



**Hon John Carey MLA**  
**Minister for Housing; Lands; Homelessness; Local Government**

Our Ref: 78-09272  
Your Ref: A98778 Petition No. 56

- 8 NOV 2022

Hon Peter Foster MLC  
Chair  
Standing Committee on Environment and Public Affairs  
Email: [env@parliament.wa.gov.au](mailto:env@parliament.wa.gov.au)

Dear Mr Foster

Thank you for your letter dated 17 October 2022 regarding Petition No. 56 – Commercial development at Pinnaroo Point, Hillarys.

I understand the Department of Planning, Lands and Heritage (Department) has previously provided advice to the principal petitioner, Mr Mitchell Sideris, regarding the Crown lease at Pinnaroo Point (Lease).

The Lease is an agreement between the State of Western Australia and the City of Joondalup (City), which commenced on 1 July 2020 for an initial term of 10 years, with options for further terms of 10 years, 10 years and 12 years respectively. The Lease's permitted use is for 'the construction and operation of a kiosk, cafe, restaurant, bar and function centre'.

The Lease area was previously part of the adjoining Crown reserve which was created in September 1986 for the purpose of 'Parks and Recreation' and managed by the City. Due to the commercial nature, the land was excised from the reserve to enable a lease to be granted.

In December 2021, the Western Australian Planning Commission approved a development application for the site, which was guided by the principles of *State Planning Policy 2.6 - Coastal Planning*. This included consideration of the development in the context of orderly and proper planning for the locality, as well as the preservation of local amenities.

In regard to the specific points raised within the Petition on the Crown Lease, I can provide the following advice:

- *Review the various approval processes that allowed a Crown lease O463422 for commercial development.*

Section 79 of the *Land Administration Act 1997* (LAA) provides the Minister for Lands with the power to grant leases over Crown land for any purpose, as well as determining the rentals and conditions in respect of any such lease. The Lease was granted to the City by the Department under delegated authority.

Prior to granting any lease, the Department undertakes a due diligence process to identify any potential site constraints and obtains comments and approvals from relevant agencies regarding the proposed tenure amendments. The then Department of Planning was consulted in this case to ensure any land use planning implications were considered.

The due diligence and assessment process ensures that Crown land is utilised appropriately and at its most optimal use, to the benefit of the State and the community. It is noted that there are a number of sites along the coast where land has been excised from a reserve and leased for commercial development.

- *Determine if the approval satisfied all public sector policy, practice and schemes.*  
The City's Lease at Pinnaroo Point stipulates that it is responsible for any coastal hazard mitigation strategies, as well as taking measures to reduce coastal erosion. A specific clause included within the lease outlines the City's environmental obligations, and that no contamination, pollution or environmental harm is to be permitted.

The lease also specifies that the City must comply with all laws with respect to the use and occupation of the leased premises. Laws are defined within the lease as 'any requirement of any statute, regulation, proclamation, ordinance or by-law, present or future, and whether State, Federal or otherwise'.

- *Determine why the 1976 EPA Report TP 119 was ignored.*  
The 1976 Environmental Protection Authority (EPA) advice refers to the area surrounding Pinnaroo Point remaining in public ownership and ensuring that adequate measures be taken to address risks of coastal erosion.

The land at Pinnaroo Point has not been sold into private ownership and remains Crown land owned by the State. As noted above, clauses were also included in the Lease which detail the City's environmental obligations and require the City to manage coastal erosion, including implementation of appropriate coastal hazard mitigation strategies.

- *Reconsider the lease agreement, O463422, and reaffirm the aspirations and values of the Parliament and State Government that purchased the Whitford Nodes to establish and preserve the land as a significant Coastal Regional and passive Recreational Parkland.*  
The Lease provides the City with an exclusive use of the land at Pinnaroo Point for the Lease's permitted use. If the City adheres to the conditions of the lease, it may occupy the land during the lease term without any interference from the Department and the Minister for Lands, except where otherwise allowed by the Lease or the LAA.

The remaining points within the Petition fall within the responsibility of the Hon Rita Saffioti MLA, Minister for Planning, who I understand has also been provided with a copy of the Petition for comment.

Yours sincerely



HON JOHN CAREY MLA  
**MINISTER FOR LANDS**