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EDM ref: 49539335  
Your ref: A761673

30 July 2019

Kristina Crichton  
Committee Clerk  
Standing Committee on Public Administration  
Legislative Council, Parliament House  
PERTH WA 6000

Dear Ms Crichton,

### **INQUIRY INTO PRIVATE PROPERTY RIGHTS**

Thank you for the opportunity for Western Power to provide a submission for the Committee's inquiry into Private Property Rights.

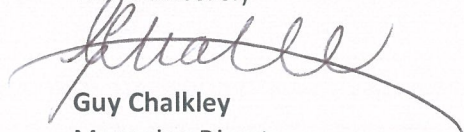
As the state's largest network operator, Western Power has an obligation to build and maintain its infrastructure and ensure a safe, reliable and affordable supply of electricity to its customers.

Whilst Western Power appreciates and respects the proprietary right of private property ownership, we also understand existing legislation that protects the interests of the State on balance with that of private property ownership.

Due to the financial implications that could be associated with the outcomes of these matters, Western Power would appreciate being kept up to date with the outcomes of the committee.

A more detailed response follows, however should you have questions or require additional information relating to our comment, please contact Senior Government Relations Specialist Megan Allan at [megan.allan@westernpower.com.au](mailto:megan.allan@westernpower.com.au) or 9326 7199.

Yours sincerely



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## **Appendix 1: Western Power's submission to the Inquiry into Private Property Rights**

### **(a) Recognises the fundamental proprietary right of private property ownership that underpins the social and economic security of the community;**

Western Power notes that any "proprietary" or "private" ownership right regarding land is subject to the laws of the State. All land is ultimately owned by the Crown (sometimes called 'the State') and any "green title" or "fee simple" or other form of land ownership is subject to the laws of the State. The rights of the Crown (or the State) are superior to the rights of the private land owner.

Whilst Western Power appreciates and respects the proprietary right of private property ownership, we also understand existing legislation that protects the interests of the State on balance with that of private property ownership.

Western Power operates an extensive electricity network in the south west of the State for the benefit of the community. To ensure that the network is constructed, maintained, repaired and upgraded to meet changing demand, law makers have seen fit to allow Western Power to enter private land. Western Power's rights to enter land are limited and restricted by the Energy Operators (Powers) Act 1979 and other relevant legislation.

Western Power has policies, procedures and practices to manage its land entry rights in accordance with legal requirements and community expectations, including the giving of written notice prior to entry, where appropriate.

### **(b) Recognises the threat to the probity of the Torrens title system, which guarantees disclosure, and re-establishes the necessity for registration of all encumbrances that affect land including environmentally sensitive areas, bushfire-prone areas and implied easements for Western Power that currently sit behind the certificate of title;**

Western Power, in the main, registers easements for transmission lines operating at 200 kV and above. Most of these lines are 330 kV lines. Western Power sometimes also obtains easements for 132 kV transmission lines. Generally, Western Power has no formal easements for its thousands of kilometres of lower voltage distribution lines. Many of these lines exist on private property as permitted under statutory provisions.

Western Power acknowledges that customers having access to information that allows them to effectively understand the encumbrances on their property is important. That's why we recently updated our GIS spatial mapping into Landgate layers to ensure our safety clearance zone/easements are visible to external entities via Landgate's publicly available 'Shared Location Information Platform', accessible on their website.

Western Powers external website also provides information on how to maintain safety clearances around our assets.



**(c) Recognises the property rights of government-issued licences and authorities including commercial fishing;**

Western Power has no comment but understands that “proprietary” or property rights do not exist in many government issued licences (e.g. drivers’ licences)

**(d) The Upper House asserts that fair and reasonable compensation must be paid to the owner of private property if the value of the property is diminished by a government encumbrance or resumption to derive a public benefit;**

The concept of “fair and reasonable” compensation may be derived from the Australian Constitution requirements for compensation on “just terms”. Western Power understands that a requirement for “just terms” or “fair and reasonable” terms, per se, does not currently expressly exist under Western Australian law. Instead, in WA the Land Administration Act 1997 deals in detail with compensation for land resumption. In accordance with legal requirements, Western Power pays compensation under the Land Administration Act as read with the Energy Operators (Powers) Act 1979. If the compensation laws are ever changed then Western Power will, of course, pay compensation in accordance with the new laws.

**Directs the Standing Committee on Public Administration to conduct an inquiry into the matters described above – with them as its terms of reference – and to report to the house within nine months of the date of the referral.**

Please take the information provided above as our submission into this Inquiry.