

14th September, 2012

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Petition No. 167 – Petition to repeal the destructive powers of the Metropolitan Redevelopment Authority and local governments, and to put to a referendum any further destruction of our public assets and our mature and heritage trees on the Perth Esplanade Reserve and all other public green spaces that are of value to our communities.

Introduction

The purpose of this submission is to assist the Committee to investigate the issues raised in Petition No.167 with a view to making the necessary changes in local and state government laws and regulations in order to ensure that the local amenity and the many health and environmental benefits provided by our urban tree canopy are protected. There is a widely held view within the community groups who are now linked to the Save Our Trees network, that there needs to be a halt on the destruction of trees and green spaces, and that this seemingly relentless destruction has been largely due to poor planning and misguided land management policies.

We need laws to protect our trees and we need significant penalties for their destruction

In the recent words of the Federal Environment Minister in regard to the Super Trawler:

"When the law falls short you change the law".

The Minister also said of the marine scientists who approved of the Trawler:

"I do not believe that they have been precautionary enough".

Our laws are falling short. We are not being precautionary in the protection of our green spaces

1. City of Perth

There has been a failure of Councillors in the City of Perth to act according to the Role of Councillors, as stated in the Local Government Act 1995, to represent the interests of their electors, residents and ratepayers, and to ensure the protection of important heritage listed built and natural assets. There has been a failure on the part of Councillors, the Mayor and the CEO of the City, to ensure the protection of a very significant proportion of the urban canopy in the Perth CBD, and to consult with their residents and ratepayers prior to Council's decision to hand over the heritage listed Esplanade Reserve, also known as Anzac Reserve, to the State Government. This action by the CEO, the Mayor and Councillors was undertaken in the full knowledge that it would lead to the destruction of this heritage listed community asset, including hundreds of iconic trees and built structures that gave this precinct a very strong sense of place for the people of Western Australia.

Please read attachments No. 1

2. City of Canning

Similarly, in 2011, we saw the failure of the Mayor and Councillors in the City of Canning to substantiate their decision to remove approximately 170 mature trees from the Manning Rd.

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median. Trees included important foraging trees for the endangered Carnaby's Cockatoos and other wildlife. Save Our Trees believes that the long line of foraging and amenity trees all along Manning Road had an estimated total value of 8 million dollars based on an average value of \$50,000 per tree, bearing in mind that these trees were of great significance to the endangered wildlife, as stated by the then Manager of the Black Cockatoo Rehabilitation Centre, Mr. Chris Phillips, who was arrested and charged at the site over his protest.

The Standing Committee is also advised that Mr. Phillips was preparing for trial in order to defend his case but the Prosecution dismissed the charges against. A number of people who were similarly arrested for their efforts to stop the harm to the significant wildlife foraging habitat and who have had no legal representation have been fined, and one has proceeded to trial to personally defend the charges without professional legal representation.

Save Our Trees also believes that the destruction of the trees, the denuding of the median and the subsequent loss of wildlife from the locality has adversely affected the amenity and local real estate values. This is based on evidence that a tree-lined street can add up to 30% to the value of a property in the Eastern States as well as evidence from Tree Cities USA that trees add dollar value to properties.

Furthermore, Engineers' Reports to Canning Council showed that Council's claims about the need to remove the trees because of pending road works and vibrations to nearby houses due to tree roots under the road surface, were unsubstantiated and highly controversial.

Please read attachments No. 2

3. City of Gosnells

In 2009/10 the City of Gosnells denied residents the right to protect their street trees. Mr. Richard Pennicuik of Hume Rd Thornlie staged a protest by climbing his street tree and staying there for several months but in the end he was worn down by the stress and the City of Gosnells. Officers seized an opportunity in his absence to cut down his verge tree and later pursued him with a fine and legal action. Ms. Hilda Potschick, a resident of Gosnells, had started a local group in support of Mr. Pennicuik's action and was arrested twice for her involvement in trying to stop the harm to the trees. She claims that the City ignored her pleas for help and consultation.

Please read attachments No.3

4. City of Wanneroo

Mr. Kevin Lehane and residents in his community in Alexander Heights have exposed the failure of their Councillors to represent the interests of the broader community and to protect a piece of remnant bushland that Council has offered for development, against much opposition.

Please read attachments No.4

5. City of Cambridge

Residents of Wembley have formed an action group to prevent their council from seizing public green space to be developed as a sports park that will destroy up to 300 mature trees. Residents are claiming the right to passive recreation that can be enjoyed by all, and they accuse the Council of having ignored an alternative proposal that would not require the trees to be destroyed. Residents

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have also been asking why there is an apparent obsession with destroying the trees and creating more built sporting facilities when sufficient facilities already exist.

Please read attachments No. 5

6. City of Stirling

Residents of Stirling have formed an action group to prevent the destruction of approximately 47 mature trees and the seizure of their public green space at Charles Riley Reserve. They are also claiming the right to passive recreation and that there is no evidence that the proposed football facilities are necessary and of benefit to their local community.

Please read attachments No.6

There are many other strong action groups such as "Hands off Point Peron" that clearly show how many individuals have become activists in order to protect the local amenity and natural environment from poor planning decisions.

7. The absence of Tree Protection Laws in a culture of rampant development and tree removal

The words "destructive powers" in the title of the Petition describe the manner in which many local or state government-approved projects and developments have been undertaken. Communities have witnessed, in the name of progress, the ruthless destruction of much loved community green infrastructure that had been provided to them by our city forefathers. In town planning terms the pleasantness of a locality is usually described as "amenity" and yet there has been reluctance on the part of our modern planners to protect amenity. Community activists have had to become tree advocates. Please read attachments No. 7

8. Failure to understand the inextricable link between development, amenity and trees

Although the "destructive powers" also relate to the destruction and loss of known Tree Benefits to the natural environment and public health, previous petitions that raised the issues of harm to public health and to the natural environment (petition 34 in 2006 and Petition 9 in 2008) failed to gain the support of the Ministers of Environment, Health, Local Government and Planning. The Petitions were unsuccessful in bringing the necessary changes in law to protect mature trees, public health and local amenity. This was largely due to the new Barnett Government, as Minister Castrilli rejected in 2009 the Standing Committee's 2007 Recommendation on Petition 34, that a state Model Tree Policy be prepared. Please read attachments No. 8

9. Lack of accountability for the harm to communities due to loss of the urban canopy

There has been little or no accountability for the loss of amenity and the harm to public health and to the natural environment due to developments, policies and practices that decimate our urban canopy. Huge trees sequestering vast amounts of CO2 and with a combined value of many millions of dollars to their communities have been senselessly destroyed without any accountability or compensation for the harm.

In 2008 the Mayor of the Town of Cambridge stated in the local newspaper that 3,000 trees had been removed over 5 years. The Town has continued to remove trees and is now proposing to destroy up to 300 mature trees to make way for the controversial Wembley Sports Park that has

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caused much angst in the Local Community as already referred to in No. 5 of this submission. The Councillors and the Mayor of Cambridge and many other councils have failed to recognize that trees are integral to the development process and to their local amenity. Planting many seedlings in other areas, commonly referred to as “off-setting” is not an acceptable alternative to the retention of mature trees. Informed communities are rejecting this solution to rampant development.

Please read attachments No. 9

10. Perry Lakes development destroyed approximately 130 trees in Cockatoo foraging areas.

With the destruction of approximately 130 mature trees at Perry Lakes in 2011, it became apparent that the development was approved without proper regard for the environment, wildlife, heritage and the real estate value of trees. Both the built environment and the significant natural heritage of the Perry Lakes development site were destroyed along with foraging trees for the endangered Carnaby’s Cockatoos. The Swan River People, whose ancestors were turtle hunters at Perry Lakes, also expressed their concern about the new disturbance to the area when they heard about the protest to save the trees. Please read attachments No. 10

11. Misuse of Arboricultural Reports in the obfuscation process to destroy trees.

It has been said that the engagement of Arborists or Arboricultural Consultants to prepare reports and to audit trees is often an attempt to appease the concerns of local communities and to lull them into a false belief that trees will be protected. In the case of Perry Lakes, countless tagged and “audited” trees were felled and piled up on the ground, and the magnificent focal “protest tree”, Tree No. 58, was only spared because of the direct intervention by protestors, as we pleaded at length with the site supervisor to reconsider the magnificent tree’s removal.

Please see attachments No.11

12. Authorities ignore or are unaware of the dollar value of trees

Authorities often do not require tree reports that ascribe a dollar value to trees where developments are to occur, and yet to do this would be best practice for the preservation of urban canopies. In cases where valuations are included in tree audits, the information is often difficult for the public to access or remains confidential with the relevant authority. In the absence of information about that the high dollar value of many individual trees or stands of trees that our authorities destroy, communities are all the poorer. They are further excluded from the consultation process and are denied the right to know precisely how their rates and taxes are being spent on the destruction of public assets. The dollar value of a tree is an important piece of information in the decision-making process about the proper management trees, along with other social and environmental values. People are questioning the purpose of tree audits in cases where the information is suppressed, the dollar value of trees is not disclosed and the trees are ultimately destroyed. Please read attachments No. 12

13. Authorities use our rates and taxes to destroy our green assets and heritage structures.

Almost without exception when asked, arborists, arboricultural consultants and tree- lopping contractors have expressed the view that they would much prefer to manage trees rather than to destroy them. They hold the view, however, that to refuse to undertake the work would simply disadvantage their business as the work would be undertaken by another company. Trees that are

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protected and maintained ensure a sustainable industry well into the future. Our authorities, however, instruct “tree service providers” and “tree carers” to destroy our wonderful trees when in the city of Kyoto in Japan there are many fine examples of 700-800 year-old trees that have been expertly managed by numerous individuals over many centuries, and along-side world heritage structures. Communities are calling for the local culture of destroying significant built and natural public assets to change. Please see attachments No.13

14. Destruction of the Therapeutic Gardens at QEII Medical Centre Development

During the recent and ongoing development of the QEII Medical Centre, it was revealed by the original landscape architect, Robert Hart, that the design of the Hospital gardens had taken nine years to achieve. The gardens were designed to be “therapeutic gardens” because the healing effect of nature had been well known and researched over many years. Notwithstanding this, after many letters of concern and community protests at the site over the proposed destruction of Monash Bushland and the many mature trees in the therapeutic gardens that included the 130 trees along Winthrop Avenue, the Executive Director of Public Health claimed in his letter of response:

“Preservation of local bushland is foremost an environmental issue, and any connection to possible health benefits is too uncertain and too remote to have any bearing on my responsibilities under the Health Act 1911”.

Appeals were lodged with the Appeals Convenor and the Environment Minister. In a scandalous turn of events, the role of appeals assessment was delegated by the Environment who claimed to have a “conflict of interest” to the Minister for Planning!

In the Health Minister’s letter of response to our concerns he claimed that the EPA and the DEC: *“have carefully considered the environmental values of the (Monash Bushland) site”.*

Please read attachments No. 14

15. Failure of the EPA and the DEC to prevent environmentally destructive policies and practices

In the eyes of many in the communities that have been adversely affected or threatened by loss of Tree Benefits and amenity, both the EPA and the DEC have assumed puppet status under a government that is contemptuous of environmental protectors and that only seems to understand one “bottom line” and not the Triple Bottom Line. Communities are concerned about social and environmental issues because these issues directly affect the well-being of their families both now and well into the future. They expect our environmental protectors to show guidance in the development process.

16. The absence of third party appeal rights

The absence of third party appeal rights in WA, the unscrupulous behaviour of certain individuals in local governments as well as the failure of many councillors to represent the interests of their electors, residents and ratepayers, have been known to facilitate lack of transparency and a corrupt consultation process. Proposals have been known to proceed to the Western Australian Planning Commission without proper input from community stakeholders. It is common knowledge that once development proposals are assessed by the WAPC there is no more scope for communities to appeal a decision. Please read attachments No.16,

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17. Development Assessment Panels

The introduction of Development Assessment Panels in 2009 was the next step in locking out not only the local communities but also the councillors whose role it is under the Local Government Act 1995 to represent the interests of their electors, residents and ratepayers. The DAPs were to facilitate the development approvals process and clearly to satisfy the needs of developers above the interests of local communities. Please read attachments No.17

18. Metropolitan Redevelopment Authority / Midland Redevelopment Authority

The ultimate blow to communities and to our democracy came in 2011 with the new Metropolitan Redevelopment Authority Act. This Act provides inadequate control over the Authority that has already shown just how ruthless and contemptuous of due process it can be. Western Australians have witnessed the destruction of the heritage listed Esplanade Reserve and its glorious iconic trees. Approximately 300 trees have been sacrificed in the process.

The giant 600 tonne Moreton Bay Fig Tree was the first to be dismembered and wood-chipped behind the black hoarding in the early hours of Saturday, 16th June 2012, while most of Perth was still sleeping. As if by stealth and in a show of utter contempt for the concerns and feelings of the people of Western Australia, the wonderful, healthy 100 year old giant Fig was quickly destroyed before most people even knew of the plans. Every Sunday in July, following this utterly stupid and senseless act by our modern city planners, people who became informed of the devastation gathered and brought flowers in memory of the giant tree and the lost heritage of the Esplanade Reserve. The graffiti on the hoarding read: "Ecocide", "Colin the Barbarian", "MRA = Madness Running Amok" and so on.

The MRA Act 2011 appears to have given the green light to the Authority to ignore common sense and fundamental science about the role of trees in the environment. The MRA's powers have clearly transcended those of Local Government, Heritage, Environment and Health. Had good planning prevailed the Authority would not have acted in such a destructive manner, ignoring the need for a thorough environmental assessment as well as a proper and timely community consultation process.

The Authority lodged a Section 18 only after commencement of the forward works, adding further insult to those indigenous Australians whose heritage is firmly linked to this area.

Complicit in this outrageous act of destruction by the MRA have been the Ministers for Planning, Environment, Health, Heritage and Local Government, their respective Heads of departments, the Swan River Trust, as well as the CEO, the Mayor and Councillors of the City of Perth who voted in favour of the transfer of titles and the handing over of the heritage listed community asset so that it could be destroyed in the forward works.

Jane Bremmer of the Alliance for a Clean Environment warns that the Metropolitan Redevelopment Authority is largely composed of individuals who were widely criticized for their role in the Midland Redevelopment Authority. Does this new Act protect those individuals who have already failed their communities by not addressing legitimate health and environmental concerns? Please read the attached statement from Jane Bremmer. Please see attachments No.18

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The Save Our Trees network looks forward to an investigation into the matters raised and to the necessary changes to current laws that appear to provide little or no protection to our public assets, our public open green spaces and our mature trees. We apply the same logic to the issues raised in Petition 167 as the Federal Environment Minister applied to the issue of the Super Trawler. He chose his words wisely and we can say here too that our authorities are not being precautionary enough in protecting the natural environment and public health when they allow rampant destruction of our natural and built heritage due to poor planning.

Environment Minister Burke: *"When the law falls short, you change the law"*

Yours sincerely,



Alex Jones

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