would also conduct its own research and consult with government, industry and community groups. It was expected that the EPA would be in a position to provide advice to the Minister for Environment in late 2009. That advice would be publicly available.<sup>174</sup>
- 3.163 The Committee noted that the Bulletin also reported that during the review period, proposed developments will be considered by the EPA on an individual basis with the significant values of the area being considered in relation to any proposal. Where the EPA considered there to be a significant risk to those environmental values, the proposal(s) would either be formally assessed or considered environmentally unacceptable.<sup>175</sup>
- 3.164 In respect of the petitioners' objective of protecting Yalgorup National Park, the Committee considered that the environmental assessment and strategic planning exercise outlined in the Bulletin, in conjunction with the review of Yalgorup National Park, constituted a comprehensive and appropriate means of assessing future management of the Park and its surrounds, including the question of its possible expansion.
- 3.165 On that basis, the petition was finalised on 13 May 2009.

---

<sup>172</sup> Government of Western Australia, Environmental Protection Authority, *Environmental Protection Bulletin No 4: Strategic Advice—Dawesville to Binningup*, May 2009, p1.

<sup>173</sup> Ibid, pp1-2.

<sup>174</sup> Ibid, p2.

<sup>175</sup> Ibid.

**PETITION NO 15 - OPPOSE ROYAL PERTH HOSPITAL CLOSURE**

- 3.166 On 26 November 2008, Hon Simon O'Brien MLC tabled a petition in the Legislative Council containing 2 129 signatures.<sup>176</sup> The petition stated:

*We, the undersigned residents of Australia call upon the Legislative Council to oppose the closure of Royal Perth Hospital and to ensure that the tradition of the name 'Royal Perth Hospital' is maintained.*<sup>177</sup>

- 3.167 On 3 December 2008, the Committee finalised this non-conforming petition because the Royal Perth Hospital Bill was currently before the Parliament.

**PETITION NO 16 - PROTECT KIMBERLEY COAST: LIQUEFIED NATURAL GAS PROCESSING HUB**

- 3.168 On 26 November 2008, Hon Giz Watson MLC tabled a petition in the Legislative Council containing 758 signatures<sup>178</sup> which stated:

*We, the undersigned residents of Australia oppose the development of a LNG processing hub, its associated infrastructure and industries on any part of the Kimberley Coast.*

*The Kimberley is internationally recognised as one of the last great unspoilt marine and coastal environments in the world. A LNG processing hub would pollute the Kimberley's clean seas, disrupt the humpback whales migratory path and calving grounds, emit millions of tonnes of greenhouse gases and adversely affect the social well-being of its communities.*

*We ask that the Legislative Council review all scientific data and expert advice on the impact of a LNG processing hub with its associated industries on the Kimberley's pristine marine environment and the migration path of the humpback whales and their calving grounds.*

*We ask the Legislative Council to support further research into the Kimberley's ecosystems. We ask the State Government of Western*

---

<sup>176</sup> Hon Simon O'Brien MLC, Legislative Council, *Parliamentary Debates (Hansard)*, 26 November 2008, p447.

<sup>177</sup> Legislative Council, Tabled Paper No 372, 26 November 2008.

<sup>178</sup> Hon Giz Watson MLC, Legislative Council, *Parliamentary Debates (Hansard)*, 26 November 2008, p447.

*Australia to nominate the Kimberley Region for World Heritage listing.*<sup>179</sup>

3.169 The submission from the principal petitioner, Ms Kerry Marvell, explained that the petitioners are concerned about risks to the ecosystem:

*pollution and other risks to vital ecosystems such as mangroves, remnant rainforests, coastal vine thickets, near-shore coral reefs, beaches, pindan cliffs and the clean coastal waters that support a multitude of fish and other marine species such as the endangered dugong, five species of turtle and the newly discovered snubfin dolphin. Of particular concern is the risk to turtle nesting sites, shorebird roosting sites and dugong feeding grounds as well as crucial calving grounds for protected species of whales, such as the endangered Humpback Whale. The Kimberley coast is a high density migratory corridor for the Humpback Whale.*<sup>180</sup>

3.170 The submission stated that liquefied natural gas (**LNG**) is not an environmentally responsible fuel option and greenhouse emissions will rise, and that industry on the Kimberley coast will reduce accessible nature for fishing and other recreational activities and impact Kimberley communities and the tourism industry, including the impact on local sustainable industries such as pearling, fishing and Indigenous and nature based tourism.<sup>181</sup> The submission also noted that the Town of Broome will be impacted with an increase in population and the cost of living, and expressed concern about the compulsory acquirement of traditionally owned indigenous land and the displacement of the indigenous owners.

3.171 The submission requested the Government to:

- assess potential gas precinct locations outside the Kimberley region;
- honor its agreement (with the Commonwealth Minister for Environment, 6 February 2008) to conduct a broad Regional Strategic Assessment (aimed at Heritage listing) relating to the assessment of the impacts of actions under the Plan for the Browse Basin Common-User Liquefied Natural Gas Hub Precinct and associated activities;
- undertake studies into the socio-economic impact of a gas precinct on Kimberley communities;

---

<sup>179</sup> Legislative Council, Tabled Paper No 372, 26 November 2008.

<sup>180</sup> Letter from Ms Kerry Marvell, 18 December 2008, p1.

<sup>181</sup> Ibid.

- allow time for the necessary whale and turtle and other environmental studies to take place;
- assess risk of native marine life contracting diseases and other quarantine risks from increased shipping;
- commission a study to assess the lifecycle greenhouse emissions that will be produced by the project and request the Government to not make any further decisions regarding the project until the aforementioned research and assessments have been completed, with results disseminated to the public, and a thorough community consultation process undertaken;
- nominate the Kimberley Region for World Heritage listing, aiming for the highest level of protection and allow related heritage assessments to take place before making any further decisions regarding the project; and
- consider it an ethical obligation to protect the Kimberley region.

3.172 The Minister for Planning's response to the petition stated that he recognised the value of the Kimberley region and was committed to protecting it through the development of a Kimberley Science and Conservation Strategy.<sup>182</sup>

3.173 The Minister advised that the Government's Northern Development Taskforce (**NDT**) undertook a transparent site selection process involving a wide range of stakeholders and scientific studies. The approach was designed to ensure LNG development is in a single precinct located away from areas of the highest environmental significance. The NDT's site selection report was released in October 2008 for public comment and consideration by the Environmental Protection Authority (**EPA**).

3.174 The EPA's report, released on 19 December 2008, included advice that the EPA:

- *strongly supports the concept of undertaking a strategic review of potential LNG processing sites in the Kimberley;*
- *strongly supports focusing development at a single site so that environmental impacts can be contained and operational efficiencies maximized in ways that will minimize environmental impacts;*
- *considers that the NDT site evaluation review was a rigorous, inclusive and public process that resulted in the clear*

---

<sup>182</sup>

Letter from Hon John Day MLA, Minister for Planning, 24 December 2008, p1.

*identification of high level environmental risks and values based on the data, resources and time available.*<sup>183</sup>

- 3.175 Of the four sites short-listed by the NDT, the EPA concluded that ‘*large scale industrial development was likely to be environmentally manageable at two sites*’, Gourdon Bay and James Price Point.<sup>184</sup>
- 3.176 On 23 December 2008, Hon Colin Barnett MLA, Premier, announced that James Price Point was the preferred site. According to the Minister for Planning, the Premier’s announcement ‘*marks the start of the second phase of the assessment, being a formal assessment of plans for an LNG precinct under the WA Environmental Protection Act 1986 and the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.*’<sup>185</sup>
- 3.177 In relation to World Heritage listing of the Kimberley region, the Minister for Planning advised that such nominations are the responsibility of the Australian Government, usually in conjunction with the State Government. The Minister advised that the State Government is currently working with the Australian Government on heritage assessment, and decisions regarding heritage listing will await completion of that assessment.
- 3.178 The Committee sought information from the Department of Environment and Conservation (**DEC**) on the environmental assessment process for this project. In March 2009, DEC advised that the decision on the preferred site completes the first stage of the process as well as the role of the NDT established by the previous government. The second phase of the process is:

*a formal environmental assessment by the EPA of a defined LNG precinct proposal and its associated activities. A formal assessment by the EPA requires the proponent to prepare publicly available documentation outlining the environmental issues relevant to the proposal and encourages the public to submit their views for the EPA’s consideration prior to any recommendations being made by the EPA on the environmental acceptability of the proposal.*<sup>186</sup>

- 3.179 DEC advised that the EPA determined that the Kimberley LNG precinct proposal is a ‘strategic proposal’ under the provisions of the *Environmental Protection Act 1986* and will be assessed as a Strategic Environmental Assessment. A strategic proposal is

---

<sup>183</sup> Ibid, p2.

<sup>184</sup> Ibid.

<sup>185</sup> Ibid.

<sup>186</sup> Letter from Mr Keiran McNamara, Director General, Department of Environment and Conservation, 17 March 2009, p1.

one that will be a significant proposal or if implemented in combination with another proposal, will have a significant effect on the environment. DEC advised:

*The environmental assessment of the strategic proposal will allow subsequent future proposals such as LNG processing plants to be considered as 'derived proposals' under the provision of the Environmental Protection Act 1986. The desired objective of such a strategic assessment is that future derived proposals will not generally be subject to further assessment by the EPA, although any relevant Ministerial conditions attached to the approved strategic proposal would be attached to any derived proposal.*<sup>187</sup>

- 3.180 DEC advised that the next step in the environmental assessment process is for the proponent to prepare an environmental review document with detailed plans of the project on the selected site, including on-site and off-site environmental impacts of the precinct development, port infrastructure, dredging, transport infrastructure, housing for construction and operational workforces and marine support facilities. This document then needs to be released for public comment for ten weeks.
- 3.181 DEC also advised that the revised and updated timeframes have the environmental review document scheduled to be released for public comment in December 2009 and the EPA is expected to report on the environmental acceptability of the strategic proposal and the recommended environmental conditions in May 2010. Assessment of social impacts will be undertaken by other Departments and considered under the strategic assessment process.
- 3.182 The Committee also received a submission from Mr Martin Pritchard, Director, Environs Kimberley Inc, which expressed concern about the proposal for a LNG processing hub at James Price Point due to, among other matters: the massive greenhouse emissions from the proposal; the impact of the proposal on threatened species and ecology including turtles, dugongs, humpback whales, monsoon vine thickets and dwarf pindan heath; the lack of transparent process; the fact the State Government's promised assessment of locations outside of the Kimberley had not been made public; and the State Government's apparent lack of support for the national Heritage listing of the Kimberley as agreed to in the Broad Strategic Assessment being undertaken by the Commonwealth.<sup>188</sup>
- 3.183 On 27 April 2009, the State Government, Woodside and traditional owners signed a Heads of Agreement on the proposed Kimberley gas project. The Premier noted at the

---

<sup>187</sup> Ibid, p2.

<sup>188</sup> Letter from Mr Martin Pritchard, Environs Kimberley Inc, 7 April 2009, p1.

signing that the agreement marks the start of heritage, environmental and social impact studies into the proposed development at James Price Point.<sup>189</sup>

- 3.184 The Committee noted the advice from DEC that the assessment and approval process for the project will continue until mid May 2010, and there will be a period of public consultation as part of the process. The Committee also noted that the issues outlined in the petition will be examined in the assessment process and interested parties will have the opportunity to express their views as part of the associated consultation process.
- 3.185 Consequently, on 13 May 2009, the Committee resolved, by a majority, to finalise the petition. Hon Paul Llewellyn MLC dissented from this decision.

#### **PETITION NO 17 - REGIONAL RESOURCE RECOVERY CENTRE, CANNING VALE**

- 3.186 On 3 December 2008, Hon Simon O'Brien MLC tabled a petition in the Legislative Council containing 53 signatures.<sup>190</sup> This was a resubmitted petition. The previous petition (Petition No 59, tabled on 26 June 2007) was before the Committee when Parliament was prorogued on 7 August 2008.
- 3.187 The petition stated:

*We the undersigned residents of Western Australia are opposed to the continued operation of the Regional Resource Recovery Centre's Waste Composting Facility in Canning Vale. This facility creates a noxious odour, affecting the health and lifestyle of the residents in surrounding suburbs.*

*Your petitioners therefore respectfully request the Legislative Council to support residents and others affected by this Waste Composting Facility and recommend to the Government that the South Metropolitan Regional Council relocate the facility away from any residential areas.<sup>191</sup>*

- 3.188 On 26 November 2008, the Committee resolved to commence a formal inquiry into Municipal Waste Management in Western Australia.

---

<sup>189</sup> 'Kimberley gas hub Heads of Agreement', *ABC News*, [www.abc.net.au/news/stories/2009/04/27/2554024.htm](http://www.abc.net.au/news/stories/2009/04/27/2554024.htm) (viewed on 28 April 2009).

<sup>190</sup> Hon Simon O'Brien MLC, Legislative Council, *Parliamentary Debates (Hansard)*, 3 December 2008, p791.

<sup>191</sup> Legislative Council, Tabled Paper No 409, 12 November 2008.

- 3.189 The Committee reported on the inquiry into Municipal Waste Management in Western Australia in *Report 16: Standing Committee on Environment and Public Affairs Municipal Waste Management in Western Australia*, tabled on 19 May 2009.<sup>192</sup>

#### PETITION NO 18 - WESTERN AUSTRALIAN ELECTORAL COMMISSION

- 3.190 On 9 December 2008, Hon Ken Travers MLC tabled a petition in the Legislative Council which contained one signature,<sup>193</sup> in the following terms:

*I the undersigned resident of Western Australia respectfully petition the Legislative Council of the Parliament of Western Australia to review the circumstances surrounding and the procedures and processes adopted by the Western Australian Electoral Commission (WAEC) in relation to its investigation of the formal complaint lodged in relation to election funding received, and campaign declarations made by Mr Paul Miles, Councillor of the City of Wanneroo, in the Local Government election held on 20<sup>th</sup> October, 2007.*

**\*\* Note:**

1. *This petition does not in any way state or suggest any wrong doing by Mr Miles.*
2. *The fact that Mr Miles was subject to the above mentioned investigation is a matter of broad public knowledge. (See Wanneroo Times, 2<sup>nd</sup> December 2008)*

*Your petitioner therefore respectfully requests that the Legislative Council will investigate my concern.*<sup>194</sup>

- 3.191 The Committee received a submission from the principal petitioner, Mr Terry Loftus. The submission outlined the petitioner's concerns about the adequacy of an investigation by the Western Australian Electoral Commission (**Commission**). Mr Loftus also asserted that the Commission's processes should be reviewed and all investigation reports should be made public.<sup>195</sup>

<sup>192</sup> Legislative Council, Standing Committee on Environment and Public Affairs, Report 16, *Municipal Waste Management in Western Australia*, 29 May 2009, can be viewed on the Committee's website at [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au), choose Committees / Current Committees / Environment and Public Affairs Committee / Reports / Report 16 (viewed on 9 November 2009).

<sup>193</sup> Hon Ken Travers MLC, Legislative Council, *Parliamentary Debates (Hansard)*, 9 December 2008, p1041.

<sup>194</sup> Legislative Council, Tabled Paper No 424, 9 December 2008.

<sup>195</sup> Letter from Mr Terry Loftus, 2 February 2009.

3.192 Following consideration of the issues raised in the petition and the petitioner's submission, the Committee concluded that the Court of Disputed Returns<sup>196</sup> was the appropriate forum for the petitioner's concerns.

3.193 The petition was finalised on 11 March 2009.

**PETITION NO 19 - SHOWROOMS BEING CONSTRUCTED ON LOTS 1, 2, 3, 4, 13 AND 15 EWEN STREET, WOODLANDS**

3.194 On 11 March 2009, Hon George Cash MLC tabled a petition in the Legislative Council containing one signature.<sup>197</sup> This is a resubmitted petition. The previous petition (Petition No 87, tabled on 19 March 2008) was before the Committee when Parliament was prorogued on 7 August 2008.

3.195 The petition made the following request:

*We the undersigned residents of Western Australia are opposed to showrooms being constructed on Lots 1,2,3,4,13 and 15 Ewen Street, Woodlands Western Australia and request that a mixture of accommodation / restaurants / office be constructed on the site to support Network City and Liveable Neighbourhood strategies and ease the accommodation shortage. Traffic utilizing Ewen Street should also be permitted to directly enter and exit Scarborough Beach Road to enable an improved and safer method of traffic control and distribution.*

*Your petitioners therefore respectfully request the Legislative Council to recommend and support the community's needs and wishes, as expressed in this petition, and advise the Department of Planning and Infrastructure to make such orders and directives as necessary to support this petition.*<sup>198</sup>

3.196 The submission from the principal petitioner, Ms Elizabeth Re, a City of Stirling Councillor, included letters from members of the Woodlands Action Group which outlined concerns '*over the poor development choices for the Ewen Street site in Woodlands*'.<sup>199</sup> The principal petitioner advised that the Ewen Street site is part of what was previously known as 'Town Planning Scheme 38' which envisioned

---

<sup>196</sup> The Court of Disputed Returns has jurisdiction to hear petitions in which the validity of any election or return is disputed. A single Supreme Court Judge exercises this jurisdiction for Parliamentary Elections and a Magistrate for Local Government Elections: [http://www.electionswa.com.au/\\_glossary.htm](http://www.electionswa.com.au/_glossary.htm) (viewed on 9 November 2009).

<sup>197</sup> Hon George Cash MLC, Legislative Council, *Parliamentary Debates (Hansard)*, 11 March 2009, p1558.

<sup>198</sup> Legislative Council, Tabled Paper No 530, 11 March 2009.

<sup>199</sup> Email from Ms Elizabeth Re, 16 April 2009, p1.

*'housing and mixed use and not showrooms which has been the case'*.<sup>200</sup> The principal petitioner informed the Committee that:

*Over the last 13 years since the Council purchased the land with ratepayers money for unknown reason and then subsequently the tenants were removed from (sic) the shops and the houses and the area allowed to run down.*<sup>201</sup>

3.197 The submission from the principal petitioner attached letters from residents to the City of Stirling dated 2006 to 2008. These letters commented that the proposed showroom development would cause more traffic problems, would be too close to houses and was not consistent with the planning policies 'network city' and 'liveable neighbourhoods'. Letters also commented that there had been inadequate consultation with residents about the development proposal.

3.198 The City of Stirling informed the Committee that the City approved a Showroom and Office Development on the site on 28 September 2007, which is valid for two years: The City advised that the development was approved because it was:

*in accordance with the outlined development plan for this area approved by Council on 18 July 2006. The site is within precinct 6 of Town Planning Scheme No 38 and it was a requirement inter alia, that before any development could proceed, concept plans for the precinct had to be prepared which Council subsequently required to be advertised.*

*The arguments and comments made by the current submission have all been previously addressed in a report to Council on 18 July 2006 (copy attached) and on which Council subsequently made their decision.*<sup>202</sup>

3.199 The City of Stirling noted that the original Outline Development Plan (**ODP**) had been revised. The Minutes of a Council meeting of 18 July 2006 provided by the City of Stirling (**Council Minutes**) noted that the ODP had been approved '*subject to satisfactory resolution of other Scheme requirements*',<sup>203</sup> and a request that a greater

---

<sup>200</sup> Ibid.

<sup>201</sup> Ibid.

<sup>202</sup> Letter from Mr Bruce Gardner, Senior Strategic Planner, City Planning, City of Stirling, 25 May 2009, p1.

<sup>203</sup> Minutes of the ordinary meeting of Council of 18 July 2006: Amended outline development plan–Stirling City Centre Scheme–Precinct 6–Area bounded by Scarborough Beach Road, Bowra Avenue and Ewen Street, Innaloo, p32.

mix of land uses is incorporated in any revised ODP.<sup>204</sup> The Council also considered the proposal's compliance with design guidelines.<sup>205</sup>

3.200 The Council Minutes noted that the revised ODP was advertised for public comment for 21 days.<sup>206</sup> The City of Stirling received 94 submissions in support of the development and 45 submissions objecting to the development.<sup>207</sup> The Council considered issues raised by the submissions. For example, the plans were amended to reduce the building bulk and to include other modifications to improve its appearance.<sup>208</sup> The amended plans also incorporate an office and professional office suites. While residential or restaurant uses would have been preferable, the applicant explained at a workshop organised by the City of Stirling that this was not viable due to the site's location.<sup>209</sup>

3.201 The Council Minutes concluded:

*In the submissions made in support of the proposal, there were strong feelings that any development would be an improvement on what has been an eyesore for many years.*

*There have been previous extensive reports to Council on this proposal in February 2006 and May 2006 including the minutes of the workshop. Overall it is considered that the proposal has considerable merit from a traffic management perspective and the use proposed would have the least affect on nearby residential areas. The applicant has addressed the concerns raised by Council and accordingly it is considered appropriate that the ODP be adopted.<sup>210</sup>*

3.202 The Committee noted that the main area of concern appears to be some residents opposition to the construction of showrooms on a site where they would prefer restaurants, office and residential development. Evidence received indicated that the City of Stirling had consulted on the development with more responses supporting the development than opposing it. The Committee noted that the showrooms complied with the Town Planning Scheme.

3.203 In August 2009, Hon John Day MLA, Minister for Planning, advised that the land in question is zoned 'Central City Area' under the Metropolitan Region Scheme (**MRS**)

---

<sup>204</sup> Ibid, p33.

<sup>205</sup> Ibid, p37.

<sup>206</sup> Ibid, p34.

<sup>207</sup> Ibid, p36.

<sup>208</sup> Ibid, p38.

<sup>209</sup> Ibid, p39.

<sup>210</sup> Ibid.

and is affected by a Clause 32 resolution (No 59 - Stirling and Glendalough Station Precincts) under the MRS, and the land is also in the ‘Stirling City Centre Scheme’ area as designated in the City of Stirling Town Planning Scheme No 38 (TPS No 38).<sup>211</sup> The Minister added that any development of the land requires the approval of the Western Australian Planning Commission (**WAPC**) in addition to the approval of the local government, which separately determines the proposal under the local scheme.<sup>212</sup>

- 3.204 The Minister for Planning advised that on 29 July 2008, the Office of the then Minister for Planning and Infrastructure wrote to the principal petitioner advising that both the City of Stirling and the WAPC had granted their separate approvals for the development of showrooms and offices on the site. The Minister advised that he was unable to intervene to overturn these planning approvals.
- 3.205 The Committee discussed during its consideration of this petition what the Committee considers is an emerging trend of local government councillors and others aware of planning processes tabling a petition in the Legislative Council prior to the completion of all planning processes or before all reasonable planning appeals process have been completed. The Committee intends to monitor this issue.
- 3.206 On 12 August 2009, the Committee resolved to finalise this petition. The Committee noted in making this decision that the development complies with the Town Planning Scheme, had been approved, and the Minister for Planning advised that he was unable to overturn the planning approvals.

#### **PETITION NO 20 - DAYLIGHT SAVING BILL 2006**

- 3.207 On 11 March 2009, Hon Barry House MLC tabled a petition in the Legislative Council containing 164 signatures.<sup>213</sup> The petition stated:

*We the undersigned residents of Western Australia disagree with the decision by the previous State Parliament to pass the “Daylight Saving Bill 2006”. This bill implemented the three year trial, despite three previous referendum’s illustrating the public’s objection. We urge the people of Western Australia to once again reject Daylight Saving at the referendum and the Legislative Council to respond to the community’s wishes.*<sup>214</sup>

<sup>211</sup> Letter from Hon John Day MLA, Minister for Planning, 3 August 2009, p1.

<sup>212</sup> Ibid.

<sup>213</sup> Hon Barry House MLC, Legislative Council, *Parliamentary Debates (Hansard)*, 11 March 2009, p1558.

<sup>214</sup> Tabled Paper No 531, Legislative Council, 11 March 2009.

3.208 The Committee noted that a referendum on Daylight Saving was scheduled to take place on 16 May 2009 and, in light of this, resolved to finalise the petition on 18 March 2009.

**PETITION NO 22 - WESTERN AUSTRALIA AS A GENETICALLY MODIFIED (GM) FREE ZONE**

3.209 On 18 March 2009, Hon Matt Benson-Lidholm MLC tabled a petition in the Legislative Council containing 69 signatures,<sup>215</sup> which stated:

*We, the undersigned residents of Western Australia respectfully oppose the GM Canola trials in Western Australia.*

*Your petitioners therefore humbly pray that the Legislative Council will:*

*1. Recognise that the segregation of GM Canola from GM-free Canola has failed in Victoria, and has resulted in many farmers incurring extra costs to maintain their GM free Canola crops; and*

*2. Oppose GM Canola trials in Western Australia.<sup>216</sup>*

3.210 This petition is similar to, but not the same as, Petition No 11 - Genetically Modified Free Food State Western Australia (see paragraphs 3.119 to 3.125 of this report). This petition (Petition No 22) specifically related to GM Canola trials and highlighted the issue of segregation.

3.211 The submission from the principal petitioner, Ms Elsie Baesjou, outlined reasons to keep Western Australia free from GM canola, including:<sup>217</sup>

- canola is produced successfully on the petitioner's farm and others;
- the cost of testing for GM canola has not been verified and there is no guarantee that GM canola will be cost effective in producing greater yields;
- many people do not want GM food;
- while many food manufacturers label their products 'GM free' this will be almost impossible to guarantee if GM grain is introduced into Western Australia;

---

<sup>215</sup> Hon Matt Benson-Lidholm MLC, Legislative Council, *Parliamentary Debates (Hansard)*, 18 March 2009, p1970.

<sup>216</sup> Legislative Council, Tabled Paper No 582, 18 March 2009.

<sup>217</sup> The following matters are sourced from the letter from Ms Elsie Baesjou, 15 April 2009.

- only two chemical manufacturers are in control of GM canola seed which is resistant to glyphosate. *'The chemical companies freely admit that GM grain contamination was always expected and anticipated. The cost of GM contamination from paddocks has to be borne by GM free growers'*,<sup>218</sup> and
- GM canola needs potent and expensive chemicals to eliminate growth in bushland.

3.212 The Committee considered a response received from Hon Terry Redman MLA, Minister for Agriculture and Food, in relation to Petition No 11, as this response addressed issues raised in this petition (Petition No 22). The Minister advised the Committee:

*The aim of the 2009 GM canola [trials] is to assess whether or not the grains industry can effectively segregate GM and non-GM canola. Under Australian grains industry standards non-GM canola must contain less than 0.9 per cent GM canola.*<sup>219</sup>

3.213 In relation to the trials, the Minister for Agriculture and Food explained that:

*The trials will be undertaken by the grains industry under stringent safeguards. All of the harvested GM canola grain will be managed in a closed-loop system which means the grain will be delivered to specified receival points(s) and kept separate from non-GM canola throughout the grain handing system. This is the same management system that is being used successfully in New South Wales and Victoria, where Roundup Ready canola was grown for the first time last year. Stringent conditions and management protocols have previously demonstrated that the risks can be managed.*

*The Australian Gene Technology Regulator (OGTR) has considered and assessed issues of GM Canola cross pollination and gene-flow in its 2003 safety assessment. In addition, cross pollination validation work will be undertaken for the 2009 trials. The Grains Research and Development Corporation has, in 2009, provided funding to the Western Australian Herbicide Resistance Initiative, based at the University of Western Australia, to validate original studies on cross pollination between herbicide resistant and herbicide susceptible canola. In this research the donor parent will be Roundup Ready GM*

<sup>218</sup> Letter from Ms Elsie Baesjou, 15 April 2009, p1.

<sup>219</sup> Letter from Hon Terry Redman MLA, Minister for Agriculture and Food, 3 April 2009, p1.

---

*canola, and the field trials will be in WA at the trial locations specified under the exemption orders.*<sup>220</sup>

- 3.214 On 17 June 2009, after reviewing all evidence before the Committee, the Committee agreed to finalise this petition.
- 3.215 The Committee noted that the petition raised the concern that the segregation of GM Canola from GM-free Canola had failed in Victoria. The Committee understood that the GM trials will assess the effectiveness of segregation. It is anticipated that the Minister for Agriculture and Food will provide a report on the outcome of the GM trials.

#### **PETITION NO 27 - CRIMINAL CODE AMENDMENT BILL 2008**

- 3.216 On 6 May 2009, Hon Barry House MLC tabled a petition in the Legislative Council containing 152 signatures.<sup>221</sup> The petition states:

*We the undersigned residents of Western Australia are strongly support (sic) The Criminal Code Amendment Bill 2008.*

*Your petitioners therefore respectfully request the Legislative Council to support the Criminal Code Amendment Bill 2008.*<sup>222</sup>

- 3.217 The Committee noted that the purpose of the Criminal Code Amendment Bill 2008 is to amend *The Criminal Code* to provide that when a person assaults a police officer and causes the officer bodily harm the person must be sentenced to a term of imprisonment.
- 3.218 The Committee also noted that the petition is a non-conforming petition because it relates to a Bill that will be considered by the Legislative Council. The Committee therefore resolved to finalise this petition on 24 June 2009.

---

<sup>220</sup> Ibid, p2.

<sup>221</sup> Hon Barry House MLC, Legislative Council, *Parliamentary Debates (Hansard)*, 6 May 2009, p3379.

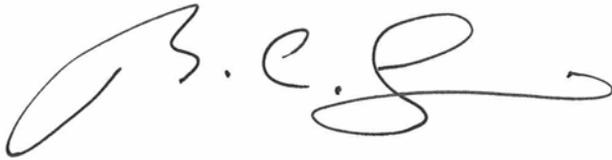
<sup>222</sup> Legislative Council, Tabled Paper No 716, 6 May 2009.

## CHAPTER 4

### CONCLUSION

---

- 4.1 The Committee intends to pursue its inquiry into the Petitions Process in Western Australia in 2010. This will involve the Committee considering the current practice and procedures for referring tabled petitions to the Committee, the Committee's processes and procedures, e-petitioning and other matters relevant to the Committee's effective inquiry into petitions.
- 4.2 The Committee thanks former Members of the Committee and present and former staff members for their contribution to the work of the Committee during the reporting period.
- 4.3 The Committee commends its report to the House.



---

**Hon Brian Ellis MLC**  
**Chairman**

26 November 2009



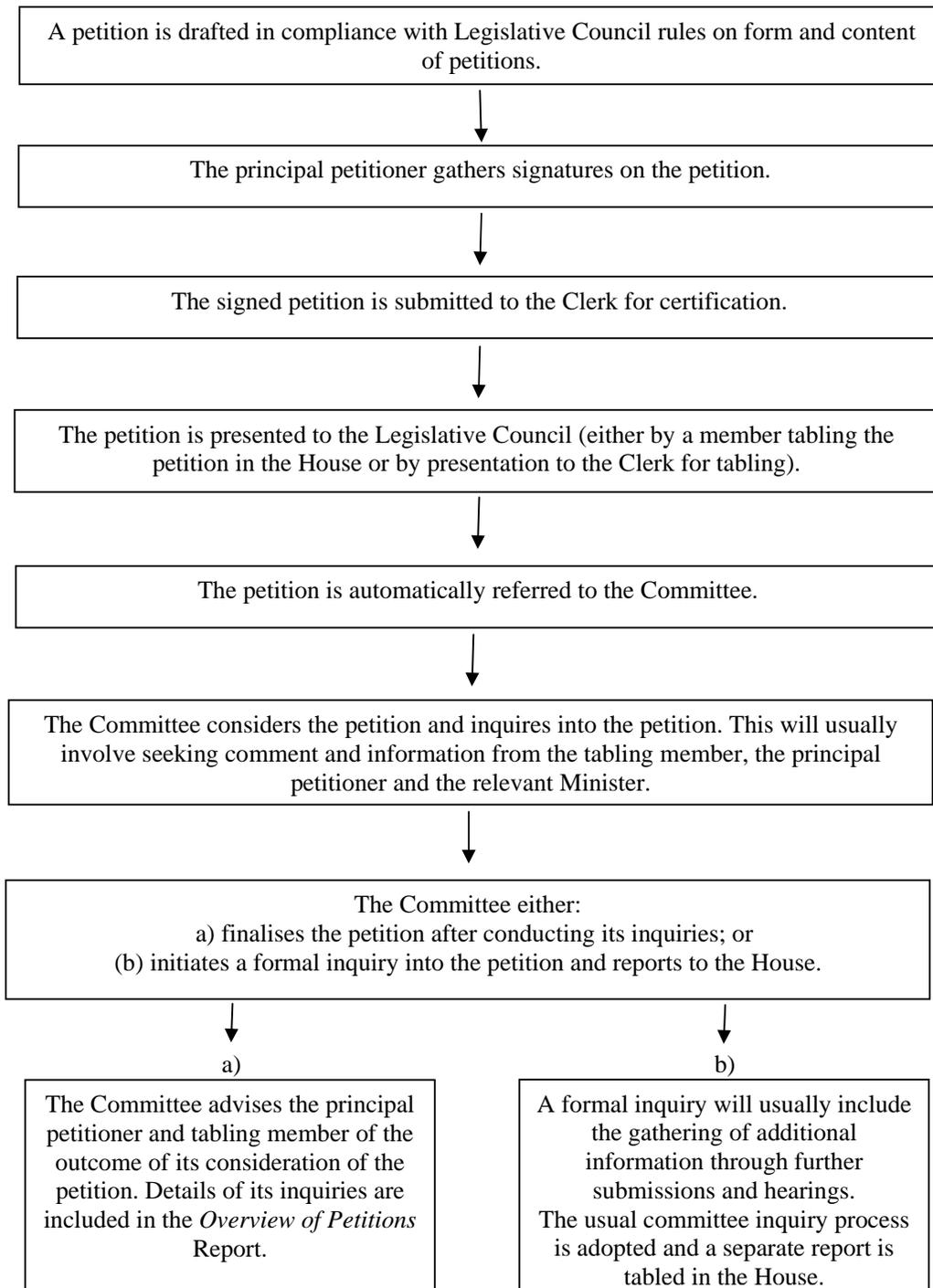
**APPENDIX 1**  
**PETITION PROCESS**



# APPENDIX 1

## PETITION PROCESS

---







THIRTY-EIGHTH PARLIAMENT

**MINORITY REPORT OF  
HON PAUL LLEWELLYN MLC**

**REPORT 17**

**STANDING COMMITTEE ON ENVIRONMENT AND  
PUBLIC AFFAIRS**

**OVERVIEW OF PETITIONS**

**IN RELATION TO PETITION NO 10**

Report 17 - Minority  
November 2009



## **Minority Report of Hon Paul Llewellyn MLC in relation to Report 17 (Petition No 10)**

---

Minority Statement Hon. Paul Llewellyn

Petition 10 Shire of Augusta Margaret River District Town Planning Scheme

Environment and Public Affairs Committee

Legislative Council Parliament of Western Australia

10 March 2009

The committee heard evidence that the Augusta Margaret River Shire Town Planning Scheme which is the subject of the petition was seriously flawed and roundly rejected by the WA Planning Commission (WAPC).

The Committee has also heard evidence that the planning processes that led to the creation of highly flawed planning documents were the product of flawed procedures, administrative processes and, in the view of the petitioners, a less than transparent public process.

In Particular the Committee heard specific evidence of flawed, inaccurate, uncorroborated and over-inflated population statistics prepared and used by the Shire of Augusta Margaret River in the development of their planning documentation. This flaw was also noted in the WAPC report on the Shire's planning Scheme.

The Committee chose not to investigate the allegations of misleading and deceptive conduct, made in evidence relating to the fabrication of population statistics by the Augusta Margaret River Shire; statistics which had the effect of increasing the amount of land rezoned for development purposes to the benefit of certain land holders.

In the interest of balance, the Hon Paul Llewellyn took the view that the Committee needed to hear evidence from the AMRS and or its planning staff to verify the evidence before the Committee.

While the Committee rightly notes that it is not its role to 'investigate' allegations of misleading conduct, it never-the-less is the role of the Committee to look at the public interest issues arising from the evidence and take a considered approach to matters as they relate to the 'public affairs' in Western Australia.

The Hon Paul Llewellyn makes the following minority findings:

- That the AMRS's planning schemes are flawed and did not comply with WAPC standards,
- That the non-compliant town planning documentation was in part based on inaccurate and flawed, over-stated population statistics, and
- That inflated population statistics gave rise to the rezoning of considerable areas of land for development purposes around the Margaret River.

Paul Llewellyn





THIRTY-EIGHTH PARLIAMENT

**MINORITY REPORT OF  
HON PAUL LLEWELLYN MLC**

**REPORT 17**

**STANDING COMMITTEE ON ENVIRONMENT AND  
PUBLIC AFFAIRS**

**OVERVIEW OF PETITIONS**

**IN RELATION TO PETITION NO 11**

Report 17 - Minority  
November 2009



## **Minority Report of Hon Paul Llewellyn MLC in relation to Report 17 (Petition No 11)**

---

Minority Statement Hon. Paul Llewellyn

Petition

Environment and Public Affairs Committee

Legislative Council Parliament of Western Australia

6 April 2009

The Committee was presented with a petition relating the use of Genetically Modified Organism in Western Australia containing over 27 000 signatures. The petition raised issues, such as 'strict legal liability regime' and 'health impacts of GM', that were not fully covered or resolved in the previous Committee Inquiry into the Gene Technology Bill 2001 (EPA committee Report 8, 2002). The petitioners also raise the issue of the contamination of non-GM-crops with GM-varieties and the resulting impact on market access and the 'clean green' image for Western Australian agriculture.

The legal frameworks for commercial use and control of gene technology are inadequate: they do not provide adequate mechanisms for assigning responsibility in the event of a damages claim arising out of the use of GM-technologies; the frameworks are poorly understood and largely untested. Liability for damages caused in the use of GM-technology does not protect non-GM farmers in the event of contamination. Effectively, the companies and practitioners who stand to profit from the use of the technology accept all benefits but no responsibility. This is worthy of scrutiny by the Committee.

I have privately heard North American farmers speak of predatory contractual arrangements that lock them into long term obligations to use proprietary chemicals and seeds owned by Multinational corporations such as Monsanto. This shuts down their right to save their own seed and to choose what kind of crops or seeds they can grow. This evidence would be vital to forming an informed view of the current state of GM-agriculture, and the implications for Western Australia. The proposed trials in Western Australia have exposed farmers to similarly ruthless contractual arrangements with full liabilities for all damages and potential costs resting not with the Department of Agriculture and Food, Cooperative Bulk handling or Monsanto, but squarely with the individual farmer. These obligations are laid out in an agreement between the Department of Agriculture and Food Western Australia (DAFWA) and the farmer/applicant obtained via Parliamentary Question (PQ 330. Hon PAUL LLEWELLYN to the minister representing the Minister for Agriculture and Food):

Application for the Approval of a Trial Cultivation of Roundup Ready Canola in the 2009 Growing Season:

*I agree that I will: ....*

- *Be responsible during and after the trial for monitoring the trial site and areas around the site which may be impacted; and for ensuring any corrective and /or remedial action as required by Monsanto or the DAFWA*
- *Be responsible for any costs incurred, or income foregone, by me as a consequence of the trial*
- *Recognise that failure to conduct the trial as specified here and in related agreements, accreditations and plans may mean that the trials not covered by the Exemption Order and, as such, would represent a breach of the Genetically Modified Free Areas Act (2003)*

These arrangements are not fair or just.

Non-GM farmers are unfairly penalised if their crops are contaminated by a GM farmer. Under Western Australian 'end point royalty' arrangements, if a farmer's crop is found to be contaminated with GM-canola, Monsanto can recover licensing and 'technical fees' as if the farmer were a willing party to a contract to use the company's seed variety, even if they were not and their intention was to remain GM-free. This is not fair or just.

Consumer concerns about the use of GM-technologies, particularly in relation to food products, have escalated after a decade of commercialisation. Scientific concerns about biological impacts of GM-technologies are growing (<http://articles.mercola.com/sites/articles/archive/2009/04/07/Monsantos-Roundup-Residues-in-GM-Food-Cause-Cell-Damage.aspx>) Consumers demand the right to know what they are eating, but in Australia lax labelling protocols have meant the GM-companies are effectively shielded from public scrutiny and from liability in relation to the impacts of their products on consumers. Without adequate labelling, the causal relationships between products and consumer impacts cannot be established. This matter should have been addressed by the committee.

After 15 years of use of GM-technologies in countries across the world, there is very little evidence of 'miracle' varieties of plants and animals that resolve pressing issues such as drought, salinity and acid soils. Instead there is a steady stream of consumer and health concerns being raised about the use of GM-organisms, and several EU countries who have banned the use of certain GM-varieties are now being sued by Monsanto. See [http://www.foodproductiondaily.com/Publications/Food-Beverage-Nutrition/FoodNavigator.com/Legislation/Monsanto-files-suit-against-Germany-over-GM-ban/?c=i%2FnIs1FdIzXEP1KedNWSbw%3D%3D&utm\\_source=newsletter\\_daily&utm\\_medium=email&utm\\_campaign=Newsletter%2BDaily](http://www.foodproductiondaily.com/Publications/Food-Beverage-Nutrition/FoodNavigator.com/Legislation/Monsanto-files-suit-against-Germany-over-GM-ban/?c=i%2FnIs1FdIzXEP1KedNWSbw%3D%3D&utm_source=newsletter_daily&utm_medium=email&utm_campaign=Newsletter%2BDaily)

GM-technologies are a controversial public interest matter. This is not a vexatious petition. The GM issue has not gone away: it was simply held in abeyance by a State-wide ban on GM use. The petition before the committee raises important contemporary issues, which should have been addressed in their own right.

A policy decision by the Government to pursue GM-technology trials in Western Australia is not in itself sufficient reason to shut down an inquiry or investigation into a petition with clear cut environmental and public affairs issues. The Greens oppose the finalisation of this Petition.