



shire of Ashburton
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Wednesday, 05 January 2022

Hon Peter Foster MLC
Chair
Standing Committee on Environment and Public Affairs
Parliament House
4 Harvest Street
West Perth WA 6005

Dear Sir,

Thank you, for correspondence addressed to the undersigned seeking comment in relation to the terms of reference of a petition received and tabled in the Legislative Council.

I identify myself to the Chair as the Chief Executive Officer for the Shire of Ashburton a position I have held since 2020. I also advise the Chair that the Shire of Ashburton Council has delegated myself to represent the Council at the Wittenoom Steering Committee, a Committee of the State Government of Western Australia representative of officers of State agencies. (Acknowledging that though supported this group has never met with the undersigned as a member). Minutes from these meetings may assist the Standing Committee on Environment and Public Affairs (Committee) in considering the Petitions scope.

In relation to the Petition tabled before the Legislative Council I would provide the following comment in relation to the townsite of Wittenoom and adjacent mining operations.

It is assumed that the Standing Committee has assessed whether it should respond to the petition in view of the processes under the Contaminated Sites Act for determining who is responsible for or contributed to the contamination and the need for the Committee to seek clarification of the specific locations within Contaminated Site 11860 which are the subject of any investigation by the Committee should it undertake an investigation. Decisions as to the responsibility for the remediation of a contaminated site are made by the Contaminated Sites Committee under the Contaminated Sites Act and in making such a decision the Contaminated Sites Committee must consider who caused or contributed to the contamination and it is presumed the Committee has taken into consideration the legislative processes before the State.

Should the Committee seek to undertake an investigation the Shire of Ashburton may seek to make significant legal representation during this process.

The contamination that remains at Wittenoom is highly dangerous and uncontrolled this is prima facie and well supported through the court records of Australia.



The Petitioners claim that this contamination has had a significant impact on the environment and continues to do so is acknowledged. It is noted that every significant water flow sees Blue Asbestos carried downstream from the mine in the Wittenoom Asbestos Management Area (WAMA) across the Munjina/Nanutarra Road. A public road, utilised by the mining sector, tourists, and pastoral activities. Numerous mining infrastructure projects have been provided approval by the State through this area including sections of Rio Tinto's Koodaidarie (Gudai-Darri) rail project and FMG's Solomon/Elliwana rail and power line infrastructure. In addition, there are active mineral exploration leases, a working pastoral lease (Mulga Downs) and a section of the Wittenoom/Roebourne Road within the WAMA.

Though I have raised my concerns with members of the State Public Service, I remain unaware of any planned mitigation strategy other than the closure of the town process to mitigate this toxic waste and remain concerned that the contamination of the site will largely remain. I have also raised the issue with Department of Fire and Emergency Services at a Regional level as I remain concerned for volunteers and officers fighting fires in this region that could become affected by airborne dust particles in their rawest form and not encapsulated.

While the State Public Service has liaised with officers of the Council in relation to the closure of the Townsite of Wittenoom, I would recommend the Committee investigate the Wittenoom Gorge remnants of the mining operations as significant bulk contaminant from the mine remains and is spread annually and this has the propensity to cause injury and loss of life to those susceptible long term.

The Wittenoom Gorge area is one of the State's if not the Nation's most magnificent and beautiful assets and effort should be given to consider the Petitioners request for the site to be remediated. The custodian's petition implying that the country has not been well managed during and after the mining practices is evident through photographic evidence. (Attachment A).

In relation to the Petitioner's comments, photographic evidence demonstrates a high risk that to not remediate this site fully, may only contribute to the long-term suffering and death of people in the general vicinity of the pollution trail who are susceptible to mesothelioma, asbestosis and other asbestos related ailments and the contamination that will continue to spread down the watercourse. The asbestos fibres are not being contained at Wittenoom and are spreading. The Committee may choose to investigate as part of its terms of reference that without controls being put in place it is likely that people will continue to be affected by the contamination for generations.

The Committee may wish, as part of its considerations of the Petition to investigate the amount of royalty payments that are attributed to the State Government's revenue from this local government district and note that there are sufficient funds that come from mining that could be directed to an environmental decontamination program due to the significant health risks at stake and long-term consequences of not recognising the Petitioners representations to the Committee. It is understood that a remediation fund has been established by the State Treasury Department and the Committee may choose to investigate how those funds could be utilised in relation to any recommendations that the Committee may determine in considering the Petition placed before the Legislative Council.

Further, any focus to solve the problem by closing the gazetted townsite is only one of a series of solutions needed to remediate this site and the Committee should not rely on proposed resolutions to be just the town site closure during its considerations of the Petition.



Chair, while I am not medically qualified to make scientific or medical assumptions of the above statements, I can advise that as Principal Officer of the Shire of Ashburton I am privy to confidential legal claims for asbestos related disease as the Shire of Ashburton is an amalgamation of two (2) previous local government authorities one of which "The Shire of Tablelands" had Wittenoom as its primary town. Thus, through transitional provisions contained in the Local Government Act all legal claims that affect that Shire corporation directly affect the Shire of Ashburton for any action pre-amalgamation. It is through this knowledge that comes from case actions that the suffering and health impacts of exposure to asbestos fibres caused by the mining of asbestos can be assessed.

The Committee is advised that the Shire of Ashburton has expended more than \$5.8 million dollars in legal advice and settlement costs associated with the Town of Wittenoom between the years of 2011/12 and 2020/21 and these costs are not covered by insurances and directly affect the sustainability of the local government to provide services to its community.

It is felt that the Committee through its Secretariat, may choose to consider Hansard debates in Parliament in relation to the town of Wittenoom and that these records should be accessed back to the establishment of the Mine as this may assist the Committee.

As Chairman, the Committee should be cognisant of the recent impact that the destruction of the Juukan Caves had on Aboriginal people in this Shire and nationally. The impacts this had on the Aboriginal peoples of this district were significant and may be considered in parallel to statements made by Ministers of the Crown during this time. It is highly likely that a very similar comparison could be made between the two sites in that the State Government has been very aware of this matter for many years and the site remains as is.

Extension of Review of Scope listed by Petitioners.

I would also ask the Committee to extend the terms of reference listed by the petitioners to the associated roads contaminated by asbestos bagging and the contamination of the asbestos across roads in the district, particularly the Roebourne Wittenoom Road. The Council and Principal officers before me have consistently raised their concerns of contamination of this road and whether actions should be undertaken to seal this road (This is a listed Road of Regional importance to the Pilbara Regional Roads Group) due to contamination that occurred from asbestos bags being dropped from trucks during the cartage of the product to port and remains a public road which is needed and used by the travelling public as well as mining operations and pastoral industries.

As an example, the cost to the Shire of Ashburton to maintain this road with a single maintenance grade treatment over its length 144.43km would normally be in the vicinity of \$445,000 dollars. The actual cost to maintain the road taking into consideration the protective measures applicable to the risk associated with the Asbestos contamination is \$1,155,000. This excluding any remediation measures should further consolidated contaminates be found. This maintenance grading treatment would ordinarily be required two times per year resulting in an annual cost to the Shire of Ashburton rate payers of \$2,310,000 which exceeds the maintenance budget for its complete 1,453km unsealed road network.



It would be prudent for the State Government to support the sealing of this road surface to ensure the safety of the travelling public, Aboriginal peoples and industry still using the road as a thoroughfare. This road is vested with the Shire of Ashburton pursuant to section 3.53 of the Local Government Act 1995 from the State Government and attached correspondence from Main Roads WA indicates that no further support from the State of Western Australia to remediate the contamination on the road will be forthcoming albeit that these roads remain regional arterial roads for mining access, public transport and pastoral use.

I hope that I have been able to assist the Committee and have adequately addressed the correspondence sent to the undersigned. Please do not hesitate to contact the undersigned further if I could be of service to the Committee.

Yours in service

Kerán Donohoe
Chief Executive Officer

Attachment A



Attachment A



