



THIRTY-EIGHTH PARLIAMENT

REPORT 20
STANDING COMMITTEE ON ENVIRONMENT AND
PUBLIC AFFAIRS
OVERVIEW OF PETITIONS

Presented by Hon Brian Ellis MLC (Chairman)

August 2010

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:

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Hon Colin Holt MLC

Hon Kate Doust MLC (Deputy Chair)

Hon Lynn MacLaren MLC

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EXECUTIVE SUMMARY

- 1 This report provides an overview of the petitions considered by the Legislative Council Standing Committee on Environment and Public Affairs (**Committee**) from 1 July 2009 to 31 December 2009 (**the reporting period**).
- 2 This is the ninth *Overview of Petitions* report tabled by the Committee and it includes a review of petitions finalised by the Committee during the reporting period.
- 3 During the reporting period, 18 new petitions were tabled in the Legislative Council and referred to the Committee.
- 4 Petitions remain a popular method of informing Members of Parliament of a wide range of issues and concerns. The petitions considered by the Committee dealt with a number of matters including environmental, planning and development, road, transport, agricultural and health issues.
- 5 The Committee's inquiries into petitions provides the Parliament with the assurance that petitions tabled in the Legislative Council are being scrutinised and enhances the transparency and accountability of decisions made by State and local governments.

CHAPTER 1

INTRODUCTION

HISTORY AND FUNCTIONS OF THE COMMITTEE

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

PETITIONS

- 1.4 This report provides an overview of the petitions considered by the Committee during the reporting period 1 July 2009 to 31 December 2009.
- 1.5 A petition is a request for action by the Legislative Council from a citizen or resident or a group of citizens or residents.
- 1.6 The Committee considers petitions that have been tabled by a Member of the Legislative Council on behalf of a person or groups within the community.
- 1.7 The issues raised in petitions are considered by Members of Parliament through the Committee's processes and the Committee's Overview of Petitions report brings petitioners' concerns to the attention of the Legislative Council and the public.
- 1.8 All conforming petitions tabled in the Legislative Council, except those raising a matter of privilege, are referred to the Committee.
- 1.9 It is important that the formal requirements for the tabling of petitions, set out in Legislative Council Standing Orders 133 and 134, are followed. If a petition does not conform to the Standing Orders it will not be certified by the Clerk of the Legislative Council. A non-conforming petition may only be tabled if the Legislative Council grants leave.
- 1.10 A petition only needs one signature to be tabled however most petitions contain many signatures.

1.11 Certain issues or matters raised in a petition may come under the Parliamentary Commissioner for Administrative Investigation's (**Ombudsman**) jurisdiction as set out in the *Parliamentary Commissioner Act 1971*. The Committee may liaise with the Ombudsman's office in order to ascertain whether a matter raised in a petition has been previously investigated or is currently under consideration by that office.

COMMITTEE PROCEDURE

1.12 Upon receiving a petition, the Committee undertakes an initial assessment of the subject-matter of the petition and may resolve not to inquire further into the petition in the following circumstances:

- the issues raised in the petition have been or will be considered and/or debated by the Legislative Council; or
- the Committee considers that the issues raised in the petition have been or are being adequately dealt with.

1.13 Where the subject matter of a petition is within the terms of reference of another standing committee of the Legislative Council, the Committee may refer the petition to that committee for inquiry and report, as provided by the Committee's term of reference 1.5.

1.14 If the Committee proceeds to investigate the issues raised in a petition, the first step will usually be to request a short submission from the principal petitioner and tabling Member. Once the initial submissions are received, the relevant Minister(s) will often be requested to comment on the issues raised in the petition. The Committee may also seek information from other sources such as government agencies or local government and it may undertake its own research or conduct hearings.

1.15 The Committee considers the submissions and all of the evidence before it resolves to either:

- finalise the petition, or
- conduct a formal inquiry into the issues raised in the petition.

1.16 The Committee may resolve to finalise a petition at this stage if it:

- has not received a submission from the principal petitioner;
- considers the evidence indicates that the issues raised in the petition have been, or are in the process of being, adequately dealt with; or
- considers that the issues raised in the petition have been taken as far as possible at the time.

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- 1.17 When the Committee resolves to finalise a petition, it advises the tabling Member and the principal petitioner in writing.
- 1.18 The Committee's review of each petition is set out in its *Overview of Petitions* report to the Legislative Council.
- 1.19 If the Committee resolves to conduct a formal inquiry, it may advertise for public submissions, conduct hearings and gather further written and oral evidence. The Committee then prepares and tables a separate report in the Legislative Council.

CHAPTER 2

PETITIONS CONSIDERED BY THE COMMITTEE

REPORTING PERIOD DATA

- 2.1 Eighteen new petitions were referred to the Committee between 1 July 2009 and 31 December 2009. The Committee finalised 15 petitions during this period.
- 2.2 The above number does not include 'repeat petitions' which are simply copies of petitions already tabled. For example, a petition may be distributed to a number of locations for petitioners to sign and occasionally some of the signed copies will be tabled in the Legislative Council at different times.

PETITIONS FINALISED BETWEEN 1 JULY 2009 AND 31 DECEMBER 2009

- 2.3 The Committee finalised the following petitions during the reporting period:¹
- Petition No 19 Showrooms being constructed on Lots 1, 2, 3, 4, 13 and 15 Ewen Street Woodlands. Petition tabled by Hon George Cash MLC on 11 March 2009 (Tabled Paper No 530).² This petition was finalised on 12 August 2009. A summary of this petition was included in Report 17: *Overview of Petitions* and is therefore not included in this report.
- Petition No 23 Dalyellup Beach Estate bushland be dedicated primarily to conservation. Petition tabled by Hon Adele Farina MLC on 18 March 2009 (Tabled Paper No 583)³. This petition was finalised on 9 September 2009.
- Petition No 24 Passenger rail service between Perth and Geraldton. Petition tabled by Hon Brian Ellis MLC on 18 March 2009 (Tabled Paper No 584). This petition was finalised on 14 October 2009.
- Petition No 25 Esperance Residential College: Request the Legislative Council support the upgrade and expansion. Petition tabled by Hon Wendy Duncan MLC on 31 March 2009 (Tabled Paper No 629). This petition was finalised on 11 November 2009.

¹ These petitions are reviewed in Chapter 3 of this report.

² Petition 19 was a re-tabled petition.

³ Petition 23 was a re-tabled petition.

- Petition No 26 Turner Caravan Park: Redevelopment by the Shire of Augusta-Margaret River. Petition tabled by Hon Barry House MLC on 6 May 2009 (Tabled Paper No 716). This petition was finalised on 19 August 2009.
- Petition No 28 Emu Point, Albany Redevelopment. Petition tabled by Hon Paul Llewellyn MLC on 13 May 2009 (Tabled Paper No 762). This petition was finalised on 12 August 2009.
- Petition No 30 Collie Shire Council's Town Planning Scheme No 5 and associated planning strategy. Petition tabled by Hon Paul Llewellyn MLC on 19 May 2009 (Tabled Paper No 775). This petition was finalised on 12 August 2009.
- Petition No 31 Scarborough Beach Road: Concern at the lack of adequate safe pedestrian crossings. Petition tabled by Hon Liz Behjat MLC on 2 June 2009 (Tabled Paper No 824). This petition was finalised on 18 November 2009.
- Petition No 32 Legislation of a Voluntary Euthanasia Bill for the rights of the terminally ill. Petition tabled by Hon Robin Chapple MLC on 2 June 2009 (Tabled Paper No 825). This petition was finalised on 12 August 2009.
- Petition No 34 Geraldton Foreshore: Proposed redevelopment of the public open space. Petition tabled by Hon Philip Gardiner MLC on 24 June 2009 (Tabled Paper No 908). This petition was finalised on 11 November 2009.
- Petition No 35 Depleted uranium munitions: Requesting the Legislative Council to inquire, report and recommend opposition to the use. Petition tabled by Hon Alison Xamon MLC on 11 August 2009 (Tabled Paper No 1000). This petition was finalised on 14 October 2009.
- Petition No 36 First Click computer funding cuts. Petition tabled by Hon Kate Doust MLC on 12 August 2009 (Tabled Paper No 1030). This petition was finalised on 14 October 2009.
- Petition No 39 Busselton Hospital: Immediate construction of the new hospital. Petition tabled by Hon Colin Holt MLC on 13 August 2009 (Tabled Paper No 1037). This petition was finalised on 11 November 2009.
- Petition No 41 Swan River Crab Fishery closure. Petition tabled by Hon Liz Behjat MLC on 8 September 2009 (Tabled Paper No 1083). This petition was finalised on 11 November 2009.

Petition No 42 Recreational fishing licence and fees and increase in fee. Petition tabled by Hon Jon Ford MLC on 10 September 2009 (Tabled Paper No 1134). This petition was finalised on 21 October 2009.

CHAPTER 3

REVIEW OF FINALISED PETITIONS

- 3.1 This Chapter provides an overview of the Committee's inquiries into petitions finalised between 1 July 2009 and 31 December 2009. While every effort is made to provide an accurate picture of the evidence relating to each petition, every piece of correspondence or other evidence received or considered by the Committee is not necessarily summarised for each petition.
- 3.2 The number of signatures on a petition relate to the original petition tabled in the Legislative Council during the Thirty-Eighth Parliament. On occasion, repeat petitions with further signatures are subsequently tabled.⁴
- 3.3 A copy of documents referred to in this Chapter, granted a public status by the Committee, may be obtained from Committee staff. Transcripts of public hearings are also available from the Committee's website.

PETITION NO 23 — DALYELLUP BEACH ESTATE BUSHLAND BE DEDICATED PRIMARILY TO CONSERVATION

- 3.4 This petition, originally tabled on 26 February 2008 with 708 signatures, lapsed when the Parliament was prorogued on 7 August 2008. It was re-tabled on 18 March 2009 by Hon Adele Farina MLC with 1 signature.⁵
- 3.5 The petition states:

We the undersigned residents of Western Australia respectfully request that the remaining remnant bushland in the Dalyellup Beach Estate be dedicated primarily to conservation and compatible education and passive recreation activities.

The region supports two nationally listed threatened species; The Western Ringtail Possum and the Carnaby's Cockatoo. It is also the subject of a Federal study into the possible presence of the Quokka. In 1998 Dalyellup was to retain 100ha of Tuart forest to the North and 280 ha of southern coastal reserve. These areas have now been reduced to 57 and 160 hectares, respectively. The Tourist Precinct is on primary sand dunes and it was recommended by the EPA to be retained for conservation due to its regional significance and concern

⁴ See paragraph 2.2 of this report.

⁵ Tabled Paper No 583.

it would lead to degradation of the adjacent coastal reserve and conservation category wetlands. The estate has been extensively cleared of at least 300ha of native vegetation. The areas of Stage 13 West, the Green Patch and the Tourist Precinct should be dedicated to conservation not urbanisation.

- 3.6 The submission from the principal petitioner, Nicolette Prefumo, disapproved ongoing development at Dalyellup Beach Estate (**DBE**) and claimed that the only controls on clearing were introduced in 2004 by the *Environmental Protection and Biodiversity Act 1999* (Cwlth).⁶
- 3.7 The submission asserted that three wildlife refuges remained in Dalyellup Beach Estate following extensive clearing and development:

*The wildlife corridors bear little resemblance to what was presented to the EPA in 1998 ... Fauna mitigation prior to 2004 was limited to translocation. The remnant bushland left at DBE ... meets all the criteria set by the State Government for it not to be cleared; but it actually means nothing. The State has failed DBE and its environmental values on a number of levels; failure to implement a State Biodiversity Act as promised in 2001 and 2005 and a failure to close loopholes for developers. Long term developments like DBE should be reviewed periodically as knowledge and new information comes to hand. It should not be the last resort efforts of the community to bring these issues to light.*⁷

- 3.8 Mr Paul Sheedy, Chief Executive Officer of the Shire of Capel responded to the original petition in 2008 and disputed the extent of reserved land in the area that the petitioner claimed to have been lost. Mr Sheedy pointed out that the Dalyellup Beach area had been zoned 'urban' on the Greater Bunbury Region Scheme (**GBRS**) since the Scheme was released and development in the area had been consistent with the Shire of Capel's Town Planning Scheme (No 7).⁸
- 3.9 In relation to the areas of Dalyellup Beach Estate singled out by the petitioner, the Shire advised that:
- The 'Tourist Precinct Area' had been subject to an appeal which had ultimately confirmed its Urban zoning.⁹

⁶ Submission from Ms Nicolette Prefumo, 7 April 2009, p2.

⁷ Ibid, p3.

⁸ Submission from Mr Paul Sheedy, Chief Executive Officer, Shire of Capel, 30 April 2008, pp1-2.

⁹ Ibid, p1.

- The ‘Green Patch’, which had been identified by the Shire of Capel as an appropriate area for recreation and playing fields, was not a designated seasonal wetland as indicated in the principal petitioner’s submission. The western portion of the area was being assessed by the Federal Department of Environment as an ecological corridor.¹⁰
- In relation to Stage 13, clearing had commenced in line with Western Australian Planning Commission (WAPC) subdivision approval. The Foreshore Management Plan required the developers to rehabilitate any dunes that become part of the foreshore reserve.¹¹

3.10 A response to the petition was also obtained from the then Minister for the Environment, Hon David Templeman MLA, who explained that there was considerable history to this development. An amendment to re-zone the Dalyellup area had been referred to the Environmental Protection Authority in July 1998 and the level of assessment was set at ‘Not assessed–Advice given’. The developer subsequently prepared a Structure Plan which was endorsed by the WAPC in 2002.¹²

3.11 The then Minister advised that:

The landowner has subsequently been developing the land in accordance with the environmental and land use planning approvals it has received, with individual stages of the development being subject to subdivision approvals issued by the WAPC.

In summary, appropriate processes were followed and relevant environmental matters were considered in making decisions about the development of the Dalyellup beach estate.¹³

3.12 Further:

I note that the petitioner has raised the environmental values of the larger region including that the region supports two nationally listed threatened species (the Western Ringtail Possum and Carnaby’s Black-Cockatoo). In relation to this it should be noted that the protection of native vegetation was considered in a broad regional context in the GBRS which was recently adopted by the Western Australian Government. The GBRS provides for a comprehensive

¹⁰ Ibid, pp2-4.

¹¹ Ibid, p3.

¹² Letter from Hon David Templeman MLA, Minister for the Environment, 8 May 2008, p1.

¹³ Ibid, p2.

*regional parks and reserves system throughout the Greater Bunbury Region to protect bushland for its conservation values.*¹⁴

- 3.13 In response to the petitioners' request that the remaining undeveloped areas of Dalyellup Beach Estate be dedicated to conservation, the then Minister's view was:

*The petitioner is essentially asking the Legislative Council to overturn or amend the conditions attached to specific planning and development approvals relating to select areas of land that retain remnant vegetation in the proposed Tourist Precinct, Stage 13 (part) of the development and an area referred to as the Green Patch that contains a seasonal wetland. In view of the fact that the environmental matters concerning this development were given due consideration and appropriate approvals processes were followed, I do not support such action.*¹⁵

- 3.14 The then Minister's letter explained that the Western Ringtail Possum is a protected species listed as 'threatened' under the *Wildlife Conservation Act 1950* and classified as 'Vulnerable' under World Conservation Union criteria and the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*.¹⁶ The then Minister pointed out that while the protection of a fauna species classified as 'threatened' under the *Wildlife Conservation Act* identified the need for special consideration by local government and planning authorities, it did not provide protection of the species' habitat.¹⁷
- 3.15 The then Minister also pointed out that the EPBC Act may impose conditions on development that will help to protect Western Ringtail Possums and there is a Commonwealth EPBC Act Conservation Agreement in place with the Satterley Property Group in relation to the Dalyellup development.¹⁸
- 3.16 Following the prorogation of the Parliament and the re-tabling of the petition, the Committee sought comment from the new Minister for Environment, the Minister for Planning, and the Commonwealth Minister for the Environment, Water, Heritage and the Arts.
- 3.17 The Minister for Environment, Hon Donna Faragher MLC, provided the Committee with information regarding the conservation agreement between the Satterley Property Group (SPG) and the Commonwealth Minister for the Environment, Water, Heritage

¹⁴ Letter from Hon David Templeman MLA, Minister for the Environment, 8 May 2008, p2.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid, p3.

¹⁸ Ibid.

and the Arts titled '*Research and monitoring of the Western Ringtail Possum in urban development areas of Busselton and Bunbury*' (**Conservation Agreement**). Under the Conservation Agreement, SPG will monitor and survey Western Ringtail Possum populations on SPG properties in the southwest. Projects include the identification of habitat parameters and abundance, a pilot project to assess the outcome of Western Ringtail Possums at development sites where habitat is modified, and to assess the conservation value of reconstructed habitats.¹⁹

3.18 The Conservation Agreement also provides for funding by SPG to the Department for Environment and Conservation (**DEC**) "*for habitat assessment, biological surveys, identification of movement corridors and development of risk management strategies for use in the Bunbury and Busselton areas.*"²⁰

3.19 The Minister further advised that DEC had completed a habitat assessment and the second phase of the program, detailed habitat structure assessments and corridor identification, would be commenced in the second half of the year.²¹

3.20 Finally,

*The work undertaken by DEC will result in the production of a strategic Western Ringtail Possum habitat management document which can be adopted and incorporated into existing land use planning schemes and strategies used by local shires, the Department of Planning and Infrastructure and the Western Australian Planning Commission.*²²

3.21 Information obtained from the Commonwealth Department of the Environment, Water, Heritage and the Arts was that the Conservation Agreement had been in effect since October 2006 and that:

*The outcomes of the monitoring and survey program are continuing to be negotiated with the proponent and it is anticipated that the program will commence early 2010.*²³

3.22 The Committee learnt that a policy statement for the Western Ringtail Possum in the southern Swan Coastal Plain was being developed and would provide guidance regarding development and other actions in Western Ringtail Possum habitat areas:

¹⁹ Letter from Hon Donna Faragher MLC, Minister for Environment, 7 May 2009, p1.

²⁰ Ibid, pp1-2.

²¹ Ibid, p2.

²² Ibid.

²³ Letter from Ms Vicki Middleton, Assistant Secretary, Environment Assessment Branch, Department of the Environment, Water, Heritage and the Arts, 6 May 2009, p1. The agreement can be accessed at <http://www.environment.gov.au/epbc/about/conservation-agreements.html>.

*The policy outlines the requirements under the Environmental Protection and Biodiversity Conservation Act (EPBC) to refer actions likely to have a significant impact on a listed threatened species to the Department, as well as how to promote ecologically sustainable development.*²⁴

- 3.23 A 2007 referral in relation to the Green Patch subdivision at Dalyellup Beach Estate was still under consideration and awaiting further information from the proponent regarding the progress of the development.²⁵
- 3.24 In relation to Stages 13 and 16 of Dalyellup Beach Estate, these areas were not assessed as controlled actions, however certain conditions were applied to this decision by the Commonwealth. The measures that must be implemented to avoid significant impacts on the listed Vulnerable Western Ringtail Possum include:
- Retention of minimum areas of native vegetation, including viable linkage habitat. A management plan will be prepared and implemented by Dalyellup Beach Proprietary Ltd in consultation with the Department of Environment and Conservation.
 - The Management Plan will include measures to maintain the southern ‘East/West Ecological Linkage’ and measures to reduce road kill risks.
 - Protocols regarding the removal of Western Ringtail Possums and dreys from trees to be cleared.
 - Translocation protocols.²⁶
- 3.25 While the Committee appreciated the petitioners’ desire to conserve remaining bushland in Dalyellup Beach Estate, it was also clear that further development in the area had already been approved. The Committee’s inquiries revealed that a number of State and Commonwealth conservation measures were in place or in development to protect the natural values of the area. The Committee asked the petitioner if she had any specific concerns about the adequacy or scope of those conservation efforts however no comments were received from the petitioner.

²⁴ Letter from Ms Vicki Middleton, Assistant Secretary, Environment Assessment Branch, Department of the Environment, Water, Heritage and the Arts, 6 May 2009, p1. The draft policy statement is available at <http://www.environment.gov.au/epbc/guidelines-policies.html>.

²⁵ Letter from Ms Vicki Middleton, Assistant Secretary, Environment Assessment Branch, Department of the Environment, Water, Heritage and the Arts, 6 May 2009, p2.

²⁶ Commonwealth of Australia, *Environment Protection and Biodiversity Conservation Act 1999, Decision that the Action is not a Controlled Action Provided it is Undertaken in a Particular Manner*, 26 October 2006. Attachment to the letter from Ms Vicki Middleton, Assistant Secretary, Environment Assessment Branch, Department of the Environment, Water, Heritage and the Arts, 6 May 2009.

- 3.26 The Committee concluded that ongoing State and Commonwealth conservation efforts were providing constraints on development and offered some protection for vulnerable species in the area. The petition was finalised on 9 September 2009.

PETITION NO 24 — PASSENGER RAIL SERVICE BETWEEN PERTH AND GERALDTON

- 3.27 This petition was tabled on 18 March 2009 by Hon Brian Ellis MLC and contained 257 signatures.

- 3.28 The petition states:

We the undersigned residents of Western Australia are in support of a passenger train service between Perth and Geraldton to provide a more sustainable method of transport and provides more comfort for the aged and infirm.

Your petitioners therefore respectively request the Legislative Council to consider the construction of a passenger rail system between Perth and Geraldton, Western Australia.²⁷

- 3.29 The submission from the principal petitioner, Mr Albert Tonks, maintained that a rail service to Geraldton was necessary because:

- There were limited affordable transport options to Perth.
- A rail service would make Geraldton a more accessible tourist destination.
- The daily bus service to Perth terminated at the East Perth terminal where access to connecting suburban trains was difficult as passengers need to cross over a bridge. A train service which terminated at Wellington Street would be preferable as it would be more convenient and accessible, especially for the elderly and disabled.
- Government estimates are that traffic between Perth and Geraldton will double by the year 2030 and the population of Geraldton is expected to increase to 100,000 by 2020.
- Support for a train service is high with over 3,500 signatures on the petition.²⁸

- 3.30 A response to the petition from the Minister for Transport advised in August 2009 that:

²⁷ Tabled Paper No 584.

²⁸ Submission from Mr Albert Tonks, 3 April 2009, pp1-2.

The proposal for a Perth-Geraldton passenger railway has been examined in the past but was not adopted because the concept could not be justified.

Travelling by road between Perth and Geraldton is considerably shorter than by rail. TransWa road coaches are able to complete the journey between Perth and Geraldton in approximately 5 hours 45 minutes. The modern TransWa road coach fleet provides access for people with disabilities and offers faster and more frequent schedules to Geraldton, and intermediate points, than could be achieved with passenger rail services.

The cost to purchase new rolling stock, and upgrade the railway to operate passenger rail services, would also be far in excess of any return from passenger revenue, considering the relatively small population base that would utilize the service.²⁹

- 3.31 The Committee queried whether a cost-benefit analysis of a rail service to Geraldton had been developed and the Minister advised in September 2009:

the passenger rail service between Perth and Geraldton was terminated on 1 August 1975 due to low patronage, the high cost of maintaining the service and because the rolling stock had reached the end of its service life. At that time the train provided only one return service each week.

It was decided that the extension of the road coach services would provide a much more efficient, practical, flexible and satisfactory way of catering for the demand at a much lower cost to both users and taxpayers.

Travelling time by road between Perth and Geraldton is considerably shorter than by rail. TransWa road coaches are able to complete the journey between Perth and Geraldton in approximately 5 hours 45 minutes. The modern TransWA road coach fleet also provides state of the art access for people with disabilities and offers faster and more frequent schedules to and from Geraldton than a rail service could provide. Also these coach services include more intermediate points which the passenger rail service cannot achieve.

The proposal for a Perth-Geraldton passenger railway has been examined in the past, it was not adopted but rejected on technical grounds due to the cost to the State of new rolling stock, required line

²⁹ Letter from Hon Simon O'Brien MLC, Minister for Transport, 20 August 2009, p1.

upgrades, staff employment costs, track access charges, ongoing maintenance and taxpayer funded subsidisation. Further, the State would still have to provide coach services to intermediate points as they are away from the rail line.

Considering the relatively small population base that would utilise the passenger rail service, the costs would be far in excess of any return from passenger revenue and this would place an additional burden on the Western Australian taxpayers.

For these reasons and considering other infrastructure development priorities and commitments being implemented by this Government, there has not been any feasibility study undertaken to determine the costs and benefits you have requested.³⁰

- 3.32 In light of the response from the Minister, the Committee decided that further action was not warranted and the petition was finalised on 14 October 2009.

PETITION NO 25 — ESPERANCE RESIDENTIAL COLLEGE: REQUEST THE LEGISLATIVE COUNCIL SUPPORT THE UPGRADE AND EXPANSION

- 3.33 This petition was tabled on 31 March 2009 by Hon Wendy Duncan MLC and contained 293 signatures. A copy of the petition was also tabled which contained a further 81 signatures.

- 3.34 The petition states:

We the undersigned residents of Western Australia support the upgrade and expansion of the Esperance Residential College, to accommodate the current overcrowding conditions of both students and staff, to ensure the future educational needs of students in WA are met.

Your petitioners therefore respectfully request the Legislative Council to recommend and support the upgrade and expansion of the Esperance Residential College.³¹

- 3.35 The principal petitioner's submission, on behalf of the Isolated Children's Parents' Association of WA (ICPA(WA)), stated that funding for an upgrade of the hostel by the Country High School Hostels Authority had been ignored in the last four government budgets.³²

³⁰ Letter from Hon Simon O'Brien MLC, Minister for Transport, 24 September 2009, pp1-2.

³¹ Tabled Paper No 629.

³² Submission from Mrs Kathy Boladeras, Isolated Children's Parents Association of WA, April 2009, p2.

3.36 According to the submission, the College was originally built to accommodate 75 to 80 students at a time when dormitory-style accommodation was acceptable. In 1997, 14 single rooms were added and the remaining dormitories became rooms for two or four students. An upgrade to the Esperance Senior High School in 2004 led to an increase in enrolments and greater accommodation demands with numbers at the College rising from about 80 to between 95 and 105 residents.³³

3.37 Issues of concern for the petitioners include:³⁴

- Sixty one senior students (years 10 to 12) share just 14 single rooms.
- Fifty students share six bathrooms/toilets (a ratio of one to nine) meaning that “[s]taff and students must abide by a very strict schedule each day to enable all students to be showered in time for school.”³⁵
- Two meal sittings are required for breakfast and dinner.
- There is limited and unsuitable access to and from the College.
- Accommodation for Year 8 males and Years 10/11 females are in demountables divided internally by furniture which provides little privacy or sound proofing for study.
- Staff accommodation is inadequate and married accommodation quarters are very limited.

3.38 A submission from the tabling member, Hon Wendy Duncan MLC, reiterated many of the points made by the principal petitioner.

3.39 A response to the petition from Hon Dr Elizabeth Constable MLA, Minister for Education, advised that:

*the internal configuration [of the College] has been modified to provide students with a greater degree of space and privacy and better bed/storage/study arrangements. Fourteen single bedrooms were added in 1997 ... Increasingly, boarding facilities are being modified to provide all students with a personal bedroom.*³⁶

3.40 The Minister explained that demand projections had been adjusted downwards due to various factors including the cessation of mining in 2008. The Minister informed the

³³ Ibid.

³⁴ Ibid, pp2-3.

³⁵ Ibid.

³⁶ Letter from Hon Dr Elizabeth Constable MLA, Minister for Education, 21 May 2009, p1.

Committee that she expected to “*receive new recommendations relating to additions and improvements to the Esperance Residential College within the next three months.*”³⁷

- 3.41 The Esperance Residential College was also the subject of questions during the annual Estimates hearings and the Committee noted the Minister’s answer to a question from Hon Matt Benson-Lidholm MLC regarding the College:

No funds have been allocated in the budget or forward estimates for improvements to facilities at the Esperance Residential College.

*The closure of the Ravensthorpe Nickel Mine in 2008 has reduced demand by approximately 10 students and slightly eased the enrolment pressure on the facility. The Country High School Hostels Authority is reviewing its asset plan for this facility in the light of the immediate enrolment outlook and is preparing a report for my consideration.*³⁸

- 3.42 The Committee requested that the Minister provide further information once she received the above-mentioned report. A response was received on 9 September 2009:

The Country High School Hostels Authority has recently forwarded a recommendation for my consideration in relation to initial capital works to be undertaken at the Esperance Residential College. These minor works can be met from its current budget allocation.

*On 28 April 2009, Cabinet approved a new lead role for building Management and Works in the development of business cases and project management of the non-residential building program. These new requirements have only recently been communicated to the Country High School Hostels Authority. It is now in the process of reviewing its business plan for the proposed major works for the Esperance Residential College in conjunction with Building Management and Works.*³⁹

- 3.43 The Committee remained unclear as to the extent of renovations/extensions to the College—the Minister’s letter mentioned “*minor works*” but did not specify what those works entailed. Similarly, the implications of the changes outlined in the second paragraph of the Minister’s letter were not clear. Consequently the Committee decided to conduct a hearing with the Country High School Hostels Authority to clarify the nature and extent of proposed renovations to the College.

³⁷ Ibid, p2.

³⁸ Estimates-Supplementary Information No H2, *Parliamentary Debates (Hansard)*, 18 June 2009, pE765.

- 3.44 A hearing with Mr Jim Hopkins, Director, Country High School Hostels Authority was held on 23 September 2009. Mr Hopkins explained to the Committee that an increase in students at the College had been driven by a number of factors including the higher school leaving age, the loss of travel assistance for children living in remote areas and improvements to education facilities in Esperance:

The college did increase its enrolment close to 100 students—maybe just over in one year. Our response to that was to utilise some light-frame additions. It was not entirely satisfactory, but we were trying to provide for these students while we were still seeking funding for more significant works. We have been at that point for a couple of years. At the end of last year, we were exploring the whole opportunity which existed for agencies that were not getting funding through normal capital submission processes to look at the royalties for regions program, so we had some discussions along those lines. We did provide a business case for improvements to the royalties for regions group as a major priority, but of course most of the funding for that was already committed.⁴⁰

- 3.45 Mr Hopkins explained that the College currently needed more individual student bedrooms, especially for senior students.

It is also the case that the authority has had a fund which was for capital works at a number of colleges. It was provided by Treasury a couple of years ago, and it allowed the authority to make determination of priorities as they determined. As we are required under our Act, in each case we also have to go to the Minister for approval for any capital works that we are going to implement. During this year, the authority has been giving consideration to how it would utilize these funds where of course it had not received major funding to allow for the full redevelopment of this college. ... on 3 September the minister approved the authority's recommendations in the submission that it spend \$1.5 million to undertake some works. ... The advice came back that we could afford the two six-bed dormitories and a single staff flat, so that was presented to the minister for endorsement and it was endorsed on 3 September. I think it might be the topic of a media release today.⁴¹

³⁹ Letter from Hon Dr Elizabeth Constable MLA, Minister for Education, 3 September 2009.

⁴⁰ Mr Jim Hopkins, Director, Country High School Hostels Authority, *Transcript of Evidence*, 23 September 2009, p2.

⁴¹ Ibid.

- 3.46 Mr Hopkins confirmed that the \$1.5 million extensions mentioned above were the “*minor works*” referred to in the Minister’s letter to the Committee.⁴² While no funds had been allocated in the budget for improvements to the College, the \$1.5 million was an allocation in the Authority’s budget for capital works that had not been attached to any particular projects.⁴³
- 3.47 There were 90 students enrolled at the College in 2009 whereas the College was originally built for 80 students in dormitory-style accommodation. Mr Hopkins explained that single rooms were now considered the ideal:

*For us, the minimum here is to try to get single rooms for all the senior students.*⁴⁴

- 3.48 In relation to bathrooms, the Building Code of Australia requires one set of ablutions (toilet, shower, wash basin) per 10 students. Mr Hopkins explained that the Authority considers that ratio too high in circumstances where many students need to get ready at the same time each morning. Consequently, the Authority has endeavored to keep the ratio at one to five or one to four at its residential colleges, but the ratio remains one to six (or seven) at Esperance.

*What has put it under pressure has been the addition of the extra 20 students with no capacity to add ablutions. So what the plan is ... is that those two new additions at the front will both have an ablutions set, so it will be one to six, but that is reasonable.*⁴⁵

- 3.49 The Committee was concerned to learn that the \$1.5 million allocated to Esperance would exhaust the Authority’s total available funds:

*The \$2.3 million has all been allocated now. Some of it has been spent at Narrogin; some has been spent at Broome. The authority has no other capital funds at its disposal ... [The concept expansion plan] is the schematic design that relates to a business case that will go forward again in this year’s submission for capital works funding for these improvements to this residential college.*⁴⁶

- 3.50 The capital from which the Authority was able to draw the \$1.5 million for the renovations at Esperance had been a one-off payment by Treasury—it was not annual funding. Consequently, the Authority’s budget was now exhausted:

⁴² Ibid, p3.

⁴³ Ibid, p2.

⁴⁴ Ibid, p4.

⁴⁵ Ibid, p5.

⁴⁶ Ibid.

*We have no budget now; that is right. We have no funding.*⁴⁷

- 3.51 Mr Hopkins informed the Committee that the total cost of the expansion plan for the College was estimated at \$13.5 million in 2008. Taking out the \$1.5 million additions, the remaining work was currently being costed.⁴⁸
- 3.52 While it was difficult to know if student numbers would increase, improvements to the College were required regardless to improve standards for the current population:

*That is why our submission for improvements ... is not really based upon growth; it is really about improving the number of individual bedrooms so that all senior students have individual bedrooms.*⁴⁹

- 3.53 Mr Hopkins told the Committee that there are currently two priorities for the Authority—Esperance and Merredin.⁵⁰
- 3.54 In light of the information obtained at the hearing, the Committee considered that the petition had been taken as far as it could at the present time. The petition was finalised on 11 November 2009 at which time the Committee wrote to both the Minister for Education and the Treasurer to provide them with a copy of the Mr Hopkins' transcript of evidence. The Committee's letter to the Minister for Education stated, in part:

*Following consideration of the petition, the submissions and other evidence obtained in relation to this matter, the Committee concluded that the petitioners' appeal for an upgrade and expansion of the College is reasonable. While the recent provision of funding for minor works is welcome, the Committee considers that those funds are not sufficient to improve the living conditions at the College to an acceptable standard for staff and students. For this reason, the Committee recommends that the Government expedite further funding to facilitate the additional works urgently required by the College. The Committee has also written to the Treasurer to advise of its conclusions in this matter.*⁵¹

⁴⁷ Ibid, p6.

⁴⁸ Ibid.

⁴⁹ Ibid, p7.

⁵⁰ Ibid, p8.

⁵¹ Letter to Hon Dr Elizabeth Constable MLA, Minister for Education, 11 November 2009.

PETITION NO 26 — TURNER CARAVAN PARK: REDEVELOPMENT BY THE SHIRE OF AUGUSTA-MARGARET RIVER

3.55 This petition was tabled by Hon Barry House MLC on 6 May 2009 and contained 695 signatures. The petition states:

We the undersigned residents of Western Australia respectfully oppose the proposed redevelopment of Turner Caravan Park, Augusta by the Shire of Augusta-Margaret River until extensive consultation of all concerned parties has taken place over a period of at least one calendar year.

Our concerns are:-

- a) The source of and extent of financial funding for the proposed commercial development of Turner Caravan Park by the Shire.*
- b) The loss of environmental, significant historical and heritage aspects of the Turner Caravan Park.*
- c) Lack of consultation with residents, rate payers, absentee homeowners of Augusta and caravaners and campers of Turner Caravan Park.*
- d) That the Augusta-Margaret River Shire Council is involved in commercial development in Turner Caravan Park in competition with existing tourist accommodation in Augusta.*

Your petitioners therefore respectfully request that the Legislative Council take the necessary action to redress our concerns.⁵²

3.56 The submission from the principal petitioner, Mr Peter Toy, questioned the reasonableness of the Shire's decision to undertake the caravan park project (with an estimated cost of \$12 million) and the construction of the new Shire chambers during financially depressed times.⁵³

3.57 Mr Toy expressed concern about overcrowding the site with additional cabins, chalets, caravans and campers, the removal of trees and other environmental impacts:

⁵² Tabled Paper No 716.

⁵³ Submission from Mr Peter Toy, 22 May 2009, p1.

No plan has been put forward by the Shire to satisfactorily deal with the wetlands within the Park and the final treatment of recycled and wetlands water before entering the Blackwood River.⁵⁴

- 3.58 The submission complained that there had been numerous public meetings but no “face to face” meetings between the Shire and near neighbours of the park, or with all of the park’s occupants. Many Augusta residents believed the project was being advanced too quickly without adequate environmental, legal, financial cultural and historical impact assessments.⁵⁵
- 3.59 A submission from another petitioner, Ms Jan Innis, indicated that some residents of the park were dissatisfied with the terms offered by the Shire. She alleged that semi-permanent residents were told they would be expected to demolish and clear their sites within two years. The permanent residents were given ten years to relocate. Ms Innis stated that the Shire’s terms were non-negotiable and no compensation or expenses would be paid for relocation.⁵⁶
- 3.60 Ms Innis outlined some of the expenses that residents would incur as a result of the change in their circumstances, including the loss of \$1,500 previously paid for connection to mains sewage.⁵⁷
- 3.61 Ms Innis’ view was that the decision to re-develop the park was made without consulting residents who would have preferred a simple upgrade of the ablution blocks and roadways with improved drainage. She believed that only a few cabins should be constructed initially to test the viability of the proposal and that the Shire had disregarded the views of local residents and holidaymakers because they were not ratepayers.⁵⁸
- 3.62 The Committee sought a response to the issues raised in the petition and submissions from the Shire of Augusta Margaret River.
- 3.63 The Shire’s Director of Corporate and Community Services, Mr Cary Green, explained that the cost of the development and the Shire’s ability to repay borrowings had been factored into each stage of the project and that the project would be reviewed at the end of each stage:

A primary consideration in the staging of the redevelopment of Turner Caravan Park is the minimisation of potential impacts on the

⁵⁴ Submission from Mr Peter Toy, 22 May 2009, p1.

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Submission from Ms Jan Innis, 10 June 2009, p1.

⁵⁸ Ibid, p2.

Shire of Augusta Margaret River's budget. Essentially, the financials for the project have been predicated upon the entire project \$11.86m being funded through borrowings.⁵⁹

3.64 The Shire had also sought to minimise the environmental impact on the park and its surrounds:

A major element of the design is to ensure environmental sustainability. The proposal ensures all large trees have been surveyed and will be retained. The proposal also makes provision for upgrading the ablution blocks with economic water and electricity usage and water heating facilities and demolishing the dated structures in existence.⁶⁰

3.65 The Shire's response to the Committee listed the following environmental objectives for the project:

- *Retain the current ambiance of the location and mature vegetation on the site.*
- *Low visual and noise impact from proposed operations.*
- *Extensive use of water and energy conservation technologies, water re-use and solar water heating and lighting.*
- *Improved functionality and safety for park users through improved road/site design.*
- *Promotion of responsible and sustainable use of Augusta-Blackwood environs through information and education.*
- *Retain the site for predominantly low impact/low density tourist use.⁶¹*

3.66 The design objectives of the project are:

- *Low build form density.*
- *Low visual impact.*
- *Retains significant vegetation.*

⁵⁹ Letter from Mr Cary Green, Director Corporate and Community Services, Shire of Augusta-Margaret River, 10 July 2009, p1.

⁶⁰ Ibid, p3.

⁶¹ Ibid.

- *Water and energy conservation principles incorporated in design.*
- *Park-like appearance of tourist sites over majority of site area.*
- *All major trees retained.*
- *Topography of site retained—site levels to existing land contours.*
- *Grey water recycling and solar lighting and heating.*⁶²

3.67 The petitioners expressed concern about possible overcrowding due to smaller lots and the Shire confirmed that the site sizes complied with the *Caravan Parks and Camping Grounds Act 1995*.⁶³

3.68 In terms of relocation costs for current residents, the Shire advised the Committee that “no tenants will be required to vacate the caravan park. The Shire will be seeking to resolve any issues with long-stay tenants”.⁶⁴ The Shire had sought solutions to minimise the impact on long-stay tenants and had advised the tenants, in writing, that:

- Two long stay tenants would need to relocate within two years, with assistance from the Shire to a maximum of \$5,000 per site, or vacate the site upon sale of their caravan.
- Of the remaining eight long-stay tenants, seven will be offered a non-renewable and non-transferable lease for 10 years, with the option of relocating to an alternative site within the park, or vacate the site upon sale of their caravan.
- The ten semi-permanent tenants on foreshore sites will need to vacate their current sites within two years or upon sale of their caravan.
- The remaining 21 semi-permanent tenants and long stay tenants will need to vacate within five years or upon sale of their caravan.
- The development will be staged over ten years to assist relocation of long term tenants and to minimise financial risk for the Shire.
- As the 21 new semi-permanent sites are released, the current semi-permanent tenants would be given first right of refusal.⁶⁵

⁶² Ibid.

⁶³ Ibid, p4.

⁶⁴ Ibid.

⁶⁵ Ibid.

- 3.69 Mr Green provided a history of the opportunities for consultation that had been provided for park residents and holiday makers. Caravan park consultants, Brighthouse, were commissioned in May 2008 to complete a feasibility report on the redevelopment:

The Brighthouse report considered options for the redevelopment of the caravan park consistent with the community aspirations that the property be retained as an affordable holiday option for families and a range of other users. A plan was developed for the staged redevelopment of the caravan park and advertised for public comment.

The proposed plan was presented to the permanent caravan owners at the caravan park, on 29 July 2008 and was followed by a public meeting in Augusta to present the proposal to the community.

The Feasibility Report was advertised for public comment for a period of 42 days and closed on the 4 September 2008.

... the Local Government Business Plan and a Business Case Study for Turner Caravan Park were advertised as for a period of 6 weeks. Copies of both documents along with a submission form were sent to all permanent and semi permanent residents of the park and to all parties that registered interest with the Shire.⁶⁶

- 3.70 In response to the claim that there was a surplus of holiday accommodation in the area, the Shire advised that demand for caravan park accommodation in Western Australia was likely to increase. Despite this trend however, there had been many park closures in the last ten years and few new parks had been established.⁶⁷
- 3.71 The Committee was satisfied that the Shire of Augusta-Margaret River had taken reasonable steps to accommodate the needs of permanent and semi-permanent residents of the Turner Caravan Park during redevelopment of the Park. The Committee was also aware that the residents of the Park may have recourse to the State Administrative Tribunal if they remain aggrieved. The Committee noted that the Shire's redevelopment plans had taken into account environmental considerations such as the retention of mature vegetation and the use of conservation technologies. The petition was finalised on 19 August 2009.

⁶⁶ Ibid, p5.

⁶⁷ Ibid.

PETITION NO 28 — EMU POINT, ALBANY REDEVELOPMENT

3.72 This petition was tabled by Hon Paul Llewellyn MLC on 13 May 2009 and contained 12 signatures. The petition states:

We the undersigned residents of Western Australia are opposed to the State Government's proposed Albany Foreshore Development as we assert that the public interest has not been served on the following grounds:

- *The sell off of public land, including the fragile foreshore land at Emu Point, is not in the public interest and against the wishes of the Albany community.*
- *The project puts private and state commercial advantage above the public interest.*
- *The State Government's insistence on the construction of a high rise development and associated facilities on the foreshore in Albany has overridden the community and ignored the community voice on the issue.*
- *There has been a lack of transparency in the decision-making processes involved.*
- *The facilities included in the proposed development are inappropriate in scale and function for the site.*
- *The development disregards environmental, heritage and community values.*

*Your petitioners therefore respectfully request the Legislative Council to inquire in to these matters.*⁶⁸

3.73 A submission was not received from the principal petitioner and the petition was finalised on that basis.

PETITION NO 30 — COLLIE SHIRE COUNCIL'S TOWN PLANNING SCHEME NO 5 AND ASSOCIATED PLANNING STRATEGY

3.74 This petition was tabled by Hon Paul Llewellyn MLC on 19 May 2009 and contained 629 signatures.

⁶⁸ Tabled Paper No 762.

3.75 The petition states:

We the undersigned residents of Western Australia are opposed to Collie Shire Council's Town Planning Scheme #5 (TPS5) and associated Local Planning Strategy (LPS) in their current forms.

Your petitioners therefore respectfully request the Legislative Council to recommend the following issues are dealt with before TPS5 and the LPS are ratified:

1. *No comments or provisions whatsoever should be made in either TPS5 or the LPS in regard to either constraining or providing for mining operations since such comments are detrimental to selected landowners as well as inappropriate, discriminatory, misleading and against provisions in the Mining Act.*
2. *If the State Government is adamant that TPS5 or the LPS must address future access to land for the purpose of mining, a transparent, open, fair and accountable compensation scheme must be made readily available to affected landowners immediately.*
3. *Rural properties throughout Collie Shire should be zoned according to WA State Planning Policy Guidelines: eg. lifestyle properties including those at Preston Settlement, Mungilup, Cardiff and Collieburn either remain under current (that is, TPS 1, the scheme in effect before TPS 5 is ratified) Rural zoning, or alternatively are rezoned to Rural Smallholdings and have appropriate land use permissions.*
4. *All environmental issues affecting the Shire of Collie must be properly assessed, particularly addressing cumulative environmental and health effects from all current and proposed development.⁶⁹*

3.76 A submission from the principal petitioner, Ms Katherine Miller, secretary of the Rural Action Group, outlined the groups' concerns about the Collie Shire Council's Town Planning Scheme No 5 (TPS5):

the proposed rezoning of a number of selected private properties on the coal basin "Rural" zoning to a "Rural/Mining" zone along with extremely severe land use restrictions. The reasoning was to "protect

⁶⁹ Tabled Paper No 775.

future access to the coal resources” and effectively devalued our properties and sterilized the land. At least three property sales have been badly affected with the major banks refusing loans on the affected land in the last year.

About 400 public submissions condemning the provisions in proposed TPS5 were received by council and as a result of this and community pressure, the council recommended to the WAPC that a number of changes be made to the draft, including changing the one name to “Rural 2”, easing land use restrictions for this zone but also proposing to rezone many more properties into this zone.

The changes the council have recommended to WAPC mitigate some of the community’s initial protests but do not address the underlying factors.⁷⁰

- 3.77 Ms Miller, noting the provisions of the *Mining Act 1978* and the *Planning and Development Act 2005*, was concerned that the possibility of future mining, however remote, resulted in development restrictions and property devaluation for landowners:

Having aims, zoning and land use/development restrictions in a town planning scheme specifically to address issues for future mining is ... not appropriate. Collie Shire Council have not liaised with the mining companies who hold leases in the area ... who, when asked, state they do not know if, when or where they will mine next. There are no plans to mine the land proposed to be rezoned. TPS5 will therefore cause landowners to have their land devalued, future development plans thwarted and the possibility of selling their property vastly decreased, for an unknown and probably very lengthy period of time based on the whim and supposition of TPS5.

When councilors voted to adopt TPS5 and send to the WAPC for approval, they also voted to insert a new clause, without allowing any community discussion, which would allow council to insert a memorandum onto the Certificate of Title of any property on the coal basin mentioning that the land may be mined for coal in future. Interestingly, although there are also bauxite leases in the Shire, it is only coal mining that is addressed in TPS5.⁷¹

- 3.78 Adding to the petitioners’ concern was that compensation appeared not to be an option:

⁷⁰ Submission from Ms Katherine Miller, 22 June 2009, p1.

⁷¹ Ibid.

Because the land is not being officially reserved ... there is little chance of any compensation under the 'injurious affection' clause in TPS5.⁷²

- 3.79 The petitioners were dissatisfied with the Council's proposed new zoning from private rural land to 'rural residential'. Ms Miller explains:

Whilst many residents bought these properties because they were zoned Rural, and want to remain zoned Rural, submissions offering a reasonable compromise of rezoning these properties from Rural to Rural Smallholdings were dismissed by Council, despite this land and its uses conforming to the provisions of this zoning. ...Rural residential land uses are more restrictive than Rural 2 land uses even though most of these properties are not on the coal basin and there is no reason for restricting land use/development in this zone. No valid reasoning was given by council for dismissal of this request.⁷³

- 3.80 The third concern outlined in the submission related to environmental issues:

TPS5, as a successor to TPS4 which was not approved due to issues with the EPA, deliberately omits certain development proposals so as to circumvent the requirement for costly environmental assessments, even where some proposals have been planned for some time and even are already approved. For example, the Shotts Industrial Park, already approved by State Government, and already with an agreed tenant (Perdaman Chemicals), is not re-zoned in TPS5 (the area remains 'state forest'). Council is anxious to get TPS5 approved as soon as possible so that an amendment may be made to facilitate Perdaman's application.⁷⁴

- 3.81 Responding to the issues raised by the petitioners, the Minister for Planning, Hon John Day MLA advised the Committee that he had granted approval to the Shire's LPS 5 and Local Planning Strategy (Strategy) subject to certain modifications being undertaken. The Shire had complied with the statutory process, including the requirement for public consultation.⁷⁵

- 3.82 The petitioners' concerns had been put forward during the public consultation and the Minister was satisfied that the issues were "considered and appropriately responded

⁷² Ibid, p2.

⁷³ Ibid.

⁷⁴ Ibid.

⁷⁵ Letter from Hon John Day MLA, Minister for Planning, 22 July 2009, p1.

to by both the Shire and WAPC and modifications recommended to both LPS 5 and Strategy, where appropriate.⁷⁶

3.83 The LPS 5 and Strategy modifications included:

- *Renaming the previously identified 'Rural/Mining' zone to the 'Rural 2' zone;*
- *Applying the 'Rural 2' zone consistently and appropriately across the Collie Coal Basin, as some land within the Coal Basin was previously omitted; and*
- *Significant modification to the Zoning Table to ensure consistency of 'rural' uses that can be considered between the Rural 1' zone (i.e. rural land outside of the Coal Basin) and 'Rural 2' zone.⁷⁷*

3.84 The Minister explained the practical effect of the changes:

Modification No 8 requires the referral of development applications within the 'Rural 2' zone to the Department of Minerals and Petroleum (DMP), for their consideration and comment and the possible inclusion of a notification on title advising of potential future mining activities on adjacent land. This modification is appropriate given:

- *the consideration of the coal resource and any likely impacts associated with its future extraction on proposed development is a legitimate planning consideration under the 'Planning and Development Act 2005' and should be given due regard in any development application assessment;*
- *due regard is already required to be given to the coal resource and its protection via the 'Collie Basin Structure Plan 1992', which forms part of the 'State Planning Policy No. 1 – State Planning Framework Policy'; and*
- *the Shire has the ability, under broad referral and approval clauses in its current scheme, to consult with DMP and require notifications if considered appropriate. The LPS 5 simply establishes a clear and consistent process for the consideration of the coal resource.⁷⁸*

⁷⁶ Ibid.

⁷⁷ Ibid, p2.

⁷⁸ Ibid.

The Strategy and LPS 5 will be further modified by the introduction of specific provisions that clearly indicate that the Shire's proposed planning instruments do not override the Mines Act, applicable State Agreements or have any control over mining activities (see Modification No. 8 (clause 5.9.6 e) and 9). Also, the 'Industry-Mining' use has been removed from the LPS 5, as 'Mining' does not require the approval of the Shire (see Modification No. 7). Given the above, suggestions that the LPS 5 and Strategy include provisions which constrain or provide for 'mining operations' can not be supported.⁷⁹

The previously mentioned modifications (in particular, consistency of land uses in the 'Rural 1' and 'Rural 2' zones) and the fact that planning decision makers already need to give due regard to the coal resource, confirms that landowners within the 'Rural 2' will not be prejudiced against when it comes to future land use and development opportunities. Given the above, claims that LPS 5 adversely impacts property values or diminishes development opportunities are not supported.⁸⁰

- 3.85 The Minister also explained why compensation provisions were not applicable in this case:

The 'Planning and Development Act 2005' under Section 174 ... already establishes an appropriate and well established compensation mechanism where land is considered to be 'injuriously affected' by a new scheme. The Act clearly indicates that land is only 'injuriously affected' where a scheme reserves land, where development is restricted for no purpose other than a public purpose or a scheme prohibits continuance of a non-conforming use. These circumstances do not apply to the 'Rural 2' zone and therefore there is no need to consider compensation as landowners have continuing development opportunities. Also, there is no justifiable need to establish an alternative compensation mechanism given the above comments in regard to impacts on property values.⁸¹

- 3.86 The Minister informed the Committee that the zoning changes would not adversely affect landowners:

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ Ibid, p3.

LPS 5 appropriately zones land 'Rural Residential' which is used for 'rural lifestyle' purposes as characterized by its current land use and lot size. In order to address concerns raised during the public consultation period, the Zoning Table is to be modified to facilitate, in the 'Rural Residential' zone, the consideration of a wide variety of rural/'hobby farming' pursuits and low key tourist accommodation uses (See Modification 2). Notwithstanding the changes to the Zoning Table, non-conforming use rights will protect any existing uses not adequately covered by the modifications to the Zoning Table. Introduction of a 'Rural Smallholdings' zone was therefore considered unnecessary and overly prescriptive. The retention of a 'Rural' zoning was also considered inappropriate given that this would allow the consideration of inappropriate land uses, such as, 'Rural Industry', 'Extractive Industry' and 'Saw Mill', which could result in significant impacts on the amenity of residents in these 'rural lifestyle' areas.⁸²

- 3.87 In its consideration of the petition, the Committee noted that TPS5 had been approved, subject to certain modifications. The Minister for Planning confirmed to the Committee that he was satisfied that proper process, including public consultation, had occurred and he was also satisfied that all submissions had been considered and modifications made to TPS5 where appropriate.
- 3.88 The Committee noted that it was already the case that due regard be given the State's coal resource by planners. Compensation mechanisms under the *Planning and Development Act 2005* did not apply in these circumstances and the Minister for Planning was not of the view that alternative compensation mechanisms were justified.
- 3.89 The Committee concluded that further inquiries were not warranted and finalised the petition on 12 August 2009.

PETITION NO 31— SCARBOROUGH BEACH ROAD: CONCERN AT THE LACK OF ADEQUATE SAFE PEDESTRIAN CROSSINGS

- 3.90 The petition was tabled by Hon Liz Behjat MLC on 2 June 2009 and contained 1,634 signatures.
- 3.91 The petition states:

We the undersigned residents of Western Australia would like to voice our concern at the lack of adequate safe pedestrian crossings along Scarborough Beach Road, particularly in the vicinity of the

⁸² Ibid.

Scarborough Community Centre that encompasses, among others, the public library, Pensioners' Club, PCYC and the Scarborough Autumn Club and also within close proximity to the shopping precinct east of Gildercliffe Street.

Many patrons and customers are experiencing difficulty in crossing Scarborough Beach Road in a safe manner and the potential for injury or death as a result of limited pedestrian crossings is cause for concern.

Your petitioners therefore respectfully request the Legislative Council to investigate, through the Main Roads Department of Western Australia, the lack of adequate pedestrian crossings and, secondly, instigate the construction of a purpose-built pedestrian crossing facility in the vicinity of Gildercliffe Street and additional areas that are deemed appropriate.⁸³

- 3.92 A submission was received from the principal petitioner, Mr Jack Wilkins, President of the Scarborough Autumn Club, which pointed out that although the petition was only circulated in a discrete area, the number of signatures received (over 1,600) was testament to the significance of a safe pedestrian crossing for the local community.
- 3.93 Given the high traffic volume on Scarborough Beach Road, Mr Wilkins maintained that a standard crosswalk without lights would not work. In addition to many businesses in the area, the Scarborough Civic Centre is a large complex that itself would warrant a controlled pedestrian crossing.⁸⁴
- 3.94 A submission was also received from the local Member, Hon Liza Harvey MLA, who advised that she had been approached by “a significant number of individuals, businesses and community organisations regarding the installation of a controlled pedestrian crossing on Scarborough Beach Road somewhere between Westview and Flamborough Streets”.⁸⁵
- 3.95 The Member provided a number of reasons for a safer crossing including:
- Increased traffic from higher housing density.
 - The Scarborough Community Centre houses numerous facilities including the Autumn Club, public library, child health centre, a community hall, a playgroup and after school care. There is no safe pedestrian crossing for users

⁸³ Tabled Paper No 824.

⁸⁴ Submission from Mr Jack Wilkins, President, Scarborough Autumn Club, received 7 July 2009, p1.

⁸⁵ Submission from Liza Harvey MLA, Member for Scarborough, received 28 July 2009, p1.

of the Community Centre which causes particular problems for the elderly and mothers with young children.

- Based on the number of traffic accidents at the intersections in the area, the roads in question would be eligible for ‘black spot’ funding assistance.
- Local businesses suffer from local residents’ unwillingness to cross Scarborough Beach Road.⁸⁶

3.96 A response to the petition was requested from the Minister for Transport, Hon Simon O’Brien MLC, who informed the Committee that:

Scarborough Beach Road is a local road under the care and control of the City of Stirling and as such, Council is responsible for the road user safety on this road. You are nevertheless assured that Main Roads is always available to provide expert technical assistance to Local Governments, if requested.

While Main Roads is responsible for traffic signals, line marking and traffic signs on local roads, it is up to the relevant Council to initially investigate the need for such devices on the roads under its care and management.⁸⁷

3.97 The Committee requested a response to the petitioners’ concerns from the City of Stirling (**City**) and was advised that the City had investigated the possibility of a pedestrian crossing on Scarborough Beach Road. However,

[w]hile the City is able to make investigations to determine the feasibility of pedestrian crossings, their approval and installation falls within the jurisdiction of Main Roads Western Australia (MRWA).⁸⁸

3.98 Main Roads Western Australia assess applications for pelican crossings⁸⁹ against specific criteria including:

- a) *For each of 3 hours on an average day:*
- *the number of pedestrians crossing in close proximity of the site (generally within 30m) exceeds 350 persons per hour;*

⁸⁶ Submission from Liza Harvey MLA, Member for Scarborough, received 28 July 2009, pp1-2.

⁸⁷ Letter from Hon Simon O’Brien MLC, Minister for Transport, 22 September 2009 p1.

⁸⁸ Letter from Mr Eddy Albrecht, Acting Director Infrastructure, City of Stirling, 3 November 2009, p1.

⁸⁹ Pelican crossing - an acronym for pedestrian light control; a pedestrian crossing with traffic lights that are controlled by pedestrians: <http://wordnetweb.princeton.edu/perl/webwn?s=pelican%20crossing>.

- *the traffic volume of the road exceeds 600 vehicles per hour, or 1000 vehicles per hour where there is a central median.*
- b) *For each of 8 hours on an average day:*
- *the pedestrian volume exceeds 175 persons per hour; and*
 - *the traffic volume of the road exceeds 600 vehicles per hour or 1000 vehicles per hour where there is a central median; and*
 - *there is no zebra crossing, footbridge or underpass within a reasonable distance.*⁹⁰
- 3.99 While the number of cars traveling along Scarborough Beach Road would exceed the minimum required for a crossing, it was unlikely that the criteria relating to pedestrian volume would be satisfied. Consequently, the City considered it unlikely that Main Roads Western Australia would approve installation of a pelican crossing.⁹¹

3.100 The City's response also pointed out that:

*Pelican crossings rely on motorists stopping at a red light to allow the pedestrian to cross the road. The onus is on the driver to comply with the traffic regulations to avoid the conflict. However, based on complaints received at a number of pelican crossings in the City... drivers unfortunately do not always stop at the red light, especially if the frequency and volume of pedestrians crossing the road is low. It is for this reason that MRWA requires a high number of pedestrian movements before considering the establishment of a pelican crossing.*⁹²

3.101 It was envisioned that the long term configuration of Scarborough Beach Road would include improved pedestrian crossing facilities and a 'Scarborough Beach Road Activity Corridor' study was being conducted by the City and the Department for Planning and Infrastructure to determine the road's ultimate configuration.⁹³ However:

Given that the above is a long-term planning study, the City has recognized that an alternative solution is required in the interim to address some of the issues and concerns raised by adjacent residents. As such, the City has funds listed on the 2009-2010 Annual Budget for

⁹⁰ Letter from Mr Eddy Albrecht, Acting Director Infrastructure, City of Stirling, 3 November 2009, pp1-2.

⁹¹ Ibid, p2.

⁹² Ibid.

⁹³ Ibid.

*the design of an upgrade of the Doubleview Commercial Centre along Scarborough Beach Road, between Flamborough Street and Westview Street. It should be noted however that this upgrade would be subject to community consultation and approvals from relevant state government authorities.*⁹⁴

3.102 As part of the upgrade, the City was looking into options such as:

*installing traffic signals (with a dedicated pedestrian phase) at either the Grand Promenade or Gildercliffe Street intersection. Depending on the traffic carrying capacity and potential congestion issues, the City is also considering reducing this length of Scarborough Beach Road to a single lane in each direction, similar to the section through Mt Hawthorn.*⁹⁵

3.103 It was envisioned that the design phase of the upgrade would occur during the 2009-2010 financial year however actual construction would depend on budgetary considerations.⁹⁶

3.104 The City also advised that it had recently:

*commissioned a Local Area Traffic Management (LATM) study of a precinct in Scarborough/Doubleview, which includes this section of Scarborough Beach Road under consideration. One of the recommendations of this LATM study was to consider the installation of traffic signals at the intersection of Scarborough Beach Road and Grand Promenade ... the findings of the study have yet to be officially endorsed by Council.*⁹⁷

3.105 In light of the assessment criteria maintained by Main Roads Western Australia for pelican crossings and the City of Stirling's future plans for Scarborough Beach Road, including a Local Area Traffic Management study, the Committee did not consider further action warranted. The petition was finalised on 18 November 2009.

PETITION NO 32 — LEGISLATION OF A VOLUNTARY EUTHANASIA BILL FOR THE RIGHTS OF THE TERMINALLY ILL

3.106 This petition was tabled by Hon Robin Chapple MLC on 2 June 2009 and contained 593 signatures.

⁹⁴ Ibid, pp2-3.

⁹⁵ Ibid, p3.

⁹⁶ Ibid.

⁹⁷ Ibid.

3.107 The petition states:

We, the undersigned residents of Western Australia recognise the need for legislation to allow for Voluntary Euthanasia.

Your petitioners therefore respectfully request the Legislative Council conduct an inquiry into the need for legalisation of Voluntary Euthanasia in Western Australia.

This need has arisen due to the increasing demand from West Australian citizens for the right to make end-of-life choices.⁹⁸

3.108 The principal petitioner was given 30 days to provide a submission to the Committee in support of the petition.

3.109 A submission was not received within the required timeframe and the Committee advised the principal petitioner that the petition had been finalised. The petitioner requested more time to provide a submission and an extension of time was granted. The petitioner did not submit a submission within the extended timeframe and the petition was again finalised by the Committee. A submission from the petitioner was subsequently received and the Committee declined to re-open the petition again.

PETITION NO 34 — GERALDTON FORESHORE: PROPOSED REDEVELOPMENT OF THE PUBLIC OPEN SPACE

3.110 This petition was tabled by Hon Philip Gardiner MLC on 24 June 2009 and contained 110 signatures.

3.111 The petition states:

We the undersigned residents of Western Australia are opposed to the proposed commercial development of the Public Open Space known as the Geraldton Foreshore. Various forms of government have expended millions of dollars of taxpayers money in re-claiming the Geraldton Foreshore for the public. The original concepts were that any construction on the area was to be for community use. Any commercial building to be associated with the aforementioned, was to be minor in size and of minimal visual impact. The City of Geraldton-Greenough has now approved an application for an entity to build a very large stand-alone commercial building on the central foreshore which contradicts the intent of the original Government funding.

⁹⁸ Tabled Paper No 825.

*Your petitioners therefore respectfully request the Legislative Council to recommend to the City of Geraldton-Greenough that in view of the substantial change in the nature of the development, the lack of meaningful consultation with the residents, and substantial opposition to the same, that it obtain a mandate from the residents before proceeding with the development.*⁹⁹

3.112 The submission from the principal petitioner expressed concern regarding development plans for the Geraldton foreshore. In particular, the petitioners were dissatisfied with changes to the original plans from “*small discreet kiosk style developments of typically less than 100m² to much larger 1000m² commercial developments.*”¹⁰⁰

3.113 The submission claimed that the Council did not make the details of the proposal common knowledge and that there should have been consultation with ratepayers before such a significant change. The principal petitioner was of the view that the Council processes probably conformed with the *Local Government Act 1995* “*in process only, not intent.*”¹⁰¹ He provided the following examples:

- No signage at the site indicating the proposed development.
- Council advertising of the development was held over the Christmas and New Year period.
- The Council disregarded the motion of the Special Electors meeting to reconsider the development. The Mayor “pilloried” those involved with the Special Electors meeting.
- The Council has a fixed agenda and there had not been an inclusive process with ratepayers.¹⁰²

3.114 The principal petitioner claimed that the Council had not been open about the details of the development, there was no evidence ratepayers supported the development and the Council has not complied with the intent of the *Local Government Act 1995*.¹⁰³

3.115 The response from the City of Geraldton-Greenough (**City**) pointed out that its website documented major consultations conducted during 2001 and 2002

⁹⁹ Tabled Paper No 908.

¹⁰⁰ Submission from Mr Thomas G Gould, Chairman, Save our Foreshore–Geraldton, 6 July 2009, p1.

¹⁰¹ Ibid.

¹⁰² Ibid, pp1-2.

¹⁰³ Ibid.

demonstrating “*the substantial level of engagement with various stakeholders including government agencies, the (then) Shire of Greenough and the community.*”¹⁰⁴

- 3.116 The City also directed the Committee’s attention to various documents on its website, including a Workshop Outcomes Report which indicated that facilities such as a café, ice cream shop and public toilets were envisioned in the proposed ‘Tourist node’, with suitable outlets being Dome or Wendy’s.¹⁰⁵
- 3.117 The City asserted that “[c]learly any argument that a commercial nature was not part of the original concept is not supported”¹⁰⁶ and the City had “ensured that whenever questions or issues are raised that full transparency and information is publically (sic) provided. This has been developed as a FAQ (Frequently Asked Questions) Information Sheet.”¹⁰⁷
- 3.118 The City further advised the Committee that the Minister for Lands had approved the lease and that Dome Coffee had taken possession of the site and commenced works.¹⁰⁸
- 3.119 The City believed that it had “fully complied and in fact exceeded requirements of the Local Government Act and any other regulations relating to such dealings.”¹⁰⁹
- 3.120 The Committee considered the documents referred to it by the City, including a ‘Frequently Asked Questions’ document which outlined that the total lease area (including access and landscaping) represented 0.97 per cent of the foreshore area.¹¹⁰
- 3.121 The proposed lease to Dome (with a description of the property) was advertised in the Geraldton Guardian on 15 and 22 December 2008, as well as City public notice boards and website. The advertising period (which was extended to 16 January 2009) exceeded *Local Government Act 1995* statutory requirements of 14 days notice. The document also pointed out that there was extensive media coverage prior to the closing of submissions.¹¹¹
- 3.122 At its meeting of 11 November 2009, the Committee considered the concerns raised by the principal petitioner and the information obtained in relation to the development. The Committee did not find evidence that the City had failed to comply with its

¹⁰⁴ Letter from Mr Tony Brun, Chief Executive Officer, Shire of Geraldton-Greenough, 30 October 2009, p2.

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid, p3.

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

¹¹⁰ City of Geraldton-Greenough, Frequently Asked Questions, Dome Coffee Australia Pty Ltd - Key Issues, 10 June 2009, p2.

¹¹¹ Ibid.

statutory requirements to consult or that it had not provided adequate information to the public about the development. The Committee decided that a formal inquiry was not warranted and the petition was finalized on 11 November 2009.

PETITION NO 35 — DEPLETED URANIUM MUNITIONS: REQUESTING THE LEGISLATIVE COUNCIL TO INQUIRE, REPORT AND RECOMMEND OPPOSITION TO THE USE

3.123 This petition was tabled by Hon Alison Xamon MLC on 11 August 2009 and contained 492 signatures. Another copy of the petition was subsequently tabled containing a further 20 signatures.

3.124 The petition states:

We, the undersigned residents hold grave concerns over the use of Depleted Uranium (DU) munitions in the State of Western Australia.

Your petitioners respectfully ask that the Legislative Council

- 1. Recommends the State government communicates to the Federal Government the State's opposition to the use of DU munitions in WA.*
- 2. Inquire into the nature of Depleted Uranium and report on its environmental and public health impacts.*
- 3. Inquire into the legislative framework governing the use of Depleted Uranium in WA, including to what degree Allied military forces are subject to Western Australian environmental and public health legislation.¹¹²*

3.125 The principal petitioner was invited to provide a submission on 18 August 2009 and when no submission had been received, the petition was finalised on 14 October 2009.

PETITION NO 36 — FIRST CLICK COMPUTER FUNDING CUTS

3.126 This petition was tabled by Hon Kate Doust MLC on 12 August 2009 and contained 46 signatures. Another copy of the petition was subsequently tabled which contained a further 12 signatures.

3.127 The petition states:

We the undersigned residents of Western Australia call on the Government to reverse its decision to cut funding to the First Click program.

¹¹² Tabled Paper No 1000.

This government decision will have an adverse affect on people from regional areas, seniors, women aged 40 to 54 who are not in employment, young people, people with disabilities, Indigenous people, people for whom English is not their first language and people on low incomes; all of whom do not have access to assisted computer training, free of charge in a group setting.

*Your petitioners therefore respectfully request the Legislative Council to intervene in this decision to enable this much needed service to continue.*¹¹³

- 3.128 The principal petitioner did not provide the Committee with a submission and the petition was finalised on 14 October 2009.

PETITION NO 39 — BUSSELTON HOSPITAL: IMMEDIATE CONSTRUCTION OF THE NEW HOSPITAL

- 3.129 The petition was tabled on 13 August 2009 by Hon Colin Holt MLC and contained 1,672 signatures.

- 3.130 The petition states:

We the undersigned residents of Western Australia are opposed to the delay in building a new Busselton Hospital.

*Your petitioners therefore respectfully request the Legislative Council to support the immediate construction of a new hospital in the Shire of Busselton.*¹¹⁴

- 3.131 The submission from the principal petitioner pointed out that Busselton was one of the fastest growing Shires in Western Australia and that current hospital facilities were inadequate:

The current hospital was completed in 1978 to cater for a population of around 8,000; currently the Shire of Busselton has over 26,000 residents, increasing at around 1,500 per year. The Capes region has approximately 40,000 residents now. It should also be noted that as a popular tourism centre, the population of the region roughly trebles during summer holidays and other events such as Ironman.

It is not surprising therefore that the current hospital infrastructure has been regarded as insufficient for some time. In 2005, the current

¹¹³ Tabled Paper No 1030.

¹¹⁴ Tabled Paper No 1037.

Member for Vasse, the Hon Troy Buswell MLA stated that the current Hospital is, "...well past its used by date".¹¹⁵

3.132 The Committee noted that the previous Government had set aside funds for a new hospital to service the Capes Region and construction was due to commence in 2009. However, following concerns being expressed by some sections of the community regarding the location, the Government promised to build the new hospital at the hospital's current site (Mill Road, Busselton, two kilometres from the town centre) rather than at Vasse (nine kilometres from the town centre) as had been planned.¹¹⁶

3.133 Despite assurances that there would be no delays to the hospital, the submission pointed out that the May Budget indicated that construction would be delayed for financial reasons:

Almost half of the funding is not included in the Forward Estimates, meaning that these funds will not be coming until after 2014. It should also be noted that both Minister Buswell and Minister Hames have suggested there might also be other reasons such as environmental behind the delay.¹¹⁷

3.134 The principal petitioner expressed the following concerns:

a blow out to the cost of the Hospital; the fact that it will likely not be a new Hospital but a great deal of refurbishment; significant environmental issues that could jeopardize the whole project including site contamination and a large Western Ringtail Possum population on the Mill Road site.¹¹⁸

3.135 According to Mr Norden's submission, over 1,000 patients per annum are transported to Bunbury by ambulance (costing around \$750,000) because Busselton Hospital does not offer a full range of medical services. The petitioners believe that the current situation is unacceptable for a town of Busselton's size and are concerned that a delay in upgrading facilities will have a significant impact on the community.

We have great concerns that a number of compromises are currently being considered and that the provision of healthcare to our community will suffer because of them.¹¹⁹

¹¹⁵ Submission from Mr Gary Norden, Busselton Hospital Community Action Group, 2 September 2009, p1.

¹¹⁶ Ibid.

¹¹⁷ Ibid, p2.

¹¹⁸ Ibid.

¹¹⁹ Ibid.

- 3.136 The petitioners requested that the Committee inquire into the delay in constructing the new hospital and to ascertain:

*the effects of this delay on our community; the effects that the delay will have on funding for the project given the need for further cuts to the Health budget in future years; whether there are other reasons for the postponement and whether these issues may have impacts on the range of services that will be provided and the potential for future growth to the Hospital.*¹²⁰

- 3.137 A submission from Hon Colin Holt MLC, the Member who tabled the petition pointed out that the Busselton region is not only one of the fastest growing regions in Australia, but has a changing demographic with a high percentage of its population aged over 55 years.¹²¹

- 3.138 Hon Colin Holt MLC detailed the financial issues related to the new hospital. The previous Government had set aside \$77.4 million to upgrade the existing hospital with work commencing in 2009. Under budget forward estimates for 2009/10 and 2010/2011, \$800,000 was allocated for planning the redevelopment. The project had \$40.3 million allocated in forward estimates until 2012/13 and had been allocated the same \$77.4 million in accordance with the previous government promise, however Budget papers failed to acknowledge when the remaining \$40 million would be allocated and “*meaningful money*” was not allocated until 2012/13 (\$34.5 million).¹²²

- 3.139 The tabling Member was concerned that work on the hospital had yet to begin and the allocation of required funds was still unknown.¹²³ Further:

The proposed redevelopment is problematic, studies have shown the site to be a major breeding ground for the endangered Western Ringtail Possum and this redevelopment is likely to have significant impact on them. I have also been told of some onsite building issues.

The whole project will most likely require federal environmental approval and this will take at least 12 months.

A question remains; will the proposed refurbishments, service the needs of the community, and the hospital staff? Or is it only a short

¹²⁰ Ibid.

¹²¹ Submission from Hon Colin Holt MLC, Member for the South West Region, undated, p1.

¹²² Ibid.

¹²³ Ibid.

*term fix which only postpones the problem and does not alleviate it?*¹²⁴

3.140 The response from the Hon Troy Buswell MLA, Member for Vasse (and then Treasurer) explained that the delay in construction was:

*an unfortunate result of the change in the decision about the hospital site and the current pressure on Government finances. I have received advice from the South West Area Health Service that the existing services are able to meet the needs of the community until the project is finalised.*¹²⁵

3.141 Hon Troy Buswell MLA advised the Committee that the public-private model would provide a wide range of services and the construction options being considered included a combination of new buildings and refurbishment. In the meantime, the Emergency Department had been provided with a minor upgrade in December 2008 and the existing hospital would be able to meet community needs until the redevelopment was completed.¹²⁶

3.142 The Committee sought information from the Minister for Health who explained that the delay in construction of the new hospital “*resulted from the Government’s decision to review all Capital Works processes and reassign the order of priority.*”¹²⁷

3.143 The Minister further advised that while the public/private model would combine new build and refurbishment options, potential private partners had not been finalised so further details were not yet available.¹²⁸

3.144 The Minister pointed out that refurbishment of some buildings would “*significantly reduce the environmental impact of the project without adversely affecting the quality of the facility. It will also optimize use of the allocated budget.*”¹²⁹

3.145 The Minister outlined the reasons behind the decision to redevelop the existing site:

- A referendum of Busselton Shire residents in 2007 resulted in 70 per cent (7,798) of voters preferring to retain the current hospital site with 30 per cent of voters (3,342) indicating a preference for the Vasse Newtown site.

¹²⁴ Ibid, p2.

¹²⁵ Letter from Hon Troy Buswell MLA, Member for Vasse, 8 October 2009, p1.

¹²⁶ Ibid, pp1-2.

¹²⁷ Letter from Hon Dr Kim Hames MLA, Minister for Health, 16 October 2009, p1.

¹²⁸ Ibid.

¹²⁹ Ibid.

- The existing site performed well in terms of social aspects, accessibility and infrastructure when compared to other sites.
- The hospital would be highly visible on Bussell Highway.
- State ownership of the land provided a strong negotiating position for the Government to attract private sector services and capital which would ultimately improve the range of services provided.¹³⁰

3.146 Environmental assessments already conducted included:

The Public Health Intelligence Directorate has investigated the incidence of cancer amongst staff of the Busselton Hospital site and the results indicate that there is no evidence to suggest a cancer cluster exists.

Preliminary soil testing on the site has been completed and no major issues related to the soil have been identified. Further soil testing will be conducted once a final master footprint is known.

Coffey Environments has provided the report titled Significant Fauna and Flora Values — Busselton Hospital Redevelopment Site. Once the master footprint is confirmed Coffey environments will identify the environmental impact and any proposed environmental mitigations. Coffey's work will form the basis of referrals to the State Department of Environment and Conservation and the Commonwealth Department of Environment, Water, Heritage, and the Arts.¹³¹

3.147 In relation to the Western Ringtail Possum population at the site, the Minister advised that:

It is anticipated that the redevelopment of the Busselton Health Campus will ensure long term onsite environmental management to conserve and improve the habitat of the Western Ringtail Possum.¹³²

3.148 Finally, the Minister confirmed to the Committee that “[t]he existing hospital has sufficient capacity to continue to meet the needs of the community until the redevelopment is completed.”¹³³

¹³⁰ Ibid, p2.

¹³¹ Ibid.

¹³² Ibid, p3.

¹³³ Ibid.

3.149 Following scrutiny of documents obtained through freedom of information, the principal petitioner, Mr Gary Norden, expressed further doubts regarding the timing and final outcome of the new hospital:

- A Health Department briefing note stated that the footprint of the new hospital would be very carefully designed to reduce any impact on the Western Ringtail Possum. Mr Norden believed this statement demonstrated that the Department would only build the best facility possible given the significant restrictions related to possum habitat.¹³⁴
- The petitioner noted that a government briefing note acknowledged that environmental approvals can take 12 months.¹³⁵
- Delays in construction would result in cost increases and impact on the final facility.¹³⁶

3.150 The principal petitioner reiterates his concerns:

*We would like to remind the Committee that it was this Government's decision to switch the location of the new hospital from an open Greenfield site to this one despite the significant environmental issues. We believe that the documents we have sent you show that the delay to the construction of the new hospital was not just caused by the State's financial situation as claimed by the Minister. We believe that a range of Government decisions on the new hospital including delaying it and changing the location will have significant impacts on the range and scope of services that are finally provided.*¹³⁷

3.151 The Committee could not substantiate all of the petitioner's concerns, however the Members agreed that the timely construction of the health campus should be a priority for the Government.

3.152 Accordingly, the Committee wrote to both the Minister for Health and the Treasurer to express the significance of this matter to the local community and to urge the Government to progress completion of the project as soon as possible. The petition was finalised on 11 November 2009.

3.153 Subsequent to finalisation of the petition, the Committee received further correspondence from the Minister for Health, Hon Dr Kim Hames MLA, which advised that:

¹³⁴ Submission from Mr Gary Norden, received 22 October 2009, p1.

¹³⁵ Ibid.

¹³⁶ Ibid.

¹³⁷ Ibid, pp1-2.

The redevelopment of the Busselton Hospital into a comprehensive health campus is an important project. The State Government is committed to providing the Busselton community with a comprehensive range of health services and has confirmed the \$77.4 million budget for the project.

Following the submission of expressions of interest earlier this year the WA Country Health Service has identified two private health organizations that are interested in working with the Department of Health to develop an innovative and comprehensive plan for Busselton Health Campus.

Involvement of the private sector signals an important step forward for the redevelopment as it raises the potential for a wider range of services, greater efficiencies than could be provided by the State alone and an earlier commencement of construction.¹³⁸

PETITION NO 41 — SWAN RIVER CRAB FISHERY CLOSURE

3.154 The petition was tabled on 8 September 2009 by Hon Liz Behjat MLC and contained 1552 signatures. Two more copies of the petition were subsequently tabled containing a further 342 signatures.

3.155 The petition states:

We the undersigned seafood buying residents of Western Australia are opposed to the Government's action to close the Swan River's professional fishery because:

- *The seafood eating public will forever be denied the opportunity to buy iconic Swan River crabs which are renowned for their size, meatiness and flavour.*
- *Sustainability has not been nominated as a reason for closing the fishery.*
- *According to the Department of Fisheries Research Report 156, there is no conflict with the recreational sector which they estimate take nearly two thirds of the crabs.*

Your petitioners therefore respectfully request the Legislative Council oppose the Government's action to impose a Compulsory Fisheries

¹³⁸ Letter from Hon Dr Kim Hames MLA, Minister for Health, 15 February 2010, p1.

*Adjustment Scheme in the Swan River fishery and allow for continued supply of crabs to those who can't or don't catch their own.*¹³⁹

- 3.156 The submission from the principal petitioners opposed the compulsory closure of the Swan River commercial fishery. The petitioners explained that the fishery was the sole remaining licence that supplied local crabs to Perth retailers and restaurateurs. The petitioners also pointed out that the fishery was a healthy and viable business.¹⁴⁰
- 3.157 According to the submission, there had been no formal consultation on this matter.¹⁴¹
- 3.158 The petitioners point out that the high rate of recreational fishing on the Swan-Canning increases the risk of over-exploitation, particularly since there are no restrictions on either the catch or the number of participants. If the Government was concerned about stock levels, argue the petitioners, it would reduce the amount of recreational fishing.¹⁴²
- 3.159 According to the petitioners there is no conflict in the Swan-Canning. Most commercial fishing is carried out in the main estuary (which is not generally used by recreational fishers) and the commercial fishing season was less than 115 fishing days in 2008.¹⁴³

*Government must determine who has access to the resource and on what conditions, without undue emphasis on 'rights' in the case of any user, which leads to the loss of the flexibility needed for an integrated approach, and makes a mockery of its claim to embrace the notion of sustainable development.*¹⁴⁴

- 3.160 The petitioners' submission asserted that buy-back schemes were not always the best solution and other compromises, such as access arrangements according to seasonal availability and breeding seasons, should be considered.¹⁴⁵
- 3.161 The petitioners' submission makes the following request:

As the last license holder we would accept spatial and temporal restrictions in return for access to the fishery. We have already implemented our own management plan to ensure the viable future of

¹³⁹ Tabled Paper No 1083.

¹⁴⁰ Submission from Mr Lewis Lynch and Mr Neil Oliver, 16 October 2009, p1.

¹⁴¹ Ibid.

¹⁴² Ibid.

¹⁴³ Ibid.

¹⁴⁴ Ibid.

¹⁴⁵ Ibid.

the fishery ... Fair and adequate allocation will aid us in our desire to maintain and enhance the value of the resource. We participated in the buyback, yet our offer was roundly rejected by the previous minister ... The current intention would appear to have altered from voluntary buyback to forced reclamation, with no formal process or public consultation, in contravention of the Govt's claimed stance on Integrated Fisheries Management and ESD.¹⁴⁶

3.162 The petitioners further state that:

We have submitted affidavits from all other licensees involved in the buyback to the effect that they were at the end of their useful working life and wished to retire, and that was the sole reason they chose to sell. We on the other hand run a viable and profitable business ... Why have we been singled out when 92% of the fishing takes place in Area 2, the Peel Inlet fishery in Mandurah? No scientific evidence supports commercial closure ... There is limited information the level of recreational catch; and inadequate levels of compliance for monitoring and enforcement in recreational fisheries. The total catch ratio of commercial to recreational ... is approximately 80% recreational/20% commercial for Blue Swimmer crabs.¹⁴⁷

3.163 A response to the petition from the Minister for Fisheries, Hon Norman Moore MLC, advised the following:

The commitment to close the Swan River to commercial fishing was part of the election platform of both the Liberal and Labor parties in the 2005 election. Both major parties have recognized that the Swan River has a high social value for recreational fishing. The Swan River is increasingly becoming a focal area for recreational fishing in the Metropolitan area ...

Developing management arrangements for two fishing sectors in the Swan River where there is already significant competition, and conflict over sharing the available fish resources is not regarded as a viable long-term management solution. Hence, Governments have supported the Swan River becoming a recreational only fishing area, and the gradual buyout of commercial licences over time as the mechanism to give effect to the change.

¹⁴⁶ Ibid, pp1-2.

¹⁴⁷ Ibid, p2.

This process has resulted in all except one commercial operator voluntarily surrendering their fishing licences for appropriate compensation. The eventual move to a compulsory buyout to remove the one remaining operator is the end result of a process that has been ongoing for many years.

When the last remaining operator purchased his licence, he acknowledged that he was fully aware of the political commitment to close the fishery.

After the last remaining operator is no longer fishing in the Swan River there will still be ample supplies of blue swimmer crabs and/or mullet available from other locations including Mandurah, Shark Bay and Cockburn Sound (on reopening for crabs). The catches from commercial fisheries in these locations are much greater than the Swan River.¹⁴⁸

- 3.164 The Committee considered the Minister's response and it was agreed to finalise the petition on 11 November 2009 in light of current and previous policy regarding this issue.

PETITION NO 42 — RECREATIONAL FISHING LICENCE AND FEES

- 3.165 The petition was tabled on 10 September 2009 by Hon Jon Ford MLC and contained 234 signatures. Three additional copies of the petition were subsequently tabled with a further 1,045 signatures.

- 3.166 The petition states:

We the undersigned residents of Western Australia are opposed to the Minister for Fisheries proposed introduction of unfair and irrational amendments to the Fish Resources Management Regulations 1995 applying new recreational fishing licences and fees, as well as increases to existing fees. We do not believe that they will protect Western Australia's vulnerable fish species and appear to apply fees in excess of related services and therefore constitute a tax.¹⁴⁹

- 3.167 A submission was not received from the principal petitioner and the petition was finalised on 21 October 2009.

¹⁴⁸ Letter from Hon Norman Moore MLC, Minister for Fisheries, 6 November 2010, pp1-2.

¹⁴⁹ Tabled Paper No 1134.

3.168 The Committee commends its report to the House.

A handwritten signature in black ink, appearing to read 'B. Ellis', with a stylized flourish at the end.

Hon Brian Ellis MLC
Chairman

12 August 2010