



**THIRTY-EIGHTH PARLIAMENT**

**REPORT 19**  
**STANDING COMMITTEE ON ENVIRONMENT AND**  
**PUBLIC AFFAIRS**  
**PETITION - PRAYER FOR RELIEF**

Presented by Hon Brian Ellis MLC (Chair)

March 2010

## 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 Colin Holt MLC

Hon Kate Doust MLC (Deputy Chair)

Hon Lynn MacLaren MLC

Hon Phil Edman MLC

### **Staff as at the time of this inquiry:**

Lisa Peterson, Advisory Officer (General)

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## REPORT OF THE STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS

### PETITION - PRAYER FOR RELIEF

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#### 1 REFERENCE AND PROCEDURE

1.1 On 12 November 2009, Hon Nigel Hallett MLC presented a petition praying for relief on behalf of Mr Dominic Manganaro, Director Manufacturing - Asia Pacific, Millennium Inorganic Chemicals (**Petitioner**).

1.2 The petition was referred to the President in accordance with SO 134(e) which states:

*(e) A petition that alleges, whether directly or by necessary inference, that a Member of the Legislative Council or another person has, in the course of a proceeding in Parliament in the Legislative Council or in a committee -*

*(i) attributed to the petitioner statements or acts that are denied by the petitioner; or*

*(ii) misrepresented the scope, purpose, or intent of any statement or act of the petitioner,*

*stands referred to the President on presentation.*

1.3 In accordance with SO 134(f) the President considered the matter and on 17 November 2009 ruled that the petition stood referred to the Standing Committee on Environment and Public Affairs (**Committee**) for its inquiry and report to the House.

1.4 Standing Order 134 provides a right of reply for a person aggrieved by what has been said in proceedings in the House or a committee. The Committee's role was to consider the matters raised by the Petitioner in the Prayer for Relief to determine whether a right of reply should be afforded.

1.5 The Committee held a private hearing with the Petitioner on 9 December 2009. The Committee also received a written submission from the Petitioner in support of the petition.

#### 2 CONCLUSION AND RECOMMENDATION

2.1 The Petitioner did not demonstrate that there has been an adverse impact caused as a result of statements made in the House.

**Recommendation 1: The Committee recommends that no further action be taken in relation to the petition.**

**3 COMMITTEE COMMENT**

- 3.1 Petitions should only be employed as a last resort after all other avenues for redress have been exhausted. In this instance, the Committee believes that the Petitioner could have pursued other avenues to have his point of view noted, including approaching the Member directly about his concerns or requesting that another Member of Parliament speak in the House on the Petitioner's behalf.
- 3.2 The purpose of SO 134 is to provide some form of redress to those who have suffered some harm as a result of what has been said during proceedings in the House or a committee, but is unable to pursue any legal recourse due to parliamentary privilege. The prayer for relief petition is not, however, a means for someone to just disagree about something said in Parliament, nor is it an opportunity to debate statements made because they disagree with them or they believe they are factually incorrect.
- 3.3 The freedom of speech provided to Parliamentarians by Article 9 of the *Bill of Rights 1689* is a fundamental feature of Westminster parliaments, enabling Members to debate issues, consider proposed legislation, scrutinise the government's performance and raise matters of concern on behalf of constituents, without fear or favour. Any impingement on this right would be detrimental to the operation of Parliament. As such, a right of reply is not given lightly and there must be **evidence of harm** to warrant such a measure. The Committee notes the comment of the Standing Committee on Procedure and Privilege in its 19<sup>th</sup> Report in this regard:

*The importance of parliamentary privilege to the operation of the Parliament is such that challenges to the exercise of that right must be clearly substantiated. There could be a stifling effect on debate if members felt vulnerable and open to challenge where they offered honestly held opinions on matters of importance.<sup>1</sup>*

- 3.4 The Committee notes that there are no guidelines on the prayer for relief petition process to assist a citizen in determining whether to present such a petition. The Committee is of the view that such guidelines would be beneficial and should include the requirement to provide evidence of serious harm caused and evidence that the petition is being presented as an avenue of last resort.

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<sup>1</sup> Western Australia, Legislative Council, Standing Committee on Procedure and Privileges, Report 19, Petition for Relief- Noel Crichton-Browne, 3 December 2008, p5.

**Recommendation 2: The Committee recommends that the Legislative Council develop guidelines in relation to prayer for relief petitions.**

A handwritten signature in black ink, appearing to read 'B. Ellis', with a stylized flourish at the end.

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Hon Brian Ellis MLC  
Chair

1 April 2010