Standing Committee on Environment and Public Affairs — Forty-first Report — "Petition No. 42 — Request to repeal the Environmental Protection (Environmentally Sensitive Areas) Notice 2005"

Resumed from 12 August on the following motion moved by Hon Stephen Dawson —

That the report be noted.

Hon MARK LEWIS: I would like to commend the committee and I would also like to recognise the former member, the honourable Murray Nixon, who was the principal petitioner for this committee report. It is an excellent report because this is a complex issue that we have been struggling with for years, particularly since 2005. It has only been brought to the fore in the last couple of years by the honourable Murray Nixon and the Gingin Property Rights Group. It is effectively a property rights issue at its core and centre.

I concur with the committee on all of the recommendations, but I specifically concur, as the report notes, that it is extraordinary that the government, when passing the environmentally sensitive area notice, did not formally notify the affected landholders. As the report goes on to state, there were some 98 042 bits of ESAs that now form part of that notice. It also recommended that the department formally notify each of these landholders going forward. However, I note that we do not have the government's response yet, but it is a bit of a concern to me that in the recently released guidelines, "A guide to grazing for clearing of native vegetation", the government continues to refer anybody who they think might have an ESA to the website. That is a concern not only because that was only released just the other day, but also that there were some serious issues with the original consultation and there may have been even more serious issues around what was presented to the original delegated legislation committee back in 2005. We know that because there were only about eight days of consultation allowed back then. The explanatory memorandum did not highlight any problems or issues around the matter of repealing regulation 6 and then introducing the ESA notice.

That history is continuing today, because the committee has just gone out and asked that there be further consultation around the issue of these guidelines that I just referred to—"A guide to grazing for clearing of native vegetation"—which tries to define what clearing constitutes when grazing occurs on an ESA. Lo and behold, the consultation period went out from 24 June to 22 July this year, for what is probably a very important document that now sits underneath the notice and tries to give some guidance to what constitutes grazing in an ESA. Three stakeholders were consulted before this document landed out there in the public. Given the serious nature of this issue and given this report is sitting on the table in this house, it is somewhat surprising that the Department of Environment Regulation would come out with those guidelines prior to this place discussing the recommendations of the committee's report and also before we get the government's response.

Other members will want to talk on the broader issues that are contained within the report, but if I may, I thought I might particularly pick on this so-called way forward about how we define grazing within an ESA. With my background in natural resource management and being involved in things such as the Pastoral Lands Board and, more generally, environmental regulations of the sorts, these guidelines do not clarify anything; they further cloud the water. I would like to point out to members, if they have the grazing guidelines, that the attempt deepens my concerns about an owner who is grazing within an ESA and has historically done that and continues to do that. The guidelines now state, with more clarity, that we are killing or removing or indeed severing the stems of and substantially damaging an area when grazing stock in an ESA. I have significant concerns around that and I am just hoping that at some stage we will get the government's response to this report.

With the time that I have I might just say that I concur with committee's report, in particular recommendation 2, that the minister review the Environment Protection (Environmentally Sensitive Areas) Notice 2005 and the scope of land declared in that. The committee report touches on this, but we have information on sandhills that are declared as wetlands. That is a significant concern to those who will go to the website and find that they have a sandhill that is defined as a wetland. That goes back to the point that the committee is making and even further back to when the Pastoralists and Graziers Association and the Western Australian Farmers Federation had concerns with the draft Swan coastal plain wetlands policy, which was really a desktop study, along with the others, that has never been validated. I would suggest that a lot of areas out there are identified as ESAs but they are actually not. When there are such draconian penalties for grazing within an ESA, a person has to be really concerned that the department does not even have the baseline information right. As the report states, I think as a matter of urgency, that needs to be cleared up and at least, as a minimum, the landholders who are declared to have an ESA on their land should be informed of such so that they can go to the website and try to determine whether they have an ESA and whether the ESA is actually a wetland or a sandhill.

I might add that I was thankful that the Standing Committee on Environment and Public Affairs co-opted me onto the committee for a day. At that time the department brought in a geographic information systems specialist

who, in the hearing, struggled to determine and find, lot number by lot number, where the environmentally sensitive areas were, so it beggars belief how a person without GIS skills would be able to get under the first two or three layers of that information system.

I commend the report to the house and I look forward with some interest to the government's response.

Hon RICK MAZZA: I would also like to congratulate the Standing Committee on Environment and Public Affairs for its very comprehensive forty-first report. Looking through the report, there is no doubt about the substantial impact that environmentally sensitive areas have on the community; that is, being put on land without people knowing about it. Of particular concern to me were findings 6 and 7 that found there to be an inadequate memorandum to explain what the ESAs would be like, and a very short consultation period. People did not have a chance to thoroughly assess what these ESAs would do. The cynical side of me says that the regulations were pretty much bulldozed through because of the very serious impact on over 98 000 parcels of land. That being said, my main concern is one of the recommendations that the owner of each of those parcels of land be notified in writing that they have an ESA on their land and be directed to the website. That is inadequate simply because if we notify the owners of those 98 000 parcels of land today, in two years, five years or 10 years' time, with the transfer of those lands and people's memories failing, people will still deal on those lands and not know about the ESA. The finding—I cannot remember exactly which one it was—that some consideration be given to it being noted on the title should be given more emphasis by the government. There was some suggestion that there was not enough room on the title for all that information—I am not quite sure what that was all about.

However, if a certificate of title simply has a notation—it might be something like an environmentally sensitive area instrument number or whatever it is—then the person dealing with that title can then search that instrument number to get all the details about the impact on that land. I encourage the government to look into this further rather than just send out a letter, otherwise we will be back in the same position in three, five or 10 years' time as people transfer land and financial institutions mortgage that land, unaware of an ESA. The impact on people will be the same all over again. Having an encumbrance on a title that sits behind a title is really dangerous for our Torrens title system; it undermines the integrity of the Torrens title system. It would not be a big ask or a big undertaking to have that encumbrance noted on the title as a registration so that at least people dealing with it could look behind the title to find out what is going on. I encourage the government to look into that.

There is also some scope for compensation. Obviously, if the community is deriving a benefit in the form of environmental protection for these wetlands, and that has impacted upon the value of the property, we should look at the time-honoured tradition of consulting with the landowner, compensating the landowner and then putting the registration on the title. Many people will be impacted by this and not even know about it. Effectively many of these landholders of broadacre farmland probably have on their balance sheet an unrealised loss: the land without the ESA is worth X, but with the grazing or clearing restrictions on an ESA it is worth Y. If those people become aware of this unrealised loss, there might be more community outrage. The impact of these ESAs on land has already motivated people to form groups such as the Gingin Private Property Rights Group. On a national basis, a seminar was recently held by Property Rights Australia entitled "Legacy or Travesty?" Many people have been impacted by this issue, so I encourage the government to have a good look at the committee's report, specifically the Torrens title system and the impact of environmentally sensitive areas.

Hon ROBYN McSWEENEY: I note the report by the Standing Committee on Environment and Public Affairs. In 2002 or 2003 I cut my teeth on the Environmental Protection Act. I know that Hon Stephen Dawson was working for Dr Judy Edwards at the time and he must have absolutely hated me because I was like a terrier dog—I would not let go because I knew that so many things were wrong with that act. We brought into this chamber over 169 amendments, or something ridiculous like that. The environmental area is huge but that act was put through in haste without proper procedure. I congratulate the chairman of the committee, Hon Simon O'Brien, and his committee members for the work that they did in handing down this report. I actually believe that this report has teeth. The government tends to let some reports that come through this place sit on the shelf, but I believe that this report will not because it contains some very good recommendations.

Today in the gallery is the honourable Murray Nixon and his guest, Peter Swift. No-one has been more affected by these ESAs than Peter Swift. It did not just start with our government but with the previous government, and it is something that governments need to work together on to rectify. I will read out a letter that I wrote to our government. I wrote it to the Premier and the Minister for Environment on Peter Swift's behalf. It reads —

> I am writing to you in the hope that you will put an injustice, that started under the Labor Government's regime, to rest in an equitable manner. I went into politics to help people not to harm them.

> Mr Peter Swift of 935 Bunnings Log Road location 12976 Manjimup, who I know has had correspondence with various departments, has been treated appallingly by these various departments, however, one in particular—the Department of Environment. I make it very clear that it is not the Ministers but the Departments who are at fault.
>
> Mr Swift purchased his property at said address in the year 2007 unencumbered as nothing about land restrictive usage was on the title, as I understand. During 2009 he was approached and told that he had cleared land illegally. This was, according to Mr Swift, untrue and he tried to explain to people in the department that he was working away and what they were saying to him, did not happen. That should have been the end of it but that was not the case. There are people in that department who, in my opinion, should have been dismissed then and there but they were not, which when I heard the full story, I was appalled that one man should be put through such trauma and that department employees could continue with what the Courts eventually declared to be an untruth.

I will stop reading my letter there. Those are fairly strong words from a member of the government to say to their own government, but I will say it again: this started under a Labor government's regime and it continued under ours. It should never have continued for so long. Perhaps some justice will be done now that this report has come out.

I go back to my letter, which reads —

> The Court case that eventuated and took some years to be heard, was an absolute nightmare for a man who did nothing wrong. Those departments that took this man to Court, in my opinion, need to be reprimanded and they should look at their actions and what those actions cost in human terms.
>
> Peter Swift has told me that he became mentally ill through the stress and his capacity to work is limited because of bureaucratic nonsense … The Court awarded costs to Mr Swift as he was finally declared innocent.
>
> How many years did he have to fight to clear his name? Why was the Court case allowed to proceed? These questions need to be asked. No one should have to lose their farm over an issue that had no factual basis. His farm is a lifestyle farm which he bought for his retirement and he will more than likely end up losing it because of the way he was treated and the money he has lost through being ill which was a direct result of the Environmental bureaucrats.
>
> I explained the Attorney General's letter that was received by Mr Swift to him, and the reason why the Attorney General did not give an ex gratia payment. Sometimes, we in public office, forget that we have a human being in front of us who did nothing wrong and was left so damaged by bureaucracy that they have nowhere to turn. I understand that the Attorney was working on the facts of the law and what was said in the Court case and I acknowledge that.

I also acknowledge that the Attorney General got back to me very quickly when he received that letter. We had a good chat about what I was saying and I do thank him for that. I find that the Attorney General is a man of honour and I hope he repeated in a simple explanation to Mr Swift what he said to me.

I turn back to my letter in which I said that I found it absolutely shocking that Mr Swift may lose his property. He was declared innocent by the courts. My letter continues —

> He was … pursued relentlessly by successive government employees. He has a case for some effective outcome that would be suitable to him and the Government.
>
> Having been in Parliament for fourteen years, this case really bothers me.

This is not a single case. I have met many farmers over the years who suddenly found they were unable to graze their land. My letter continues —

> I know the area where he lives and it is … in the Ramsar Wetlands area —

I will not go into the details of the cost of the land or the trees on the land. My letter continues —

> It seems to me that the bureaucrats in the Department of Environment from Labor's time in government and then carried on in our term of government, have a great deal to answer for and we have a duty of care to help this man who is innocent.
>
> I ask that negotiations be opened up and a dialogue takes place with Mr Peter Swift.

We have a duty of care to help anyone who has been declared innocent by the courts and I am prepared to put into Parliament a prayer for relief. I am working with Murray Nixon, a former member of the Legislative Council, and I am waiting for the report to come out. There is a lot wrong with those environmentally sensitive area notices. It is not good enough that many people do not know about the existence of such a notice

over their property. Once again, I thank the committee and I believe that its report will have teeth. I also hope that there will be some sort of negotiated outcome for Mr Peter Swift.

Hon SIMON O'BRIEN: The Standing Committee on Environment and Public Affairs' forty-first report indeed needs to be noted by the house, as do others. I think it has already been accepted that this report concerns some issues of gravity that should command the serious attention of government in the same way that the issues have captured the serious attention of many members of this place—and they are right. With that in mind, I want to make a brief contribution now and reserve some remarks for a later stage when we have the benefit of the government response, which I think is due no later than the middle of October. I am also aware of restrictions under the standing orders that we are trialling at the moment. I am not particularly happy about those standing orders that give us three bites of up to 10 minutes each. We do not get up to 30 minutes; we get three bites of 10 minutes. That is not satisfactory for considering the sorts of matters canvassed in this report, but I will do my best. I want to raise a couple of issues now that need to be raised and, hopefully, noted before the government concludes its response to this report. I know that the relevant minister will take note.

I found it particularly interesting to note the debate in this place on 21 August 2014 on the repeal of regulation 6 of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004, which is referred to in this report. History records that the Legislative Council considered the debate and that many members made some highly pertinent comments that helped inform the committee in considering this matter currently before us. It was very interesting to note that when we as a committee researched this matter, we found that regulation 6 had no effect, yet the house declined to accept the motion that it be repealed. How extraordinary that is! It just shows how complicated and convoluted some of the laws on this matter are when, after a debate involving all members, the house itself was unable to determine that reg 6 should be repealed, even though it had no further effect.

This report contains a recommendation about what the government can do with reg 6! I think that will be an easy recommendation for the government to adopt, for all the reasons that are outlined in the report. We hope that the government's response will be relatively easy to read and will canvass some fairly complex matters. That is the good news! We can look forward to that, I hope, because if we cannot get the government over that reg 6 hurdle at the outset, we would not have much hope for the rest. The government has some tough matters to confront and I want to highlight a couple of them now.

The first thing that concerned me about this matter, in retrospect, was the information provided via explanatory memorandum to the then Joint Standing Committee on Delegated Legislation as it contemplated both the clearing regs at the end of 2004 and the notice in early 2005. Some matters in that information are highly unsatisfactory. I commend the relevant parts of the report that deal with those matters to the attention of members who are concerned—I am sure all members are—about how Parliament is treated and how it is viewed by the departments of state and by governments of all persuasions. Suffice to say that in the explanatory memoranda to the Environmental Protection (Environmentally Sensitive Areas) Notice 2005, the relevant agency sought some submissions by way of consultation with some selected peak bodies, giving them three business days to respond. The Pastoralists and Graziers Association was one of the 11. I am referring to page 29 of the report and specifically paragraph 7.10.

It states —

> The Department received 11 submissions, including submissions from the PGA and WAFF. A few submissions indicated issues, including 'substantive issues', with the ESA Notice. For example:
>
> - The PGA submitted:
>
>   *I have already contacted your office voicing our organisation's concern over the extremely short time frame for comment on this notice, especially in light of the incorrect draft of the notice being circulated. … The PGA has thoroughly expressed its opposition to the Environmental Regulations in their current form, due to the fact that they have been demonstrated to be unworkable. Members of our association are still awaiting clarification from the Government on the rights of producers to clear native vegetation to erect new fencing in agricultural and pastoral area, which is an essential farming practice.*
>
> - WAFF submitted:
>
>   *The main concern that we have with documents such as the notice is the lack of plain English and to a degree I understand the legal reasons behind that, however, the average farmer really has some difficulty in coming to terms with the terminology and lack of definition in the working which leaves them open to interpretation and potential abuse by agency people.*

That was a very brief and totally inadequate period of consultation, as discussed in that chapter of the report, which I commend to members for their attention.

I turn now to the explanatory memorandum. Despite having been provided with that feedback from the brief period of consultation that was available, the explanatory memorandum for the ESA notice, provided to a joint standing committee of this house, said that the submissions were "generally supportive or neutral, and no substantive issues were raised". Frankly, that is quite inaccurate. I believe that the delegated legislation committee of the day, with the information that it had before it, may well have been misled in the way that it dealt with that particular piece of delegated legislation. That is a serious matter of concern and it needs to be brought to the attention of the house.

The other matter that I want to highlight is the advice that is given to landholders when an ESA notice is placed on their land. Apparently with respect to those 98 000 properties, it was just too hard for the department to let the landholders know. I ask members: why should the government be able to use that as an excuse for not letting these landholders know that it has passed some sweeping law that will impact on them in a substantial way? It is not good enough to say that it is just too hard or there are too many of them. I urge members to consider what would happen if the government wanted to affect someone's land through some other mechanism; for example, by placing a planning control order on a person's property.

The CHAIR: Members, the question is that the report be noted. Hon Simon O'Brien.

Hon SIMON O'BRIEN: A planning control order may be whacked on a row of properties, as happens from time to time, saying that the owners of those properties are not allowed to redevelop their properties in any way because the government is making up its mind and wants to reserve its option about that street frontage or that corner. That planning control order may last for five years, no ifs or buts, and during that time the owners are not allowed to do anything with their property; and, at the end of five years, if the government has not made up its mind about what it wants to do with those properties, it can whack on another planning control order. That is the sort of planning blight that unfortunately—sometimes necessarily—is visited on landholders. Is there any suggestion that a person whose property is to be subject to a planning control order should not be notified of that fact in writing? Of course there is not. If someone is about to have a bit of their land resumed by Main Roads because it needs to widen a corner or something, of course that landowner should be communicated with in writing.

Hon Rick Mazza: And be compensated.

Hon SIMON O'BRIEN: Yes, and be compensated. If a landholder is told that they will not be able to do the things that they thought they would be able to do on their agricultural property because the government has put out a notice saying that their property has a wetland on it—or what the government is calling a wetland based on some remote desktop level of study—should not that landholder be given a notice in writing saying that is what is going to happen? Of course they should. In this case, if there had been one or two landholders, they would have been advised; if there had been 10, they would have been advised; and if there had been 50, they probably would have been advised. However, because there were 98 000 landholders, they were not advised. The reason they were not advised is that it was inconvenient for the department. Well, sorry. That is not good enough. I would be shocked and dismayed if any member in this house thought it was good enough. That includes any ministers of state who have to consider the government's response, and perhaps those ministers will take that on board when considering the response that will come to us by the middle of next month.

While we are on the subject of departmental versus landholder convenience, I want to mention something else that concerns me. I am concerned that we will get some sort of government response along the lines that I will outline now. I am concerned that we will be told, "Everything is all right, because a new guide is coming out for the grazing of native vegetation, and you can all be reassured about that". It is a good thing to provide more information, and there should be more of it. However, we know about that guide, and it does not address the matters that we have identified in this report; it is about a different matter altogether. I am concerned that the government will say, "You don't need to worry about it anymore, because in the future it will be much simpler because we'll have a thing called"—it will probably be legislated for—"a referral model." I can tell members that the committee has made recommendations about the referral model, and it is not for the convenience of affected landholders at all. I refer members to finding 10. The referral model that is proposed to be introduced to amend the land clearing laws may provide some administrative convenience to the department, but that is all it provides. We know that because we were told that during the hearings that we conducted. What we are after here, I think, is not further administrative convenience for the department—not that there is necessarily anything wrong with that, and I will come back to that in a minute. What we are after here is a fair go and due process for these landholders, and for other landholders and citizens in the future who may be challenged by other executive governments that put out notices in the environment or the planning area, or in whatever other area they choose to impose the will of the day onto the poor long-suffering people of Western Australia.

So I say to the Minister for Environment, who will have carriage of the government response, please do not come back to us and insult this house by telling us that it is all right and the government now has some new grazing regulations and a new referral model. That is not about helping to address the issues that we have identified. It is about departmental convenience. If the department is going to impact on 98 000 people's landholdings, it should at least write them a letter to tell them so. If government in its wisdom says, "Heavens, that's a colossal job! How would we track them down? Where would we get the administrative staff to do it?", and it cannot do that, then it should reconsider the policy it is proposing to introduce. Surely, it should be given a wake-up. What we do know is that we cannot rely on the department's response that this was for the convenience of the department. It was convenient for the department to not consult properly. It was convenient for the department to give, frankly, false information on two occasions via explanatory memoranda to the Joint Standing Committee on Delegated Legislation. This is a challenge to Minister Albert Jacob, who I have a lot of time for. When he is served up this sort of swill by some in his agency and told, "Here, put this up to Parliament. We've fed them all sorts of nonsense in the past", I want to see what his response is. It is a real challenge. I, privately —

Hon Peter Collier: Just between us!

Hon SIMON O'BRIEN: Yes, just between us! No, publicly, I have a bit of time for Minister Jacob, but I think that this will be a real test to see how he leads a government response to this report. There is a lot more in the report. I hope members found it interesting. I know they did because I have had feedback. This is the reason that we come into this place: to deal with issues like this.

One more thing needs to happen and that is for the government to take on board in the right spirit the matters that the committee has reported, because, in all cases, when committees make their findings, conduct their inquiries, make their recommendations, put their names to it, they do so because they are well motivated to look after people who rely on them to protect them from the excesses of government and government agencies. The challenge is clearly with the government now and we look forward to its response.

I would like to thank my colleagues on the committee, together with the staff who have assisted us. I also thank the petitioners who, through the agency of our colleague Hon Mark Lewis, brought the matter to our attention. In particular I thank our former colleague Murray Nixon, who was a very good witness. He was very persistent, too; but he was a very competent witness. I now take great pleasure in commending the report to the house.

Hon BRIAN ELLIS: I thank the Chairman of the Standing Committee on Environment and Public Affairs for his comments. I endorse all his comments and I do not intend to compete with him. I agree with the comments of Hon Simon O'Brien and I, too, look forward to the Minister for Environment's response to the forty-first report of the Standing Committee on Environment and Public Affairs, because that is the whole point of such reports. As the chairman of the committee said, a lot of work has gone into this report and its recommendations will not solve everyone's problem, but will start to give some clarity to those landowners who before now have had no clarity at all.

I have had a bit to do with some landowners and in the past have tried to argue their case with the department of environment, to the point at which I actually got myself into trouble. At the time, the department was very defensive in its attitude towards some landowners. The department obviously did not like the anger directed at it, but how could it not understand why farmers were angry when they did not understand what the regulations were asking them to do? I believe that the department, in its rush to get these regulations in place, was guilty, as we already know, of a lack of consultation. There was confusion about the uncertainty of land clearing laws, the validity of environmentally sensitive area notices, the broad scope and scale of ESA notices and the impacts of the Environmental Protection (Environmentally Sensitive Areas) Notice 2005, which, as has been pointed out, included 98 000-odd parcels of land. That presented another problem for me because it almost appeared in those 98 000 parcels of land as though, to protect the so-called environmentally sensitive areas, someone had just thrown darts at a map and covered it. The all-encompassing effect of that is pointed out in finding 4 of the report, which states —

> … **while some important assets and areas of special environmental sensitivity or value should be afforded enhanced protection, it remains concerned about the seemingly all-encompassing but untested inclusion of wetlands captured by the ESA Notice.**

There does not seem to be any logic behind the ESAs in the first place. We all accept that there are valuable areas of land that need to be protected, but some of the wetlands on which ESAs are put in the first place are no longer wetlands.

I mentioned the lack of consultation, and it was pointed out in finding 6 of the report, which states —

> … **the then Department of Environment limited its consultation in relation to the draft *Environmental Protection (Environmentally Sensitive Areas) Notice 2005* to only seven days** …

Who in their right mind could call that consultation? Who would expect people to respond within seven days to a notice that requires people to get together and consult with other landowners when there are 98 000 parcels of land involved? It is ridiculous. It is almost as though it is an afterthought, and I think that was the case. Suddenly it occurred to the department that consultation had to happen and it gave seven days' notice. In doing so the department turned some landowners into criminals because of the lack of consultation and understanding, and, as I said before, the landowners were confused. Finding 9 of the report points that out, when it states —

- **There is limited information available to the public on ESAs. Printed maps are not readily available and it remains a challenge for landowners to identify an ESA using the Government's internet resource WA Atlas.**
- **Landowners have not been adequately advised that a law has been introduced that restricts their land use.**

We find throughout the report that a lot of the criticism is about the way it has been handled by the relevant department—a lack of consultation, a lack of information and total confusion to landowners.

We would have thought that if these laws were so important that all landowners who had ESAs would have been advised. I accept that the chairman has pointed this out. If laws are going to be made that impact on people in the way that these ESAs have, surely all those people need to be informed. As I said before, because the department has not done that, some landowners have been turned into criminals—not by their own making, but perhaps by their ignorance because of the lack of consultation. I do take the point that, as Hon Mark Lewis said, the guidelines to grazing have just been released. I thought that maybe the department had read recommendation 5 of our report and had consulted. It gave more time and asked for submissions, and it got three or four, but that is just sitting back and waiting. Consultation is going out and talking to those groups affected by those laws and asking them what they want or how they interpret them. Once again, I think the so-called consultation has been a failure. Like the chair of the committee, I would like to reserve some of my comments for after the government responds, because that is the most important part of the process. If the government responds and is positive to our recommendations, I am sure some of the issues will be not so much be solved, but at least understood. Although the committee acknowledges that writing to affected landowners would be a big undertaking, they all agreed that this should have happened 10 years ago when the environmentally sensitive area notices were first introduced. I am of the same view as the chair: if it is a big undertaking, so what? We owe it to people to inform them when we bring in these laws. I endorse recommendation 9 of our report, which I will read out, because for those members who have not read the report, I think these are important recommendations. Recommendation 9 states —

> **The Committee recommends that the Minister for Environment directs the Department of Environment Regulation to write to each affected landowner to advise of the existence of the ESA and its impact.**

That is some consolation to those who have ESAs if we do that. I believe that if the Minister for Environment implements the recommendations of this report, it is likely that the impact of ESAs on landowners will be reduced through their understanding; however, it may not, as I say, solve everything. If it is just unworkable, there is the suggestion, as the chair mentioned, of doing away with it all together and redoing things, and maybe that is the only way it can be resolved. Hopefully, if the minister takes on board the recommendations, there will be a better outcome for all those involved.

Hon PAUL BROWN: Given that there is only a short time remaining before we have our break, I would like to make a small contribution and I would like to leave my more substantial contribution for another week. The Chairman of the Standing Committee on Environment and Public Affairs and Hon Brian Ellis have mentioned this, but in the last couple of days members have received copies of the guide for grazing and clearing of native vegetation. I believe it will be formally released in a couple of days, but we have the final copy with us now.

Hon Stephen Dawson: Only some of us have seen it; I think you have to be a government MP.

Hon PAUL BROWN: Sorry, I did not realise it was "secret squirrel"; I will happily provide the member with a copy.

Hon Stephen Dawson: Perhaps you could table it!

Hon PAUL BROWN: It will be tabled in a couple of days anyway, I am sure; it will certainly be made public in a couple of days.

It concerns me that one of the recommendations the committee made was to review the grazing guidelines in relation to environmentally sensitive areas. Finding 2 states —

> **The Committee finds that the purpose of ESAs is to protect incremental degradation of important assets and areas of special environmental sensitivity or value. The law provides that the 'day to day' clearing exemptions in the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* do not apply to ESA land.**

In the guidelines, grazing is not exempt as part of that, because any grazing on land that has an ESA on it is not exempt from those regulations.

Committee interrupted, pursuant to temporary orders.

[Continued on page 5970.]

Sitting suspended from 4.15 to 4.30 pm