



**SECOND SESSION OF THE THIRTY-SIXTH PARLIAMENT**

**REPORT OF THE  
STANDING COMMITTEE ON  
PUBLIC ADMINISTRATION AND FINANCE  
IN RELATION TO  
A SESSIONAL OVERVIEW OF THE  
COMMITTEE'S OPERATIONS:  
FIRST SESSION OF THE  
THIRTY-SIXTH PARLIAMENT  
(MAY 2001 TO AUGUST 2002)**

Presented by Hon Barry House MLC (Chairman)

Report 2  
September 2002

## **STANDING COMMITTEE ON PUBLIC ADMINISTRATION AND FINANCE**

### **Date first appointed:**

May 24 2001

### **Terms of Reference:**

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

#### **“2. Public Administration and Finance Committee**

- 2.1 A Public Administration and Finance Committee is established.
- 2.2 The Committee consists of 7 members.
- 2.3 The functions of the Committee are -
  - (a) to inquire into and report on the structure, efficiency, effectiveness, and economic management of the system of public administration;
  - (b) to consider and report on any bill or other matter referred by the House;
  - (c) to inquire into and report on practice or procedure applicable or relating to administrative acts or decisions (either generally or in a particular case without inquiring into or reporting on the merits of the case);
  - (d) to inquire into and report on the existence, adequacy, or availability, of merit and judicial review of administrative acts or decisions;
  - (e) to consult regularly with the Parliamentary Commissioner for Administrative Investigations, the Auditor General, the Public Sector Standards Commissioner, the Information Commissioner, and any person holding an office of a like character.
- 2.4 Subject to subclause 2.3 (b), the following are excluded from inquiry by the Committee -
  - (a) the Governor’s establishment;
  - (b) the constitution and administration of Parliament;
  - (c) the operations of the Executive Council;
  - (d) a decision made by a person acting judicially;
  - (e) a decision made by a person to exercise, or not exercise, a power of arrest or detention.”

#### **Members of the Committee during the First Session of the Thirty-Sixth Parliament:**

Hon Barry House MLC (Chairman)	Hon John Fischer MLC
Hon Ed Dermer MLC (Deputy Chairman)	Hon Dee Margetts MLC
Hon Murray Criddle MLC	Hon Ken Travers MLC
Hon Sue Ellery MLC	

#### **Staff of the Committee during the First Session of the Thirty-Sixth Parliament:**

Paul Grant, Advisory Officer (Legal)	Sarah Kearney, Committee Clerk
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## CONTENTS

1	HISTORY AND PURPOSE OF THE COMMITTEE.....	1
2	CONSULTATION WITH INDEPENDENT STATUTORY OFFICE-HOLDERS.....	1
3	INQUIRIES .....	2
	Planning Appeals Amendment Bill 2001.....	2
	Inquiry into the Impact of State Government Actions and Processes on the Use and Enjoyment of Freehold and Leasehold Land in Western Australia .....	3
	Inquiry Terms of Reference .....	3
	Call for Written Submissions .....	4
	Briefings with Government Agencies .....	4
	Public Hearings .....	5
	Estimated Reporting Date .....	5
4	OTHER WORK UNDERTAKEN .....	5
	Briefing on the Machinery of Government Report.....	5
	Briefing on the Budget Papers .....	6
	Petition Requesting that an Inquiry be held into the Department for Community Development.....	6
	Request for an Inquiry into the dispensing of medicine under the Poisons Act 1964	7
	Correspondence with the Auditor General over the timing of the tabling of the Auditor General's reports and his briefings on such reports for Members of Parliament.....	8
5	PLANS FOR THE NEXT SESSION.....	8



# REPORT OF THE STANDING COMMITTEE ON PUBLIC ADMINISTRATION AND FINANCE

## IN RELATION TO

### A SESSIONAL OVERVIEW OF THE COMMITTEE'S OPERATIONS:

#### FIRST SESSION OF THE THIRTY-SIXTH PARLIAMENT

(MAY 2001 TO AUGUST 2002)

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## **1 HISTORY AND PURPOSE OF THE COMMITTEE**

- 1.1 The Public Administration and Finance Committee (**Committee**) was established on May 24 2001, in the first session of the 36th Parliament, as part of a series of significant changes to the Legislative Council committee system.
- 1.2 The Committee is, in many respects, simply a combination of the functions of the former Legislative Council Standing Committee on Public Administration (1996-2001) and the former Legislative Council Standing Committee on Estimates and Financial Operations (1989-2001), minus the latter committee's function of conducting annual hearings into the Western Australian Government's estimates of expenditure.
- 1.3 The Committee's area of interest and its potential subjects for inquiry cover an extremely broad range of matters relating to the activities of the State Government. Subject to the few notable exceptions specified in paragraph 2.4 of its terms of reference, the Committee may initiate an inquiry into any aspect of the administration of the State public sector or the expenditure of public funds.

## **2 CONSULTATION WITH INDEPENDENT STATUTORY OFFICE-HOLDERS**

- 2.1 Paragraph 2.3(e) of the Committee's terms of reference states that one of the functions of the Committee is to consult regularly with the Parliamentary Commissioner for Administrative Investigations (also known as the "Ombudsman"), the Auditor General, the Public Sector Standards Commissioner, the Information Commissioner, and any person holding an office of a like character.
- 2.2 Between August 27 2001 and April 10 2002, the Committee held private briefings with the following independent statutory office-holders:
  - Parliamentary Commissioner for Administrative Investigations;

- Auditor General;
  - Public Sector Standards Commissioner;
  - Information Commissioner; and
  - Inspector of Custodial Services.
- 2.3 It should be noted that the Inspector of Custodial Services, although falling clearly within the category of independent statutory office-holder referred to in the Committee's terms of reference, was initially invited to appear before the Committee on the motion of Hon John Fischer MLC in relation to comments that the Inspector had made to the media concerning the conditions in Immigration Department detention centres in the north of the State, and the flow-on effects of over-crowding in these Commonwealth detention centres on the State-run prisons system.
- 2.4 The Committee found these private briefings to be beneficial in obtaining a greater understanding of the role and the current activities of these independent statutory office-holders, and in identifying possible future lines of inquiry for the Committee. The feedback received by the Committee from many of these independent statutory office-holders also indicated that they too found the exercise to be valuable in establishing a dialogue between their offices and the Committee/Parliament.

### **3 INQUIRIES**

- 3.1 During the First Session of the 36<sup>th</sup> Parliament, the Committee undertook the following formal inquiries:
- 3.1.1 Planning Appeals Amendment Bill 2001 (Report 1, March 2002).
  - 3.1.2 Inquiry into the Impact of State Government Actions and Processes on the Use and Enjoyment of Freehold and Leasehold Land in Western Australia (ongoing).

#### **Planning Appeals Amendment Bill 2001**

- 3.2 The Legislative Council referred the Planning Appeals Amendment Bill 2001 to the Committee on November 8 2001, to inquire into the bill and report back no later than December 5 2001. The bill was primarily concerned with the establishment of a single, independent, specialist appellate body for dealing with all planning appeals, based on significant alterations to the existing Town Planning Appeals Tribunal.
- 3.3 For the purposes of this inquiry, Hon Graham Giffard MLC was a substitute member for Hon Ken Travers MLC pursuant to Standing Order 326A. The Clerk of the

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Legislative Council acted as the Advisory Officer (Legal) to the Committee for this inquiry.

- 3.4 The inquiry was conducted essentially by way of approaching stakeholders directly for written submissions, and through a series of detailed correspondence between the Committee and the Minister for Planning and Infrastructure.
- 3.5 The Committee obtained from the Legislative Council a number of extensions to the reporting date - up to March 28 2002. The Committee's report on the bill, Report 1, was presented to the Legislative Council on March 27 2002.

### **Inquiry into the Impact of State Government Actions and Processes on the Use and Enjoyment of Freehold and Leasehold Land in Western Australia**

#### *Inquiry Terms of Reference*

- 3.6 On September 26 2001, the Committee resolved to conduct an inquiry and report to the Legislative Council on *“the impact of State Government agencies, or any other publicly funded body, and/or legislation on the use and enjoyment of freehold and leasehold land in Western Australia, having regard to:*
1. *The administrative practices or procedures and legislation in place in relation to:*
    - (a) *the compulsory acquisition of freehold and leasehold land by State Government agencies, by publicly funded bodies or by State Government on behalf of private interests;*
    - (b) *the imposition of restrictions on land use by means of environmental or planning policies and processes;*
    - (c) *whether there are time delays in environmental assessments and planning processes at Local and State Government levels, and if so, the reasons for such time delays;*
    - (d) *applications for landholders to clear their land;*
    - (e) *the rights of freehold and leasehold landholders when the Crown grants mineral rights over land to third parties;*
    - (f) *the freeholding of Crown land and the consequent processes and time schedules;*
    - (g) *the adequacy and effectiveness of compensation practices and procedures;*  
*and:*

(h) the obtaining of fair, prompt and cost effective remedies and/or dispute resolution between landholders and State Government Departments and Agencies.

2. Any other relevant matters in relation to the impact of State Government legislation, departmental, agency or any other publicly funded body, practice and procedure affecting the use and enjoyment of freehold and leasehold land in Western Australia.”

3.7 As well as facilitating the investigation of a broad range of new issues, this inquiry incorporates aspects of two previous inquiries conducted by former Legislative Council standing committees. Over 1999 and 2000, the Standing Committee on Public Administration conducted an inquiry into the land clearing application process and the Standing Committee on Constitutional Affairs conducted an inquiry into a petition concerning the erosion of private property rights. As part of the current inquiry, the Committee will also be considering the written submissions made, and the transcripts of hearings held, in relation to those two previous incomplete inquiries by way of background information.

#### *Call for Written Submissions*

3.8 The Committee advertised for written submissions to the inquiry in *The West Australian* newspaper and in major regional newspapers during October 2001. To date, the Committee has received in excess of 120 written submissions.

#### *Briefings with Government Agencies*

3.9 On April 17 2002, the Committee commenced a series of private, informal, briefings with State Government agencies and bodies in order to gain a basic background understanding of the administrative processes and key issues that may arise during the inquiry. Between April 17 2002 and May 22 2002, the Committee met with representatives of the following agencies and bodies:

- Department of Land Administration;
- Environmental Protection Authority;
- Department of Environmental Protection/Water and Rivers Commission (shortly to be merged into a new “Department of Environment, Water and Catchment Protection”);
- Western Power Corporation;
- Department for Planning and Infrastructure/Western Australian Planning Commission; and



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- Water Corporation.

3.10 Further briefings will be held with relevant agencies and bodies over the remainder of 2002.

#### *Public Hearings*

3.11 Public hearings for the inquiry, to be held over the last six months of 2002, were advertised during July 2002 to be held as follows:

- August 19 2002 in Perth;
- August 27 2002 in Mandurah;
- August 28 2002 in Busselton;
- August 29 2002 in Albany;
- September 11 2002 in Northam;
- September 25 2002 in Perth;
- October 2 2002 in Dandaragan; and
- October 3 2002 in Geraldton.<sup>1</sup>

3.12 Further hearing dates are likely to be allocated over the remainder of 2002 and possibly also into 2003.

#### *Estimated Reporting Date*

3.13 At this stage the Committee anticipates presenting its report on this inquiry to the Legislative Council in June 2003, although given the breadth of the issues under inquiry it is possible that an interim report may be tabled towards the end of this year or in early 2003.

## **4 OTHER WORK UNDERTAKEN**

### **Briefing on the Machinery of Government Report**

4.1 On August 22 2002, the Committee received a briefing from the Department of the Premier and Cabinet on the report *Government Structures for Better Results: The*

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<sup>1</sup> Please note that all of the above hearings proceeded as scheduled except for those hearings scheduled for Albany and Geraldton, which were cancelled due to a lack of response. Further Perth hearings have been scheduled.

*Report of the Taskforce Established to Review the Machinery of Western Australia's Government (June 2001).*

### **Briefing on the Budget Papers**

4.2 On September 19 2001, the Committee received a briefing from the Department of Treasury and Finance on the Budget Papers and the Budget process for 2001/02. The introduction of the capital user charge and full accrual accounting had necessitated a number of changes to the format of the Budget Papers from previous years, and these changes were outlined to the Committee during the briefing.

### **Petition Requesting that an Inquiry be held into the Department for Community Development**

4.3 In August 2001, the Committee received a petition (Tabled Paper No. 401, tabled June 12, 2001) that was referred by the Standing Committee on Environment and Public Affairs relating to a request for an inquiry to be conducted into the Department for Community Development.

4.4 The petition had been tabled in substantially the same form on a number of occasions over the course of the 35<sup>th</sup> Parliament. The re-tabling of the petition had been due to the practicalities of the annual prorogation of the Parliament and the fact that the various forms of the petition had been the subject of ongoing, but intermittent, investigations by the former Standing Committee on Constitutional Affairs since at least 1997.

4.5 The Committee conducted its own review of material relating to the petition which had been gathered over the years and which is presently held by the Clerk of the Legislative Council. The Committee also obtained further information on a number of issues from the Department for Community Development.

4.6 Based on the Committee's investigations and deliberations, conducted between August 2001 and June 2002, the Committee resolved not to conduct a formal inquiry into the issues raised by the petition. Amongst the factors that led to the Committee's decision not to conduct a formal inquiry were:

- a) the time that had elapsed since the events in 1994 which had given rise to the petition;
- b) from the Committee's investigations, it could find no evidence of systemic problems in the administration of the Department for Community Development, and the Committee was satisfied that, *prima facie*, there are sufficient and transparent grievance procedures available to any person who has a complaint concerning administrative actions taken by the Department,

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ranging from internal review, independent investigators such as the Ombudsman, and ultimately judicial review; and

- c) the Committee also noted the Government's current plans to introduce into the Parliament legislation to significantly amend the *Child Welfare Act 1947*, the *Community Services Act 1972* and the *Welfare and Assistance Act 1961*. Amongst the anticipated amendments are proposed new grievance procedures for the Department for Community Development. At the time when that amending legislation is introduced into the Legislative Council, it may be appropriate for this Committee, or another relevant committee, to examine the proposed new legislation and consider it in the light of the past experiences of people who have dealt with the Department for Community Development, such as the petitioner.

- 4.7 Both the petitioner and the Standing Committee on Environment and Public Affairs were advised of the Committee's decision in a letter dated June 19 2002.

#### **Request for an Inquiry into the dispensing of medicine under the Poisons Act 1964**

- 4.8 In October 2001, the Committee considered a request made by a member of the public for an inquiry into the procedures for the dispensing of medicine in both public and private hospitals under the *Poisons Act 1964*.

- 4.9 The Committee considered the material provided in support of the request and resolved not to undertake a formal inquiry into the issue. The Committee's decision not to conduct a formal inquiry into the issue was based upon the following facts:

- a) The function of the Standing Committee on Public Administration and Finance is primarily to inquire into and report on the structure, efficiency, effectiveness, and economic management of the system of public administration in Western Australia. To that end, the Committee generally focuses its attention on administrative acts and decisions of officers in the public sector.
- b) Although it is clear that the Western Australian Government has an important role in the regulation of the private health sector, the Committee was concerned that the type of inquiry which the Committee was asked to undertake would fall on the periphery of the Committee's terms of reference.
- c) The Committee noted that a more appropriate parliamentary committee to consider the request may be the Legislative Assembly Education and Health Standing Committee. That committee has a specific interest in the adequacy of legislation and regulations within the Health portfolio.

4.10 The Committee wrote to the member of the public on November 15 2001 to advise of the Committee's decision. The member of the public was also provided with the contact details for the Legislative Assembly Education and Health Standing Committee, along with a copy of an excerpt from the Auditor General's October 2000 report on the administration of the *Poisons Act 1964*.

**Correspondence with the Auditor General over the timing of the tabling of the Auditor General's reports and his briefings on such reports for Members of Parliament**

4.11 The Committee generally holds its meetings, in accordance with Standing Orders and room availability, between 1:00 pm and 3:00 pm on every Wednesday that the Legislative Council sits.

4.12 The Auditor General has adopted a practice of tabling his reports to the Parliament between noon and 1:00 pm on a Wednesday in the Legislative Assembly, followed by a press conference and a briefing for Members of Parliament.

4.13 In August 2001 the Committee wrote to the Auditor General and requested that, in view of the Committee's keen interest in the Auditor General's reports and the above scheduling clash, the Auditor General may consider an alternate time for the conduct of his briefings on tabled reports. Some discussion ensued between the Chairman and the Office of the Auditor General.

4.14 The Committee was disappointed by the Auditor General's subsequent decision to continue with the current scheduling of briefings, although the Committee notes the Auditor General's offer to make himself available to conduct additional briefings on reports that he has tabled for the benefit of members of the Committee on request.

**5 PLANS FOR THE NEXT SESSION**

5.1 The Committee intends to further progress its inquiry into the impact of State Government actions and processes on the use and enjoyment of freehold and leasehold land in Western Australia throughout the course of the Second Session of the 36<sup>th</sup> Parliament.

5.2 The Committee will also continue to deal with any other matters that arise which fall within the Committee's terms of reference.



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**Hon Barry House MLC  
Chairman**

**Date: September 26 2002**