



THIRTY-SEVENTH PARLIAMENT

REPORT 10
STANDING COMMITTEE ON ENVIRONMENT AND
PUBLIC AFFAIRS
OVERVIEW OF PETITIONS

Presented by Hon Louise Pratt MLC (Chair)

September 2007

STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS

Date first appointed:

17 August 2005

Terms of Reference:

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

“1. Environment and Public Affairs Committee

- 1.1 An *Environment and Public Affairs Committee* is established.
- 1.2 The Committee consists of 5 members.
- 1.3 The functions of the Committee are to inquire into and report on -
 - (a) any public or private policy, practice, scheme, arrangement, or project whose implementation, or intended implementation, within the limits of the State is affecting, or may affect, the environment;
 - (b) any bill referred by the House; and
 - (c) petitions.
- 1.4 The Committee, where relevant and appropriate, is to assess the merit of matters or issues arising from an inquiry in accordance with the principles of ecologically sustainable development and the minimisation of harm to the environment.
- 1.5 The Committee may refer a petition to another committee where the subject matter of the petition is within the competence of that committee.
- 1.6 In this order “**environment**” has the meaning assigned to it under section 3(1), (2) of the *Environmental Protection Act 1986*.”

Members as at the time of this inquiry:

Hon Louise Pratt MLC (Chair)

Hon Paul Llewellyn MLC

Hon Bruce Donaldson MLC

Hon Robyn McSweeney MLC

(Deputy Chairman)

Hon Kate Doust MLC

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Government Response

This Report is subject to Standing Order 337:

After tabling, the Clerk shall send a copy of a report recommending action by, or seeking a response from, the Government to the responsible Minister. The Leader of the Government or the Minister (if a Member of the Council) shall report the Government's response within 4 months.

The four-month period commences on the date of tabling.

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REPORT OF THE STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS

IN RELATION TO THE

OVERVIEW OF PETITIONS

1 INTRODUCTION

- 1.1 This report provides an overview of the petitions considered by the Legislative Council Standing Committee on Environment and Public Affairs (**Committee**) from 29 November 2006 to 30 June 2007. This report is the fifth Overview of Petitions Report to be tabled by the Committee.

2 HISTORY AND PURPOSE OF THE COMMITTEE

- 2.1 The Committee was appointed by the Legislative Council on 17 August 2005. The Committee continues the work of the previous Standing Committee on Environment and Public Affairs (**Former Committee**), which operated during the Thirty-Sixth Parliament from 24 May 2001 until 17 August 2005. The Committee's terms of reference are predominantly the same as those of the Former Committee, but with five members rather than seven.
- 2.2 The functions of the Committee are to inquire into and report on public or private policies, practices, schemes, arrangements or projects in Western Australia (**WA**) which affect or may affect the environment, as well as any bill referred by the Legislative Council and petitions. The terms of reference of the Committee are published at the front of this report.

3 PETITIONS

- 3.1 A function of the Committee, as provided by its term of reference 1.3(c), is to inquire into and report on petitions.
- 3.2 A petition is a request for action by the Legislative Council from a citizen or resident or a group of citizens or residents. The Committee considers petitions that have been tabled by a Member of the Legislative Council on behalf of a person or groups within the community.
- 3.3 The number of signatures to petitions identified in this report relate to the original petition as first tabled in the Legislative Council. On some issues identical petitions are tabled before they are finalised and the total number of combined signatures are not recorded for the purposes of this report.

- 3.4 When reviewing petitions, the Committee seeks to provide a forum for public discussion on matters of community interest and to allow interested persons, or groups, to bring their concerns to the attention of the Legislative Council.
- 3.5 **The Western Australian Legislative Council is the only House of Parliament in Australia that refers all petitions to a committee for inquiry and report.¹ In many other jurisdictions petitions are simply recorded in *Hansard* and no further investigation is undertaken.**

Petitions process adopted by the Committee

- 3.6 Once tabled in the Legislative Council, all petitions stand referred to the Committee. Upon receipt, the Committee generally writes to the tabling Member and to the principal petitioner inviting a 1-2 page submission providing further information on the matters and issues raised in the petition. The Committee also, where appropriate, writes to the relevant Minister(s) seeking comment on the content of the petition and any submissions received. The Committee may also make preliminary investigations to obtain background information on the issues from government agencies, private organisations and individuals.
- 3.7 The Committee considers the submissions and other information received and resolves to either:
- a) finalise the petition, that is, to not inquire further into the petition; or
 - b) formally inquire into the petition.
- 3.8 Where a petition concerns a subject matter that is within the terms of reference of another standing committee of the Legislative Council, the Committee may refer the petition to that committee as provided by the Committee's term of reference 1.5.
- 3.9 The Committee may resolve to finalise a petition without formally inquiring into it in the following circumstances:
- a) if the Committee considers that the issues raised in the petition have been or are being adequately dealt with;
 - b) if the issues raised in the petition will be or have been considered and/or debated by the Legislative Council;

¹ In Queensland, the Clerk of the Parliament sends petitions to the relevant Minister. The Minister may respond to the Clerk, who then tables the response, forwards a copy of the response to the tabling Member and publishes the response on the Parliament's website. See <http://www.parliament.qld.gov.au/view/EPetitions%5FQLD/> (viewed on 2 August 2007). Petitions tabled in the Senate are "brought to the notice of the appropriate Senate Committee"; however, there is no requirement for those committees to inquire into or report back to the Senate on the petition. See <http://www.aph.gov.au/Senate/pubs/guides/briefno21.htm> (viewed on 2 August 2007).

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- c) if the Committee considers that the issues raised in the petition have been taken as far as possible at the time; or
- d) if the Committee has not received any submissions in response to its invitation to provide further information on the content of the petition.
- 3.10 In many cases where the Committee finalises a petition there has been some resolution of the matters or issues raised.
- 3.11 When the Committee resolves to finalise a petition it advises the tabling Member and the principal petitioner with its reasons for doing so.
- 3.12 If the Committee resolves to formally inquire into a petition, it may:
- arrange hearings at which further information is obtained on the various issues raised in the petition;
 - gather additional information; and
 - prepare a report on the petition for tabling in the Legislative Council.

Reporting to the Legislative Council

- 3.13 The Committee has resolved to report regularly to the Legislative Council on the progress of petitions that stand referred to the Committee under Standing Orders of the Legislative Council.

The Parliamentary Commissioner for Administrative Investigations (Ombudsman)

- 3.14 Certain issues or matters raised in a petition may come under the Ombudsman's jurisdiction as set out in the *Parliamentary Commissioner Act 1971*.
- 3.15 The Committee liaises regularly with the Ombudsman's office in recognition of the fact that a matter raised by a petition may have been previously considered or could currently be under consideration by that office.

General

- 3.16 All public transcripts and all of the Committee's reports and relevant Government responses are available from the Parliament of WA website at <http://www.parliament.wa.gov.au>. Committee reports can be purchased from the State Law Publisher and are also available at the Alexander Library and other selected libraries.

4 PETITIONS CONSIDERED

- 4.1 At the commencement of the reporting period, the Committee had 13 petitions under consideration. During the reporting period 20 petitions were referred to the Committee. The Committee has finalised 21 petitions, which are discussed below. As of 30 June 2007 the Committee has 12 petitions under consideration (see section 6 below).

5 PETITIONS FINALISED BY THE COMMITTEE DURING THE REPORTING PERIOD

Petition No 24 – A Proposed Marina at Point Peron

- 5.1 On 29 November 2005, Hon Giz Watson MLC tabled a petition in the Legislative Council, which opposed the proposed inland Marina at Point Peron.
- 5.2 On 30 August 2006, the Committee resolved to report separately on this petition and tabled its report in the Legislative Council on 7 December 2006.²

Petition No 33 – Royal Perth Hospital

- 5.3 On 29 August 2006, the Legislative Council granted leave for a non-conforming petition to be tabled on behalf of Hon Helen Morton MLC. The petition [TP#1810]³ contained 4145 signatures and was couched in the following terms:

To the Speaker and Members of the Legislative Council. We the undersigned call upon the Legislative Council to strongly oppose the closure of Royal Perth Hospital and to ensure the Name Royal Perth Hospital is maintained.

To take away the name of this icon is to insult every member of an enormous team who have served 151 years of service with pride and dedication to the community of Western Australia under the name of Royal Perth Hospital.⁴

- 5.4 The Committee received a submission from the principal petitioner, Ms Alisa Allen, which expanded on the reasons behind the petition. The submission outlined a brief history of Royal Perth Hospital (**RPH**) and stated that it has provided dedicated care and service on the current site since 1855.⁵

² Western Australia, Legislative Council, Standing Committee on Environment and Public Affairs, Report 7, *A Petition into the Proposed Marina at Point Peron*, 7 December 2006.

³ The TP number [TP#1810] refers to the Tabled Paper Number given to the petition upon its tabling in the Legislative Council.

⁴ Hon Barry House MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 29 August 2006, p5314.

⁵ Submission from Ms Ailsa Allen, 7 October 2006, p1.

- 5.5 The submission made a number of points in support of the petitioners opposition to the closure of RPH including it being the only hospital in the Central Business District (CBD) and therefore in close proximity to; public transport, accommodation for interstate and international relatives and friends, and many disadvantaged groups such as the homeless and HIV patients.⁶
- 5.6 The petitioners also stated that the north/south model neglects the large population residing in the eastern corridor and ended with the following arguments highlighting the benefits of having an emergency response hospital in the CBD:

In times of catastrophe, whether from terrorism, viral pandemic, natural disaster or major accident, having a hospital within the CBD that can effect the necessary triage of victims, and proper management of serious public health issues is vital to the outcome the public expect.

Royal Perth Hospital has a first class emergency centre, trauma and burns facility and intensive care unit. There is a helipad and the proximity of Wellington Square and the Esplanade could easily accommodate further aerial arrivals if road access was obstructed.

Since the London bombing several studies and considerable discussion has taken place in the UK, the USA & Sydney assessing the importance of hospitals within the CBD. All concluded that an efficient disaster response with expert emergency management and triage in a central location with multiple points of access is essential for an optimal outcome.⁷

- 5.7 The Committee received a submission from the tabling Member, Hon Helen Morton MLC, which made similar arguments as the principle petitioner. The submission referred to specific suburbs in the eastern corridor that would be disadvantaged by the closure of RPH. These included Beechboro, Morley, Dianella, Balga and Bassendean.⁸
- 5.8 The tabling Member stated the following in support of the argument for a centrally located hospital:

Finally it can no longer be the case that a potential large-scale man-made or natural disaster is merely speculation. It is undisputed that in metropolitan areas such as Perth, such a disaster would necessitate a central fully equipped hospital, accessible to all areas. RPH should remain capable (whether public or private) of playing a crucial role

⁶ *Ibid.*

⁷ *Ibid*, p2.

⁸ Submission from Hon Helen Morton MLC, 12 October 2006, p1.

in such an event. As RPH is close to rail access and the freeway, it is a logical venue for treatment of the effects of a large scale, major trauma.⁹

- 5.9 In support of maintaining the name Royal Perth Hospital, the tabling Member provided the following:

Royal Perth Hospital has been in existence for the past 151 years in Western Australia. It is an icon, known locally, nationally, and internationally as a premier teaching hospital and a world leader in medical technology and research. RPH has produced Nobel Prize Laureates (most recently Prof. Barry Marshall and Dr. Robin Warren), the 2005 Australian of the Year (Prof. Fiona Wood), and innovative, cutting-edge medical breakthroughs. The international reputation of RPH will be lost forever if the name is dropped.¹⁰

- 5.10 The Committee received the following brief response from Hon Jim McGinty MLA, Minister for Health:

Recommendation 29 of the Reid Report clearly stated that there should be one tertiary hospital in the Northern Area Health Service. After extensive consultation, during which all of the matters raised in the petition were considered, the preferred location was determined to be at Sir Charles Gardiner Hospital.

We have no intention of departing from the Health reform agenda.¹¹

- 5.11 The Committee noted the significant community opposition, as reflected in the petitions and submissions, to the planned closure of Royal Perth Hospital.

- 5.12 **The Committee finalised this petition on 6 June 2007 because the State Government has clearly made its decision on this issue.**

- 5.13 The Committee acknowledged the petitioner's contribution to the debate and considered that the issues had been brought to the attention of Parliament by the tabling of the petition in the Legislative Council.

⁹ *Ibid*, pp1–2.

¹⁰ *Ibid*, p2.

¹¹ Letter from Hon Jim McGinty MLA, 16 November 2006, p1.

Petition No 52 – Mount Manypeakes Primary School

- 5.14 On 27 March 2007, Hon Peter Collier MLC tabled a petition in the Legislative Council [TP#2535] containing 31 signatures which was couched in the following terms:

To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We the undersigned residents of Western Australia are opposed to the appointment of a new Principal to Mt Manypeaks Primary School for Semester 1 of 2007.

Your petitioners therefore respectfully request the Legislative Council to recommend that the appointment of a new Principal be overturned and that the current ‘acting’ Principal, Mrs Sally Bell, be allowed to continue in the position until such time as the Substantive Principal Mr Steven Fielding resign his position.¹²

- 5.15 **The Committee considered this petition and formed the view that the issues raised in the petition were operational internal matters, between the Department of Education and Training and its employees, and thus finalised the petition on 4 April 2007.**
- 5.16 The Committee acknowledged the petitioner’s contribution to the debate and considered that the issues had been brought to the attention of Parliament by the tabling of the petition in the Legislative Council.

Petition No 37 – Water Rights on Freehold Land

- 5.17 On 18 October 2006, Hon Anthony Fels MLC tabled a petition in the Legislative Council [TP#2131] containing 88 signatures which was couched in the following terms:

We the undersigned residents of Western Australia respectfully believe that the rain that falls on freehold land is the property of the landholder.

Your petitioners therefore respectfully request that the Legislative Council will ensure that in any water licensing system a quantity of water be reserved and allocated for each land title based on area and rainfall.

¹² Hon Peter Collier MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 27 March 2007, p649.

*And your petitioners as in duty bound, will ever pray.*¹³

- 5.18 The Committee, following its preliminary inquiries resolved to refer this petition to the Standing Committee on Public Administration for investigation. The Committee noted that the Standing Committee on Public Administration is currently undertaking an inquiry into Water Governance.
- 5.19 **Consequently, the Committee finalised this petition on 2 May 2007 because the Standing Committee on Public Administration resolved to accept the petition.**
- 5.20 The Committee acknowledged the petitioner's contribution to the debate and considered that the issues had been brought to the attention of Parliament by the tabling of the petition in the Legislative Council.

Petition No 48 – Daylight Saving Bill 2006

- 5.21 On 20 March 2007, Hon Barry House MLC tabled a petition in the Legislative Council [TP#2384] containing 10758 signatures which was couched in the following terms:

To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We the undersigned residents of Western Australia call on the State Parliament to amend the "Daylight Saving Bill 2006" to provide for a referendum within one month of the end of this years finishing date of 25th March 2007 and not proceed to the following two years trial unless the referendum result supports it's continuation.

*Your petitioners therefore respectfully request the Legislative Council to urgently change this legislation to provide for a referendum this year.*¹⁴

- 5.22 The Committee received a submission from the tabling Member Hon Barry House MLC. The submission began by stating that there was an overwhelming negative reaction to daylight saving when it was introduced last year. The submission then continues:

Thousands of constituents and residents of Western Australia were upset and angry at the way daylight saving was introduced to the Parliament and foisted on to the community for three years before the

¹³ Hon Anthony Fels MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 18 October 2006, p7110.

¹⁴ Hon Barry House MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 20 March 2007, p262.

people got any opportunity to express their point of view through a referendum.

There was a very strong response to this Petition, which seeks to bring the referendum forward to this year so people can have their say again (many are annoyed that the results of three previous referendums were disregarded by the promoters of the Daylight Saving Bill and the Parliament!).

There is a strong view that “one year is a trial but three years is a sentence”, so the Petition seeks to bring the referendum forward and have the matter decided once and for all.¹⁵

- 5.23 The Committee initially resolved to consider this petition concurrently with petition No 50, which also related to the Daylight Saving Bill.
- 5.24 **The Committee however finalised petition No 48 on 2 May 2007, because the petition specifically called for a referendum “within one month of the end of this years finishing date of 25th March 2007”.**
- 5.25 The Committee acknowledged the petitioner’s contribution to the debate and considered that the issues raised had been brought to the attention of Parliament by the tabling of the petition in the Legislative Council.

Petition No 35 – Proposal to Clear South Coast Highway Roadside, Denmark

- 5.26 On 20 September 2006, Hon Giz Watson MLC tabled a petition in the Legislative Council [TP#1895] containing 454 signatures which was couched in the following terms:

To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We, the undersigned residents of Western Australia respectfully oppose any proposal to remove any trees or vegetation alongside South Coast Highway either side of Denmark because:

1. Denmark’s treed highway approaches are part of its cultural and environmental heritage.

2. Clearing the approaches to Denmark would heavily impact on its tourism identity. Denmark’s strongest community asset is its landscape.

¹⁵ Submission from Hon Barry House MLC, 3 April 2007, p1.

3. *Clearing the roadsides would remove the current traffic-calming road environment.*

4. *The upgrading of South Coast Highway in Denmark's town centre is a much more urgent safety issue for most local residents.*

Your petitioners therefore respectfully request the Legislative Council to support us by

1. *recognising the negative effect of clearing on the environment, the landscape, Denmark's residents and its tourism;*

2. *considering the issues of: loss of habitat for fauna; loss of environmental heritage; loss of community cultural asset, reduction of landscape and tourism attraction; erosion, and the tendency for increased speeding once clearing has occurred;*

3. *instructing Main Roads WA to exclude the option of tree clearing altogether, and implement acceptable alternative measures, including speed restrictions, driver education and signage, and technical or road engineering safety measures; and*

4. *putting in place a process that results in permanent protection of our existing roadside trees.*¹⁶

5.27 The Committee received a submission from the principal petitioner, Ms Janice Marshall, which included a Main Roads WA document titled *Guideline for Assessing Trees within Recovery Zones on Established Roads*.¹⁷

5.28 The petitioners informed the Committee about their group – Save Our Roadside Environment (**SORE**), which was formed in November 2005, following an announcement by Main Roads WA to clear a large number of trees along South Coast Highway approximately 10 kilometres either side of the Denmark townsite.

5.29 The petitioners provided a description of the group as follows:

SORE is an action group of Denmark individuals, businesses and organisations. SORE is made up of the organisations of the Denmark Chamber of Commerce, Denmark Historical Society, Denmark Environment Centre, Denmark Conservation Society, William Bay National Parks Association, Denmark Weed Action Group, Friends of

¹⁶ Hon Giz Watson MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 20 September 2006, p6276.

¹⁷ Submission from Ms Janice Marshall, Honorary Secretary Save our Roadside Environment (SORE), 31 October 2006.

*the Denmark Community Park and Denmark Visitor Centre and a number of tourism related businesses in and around Denmark.*¹⁸

5.30 The petitioners continued:

*Main Roads' intention was to carry out the work prior to 31st December 2005 after which date they would be required to carry out an environmental review under WA's then recently enacted clearing regulations. Cited by Main Roads as a reason for urgent action were two fatal road accidents in the previous twelve months. Upon review, it was clear that neither accident and its results (one involved collision with a tree) would have been different if roadside trees had been removed under their roadside tree clearing prescription.*¹⁹

5.31 The petitioners maintained that the clearing will destroy tourism, the environment and the cultural heart of the Shire and town. The petitioners also maintained that:

*All of the proposed area west of Denmark is registered on the Shire of Denmark's Municipal Heritage Inventory due to its cultural heritage value.*²⁰

5.32 The petitioners concluded by outlining SORE's objectives:

SORE aims to protect Denmark's economy, cultural heritage and landscape values. It objects to the removal of any trees and requests other non-destructive avenues for reducing risk on our highway be implemented.

*We call for a review of Main Roads WA policy and guidelines for roadside Recovery Zone establishment.*²¹

5.33 The Committee received a response from Hon Mark McGowan MLA, former Minister for the Environment, and from Mr Rob Giles, Chief of Staff, on behalf of the Minister for Planning and Infrastructure.

5.34 The former Minister for the Environment informed the Committee that Main Roads WA must comply with the clearing provisions of the *Environmental Protection Act 1986*²² and the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*.

¹⁸ *Ibid*, p1.

¹⁹ *Ibid*.

²⁰ *Ibid*, p2.

²¹ *Ibid*.

²² Act No 87 of 1986.

5.35 The former Minister for the Environment continued:

*Main Roads WA have been issued with a “purpose” permit for clearing associated with their roads program (CPS818/3) which is publicly available on the Department of Environment and Conservation’s (DEC) website ... Under section 51E of the EP Act, a “purpose” permit is to describe the principles and criteria that are to be applied, and the strategies and procedures that are to be followed, in relation to the clearing done under the permit. Accordingly, CPS 818/3 refers to and annexes copies of Main Roads WA’s environmental impact assessment and revegetation procedures, as well as DEC’s guidelines for assessment against the clearing principles (Assessment Guidelines). Any clearing of trees for recovery zones must be done in accordance with the requirements of the purpose permit.*²³

5.36 The Committee received a brief response from the Shire of Denmark stating that South Coast Highway is Main Roads WA’s responsibility. The Shire also stated that trees on South Coast Highway should be retained unless they pose a risk to vehicle traffic.²⁴

5.37 The Committee received a response from Hon John Kobelke MLA, Minister for Community Safety, which provided comment on a range of factors that improve road safety. On the main issue contained in the petition the Minister provided the following:

*From a road safety perspective, the provision of safer, more forgiving roads and road sides is an important factor in reducing road trauma in Western Australia. It has been calculated that, depending on road safety investment, Western Australian road fatalities could be reduced by 43 per cent by improving the safety of roads and roadsides. Approximately 45 per cent of all fatal crashes in WA are single vehicle run-off the road crashes on country roads, making country roadside safety programs a high priority in reducing deaths on our roads.*²⁵

5.38 The Committee received a response from the office of the Minister for Planning and Infrastructure which provided the following information:

²³ Letter from Hon Mark McGowan MLA, former Minister for the Environment, 28 November 2006, p1.

²⁴ Letter from Mr Pascoe Durtanovich, Chief Executive Officer, Shire of Denmark, 4 December 2006, p1.

²⁵ Letter from Hon John Kobelke MLA, Minister for Community Safety, 8 December 2006, p1.

Main Roads instigated discussions with the Denmark Environment Centre (DEC) in order to explore potential opportunities for the select removal, or protection via crash barriers, of trees within the designated clear zone of the highway. This approach was made in good faith and with the intention of seeking a balance between environmental values and road safety benefits. Main Roads freely provided all additional information requested by the group.

However, in response to community concern Main Roads withdrew its proposal to selectively clear roadside vegetation on South West Highway in the Denmark area. SORE was advised of this decision by Main Roads' Regional Manager Great Southern Region, Mr Andrew Duffield, in a letter dated 16 December 2005.²⁶

- 5.39 The letter concluded by stating that Main Roads does not intend to proceed with the select removal of trees within the designated clear zone in the foreseeable future. The letter also made a commitment to consult all key stakeholders should it be necessary to progress the matter in the future.
- 5.40 The Committee received a response from Mr Andrew Duffield, Regional Manager, Main Roads WA to its inquiry about Main Roads policy on the retention of roadside trees, flora and remnant vegetation.
- 5.41 Main Roads provided the Committee with a copy of its Environmental Policy Statement and a list of guidelines to support that policy, which are:

Vegetation Control (Document No. 6707/045)

Vegetation Placement (Document No. 6707/022)

Revegetation Planning and Techniques (Document No. 6707/031)

Vegetation – Compliance with clearing regulations (Document No. 6707/034)

Managing Trees Within Clear Zones – Policy/Guidelines

Operational guidelines:

No. 08 – Clearing of roadside vegetation by external parties

No. 14 – Extinguishing bush fires - procedures for providing assistance

²⁶ Letter from Mr Rob Giles, Chief of Staff to the Minister for Planning and Infrastructure, 28 November 2006, p1.

No. 16 – Herbicide use in catchment areas

No. 20 – Driveways Rural

No. 42 – Roadway overhead clearances

No. 65 – Rare Flora Sites - routine maintenance works

No. 86 – Disposal of soil and vegetative material

No. 93 – Burning and firebreak construction on roadsides

*No. 94 – Clearing and disposal of vegetation.*²⁷

5.42 **The Committee finalised this petition on 9 May 2007, based on the above information, and because there are no plans to remove trees within the designated clear zone alongside South Coast Highway either side of Denmark.**

5.43 The Committee acknowledged the petitioner's contribution to the debate and considered that the issues had been brought to the attention of Parliament by the tabling of the petition in the Legislative Council.

Petition No 40 – Coolbinia Kindergarten

5.44 On 23 November 2006, Hon Peter Collier MLC tabled a petition in the Legislative Council [TP#2276] containing 496 signatures which was couched in the following terms:

To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We the undersigned residents of Western Australia are opposed to the proposed relocation of the Coolbinia Kindergarten.

*Your petitioners therefore respectfully request the Legislative Council to recommend that the Coolbinia Kindergarten remain at its current location and oppose any plan by the Department of Education and Training to relocate the Coolbinia Kindergarten.*²⁸

5.45 The Committee received a submission from the tabling Member Hon Peter Collier MLC. The submission outlined the parents and local community's two main concerns which were:

²⁷ Letter from Mr Andrew Duffield, Regional Manager Main Roads, 8 May 2007, p1.

²⁸ Hon Peter Collier MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 23 November 2006, p8703.

Firstly, the parents and local community are concerned with the decision of the Department of Education and Training to remove the Coolbinia Kindergarten from its current position, which is well placed, to what they regard as inferior accommodation (demountable classroom), located in the Coolbinia Primary School grounds.²⁹

5.46 The submission stated that the proposed new kindergarten is poorly planned and in a confined area between existing buildings with a lack of playground facilities and fencing. Concern was also expressed that there may be a detrimental impact on the ageing facilities with the additional injection of more students.

5.47 The second concern was stated as follows:

Secondly, the Coolbinia Primary School Parent's and Citizens Association (P & C) have indicated that there has been a lack of consultation by DET [Department of Education and Training] with key stakeholders and the general Coolbinia community with regard to this issue.³⁰

5.48 The submission acknowledged that two meetings were held between all key stakeholders on 21 August and 1 November 2006, but then goes on to state that the degree of parental and community representation at those meetings has since been challenged.

5.49 The Committee received a response from Hon Mark McGowan MLA, Minister for Education. The letter stated that the Department of Education and Training has been progressively transferring off-site kindergartens onto school sites wherever possible.³¹ The letter then continued:

In doing so, the students have the opportunity to participate in an enhanced learning environment which complements contemporary educational programs. The teachers and their aides have the advantage of working with their colleagues, and at the same time, furthering their own professional development opportunities. Students have access to additional facilities such as the library, music and art/craft rooms and the covered assembly area.

Accordingly, the Department negotiated in 2005 to progressively exit 12 lapsed leased off-site centres in the City of Stirling over a four-year period. Coolbinia Kindergarten was scheduled for relocation in 2007. The wider Coolbinia community raised objections to the

²⁹ Submission from Hon Peter Collier MLC, 18 December 2006, p1.

³⁰ *Ibid.*

³¹ Letter from Hon Mark McGowan MLA, Minister for Education and Training, 10 May 2007, p1.

*relocation onto the school site as it believed that students were being transferred unnecessarily from an excellent facility.*³²

5.50 The Minister for Education made comment on the submission by the tabling Member, and stated that the Department of Education and Training challenges the claim that students were to be provided with inferior accommodation. The response from the Minister stated that the childhood transportables which are placed at schools around the State are purpose built for kindergarten and pre-primary students. The response documented a range of facilities that are fitted to the buildings.

5.51 The response from the Minister for Education provided the following comment about consultation:

*Consultation with the school community included a master planning exercise to demonstrate that any future facility improvements at the school would not be compromised by transferring kindergarten students on site.*³³

5.52 The response listed a chronology of events for the consultation process and then stated the following:

*Given the subsequent groundswell of opposition to the relocation by the wider Coolbinia community, the decision was taken by the Department to defer the relocation and re-negotiate the lease of the off-site centre with the City of Stirling for a further five years.*³⁴

5.53 **The Committee noted the decision to defer relocation of the Coolbinia Kindergarten and finalised this petition on 30 May 2007.**

5.54 The Committee acknowledged the petitioner's contribution to the debate and considered that the issues had been brought to the attention of Parliament by the tabling of the petition in the Legislative Council.

Petition No 45 – Crabbing in Cockburn Sound

5.55 On 7 December 2006, Hon Barbara Scott MLC tabled a petition in the Legislative Council [TP#2333] containing 104 signatures which was couched in the following terms:

To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

³² *Ibid*, p1.

³³ *Ibid*, p2.

³⁴ *Ibid*.

We the undersigned residents of Western Australia are opposed to the decision to ban recreational crabbing in Cockburn Sound.

Your petitioners therefore respectfully request the Legislative Council to recommend that the State Government lift the ban on recreational crabbing in Cockburn Sound from January 13th to February 13th 2007.³⁵

- 5.56 The Committee received a submission from the tabling Member Hon Barbara Scott MLC, which raised concerns about the indefinite closure of the crab fishery in Cockburn Sound. The tabling Member provided the following comments:

The decision seems to have been made in haste with little, if any, scientific basis and without giving due consideration to the possibility of leaving the fishery open for recreational fishing only.

The matter, therefore, should be properly investigated to ensure that the many people, tourists and residents, who wish to access the Cockburn Sound crab fishery on a recreational basis, have not been the victims of an over-zealous bureaucracy; and to ensure that due process has indeed been followed.³⁶

- 5.57 The Committee received a response from the principal petitioner, Mr Allen McKinnon, which details his 35 years experience fishing for crabs in Cockburn Sound as a recreational diver. He maintained that the recreational divers select their catch at the point of actually catching the crabs and then goes on to say that:

1 All crabs are checked for correct size. We carry a crab gauge with us at all times.

2 We do not take any female crabs.

3 We keep strictly to our catch quota and in fact unless we require that number generally take only those which we will eat that day.³⁷

- 5.58 The principal petitioner stated that the recreational fishers have always managed a successful crabbing season and then goes on to state the following in relation to the professional crabbers:

³⁵ Hon Barbara Scott MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 7 December 2006, p9275.

³⁶ Submission from Hon Barbara Scott MLC, 29 March 2007, p1.

³⁷ Submission from Mr Allen MacKinnon, 2 April 2007, p1.

Over the years with the professional crabbers taking the amount of crabs out of the sound (150-250 tones per year) they do, one can safety say it is unsustainable. They use long line large aluminium pots pulling in what ever happens to be caught (females, undersize etc). They are supposed to sort their catch and return crabs which do not meet the legal size or females with eggs, but as you can well imagine by the time the long line pots are collected, unloaded and re-set, those caught in the earlier pots simply die or are in such a state that there is every chance they will not survive.³⁸

5.59 The principal petitioner provided some suggested solutions for sustainable crabbing in Cockburn Sound, which included increasing the crab size; decreasing the catch quota; make the catch quota limited to one member of the family; ensure all crabbers have a measure gauge and get the Environmental Protection Authority (**EPA**) to more closely monitor the water and seagrass condition.

5.60 The Committee received a response from Hon Jon Ford MLC Minister for Fisheries. The letter provided some background to the decision to ban crabbing in Cockburn Sound. The main reason provided was depleted fish stocks which need time to replenish. The Minister stated:

The Department of Fisheries research indicates that fishing pressure on top of three years of low recruitment has resulted in a serious decline in the breeding stock of crabs within Cockburn Sound. Crab numbers are highly variable and natural environmental variations play a key role in abundance from year to year.

Research has also found that Cockburn Sound's crab populations appear to have more limited recruitment from stocks outside the Sound when compared to other crab populations on the West Coast. Under these conditions, fishing effort has depleted the local breeding stocks and closing the fishery to both recreational and commercial fishers is the best way to ensure the stock rebuilds quickly.³⁹

5.61 The Minister commented on the petitioners request to reopen the Cockburn Sound blue crab fishery for recreational fishers between 13 January and 13 February 2007 with the following:

The Department of Fisheries will be closely monitoring crab numbers over the next 12 months with the view to reopening the fishery once they have sufficiently recovered. I will also be considering the

³⁸ *Ibid.*

³⁹ Letter from Hon Jon Ford MLC, Minister for Fisheries, 9 May 2007, p1.

*appropriateness of the existing management arrangements prior to the fishery being reopened.*⁴⁰

- 5.62 The Committee acknowledged the pleasure many people experience with recreational fishing and the inconvenience involved by the closure of the fishery. The Committee noted, however, that the decision was made based on research carried out by the Department of Fisheries.
- 5.63 **The Committee formed the view that the decision to close Cockburn Sound to crab fishing, should enable the crab numbers to recover in the short to medium term, and thus finalised this petition on 30 May 2007.**
- 5.64 The Committee acknowledged the petitioner's contribution to the debate and considered that the issues had been brought to the attention of Parliament by the tabling of the petition in the Legislative Council.

Petition No 49 – Southwest Yarragadee Aquifer

- 5.65 On 20 March 2007, Hon Simon O'Brien MLC tabled a petition in the Legislative Council [TP#2385] containing 405 signatures which was couched in the following terms:

To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We the undersigned residents of Western Australia are opposed to the proposal for the Water Corporation to draw 45 gigalitres of water from the Yarragadee aquifer.

*Your petitioners therefore respectfully request the Legislative Council oppose any action by the state government to allow the Water Corporation to take water from the Yarragadee aquifer.*⁴¹

- 5.66 The Committee received a submission from the principal petitioner, Hon Robyn McSweeney MLC, which outlined the reasons for the opposition to the proposed extraction of 45 extra gigalitres from the South West Yarragadee. The submission stated that:

Regional needs must come first in the South West not only for farming/agricultural but domestic consumption as the population in our region is one of the fastest growing in Western Australia.

⁴⁰ *Ibid.*

⁴¹ Hon Simon O'Brien MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 20 March 2007, p262.

I am very concerned about the proposal as the community via licences already extracts 72 gigalitres out of the Yarragadee although if the maximum usage was taken it would already reach 116 gigalitres. The report and recommendations of the Environment and Protection Bulletin 1245 released on December the 6th on the South West Yarragadee Water Supply Development said that "Furthermore, and consistent with the EPA's concern that current information suggests that the potential impacts of 120GL/yr abstractions from the South West Yarragadee aquifer may be environmentally unsustainable, the EPA recommends that the DoW [Department of Water] should continue to review unused portions of existing allocations."⁴²

5.67 The submission also stated that as the allocations stand at the present time plus the 45 gigalitres would take the total to 117 gigalitres which could be unsustainable. If regional needs were at full capacity of the 116 gigalitres with 45gigalitres on top then this would be 161 gigalitres which would be unsustainable.

5.68 Hon Robyn McSweeney further expressed the following:

I was concerned to see from the same report that "If the proposal is approved to proceed, the EPA therefore recommends that no further significant private allocations be made from the Yarragadee aquifer or from the Leederville and Lesueur Sandstone aquifers beneath the west Scott Coastal plain until the DoW's South West Groundwater Areas Water Management Plan has been completed, including more rigorous environmental water provisions, and the actual impacts of the Water corporation's wellfield have been monitored and assessed."⁴³

5.69 The submission concluded by stating that an inquiry is needed to look at future water usage needs in the South West and also to look at alternative water sources that could be used for city consumption.

5.70 The Committee held preliminary hearings with Dr Jim Gill, and Mr Mark Leathersich from the Water Corporation and with Mr Robert Hammond from the Department of Water on 20 April 2007.

5.71 Hon Louise Pratt MLC, as Chair, referred to the sustainability panel's report and asked the witnesses about the precautionary principle and whether large-scale alternatives would be on standby. Dr Jim Gill responded in the following manner:

⁴² Submission from Hon Robyn McSweeney MLC, 7 May 2007, p1.

⁴³ *Ibid.*

Dr Gill: I should first point out that that was an independent report of the sustainability panel, not the report of the Water Corporation. However, we are very comfortable with its recommendations. Our level of investigation over the past four years into the south west Yarragadee has involved a lot of drilling, test pumping, geological and vegetation assessments and so on, and extensive computer modelling that have given us a lot of confidence that we can proceed with the south west Yarragadee proposal without it having any significant environmental impact. What effects there would be would occur over a very long period. We intend to extensively monitor what we do; in fact, we are proposing 190 monitoring bores. To put that into perspective, there will be only 10 production bores in the whole field. We would expect to pick up any influences well ahead of there being any surface environmental effect. We are talking about decades. We certainly would not anticipate, on the basis of our investigations, any early effect. There will be effects detectable over the long term. However, as I said, our modelling has given us a high level of confidence that we can tap the south west Yarragadee and not cause any environmental damage. Should there be anything unforeseen, we would adapt our usage of that resource. We have done that elsewhere. For example, we used to tap a lot of superficial bores on Gnaragara mound, but about 40 of those are currently turned off. In recent years we have installed much deeper bores with environmental effects that are pretty well undetectable. I come back to it. In the case of south west Yarragadee, we believe that the extensiveness of our investigations is unprecedented anywhere else in the world. We have investigated it thoroughly and we have a lot of confidence that we will not need to, for example, turn off bores.⁴⁴

- 5.72 The Committee raised the issues of local concerns and regional needs in the following manner:

Hon ROBYN McSWEENEY: I was the principal petitioner to bring it to this committee to say that the Water Corporation should not take the 45 gigalitres. The reasoning for that was that in the south west there is great angst and much concern that the 45 gigalitres will be above regional needs. At present I think there are 3 300 water licences in the south west. I think we have an allocation of 116 gigalitres and we use 71, but in the next 30 years we are looking at an increase of 140 per cent in some of the modelling that I have seen. Regional needs are a huge concern. I note that the EPA report says that the EPA considers that there remain considerable residual risks

⁴⁴ Dr Jim Gill, Chief Executive Officer Water Corporation, *Transcript of Evidence*, 20 April 2007, p1.

to environmental values if the proposal proceeds and that this is particularly the case if declines in the watertable are greater than predicted, further declines in rainfall or recharge occur in the region beyond that assessed, or adaptive management plans, including supplementation, are not fully successful. Reading that, it does not give me great confidence. If you are going to build all the pipes and put in the infrastructure and then you find that there is a problem, the government, in my view, will not just turn off the taps, and I think that is a concern to the south west people too.

Dr Gill: *I think the studies have shown that there is room for quite a bit of growth in local demand, as well as the 45 gigalitres that we wish to take. It has also been suggested by the EPA that an overall statutory water management plan does need to be put in place - the Department of Water is working on that and I am sure that Mr Hammond would be happy to talk about that - prior to any consideration of further water use. There is a huge amount of water; the overall recharge of all aquifers down there is about 375 gigalitres per year.*

Hon PAUL LLEWELLYN: *That is across all -*

Dr Gill: *That is across all aquifers, not just the Yarragadee.*

Hon ROBYN McSWEENEY: *375 gigalitres. What about the Blackwood recharge? What is that? Do you know?*

Mr Leathersich: *In terms of an annual flow, the Blackwood River is approximately 600 gigalitres, of which groundwater contributes - these figures are in the environmental review and management program that the corporation submitted to the EPA.⁴⁵*

5.73 The Committee raised the issues of community concern with the Gngangara mound and issues of trust and accountability as the following exchange reveals:

The CHAIR: *The government commissioned the sustainability assessment of the south west Yarragadee water supply development, which reported in March. The report indicated that, to take water from the Yarragadee is sustainable, provided appropriate monitoring and testing is done. A number of other critics have noted the decline in the water resource in the Gngangara mound, which has, in turn, impacted on the local environment. Do you think that the Yarragadee*

⁴⁵ Mr Mark Leathersich, Principal Engineer, Water Corporation, *Transcript of Evidence*, 20 April 2007, p3.

proposal is suffering unfairly because of the community concern about the Gnangara mound?

Mr Hammond: *Is that the question?*

The CHAIR: *Yes; is there a community reaction against the Yarragadee proposal because of concerns about the Gnangara mound? Is that a justifiable concern?*

Mr Hammond: *I cannot answer whether the community's concerns are related to the Gnangara mound. I can agree that I have seen it written that certain people do mount that as their reason, but I cannot say why they have chosen to make that decision. There is clearly an adverse reaction from some sectors of the community. I cannot deny that either.*

The CHAIR: *I suppose the question is that the community does not seem to trust the government's capacity to regulate in this area because of what has happened at Gnangara. What can you say from the outset that determines Yarragadee to be substantially different?*

Mr Hammond: *I will try, initially, to deal with the concept of trust. I think you are implying that, because the environment changes in places like the Gnangara mound or the south west in response to climate, somehow or other we are responsible for that, and you hinted at loss of trust. A large sector of the community is completely unaware of the dynamic nature of the climate in the south west of Western Australia. I am giving a long answer to try to make sure we get the background right. The Department of Water has done a lot of work on the paleo-climates of the south west. We have certainly also done a lot of work on the ecology dependent on the environment. We are quite clear in our understanding that the environment, for example, using the Gnangara mound, has been significantly wetter and significantly drier in the not very distant past. The environment and the ecology are adapted to that and that is why we have such a unique environment in the south west of Western Australia. Climate drying such as that we have observed in the past 30 years is part of a natural cycle and is not necessarily significant. I am trying to get at the fact that the community has a perception that the environment is constant. That is not the case. The environment varies with climate.*

The CHAIR: *I suppose the community might argue that the adaptation of water usage practice did not occur in times of the changing climate in relation to the Gnangara mound and that they*

are concerned that clearly we need to be water managers and temper our own use so that we are not exacerbating other environmental impacts. What can you tell us about the monitoring proposals in terms of the role of the Department of Water as opposed to the Department of Environment and Conservation and the Water Corporation in relation to being one of the fundamental bodies that is supposed to protect Western Australia's environment.

Mr Hammond: The question is not clear to me but I will try to answer it. The Department of Water has a role to consider the environment, social and economic needs of the state and provides advice to the government in whatever its forms, for example today, on those issues. I have provided advice to both the sustainability panel and the EPA on the groundwater dependence of the Yarragadee. Is your question do we provide advice? I am not clear what your question is?

The CHAIR: Who is ultimately accountable? The Water Corporation is there to provide and sell water to the community. The Department of Environment and Conservation is supposed to monitor the environment. If it all goes horribly wrong, is your decision-making at the core of that? Who is telling who what to do in the current arrangements?

Mr Hammond: Ultimately, the government is responsible for the decisions of managing this state, and that is why you are here. We provide our advice. The Department of Environment and Conservation provides its advice. We certainly do not take on the role of government. That is its role.⁴⁶

5.74 The Committee received a response from Hon John Kobelke MLC, Minister for Water Resources, which provided the following comments:

The decision on the South West Yarragadee proposal will be made by the Carpenter Government when all information is to hand. To date, advice has been received from the Environmental Protection Authority (EPA) and a Government-appointed Sustainability Panel. A report from the Acting Appeals Convener dealing with the appeals to the EPA's recommendations, which is due shortly, is the final information required before the Government considers the proposal.

⁴⁶ Mr Robert Hammond, Director Water Resource Use, Department of Water, *Transcript of Evidence*, 20 April 2007, pp1-2.

*The evaluation and assessment processes for this important State water resource have been transparent and have multiple opportunities for the community, stakeholders, scientists and all others to have input on the proposal. The issues raised in the petition attached to your letter have also been raised through the various submissions and appeals processes as part of the evaluation of this proposal.*⁴⁷

- 5.75 During the course of the Committee's inquiries Hon Premier Alan Carpenter MLA announced plans to locate a second desalination plant at the Water Corporation wastewater treatment facility on Taranto Road north of Binningup. In so doing the Premier shelved Water Corporation plans to utilise the South West Yarragadee aquifer for the integrated water supply system.⁴⁸
- 5.76 **In view of the evidence before it, the Committee supported the shelving of the proposal to extract 45 gegalitres from the South West Yarragadee, and finalised this petition on 30 May 2007.**
- 5.77 The Committee acknowledged the petitioner's contribution to the debate and considered that the issues had been brought to the attention of Parliament by the tabling of the petition in the Legislative Council.

Petition No 53 – Wilson Inlet Pink Snapper Size Limits

- 5.78 On 29 March 2007, Hon Matthew Bensom-Lidholm MLC tabled a petition in the Legislative Council [TP#2576] containing 20 signatures which was couched in the following terms:

To the Honourable the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We, the undersigned residents of Western Australia respectfully object to any change in Pink Snapper size from the present limit of 28 cms in Wilsons inlet because: -

1. It will result in hardship for Tourist and Fishing industries who use this inlet

2. And will result in a large wastage of fish

⁴⁷ Letter from Hon John Kobelke MLA, Minister for Water Resources, 7 May 2007, p1.

⁴⁸ Hon Alan Carpenter MLA, 'Second seawater desalination plant to be State's next major water source', *Media Release*, 15 May 2007, p1.

Your petitioners therefore humbly pray that the Members of the Legislative Council will -

1. Review the information that exists on this fishery.

2. Consider the impact that any changes to Pink Snapper size limits will have on local Tourist and Fishing industries.

3. Recommend to the Government, and in particular the Minister for Fisheries, to not change the Pink Snapper size limit in Wilsons inlet.⁴⁹

5.79 The Committee received a submission from the principal petitioner, Mr Alf Sharp, which began by stating that Wilson's Inlet has been fished commercially for over 100 years, and by his family, for about 80 years.

5.80 The main contention in the submission is that the decision was made without recent research or consultation with stakeholders. The submission stated the following:

The proposed increase in the size for snapper, on top of the increases in Skippy and Mulloway are really nails in the coffin of the industry on the South Coast. Stocks of most fish are very healthy and there is a public demand from locals and tourists for the product, but if the Minister's attitude continues with what I believe to be political decisions rather than scientific ones, we won't eat West Australian fish for much longer. The Snapper size previously has been changed back again to 28 cms and at one time the reduced size also applied to other inlets.⁵⁰

5.81 The submission stated that the Minister continues to associate stock problems on the West Coast with Wilson's Inlet and then stated the following:

Both of my sons are professional fishermen and I too probably have the strongest reason to see that stocks remain healthy and I also ask, what point is there in having the South Coast Reviews of our Fishery, when the results are changed a short time after by the Minister.⁵¹

5.82 The submission concluded by stating that there are different sizes or rules in different areas and differences between various jurisdictions.

⁴⁹ Hon Matthew Bansom-Lidholm MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 29 March 2007, p889.

⁵⁰ Submission from Mr Alf Sharp, 18 April 2007, pp1-2.

⁵¹ *Ibid.*

- 5.83 The Committee received a response from Hon Jon Ford MLC, Minister for Fisheries, which stated that minimum size limits are a fundamental tool used in sustainable fisheries management on an international basis.⁵²
- 5.84 The Minister for Fisheries provided comment on the South Coast Recreational Working Group, which was established in 2003 to undertake a comprehensive review of recreational fishing on the south coast of Western Australia with the following:

The Working Group released a discussion paper that contained a proposal to increase the minimum legal size limit for pink snapper in Wilson Inlet from 28 centimetres to 41 centimetres for a 3-month public comment period. In its final report (Fisheries Management Paper No 194, June 2005), the Working Group recommended that the minimum legal size limit for Wilson Inlet pink snapper be increased to 41cm based on the biology of the species and the level of community support in submissions (67%). This recommendation was submitted by the Working Group, despite the fact that recreational fishers also can currently catch juvenile snapper in Wilson Inlet.

Having considered the comments raised in submissions by all stakeholders, and the Working Group's final recommendations, I decided to defer my decision regarding increasing the size limit for pink snapper in Wilson Inlet until further information on the fishery became available. It should be noted that the other outcomes of the South Coast Recreational Fishing Review were implemented on 1 January 2006.⁵³

- 5.85 The Minister for Fisheries stated that the minimum size limit of 41cm applies throughout Western Australia with the only exception on the State-wide limit of 41cm is in the inner gulfs of Shark Bay, where a size limit of 50cm applies. The Minister continued:

The current State-wide minimum size limit of 41cm is based on past research undertaken on pink snapper in the oceanic waters of the Gascoyne region, however, a recent PhD thesis into the biology of pink snapper on the West and South Coast now indicates that southern snapper populations do not reach maturity until 50 to 60cm applies.⁵⁴

⁵² Letter from Hon Jon Ford MLC, Minister for Fisheries, 9 May 2007, p1.

⁵³ Letter from Hon Jon Ford MLC, Minister for Fisheries, 17 June 2007, pp1–2.

⁵⁴ *Ibid.*

5.86 The Minister referred to the Fisheries Research Report No 159, 2006 which indicated that the stock structure of juvenile pink snapper in Wilson Inlet does not differ significantly from pink snapper populations in other South Coast estuaries where the minimum size limit is 41 centimetres.

5.87 The Minister for Fisheries informed the Committee that the data showed that larger snapper are more available in Wilson Inlet, and fishers would still have the opportunity to catch legal size pink snapper in the Inlet even if the size limit was increased to 41 centimetres. The Minister concluded with the following:

*Ultimately, given the recent research findings on the biology of pink snapper and the increased pressure being placed on fish stocks, I believe additional protection for juvenile fish and implementation of a consistent size limit for pink snapper across the South Coast and West Coast is fully justified.*⁵⁵

5.88 **The Committee acknowledged the different opinions on this issue but formed the view that the decision was made based on good motives, which were backed up with research, and thus the Committee finalised this petition on 30 May 2007.**

5.89 The Committee acknowledged the petitioner's contribution to the debate and considered that the issues had been brought to the attention of Parliament by the tabling of the petition in the Legislative Council.

Petition No 31 – Family Birth Centre for the South West Region

5.90 On 21 June 2006, Hon Adele Farina MLC tabled a petition in the Legislative Council [TP#1601] containing 901 signatures which was couched in the following terms:

We the undersigned residents of Western Australia respectfully request the establishment of a family birth centre for the South West Region in Bunbury WA.

Every woman deserves the right to choose a midwife as the lead maternity carer.

Midwifery led care enhances the woman's experience of birth.

Midwifery led care is cost effective and safe.

*Midwifery led care reduces the need for Caesarean section, forceps and episiotomy.*⁵⁶

⁵⁵ *Ibid.*

⁵⁶ Hon Adele Farina MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 21 June 2006, p3998.

- 5.91 The Committee considered the option of referring this petition to the Public Obstetric Services Select Committee, and sought a procedural ruling under Standing Order 327 from Hon Nick Griffiths MLC, President of the Legislative Council.
- 5.92 The President formed the view that the petition did not fall within the Select Committee's terms of reference and advised that it was not appropriate to refer this petition to the Select Committee.⁵⁷
- 5.93 The Committee conducted preliminary inquiries into the petition and received submissions from the tabling Member and the principal petitioner.
- 5.94 The tabling Member, Hon Adele Farina MLC, outlined a number of benefits to women from midwife-led maternity care including the benefits of having a natural birth and a more consistent approach to education of the new mother.
- 5.95 The tabling Member suggested an alternative location for the Birth Centre and stated the following in her submission.

*The construction of the new Busselton Hospital presents an opportunity to include a Birth Centre in close proximity to the hospital's planned birth suite and maternity ward. There is also an indication from the local Birth Choices group that Dr Mostyn Hamdorf and local midwives are keen to work within the Birth Centre.*⁵⁸

- 5.96 The Committee received a submission from the principal petitioner Ms Samantha Mansfield, which provided a background to what the "Birthchoices" group does. The submission expanded on the reasons behind the request for a Birth Centre in the South West and the benefits provided:

*Research has shown that continuity of care of a known midwife during pregnancy, birth and beyond leads to a reduction in the use of obstetric interventions during labour and birth. This includes a decrease in pharmacological pain relief, reduced reduction rates, augmentation of labour, instrumental deliveries, episiotomies and caesarean sections. One of the most significant benefits of midwifery led care is the greater levels of satisfaction.*⁵⁹

- 5.97 The submission acknowledged that the petition requested the Birth Centre be in Bunbury. The submission, however, clarifies that the petitioners would be equally

⁵⁷ Ruling of Hon President Nick Griffiths MLC, 14 November 2006.

⁵⁸ Submission from Hon Adele Farina MLC, 23 August 2006, p2.

⁵⁹ Submission from Ms Samantha Mansfield, 24 August 2006, p2.

satisfied with a Birth Centre in Busselton and perhaps located in the new hospital to be built in Busselton.

5.98 The Committee received a letter from Hon Jim McGinty MLA Minister for Health. He agreed that there is a need for the community and the health system to consider providing greater birthing choices for women, within a safe environment.⁶⁰

5.99 The Minister for Health referred to those 'birthing choices' being a focus of the Departments "Future Directions in Maternity Care" project, and then continues:

*This project, 'Future Directions in Maternity Care' has adopted an extensive and staged consultation process, which has led to more than 54 submissions being received to date. Although this stage of the consultation formally closed on 31 December 2006, in reality consultation and discussion will be undertaken on an ongoing basis. Ms Alison Maggs, from the maternity care project team, has had discussions with Ms Kara Jane Bennett from Mothers Helping Mothers and Birth Choices SW, confirming this approach.*⁶¹

5.100 The Minister for Health then states that a draft policy will be developed based on the information collected, and then continued:

This policy will then be released for a formal three month consultation process, during which there will be a variety of avenues for the community and health professionals to contribute to the policy's further development. Included in this stage will be focus groups, public meetings, and meetings with key stakeholder groups. While the final itinerary for this stage has not been developed, it is expected to include the South West.

*With regard to the petition the Standing Committee has received, the DOH have given a commitment to Birth Choices South West that maternity care, including labour and birthing options in the South West, would be considered within this context.*⁶²

5.101 The Committee received an update from the Minister for Health in response to the Committee's request. The Minister informed the Committee that WA Country Health Service (WACHS) met with the Birth Choices South West Association, on 2 April 2007, to discuss their proposal for a Family Birth Centre in the South West. The Minister provided the following information:

⁶⁰ Letter from Hon Jim McGinty MLA, Minister for Health, 8 January 2007, p1.

⁶¹ *Ibid*, p1.

⁶² *Ibid*, pp1-2.

At the meeting the WACHS representatives stated that the Family Birth Centre proposal would be considered and discussed with all stakeholders. It was also communicated that it was highly likely that any birth centre would be first considered for Bunbury rather than Busselton (the stated preferred site in the proposal) due to the increased number of births occurring at Bunbury Hospital, the need to increase services/facilities to meet this demand in the short and longer term and the medical services available to provide back up and support. A significant planning process would be required prior to the inclusion of a Family Birth Centre as part of the capital program for the South West.

To ensure that any birthing facilities at the new Busselton Hospital are established within the concept of a family friendly setting, Birth Choices South West will be invited to be involved in the “maternity user group” being established to provide advice on planning the maternity services in the new hospital.⁶³

- 5.102 The Minister repeated his assertion that Birth Choices South West will also be consulted regarding feedback on the draft Department of Health Maternity Services Policy which was released for consultation in late May 2007.
- 5.103 **In light of the above information, the Committee finalised this petition on 6 June 2007.**
- 5.104 The Committee acknowledged the petitioner’s contribution to the debate and considered that the issues had been brought to the attention of Parliament by the tabling of the petition in the Legislative Council.

Petition No 41 – Road Safety issues in Burswood Road

- 5.105 On 23 November 2006, Hon Sheila Mills MLC tabled a petition in the Legislative Council [TP#2277] containing 321 signatures which was couched in the following terms:

To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We, the undersigned residents of Western Australia, strongly believe that road safety is an issue along Burswood Road, Burswood. We are greatly concerned about the safety of pedestrians, the majority of whom are children, when crossing such an extremely busy road on

⁶³ Letter from Hon Jim McGinty MLA, Minister for Health, 31 May 2007, p1.

their way to school without an adequate pedestrian crossing or 40kph zone speed limit.

Your petitioners therefore respectfully request the Legislative Council to recommend that:

- 1. Burswood Road, between Leigh Street and Howick Street, be determined a school zone, with a 40km an hour limit during school hours as is currently the case for Egham Road and Leigh Street.*
- 2. A proper pedestrian crossing with adequate signage and road markings is installed near the intersection of Burswood Road and Leigh Street.⁶⁴*

5.106 The Committee received a submission from Mr Ben Wyatt MLA, Member for Victoria Park, which supported the requests contained in the petition. Mr Wyatt detailed how busy Burswood Road had become and emphasised the need for a 40km/h School Zone along the Perth Montessori School.

5.107 The Committee received a submission from the principal petitioner, Ms Tabitha Wellman, who has a four and a half year old attending the Perth Montessori School. The submission outlined the support for the petition with the following:

My concerns were then supported by the petition which is before you now containing over 300 signatures. The support for this initiative has been overwhelming, not only in the school community, but, surprisingly enough, it has also stirred up great sentiment within the local business community. When collecting signatures door-to-door in the immediate area, every business had a story to tell about their safety concerns and near misses – either as a pedestrian trying to navigate the road, or as a motorist to negotiate the several blind corners on the road. I even had one business owner mention that he had an accident end up centimetres away from his office window.

Over the past six months, I, other parents at the school and the local business community have been increasingly concerned with the substantial increase in motorists using Burswood Road in peak traffic times of between 8:00am – 9:00am weekdays. We have recently noticed several near accidents, mainly due to the excessive speed of motorists travelling along Burswood Road.⁶⁵

⁶⁴ Hon Sheila Mills MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 23 November 2006, p8703.

⁶⁵ Submission from Ms Tabitha Wellman, 12 January 2007, p1.

5.108 The principal petitioner provided additional reasons in support of their road safety requests including new planning approvals for substantial developments along Burswood Road; and ‘plans’ to open up access across Great Eastern Highway allowing Burswood Road to become a main thoroughfare from the Burswood Peninsula through to Shepperton Road.

5.109 The Committee noted the following comment by the principal petitioner:

We simply request that the safety of pedestrians, the majority of whom are school children under the age of 12 years, are put before the “convenience of motorists” as submitted by the Office of the Minister for Planning and Infrastructure (correspondence dated 25th September 2006 Ref 02020644) as the reason for not being able to implement these requests.⁶⁶

5.110 The Committee wrote to Hon Alannah MacTiernan MLA, Minister for Planning and Infrastructure on 29 March 2007, but did not receive a response.

5.111 The Committee made additional inquiries and from the information provided was satisfied that progress on the issues raised in the petition had been made.

5.112 **Thus the Committee finalised this petition on 6 June 2007 based on the following draft recommendations:**

1 The Committee recommends that the Minister for Planning and Infrastructure urgently implements the installation of a school zone with a 40km an hour limit, during the hours of 7.30 – 9.00^{am} and 2.30 – 4.00^{pm} on school days, between Leigh Street and Howick Street Burswood Road.

2 The Committee recommends that the Minister for Planning and Infrastructure urgently implements the installation of an appropriate pedestrian crossing with adequate signage and road markings near the intersection of Burswood Road and Leigh Street.

5.113 The Committee wrote to the Minister for Planning and Infrastructure on 7 June 2007, with copies of those draft recommendations. The request to the Minister was as follows:

The Committee understands that draft recommendation one may have been implemented, and requests you to confirm if that is the case, and if so, when the change was implemented?

⁶⁶ *Ibid.*

*The Committee will also have the opportunity to refine draft recommendation two, before the next overview of petitions report is tabled in the Legislative Council. As such the Committee invites you to comment on draft recommendation two.*⁶⁷

- 5.114 The Committee received a response from the Minister for Planning and Infrastructure on 20 August 2007. The letter stated that the response was also on behalf of Main Roads WA. The letter continued:

Main Roads has been working with the Town of Victoria Park, the WA Police Traffic Warden State Management Unit (TWSMU) and members of the school community to reach a solution acceptable to all parties.

*Main Roads undertook a video survey of Burswood Road in the vicinity of Perth Montessori School to assess the level of pedestrian activity. The survey was carried out after the commencement of the 2007 school year to allow road user and pedestrian traffic to settle.*⁶⁸

- 5.115 The Minister informed the Committee that a meeting took place with all stakeholders on 21 March 2007, where it was announced that the School was eligible to become a 40km/h zone because it now has frontage on Burswood Road. The Minister concluded with the following:

*The Town of Victoria Park has undertaken to liaise with the School to relocate the existing guard crossing to Egham Street and will discuss a shared funding arrangement with the School. I have asked Main Roads to approach Council and remind it of its commitment. Once the Type B crossing has been relocated, Main Roads will adjust the 40 km/h School Zone signs, children warning signs and pavements markings accordingly. Council has additionally undertaken to review parking on Burswood Road to ensure that it does not mask the visibility of school children.*⁶⁹

- 5.116 **Although its recommendations are in the process of being implemented, the Committee is confident that the outcome will be to the satisfaction of the petitioners.**

⁶⁷ Letter from Hon Louise Pratt MLC, Chair, Standing Committee on Environment and Public Affairs, 7 June 2007, p1.

⁶⁸ Letter from Hon Alannah MacTiernan MLA, Minister for Planning and Infrastructure, 20 August 2007, p1.

⁶⁹ *Ibid*, p2.

- 5.117 The Committee acknowledged the petitioner's contribution to the debate and considered that the issues had been brought to the attention of Parliament by the tabling of the petition in the Legislative Council.

Petition No 42 – Perth Modern School

- 5.118 On 5 December 2006, Hon Peter Collier MLC tabled a petition in the Legislative Council [TP#2299] containing 1975 signatures which was couched in the following terms:

We, the undersigned, parents, Perth Modern School alumni, and concerned members of the Western Australian community, protest strongly the changes made to the 2007 selection criteria for music students entering Perth Modern School. These changes undermine the outstanding, internationally recognized music scholarship programme that has been in place since 1968. In 2007, unlike 1968-2006 enrolments, music ability was considered contingent on academic selection rather than academic ability being considered along with music talent.

Your petitioners therefore respectfully request that the Legislative Council recommend to the Minister for Education and Training to reinstate the former selection criteria for the music scholarship programme at Perth Modern School in which children identified as musically gifted have an equal priority for enrolment with those children identified as academically talented.⁷⁰

- 5.119 The Committee received a submission from the tabling Member Hon Peter Collier MLC which began by stating that he is firmly of the opinion that the decision of the former Minister for Education and Training Hon Ljiljana Ravlich MLC, with regard to this matter will be a regressive move, which will impact negatively upon the music programme at Perth Modern School and the community as a whole.⁷¹ The submission continued:

The music programme at Perth Modern School has existed for decades and it has a proud history of state, national and international accomplishments. For example - for a number of years all Perth Modern School ensembles have consistently been awarded "outstanding", the highest rating, in all divisions of the orchestra, band and guitar festivals, and it is the only school to do so. Perth Modern School has also won a number of awards at numerous jazz

⁷⁰ Hon Peter Collier MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 5 December 2006, p9097.

⁷¹ Submission from Hon Peter Collier MLC, 14 December 2006, p1.

*festivals. The singing ensemble Schola Cantori was judged the top youth choir in Western Australia and one of the top three choirs in Australia in the ABC's 2006 Sing Out competition. In 2005, Perth Modern School was the first and only Australian school to be invited to provide music for the London celebration of Anzac Day. That included a choral performance in the Westminster Abbey commemorations in the Somme and at the Australian Embassy in Paris.*⁷²

- 5.120 The submission highlighted a number of successful awards that the School achieved as well as some examples of successful musicians at a national and international level who previously studied at the school. The tabling Member then stated:

*Finally, with the announcement of changes to the music programme at Perth Modern School, testimonies in support of maintaining the current structure have been received from worldwide recognised musicians, including Mr Richard Gill, Music Director, Victorian Opera and Artistic Director Sydney Symphony Education Programme and Mr Ben Jacks, Sydney Symphony Orchestra.*⁷³

- 5.121 The submission acknowledged that the music programme at Perth Modern School may continue to exist from 2007, but not in its current form. The submission expressed concern that the selection process for entry to the school will be based solely upon academic criteria that will in effect exclude potential members of the music programme. The tabling member provided the following comment:

*While generally I do not have an issue with the establishment of an academically selective school, I do when it is instituted at the expense of an already established and highly successful programme such as the music programme at Perth Modern School. In fact, I am of the opinion that the music programme, in its current form would effectively compliment the academic emphasis of the school.*⁷⁴

- 5.122 The Committee received a comprehensive submission from the principal petitioner, Ms Jenny Maras, with a number of attached letters in support of Perth Modern School's musical achievements.⁷⁵ The submission raised a number of concerns including:

⁷² *Ibid.*, p1.

⁷³ *Ibid.*, p2.

⁷⁴ *Ibid.*

⁷⁵ Submission from Ms Jenny Maras, Chairperson Music Support Standing Committee, 5 January 2007, p1.

The Selection criteria utilised to assess gifted and talented Music students prior to the changes is unique to Perth Modern School and Churchlands Senior High School. This selection criteria, allowed both schools to select students who displayed an extremely high level of musical giftedness, dedication and potential to cope with both the music and academic workload. The combination of students chosen with this selection criterion, the expertise and experience of the teachers within a dedicated Music program has led to Perth Modern School Music program being seen as a lighthouse school of musical education which has been recognised both in Australia and internationally.⁷⁶

5.123 The submission made a number of claims about the lack of consultation, misleading/inaccurate information, lack of transparency and expressed concerns that Churchlands Senior High School and John Curtin College of the Arts may not be able to take the overflow of gifted and talented students from Perth Modern School.

5.124 The principal petitioner made the following point in the submission:

The academic test appears to favour young people who have been able to attend primary schools within the higher socio-economic groups and minimal numbers of children from lower socio-economic groups have gained entry, which was not the case previously. This is reflected in the enrolments for 2007 in the music program.⁷⁷

5.125 The Committee noted from the submission that students are able to gain entry to Churchlands Senior High School either through an academic test or an audition that assesses musical talent.⁷⁸

5.126 The Committee received a response from Hon Mark McGowan MLA, Minister for Education which commenced with his response to the terms of the petition with the following:

While it is recognised that the petitioners would prefer that the status quo for Music selection be maintained, the Government has made a decision to return Perth Modern School to its former status as a fully selective academic entry school. As a result, the Department of Education and Training was required to examine the selection process associated with academic entry to the Music program. All prospective students to Perth Modern School for 2007 and beyond

⁷⁶ *Ibid.*

⁷⁷ *Ibid.*

⁷⁸ *Ibid.*

were advised that in order to gain admission to the school, they are required to undertake the academic selection test.

There are several perspectives to this issue when reviewing Perth Modern School's history. From 1911 to 1958, the school was an academic select entry secondary school, with students gaining entry able to access opportunities to achieve both their academic potential and develop their artistic talents. In 1968, a Music specialists program was established at the school and allowed for one class to be selected on musical talent. The decision to return the school to its former status has received very strong support from the alumni from this period. The decision has also been vindicated by the fact that 780 Year 7 students applied for entry to the school in 2006 and 1023 applicants in 2007.⁷⁹

- 5.127 The Minister for Education provided a range of comments to justify the Government's decision including that it was part of the Western Australian Labor Government's 2005 election plan. The Minister stated that Dr Robyn White, Principal, Perth Modern School, advised the Department that music staff at the school ultimately selected a total of 54 students from the Year 8 intake for 2007 into the specialist Music Program. The Minister continued:

Twelve students who missed out on academic entry to Perth Modern School but rated either 'definite' or 'probable' in the selection auditions, and who wished to be considered for Gifted and Talented Music, were accommodated at Churchlands Senior High School. The school received additional funding for these students to be accommodated in their Music Program. Students not gaining selection to Perth Modern School in 2008 and who wish to be considered for Gifted and Talented Music can be accommodated at John Curtin College of the Arts, provided they gain selection through the audition process.⁸⁰

- 5.128 The Minister stated that the Music program is not being shifted from Perth Modern School to John Curtin College of the Arts, and that a new Gifted and Talented program is being established at the school.
- 5.129 **The Committee finalised this petition on 6 June 2007 because the State Government has clearly made its decision on this issue.**

⁷⁹ Letter from Hon Mark McGowan MLA, Minister for Education and Training, 16 May 2007, p1.

⁸⁰ *Ibid*, p4.

5.130 The Committee acknowledged the petitioner's contribution to the debate and considered that the issues had been brought to the attention of Parliament by the tabling of the petition in the Legislative Council.

Petition No 43 – Road Reserve Management in the Shire of Toodyay

5.131 On 5 December 2006, Hon Louise Pratt MLC tabled a petition in the Legislative Council [TP#2300] containing 175 signatures which was couched in the following terms:

We the undersigned residents of Western Australia are opposed to the current road reserve management practices in Toodyay and elsewhere.

Your petitioners therefore respectfully request the Legislative Council to recommend

1. *that a moratorium be put in place to immediately cease the removal of roadside vegetation from all Shire roadsides, and in Toodyay in particular, to enable a rational and considered course of action to be decided upon;*
2. *that in the interests of retaining native flora in local government managed and other roads in Western Australia a uniform mandatory statewide practice be implemented;*
3. *that a review of road reserve management practices in the State, and in Toodyay in particular, take place so that any clearing is undertaken in an environmentally-sensitive manner; and*
4. *that the Shire of Toodyay and other Shires throughout the State:*
 - *adopt the Guidelines outlined in the 'Handbook of Environmental Practice for Road Construction and Maintenance; and*
 - *produce a local practices guide so that, in addition to road safety and infrastructure issues, local bio-diversity, drainage and erosion, and tourism values are considered as components of road management.*⁸¹

⁸¹ Hon Louise Pratt MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 5 December 2006, p9097.

5.132 The Committee received a submission from the principal petitioner Ms Rae Kolb. The submission covered a range of issues including a suggestion for increased funding; road safety; vegetation protection; weed control; a comparison between light poles and trees and drains and native vegetation.⁸²

5.133 The submission placed a high value on roadside vegetation, suggested a range of alternatives to improve road safety, most notably reducing speed, better road design and increased funding. The submission concluded with the following:

*Native vegetation infrastructure is generally irreplaceable, and is generally acknowledged as inadequate especially in the Wheatbelt, whereas cleared farming land is abundant and in fact there are moves and financial support from the State to revegetate areas to reinstated native vegetation. Repurchasing and reusing cleared farmland for other purposes and retaining the native vegetation in road reserves could be seen as better value for money for the State and society than revegetating cleared farmland. This should apply to both local and main roads.*⁸³

5.134 The Committee received a response from the Shire of Toodyay. The Shire stated the following:

*Firstly it is important to point out that the Shire of Toodyay has a population of approximately 4,200. The petition therefore represents 4.2% of the total population of the Shire of Toodyay and should thus not be taken as representative of all the ratepayers in Toodyay. The Shire has in fact had a number of letters, petitions and submissions at Council Meetings commending the Shire on the improvement in road safety due to the works undertaken so far. Council believes that the majority of residents agree with and support the Shire of Toodyay in its endeavours to provide safe transport corridors at an affordable and sustainable rate.*⁸⁴

5.135 The Shire makes the point that the *Environmental Protection Act 1986* and the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* specifically allow for applications to be made for a permit to clear native vegetation where required. The Shire stated that those permits are only provided following exhaustive consultation, assessment and discussion on how to minimise the clearing.⁸⁵

⁸² Submission from Ms Rae Kolb, 3 January 2007, pp1–2.

⁸³ *Ibid.*, p4.

⁸⁴ Letter from Mr Graham Merrick, Chief Executive Officer, Shire of Toodyay, 10 May 2007, p1.

⁸⁵ *Ibid.*

- 5.136 The Shire stated that certain conditions usually have to be complied with before clearing can take place and that those permits are subject to appeal. The Shire then informed the Committee that:

The Shire of Toodyay has complied with all of these requirements and is currently awaiting the outcome of appeals against a permit which was issued in March 2007.

The petitioners in this case are seeking to circumvent the established procedures set in legislation by requesting the Standing Committee on Environment and Public Affairs place a moratorium on the removal of roadside vegetation. The question needs to be asked as to who would be responsible if a moratorium was placed on vegetation removal and as a result an accident occurred with a fatality.⁸⁶

- 5.137 The Shire concluded with the following:

The Shire of Toodyay has requested a permit to clear native vegetation through the correct channels to ensure that its roads are maintained to the Standard set by Main Roads WA.

Council would submit that the application for and issue of permit No CPS 1279/1 complies with Schedule 3 of Environmental Protection (Clearing of Native Vegetation) Regulations 2004 and as such it is believed that this petition should be dismissed.⁸⁷

- 5.138 The Committee noted that the *Handbook of Environmental Practice for Road Construction and Maintenance Works* was distributed to Local Government, Main Roads WA staff, utility providers and conservation organisations in 2005.⁸⁸
- 5.139 The Committee was mindful of the extended liability case that stemmed from a tragic accident on 17 June 2001, when a car crashed into a tree on Woodendale Road, a gravel road in Toodyay. The Committee noted the reported decision in the Court of Appeal that compels the Shire of Toodyay to pay compensation to a woman whose husband died in the 2001 car crash.⁸⁹
- 5.140 Hon Louise Pratt MLC noted the need to protect low remanent vegetation, and that the clearing of such vegetation is largely unnecessary for safety purposes.

⁸⁶ *Ibid*, p2.

⁸⁷ *Ibid*, p3.

⁸⁸ http://www.councils.wa.gov.au/directory/news_room/lg_news/2005_lg_news/lgnews41.05/view, (viewed on 31 August 2007).

⁸⁹ *Shire of Toodyay v Walton* [2007] WASCA 76 (10 April 2007).

- 5.141 Hon Louise Pratt MLC commended the important work done by the Toodyay Roadside group in raising awareness about the importance of protecting remanent roadside vegetation with environmental, tourism and cultural values.
- 5.142 **In light of the above information the Committee finalised this petition on 6 June 2007.**
- 5.143 The Committee acknowledged the petitioner's contribution to the debate and considered that the issues had been brought to the attention of Parliament by the tabling of the petition in the Legislative Council.

Petition No 50 – Daylight Saving Bill 2006

- 5.144 On 21 March 2007, Hon Simon O'Brien MLC tabled a petition in the Legislative Council [TP#2395] containing 285 signatures which was couched in the following terms:

To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We the undersigned residents of Western Australia are opposed to the continuation of the three year daylight saving trial.

Your petitioners therefore respectfully request the Legislative Council to support the call for a referendum of daylight savings before October of 2007.⁹⁰

- 5.145 The Committee received a submission from the principal petitioner, Hon Robyn McSweeney MLC. The submission began by stating that during the debate in the House the Hon Member's email had been bombarded with people wanting daylight saving. The Member believes that those emails were mainly from city people. The Member then goes on to say that:

At the last referendum, 75 per cent of my electorate voted against daylight saving. Between October 1974 and March 1975 when daylight saving was trialled, it was rejected by a margin of 3.6 per cent. A further trial was held between October 1983 and March 1984, and was rejected in another referendum by a margin of 4.35 per cent.⁹¹

- 5.146 The Hon Member then stated that following the first year of the current trial:

⁹⁰ Hon Simon O'Brien MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 21 March 2007, p426.

⁹¹ Submission from Hon Robyn McSweeney MLC, 5 April 2007, p2.

... I requested feedback from my electorate regarding daylight saving. Many constituents requested me to promote a petition asking the Government to oppose the continuation of the three year daylight saving trial.

Many of these constituents had responded to television surveys saying they wanted a referendum before the proposed next trial. The feeling in the South West electorate is that by inflicting a three year trial, the Government has acted arrogantly and not listened to the wishes of the people. Constituents are insulted that the Government does not believe they are able to make up their minds after one trial.⁹²

- 5.147 The Hon Member concluded by stating that the petition requests the Legislative Council to support the call for a referendum on daylight saving before October 2007.
- 5.148 The Committee noted the widespread interest and diverging community views on Daylight Saving. The Committee was also mindful that the issue was dealt with during the extended debate in Parliament, and with the passing of the *Daylight Saving Act 2006*.⁹³
- 5.149 **The Committee finalised this petition on 6 June 2007 because the State Government has clearly made its decision on this issue.**
- 5.150 The Committee acknowledged the petitioner's contribution to the debate and considered that the issues had been brought to the attention of Parliament by the tabling of the petition in the Legislative Council.

Petition No 44 – Policing to the Bullsbrook Community

- 5.151 On 6 December 2006, Hon Donna Faragher MLC tabled a petition in the Legislative Council [TP#2315] containing 272 signatures which was couched in the following terms:

To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We the undersigned residents of Western Australia are opposed to the manner in which the Western Australia Police Department delivers policing in the Bullsbrook area. The trip from Midland to Bullsbrook is a full 30 minutes drive from Midland and for many years the township has experienced extreme difficulty in getting the Midland

⁹² *Ibid.*

⁹³ Act No 61 of 2006, as assented on 24 November 2006.

police to respond to calls that would automatically warrant police presence in a suburb that is closer to Midland.

Your petitioners therefore respectfully request the Legislative Council to recommend that the Western Australia Police Department urgently considers the needs of the Bullsbrook Township as part of their Frontline First philosophy, which aims to improve the way policing is delivered to the community and put it ahead of anyone or anything else (Western Australia Police 2006).⁹⁴

- 5.152 The Committee received a submission from the tabling Member Hon Donna Faragher MLC. The tabling member raised the following issues:

Extensive vandalism, graffiti, anti-social behaviour and other crimes have been identified for sometime as significant issues for the local community. By way of example, I understand that during the 2005/06 Christmas-New Year period, more than 300 graffiti attacks occurred within the township.

Local shops and homes have been repeatedly targeted with tags scratched or sprayed on windows and walls leading to significant costs to owners. Community facilities such as Pickett Park Hall, the Bullsbrook Fire Station and the local skate park have all been vandalised leading to costs on both the community and the City of Swan. All of this, along with other crimes in the area, leads to significant frustration for law abiding local residents.⁹⁵

- 5.153 The tabling Member raised concerns from local residents that phone calls from Bullsbrook to the 131444 police number were often transferred to Gingin or Northam Police Station, rather than the Midland Station, leading to potentially longer response times.⁹⁶

- 5.154 The Committee received a response from Hon John Kobelke MLA, Minister for Police, which addressed the main concerns of the petitioners.⁹⁷ The letter referred to the Ellenbrook Police Station as follows:

The Western Australian Police has advised that the Bullsbrook area is within the Ellenbrook police sub-districts. The Ellenbrook Police Station became fully operational on 21 May 2007 and operates 24

⁹⁴ Hon Donna Faragher MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 6 December 2006, p9204.

⁹⁵ Submission from Hon Donna Faragher MLC, 16 April 2007, p1.

⁹⁶ *Ibid.*

⁹⁷ Letter from Hon John Kobelke MLA, Minister for Police, 11 June 2007.

hours a day. It is expected that there will be a significant reduction in response times generally in the area and specifically in response to non-urgent incidents, which require police attendance. Prior to this Midland Police Station operated a dedicated patrol within the area of the Ellenbrook police sub-district.

The Officer-in-charge of Ellenbrook Police Station, Senior Sergeant Bennison, will be meeting with concerned local business owners and residents in the near future to discuss their concerns and develop crime prevention and response strategies for the area. Schools in the East Metropolitan Police District are regularly visited by East Metropolitan Crime Prevention Officers, who deliver a variety of educational lectures which include the topic of graffiti.⁹⁸

- 5.155 The Committee noted the comments about an increase in targeted patrols and traffic operations and the significant reduction in reports of graffiti in the area. The Minister also made comments about the anti-hoon legislation which has enabled the police to conduct targeted operations to address that problem.
- 5.156 The letter acknowledges that the 131444 number from the Bullsbrook area will deliver to Midland or Gingin, dependant on which mobile service tower the caller connects to. The letter goes on to say that Police advise that staff are trained to handle telephone inquiries in a timely and professional manner, to ensure that police assistance is provided within agency guidelines.
- 5.157 **The Committee finalised this petition on 19 June 2007 because there is now a fully operational police station in Ellenbrook.**
- 5.158 The Committee acknowledged the petitioner's contribution to the debate and considered that the issues had been brought to the attention of Parliament by the tabling of the petition in the Legislative Council.

Petition No 46 – Urban Development - Emu Point Drive Albany

- 5.159 On 20 March 2007, Hon Giz Watson MLC tabled a petition in the Legislative Council [TP#2381] containing 1523 signatures which was couched in the following terms:

We, the undersigned residents of Western Australia respectfully oppose urban development by LandCorp of pristine coastal land at Lots 1512 and 1523 Emu Point Drive in Albany without regard for potential consequences on the environment. We are concerned that:

⁹⁸ *Ibid*, p1.

a) Urban development will impact detrimentally on such an ecologically sensitive area and in particular will destroy existing wildlife corridors from Lake Seppings to Oyster Harbour; and

b) That the City of Albany is not taking a strategic approach to the protection of remnant vegetation within the City boundaries and as a consequence large areas of remnant vegetation are being lost to urban development.

Your petitioners respectfully request therefore that the Legislative Council investigate:

a) whether this proposed urban development is likely to impact negatively on the environment; and

b) the City of Albany's failure to adequately protect the natural environment due to poor urban planning.⁹⁹

5.160 The Committee received a submission from the principal petitioner, Ms Ruth Watson, which stated that there are two separate issues that form the basis of the petition which are:

- 1. The suitability of bushland near Emu Point for building development; and*
- 2. The implementation of a policy of preserving bushland in the City of Albany.¹⁰⁰*

5.161 The submission then stated that the area in question is relatively undisturbed bushland and has a very low incidence of weeds. And that the plant species are varied and while no endangered plants have been identified to date, there is a significant variety of wildflowers, in particular orchids.¹⁰¹ The submission continued:

The sale of this land is to pay, in part, for the construction of an entertainment centre on the Foreshore. To make the construction of the entertainment centre contingent on the sale of this bushland can be seen as extreme coercion.¹⁰²

⁹⁹ Hon Giz Watson MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 20 March 2007, p261.

¹⁰⁰ Submission from Ms Ruth Watson, secretary Albany Bushcares Group, 16 April 2007, p1.

¹⁰¹ *Ibid.*

¹⁰² *Ibid.*

- 5.162 The submission asks that the Committee consider if the Albany City Council is complying with the Lower Great Southern Strategy and the *Environmental Protection Act 1986*.
- 5.163 The submission concluded, by stating that the community members in Albany, would greatly appreciate the opportunity to meet with the Committee on the bushland in question in order to illustrate “*our concerns and demonstrate the significance of this bushland corridor*”.¹⁰³
- 5.164 The Committee received a submission from Mrs Pat Johns, a long-term resident of Albany and former president of the Albany Branch of the Wildflower Society. The submission made a number of points about the coastal dunes in ‘pristine’ condition, the original fauna and flora and the corridor link between reserves.¹⁰⁴ The submission then stated:

*We are desperately trying to minimise the greenhouse effect by preserving existing trees – why destroy this pristine area when there is plenty of degraded bushland and already cleared farmland for development.*¹⁰⁵

- 5.165 The Committee received a response from the City of Albany which outlined the zoning planning process involved. The letter began with the following:

The land proposed to be developed by LandCorp at Emu Point is a combination of zonings in the City of Albany Town Planning Scheme 1A that includes future urban, residential, reservation for parks and recreation purposes.

*These zonings were introduced upon the inception of Town Planning Scheme 1A in December 1983 and therefore have been included in Council’s planning processes in a strategic and statutory sense for over 20 years.*¹⁰⁶

- 5.166 The City of Albany stated that there is a Town Planning Scheme Amendment currently before the Minister for Planning and Infrastructure; mentioned the development of a structure plan; community consultation involved in that process; the need for the Western Australian Planning Commission to endorse the structure plan and the capacity for the EPA to call in the subdivision application.¹⁰⁷

¹⁰³ *Ibid*, p2.

¹⁰⁴ Letter from Mrs Pat Johns, 27 April 2007, p2.

¹⁰⁵ *Ibid*, p2.

¹⁰⁶ Letter from Mr Andrew Hammond, Chief Executive Officer, City of Albany, 17 May 2007, p1.

¹⁰⁷ *Ibid*, p2

5.167 In its conclusion the City of Albany stated that any development on the land will be subject to a rigorous and independent environmental assessment.¹⁰⁸

5.168 The Committee received a brief response from LandCorp which stated that the Minister for Planning and Infrastructure will respond to the request for comment.¹⁰⁹

5.169 The Committee received a response from Hon Alannah MacTiernan MLA, Minister for Planning and Infrastructure, which began by stating that the site in question has been zoned for residential development for many years. The letter continued:

The petition states that LandCorp will develop the land without regard for potential consequences on the environment. This statement is not correct. The State Government and LandCorp recognise the environmental value of the site and LandCorp is in the process of undertaking due diligence to investigate the environmental value of the site and develop a plan that will address this value.

*Wildlife corridors will be retained and included in the plan, not only to ensure ecological links between the site and adjoining areas but also to protect the habitat of existing fauna on site.*¹¹⁰

5.170 The letter stated that LandCorp acknowledged the need to preserve existing ‘dunal’ form where possible and significant vegetation and fauna habitat. The letter then contested another claim by the petitioner with the following:

*The petitioner is incorrect in stating that the sale of the Emu Point Lots will fund the construction of the entertainment centre at the waterfront development. The funding strategy for the waterfront development is linked to the development of the Emu Point land but the State Government is funding the entertainment centre separately.*¹¹¹

5.171 The Committee received a response from Hon David Templeman MLA, Minister for the Environment which outlined the assessment process with the following:

I have been informed by the Environmental Protection Authority (EPA) that it is aware of the proposed development at Lots 1512 and 1523 Emu Point and has advised the proponent that, due to the likely significant environmental impacts, the proposal would require formal

¹⁰⁸ *Ibid.*

¹⁰⁹ Letter from Mr Ross Holt, Chief Executive Officer, LandCorp, 17 May 2007, p1.

¹¹⁰ Letter from Hon Alannah MacTiernan MLA, Minister for Planning and Infrastructure, 7 June 2007, p1.

¹¹¹ *Ibid.*

environmental impact assessment in accordance with the provisions of Section 38 of the Environmental Protection Act 1986.

*A formal assessment by the EPA requires the proponent to prepare publicly available documentation outlining the environmental issues relevant to the proposal and encourages the public to submit their views for the EPA's consideration prior to any recommendations being made by the EPA on the suitability of the proposal.*¹¹²

- 5.172 The letter concluded by stating that the environmental impact assessment will commence once the proponent has referred its development proposal to the EPA.
- 5.173 **The Committee finalised this petition on 19 June 2007, noting that the issues raised in the petition need to be addressed during the planning and environmental assessment processes.**
- 5.174 The Committee expressed its concern about the increasing trend in utilising public open space for urban and tourist development.
- 5.175 The Committee acknowledged the petitioner's contribution to the debate and considered that the issues had been brought to the attention of Parliament by the tabling of the petition in the Legislative Council.

Petition No 18 – Neil Winzer Prayer for Relief

- 5.176 On 22 September 2005, Hon Giz Watson MLC tabled a petition in the Legislative Council [TP#775]:

*bearing one signature praying for relief on behalf of Mr Neil Robert Winzer.*¹¹³

- 5.177 The petition sought the resolution of a “*public interest claim*” regarding the Department of Transport's 1995 EBA, along with a closely related allegation of perjury/misleading behaviour by senior officers of the Department of Transport in relation to the “*public interest claim*”.
- 5.178 The Committee received a substantial number of documents most of which came from Mr Winzer. The Committee noted that at least 15 separate government independent and parliamentary investigative bodies have examined the matters raised in the petition to varying degrees over the past ten years.

¹¹² Letter from Hon David Templeman MLA, Minister for the Environment, 8 June 2007, p1.

¹¹³ Hon Giz Watson MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 22 September 2005, p5804.

- 5.179 In particular, the Committee noted, the various correspondence to Mr Winzer from the Standing Committee on Estimates and Financial Operations, the Premier, the Parliamentary Commissioner for Administrative Investigations, the Corruption and Crime Commission (which details a very thorough investigation by the Public Sector Investigations Unit (PSIU) of the WA Police) and the Parliamentary Inspector of the Corruption and Crime Commission.
- 5.180 During the course of its inquiries the Committee became aware that the issue of the “*public interest claim*” was before the Corruption and Crime Commission on referral by the Parliamentary Inspector.
- 5.181 The Committee formed the view that it did not intend to duplicate the investigative role of the Corruption and Crime Commission on this matter. The Committee believes that the “*public interest claim*” will be adequately addressed by the Corruption and Crime Commission, if that agency receives Mr Winzer’s full co-operation with its investigation.
- 5.182 The Committee took evidence from Mr Winzer at a hearing on 16 November 2005, where Mr Winzer informed the Committee, that he sought the Committee’s help to obtain release from the public sector on favourable terms and “*with a degree of dignity*”.
- 5.183 The Committee sought clarification on Mr Winzer’s ‘current employment status’, and the Public Sector Management Division of the Department of the Premier and Cabinet provided the following response:
- *Mr Winzer is currently on leave without pay from the Department of Planning and Infrastructure;*
 - *Mr Winzer is not on the active external redeployment register; and*
 - *Subject to the standard approval process, voluntary severance is still an option for Mr Winzer.*¹¹⁴
- 5.184 The Committee received a response from Hon Alannah MacTiernan MLA, Minister for Planning and Infrastructure, which stated that the option of a severance payment is still available to Mr Winzer, subject to approval by the Department of Premier and Cabinet.¹¹⁵
- 5.185 The Committee recommends that Mr Winzer co-operates fully with the Corruption and Crime Commission in relation to his public interest claim.

¹¹⁴ Letter from Hon Alan Carpenter MLA, Minister for Public Sector Management, 6 June 2007, p1.

¹¹⁵ Letter from Hon Alannah MacTiernan MLA, Minister for Planning and Infrastructure, 6 August 2007, p1.

5.186 **In light of the above information, the Committee finalised this petition on 27 June 2007 based on the following recommendation:**

Recommendation 1: The Committee recommends that the Minister for Planning and Infrastructure and/or the Minister for Public Sector Management take immediate steps to resolve the issue of Mr Winzer's employment.

5.187 The Committee acknowledged the petitioner's contribution to the debate and considered that the issues had been brought to the attention of Parliament by the tabling of the petition in the Legislative Council.

Petition No 34 – Protection of Mature Trees on Public Land in Urban Areas

5.188 On 20 September 2006, Hon Giz Watson MLC tabled a petition in the Legislative Council [TP#1894] containing 735 signatures which was couched in the following terms:

We, the undersigned residents of Western Australia, are opposed to the removal of mature trees from public land in urban areas. We believe that this practice has a negative impact on:

air quality, wildlife habitat, landscape values, local amenity, protection from the sun, mental and physical health, soil salinity, climate change, financial costs to communities and real estate values.

Your petitioners therefore respectfully request the Legislative Council to support both a moratorium on the removal of such trees and their protection as a public asset for the benefit of present and future generations by measures such as:

- 1. Promoting a better understanding of their benefits and the negative impact of removal;*
- 2. Promoting better management by means of height control and root surgery to reduce liability risks;*
- 3. Resolving the public liability issue so as to avoid the perceived need for removal;*
- 4. Discouraging their removal from public land; and*

*5. Reconsidering replacement policies by local governments that allow removal without environmental assessment of the cumulative effects of removal and replacement.*¹¹⁶

5.189 The Committee received a submission from the principal petitioner, Ms Alexandra Jones, which stated her concerns about the “*unnecessary loss of trees due to thoughtless development or questionable local council policies*”. The petitioner continued:

The criteria for tree removal under current tree management strategies are questionable. For trees whose lifespan far exceeds that of most humans, expressions used to justify tree removal, such as “post maturity” and “in decline”, are often not convincing. Claims by council arborists about termite infestation, inappropriateness of species or imminent danger from falling debris are often a source of frustration to observers who believe that issues of convenience or fear of litigation are the true reason for removal.

*Current tree-pruning practices that do little to control the height of trees or the length of limbs are often misguided. In many cases the easily reached lateral branches are pruned while the larger and higher branches remain, as they are more difficult and costly to remove. Trees pruned in this way appear devoid of foliage, while their excessively long limbs remain, causing concern to some residents and leading to requests for tree removal. This, coupled with the fear and uncertainty of litigation further contribute to tree removal by councils.*¹¹⁷

5.190 The Committee reviewed copious documents from the principal petitioner, including questions submitted to the City of Subiaco; a letter to the City of Nedlands and a range of issues such as the destruction of mature native trees on Edith Cowan University’s former Churchlands campus; the need to protect Underwood Avenue and Shenton Park Bushland; the threats to Mueller Park and the killing of native trees from spraying around sumps in the Cities of Stirling and Joondalup, as well as numerous *Post* newspaper articles.

5.191 While this petition was specific in its request for assistance to protect mature trees in urban areas, the Committee noted an underlying theme (in the *Post* articles), that is central to the pressure on governments, to on the one hand, provide for urban development and on the other to protect parks and public open space.

¹¹⁶ Hon Giz Watson MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 20 September 2006, pp6275–6276.

¹¹⁷ Submission from Ms Alexandra Jones, 10 October 2006, p2.

5.192 The Committee received a response from Hon Jon Ford MLC, former Minister for Local Government, which advised that many trees on public land are under the care, control, and management of local government. The Minister stated that Local governments have a high degree of independence in both the making of their decisions and in their implementation.¹¹⁸

5.193 The former Minister for Local Government continued:

*The Local Government Act 1995 does not provide for the implementation of a moratorium on the removal of trees from public places under the care, control and management of local governments. Further, I am advised that even if a moratorium on the removal of trees were possible, it is likely that it would be difficult to implement because of significant management issues. This would be further exacerbated where there were competing land use and risk management questions to be settled.*¹¹⁹

5.194 The former Minister for Local Government concluded with the following:

*With regard to the submission made by the principal petitioner, I am advised that the issues raised (eg removal of trees, public liability, tree removal and replacement policies, tree pruning) are all matters that are currently dealt with by local governments under their local laws, policies and operational decisions. Accordingly, the most appropriate avenue to effect change is through their administrations, elected members and local residents.*¹²⁰

5.195 The Committee received a response from Hon Tony McRae MLA, former Minister for the Environment, which stated:

*With regard to the terms of the petition, the clearing of mature trees on public land in urban areas is not typically regulated by the Environmental Protection Act 1986 (EP Act) and is generally a local government matter.*¹²¹

5.196 The former Minister for the Environment referred to s51C of the Act which deals with clearing permits. The former Minister provided a definition of 'native vegetation' and referred to exemptions with the following:

¹¹⁸ Letter from Hon Jon Ford MLC, former Minister for Local Government and Regional Development, 30 November 2006, p1.

¹¹⁹ *Ibid*, p1.

¹²⁰ *Ibid*, p2.

¹²¹ Letter from Hon Tony McRae MLA, Minister for the Environment, 8 February 2007, p1.

There are some exemptions for clearing of native vegetation, contained in Schedule 6 of the EP Act and within the Environmental Protection (Clearing of Native Vegetation) Regulations 2004. For example, Item 19 of the Regulations provides an exemption for the removal of an isolated tree that is more than 50 metres from any other native vegetation.

Where a clearing permit is required, the native vegetation is assessed against a set of ten principles outlined in Schedule 5 of the EP Act. These principles outline where native vegetation should not be cleared. The Chief Executive Officer of the Department of the Environment and Conservation must have regard to these principles in making his decision and must also have regard to any planning instruments or any other matter considered relevant.¹²²

5.197 The former Minister for the Environment repeated his main assertion that it is unlikely that trees in urban areas are regulated by the EP Act, because many would not be native species, and those that are would have been intentionally planted and therefore not defined as native vegetation for the purposes of the EP Act or as isolated trees that are exempt.¹²³

5.198 The Committee received responses from the Cities of Subiaco and Nedlands about their guidelines and policy to protect and manage mature trees.

5.199 The response from the City of Subiaco acknowledged the significant value of trees. The City has adopted a Street Tree Policy with the aim of preserving and enhancing the 'Urban Forest' character of the City and to ensure the City is not exposed to an increase in legal risks for public liability claims by virtue of diminished standards. The letter stated that:

The City of Subiaco maintains a register of street trees. It is proposed in 2007 to assess all of the City's street trees against set criteria to identify significant trees for inclusion in a Register of Significant Trees on Public Land.¹²⁴

5.200 The City informed the Committee that they have a tree planting program each year that includes a root directional guide to reduce the impact of developing tree root systems on infrastructure and services. The letter continued:

A tree management group oversees the City's management of its urban forest. The Tree Management Group meets fortnightly to

¹²² *Ibid*, p2.

¹²³ *Ibid*.

¹²⁴ Letter from Martin Copeman, Manager Parkes Services, City of Subiaco, 24 April 2007, p1.

*review and consider all major pruning work, any proposed removals and or tree replacement. No major tree work is carried out without the authorisation of the management group.*¹²⁵

5.201 The City also refers to its environment plan which aims to support and enhance the City's natural environment by progressively increasing the number and quality of street trees.¹²⁶

5.202 The City of Nedlands informed the Committee of the following policies and procedures in relation to trees and vegetation on public land:

- Policy 4.7 Verge Development
- Procedure 4.7 Verge Development
- Policy 4.13 Street Trees
- Procedure 4.13 Street Trees
- Policy 4.14 Greenways Corridors
- Procedure 4.14 Greenways Corridors¹²⁷

5.203 The City of Nedlands provided copies of those policies and procedures to the Committee.

5.204 The Committee received a response from Mr Arthur Kyron on behalf of the Western Suburbs Regional Organisation. The letter stated that there is no overarching universal tree policy for the Western Suburbs, but did provide the following documents to the Committee:

Town of Cottesloe's Street Tree Policy and Street Tree Species Report;

Town of Claremont's Tree Preservation Policy;

Town of Claremont's Tree Promotion Policy;

Email from Shire of Peppermint Grove regarding mature trees;

*Copy letter from City of Subiaco.*¹²⁸

¹²⁵ *Ibid*, p2.

¹²⁶ *Ibid*, p2.

¹²⁷ Letter from Mr Tim Halls, Manager Infrastructure Services, City of Nedlands, 19 April 2007, p1.

¹²⁸ Letter from Mr Arthur Kyron, 21 May 2007, p1.

5.205 The Committee noted that the Shire of Peppermint Grove has a practice of not removing mature trees from public land unless they are a danger to people and/or property; they are in decline and will be replaced with another tree or they are dying or dead.¹²⁹

5.206 The Committee received a response from the Western Australia Local Government Association (**WALGA**) which stated that local government is largely guided by section 4 of Schedule 7 to the *Planning and Development Act 2005*.¹³⁰ The letter continued:

*The Association brings to the attention of the Committee that the initial opportunity to identify and protect large mature trees is at the approval of subdivision stage. An appropriate consideration of such vegetation that could enhance future streetscapes and public open space does not appear to be a realised opportunity during the subdivisional assessment process, undertaken by the Western Australian Planning Commission.*¹³¹

5.207 The Association contends that a much greater emphasis is required by State planning authorities in the identification and incorporation of high value natural assets into the land use planning framework.¹³²

5.208 The Committee noted that each local government authority is an independent autonomous body, but formed the view that a model policy for protecting mature trees on public land in urban areas would be a constructive way forward.

5.209 **In light of the above the Committee finalised this petition on 27 June 2007 based on a draft of the following recommendation:**

Recommendation 2: The Committee recommends that the Minister for Local Government with the support of the Minister for Planning and Infrastructure in conjunction with local governments develop a model tree policy for protecting mature trees in urban areas.

5.210 The Committee acknowledged the petitioner's contribution to the debate and considered that the issues had been brought to the attention of Parliament by the tabling of the petition in the Legislative Council.

¹²⁹ *Ibid.*

¹³⁰ Act No 37 of 2005.

¹³¹ Letter from Mr Mark Batty, Executive Manager, Environment and Waste, WALGA, 15 June 2007, p1.

¹³² *Ibid.*

Petition No 51 – Mental Health – Community Supported Residential Units

- 5.211 On 27 March 2007, Hon Helen Morton MLC tabled a petition in the Legislative Council [TP#2534] containing 239 signatures which was couched in the following terms:

To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

*We the undersigned residents of Western Australia call on the Legislative Council to oppose the establishment of clusters of 25 or more community supported residential units (CSRU) on hospital sites throughout WA for people with a mental illness, and, seek the support of the Legislative Council to ensure that CSRU are established for no more than eight people in one cluster in normal homes in normal streets, and adequately resourced to ensure that residents successfully integrate within communities throughout Western Australia.*¹³³

- 5.212 The Committee received a submission from the principal petitioner, Ms Elize Bullock, seeking an inquiry as to whether social justice for both the severely mentally ill, that are to be housed in these units, as well as the local host communities, is being damaged under this initiative. The submission then stated that:

*The DoH [Department of Health] proposal is that large groups of 25 or more chronically ill mental health patients are to be housed in Community Supported Residential Units on existing hospital sites. Daily care is to be delivered by Non Government Organizations.*¹³⁴

- 5.213 The principal petitioner raised concerns about compliance with mental health standards and with the proposed model and then makes the following comments about the nature of the patients to be housed in these units:

If patients have a manageable mental illness, why is there a need to house them in large groups on hospital grounds? Existing best practice is to place suitable patients in small groups within the community, in normal housing. There is a contradiction between the proposed model and accepted best treatment regimes. Again we can only conclude that the DoH plans to place patients that are too ill for normal community placement into these units. It is unacceptable

¹³³ Hon Helen Morton MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 27 March 2007, p649.

¹³⁴ Submission from Elize Bullock, principal petitioner, 30 April 2007, p1.

*otherwise to have people who are able to live in the community, located in large groups, on sites associated with hospitals.*¹³⁵

5.214 The submission concluded by stating that the community expects that mental health patients are treated according to well established treatment models that complies with mental health standards. The principal petitioner repeats the claim that the best model is to place small groups of 4-6 in normal houses in normal streets.

5.215 The Committee received a submission from the tabling Member Hon Helen Morton MLC, which expressed a desire that the Committee investigate this matter further. The submission also claimed that the best model for CSRU's, are for no more than eight people in one cluster, in normal homes in normal streets.¹³⁶

5.216 The submission stated that study after study, expert after expert agree that the maximum size for community supported residential living is, at most eight, with the best size much smaller. The submission continued:

These studies and experts also agree upon key supported housing parameters which include:

1. *Housing must be chosen by consumers;*
2. *Neighbourhoods should be chosen based on their likely ability to assimilate and support consumers;*
3. *The number of labelled residents in relation to the total number of residents in the overall housing unit is critical and should be limited and consistent with community norms;*
4. *The appearance of housing should be consistent with neighbourhood norms;*
5. *Housing which keeps levels of stress manageable should be selected;*
6. *Housing should enhance stability, not be time limited; And*
7. *Housing should enhance opportunities for control over the environment.*^{137 138}

¹³⁵ *Ibid.*

¹³⁶ Submission from Hon Helen Morton MLC, 3 May 2007, p1.

¹³⁷ *Ibid.*, pp1-2.

- 5.217 The tabling member concluded by raising other matters similar to the principal petitioner such as transparency and accountability and the need for better consultation.¹³⁹
- 5.218 The Committee received a response from Hon Jim McGinty MLA, Minister for Health. The letter began by stating that the Government is committed to dramatically increasing mental health services in Western Australia through the \$175 million *Mental Health Strategy 2004 – 2007*.^{140 141}
- 5.219 The Minister also stated that the CSRUs have been developed in direct response to a lack of medium sized clusters of supported accommodation for people with low-to-medium support needs.¹⁴²
- 5.220 The Minister commented on the claims made in the petition and stated that there are no plans to construct CSRU clusters of 25 or more units.¹⁴³
- 5.221 The Committee noted that a literal interpretation of the petition does suggest 25 units, but that the submissions however, referred to 25 “mental health patients”.
- 5.222 The Minister stated that three of the 10 CSRUs are not being established on hospital land (Busselton, Bunbury and Middle Swan); that CSRUs have been specifically designed as “*normal homes*” and that nine of the 10 CSRUs are accessed via residential streets on which a number of residential homes and/or community services are located.¹⁴⁴
- 5.223 The Minister’s response included some published studies and correspondence from Dr Peter Wynn Owen, previously provided to the principal petitioner.
- 5.224 The Committee noted the significant and urgent need for more community based housing and supports plans for CSRUs.
- 5.225 The Committee supports the monitoring of outcomes of smaller and larger CSRUs to ensure positive outcomes for all residents.

¹³⁸ See also, Michael Hogan and Paul Carling, ‘Normal housing: a key element of a supported housing approach for people with psychiatric disabilities’, *Community Mental Health Journal*, 28 (3), June 1992, pp215–226; Janice Chester, Meredith Fletcher and Rebecca Jones, ‘Mental Illness recovery and place’, *Australian e-Journal for the Advancement of Mental Health*, 4 (2), 2005, pp1–9.

¹³⁹ *Ibid.*

¹⁴⁰ Letter from Hon Jim McGinty MLA, Minister for Health, 18 May 2007, p2.

¹⁴¹ See also, http://www.mental.health.wa.gov.au/one/aboutus_smhp.asp, (viewed on 29 May 2007).

¹⁴² Letter from Hon Jim McGinty MLA, Minister for Health, 18 May 2007, p2.

¹⁴³ *Ibid.*

¹⁴⁴ *Ibid.*

- 5.226 The Committee supports the creation of individualised support plans for residents to assist in ensuring their homes do not become an institutionalised setting.
- 5.227 **In light of the above information, the Committee finalised this petition on 27 June 2007.**
- 5.228 The Committee acknowledged the petitioner's contribution to the debate and considered that the issues had been brought to the attention of Parliament by the tabling of the petition in the Legislative Council.

Petition No 57 – Daylight Saving

- 5.229 On 20 June 2007, Hon Vincent Catania MLC tabled a petition in the Legislative Council [TP#2819] containing 174 signatures which was couched in the following terms:

To the Honourable the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We the undersigned residents of Shark Bay in Western Australia are opposed to the continuation of the Daylight Saving Trial Period for the summers of 2007/08 and 2008/09/.

Your petitioners therefore respectfully request the Legislative Council to support the Private Members Bill that was introduced into the Legislative Assembly on 28 February 2007 to have a Referendum on 20 October 2007 regarding the continuation of Daylight Saving for the summer(s) of 2007/08 and 2008/09.¹⁴⁵

- 5.230 **The Committee finalised this petition because the State Government has clearly made its decision on this issue.**
- 5.231 The Committee acknowledged the petitioner's contribution to the debate and considered that the issues had been brought to the attention of Parliament by the tabling of the petition in the Legislative Council.

6 PETITIONS BEFORE THE COMMITTEE UP TO 30 JUNE 2007

- 6.1 The following petitions are the subject of ongoing inquiries by the Committee:
- a) Utility Consumer Hardship. Petition tabled by Hon Sally Talbot MLC on 15 November 2005 [TP#1001];

¹⁴⁵ Hon Vincent Catania MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 20 June 2007, p3341.

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- b) South Cardup Landfill. Petition tabled by Hon Giz Watson MLC on 17 October 2006 [TP#2085];
 - c) Persecution of Falun Gong Practitioners. Petition tabled by Hon Sally Talbot MLC on 15 November 2006 [TP#2228];
 - d) Supported Accommodation Services. Petition tabled by Hon Barbara Scott MLC on 16 November 2006 [TP#2236];
 - e) Proposed High Voltage Transmission Lines - Muja to Wellstead. Petition tabled by Hon Giz Watson MLC on 20 March 2007 [TP#2382];
 - f) Pluto Development on the Burrup Peninsular. Petition tabled by Hon Barbara Scott MLC on 3 April 2007 [TP#2586];
 - g) Upgrade of Western Power Infrastructure in Southern Suburbs. Petition tabled by Hon Helen Morton MLC on 2 May 2007 [TP#2633];
 - h) Landcorp Development - Lot 204 Lyon Road, Aubin Grove. Petition tabled by Hon Anthony Fels MLC on 29 May 2007 [TP#2734];
 - i) Ban Export of Lead through Port of Esperance. Petition tabled by Hon Giz Watson MLC on 20 June 2007 [TP#2820];
 - j) Regional Resource Recovery Centre in Canning Vale. Petition tabled by Hon Simon O' Brien MLC on 26 June 2007 [TP#2835];
 - k) Genetically Modified Food Free State. Petition tabled by Hon Giz Watson MLC on 26 June 2007 [TP#2837];
 - l) Western Australian College of Teaching Board Elections. Petition tabled by Hon Peter Collier MLC on 28 June 2007 [TP#2918].



Hon Louise Pratt MLC
Chair

27 September 2007