

21st December 2015

Hon Simon O'Brien MLC
Chairman
Standing Committee on Environment and Public Affairs
Parliament House
Harvest Terrace
PERTH WA 6000

Dear Mr Chairman,

Thank you for presenting the petitions, which are now known as Petition 106 – Kings Park Status, to give the people who signed them an opportunity to put forward their views to the Parliament.

Kings Park is Western Australia's great and most widely know icon and each year I believe it is visited by at least 5 million people. The fact that it has survived as a national treasure, with its shrine commemorating all those who died in the service of their country and its combination of gardens, nature walks and wild bush right on the margin of the City of Perth, is due entirely to the foresight of the Parliament of Western Australia. The Parliament provided the Park with triple-bottom-line protections, the chief of which was to ensure that the Park is not a part of and is totally separate from the City of Perth District.

Under the City of Perth Bill 2015, Explanatory Memorandum, "Overview of the City of Perth Bill 2015" Parliament is now being asked to *remove* this protection by incorporating Kings Park as a part of the new district of the City of Perth. The proposal, which is now in the City of Perth Bill, (Clause 18(3)), to re-incorporate Kings Park within the City of Perth District, which is now before Parliament, is totally contrary to the protections provided to Kings Park by the Parliament of Western Australia.

Kings Park is currently an area of unincorporated land under the auspices of the Botanic Gardens and Parks Authority Act 1998. However, the City of Perth Bill opens the way to the transfer of Kings Park, under the control of the City Of Perth, which would remove its national, or state-wide, status by making it just a 'city park'. In addition, even worse, as was threatened at the Commonwealth Games, the encroachment of development on the Park for other purposes contrary to the best interests of, not only the Park itself, but of Western Australia's most iconic feature and the protections it already owes to the WA Parliament.

The list below provides some of the details contained in the
"Overview of City of Perth Bill 2015 – Explanatory Memorandum"

Clause 28 – Act Amended

Clause 28 provides that the Bill amends the Botanic Gardens and Parks Authority Act 1998 (the Botanic Gardens Act). No information provided.

Clause 29 – Section 44A inserted

Clause 29 of the Bill inserts a new section 44A into the Botanic Gardens Act. The purpose of this amendment is to allow the Executive Director, Public Health and all persons authorised by him to exercise and perform all or any of the powers and duties of a local government over designated land under the Botanic Gardens Act (Kings Park). To enable this to occur a new section 44A contains five new subsections, as follows:-

New subsection (1) provides that the meaning of the Executive Director, Public Health has the meaning given in the Health Act 1911 and explains that public health means the health of individuals in the context of the wider community and the combination of safeguards, polices and programs to promote and improve the health of individuals and their communities.

New subsection (2) provides that for the purposes of protecting, promoting and improving public health, the Executive Director, Public Health has all the power and authority of a local government under the Local Government Act 1995 over the designated land.

New subsection (3) provides that the Executive Director's powers will include the power to make and enforce local laws under the Local Government Act 1995.

New subsection (4) provides that prior to the making of a local law, the Executive Director must consult with the Botanic Gardens and Parks Authority and consider any advice provided. When making a local law, the Executive Director is to have it published in the Government Gazette and inform the public of the purpose and effect of the local law. This subsection also provides that the local law comes into effect 14 days after being published and that the Executive Director can also repeal local laws.

New subsection (5) provides that if there is a conflict, or inconsistency, between a local law made by the Executive Director and one made by a local government under the Local Government Act 1995, or any other Act, the local law made by the Executive Director Public Health will prevail to the extent of the conflict or inconsistency.

Clause 30 – Section 53A inserted

New section 53A provides that local laws do not apply to Kings Park, other than a local law made by the Executive Director, Public Health, under the new Act, Section 44.

Having trawled my way through as much information as I can, it would seem that the person who has the title of the "Executive Director Public Health" holds a very powerful position indeed, which could have grave ramifications for the future of Kings Park.

In light of the above, I would be grateful if your Committee could look very closely into this extremely important matter.

Yours faithfully

Cheryl Mowbray