



SECOND SESSION OF THE THIRTY-SIXTH PARLIAMENT

**REPORT OF THE
STANDING COMMITTEE ON
PUBLIC ADMINISTRATION AND FINANCE
IN RELATION TO A PETITION ON
WESTERN POWER'S
UNDERGROUND POWER POLICY**

Presented by Hon Barry House MLC (Chairman)

Report 5
December 2003

STANDING COMMITTEE ON PUBLIC ADMINISTRATION AND FINANCE

Date first appointed:

May 24 2001

Terms of Reference:

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

“2. Public Administration and Finance Committee

- 2.1 A *Public Administration and Finance Committee* is established.
- 2.2 The Committee consists of 7 members.
- 2.3 The functions of the Committee are -
 - (a) to inquire into and report on the structure, efficiency, effectiveness, and economic management of the system of public administration;
 - (b) to consider and report on any bill or other matter referred by the House;
 - (c) to inquire into and report on practice or procedure applicable or relating to administrative acts or decisions (either generally or in a particular case without inquiring into or reporting on the merits of the case);
 - (d) to inquire into and report on the existence, adequacy, or availability, of merit and judicial review of administrative acts or decisions;
 - (e) to consult regularly with the Parliamentary Commissioner for Administrative Investigations, the Auditor General, the Public Sector Standards Commissioner, the Information Commissioner, and any person holding an office of a like character.
- 2.4 Subject to subclause 2.3 (b), the following are excluded from inquiry by the Committee -
 - (a) the Governor’s establishment;
 - (b) the constitution and administration of Parliament;
 - (c) the operations of the Executive Council;
 - (d) a decision made by a person acting judicially;
 - (e) a decision made by a person to exercise, or not exercise, a power of arrest or detention.”

Members as at the time of this inquiry:

| | |
|-------------------------------------|----------------------|
| Hon Barry House MLC (Chairman) | Hon John Fischer MLC |
| Hon Ed Dermer MLC (Deputy Chairman) | Hon Dee Margetts MLC |
| Hon Murray Criddle MLC | Hon Ken Travers MLC |
| Hon Sue Ellery MLC | |

Staff as at the time of this inquiry:

| | |
|--|--------------------------------|
| Lisa Hanna, Advisory Officer (General) | Sarah Kearney, Committee Clerk |
| Paul Grant, Advisory Officer (Legal) | |

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Government Response

This Report is subject to Standing Order 337:

After tabling, the Clerk shall send a copy of a report recommending action by, or seeking a response from, the Government to the responsible Minister. The Leader of the Government or the Minister (if a Member of the Council) shall report the Government's response within 4 months.

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

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REPORT OF THE STANDING COMMITTEE ON PUBLIC ADMINISTRATION AND FINANCE

IN RELATION TO A PETITION ON

WESTERN POWER'S UNDERGROUND POWER POLICY

1 REFERENCE AND PROCEDURE

- 1.1 On December 18 2001, Hon Sue Ellery MLC tabled a petition in the Legislative Council in relation to Western Power's Underground Power Policy.¹ Subsequent to the prorogation of Parliament, the petition was retabled in the new session of the Legislative Council on September 11 2002.²
- 1.2 The petition stood referred to the Environment and Public Affairs Committee (EP Committee) under operation of standing order 134(i) of the Legislative Council.
- 1.3 The EP Committee sought submissions from Mr Cornock (the Petitioner), Hon Sue Ellery MLC, Western Power Corporation, the Minister for Energy and the Ombudsman. The EP Committee received information from the Petitioner and Western Power. A list of correspondence in relation to the matter is attached as Appendix 1.
- 1.4 On October 16 2002, a public hearing was held with Mr Laurie Seddon, Technical Regulations Manager, Western Power.
- 1.5 On March 27 2003, the EP Committee referred the petition to the Public Administration and Finance Committee (PAF Committee), as it was of the view that the subject matter of the petition fell within the PAF Committee's terms of reference. Further, the EP Committee was of the view that the petition could be useful as part of the PAF Committee's inquiry into *The Impact of State Government Actions and Processes on the Use and Enjoyment of Freehold and Leasehold Land in Western Australia*.³
- 1.6 Due to its heavy workload, the PAF Committee has not, to date, been in a position to undertake a distinct inquiry into the petition.

¹ Legislative Council Tabled Paper 1078, December 18 2001.

² Legislative Council Tabled Paper 184, September 11 2002.

³ Letter from Hon Christine Sharp MLC, Chairman, Environment and Public Affairs Committee, March 27 2003.

2 THE PETITION

2.1 The petition requests inquiry into Western Power's Underground Power Policy, specifically that:

... the Legislative Council take action to determine:

1. *The degree to which Western Power's underground power policy is consistent with public expectations and/or public policy; particularly in non-metropolitan areas.*
2. *The degree to which Western Power has overridden orderly planning procedures in this state and in particular determinations of the WA Planning Commission in attempting to implement its underground power policy.*
3. *The fairness of the monetary contribution required from private land owners in order to implement Western Power's underground power policy.*

2.2 The Committee notes that the broad terms of the petition have arisen out of the individual experience of the Petitioner (refer to paragraphs 3.1 to 3.11).

3 THE PETITIONER'S SITUATION

3.1 The Petitioner applied (September 23 1999) and received approval (August 22 2000) from the Western Australian Planning Commission (WAPC) to subdivide his 10 acre/4ha property situated at Lot 1102 Caraholly Road, Dwellingup, into 2 separate 5 acre/2ha lots.⁴ The WAPC has responsibility for approving subdivisions in Western Australia, under the *Town Planning and Development Act 1928*.⁵

3.2 The approval from the WAPC was subject to conditions, including:⁶

Arrangements being made for the provision of a suitable above ground electricity supply (as determined by Western Power) to the lots approved under this application to the satisfaction of the Western Australian Planning Commission. (Western Power).

3.3 The Minister for Planning upheld the requirement for this condition, but stated that the power line did not need to be relocated.⁷ (Refer to letter attached as Appendix 2,

⁴ Letter from the Western Australian Planning Commission, to TF & AL Cornock, August 22 2000.

⁵ Section 20.

⁶ Letter from the Western Australian Planning Commission, to TF & AL Cornock, August 22 2000. This condition was appealed against by the Petitioner.

⁷ Letter from Hon Graham Kierath MLA, Minister for Planning, to Mr and Mrs AL Cornock, January 31 2001.

which also includes a summary of the former Minister for Planning's view on the situation).

- 3.4 There is an existing overhead power line on the property.
- 3.5 The WAPC and Western Power have expressed to the Petitioner differing views on how this condition should be satisfied:⁸
- a) The WAPC is of the opinion that the existing power line is sufficient.
 - b) Western Power is of the opinion that the power line should either be relocated or placed underground.
- 3.6 In relation to the Petitioner's application, Western Power applied its standard condition of requirement to relocate the existing overhead power line off the property.⁹ However, the WAPC did not repeat this condition in its approval but instead imposed the condition as stated at paragraph 3.2. Further, the WAPC was of the view that the Western Power condition relating to the removal of the overhead power line was not justified.¹⁰
- 3.7 Contrary to the WAPC condition, Western Power in line with its current policy is only prepared to offer a power supply to the new lots if the exiting line is relocated.¹¹ The reasons for Western Power's position is discussed below at paragraphs 3.10 to 3.14.
- 3.8 The WAPC advised the Petitioner that the subdivision had been refused, as the condition that both new lots are connected to reticulated electricity had not been met. Further, Western Power had advised the WAPC that:¹²

... it is not prepared to accept the risk of connecting the lots to the existing overhead electricity supply, and will not allow connection of the new lots to the existing service other than through an underground connection.

⁸ Letter from Hon Graham Kierath MLA, Minister for Planning, to Mr and Mrs AL Cornock, January 31 2001.

⁹ Letter from Mr Doug Aberle, General Manager Networks, Western Power, to the Environment and Public Affairs Committee, September 25 2002.

¹⁰ Letter from Hon Graham Kierath MLA, Minister for Planning, to Mr and Mrs AL Cornock, January 31 2001.

¹¹ Letter from Mr Michael Megaw, Chief of Staff, Office of the Minister for Energy to Mr David Hatt, Chief of Staff, Office of the Minister for Planning and Infrastructure, January 17 2002.

¹² Letter from Mr Simon Wood for Secretary, Western Australian Planning Commission, to Mr T and Mrs A Cornock, September 18 2002.

- 3.9 The Petitioner has not satisfied the condition required. The requirement of putting in underground power is estimated to cost the Petitioner \$21,198.¹³ The Petitioner feels that it is an unreasonable cost impost for a two lot rural subdivision.¹⁴

Western Power's Position

- 3.10 Western Power's position is that existing overhead power lines must be removed and/or relocated where subdivision results in lot sizes of 10 hectares or less. Western Power has advised the EP Committee that the basis for this condition is principally (although not exclusively) safety:¹⁵

This is not to say that overhead power lines are unsafe per se. Rather, the safety issue arises from the combination of the presence of overhead power lines in conjunction with small lot sizes. As lot sizes decrease, there is a corresponding increase in the pressure to maximise utilization of the available land area (regardless of the usage of the land). It has been Western Power's experience that where an overhead power line is permitted to remain on a small lot, the end result is often a conflict between the landowner and the overhead power line. ...

- 3.11 The Committee notes Western Power's advice that this is a policy, and that it is not contained in a regulation.¹⁶
- 3.12 Western Power also has a policy of requiring underground power to be provided as one of the conditions of new subdivisions (refer to section 4 below).¹⁷
- 3.13 Western Power has advised that the WAPC conditions imposed on subdivision application approvals are generally consistent with Western Power's own requirements for the supply of electricity to new customers and for extensions to its electricity supply network:¹⁸

The usual conditions imposed by the Western Australian Planning Commission are generally consistent with Western Power's own requirements for the supply of electricity to new customers and for

¹³ This figure was quoted to Mr Cornock on February 16 2001 by Western Power. Letter to Mr Simon Wood, from Mr and Mrs Cornock, September 23 2002.

¹⁴ Appeal application from Mr Cornock to the Minister for Planning, October 16 2000.

¹⁵ Letter from Mr Doug Aberle, General Manager Networks, Western Power, to the Environment and Public Affairs Committee, September 25 2002.

¹⁶ Mr Seddon, Technical Regulations Manager, Western Power, *Transcript of Evidence*, October 16 2002, p3.

¹⁷ Letter from Mr Doug Aberle, General Manager Networks, Western Power, to the Environment and Public Affairs Committee, September 25 2002.

¹⁸ Id.

extensions to its electricity supply network. Although the conditions are stated to be “to the satisfaction of the Western Australian Planning Commission”, in practice this means to the satisfaction of Western Power. Once Western Power is satisfied, it will issue a written ‘clearance’ that then satisfies the Commission that the developer has fulfilled the requirements of the condition.

- 3.14 In the Petitioner’s case, Western Power as the owner and operator of the electricity network, having great concerns about the safety of the power supply arrangement proposed by the WAPC, is refusing to allow an installation for the Petitioner’s properties that does not comply with its policies.¹⁹

Monetary contribution

- 3.15 Western Power’s basic policy position regarding supply extensions in the case of rural subdivisions where power is readily available in the vicinity is, as stated by Mr Doug Aberle, General Manager Networks, Western Power:²⁰

In the case of rural subdivisions, Western Power requires the developer to provide a power supply to each lot within a subdivision when those lots are less than 50 hectares in size. The developer is charged the full cost of reticulating power to each lot from the existing supply in the vicinity.

The application of this condition results in orderly, well-planned provision of electricity supplies. Developers are able to recover the cost from purchasers who, in turn are able to pay a cheap and equitable price for a power supply.

4 WESTERN POWERS UNDERGROUND POWER POLICY

- 4.1 Western Power is committed to progressively underground the electricity supply, consistent with Government policy.²¹
- 4.2 The Committee notes that there is a mandatory requirement for the installation of underground electricity services in all new subdivisions in urban and urban fringe areas of the South West Interconnected System.²²

¹⁹ Letter from Mr Rod Strika, Manager Network Asset Management, Western Power, to Mr James Jordan, Acting Directing, Office of the Minister for Planning (Planning Appeals), May 9 2001.

²⁰ Letter from Mr Doug Aberle, General Manager Networks, Western Power, to the Environment and Public Affairs Committee, April 2 2002.

²¹ Communication Strategy attached to letter from Mr Doug Aberle, General Manager Networks, Western Power, to the Environment and Public Affairs Committee, September 25 2002.

²² Letter from Mr Doug Aberle, General Manager Networks, Western Power, to the Environment and Public Affairs Committee, September 25 2002.

5 COMMITTEE COMMENT

- 5.1 The PAF Committee has only commenced preliminary investigation into this matter.
- 5.2 The PAF Committee notes that there is possible inconsistency between Western Power's Underground Power Policy and the views expressed by the WAPC.

Recommendation 1: The Committee recommends that the Minister for Energy, the Minister for Planning and Infrastructure and the Minister for Consumer and Employment Protection examine the issue to ensure clarity and consistency in the application of Western Power's Underground Power Policy.



**Hon Barry House MLC
Chairman**

Date: December 11 2003

APPENDIX 1

LIST OF CORRESPONDENCE

| Date | Correspondence From | Correspondence To |
|-------------|--|--|
| 22/08/2000 | Western Australian Planning Commission | T F & AL Cornock |
| 28/08/2000 | Tom Cornock | Western Power |
| 29/08/2000 | Western Power | Tom Cornock |
| 30/08/2000 | Shire of Murray | TF & AL Cornock |
| 17/10/2000 | Western Power | Tom Cornock |
| 16/10/2000 | TF and AL Cornock | Minister for Planning |
| 19/10/2000 | Office of the Minister for Planning | Mr T & Mrs A Cornock |
| 7/11/2000 | Mr TF & Mrs AL Cornock | Minister for Planning |
| 9/11/2000 | Office of the Minister for Planning | Mr TF and Mrs AL Cornock |
| 13/11/2000 | TF and AL Cornock | Western Australian Planning Commission |
| 20/11/2000 | Mr John Bradshaw, MLA | T & A Cornock |
| 17/11/2000 | Minister for Planning | Mr John Bradshaw |
| 23/11/2000 | Office of the Minister for Planning | Mr T & Mrs A Cornock |
| 30/11/2000 | Office of the Minister for Planning | Mr T & Mrs A Cornock |
| 17/01/2001 | Western Power | Tom Cornock |
| 31/01/2001 | Minister for Planning | Mr and Mrs AL Cornock |
| 16/02/2001 | Western Power | Tom Cornock |
| 23/02/2001 | Mr & Mrs A L Cornock | Minister for Planning |
| 20/03/2001 | Office of the Minister for Planning and Infrastructure | Western Power |
| 23/03/2001 | Western Australian Planning Commission | Mr J and Mrs M Macri |
| 23/04/2001 | Mr T Cornock | Western Power |
| 9/05/2001 | Western Power | Office of the Minister for Planning |
| 22/05/2001 | Office of the Minister of Planning and Infrastructure | Ministry for Planning |
| 23/05/2003 | Mr T Cornock | Standing Committee on Environment and Public Affairs |
| 07/06/2001 | Mr T Cornock | Hon John Cowdell MLC |
| 03/08/2001 | Western Power | Tom Cornock |
| 1/11/2001 | Office of the Minister for Planning and Infrastructure | Office of the Minister for Energy |
| 19/12/2001 | Office of the Minister for Planning and Infrastructure | Mr T Palermo |

Public Administration and Finance Committee

| | | |
|------------|---|--|
| 17/01/2002 | Office of the Minister for Energy | Office of the Minister for Planning and Infrastructure |
| 5/03/2002 | TF & AL Cornock | Standing Committee on Environment and Public Affairs |
| 13/03/2002 | Standing Committee on Environment and Public Affairs | Western Power |
| 2/04/2002 | Western Power | Standing Committee on Environment and Public Affairs |
| 11/04/2002 | Standing Committee on Environment and Public Affairs | Western Power |
| 29/04/2002 | Hon John Cowdell MLC | Minister for Planning and Infrastructure |
| 14/05/2002 | Western Power | Standing Committee on Environment and Public Affairs |
| 20/06/2002 | Standing Committee on Environment and Public Affairs | Western Power |
| 20/06/2002 | Standing Committee on Environment and Public Affairs | Minister for Energy |
| 21/08/2003 | Minister for Energy | Standing Committee on Environment and Public Affairs |
| 18/09/2002 | Western Australian Planning Commission | Mr T and Mrs A Cornock |
| 23/09/2002 | TF and AL Cornock | Mr Simon Wood |
| 25/09/2002 | Western Power | Standing Committee on Environment and Public Affairs |
| 24/10/2002 | Standing Committee on Environment and Public Affairs | Ombudsman |
| 24/10/2002 | Standing Committee on Environment and Public Affairs | Western Power |
| 31/10/2002 | Western Power | Standing Committee on Environment and Public Affairs |
| 7/11/2002 | Standing Committee on Environment and Public Affairs | Western Power |
| 18/11/2002 | Western Power | Standing Committee on Environment and Public Affairs |
| 22/11/2002 | Ombudsman | Standing Committee on Environment and Public Affairs |
| 6/01/2003 | Standing Committee on Environment and Public Affairs | Western Power |
| 09/06/2003 | Standing Committee on Public Administration and Finance | Mr T Cornock |

APPENDIX 2

LETTER FROM THE MINISTER FOR PLANNING TO THE PETITIONER



MINISTER FOR PLANNING; HERITAGE; MINISTER ASSISTING THE TREASURER

13TH FLOOR, 2 HAVELOCK STREET, WEST PERTH, WESTERN AUSTRALIA 6005
TELEPHONE: (08) 9213 6400 FACSIMILE: (08) 9213 6401

Our Ref: AP 57510.00S

3 1 JAN 2001

Mr and Mrs A L Cornock
PO Box 31
DWELLINGUP WA 6213

Dear Mr and Mrs Cornock

I refer to your appeal against Condition 1 of the approval issued by the Western Australian Planning Commission, dated 22 August 2000, for the subdivision of Murray Location 1102 Caraholly Road, Dwellingup in the Shire of Murray into two lot of approximately 2.02ha each. (MfP112126)

Your appeal has formed the subject of a detailed investigation by a Member of my Town Planning Appeal Committee who has examined all the appeal papers, inspected the site and discussed the substance of the appeal with you and with officers from the Ministry for Planning and Western Power. Photographs of the land taken during the site inspection have assisted in my understanding of the local site conditions. The Commission provided a response to the appeal so that I could be fully informed of the basis for its decision. You may be interested to know that I received a representation on your behalf from Mr John Bradshaw MLA, Member for Murray-Wellington. I have been fully briefed on all the matters arising from the appeal.

Condition 1 of the Commission's approval states:-

1. Arrangements being made for the provision of a suitable above ground electricity supply (as determined by Western Power) to the lots proposed under this application to the satisfaction of the Western Australian Planning Commission. (Western Power)

The application for subdivision was originally referred by the Commission to the Shire and servicing agencies, including Western Power, for comments. Western Power recommended the imposition of conditions for the provision of underground power and the removal and relocation of Western Power plant or equipment. In its determination, the Commission considered that the provision of underground power and the removal of plant or equipment could not be justified and this is reflected in advice from the Commission to Western Power. Instead, the Commission imposed Condition 1 requiring a suitable above ground power supply. The condition is required to be cleared by Western Power so the Commission relies on that agency's advice and requirements for the condition to be met.

. 2 .

You have indicated in your appeal submission that the requirements and cost to satisfy the condition are unreasonable. It is understood that there is an existing power line which traverses the land in a north-south direction. Western Power requires the power line to be relocated within the Caraholly Road reserve with all costs to be borne by you. You have indicated that the cost has been estimated at \$33,682 which does not include the cost of removal of vegetation from within the road reserve. You have suggested that not only is the cost prohibitive but that Western Power erected the power line on private property in the first place and it is unfair to now expect a landowner to pay for the cost of relocation.

Western Power's position is that underground power should be supplied in line with its policy on the provision of electricity. As the Commission did not consider that undergrounding of power could be justified on the basis of a two lot rural subdivision, it appears that Western Power's next best option, in the interests of safety, was for the power line to be relocated outside the site.

The Commission, in its response to the appeal, has stated that it was not the Commission's intention to require the relocation of the power line. The Commission considers that all that is necessary is for the lots to be supplied with power and it has recommended that the wording of Condition 1 could be modified to clarify that relocation of the power line is not required.

While Western Power's objectives are appreciated, in this case, the open-ended costs and potential environmental damage which would be caused by relocating the power line into the road reserve are not justified. Accordingly, having given full consideration to all the issues, I have decided to uphold your appeal in part to the extent that Condition 1 is retained but that the condition is to be satisfied by the provision of an above ground electricity supply from the existing power line on Murray Location 1102 and that relocation of the power line is not required.

Yours sincerely



GRAHAM KIERATH MLA
MINISTER FOR PLANNING

cc CE/MfP
Shire of Murray
Western Power
TPAC Member
Mr John Bradshaw MLA, Member for Murray-Wellington.