

## **LEAD EXPORTS — PORT OF FREMANTLE**

### *Urgency Motion*

**THE PRESIDENT (Hon Nick Griffiths):** I am in receipt of a letter in these terms —

Dear Mr Griffiths

...

That the Council consider, as a matter of urgency;

That given the ongoing public concern and potential environmental and health risks associated with the proposed export of lead through Perth suburbs by Magellan Pty Ltd, and in light of the recent lead contamination of Esperance by the same company, this House calls for a review of the decision by the Minister for Environment to approve this application to export lead through the Port of Fremantle.

The letter is from Hon Paul Llewellyn. The member will require the support of four members in order to move the motion.

[At least four members rose in their places.]

**HON PAUL LLEWELLYN (South West) [3.34 pm]:** I move the motion.

The lead disaster at Esperance should have been a wake-up call for the government and for Magellan Metals, the company that chose to export its lead carbonate out of the port of Esperance. In so doing, it failed the communities of Esperance and Western Australia generally. The Esperance disaster, basically, suggests a breakdown in the compliance and regulation of environmental law in Western Australia, a breakdown in procedures for implementing those regulations, and a breakdown in the protection of the public interest and health of the communities of Western Australia. The history and facts of the Esperance case speak for themselves.

There have been many serious deficiencies in the Magellan Metals proposal to transport lead concentrate through Fremantle. Importantly, many of these deficiencies were identified in the Education and Health Standing Committee's 2007 report "Inquiry into the Cause and Extent of Lead Pollution in the Esperance Area"; that is, the Esperance inquiry. However, these concerns have been disregarded in the ongoing work of the Environmental Protection Authority, and disregarded by the Minister for the Environment as he moves to allow Magellan Metals to continue to export its poisonous powder through the more densely populated areas surrounding the port of Fremantle. A government review of the findings and recommendations of the Esperance inquiry has proposed to implement changes to the regulatory practice and argued that strengthening of legislative provisions and strengthening of air quality standards was required before any more approvals were granted for lead processing and export in Western Australia. The people of Fremantle and the surrounding communities have been ambushed by Magellan's application to export lead through Fremantle before the findings of the Esperance inquiry had even been tabled in Parliament. Magellan Metals had already requested that the Western Australian government give it approval to ship the same poisonous dust through the more populated route to the port of Fremantle.

I will go through the sequence of events that led to the Esperance scandal in some detail. I draw members' attention to the moral context of this decision. I refer to a company that chose to export a poisonous substance through the port of Esperance, a company that has, through a failure of the regulatory arrangements, been effectively self-regulating, and a company, despite its operations being dangerous and involving the export of poisonous material through a major port in Western Australia, that escaped the gaze of the regulatory authorities, particularly the Department of Environment and Conservation. This has led to a complete failure of the environmental regulation and law in Western Australia. I say that history speaks for itself.

In March 2005, an independent occupational health and safety inspector reported considerable spillage of metals in the Esperance Harbour. On 11 January 2006, the Esperance Port Authority failed to notify the Department of Environment and Conservation of a spill of between 60 and 100 kilograms of lead concentrate into the harbour. In December 2006, people in Esperance reported birds actually falling from the sky. In April 2007, the estimated 9 500 bird deaths caused by lead poisoning effectively raised the alarm bells of the community and regulators across Australia. When people started seeing birds falling out of the sky, they said, "Something has gone wrong here." In April 2007, the Education and Health Standing Committee commenced its inquiry—a mere 12 months ago. On 13 August 2007, before the standing committee finished its inquiry, the ABC reported that Magellan Metals had applied to export lead through the Fremantle port. The Education and Health Standing Committee did not table its report, "Inquiry into the Cause and Extent of Lead Pollution in the Esperance Area", until 6 September 2007—more than a month later. Interestingly, that report laid out in fine detail the failure of our

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regulatory mechanisms and of various departments, as well as the failure of Magellan Metals to be responsible for the way in which it managed the export of this poisonous substance. On 10 November, *The West Australian* reported that the blood lead levels of Esperance children were still rising.

On 21 December, the public comment period on Magellan's proposal to export lead through Fremantle closed. It was a great Christmas gift for the people of Fremantle to discover that, during the festive season, the Minister for the Environment would make his decision about whether to allow this poisonous substance—lead carbonate dust—to be transported through the populated areas of Fremantle and exported through the port. On 17 January 2008, the ABC reported that the government had approved Magellan shipping lead through the Fremantle port. Remarkably, between 21 December, the closing date for public comment on the proposed export of lead through the port of Fremantle, and 17 January—while everyone was still recovering from their New Year celebrations—the Minister for the Environment was able to formally approve the export of lead poison through Fremantle port. The simple facts of the matter point to an inadequate, rushed, inappropriate and irresponsible time line for this kind of decision.

In February 2008, a petition containing more than 5 000 signatures from people opposed to the Fremantle plan was tabled in this house by Hon Simon O'Brien. On 20 February 2008, the Greens (WA) called on the Western Australian government to review the minister's decision and, if it was necessary to export lead from Fremantle, to approve its export in solid ingot form rather than as lead carbonate baggies in containers. Just last week something extraordinary happened: a freight train carrying dangerous goods derailed on the exact same rail line—the Merredin line—as that on which the lead from Wiluna will be transported to the Fremantle port.

The Greens (WA) urge this Parliament, on behalf of the Western Australian community, to request that the decision to export lead through the port of Fremantle be not only reviewed but also rescinded because that decision was made hastily and prematurely and quite clearly flies in the face of good community process.

I turn to some of the key findings in the Education and Health Standing Committee report. One finding was that lead pollution in Esperance was substantially caused by Magellan Metals during the loading of lead at the port. Another finding was that elevated blood levels had been detected in the Esperance community, including in children, suggesting that the community was exposed to continuing lead pollution over many years. Another finding was that industry regulation by the Department of Environment and Conservation was grossly inadequate.

The committee also found that the compliance and monitoring obligations under part IV of the Environmental Protection Act were inadequate. In addition, the resourcing of the department's monitoring and compliance regime is hopelessly inadequate. When the stream of complex proposals and projects submitted for approval in Western Australia is combined with the stream of complex environmental conditions that need to be applied, it can be seen that the Department of Environment and Conservation and the Environmental Protection Authority have been left hopelessly under-resourced to responsibly discharge their duties.

The committee found that Magellan Metals failed to undertake sampling and air monitoring as it had committed to do—that is, it did not even comply with the things that it said it would do. The EPA overlooked Magellan's requirement to refer the dust monitoring program to the Department of Health. The Department of Health failed. The EPA, the Department of Environment and Conservation and Magellan Metals failed in their obligations to monitor and report dust levels. Typically, strong coastal winds increased the problem of lead pollution in Esperance. Fremantle experiences the same environmental conditions as does Esperance. The strong Fremantle doctor comes in on a regular basis. It is most likely that if an accident occurred in Fremantle, it would be a repeat of the Esperance situation.

The inadequate resourcing and the limited capacity of both the Department of Environment and Conservation and the EPA did not allow for those agencies to do anything other than rely upon self-regulation of the Esperance situation. However, the committee was concerned that the commonly adopted approach of the DEC was characterised by a lack of compliance culture; in other words, a culture lacking in both regulation and responsibility. The Esperance inquiry highlighted numerous problems with the regulatory agencies in Western Australia and a flagrant disregard for public safety. Essentially, the report exposed a failed culture of self-regulation. It took more than 9 500 bird deaths to alert authorities to the fact that lead contamination was a problem in Esperance. Esperance is now struggling with a legacy of contamination that affects both the environment and the community.

Even before the committee tabled its report in the Parliament, Magellan Metals tried to rush through a new proposal to export its dangerous product through the Fremantle port—close to even larger populations. The approval process took place over Christmas. The Fremantle community has been absolutely ambushed and there is a sense of disbelief that this is happening. Magellan has failed to acknowledge its role in the Esperance debacle, preferring to point the finger at the regulatory failure. Why should the public have any faith in this

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company doing anything other than continue down a reckless and irresponsible pathway in the export of lead dust—the most dangerous form in which lead can be exported? This is a moral issue.

**The PRESIDENT:** Does any member wish to speak? The debate will lapse if a member does not jump up soon. Hon Wendy Duncan?

**Hon Simon O'Brien:** It is not her fault if the government is not going to get up. Parliamentary secretary, if you are going to get up, make up your mind!

**The PRESIDENT:** Order! Hon Wendy Duncan has sought the call. She is the member on her feet and she is entitled to be heard in silence. The clock should be running.

**HON WENDY DUNCAN (Agricultural)** [3.50 pm]: Thank you, Mr President. I support this matter of urgency raised by Hon Paul Llewellyn. As a representative and resident of the Esperance area, I know the concern of the people of Esperance is that with the approval of the transport of lead through Fremantle, the government will forget the issues that are still remaining in Esperance. We need to have the approval of this transport of lead deferred until such time as the issue in Esperance is resolved. The people of Esperance are very grateful for the support of the Mayor of the City of Fremantle, Mr Peter Tagliaferri, who has taken the stance that there will be no shipments of lead through Fremantle port until the issue of the clean-up of Esperance is resolved—not only the clean-up in the surrounding areas of Esperance port, but also the safe removal of the stockpile of powdered lead carbonate that still remains in a shed in the port of Esperance and which would be extremely dangerous if moved and transported. The issue with Esperance is that Magellan Metals gave an undertaking that its lead transported through Esperance would be in ingot form. That never happened. We believe that it should be exported in ingot form if it is to be exported, for the safety of not only the people of Esperance, Fremantle or wherever the product is exported, but also the people at the receiving end. It is all very well for it to be put into double-sealed bulker bags and containers, but when it is unloaded at the receiving end, the product is still extremely dangerous. We have a responsibility to ensure that it is exported in a safe manner.

I have had discussions with Magellan Metals. Magellan Metals indicated to me that it has not been asked to contribute to funds for the clean-up of the Esperance contamination. The policy of my party is that all parties concerned should contribute to a fund for a clean-up of the Esperance area and that this product should not be allowed to be exported anywhere out of Western Australia until all the issues of Esperance are resolved. As I mentioned in the Parliament a week or so ago, the University of Western Australia report on the subsequent testing of rainwater tanks indicated that lead is still in the environment and that the cleaning of a rainwater tank has an insignificant impact on subsequent lead levels in it. Therefore, the issue of contamination in Esperance is not resolved. We need a comprehensive survey of the extent of that lead pollution, and then a comprehensive clean-up. Another report indicates that lead is in not only rainwater tanks but also ceiling voids. It makes logical sense that it will also be in the environment of playgrounds, the streets and trees, and it really needs to be cleaned up.

The government has offered to provide reverse osmosis devices to clean-up rainwater tanks in Esperance, which is just touching a miniscule part of this problem. The government exhibits a fixation with the fact that rainwater is the issue. The National Party has often raised with the government the issue of the water supply in Esperance not being satisfactory. The water is unpalatable and damages appliances and so on. That is why there is a prevalence of rainwater tanks in Esperance. The palatability and acceptability of the scheme water that is provided there is border-line. The Minister for Planning and Infrastructure has said that she will provide reverse osmosis devices for water supplies in Esperance if people have a contaminated rainwater tank and find the local rainwater unpalatable. However, that would remove all the fluoride from the water, which would have subsequent effects on the health of children's teeth, so it is still not a satisfactory outcome. I strongly believe that until this issue in Esperance is resolved, we should not be allowing Magellan Metals to transport its lead through any port in Western Australia. I therefore support Hon Paul Llewellyn's urgency motion.

**HON SALLY TALBOT (South West — Parliamentary Secretary)** [3.56 pm]: I rise to respond to this urgency motion on behalf of the Minister for the Environment. With the greatest respect to my colleague Hon Paul Llewellyn, although he is raising an issue that will have resonance with many in the community, and indeed many in the government, who recognise that both Magellan Metals and the Department of Environment and Conservation have a huge task in front of them to regain the confidence of the community after what happened in Esperance, he and Hon Wendy Duncan are labouring under a misapprehension, which I hope to be able to clarify in the next few minutes or so. Both honourable members talked at some length about the Esperance inquiry. I will just emphasise at this stage that the government has taken on board the findings of the Esperance inquiry. If I have time towards the end of my contribution, I will detail the extent to which the department has responded to that inquiry.

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I want to go straight to the misapprehension that I fear some members of the opposition are labouring under. The reality is that the minister has not approved the proposal. The proposal will not be approved until all the matters of concern to the community have been addressed. I want to make that absolutely clear from the beginning. Of course, the Carpenter government is aware of the community concern. That is why the Minister for the Environment has demanded that the company not only respond to a series of very, very tough requirements before he will consider granting the approval, but he has also taken the additional step of imposing additional ministerial conditions on the Magellan Metals proposal. I will go into some detail of what those conditions are in a moment, but let me point out at the outset that these are regarded as world's best practice. They are certainly among the most stringent environmental conditions that have ever been imposed on any project in Western Australia. I am advised at this stage that the minister is still awaiting a response from the company to the requirements and the demands that he outlined some time ago.

This is very important: Hon Paul Llewellyn has used what I think can be fairly labelled as fairly inflammatory language. He has talked about the minister's disregard of the community concerns, ambushes and those sorts of things. The facts simply do not bear it out. This will be one of the most extensive public consultation processes that we have seen. It started during the Environmental Protection Authority process. After the EPA reported, the minister doubled the period during which the community had to respond to the EPA proposals. To talk about community opinion being disregarded is simply misleading. There has been no ambushing of the community. We are well aware of some of the concerns being expressed by the City of Fremantle and the Conservation Council. Where those concerns are well articulated, they are being taken into consideration as we go through this very lengthy and arduous process. When the EPA reported, the minister extended the closing date for public comment from two weeks. He is patently obviously committed to an open and transparent process and is taking the community's concerns very seriously.

I will start by giving a bit of background to what this proposal involves. The proposal followed the action by the Department of Environment and Conservation to ban the export of lead carbonate through the port of Esperance. The Environmental Protection Authority then released its report on 10 December 2007. That report concluded that the proposal could be managed in such a way that the health of the environment and the health of the community would not be compromised. That determination by the EPA was very widely publicised and, as I have already said, was open to a lengthy period of comment. The independent Appeals Convener collated those comments, and it was the independent Appeals Convener who provided the advice to the minister. As a result of that advice on 7 January, the Minister for the Environment issued an edict to the company stating that it would have to meet a raft of extremely tough conditions before approval would be granted. I will give myself time in a moment to read out those conditions.

Again, with the greatest of respect to my colleagues, I suggest that it is seriously misleading to talk about this being the same poisonous stuff as what went through Esperance. This proposal is a world away from the process that was undertaken at the port of Esperance. This is about exporting lead carbonate in double-laminated, sealed vacuum bags locked inside shipping containers. If members know anything about what happened at Esperance, they will immediately see that this proposal is a qualitatively quite different process. The proposal will unfold as follows. Magellan is proposing to change the export handling and transport procedures for lead carbonate concentrate from its mine site near Wiluna. The lead concentrate will be bagged at the mine site at Wiluna, and it will be vacuumed at the mine site. It will be inspected at the mine site, and it will be put into shipping containers at the mine site. It will then be transported by road to Leonora and from Leonora to the port of Fremantle in sealed bulk bags, locked inside steel shipping containers, secured by bolts. On top of that, an independent inspector at the mine—at the mine—will check for fugitive dust emissions from the bulk bags, shipping containers and trucks. Some of that information is not being widely promulgated in the community. My colleagues the honourable members could assist in that process. If they want to enable people to respond to this proposal in a way that is clear-sighted and based on an understanding of all the facts, it is these details of the proposal that should form the substance of many of these conversations.

I will use my last few minutes in this debate to go through some of the conditions that have been imposed by the EPA and the special ministerial conditions that constitute an arrangement that has been widely noted as being beyond world's best practice. They are as follows: the lodgement of a \$5 million bond; the appointment of an independent auditor approved by the minister and funded by Magellan to inspect each bag and container at the mine and the port; the completion of a comprehensive health, hygiene and environmental management plan to be prepared to the requirements of the minister on advice from the Department of Health, the Department of Consumer and Employment Protection, the Department of Industry and Resources and the Department of Environment and Conservation; and the conducting of baseline testing along the route prior to the first movement of lead and regularly after that. In addition, a series of ministerial conditions must be adhered to if this project is to receive approval. The lead must be sealed inside double-laminated bulk bags at the mine site,

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vacuumed to remove any dust and locked inside shipping containers; every bag and container must be inspected and verified at the mine and the port; dust monitors will be installed in randomly selected containers by the independent auditor at the mine and checked at the port for the presence of dust; monitoring reports and independent auditor reports must be published and reported to the Fremantle Port Authority's Inner Harbour Community Consultation Group; Magellan will be subject to a full performance review after the first 18 months to determine whether the shipments continue; and Magellan's chief executive must personally sign off on environmental compliance under the state government's tough accountability measures. The minister informs me that he has met Magellan's managing director and outlined all these expectations in person. We are still waiting for a response to these conditions from the company.

I will finish by repeating the point I made at the outset. It is clear that both Magellan and the Department of Environment and Conservation have a big job in front of them to regain the community's confidence. They can do that in part by fulfilling the conditions imposed on them by the minister.

**HON GIZ WATSON (North Metropolitan)** [4.05 pm]: Obviously my colleague Hon Paul Llewellyn is leading this debate, but it is important to understand the history of this particular company and its proposal to mine and export lead products. My understanding is that the original environmental approval was sought to export lead ingots. That seems to be obviously the much preferred option because it is a stable product. No-one is suggesting that a company not be given approval to export lead in a reasonably stable form. That would be a good outcome for everyone. However, somewhere along the line in this process the company has said that exporting lead in ingot form was too hard and that it wanted to modify its proposal to export pelletised lead carbonate. Somewhere further down the track, it was suggested that the pelletising process was also too difficult. As a result, the company moved to wanting to transport the carbonate in powder form. There has therefore been quite a significant shift from the original proposal to what was ultimately agreed to. In addition, the original proposal was to ship the material out of Geraldton, not out of Esperance. Now there is a proposal to ship this material through Fremantle. I can completely understand why the community of Western Australia, particularly the community of Fremantle, has no confidence that the Department of Environment and Conservation has the resources to monitor and ensure the health and safety of all those who will be working with the material either directly or en route. There have been many examples of spills and accidents involving shipments of materials from Western Australia. I remind members of what happens with a product such as lead carbonate, which is highly toxic, particularly to young children, the elderly and infirm. We can imagine if this state contemplated—we hope it never will—mining uranium, given the record on health and safety and environmental requirements in this state. I have been in this place for a long time and have asked many questions about the environmental records of many companies. As Hon Wendy Duncan pointed out, there is a pitiful number of Department of Environment and Conservation employees around the state. Last time I looked into this, I think the Pilbara-Kimberley region was sharing one or two inspectors. I do not think anyone is employed in Esperance permanently. When the parliamentary secretary tries to reassure us that an independent inspector will be contracted to inspect the packaging of the material, I must ask: what is the role of an independent inspector who is paid for by the company? If we want to restore any public confidence in the quality of monitoring and compliance, we must vastly improve the department's capacity. The department is the public's watchdog, not some private subcontractor. I do not think that model is one that we can support. The public expects a publicly accountable body such as the Department of Environment and Conservation to be the body that ensures that the public and the environment are kept safe and the required conditions met. This is but one example.

**Hon Sally Talbot:** The inspector must be approved by the minister.

**Hon GIZ WATSON:** It should be an employee of the Department of Environment and Conservation because a different model will be used if those roles are subcontracted. The Greens (WA) do not support this model, and it is about time that the state government funded the department adequately to do a very difficult job over a very large area during the current mining boom conditions. The current level of staffing makes it impossible to provide any assurances on a whole range of projects, but this one in particular has enormous public health implications. I suggest that the government should stick with the company's original proposal to consider exporting lead ingots. That proposal would be —

**Hon Sally Talbot:** The original proposal actually wasn't for ingots. The company only ever made reference to possibly moving to ingots in the future. The original approval at Geraldton was not for ingots.

**Hon GIZ WATSON:** I am sorry; the parliamentary secretary is right to correct me on that. However, it was the carrot that was held out by the company. That incentive gave some sort of an indication to the public that that would be a way of transporting the lead, and there is nothing technically impossible about processing the lead to a solid form in Western Australia. It would be good for the state as well, by generating more Western Australian jobs. It is about time downstream processing was considered, rather than rushing to dig everything up and ship it out as quickly as possible with the least return for WA—and in this case with the maximum risk.

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**HON SIMON O'BRIEN (South Metropolitan)** [4.11 pm]: The house should thank Hon Paul Llewellyn for bringing this matter to its attention today. Not only does the urgency motion reflect a wide-held fear in the community, but it also exposes the Carpenter and Gallop Labor governments for the spin doctors they are. The community does not want spin doctors running its state; it wants governments that will protect the community and act without fear or favour in the state's best interests, and will not allow its own considerations of electoral longevity to override the welfare of the people.

I take members back to 2 August 2005. The government circulated a media statement in the name of then Premier Gallop. The headline was "Esperance Port achieves record cargo handling tonnages for 2004-05". The media release states —

The booming Goldfields-Esperance region's economy resulted in Esperance Port achieving record tonnages of cargo being handled in the last financial year.

Visiting the port as part of Cabinet's regional visit to Esperance, Premier Geoff Gallop said Esperance was one of the State's biggest port success stories — and it was only going to get better.

That press release noted a number of projects that were underway, including one by Magellan Metals to —

... export annually up to 100,000 tonnes of lead carbonate, a product similar to nickel concentrate, through Esperance. The first shipment of 5,000 tonnes left the port on July 4 this year.

We all know what a great raging success that operation was! It will be interesting to hear the comments from the Parliamentary Secretary to the Minister for Planning and Infrastructure on this debate, because a lot of responsibility can be sheeted home to that particular portfolio and that particular minister for the conduct of some of the operations that gave rise to the Esperance Port's Magellan Metals lead carbonate fiasco.

That project was announced with great fanfare and embraced by this government, holding out, as Hon Giz Watson has just reminded members, the prospect of a carrot in the form of a new industry to export lead ingots from the Magellan Metals mine—something that has not yet happened. However, that did not stop this Labor government from spin doctoring, like the media statement I have just quoted from, to try to convince everyone that great times are with us, great times are ahead and there is nothing to worry about as the government has got its hands firmly on the wheel. When the government does have its hands on the wheel, we see what has happened. In a number of instances, the vehicle has run off the road—or in this case, dare I say, off the rails. Lead ingots have not been produced, and the government tells us, even after the Esperance fiasco, which was a disaster of Third World proportions, that there is still no prospect of lead being exported as ingots, and it still wants to persist in exporting the stuff as lead carbonate. The government might want to tell us that it cannot afford to convert the lead raw material into ingot form at the mine site for export because it is not economically practical. Why did it not tell us that when it was holding out the carrot of a new lead ingot industry and announcing it and claiming the credit? Why was it not announced then?

I believe the value of lead has increased over the period from something of the order of \$600 a tonne to \$2 000 a tonne, and all of a sudden we are told it is not economically viable to turn it into ingots. How hard is this government trying? Answer: not very. Hon Paul Llewellyn asked the question; Dr Graham Jacobs, MLA, the hardworking member for Roe, asked the question; and upper house members, including Hon Wendy Duncan, who we have just heard from, and who resides in Esperance, have asked the question. What is the government's answer? All of a sudden it does not seem to have one.

The mover of the motion indicated that there has not been adequate opportunity for the government to consider, via the public submissions process, Magellan Metals' proposal to transport the containerised lead concentrate through the port of Fremantle. As members have also heard, the Mayor of Fremantle, Peter Tagliaferri, has started a public campaign in connection with the proposal to now export lead concentrate through the port of Fremantle. As members are aware, he also met with Minister Templeman to express his concerns, one of which was the inadequate amount of time available for the public to lodge comment. Hon Paul Llewellyn reminded members during his earlier remarks that the decisions were made over the Christmas-New Year period.

**Hon Paul Llewellyn:** From 21 December to 17 January!

**Hon SIMON O'BRIEN:** Seventeen January! Members should give credit where it is due! Minister Templeman, in a statement dated 20 December—when I am sure everyone was paying attention—outlined that in response to the representations of Mayor Tagliaferri at their meeting on 20 December, the minister extended the period for public comment for a further two weeks; the minister had earlier proposed that the public comment period be even shorter than that. The extension was all the way through to 7 January. That period, 20 December to 7 January, is when the public's concentration is on matters such as this—I do not think! Hon Paul Llewellyn quite rightly raised concerns about this decision being made at a time of the year when public observation and

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the capacity to hold the minister and the government to account is at its absolute minimum. Members are now being told again all the things about how great this particular operation will be. We heard that before, back in August 2005, from then Premier Gallop when he spoke about the great prospects for this sort of project for the port of Esperance.

This raises the question of how we export this sort of product. It also raises the question of whether it is appropriate in the twenty-first century to have shiploading facilities for this type of product located at ports that are situated in the midst of residential areas. We have seen what happens when this government is running the show: these sorts of export operations end up being located at port facilities in the middle of Esperance. Water sources and homes have been contaminated with this toxic substance. Birds have fallen dead out of the sky, for heaven's sake. Is it any wonder that the Mayor of Fremantle and others along the proposed route are concerned about the potential impacts upon their far larger residential communities, including the one I represent in the South Metropolitan Region? It also raises the question of whether many of the operations of the Fremantle port should remain in the inner harbour area.

I conclude in the short time remaining to me by pointing out that the government is culpable and that Hon Paul Llewellyn is right to raise this issue. Magellan Metals is quite capable of complying with whatever conditions need to be met. The weakness in the chain at Esperance was in the handling and loading operations at the port; it was not the Magellan operation, it was the state government end of the process, and that is why it is very hard to accept the government's claims and reassurances at face value.

**HON ANTHONY FELS (Agricultural)** [4.21 pm]: I wish to speak on this issue because Esperance is my home town. I am very concerned about the fact that there are still 10 million kilograms of lead carbonate sitting on the wharf at Esperance. There has been no clear decision made about what is going to happen to it. There are still instances of elevated lead levels around the town, in rainwater tanks and elsewhere. Of most concern, some children still show signs of having raised blood lead levels, two years after lead exports from the port ceased. One of the first things the government ought to do is to remove the lead from Esperance. It should order a ship to go to Esperance, warn the residents and give them the opportunity to go to Cape Le Grande or some other place out of town for the weekend, and load the lead onto the ship, removing the lead from the port, hopefully under better conditions than those under which the 500 000 tonnes of lead that were previously exported left the port. It would be possible to remove 10 000 tonnes on one ship fairly quickly, and it should happen on a day that is not windy, or when an easterly breeze is blowing away from the town. The residents should be warned and everything possible should be done to ensure that there is no further dust, if dust is a problem.

I do not believe that the inquiry conducted by the Education and Health Standing Committee adequately investigated the real problem. There are many different propositions going around within the Esperance community about the likely cause, and I believe that the government inquiry into this issue should have been conducted by a committee of the Legislative Council; at the very least, there should have been a majority of non-government members on the committee so that no-one had any inhibitions about asking what happened.

The time line for this issue goes back five or six years, when the Geraldton Port Authority was first approached by Magellan to export the lead carbonate through Geraldton port. I understand that the Geraldton Port Authority was responsible for the environmental conditions associated with the safe export of lead carbonate. I understand that it exercised that responsibility by requiring the product to be transported in a pelletised or granular form so that dust would not be an issue when the product was handled in Geraldton. Geraldton is slightly larger than Esperance, but both are located close to the port area and experience prevailing breezes blowing from the port over the rest of the town.

In November 2004 the Esperance Port Authority applied for a condition to be added to its licence to enable it to export lead carbonate. Shortly after that, the Minister for Planning and Infrastructure agreed to vary the conditions for Magellan to allow the lead carbonate to be exported out of Esperance. The approval actually indicated that it was not expected that there would be any major effects upon environmental conditions. I do not believe there was any follow-up on any requirement on the part of the Esperance Port Authority to ensure that the lead carbonate left the port in a safe form; that is, in granular or pelletised form. That was the problem. I believe that, for whatever reason, the Esperance Port Authority was approached and it was agreed to export the lead through the Esperance port. I know that the Esperance Port Authority has been very active in recent years in expanding its operations and the volumes of materials going through the port. That has generally been very good for Esperance. There were initially many issues concerning the way in which the export of iron ore through the port might affect the town. They were dealt with very well. Perhaps the problem was that the government recognised that iron ore exports did not cause any red dust contamination of the town's white sands, and consequently did not look into the potential ramifications of lead carbonate going through the port.

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Lead was first stockpiled in Esperance in April 2005, and on 4 July 2005 the first exports left the port. Within a few months there were noticeably elevated lead levels. This was not widely reported; I do not think it was known within the community of Esperance. That is another major concern. It was not until the few people who had been monitoring for lead noticed an increase in levels that it began to be suspected that the bird deaths might be related to lead exports. Magellan is a company that is in business to export products, and it will obviously find the cheapest route to market, but there was no proper oversight of the way in which either it or the Esperance Port Authority were handling the product. At the end of the day, the Minister for Planning and Infrastructure is responsible for the Esperance Port Authority, and I think she got off very lightly from this scandal. The scandal in Esperance is one of this government's main offences during its current term in office, along with its lack of commitment in getting to the source of the problem and fixing it. The government is now looking at allowing the export of lead carbonate through Fremantle, yet the Esperance issue has not been fully resolved. This goes against any government's obligation to consult with the public and find out what the public really wants.

Late last year the government announced a public consultation process and invited submissions from members of the community on the exporting of lead through the Fremantle Port Authority. The majority of the Fremantle community are certainly opposed to it. However, the government does not listen, and it has shown on a number of issues that it will not listen. Much of the legislation we have dealt with during the term of the current government illustrates this. The government refused on three occasions to acknowledge the referendum results in Western Australia on the daylight saving issue. At the last election, deregulation of retail trading hours was overwhelmingly opposed by the community, yet the Labor government has said that totally deregulating trading hours will be a high priority for it after the next election. The public funding of elections is another issue that does not have community support, yet the government will push that through. The Prostitution Amendment Bill that is currently before the house is a further example.

The government will export lead through Fremantle with total disregard for the City of Fremantle. The Mayor of Fremantle, Peter Tagliaferri, has been very active in his opposition to the government on this issue. If the government—particularly the minister responsible—had built the port at Oakajee when Labor first came to power in 2001, we probably would never have had this problem in Esperance. Oakajee could easily have handled these exports. It would have been much closer to the mine site at Wiluna and away from major residential populations. It certainly would not have caused an environmental problem.

**Hon Kim Chance:** There is no railway line from Wiluna to Oakajee.

**Hon ANTHONY FELS:** That is the problem with this government.

**Hon Kim Chance:** That is probably why they went to Esperance.

**Hon ANTHONY FELS:** That is probably why the Chinese government is taking over mid-west mining in Western Australia. The Chinese cannot get enough iron ore. They have to come here, buy the company and build their own network because this government will not do it for them.

**Hon Kim Chance:** I think you mean Sinosteel.

**Hon ANTHONY FELS:** It is ultimately owned by the Chinese government; I do mean Sinosteel Corporation.

My biggest concern is the 10 000 tonnes of lead carbonate that has not been dealt with and must be taken out of the town of Esperance. We do not even know whether the concrete floor in the shed where it is housed is sealed properly or whether the lead could be leaching into the water under the wharf, into the watertable or into anywhere else there. I certainly do not believe that Magellan Metals should be given an export permit to operate out of Fremantle until the Esperance issue has been fully resolved, the lead has gone and lead levels in Esperance are reduced. Only then should the government consider on its merits an export permit.

I wish the previous committee of inquiry had investigated the involvement of Julian Grill in this matter and his relationship with Colin Stewart and Dick Nulsen, the CEO and the chairman of Esperance Port Authority. They were both appointed by Julian Grill when he was Minister for Transport 20 years ago and were very closely involved in the whole process. With all the scandals involving Julian Grill and others through the Corruption and Crime Commission and other things —

**Hon Adele Farina:** These appointments were approved during the Liberal government.

**Hon ANTHONY FELS:** They were very good appointments and those people did a fantastic job. Esperance Port Authority grew rapidly and everyone believed everything was going hunky-dory, which has ultimately been the problem because everything was not going hunky-dory, and the Esperance Port Authority was allowed to continue exporting lead when it was not safe.

**HON PAUL LLEWELLYN (South West) [4.31 pm]** — in reply: As there are no other speakers, I will make some closing remarks. I note that Magellan Metals has never taken responsibility for the Esperance fiasco. The



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company has instead consistently pointed the finger at regulatory failure—that is, the failure of the Department of Environment and Conservation, the Environmental Protection Authority and the regulators to implement a proper monitoring and compliance regime. A company that has failed to acknowledge that it has poisoned the community of Esperance does not deserve the right to export a poisonous substance through one of the most populated areas of the metropolitan region of Western Australia. The Magellan company must clean up Esperance, fully compensate the people of Esperance and rebuild their trust before it should be given any right to operate anywhere in Western Australia. It refuses to do that. The Western Australian government must fully resource the Department of Environment and Conservation to allow it to properly discharge all the responsibilities relating to the complicated conditions that it imposes on one project after another. It is currently imposing those conditions without an adequate and proportional increase in the number of staff available to implement the monitoring and compliance regimes.

Motion lapsed, pursuant to standing orders.