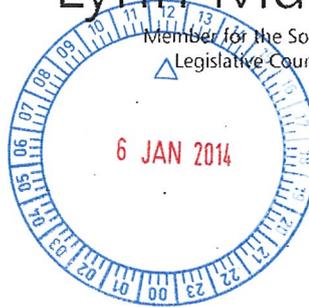




Lynn MacLaren MLC

Member for the South Metropolitan Region
Legislative Council Western Australia



Unit 7, 142 South Terrace
Fremantle Western Australia 6160
Telephone: (08) 9430 7233
Facsimile: (08) 9430 7207
Email: southmetro2@mp.wa.gov.au
Web: www.lynnmaclaren.org.au

Attention: Ms Margaret Liveris, Committee Clerk
Standing Committee on Environment and Public Affairs
Parliament House
PERTH WA 6000
Also by email: env@parliament.wa.gov.au

Dear Committee Members

PETITION NO 24 – PROTECT HEALTH AND ENVIRONMENT
PETITION NO 25 – OPPOSING USE OF PESTICIDES ON PUBLIC LAND AND OPEN SPACES

I refer to the letters I received from the Committee Chair, Hon Simon O'Brien MLC, dated 10 December 2013, inviting me to provide written submissions regarding these two petitions.

I note that the issues in Petition 25 somewhat overlap with issues (f) and (g) in Petition 24. I therefore ask the Committee to treat this letter as my supporting submission in respect of both petitions. Accordingly my submission exceeds two pages; it is however well within the total of four pages allowed me to respond to the two petitions.

I confirm that I do wish the Committee to inquire into the matters raised in the two petitions. To the best of my knowledge, the issues have not been taken to the Ombudsman.

On 20 September 2006 Hon Giz Watson MLC tabled a petition containing 735 signatures in the Legislative Council. The petition sought the House's support on a moratorium on removal of mature trees from public land in urban areas, and protection of such trees as a public asset. Having inquired into the issues, the Committee noted that each local government authority is an independent autonomous body but formed the view that a model tree policy would be a constructive way forward. It therefore recommended (Report 10, September 2007) that the Minister for Local Government with the support of the Minister for Planning and Infrastructure in conjunction with local governments develop a model tree policy for protecting mature trees in urban areas.

The government response to this recommendation (tabled in March 2008) was that Hon Ljiljana Ravlich MLC (former Minister for Local Government) recommended to the Minister for Planning and Infrastructure that officers from the Department of Planning and Infrastructure, Swan River Catchment Authority and the Department of Local Government and Regional Development, in conjunction with the Western Australian Local Government Association, examine how a model tree policy would fit within current legislation, policies and programs, including identifying existing State and local government programs and mechanisms that might facilitate or provide for the preservation of mature trees in urban areas, and examine whether any modification/adaptation of these could be undertaken to better facilitate the retention of mature trees in both developed urban settings and areas under development such as new subdivisions. Minister Ravlich said she would advise the Committee further when the matter had been examined in more detail.



Some months later, and prior to any significant progress in the matter, the 2008 State Election occurred and resulted in a change of government.

On 12 November 2008 Hon Giz Watson MLC tabled a further petition in the Legislative Council. This petition contained 954 signatures and sought the House's support for "the urgent introduction of legislation that would protect the community's health and environment, and to support the guiding principle that the Ministers for Environment, Planning and Infrastructure, Local Government and Health exercise their full legislative powers" to stop the clearing of urban bushland, stop the removal of mature trees from public land in urban areas, provide a model tree policy to protect and preserve public trees in urban areas, stop public sale of synthetic chemical herbicides and pesticides, and stop use of such herbicides/pesticides on areas such as footpaths, verges, medians, drainage sumps, parkland, playing fields, playgrounds and bushland.

Apart from the submission provided in support of the petition, the only evidence taken by the Committee was from Hon John Castrilli MLA, the new Minister for Local Government. His response (dated 22 December 2008) was that he did not have legislative power to prevent clearing of trees from public land or to control the sale of herbicides/other chemicals (arguably something the petition implicitly acknowledged by its request for new legislation to be introduced), he saw no need for developing a model tree policy under his portfolio because local government could do so itself if it so chose, and that he had sent a circular to local governments advising that he did not consider it necessary for the Government to intervene but he encouraged them to ensure their approach to the preservation of mature trees on private and public land accorded with the wishes of residents and other local stakeholders and incorporated effective measures to achieve that outcome. On this basis the Committee finalised the petition, without considering the issues it raised in any detail.

However the 2008 petition raised new issues that had not been considered in the context of the 2006 petition. These included land clearing and use of pesticides in public areas. As already noted, nor were they considered in the context of the 2008 petition. Those issues are again raised in the two petitions under consideration. I submit that it is time for the Committee to consider them.

In support of reconsideration by the Committee of the protection of mature trees and model tree policy issues, I note that the initial government response included a commitment to examining whether any modification/adaptation of existing State programs and mechanisms could be undertaken to better facilitate the retention of mature trees in both developed urban settings and areas under development such as new subdivisions.

This question of whether or not useful improvements can be made to *State* processes was not addressed by Minister Castrilli in his response to the Committee regarding the 2008 petition. This is particularly significant as the Committee's report on the 2006 petition identified that there is at least one improvement the State could make. Paragraph 5.206 of that report refers to a letter from WALGA which stated: "The Association brings to the attention of the Committee that the initial opportunity to identify and protect large mature trees is at the approval of subdivision stage. An appropriate consideration of such vegetation that could enhance future streetscapes and public open space does not appear to be a realised opportunity during the subdivisional assessment process, undertaken by the Western Australian Planning Commission." WALGA contended that much greater emphasis by State planning authorities in the identification and incorporation of high value natural assets into the land use planning framework is required. Notwithstanding this, the answers given on behalf of the Minister for Planning to Question 5377 on 1 May 2012 indicated that no direct steps had been taken by the WAPC in response to the statements made by WALGA.

In further support of the Committee inquiring into the pesticides issues raised in the two petitions I note:

- Between approximately 2007 and 2010 the Department of Environment and Conservation was required to investigate an incident whereby the deaths of mature trees in Joondalup and Stirling were caused by inappropriate use of hexazinone during a drought period to kill weeds, by a contractor used by the Joondalup and Stirling local government authorities
- As the Committee is aware from its previous inquiry into the Alcoa refinery at Wagerup:
 - Reports of significant health and environmental impacts may occur in circumstances where recorded levels of individual chemicals do not exceed permissible levels
 - Some Western Australians suffer from multiple chemical sensitivities (MCS), a condition which causes them to suffer severe symptoms following exposure to low doses of chemicals that would be tolerable to most people
- The answers given on behalf of the Minister for Health to Questions 3874 of 28 June 2011 and Question 4550 of 22 September 2011 indicate in relation to the Department of Health's publication "A guide to the management of pesticides in local government pest control programs in Western Australia", distributed to all local governments around October 2009:
 - The guide is not mandatory, though I understand the State Government is capable of making it so by amending the Health (Pesticides) Regulations 2011 if that is considered necessary
 - The State Government is not monitoring the extent to which local governments have adopted the guide and implemented the best management practices it contains
 - Licences under the Health (Pesticides) Regulations 2011 do not contain conditions requiring the guide to be complied with (the Minister's answer refers to over 2000 licences and over 800 business registrations)
- Some jurisdictions have successfully implemented mechanisms to reduce use of pesticides in public areas. For example, Petition No 25 refers to a Canadian ban. Another example is that in the United States, there is a pesticide-free program used by various local parks.

For the above reasons I ask the Committee to inquire into the issues raised in the two petitions.

Yours sincerely



Hon Lynn MacLaren MLC
Member for South Metropolitan Region
6 January 2014