



THIRTY-EIGHTH PARLIAMENT

REPORT 29

**STANDING COMMITTEE ON ENVIRONMENT AND
PUBLIC AFFAIRS**

INTERIM REPORT

**INQUIRY INTO THE SANDALWOOD INDUSTRY IN
WESTERN AUSTRALIA**

Presented by Hon Brian Ellis MLC (Chair)

November 2012

STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS

Date first appointed:

17 August 2005

Terms of Reference:

The following is an extract from Schedule 1 of the Legislative Council Standing Orders:

“1. Environment and Public Affairs Committee

- 1.1 *An Environment and Public Affairs Committee* is established.
- 1.2 The Committee consists of 5 members.
- 1.3 The functions of the Committee are to inquire into and report on –
 - (a) any public or private policy, practice, scheme, arrangement, or project whose implementation, or intended implementation, within the limits of the State is affecting, or may affect, the environment;
 - (b) any bill referred by the House; and
 - (c) petitions.
- 1.4 The Committee, where relevant and appropriate, is to assess the merit of matters or issues arising from an inquiry in accordance with the principles of ecologically sustainable development and the minimisation of harm to the environment.
- 1.5 The Committee may refer a petition to another committee where the subject matter of the petition is within the competence of that committee.
- 1.6 In this order “**environment**” has the meaning assigned to it under section 3(1), (2) of the *Environmental Protection Act 1986*.”

Members as at the time of this inquiry:

Hon Brian Ellis MLC (Chair)

Hon Kate Doust MLC (Deputy Chair)

Hon Phil Edman MLC

Hon Colin Holt MLC

Hon Lynn MacLaren MLC

Staff as at the time of this inquiry:

Denise Wong (Advisory Officer (Legal))

Amanda Gillingham (Research Officer)

Mark Warner (Committee Clerk)

Address:

Parliament House, Perth WA 6000, Telephone (08) 9222 7222

lcco@parliament.wa.gov.au

Website: <http://www.parliament.wa.gov.au>

ISBN 978-1-922047-31-1

Government Response

This Report is subject to Standing Order 191(1):

Where a report recommends action by, or seeks a response from, the Government, the responsible Minister or Leader of the House shall provide its response to the Council within not more than 2 months or at the earliest opportunity after that time if the Council is adjourned or in recess.

The two-month period commences on the date of tabling.

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**INTERIM REPORT OF THE
STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS**

IN RELATION TO THE

INQUIRY INTO THE SANDALWOOD INDUSTRY IN WESTERN AUSTRALIA

1 REFERENCE AND PROCEDURE

- 1.1 Petition number 152 (**Appendix 1**) was tabled in the Legislative Council on 20 March 2012.¹ The petition requests that the House support a royal commission into the Forest Products Commission and that all sandalwood operations cease, pending the findings of the royal commission.
- 1.2 The petition was referred to the Standing Committee on Environment and Public Affairs (**Committee**) pursuant to the Legislative Council's Standing Order 101(6). After making preliminary inquiries in accordance with its standard procedure for dealing with petitions,² the Committee resolved, on 19 September 2012, to inquire formally into the sandalwood industry in Western Australia, with the following Terms of Reference:

The Committee is to inquire into and report on the regulation and management of the sandalwood industry in Western Australia; in particular:

- a) the regulation and management of the harvesting of wild sandalwood;*
- b) the regulation and management of the sales of wild sandalwood;*
- c) the environmental sustainability of wild sandalwood; and*
- d) any other relevant matters.*

- 1.3 The Committee notified the Legislative Council of the inquiry on 20 September 2012. The Committee advised the public of the inquiry and sought submissions, in addition

¹ Hon Wendy Duncan MLC, Parliament of Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 20 March 2012, p788.

² For a description of this procedure, refer to: Parliament of Western Australia, Legislative Council, Standing Committee on Environment and Public Affairs, Report 20, *Overview of Petitions*, 12 August 2010, pp2-3.

to the submissions already received as part of the petitions process, using the following means:

- Placing details of the inquiry on its webpage.
- Issuing a media release on 20 September 2012.
- Placing an advertisement in *The West Australian* newspaper on 22 September 2012.

1.4 To date, the Committee has received 30 submissions (listed at **Appendix 2**), all but five of which were accepted as public evidence. The Committee held four hearings, the details of which are contained in **Appendix 3**. Valuable information, including photographs, was obtained by the Committee through written correspondence. In addition, the Committee conducted its own research.

1.5 The Committee extends its appreciation to the people who, and the organisations which, have provided evidence and information in the course of the Committee's consideration of the petition and the inquiry to date. Indications are that there is a great deal of public interest about this inquiry and more people will want to be involved.

2 BACKGROUND TO THE SANDALWOOD INDUSTRY

2.1 A concise description of the biology and ecology of Western Australian sandalwood (*Santalum spicatum*) is provided in a letter from the Minister for Environment.³ The submission from the Department of Environment and Conservation provides a summary of the regulation and management of the Western Australian sandalwood industry⁴ as well as further information about the plant's biology and ecology⁵.

3 ISSUES WHICH HAVE ARISEN SO FAR

3.1 During the Committee's preliminary inquiries into Petition number 152 and its evidence gathering for the inquiry to date, the following significant issues have arisen:

³ Letter from Hon Bill Marmion MLA, Minister for Environment, 25 June 2012, p1, available on the Committee's petitions webpage: [http://www.parliament.wa.gov.au/Parliament/commit.nsf/\(view Petitions\)?openview&com=Environment and Public Affairs Committee](http://www.parliament.wa.gov.au/Parliament/commit.nsf/(view%20Petitions)?openview&com=Environment%20and%20Public%20Affairs%20Committee) (viewed on 26 October 2012).

⁴ Submission No 28 from the Department of Environment and Conservation, 19 October 2012, pp1-3 and 7-8. This is available on the Committee's webpage: www.parliament.wa.gov.au >> Legislative Council >> Committees >> Current Committees >> Environment and Public Affairs Committee >> Current Inquiries >> Inquiry into the Sandalwood Industry in Western Australia.

⁵ *Ibid*, pp9-11.

- The governing legislation is out-dated, complex and, in some cases, inconsistent. For example, there are four main governing Acts, with the principal Act commencing in 1929.
- The maximum penalties prescribed by the governing legislation require review.
- There are gaps in the regulation and management of the industry: for example, many post-harvest dealings with sandalwood, such as the possession, transport, storage, purchase, processing and export of sandalwood.
- There are practices which occur within the industry which are the result of administrative decision-making with no legislative basis.
- There is disquiet and frustration amongst people who hold pastoral leases over land which is owned by the State and on which wild sandalwood grows.
- The incidence of illegal harvesting of sandalwood appears to have grown in the last 12 to 18 months and is a threat to the environmental and economic sustainability of the industry.
- There appears to be a monopoly within the private sector over the marketing and selling of the majority of wild sandalwood taken from Crown land, which is a State resource.
- There appears to be a monopoly within the private sector over the receipt of a substantial amount of wild sandalwood taken from Crown land, for what appears to have been below market prices.
- The current harvesting of wild sandalwood is not environmentally sustainable.
- There are concerns about the regeneration of wild sandalwood stocks, whether or not there is human intervention.
- The regulation and management of the industry is disjointed and bureaucratic.
- The relevant licensing and enforcement agency, the Department of Environment and Conservation, is under-resourced and lacks power.

4 MAXIMUM PENALTIES FOR ILLEGAL HARVESTING

- 4.1 Due to the time constraints imposed by the term of the 38th Parliament, the Committee was not able to explore all of the above issues fully. However, one issue which has quickly emerged is that of the inadequate maximum penalties prescribed by the governing Acts for the illegal harvesting of wild sandalwood. This issue is highlighted here for the Government's immediate attention.
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4.2 The illegal harvesting of wild sandalwood attracts a maximum penalty of:

- \$200 under section 3 of the *Sandalwood Act 1929*;
- \$4,000 under section 26 of the *Wildlife Conservation Act 1950*; and
- \$10,000 or one year in prison under section 103(1) of the *Conservation and Land Management Act 1984 (CALM Act)*. This offence applies to the unlawful taking of sandalwood on CALM Act lands.⁶

4.3 Given that sandalwood can fetch up to \$15,000 per tonne, these maximum penalties seem to be insufficient to deter illegal harvesting of this resource. The Department of Environment and Conservation, submitters and witnesses appearing before the Committee made this observation and were of the view that the maximum penalties should be increased.⁷ However, the Department of Environment and Conservation also acknowledged that simply increasing the maximum penalties, without further regulatory controls, would not be enough to discourage illegal harvesters.⁸

Recommendation 1: The Committee recommends that the Government, as a matter of urgency, review the legislation governing the sandalwood industry, with a view to increasing the maximum penalties prescribed for the illegal harvesting of wild sandalwood.

5 CURRENT AND FUTURE STATUS OF THE INQUIRY

5.1 Given that the 38th Parliament will be ending imminently, the Committee has been unable to progress the inquiry any further. As noted above, significant issues have already been raised. The Committee considered that more evidence needs to be gathered and all of the information analysed. Accordingly, the Committee was of the view that the inquiry should proceed in the next Parliament.

⁶ *Ibid*, p2.

⁷ *Ibid*, pp5 and 12. For example, Submission No 1 from Hon Wendy Duncan MLC, received on 26 April 2012, p2; Submission No 10 from GP Forestry, 3 September 2012, p3; Submission No 14 from Private Submitter, 3 October 2012, p3; Submission No 22 from TFS Corporation Ltd, received on 19 October 2012, p12; Submission No 23 from Western Australia Police, 17 October 2012, p2; *Transcript of Private Evidence*, 12 September 2012, p5; Mr John Tredinnick, Director Forest Operations, and Mr Benjamin Sawyer, Sandalwood Manager, Forest Products Commission, *Transcript of Evidence*, 26 September 2012, p14; Mr Tim Coakley, Executive Chairman, Wescorp Holdings Pty Ltd, *Transcript of Evidence*, 17 October 2012, p8; and Mr Keiran McNamara, Director General, Department of Environment and Conservation, *Transcript of Evidence*, 24 October 2012, p4.

⁸ Mr Keiran McNamara, Director General, Department of Environment and Conservation, *Transcript of Evidence*, 24 October 2012, p4.

- 5.2 The Committee commends this body of work and evidence to the House in anticipation that it will be taken up in the 39th Parliament and reported in a completed form.

Recommendation 2: The Committee recommends to the Legislative Council that the Standing Committee on Environment and Public Affairs, or another appropriate committee, proceed with the Inquiry into the Sandalwood Industry in Western Australia during the 39th Parliament. This inquiry should include, but not be limited to:

- (a) the roles of the Department of Environment and Conservation and Forest Products Commission in the management and commercialisation of sandalwood;
- (b) how future contracts for the harvesting, marketing and selling of sandalwood can be managed to ensure that all sectors of the industry remain viable and sustainable and the returns to the State are maximised;
- (c) the management of wild sandalwood, including monitoring of the resource and regeneration;
- (d) the government resources required to effectively detect and prosecute the illegal harvesting and exporting of sandalwood, including the transport, storage, purchase, possession and identification of the sandalwood resource; and
- (e) a review of all relevant legislation pertaining to the sandalwood industry.



Hon Brian Ellis MLC
Chair
27 November 2012

APPENDIX 1
PETITION NUMBER 152

I, Keith Mader
which contains

~~1,939~~ ^{signatures} 1,936

Western Australia, am the promoter of this petition

**PETITION IN RELATION TO A ROYAL COMMISSION INTO THE SANDALWOOD INDUSTRY RUN BY
FOREST PRODUCT COMMISSION**

To the President and Members of the Legislative Council of the Parliament of Western Australia in
Parliament assembled.

We the undersigned residents of Western Australia are opposed to the mismanagement and unsustainability
of the sandalwood industry under the management of Forest Products Commission.
Your petitioners therefore respectfully request the Legislative Council to support a royal commission into
Forest Products Commission and that all sandalwood operations cease, pending the findings of a royal
commission.

And your petitioners as in duty bound, will ever pray.

NAME	ADDRESS	SIGNATURE
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APPENDIX 2

LIST OF SUBMISSIONS

No	Name	Date
1	Hon Wendy Duncan MLC	rec 26/04/12
2	Private	13/04/12
3	Stephen Darley, Managing Director, AustOils Pty Ltd	02/05/12
4	Stephen Fry, Santaleuca Forestry	rec 06/06/12
5	Rob Gillam, President, Pastoralists and Graziers Association	03/07/12
6	Ron Mulder, Director, WA Sandalwood Plantations	12/07/12
7	Private	03/08/12
8	Tim Coakley, Executive Chairman, Wescorp Group	30/08/12
9	Kevin Haylock, Sandalwest	rec 03/09/12
10	Grant Pronk, GP Forestry	03/09/12
11	Keith Mader	31/08/12
12	John Day, The Paperbark Co	25/09/12
13	Stephen Darley, Director, AustOils Pty Ltd	rec 04/10/12
14	Private	03/10/12
15	Wendy Boyle	11/10/12
16	Don North	15/10/12
17	Rolf Meeking	16/10/12
18	Ian Tucker	15/10/12
19	John Clarke, Chair, WA Division, The Institute of Foresters of Australia	15/10/12

No	Name	Date
20	Phil Stanley	rec 17/10/12
21	Private	15/10/12
22	TFS Corporation Ltd	rec 19/10/12
23	MJ Smalpage, Acting Assistant Commissioner, Regional WA, Western Australia Police	17/10/12
24	Peter Robertson, State Coordinator, The Wilderness Society (WA) Inc.	19/10/12
25	Bart Jones	19/10/12
26	Private	19/10/12
27	VJ Singh	rec 19/10/12
28	Keiran McNamara, Director General, Department of Environment and Conservation	19/10/12
29	Paul Rosair, Director General, Department of Regional Development and Lands	22/10/12
30	Hon Wendy Duncan MLC	rec 24/10/12

APPENDIX 3

LIST OF WITNESSES

Name	Date
Private	12/09/12
John Tredinnick – Director Forest Products Operations, Forest Products Commission Ben Sawyer – Sandalwood Manager, Forest Products Commission	26/09/12
Tim Coakley – Executive Chairman, Wescorp Holdings Pty Ltd	17/10/12
Keiran McNamara – Director General, Department of Environment and Conservation Gordon Wyre, Director, Nature Conservation, Department of Environment and Conservation Ian Kealley, Regional Manager, Goldfields, Department of Environment and Conservation David Mell, Manager, Nature Protection Branch, Department of Environment and Conservation	24/10/12