



TWELFTH REPORT

OF THE

**STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS
AND STATUTES REVISION**

**IN RELATION TO A PETITION REGARDING THE SWAN
VALLEY AND WHITEMAN PARK**

Presented by the Hon M D Nixon (Chairman)

12
June 1996

**STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS
AND STATUTES REVISION**

Date first appointed:

21 December 1989

Terms of Reference:

The functions of the Committee are to consider and report on -

- (a) what written laws of the State and spent or obsolete Acts of Parliament might be repealed from time to time;
- (b) what amendments of a technical or drafting nature might be made to the Statute book;
- (c) the form and availability of written laws and their publication;
- (d) any petition;
- (e) any matter of a constitutional or legal nature referred to it by the House.

A petition stands referred to the Committee after presentation.

Members as at the date of this report:

Hon M D Nixon MLC (Chairman)
Hon A J G MacTiernan MLC
Hon B M Scott MLC

Staff as at the date of this report:

Ms Jan Paniperis, Committee Clerk
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Previous reports:

See Appendix IV

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**Petition Regarding Swan Valley and Whiteman Park
Working Paper.**

1. INTRODUCTION

The Standing Committee on Constitutional Affairs and Statutes was first appointed on 21 December 1989. Under its Terms of Reference, the Committee is required, *inter alia*, to consider and report on any petition.

1.1 The Petition

On 5 April 1995, Hon Reg Davies MLC tabled a petition (*TP #251 of 1995*) opposing the urbanisation of the Swan Valley and Whiteman Park and requesting the Legislative Council to

ensure that the boundaries of the proposed Swan Valley legislated area be extended westwards to include Whiteman Park and Bennett Brook and also include the Caversham Air Base in the core of the Swan Valley Policy Area B.

2. OVERVIEW

The petitioners have asked the Legislative Council ensure that Whiteman Park, the Caversham Air Base and the Bennett Brook area are included within the legislative protection which has been granted to areas of the Swan Valley by the *Swan Valley Planning Act 1995* ("Act"). This Act was primarily designed to encourage the continuation of :

- traditional agricultural and other productive uses of land ;
- the protection of the local environment;
- the promotion of tourism; and
- the maintenance of the distinctly rural character of the Swan Valley and surrounding areas.

In considering the issues raised in the petition, the Committee has been fully aware of the great difficulties which face planning authorities in balancing the increasing demand for land suitable to urban development with the physical, environmental and cultural constraints to such urbanisation. In particular, the Committee acknowledges the conflict between the social constraints to urbanisation, such as the right to pursue alternative or traditional lifestyles, and the need to provide for future housing and infrastructure requirements. In fact, the Committee is of the opinion that the high standard of living enjoyed by West Australians is due as much to the available cultural and lifestyle diversity as it is to economic prosperity.

As a result, the Committee is sympathetic to the concerns raised in the petition and to the potential impact of urbanisation on portions of the North East Corridor. The task of comparing arguments opposing urbanisation against the objectives of future planning needs is an intricate task of evaluating competing priorities.

Thus, the Committee gave consideration not only to the Metropolitan and regional planning objectives of the designated areas, but also to issues such as:

- the prevailing local community attitude regarding the urbanisation of the Swan Valley and its surrounding areas and the preservation of its long-standing rural character;
- the impact of urban development on the local environment, particularly the Gnangara Groundwater Mound, Whiteman Park and the Swan River;
- the relevance of State Government transport and National Highway initiatives in the North East Corridor to the terms of the petition;
- the question of social equity and the liberty to pursue alternative or traditional lifestyles and the contribution such uses could make to the long-term viability of the Swan Valley as a tourism, recreation and heritage attraction; and
- the alternative uses to which the land in question might be put, such as equestrian training and horse-racing facilities.

A list of persons the Committee met with and the written materials considered in reviewing the petition is attached at Appendix 1.

3. BACKGROUND TO THE PETITION

The Swan Valley has always been considered an area of great cultural importance in Western Australia. This area constituted the original site of Western Australia's agriculture and, in more recent times, has provided rural recreational opportunities close to the city. Notwithstanding Perth's subsequent economic and demographic development, this area has maintained its rural character and has become a focal point of the State's very successful viticultural industry. Until recently, widespread urban development had not been considered appropriate for the Swan Valley or its surrounding areas of the North East Corridor (*DPUD, 1994*). However, the increased population of the State and the consequent expansion of the metropolitan area began to place a great strain on available land resources for future residential housing. This pressure has inevitably led to a re-assessment of the cultural and conservation priorities for the Swan Valley and surrounding areas.

3.1 Recent Swan Valley Planning History

In 1985, a Swan Valley Policy was prepared by the then State Government with the intent of protecting the rural character of the Valley and encouraging the potential of the area for tourism, recreation, and environmental conservation.

The Policy incorporated the area between West Swan Road on the west and the foothills in the east (*DPUD, 1994*). The Committee notes that the Policy did not cover Whiteman Park, Caversham Air Base

or the Bennett Brook area.¹ In fact, the Policy suggested that some of these areas had potential for urban development.

The concept of the North-East Corridor as a major urban growth area was further promoted in 1987 by the Corridor Review Plan, which proposed ten new areas for urban expansion in the Metropolitan area, three of which were located in the North east Corridor. These areas were West Swan (which includes the area known as Ellenbrook), Beechboro on the western side of the Swan Valley and Middle Swan, Herne Hill and Millendon on the eastern side of the Swan Valley (*DPUD, 1994*).

The Review Plan was released for public comment between 1987 and 1989. According to DPUD statistics, over 1200 submissions were received and analysed which resulted in considerable modifications to the planning strategy in the North-East Corridor.

These modifications were followed in 1990 by the adoption of the *METROPLAN* - the Strategic Plan for Metropolitan Growth to the Year 2021 ("*METROPLAN*") and the Urban Expansion Policy Statement ("*UEPS*"). The *METROPLAN* identified two areas either side of the Swan Valley core area as sites for urban expansion. The central theme of this new strategy was to situate urban expansion on either side of the Swan Valley while maintaining the agricultural and recreational character of the Valley itself. In effect, the Swan Valley was to operate as an "open space" resource for the future urban populations of surrounding areas (*DPUD, 1994*). Likewise, the *UEPS*, which was an extension of the *METROPLAN*, identified the North-East Corridor as a major area for metropolitan expansion. It was felt that by the year 2021, the North-East Corridor would represent 33% of the newly developed urban land in Perth and support a population of approximately 225,000 people.

In 1991 the Policy was again reviewed and the boundaries of the Valley changed to include a core area situated between Railway Parade and West Swan Road, with a buffer strip located on the western side of West Swan Road. By this time, it was apparent that there were considerable constraints to urban development of the North-East Corridor that, to an extent, invalidated the claims made by *METROPLAN* and the *UEPS*.

Accordingly, this further review of the Swan Valley Policy was aimed at establishing a long term vision for the area by maintaining the core area as a non-urbanised protected area, but still allowing for limited urbanisation in surrounding areas. Throughout this process of review, the local community of the Swan Valley remained vocal and concerned about the planning decisions affecting the North-East Corridor. However, a report on the community consultation process commissioned by the Department of Planning and Urban Development in 1994 found that, although the policy development process incorporated some degree of public consultation, the fact that a final policy statement was never finalised had left many members of the community remain disenchanted with the consultation process.

3.2 The Tomlinson Committee

To overcome this community disenchantment, an Interim Swan Valley Strategy Committee was established by the State Government in July 1993 to draft planning legislation for the area. The Committee included representatives from the Shire of Swan, the Midland Chamber of Commerce, the State Planning Commission, the Swan Valley Grapegrowers Association, and the community, and was chaired by Hon

¹ See *DPUD, 1994*, figure 4 at p.9

Derrick Tomlinson MLC.

With regard to the western boundaries of the Swan Valley, the Strategy Committee noted:

The extension of the western boundary would ameliorate many of the concerns the majority of the community had regarding future urban development in the corridor between the proposed boundary and Lord Street. This includes concerns about major roads in this corridor, concerns about the environmental values of flora and fauna in the army reserve land, concerns that links between Whiteman Park and the equestrian community in the Swan Valley might be severed if the boundary is not extended and concerns that an insufficient buffer would exist between rural properties and urban development. The proposed North-East Corridor Structure Plan has designated this area for urban development. Consequently, the extension of the western boundary would be in direct conflict with this plan. It is an issue which needs to be resolved at State level. (Strategy Committee Report, 1994)

3.3 Metropolitan Regional Scheme Amendment 950/33

Recent amendments to the Metropolitan Regional Scheme (“MRS”) also impacted on the area of concern to the petitioners. The MRS amendment 950/33 was assented to on 14 December 1994. The amendment incorporates an extension of Lord Street north of, and connecting with, the Reid Highway. The extension, referred to as the Perth-Darwin Highway, forms the western boundary of the North-East Corridor and swings eastward after Ellenbrook to avoid the area known as the Lexia wetlands. The highway will be situated slightly within the eastern boundary of Whiteman Park south of Park Street, and, in order to accommodate a bridge crossing with Gnangara Road, will veer three hundred metres into Whiteman Park north of Park Street. It is also planned that a rail link be constructed adjacent to the Highway.

The MRS amendment was the subject of a petition to the Legislative Council, also tabled in April 1995. The petitioners noted their opposition to the amendment, citing “*unacceptable risks to the natural environment and Perth’s groundwater supply and the negative impacts on important heritage areas and existing communities*”, and requested the Legislative Council to disallow the amendment. The Committee has considered the MRS amendment as it relates to the current petition. The Committee notes that a number of alternative routes have been considered by the government. These include the current alignment of the Great Northern Highway and the alignment of the existing railway. Such alternatives were discarded after public consultation.

4. THE SWAN VALLEY PLANNING ACT 1995

In September 1995, State Parliament passed the *Swan Valley Planning Act 1995*, which provides for the establishment of a committee to advise on land use planning and land development in the area known as the Swan Valley, and to prescribe planning and development objectives for the various parts of that area. The Act defines the Swan Valley as an area covering 7,200 hectares, which is classified into four planning areas as detailed below and illustrated at Appendix II.

Area A: Area A covers part of Henley Brook and Belhus. It is characterised by hobby farms and rural-residential use. The planning objectives for the area include the maintenance of the area’s rural character and the encouragement of viticulture, horticulture, rural activities,

and tourism compatible with the rural-residential use of the area.

Area B: Area B is the primary protection or core area of the Swan Valley. The primary planning objectives are to protect viticulture production and traditional horticulture activities. Tourism activities compatible with the rural character of the area and limited expansion of existing retail and community facilities will be permitted. This will not include subdivision of less than four hectares.

Area C: Area C consists of the rural living area in Millendon and Herne Hill. The planning objectives include maintenance of the area's rural character, establishment of a wide range of rural activities, and encouragement of horticultural and viticultural uses. Subdivision of less than four hectares will not be permitted.

Area D: Area D consists of the rural villages in Herne Hill and Caversham, and will incorporate a range of residential lots of between 2000m² and 4000m², service utilities, and amenities.

These Areas do not currently include Whiteman Park, Caversham Air Base or the Bennett Brook area. The petitioners wish these three areas to be included in either Policy Area A or Policy Area B.

The decision to be made is whether it is desirable to include these areas within the protective ambit of the Act. In order to make this decision, it is necessary to consider the variety of issues and concerns of both the local community and the planning authorities in relation to the North-East Corridor.

5. THE ISSUES RAISED IN THE PETITION

The petitioners have requested that the Legislative Council ensure a westward extension to the Swan Valley Legislated Area ("Legislated Area") to incorporate the land up to the boundary of Whiteman Park between Gngangara Road to the north and the Reid Highway to the south.

The petition itself contains two distinct requests.

Firstly, it requests that Whiteman Park and the Bennett Brook area, which is bounded by Whiteman Park, the Swan Valley, Gngangara Road and Youle-Dean Street, are included in the Legislated Area. The petition does not suggest the Policy area category into which this land should be incorporated. Further discussion with the principal petitioner revealed that the petitioners consider either Policy Area A or Policy Area B to be appropriate.

A number of matters have been raised by the petitioners in support of this request. These include:

- a.) the ability of Whiteman Park to maintain its effectiveness as a Parks and Recreation Reserve against future urbanisation in the North-East Corridor;
- b.) the impact of urban development in the Bennett Brook area and Caversham Air Base on the long-standing rural character of the Swan Valley and the surrounding areas;
- c.) the alternative uses to which the land in question might be put, such as equestrian training and horse-racing facilities;

- d.) the protection of the local environment, particularly the groundwater contained in the Gnangara Mound Priority Area Two, from the adverse effects of urban development; and
- e.) the relevance of State Government transport planning and National Highway initiatives in the North-East Corridor to the terms of the petition, particularly the proposed alignment for the new Perth-Darwin Highway along the extension to Lord Street; and

Secondly, the petitioners request that the Swan Valley Legislated Area incorporate Caversham Air Base within Policy Area B, creating a link between the Swan Valley and Whiteman Park.

The two terms of reference are addressed separately below.

5.1 Inclusion of Whiteman Park and Bennett Brook

5.1.1 *Whiteman Park*

Whiteman Park is currently classified in the Metropolitan Region Scheme as a "Parks and Recreation" Reserve covering an area of approximately 2,630 hectares. It has always been planned and developed as a regional recreational area designed to meet some of the recreational requirements of the northern population of Perth. To this end, the Park currently caters for a range of recreational activities and conservation purposes ranging from equestrian facilities to wildlife observation areas.

Whiteman Park is also a protected conservation area, providing the natural environment for six (6) species of amphibians, twenty-six (26) species of reptiles, ninety-five (95) species of birds and five (5) species of native mammals, including the rare and endangered Southern Brown Bandicoot. It is also considered a very important area for the conservation of flora, particularly wildflowers, which are representative of the Bassendean dune system of the Swan Coastal Plain. In addition, the Committee notes the proximity of Whiteman Park to the Priority 1 areas of the Gnangara Water Mound.

As a Parks and Recreation Reserve, Whiteman Park is already afforded protection from urbanisation. However, the petitioners have raised valid concerns that the development of surrounding areas contemplated under the *MRS Amendment 950/33*, such as Henley Brook and West Swan, could endanger both Perth's water supplies and the native flora and fauna of Whiteman Park.

The North-East Corridor is an environmentally sensitive area in which the natural vegetation and wetlands are closely linked to the natural groundwater regime. In particular, medium-level urban development near Whiteman Park represents a risk to the portions of the Gnangara Water Mound which are contained within Whiteman Park. The combination of a high, unconfined aquifer and porous Bassendean sands in this area creates a potential for contamination from the pathogens and chemicals normally associated with dense urban development. These pathogens and chemicals are usually derived from domestic wastewater, nutrient-high stormwater run-off and vehicle emissions. These contaminants also represent a danger to the System 6 Conservation Areas of Whiteman Park, which represent over 80% of its total area.

In addition, it has been suggested by the petitioners that the persistence of many indigenous species within the confines of the Park, particularly the endangered Southern Brown Bandicoot, may also be threatened by the proposed urban development in the North-East Corridor. If Whiteman Park is isolated from other open space areas and reserves by urban development, the continued perpetuation of many of the species in the Park will depend on self-sustaining populations and could endanger the persistence of rarer species.

The petitioners have also suggested that the planned urban development under *MRS Amendment 950/33* will inhibit Whiteman Park's ability to properly function as a recreation and conservation reserve. Currently, the Park offers a variety of recreational facilities, including a Miniature Aircraft Sports Centre, youth camp-sites, international shooting and archery complexes, bridle and cycle trails and an equestrian centre. There are also a number of conservation activities, such as bird-watching areas. The petitioners contend that many of these activities will be severely restricted by proximity to urban areas because of their inconsistency with medium-density residential development.

The Committee has concluded that, despite the validity of the petitioners concerns, it is not appropriate to recommend that Whiteman Park be included in the Swan Valley Legislated Area because:

- Whiteman Park itself is already protected from urbanisation due to its classification as a Parks and Recreation Reserve;
- an amendment of the *MRS* to include Whiteman Park in the Swan Valley Legislated Area would be inconsistent with the status and function of Whiteman Park as a Parks and Recreation Reserve because of the development aspect, albeit rural development, of the *Swan Valley Planning Act 1995*; and
- the Committee has reluctantly come to the conclusion that the Perth-Darwin Highway route should remain on the Lord Street alignment (see section 5.1.5 below) and if Whiteman Park were to be included within the Swan Valley Legislated Area, the future Highway would form a formidable barrier between the Park and the remainder of the Legislated Area.

5.1.2 *The Bennett Brook area bounded by Whiteman Park, the Swan Valley, Youle-Dean Street, and Gnangara Road.*

The petitioners have also requested that the Committee recommend an extension of the western boundary of the Swan Valley Legislated Area to incorporate the area between the current Swan Valley boundary and Whiteman Park, including the region referred to by the petitioners as the "Bennett Brook area".

For these purposes, the Bennett Brook area has been defined as comprising the region bounded by Whiteman Park to the west, the Swan Valley Legislated Area to the east, Youle-Dean Street to the south and Gnangara Road to the north.

This entire area is currently a mix of urban deferred and special rural zoning, which was introduced with the *MRS Amendment 950/33*.² It is the Committee's understanding that this area has been selected as a major site for future urban development in the North-East Corridor to satisfy the mounting demand in the metropolitan area for housing. It has been suggested that this area could provide approximately 5124 new residential lots housing almost 13,000 people over the next thirty years³ and will be sufficiently populated to support a secondary school and a district shopping centre.

The petitioners have expressed grave concerns regarding the impact of an urban development in this area

² A map detailing the current zoning of areas within the North-East Corridor is attached at Appendix III.

³ These figures have been based on information provided in the North-East Corridor Structure prepared by the Department of Planning.

on Whiteman Park and the Swan Valley Legislated Area. The petitioners were concerned that such developments would contribute to increased local pollution and crime rates and would alter the rural lifestyle of the area. It was felt that the buffer zones between the established rural areas and proposed urban development in the North-East Corridor are inadequate and should be extended. In particular, the petitioners expressed misgivings that the critical mass of the Swan Valley Legislated Area must be of a sufficient size to insulate the Legislated Area from the pressures of urbanisation in other parts of the North-East Corridor. In this way, the rural character of the Swan Valley could be sustained without any adverse effect.

The Committee notes that Henley Brook residents raised similar concerns with the Interim Swan Valley Strategy Committee regarding the impact of urban development, particularly that relating to the Ellenbrook development, the Egerton development, and the land between Henley Brook and Lord Street (*DPUD*, 1994). West Swan residents have also previously expressed similar concerns, particularly with regard to the potential for an urban corridor to be created between Guildford and Ellenbrook if the land between the existing boundary and Lord Street was not included within the Swan Valley boundary. Opposition to urban development in the North-East Corridor was also expressed by residents of Bassendean, Eden Hill, and Lockridge.

The petitioners also raised concerns regarding the motivation for the urban development in the Bennett Brook area, including the ownership of the land by Homeswest and the potential for development in Bennett Brook to spread the infrastructure costs of the Ellenbrook development in the north.

Homeswest owns Lots 352-355 and 359 Murray Road and Lots 10 and 310 Woolcott Avenue, representing approximately two fifths of the land zoned urban deferred.

Consultation with Homeswest emphasised consideration of the urban development within the North-East Corridor strategy. The development forms part of a corridor which links Beechboro in the south and Ellenbrook and the Vines Country Club in the north, and is intended provide housing for approximately 80,000 people. Corridor formations, as opposed to isolated developments, are also said to have strategic value in their potential to minimise unit costs of infrastructure by locating developments along service trunklines. Alternative Homeswest housing sites in the North-East Corridor, which include Stratton (500-600 remaining lots) to the south east and some holdings in Middle Swan which are subject to the Swan Valley planning legislation, are limited.

A structure plan for this Homeswest land has been developed by a consultancy team comprised of town planning, environmental, and engineering consultants. While the details of the final development are subject to consultation with local planning authorities, the plan shows detailed site assessment and consideration of drainage issues. The plan indicates three well-defined drainage lines and two major flood-prone areas. The drainage lines, including the St Leonard's Creek tributaries, will be utilised in the development. Engineering assessment of the northern area indicates that inundation is largely due to entrapment, which will be alleviated during the course of site preparation earthworks. Seasonal inundation of the southern area, however, is due to the height of the water table at this point, and will need to be addressed by a reasonable degree of infill. The report, however, suggests that the cost of the infill, which Homeswest expects to source locally, either to the immediate north of Ellenbrook or from the site itself, will not be prohibitive.

However, the petitioners do not agree with the assessment by Homeswest of the infrastructure costs involved in the development of the Bennett Brook area. The petitioners have specifically referred to the potential for the Bennett Brook site to incur high development costs due to seasonal inundation, local wetlands and the high local water-table.

Accordingly, the petitioners have proposed that small rural lots would be the most appropriate form of residential development in the area, because this type of development would:

- i. incur fewer infrastructure requirements in terms of initial construction and the provision of public utilities and services;
- ii. represent a lesser threat to the natural environment of Whiteman Park and to the Gnangara Mound Groundwater supply;
- iii. not have a negative impact on heritage areas and existing communities in the area; and
- iv. foster the maintenance of the present character, environment and economic base of Bennett Brook and the Swan Valley Legislated Area.

Deliberations of the Committee

The Committee acknowledges that Perth is one of the fastest growing cities in Australia. In fact, since the publication of the first metropolitan strategic plan for the Perth Metropolitan Area in 1955, the population has doubled from about 500,000 to the present 1.1 million. Over the next thirty years, it is estimated that the population will, by the year 2021, reach approximately 2 million residents (*Urban Expansion Statement*, 1990). As a result, the critical need for additional land suitable for urban development must be accepted.

Yet, at the same time, the Committee recognises that a major attraction of Perth is the maintenance of its natural environment for recreational and conservation purposes, and the easy availability of alternative lifestyles close to the city centre. Furthermore, due to the unfortunate fact that Perth sits directly on top of two-thirds of its groundwater supplies in the Gnangara Water Mound, environmental protection must be a paramount priority for the continued good health of the metropolitan area.

Accordingly, the challenge for planning authorities is to retain the special character and preserve the natural environment of Perth while simultaneously engineering an urban expansion to accommodate a future Perth with twice its existing population.

One of the most important factors to be considered is the housing requirements of this future population and where the new areas of urban growth can be best accommodated to satisfy our competing needs. This challenge is further exacerbated by the necessity to not only ensure that the supply of land for housing keeps pace with demand, but also to plan for the provision of a full range of housing types and prices to meet the various demands of the growing population.

In terms of the proposed Bennett Brook development, the Committee considers that this dichotomy is intensified by the pre-existence of established rural lifestyles in this area. On the one hand, current residents of Bennett Brook have claimed that substantial cultural and environmental damage will result from urban development in this corridor between Whiteman Park and the Swan Valley. At the same time, urban planning and transport authorities have suggested that Perth's need for additional residential land outweighs the slight social and natural constraints to development. The Committee has also noted the disparity between the petitioners and Homeswest in relation to the infrastructure costs for urban development in this area.

The Committee was unable to reach a unanimous consensus on this issue, but considers this disparity to

be an accurate reflection of the competing social and environmental agendas that represent both sides to the issue of urban development in the North-East Corridor.

The Committee therefore offers two alternative recommendations for the Bennett Brook area:

1. *Support for the MRS Amendment 950/33*

One view expressed support for urban development in the North-East Corridor according to the terms of the *MRS Amendment 950/33* and opposes the petitioners request to include the Bennett Brook area in the Swan Valley Legislated Area. This view is guided by the principle that good urban land, like any natural commodity, must be used according to its most appropriate function.

The Committee has been advised that Perth is quickly running out of land suitable for cheap and effective urbanisation. Accordingly, due to the rapid expansion of Perth, the paramount need for land suitable to urban development must take precedence over the maintenance of the opportunities for semi-rural lifestyles. A concern was also raised by members of the Committee supporting the *MRS Amendment 950/33* that any form of development, other than high-density urban development, would not generate a sufficient local population to justify the provision of public services, such as a rail link and public transport.

This view did suggest, however, that where land was not suitable for urban development because of high construction costs due to environmental constraints, such as wetlands, such areas should be appropriately zoned as rural areas or maintained as public open space.

Accordingly, members of the Committee who supported this view felt unable to give their support to the petitioners' request for the extension of the Swan Valley Legislated Area westwards to include the Bennett Brook area.

2. *Incorporation of Bennett Brook area into Swan Valley Policy Area D*

The other view expressed was more consistent with the position advanced by the petitioners. This view recommended the incorporation of the Bennett Brook area within the Swan Valley Legislated Area. However, the members of the Committee who gave support to this view concluded that the most appropriate incorporation would be within Policy Area D rather than Policy Areas A or B as requested by the petitioners.

Policy Area D provides for the establishment of villages in a rural setting, with residential lot sizes ranging from 2000m² to 4000m². It also promotes the provision of utilities, infrastructure services and amenities which complement and support the distinctive requirements of rural villages. Most importantly, a major planning objective for Policy Area D is the prevention of detrimental impact on the rural activities in the Swan Valley and the nutrient levels of the Swan River.

Under the current urban zoning of the Bennett Brook area, it is anticipated that approximately 5124 residential lots are to be developed to house almost 13,000 people. Given the special rural zoning already granted to the Henley Brook area (which constitutes 17.5% of the total area under consideration), the majority of these 13,000 residents will be concentrated in the remaining area between Park Street and Youle-Dean Street. Alternatively, if the area was to be classified Area D under the *Swan Valley Planning Act 1995*, these figures would be reduced to between 500-1000 lots housing between 1250-2500 people.

The reasoning behind supporting the incorporation of this area in Policy Area D involves a number of considerations.

Firstly, it was considered that the relatively large lot sizes, reduced population and the specific contemplation of wetlands in Policy Area D would result in more effective protection for the environment of the North-East Corridor. In particular, it was felt that there was an imperative need to protect the Gnangara Water Mound. This area falls within the Priority Two area of the Mound. A prohibition against any medium or high density residential development would be necessary to ensure the quality of these vital groundwater resources.

Secondly, a major motivation to consolidate the Bennett Brook area into the Swan Valley Legislated Area was to attain a critical mass that would enable the Swan Valley to service the growing demand for its recreational and heritage aspects. Increasing demands by tourists and Perth residents could see the Swan Valley overwhelmed unless sufficient land was incorporated into its boundaries. It was felt that the protection of the Valley's rural character would be best achieved by insulating the Valley proper from the pressures of surrounding urbanisation, such as the Ellenbrook development to the north and West Swan to the south.

Thirdly, the incorporation of Bennett Brook under Policy Area D would allow at least some avenue for residential development in the North-East Corridor, while simultaneously affording protection to the Swan River and the sensitive wetlands in the Bennett Brook area. It would also allow for many semi-rural or tourist pursuits, such as bed and breakfast accommodation and cottage industries, to develop in the area, while incurring lower infrastructure costs due to lower density development.

Accordingly, this view recommends that support be given to the request of the petitioners that the Swan Valley Legislated Area be extended westwards to include the Bennett Brook area and Caversham Air Base (see section 5.2 below), but that this extension be achieved under the auspices of Policy Area D.

It should be noted, however, that the members of the Committee who supported this view did so subject to the operation of the following caveats:

- i. while it would be appropriate for a substantial part of the Caversham Air Base to be incorporated into Policy Area D along with the Bennett Brook area for the reasons outlined above (see section 5.2 below), some portions of the former Air Base should be utilised as public open space to encourage recreational pursuits and environmental conservation; and
- ii. if the recommended consolidation of Bennett Brook into Policy Area D is not accepted and MRS Amendment 950/33 remains unaltered, then this view would make a supplementary recommendation that the Caversham Air Base be incorporated into Policy Area B, as requested by the petitioners, in order to alleviate the pressures on Whiteman Park and the Swan Valley resulting from the increased urbanisation in the North-East Corridor due to the Bennett Brook development.

5.1.3 Bennett Brook and Whiteman Park as an Equestrian Centre

The Committee has also noted the advice of a private resident of Middle Swan regarding previous proposals to utilise the area as an equestrian centre (Slater, 1995). The Interim Swan Valley Strategy

Committee (DPUD, 1995) also noted that many residents of the Swan Valley area are involved in horse training and other equestrian-related activities and had expressed concerns that such activities would not be protected within plans for the urban development of the area.

The Bennett Brook area is said to be ideal for such activities due to the suitability of the surrounding land for year-round equestrian activities, the close proximity of Whiteman Park as open land for riding and training, and the traditional link between the equine and viticultural industries throughout Australia. The Committee notes with approval the extensive equestrian activities which the Park already offers.

The Committee appreciates the possible interference to the equestrian activities in Whiteman Park due to the alignment of the proposed new route for the Perth-Darwin Highway along Lord Street, which forms the eastern boundary of Whiteman Park. The Committee has been advised, however, that the Highway could be intersected by a series of tunnels allowing access to Whiteman Park for equine activities (see section 5.1.5 below).

Therefore, the Committee unanimously recommends that the viability for such tunnels be investigated as a condition precedent to the extension of Lord Street to form the new Perth-Darwin Highway.

5.1.4 Adverse impact on groundwater.

The petitioners expressed concern regarding the impact of urban development in the North-East Corridor on the groundwater contained within the Gngangara Groundwater Mound. The future urban areas and roads in the North-East Corridor will affect approximately 395 hectares of Priority Area 1 and 838 hectares of Priority Area 2 (*Minister for Planning, 1995*).

The Committee considered the possible adverse effects on groundwater that could result from urbanisation in this sensitive area. In particular, the Committee identified :

- protection of groundwater supplies from pathogenetic and chemical contamination normally associated with urban development, such as domestic wastewater, stormwater runoff and vehicle emissions;
- protection of the Swan River from excessive nutrient loads from domestic fertilisers; and
- the risks and hazards from gas pipelines and communal sewerage

as important environmental issues for the area.⁴ The Committee notes that two Water Authority production bores are currently in use in the area affected by the petition.

The Committee notes with great concern the fact that no specific environmental impact studies appear to have been carried out in relation to the Bennett Brook area, other than the Henley Brook Structure Plan, which covers for only 17.5% of the area in question. Furthermore, this omission is contrary to established government policy in relation to any proposed urban development. Such an environmental impact assessments is crucial, not only for the protection of water resources, the ecologically-sensitive wetlands

⁴ EPA Bulletin 754, which considers the area in a regional context, provides further details on these issues.

and the natural flora and fauna of the North-East Corridor, but also to prevent the raising of public expectations of development without ensuring that such development is not subject to substantial physical and environmental constraints.

The Committee urges the State Government to rectify this situation as soon as possible.

5.1.5 Transport Issues

As stated above, the Committee has also considered the impact of State transport planning and National Highway initiatives on the areas subject to the petition. In particular, the petitioners have been critical of the potential effect of *MRS Amendment 950/33* on Whiteman Park.

The *MRS Amendment 950/33* incorporates an extension of Lord Street north of, and connecting with, the Reid Highway, with a rail link to be constructed adjacent to the road extension. The extension, referred to as the new Perth-Darwin Highway route, has been designed to constitute the major arterial road connecting Perth with the Northern Territory. This section of the national highway route also links Perth to the north west regions of Western Australia via the Brand and North West Coastal Highways. It is therefore of significant strategic and economic importance to the State.

Currently, the Great Northern Highway forms the national highway route between Perth and the Northern Territory. Within the Perth metropolitan area, the Great Northern Highway route extends from the Roe Highway in Middle Swan to Muchea and passes through the Swan Valley and the townsites of Upper Swan, Bullsbrook (east) and Muchea. This section of the Great Northern Highway also currently serves as the major north-south arterial road for the North-East Corridor of the metropolitan area.

Unfortunately, the Great Northern Highway is a two-lane road designed only to rural highway standards. The Committee recognises that, as urban development and traffic volumes increase in the North-East Corridor, the safety and amenity of this existing highway will deteriorate and will adversely effect the function of the road transport system in the North-East Corridor.

The Committee therefore endorses the need to plan for the future by either upgrading of the Great Northern Highway to national highway standards or selecting a new route for the future highway within the metropolitan area.

Alternative Routes Considered by State Government

In October 1991, the State Government commissioned a series of studies to investigate several alternative alignments for a Perth-Darwin Highway route ("Highway route"), taking into account physical and social constraints, the need for environmental protection and future traffic requirements.

The studies investigated four possible alignments for the Highway route. These were:

1. Extension of the Tonkin Highway from Reid Highway to Brand Highway near Muchea;
2. Extension of the Tonkin Highway from Reid Highway to Great Northern Highway south of Bullsbrook, then following the Great Northern Highway alignment to the Muchea area;

3. Extension of Lord Street from the proposed Reid Highway alignment to Great Northern Highway south of Bullsbrook, then following the Great Northern Highway alignment to the Muchea area; and
4. Upgrading of the Great Northern Highway from the Roe Highway/Reid Highway to the Muchea area.

Options 1 and 2 were not considered appropriate because they required the Highway to traverse Priority 1 sections of the Gngangara Water Mound.

Option 4 was not recommended because of the perception that public opinion, both locally and across the metropolitan area, opposed the location of a national highway within the confines of the Swan Valley or in surrounding areas because of the threat a national highway would pose to the natural environment and rural character of the area. This position has received further support since the enactment of the *Swan Valley Planning Act 1995* as the Great Northern Highway runs directly through the Swan Valley Legislated Area.

Accordingly, the report recommended that option 3 (northerly extension of Lord Street to Muchea) was the most desirable location for the Perth-Darwin Highway because it would satisfy the long term needs of the national highway system while having the least overall social and environmental impact of the options considered. This recommendation was then utilised to form the basis of *MRS Amendment 950/33*.

Opposition to Lord Street Extension

The Committee is sympathetic to the petitioners' opposition to the proposed site of the Highway on the Lord Street alignment.

In considering the relevance of the *MRS Amendment 950/33* to the petition, the Committee notes three important components of the proposed new Highway route:

1. the Highway will be situated slightly within the eastern boundary of Whiteman Park south of Park Street;
2. the Committee has been advised that, in order to accommodate a bridge crossing Gngangara Road, the Highway will veer an additional three hundred metres into Whiteman Park north of Park Street; and
3. the *MRS Amendment 950/33* has rezoned land in Henley Brook and West Swan to Urban Deferred and reserved land required for the Highway and other major local roads between Reid Highway and the Ellenbrook urban development.

As stated above, it is planned that the Highway will run along, and sometimes slightly within, the eastern boundary of Whiteman Park. As a result, approximately 109 hectares or 4% of the total area of Whiteman Park has been rezoned to allow for the provision of a Controlled Access Highways reservation.

Furthermore, the proposed route for the Highway system twice runs within the boundaries of Whiteman Park and results in the effective severance of two specific portions of Whiteman Park. Under the *MRS Amendment 950/33*, these severed areas were rezoned as Rural (28 hectares) and Urban Deferred (4.4

hectares).⁵

Accordingly, the petitioners have argued that the current location of the Highway site:

1. represents a threat to the natural environment of Whiteman Park and to the Gngangara Mound groundwater supply;
2. will have a negative impact on important heritage areas and existing communities; and
3. that the creation of a new six lane highway in the North-East Corridor is unnecessary given the ability to upgrade the existing Great Northern Highway system and will result in the over-supply of arterial roads running north to south in the North-East Corridor.

The Committee appreciates all of the above concerns and acknowledges that the proposed Highway route is not an ideal solution. In particular, Whiteman Park's importance as a recreational and conservation area, and the need to protect the Gngangara Groundwater Mound, cannot be underestimated.

Furthermore, while the Committee accepts the argument that the new Highway could result in an over-supply of arterial roads running north-south in the North-East Corridor, the Committee notes that the risk of over-supply of arterial roads would not be diminished by enforcing a change in the Highway's alignment. The only solution to this potential problem is to ensure that the number of roads running north to south is appropriate to the actual level of urban development taking place in the North-East Corridor. The Committee suggests that one measure that might be investigated to minimise the impact on traffic levels is the incorporation of the proposed Highway route with the existing Lord Street to simultaneously service both national highway and local traffic, thereby reducing the fragmentation of the surrounding areas and preventing the unnecessary proliferation of roads running north-south in the North-East Corridor.

In the final analysis, however, the Committee is of the opinion that, notwithstanding the merits of the arguments put forward by the petitioners, the proposed site of the new Highway route on the eastern extreme of Whiteman Park is the least problematic of the alternative routes, especially given the fact that those parts of Whiteman Park affected by the new Highway route had already been mainly cleared for grazing.

On the basis of information provided during its deliberations, the Committee concluded that, on balance, the proposed Highway route has a number of social and environmental advantages over the alternative routes.

Firstly, Lord Street extension will:

- have less effect on ecologically sensitive areas than alternative routes along the Tonkin or Great Northern Highways;
- not substantially reduce the effectiveness of Whiteman Park as a recreation area in any significant manner; and

⁵ These statistics were provided to the Committee by the Minister for Planning.

- not impact upon the rural character of the Swan Valley Legislated Area.

Secondly, the Committee notes that the proposed Highway route does not impact on any existing urban developments or heritage sites of great significance, although it does pass in close proximity to an Aboriginal site in the vicinity of Warbrook Road, which would need to be avoided in the Highway design (Perth-Darwin National Highway - Stage 2 Final Report, 1991).

Thirdly, the Lord Street extension represents the cheapest and safest location for the development of a rapid transit system through the North-East Corridor. Indeed, the Committee recognises that the Highway's current alignment represents, for much of its length a logical physical delineation between conservation/recreational uses to the west (such as Whiteman Park) and the proposed urban development to the east.

Accordingly, the Committee is unable to accept that the arguments put forward by the petitioners are sufficient to warrant an alteration to the alignment of the proposed Perth-Darwin Highway route.

It should be noted, however, that, as mentioned in section 5.1.3, the Committee considers its acceptance of the Lord Street extension as the new Perth-Darwin Highway route to be conditional upon the provision of access tunnels incorporating bridle-paths to Whiteman Park. The tunnels are needed for indigenous animals to cross under the Highway in safety and to allow easy and safe access to the park for recreational purposes. In addition, given the pre-existing use of Whiteman Park for equestrian purposes, the Committee feels that it is easier to provide bridle access by tunnels under the Highway at the current gate entrances at the intersection of the Highway at Park Street, Woolcott Avenue and Youle-Dean Street.

5.2 Caversham Air Base

The petition also requests that the Caversham Air Base be included in the Swan Valley Policy Area B. The Air Base is situated immediately north of Harrow Street and comprises an area of 250 hectares. It has been partially cleared with some revegetation and that other parts of the Air Base contain natural bushland. This remnant vegetation was highlighted in the Environmental Audit for the North-East Corridor as being one of the few remnant "Southern River" vegetation complexes remaining within the metropolitan area and, in fact, in the whole Swan Coastal Plain (*DPUD*, 1994).

In essence, this request to include the Air Base in the Swan Valley Legislated Area relates to the establishment of a link between the Swan Valley area and Whiteman Park.

In fact, the North-East Corridor Structure Plan (Ministry for Planning, 1995) provides for a corridor through the lower portion of the existing Caversham Air Base, connecting Whiteman Park and the Swan Valley. This area, however, was not incorporated in the Swan Valley Legislated Area, but will be designated by amendment to the MRS at a date yet to be determined.

Again, the Committee was unable to unanimously agree as to the recommended status for Caversham Air Base. For the same reasoning as described in section 5.1.2 above, part of the Committee supported the inclusion of Caversham Air Base in Swan Valley Policy Area D, while the other part felt that the petitioners' request must be denied on the basis that the land was likely to be the most suitable for urban development in the North-East Corridor.

However, it should again be noted that the members of the Committee who supported the incorporation of the Air Base into Policy Area D considered that some portions of the former Air Base should be utilised

as public open space to encourage recreational pursuits and environmental conservation and to maintain a land corridor between Whiteman Park and the Swan Valley.

Furthermore, if the recommended consolidation of Bennett Brook into Policy Area D was not accepted, then this view would make a supplementary recommendation that Caversham Air Base be incorporated into Policy Area B, as requested by the petitioners, in order to alleviate the pressures on Whiteman Park and the Swan Valley resulting from the increased urbanisation in the North-East Corridor due to the Bennett Brook development.

3. Recommendations and Conclusion

The Committee has been asked to consider whether Whiteman Park, the Caversham Air Base and Bennett Brook should be included within Swan Valley Legislated Area under the *Swan Valley Planning Act 1995*. The petitioners have suggested that such legislative protection is necessary to enable the continued protection of the traditional and alternative lifestyles currently available in the North-East Corridor.

In considering the petition, the Committee has been made aware of a general concern in the Swan Valley and the surrounding areas of the impact urbanisation will have in the North-East Corridor. In particular, there is a concern that the long standing rural character of the Valley will be eroded and that pollution to the environment and the groundwater supplies will result.

Certainly, the Committee appreciates these concerns and, to an extent, shares them. However, the Committee also acknowledges that, as Perth grows in size and population, there are increasing demands for land suitable to urban development. Such conflicts can only be resolved by compromise according to communal priorities.

In relation to the requests contained in the petition, the Committee makes the following recommendations:

1. Given the current protection afforded to Whiteman Park by its classification as a Parks and Recreation Reserve, the Committee considers that its contribution as a recreation facility to the North-East Corridor is already well-protected given current planning strategies;
2. The proposed Perth-Darwin Highway should remain at its present alignment along Lord Street, subject to an investigation as to whether this extension can be engineered to provide service to both regional and local traffic, thereby reducing the number of arterial roads running north-south in the North-East Corridor and minimising the fragmentation of the area;
3. Existing uses of land, such as equestrian training and horse-racing facilities, are appropriate in the North-East Corridor and should be sustained and encouraged through appropriate zoning and the creation of infrastructure consistent with such activities; and
4. The Committee was not able to agree on the recommended status of the Bennett Brook area and the Caversham Air Base.

The Committee makes two alternative recommendations in relation to these issues:

- i. One view expressed support for urban development in the North-East Corridor according to the terms of the *MRS Amendment 950/33* and opposes the petitioners request to include the Bennett Brook area and Caversham Air Base in the Swan Valley Legislated Area.

- ii. The other view recommended the incorporation of the Bennett Brook area and the Caversham Air Base into the Swan Valley Legislated Area, but concluded that the most appropriate incorporation would be within Policy Area D rather than Policy Areas A or B as requested by the petitioners. This view also suggested that portions of the former Air Base should be reserved as public open space to encourage recreational pursuits and environmental conservation.

This view also concluded that, if the recommended consolidation of Bennett Brook into Policy Area D was not accepted, then a supplementary recommendation would be made that Caversham Air Base be incorporated into Policy Area B, as requested by the petitioners, in order to alleviate the pressures on Whiteman Park and the Swan Valley resulting from the increased urbanisation in the North-East Corridor due to the Bennett Brook development.

APPENDIX I

The Committee met or spoke with the following persons to discuss the terms of the petition:

Mr Tim Auret, Senior Structure Planner, Ministry for Planning.

Mr Brett Hughes, Manager Transport Planning, Ministry for Planning.

Mr Marco Peter Martinovich, Manager Transit Planning, Department of Transport.

Mr Paul Trichilo, Acting Manager Metropolitan Planning, Main Roads (Western Australia).

Mr Rod Henderson, Principal Petitioner.

Mr Bill Slater, petitioner and local resident.

Mr Richard Elliot, Strategic Planning Manager Land Development, Homeswest.

Mr Lex Barnett, Consultant.

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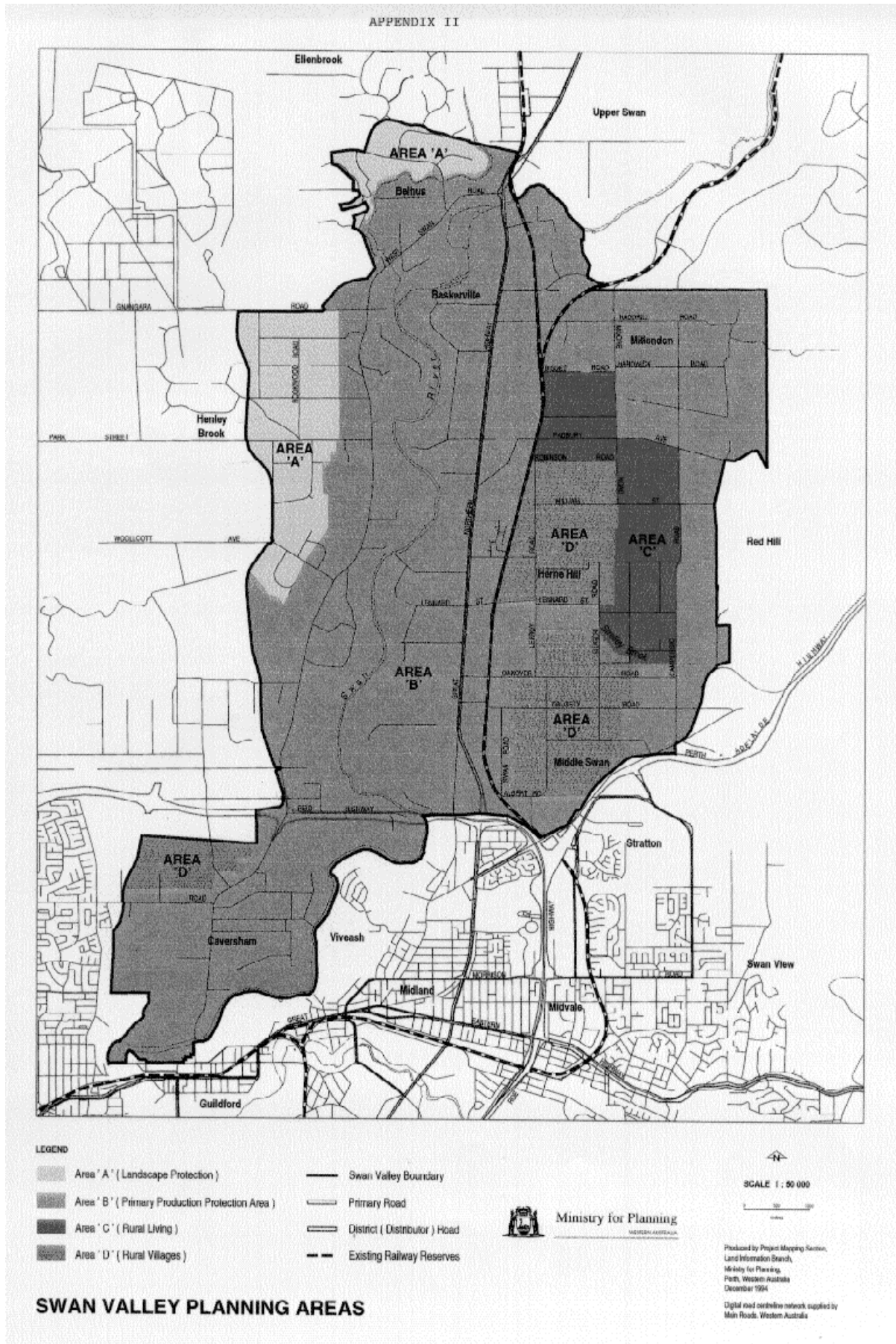
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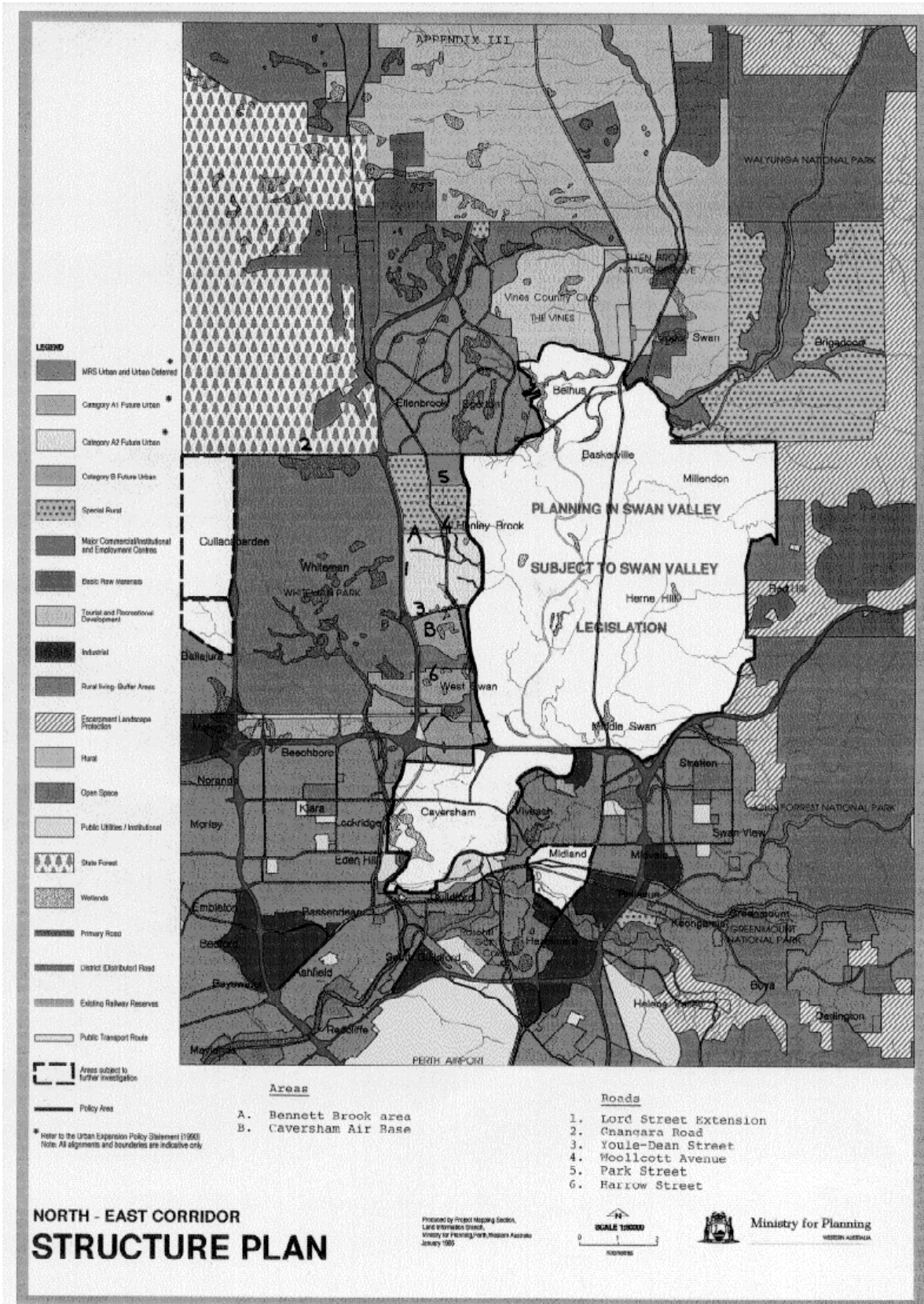
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TRICHILO P, 1995. *Transcript of evidence*. Presented at a meeting of the Standing Committee on Constitutional Affairs and Statutes Revision, 3 November 1995.

APPENDIX II CURRENT SWAN VALLEY PLANNING AREAS MAP



APPENDIX III NORTH-EAST STRUCTURE PLAN MAP



APPENDIX IV**LIST OF REPORTS**

1. Report regarding a petition seeking legislation on various aspects of substantive law and procedural law relating to sex offences against children.
2. Interim report into links between Government agencies and the failed Western Women Group.
3. Second interim report into links between Government agencies and the failed Western Women Group.
4. Report regarding a petition requesting the Legislative Council to investigate whether the proposed dissolution of the City of Perth contravenes the Constitution Act 1889 or any other Act or Statute.
5. Report in relation to a petition requesting the ban on the use of fishing nets (other than prawn drag nets and throw nets) for recreational fishing in the Pilbara region and the phasing out of certain professional licence endorsements.
6. Report in relation to a petition concerning the export of iron ore through Esperance.
7. Report in relation to a petition concerning the town of Wittenoom.
8. Overview of Petitions: April 1993 - March 1994.
9. Overview of Petitions: May 1994 - December 1994.
10. Report in relation to a petition regarding the Port Kennedy Development.
11. Report in relation to the Electronic Availability of Statutes.